



BRANCH 251

The Koblenz Trial

A Podcast To Read



EMPTY

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The podcast *Branch 251* was conceived and initiated by Fritz Streiff together with Karam Shoumali. It would not have developed into the professional production it then became without Pauline Peek's tireless efforts and creative ideas. The production was lucky to have Saleem Salameh join the team to develop, shape, and produce the Arabic series. Hosts and authors Asser Khattab, Noor Hamadeh, and Naya Skaf, along with court reporter Hannah El-Hitami, completed the podcast with their thoughtful thoughts, analysis and voices.

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A TRIP TO BRANCH 251

Preface by Luna Watfa

It was not a coincidence that I met Fritz Streiff, the founder of *Branch 251* podcast, as he was present in a location frequented by many people over the past three years. We met at the Koblenz Higher Regional Court at the start of the trial of two former Syrian intelligence officials accused of participating in and committing crimes against humanity. At that time, Fritz told me that he and his team would make a podcast in both English and Arabic about the trial dealing with Branch 251. I was very excited by the idea because it felt important to shed light on the background of these security branches and the Assad regime known for its repression and torture. This was not only because the trial was taking place in Germany, where these crimes had not occurred and where only a few were aware of the burden and the extent of violations committed in those security branches, but also because this trial was the first of its kind pursuing universal jurisdiction and restoring faith in justice and equity that was unprecedented to the surviving victims of Assad's prisons.

This was the reason for Fritz's presence at the trial. As for me, however, it was a strange and unexpected coincidence that led me to be the only Syrian journalist who attended and documented all of the one hundred and eight trial sessions. I was arrested in Syria due to my work as a journalist and my documentation of the Ghouta chemical attack carried out by the forces of the Syrian regime on August 21, 2013, and after I was released on bail, I was forced to leave Syria. I decided to seek asylum in Germany. I submitted my asylum claim in the German city of Trier where I stayed in the refugee camp for six

weeks, waiting to be sent to a city where I could get political asylum and start my second life. I still remember the day when my husband came and told me that the refugee distribution list was posted outside. We rushed and saw our names on the list and we found that Koblenz was our selected destination city. I had heard of this city but did not know it, and my husband and I moved to Koblenz at the end of 2015. Besides being a city that has given me many acquaintances, friends, and great opportunities to start my life over, it was also the city that initiated the first criminal trial in the whole world against former officials of the Syrian regime accused of committing crimes against humanity in the very same security branch where I was arrested, Branch 251. It was as if the trial was made especially for me. Not only as a Syrian journalist residing in Koblenz, but also as a former detainee in Branch 251. What an unbelievable chance to be a former detainee from the same security branch against which a trial was taking place in a city I did not choose, but chose me. At first, I could not believe this strange coincidence, but it was my principal motive to document the trial. I was convinced that this very strange occurrence had to mean something.

During the trial, I documented the stories of others being arrested in 2011 and 2012 under the control of the accused, Anwar R., the head of the investigation department at Branch 251 at that time. Their stories often took me back to my cell, to the methods of torture that were practiced on me and the other detainees, to their calls for help, to the death rattles that I heard from behind bars, and to Abu Al-Ghadab, the most ferocious jailer in Branch 251 who tortured me during my detention in February 2014. I never imagined that I would hear his name again from anyone until witnesses and plaintiffs began to talk about the torture that they faced in this branch and they named Abu Al-Ghadab as the most violent of the jailers who tortured them. Hearing his name in the courtroom of the Koblenz Higher Regional Court was a shock that I will never forget as long as I live.

I also participated regularly in the *Branch 251* podcast. I participated in the first season of the English series of the podcast in the eighth episode *He Called Me Ammo*, and in the eighth episode of the second season of the Arabic series of the podcast, among others. The documentation of the trial was integrated work between the direct meetings that I held with the parties of the case, the reports I wrote in Arabic about all the sessions and that were translated into English, and the news broadcasted by *Branch 251* podcast to the world in Arabic and English. I participated with Fritz in the preparation and

presentation of a number of episodes of the podcast because I was fully aware of the importance of the work, and because I, as a Syrian, felt grateful for the interest of non-Syrian people in showing and working on this truth. During the trial, I realized that this interest did not derive only from Germany's history full of violations against humanity during Nazi rule, but rather a real awareness of the meaning of being a human being who sees the violation against others as violations against the self as a real consciousness of the expression "violations against humanity" in seeing oneself as part of humanity and thus involved in this matter. Just like a body, if one organ suffers, the rest of the body responds with sleeplessness and fever.

The podcast, in its Arabic and English versions, highlighted many aspects of the trial, including understanding how and why it took place in Germany, addressing the evidence provided and their strengths and how it was collected, describing the methods of torture used in Syrian regime prisons and the lasting psychological and physical effects of this torture, justifying the sentences issued against the accused, and understanding the mechanism of the judicial system in Germany.

This book is the transcription of all the information aired in *Branch 251* over a period of 22 months. This podcast ensures that the whole world knows what happened and continues to happen in Branch 251, which represents only one security branch of Assad's regime.

The podcast is now associated with this historic trial, and its value is in its ability to allow non-German-speaking Arabs and others to follow up on the course of the first trial of its kind. This coverage was as important as the trial itself because it conveyed to the world what would have otherwise not been accessible due to the absence of official documentation of the trial. Not only was it important to hear the statements of the survivors of detention, but also to tell the whole world about these stories and to let them know that the path to justice for Syria has begun here in Koblenz.

What happened in Syria continues to happen until today because there is no political will to solve the situation in Syria. Needless to say, for every person who came to the trial and gave their testimony, there are hundreds and even thousands of missing persons in Assad's prisons, each of whom has a different story full of pain and details and who has not yet had the opportunity to speak. What I personally documented in my written reports and what the podcast

team arranged in terms of audio reports are invaluable for these people, because the Koblenz trial, as you will read in this book, was not just a trial against one of the war criminals and perpetrators of crimes against humanity, but rather it was the first trial of its kind that exposed the Syrian regime's atrocities against its people who have long demanded freedom and dignity over the years.

The Koblenz trial put us in front of the fact that the whole world turned a blind eye to these crimes and considered the dead, the detainees, and the forcibly disappeared only numbers and statistics, without considering them as real people with real pains who yearn for justice that will treat them fairly against the real, systematic injustice they have been subjected to and continue to be subjected to until this day. Documenting this trial was such an honor for me, not only to ensure that the testimonies of the plaintiffs and witnesses are preserved for all of us, but also to give a voice to the voiceless who still languish somewhere in an underground cell. This book will take you on a painful but vital journey, and changes the question from "Why did we not know?" to "What are we going to do about it?"

Luna Watfa
Koblenz, November 5, 2022

IT SHOULD BE IN DAMASCUS

Preface by Fritz Streiff

Some criminal trials are more seminal than others, and the Al-Khatib trial in Koblenz, Germany from 2020 to 2022 was one such trial. It was so seminal to us that we made a trial podcast about it. It was extraordinary in a variety of ways, many of which Luna Watfa described in her foreword to this publication. Having worked as a human rights lawyer on atrocity crimes committed in Syria for several years before the trial, the historical importance of the case was clear to me as early as February 2019, when Anwar Raslan and Eyad Al-Charib were first arrested. A year and two months later, in April 2020, the very first criminal trial ever against Syrian regime officials started during the thick of the COVID-19 lockdown that paused much of the world. The trial was not at the International Criminal Court, nor at a special international tribunal for Syria, but instead in the small, picturesque German city of Koblenz. The morning of the first day of trial, my friend and colleague, Syrian human rights lawyer Mazen Darwish, remarked on the reality of this historic trial taking place in such an unlikely location, saying "It should be in Damascus." These five words stuck with me, simply because they are so true. This trial should have taken place in Damascus, in front of Syrian judges and victims, with Syrian lawyers defending the accused, and Syrian prosecutors presenting the evidence that Syrian investigators collected. But instead, it took place in Koblenz, in Germany, in German, and far away from Syria, Syrians, and the Syrian context.

From the beginning, the *Branch 251* podcast aimed at bridging this distance between Koblenz and the world, and between the legal quirkiness dominating these complex international legal procedures

and reality. With its early weekly episodes in English, we wanted to transport this distant yet historic trial from Koblenz into the world. Yet it was clear that our trial podcast would only really serve its purpose if we could also provide it in the language of those to whom this entire case really belonged: Syrians. With the trial already taking place in an unknown, far-removed city, legal system, and audience, we instead aimed to provide a platform with our podcast that would be co-run and developed by Syrians for Syrians.

After surviving for a few months on a shoestring budget fed by individual donations from original believers in our project (you know who you are!), we started receiving the first substantial financial support necessary to realize the bilingual trial podcast we had in mind. During this crucial step, the podcast production house *75 Podcasts* was born to organize and structure it all. Our podcast had developed from a mere idea to a professional production. At the end of the 20-month trial in early 2022, the team had grown from two enthusiasts to a group of more than seven incredible members who eventually produced more than 40 episodes in English and more than 30 in Arabic. As each episode averages around 25 minutes, the more than 70 episodes total around 1,750 minutes, or close to 30 hours. You can listen to this body of audio recordings on the podcast application on your phone, or on your computer through our website. All on demand, whenever it suits you, and whenever you feel like you have the head- and heart space to take in the difficult topics addressed, whether it is now, tomorrow, in a year from now, or hopefully still in 20 years. Our website offers, next to the audio, transcripts of all the episodes, enabling those who would rather read or are limited to reading, to also 'listen' in.

And now there is also this beautifully curated book, which is available as an e-book and in old-school paper form, because while audio and e-books are great, old-school paper feels good to me as the son of a bookseller, especially when our aim is to remain an archive for the future. It is our hope that this book and the website, with its audio, text transcripts, and additional information on who we at *75 Podcasts* are, will exist for future generations of those interested in what happened in the German city of Koblenz between April 2020 and January 2022.

The idea at the time was to try out something that had not existed as such in the international justice space: a trial podcast. From *Branch 251* grew new ideas for more podcasts and for ones with similar and

novel approaches; it was a creative catalyst. I am happy and proud when I look back at its intense and beautiful process. Those that deserve thanks and whom I personally owe so much in this regard know who they are, so I will not thank them here. Except, of course, my wife and mother (kidding, not kidding).

At the time of writing, we are in the middle of releasing our new series *The Syria Trials*. When you are done with the 30 hours of *Branch 251*, take a little break, and then feel free to give it a listen. It will be shorter – I promise.

Fritz Streiff
Paris, November 7, 2022

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CHAPTER

1

A HISTORIC TRIAL

Season 1 | Episode 1 | May 1, 2020

In the first chapter of "Branch 251," hosts Fritz Streiff and Karam Shoumali introduce the listeners to the trial that started in Koblenz, Germany, on April 23, 2020. They revisit the question of why this trial is taking place in Germany and not at the International Criminal Court, and they introduce the accusations against the two defendants, Anwar R. and Eyad A. In addition to Fritz and Karam's take on what happened in the courtroom during the first week of trial, this chapter includes words from Nuran Al-Ghamian who was actually imprisoned in Branch 251.

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■ **Fritz Streiff:** Welcome to the first episode of *Branch 251*, the podcast about the world's first criminal trial dealing with accusations of atrocity crimes by Syrian officials.

My name is Fritz Streiff. I am a human rights lawyer based in Paris. My work focuses for a large part on international justice, particularly in recent years on Syria accountability. I am one of the hosts, and I will be the lawyer guy on this podcast. Since nobody likes too much lawyering, I am very happy to introduce my co-host for this podcast, Karam Shoumali.

■ **Karam Shoumali:** Thank you. I am a journalist from Damascus living now in Berlin. I have covered the conflict in Syria for *The New York Times* for the past eight years. Together, Fritz and I will give you a short weekly update on the trial that started in Koblenz last week and provide you with some background and context to this complex and ground-breaking trial.

■ **Fritz Streiff:** Ground-breaking is the word here. This is really a first-of-its-kind trial. It is the first criminal trial that deals with accusations of atrocity crimes by Syrian officials after all these years. It is really historic in a way.

■ **Karam Shoumali:** It is a big moment for us Syrians. We have been waiting for this for a long time. The conflict has been going on for nine years as you know.

Now, finally, there is a court that looks at the terrible crimes that were committed by the regime. From Syria all the way to Koblenz in Germany, it is quite unexpected that this trial is not taking place at the International Criminal Court or at any other international tribunal.

■ **Fritz Streiff:** It is kind of strange, and some legal commentators have dubbed this a third-best option for international justice for Syria. It might be good to quickly revisit why this trial is taking place in Koblenz in Germany of all places. At the United Nations Security Council, referrals of Syrian crimes to the International Criminal Court, the ICC in The Hague, have routinely been vetoed by China and Russia. The creation of an ad hoc international tribunal, like the ones for Rwanda and the former Yugoslavia, have also been blocked. Also, Syria is not a member of the ICC itself, so direct jurisdiction for the court is not an option either.

Germany has what they call universal jurisdiction in its national law for the most terrible atrocity crimes like crimes against humanity, war crimes, and genocide. That means that German prosecutors can bring those cases, even if the crimes were not committed in Germany, by Germans, or against Germans, and have nothing to do with Germany, one could say. Still, the German prosecutors can bring these cases, and the German courts can hear those cases. Other countries that are members of the ICC have similar laws, especially other European countries like France or the Netherlands, or many more.

Germany really stands out in the last years as having a particularly active legal system in terms of investigating crimes committed in Syria. The authorities there have said that this is also in part because there are so many Syrians that now live in Germany like you, Karam. How many are there?

■ **Karam Shoumali:** There are around 800,000 Syrians currently living in Germany.

■ **Fritz Streiff:** The authorities have said that is one of the reasons they have a kind of moral obligation to deal with these crimes in German courts: because there are so many Syrians in Germany. This is a very interesting development, and this attitude and effort are now resulting in a first trial of its kind in Koblenz in Germany.

■ **Karam Shoumali:** So what are we actually talking about? What is

the court dealing with? Fritz and I went through an excerpt from the indictment on the court's website and with the exact accusations. Let me just summarize some of them here.

■ **Fritz Streiff:** Yes, before you do that, by the way, in the German legal system, they do not mention the last names of defendants due to German privacy law. This is why it may sometimes seem a bit strange just to have the first letter of the last name of the accused.

■ **Karam Shoumali:** Thursday, April 23, 2020, was the first day in court. During that first day, the prosecutor told the court the details of the allegations. The two defendants allegedly were members of the Syrian general secret service in the Syrian capital Damascus. The defendant Anwar R. is alleged to have headed the investigations unit in Branch 251 of the General Intelligence service.

■ **Fritz Streiff:** Branch 251, exactly. That is the branch, that is the prison, that is the place, that is the topic that this whole trial is all about, and what this podcast is all about.

■ **Karam Shoumali:** The defendant, Anwar R., is accused of crimes against humanity including murder, 58 counts of death, torture, the deprivation of liberty, rape, and severe sexual assault. If he is convicted, he could get life imprisonment. The prosecution is accusing him of murder and torture under his leadership and responsibility for the prison of Branch 251.

Between April 29, 2011 and September 7, 2012, at least 4,000 inmates of Branch 251 were tortured for the entire duration of their imprisonment. That is just within 15 months. They were subjected to brute force by being beaten, kicked, and electro shocked, and subjected to rape and other sexual abuse.

■ **Fritz Streiff:** It really was a type of torture prison, this is what the prosecutor is alleging here. Those are pretty hefty accusations against the first defendant, Anwar R. What about the second defendant?

■ **Karam Shoumali:** The second defendant, Eyad A., is accused of aiding and abetting crimes against humanity, including torture and deprivation of liberty, but not sexual violence in his case. He is also only accused of aiding and abetting. If he is convicted, he faces 3 to 15 years in prison.

■ **Fritz Streiff:** That is a lot less. 3 to 15 years in comparison to life imprisonment. Based on what they are facing, I guess we can say that Eyad A. is the smaller fish of the two.

■ **Karam Shoumali:** I guess you can call him the smaller fish. Eyad A. was allegedly an employee of a subdivision of that Branch 251. In autumn 2011, after the violent breakup of a demonstration, he allegedly searched the streets with colleagues for fleeing demonstrators. He and his colleagues managed to capture and arrest at least 30 people, and they brought them to the prison of Branch 251. The detainees allegedly were already beaten on the way to the prison, as well as upon arrival. They were then brutally abused and systematically tortured. The prisoners were denied medical care and even personal hygiene. They could not really take showers. There was not enough to eat and often the food was just simply inedible. The cells were so overcrowded that it was often impossible to sit or lie down and prisoners had to actually sleep standing up.

■ **Fritz Streiff:** Yes, that is what the prosecutors charged the two defendants with and is sort of the legal accusations and the legal framing that the court published on its website. We also talked to some of the people who were present in the courtroom that first day. They said this was a really hard but also a really special moment. When the prosecutor read out the charges, he actually went into a lot more detail based on witness and victim stories of what they had endured in Branch 251.

■ **Karam Shoumali:** That was a very important day. It was the first time the victims came face to face with their torturers in a setting like that, in a court, in a country with a functioning legal system here in Germany, where rule of law is highly respected and justice is not some vague concept. The defendants were literally asked by the prosecutor, "Did you understand what I just said and the charges against you?" They had to listen. Both Eyad and Anwar had to listen and acknowledge it. This is really unheard of in all these years. This is why it was indeed a historic moment.

■ **Fritz Streiff:** Then the court took a break and came back for the second day that was similarly heavy as the first day. It was really a heavy start to the trial. A federal police officer appeared as a witness. He talked about the investigation, how the police identified the two accused, and how they collected the evidence against them. He also recounted some of the witness testimonies again. It was pretty

graphic stuff and included descriptions of torture methods, what they were called, and how they were applied to the victims. It was not for the fainthearted.

■ **Karam Shoumali:** I think after those first two days it was good for everyone involved to have a break over the weekend. It was overwhelming, those first two days, and pretty hard. For many, it is like reliving the trauma.

On the third day, the court heard an expert witness and ethnologist. She told the court about Syria's recent history, politics and society over the past decades, and the origins and the beginning of the conflict that erupted in 2011.

She did mention that such torture against political opposition was not something new in Syria. It was also used back in the 1970s when current president Bashar Al-Assad's father, Hafez, was in power.

■ **Fritz Streiff:** Yes, there is some continuity there over the decades and over the different reigns of governments and inside the Assad family in restricting freedoms and rights, and suppressing opposition by using torture, and even sometimes by using the same torture techniques.

■ **Karam Shoumali:** Yes, torture and torture techniques are very common in Syria.

■ **Fritz Streiff:** On the fourth day, it became a bit more technical. The court focused on hearing witnesses from German authorities about Anwar R.'s identity and asylum procedure in Germany. Two witnesses really stood out, one from the German migration and refugee authority, and the other from the German foreign office. The court learned from them that Anwar received asylum in Germany as part of a program for particularly vulnerable Syrian refugees on the recommendation of an opposition figure called Riad Seif. The authorities' general conclusion was that Anwar played an active role in the opposition at the time of his asylum application. They said that proof of that was his participation in peace talks in Geneva in 2014. The court was also shown foreign office documents from the time and on those documents, it was clearly stated what Anwar's profession had been previously colonel in the state security administration.

■ **Karam Shoumali:** The German authorities took Anwar in as a

refugee with special protection needs, and they concluded that he was part of the opposition. But they also showed that he was a high-ranking colonel in the Syrian state security before. That Anwar was a notorious part of the Syrian state, I am sure the authorities here in Germany knew that.

■ **Fritz Streiff:** We are starting to see some interesting shades of gray here, and I think we got a taste of what might become really important in this trial later on. Anwar's role is really complex. There are a lot more things and details to mention about that. His defense will also focus on these complexities to a large extent. His lawyer was actually going to read a statement from him at the beginning of the trial, but he did not get to it, so he will probably do that when the court sessions resume. Anwar's background is really fascinating and we will come back to that in a future episode. That was the first week of the trial and recap.

■ **Karam Shoumali:** It is indeed an intense week for everyone.

■ **Fritz Streiff:** Yes, and for you too, I can imagine. How did this first week feel for you, Karam?

■ **Karam Shoumali:** This trial is highly symbolic for me, and I guess millions of Syrians. This is the first time since the beginning of the Syrian conflict that we see the victim and the victimizer in the same room for justice to take its course. We also got a reaction about the beginning of this trial from someone who was imprisoned in Branch 251. Her name is Nuran Al-Ghamian. I talked to her on Thursday and asked her what the start of this trial means to her. This is what she told me.

■ **Nuran Al-Ghamian:** I am one of the victims of Anwar R. After one year, I was detained in that same branch, under his command. Honestly, I had a mixture of feelings—anger, relief, and hope, all at the same time—when I saw Anwar behind bars. I hope justice takes its course and punishes this man and those who, like him, tortured me and many others.

■ **Fritz Streiff:** Thank you, Nuran, for that comment. I think it is time for a heavy and deep breath. This is hard to deal with, and it will be hard. This is going to stretch over—some say two to three years. We are talking about a torture prison here, Branch 251.

■ **Karam Shoumali:** In times of COVID-19 and social distancing.

■ **Fritz Streiff:** Social distancing, yes. The court went through with it, it seems.

■ **Karam Shoumali:** In allowing only 15 journalists, I guess.

■ **Fritz Streiff:** They really downsized capacity because you need to be respecting social distancing even in the framework of justice.

■ **Karam Shoumali:** It is such a big case.

■ **Fritz Streiff:** Such a big case. Yes, and that is why they pushed through because it is so significant.

■ **Karam Shoumali:** We will be back next week. There will be no court then. The next session is scheduled for May 18, so we will use the court break to take you into some of the background on this case. We will take you on a journey into Branch 251 itself, the torture prison that this trial is all about. What is Branch 251, and what does it look like? How do survivors describe it?

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CHAPTER

2

AL-KHATIB STREET OR "HELL ON EARTH"

Season 1 | Episode 2 | May 7, 2020

This chapter dives into Branch 251, or Al-Khatib Branch, or "Hell on Earth," as it is known among survivors. In this chapter, hosts Karam Shoumali and Fritz Streiff speak to some of these survivors. Based on their accounts, this chapter provides insight into how a detainee's journey looks from arrest and arrival to the branch, and conditions of the cells and interrogation rooms, or a better word for them could be torture chambers.

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■ **Fritz Streiff:** I am trying to find Branch 251 on Google Maps, but I cannot seem to find it.

■ **Karam Shoumali:** Well, you are not trying to search Branch 251 on Google Maps, are you?

■ **Fritz Streiff:** I put in Branch 251, Damascus, Syria. Obviously, I did not really expect any results. We know that it is close to Baghdad Avenue, right?

■ **Karam Shoumali:** Near there, we know that it is close to Al-Hilal Hospital, which is the Red Crescent hospital. Do you see it?

■ **Fritz Streiff:** I found it. It is on the south end of Al-Khatib Street, right?

■ **Karam Shoumali:** Yes, Al-Khatib. This is how survivors in Syria refer to Branch 251. You see where Baghdad Avenue meets Al-Khatib Street?

■ **Fritz Streiff:** You mean the large, green spot between apartment blocks?

■ **Karam Shoumali:** Yes. I think to the south, there is a row of apartment blocks. The central one. From all we know, it is the central one. That is it.

■ **Fritz Streiff:** Up the road from the Red Crescent hospital?

■ **Karam Shoumali:** Yeah, that is your branch, Branch 251.

■ **Fritz Streiff:** It is so close to the hospital. That is morbid.

■ **Karam Shoumali:** This is the second episode of *Branch 251*, the podcast about the world's first criminal trial dealing with accusations of atrocity crimes by Syrian officers. About what we will talk today, Fritz? There is no court this week.

■ **Fritz Streiff:** After the first four intense days of court sessions, there is a break now until May 18. Today, we will give you some background on the case and we will take you on a journey into Branch 251 itself.

■ **Karam Shoumali:** Like you tried to do on Google Maps?

■ **Fritz Streiff:** I just wanted to see where it was. I just wanted to get an impression and to get a feeling for the location. It is really very interesting that it is right in the city. It is not in some sort of a desert location or something. It is not in the center, but it is in a completely normal neighborhood. It kind of reminds me of the infamous interrogation and torture prison that the East German intelligence service, the *Stasi*, used in Berlin in a neighborhood called Hohenschönhausen. That prison also was hidden in plain sight in a residential neighborhood like that, and I find it fascinating.

■ **Karam Shoumali:** As a warning, in this episode we will go on a journey inside the torture prison of Branch 251. Survivors have called it "Hell on Earth." This episode will contain descriptions of the inside and the circumstances of being imprisoned there, as well as the torture methods. We talked to survivors. These are their stories, their accounts, and their memories. This is their reality. The victims in this trial were at Branch 251 between April 2011 and September 2012. There have been so many victims that were at the branch after that. In 2013, 2014, 2015, and up until now. This is still happening while we are talking.

■ **Fritz Streiff:** How should I imagine this back in 2011, Karam? Is it like what Eyad A. is accused of, that enforcers like him would hunt down so-called illegal demonstrators, ambush them, arrest them, put them in mini-buses, and drive them down to Branch 251?

■ **Karam Shoumali:** Yes. Those enforcers are plain-clothed officers in nondescript vehicles. They ambush you, or sometimes trick you into coming to a certain place. They take a friend of yours, call you and arrange a meeting, and that is where they show up. They arrest you usually after a demonstration, after the Friday prayers, or maybe at a political sit-in on just another Sunday in Syria, on the street, or wherever they would find you. Even in front of your kids. It just does not matter. They are on a mission to arrest you. They use zip ties to handcuff you, very tight ones. It feels like it is cutting into your wrists. They push you into some sort of mini-bus, usually with other detainees inside already, with your jacket or sweater pulled all the way over your head so you cannot really see where the car is going or the faces of the agents. While they push you into the car, they are constantly beating you all over your body and swearing and insulting you.

■ **Fritz Streiff:** What kind of insults should I have to imagine?

■ **Karam Shoumali:** Profane insults like "son of a whore," stuff like that. I am sorry for the language. The swear words in Arabic are gender-based. When they arrest women, they call them "whores" and "bitches." That also comes with electric shocks with these kinds of sticks that are loaded with high voltage. They are like improvised tasers.

■ **Fritz Streiff:** During these arrests, the violence and the real abuse and early stages of torture already start on the way to Branch 251.

■ **Karam Shoumali:** Yes, they would take you straight there or to one of its nearby subsections. It really depends on where you are picked up, but eventually you would end up at Branch 251. You arrive at the parking lot, and it looks like just another parking lot of a residential building. They drag you inside, down, straight to the basement, where nobody can hear you or your screams. Not straight to a cell because first, there is what the guards would call the "welcoming party."

■ **Fritz Streiff:** The "welcoming party?"

■ **Karam Shoumali:** Yes. According to some of the survivors we talked to, this is how the guards actually refer to your first round of beating at the branch. The "welcoming party." It is really crazy how dark humor finds its way into these horrifying places and moments.

Whether you arrive on your own or with other detainees, any soldier or agent present at that facility at the time of your arrival would take part in beating you. It is a sadistic spectacle. They will whip you with electric cables, and when you fall down, they kick you on the face and on your head with their military boots, heavy leather ones, and on your back, hips, thighs, and face. There is a large chance you will leave the "welcoming party" with broken ribs, fingers, or nose. The cursing you heard in the car was just the appetizer. This can take up to an hour, until they feel they had enough, or maybe until you go unconscious. They do not want to kill you at this stage. They still need to interrogate you. They are not done with you yet.

■ **Fritz Streiff:** They are just setting the tone for what is to come. What happens then after the "welcoming party?" They get thrown into the cell?

■ **Karam Shoumali:** Not yet. After that round of beating is done, they would ask you to strip naked and they inspect you thoroughly. Survivors described this part as traumatizing as it is very degrading. They conduct a very thorough search of your cavities, including your private parts. Female survivors actually told me that this was one of the most traumatizing experiences at the branch because they had just arrived and did not expect it. This is their first experience at an interrogation branch and they do not expect such a thing to happen.

What usually happens after is that they call your name one by one to go into another room. There is a guy who basically checks you into the facility. He is your totally average bureaucrat. All he wants from you is your ID, address, and some personal information. He asks you to write down all of the information on a sheet of paper. This happens right after the beating, so you are not in a position to be able to think straight or write down things. Imagine doing that with a broken hand or finger, or a bleeding nose.

■ **Fritz Streiff:** After you get in and you get tortured at this weird "welcoming party," you get stripped and checked thoroughly. Then, you would meet the bureaucrat, the administrator, who "just does his job" and registers your information like that?

■ **Karam Shoumali:** Yes. These state torture systems and branches still need bureaucrats to run them. Not just torturers.

■ **Fritz Streiff:** It reminds me of the category of the, let us say, so-

called desk criminals during similar state-sponsored crimes against humanity in history. It seems, you always have these guys behind the desk doing the paperwork. It is fascinating how criminal regimes like that document their activities pretty meticulously. Then one day, these documents could be used as evidence in a court of law against those perpetrators. Like at this trial in Koblenz now.

■ **Karam Shoumali:** As for the cells, from the description of survivors, Branch 251 has two rows of cells on each side of the basement, and there is a small space in between. That is where the guards and jailers would usually have their bunk beds. The total number of cells is 29, 24 of which are for solitary confinement. Those are usually 270 by 70 centimeters. Then there are five criminal cells. Those are bigger ones: up to 16 square meters. The cells have no indoors or ventilation and they are lit 24 hours a day with fluorescent light, the same kind you would use in a parking lot. It can be blinding the first few days. You just stare up there, and it takes some time to get used to it. That is why most people lose track of time.

■ **Fritz Streiff:** That is already a psychological torture method, right?

■ **Karam Shoumali:** Yes, totally. Maybe for sleep deprivation or to make you disoriented. Around the time that Anwar R. was in charge of this facility, cell number 28 was dedicated for women detainees. Around that time survivors told us that it would have up to 50 or 60 women.

■ **Fritz Streiff:** In that cell at the same time?

■ **Karam Shoumali:** Yes. After the "welcoming party" and the bureaucrats' job, you would be thrown into one of these cells. They were filthy, smelly, damp cells and infested with bugs. There were blood splashes on the walls, and they were really cold in winter and suffocating in summer. After busy days these cells would get overcrowded. They would sometimes put you with one or two other inmates in the individual cells. The communal ones would sometimes take up to 120 detainees. You would be standing stuck next to one another. It is a relatively small prison for the massive numbers that were and still are detained there over the years. It is just the basement of a mid-sized, two-story residential building.

■ **Fritz Streiff:** I was going to say that what we saw on Google Maps

looks two stories high, and not super wide and long either. Then you have the cell structure in the basement. That cell structure roughly had a capacity of up to 500 inmates at any given time, depending on how busy it was. Because it was a relatively small building, the overcrowding makes sense.

■ **Karam Shoumali:** Yes, roughly around 500, but that is a big number for that small space. The fact that it is very crowded causes health problems, and chances are that you would get skin rashes and other easily contagious diseases. One disease that survivors described as widespread is swelling, mainly on the feet and hands. The affected area gets swollen and blood and pus come out. Of course, you do not get to wash yourself or take care of your wounds. In the communal cells, for example, you and your fellow inmates would use a valve next to the hole in the ground toilet for washing your face and arms. For drinking water, you are actually drinking from the toilets.

■ **Fritz Streiff:** This is unfortunately not where a regular detainee's journey ends. At this point, this is just a cell. Where does the journey take us next, Karam?

■ **Karam Shoumali:** Unfortunately, it continues. If you are brought to Branch 251, they usually want to get information from you. There, the police make you confess to whatever they accused you of, not important whether you did or not. That happens in the interrogation rooms.

■ **Fritz Streiff:** I guess you could also almost call those interrogation rooms torture chambers, right? There was a whole arsenal of torture methods used in those interrogation rooms. There are really too many to mention, but you have, for example, the so-called "German chair." That is a torture method used for basically breaking the victim's back by binding the victim with the back toward the lower middle back of the chair. Another one is when they handcuff you by one hand on the ceiling for hours and hours. Or, when you fall asleep, they wake you up by splashing cold water in your face, trampling on your face and head, electroshocking or tying up the male sex organ to obstruct urination and inflict incredible pain like that. Other sexual violence as well, and burns all over your body.

The accounts from survivors are really incredible sometimes. One of them told us that one of his torturers was special. Whenever he

would not cooperate, they would call this special torture guy. They would yell out, "Bring the one-eyed guy, bring the one-eyed guy." This guy would come into the interrogation room and continue the torture. The survivor could see him through his blindfold because it was not completely tight. Indeed, that torturer really just had one eye and was blind on the other. When you hear about this stuff, it seems like you are walking through a medieval torture museum. This is the 21st century in Syria. This is Branch 251.

■ **Karam Shoumali:** This is like a horror movie. This all sounds like a nightmare.

■ **Fritz Streiff:** After these horrible interrogation and torture sessions, detainees would probably just be thrown back into their cells? How does that continue?

■ **Karam Shoumali:** If you could walk, you would be accompanied back to your cell. But if you are limping, you would get forcefully dragged. Especially during the first days of your stay, when they want to break you. This is what the system is built for, to break you.

■ **Fritz Streiff:** This is a good moment to take note of the fact that the Syrian state-sponsored torture machine is an apparatus and a system that is much bigger than Branch 251. A report in *The New York Times* from May 2019 referred to 128,000 detainees who were presumed to be either dead or still in custody over all these years. At least 14,000 individuals have been killed under torture over the years. Just to remind ourselves, that this is really a systematic torture and a killing apparatus that we are talking about here.

■ **Karam Shoumali:** These are not small numbers, 128,000 and 14,000. For this trial, we are looking at 58 counts of death, murder, and 4,000 of torture. The total system has an immense psychological impact: what we just rightfully called the apparatus uses psychological torture that inflicts pain. Unseen pain, pain you cannot see. During interrogation, they would tell you that your mother, brother, sister, or any loved one is next door being tortured. On many occasions that is true. They will go through hell until you confess to whatever they are charging you with.

■ **Fritz Streiff:** Talking about psychological torture, one of the survivors says that he knew a man who was so incredibly tortured psychologically in this way that he completely lost it. Especially when

his torturer started talking about his three daughters. That man died in custody and he never saw his daughters again.

■ **Karam Shoumali:** And if you do not die in custody, you carry this with you for the rest of your life. Another survivor we talked to says that when she realized that she would fall asleep to the screams of torture and wake up again to the screams of torture, she would never be the same person again. Here are her words.

■ **Nuran Al-Ghamian:** After a few days of being there in that tiny space, and after I realized that I am falling asleep to screams of torture and I am waking up to screams of torture and I am still in that tiny space. I know that is not just a nightmare. Your feelings die at that moment. You know that you might never be the same person afterward. It is psychological torture.

■ **Fritz Streiff:** What then, Karam? How long would you usually be detained?

■ **Karam Shoumali:** It depends on how lucky you are. Some for a few days, others for a few months, but we also know of survivors who stayed at the branch for about a year or a year and a half, and then they usually would get transferred to either another branch or a so-called "regular" prison. It all depends on your case and what you are being accused of.

■ **Fritz Streiff:** That was our journey into Branch 251 or into, "Hell on Earth." This is some really crazy stuff and it is not easy to digest. But it is real.

■ **Karam Shoumali:** I think we have some questions from listeners.

■ **Fritz Streiff:** There was one question in particular that two listeners asked: Felina from Leipzig and Natasha from New York City. They wondered why the trial is taking place in Koblenz of all German cities and not, for example, in Berlin.

■ **Karam Shoumali:** That is a good question because we discussed last time why Germany has universal jurisdiction, but not why this trial ended up taking place in Koblenz. I have been living in Germany for over two years now, and this is the first time I have heard about Koblenz.

■ **Fritz Streiff:** We will be going there soon and we will check it out ourselves. From what I hear, it is a really picturesque town in West Germany, on the Rhine River, between Cologne and Frankfurt. It is not far from the borders with Belgium, Luxembourg, and France. The reason the trial is taking place there is pretty simple. The criminal investigation was led by the German federal police BKA, the federal criminal police, which is like the German FBI. Then the defendants were arrested in two different places in Germany. Anwar R. in Berlin and Eyad A. in Rhineland-Palatinate, which is the federal province that Koblenz is also in.

■ **Karam Shoumali:** That is the link to Koblenz, because Eyad A. was arrested in Koblenz. But Anwar was arrested in Berlin, so why not Berlin then?

■ **Fritz Streiff:** Eyad A. was arrested in the same jurisdiction of that Koblenz is in, but as Anwar R. was arrested in Berlin, it would make sense to think that Berlin would be the more likely location for a trial like this.

■ **Karam Shoumali:** It is the capital and it is a big city.

■ **Fritz Streiff:** When we talked to some people who know how these things go behind the scenes, they said that Berlin courts were probably just too busy and did not have the capacity to deal with a complex trial like this. That is why the indictment was eventually filed at the Koblenz court, and it was accepted there. It seems that also Anwar R. has in the meantime been transferred from Berlin to Koblenz for detention.

■ **Karam Shoumali:** Here is the second question, this time from Maarten in Haarlem in the Netherlands. He is asking us why this trial will take so long after they already went through so much of the story in the first four days. We said in our previous episode that it will take two to three years.

■ **Fritz Streiff:** Just to explain the reason that these trials can take so long is that they are really complex. Let us just look at the number of charges the defendants are facing. You said it before: 4,000 counts of torture, 58 of murder, and so on. The prosecutor will have to prove all of those charges. Obviously, that takes a while, especially because in Germany you have what they call the principle of immediacy. That means that every single piece of evidence has to be presented

individually to the court. Looking at the amount of charges that we just mentioned, the math is clear.

■ **Karam Shoumali:** From what I understand, this all depends on the defendant's strategy.

■ **Fritz Streiff:** Yes. If the defendants decide to admit everything or just parts, and maybe even cooperate, not all of that evidence has to be proven in the same way in court. We do not know that yet. They have not spoken yet. We are expecting that to happen during the next court sessions. If that happened, that would shorten things significantly. On the other hand, if they decide to use all the defendants' rights as they are entitled to, then that whole thing could take even longer than two or three years.

The trial will resume on May 18. We are going to take another journey into the background of the case. This time we will talk about the investigation that preceded the trial. How did the case come about? What role did victim organizations play in that whole investigation? How were the two defendants arrested in early 2019?

THE TWO ANWARS

Season 1 | Episode 3 | May 15, 2020

How did the Branch 251 trial actually come about? Hosts Karam Shoumali and Fritz Streiff talk to someone who played an important role in transforming the terrible stories of these crimes into legal cases: Anwar Al-Bunni. He has been instrumental in building the case and kick-starting this first criminal trial against Syrian officials. He was also imprisoned himself simply because he was doing his job as a human rights lawyer defending political prisoners in Syria. Eight years ago, he was detained in Branch 251 and was face to face with the main accused, Anwar R., who slapped him in the face. But then he saw him again, years later, in a refugee center in Berlin. And now, once more, in a court of law.

EMPTY

■ **Fritz Streiff:** This is the third episode of Branch 251, the podcast about the world's first criminal trial dealing with accusations of atrocity crimes by Syrian officials. My name is Fritz Streiff.

■ **Karam Shoumali:** I am Karam Shoumali.

■ **Fritz Streiff:** There was still no court this week. Last episode we talked a lot about the stories that survivors told us, the people who were tortured in Branch 251. Our listeners have an impression now of what went on in that prison in Branch 251 and the kind of terrible behavior that is still happening there at this very moment and in other branches of the Syrian torture apparatus.

■ **Karam Shoumali:** Today, we will look at how these terrible stories of crimes actually get transformed into a legal case like the one we are seeing in Koblenz now. I went to see Syrian human rights lawyer, Anwar Al-Bunni, in his office in Berlin this week. He used to be a prominent human rights lawyer in Syria for decades before fleeing the country in 2014. He is also a victim himself and a survivor of Branch 251. Now, he is central to much of the case building that has happened in Germany in Europe.

■ **Anwar Al-Bunni:** My name is Anwar Al-Bunni. I was born in Syria, in Hama, in 1959. I am from a family that is truly active in politics, my brothers especially. That is the reason why we were arrested.

■ **Karam Shoumali:** How many brothers? How many arrests?

■ **Anwar Al-Bunni:** The first arrest in my family was in 1977. It was my oldest brother. Then, in 1978, my other two brothers and my sister were also detained. Around those days, I was also detained at Branch 251 for eight days.

■ **Karam Shoumali:** I believe that was your first interaction with Branch 251?

■ **Anwar Al-Bunni:** Yes, and that is why I decided to become a lawyer, not only for my brothers. I also had friends who were detained. I decided to defend the people that were detained and thrown in jails without trials or accusations just because they had political opinions that do not suit the Syrian state or the regime.

■ **Karam Shoumali:** Did you work on your brother's case?

■ **Anwar Al-Bunni:** Yes, I actually submitted the defense statement for my brothers, and I remember back in the day there were not any computers, and we had to type on a typewriter.

■ **Fritz Streiff:** Anwar Al-Bunni studied law in Damascus and used the limited body of rights of defendants and prisoners that the Syrian legislation offered at the time as best as he could. He went on to spend years defending prisoners of conscience for free out of a belief in human rights and justice. To make ends meet, he worked for paying clients doing regular cases in criminal and civil law, and all that time, he would go to see his brothers in jail as often as he could. They remained detained in prison for almost 15 years.

■ **Karam Shoumali:** Fast forward to 2006, Anwar Al-Bunni has made a name for himself as a human rights lawyer in Syria, but the intelligence services had been following his activity all along and eventually he had to pay a high price.

■ **Anwar Al-Bunni:** In 2006, the European Commission for Human Rights funded a center for training human rights activists, and I was the director of that center without permission or license from the regime. At the opening, many media outlets came, and it struck the regime that 12 ambassadors attended in person.

■ **Fritz Streiff:** That was Damascus in 2006, five years before the uprising, and 14 years ago now. Anwar Al-Bunni was sort of center stage of the human rights movement in Syria, with international

support from embassies and donors, and attention from international media outlets. This rubbed the government the wrong way.

■ **Karam Shoumali:** Right, you could say that. It was not before long actually that he was arrested again, and this time it was not only for eight days.

■ **Anwar Al-Bunni:** In fact, I was going to my car to leave for the office at six in the evening. A white car was driving fast toward me and stopped near me. Two people grabbed me and threw me in the backseat, down where you put your feet, and they sat over me. They blindfolded me, and the car drove away. I started screaming, asking, "What is this? What did I do?" One man answered, "You do not know what you did? You are a killer. You are a rapist."

■ **Karam Shoumali:** After he was taken to detention, he had to appear in court the next morning, and that is when he identifies the man who arrested him the day before.

■ **Anwar Al-Bunni:** When we entered the court, I saw the man next to me. He was the head of the patrol. The police at the court knew me. I dealt with them daily. I asked the officer, "Who brought me here?" He said he was Anwar from the state security branch.

■ **Fritz Streiff:** On that day in 2006, Anwar Al-Bunni was kidnapped and arrested in front of his house and slapped in his face on the way to prison. The man who slapped him is the same man that is now accused in Koblenz, Anwar R. How long did he have to stay in prison this time around?

■ **Karam Shoumali:** Five years in total, from 2006 until 2011.

■ **Fritz Streiff:** During that time in prison, Anwar Al-Bunni actually received the human rights award from the German Association of Judges. He obviously could not attend the award ceremony as he was in prison in Damascus, but one of his brothers went in his name. Then, he was released just when the uprising was happening?

■ **Karam Shoumali:** Yes, in 2011, a few months after the uprising started. You might think that after spending five years in jail he would be intimidated enough to stop his work as a human rights lawyer, but actually, he continued. He started defending and representing people who were involved in the uprising, political demonstrators,

and even people who were detained at Branch 251, but by 2014, many of his colleagues had been arrested and disappeared. The whole situation has gotten a lot worse, and being arrested was not the same as before. Prisons became very crowded, and it was hard to locate where someone was being detained. And of course, the torture and all the torture stories and leaked photos of torture. You do not want to risk that. He became aware about an arrest warrant out for him, so he decided to leave Syria and eventually ended up in Germany.

■ **Fritz Streiff:** That is where he lives and works today, and still does what he can for human rights for Syrians, just now from a distance. He also really tries to push for accountability for these terrible crimes committed in Syria.

■ **Karam Shoumali:** He has been very active in his capacity as a Syrian lawyer in Germany. He has a big network here, so he connects organizations and authorities investigating human rights abuses with victims and witnesses.

■ **Fritz Streiff:** One day, about eight years after Anwar R. arrested him and slapped him in the face, he saw him again.

■ **Anwar Al-Bunni:** I thought I knew this guy. His face did not look strange, and he seemed like he knew me. He looked back. I told my wife, "I think I know him."

■ **Karam Shoumali:** That was the day he recognized Anwar R. at the refugee center here in Berlin.

■ **Fritz Streiff:** Then, Anwar Al-Bunni saw Anwar R. again in a store when he went to buy some furniture. He started talking to his friends about him, and after a few days, he says, he was sure that the man he had seen was the one who arrested him all those years ago. Thousands of kilometers away from Damascus in his new home in Berlin, he had seen the man who ran Branch 251.

■ **Karam Shoumali:** What are the chances of this happening? When the police asked him whether he knew Anwar R., of course, he had a lot more to tell them.

■ **Anwar Al-Bunni:** Anwar R.'s reputation is that he was vicious. He was one of the officers who tortured people the most. If a detainee

challenged him or gave an answer that annoyed him, he would personally beat them. I gave my testimony at the general prosecutor's office. He asked me if we know victims from Branch 251. I said, "Of course." I started looking to contact victims that I knew made it to Europe. I know those victims because I represented them when they were detained. I know they were at Branch 251, and I defended them after they were sent to court.

■ **Karam Shoumali:** How did you know the victims, the survivors who could be witnesses in this trial?

■ **Anwar Al-Bunni:** It was not very difficult. I know them, and I had already defended them. I just needed to find ways to contact them, those who made it to Europe. No one hesitated to testify. The general prosecutor built the case and got enough witnesses to testify, and accordingly issued an arrest warrant for Anwar R. in 2019.

■ **Karam Shoumali:** How could you be sure that they were at Branch 251?

■ **Anwar Al-Bunni:** I know that they were at Branch 251. Also, the general prosecutor takes the details of the room, such as "When you go to the toilet, where do you go, left, right? Where are the toilets? How many steps do you ascend or descend?" and such details that you would not know if you were not at this branch.

■ **Karam Shoumali:** Anwar Al-Bunni continued to describe the meticulous process of questioning the victims and going through their accounts over and over again, just to make sure that they would be valuable witnesses. Anwar Al-Bunni has helped many of the witnesses in this process.

■ **Fritz Streiff:** He really is an important factor in getting this specific case to trial. He is so personally involved and invested, and he is a direct victim of the main accused, Anwar R. But still, Anwar Al-Bunni says this case is not about personal revenge. It is about justice, he says.

■ **Karam Shoumali:** Yes. For him, being able to play this part in a legal procedure like this, after all these decades of fighting for human rights for Syrians, really means a lot to him. I recall toward the end of our conversation, we talked about him testifying at the prosecutor's office. He actually testified for 15 hours over two days.

At the end, Anwar Al-Bunni remembered with a passion that one prosecutor made the following remark to the other prosecutor.

■ **Anwar Al-Bunni:** He said "Did that Anwar not spend all of his life waiting for this moment to give his testimony?"

■ **Fritz Streiff:** That was the Syrian human rights lawyer, Anwar Al-Bunni, in his office in Berlin where Karam went to see him. Thank you very much for your contribution to our podcast, Anwar.

■ **Karam Shoumali:** We also had some questions coming in this past week from listeners who have been in touch with us.

■ **Fritz Streiff:** Yes, including from Julie from Australia, and Lawrence from the Netherlands.

■ **Karam Shoumali:** Julie asked, "What, if any, cooperation is Germany getting from Syria in prosecuting this case? Has Germany asked for any formal cooperation? If so, what response did they get?"

■ **Fritz Streiff:** That is an excellent lawyer question. Obviously, I cannot be sure, but from everything we know, this is highly unlikely, and we have not seen anything official like this. You could probably say that it is not just unlikely, but impossible. Germany and Syria broke off diplomatic relations in 2012 and mutual legal assistance usually takes place in diplomatic spheres. It would also just be paradoxical for Syria to be cooperating on this case. This is because even though this case is against two accused individuals, it is also about the wider, bigger Syrian torture apparatus. That context will also play a big part in this trial.

■ **Karam Shoumali:** Maybe you saw that Syrian President Assad was asked about the Branch 251 trial in Koblenz when he was being interviewed by *Russia Today*. He just flatly denied that torture even exists in Syria.

■ **Fritz Streiff:** All that makes any type of cooperation very unlikely. Lawrence asked, after listening to the last episode and the descriptions of Branch 251, what Anwar R.'s role was in the building of Branch 251? We know what Eyad A. had as a role as far as the prosecution is concerned. He rounded up and arrested demonstrators and bussed them to the branch. But what about Anwar R.?

■ **Karam Shoumali:** From what we know from survivors, Anwar R. was the boss. He ran the place. The prosecutor also said this in his opening statement, that he ran the place, full stop, and the acquisition is clear. Anwar R. directed the torture at Branch 251. Survivors have told us that he had an office on the first floor and would interrogate prominent activists himself often and sometimes also beat them himself. One survivor actually recalled an inmate telling him that his mother came to try to beg Anwar R. to release her son, and he brought her son to his office and tortured him in her presence.

■ **Fritz Streiff:** That is how Anwar R. himself fits into the stories we heard and told in the last episode.

■ **Karam Shoumali:** Next week, there will be court again. What can we expect, Fritz? I am hearing it is supposed to be a big moment.

■ **Fritz Streiff:** There is a chance that it could get pretty exciting. The lawyer of Anwar R. announced at the beginning of the trial that his client would soon make a statement or that he would read a statement on behalf of his client.

■ **Karam Shoumali:** Will this happen next week?

■ **Fritz Streiff:** That is what we are hearing, and what everybody is expecting. If he does, we could learn some quite interesting things about the defense strategy. Will the defense contest all charges, or maybe even offer some type of cooperation with the court? What kind of counter-evidence is the defense planning to bring? What about the other defendant? Will he also, at some point, make a statement? All those questions might at least partially be answered next week, so it will be exciting to follow.

EMPTY

CHAPTER

4

IT WASN'T ME

Season 1 | Episode 4 | May 22, 2020

This week in court, the main accused, Anwar R., reacts to the accusations against him with a statement that his lawyers read to the court. In short, his defense is that there was no torture when he was in charge, and it was others who did it later. He claims he tried to help but could not do more, and then he fled the country. Hosts Karam Shoumali and Fritz Streiff discuss his statement and the reactions to it in the court and the public gallery, along with providing comments from survivors of Branch 251 and one of the lawyers.

EMPTY

■ **Fritz Streiff:** This was an important week for the trial.

■ **Karam Shoumali:** The court resumed after a couple of weeks of recess, and it was in session for two days. Tell us what happened.

■ **Fritz Streiff:** As expected, Anwar R., the main accused, had his lawyers read out a statement he wrote. It was quite a statement. Let us take it step by step.

■ **Karam Shoumali:** First things first, and as you know, I recorded our call after you left the court on the first day, just after Anwar R.'s statement, so let us listen to that.

■ **Fritz Streiff:** I am just leaving the courthouse now, and there are still quite some people out here talking to the media. The public gallery and the press section were completely full again today for reasons that we shall discuss. I am seeing people here giving interviews on TV.

■ **Karam Shoumali:** Did you get a good seat?

■ **Fritz Streiff:** We were there at 6:15 AM in the early morning cold, but it got us a seat in the public gallery, so we were happy about that. As expected, Anwar R. had his lawyers read out a statement that he wrote himself. He did not really make any concrete legal arguments or rebuttals that would potentially get him off the hook. It was more of a schematic general reaction, which is also what we heard from one

of the lawyers of the joint plaintiffs of some of the victims that joined the case, Patrick Kroker, from the European Center for Constitutional and Human Rights, the ECCHR.

■ **Patrick Kroker:** Basically, he gave two general explanations where he went through some pieces of the evidence against him, by far not all, but he mentioned some quite in detail. He either said the person was lying or was mistaken, or he said, "Yes, that might have taken place, but it was all anyway taking place under the responsibility of the 40th Division of Hafez Makhoul, and I had no control over that."

■ **Karam Shoumali:** Patrick Kroker mentioned the 40th Division here. And what he is getting at is that Anwar R. is blaming all wrongdoing on this division and its chief at that time, Hafez Makhoul. Hafez Makhoul's family is related to the Assads by marriage. Assad's mother is actually a Makhoul. This gave the Makhouls status and influence in Syria.

■ **Fritz Streiff:** So Anwar R. is pointing the finger at others in terms of wrongdoing.

■ **Karam Shoumali:** I think so. Back to the conversation we had after the court. Anwar R. and his lawyer tried in these 40 pages to claim that these accounts by the victims are non-factual, or they are lying, or they do not remember things correctly. Is this their defense strategy now?

■ **Fritz Streiff:** That is the part of the statement today that concerned the individual accusations and the witness statements that supposedly back up those statements. There were two parts, and the other was in terms of context, his personal story, and his personal take on the political history. In terms of his personal story, he said, "Look, as soon as things really started changing, after the uprising in 2011, I started seeing things happening in a way that were not according to what I had learned." He made a point of saying, "I went to law school in Damascus. I graduated there, in law."

He said as soon as things started changing with the uprising in 2011, this clique or gang of loyalists to the regime took over directing Branch 251 where he worked at the time. He basically said, "From that point onwards, I started feeling uncomfortable. I felt I was degraded in the hierarchy. I made my discomfort known to my superiors. I saw that things started happening around me, including torture and other

things outside of what I thought was the rulebook. I tried to help as many individual detainees as I could. When there was a chance to put them on a list of detainees to be released, I tried always to smuggle extra names onto that list. At the same time, I could not do anything to stop the 'weird stuff' that was starting to happen around me. The torture and killings were done by this clique, this gang of regime loyalists. I was put into different jobs, and I was degraded, and at some point, I just made the plan concrete to leave the country and to desert."

■ **Karam Shoumali:** Just to summarize and to see if I understand it correctly. Is he claiming during his time at Branch 251, before 2011, there was no harm done at the branch, no torture whatsoever?

■ **Fritz Streiff:** Right, at least for the time that he was the director of the investigations section of the branch. He made it very clear that he was not the director of the branch. He was just the director of the investigations unit of the branch. He mentioned the actual director a number of times. He downplayed his role. He also stated that before 2011, they were behaving according to the rule of law. He even referred to rule of law concepts a number of times. Then he said that after 2011, this gang of loyalists took over power and then took over the direction of these detention centers, including his, and he could not do anything to stop it. He claims then he tried to help as many people as he could to get out, and then he fled the country.

■ **Karam Shoumali:** Here is the thing. He is a Syrian, and he grew up in Syria and heard about the security branches the whole time. I find it now ironic that he is associating the phrase "rule of law" with Branch 251, the Air Force Security Branch, or the Telecommunications Security Branch. For me, rule of law cannot be associated with any of the branches, but this is my personal reaction upon hearing "rule of law" and Branch 251. Since I was a kid, we were always afraid of security branches and hearing all these stories about them.

During my work covering Syria for *The New York Times* and other news agencies, I came across many people. I interviewed many former detainees and victims who were tortured at these branches. This was going on after the Hama massacres in 1981 and 1982, uprisings by the Muslim Brotherhood in the '80s, and all the way through the '90s and 2000. I really find it hard to believe that there was rule of law at the security branches, but again, this is my personal opinion.

■ **Fritz Streiff:** It is clearly a slap in the face to you Syrians and to the victims of this system for him to claim this kind of stuff.

■ **Karam Shoumali:** Did he even cover his face?

■ **Fritz Streiff:** Anwar R. did not cover his face, and he also did not cover his face during the last court session.

■ **Karam Shoumali:** I know you are no psychologist. You are a lawyer by profession, but what do you think this tells you that he is not hiding his face? Is that a statement to prove his innocence, as if to say, "I am innocent, I do not have to hide my face?"

■ **Fritz Streiff:** As you say, I am not a psychologist, but I enjoy psychologizing every now and then. Anwar R. not hiding his face and coming today with such a detailed and relatively well-structured statement means that he is definitely on a strategy that says, "I am here. I am facing this court, and I do not see a reason to hide my face since what I am saying here is that I am innocent. I did not do the things that I am accused of. There is no reason for me to hide."

■ **Karam Shoumali:** Seems so, but who knows. Just for my understanding, from this 40-page statement, how would you describe the defense strategy in a few sentences?

■ **Fritz Streiff:** Basically, a strategy that we have seen before in these kinds of trials is one that says "I was in a context that turned sour, that turned bad, that turned illegal. I did not agree with that. I tried to stop it but I could not. I was not in a position to be able to stop it. When I realized that, I made sure that I left as soon as I could."

We know the strategy from earlier trials of these kinds of crimes against humanity. What we could definitely see is this being a long trial, because Anwar R. is preparing to use all the legal instruments that are at his disposal in this fair trial, and that is his right.

■ **Karam Shoumali:** So far, it is a full-on defense strategy and zero admission of guilt.

■ **Fritz Streiff:** Zero admission of guilt, rejection of all accusations, and preparing the court and the prosecutor that he will do his very best to show that he did not do what the indictment says he did.

■ **Karam Shoumali:** We knew that this statement was widely anticipated.

■ **Fritz Streiff:** Yes, and not just by us and the media. There was again a full public gallery at the courthouse, and there was also quite a number of Syrian survivors and victims of Branch 251 and other Syrian torture prisons. They all came to listen to what Anwar R. had to say.

■ **Karam Shoumali:** What reactions did you hear at the court after the statement?

■ **Fritz Streiff:** The victim's lawyer we heard from earlier, Patrick Kroker, said the following after we left the court.

■ **Patrick Kroker:** Today we only heard a general refusal from the accused himself of basically all points. We did not hear anything on the issue of if there was torture in Syria pre-2011. The first time that the word torture was mentioned was almost one hour after the beginning of the reading.

■ **Fritz Streiff:** I also got to talk to someone who actually survived Branch 251. Her name is Soumaya Al-Alabi and she made the following comments about the statement.

■ **Soumaya Al-Alabi:** That was nothing actually, just a boring statement. A long boring statement and yes, I felt like maybe I will have some bad emotions about what I am going to hear, but that never happened because that was not the truth. That is why.

■ **Fritz Streiff:** Interesting. You are saying that because it was so far away from what you actually experienced, that from your own experience, his statement did not even...

■ **Soumaya Al-Alabi:** Touch me? Not at all. No. I thought before I went to the session, maybe I will have a really hard time listening to the statement about their point of view. I cannot imagine what he is going to say. That is why I prepared myself very well to hear that without any emotion, but that never actually happened.

■ **Karam Shoumali:** Thank you, Soumaya. Soumaya left Syria to come to Germany in 2015, and she actually ended up in no other place than Koblenz. Now this trial is taking place there too.

■ **Fritz Streiff:** It is really quite crazy, and she told me she is planning to attend every court session. She told me that this coincidence of this trial happening in the very same place that she moved to in Germany is pretty weird for her. It is good in a way because she can follow it closely, but it is also really intense of course.

■ **Karam Shoumali:** We have some questions from our listeners.

■ **Laurens Hebly:** How come Anwar R. is so convinced that he is not guilty and that he was just walking around the Berlin refugee center so freely? Did he not think he would be discovered?

■ **Christian:** I wonder when Anwar R.'s career came to an end and how he ended up in Germany.

■ **Fritz Streiff:** Thank you very much Christian and Laurens for these important questions. We are going to take a whole episode for this because there is so much to say regarding questions of who is this guy, what did he do before, how did he end up directing the investigations unit of one of the most notorious security branches in Syria, and how did he end up in Germany. We will dive into those questions later in time when we are able to really look at those questions in detail.

■ **Karam Shoumali:** This week was a milestone in the trial.

■ **Fritz Streiff:** At the same time, I think it is a good moment to point out something that I was discussing and then hearing quite a lot from Syrians that were attending court as well this week. The thing is, that this is also really just a small step toward justice for Syria. As historic as this is, as the first trial it is just one small piece of justice for Syria. The Syrians, I talked to, really pointed out that we are not there yet in terms of accountability for Syria at all. Not by a large margin. This is a beginning and for this case specifically, this was also just the beginning of a long trial ahead still.

Next week there is court again. There will be more witnesses. From what we understand, the judges will hear witnesses from the police who interviewed Eyad A. and Anwar R., and how those first points of contact with the German authorities contributed to their eventual arrest in 2019. It looks like the court is just slowly hearing how these events all came together and gathering information and confirmation of the evidence that is presented to the judges.

CHAPTER

5

COLONEL, DEFECTOR, DEFENDANT

Season 1 | Episode 5 | May 29, 2020

In this chapter, Fritz Streiff and Karam Shoumali speak to "Der Spiegel's" Christoph Reuter about Anwar R. Christoph Reuter interviewed him in 2013 over two days and tells us "how he ticks." And in court this week, Eyad A.'s police statement from August 2018 was admitted as evidence while his lawyers tried to dismiss it as inadmissible.

EMPTY

■ **Fritz Streiff:** Today on the podcast we will pick up where we left off last week about the main accused, Anwar R. We are having a guest on the podcast today, and our guest has met Anwar R. personally, and he really knows him quite well.

■ **Karam Shoumali:** We are very happy to have Christoph Reuter on the podcast today. He has been covering the Syrian war for the German weekly *Der Spiegel* since the very beginning. He first arrived in Syria in 1989. He traveled there to study Arabic. He covered the Iraq war and the crisis that followed in the region, and since 2011, he has covered the Syrian uprising and the civil war, and pretty much everything that has to do with it.

■ **Fritz Streiff:** Then after our conversation with Christoph Reuter, we will give you a short court update. The court was in session from Monday until Friday, and we are recording this podcast as the court is still in session, so we will update you on anything interesting and important that might still happen. Now, first to our conversation with Christoph Reuter. We started by asking him what his specific interest in this case is and in the person Anwar R.

■ **Christoph Reuter:** It is two-fold. First of all, he is the first high-ranking member of one of the Syrian intelligence services standing trial in Germany. The second is that I met him for two full days in 2013 when he had defected just a few months earlier. For me, he represents a multilayered case of someone who pursues a career within a dictatorship and who has his own red lines, which we do

not see and do not understand. This is because we would, from our comfortable perspective, judge his whole existence as wrong, because we cannot see how you can be a henchman in such a system. But someone can have many reasons why to start such a career, and not know of other options, such as to defect, and so he is a very multifaceted, interesting case.

■ **Karam Shoumali:** How did you come across him? You were in Jordan. Why did you decide to interview him over two days? What was your interest back then?

■ **Christoph Reuter:** Everybody we talked to said, "If you really want to know the details of the intelligence system and how the apparatus worked, talk to Anwar Raslan. He has an encyclopedic memory, extremely analytical."

■ **Karam Shoumali:** What kind of man did you talk to? How did he come across? Describe him as a person.

■ **Christoph Reuter:** First, a bit shy or reluctant because he had never talked to Western journalists about the most secretive details of his work, so it was kind of unusual. It was clear that he believed in his deeds being erased from the record of guilt by switching sides. He never made a secret of his previous role, his position, even his testimony or his statement, which was read in court. He had signed it as colonel.

■ **Fritz Streiff:** In May 2020?

■ **Christoph Reuter:** Yes. He is in a way framed in the belief that "It cannot have all been wrong what I did. My career was right. In terms of the rank I received, and what was wrong should not count anymore since I switched to the right side." Once he started talking and we were asking very detailed questions about specific bombings and specific groups, he liked it. He became interested in speaking out about what had happened and displayed an enormous memory and understanding of details that mattered. We talked with him for two days about the functioning of the intelligence system. It was an extremely interesting subject, and Anwar Raslan was spilling the beans.

■ **Fritz Streiff:** It sounds a little bit like what he did last week in Koblenz in terms of detail and in terms of willingness to describe his side of the story.

■ **Christoph Reuter:** What I found interesting when we talked to him in Amman in 2013 was that whenever we could double-check certain scenes, whenever we found a second witness, what he said proved to be correct. We did not find any reason to believe that he was faking anything or exaggerating. What he told us was, of course, enormously damaging to the efforts of the regime.

■ **Karam Shoumali:** That kind of information he shared with you, only the elite, and the Syrian secret service, would have access to in a way. Do you agree?

■ **Christoph Reuter:** It is a very, very small circle, even within the intelligence services. This is why we were so interested. It was extremely difficult to find people who would know the internal details. Even he said, "I have this and this indication," but he was not part of the very, very small inner circle who made this decision, but he was close enough to have witnessed the specific details. From what he told us, why he had defected, it was a mix that may sound strange to outsiders.

First, he was morally appalled by the mass killing which started in early 2012. The other thing, which was as important to him as another moral issue, was that he was professionally offended by the regime. He said he did not mind interrogating people with torture before if they were suspicious of something. He was a complacent henchman before 2012. He played by the rules of the regime that people get beaten up, get tortured to confess. Raslan is not a total exception. You have people with this mindset, their personal moral frame. They believe in the law. They believe in the idea of law and justice in the system of total injustice.

Then he said, "They brought people I knew that had not participated in anything. They had done nothing, and we were told they are 200 terrorist suspects, so deal with them, treat them." He still believed that as an investigator, as head of the department of investigation, he should investigate something, but there was nothing to be investigated anymore. It was just about mass punishment deterrence. Again and again, over the hours we talked, he reiterated that his work had been ridiculed.

■ **Fritz Streiff:** If you were to describe what he told you guys at the time, what was his role before defecting and before he started disagreeing with what was happening?

■ **Christoph Reuter:** He spoke more about the time since the uprising had begun, but I do not know if he wanted to hide what he had done before. You have to take into consideration that the time we met was in early 2013. Everybody was expecting the downfall of the regime sooner or later. He may simply have thought "I should switch sides because the regime will go down and I should be on the right side of history." I do not have full evidence for everything, but he did not tell us, "Yes, I am an opportunist. I always stick out my finger and wait where the wind blows from."

■ **Fritz Streiff:** Then fast forward from 2013 to 2020. Last week, when we were in Koblenz, you saw him again, this time, him sitting there as a defendant. When you talked to him in 2013, he was a defector in a very different context. Now, he is a defendant in court. If you try to compare the two, how did he come across to you now? Did your impression change much? What kind of man did you meet this time?

■ **Christoph Reuter:** I think he had various options for how to defend himself. I was not surprised that he chose to accept the court, accept the proceedings, and go into the details of what was his precise responsibility at that time, and when and how he was allegedly dismissed. He goes into the details and probably, he thinks he is better than the witnesses who accuse him in terms of details, memory, and what happened where.

It is a very formal approach. His last words, "I am very sorry for what happened under the regime, etc." did not come across as very full-hearted. What I saw was an extension from the time I met him in different circumstances of his pride of his professionalism. That he is an investigator, whether he is investigating alleged crimes against the regime; investigating how he was used as a tool in an absurd plot, a very successful one, to claim that there is a big foreign-funded jihadi danger; or if he is investigating his own case to destruct the prosecutor's version.

■ **Fritz Streiff:** He has become an investigator in his own case. It seems to me also that we have seen these kinds of defense strategies in other very complex international criminal cases, where the defendants take on their own case as a full-time job. I am personally really curious to see whether he confirms this behavior going forward in the months to come.

Another thing that we wanted to ask you is what you wrote in one of your articles on the trial for *Der Spiegel* that in Syria, regime sympathizers are actually celebrating this trial in Koblenz because it is focusing on defectors, who are traitors in their eyes. Can you talk about that a little bit?

■ **Christoph Reuter:** What I find dangerous is this early triumph that we have brought one of the henchmen, one of the main perpetrators to justice, is that we could only arrest Anwar Raslan because he defected. You have this implication, while the main culprits, they are all still in Syria. Anwar Raslan is easy prey.

■ **Fritz Streiff:** He was freely walking around the city, the refugee center, knowing that he would or could be identified by other Syrians that might have known him from earlier. How is it possible that he would not even consider that he might, at some point, be faced with justice, and what is more, he went to the German authorities and asked for security and protection? How do you reconcile this contrast between feeling entitled to being protected by the German state and on the other hand, potentially being identified by others that may see themselves as the victim of his earlier actions?

■ **Christoph Reuter:** The incident that finally led to the investigation against him and to the arrest perfectly captures him. His mindset was that he probably was followed or under surveillance by people because his profession was to follow and watch people. He went to the German police and told them, "The regime wants to kill me because I was head of the investigation department." This is perfect to explain his error, his misjudgment. He came here with a visa. He did not have to walk through Albania and Serbia and through the dusty plains of southern Hungary, no. He could fly in on a visa issued by a German embassy because one of the most honest, prominent, opposition members had vetted him. He had all the reason to believe that with his change and his defection, he was now a bonus point for the opposition. He worked for years for the opposition. He flew to Geneva, to the conference on an official delegation. The public mood has changed. In 2014, 2015, Anwar Raslan walking the streets? Yes. So what? He is now a member of the opposition.

If the regime, if Assad, would have come down in 2013, probably, he would be one of the new leaders of a maybe not too democratic system where nobody would ask for his past if you have thousands of people or hundreds of high-ranking officers who have done much

worse than him. But now, he is available. I think he did not understand that the public mood and perception have changed.

■ **Fritz Streiff:** When he finally tripped, he went to the police and started talking about what he did. It is not that they hunted him down, is it?

■ **Christoph Reuter:** No, the opposite. No, he stumbled into this fundamental misunderstanding when he spoke about his former role and position, thinking that it would lead to the German government offering him protection, but instead the German prosecutors opened a file against him. This is the most perfect example to understand how he ticks. He did the right thing, he thinks, so he should be accepted in the other camp.

He probably knows and fully understands that Assad's regime would cut him into little pieces if they get him, but he did not understand that although he did the right thing, he can still be brought to justice for what he did, or what happened under his responsibility.

■ **Fritz Streiff:** He must be squarely confused at this point.

■ **Christoph Reuter:** I guess so. Probably he feels that he is made a scapegoat for something he does not want to bear responsibility for, but again, I think it is extremely important that in this case the system of Syria is brought to trial. Only, we should not exaggerate the success, saying "We have done so much, and we have brought the system to justice." No, we have not and we should not give up on the bigger cases.

■ **Fritz Streiff:** This is also what we understand from a lot of the victims and survivors who are saying this is just one small step for accountability for Syria, and we are not there yet, by far.

■ **Karam Shoumali:** It is more symbolic than actually achieving justice for Syria and Syrians.

■ **Christoph Reuter:** Yes, in a way, it is a symbolic case. It sounds odd, but it is.

■ **Fritz Streiff:** Thank you so much, Christoph, for shedding light on a number of the complexities of this case, of this trial, and of the person, Anwar R.

■ **Karam Shoumali:** Now, let us go to the second part of today's episode. What happened at court this week, Fritz?

■ **Fritz Streiff:** The court was in session again this week for three days. We did not go out there ourselves, but from what we understand, on Wednesday, the judges heard three witnesses about the statement that Eyad A., the second defendant, gave to the German federal police in 2018 before he was arrested. In that statement he provided a description of Branch 251 and other branches of the Syrian security services that he worked for. It really sounded like he was telling the investigators everything he knew, including the crimes that were committed there, and the structural nature of the system.

The point was, he provided this account at that time as a witness, not as a defendant or an accused. Now, already in pre-trial before this trial started in Koblenz in April, his defense tried to dismiss this information, this testimony, as inadmissible evidence. Already in the pre-trial proceedings, that motion was rejected. This week, the court heard the police interrogator from the first police interview with Eyad A., and it looks like it was admitted into evidence.

■ **Karam Shoumali:** We learned that in his 2018 statement, Eyad A. confirmed the use of torture at Branch 251, including before 2011, which contradicts what Anwar R. claimed last week. He mentioned that they used a specific torture method before 2011, which was using boiled water on detainees. He said that in May 2011, which was two months after the uprising, about 10 bodies were transported from Branch 251 to be buried. According to his statement, those were the bodies of detainees who died under torture.

■ **Fritz Streiff:** If you look at the time here, he is stating that this happened in May 2011. That was after the beginning of the indictment period, which was April 2011 and before early June 2011, which is when Anwar R. says he was degraded in the hierarchy. This is evidence both against Anwar R. and Eyad A. that fits in the indictment filed by the prosecutor.

■ **Karam Shoumali:** We also heard from survivors who were in the court before the trial this week. To them, the details of his statement were really gut-wrenching. Eyad A. said that one old man was hit on the head upon arrival at the branch and dropped dead right away before even entering the facility.

■ **Fritz Streiff:** Then we understand that in this 2018 statement that the court looked at, Eyad A. also confirmed Anwar R.'s role as the head of investigations at Branch 251, generally speaking. He also said that Anwar R., being a Sunni, was not in a position to be able to punish the officers who used torture during interrogation, even if he had wanted to. That is alluding to the shift in hierarchy and loyalty that Christoph Reuter was also describing in our talk earlier today on the podcast. That is interesting because it also partly plays into what Anwar R. was saying about himself last week.

■ **Karam Shoumali:** At this stage, Fritz, what does this tell you as a lawyer about Eyad A. and his strategy in this trial?

■ **Fritz Streiff:** In terms of strategy for this trial, not much. I think the early strategy of Eyad A.'s defense was to get that 2018 statement dismissed. That was rejected already pre-trial and was introduced as evidence in court this week. For the coming months of this trial, we do not really know. I talked to one of his defense lawyers last week who confirmed to me that for now they are not planning to give a statement on his behalf. He is not planning on talking himself either. They are not planning on talking to the media. It looks like he will wait and see what the presented evidence in court will bring. Who knows, maybe he will talk later or stay silent until the end of a trial. It is possible.

■ **Karam Shoumali:** There will be court again next week before it will take another break, and from what we know, Anwar Al-Bunni will testify at the court as an expert witness. We will report back to you, and we will tell you what he will be telling the judges.

■ **Fritz Streiff:** We will also give you some more background on the second defendant, in this case, the so-called smaller fish. We have heard a lot about the main accused, Anwar R., but Eyad A.'s story is also an interesting one, and we want to share some insights with you about that. The thing about Eyad A. is, it looks like one could say he might have just been one of those characters that were at the wrong place at the wrong time, but there might just also be much more to his story, just as there is much more to Anwar R.'s story. We will talk to one of Eyad A.'s family members who will help us find out more about that next week.

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Season 1 | Episode 6 | June 5, 2020

Eyad A. is the second defendant in the trial, the so-called smaller fish, the less interesting accused. Or is he? Karam Shoumali and Fritz Streiff go on a journey to find answers to this question. They talk to friends, family, a colleague of his from Branch 251, and a court reporter to find out more. And they discover some pretty interesting insights and contradictions in the various versions of events. When did Eyad A. really join Branch 251? Did he fight with the rebels before he left Syria? Is justice going after the wrong guy? How does he come across in the courtroom now that he is facing charges of crimes against humanity?

EMPTY

■ **Fritz Streiff:** Today we will talk about Eyad A., the second accused in this trial. He has been in the shadow of the main accused, Anwar R., because on the surface, he just looks like the less interesting story, the less interesting profile. We went on a trip to find answers to the question of whether this is really the case. I think we found some pretty interesting insights and some contradictions in the different versions of events, and of his story, that we want to share with you on today's episode.

■ **Karam Shoumali:** Yes, I talked to many people who knew him back in Syria and also in Germany. It was not easy; I can tell you that. Today, we will get to know Eyad A. a bit better from two perspectives. First, based on what I learned from his friends, family, and former colleagues, their side of the story. One of them was ready to be on the podcast today, a former colleague who goes way back with Eyad A. He actually worked at Branch 251 and has a strong opinion about this trial in Koblenz. We will hear that conversation I had with him in a bit. Then we will hear from someone who has been in the public gallery in Koblenz every single day of the trial so far. She has been able to observe Eyad A. from the perspective of Eyad A. as an accused in court, as the person that is facing allegations of crimes against humanity and at least 30 counts of torture.

■ **Fritz Streiff:** What do we know about Eyad A.'s background and history?

■ **Karam Shoumali:** I spoke to more than 15 people who know him,

including family members, childhood friends, and former colleagues. Eyad A. was born in 1976. He grew up in Muhasan, a tribal, small town in Deir Ez-Zor in eastern Syria, where most of the locals mainly work in agriculture. He grew up in a very rural environment. Many of the local youth at some point moved either to Deir Ez-Zor city or to the capital, Damascus. That is for better opportunities. The town has seen a lot of fighting and misery in the past years. First, the rebels took control. Then Al-Qaeda followed. Later on, came ISIS. Now it is controlled by the American-backed Syrian Democratic Forces. That is why many of Eyad A.'s family ended up in Europe as refugees.

From what we know, Eyad A. had a simple childhood. His father was a farmer and he died when Eyad A. was still a child. He and his siblings, cousins, and friends would play outside a lot like most children do. They were all obsessed with football. They are big fans of the Barcelona Football Club. Nothing special came up in his upbringing. After he left high school in 1996, he was about 20. He first joined the intelligence services. The people I talked to told me that for the longest part of his career in intelligence, he was just an instructor teaching new recruits and training them. He would do sports and drill training with them, and was not part of any political or other sensitive work really.

■ **Fritz Streiff:** That you learned also from his former colleague that you talked to, right? Let us listen to your conversation.

■ **Karam Shoumali:** I talked to a former colleague of Eyad A. He worked with him in the Syrian security services and also defected. His name is Fahid Al-Hamid. Here is what he told me.

■ **Fahid Al-Hamid:** I served at the intelligence directorate in Branch 251. I worked in the interrogation department, and I defected at the beginning of 2013. Now I am living in Turkey with my family. Eyad and I were colleagues for 10 years. We have known each other longer. We come from the same region. Eyad and I go way back to our days in Deir Ez-Zor. We became close after we both enrolled together at the state security of the intelligence directorate in 1996. We enrolled for financial reasons after secondary school. We come from farm families, and we could not afford to continue our education. Those who are physically fit with the best grades in training were chosen as trainers. Amongst them were Eyad and I. We were assigned to train new recruits for the next 10 years, until 2006. That is when we were re-assigned to the internal security branch.

■ **Karam Shoumali:** How did he end up at Branch 251 in Damascus?

■ **Fahid Al-Hamid:** In 2006, the internal security branch needed more recruits. They chose 20 to 30 members from Branch 295, and they were sent to Branch 251. They asked for the best and those of the best physical build, so Eyad and I were chosen. We did not want to. I tried to go back to my position as a trainer. Eyad also wanted to go back. When I got to Branch 251, I requested to be transferred back but my request was rejected. Our transfers were compulsory, not voluntary, in both our cases, Eyad and mine.

Eyad was posted to the 40th Division in an emergency force in the guards' team. When the protests started, he was assigned to the team that gathered field intelligence. At that point, we were in different divisions and talked less. I saw Eyad every now and then when he would occasionally come to Branch 251 when he, for example, would come to collect his paychecks.

■ **Karam Shoumali:** What happened then? How did Eyad end up defecting?

■ **Fahid Al-Hamid:** Hafez Makhoulf, the head of the 40th Division, took it upon himself to raid neighborhoods and disperse demonstrators. He would take his men to go to demonstrations and he would request support from the Republican Guards and Fourth Division.

■ **Karam Shoumali:** In this case in Germany the police asked Eyad why he did not refuse the orders. He did not agree with them; why did he not say no?

■ **Fahid Al-Hamid:** You cannot say, "No, I do not want to join." You will be taken to jail right away. You will be considered a traitor and agent, and things like that. If you oppose, you will be executed or eliminated. I was in touch with Eyad, and I knew that he had made up his mind to defect, especially after Hafez Makhoulf ordered raids on the so-called hotspots, such as Harasta, Douma, and Zabadani. He deployed his men, the Republican Guards, and the Fourth Division. He even brought in cleaning workers and gave them firearms and batons.

■ **Karam Shoumali:** Have you been following the trial in Germany? What is your reaction to it?

■ **Fahid Al-Hamid:** This is a case of injustice. It is wrong-doing against Eyad Al-Gharib. He was one of the first to defect, and he helped people. He did not agree to be part of this killing machine, and he suffered for it. If he had been captured while defecting or before reaching safety, he would have been executed. When you defect, you are endangering yourself, your life, your children, and family. This is the reward while the real criminals are in Syria and other countries? The regime men who committed crimes against Syria and Syrians? This is injustice, not justice. I hope that this trial is fair and just.

■ **Fritz Streiff:** That former colleague of Eyad A. says they both got caught up in an environment that they did not agree with, that they wanted to get transferred back to their instructor post that they had before, and they got out and defected as soon as they could. This is like Anwar R.'s story from weeks ago. He also says that this whole trial against Eyad A. is just a disgrace.

■ **Karam Shoumali:** Yes, he thinks Eyad A. is a hero. He is a hero for refusing to continue his career in the security services, and he is a hero for risking his life and defecting.

■ **Fritz Streiff:** I find this interesting because Eyad A.'s own story is pretty much the same from what we know. It is very similar but there are some interesting contradictions. We know that because Eyad A. told the German migration and refugee authorities very openly about his past after he arrived in Germany. The court in Koblenz went through this information when I was there. I took really detailed notes. When I compare those, this is where it gets a little bit muddy. When he applied for asylum in Germany, he told the German migration and refugee authorities that he joined Branch 251 only in 2010. That is at least four years later than what his former colleague is saying here. Eyad A. said he worked for their religious department where he gathered intelligence on religious leaders about what was said and preached in mosques. He told the German authorities that he was just a desk officer, he would write reports on what he could find out, and nothing more than that. He also told the German migration authorities that only a bit after that he joined the 40th Division.

■ **Karam Shoumali:** This is not really what his former colleague told me. He said earlier that they both joined Branch 251 in 2006, and Eyad was sent to the 40th Division immediately.

■ **Fritz Streiff:** That is where those versions of events are

contradicting. The timelines just do not really match. If what the former colleague is saying is correct, then it seems that Eyad A. might be trying to minimize or shorten the time that he actually worked at Branch 251 and at the notorious 40th Division by at least four years.

■ **Karam Shoumali:** Who knows, his former colleague might be getting his timeline wrong or confused things in other ways. For now, it is just another version of events.

■ **Fritz Streiff:** Alright, let us go back to what Eyad A. told the German authorities in 2018. He said during his asylum interview that during this time at the 40th Division, in his version of events, it was only after 2010 that he was told to kill civilians, to arrest members of opposition just for protesting. He was told to shoot at protesters, and that there was an incident when his boss, Hafez Makhlouf, who as mentioned above, turned up at a protest himself and told him and his colleagues, "If you love the president, you shoot the traitors."

■ **Karam Shoumali:** This is one of the moments his former colleague also described to me. My sources mentioned this as well. They say this is a key moment for Eyad A. It is like the moment he contemplated or decided to defect, he had no other choice but to follow orders and shoot. I was told that he actually did shoot but tried to not hit any protesters.

■ **Fritz Streiff:** Yes, that is also his story during the interview with the German migration and refugee authorities that I listened to. It seems that is the reason that he eventually defected. That moment was the final straw for him to make that decision. Eyad A. told the Germans that after defecting, he went into hiding for a few months. He pretended to have to travel to a family funeral and took his family, and never came back to his post after that. Then he left Syria for Turkey and Greece and eventually made it to Germany, but it looks like he left out some pretty important stuff in the meantime.

■ **Karam Shoumali:** From what I understand, Eyad A. left his post in late 2012 and went into "hiding" for a bit in his home area. He might have changed a couple of homes back and forth, but he was not hiding. Then a couple of my sources told me that he was a member of the local military council, which was at that time, a rebel body that was mainly formed of defected officers and soldiers. Eyad A. wanted, apparently, to apply his experience and expertise to help the revolution. While I was researching him, I found a very important

opposition media activist who talked about Eyad A.'s activities with the Syrian rebels. He refers to him using his rebel alias, Abu Ayoub, and his interview is available online.

■ **Fritz Streiff:** Abu Ayoub. Eyad A. is Abu Ayoub as per the rebel "lingo?"

■ **Karam Shoumali:** Yes. He is one of the people who defends Eyad and says he is innocent.

■ **Fritz Streiff:** That is another point that is not clear at all from what he told German authorities later during his asylum interview in 2018. At least from what I myself heard in Koblenz in court when they went through his statement to the German migration and refugee authorities, he never mentioned that he was an active member of the armed opposition between defecting and leaving Syria. Maybe that was just not part of his statement at that time, and maybe he told the police later on. I do not know if that is possible.

■ **Karam Shoumali:** I am not sure why he would hide the fact that he became a rebel. It seems strange given that hundreds, if not thousands of former rebel fighters and defected officers are now refugees in Germany and in Europe. Maybe he mentioned it in later interviews, maybe it has not come up yet.

■ **Fritz Streiff:** From what he told the German authorities he just went into hiding after defecting. Then he eventually left Syria at the beginning of 2013 and went on a pretty long trip. He and his family stayed in Turkey for three years, and then in Greece for another two years. He then only arrived in Germany in 2018. That was a five-year-long trip. He applied for asylum. When the migration and refugee officer noticed in the interview that he started mentioning international crimes that were committed in the environment that he was recounting, then that interview, the transcript, and his case file were transferred to the police.

■ **Karam Shoumali:** He became a witness, and the police wanted to get information from him on Branch 251 and the 40th Division. Then the investigators put one and one together and concluded that he worked for the 40th Division himself, which did the arresting and transferring work for Branch 251. He went from asylum-seeker to witness to accused, and they arrested him.

■ **Fritz Streiff:** We have a better picture now of Eyad A.'s background and how he got to where he is now in court as an accused. Let us get another take on Eyad A. from a different perspective. I talked to Hannah El-Hitami this week. Hannah is a freelance journalist based in Berlin, focusing on Arab countries and migration. She is following the trial very closely and has been at every single court session. She knows Eyad A. from the perspective of seeing him in court as an accused. She says she has made eye contact with him multiple times. I talked with her on the phone this week.

■ **Hannah El-Hitami:** Hi Fritz.

■ **Fritz Streiff:** Hi Hannah. Thank you for talking to us today. We really appreciate it. Something we are very curious about for this week's episode is the question of the person of Eyad A.

■ **Hannah El-Hitami:** What he usually does is he comes in his magenta red sweatsuit and he sits there with his face mask, and sometimes chats with his translator, and looks around. He actually looks at the audience quite a lot. Maybe he is just bored or he wants to see who is there. Some of the Syrians who are there as spectators are famous, for example Mazen Darwish. I do not know about Eyad A., but I am almost a hundred percent sure that Anwar R. would know this guy. I often wonder how these people feel, sitting there and looking into the audience and seeing those Syrian activists looking back at them and watching every word they say. I can only imagine what it must feel like.

■ **Fritz Streiff:** Interesting. Does Anwar R. look over at all?

■ **Hannah El-Hitami:** He does. I definitely have had eye contact with both of them more than once. I would say that Eyad A. looks maybe to the audience a bit more often. My personal impression of Eyad A. is very mixed. On the one hand, we have really had a chance to learn more about him through documents that form a puzzle of who this person might be.

There are some things that really make you feel sympathetic toward him. There was one document that stated the health problems of his daughter. He has a daughter who is in a wheelchair. For him, the most important thing is that his daughter in Germany now can receive proper treatment for her disease. This makes you feel sympathetic toward him as a human being.

Then the next document is presented, and it says that there was a criminal complaint against Eyad A. a while ago when he was still in a refugee camp in Germany where he slapped a boy. Then he threatened that boy's father to chop off the head and the hand of the boy. He also got into a fight with some other refugees. Then you think, "Oh well, he is also capable of that."

In the end, you have many ideas about that person. I am just glad that I am not the one to evaluate who he is. The job of the court is to find out what he did. I guess who he is as a human being should not influence that decision. I also have some more thoughts about what is the difference between him and Anwar R.

■ **Fritz Streiff:** That would be very interesting.

■ **Hannah El-Hitami:** I think it is very obvious how different they are, because even on the very first day they both were brought in, Anwar R. did not hide his face, and that is why we have seen pictures of him in the media, whereas Eyad A. has always been hiding his face. On the first day he was hiding behind this really big hooded jacket. Since then, he has always been coming in holding a paper in front of his face. He often wears a face mask. Maybe he also feels more comfortable behind it. I noticed that often when certain texts are read out about the torture practice and what they did in Syria, he is almost sinking into his hands. He has his face in his hands and just goes further and further behind them. I do not know if he is just tired or if he is feeling horrible about it. The impression of him is that he is really not very confident.

I think maybe this is also because we also found out that he, as opposed to Anwar R., is not very educated. Anwar R. studied law or legal studies before becoming a police officer and then a secret service employee. Whereas Eyad A. did not even graduate from high school, then directly started working at the police. During one of the interrogations, he was asked whether torture was legal in Syria. Eyad A. said, "It is legal everywhere, isn't it?" I was like, "Oh wow. This man really does not have a lot of insight into things that happen outside his smaller world, maybe really is not very educated about the rest of the world."

Another thing is also that Anwar R. came to Germany very easily. He got a visa from the German embassy in Jordan, and from there he came to Germany by plane with his family. Eyad A. took 5 years, 2

months, and 13 days by airplane, on foot, on mini-bus, and on rubber boat to come to Germany. Even his journey reflects that he is from a whole different class than Anwar R.

When you start comparing them, then easily you will see Anwar R. is the main guy, and Eyad A. is like this not very important foot soldier or something. That is also dangerous because I think if someone committed a crime, and just because someone else committed maybe even a bigger crime or maybe not, it does not mean that the first one is not important. I do not want to say that Eyad A. is this poor, innocent guy who was dragged into something and he could not help it. He just seems way less confident than Anwar R., definitely.

■ **Fritz Streiff:** Interesting. Thank you so much, Hannah. We learned quite a bit about Eyad A. by now. How would you summarize what you learned about him this week, Karam?

■ **Karam Shoumali:** From the friends, family members, and colleagues I talked to, I got a pretty straightforward message and a clearly painted picture. Things are not that black and white as they make it seem at the prosecution. Justice should not be black and white; this is what they say. Eyad is a hero in their eyes. He is not a criminal because he risked his life and his family's safety to leave his post and come to the good side, what they think is the good side. He should be treated as a crown witness because he told the truth before there was even a court case against him. The Syrian context at that stage, when Eyad A. was still in his position, was complicated and multi-layered. The accusations now do not reflect that. They see it as a problem, and they insist it is a complicated context and should be taken into consideration by this court. At that stage, the Syrian people wanted guys like Eyad A. to defect from the regime. Thousands did. They listened to the people, including Eyad. You can not go after them for the orders that they had to follow before they defected.

I think the situation where he was ordered to shoot at protesters sums up what friends and families say to defend Eyad. They say if he had not followed that order to shoot, he would have gotten a bullet in his own head. What is his choice here? To shoot or get shot. When the German interrogators asked Eyad A. why he did not stop the crimes around him or disobeyed the orders and told his colleagues not to shoot, the people I talked to were outraged at that suggestion. They said, "This is a ridiculous question. Eyad had no choice."

■ **Fritz Streiff:** What is your take on that Karam?

■ **Karam Shoumali:** They say the court in Koblenz really needs to develop a better understanding of the Syrian context at that time. That is ludicrous to say he could have acted differently in situations like the one he described in which Hafez Makhoul ordered them to shoot saying "If you love the president, then shoot." There is some truth to that. During our reporting on Syria, we have come across many stories of defectors who did decide to disobey orders to do what they thought was the right thing. Many of them ended up dead, shot right there after facing a court in the field. It takes a matter of minutes. Many of them, if they were not killed right on the spot, have been thrown in jail maybe until this day.

■ **Fritz Streiff:** Obviously that is a very tough situation to find yourself in. I can not say that I can imagine how that must be. At the same time, I want to say you do not just end up in a place like that and then cannot get out anymore. There are choices that one makes that lead up to a situation like this. It is not a singular moment in time where you find yourself in a context where you might not have a choice anymore. There are years and years and years and choices that lead to a moment like that.

■ **Karam Shoumali:** Especially in Eyad A.'s case, as he enrolled voluntarily in 1996.

■ **Fritz Streiff:** Let us just circle back to what the court is dealing with in Koblenz. That is the accusations and indictment. That is what the court is looking at here. If Eyad A. says he did not have a choice but to obey orders in a situation like that, then the judges will hear him out and take that into account, and his later choices as well. Those might be mitigating circumstances, and that is also part of what this trial is about. If the prosecutor can prove the crimes that are alleged in the indictment, then he will have to answer for those. We are still just at the start of this trial. We are far away from "guilty" or "not guilty." His side seems to be saying, "Eyad A. did not have a choice when he was put in situations that turned ugly, that turned criminal. What choice did he have in a context like that?" It sounds a bit like what in law is called a defense of superior orders, where a subordinate, in this case Eyad A., argues that he should be relieved from criminal responsibility, that he should not be held criminally responsible for these acts because he had no choice but to obey superior orders.

Generally, though, international customary law says that these kinds of defenses are not accepted when the subordinate, in this case Eyad A., knew that the act that he was ordered to execute was unlawful, or at least should have known that because of how clearly unlawful the superior order seemed. That is what the international customary law rule says. How the German court will look at this, we will have to see.

■ **Karam Shoumali:** From what we learned from Hannah, maybe Eyad A. was not even aware of the illegality of some of the crimes he is accused of, when he told German interrogators that he thought torture was legal everywhere.

■ **Fritz Streiff:** That just shows again that Eyad A.'s story and Eyad A.'s profile is indeed more interesting than on the face of it. It will be interesting, not just Anwar R.'s case in this trial, but also Eyad A.'s.

■ **Karam Shoumali:** We wanted to let you know that this week the court was in session from Wednesday to Friday. It is still ongoing right now. What we can already tell you—it was a special week, because for the first time Syrian victims and survivors actually testified as witnesses. Next episode will cover what they said in court and what their testimonies mean for this trial.

EMPTY

CHAPTER

7

SYRIAN WITNESSES SPEAK

Season 1 | Episode 7 | June 12, 2020

Last week in court Syrian survivors spoke as witnesses for the first time. One of them, Feras Fayyad, speaks about his experience testifying in court and opening up about being sexually violated at Branch 251. Fritz Streiff and Karam Shoumali also talk to two experts who tell them more about sexual violence in international cases and how the Syrian regime has used it as a weapon of war against its own people. This chapter also covers Anwar Al-Bunni's moment in court that he has been waiting for for so long when he testified as an expert witness.

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■ **Fritz Streiff:** Today we will look back at the court sessions that took place last week. The court in Koblenz was in session for three days, from Wednesday until Friday. Today on the podcast we have some comments from witnesses that testified last week in court, and from commentators who followed last week's court session with special interest because it was a significant week for the trial in a number of ways, specifically for Syrians.

■ **Karam Shoumali:** Last week was the first time during this trial that we had Syrian witnesses testifying. Until last week, it had mostly been German police investigators, experts, officials, and representatives from the migration and refugee authority. Last week, the 10th day of the trial, we had, for the first time, a witness with a first-hand account of what the allegations are all about.

■ **Fritz Streiff:** That also meant that last week, a lot of Arabic was spoken for the first time in the courtroom. That was a big moment for the Syrian activists and survivors that regularly come to Koblenz and attend the trial with great interest, but often can not understand what is being said because the court language is German. The fact that Arabic was spoken also meant that the two accused, Anwar R. and Eyad A., had to listen to Syrian survivor witnesses talk about their experiences in their own language.

■ **Karam Shoumali:** The court sessions were also important because the two witnesses who testified are very well-known Syrians. The first witness who testified last week is a filmmaker, his name is

Feras Fayyad. I asked him this week about his experience testifying in Koblenz. His testimony was quite special last week in Koblenz, and it is also quite important from a legal perspective because it is central to proving some of the charges in the indictment that relate to sexual violence.

■ **Fritz Streiff:** More about that specific part of his testimony in a bit. First, what do we know about Feras Fayyad and his background?

■ **Karam Shoumali:** He is a 35 year old Syrian filmmaker, and he is one of the joint plaintiffs in this case. These are civil parties joining the prosecution and the case against the accused. Now he is also a witness. He comes from a politically active family. During the '80s, the Syrian regime detained three of his uncles and killed the fourth one. During his testimony, he said he is not really politically active himself and he just wanted to be introduced as a filmmaker. For his studies, Feras moved first to Lebanon and then to France, where he studied filmmaking. When he finished, he returned to Syria in 2005.

In 2011, at the beginning of the Syrian uprising, he wanted to document the protest and how security forces were attacking protesters to disperse them using violence. In April of that year, he was picked up at an internet cafe in Damascus. He was tortured for a few days at the Air Force Security Branch and released later on. He decided to flee the country, and in August 2011, he was detained at the airport trying to leave Damascus. Here comes his first interaction, his first experience with Branch 251, also called Al-Khatib Branch. In his testimony, he described the conditions of the imprisonment and torture he went through.

Eventually, after he was released, he managed to leave for Turkey. It became his base from which he would frequently travel undercover to Syria to work on his films. His work was highly recognized. He was nominated twice for the Oscars, in the Best Documentary Feature category for his 2018 documentary *Last Men in Aleppo*, and for his 2020 *The Cave* documentary.

■ **Fritz Streiff:** Because he was detained in Branch 251 during the timeframe of the indictment, 2011, he was called as a witness in this trial.

■ **Karam Shoumali:** It is not easy for anyone who survived the gruesome things that happened at the branch, but for Feras, there

was this additional component. He was unfortunately raped while at the branch as part of his torture. He testified that when he arrived at Branch 251, the experience, what he referred to as the "welcome party." We did discuss this wicked ritual in the previous episode *Hell on Earth*. Feras Fayyad also told the judges about the "welcome party."

Perhaps the most significant part of his testimony was his account of how he was raped at Branch 251. He told the judges in Koblenz that, on more than one occasion during the torture sessions, his interrogators and torturers would insert a stick into his anus. Obviously, this was very uncomfortable for him to talk about.

■ **Fritz Streiff:** The judge actually asked him multiple times how that happened, how this act occurred. She did apologize to him and acknowledging the very sensitive and personal nature of this topic. She said she needed to know exactly whether the object that was used in this act had entered his body. It was one of those moments where technical and legal elements that are necessary to prove an allegation met the very personal and painful experience of a victim. She asked him, "Did you feel the stick inside of you?" Feras said, "Yes, once. They pushed it inside me." He said he needed to get surgery in Turkey due to the injuries that resulted from that experience.

■ **Karam Shoumali:** We spoke to someone about this important part of his testimony, just to better understand the significance of it. We spoke to Alexandra Lily Kather, a legal advisor at the European Centre for Constitutional and Human Rights, or the ECCHR. She works there on international crimes and universal jurisdiction cases. She has been focusing lately a lot on crimes of sexual violence in her work.

■ **Fritz Streiff:** Lily, we were just wondering if you could say something about the significance of last week's survivor testimony in court.

■ **Alexandra Lily Kather:** Particularly last week's testimony is the only one that includes incidents of sexual violence. More specifically rape with an object, which was a very common form of violence that occurred in Assad's torture prisons. Sexual violence was such a powerful tool that the regime resorted to, both against women and men, in their attempt to violate the oppressed, the political opposition in Syria. We have not only rape with an object but also

electrocution of genitals, forced abortion, and forced nudity. There is a whole array of crimes of sexual violence.

■ **Fritz Streiff:** For now, the only charge, or the only count, of rape and sexual violence is the incident that was testified about last week in court, right?

■ **Alexandra Lily Kather:** Correct. To speak about grave violations against your sexual integrity, and your sense of self, such an intimate violation is an extra challenge. I think the witness did extremely well in responding to quite specific questions that were asked by the presiding judge. The judge asked, for example, whether the survivor could feel the invasion of his body, which is the legal requirement for rape in international criminal law and also in its German implementation, that there has occurred an invasion of the body with either part of the body of someone else or with an object. In that case, it was an object. I think the survivor did remarkably well in answering the quite detailed follow-up questions of the presiding judge.

■ **Fritz Streiff:** Would you say that this charge stands after this testimony?

■ **Alexandra Lily Kather:** That we will have to see in the course of the trial, but as far as I can tell, it does very much stand, yes.

■ **Fritz Streiff:** I can imagine that if you have one incident hinging on the testimony of only one witness that, some would say, is a rather thin accusation.

■ **Alexandra Lily Kather:** There are two angles on this. First, right now, the court is not looking into rape as a crime against humanity. They are looking into a single incident of rape, and that is what they are trying to prove, and I think that will be for sure successful, based on the testimony of the survivor. What we should also bear in mind is that one single act of rape can be a crime against humanity. It does not need to be systematic and widespread itself, we only need to prove that it has been committed as part of a widespread and systematic attack. There are lots of other information that we can feed into the trial or into the investigation, to recognize that a single act of rape can also be part of a widespread and systematic attack, and therefore a crime against humanity. All the other crimes that have been committed in the very same crime site, torture, severe

body and mental harm, deprivation of liberty, they all happen in the very same geographical crime site. So why is a single act of rape or a single act of sexual coercion not as much part of the widespread and systematic attack as these other occurrences? We simply do not need the widespread systematic element to it. That is the first angle.

The second is certainly that sexual and gender-based violence is, as all mass atrocities themselves, often perceived as either collateral damage, something that happens because of the mass violence occurs, or as isolated incidents, rather than crimes that have been committed with a certain political aim or another aim. That is why it is super important that investigation and prosecution authorities are also trained in trauma-sensitive approaches to investigations.

■ **Fritz Streiff:** Thank you so much. That is already a big help in starting to try to understand the specific difficulties and issues with sexual and gender-based violence in these kinds of cases.

■ **Karam Shoumali:** Back to Feras Fayyad's testimony. What we just learned from Lily is from a legal perspective. His testimony is really crucial for the case because the evidence he gave is necessary to prove the charges against Anwar R. especially in regard to sexual violence.

■ **Fritz Streiff:** That is how it seems. Of course, we do not know exactly what other evidence the prosecutor might have at this point, or might still get and introduce in the trial at a later stage. For now, Feras Fayyad's testimony in this regard is definitely crucial and central. Also, he ended his testimony in a really surprising way. He told the court he would be ready to forgive Anwar R., if only he, Anwar R., would acknowledge that there was torture and that his experience, Feras Fayyad's experience, and the experience of so many others, was real. That is, I think, unlikely to happen after what we heard from Anwar R. a few weeks ago in his statement that his lawyers' read out where he just flat-out denied all charges and rejected all accusations.

■ **Karam Shoumali:** I talked to Feras Fayyad just to ask him how he looks back at his testimony and his experience in court. I started by asking him how it was for him to be face-to-face with the accused in court Anwar R.

■ **Feras Fayyad:** I am not someone who is looking for revenge. I went to the street for a reason. When I handled my camera and

went to film what was happening in front of me, that was fighting for a goal, for a reason, not just for me, but for the next generation, fighting for freedom of expression and for our dignity.

It is not about him exactly. He is a small fish in a bigger system. He should live with that and he has to understand how painful it is for every single person because we are not numbers. For them, this is why they are all the time just cursing over us, because for them, we are just a number. We are coming to them as a number. I told him to tell the truth that today millions of Syrians know this story. It is not just a personal story for me as Feras Fayyad.

■ **Karam Shoumali:** I could not help but tell him how brave it is just to step forward and tell the story about the sexual violence he had to experience at Branch 251.

■ **Feras Fayyad:** It lived with me for a long time. I did not even talk about this with my family, about the sexual violence assault that happened to me, the rape and the harassment. I have been keeping that to myself. I also wanted to tell my personal experience myself. After a long time living with this pain inside me and inside my mind, I had the feeling that in order to release this pain and to free myself, I have to talk about it. All of these are shameful things that they used against survival and somehow to silence us, and I did not want to let anyone silence me.

■ **Fritz Streiff:** Thank you Feras. Looking at his testimony in court last week, and in connection with what our guests mentioned just now earlier, this really is a complicated and complex issue of sexual violence in conflict generally, and here specifically in the Syrian context.

■ **Karam Shoumali:** Our earlier guest Alexandra Lily Kather told us about the legal aspects of it and to understand better, specifically the Syrian angle, I talked to a former colleague of mine at *The New York Times*, Anne Barnard, who worked as Beirut bureau chief for six years until 2018. She talked to many survivors, dozens of them about their experiences. She told me sexual abuse in Syrian torture prisons, both against men and women, has been really common. I asked her why victims do not speak of it, although they speak about all other types of torture. This is what she told me.

■ **Anne Barnard:** For women, particularly, there is a stigma

associated with being the victim of a sexual assault. In fact, there is even a physical danger. In traditionally conservative religious societies in Syria, it is considered a dishonor on the family if any woman is raped or sexually assaulted in the family, and sometimes male relatives have even killed such women in so-called "honor killings." This had a chilling effect on the participation of women in the peaceful protest movement because sometimes even the fact of having been in prison led to an assumption that someone had been sexually assaulted. Even if she had not been, there are documented cases of women enduring sexual assault as part of their torture and then being killed by their own families.

This does not apply to all families. There were some families that later changed their view about the stigma because they saw that the government was weaponizing it against the people, but that remains relatively rare. Women have been through all kinds of sexual assault ranging from being routinely groped or grabbed or touched when they are being taken to a security branch, to invasive searches, to forced sexual intercourse with security officers or their friends.

■ **Karam Shoumali:** During our talk, Anne made the distinction between the experiences of men and women who she talked to about the experiences of sexual abuse as detainees in different prisons and Syrian security services.

■ **Anne Barnard:** When it comes to men, it is a bit more complicated. I think Syrian society has somehow been more willing to pretend that men in prison are not being sexually assaulted. I am not sure why, but maybe it has to do with a fear among the survivors themselves that they would somehow be labeled as gay or weak. Although again, it is not very logical, because they do describe all kinds of really humiliating experiences, from being forced to eat their own excrement to being forced to take part in sadistic role plays and all kinds of things. In any case, the government was very expertly able to weaponize the particular fear and stigma around sexual assault.

■ **Fritz Streiff:** She had some hopeful and interesting final comments in terms of the historical comparison and perspective that she offers.

■ **Anne Barnard:** I think that the trial you are covering may have an effect on how these stories are documented and told. The fact

that years later people are starting to speak about these experiences, and people are seeing that this can have some kind of an effect and bring some kind of modicum of accountability and public attention to these crimes, it may encourage others in the future to speak out, especially as people reach a safer place in their life they may also become more willing to talk about things that happened to them. Just as we have seen with decades-old atrocities like the Bosnian War, or Rwanda or even, let us say, the Holocaust. These types of stories continue to come out as society changes. I think there are some cases in Syria where families have changed their view about the stigma around sexual assault. It is relatively unusual, but even conservative families, and there are at least two that I have interviewed, that chose to see women and their families who had been raped in prison as similar to those wounded or killed in war, seeing it as something you went through as part of the course and we do not want to let the government turn that into a weapon against you or against our family.

■ **Karam Shoumali:** Thank you so much, Anne. The second witness is the prominent human rights lawyer Anwar Al-Bunni who we spoke to previously in *The Two Anwars*. Feras Fayyad was actually his client back in Syria. Anwar Al-Bunni defended him before they both left Syria and ended up in Germany, and here they are again in this court in Koblenz.

■ **Fritz Streiff:** Anwar Al-Bunni's testimony had three main topics and messages, I think in addition to his personal story with security services and being arrested and detained, including at Branch 251. Firstly, from the people we talked to who were in court last week, we understand that Anwar Al-Bunni made a few statements during his testimony about the wider importance of this trial. He reminded the judges and everyone else present in the courtroom that this trial for him and many other Syrians is about much more than the individual criminal responsibility of the two accused. He pointed out again, that the Assad family and its close circle of trust have used detention and torture as principal tools to oppress and stay in power. The presiding judge actually told him a few times that he should make less general statements and give more concrete answers to the questions being asked.

■ **Karam Shoumali:** Anwar Al-Bunni has been working on such cases and now there is finally some justice in the making, and he is part of it. He needed to say those things, he has been waiting for it.

■ **Fritz Streiff:** I think the judge just needed to make sure that the procedure of her court in this specific trial regarding these specific allegations in the indictment would be respected. The way that I experienced her presiding over this trial, the presiding judge, when I was in Koblenz, she is actually really good at this from what I observed. She knows how to strike the balance of giving some space and time when needed and at the same time, keeping an eye on the rules when necessary.

■ **Karam Shoumali:** Then Anwar Al-Bunni moved on to testify about the so-called "Caesar photos." This is a collection of more than 50,000 photos that were taken and smuggled out of the country by a Syrian military police photographer. He defected and brought all of these files out of Syria, and to keep his identity hidden he was named Caesar and this is why they are called the "Caesar photos." His job at his former post was to document the bodies of thousands of people who died in detention, or at a military hospital after detention. He smuggled the photos out of Syria and they were provided to law enforcement agencies, including in Germany.

■ **Fritz Streiff:** The judges in Koblenz now asked Anwar Al-Bunni, as an expert witness, about the particular system of numbering the corpses in these photos that Caesar smuggled out of Syria. Al-Bunni explained to the judges that the numbering gives information about the number of corpses and their locations within the various detention facilities of the security services in Syria, including Branch 251. Al-Bunni helped the court to understand and interpret this system of numbering to be able to use it as concrete evidence of the killings that are described in the indictment in this trial in this case.

■ **Karam Shoumali:** Then Anwar Al-Bunni also debunked some of the information that Anwar R. gave in his statement, the one that was read by his lawyers. He told the judges that torture absolutely existed as a systematic tool prior to 2011. He said before 2011 it was used to extract information from suspects and after 2011, during the uprising, torture became a tool for revenge.

In his testimony, Al-Bunni contradicted Anwar R.'s claim on the point that Hafez Makhoul's notorious 40th Division took control of Branch 251, which Anwar R. is saying in his claim that he was not the one running the show and he was not responsible for whatever happened at the branch when he was there.

Fritz Streiff: The court now has an expert witness Anwar Al-Bunni saying main elements of Anwar R.'s statement are factually incorrect, based on his decade-long experience as a Syrian human rights lawyer, activist, expert, and his personal experience of having been detained in the Syrian security service prisons multiple times. The court will have to take that into consideration and will enter it into its wide dossier of evidence.

These were two very different witnesses, Feras Fayyad and Anwar Al-Bunni, but they were both arrested and tortured for what they did, and that connects them in a way. One, Feras Fayyad for making his films, and the other, Anwar Al-Bunni, for defending human rights.

After Anwar Al-Bunni's testimony on Friday last week, the court went into recess until June 24.

I just want to go back to something we talked about at the start of the episode. The fact that last week was the first time that Arabic was spoken in the courtroom and the first time that those in the public gallery, the many Syrians that come and attend the trial, were able to follow the proceedings because their own language was spoken and that is usually not the case because the court language is German.

For some procedural reason, individuals in the public gallery do not get any of the headsets with simultaneous translations that the court parties get to use, the judges and the prosecutors. I find this strange, and I still do not understand why those are not given to the public gallery as well. When I was there, I saw there were plenty of additional headsets lying around, but for some procedural reasons people in the public gallery cannot use them to understand and follow the court proceedings. Some victim organizations are now pushing for changing that and I think that would be really great for the Syrians that come to the courtroom to follow the proceedings.

Next week, we will use the time without court to dedicate a whole episode to survivors. We are speaking to two of them to find out more about their stories of surviving the serious torture apparatus, and how they managed to cope with their traumas and painful memories now in their daily lives; what they expect of this trial of justice, and what their personal messages are for the two accused.

CHAPTER

8

HE CALLED ME AMMO

Season 1 | Episode 8 | June 19, 2020

In this chapter, Fritz Streiff and Karam Shoumali speak to two survivors of Branch 251 who share stories of surviving the serious torture apparatus, and how they managed to cope with their traumas and painful memories now in their daily lives, what they expect of this trial of justice, and what their personal messages are for the two accused.

EMPTY

■ **Karam Shoumali:** Fritz, this is the eighth episode already. The podcast has been around for two months now, as has the trial.

■ **Fritz Streiff:** It feels like we have been on this for much longer; for some reason it feels like this trial has already gone on for much longer than eight weeks, but it is actually still just at the beginning.

■ **Karam Shoumali:** Yes, and now that the court is still in recess it feels like a bit of a break. Why do you think they take these long breaks in between court sessions?

■ **Fritz Streiff:** A three-week break does seem long, but I assume they just need a break. Everybody involved, the judges, the prosecutor, the participating victims, and their lawyers, and the accused and their lawyers too. This is hard work, a trial like this.

■ **Karam Shoumali:** Like we said a few weeks ago, it is like a full-time job for both of the accused, especially Anwar R. We have heard from court observers that he has really started being more active, listening attentively to testimonies. When Feras Fayyad and Anwar Al-Bunni were called as witnesses and spoke, he was writing all kinds of notes, and passing on messages to his interpreters and lawyers.

■ **Fritz Streiff:** Yes, he was listening very closely, taking in every word, immediately deducting and analyzing it seemed. Like the meticulous investigator that our guest, Christoph Reuter, described in the episode *Colonel, Defector, Defendant*.

■ **Karam Shoumali:** Today we will dive a bit deeper into the accounts of Syrian survivors. We heard from two of them last week, Feras Fayyad and Anwar Al-Bunni. They testified in court as witnesses, and they are representative of many others.

■ **Fritz Streiff:** We mentioned this number before, but I will just say it again as it is easy to forget because of the unimaginable size of these numbers. A report in *The New York Times* from May 2019, referred to 128,000 detainees who are presumed to be either dead or still in custody at the time of the report. Furthermore, as of the same time, at least 14,000 have been "killed under torture" over the years. These numbers do not even include those who survived. Another article I read this week refers to the staggering reported number of around 100,000 individuals detained in Syrian prisons at this very moment, often under inhumane circumstances.

■ **Karam Shoumali:** People I speak to think the numbers are much higher. They assume it would be somewhere around 200,000 at least.

■ **Fritz Streiff:** As always, a pretty damning dark figure on top of what is the more or less known number of 100,000. It is hard to deal with these staggering numbers. They often seem so unsizeable, so unreal, and then our brains, at least mine, just disregard them as if they did not exist, or at least they do not manage to understand what these terrible, terrible statistics actually mean.

■ **Karam Shoumali:** While we are reminding ourselves that these numbers are absolutely important, we want to go back to the human impressions again, to the actual stories, because they represent these big numbers. They are real humans, individuals. We both wanted to talk to survivors of the Syrian torture apparatus. We wanted to know more about their stories from the past, but mostly also about their lives today, how they managed to deal with the painful memories, and what they would ask the two defendants if they had the chance to talk to them.

■ **Fritz Streiff:** We will first hear the conversation that Karam had with Nuran Al-Ghamian, and then we will listen to my conversation with Luna Watfa.

■ **Karam Shoumali:** I met Nuran in Berlin. We had spoken many times on the phone, but this was the first time I met her in person. I came across her story many years ago, because she is a well-known

revolutionary figure amongst Syrians. She was arrested in 2012 when she was 20 years old, and she was a political science student at Damascus University at that time. She is a joyful person. She is soft-spoken.

■ **Nuran Al-Ghamian:** On May 27, 2012, I joined a sit-in in Al-Tyani district. The sit-in was infiltrated. Within a few minutes, gunshots were fired and we were dispersed. I ran for six or seven minutes to a street in Al-Dawada. I was stopped by two men on a motorbike. They asked for my ID and then they detained me. My mother was there also, near the sit-in. She knew I was joining and wanted to watch me from afar. She felt something might happen. She was curious and decided to film the sit-in, and of course, as you know, filming can be used as an accusation, and she was detained for this reason. I was put on the bus that took us to Branch 40, in Jisr Al-Abyad. I saw my mother there and I had really bad feelings. I was like, "Wow, why is my mom here?" This was really one of the harshest moments. She had her head down and her hands behind her back. Her tears were falling down. Nobody could raise his head, move, or talk. The guards kept cursing and insulting us.

We entered Branch 40. The treatment was really bad, and at about midnight, we were transferred to Al-Khatib Branch. I was in denial. I did not believe that I was there. Like, "What? What just happened?" The overwhelming thing was that my mother was with me. This really destroyed me psychologically. I was really sleepy, so I would try to close my eyes for a bit, and then open them and look around and wonder "Where am I?" I realized this feeling inside of me that I am imprisoned, that something has been taken from me. My freedom.

It is really hard to describe this feeling in an ugly place where no one knows anything about you, and even you do not know anything about yourself. There were dirty blankets filled with bugs. It is a disgusting place, and we were 17 females in a tiny place. We were not all political detainees. Some girls were accused of prostitution. It seemed like those girls were in and out of prison the whole time. They were used to it. I was astonished by the inhumane way they treated me and talked to me. Sometimes if I slept a bit longer than the agreed-upon time, because of the lack of space in the cell, they would verbally attack me.

■ **Karam Shoumali:** Do you remember a specific conversation you had with your mom there?

■ **Nuran Al-Ghamian:** I remember the type of conversations we had. The majority of them were about fear, especially with the mystery of the whole situation overshadowing what was to happen next. We did not know what was going to happen next. We were thinking about what my father and my sister would be doing. It was a really hard situation.

On the first night they interrogated my mom and the rest of the girls who were detained with me, and I asked the jailer, "When will they be interrogating me?" He told me my interrogator will be special, and he was not at the branch then and would be coming the next day. He said that was because my file was big. In mom's interrogation, she was asked why she joined the protest and such questions that are mixed with the regime's method of insulting detainees. The following morning, I was taken to an interrogator. He accused me of many things, and said I incited murder and I would be in jail for 10 years for it, but he could let me out if I helped him, if I gave him information about individuals. I was beaten up and tortured. I do not want to go into the details of this, if it is okay.

■ **Karam Shoumali:** Okay.

■ **Nuran Al-Ghamian:** Then they called my mother's name and they took her out. I thought she left prison. Then my name was called. I was taken from the communal cell to solitary confinement, where I suffered a lot psychologically.

■ **Karam Shoumali:** When was the first time you saw Anwar R. during your detention?

■ **Nuran Al-Ghamian:** I saw him once during the time I was in solitary confinement. I asked to see him. I knew he worked there, because on February 15, 2011, this branch detained my sister Marwa. A few days later I went there with my family and we were allowed to visit her. This was the first time I saw him. We entered his office as civilians to check on a family member, not as detainees. Of course, such a thing does not happen anymore, but it was still the beginning of the revolution. She was beaten up and tortured. That is when I met Anwar, and I was under the impression that he was a good guy and might help. At least take me out of solitary confinement.

After three or four days of me insisting to see him, a jailer took me to him. I was blindfolded, but I could still see a little bit. I was sure it

was Anwar. I could read his name on a wooden plate on his desk. It said Colonel Anwar Raslan. I sat there while the jailer waited outside. I was devastated and I was crying. He asked me, "Why are you joining protests, do you not know this is wrong?" His cold demeanor was really irritating. At that time, I was young, I was devastated not knowing what would happen to me. Or where my mom was. I did not know where my family was, and my family did not know where I was. They did not know for how long I would be detained. His cold demeanor continued, and he laughed at me. I told him, "I do not want anything, just put me back in the communal cell. Do not leave me in a cell alone, because I am about to lose my mind." I was like a child talking to him, it was painful. I was in pain, I felt like my life was in his hands. He said, "It is okay, *Ammo*." He called me *Ammo*.

■ **Karam Shoumali:** In Syrian Arabic, an older man would address you as *Ammo*, and that is to suggest that he is a close person and can be trusted.

■ **Nuran Al-Ghamian:** Then he called the jailer and told him to take me back to the other women. I saw he raised his eyebrows when he talked to the jailer to actually tell him to take me back to solitary confinement. He wanted me to hear something, but to understand that the jailer was the one who took me to solitary confinement. The jailer took me to solitary confinement. I pretended I could not eat, and I had constant nosebleeds because of the psychological pressure, and I made some drama. I smeared the blood on my clothes and on the walls and told them I was bleeding. They got worried. The next morning, they took me out of my cell, but then they opened the door for another individual cell. Then I saw they were taking me to the solitary confinement cell where my mother was being held.

■ **Karam Shoumali:** All of this time you thought that your mom was out of prison?

■ **Nuran Al-Ghamian:** Yes. I thought the whole time she was out of jail. We hugged each other for almost 30 minutes, but it was an ugly scene. She seemed tired and hurt. We stayed in that individual cell for a while together. It was very tiny, we could not both sleep at the same time, and it was very hot and infested with bugs. Every day we heard sounds of torture, we slept to sounds of torture.

I was detained for about three months. I was conditionally released after paying bail. I was released after being detained at Branch 40,

Branch 251, Military Security Branch 285, then the military jurisdiction and civil jurisdiction branches, until I landed at Adra Prison from which I was released.

I have been living in Switzerland for three years now, more or less comfortably. I am working and raising my daughter and thinking of finishing my studies. Eventually life will go on, and I am determined to go on with my life.

This was one of the most difficult moments in my life. The power he had because of his position. He could end a person's life, that is how it felt. Well, he did not end my life, but he scarred me on the inside.

■ **Karam Shoumali:** Feras Fayyad said he could forgive him if he admits. Would you forgive him?

■ **Nuran Al-Ghamian:** No, I will not forgive him. This is something he committed, regret or admitting guilt does not wash away the crimes committed before.

■ **Karam Shoumali:** When you look back, do you regret joining that sit-in?

■ **Nuran Al-Ghamian:** No, of course not, because that was real and it is still real. What happened is not only a phase in my life, it is part of who I am now.

■ **Karam Shoumali:** Thank you Nuran. Nuran is actually ready to testify as a witness on this trial.

■ **Fritz Streiff:** Our next guest is Luna Watfa. This is her nickname, her alias. It is the same one she used for her work as a journalist in Syria before she was detained, and she still prefers to go by this name. Her real name is Soumaya Al-Alabi. Soumaya was a political prisoner in Syria where she was detained for her work as a journalist covering the biggest chemical weapon attack in the early years of the Syrian conflict. She now works as a freelance journalist in Koblenz. We heard from her briefly when she commented on the statement by Anwar R. I got the chance to have a longer conversation with her on the phone.

■ **Luna Watfa:** Hi Fritz.

■ **Fritz Streiff:** Hi Luna. You living in Koblenz must be the biggest coincidence that I have heard in a long time.

■ **Luna Watfa:** Yes. It was really good for me because to be in the same city that this trial is to take place, it is just something I was really lucky with.

■ **Fritz Streiff:** When were you detained in Branch 251?

■ **Luna Watfa:** I was arrested by Branch 40, which belongs to the state security branches as well. Then I was transferred to the General Intelligence Branch, and then to the General Intelligence Department Branch, and that was in 2014. I stayed in the security branches for two and a half months, a full month of them in Al-Khatib Branch. After that, I was transferred to the Central Prison of Women in Damascus, but the entire period of my detention was one year and one month.

■ **Fritz Streiff:** What did they arrest you for, what did they say you did?

■ **Luna Watfa:** The main charge was that I am a journalist, who covered the chemical massacre which happened in eastern Ghouta in 2013. I collected all the evidence that happened in that time. More than 800 names of the victims, and also videos and photos, and I leaked all this information to the opposition outside Syria. Because of this they arrested me, and they asked me to say that this massacre never happened at all. They forced me to do a TV interview in Al-Khatib Branch and to say in front of the camera that this massacre never happened at all, and that we faked all the evidence and all victims in these videos, that they were all actors and not victims at all.

■ **Fritz Streiff:** You covered the earliest, biggest chemical weapon attack that happened in Syria against the civilian population with, I believe, some sources say that close to, or maybe even more than, 1,000 civilians who died in that attack, right?

■ **Luna Watfa:** Right. They only want to deny it, that it never happened at all; that is what they wanted to say and what they forced me to say also.

■ **Fritz Streiff:** How did they eventually arrest you?

■ **Luna Watfa:** It happened on January 29, 2014. It was 10 AM. I had a coffee with a friend in Damascus. Someone came to me and asked for my ID, and he ordered me to go with him outside the cafe. There were two cars, occupied with many security devices, and nearly 20 security men. At that moment, there was a scarf on my shoulders, they put it on my eyes so that I could not see where they were taking me.

Then they took me to a security branch, and there were two hours of investigation with threats. When they could not take any information from me, they took me again to my house. Blindfolded. My son, who was 14 years old, was there, and my daughter was at school. She was 11 years old. Then they started confiscating everything in the house: laptops, cameras, and also money. There were approximately 12 security men. The person in charge of them told me to give him the names of the rest of the people who work with me. I told him, "There is no one but me."

He ordered them, at this moment, to arrest my son in front of my eyes, and to arrest my daughter from her school. At this moment, I started to talk. I told him it is illegal to arrest anyone without an arrest warrant. He laughed actually and he said, "I am the law, I can do whatever I want." Throughout my time in the security branches, I was threatened that they would torture my children in front of me if I did not tell them what they wanted to hear.

■ **Fritz Streiff:** They threatened to torture your children in front of you?

■ **Luna Watfa:** Yes, all the time. After arriving at the central prison, I knew that my children were not arrested, but rather, they put my son in the toilet of the house so that I could not see him, and threatened him not to make any noise or sound so I could not hear him. He remained in the toilet for three hours after we left, and he was unable to move out of fear. They did this only to blackmail me.

■ **Fritz Streiff:** How did your son eventually get out of the toilet?

■ **Luna Watfa:** After three hours, he could move, so he just went out, but he stayed one month without talking about what happened, because he could not.

■ **Fritz Streiff:** And your daughter?

■ **Luna Watfa:** She was fine. They did not go to the school.

■ **Fritz Streiff:** If you can, and if you want to talk about it, can you just describe what happened to you in prison?

■ **Luna Watfa:** Yes, there was torture. And I was threatened the whole time that they would torture my children and that they were arrested, and I could not know if they were okay or not. I was also beaten on my feet in Al-Khatib Branch, and I was sexually harassed in Branch 40. That was in the past. I feel it is my duty to tell this story again and again, more and more, because there are still people in these branches, and there are still people who have this torture. If we can not say anything about them, no one will know what happened there.

■ **Fritz Streiff:** It is very brave of you and very courageous. We wanted to ask you and some others just about how you are coping with your experiences in everyday life living with these painful memories.

■ **Luna Watfa:** As a former political prisoner, I can say that the prison experience is unforgettable. Yes, I have been released from prison but often I fear that the prison lives inside me. My main suffering, since I was released, is the imbalance in my memory. For example, if some things that happen to me now, like very normal things in life, the first thing I remember from it is something that happened to me in the prison. Sometimes I feel that everything that happened before or after the prison period did not happen at all, or did not exist. As if my entire life is only that period that I spent in prison. This is why I said that I feel like the prison lives inside me. Sometimes I focus on the funny things that happened between us as detainees, and try to transfer memory from prison to something simple or something funny. Of course, I cannot always do that, especially since the funny situations were very rare, or did not even exist in the prison.

■ **Fritz Streiff:** We were also wondering, what would you want to ask the two suspects if you had the chance to do that?

■ **Luna Watfa:** I would like to ask them about two things actually. The first thing, why did it scare you, our request for freedom at the beginning of our revolution? That is something I cannot understand. The second question will be why do your families never come to support you while you are in this court? I think about that, because if

one of my family was in Eyad or Anwar's place and I thought he was right, I would have supported him whatever happens.

■ **Fritz Streiff:** Why do you think they did what they did?

■ **Luna Watfa:** I think because they were afraid of losing their positions, and then they chose the winner's side at that time, in 2012.

■ **Fritz Streiff:** Do you have any message or messages for the two accused for Anwar R. and Eyad A.? If you could say something to them?

■ **Luna Watfa:** I would like to say, no matter how long it takes, no one will be immune from accountability. This is my conviction as well, not just my message to them.

■ **Fritz Streiff:** What was interesting in court when Feras Fayyad, the filmmaker, testified as the witness. He said he would actually be ready to forgive Anwar R., if he would acknowledge that torture took place. Is that something you can see for yourself?

■ **Luna Watfa:** Actually, I can fully understand Fayyad's position. After World War II, for example, the Germans had to move beyond what happened, and move forward because they wanted to rebuild their country. I think that at some point we should move forward, but that does not mean at all that war criminals are not held accountable only because they have confessed to their crimes. After they get the punishment that they deserve, we must get past it, because if we do not, we will not be able to reconstruct Syria, and we cannot live as one people.

■ **Fritz Streiff:** As a victim, how has this trial impacted your life so far?

■ **Luna Watfa:** Some of the sessions are very painful, especially those that included facts about the work of security branches, such as Eyad's investigation, for example, and the information he provided. As a former detainee, I can imagine the place they are talking about and hear the screams of detainees being tortured. My memory returns to that place. It is not easy to live it again after trying just to forget it, but because I go there as a journalist, I could not get out of these feelings and try to focus on my work. It is not easy at all, but I do my best to do that.

■ **Fritz Streiff:** Yes, and your articles are important, especially for those of our listeners who prefer to read Arabic. Have you been actively trying to look for more victims in a way of finding additional evidence?

■ **Luna Watfa:** As a journalist who is covering this trial, yes. I try to find new evidence and new victims as well, but I cannot disclose that now. All I can say now is that it was much more than I expected.

■ **Fritz Streiff:** Will you come forward with this information and publish it?

■ **Luna Watfa:** Yes, of course. That will be in English, not in Arabic. I hope soon.

■ **Fritz Streiff:** Thank you so much for taking the time to speak to us today.

■ **Karam Shoumali:** Thank you, Luna. It is good here to note again that Luna was detained at Branch 251 after the period of the indictment against the two accused; she was detained there after Eyad A. and Anwar R. had already left the branch, just to prevent any misunderstandings. She was at Branch 251 and other prisons from early 2014, until early 2015. She is not a witness in this case, but of course, very much involved as a survivor, and now covering the trial as a journalist.

These are two brave women and they both managed to survive and share their stories with the rest of the world. The painful details and the disturbing memories. Their stories are unique, but they are also the stories of tens of thousands of other victims and survivors.

■ **Fritz Streiff:** This is all a lot, and we will need some time to digest this. To help us to understand some of the things that Nuran and Luna say here a bit better, we will talk to two experts on this subject matter, on war victims' trauma. We will share our conversations with them on the podcast next week.

EMPTY

CHAPTER

9

AFTER TORTURE

Season 1 | Episode 9 | June 26, 2020

In this chapter, Fritz Streiff and Karam Shoumali speak to two international mental health experts, Dr. Vedrana Mladina and Diana Rayes. They comment on the accounts of the survivors we interviewed in the previous chapter, and they answer how exposure to war and torture affects survivors' lives, and what their needs are after torture to lead a healthy life.

EMPTY

■ **Fritz Streiff:** Before we start, we have two pieces of news.

■ **Karam Shoumali:** Number one, the German authorities made an interesting arrest last week, a Syrian man called Alaa M. He lived and worked as a doctor in Hesse, the federal state where Frankfurt is also located. German prosecutors allege that this is the same man who tortured patients in a military hospital in Homs in Syria back in 2011. The details are quite gruesome.

■ **Fritz Streiff:** This is the third former Syrian official arrested for crimes against humanity in Germany. Alaa M. is seen as an official, as far as I can tell from the reporting, because he was a military doctor in Homs. The reports say he was also identified by Syrian survivors and victims, similar to our case in Koblenz. Victims of this same doctor apparently identified him in Germany. There are lots of parallels with our case, including the Syrian human rights lawyer Anwar Al-Bunni, who identified the accused in our case, Anwar R., in Berlin. Apparently Anwar Al-Bunni played again a role in this investigation, working with witnesses and delivering information to the investigators and the prosecutor. This means that the Koblenz trial really seems to be the first of its kind, but not the last.

■ **Karam Shoumali:** We will discuss this new case and other similar cases and investigations in a future episode.

■ **Fritz Streiff:** We have some fantastic news relating to us more personally. Hannah El-Hitami is the court reporter we talked to

during the episode *Abu Ayoub* about the second defendant, Eyad A. Hannah is a freelance journalist based in Berlin, focusing on Arab countries and migration. She is following the trial very closely.

■ **Karam Shoumali:** We are happy to announce that Hannah will be contributing to the podcast on a regular basis. With Fritz living in Paris and me in Berlin, we can only go to Koblenz every now and then, but Hannah is there for every session.

■ **Fritz Streiff:** Yes, so this is really great to have a reporter in the courtroom with us. We will hear from Hannah directly later, as she called us right after the session on Wednesday with some interesting observations.

We feel that last week's episode was special. We appreciate that it was difficult for the two survivors we talked to, to go back into their memory and tell their story again, as they have done so many times before, but that does not make it easier. One of them, Luna, said she feels the pain every time she tells the story as if she were telling it for the first time.

It was a special experience for the two of us to be able to have these conversations with them. We discussed with both of them the process of recording their stories, because the last thing we want is for them to have this experience of telling the story again, that this triggers trauma or makes them feel bad in any way. We think we did it in a sensible way. We asked them if they wanted to do it, how, and when, and them being in a comfortable setting and deciding on these things, not us. We wanted to make sure they felt they were in the driver's seat.

■ **Karam Shoumali:** In our work as journalists and Fritz as a human rights lawyer, this was of course not the first time we talked to survivors. Maybe we have even become a bit desensitized, but if you learn one thing again from the experts we talk to, it is that we need to make sure that the balance is right, and that is not us deciding to tell their story, but them making this decision.

■ **Fritz Streiff:** Today we trace those two conversations we had with mental health experts who know so much more about victim trauma. We talked to them in preparation for last week's episode, and we talked to them again to look back at what Nuran and Luna told us. We talked to the two experts about these individual accounts

and memories, and also about the bigger context, the Syrian context, and the universal parallels that these experts see based on their experience in their field.

■ **Karam Shoumali:** We thought it would be interesting for you listeners to get this background as well. First, you will hear the conversation Fritz had with Dr. Vedrana Mladina.

■ **Fritz Streiff:** Dr. Vedrana Mladina is a clinical psychologist based in Dubai with 19 years of experience in clinical psychology. For 14 years, she provided support for victims of war crimes worldwide; three years of which she was at the United Nations Tribunal for the former Yugoslavia, and 11 years of which she was at the International Criminal Court, both in The Hague, the Netherlands. I started by asking about her reaction to last week's episode, with the stories of the two survivors.

■ **Dr. Vedrana Mladina:** There were many parallels between the stories I had the privilege to hear from other victims. That always does two things to me: the repetition of how terrible things are that people have to go through, and how it repeats itself and with the same intensity and magnitude. But then also how unique each story is, the little details are all very personal. What absolutely always amazes me is the amount of courage and resilience that you can hear from the stories. For both women, I think something that really stood out as a common trend was that as much as they were fearing for their own life in those moments and really not knowing what is going to happen to them next, because nobody is of course telling them what is happening, they were actually more scared about what is going to happen to their family members who got implicated because of them. That kind of fear for their loved ones and just that sense of "I am exposing them to something, I should have protected them." In one case it was about the children. In the other case, it was about the mother of the victim. This is something that is very difficult, for women to care about others more than themselves. I have heard that from men as well, male victims, and I just give that additional respect one has for the person on a human level.

■ **Fritz Streiff:** Is this something you have heard from victims who have told similar stories about psychological torture and the element of family members being used and abused to torture them indirectly?

■ **Dr. Vedrana Mladina:** Yes, absolutely, because it is one of those terrible but perfect mechanisms to get into people's heads and psychologically break them. I have even heard that from abducted children in Uganda or child soldiers in the Congo. They were just fearing for their families, so even children are fearing for their parents and how their parents and grandparents will be affected by them and their actions. If a child already thinks that way, you can only imagine an adult.

It is really fascinating in a way and terrifying because I have worked across different cultural contexts, including my own region where I come from. There we also had a war, and you can see that no matter the geographical distance and the fact that the warlords had absolutely no way to have communicated in any way, they really all have the same modus operandi. I do believe that it is part of the human psyche fabric.

In the right conditions, it just comes out, but like one of your interviewees said, she believed that all these men were doing all these things because they themselves were scared to lose power and control. Right? It is like that twisted way of imposing control; because you are so scared of being on the other side that, really, this creates monsters out of humans.

■ **Fritz Streiff:** There is something in the human psyche you are saying that enables these individuals or these groups, structures, organizations, and regimes to really get to their victims' psychological breaking point in a very parallel way in conflicts all over the world.

■ **Dr. Vedrana Mladina:** It is, and it is really bad obviously to know that this exists, but on the other hand, in my work, it helps a lot because the trauma seems to be universal, and the way people go through it and how it affects them and how they come out of it is also universal. Then, on that level, we can connect no matter where we are coming from, because the conversation always seems to be the same along the same lines.

■ **Fritz Streiff:** On the topic of memory and the value of survivor victim-witnesses in the courtroom, what can you tell us, from your experience, are the main issues in that regard?

■ **Dr. Vedrana Mladina:** Well, memory is such a fragile concept, yet so many things on this earth are based on memory or rely on

memory. Everything we remember, the memory itself is always reconstructing. They lose the original the moment it happens and so every memory is somehow contaminated. Now with traumatic memory, the main issues are that it is fragmentary so it is not chronological. This is the main problem because in the courtroom you want chronology, you want the sequence of events, and you want precision. What is captured in the traumatic mind are very precise snapshots of the most difficult moments, but you cannot put them together. It is like a broken puzzle. That is very difficult for people to put into a narrative.

Additionally, voluntary recall, trying to remember something on purpose, is very difficult and, in some cases, impossible. However, involuntary recall, like how one of your victims that you interviewed stated "I just have these associations with things that happened in prison in my everyday life. It just takes me by surprise every time." That is exactly what is happening. Involuntary recall is just something that becomes a part of your life. It is a very complex issue, but it has a rather simple explanation in the moments when traumatic events are happening.

It is not happening outside of the context. It is in prison, and if somebody is getting tortured, they will still perceive the person or persons who are torturing them, they will perceive smells. There is a lot of sensory information coming that is not registered at the moment. What is happening is that the fear reaction is being created as a natural response. What then happens because it is such an overwhelming experience is that fear response becomes automatic and a baseline response to those same sensory triggers.

If somebody was in prison, and they were being tortured, and they were told they were dying so many times and every time this happened, they could hear some of these footsteps coming and they are wondering who is going to come in and what are they going to do to them. Every time later in life they hear anybody's footsteps, this is the first story they will have because the trauma is then extracted from that context. Why is it happening spontaneously to people, to one of your interviewees, is because the brain just never stops trying to integrate information. That is what the brain does. The brain is like, "No, no, no, I have to make sense out of it" and then that automatic fear reaction. Unless you go to therapy and you integrate it and contextualize it, you will simply have to live with it for the rest of your life.

■ **Fritz Streiff:** Vedrana is mentioning the importance of therapy and mental health support especially for victims of trauma. We will hear more about this from the second expert, the one that Karam talked to, in a little bit.

You did some work with international organizations including with lawyers, prosecutors, investigators, and some of your work was very much about the responsibility that those actors have, as well as maybe journalists. Can you tell us a little bit about that?

■ **Dr. Vedrana Mladina:** Our approaches should be unified around do no harm, or at least not to cause more harm than has already been caused to these people; a victim-centered approach, and victim-informed or survivor-informed to make sure that they are not going to get re-traumatized, that this is not going to damage them in any way, let alone in a significant way.

What we have, for example, at the International Criminal Court, where I have worked in the office of the prosecutor, was prior to any investigative interview with victims, we would conduct a so-called psychosocial interview assessment to talk to the person and assess their level of vulnerability and then see if they can go through the interview without being harmed. Then, we would stay present for most of the interviews just to be there, and intervene if there is a need for crisis intervention during the interview, especially with children and victims of sexual crimes.

■ **Fritz Streiff:** With everything that you have seen and everything you have heard in your life working with victims and survivors of these terrible international crimes, would you say you are an optimist or a pessimist?

■ **Dr. Vedrana Mladina:** That is a really good question and my answer is that I am a cautious optimist, if that makes sense. I am quite a realist, really. We always have to look at the circumstances, we have to bear in mind there are so many limits to so many judicial systems, and that justice is mainly symbolic in some ways. But what makes me optimistic is human nature and common humanity and what connects us on a level of understanding the suffering. Then also being resilient and wanting to move on, and holding on to those values that make us go through hardship, trying to make the best out of it, that keeps me optimistic.

■ **Fritz Streiff:** Thank you so much, Vedrana, for speaking to us on the podcast and helping us understand these complex issues of victim trauma a little bit better.

■ **Dr. Vedrana Mladina:** It was really my pleasure, this topic is very close to my heart and I want to thank you for this podcast and trying to help people be bold and understand and stay informed, and then form their own opinion. I think that is really important.

■ **Karam Shoumali:** To understand the situation of mental health care in countries like Syria before and after the conflict, I spoke to Diana Rayes. She is a Syrian-American public mental health researcher based in Washington, D.C., where she is also a non-resident fellow with Tahrir Institute for Middle East Policy. She is also a PhD candidate, and has worked on the topic of mental health of victims or refugees in Berlin, Germany, and Gaziantep, Turkey.

■ **Diana Rayes:** I want to start off by saying just how inspired I felt having listened to Nuran and Luna's stories and how they were brave enough to share with the public, how they have been able to overcome what they endured and able to move on with their lives. But I did want to ask you how you felt when you listened to their stories, as a Syrian yourself and as somebody who understands the context of what they were describing.

■ **Karam Shoumali:** This is a good question. I think I can say as a journalist, I try to detach myself from the story; I do not want to be the story. I report on it as best as I can, give victims voices, and tell the world about their accounts. But as a Syrian, at the end of the day, those accounts are very familiar to me, they are close to home. Those accounts could be the stories of members of my extended family or of my neighbors or friends. I think being Syrian means that you are really part of this conflict regardless of how far you want to go.

■ **Diana Rayes:** Absolutely, and I am very glad you said that, because that plays a huge role in how we overcome the collective trauma that we have experienced as Syrians, as Syrian diaspora, as people who are connected to the crisis and invested in it. That is a healing process on its own, and it is something that we can continue to rely on each other to do and to build ourselves up in order to overcome a lot of the trauma that we have collectively experienced.

■ **Karam Shoumali:** Could you describe the landscape of mental health in Syria?

■ **Diana Rayes:** The dearth of resources in terms of mental health service provision in countries like Syria across the region are so vast. For example, before the war in Syria, there were only 70 psychiatrists serving a population of 22 million. Now in areas that are particularly prone to violence, and where you are seeing a greater need for mental health resources, such as the northwest part of Syria, there are only 2 psychiatrists serving a population of 4 million. This gives you a snapshot of just how vast the need is in terms of mental health resources.

There is also a lack of understanding of culturally specific ways in which mental health manifests in populations across the Middle East and particularly with those who have been affected by conflict. There is a lot of work that needs to be done and unfortunately, it has only been filled in recent years by the presence of NGOs that are attempting to scale up mental health services in the region. This is done from a very Western-centric point of view and does not really take into account the cultural, and in my research interests, the religious specific needs that these communities have.

■ **Karam Shoumali:** Can you tell how exposure to conflict and crisis function as triggers for trauma?

■ **Diana Rayes:** Research shows that individuals who have been exposed to prolonged conflict struggle a lot with mental health problems including symptoms of depression, anxiety, and post-traumatic stress disorder. And this is no exception in the Syrian context, especially those who have had to leave, the upheaval of leaving their homes and their families behind and the psychological burden of their journeys to a new country. In a new host country, this distress is often exacerbated by various social, economic, and legal barriers that refugees and asylum seekers face as soon as they arrive. One of the main reasons I pursued this line of work is because my own family, my father specifically, was exiled from Syria in the '80s. He came to the U.S. at a very young age and had to integrate very quickly, to learn English and adapt. This has always been a point of fascination for me. How did a 17-year-old, who is my father, adapt to this new country so quickly and be able to bounce back, despite the atrocities he had witnessed in his hometown of Hama?

This goes to show just how important it is to welcome refugees and migrants into host countries, who have significantly contributed to countries like the United States, Germany, and Canada in the long term. As soon as they arrive, it is really important to invest in providing them with mental health support and psychosocial resources so that they are able to integrate properly and to contribute to society.

■ **Karam Shoumali:** How prepared do you think are these host countries in terms of providing culturally sensitive mental health care for migrants and refugees?

■ **Diana Rayes:** I think there is a lot of work that still needs to be done, especially in providing access for refugees and migrants to mental health services that are culturally sensitive and linguistically accessible. What do we mean by this? Culturally sensitive mental health care does not have to be provided by an Arabic speaking psychiatrist or somebody from the region, but at least by somebody who understands the sociopolitical circumstances that have led to the displacement of the refugee clients seeking services, as well as what it means to be Syrian or what it means to be from Iraq and to have experienced generations of conflict and turmoil in your home country.

I think there still needs to be a lot of work done. We saw just this past week the unfortunate passing of the LGBT activist Sarah Hegazi, who was in Canada having sought asylum from Egypt for being persecuted there as an LGBT activist and was a survivor of torture and detention. She was in a host country like Canada and she was suffering from mental health issues which led to her unfortunate death. The country had not provided the kind of resources that she might have been able to utilize and that could have prevented her death. This is a very important issue that sheds light on the significance of the mental health of refugees and migrants and the impact it has on their integration in the host country context.

■ **Karam Shoumali:** Do you think the lack of mental health care for survivors prevents them somehow from opening up and coming forward to testify against their victimizers? For example, in this trial in Koblenz?

■ **Diana Rayes:** We expect people who have endured such atrocities to want to seek justice immediately if they have the chance but often as you mentioned, people have buried away so much and

have moved on, essentially without addressing some of the root causes of this trauma. I think the concern is that it does not really go away and that if it is kept inside, then it will explode at some point. It is important when considering the specific population of victims who are participating in a trial against their perpetrator, to provide support to them before, during, and after the trial and to make sure that they feel that they have access to mental health resources should they need them.

Also, there are considerations other than ethical considerations that go into victims or survivors participating in a trial, such as that they are free to disclose as much as they like and to participate as much as they would like, but without feeling the pressure to just because they are in this particular position. To end on a hopeful note, I think that the Syrian conflict and other traumatic incidents in the region have actually allowed an opportunity for people to talk about their mental health in a way that is not stigmatized, in a way that feels collective like, "I was a victim of this conflict and I endured this. Well, you also endured this so you understand where I am coming from."

People have found it easier to speak about their mental health issues openly and with their family members, and to take those very first steps, which are the hardest in seeking mental health care and treatment. This is something that is very empowering. As long as they know where to find these resources then there is a light at the end of the tunnel.

■ **Karam Shoumali:** Thank you for these helpful comments and for coming on our podcast.

■ **Fritz Streiff:** Now it is time for a court update. The court is in session as we record this episode, but we did manage to get a hold of our court reporter in Koblenz, Hannah El-Hitami, for just a quick update in between sessions.

■ **Hannah El-Hitami:** We heard a witness who used to work for the secret service in Syria. The witness told the German police officers about seeing Eyad A. on at least one occasion. He talked a lot about dead bodies being delivered by Eyad A. and his troops to the department where the witness worked. However, the problem was that in court, the witness was not willing to repeat information that he had given in the police interrogations. The judge and federal prosecutor grew increasingly frustrated and even angrily told

him, "Hey, you really have to answer our questions. You are going to incriminate yourself if you keep on lying, or if you make a false statement." After a while, it turned out that the witness' family in Turkey was being threatened by members of Eyad A.'s family. Then we all understood why in the meantime he had changed his mind about giving a really honest statement and perhaps incriminating Eyad A. with the evidence that he gave.

■ **Fritz Streiff:** Next week, the court will be in session again so we will discuss that. We will also talk about something that has been on our minds. Both of us have worked for a while on the topic of Syria and accountability for crimes committed during the conflict that has now lasted almost 10 years already.

■ **Karam Shoumali:** We have observed something that we wanted to dive into a bit deeper, something Fritz and I call "Syria fatigue." People and the media and diplomats and donor countries, are they getting tired of Syria? Are they getting tired of the conflict and of reporting on it? We will be discussing this phenomenon on the podcast next week. What does it actually mean? What is it? Is there even such a thing as Syria fatigue?

■ **Fritz Streiff:** We will also discuss the question of how the Syrian regime has taken advantage of this phenomenon.

■ **Karam Shoumali:** We will take you along to a conversation that I had with Syrian activist Wafa Mustafa. She has not stopped campaigning for the release of her father and thousands of Syrians disappeared in prisons, but are people still listening?

EMPTY

CHAPTER

10

SYRIA FATIGUE?

Season 1 | Episode 10 | July 3, 2020

After almost 10 years of war, devastation, crimes, and gruesome images from Syria, are people still reading, watching, listening? Fritz Streiff and Karam Shoumali try to find answers to this complex question and share a court report straight from Koblenz.

EMPTY

■ **Fritz Streiff:** This is our 10th episode covering this trial. How strange to think one day we might be making our 100th episode, because at this pace with a case this big, that is actually not a far-fetched idea. Will we be tired of covering this trial every week? Will you be tired of listening?

■ **Karam Shoumali:** For Syrians and those who follow Syria, this case in Koblenz is just a tiny fragment of a much bigger story. It is important to remember that the uprising started in 2011, which means Syria has been at war for almost a decade now. Following the uprising, citizens of Syria were subject to a harsh government crackdown and arbitrary detention in places like Branch 251.

The armed opposition started battling the Syrian army, and Al-Qaeda and ISIS found their way into the conflict. Russia sent in its air force to back the Syrian government, and meanwhile, millions of Syrians were internally displaced, and hundreds of thousands made the dangerous journey to Europe. An international coalition fought and defeated ISIS, and Turkey invaded Kurdish border towns. All the while, peace talks have been going on one after another.

■ **Fritz Streiff:** I remember when the Arab Spring started in 2010, I was in law school, and then the beginning of the Syrian uprising. It feels like a long, long time ago.

■ **Karam Shoumali:** It has been a lot for everyone, including global citizens who are concerned about Syria. From the average news

consumer, to diplomats and aid workers. There is this constant stream of news, it is never waning. It is becoming increasingly challenging to stay engaged. To dissect this, I spoke last week with Elizabeth Tsurkov. She is a fellow at the Foreign Policy Research Institute, and a longtime Syria researcher. In her work, she talks to everyone, from fighters and civilians to governments and journalists.

■ **Fritz Streiff:** Afterward we will be checking in with our court reporter, Hannah El-Hitami, for an update on the trial straight from Koblenz.

■ **Karam Shoumali:** Before we hear from Elizabeth and Hannah, I want to share with you an example, or maybe a sample, of the struggle of Syrians. I have spoken to so many Syrians over the years and every time they tell their stories, no matter how old, they tell it with the same passion, the same sorrowful details as if it just happened the night before. I asked myself, "Are they not worn out? What keeps them going? They have always been loud about their tragic accounts, but not much has been done to change their reality, so why even bother?"

Here, I want to introduce Wafa Mustafa. The chapters of her story overlap often with those of thousands of other Syrians, revolving around the common theme of the tension of having to live with the uncertain fate of their loved ones. Life is reduced to waiting and hoping, but also fighting and staying involved. Wafa Mustafa is now 30 years old and just graduated from Bard College in Berlin, where she majored in arts and aesthetics.

In 2011, when the uprising started, she was 21. Between then and now, a lot happened. Her father was detained for one month in 2011 and then released. She was detained for peacefully protesting and then released after a few days. Then two years later, her father disappeared. Actually, the day we recorded this episode, marked his seventh year in detention. She does not know his whereabouts. She does not even know if he is alive.

■ **Wafa Mustafa:** My dad was first arrested in August 2011. He was accused of aiding terrorists, and those terrorists were actually people who fled from Hama after the regime attacked the city during Ramadan in 2011. He was kept there for a month, but at least at that moment we knew that he was there. We knew the accusations. We knew that his health was fine. On July 2, 2013, my dad was in our

home in Damascus. He had not seen my mom for a while. She made the food he likes. She called him and he did not respond, and that was it. The only thing we know till this moment is the information we got from the neighbor, who just told my mom that she saw a group of armed men breaking in, and she heard noises and stuff, and then they went downstairs with him. That was the last thing we heard from him.

■ **Karam Shoumali:** Do you know what was the direct reason for his detention?

■ **Wafa Mustafa:** I do not even know if he is still alive or not. My dad participated in different activities in different forms and formats of the revolution. I definitely have no idea.

■ **Karam Shoumali:** Her father told the family to leave the country in case he would disappear. He thought they would be safer somewhere else. That is what Wafa Mustafa, her mom, and her siblings did. With no passports, money, or a plan, and with only the help of a connection, they arrived in Turkey in 2013, one week after her father's arrest. How has your life been affected?

■ **Wafa Mustafa:** For sure, on a psychological level, it is very hard. I have suffered from depression, severe depression, and I was on medicine and I just, maybe, gave up for some time. I just could not. It was more difficult than anything I could imagine. Even physically, my health situation was very bad for a while, but these are the most obvious aspects. Mentally and emotionally it is still very difficult for me to talk about it.

My dad's absence made and still makes me at the same time this very responsible adult, supporting my family, still trying to do activism, still believing in the revolution, fleeing from one country to another, working, studying all at the same time. On the other hand, it makes me this six-year-old child, who by the end of the day, and before I go to sleep, cannot think of anything except the fact that my dad is not here, and I want him back. You cannot convince a child that it is for a good cause, this dictatorship. You know what I mean? The only thing you can do with such a child is just to give them their dad back.

My relationship with my dad's absence is very complex. After seven years, it does not get easier. It always gets harder.

■ **Karam Shoumali:** Wafa wanted to stay active. She worked as a journalist, and eventually in a media campaign against ISIS. Not long after she joined, a colleague of hers was found slaughtered in his apartment, and it became clear to her that her life was in danger. She relocated to Germany, and that marked yet another beginning of her journey. In Berlin, thousands of other Syrians just like Wafa left their loved ones behind. Knowing that she was not alone helped her continue her fight for the release of her father. Do you recall your favorite memory of him?

■ **Wafa Mustafa:** Yes. This one discussion we had all the time: as many old dads, he loved Oum Kalthoum. I just hated her. I just did not like her. I would never give up. Every time we listen to her, I would be like, "Her voice is not even beautiful." Every time we had this discussion, it was exhausting. At some point, my mom was like, "You should not respond to her. It is enough." He was not trying to convince me, but we would reach a point in the discussion where he would say, "You will grow up and then you will realize why I like her."

■ **Karam Shoumali:** Do you like her songs now?

■ **Wafa Mustafa:** To be honest, I cannot decide if I like them. Do I like them objectively or because now that my dad is not here? I remember when I first came to Germany, I went out with my friends and they were playing a song by Oum Kalthoum. It was a very difficult moment. I just could not keep it together.

■ **Karam Shoumali:** In August 2013, a number of photos were leaked by a military defector, codename Caesar. For many, this meant they could actually try and find the people whose fate was unknown all these years in the photos. But they are not just regular photos. They were taken inside torture prisons. Anyone scanning them for familiar faces could potentially be confronted with images that would haunt them for the rest of their life. I asked Wafa Mustafa if she looked at the Caesar files.

■ **Wafa Mustafa:** I definitely did not. Definitely not me, not my mom, not my sisters. We could not. I saw photos of people I knew, and it was more than I could take. To be honest, I literally thought that people were looking at photos, and if someone would recognize my dad, they would let me know but I do not want to look at them myself. We did not.

■ **Karam Shoumali:** Do you recognize photos of your friends?

■ **Wafa Mustafa:** Yes, of course.

■ **Karam Shoumali:** How many?

■ **Wafa Mustafa:** Three, four, I guess, but the closest was Ayham Ghazzoul, the doctor.

■ **Karam Shoumali:** Ayham Ghazzoul was a 26-year-old student at the Faculty of Dental Medicine. He was beaten up and arrested, and died shortly after in detention in 2012. I interviewed his mother here in Berlin, and it was one of the saddest interviews I have ever done.

Wafa Mustafa continues to dedicate most of her time to spreading awareness about the dire situation of detainees, and actively demanding their immediate release. While recording this episode, Wafa Mustafa is in Koblenz again, and this time with Ayham Ghazzoul's mother, doing all they can, and trying to be heard. Is the Koblenz trial the closest thing to victory?

■ **Wafa Mustafa:** The only thing that I feel toward this trial is that it is very important. It is, to be honest, maybe a first step toward justice and accountability, but this does not mean that this is justice. This does not mean that justice is now served, and all Syrians shall be happy. This is definitely not it at all. This is very important.

At the same time, we can realize that this is obviously important on many levels. Justice is something, it seems at least at the moment, very far and very distant. I guess it is a hugely exhausting and difficult process. Also, as I always say, I might myself cannot even conceptualize the moment when justice will be served. With all the loss, with all the people we lost, with all that people lost, their homes, their memories, their families, I do not know if there will be a moment of justice for all Syrians. I know that this is the first step and at least to me, this is important and this is satisfying enough.

■ **Fritz Streiff:** It is really unbelievable that for Syrians and many others across the world, this suffering is a day-to-day reality. Stories about people like Wafa Mustafa, who have endured so much and keep fighting seem almost like fictional tales. The truth is that these stories of suffering are endless amongst Syrians.

■ **Karam Shoumali:** That is why in my conversation with Elizabeth Tsurkov I started by telling her about Wafa Mustafa, her father, and her activism, and asked her who is still listening.

■ **Elizabeth Tsurkov:** There are many people who are still listening and care and follow developments in Syria and want to see justice, for people who are detained and still alive to be released from prisons, and for families to be notified in cases where their loved ones have been killed in detention. At the same time, people around the world generally follow their own lives and developments in their own countries if they even consume news.

In recent years, we have had so many upheavals. People are worried about Coronavirus, about Brexit in the UK, about systemic racism in the U.S., and the shenanigans and stupidity of President Trump. Therefore, I would say that there is less international attention to what is happening in Syria now compared to the first years of the conflict. This does not mean that people do not care about what is happening in Syria. It is just that they are often fatigued from following what is happening.

The conflict has gotten so much more complicated. First, when the revolution started it was so simple. It was peaceful protesters versus a brutal regime. Then things got so much more complicated so it became more difficult to understand what is happening, who is the good guy, who is the bad guy? Therefore, I think that there is less attention now, unfortunately, to what is happening in Syria.

■ **Karam Shoumali:** Can you describe to me the manner with which the media has been covering Syria?

■ **Elizabeth Tsurkov:** There is attention that is being paid to Syria that is greater compared to other conflicts, yet, at the same time, we have gradually seen less and less attention. For me, personally, I write for multiple outlets. Basically, the interest in Syria only spikes, and editors turned to me and asked me to write articles, when there is some major development in Syria. For example, there was an offensive on Idlib and over one million people fled. Certainly, when this number hit one million, suddenly, there was a great deal of interest from editors asking me to write.

When it was just 200,000, and people were sleeping out in fields, and children were literally freezing to death, because all of this was

happening in the winter, there was not that much attention. It was, "Oh, just another offensive in Idlib." Right now in Syria there is no active combat that is happening. There is only a low-scale insurgency. On the other hand, there are major humanitarian developments. As I mentioned, the issue of the large-scale hunger, the population is facing. This is not receiving as much attention because it is not a bomb that is dropping.

It is just people who are sitting at home in the dark because there is no electricity, and they do not have food to feed their children. I know for journalists who care deeply about covering Syria, who struggled to get editors to say "Yes, we are going to go for the story," because they are aware of the fatigue, of the fact that people are clicking less, reading less, and paying less attention. It is definitely something that we are in, a constant battle of people who research Syria, people who care about Syria, and the well-being of Syrians to get people to pay attention.

■ **Karam Shoumali:** Can you describe the current ongoing Western efforts when it comes to the release of detainees?

■ **Elizabeth Tsurkov:** There are basically two main ways. The UN Special Envoy Geir Pedersen has raised the issue of political prisoners repeatedly, as opposed to the Special Envoy before him, Staffan de Mistura, who really did not make this into a major cornerstone of his diplomatic efforts. Of course, the regime has absolutely no reason to abide by these requests, even if made politely.

Then the other aspect is the sanctions, including the Caesar Act, which is named after the defector who leaked photos of over 8,000 detainees who were tortured to death in Damascus up until 2013. Of course, there are additional people who have been tortured to death since then and in areas beyond Damascus. For the U.S., one of the conditions for lifting of the Caesar Act sanctions is the release of political detainees, and allowing human rights organizations, international organizations, to go into prisons to check on conditions.

■ **Karam Shoumali:** What is your assessment of the international humanitarian effort for the relief of Syria?

■ **Elizabeth Tsurkov:** The needs of the population are growing at a much, much faster pace than what the international community is offering. As a result, we are seeing living conditions, education,

services, all of this deteriorating over time. We now have, for example in Idlib, large-scale food insecurity and malnutrition. This is not something that was as much of an issue in previous years. The situation on the ground is deteriorating, and this is something that will likely continue happening, particularly as now Syria is entering a very dangerous phase of increasing food insecurity due to the rising prices related to the collapse of the Syrian lira. It is quite likely that Syria will witness a famine in the coming months, and I do not think that the humanitarian actors are flexible enough to be able to quickly address those exponentially growing needs.

■ **Karam Shoumali:** Are we desensitized in a way after seeing thousands of photos of dead bodies, the Caesar photos, videos of execution, videos of bombings, videos of pulling kids from beneath rubble? Is it so familiarized that we are now desensitized in a way?

■ **Elizabeth Tsurkov:** For people who follow Syria closely, yes, we are desensitized. I can look at an image of a mutilated corpse and just click through it because I have seen so many of them. At the same time, people who are average news consumers, I would not say that they are desensitized, because, first of all, they are scared because TV stations in the West do not showcase really gory images, and the same goes for newspapers.

Therefore, I know that, for example, when I gave lectures to the public in different countries, I would use images that I thought were very mild. I would show the aftermath of an airstrike or a massacre, but I would never use images of decapitated bodies or something that I considered very gory, but people would be really, really horrified. It made me realize that, for people who track Syria closely, all of us have become desensitized.

■ **Karam Shoumali:** Is there anything else you want to tell our listeners?

■ **Elizabeth Tsurkov:** I think that reflecting back, Syria will be remembered as one of the worst atrocities in the 21st century. The horrors that we have seen in Syria, fortunately, have not been repeated in that many conflicts: the extermination of people in prisons, the chemical weapons use, the mass population transfers, the massive displacement. I think for us people who follow it closely or people who care about it, we will be able, at least, to look back and say that when this was happening, we were warning about it, we

were writing about it, we were paying attention to it, even as many others chose to look away. This does not give us much consolation. The situation in Syria is catastrophic, but at least we can find some comfort in knowing that we did our best, that we bore witness. Even as it was painful to keep paying attention, we stayed engaged. I think this is something that allows me to sleep at night.

■ **Fritz Streiff:** There are three things that I found especially interesting that Elizabeth mentioned when Karam discussed the concept of Syria fatigue with her: the issue of humanitarian aid, the challenges for the media in covering the increasingly complicated situation in Syria, and the issue of political prisoners and detainees. She says the international community might not be able to address the dire needs of the Syrian population fast enough to prevent a humanitarian disaster like famine, that the humanitarian response is not flexible enough.

Interestingly, a number of states and international actors pledged €6.9 billion just a few days ago during the Brussels Conference. Despite Elizabeth's concerns about humanitarian aid and how it is put to work, it does continue to flow. The international community does not seem to be fatigued, at least not in terms of numbers. The question of course remains of will it be used in a flexible way that Elizabeth says is needed. Meanwhile, according to Elizabeth, there is definitely a Syria fatigue among news consumers and outlets, and so I want to revisit this point she makes about how the media deals with this increasingly "fatigued audience." I am interested to hear from you, Karam. You yourself started covering the story for international media right after you left Syria in 2012. What do you think about the media attention to Syria these days? Are people still paying attention to what is going on?

■ **Karam Shoumali:** I think the interest is still there, but at this point, the story is too familiar. From an outsider's perspective, not much has changed in Syria. You can not just keep reporting the same story. At the end of the day, journalism is a selling industry, and international publications need entertaining stories that get people to click and subscribe. I can give you an example. Elizabeth mentioned the likely famine in Syria, but it is not enough of a story, at least not yet, because you can not just go and film hunger.

■ **Fritz Streiff:** Then Elizabeth points out the issue of political prisoners. The previous UN Special Envoy to Syria, Staffan de Mistura,

did not prioritize this file concerning detainees like Wafa's father. De Mistura was the Special Envoy to Syria for almost five years. That is five years of marginalizing one of the biggest tragedies in Syria. I would really like to ask him why he did not make a bigger point of this in the diplomatic efforts toward the regime. Perhaps if there had been less Syria fatigue, more media attention, more pressure on him and other diplomatic actors, would he and others have prioritized this more and detainees like Wafa's father may have been released?

■ **Karam Shoumali:** We do not have answers to these questions either. The topic of "Syria fatigue" does not exist, and if it did, what is it exactly? It is a complex one. There is much more to it than what we discussed today. We have not even touched on the military dimension of the "Syria fatigue."

■ **Fritz Streiff:** Exactly. Just as an example, how is it possible that the Assad regime has been able to continue its terrible campaign of using chemical weapons against its own people? How has the world let that happen? If there had been less Syria fatigue, would that have made things turn out differently?

■ **Karam Shoumali:** Discussing the military angle could be an entirely separate podcast. There is so much to say and discuss. We will dedicate an episode to this topic in the future.

■ **Fritz Streiff:** Let us check in with Hannah El-Hitami, who attended this week's sessions.

■ **Hannah El-Hitami:** Yesterday's witness actually told some really gruesome details about his time at Al-Khatib Branch. He said that he was piled into the cell with so many other people, that people were lying on top of each other. You sometimes did not know who was dead and who was alive. The problem with his testimony was the court seemed to have doubts about some of the very extreme details he actually mentioned. It did sometimes seem that he was exaggerating. He said that there were more than 400 people in a 25-square-meter cell, or he said that he saw 500,000 dead bodies, not in prison, but during his time in Syria.

Today's witness was working for the branch for quite a while, and he could definitely confirm that he saw Anwar R. there. He could confirm what the position of Anwar R. was. However, he did say that Anwar R. was one of the few who were nice to the low-ranking soldiers like

himself, but that he did not know what that meant, or what that said about his personality. He might have been very different toward the prisoners.

He also definitely contradicted some of the things that yesterday's witness said. Yesterday's witness said that on the way to the interrogation offices, he saw dead bodies left and right, everywhere, everything was full of blood, and today's witness said that he only saw a dead person at the branch once, but he did confirm that there was lots of torture and lots of beating in the courtyard, when the prisoners arrived.

He confirmed that there were little tiny windows from the prison cells that led to the courtyard, and when you were walking there as an employee, you could often hear the screams of the people in the cells in the prison, which was underground. That was actually why today's witness decided to desert at some point because he did not want to work in these circumstances any longer.

These two weeks were very interesting because, for the first time, we heard witnesses who have themselves worked at Branch 251, and it was very clear that both were very worried. Last week's witness was worried because his family in Turkey was allegedly being threatened by members of Eyad A.'s family, and today's witness was worried because his mother and brother remain in Syria. He was worried that his statement in court would be a danger to them. I just think this shows how difficult this trial is going to be because a lot of people are going to testify, I assume, who have families that are not in Germany and that they have to be worried about. This is actually going to be a big issue, I think.

■ Fritz Streiff: The court is still in session while we are recording. Next week, we will hear from Hannah again. We will dedicate the whole episode to the recent witness testimonies in court. We hope you are not fatigued and that you continue with us next week.

EMPTY

CHAPTER

11

DUTY VS FEAR

Season 1 | Episode 11 | July 10, 2020

This chapter provides a deep dive into the recent testimonies of key witnesses whose statements might incriminate both defendants. However, the lines between truth and exaggeration, threats and self-preservation were blurred as three men spoke, and the court listened.

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■ **Karam Shoumali:** I am happy to co-host this episode with Pauline Peek, who is our production assistant.

■ **Pauline Peek:** Last week and the week before, the court was in session. Seven witnesses were called to testify and it turned out to be an atypical week with some surprising developments. We will take a closer look at a few witness testimonies to get a better understanding of what is going on.

■ **Karam Shoumali:** We called our court reporter Hannah El-Hitami.

■ **Hannah El-Hitami:** The first witness was actually the first insider witness, so the first person who himself had worked for the secret service in Syria. I will call him M. A. He is 30 years old. He worked at Branch 295 in Syria. In order to understand what was so interesting about his testimony, we have to start much earlier before the court hearing. About a year ago, he testified with the federal police, the BKA, and said that during his work for Branch 295, he saw several transports of dead bodies to the cemetery, which was right next to the branch. It is called Najha. He said that there were waste trucks or cooling trucks that dumped a lot of dead bodies into mass graves, and that there was even one section of mass graves that was only for the dead bodies delivered by the secret services, and that this part of the area was strictly forbidden to enter. He also said, and this is interesting for the trial, that he saw Eyad A. It is not clear how many times he saw him. He might have met him several times during

training, because Branch 295 was a training branch, so Eyad A. and his colleagues sometimes came there for training. But he also saw him on one very important occasion, which was at night, when Eyad A. was accompanying one of the trucks that delivered dead bodies to the mass graves.

The witness's job was to receive a list that recorded all the dead bodies that were being delivered, not with names, but with numbers. The witness also told the police last year that he wrote a report about all the dead bodies delivered in the time span from April 2011 until January 2012, and the list added up to 8,400 dead bodies all together.

■ **Pauline Peek:** M. A. gives his testimony to police officers, he incriminates Eyad A., and then a year later, when he appears in court, the prosecutors expect him to repeat his account, which could then potentially be used as evidence against Eyad A. But that is not what happened at all, was it?

■ **Hannah El-Hitami:** That is not what happened at all. Actually, it is hard for me to tell you what happened and what the witness said because everything he said was extremely vague. All the questions that he was asked, he answered very vaguely, like trying to avoid the question. He retracted some of his earlier statements and all together, the people in the courtroom were growing more and more nervous, and even annoyed, because it was so hard to understand what he was saying and why he was not really getting to any point and not really answering any question specifically.

■ **Karam Shoumali:** Do we know why he gave a statement different from the one he gave to the federal police?

■ **Hannah El-Hitami:** After a while, we found out that in January they wanted to meet this witness for the third time and with the French police, who were also interested in his account. At that point, the witness said no, he does not want to testify any further, because his family living in Turkey is being threatened by the family of Eyad A. At this point, maybe it is interesting to mention that they are both from the same town of Muhasan.

Apparently this happened, but even this account of his family being threatened, the witness did not want to repeat in court. He pretended that it was all a misunderstanding and that he actually had not meant that Eyad A.'s family members were threatening his

family members, but that it was someone completely different, not related to the defendant. It seemed that he was really nervous and just scared and worried about his family.

■ **Pauline Peek:** Did the prosecution know about this? If they did, why did they let him testify?

■ **Hannah El-Hitami:** I am pretty sure that the prosecution must have known that the family of the witness was being threatened, because that is what he said just a few months ago. Why they invited him anyway to testify, that is a question I cannot answer. I was actually asking myself the same question. What happens to a witness who suddenly gets scared because he gets threatened? I asked the federal prosecution that question. I actually emailed them, but they only answered that they are not able to comment on an ongoing trial.

■ **Karam Shoumali:** What did his lawyer do?

■ **Hannah El-Hitami:** It is actually interesting that you mentioned his lawyer. He had a lawyer, and not every witness comes with a lawyer. But he had a lawyer who, in my personal opinion, seemed quite useless, because while his client was making perhaps a false statement, he did not intervene. He did not try to stop him. Only the judge finally interrupted him and told him, "Your memory seems really bad today. Maybe you should take a break and really reconsider what you are going to tell us." The federal prosecutor actually got kind of angry at him and told him, "Hey, you are running head-on into false testimony and this is a crime." He said, "You came to a constitutional state and it is your duty to support the state."

■ **Karam Shoumali:** It sounds like a stressful couple of days for this witness.

■ **Hannah El-Hitami:** He was actually shaking during some of the questions that he had to answer.

■ **Pauline Peek:** What about the other witnesses that testified after M. A.?

■ **Hannah El-Hitami:** There were three more days in court. One of these days was dedicated to a witness who himself had been imprisoned in Branch 251, and the other two days to a witness who

had been working at Branch 251. It was an interesting way to find out more about the branch from two very different perspectives.

The first witness was arbitrarily arrested, from what he told us. He told some really horrible details about children and pregnant women being killed in the branch. As I briefly mentioned last week, he said that he was just in a cell with so many people that everyone was piled on top of each other. You did not know who was dead, who was alive. It was really horrible, he said.

The only problem was that the judge and the prosecutor and the defense lawyers maybe did not believe him 100%. They made some comments about some of the numbers that he mentioned. He gave very specific but a little bit exaggerated numbers. For example, that he saw 500,000 dead people in Syria or that he was in a cell with more than 400 people on just 25 square meters. It was not clear if everything he said was 100% reliable.

■ **Karam Shoumali:** And the next witness was another insider witness, someone who actually worked at Branch 251?

■ **Hannah El-Hitami:** Yes, he was the first witness to testify who himself had worked not only for the secret service but even for Branch 251. He did his military service there. His job was to guard the building, and he gave some more details about what exactly the place looked like. He talked a lot about the courtyard between the two buildings, and that courtyard is where the prisoners arrived. That is where he saw them being beaten and then being taken into the prison which was underground. He also said that this underground prison did have some small, tiny windows facing that courtyard and that when you were passing through the courtyard you very, very often heard the screams of those imprisoned. He said that those screams were really horrible, and you knew that those people were being tortured.

He also said that Anwar R. was the only officer who was friendly to low-ranking employees such as himself, and that once when the prisoners were delivered to the courtyard and were beaten in the courtyard, Anwar R. arrived, and he said, "Stop beating them. Why are you beating them? Take them inside, and we are going to interrogate them, and we are going to see who is guilty." This almost sounds like Anwar R. at least stopped the arbitrary beating of prisoners. But it is also a problem, because Anwar R. said in his statement that at the

time in 2011 and 2012, he had lost all his authority in the branch. This is why he can not be made responsible for all the crimes against humanity that happened there. The fact that even though he stopped the beating by an order and people listened to his order, this contradicts his own statement. This could actually be used against him, I suppose.

■ **Pauline Peek:** If Anwar R. had the power to stop the beating, that would mean that he had also the power to order it, and that might actually incriminate him.

■ **Hannah El-Hitami:** It means he was still in charge at the time. He was not just there, but did not have any more authority. Here we had another insider witness who had some potentially incriminating evidence against one of the defendants. There is another parallel between them because the other witness, M. A., mentioned that his family was being threatened by members of Eyad A.'s family in Turkey. This witness was not in such a bad situation, but he was worried about his family. He actually told the judge, "Hey, I just want to say that I am very worried about my mother and brother who are still living in Syria."

■ **Karam Shoumali:** Did the judge address his concerns?

■ **Hannah El-Hitami:** The reaction of the judge seemed actually a little bit cold to me even though she probably does not have any other option to help this guy. She just said, "Well, this does not absolve you from your duty to tell the truth here." That is how the topic was concluded.

■ **Pauline Peek:** What about the rest of the testimonies?

■ **Hannah El-Hitami:** I would say that the three witnesses that we talked about are the really important witnesses, and the others are just accompanying them, because they are, for example, the asylum officers or the police officers who interrogated those people. Those witnesses at some point last year, what they do is just confirm that they interrogated them. They confirm some of the details. They give their impression of how these witnesses behaved during those interrogations. They confirm that there were or were not problems with the translation, so they do not really bring that much new information.

Pauline Peek: Thank you, Hannah. The question that is on my mind after hearing all of this is the witnesses whose families are allegedly being threatened. They gave their initial testimony not in the context of this trial, but in the context of their asylum process. I wonder if they were aware that these initial statements could lead to them being called as a witness in a case like this. I would like to hear what you think about this, Karam. It seemed that both of them would really rather stay at home and keep their families out of trouble, than show up in court.

Karam Shoumali: Yes, it raises this question of informed consent, that they knew what they were agreeing to, when the federal police started transcribing their statements. One of the witnesses was not even aware that he would not be anonymous during his testimony. He was shocked and confused when he heard his name announced in the courtroom. We heard about this from a source who spoke to the witness right after the court session. This question of informed consent seems to be a theme running through this trial. It is an interesting one and we will have to check in with our legal expert, Fritz, to discuss this further.

That is not even considering the fact that it might not be true that the witnesses' families are being threatened. It might be that there is a completely different reason they do not want to be a witness, and they are citing threats to get out of testifying. I am, of course, speculating here, but I have talked to some defectors from the Syrian security apparatus, including Eyad A.'s former colleague who we had on the podcast before, and this is actually exactly what they think is going on. We do not know the truth here, but we have to consider that this might be the reason why M. A. changed his statement. To get a clearer picture, we will need to talk to the witnesses themselves. This leaves us with more questions than answers. That is also part of the reason why we are here. These are questions that should be asked, and we can only try to find the answers to them. Even though we will have to leave it at this, we will be sure to revisit these things later.

Now, we have a question from one of our listeners. Her name is Hanin and she wrote to us because she was wondering if Germany is taking any steps toward communicating information about this trial to Syrians, to Arabic-speaking audiences. We reached out to the press officer for this trial, and there do not seem to be any steps taken. This is actually one of the reasons that we decided to produce a series of episodes in Arabic, and the first one will be released next week.

DEATH IN DETENTION

Season 1 | Episode 13 | July 24, 2020

In this chapter, Fritz Streiff takes a look back at the first-ever universal jurisdiction trial based on Germany's Code of Crimes Against International Law, which was a trial against two Rwandan militia leaders for crimes committed in Congo. Beate Lakotta from "Der Spiegel" and Andreas Schüller from ECCHR both followed this trial closely and speak about how the main accused died in detention, the lessons learned, and the parallels and differences with the Koblenz trial.

EMPTY

■ **Fritz Streiff:** Death in detention. That is how the first-ever universal jurisdiction trial based on Germany's Code of Crimes Against International Law ended after more than seven years of proceedings, conviction, appeals, partial acquittal, and health problems of the main accused. It was a case against two Rwandan militia leaders for crimes committed in Congo, and the trial took place at the Higher Regional Court in Stuttgart, Germany.

■ **Karam Shoumali:** Today, we will take a look back at this first trial. When did it take place, where, and what were the success stories, challenges, and failures? How come the man accused died in custody? Fritz took a deep dive into this case and came back with a retrospective.

■ **Fritz Streiff:** When the trial in Koblenz came about, it made me think of that other trial, the first one based on the German Code on Crimes Against International Law, or in German, the *Völkerstrafgesetzbuch*. When the arrests happened, I was interning with Human Rights Watch in Berlin, and we started monitoring the case. That was back in 2009. The case was brought to the Higher Regional Court in Stuttgart in 2011, and it received a lot of international attention.

In short, the German federal prosecutor brought this first case of its kind against two Rwandan leaders of the Hutu militia group, Forces Démocratiques de Libération du Rwanda, the FDLR. The main accused was Ignace Murwanashyaka, president of the FDLR.

He and his vice president, Musoni, were accused of orchestrating grave breaches of international law in eastern Democratic Republic of Congo, in 2008 and 2009, from their homes in Germany where they had been living.

Human rights groups and United Nations experts reported that the FDLR was responsible for killing several hundred civilians, pillaging and burning down numerous villages, and raping and subjecting many women to other forms of sexual violence. The accusations also included the recruitment of child soldiers. Beate Lakotta, one of our guests on today's episode, titled one of her articles about the start of the trial in 2011 in German, *Ein Hauch von Den Haag*, or in English, "A Touch of The Hague."

Indeed, a case like this could have just as easily been brought to the International Criminal Court in The Hague, but it was Germany's federal prosecutor who pushed for international justice for crimes committed in faraway Congo. Then 10 years later, Anwar R. and Eyad A. were arrested, and Germany is again in the spotlight. This time, for pioneering the first case against Syrian officials for alleged crimes against humanity, a worldwide first with lots of international attention and high expectations similar to the FDLR trial in many ways. It got me wondering, what could a retrospective teach us looking back at Stuttgart? What are the lessons learned and where are we with those now?

■ **Karam Shoumali:** To try to find answers to these questions, Fritz talked with two people who know a lot about the FDLR trials, and are now again looking at Koblenz with a special interest. First, Fritz spoke with Beate Lakotta, who is a trial reporter for the German weekly *Der Spiegel*. She attended many of the 320 court sessions and wrote several articles about the trial. Then, he will speak with Andreas Schüller who has a program on International Crimes and Accountability at the European Center for Constitutional and Human Rights, the ECCHR, in Berlin. His organization followed the FDLR trial closely. Fritz started by asking Beate Lakotta about the beginnings of this historic trial in Stuttgart.

■ **Beate Lakotta:** On the first day, the attention was enormous. Press from all over the world was there: *CNN*, *The New York Times*, African newspapers, magazines, and a lot of televisions, so the attention was tremendous. The trial began in 2011. After 320 days of proceedings, the Stuttgart Higher Regional Court sentenced Ignace

Murwanashyaka for leading a foreign terrorist organization and aiding and abetting war crimes. They sentenced him to 13 years in prison.

The defense then appealed to the Federal Supreme Court. The Federal Supreme Court overturned the verdict actually on the most important point, namely aiding and abetting war crimes. The public prosecutor's office said, "It does not matter. In the next instance, we will prove it conclusively," but before that, Murwanashyaka died after nine years in custody.

■ **Fritz Streiff:** Could you perhaps describe in some more detail how that came about?

■ **Beate Lakotta:** Murwanashyaka was arrested in 2009, he was taken into custody and he remained there until his death in 2019. He was in solitary confinement for most of the time and he was only allowed very few visitors. Murwanashyaka was not allowed to participate in community activities, sports, not even attending church services. He became very ill while in custody. He had a lot of pain in his back and in the end he could not get up at all. He ended up writing to the court and asking for medical treatment, and that went on for a few weeks. Only five days before his death, he was actually transferred to a clinic, and there he died. I think it was cancer, but I am not sure.

■ **Fritz Streiff:** It was a tragic end to a long trial that had not yet even concluded. When you look back, what went well in the trial at the time and what was problematic?

■ **Beate Lakotta:** What was noticeable from the very beginning is that the prosecution was based on reports from human rights groups and UN experts, information that came secondhand. This became problematic on the very first day of the reading of the indictment. In the indictment, all witnesses were only numbered and had no names, and that was actually the big issue with the prosecution.

It was based on anonymous testimonies which had been given secondhand to UN observers or human rights representatives. The entire victim side was not represented in the courtroom in any real form at all over the span of 300 days of proceedings. That is, of course, an enormous problem.

■ **Fritz Streiff:** In your articles, you also described, and really impressively, certain cultural differences that became apparent in the courtroom and which were problematic for the proceedings. Could you just describe a few of those scenes?

■ **Beate Lakotta:** One problem was, of course, the problem with the translation. The witness appears, says something, the translator interprets, and immediately the defense objects, saying "That means something completely different."

For example, Murwanashyaka once wrote that the management of war cost him a lot of time, or this was how it is translated. There was an immediate objection because Kinyarwanda is a language in which every word has many meanings. Did he mean "war," or "fight," or "our cause?" That is quite different. These were the problems that came up all the time.

This makes me think of another trial in which cultures collided. It was a trial against Somali pirates at the regional court in Hamburg. Some of them did not know their dates of birth. The judge asked, "When were you born, or where were you born?" and the witness said "I was born under a tree, or I was born on the day it rained," something like that. This is, of course, a completely different approach to biographic data.

■ **Fritz Streiff:** One thing that stands out, and which also produced quite a stir, is that the presiding judge of the Higher Regional Court in Stuttgart commented on the unsuitability of the German judiciary for such complex international proceedings. Could you summarize his statement and briefly describe how that was received at the time?

■ **Beate Lakotta:** In his opening statement, the representative of the Federal Prosecutor's Office announced that the court would pronounce a verdict not only in the name of people but in the name of humanity and humanists. When it came to the judgment, the presiding judge, Jürgen Hettich, said that all these terms seemed far too lofty to him. He said only four words about the proceedings. "That is not the way it works." That is what he said, literally. Within the means of the German Code of Criminal Procedure, such a mammoth trial cannot be fully processed at all. We are talking about events that took place thousands of kilometers away and many years ago. The witnesses are not known by name, even not to the Federal Prosecutor's Office. Other witnesses would have to be brought from

the Congo or Rwanda to Germany. There are translation problems. There are 38 files with telecommunications monitoring protocols alone that were all to be translated from Kinyarwanda.

The trial cost about €4.8 million. Then you have to add the court itself. Of course, there are highly qualified legal professionals, but not necessarily in international criminal law. The presiding judge previously headed a senate that was responsible for appeals in road traffic violations. In this respect, the real question is whether such proceedings should not, in principle, be heard in specially qualified courts, or at least ones in which the members of the Senate, or at least some members of the Senate, and also the lawyers, speak the relevant languages. It does not necessarily have to be in Kinyarwanda, but at least a language like English should be a prerequisite, and that was not given in Stuttgart.

Probably hardly anyone took note of the verdict in Rwanda and the Congo. Then you really ask yourself, "Is this the right way to deal with it? Should we not leave such proceedings to the courts that are set up to conduct them in such a way that the defense has equal rights, for example?" They should record their proceedings so that people in the Congo or in Rwanda can also follow the proceedings; this too is not the case in Germany.

For me, in this respect, the question arises about the sense of having such proceedings in German courts. To put it maliciously: now we have had this International Criminal Code and an investigation team at the Federal Prosecutor's Office and of course, it is a prestigious project to conduct such proceedings. However, it has to be said that as far as the prosecution is concerned, this whole thing has actually backfired completely. Because what is more disastrous than not having a legally valid verdict and someone who sits in custody for nine years and then dies there? I really do not think things could get any worse than that.

Fritz Streiff: Yes, that is really sobering. Let us hope that things will be different in Koblenz and that we can learn as much as possible from the mistakes.

Beate Lakotta: Yes, I am very curious. At least in the beginning in Koblenz, I thought this was all the same as with the FDLR trial, namely that the prosecutors, flanked by human rights organizations, appear with an unbelievable claim to justice. Of course, one wishes

for this global justice. I wish for that too. Above all for the victims, they wished for that. But the expectations that are being created are, once again, very high, and I hope that they can be better fulfilled than with the FDLR proceedings.

■ **Fritz Streiff:** We certainly hope so too. Thank you, Beate. Your account definitely does not spare our listeners from any of the challenges and failures of the FDLR trial, and the most tragic element, the death of the main accused before a final verdict. We tried to find out what the cause of death was but have not been able to find more concrete information on that. After these impressions from a trial reporter, we will now hear from someone who followed the FDLR trial from another perspective, from the perspective of civil society.

■ **Karam Shoumali:** Now, we turn to Andreas Schüller. His organization, the ECCHR, monitored the FDLR trial and published a report at the end of the trial. ECCHR is an organization that is also very involved in justice and accountability efforts for Syria generally, and the Koblenz case specifically. That is why Fritz went to talk to Andreas about the parallels and differences with the Koblenz trial, and how he looks back at the FDLR trial 10 years later.

■ **Fritz Streiff:** Would you say that this FDLR case, looking back, was it a failure or a success?

■ **Andreas Schüller:** Well, it is mixed. It was a success because finally there were war crimes prosecutions under universal jurisdiction before German courts. On the other hand, there were quite a number of issues.

■ **Fritz Streiff:** If we just zoom in on some of the difficulties, maybe you can help us understand one or two more concretely. What would you say were the most interesting and structural difficulties that the German justice system should have learned from, and perhaps did learn or did not learn from since the difficulties at the FDLR trial?

■ **Andreas Schüller:** To start, one of them was victims' participation. There were no civil parties in the FDLR trial, although victims had the right to participate in those trials. Now in the Koblenz trial, fortunately there is victim's participation in the form of civil parties, so there is some improvement. It was certainly an aspect that was problematic from early on in the FDLR trial, and which still remains, to a certain extent, problematic or an area that can certainly still be improved.

■ **Fritz Streiff:** Do you think that some of the evidentiary problems the FDLR trial would have maybe not been fixed, but perhaps improved, if victims had participated?

■ **Andreas Schüller:** It is definitely important that victims are represented from very early on in an investigation and not only come in when the trial starts. Because also during the investigation, the victim and their representatives can provide information to the investigators. Of course, they can also later provide evidence to the court.

■ **Fritz Streiff:** After a bit more than two months of trial in Koblenz, is there something that you can already identify whether lessons were learned, or on the other hand, maybe not?

■ **Andreas Schüller:** Yes, we still see here the difficulty for the Syrian community and other survivors who are willing to participate and monitor what is happening. That was a problem already in the FDLR case. Basically, nothing that was happening for four years in court in Stuttgart was made available to people in the region. And also different German ministries did not bridge that gap. It is not the role of the judiciary but rather, the Foreign Office or the Ministry of Economic Development, to say, "Look, there is a prosecution of massacres that happened here, going on under international standards in a German court," but all of this was not communicated in the region.

This case now focuses on Syria and is a different scenario. It is not easier, even though many survivors also live in Germany and can more easily attend court sessions, because they do not speak German. They cannot follow because you do not have any translation into Arabic for visitors. I think it would be possible, once the German procedure rules provide that. There is also no audio-visual recording. This is an extremely important case not only for Germany, but also for Syria, from a global perspective. It is certainly a case that in years to come researchers, scientists, and historians would like to analyze elements of the systemic torture in Syrian prisons and other dynamics. That is another lost opportunity here, which we saw with the FDLR case and where we still do not see any improvement now within the Syria case.

■ **Fritz Streiff:** One thing that we heard after the FDLR trial was that to improve trials of this kind, perhaps it would be worthwhile for

the German justice system to focus trials like these in one court, in one specific location, where the judges and everybody working with the court have expertise in this regard, like we are seeing in other countries such as France and the Netherlands. Is that something that has been discussed in Germany, maybe since the FDLR trial? We are not seeing any signs of this so far, as the two trials have been held in different courts, but it would be interesting to get your take on this.

■ **Andreas Schüller:** Yes. We could have wished that the court in Stuttgart would have been prepared or more open to universal jurisdiction trials, but we also see now with the trials going on in the contexts of Syria and Iraq, many smaller cases, they are led by the federal prosecutor or also by the local general prosecutor's office. If you see now how many total cases we have on Syria, it would be too much, I think, for just one court. It is also good that the prosecutor can file indictments with different courts in different regions, and these courts are exposed to those cases, which is good in the longer term.

■ **Fritz Streiff:** One last question. Looking back at the FDLR trial, how do you look back on the rather tragic end of that trial?

■ **Andreas Schüller:** Yes, in perspective, the FDLR was an important one, because it was the first one under this Code of Crimes against International Law in Germany. There is a quite bitter taste, of course, with the man accused dying in detention before there was a final judgment. You can also question the length of the whole trial and certainly there is quite some frustration, I think, on all sides of all parties involved in this case. Those are some difficulties in how to lead such a trial by the court or how to balance the rights of the accused of victims, the prosecutor, and all that. But on the other end, all parties involved learned a lot and those lessons learned are already applied in cases on Syria, and actually also facilitating cases on Syria, and now with the good set of cases on Syria and Iraq and also the smaller cases against the non-state actors. That is a good way forward.

■ **Fritz Streiff:** It is obviously too early to say whether Koblenz will do better than Stuttgart, to oversimplify a bit here. The Koblenz trial is still in the beginning stages. Based on our discussions and what we learned from Beate Lakotta and Andreas Schüller, I think we can already observe a few interesting points.

■ **Karam Shoumali:** What do you think they are, the three most significant items that we learned from them?

■ **Fritz Streiff:** I think to start with, it is interesting to compare the types of witnesses. As Beate told us, the prosecutor in the FDLR trial based the indictment on anonymous witnesses to a large extent. That is, of course, not unheard of and that has to do with the personal security of witnesses, but with the witness accounts coming to the prosecutor second-hand, and together with the anonymity, that just has an effect on the credibility of the evidence of those witness testimonies, and eventually on the legal value of it.

Now in Koblenz, at least in the first few weeks that we have been observing, we are seeing that the prosecutor is bringing witnesses to the trial that are not anonymous, not numbers, but real voices in the courtroom with first-hand testimony. That makes the case stronger, but as we discussed two episodes ago, that does have the potential to create certain problems in terms of the personal security of the witnesses and possibly their families. One of the witnesses actually claims that his family has been pressured, even threatened, because he testified in Koblenz.

Clearly, this is an important consideration, the security of witnesses versus the strength of witness testimonies. Especially for these kinds of trials dealing with international crimes, the whole topic of victim participation is absolutely crucial. In Stuttgart, at the FDLR trial, no victims participated at all as civil parties joined the prosecutor's case against the accused. That is very different now in Koblenz, as Andreas said, and has to do with a lot of things. For example, many Syrian victims now live in Germany. The fact that victims are now officially participating as civil parties in this trial is a hugely positive development when comparing the FDLR trial to Koblenz.

■ **Karam Shoumali:** You might also remember that we did reach out to the court's spokesperson to address an important lack of outreach and the fact that court sessions are not translated to Arabic. In their reply, they pointed out the court's official language is German, and simply referred us to the German court on criminal procedure. I think it is safe to say that the Koblenz court, similar to the Stuttgart court, just does not see these problematic elements as their responsibility to address or solve. They do not fit into the procedural rules.

■ **Fritz Streiff:** Of course, that is understandable in a way but still

problematic, especially after very similar problems were identified and solutions were proposed by civil society representatives after the FDLR trial. I think we have arrived at the crux of it all. These German courts can only do so much, at least, that is what they have been saying and still seem to be saying. It is perhaps also a way of theirs, of signaling to all this global attention, "We are not the ICC, we are not a United Nations tribunal. We only have a limited capacity and resources. We are no international judges trained in international criminal law, so lower your expectations everyone."

■ **Karam Shoumali:** At the same time, Germany does have the Code of Crimes against International Law in its legislation. Germany has made pure universal jurisdiction cases possible in its justice system and the Federal Prosecutor's Office and the German War Crimes Unit are using this legal framework to push these kinds of cases.

■ **Fritz Streiff:** Exactly. That is the disconnect right there.

■ **Karam Shoumali:** Having said that, experts and commentators agree that trials like the one in Koblenz are only the third-best option for justice for Syria. As we discussed in an earlier episode of this podcast, other preferred routes to accountability in Syria are either impossible or blocked. Fair and objective trials cannot be expected in Syria itself, and the International Criminal Court at The Hague is not an option. Syria is not a member state. The Security Council at the United Nations could refer cases to the ICC, but many attempts over the years have been blocked and vetoed under the Security Council by Russia and China.

■ **Fritz Streiff:** The option of universal jurisdiction in European countries is not ideal. In an ideal world, the first step toward criminal accountability for crimes committed by the Syrian regime and justice for Syrian victims would not happen in a German court that many people, as I said in an earlier episode, have ever heard of. I think that is probably changing now, and Koblenz is becoming a name. What we have learned from Syrian victims and survivors is that it is a first step, a small one, and only a start, but it is justice, fair and objective. It may not be ideal, but it is absolutely better than the nothing there was in all those years before.

■ **Karam Shoumali:** In case you are wondering where the court update is, there was no court session this week. The trial will resume

on July 29, so next week. We will update you on anything significant that might happen next week in court. Next week, we will also dive a bit deeper into a topic that we have mentioned several times before, but we have only scratched its surface.

■ **Fritz Streiff:** The Caesar photos. We will learn more about these gruesome photos, and how they made their way from a Syrian military photographer's camera to the case files of European police and prosecutors. Karam will tell us his very own relationship with these photos dating back to 2013 when you lived in Turkey, and then just the other week, you had a pretty shocking experience with the photos.

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CHAPTER

13

THE PHOTO ALBUM OF THE SYRIAN PEOPLE

Season 1 | Episode 14 | July 31, 2020

"Caesar" is the code name of a Syrian military photographer turned defector. He was tasked with taking photos of dead detainees: tens of thousands of them. He later turned on his bosses and smuggled the photographs out of Syria. Together with journalist Garance Le Caisne and victim lawyer Patrick Kroker, Fritz Streiff and Karam Shoumali tell the story behind the Caesar photos and their relevance as evidence in the Koblenz trial, and what they mean to so many Syrians personally, including to co-host Karam Shoumali.

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■ **Fritz Streiff:** The court was back in session this week, and we will hear an update from our court reporter toward the end of this episode. First, we will discuss what is probably the most gruesome evidence that came out of Syria during the course of this chronic conflict, the Caesar photos. A quick note of caution: what we will discuss on this week's episode might be disturbing to some listeners, as we will talk about pretty raw accounts and photos of torture and of mutilated bodies.

Caesar and the Caesar photos have been a recurring topic in the trial. Caesar is the code name of the police photographer, turned military photographer, turned defector. He was tasked with taking photos of dead detainees. He later turned on his bosses and smuggled the photographs out of Syria. In Koblenz, the prosecutor, the lawyers, and the victims have mentioned the Caesar photos during some of the court sessions. The judges actually projected one of the photos onto a large screen for everyone to see on the seventh day of this trial. Anyone sitting in court that day had to look at it. In this episode, we will tell you the story behind the Caesar photos, their relevance to this trial as evidence, and what they mean to Syria and Syrians, including you, Karam.

■ **Karam Shoumali:** The content of these photos was highly shocking to me as a Syrian, and also as a journalist. Toward the end of 2013, a few photos started making the rounds online with the claim that they had been leaked from the Syrian security apparatus. Gut-wrenching photos of the detainees starved to death, tortured

to death, looking pale and skinny, with disfigured faces and gouged eyes. While at *The New York Times*, my colleague and I started looking into these photos. What are they and who leaked them? We started calling everyone we thought might know about the process of smuggling them or being involved in it.

Eventually, we had a lead with a Syrian opposition figure based in Istanbul. We arranged to meet him and his team. Within a few days, we met him twice at his office in an Istanbul suburb. And at this apartment we met a Syrian activist, who gave his name as Sami. He told us he was Caesar's confidant and helped him throughout the whole process. We talked and negotiated with him to show us the photos, all of them.

A few days later in early 2014, we received a call to go to some hotel in the same area. At that time, you would see a lot of Syrian opposition figures in and around that hotel. We sat in the empty library. My colleague and I were given a laptop without a network connection. With each mouse click, the Syrian activist filled the screen of his laptop with a new portrait of horror.

Commenting on the photos, he said, "Every family has a photo album where they keep their happier memories. This is the album of the Syrian people." Then he left us. There it was, thousands and thousands of photos of dead people, mostly men, but also women and children, all with number tags on their foreheads or inked directly on their bodies or faces. We were shocked and speechless. I had never seen anything like this before. On that day, the reality of the Syrian conflict changed for me. I felt hopeless and defeated. All I could think about at that moment was the perpetrators. Who would do that to a human being, and why? On that day, we silently browsed through over 53,000 photos for hours and hours.

■ **Fritz Streiff:** When I first saw these photos, they reminded me a lot of Nazi death camp photos, or the pictures from concentration camps in the former Yugoslavia, or the terrifying scenes from the Rwandan genocide. Just absolutely awful. For you, Karam, the photos suddenly became much more personal just a few weeks ago, about six years after the first time you saw the Caesar photos.

■ **Karam Shoumali:** Yes. I will explain that to you together with French journalist and author Garance Le Caisne. She is a French freelance journalist and has been working on Middle East issues for

the last 25 years. She spoke to Caesar and others involved for her book.

■ **Garance Le Caisne:** In 2015, I wrote a book in French called *Operation Caesar: At the Heart of the Syrian Death Machine*. The book was translated into several languages, and it was translated into English in 2018.

■ **Karam Shoumali:** I spoke with her and started by asking her who is Caesar and what are the Caesar photos.

■ **Garance Le Caisne:** Caesar used to work for the Syrian regime as a photographer with the military police in Damascus. Before the war, Caesar and his colleague had to photograph crime and accident scenes involving military people, such as suicide, traffic accidents, and house fires. They had to take photos, and they had to go back to the office and write a report with the pictures. When the first demonstrations appeared in March 2011, they were called to go to the morgue of the military hospital. They had to take photos of bodies of civilians injured by bullets. After some time, they had to take photos of bodies of persons, who had been detained in detention facilities.

What we call the Caesar file is a file which contains thousands of official photos of dead detainees. The photos are of naked bodies. You can see that the person has been tortured or died from hunger or from disease. You can see it is not a natural death. Often, the photo is of one person, but you can also find photos with a number of bodies all together. You can imagine that there is a process of taking these photos, and like the process of a death machine, in fact. When the bodies arrived at the hospital, they were marked with two numbers written on sticky tape or in a felt tip directly on the forehead or on the chest. The first number was that of the detainee himself. The second number was of the branch of the intelligence service where he had been detained. The pathologist would arrive early in the morning and add a third number, a number for his medical report. Yes, the bodies had three numbers. The Caesar file contains 53,275 photos. Inside these photos you have one file which contains 28,707 photos of people who died in detention. These photos represent 6,786 people, because Caesar and his colleagues would take several photos of each person, sometimes three or four photos.

■ **Karam Shoumali:** Caesar took multiple photos of every victim from different angles. This means that we are talking about just

under 29,000 photographs taken in detention centers or military hospitals. There are more photographs, another 24,000 actually, but they show dead Syrian army soldiers, rebel fighters, and civilian casualties, not civilians who died from torture. The total number of photos is around 53,000. Caesar took these photos between March 2011 and August 2013.

■ **Fritz Streiff:** In August 2013, this military police photographer, later codenamed Caesar, defected.

■ **Garance Le Caisne:** When Caesar understood that he will have to take photos of these dead bodies, of these detainees who were killed inside the detention facilities, and when he faced the accumulation of bodies, he wanted to quit his job. He wanted to defect, but first he went to see Sami. Sami was an activist in the revolution and a longtime family friend. He was a construction engineer. The two men had known each other for over 20 years. Caesar went to see Sami and told him, "I must go." Sami answered, "No, you have to stay," because Sami understood the value of these photos.

These photos were evidence of the crime of this regime. Sami and Caesar decided to collect these photos in order to accumulate as many photos as possible. From spring 2011 up to summer 2013, Caesar copied thousands of them on two flash discs. He smuggled them out of the military police headquarters, hidden in his socks or his belt. Sami took them and kept them on several hard drives. In the summer of 2013, Caesar fled to Sweden. He was smuggled from Syria by opponents of the regime. Sami left the country too.

■ **Fritz Streiff:** It is really quite a thriller story, how he slowly managed to smuggle these photos in batches out of his workplace and to eventually take the dangerous journey to get himself and his family out of Syria.

■ **Karam Shoumali:** Let us just pause for a moment on the fact that this guy was just an average police photographer, taking photos of traffic accidents and crime scenes. Then he finds himself taking pictures of people who are tortured to death. Suddenly, that was his job. It just begs the question, why was this even anyone's job? Why would the government document its own crimes?

■ **Garance Le Caisne:** These questions are difficult to answer. There can be several reasons. Maybe the first reason is Syria, the regime,

used to record and file every bit of information, every document. The regime documents everything so that it will forget nothing, just like the communist Eastern Bloc used to do before it. For 50 years, the military police have recorded details of accidental deaths involving the military. After the start of the revolution and during the war, they kept doing the same routine. Caesar was doing the same routine, just not only with soldiers, but also with detainees.

Maybe the second reason why the regime archives such photos is that the state suspects everyone. There is a culture of fear in the regime. No one trusts anyone. The guy who obeys orders must show that he has obeyed them. He must convince his superior for fear of being arrested and put in jail without trial, so they archive and document.

Maybe, in addition, we can find a third reason. The photos have been used by the intelligence services to inform families of the fate of their loved ones without having to produce an actual mutilated body. They will have a death certificate saying that the death was due to natural causes like a heart attack, but to have this death certificate, you have to be sure that the guy is dead, so the photos will show that the guy is dead. Of course, the deaths of prisoners due to hunger or torture is secret, but the event is recorded and you have a death certificate about it.

The last reason is maybe because the security services and Bashar Al-Assad himself have a feeling of impunity. They could not imagine that one day they would be called to account for their abuses. They never thought that these photos would get out and be seen by the world.

We do not know exactly why the regime archives such photos, but we have several reasons. Maybe it is a mix of all of these reasons. Maybe only one reason. We do not know exactly, but we can suppose.

■ Fritz Streiff: Garance discusses four possible reasons for the regime to document these crimes. One is that the military already recorded "accidental deaths" before the war, and then continued doing so after the uprising, not just with soldiers but also dead detainees. Then the second reason is what she calls the culture of fear, the regime controlling its own state agents, making sure that they actually followed orders. The third reason she mentions is that the photos allow the Syrian authorities to actually issue a death

certificate to the families without having to return the body. The last reason she mentions is impunity. Apparently, the Assad regime thought the photos would never be leaked.

We have all these reasons. They have been mentioned before in other historical contexts. Garance compared it to former communist Eastern Bloc states. I am reminded of the mountain of paperwork produced by Nazi Germany. Still, despite all these explanations and reasons, I just find it totally mind-blowing that regimes commit monstrous, massive crimes, and then document them mostly for tedious, bureaucratic reasons. It still seems so paradoxical to me. Would they not be better off just doing it in the shadows and not registering any of it? One would think that, right? It completely undermines this air of secrecy that these regimes operate in.

■ **Karam Shoumali:** Of course, the Syrian government is now denying their authenticity. When President Bashar Al-Assad was asked in a 2017 *Yahoo News* interview about the Caesar photos, he replied by asking, "Who verified the pictures? Who verified that they are not edited in Photoshop, and so on?" As far as he is concerned, they are fake, photoshopped, doctored. However, the photos have actually been verified multiple times.

■ **Garance Le Caisne:** The photos have been verified by legal and forensic experts. The first time was in January 2014 by the British law firm Carter-Ruck. Three war crimes lawyers interviewed Caesar, analyzed the photos, and found that the regime practices large-scale torture of its prisoners. After Caesar went to Washington in July 2014, he gave photos to the FBI. One year later in June 2015, the FBI issued a five-page report and declared that the photos have not been manipulated and they show real people and events.

■ **Karam Shoumali:** Considering the fact that the photos have been verified, I am wondering what is the value of the photos as evidence in court, for example, now in Koblenz. Even Assad himself questions this, asking "If you take these photos to any court in your country, could they convict any criminal regarding this? Could they tell you what this crime is, who committed it?"

■ **Fritz Streiff:** As a lawyer, dealing with these topics in my work, I find this question intriguing. If these photos can be used as evidence in court, the evidentiary value would be absolutely priceless, because you can actually see the dead bodies. You can almost see the crime.

That is quite unusual for these types of international trials, and it is a big "if." We do not know yet if the court in Koblenz will accept the photos as evidence. We also do not know if the content of the photos will actually prove to be relevant for the specific charges against Anwar R. and Eyad A.

Here is what we do know though, as Garance mentioned, that in early 2014, a team of very well-respected legal and forensic experts analyzed the photos, interviewed the man they would later give the code name Caesar, and came to the following conclusion, and I quote here: "Caesar's evidence was reliable and could safely be acted upon in any subsequent judicial proceedings." Here is another quote from the conclusion of that report: "The inquiry team is satisfied that upon the material it has reviewed, there is clear evidence capable of being believed by a tribunal of fact in a court of law, of systematic torture and killing of detained persons by the agents of the Syrian government. Such evidence would support findings of crimes against humanity against the current Syrian regime. Such evidence could also support findings of war crimes against the current Syrian regime."

This report was shared with the United Nations Security Council in April 2014. It became public then and was circulated widely. It is still available on the UN website. If the German prosecutor decides to submit the photos as evidence, the Koblenz court will be the first court to test their legal value. Whatever the outcome, it will set an important precedent for other trials to come.

To get some more insights on the legal elements of the Caesar story, we talked to Patrick Kroker, who is one of the lawyers representing victims in Koblenz. He also leads the Syria Justice and Accountability work at the European Center for Constitutional and Human Rights, ECCHR. We asked him how the photos ended up with the German authorities after Caesar smuggled them out of the country.

Patrick Kroker: These images were given to the authorities in Lichtenstein, who then distributed them on request to other prosecution authorities worldwide, basically, including the German ones. In Germany, they were the focus of the investigative work that was being done. It was already announced by then that each and every picture was being examined by medical forensic specialists and by data analyst specialists for building cases and to be part of case files. Of course, it is a very difficult task, but it is super important

evidence-wise, because they will be presented as evidence of the killing of a specific person.

Whereas normally in law, to prove a killing without having the body is really difficult and important. We will probably never see these bodies. Even the families will not, because nobody knows where they are. Here, this can be the proof, but for that, of course, there must be a medical forensic specialist able to examine the photo to make sure, "Yes, that person is dead. I can say maybe this and that about the potential cause of death." It is a very cumbersome task. It takes a lot of time. We must also think about the vicarious trauma that can be triggered by having to do that as your job. Eight hours a day is not even possible. They had also reduced working hours on these images.

■ **Fritz Streiff:** Reduced working hours. Vicarious trauma. These are also topics that we deal with here on the podcast team. I was thinking about it just last night. During the afternoon, I looked back at some of the gruesome Caesar photos and told myself that I would do something fun and relaxing afterward to compensate. Then, in the evening, I ended up watching a film that also showed pretty terrible scenes of torture. Not smart, not good for the soul. We all need to be aware of this and give ourselves breaks. Anyways, back to Patrick Kroker. We wanted to know what he thought the Caesar photos would mean in terms of evidence generally, and for the Koblenz trial specifically. His reply was a mix between optimism and caution.

■ **Patrick Kroker:** The evidentiary weight of these images is enormous, because it is not only proof in my eyes of these thousands of victims, of each and every individual killing linked or linkable to a detention facility that is reflected in this number. There is other information we get from the other number, which is the detainee number that might also appear in other files. It also gives us evidence of the systematicness of these crimes, the scale. It is very, very important in many ways. Given this trial, speaking about the trial of Anwar, there is still some insecurity attached to that, how much they will be used for showing individual killings in Al-Khatib Branch, because the time when these images were taken covered the time of Anwar's tenure in Al-Khatib Branch.

After September 2012, Caesar continued to work and to add images to this volume of images that he then handed over. Can we trace back which image directly stems from what time? I do not know. If

we cannot, then I see a problem *in dubio pro reo*, the expression in Latin that we need to always assume the best case for the accused. We would need to assume that all images from Al-Khatib were taken after September 2012, and therefore after Anwar had left office. This is one of the open questions that will be determined throughout the trial, I would say.

■ **Karam Shoumali:** Thank you, Patrick. We are very curious to see how the Caesar photos will continue to play a role in the Koblenz trial and beyond. The photos came to light at the end of 2013, but according to Garance, they have not resulted in that much concrete action.

■ **Garance Le Caisne:** Yes, it was a shock for a lot of people, but in fact these photos spurred outrage but not action. This file contains photos of detainees who died under torture, starvation, or untreated disease in the regime's prisons. These photos are very disturbing, they are inhumane. You would like to believe that these images are a thing of the past. We would like to see them in black and white, but they are in color, and they are from today. They are from now.

■ **Karam Shoumali:** Garance, thank you so much for your time. Before 2013, families of people who disappeared were in the dark about the fate of their loved ones, where they were taken, and what was happening to them. The Caesar photos answered some of these questions. They shone a light on the darkest, most secret part of the Assad regime's practices. They confirmed people's worst fears. Up until today, families are coming across the faces of their loved ones in the Caesar photos.

I have come across photos of two people from my hometown, and one of a distant relative. Just a few weeks ago, my aunt sent me a photo leaked by Caesar showing a young man starved and dead. She was sure it was her son. I was sure it was him, my cousin. He had the same eyebrows and he had the same eyelashes. We were positive it was him. We did not know anything about him since the end of 2012. He went to grab some food but never came back. She saw that photo and cried for three days. I contacted Ibrahim Al-Kassem, a member of Caesar Files Group, and arranged for a call with my missing cousin's sister. He found for us the other photos of this detainee. After many questions about body marks and surgeries done or not, facial hair and other physical description, we found out it was not him. I was relieved. It was not him, but also my mind was stuck on the young

guy in the photos. Who is he? Did his family identify him or is he still a number? This cousin, Ahmad, was a friend of mine. I looked up to him and we were close. He might be in another photo that we have not seen yet. He might be alive, we do not know, but he has been missing for 2,819 days.

■ **Fritz Streiff:** I am really sorry. For you, for your aunt, and for your family. Let us hope for the best.

■ **Karam Shoumali:** Thank you, Fritz.

■ **Fritz Streiff:** It is time to hear from Hannah El-Hitami, our court reporter from Koblenz.

■ **Hannah El-Hitami:** This week in court was dedicated to survivors, former detainees of Branch 251. The first witness's description of Branch 251 was actually much less gruesome than other statements we had heard before. Yes, he did say that there were overcrowded cells, that when he arrived, he was pushed into the cell and he fell onto bodies, and not onto the floor. Other than that, he said that he never saw any dead bodies. He never saw any blood. He did not see anyone with major injuries in his cell.

In the end, there was some confusion as to whether he had actually been in Branch 251, because he said, "Yes, it is called Al-Khatib Branch, and it is also called the Air Force Detention Branch." As everyone in the courtroom knows by now, that is not the case. Branch 251 belongs to the general secret service, not the Air Force secret service. In the end there was actually some confusion whether he might have been in a different branch.

Even though the topic of his statement was obviously not funny, he had a quite humorous way of talking about some of the points. For example, he was asked whether upon his release, he asked for the reason behind his release from Branch 251. He was like, "Well, no, I did not ask that. I just wanted to get the hell out of there." Something along those lines. It sounded quite funny to many, and people were laughing. Anwar R. was actually laughing so much that he was hiding his mouth behind his hand. I do not know why exactly he found that so funny, but maybe from a common understanding that in Syria when you are released from prison, you get out of there, you do not ask for reasons, you do not ask questions.

The witness on Thursday gave a much less humorous statement. He talked about the horrible detention conditions in Branch 251. He saw people die in the cell and being taken out of the cell. He himself received so much whipping on the soles of his feet during interrogation that he had a very severe infection on his foot. At some point, he actually had to cry during his testimony, and his wife who was in the audience was crying as well. The court had to take a break of 10 minutes for the witness to go outside and to calm down.

■ Fritz Streiff: That is it from us this week. Before we go, we want to take a moment to thank the nonprofit organization, Adalmaz, for their help circulating our recent Arabic episode. Adalmaz's aim is to seek justice for the victims of war crimes and crimes against humanity through legal means. They seek to identify the perpetrators of these crimes through their online platform and to present them to national and international courts. They make every effort to protect the privacy of those who provide them with information and to guarantee the confidentiality of the information that is shared with them. Have a look at their website and the Facebook group if you want.

EMPTY

CHAPTER

14

RECORDING KOBLENZ

Season 1 | Episode 15 | August 7, 2020

The Koblenz court recently rejected two motions regarding the translation and audio recording of the trial. While the court argues these decisions protect witness testimonies and the road to justice, NGOs and legal scholars worry that denying translation and recording could diminish the impact of the trial.

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■ **Fritz Streiff:** There are two recent developments in the Koblenz trial that we will discuss this week.

■ **Pauline Peek:** We will look at two recent court decisions, not about the case itself, but about the procedures around it. One of the motions was about the translation of the trial into Arabic, and the other about audio recordings of the proceedings. We are discussing these procedural decisions today, because they say a lot about the difference between the needs and wishes of the public, and the prosecutor's ambitions as representatives of the public, and the limitations that the court is working with.

■ **Fritz Streiff:** Koblenz is now part of a whole range of trials dealing with international crimes, atrocity crimes of the worst kind. In terms of historic significance and structural substance of the case, this case could easily be dealt with by an international court or tribunal. As we know, for the time being, that is just not possible and so the spotlight is on Koblenz.

■ **Pauline Peek:** The trial is followed closely around the world. There is still a lot of international attention, even a few months after its start, especially from Syrians in Germany and other diaspora countries. You would think then that everything is translated, at least into Arabic. You would think that everything is meticulously recorded and archived not only for the parties in the courtroom, especially the judges, but also for future generations. But you would be wrong. As we have discussed on the podcast before, there are

some issues regarding accessibility and outreach. Now there have been two concrete decisions on these issues.

■ **Fritz Streiff:** Exactly. The two issues here are, one, that the proceedings are in German. Not even the audience in the public gallery has access to a simultaneous translation. Two, none of the sessions are recorded; there is no transcript, no audio recording, nothing.

■ **Pauline Peek:** Honestly, that is so surprising to me. At first, I thought, "Okay, that is weird," but when you think about it more, it is actually crazy to think that it is completely up to the media and NGOs to bring this case to a global audience. Should that not be the court's task or some related public authority?

■ **Fritz Streiff:** Yes, I agree it is strange, the disconnect between expectations and reality. There is a reason why things work the way they do. We will also look at the perspective of the court, but let us get into these two recent decisions. We went to talk to some people that are directly involved to hear more from them on why they think the court's decisions are so disappointing. More than that, why they are really a missed chance.

The first motion that the court decided on was about the translation problem. The question seems so obvious from a common-sense perspective. Why is the trial only in German if it deals with Syrians who allegedly committed crimes against other Syrians in Syria, especially considering the fact that many Syrian victims and families come to the public gallery to follow the trial?

As you might remember from our episode about the FDLR trial, we posed this question to the Koblenz court. They gave us a very dry reply, simply stating that German law requires trials in Germany to be conducted in German. Witnesses, defendants, and legal representatives have the right to an interpreter, but the audience inside and outside of the courtroom, they are not the court's responsibility. Here we have the court basically saying, "It is not required by law. We are not going to do it."

You have this weird situation that the trial attracts a lot of public attention. Many Syrians come to the public gallery, but they cannot understand any of what is happening. They are sitting there and it is about them, it is about their country and their shared experience,

and they can listen, but they cannot understand. When I was in Koblenz at the trial a few weeks ago, I actually ended up translating some of the German into English for some of the Syrians that were present in the public gallery as the proceedings were going on, by whispering simultaneous translation. Others were doing something similar, but, of course, that is far from ideal. Plus, we are hearing now that even that is impossible because of COVID-19 measures. NGOs and journalists appealed to the court to change this. The court said it will not. In addition to the argument they presented to us, an online article indirectly quotes a court spokesperson as saying it is mostly a logistical and practical problem.

Simultaneous translations for people in the public gallery would be impossible because there are multiple languages and nationalities present, not just Arabic speakers. It would not just be about translating into Arabic, but into other languages as well, and this would be practically impossible to implement as a solution. This is what the court is saying.

Pauline Peek: I get that it might be a bit of a logistical nightmare. But would translations to at least English and Arabic not already go a really long way?

Fritz Streiff: Of course. Translation to English and Arabic would accommodate a lot of people who have been excluded up until now. The court argues that the principle of equality would require them to accommodate everyone. Only providing English and Arabic translations would exclude other languages.

Pauline Peek: Okay, so they are applying this all-or-nothing rationale. Either we include everyone or we stick to German.

Fritz Streiff: Technically, of course, they are right. That is what the law says, but in reality, this means that most people inside and outside the courtroom do not know what is going on, and that just does not sit right. Should victims' families attending the hearings not know what is being said? Mohammad Al-Abdallah certainly thinks so. He is the Director of the Syria Justice and Accountability Center in Washington, D.C., a human rights lawyer, and was himself once a prisoner of the Assad regime.

Mohammad Al-Abdallah: This trial is about violations committed

in Syria. The victims, the primarily interested parties, are Syrians, and they would like to listen and hear what happens in those trials. They want to hear what those defendants are saying. We had a couple of families of victims, families of detainees, or representatives of civil society actors attend some sessions in Koblenz. However, they were not very pleased with the results since they were unable to understand the German trial proceedings. There is a hope this trial could provide a sense of closure and address those victims, and that will not happen, unfortunately, unless they can understand what happens inside the courtroom.

■ **Pauline Peek:** That is interesting. The lack of translation is directly impacting the families' sense of closure.

■ **Fritz Streiff:** Exactly. I get why that is frustrating, especially for people like Mohammad, representatives of civil society organizations that are so actively trying to push for justice for Syria because closure is part of the reason for criminal trials like this. That is literally part of the whole justice process. Mohammad mentioned a few other reasons why he thinks translation should be made available.

■ **Mohammad Al-Abdallah:** It is important for transparency. We want Syrians inside Syria and in the diaspora to understand and listen and hear what is happening in those transitions from lots of different sources. For the time being, only several NGOs are able to report on the trial because they have the resources and the access to German-speaking staff or employees. Also, the efforts and expenses put together to make this trial a reality were really a lot. We do not want to limit the opportunity to reap the considerable benefits of those universal jurisdiction cases only because we do not offer Arabic translation during the trial sessions, which would allow members of the public to attend and hear what is happening.

We are hoping the court will revise its decision and will understand the sensitivity and the importance of making the Arabic language translation available, as this will provide much-needed closure and address lots of the victims who are watching the first trial ever for war crimes committed in Syria.

■ **Pauline Peek:** He says, "We hope the court will understand the sensitivity and importance of making Arabic translations available." Is he not implying that at the moment it does not?

■ **Fritz Streiff:** Yes, in a way he is. He is pointing out that the trial is important for Syrians, but also for Germany, and for international justice in general. The court does not necessarily see it that way. Like we pointed out in an earlier episode, the court in Koblenz is not the International Criminal Court in The Hague. It does not want to be the ICC either. We can safely assume that, of course, they do think the work they do is important. They are judges, and working toward justice is what they do every day. Maybe they do not think their work carries as much weight as these huge international tribunals do. In fact, in the article mentioned before, the court's spokesperson literally says that the court does not consider the trial to be as important as certain NGOs think it is. If they do not want to give this trial that huge importance, why would they have to go through the trouble of providing simultaneous translations, right? Also, doing so is probably incredibly expensive. Depending on the number of languages and quote sessions per week, the cost could go into the hundreds of thousands or even more.

It is also just very unfortunate that people in the public gallery cannot bring their own translators at the moment, for reasons that have nothing to do with the law, but simply because huddling together and whispering just is not safe right now because of the Coronavirus. What about translation devices that people could bring themselves? In its decision, the court ruled that those might pose a security risk. After all, devices that can translate can often also record, which brings us to the second ruling.

■ **Pauline Peek:** Yes, the second ruling is fascinating, really. A team at the University of Marburg led by Professor Dr. Stefanie Bock filed a motion to allow audio recordings of the trial. This motion was also rejected. We asked Professor Bock to explain why that is a shame.

■ **Prof. Stefanie Bock:** An audio recording of the trial would have given us the opportunity to evaluate if the German system allows for an efficient and fair prosecution of international crimes and when need be, to develop recommendations for improvement. That the court denied a motion for recording is a missed opportunity for legal science and practice alike.

■ **Pauline Peek:** What do you think of that Fritz?

■ **Fritz Streiff:** I agree. This trial is very complex, and legal scholars,

lawyers, and judges of the future would benefit from studying it, definitely in the way that Professor Bock mentions, to evaluate whether German courts are fit to conduct such trials, and also for current and future investigations into similar crimes that will result in trials. We have also seen in the first few weeks, this trial is not just about accusations against Anwar R. and Eyad A. The court is also documenting a lot of information about the structural crimes the Syrian regime has committed. This can be important for future trials. Whatever the outcome will be, this is a precedent. A lot of investigators, prosecutors, and judges are looking at Koblenz with interest, but without recordings in audio or written form, what is there to study? What can they learn from?

■ **Pauline Peek:** Exactly. I would also raise the issue of historical significance. Some audio recordings of trials had a real historical impact. Let me give you the example of the Auschwitz trials that took place in Frankfurt in the 1960s. Those trials were audio-recorded, and the tapes turned out to be really important works of reference. Not just from a legal science perspective, either, as in, what can we learn from the way this trial was conducted, but rather, what can we learn from what was said in this trial. The topic was Auschwitz and by studying the tapes, we collectively learned about the darkest chapters in Germany's history. The tapes are relevant as historical sources and historical data. Interestingly enough, the recordings were originally only meant as a tool for the judges to remember what had been said, to refresh their memory. They were supposed to be destroyed after the trial was over. Luckily, a historian named Hermann Langbein understood the value of the recordings and saved them from destruction, and thank God he did. The tapes are not just recordings of history, but they also made history. After all, the tapes contributed to the way that we remember and understand Auschwitz today. Of course, we can never know how big exactly the impact of a trial recording will be, but by not recording at all, we definitely diminish it.

■ **Fritz Streiff:** Plus, audio recordings add a whole new dimension when you compare them to written records. An example is the famous trial against members of the terrorist organization *Rote Armee Fraktion*, the Red Army Faction, that took place in Stuttgart Stammheim in the 1970s. Those tapes were also supposed to be destroyed, but were later found in a safe. I listened to some of them when I wrote a paper about the trial at college, and it was fascinating. You can actually hear the judges and the accused argue with each

other. You can feel the atmosphere, the tension. Written trial reports, and not even transcripts, can give you that years and decades later.

Some courts do get the need for audio recordings, like the German court in Magdeburg that is conducting the trial against the neo-Nazi who tried to attack a synagogue in Halle and killed two people after his plan failed. The presiding judge decided to have the entire trial audio recorded because of the trial's historic relevance. If you would like to know more about these examples, we recommend an article written by Dr. Burghardt and Dr. Thurn of Forum Justizgeschichte, an NGO dealing with legal history.

■ **Pauline Peek:** Professor Dr. Bock also mentioned the historical significance of the Koblenz trial.

■ **Prof. Stefanie Bock:** The higher regional court exercises universal jurisdiction which shows Germany's commitment to the international justice system, as well as its willingness to live up to its historical responsibility, and to continue the legacy of the Nürnberg trials conducted after World War II. The trial, therefore, is of historical importance and worth being recorded.

■ **Pauline Peek:** Surely the judges are aware of the historical significance of Koblenz. Why then did they decide against allowing audio recordings?

■ **Fritz Streiff:** The judges are very well aware, of course. In fact, since 2018, there is a law in Germany that allows audio recordings to take place for historic and academic purposes if the trial is of particular historic significance, but there are a few big problems that keep the courts from applying this new legal provision regularly. It is not the court's responsibility to protect the witnesses itself. The judges in Koblenz even said this to witnesses who said that they were scared for the safety of their families. It is important for the court to get the best testimony from the witnesses. But in order to guarantee that, witnesses have to feel safe. By banning audio recordings, the court protects the witnesses, and by protecting the witnesses, they protect their testimony. I agree this is the crucial point, recordings should not come at the cost of witness security, that is for sure. Ideally, there should be both transparency and witness security. That is a huge challenge that the court in Koblenz decided it will not engage with.

Another big problem with audio recordings is that according to this

law from 2018, recordings are only allowed if they are of particular historic significance for Germany. Since the Koblenz trial is about Syria with Syrian defendants and Syrian victims, technically, this criteria is not fulfilled either.

■ **Pauline Peek:** The German authorities thought that the case was important enough to apply the principle of universal jurisdiction, but they do not think it is important enough to record it?

■ **Fritz Streiff:** Just to be clear, the prosecutors likely do think it is important enough, but apparently, the courts do not. What I think we are seeing here is a disconnect. On the one hand, you have the progressive ambitions of new laws. Here in this case, universal jurisdiction. Prosecutors apply this new legal concept, bringing international crimes to trial and really pioneering like that. Then, on the other hand, we have to deal with the often conservative tendencies of courts. They look at what the law says and interpret it often in a cautious way, illustrated here by not allowing translations and recordings.

■ **Pauline Peek:** This is really a bizarre contrast. Germany is basically saying to the world, "We think bringing Anwar R. and Eyad A. to justice is so important to the world that we will take it upon ourselves to conduct an enormous, years long and expensive trial, but unfortunately, you will not be able to understand what is said in a trial. Also, we are not going to record it because it is not really about us anyway."

■ **Fritz Streiff:** Yes, that is it in a nutshell. That is the general idea. There is definitely an overarching legal and philosophical conflict here. It is pretty fascinating to see it play out in Koblenz.

■ **Pauline Peek:** Maybe this is a bit of an impossible question, but which side do you think will "win?" I know that the court has now rejected these two motions, but then again, laws change. There is a lot of outside pressure. Has the last word on this been spoken?

■ **Fritz Streiff:** Unfortunately, in this specific case, the decision about audio recordings cannot be appealed, but as far as the translation is concerned, the civil society organizations involved in the Koblenz trial do not seem like they will let this one go easily. It is an ongoing struggle and the debate will continue beyond Koblenz.

Then again, with future similar trials, these issues have come up time and again. It is not a one-time debate.

■ **Pauline Peek:** I certainly hope the Koblenz court will change its mind.

■ **Fritz Streiff:** Again, we should not lose sight of the fact that this trial is happening at all, that Germany is pioneering to get this going. That is commendable. Let us not forget that. Yes, it is a small step and there are challenges and flaws and we have discussed those, but justice is at least in motion.

■ **Pauline Peek:** That is very true. We can all say, well done Germany for taking this important first step toward justice for Syria while staying critical and vocal about what could be improved.

■ **Fritz Streiff:** The first 15 weeks of the trial are over. The court in Koblenz has now also settled into a routine, and it is moving slowly toward the second phase. While we are entering that next phase, we are adapting the pace of the podcast. From now on, we will show up in your feed twice a month instead of once a week.

Next episode, we will update you on everything that happened in court and dive into the concept of justice. Justice. You have heard this word so often on this podcast, but what is it exactly? What does it mean and what does justice for Syria really mean? What would it even look like?

EMPTY

CHAPTER

15

A LONG TRIP, A LONG ROAD

Season 1 | Episode 16 | August 21, 2020

Koblenz is a small step on the long road to what, exactly? In this chapter, Fritz Streiff talks to Syrian lawyer and human rights defender Mazen Darwish about justice for Syria and Syrians, its forms and challenges, and what the trial in Koblenz means to him.

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■ **Karam Shoumali:** The court is back this week and we will hear from our court reporter Hannah El-Hitami later on in this episode. First, we want to get into a topic that has been hovering over the podcast all this time.

■ **Fritz Streiff:** Yes, it is one of those topics that we almost take for granted, as we think we know what we mean when we say it, but the question is do we actually? The topic that we are talking about in the episode is justice. We have heard a lot that Koblenz is a small but important step toward justice for Syria. We have seen it in the papers, on TV, and we say it ourselves. A lot has been said about justice from ancient philosophers to modern-day politicians. Justice as a word, as a concept, is used all the time, especially in the context of a trial like this.

■ **Karam Shoumali:** What does it actually mean? What does justice mean or what does it look like? What forms of justice do we know, what are their challenges and how does the Koblenz trial fit into this. These are all questions we will discuss in this episode.

■ **Fritz Streiff:** Did you know that one of my hobbies is etymology?

■ **Karam Shoumali:** I did not know that, but that does not really surprise me, Fritz.

■ **Fritz Streiff:** I love looking after the origin of and stories behind words. What I find interesting is the etymology of the word justice,

especially in the older meanings. The concept of equity comes up a lot, which comes from the old Latin *aequus*, which meant equal. Is justice that what is equal? An equal solution to a conflict between two parties that have a dispute, for example?

■ **Karam Shoumali:** How does this play into our focus in this podcast? It is on a trial that is supposed to deliver justice for Syria. In a context like this, justice can mean a lot of things for different people. It is very subjective. For some, it might be a revolution, overthrowing existing structures. For others, it might be using existing structures to hold people accountable. For others, it might be a reconciliation with perpetrators and living together in peace with the opposing side.

■ **Fritz Streiff:** And for yet others, it might be a mix of all of the above. When you look at the series of all this you see all these types of justice. There is procedural justice, distributive justice, retributive justice, restorative justice, transitional justice. This seems confusing, no? We agree.

We went down a rabbit hole ourselves when we started researching this episode. What is clear is that justice is not one thing, like one objective template, that fits every individual context. It is not a box-checking exercise. In a way, it is by definition confusing when somebody says this or that specifically is justice. That always is a subjective experience. To break this whole topic down and consider the Syrian context in more detail, we spoke to someone who has thought about these questions for decades.

Mazen Darwish is one of the most prominent Syrian human rights defenders and freedom of speech activists. He is the director of the Syrian Center for Media and Freedom of Expression, the SCM. He has received many international awards for his work, even while he was imprisoned. For disclosure here, I have worked and collaborated as a lawyer with Mazen and this group. I already knew him in this capacity before I met him to talk on the podcast.

I visited him in his Paris office to discuss the topic at hand. For him, justice is sustainable peace, period. That is an absence of conflict and a focus on dialogue incorporation that is long-lasting. Everything else, criminal accountability, transitional mechanisms, restorative and distributive acts and so on, all those concepts are, or may be, necessary elements and contribute to justice. According to Mazen,

eventually there is no justice without sustainable peace. Let us listen to what we learned from him about his view on justice as sustainable peace or sustainable peace as justice. I started out by asking what justice means, not for Syria specifically, but for him as a person, for Mazen Darwish.

■ **Mazen Darwish:** I believe justice is maybe more a romantic word. There is no equal justice for any crime in the end. Especially in Syria, I believe justice is important for the country. I think justice means sustainable peace. This is the most important point in justice for Syria. Justice means the satisfaction of the victims. It means the guarantee that this kind of crime will never ever happen again. Justice also means that those who are responsible for the big crimes will not be the faces of impunity.

■ **Fritz Streiff:** We talked about justice in general for a bit, but our conversation quickly drifted toward Syria. Justice for Syria, the topic that Mazen has worked on day and night for decades. Mazen himself was detained and tortured for more than three years after he and his colleagues were arrested during a raid at his office by agents of the notorious Air Force Intelligence services. He was released in August 2015 and now lives and works in exile, first in Berlin and now in Paris.

I asked him to explain what his idea of justice as sustainable peace means within the Syrian context. He confirmed something all of us who are interested in Syria have thought time and again: that this context is a very complex and complicated one.

■ **Mazen Darwish:** Especially in such a war like Syria, which is very complicated, there are many parties involved, domestically, regionally, and internationally. There is a kind of civil war in what happened in Syria. There are terrorists and there are also others. At the beginning we had civilian demonstrations and a dictatorship regime. But also there is religious conflict in Syria, and there is ethnic conflict in Syria today too.

This also means the possibility for all the Syrians to rebuild the country and rebuild society. The most dangerous and the most important point is, I think, that without this mentality of justice we will go to revenge. We will use justice as a political card for this party or that party. We need to be sure that all victims, whatever their political stance, whatever their ethnicity, whatever their religion, will reach the same level and the mechanism for justice, and they will feel satisfied.

I do not believe that there is anything that can be equal if you lose your lover, your children, your wife, your brother. Nothing will bring them back again. We are not talking about justice and equality, we are talking about the feeling of justice, the feeling of being satisfied. I think this is very important.

■ **Fritz Streiff:** What Mazen is saying here about the complexity of applying any concept of justice to Syria, I think, is that the concept of what he calls equal justice, where the original status from before the crime was committed is restored, is impossible. Especially with so many additional factors like religion and ethnicity, so many different injured parties and in any case, when considering that a loved one was killed and will never return, that is an unattainable goal.

Maybe think of one of the original meanings I talked about earlier of the word justice as equity. For Mazen, that is nothing more than a romantic notion. If that is an impossible goal to work toward, then how can a sustainable peace be achieved? If nothing brings back your murdered loved ones but victims should still feel satisfied, according to Mazen, that should mean victims from all sides of the spectrum, no matter the perpetrator. I asked him, how can that be done? What would be the conditions for that?

■ **Mazen Darwish:** There are many people who are responsible for these crimes. We are talking about the president, we are talking about the leaders of the security services, we are talking about the leaders of ISIS, we are talking about the leaders of Al-Qaeda, we are even talking about the leaders of some of the opposition groups. They all should face fair accountability, and not have revenge taken against them. We need to guarantee that they will have a fair trial.

Some of the others, maybe they should not be sent to the court, but they should leave their work, some of them we will need to retrain, and some of them should maybe continue with their work. Again, it is not black and white, but some of them should be sent to a fair trial, some of them should not contribute to any public service, some of them can maybe leave their work, transfer to another work without this kind of therapy, and some of them need training and work in another system.

■ **Fritz Streiff:** Is this realistic in the coming years?

■ **Mazen Darwish:** Today no, to be honest with you, but I believe

yes, this is realistic. Maybe after three years, five years, 10 years, maybe even more. I believe that there is no way to reach any kind of sustainable peace in Syria if we do not make this realistic. Without this kind of justice, I believe that whatever the political agreement was, it will be a ceasefire, not peace. My worry is that this ceasefire will just give a break for society, for the lords of the war to recharge themselves and the tools to start a totally new civil war and get revenge.

■ **Fritz Streiff:** Time and again during our conversation, Mazen pointed out the many shades of gray that make up the situation in Syria. Like he said before, equal justice can never really be reached when you look at the massive scale of the crimes committed in Syria. You will not even get close, according to him. To work toward the satisfaction of the victims, yes, Syria needs to see accountability of the most responsible. But Mazen stressed this very much, the need to avoid selective justice.

Everyone responsible, whatever side of the conflict they are on, needs to answer for what they did, especially the most responsible, but in a fair trial and with due process. To work toward victim satisfaction, the less responsible may need to be retrained and transferred to make society work again, which seems like a huge endeavor. What Mazen also made clear is he does not believe in a purely political solution, a solution that would silence the weapons and stop the fighting for a period of time, because he sees the risk of revenge.

This risk of revenge coming after the opposing sides will have taken a break, regrouped, refinanced, rearmed, would just restart the cycle of violence and tragedy all over again. For him, political solutions are only part of the movement toward sustainable peace. Holding the most responsible individuals accountable through criminal prosecutions and fair trials is another of the many parts. That made me curious to get his reaction to the trial in Koblenz, what he thinks about this trial and its role in the bigger picture of what he is describing.

■ **Mazen Darwish:** Koblenz, or all the other cases and all the European countries, it is more of an advocacy tool. It is more to show that we need justice and it is our tool to say it is not for the international community, for the UN, to have a political agreement, whatever it is, and ignore all that happened. Koblenz or any other cases, this is not only justice. This is not what we prefer for justice even as a tool or a mechanism, but it is what we can do. It is an alternative choice. While we can not forget that to reach this kind of justice, we need

for the future of Syria, we need a Syrian mechanism. We need something more like a Marshall plan for Syria based on justice. This should be more strategic looking for everything, not to punish this one or that one or to go to some kind of selective justice. It needs strategic things. As I said, it needs a Marshall plan. More than what we are doing now in using universal jurisdiction in this country or that country, on this person or that, it needs a plan. Accountability, but also how we can guarantee that this will not happen again. I think this is the most important.

■ **Fritz Streiff:** A Marshall plan for Syria. Mazen is really talking about a larger holistic plan, not just criminal accountability like in Koblenz, but a more strategic, underlying plan to help guarantee that refugees like him can return to Syria without fear. He used the Marshall plan that helped Western European countries recover economically after the Second World War as an example. In short, with no economic recovery, no jobs and opportunities, then there is no sustainable peace, no justice.

■ **Mazen Darwish:** We need something that includes us as refugees, not just the victims. For me, I dream of the day that I can go back to my country, my house, my work, and my office in Damascus. I also think the European countries will be happy if the refugees go back. But how can I go back? There is no guarantee that I will not face the same reason which pushed me to leave my country. We need the guarantee that this will not happen again, that people will return safe. We will not go to find the same people who tortured us, who killed the people, who committed all these crimes, in the same position and the same security service, to do it again.

■ **Fritz Streiff:** From your side, does justice include forgiveness?

■ **Mazen Darwish:** Yes, I always said this, even when I was in prison. When I was in prison, I sent two letters to the outside to be published. I said, and I still remember exactly, that I will forgive all the people who tortured me, who did all this crime against me, who took my freedom for years. When I receive my rights, I will do this, but not before. You can not ask me to forgive anyone before the truth of what happened is clear, before knowing that what happened was a crime, or before a fair trial. Yes, when I have my rights, I will feel free to forgive anyone, but you can not ask me to forgive someone before all of this. Yes, I will support the forgiveness, but not before having the rights.

■ **Fritz Streiff:** Thank you very much, Mazen.

■ **Karam Shoumali:** After talking to Mazen, we have a clearer picture of what justice for Syria is and what it is not, at least to him. Let us start with what it is not. It is not a purely political agreement like a ceasefire. Justice is also not one-sided. All sides of the conflict should be held accountable. Importantly, with these kinds of crimes, justice is never equal. What has been taken from you cannot be returned. What has been done cannot be undone. Lastly, justice is not Koblenz. In the end, real justice would have to happen in Syria, by Syrians and for Syrians. But as long as that is impossible, and for the time being, we have something tangible in Koblenz. Koblenz is an advocacy tool, a signal for the need for justice, a part of a movement. According to Mazen, this is what justice is. First of all, it is incredibly difficult to achieve in Syria because of the conflict, and the religious and ethnic groups. Secondly, justice can only be reached in the context of sustainable peace. Then, justice would be the safe return of refugees after comprehensive economic reform. For Mazen, two other crucial components of justice are the feeling of satisfaction in victims and forgiveness.

■ **Fritz Streiff:** Yes, forgiveness. Even though it would have to be on the condition of its perpetrators facing some sort of accountability, facing the truth about what they did, what Mazen describes as his rights. I have to say I was amazed by Mazen's readiness to forgive, after all he has been through. Not just himself, but his family, his friends, his colleagues, many of them have been murdered, and others are still missing. Still, he is ready to forgive to enable justice for Syria in the form of sustainable peace. Mazen told me that he would be so happy if his children and the children of his torturers would be friends in the future and play with each other. Just imagine that.

■ **Karam Shoumali:** This is just one illustration, one example of what justice means for Syria, but it comes from someone who knows what he is talking about. What I find so interesting is that he really sees a trial like the one in Koblenz as a mere signal, as a symbol of what the Syrians need for justice, and nothing more. For Syrians, we are really only at the beginning of a long process.

Now it is time for a court update. We want to give you an update on the topic of last week's episode. You will remember that the Koblenz court rejected the motion to allow for translation to Arabic. In reaction to that, Syrian groups have now filed petitions with the Ger-

man Constitutional Court: the Syrian Justice & Accountability Center, SJAC, together with a Syrian journalist, Mansour Al-Omari, and Mazen Darwish's organization SCM, together with Caesar Families Association, CFA, and Freedom Support Group. They are appealing to the Constitutional Court, arguing that the freedom of press should guarantee their access to Arabic translation.

■ **Fritz Streiff:** We understand that the petitioners do not expect a final decision from the Constitutional Court anytime soon. That might actually take more than a year, but they applied for interim measures. Just a few days ago, the court actually ordered that accredited Arabic-speaking journalists will have access to simultaneous German-Arabic interpretation. This is now pending the final decision. We just heard about this ourselves, so we do not know the details. It looks like Arabic speakers in the public gallery that are not accredited journalists still will not have access to translation. Some commentators have labeled this only a partial success. We will keep an eye out for any developments on this and will share them with you going forward. Now let us zoom into the court sessions of this last week.

■ **Hannah El-Hitami:** Last week, we heard the first anonymous witness in court. Not only did he not give his name and address, but also he appeared in disguise. He was wearing a fake beard, a wig, and thick glasses. He claimed that he had worked for 21 years in the Syrian secret service administration, but he could not share any details as to where he had worked and what his job was exactly. He talked quite a lot about the prison conditions, the way that interrogations were conducted, and a little bit also about the hierarchies in the secret service.

In the last weeks, there were several witnesses that were worried about the safety of their families outside of Germany, and I kept thinking that it would be so much better if they could testify anonymously. The case of this anonymous witness actually showed that such anonymous testimony is quite difficult. It has some disadvantages because the defense kept asking him, "How do you know that? Were you there or did someone tell you?" He could not answer these questions because this could reveal something about his identity and position. I guess that this is going to affect the evidential value of his testimony. One of the important pieces of information that he gave was that he said it was impossible that an officer or a colonel would be kept in his position or even promoted if he was not com-

pletely loyal to the regime. In this way, he contradicted the statement of Anwar R. that he gave back in May.


Wednesday started with an announcement from judge Dr. Anne Kerber that the Federal Constitutional Court had issued an instruction that there had to be translation into Arabic for Arabic-speaking journalists. This led to the defense lawyer, Michael Böcker, requesting that day one to day 23 of the trial be repeated, because it had taken place without translation into Arabic. I guess this is an attempt to delay the progress of the trial, but he probably will not have any success with this request.

After that, we heard the second plaintiff. Wassim Mukdad gave his testimony. He was imprisoned in Al-Khatib Branch for five days in September 2011. He gave the usual accounts of beatings, including beatings on the soles of his feet during interrogation. He even suffered from a broken rib after his arrest and had to endure this injury during his whole stay in prison. His statement altogether was quite short. He gave it in German. There were not too many questions after that.

On Thursday, we heard the third plaintiff testify, Hussein Ghreer. He is a blogger and political activist from Damascus. He was arrested in October 2011 and stayed in Branch 251 for 10 to 15 days. He confirmed what other witnesses had told the court until now, about the beating on the soles of his feet, about the lack of nutrition in the cells, and the overcrowding. One emotional moment was when he talked about a protest that he had joined in Qaboun, where a 70-year-old man was walking next to him who was later shot dead. Before he was shot, that man told him that he was not scared to die because he only cared that his children and grandchildren would have a free country to live in. When he told this incident, Ghreer actually had to take a break. He seemed close to tears, and his sisters who were seated in the audience also were on the verge of tears. Everyone had to take a moment to calm down and continue the testimony.

At the end of the session on Thursday, plaintiff lawyer Sebastian Scharmer made an interesting observation. Wassim Mukdad had said that from the voice, he recognized that in each interrogation, the person who interrogated him was the same person. Anwar R. had said in his statement that he actually did interrogate Mukdad at one point even though he did not use any violence. Yet, Wassim Mukdad claims that during his interrogations violence was used.

That was an interesting observation made today. Let us see how the defense will react to that, perhaps in the future.

 **Fritz Streiff:** Thank you very much, Hannah. We will dedicate the entire next episode to the latest from Koblenz.

CHAPTER

16

A FAVOR FOR A FRIEND

Season 1 | Episode 17 | September 4, 2020

Host Fritz Streiff and court reporter Hannah El-Hitami dissect the special testimony of leading Syrian opposition figure Riad Seif who vouched for Anwar R. to get asylum in Germany, where he is now being prosecuted for crimes against humanity. Wassim Mukdad and Hussein Ghrer, two survivors of Branch 251 who are civil parties in the case, completed their testimonies.

EMPTY

Fritz Streiff: In court over the past two weeks, two civil parties testified as witnesses, as did a man that many consider a leading figure in the Syrian opposition: Riad Seif. Seif first made his career in business, then in Syrian politics when he was voted into parliament. He has been a fixture on the political scene for decades and was one of the earliest and most vocal opponents of Bashar Al-Assad. Long before Bashar came to power, though, he had already been trying to bring about change in a regime that he considered to be corrupt and bad at governing. When Bashar Al-Assad succeeded his father in 2000, Riad Seif saw a small window of opportunity for change. Maybe he thought with generational change would come political change. In a way it did. Despite warnings from multiple regime figures that he should tread lightly, Mr. Seif continued ruffling feathers. He criticized and challenged the regime, organized illegal lectures, and called out shoddy deals that showed nepotism. His resistance grew into a movement that today is referred to as the Damascus Spring. It cost him dearly between 2000 and 2012, during which Seif spent eight years in prison. In 2011, when the uprising in Syria started, he attended demonstrations and tried to unite the opposition by attempting to create coalitions and even a new political party. His efforts to break Assad's hold on Syria failed, while members and supporters of the regime continued warning him, intimidating him, arresting him, and according to Riad Seif, physically attacking him.

In June 2012, Riad Seif left Syria for Germany. In exile, his opposition continued. This is also where his connection to Koblenz comes into play. This same year, he heard via an old friend of his son-in-

law that a former high-ranking member of the intelligence service, who claimed he had defected, had fled to Jordan and needed help. The Syrian opposition could potentially benefit from having defectors share internal secrets about the regime and its practices. Riad Seif decided to help this man come to Germany. He gave all the information he had about the man to the German authorities, vouched for him, and as a result, Anwar R. was offered refugee status in Germany.

Both the prosecution and Anwar R. thought that Mr. Seif's testimony could potentially help their case. Hannah El-Hitami will explain more about why Anwar R. wanted to hear Mr. Seif as a witness.

■ **Hannah El-Hitami:** In May, Anwar R. gave a written statement where he talked about many things in his life and he gave a list of potential witnesses that he wanted to hear from because he believes they would speak in his favor. Riad Seif was on that list, and as he is one of the most prominent opposition figures of Syria, Anwar R. was obviously hoping that if he spoke in his favor, then it would be clear he had really defected and that he had honestly joined the opposition. This is something a lot of people have questioned.

■ **Fritz Streiff:** And why would the prosecution want him?

■ **Hannah El-Hitami:** I guess for the prosecution, Riad Seif is just a very important witness because he is the one who helped to bring Anwar R. to Germany. He is the one who vouched for him and used his connections in the German foreign office to help Anwar R. and his family get asylum in Germany via a special humanitarian program for the accommodation of refugees. The prosecution just needed to know what was the connection between Riad Seif and Anwar R. Why would he help him come to Germany and what else did he know about him.

■ **Fritz Streiff:** On days 26 and 27 of the trial, both the defense and the prosecution got to question him as a witness. While Anwar R. hoped that his connection to Riad Seif would speak in his favor, the prosecution wanted to get as much information as possible about Anwar R.'s resettlement in Germany. How did his testimony go?

■ **Hannah El-Hitami:** One of the first sentences that Riad Seif said was that he did not know Anwar R., that he had never heard of him before he came to Berlin, and that he basically had nothing to do

with him. This was interesting because he helped this man come to Germany, so everyone was expecting that there must have been some relationship between them.

He then continued to say that his son-in-law had a close friend, and that close friend had told him about Anwar R., who had already defected and was living in Jordan at the time. He said, that this friend of his son-in-law had asked him to help this man come to Germany because he was allegedly being threatened by the Syrian regime in Jordan and he was fearing for his life. Because Riad Seif trusted his son-in-law and his close friend, and because he was interested in helping high-ranking regime members to defect, he forwarded Anwar R.'s information to the foreign office and recommended him for a special humanitarian asylum. Riad Seif also said that he did not double-check Anwar R.'s background, but that if he had known all these negative things about him he would never have helped him, he would never have supported him. He did not know anything about his background.

■ **Fritz Streiff:** Riad Seif said he would not have helped Anwar R. had he known how bad he was, even though Anwar R.'s high rank, which Mr. Seif was aware of, meant that Anwar R. almost certainly participated in or oversaw torture in one form or another. But Anwar R.'s high rank was in fact one of the main reasons he volunteered to help him get to Germany. How did this come across to you during the testimony?

■ **Hannah El-Hitami:** I thought it was weird that he said that he would not have helped him if he had known anything negative about him, because you have to remember Riad Seif himself was imprisoned in Syria for a total of eight years. Even when he was out of prison, he was summoned to the secret service branches numerous times. He also mentioned that he had been to Al-Khatib Branch numerous times where he was interrogated, detained, and threatened for a few hours. He also said in court that there is no secret service branch in Syria where there is no torture, and if anyone said that was the case, they were lying. Considering this, when he heard about a high-ranking ex-secret service officer, a head of interrogations, he must have known that this guy did not have a clean slate.

The prosecution actually asked him about that and they quoted something that Riad Seif said during his police interrogation. He said he cannot imagine Anwar R. was nice during his interrogations,

because as a Sunni in such a high position, he was always under observation by his Alawite colleagues. And because of this he would not have adhered to be friendlier to prisoners and offer them tea or biscuits, or whatever Anwar R. had said in his statement.

■ **Fritz Streiff:** Okay interesting. Riad Seif was actually referring to something here that is considered common knowledge among Syrians and those who know Syria. As Anwar R. belongs to a different school of Islam than most of his colleagues and the ruling elite, he would have been under extra pressure to prove himself. According to Mr. Seif's logic, then Anwar R. probably would not have felt safe or secure enough in his position to show the mercy that he claimed he did in his personal statement. Did he say more about why he did vouch for him then?

■ **Hannah El-Hitami:** He gave several reasons. One being that he trusted his son-in-law and wanted to help him. The second reason was that he wanted to encourage high-ranking regime officers to defect, so he wanted to support this one. I think the main reason he mentioned was that he wanted to get information from Anwar R. With Anwar R. being such a high-ranking officer in the secret service, Riad Seif was really hoping that he would share all the information he had gathered during his work with a secret service.

■ **Fritz Streiff:** Did he deliver on that information?

■ **Hannah El-Hitami:** Well, Riad Seif was actually disappointed. He said that Anwar R. came to visit him one time after arriving in Berlin. He came to visit him at home with his wife and his children. Riad Seif tried to ask him questions and get some information from him but he said Anwar R. did not say a single word.

The defense asked him whether there had been a deal between him and Anwar R. that he would help him come to Germany in exchange for information, but Riad Seif said that there was no deal. He was expecting Anwar R. to give information in favor of the revolution, but he did not make a deal. It was not a prerequisite for supporting him.

■ **Fritz Streiff:** In your estimation, and I know this might be a bit of a speculative question, but did either the prosecution or the defense get from Riad Seif what they hoped they would?

■ **Hannah El-Hitami:** The defense definitely did not get what they

wanted and it was clear that Anwar R. was hoping that Riad Seif would speak in his favor and that he would say things that he would confirm his sympathy with the revolution and that he had been in touch with the opposition, but none of that happened. Riad Seif actually said that Anwar R. had not been in touch with the opposition before he left Syria.

■ **Fritz Streiff:** Riad Seif is not the only person who testified in Koblenz recently. The week before him, torture survivor Wassim Mukdad took the witness stand. He actually became involved in the trial after bumping into someone working on the case while he was barbecuing in a park in Berlin. He learned about the Koblenz trial, and since he is a victim of the alleged crimes, he became a civil party. Civil parties or joint plaintiffs that joined the prosecution and the case against Anwar R. and Eyad A. and can participate in the proceedings. For example, his lawyers can ask questions to the witnesses.

This was a special day for him because he appeared as a witness himself. Mukdad had been arrested in Syria during the uprising when he was looking to join a protest. He was arrested, kicked, and beaten before being taken to Branch 251, or as many survivors call it, "Hell on Al-Khatib Street." What can you tell us about Wassim Mukdad's testimony?

■ **Hannah El-Hitami:** Wassim Mukdad was the second of the joint plaintiffs to testify. He spent five days in Al-Khatib Branch in 2011 after having been arrested while out on the streets looking for a demonstration to join. He gave the usual descriptions of torture, mainly the beating on the soles of the feet during interrogation. He said that he had suffered from a broken rib during his arrest and he had to endure that. He did not receive any medical care for his broken rib. That was very painful for him. He also mentioned that during the interrogations, he hid his hands underneath his body, first of all, to protect his ribs, but also because he is a very successful musician. He plays the oud, an Arabic instrument, and he wanted to protect his hands from being broken. He said he did not care if someone beat his feet or legs or whatever, as long as he was still going to be able to use his hands afterward. One important thing that he said was that all three of his interrogations were conducted by the same person and that he would be able to recognize that person's voice. Since Anwar R. is not willing to give a voice sample, he is not going to be able to recognize him by his voice in the courtroom. However, Anwar R. in his own statement, mentioned one interrogation that he

conducted with Wassim Mukdad. If one of the interrogations actually happened, then that could mean that the other two also happened under Anwar R., and according to Wassim Mukdad, torture was used during the interrogations. That would prove that Anwar R.'s interrogations were not peaceful and without violence.

■ **Fritz Streiff:** The day after Mukdad testified we had another civil party appear as a witness, right?

■ **Hannah El-Hitami:** Yes, that was the third joint plaintiff. He was a blogger who was arrested for political blogging that he did before and in 2011. He was arrested in October 2011, and he stayed in Al-Khatib Branch for 10 to 15 days until he was transferred to another branch and later to prison. His statement was also in line with all the statements by the victims that we heard until now, so there was nothing really different. He also said that he would recognize the voice of the interrogator. One interesting point was he was the first one who mentioned talking to other prisoners about their experiences of sexual harassment and sexual assault in prison.

All the other witnesses had said that this is something people do not talk about, but this witness said that when he was in prison, he met people who had been in different secret service branches, and many of them shared their stories of rape and sexual harassment. He could not say in which branches exactly because those were people that he met in prison later.

■ **Fritz Streiff:** Now, we have at least two people who said they would be able to identify Anwar R. by his voice. However, Anwar R. has not spoken a word since his trials started, only communicating through his lawyers and through written statements. You might be wondering if the judge or the prosecution or anyone else could demand a speech sample from Anwar R., but the answer is no. This is because of the principle that in a criminal proceeding, none of the defendants can be forced to say or do anything that might incriminate them. Anwar R.'s defense has made this clear multiple times in the courtroom.

Let us take a step back and look at the entirety of the Koblenz trial. It started a little over four months ago. So far, there have been 27 court sessions and you have seen 26 of them. In a way, you are sort of our "expert witness" here. Tell us about what you expected of this trial at the beginning, and how you look back at those expectations now.

Hannah El-Hitami: When I first read about this trial and heard about universal jurisdiction, I expected it to be a very international type of trial, but I have to say that in this regard, I have been a little bit disappointed. The trial is much more local than I would have expected. It is based on international law in the form of universal jurisdiction, but the code of criminal proceedings is the German one. I had the feeling that this had a very big influence on how this whole trial was conducted. It has an influence on the way that witnesses, for example, are protected. I believe that the rules for witness protection should be different in an international proceeding than in a normal everyday criminal case that happens in court in Germany. I have to say there are some things that would work better in a more international trial.

Then, the media attention has also been quite disappointing. I feel like it is a historically important trial and it is unique, or it is at least the first of its kind. It is a bit surprising that it is not being followed a lot more. I am often the only journalist in the audience. Sometimes there are two or three others, but I think it is a pity because there is probably so much we could learn from this trial, and there will probably be many more universal jurisdiction places in the future. It would be important to really monitor and record and document this trial.

Fritz Streiff: Thanks so much for your time, Hannah.

Personally, I was also very curious about Riad Seif's testimony, since I learned that such an important member of the opposition had vouched for Anwar R., and that Anwar R. himself asked the court for Mr. Seif to appear as a witness. Now, after his testimony, I have to say it was disappointing, but I am not surprised. Mr. Seif did not say anything unexpected. He helped a relatively high-ranking regime official, hoping for information that would be valuable to the opposition. He made a bet that helping a defected colonel of the security services would further weaken the regime. Listening to Mr. Seif, those expectations did not quite materialize. He now regrets having used his own status to recommend Anwar R. for asylum in Germany. I get the feeling he is embarrassed about how things turned out, and this makes sense. What this all comes down to is that Mr. Seif just testified as a witness about a man that is in the dock for allegations of crimes against humanity, a man he helped get into the country that now prosecutes him based on these allegations.

I think Mr. Seif's testimony once again shows that if we have learned one thing so far during the trial, it is that things were not black and white, as they never are. There are so many shades of gray when reconstructing complicated and complex facts like these.

That is it for today's episode, but we have some sad news to share. Unfortunately, Karam is moving on to other responsibilities and projects, and will no longer be able to contribute to the podcast. His contribution to this first phase of the podcast was absolutely invaluable. We are sorry to see him go and wish him all the best in his future. Thank you, Karam, and thank you all for listening to today's episode.

CHAPTER

17

MAN'S INHUMANITY TO MAN

Season 1 | Episode 18 | September 18, 2020

"There is a reason it is called crimes against humanity." In this final chapter of the first season, Fritz Streiff and Hannah El-Hitami discuss a testimony that stands out from witness Z30/07/19, a gravedigger for the Assad regime with a first-hand account of the massive scale of the crimes against humanity that the regime is accused of. Special testimonies bring to mind what the whole trial is about.

EMPTY

■ **Fritz Streiff:** Trial days 30 and 31 in Koblenz were not ordinary days. Well, no day in court in the world's first criminal trial against members of the Syrian regime is ordinary, I guess, but these will probably stand out in the memories of those who were in the courtroom, listening to anonymous witness Z30/07/19. A quick note of warning: the contents of the testimony which we will discuss in detail today are shocking and potentially disturbing to some listeners. Please take care while listening.

■ **Hannah El-Hitami:** Last week's witness was an anonymous witness who appeared under the abbreviation Z30/07/19. He had requested to appear hiding part of his face, and as he was allowed to do that, he left his face mask on. He was a former employee of the Damascus Burial Authority. He used to work for the regime, but not in the secret service sector.

However, he came in contact with the work of the secret service in 2011 when he was recruited by two officers to work in Najha and Al-Qutayfah, two locations of mass graves near Damascus. He and his colleagues had to start working there. He was lucky to just be hired as a driver and to keep lists of the dead bodies delivered, but his colleagues really had to do the dirty work. They had to climb into the trucks that were full of dead bodies from the prisons and the security branches, and they had to push them out and into the ditches that were dug.

■ **Fritz Streiff:** If I understand correctly, this person was a civil

servant before 2011, working for burial services of the state, and then was recruited by the secret services to start mass burying bodies that came out of the secret services prisons. Is this right?

■ **Hannah El-Hitami:** Yes, exactly. The bodies actually came out of the secret services prisons and were then delivered to the military hospitals, Tishreen and Harasta. From there, they were delivered to the mass graves, and other bodies came from Saydnaya Prison, which has been known to conduct mass executions.

■ **Fritz Streiff:** That is the prison that Amnesty International did a very impressive report on a few years ago with forensic analysis, 3D, and audio material, right?

■ **Hannah El-Hitami:** Yes.

■ **Fritz Streiff:** From my understanding, I can see his role in what we have learned so far in this trial and also have learned from other reports, including those from the Caesar photographer. Caesar worked as a crime scene photographer before the revolution and then became a dead body photographer who took pictures of the dead people coming out of security services and prisons. Those photos were registered and were used to eventually produce death certificates without having to return the bodies to the families. The witness last week's role was to come in after Caesar, to pick up those bodies after they were photographed and organized, and take those to mass graves for mass burial.

■ **Hannah El-Hitami:** Yes, exactly. What really struck me about this testimony and also about the Caesar files, obviously, is the bureaucracy of it. That a government would conduct mass killings and at the same time keep orderly lists of these killings and to give each dead person three numbers, including the number of the inmate and which branch they were killed in. You would think that a secret service would not be that interested in documenting their own crimes. At the same time, it almost gives their crimes an appearance of being legal, because they are documented in every step in a very bureaucratic and official way. That is the connection between the two. I think it is just horrifying that such horrible crimes can be committed in such an orderly way.

■ **Fritz Streiff:** The witness from last week also had a bureaucratic role like that.

■ **Hannah El-Hitami:** Yes. He said that he did not himself have to physically touch the bodies. He was standing nearby, he received the lists from the security officers, and then, together with another security officer, went back to the office, and wrote them down in the big notebook that was then stored in a safe. He wrote down how many bodies came from which branch and the name and the number of the branch.

■ **Fritz Streiff:** What else struck you about his testimony last week?

■ **Hannah El-Hitami:** He gave a lot of really horrifying details. He talked a lot about the smell. He said that he could distinguish the bodies from Saydnaya from the bodies from the military hospitals by their smell, because the bodies from Saydnaya had allegedly been executed the same night and had to be buried the day after, so they did not have a smell. He approached these bodies and took a closer look at them. He said he saw the marks on their necks where they had been hung. He saw they sometimes had bruises, and their fingernails sometimes were pulled out. Some had marks of electric shocks. However, the other bodies from the secret service branches, he tried to keep away from them because they smelled so bad. It was almost impossible to get away from that smell of decay. He said that it really stayed in his nose even after he went back home. The first time he had been at the mass burials, he could not eat or drink for days, because he was so disturbed by what he saw and what he smelled.

Another description that really stayed in my mind was how he described the burials taking place. He said when the trucks arrived and they opened the door, first a stream of blood and maggots came out, and then his colleagues had to go into those trucks and push out those bodies. They were then thrown into the ditches. The ditches were 100 meters long and six meters deep. Whenever they finished filling a part of that very long ditch, they covered that part, and then the next truck could arrive.

■ **Fritz Streiff:** If the graves were that large, how many bodies are we talking about?

■ **Hannah El-Hitami:** Well, per truck, he said there were around 700 bodies, but they were not always 700 bodies. There could also be less. He was not really able to give a very clear number in court how many bodies he had counted all together during the whole time

that he worked there. Apparently, in his police interrogation last year, he had said that there were about 50,000 corpses coming from the state security in 2011 and 2012. Of course, Al-Khatib Branch belongs to the state security. He said that around 10,000 per year would have then come from the Al-Khatib Branch.

■ **Fritz Streiff:** 10,000 bodies in that one year between 2011 and 2012 from Al-Khatib Branch, from Branch 251.

■ **Hannah El-Hitami:** Yes. He said that after 2013, the numbers grew.

■ **Fritz Streiff:** How would the burial take place?

■ **Hannah El-Hitami:** They would just open the truck and they would push all of them out, and they would fall into the ditch in one big pile. That is how I understood it. Then, there were also bulldozers that would cover up the graves. The witness remembered one really horrible scene where he and his colleagues saw that one person among the dead was actually still alive and breathing. When their superior noticed that, he told the bulldozer to just run that guy over.

■ **Fritz Streiff:** Those are some pretty terrible scenes that this witness described. Is there anything else that stayed with you from his testimony?

■ **Hannah El-Hitami:** He did mention that he still has nightmares until today. One scene that apparently really stuck to his mind most was when he saw a woman hugging a child among the dead bodies. He said that this was the worst thing he saw and this really made him fall apart.

■ **Fritz Streiff:** It is impossible to imagine, of course. What I find mind-blowing is that this person did this job for at least six years between 2011 and 2017. Do we have any idea how this person ended up in Germany as a witness in this trial?

■ **Hannah El-Hitami:** No, he is anonymous so there was no more information about whether or how he defected, how he came to Germany. All this was not asked nor answered.

■ **Fritz Streiff:** That is all, of course, to protect the security of himself and his family, possibly here in Europe and back in Syria?

■ **Hannah El-Hitami:** Yes, apparently, he had already requested anonymity during his police interrogations, because his family had already been threatened.

■ **Fritz Streiff:** This is a very special testimony within this trial as it is the first of a kind in terms of what happens with the bodies coming out of Branch 251, Al-Khatib Branch, where they end up and how does that process work. It sounds like we and the court learned for the first time about this. These symbols of a bulldozer at night by a mass grave, it is really unimaginable. I hope that you had some days to rest afterward before you go back to Koblenz today.

Just a quick note on what is special about this witness from a legal perspective. He did not tell the court anything specific about the individual crimes that Anwar R. and Eyad A. are accused of. He did not see them rounding up, torturing, or killing anyone, or ordering those crimes or letting them happen under their watch. From what we understand, the defense lawyers during the hearing wanted to establish exactly this by trying time and again to reveal the witness's identity, probably to demonstrate that he was in no position to give incriminating evidence against the accused, that he was not in the relevant chain of command to tell the court about the accused's roles. Hannah told us that the court made a formal decision during the hearing that the witness did not have to answer any of the questions from the defense that could reveal his identity.

But even though Witness Z30/07/19 did not tell the court about the individual allegations of crimes that the two defendants are accused of, his testimony and others like this are significant because they are necessary for proving that these crimes are crimes against humanity, not just single occurrences of murder and torture. This accusation, the accusation of crimes against humanity, is also part of the indictment. To prove that, the court needs to hear about the structural characteristics of the crimes, about the system, and plan that the crimes at Branch 251 are part of. That can be difficult to establish without witnesses that can testify firsthand about evidence of that structure, mass graves, industrial-style burials, possibly hundreds of mutilated and defaced bodies at a time, and according to this witness, possibly tens of thousands in total over years and years. The massive scale and organization of the crimes against humanity that the Assad regime is accused of.

Listening to the horror described in his testimony, I had a similar

sensation to when I first saw and heard about the Caesar photos. Suddenly, you realize what it is really all about. It is about people.

You can look at this trial from many angles and when you do, it becomes clear that what is going on in Koblenz is interesting and important in a lot of ways. Legally because by interpreting and applying laws, we set important precedents, because it is testing this young and exciting legal principle of universal jurisdiction. Politically because in bringing Eyad A. and Anwar R. to trial, Germany signals to the world they are willing to take action against the systemic torture practices of Assad. Historically, how we deal with the past tells us something about who we are, who we want to be, and the future we want to have.

And there is one thing we should not forget, which is that bearing witness this way matters morally. We listen to victims and witnesses and through their stories, we are reminded of our own humanity. I realized that for so many people, this trial is also a way to grieve and to commemorate. Koblenz is about people, whatever the outcome of the trial, there is a deeply human aspect to all of this. There is a reason it is called crimes against humanity. What has happened and is still happening to people who have been pushed into vans, thrown into torture dungeons, to those who did not survive and were unceremoniously buried by men like Z30/07/19, to those who did survive but will never be the same, some of whom we have heard from on the podcast. What happened to people who had no chance to say goodbye to their loved ones? Who said, "See you later" and then never did, wondering where their father, brother, best friend, daughter might be.

In the end, it is just incredibly sad. Between the codenames, the translation issues, the historical context, and the legal questions, it is important not to lose sight of this, also for us here on the podcast.

On that note, we are wrapping up season one and taking a bit of a break. We will be back with season two.

LATEST FROM KOBLENZ & 2020 REVIEW

Season 2 | Episode 1 | December 18, 2020

The new podcast team of Fritz Streiff, Noor Hamadeh, and Asser Khattab provides an update on the most important developments of the trial in Koblenz from the past couple of months. They also give a review of what 2020 meant for the wider search for justice and accountability for crimes committed in Syria and take a look at next year, 2021, which will mark the 10-year anniversary of the Syrian revolution.

EMPTY

■ **Fritz Streiff:** Welcome to the podcast, everybody. It has been a bit more than two months, but it feels much longer. Preparing season two has been a lot of work and a lot of fun. One of the things that kept us busy was the search for a new co-host, and we actually found two. This season, we will actually have three hosts and we will rotate depending on the topic of the episode. First things first, let me introduce our new hosts, Noor Hamadeh and Asser Khattab. We are so happy to have you guys on board. Do you both want to say a little bit about yourselves?

■ **Asser Khattab:** I am a freelance journalist and researcher from Syria currently living in Paris. During the past few years, I reported from the Middle East from Beirut for international media outlets such as the *Washington Post* and the *Financial Times*.

■ **Noor Hamadeh:** I am a Syrian-American international lawyer. My work has primarily focused on accountability efforts for Syria, and business and human rights in Syria and in the Middle East, generally.

■ **Fritz Streiff:** We also have a new producer on board. Pauline Peek will continue to produce our English language episodes, while Saleem Salameh will join for the Arabic language episodes.

■ **Saleem Salameh:** Yes, I joined the team of *Branch 251* to help produce the Arabic version of the podcast, which is not a translation of the English version, but a carefully written and produced original podcast for the Arabic-speaking audience.

■ **Fritz Streiff:** Next to the bi-weekly English episodes, there will also be this new series in Arabic presented by Noor and Asser, and produced by Saleem. Then, like I said, for the English episodes we will be rotating hosts.

First, we want to catch everyone up on the latest from the trial, from the courtroom in Koblenz. There were some really important developments.

■ **Noor Hamadeh:** The court decided that it will separate the two cases that are being tried together in Koblenz against Eyad A. and Anwar R. The judges announced that they are planning to announce the verdict in Eyad A.'s case soon. They will officially separate the two cases in late February, and then after a few days, they will announce the decision in Eyad A.'s case. When I first heard this, it made me wonder, why is the court doing this? What does it mean for the case against Eyad A. and for the case against Anwar R.? Is Anwar R.'s case continuing?

■ **Asser Khattab:** Then, in the second part of the episode, we want to take a bit of a step back. As 2020 is coming to an end, we want to look back at this year. A lot of things happened in this strange and difficult year, but we want to just zoom in on the question of what 2020 meant more generally for the topic of accountability for crimes like the ones the court in Koblenz is dealing with.

■ **Fritz Streiff:** I think it is fair to say that 2020 was a good year in this regard. It is worth pointing that out in the face of all the bad news that 2020 brought. Before we get to that, let us hear from our court reporter, Hannah El-Hitami, to find out more about the most interesting and significant events at the trial the past couple of months.

■ **Hannah El-Hitami:** I think we can divide what happened into three main categories. First, there have been some interesting testimonies that were very significant for the trial. Second, there has been an interesting motion by two plaintiff lawyers that was later joined by all the other plaintiff lawyers, in which they argued that the court should expand the indictment against Anwar R. Finally, the court has made a major announcement recently that the two cases will be separated, and that the judgment in Eyad A.'s case is going to be ready by the end of February.

■ **Fritz Streiff:** Let us take this one by one. Regarding the significant testimonies, who came to testify at the Koblenz court? Why were those testimonies significant?

■ **Hannah El-Hitami:** Some testimonies that stood out were, for example, two testimonies of people who have been guests on this podcast: Mazen Darwish and Christoph Reuter.

■ **Fritz Streiff:** Can you just remind everyone who they are and why the court wanted to hear from them as witnesses in the courtroom?

■ **Hannah El-Hitami:** Mazen Darwish is one of the most famous Syrian and human rights lawyers and activists. He is the head of the Syrian Centre for Media and Freedom of Expression. His testimony was mostly about the general situation in Syria, the political situation in 2011 and the years after that.

What I found most important or memorable from his testimony was that before 2011 torture was occurring, but it was really used to extract information from detainees about the opposition. But after 2011, it was used as revenge, as punishment. I thought that was a very interesting change in how that torture was applied. He also submitted a lot of documents to the court that he and his organization had collected about different human rights violations.

Christoph Reuter is a German journalist who works for *Der Spiegel*, and he met Anwar R. for an interview in Jordan in 2013. That testimony was quite interesting as he could describe a bit more Anwar R.'s personality. One interesting observation he made was that Anwar R. was hurt or humiliated by the fact that he had worked for the secret service for many years, and yet after 2011, he still had to prove his loyalty every single day to the Alawites, or those in power, because he himself is a Sunni. I thought that was really interesting because it made us all, I think, question again what his motives were for leaving the country. Was it really his conviction that what he was doing was wrong or was it the specific situation, he found himself in as a Sunni in the secret service? He also said that he could not do his job properly anymore because the investigations were not about actual investigations anymore, but about revenge and punishment, as I mentioned before.

■ **Fritz Streiff:** It is interesting to hear this now being said in court. It reminds me of the conversations we had with Mazen Darwish and

Christoph Reuter on the podcast. What about the other testimonies that were given in court in the last few weeks that you thought were significant or interesting in some way?

■ **Hannah El-Hitami:** For me, the most memorable and emotionally draining testimony of the whole trial was that of Professor Markus Rothschild, who is a forensic professor from Cologne. He was there to analyze the Caesar photos, the photos smuggled out of Syria by a photographer of the secret service.

The topic of the Caesar photos has been broached by three different witnesses. There was Garance Le Caisne, a journalist and a guest on the podcast, who is known for her book about Caesar because she is one of the very few people who actually met him. There also was a federal police officer who had interrogated Sami, the friend of Caesar who helped him get the photos out of the country. Last, there was Professor Markus Rothschild who analyzed the photos and showed us a presentation of dozens of photos of the injuries seen in the pictures. He analyzed signs of death and the causes of death, and really showed examples for each and every point of analysis.

I have seen those pictures before, but at some point, I just did not want to look at any more of them, because they are not just pictures that show dead people and traces of torture, but they also show the stories behind them. Professor Rothschild really told us all these stories. He analyzed what could have happened to this person. He explored for example why that person has this mark on his throat, and other such disturbing stories behind the photos. What I found most remarkable about his testimony was that he broke everything down into statistics and he told us how many people died of what causes, how many people starved, how many people were tortured in what way. He said that 85% of the bodies show no visible cause of death. I thought that was so surprising.

■ **Fritz Streiff:** What does that mean?

■ **Hannah El-Hitami:** It means that you cannot see from these photos of the bodies why they died. They were not beaten to death. They were not suffocated or strangled. How did they die? I think the fact that for 85% of the dead bodies in these pictures, their cause of death has remained a mystery, and this shows us that there is maybe even more happening in those prisons that we cannot see from here, and I thought that was very disturbing.

■ **Fritz Streiff:** Yes, especially when it is 85% of the bodies.

■ **Hannah El-Hitami:** He did give some examples of how they could have died which would not be visible. For example, suffocating due to lack of oxygen, and a lot of witnesses have said that there was not enough oxygen in the cells, or due to specific positions that make it hard to breathe. Also, witnesses have described torture methods where they were hung from the ceilings from their wrists, so perhaps this could have been the reason, but it was just so strange that he could not tell.

■ **Fritz Streiff:** One of the reports on Professor Rothschild's testimony agreed with what you just reported, that it was really impressive in a number of ways, and that it was also very significant legally. It showed the very structural crimes that are alleged in this case and that many reports over the years have been saying the Syrian regime has been conducting against its own people. I also read that for the charges in the indictment in this very case, only two or three of the photos that were presented to the court of the many hundreds of thousands actually relate to the indictment period and to Branch 251 itself. Is that right?

■ **Hannah El-Hitami:** It is actually just one, and even that one is not completely clear. Usually the branch numbers are written on the bodies, either on the skin directly or on a card held next to the body. In this case, the branch number 251 does not appear in the photo. It is only written in the file name, and the file names were later added by Sami and Caesar, when they were processing the pictures. It is very likely that he collected this photo from the branch and so he wrote it in the file name, but it is of course less valuable than if the branch name was actually in the picture.

■ **Fritz Streiff:** There was another testimony that was highly anticipated by a lot of people that follow the trial and international criminal justice in the last few years. This was of the CIJA evidence that was given as information to the court through a representative of CIJA who appeared as a witness. Can you tell us about how that went and whether the high anticipation resulted in the interesting testimony that everybody was expecting?

■ **Hannah El-Hitami:** The CIJA is the Commission for International Justice and Accountability. It is an NGO that has been collecting documents from Syria since 2011-2012. Whenever the regime was

pushed out of a certain area, they would go in and collect everything they could from the government offices, and then later they digitized and analyzed it. Chris Engels, one of the representatives of CIJA, testified in court and also prepared a large presentation about the CIJA documents that refer to this case. All together, they have 800,000 documents from the Syrian regime and some of them are highly confidential, which was also written at the top of the documents that he showed us. There were two investigation reports with Anwar R.'s signature on them. Apart from that, his testimony really exposed the hierarchy and showed how the orders came from the very top and then trickled down through the different branches all throughout Syria.

Fritz Streiff: This is interesting indeed from a legal perspective, to understand the framework needed behind this kind of testimony. We always talk about the chain of command and this is perhaps the very first analytical presentation about the chain of command based on collected information and documentation that has been presented to the court in Koblenz, right?

Hannah El-Hitami: Yes, I would say so.

Fritz Streiff: It will be interesting to see how the court will consider this kind of evidence in its decision-making. CIJA, the organization that you just described, has also been discussed in controversial terms over the years. There is a debate going on about how the evidence collected by the organization over the years will be used in criminal courts of law. It will be interesting to see how this is done in the first criminal trial worldwide against regime officials and we will continue to pay attention to this.

It seems that the court has heard enough evidence in at least one case against the two individual defendants. Can you tell us more about that?

Hannah El-Hitami: Yes, the court announced that Eyad A. will receive a sentence on February 24, and the proceedings against Anwar R. will continue the day after. I heard that the proceedings, in general, are going quite well and everything is on time. Even the proceedings against Anwar R. might finish in 2021.

Fritz Streiff: As 2020 is coming to a close, we are looking at a separation of the two cases: a judgment against Eyad A. and a

continuation of the case against Anwar R. At least, that is the plan for now. Just to put this into context a bit more, the reason that the two defendants were tried together in one trial originally was that the police had these two suspects on the radar. In a similar time period, the two suspects worked at the same security branch, Branch 251, and some of the charges were the same or similar. In terms of trial efficiency, they decided to indict the two together and put them on trial together, but now the moment has come when enough evidence has been heard regarding one, Eyad A., while more evidence needs to be heard regarding the more extensive, or even high-profile, defendant Anwar R. Now the two defendants' case is going to be separated, which from my perspective as a lawyer, I assume also has to do with the fair trial rights of Eyad A. Namely that as a defendant, he has some fundamental trial rights which include an expedient, speedy trial with no unnecessary delay.

■ **Hannah El-Hitami:** I have to say, I personally find this fair as well. Most of the witnesses that we have heard have been mainly or only concerning Anwar R. Another interesting observation is that Eyad A. has also been visibly frustrated during the past weeks and months. It happens once in a while that he is led in wearing handcuffs because he has been getting into fights with guards. Once he even came in and spat on the ground next to the guard's chair. Often, he is sitting during the trial not paying attention or even taking off his headset where he could listen to the translation. Maybe he is just also not that interested anymore, because he feels that what is happening does not concern him in the first place.

■ **Fritz Streiff:** Him getting in fights with guards and spitting on the floor, did this have any consequences at all?

■ **Hannah El-Hitami:** Not that I know of.

■ **Fritz Streiff:** It does sound like he is quite frustrated. Lastly, a third category of interesting events at court hearings in the last couple of months is the motion of the two joint plaintiffs' lawyers, the lawyers that are representing the civil parties in this case. You mentioned that the motion was about expanding the indictment with additional charges, or with an additional element against Anwar R. Can you tell us a little bit about the contents of the motion, what actually it was trying to achieve?

■ **Hannah El-Hitami:** It was initiated by Patrick Kroker and

Sebastian Scharmer, two of the plaintiff's lawyers. They requested that the systematic use of sexualized violence against the civilian population in Syria be considered as crimes against humanity. Right now, the defendant Anwar R. is merely accused of two single cases of rape and sexual assault according to German criminal law. They argued that over the course of the trial witness testimonies have suggested that the use of sexualized force has actually been systematic, and not just against women, but men as well, and against women in order to break the men of their families and to weaken the civilian population in general. They are requesting that these two charges in the indictment should also be considered as crimes against humanity and not as single crimes.

■ **Fritz Streiff:** So, the charges and the indictment as it stands are based on the ordinary German code of crimes. And what this motion is trying to achieve is to transfer those from the ordinary criminal court to the court of international crimes where the element of crimes against humanity is included. Is that right?

■ **Hannah El-Hitami:** Exactly. I talked to Patrick Kroker about it, and he said that the reason they are going forward with this is because this kind of violence is not only extremely destructive, but also regularly neglected when dealing legally with conflicts such as the Syrian one. They are hoping that at least they could change that in Koblenz. They do not know when exactly the court is going to decide on this, and the court does not have any deadline. But they really wanted to go through this before the two cases are divided.

■ **Fritz Streiff:** It seems like the two lawyers are trying to move this debate along not only in academic and activist circles, but also in the courtroom. It is interesting from a legal perspective to see how in a trial like this in the German criminal procedure, the joint plaintiff lawyers who are representing the civil parties that registered to participate in the trial not only as witnesses but as participants, as civil parties, that these civil parties with the help of their lawyers can make motions that really resemble the prosecutor's task in a trial by asking the judges and the court to add charges to the indictment. This really is an interesting example of how that can be done in the German context and specifically in an international crimes trial like this. Hannah, thank you so much for being on the podcast, and we really look forward to future episodes with you in the season. Noor and Asser, what did you find most striking about what we just learned?

■ **Noor Hamadeh:** I think the inclusion of the Caesar photos in the

evidence is particularly interesting. Obviously, it is disappointing that only one photo was used, but I think even if none of the photos had any specific reference to Branch 251, they are still highly relevant for proving crimes against humanity. Even if Anwar R. was not directly involved in the torture or murder of any of the individuals in the Caesar photos, if the harm that appears in the Caesar photos lines up with witnesses' testimonies, that in itself is pretty significant.

This also makes me think about the request to include the systematic use of sexualized violence charge. To me, including this is a really important move because there is a lot of evidence of sexual and gender-based violence being used in Syria in a very widespread way. The fact that there are sexual violence and rape charges against Anwar R. indicates that he may very much be part of the systematic use of these crimes. This also serves a second purpose which is to call the use of sexual and gender-based violence in Syria what it is, a crime against humanity.

■ **Asser Khattab:** For me, the testimonies of Mazen Darwish and Christoph Reuter stand out. They are among the best-suited people to testify in the Koblenz court. Christoph is my personal go-to source when it comes to Syria's notorious prisons and the stories that relate to them. Mazen, on the other hand, has experienced the horrors of serious detention centers both before and after the beginning of the war. Both men have been working tirelessly to advocate for justice.

■ **Fritz Streiff:** Absolutely. The amount of information both have produced from their very own perspective and profession, it is really quite extraordinary. They are experts like you say, Asser, and that is why the court wanted to hear from them.

Let us move on to the second part of the episode of looking back at 2020 in review regarding accountability for Syria.

■ **Noor Hamadeh:** We here at the podcast team had a look back at efforts toward justice in Syria in 2020 and found that actually there were a lot of positive developments.

■ **Asser Khattab:** A number of guests on the podcast have said that the trial in Koblenz is a first and small, but a significant, step toward justice for Syria, and the fact that this year brought the first criminal trial against Syrian regime officials for crimes against humanity will

give 2020 a special place in the history books. But next to Koblenz, there have been a number of additional accountability moves as well.

■ **Noor Hamadeh:** To start with, let us have a look at the Netherlands. On September 18, the government of the Netherlands announced that it officially accused the government of Syria of violations of the Torture Convention, which Syria, remarkably, had ratified in 2004. In practical terms, that means that another state can sue Syria for non-compliance with its obligations under that treaty. That is what the state of the Netherlands did.

■ **Fritz Streiff:** There are a couple of things that are important to mention about this, because there are some misunderstandings floating around in the reporting. To some, the announcement by the Dutch government seemed to create the impression that the Dutch government is taking Syria to court right immediately.

■ **Noor Hamadeh:** We are not there yet. The Netherlands only announced that it had taken steps toward a possible case against Syria. The first step was for the Netherlands to inform Syria of its intentions to hold Syria accountable for violations of the Torture Convention. That is what it has done and then, if after six months Syria has made no efforts to solve this in negotiated arbitration, only then can the Netherlands actually take Syria to the International Court of Justice, the ICJ, which for the Netherlands is quite conveniently located in The Hague.

■ **Fritz Streiff:** We are not at the ICJ yet, but the Netherlands has made it quite clear that the intention is to hold Syria accountable. Then, another common misunderstanding is that this would be a criminal trial, and a criminal trial against President Assad himself.

■ **Noor Hamadeh:** This would not be a criminal trial. It would be one state holding the other accountable based on contractual obligations, the contract being the Torture Convention that both states have signed. It would be against the state of Syria, not against individuals like President Assad.

■ **Fritz Streiff:** We can expect to hear an update in six months as this is how long Syria has to respond and enter into negotiations. The Dutch government made the announcement in September, so this will bring us to mid or late March 2021. Perhaps Syria will drag out that process by entering into negotiations in good or dubious faith.

Let us see what happens. Let us also look at Germany. While the trial in Koblenz has been going on, there has been another interesting development here as well in 2020. Asser, can you fill us in?

■ **Asser Khattab:** Just a few weeks ago in October, three NGOs filed a criminal complaint with a German federal prosecutor regarding two of the most notorious and deadly chemical weapons attacks in Syria: one in Ghouta in 2013 and one in Khan Shaykhun in 2017. Fritz, you and your colleagues were involved in this move so maybe you can tell us about it.

■ **Fritz Streiff:** The complaint was filed by three organizations: the Syrian Archive in Berlin; the Syrian Center for Media and Freedom of Expression, or in short SCM, based in Paris; and the Open Society Justice Initiative, which has its headquarters in New York. We have been working on these cases for a few years now. The filing of these complaints is definitely a milestone, not just for us who have been working on this case, but for the victims and the witnesses that we work together with. This is really a big deal.

We want the German authorities to act on these chemical weapons complaints. Germany can investigate these crimes, even if the suspect is not in Germany. In fact, they do not even have to have a specific suspect in mind at all. This Federal Prosecutor's Office can do these so-called structural investigations, where it collects information, evidence, and witness testimony for a future case, whether that is at a German court, like in Koblenz, or perhaps at another court somewhere else.

■ **Noor Hamadeh:** This way, the authorities can make sure that the information actually gets collected, analyzed, documented, and filed, right now, and not in a few years. The newer the evidence, the better. That goes for any court in the world. Germany has started investigations like these concerning crimes in Syria before, based on a complaint filed in 2017 on behalf of Syrian torture survivors.

Let us have a look at one last event that was significant in 2020 and its possible effects on Syria and justice for crimes committed in Syria.

■ **Asser Khattab:** This last event we want to ponder does not directly relate to accountability for Syria, but definitely will have an impact on the topic. It is the election in the United States. Basically, U.S. elections were crucial for us to get a better, albeit non-thorough,

understanding of U.S.-Syria policy for the coming years. Biden espouses different views from Trump, of course, but that does not actually mean he will overturn all his measures, especially the Caesar Act, for example. Antony Blinken, the incoming Secretary of State, was part of Obama's administration and has since criticized the Syria policy they adopted, especially when it comes to the infamous red line crisis in which Obama failed to retaliate against Assad for his use of chemical weapons against the people. Blinken said it is something that he will take with him to the grave. Noor, you live in the United States. What is your take on this?

■ **Noor Hamadeh:** I would also add that I think one concern here is that the Biden administration is likely to be more focused on domestic policies, like reversing a lot of Trump-era policies and dealing with the coronavirus pandemic. My guess is those will be more important for him. That might mean that foreign policy will take a backseat, especially when it comes to Syria policy. I think even though Biden will recognize that he needs to have a thorough policy on Syria, whatever his Syria policy is, it is going to be controversial to some. I think what he needs to really do is toe the line between what might be seen as over-involvement in foreign conflicts, having a stronger global presence, and speaking out against impunity.

■ **Fritz Streiff:** Right, and some of that impunity has taken a blow, especially this year as we just discussed, and it was about time that happened, as next year will mark the 10th anniversary of the Syrian revolution and the beginning of the conflict.

■ **Asser Khattab:** 2021 will be an important year for Syrians, and here on the podcast we will discuss the anniversary and many other topics. We will address these in the coming episodes in English and in Arabic.

CHAPTER

19

MASS GRAVES ON GOOGLE MAPS

Season 2 | Episode 2 | January 15, 2021

A German federal police officer explains to the judges in Koblenz what he learned after collecting and analyzing satellite imagery from a stretch of land northeast of Damascus. This analysis was prompted by information given to the police, and then later also to the court, by a special Syrian witness who goes by the alias Z30/07/19.

EMPTY

■ **Noor Hamadeh:** We will get up to speed on the latest from the courtroom at the beginning of this year. The last time we heard from our court reporter, Hannah El-Hitami, was just before Christmas. The court has been back in session since last week after a holiday break, and there is one specific testimony from last week we want to draw your attention to.

■ **Fritz Streiff:** On day 54 of the trial, the court heard the testimony of another German federal police officer. Over the past few months, the court has heard many of these officers in order to confirm the testimony that these officers provided in writing beforehand. This particular officer testified about an analysis that he and his office have done, prompted by information given to the police, and then later also to the court, by a special Syrian witness who goes by the alias Z30/07/19.

■ **Hannah El-Hitami:** Last Thursday we heard the testimony of a BKA witness, an officer from the German federal police, who presented his analysis of satellite images that supposedly show mass graves in an area called Al-Qutayfah, northeast of Damascus. Just to remind you, we have heard about mass graves twice before in court. Both were testimonies by insider witnesses who used to work for the Syrian regime until they defected and left the country. Both of them described mass graves in two areas called Najha and Al-Qutayfah, where, they said, dead bodies from all the different secret service prisons were buried. One of them testified in Koblenz in September anonymously under the codename Z30/07/19. He became known

to the public as the gravedigger. He had worked for the Damascus Burial Authority until he and his team were sent to the mass grave sites, where it became their job to push the mutilated corpses that arrived from different security branches and from Saydnaya Prison into the ditches. He personally was in charge of registering their numbers, and he knew that on average, trucks with around 700 bodies arrived about four times per week. Altogether in both areas, he counted more than one million, or even one and a half million, dead bodies.

With this witness's testimony to the BKA, the federal police, in the summer of 2019 about the mass graves, they were able to track down the exact coordinates of the location of Al-Qutayfah, and they looked at images on Google Maps. Unfortunately, the quality on Google Maps was not very good, so they could not really see the quality of the ground and the movement of soil over time. They went to check the same location in Apple Images, and there they actually found some satellite pictures that were in high resolution that showed long ditches with piles of soil next to them, and in one corner an excavator is visible. The BKA officer who testified last week showed us these images in the courtroom and he explained that the longest ditches were over 100 meters and several meters wide.

For the trial, of course, it is important to know when these satellite images were taken, because the crimes that Anwar R. and Eyad A. are accused of allegedly took place in 2011 and 2012. The BKA officers said that the Apple Images themselves did not have a date on them. After finding out about these mass graves, and because the BKA has a larger investigation on mass graves as part of the structure of the investigation, they contacted the German Society for Aerospace, DLR, to provide more images from 2011 onwards. This is how they could determine that the ditches in Al-Qutayfah started existing in 2013 or 2014, and that over several years more ditches were dug and closed up again. The affected area grew from 19,000 to 40,000 square meters until 2019, when the last ditches were closed up, the area was surrounded by a wall, and has since been guarded by security forces.

This analysis of satellite images was really important, because it corroborated with what we had heard before from witnesses. However, it did leave some questions open since these images are not from before 2013. They do not really provide evidence for the crimes allegedly committed by the defendants in Koblenz. Also,

these images were only from Al-Qutayfah and not from Najha. Like I said, there were two insider witnesses who had mentioned mass graves in court before, and one of them had said that he saw defendant Eyad A. accompanying one of the convoys delivering corpses to the graves. However, he was talking about Najha and not Al-Qutayfah, so this satellite image analysis did not really corroborate specific evidence against Eyad A.

Finally, these images could not corroborate the numbers of bodies mentioned by the so-called gravedigger, because according to the BKA officer, there is no way of knowing how deep the ditches are. From the satellite images you can see how wide and long they are, but you still have no clue how many bodies could have fit into them. The officer added that Najha was much larger than Al-Qutayfah, and it had already been a huge cemetery before 2011, so it is possible that corpses were added to already existing graves. This leaves us with a huge dark figure of how many bodies were actually buried in those mass graves. I guess we can only hope that there will be other analysis of satellite images from Najha so that we can get the full picture of what happened there.

■ **Noor Hamadeh:** I think from a legal perspective, the remarkable thing about this testimony by the police officer is that it corroborates one of the most impressive testimonies heard by the Koblenz court so far, the testimony of the anonymous gravedigger. This could be valuable because it could help prove the massive scale of the crimes, right? The systematic nature, the bureaucracy, the planning, and the execution of a plan by the Assad regime to murder and then mass bury thousands of humans.

■ **Fritz Streiff:** Yes, that is exactly why I found this testimony so significant. The prosecutor, in this case, needs this kind of evidence, this kind of detailed and technical corroboration of key witness evidence, if he wants to convince the court that the crimes alleged in the indictments are indeed crimes against humanity, rather than just individual crimes of torture and murder that stand alone and are not part of a bigger picture and a system.

There is another aspect to this that deserves mentioning to this witness testimony, this kind of analysis that the police officer described to the court. It is an interesting example of how modern digital technology can be introduced as evidence in a court of law.

■ **Noor Hamadeh:** Apparently, the police were able to confirm the location described by Z30/07/19 using Google Maps and Apple Images. Building on that, they also worked together with the German Aerospace Center for additional satellite images. The police officer testified that based on this digital information of these images of the stretch of land in question, and comparing those over time, seeing the landscape change, they could tell that there was, or rather that there is, a mass grave where there was not one before.

■ **Fritz Streiff:** The police officer noted that when you push "look at the coordinates" on Apple Images these days, you find a scene of packed up and filled trenches surrounded by a wall.

Now, of course, we have to wait and see how the court eventually weighs and evaluates this evidence, but this police officer's testimony shows that the earlier testimony given by witness Z30/07/19 does not stand by itself. In fact, the police officer mentioned that other witnesses have provided additional information on other mass graves. He said the police investigation into that information is ongoing.

■ **Noor Hamadeh:** Finally, relating to all of that, it is worth mentioning that just before the police officer testified, there was a reading in the court of a Human Rights Watch report from 2011 about the early systematic killings and torture of Syrian civilians. It is titled "We Have Never Seen Such Horror," and mostly describes the events during and after early demonstrations in the Syria of Daraa shortly after the uprisings began. In this report, there are witness statements about the mass graves as well. The descriptions in it are very graphic.

■ **Fritz Streiff:** As you said, that report and the testimonies in it are from as early as 2011. This also just shows how early the systematic nature of the violence against civilians in Syria began, after the revolution started in March 2011, almost exactly 10 years ago. The reason this report shows up in the Koblenz trial is that it concerns the relevant time period for the charges against Anwar R. and Eyad A. The court is hearing a lot of information that goes beyond their individual charges. They are doing this to understand the system and the structure, but eventually, the judges will have to make a decision on the two individual cases only.

■ **Noor Hamadeh:** In Eyad A.'s case this will most likely be in late

February. The prosecutor confirmed last week this is still the plan. They expect enough evidence will have been heard in this case by the second half of February.

■ **Fritz Streiff:** We will, of course, keep you up to date on Eyad A.'s case. During next week's episode, we will take a step out of the courtroom.

■ **Noor Hamadeh:** As listeners of Branch 251, you are used to hearing from legal experts, journalists, and human rights activists. Next week, we are passing the microphone to Syrians of different backgrounds inside and outside of Syria to hear what they think of Koblenz: from people who have heard of the trial to people who have not, people who are wildly enthusiastic about Koblenz to some who are skeptical.

EMPTY

CHAPTER

20

I CAN'T HELP BUT BE HOPEFUL ABOUT THIS TRIAL

Season 2 | Episode 3 | January 23, 2021

In this chapter, Noor Hamadeh and Asser Khattab share the microphone with Syrians of different backgrounds inside and outside of Syria to hear what they think of Koblenz: from people who have heard of the trial to people who have not, people who are wildly enthusiastic about Koblenz to some who are skeptical.

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■ **Asser Khattab:** Over the past few weeks, we and our colleagues reached out to 16 people. We asked them about Koblenz, about the Al-Khatib Branch, and about justice and accountability. People from a range of backgrounds, ages, and locations. There are two things they all have in common: they are all Syrian, and none of them is directly involved with the Koblenz trial. In this episode you will not hear from lawyers, professors, journalists, or experts.

■ **Noor Hamadeh:** Because as much as we want to help you understand what is happening in Koblenz, there is one question that people who are deeply involved with the trial cannot answer: to what extent does the Koblenz trial live in the minds of Syrians inside and outside of Syria? Now, we are not under the illusion that these Syrians alone can answer that question either, especially when you consider that the majority of people we contacted are not currently living in Syria: only two of them do. We have audio from one of them, the others sent us written responses.

■ **Asser Khattab:** This particular flaw, if you will, in our sample, actually demonstrates an important phenomenon that we should probably address before anything else: fear.

■ **Iman:** All Syrians, including myself, live in a constant state of fear. This fear is embedded in us. We are terrified of being monitored. We fear that they may harm our families in Syria, because we have a feeling that they could access anything we say. We always have this fear. As they say, "We were brought up in such a way to always have this fear."

■ **Noor Hamadeh:** You just heard Iman, but this is not her real name. We changed it to protect her privacy and to some extent, as she illustrated herself, her safety. Iman lives outside Syria, which might help explain why she felt safe enough to talk to us at all, because talking, when you are in Syria, is a dangerous thing.

■ **Asser Khattab:** Daoud, also not his real name, is a University student in Damascus. I contacted him through an encrypted messaging app, and he echoed Iman's words. He told me people inside Syria cannot even follow certain news without getting in trouble, much less discuss it openly.

■ **Noor Hamadeh:** It is a huge hurdle for NGOs, journalists, and of course, Syrians outside of Syria who tried to stay in touch with their family members inside Syria.

■ **Asser Khattab:** People, who live in government-controlled parts of Syria, or those who live abroad but have family members there, always have to keep in mind that when talking about the country that they could face consequences for their statements. The regime could target them or their relatives and loved ones. The tricky thing is there are not any clear rules or laws defining what is and is not allowed. To a large extent, it is arbitrary. Someone could be detained and tortured for calling for the downfall of Assad, but they could suffer similar repercussions for simply speaking to a media source that the regime does not like or for complaining about inflation. The regime decides where the line is, it decides when you have crossed it, and then it decides and carries out your punishment.

■ **Noor Hamadeh:** It is true that people's communication is being monitored. The regime's Ministry of Information and intelligence apparatuses keep track of what is being said about Syria in multiple languages, and they share information with one another.

■ **Asser Khattab:** Even though we wish we could share with you more voices of Syrians inside the country, there is real, rational, tangible fear keeping people from voicing their opinion.

■ **Noor Hamadeh:** As you may remember from previous episodes, witnesses have repeatedly expressed fear for their own safety and that of their families during the Koblenz trial.

■ **Asser Khattab:** It is important to realize that each person

who spoke to us took a risk, especially the two people inside Syria. Therefore, we have changed their names and the names of almost all interviewees.

■ **Noor Hamadeh:** Even though their names are not real, their stories are. Jameel currently lives in Idlib.

■ **Jameel:** I have heard of the Koblenz trial regarding the two security agents affiliated with Al-Assad's militias. This trial is a great thing. Every single security agent, whether a major general or a soldier, who murdered civilians in their liberated cities and towns previously and currently, if they are in a European country and the government has arrested and detained them, they should be prosecuted in the same city or country.

■ **Noor Hamadeh:** Jameel believes that European countries have the responsibility to hold people who committed crimes in Syria accountable. He says it is the least they can do, and not just to deliver justice, but also to make sure that perpetrators do not devalue the meaning of being a refugee. He wants European countries to make sure that perpetrators are not offered the same amount of protection and the same rights as the survivors of their crimes.

■ **Jameel:** They should at least honor the victims by not letting these agents become refugees. Their value is not to equal the value of a civilian that was ejected by war and torn apart from their towns and cities, homes, and families. Therefore, we are all concerned with the persecution of criminals, especially when they are security personnel or part of Al-Assad's militias. In the end, they are all affiliated with one regime, one head perpetrator, and one criminal.

■ **Asser Khattab:** It is interesting what he says in the end. In his mind, people like Anwar R., and Eyad A., if they are found guilty of what they are accused of, represent Assad. Something similar was mentioned by Alaa. Alaa recently left Syria and told us he is very familiar with the Koblenz trial. He thinks that the trial has a lot of merit, including giving Syrians hope and perspective for justice. Like Jameel, Alaa points out that Anwar R. and Eyad A. are more than just the sum of their alleged crimes. They represent Assad's system of oppression and torture. He draws a parallel between Anwar R. and Assad specifically.

■ **Noor Hamadeh:** Before Anwar R. became known in the Western

world as Anwar R., the defendant, he enjoyed a lot of power and status in Syria. Multiple people said that in these interviews. Al-Khatib Branch, after all, is one of the most notorious torture prisons in Syria, at least in Damascus. According to Alaa, Anwar R. is not just affiliated with Assad, but similar to him.

■ **Asser Khattab:** It is easy to imagine then that Koblenz could have huge symbolic importance for many people. I spoke to Oday, who actually attended the Koblenz trial. When I asked him why he felt compelled to go, he basically told me that he was drawn to the symbolic importance of Koblenz, that it was history in the making. He was curious about what witnessing it would look, sound, and feel like.

■ **Oday Al-Maasarani:** I am a student at Wolfsburg University in Germany. I have been a resident of Germany for about five years. My motive behind attending is that I was honestly intrigued to see what it means for a trial to occur in the first place. To find out what it means to have a course of justice in the Syrian context. Coming from Syria, I am not used to the concept of just courts or trials for human rights. I could not fully comprehend that we are actually safe in Germany, as Syrian refugees. However, we are witnessing the trial of individuals who are responsible for our torture. This in itself made me feel disoriented. My feelings were not even clear to me.

Standing in front of the court's door on the first day, I felt scared, spaced out, and a little out of touch with reality. On the second day, when I went inside the courtroom and I gazed at the accused inside their cage, every cell in my body was shaking. I felt a mix of fear and happiness and joy of sweet victory in being able to finally put these people in the cage.

■ **Asser Khattab:** The way, he says "we" and "us" was something that we noticed time and time again in the statements of people we talked to, like when Oday says, "We are witnessing the trial of individuals for our torture." A lot has been said about the symbolic importance of the trial whether on this podcast or elsewhere, and yet hearing him speak about it with such passion paints a clearer picture of just how significant this is to so many Syrians out there.

■ **Oday Al-Maasarani:** Again, this court is a milestone in Syrian history. It holds historical symbolism, the first trial to happen for former intelligence officers within the Syrian regime.

■ **Asser Khattab:** Oday also wanted to carry a message with him to the Koblenz trial, to tell Germany and the world that despite this trial and all the developments in Syria, it still is not safe for people to return and that those notorious branches are still at work.

■ **Oday Al-Maasarani:** The trial is a political act in disguise as violations are still happening today in Syria. There are still free officers who are committing crimes and violations until now. There are reports stating that 130,000 detainees are still in Syrian prisons. As long as these oppressive free officers are around, we can never say that Syria is safe.

■ **Asser Khattab:** This does not overshadow the significance of this trial which managed to teach even Oday, who is a former detainee himself, about the inner workings of the Syrian regime's intelligence apparatuses.

■ **Oday Al-Maasarani:** We see that every session in the trial clarifies events and details that we were not aware of. I did not know such details. As a detainee, myself, I did not even realize what was happening, so how would the rest of the world know? Today we are showing details and presenting proof to the whole universe, to every country and every person whether in Germany or not.

Today in this trial, we have proof of the regime's methodology. It is proof to us Syrians and to all countries that this regime is a criminal one. It is not just a regime in a battle with terrorists, no, it is a regime that wants to rule over Syria with an iron grip of security forces, intelligence services, torture, arrests, and enforced disappearances. As Syrians, we need to support this course of action. Although we wish we could see these trials in Damascus, we know there are international and legal obstacles that prevent it.

■ **Asser Khattab:** I asked him to describe the trial in one word.

■ **Oday Al-Maasarani:** Victory is ours.

■ **Noor Hamadeh:** It seems like justice means something different for everybody. Even among the few people we contacted, many different conceptions of justice were represented. Farah, for instance, emphasized the role the victims should play.

■ **Farah:** Victims need to be at the center. The process itself needs to be victim-centered.

■ **Noor Hamadeh:** Whereas Mohammad highlighted the need for a new democratic system in Syria before organizing tribunals possibly for years to come.

■ **Mohammad:** I think the closest example that we could go with is what happened with Rwanda, for example, but first to bring a new political system to Syria and have an actual change of political scene and take it more to a democratic one.

■ **Asser Khattab:** What do our interviewees think about this trial having a role to play in bringing justice for Syria?

■ **Noor Hamadeh:** Since there is disagreement about what justice really entails, the only thing closer to an answer would probably be, it depends on who you ask. For some people, yes, for others, not so much. Let us look at some of the shortcomings that the people we interviewed pointed out and some of the concerns they raised. Broadly speaking, most of them fall into one of three categories: Koblenz as partial justice, Koblenz as prematurity, and Koblenz as location. Let us start with the last because it is probably the easiest to understand. Many of the people we heard from raised the point that Koblenz is too far away from Syria to have a tangible or even symbolic impact. Syrians do not own Koblenz, it does not empower or help them heal the way that a Syrian trial in Syria would.

■ **Asser Khattab:** Hassan does not follow the Koblenz trial that intensely, but he knows Al-Khatib Branch all too well. One of his childhood friends died there. He was shocked to find out one of Assad's intelligence officials was on trial and surprised that the trial was taking place in Germany, of all places.

■ **Hassan:** I believe that justice in Syria should be inside Syria, not outside Syria, firstly.

■ **Asser Khattab:** He had another criticism secondly, which brings us to the next category of concerns about Koblenz.

■ **Hassan:** Secondly, justice. It should be for all the people who committed the crimes against Syrian people.

■ **Noor Hamadeh:** Koblenz is partial justice.

■ **Asser Khattab:** Nobody believes that Koblenz trial is the be-

all and end-all of justice for Syria. Universal jurisdiction is just one of many tracks. Over and over again, the people we interviewed expressed similar sentiments: Koblenz is a first step.

■ **Noor Hamadeh:** Some of the people, we heard from, really emphasized the significance of that single step.

■ **Oday Al-Maasarani:** Yes, trials like this could contribute to achieving justice in Syria, as prosecuting any Syrian criminal is Syrian justice no matter where they are found.

■ **Noor Hamadeh:** Others concentrated more on the steps not taken. Munir was very active in the opposition even before the revolution. After the uprising started, he devoted himself to the revolutionary movement and was arrested twice. He was tortured while in detention.

■ **Munir:** Why these two? In return, there are plenty of criminals roaming free in your Europe. There are tons of other criminals wanted for war crimes, yet, nobody is tracking them down. In general, any arrest of anyone implicated in such violations is always a game. It is a great thing. Something that we cannot not welcome with open arms.

However, I and many people involved in legal matters and victim organizations view justice as a comprehensive process, not a selective one. Justice should be according to a certain political context. It should not be like the system in Damascus. The security forces are doing their job while we are celebrating the detention of two people in Europe. I think they should be within the context of a comprehensive strategy. It should not be a one-time case of detaining one person only. There must be a comprehensive strategy that leads to taking down all criminals.

■ **Noor Hamadeh:** Yassir, who grew up in Damascus, added that the two defendants are not just not enough, they are not important enough.

■ **Yassir:** Both of the defendants that are on trial are not very high-ranking officials and we all know that the command responsibility or the chain of command in Syria is so well-documented and so tightly followed that there are much more culpable mass criminals at large in Syria.

■ **Noor Hamadeh:** Mohammad, a university student who you already heard talking about the need for political change, echoed some of Yassir and Munir's sentiments. He remarked that while the trial in and of itself is a milestone, he too thinks Anwar R. is far from the ideal defendant.

■ **Mohammad:** Being the first, it is a big deal, but it is not, you can say, the one. It is not the one that is going to bring justice. He is one of many that needs to be brought to justice. They have done a lot of harm. A lot of people could testify to that. If this happened in Syria, there will be thousands of people that could testify to what you have done. He is one of many. He is one of the small fishes. He is the one that actually escaped, the one that is not involved anymore. And there are plenty of things that happened after he left that are even worse than when he was there. Not to say that he is less or more harmful than other people, or less criminal or more criminal, but there are plenty of other people that should be brought to justice.

■ **Asser Khattab:** This brings us to the last category of criticism, Koblenz's prematurity. One of the remarkable things about the court in Koblenz is that it is putting people on trial who are affiliated with a regime that is still in power. When we think of putting war criminals on trial, the war during which they allegedly committed those crimes is usually over. The Nuremberg trials, the Khmer Rouge tribunal, the Rwanda tribunal. But the conflict in Syria is ongoing. People are still being detained and tortured, and the perpetrators that are active in Syria today might look at what is going on in Koblenz and realize that this is the fate that possibly awaits them if they do not win this war. It might discourage them from defecting and instead make them put their heels in the sand.

■ **Mohammad:** Such a trial happening might make them become more brutal or more criminal, and they know that. We are not going to submit or try to find a solution because if we did, that is our end. We are going to be brought to justice, and treated as criminals around the world. So, this is it, we are going to keep fighting until we win.

■ **Noor Hamadeh:** But Mohammad is torn between seeing the potential danger of raising the stakes for today's perpetrators on the one hand, and recognizing the importance of bringing an end to impunity on the other.

■ **Mohammad:** I see that is the main negative that such trials could bring now because they are maybe prematurely happening

now, but they still need to exist to show them that. You cannot just run freely at a certain point if you decide "Okay, I got enough money, I got enough power. I can just move around wherever I want and settle in any country I want." No, you do not have that option.

■ **Asser Khattab:** What do you think of these issues?

■ **Noor Hamadeh:** I agree with a lot of what these people are saying about Koblenz being a first step toward justice. It really cannot be the only thing that encompasses that. And I also think it is really important what Yassir and others highlighted, which is that the two defendants here are not the most important defendants. As much as they committed crimes, they were also carrying out orders from people higher up, and those people who are higher up are truly the ones who are responsible.

■ **Asser Khattab:** I quite agree. Justice is always partial, never complete, and we must always remember that we are not going to get everything we want, everything we are owed, from one trial. To me, the most impactful reminder of what Koblenz can or cannot achieve came from the person who, out of all the people we heard from, actually had the least time to think, read, or talk about the trial: Daoud. He lives in a government-controlled area in Syria. Here are his words but not in his voice.

■ **Daoud:** What is Koblenz? I have heard something along these lines. The trial of the refugees who were actually in the intelligence forces.

■ **Asser Khattab:** He is not surprised that Anwar R. and Eyad A. were arrested in Germany.

■ **Daoud:** Many people who were affiliated with the government left and are in Germany right now.

■ **Asser Khattab:** And he does not see how their trial could help him or the people around him.

■ **Daoud:** I do not know if any of this is actually useful. As a Syrian here, it will not really affect me. We just want the war to come to an end and for the sanctions to lift in order to live our regular lives.

■ **Asser Khattab:** He says that a very faraway trial is not really on anyone's mind right now.

■ **Daoud:** People's first priority has become their livelihood. No one is thinking much about politics. You know how it is, you cannot follow these topics without getting into trouble.

■ **Asser Khattab:** Following the news is not a given.

■ **Daoud:** Look, I cannot say we are keeping up with these things around here. People can barely manage to get ahold of bread and petrol. They sometimes do not even know what is going on in another city. I can assure you no one has heard of this trial here. Do not be surprised that people are not in the mood to keep up with these things.

■ **Asser Khattab:** From what he knows about the trial, he does not seem to have much faith in its potential to have an impact.

■ **Daoud:** The problem is that things never change here. The government might actually be watching and mocking the trial from where they are sitting.

■ **Asser Khattab:** Daoud thinks it is mostly a news story, a collection of articles and reports, that might draw attention to Syria again, but will not really move the needle on justice.

■ **Daoud:** I do not have an issue with what is happening. I know so many mistakes are happening, and no one is held accountable for them. But even now with everything going on in Germany, it might be increasing the publicity of it all, but no punishments are being imposed on the government. Its only purpose seems to be media coverage, but not justice.

■ **Noor Hamadeh:** It is interesting that Daoud has not heard of this trial, while all the other people we spoke to have at least heard of it and have something to say about it. I imagine he brings up an important point which is that his priorities are different. He is not interested in justice abroad. He is interested in how to survive.

■ **Asser Khattab:** He paints a different picture here. It is honestly not surprising to hear Koblenz does not really have a place in the minds of those still living in Syria. I suppose it is a privilege to even be able to follow it.

■ **Noor Hamadeh:** Yes, and even though almost everyone you

heard from today is, to varying degrees, aware of Koblenz, that does not mean we should draw too many conclusions from that either.

■ **Asser Khattab:** It is probably safe to assume that what Daoud described is true: that not many people inside Syria know about Koblenz. You really have to look for information on it and they are too concerned with staying safe to do so. By the same token, there are probably many Syrians outside of Syria, particularly from the younger generation, who are too busy trying to settle into their new lives away from their country to keep up with Koblenz too.

■ **Noor Hamadeh:** Our colleague Pauline spoke to Yara, who fled Syria as a kid before she could finish high school. She has vivid and traumatic memories of the start of the uprising and her journey to Europe. She follows both the local news and the news from the MENA region but still, she also had not heard of the trial. Another Syrian woman we spoke to shared the following view.

■ **Sara:** Of course, I have heard of the Koblenz trial. I know many young men and women involved in activities supporting the trial. As for Al-Khatib's detention center, I do not suppose that anyone in Syria is unaware of it. If someone does not know about it, they at least have heard about it, for sure. It is a morbid place. Anyone that enters suffers a lot there. I do not personally know anyone who has had a first-hand experience with the center, but I often hear about it. I cannot help but be hopeful about this trial. It gives hope to victims of injustice in Syria that they will get their justice. Even if it was outside Syria, there is a system that will restore their justice. I am hoping that this trial would give those who were treated unjustly part of the justice that they deserve, and I ask God to give justice to everyone. This truly is a huge step in the course of justice. That is what I think. I firmly think this is beneficial. One might say we have left Syria, and now no one can reach us but fate interfered and cut their journey of deniability and pretense of innocence short. I wish with all my heart that all victims of injustice would manage to secure their rights from their oppressors. I pray for this with all my heart. Thank you.

■ **Noor Hamadeh:** What are you thinking? After hearing all these different people, what is the takeaway for you?

■ **Asser Khattab:** We are getting different opinions on the trial depending on who we speak to, but one thing that strikes me is the view of Anwar R. and Eyad A. as guilty of the accusations made

against them. No one is saying that they are innocent, or at least innocent until proven guilty. What do you think?

■ **Noor Hamadeh:** I agree. I noticed the same thing and I think part of that is that Syrians, to a certain extent, see anyone who is affiliated with the regime or works with the regime as automatically guilty. Another thing I noticed was that a lot of people highlighted that they saw this trial as a first step toward justice. Despite all these criticisms, I think people are hopeful that something important will come from it. Maybe that is one of the most important consequences, whether intended or not, of the Koblenz trial. The fact that it reignites the flame of hope for justice and may even trigger future justice efforts.

■ **Asser Khattab:** A journey that started in Koblenz, but is not going to end there.

CHAPTER

21

WHAT'S CHOICE?

Season 2 | Episode 4 | February 5, 2021

On February 24, 2021, the judges are scheduled to pass a verdict in the case of Eyad A. He could face a prison sentence if convicted, but the question is: Should he be convicted at all? After all, what choice did he really have?

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■ **Fritz Streiff:** No, he would not do it. He couldn't kill men just like that, point-blank. As he went up to his commander, his hands were trembling. "I don't want to do this," he said. Brano Gojkovic turned toward Dražen as if he had not heard him properly, "What?" Dražen knew the trick. Gojkovic wanted him to repeat his words loud enough for everybody to hear so that he would have witnesses for whatever might happen next. Dražen looked at the soldiers, "Comrades, I don't want to do this. Are you normal? Do you know what you are doing?" he said but less firmly, feeling his bravery quickly evaporating as the others studiously avoided his eyes. Pero openly laughed at him. A moment of awkward silence followed. It occurred to Dražen that he had not heard a single bird singing that day.


Gojkovic looked at Dražen without flinching, his expression was serious. "Erdemović," he said, "if you don't want to do it, walk over there and stand together with the prisoners so that we can shoot you too. Give me your machine gun." Dražen must have understood instantly that the officer meant what he was saying, but he was confused. He had not expected such a reaction. He had hoped briefly that he could get out of this mess if he just said no. What did he expect?

He remembered hearing about an earlier case of disobedience when a soldier had been executed at the order of Lieutenant Colonel Pelemis. He realized that now it was too late to say no, he should have said it long ago. His heart was beating so strongly that he could hear nothing but its pumping. For perhaps a minute or even less,

Dražen stood there with the Kalashnikov in his hands. For a moment, he thought of running into the woods, but he saw the face of his wife before him, and he felt helpless, they could take revenge on her and the baby at any time. He was responsible for three lives. It was an excuse, yes. The truth was that he had proved to be a coward and he knew it, but what else could he have done?

Gojkovic would not hesitate to order him killed, and Pero would do it with pleasure although Dražen did not understand what he had against him. Maybe the fact that Dražen was not a pure Serb, which made it even more advisable to take Gojkovic's threat seriously. The commander was no longer looking at him, as if he had no interest in his decision. He ordered the soldiers to take up a position behind the prisoners and the prisoners to kneel on the ground.

Dražen took his place at the end of the squad. His heart was still beating loudly when he aimed at an elderly man whose face, luckily enough, he had not seen before. He quickly feverishly weighed his options. Of course, he could fire between two prisoners, but his prisoners would still have to be killed, like having to die twice. Besides, the firing squad was a small one of only a dozen soldiers and if he did not aim properly, it could be detected immediately. The commander would know and he would be executed. No, he must aim properly. Then a command came, "Shoot!"

 **Noor Hamadeh:** The text we just heard is from Slavenka Drakulić's book *They Would Never Hurt a Fly*, from Chapter 8 entitled *One Day in the Life of Dražen Erdemović*.

When Fritz told me about this case, I went to the Yugoslavia Tribunal website to look it up. It says that Dražen Erdemović was a soldier in the 10th Sabotage Detachment of the Bosnian Serb Army in July 1995.

He participated in the executions of hundreds of unarmed Bosnian Muslim men from the Srebrenica enclave. It mentioned something striking. Erdemović was the first person to enter a guilty plea at the tribunal and later testified as a witness in other cases, including against such high-ranking accused as Mladić and Karadžić, where he provided significant and detailed evidence about the crimes he committed. Erdemović was eventually sentenced to five years of imprisonment. Drakulić's book mentions that he is now free and enjoys the status of a protected witness.

■ **Fritz Streiff:** The decision in Eyad A.'s case is coming up in two weeks. This will be the first-ever decision in a criminal trial against a former Syrian regime official, so it is a highly symbolic decision. In anticipation of that, we discussed his case and went back to the earlier episode we did about him in season one, about his life, his background, and the charges against him. We talked to our court reporter, Hannah El-Hitami about how the trial against him went, what the evidence presented in his case looks like, and crucially, what he himself says about the case against him and the crimes that he is accused of.

A lot of it reminded me of the Erdemović case in the Yugoslavia Tribunal because both men are, in comparison, relatively small fish in international criminal history, but they were both part of a system, of a structure that at some point got them into a situation that presented them with the ultimate dilemma.

■ **Noor Hamadeh:** After what we heard from witnesses and other evidence presented to the court as well as from Eyad A. himself in his personal letter, the question the court will have to answer in two weeks is, should he be convicted at all? Outside of the court, outside of this case, outside of criminal justice generally, if Eyad A. did commit the crimes that he is charged with, that is one thing, but could he have said no? Could he have refused? Is that asking too much? What choice did he have?

■ **Fritz Streiff:** These are big questions, and perhaps it is good to start at the beginning. The court confirmed that the verdict against Eyad A. is scheduled for February 24, so the judges must be busy weighing the arguments and drafting the decision as we speak.

■ **Noor Hamadeh:** To understand the upcoming decision better and what to expect, let us take a couple steps back. Who is Eyad A.? How did he end up as accused in the first worldwide criminal trial against Syrian regime officials? Let us jog our memory.

■ **Hannah El-Hitami:** Eyad A. was born in Damascus in 1976, but his family is originally from Deir Ez-Zor. He became a member of the intelligence service as early as 1996 and was an instructor until 2010. Then he started working for the religious department of Branch 251 where it was his job to monitor mosques. Then he was transferred to what he called a dangerous division, the 40th Division, a subunit of Branch 251.

He said, "It is like a mafia. Once you are in, you cannot get out." Quotes like these we did not hear from Eyad A. himself. All the information we have about him is actually pieced together from the interrogations with the federal police and the asylum authorities, who in turn testified in court to reproduce what he said. Just once during this whole trial we heard a very personal and emotional message from Eyad A. himself, a few weeks ago when his lawyer read out a letter that the defendant had written.

■ **Fritz Streiff:** Eyad A. had been part of the *mukhabarat*, the intelligence services, since 1996, so for about 15 years before the crimes allegedly occurred that he is accused of in this trial. In 2010, he was transferred internally to Branch 251 and then to its 40th Division, a notoriously brutal unit where he was allegedly involved in hunting down peaceful demonstrators, roughing them up, and bringing them to interrogation centers, where they would be tortured, oftentimes with deadly consequences.

A former colleague of Eyad A. that we talked to in episode six said he got transferred from a relatively innocent posting as a sports instructor to this kind of work against his will, that Eyad A. did not want to join Branch 251 and the 40th Division. The same colleague told us that he transferred to Branch 251 as early as 2006, so four years earlier than what Eyad A. himself told the German authorities. It is unclear what the exact timeline is.

■ **Noor Hamadeh:** In this new position in the 40th Division, at least one time he found himself part of a situation that it seems he himself felt was wrong. He must have instinctively noticed that he had become part of a criminal endeavor. This scene became a central part of his memory of those last days on the job.

■ **Hannah El-Hitami:** According to a federal police officer who interrogated him in 2018, Eyad A. had gotten orders to shoot civilians from the very beginning of the protests. The moment he decided to defect was during a protest in Douma. Eyad A. told the police officer that Hafez Makhoulf, the president's cousin and head of the 40th Division, arrived at the site of the protest, fired a round from his machine gun, and shouted, "If you love the president, shoot at the traitors." Eyad A. claimed in his interrogation that he tried to avoid aiming at protesters and that afterward he and his colleagues had to search the streets and arrest anybody trying to run away.

■ **Noor Hamadeh:** It led him to a big decision.

■ **Hannah El-Hitami:** He said during his asylum hearing that he did not want to kill his fellow Syrians and that is why he defected in January 2012. He hid in his hometown for a few months before leaving the country together with his family, because at the time the secret service was already searching for him.

■ **Noor Hamadeh:** He left Syria on a long journey and eventually ended up in Germany.

■ **Hannah El-Hitami:** He, his wife, and his six children left Syria on February 12, 2013, and traveled through Turkey and Greece. Altogether, it took them five years, two months, and 13 days by airplane, on foot, minibus, and rubber boat to arrive in Germany. After three years in a camp in Turkey and then a camp in Greece, his youngest son was able to bring the whole family to Germany in April 2018.

■ **Fritz Streiff:** Eyad A. must have thought he had finally reached safety after what must have been a long and difficult journey, but this feeling of comfort and safe arrival did not last long. He must have felt like, and perhaps still feels like, he was in an impossible position.

■ **Hannah El-Hitami:** On February 12, 2019, he was summoned to the immigration office near where he lived in order to not arrest him at home in front of his children. He was very surprised and he was sure that there must be a misunderstanding. He kept insisting that he had not done anything. Three months later in May, the authorities had to release him based on a motion filed by his lawyer claiming that he had not been informed about his rights as a suspect during his interrogation with the federal police. When he was re-arrested in June, he had a breakdown that sounded to me like a panic attack and he needed to be hospitalized for one night. Since then, he has been in pretrial detention in a town not too far from Koblenz.

■ **Noor Hamadeh:** All of a sudden, Eyad A. found himself in detention. "Surely a misunderstanding," he thought. Had he not been invited to testify as a witness? How did the authorities turn this around and put him in prison instead? What did they even accuse him of? What did he do wrong?

■ **Hannah El-Hitami:** The charges are that he assisted in the torture and detention of at least 30 individuals between September

and October 2011. These charges are based on the protest he had mentioned to the federal police. They had originally summoned him to ask about Hafez Makhlouf for the structural investigation, an on-going investigation since 2011 to collect all the evidence on crimes in Syria regardless of individual perpetrators.

Eyad A. gradually turned from witness to suspect and ended up incriminating himself by talking about his work for the 40th Division, and how he arrested civilians at checkpoints during raids and after protests in Douma, where he and his colleagues had orders to arrest protesters and take them to Branch 251 and where he knew they would be tortured.

■ **Noor Hamadeh:** Eyad A. thought he had given testimony to the German federal police as a witness. Based on that information, the police developed an interest in him as a suspect himself. That is usually where the police have to inform someone that they have the right to remain silent in the sense that nobody can be forced to self-incriminate.

■ **Hannah El-Hitami:** The police informed Eyad A. too late of his rights as a suspect and as a consequence he had to be released after his first arrest. This is also the reason that his statements about working at checkpoints and participating in raids could not be used for the indictment and are not part of the charges he is now facing on trial. Then he was re-arrested because the Federal Supreme Court ruled that what he told the asylum authorities and the police about the 30 protesters he and his colleagues arrested in Douma can be used and is enough for an indictment. Ironically the event that made Eyad A. decide to defect would later become the event where he incriminated himself in the view of the German prosecution.

■ **Fritz Streiff:** Similar to Anwar R., he gave this information to the police himself voluntarily. In a way, he got himself into trouble by trying to help by being open about his past, about his position, the chain of command he worked in, his role, and the actions of his superiors, and the scenes of his unit shooting at protesters. He incriminated himself, perhaps operating on the assumption that the police were only interested in the ultimately responsible, in his bosses, the Makhloufs and the Assads.

It seems he had not considered that in the German police's books crimes remain crimes, whether or not committed in a command

hierarchy or reported about in the capacity of a witness. However, what has turned him into a defendant is what would eventually be an essential piece of his defense: the fact that he volunteered all this incriminating information as a witness and as part of his asylum procedure.

■ **Hannah El-Hitami:** The defense has objected to the use of Eyad A.'s asylum hearing as evidence, because he was not informed about his right to remain silent. Later, the prosecution reacted to this objection saying the rules that apply to a criminal proceeding do not apply to an asylum hearing. They said, "Yes, it is a dilemma when an asylum seeker has the choice to say something that might support their asylum request while at the same time making them a suspect in a criminal case." That is a dilemma. But this dilemma is not relevant to the trial. The question of whether or not the asylum hearing will be admitted as evidence has not yet been decided.

■ **Noor Hamadeh:** Eyad A. incriminated himself, and his lawyers are trying to get that off the table by having it declared inadmissible evidence. If they are successful, the question is what else is there in terms of evidence that could prove the charges in the indictment.

■ **Hannah El-Hitami:** The defense strategy has been for him to remain silent. They do not need to add any more statements by him to the trial. Instead, they are actually trying to remove that which he has already said. Other than that, there is not much against him. There are no individual witnesses who confirmed his arresting protesters. The survivors and family members of victims who have joined the trial as civil parties are all part of the proceedings against Anwar R., none of them are against Eyad A. Basically, there is just the overall situation, the testimonies of violence during protests, violence during arrests, evidence of mass graves, and the Caesar files proving that crimes against humanity took place. Then from there the deductive reasoning of how someone in Eyad A.'s position must have assisted in them by arresting people. Also, there was one witness who claimed to have seen Eyad A. at the mass graves in Najha, allegedly accompanying a convoy that delivered dead bodies.

■ **Fritz Streiff:** The case against Eyad A. has lasted almost exactly two years since the day he was arrested until now. The trial against him has lasted about nine months. Every single session, Eyad A. would sit in the dark being forced to listen to all the evidence presented to the court. A lot of that evidence he would have thought did not

relate to his case, not directly to the charges against him. He must have thought again and again that he had nothing to do with all these structural elements, the politics, the criminal actions by those in higher positions like his co-defendant Anwar R., the main accused, the so-called bigger fish.

■ **Hannah El-Hitami:** He sometimes was brought in handcuffed because he had gotten into trouble with the guards. Once, he even spat on the floor when he was brought in. There seemed to be a lot of anger and frustration about his situation. Later, when it became clear his verdict was coming up sooner than expected, he seemed a bit calmer to me. He was not as interested as Anwar R. so he did not take as many notes as him. Sometimes he even seemed asleep or he took off his translation headphones and stopped following the hearing. Other than that, he kept a mask on most of the time to cover his face and also never allowed any cameras to film him.

■ **Noor Hamadeh:** Eyad A. remained silent for a long time, frustrated but silent, until one day in court. Some court observers describe that day as the heaviest, the most difficult one since the very first days of the trial when similarly gruesome accounts were reproduced in court.

■ **Hannah El-Hitami:** After the forensic analysis of the Caesar photos in court in November, Eyad A. wrote a letter that was later read out by his defense lawyer. In that letter he said it had broken his heart to see the pictures and that he had to cry afterward when he was alone in the car on the way back to the prison. He talked about his hatred for the regime and about his anger that they are still in power. He said that some of his relatives were missing as well, so he had actually looked for them among the Caesar photos, but at the same time hoped not to find them because he was still hoping they were alive.

Then he said that in 2011, as a secret service member, you only had three options: either to refuse orders and be killed immediately; to defect, leave your family behind, and let them be killed; or to wait until there is a safe way out for you and your family, and that is what he did, he said. He asked in his letter whether he should be blamed for loving and protecting his family. He added that this was an important question to also be answered by the court regarding other generations of soldiers in whose countries a civil war might break out in the future. He ended by thanking the judges, the plaintiff, the

lawyers, witnesses, and basically everyone supporting the Syrian revolution.

■ **Fritz Streiff:** According to the case overview provided by the European Center for Constitutional and Human Rights, or ECCHR, Eyad A. faces 2 to 15 years in prison if found guilty of aiding and abetting torture as a crime against humanity. If he is found guilty of lesser charges than that, he faces between six months and roughly 11 years. Next to his lawyer's procedural arguments, Eyad A.'s personal defense is what choice did he have?

■ **Noor Hamadeh:** His lawyers are going for the inadmissibility argument to get the evidence off the table that he gave himself to the German authorities with which he incriminated himself. If that works, could it perhaps even get him off the hook entirely? We will have to wait and see. Let us take a closer look at his defense of what choice did he have? There are two standards in the law that we should hold this against and that the court may be looking at as well, German law and the international legal framework.

■ **Fritz Streiff:** In terms of international standards, in short, what we are dealing with here is a defense of superior orders or a defense of duress. In other words, Eyad A. is saying, "I had no choice but to obey my orders to shoot at civilians, arrest them, bring them to Branch 251 where they would be tortured. If I had disobeyed, they would have killed me on the spot." This is what he said in his personal letter.

■ **Noor Hamadeh:** The first defense will look at the defense of superior orders under international law, which is basically the idea that the accused committed the crime because they were told to do so by a superior. According to international law, this defense does not work if the accused knew that the act they were ordered to commit was illegal. With that being said, there is some wiggle room here.

Even if the defendant knew the act they committed was illegal, they may still be able to use the defensive superior orders to mitigate their sentence. Basically, Eyad A. is saying, "I just did what I was told," and that may or may not work depending on whether the judges find it credible that he did not know what he was doing was illegal. The severity of his crime will impact whether or not this will work for him.

The other defense that Eyad A. is raising is called the defense of duress. It is similar to the defensive superior orders. You are doing

something illegal because someone told you to, but there are two crucial differences. The person giving you the order is not necessarily your superior, and the reason you are following the order is because you feel threatened. Generally, under international law as it stands now, the defense of duress requires that a person committed an unlawful act to avoid imminent danger to life, limb, or freedom to themselves or family or a person close to them. The threat has to come from another person, not just from the circumstances surrounding the incident.

A very basic example of this is the difference between a situation where someone steals a car to drive away from and avoid a hurricane. Compare this to a situation where someone steals a car because someone puts a gun to their head, and demands that they steal it. The first situation is one where the circumstances cause the person to do something illegal. Whereas in the second example the person did something illegal because of a threat coming from another person.

Fritz Streiff: Going back to what you said, the threat has to be imminent or immediate. Meaning that if they do not listen to the person threatening them, they will almost immediately do exactly what they are threatening. The defendant also has to have had no way to avoid the threat other than committing the crime they are being coerced to commit. In other words, the defendant must make a convincing argument that they had no choice but to commit the crime.

This brings up an interesting point, when it comes to Eyad A.'s situation. Based on his testimony, there was no direct threat articulated. No one directly verbally threatens to hurt or kill him or his family members if he does not follow orders. Eyad A.'s fear of not obeying orders came from general knowledge of what happens when someone does not do what they are ordered to do in Syria. Dissent or failure to obey orders is not taken lightly.

The court in Koblenz may consider these international legal standards and considerations as a reference point, but what it is mostly concerned with and eventually needs to base its decision on is the relevant German law. Germany's Code of Crimes Against International Law states in Section 3 that if you commit a crime as part of an order from a superior you will not be found guilty, but only if 1) you do not realize what you are doing is illegal and 2) what

you are ordered to do is not obviously illegal. Not things that anyone would intuitively feel in your gut are illegal.

■ **Noor Hamadeh:** In this case, this may be hard to show. It seems Eyad A. was well aware of the irregularity of the criminal nature of the situation he found himself in, shooting at civilians. Eyad A. also described to the German authorities how he did not want to work for the 40th Division because of its brutal reputation. How will the court in Koblenz look at all this?

■ **Fritz Streiff:** We will see in a few weeks. Whatever the court decides, the situation Eyad A. describes, the duress, his unwillingness to participate in the crimes, his now fierce criticism of the regime he once worked for, and if the court was to believe him, all of these could be mitigating circumstances and the judges can take those into account when determining his sentence, should they find him guilty. His lawyers have one last shot at convincing the judges of the arguments we just described and any other points that they want to raise.

Their final pleas are scheduled for February 17 and 18, a week before the decision. We will cover both the final pleas and the decision in our upcoming episode about that symbolic and pretty historic first decision in a criminal trial against former Syrian regime officials.

Aside from the legal questions that the court will have to eventually decide on, cases like the one concerning Eyad A. bring up a bunch of other questions that are worth considering for a moment. We heard about Dražen Erdemović and the situation he found himself in back in July 1995, close to Srebrenica. Eyad A. apparently described to the German authorities a similar situation, shoot or be shot. Legal questions aside, as a human, in that situation what do you do? What can you do?

■ **Noor Hamadeh:** Much has been written on the moral, philosophical, and sociological aspects of the question of how regular men like Erdemović and Eyad A. end up as war criminals on trial, how they end up committing crimes against humanity, allegedly, in Eyad A.'s case.

■ **Fritz Streiff:** In preparation for this episode, I had the chance to talk with journalist and writer Tjitske Lingsma. In her article titled "How do you become a war criminal? Few people have the guts to

refuse orders," in the original Dutch, she writes that it is this strong need to be loyal that makes humans suited to become accomplices of violence. Loyalty is a deeply human condition that seems to serve as an important element.

Lingsma interviewed criminologist Anette Smeulers, who is a professor of criminal law and criminology of international crimes in Groningen. According to Smeulers, the crux is that people are not necessarily bad but they are weak. In the social context, we are too cowardly to go against orders even if we do harm to another. We are by and large followers, which in exceptional situations leads to exceptional crimes. In her search for answers to the question of how regular people turn into war criminals, Lingsma identified a general school of thought on the topic based on the concept of crimes of obedience, an act at the order of an authority that is considered illegal or immoral by the international community. These crimes of obedience, Lingsma writes, are most likely to occur in strictly hierarchical organizations such as the military, special military units, prisons, and police units. It especially happens in dictatorships and criminal states.

■ Dražen Erdemović: First of all, honorable judges, I wish to say that I feel sorry for all the victims, not only for the ones who were killed then at that farm. I feel sorry for all the victims in the former Bosnia and Herzegovina regardless of their nationality. I have lost many very good friends of all nationalities only because of that war. I am convinced that all of them, all of my friends, were not in favor of a war. I am convinced of that, but simply they have no other choice. This war came and there was no way out. The same happened to me. Because of my case, because of everything that happened, I, of my own will, without being either arrested and interrogated or put under pressure, admitted even before I was arrested in the Federal Republic of Yugoslavia, I admitted to what I did to this journalist. I told her at the time that I wanted to go to the International Tribunal, that I wanted to help the International Tribunal understand what happens to ordinary people like myself in Yugoslavia.

Because of those victims, because of my consciousness, because of my life, because of my child and my wife, I cannot change what I said to this journalist, and what I said in Novi Sad because of the peace of my mind, my soul, my honesty, because of the victims and war, and because of everything. Although I knew that my family, my parents, my brother, my sister would have problems because of that, I did not

want to change it. Because of everything that happened, I feel terribly sorry, but I could not do anything. When I could do something, I did it. Thank you. I have nothing else to say.

■ **Noor Hamadeh:** That was an excerpt from Dražen Erdemović's guilty plea at the Yugoslavia Tribunal. It illustrates one possibility we have not considered here. It does not happen often, especially in these kinds of international cases, but it happened in this case at the Yugoslavia Tribunal. Full remorse and a guilty plea, even combined with the deal to testify as a witness for the prosecution against other accused. In return for a milder sentence and a new life as a protected witness. Erdemović did it. Could Eyad A. have done it and testified against Anwar R.?

■ **Fritz Streiff:** I remember there was talk of that at the start of the trial among trial observers, that this could be an opportunity for Eyad A., but it never happened. It seems Eyad A. chose to go with his lawyer's advice to argue for the inadmissibility defense to largely remain silent, and he chose to make one personal statement pleading for what comes down to a defense of superior orders or a defense of duress. In his letter Eyad A. expressed a deep sadness about the developments in Syria, and said that he now hates the regime that he once served. He condemns the system strongly, but in his letter, he does not express regret for having been part of it himself. Was he just one tiny part of a huge machinery, a man without a choice or was he one of the many, many willing executioners of Assad's early violent response to the uprising?

■ **Noor Hamadeh:** He did have a choice. He said so himself when he noted the three options in his personal letter. When he could, he left and fled the country, but is that all he could have done? If he had refused orders, would he have been an example to others perhaps? Imagine for a moment he had rebelled. Would others have followed? Because after all does not it take one to start a movement? Does the machine not only work if all or at least most of its tiny parts do what they are told? What if they do not? Anette Smeulers said something that may serve as an answer to all these questions. According to her, very few people have the guts to refuse. That is the bottom line.

■ **Fritz Streiff:** Perhaps Eyad A. did not have a choice during that scene where he was ordered to shoot at civilians, but he started working for the intelligence services in 1996. Did he have a choice then? His former colleague we talked to in the earlier episode about

him argued that he joined the service for financial reasons and that he did not have the opportunity to go for higher education. Could he have chosen another profession, another trade? What he eventually did was work for a system that had been criminal, and at least dictatorial, for a few decades before he joined the intelligence services in 1996. Did he not know that?

■ Noor Hamadeh: When Eyad A. told his story to the German police, and slowly changed roles from witness to accused, he could have pleaded guilty. He seems to understand that what he was involved with was wrong. He could have agreed to testify against his former boss Anwar R. and others in the future to possibly receive a reduced sentence. Considering other mitigating circumstances, perhaps he could have even walked free after the time he has already spent in pretrial detention, or gotten witness protection and started a new life like Erdemović. Eyad A. made a different choice, but when you consider all of this, what is choice really?

The next episode will be all about the specific horror that is sexual and gender-based violence. It is rampant in Assad's torture prisons, and people who survived the initial attacks then have to navigate a society that often is not tolerant of them, and often is not able to offer the support that they need.

THEY PAY TWICE

Season 2 | Episode 5 | February 19, 2021

It is the most effective weapon and it is free: sexual and gender-based violence. By exploiting deeply-rooted gender norms, the Syrian regime attempts to break an entire society, one family at a time. In Koblenz, the judges have been asked to consider these types of crimes as crimes against humanity. In this chapter Asser Khattab and Noor Hamadeh explore why they deserve that label and why they were not considered crimes against humanity already.

EMPTY

■ **Asser Khattab:** Anwar R. is accused of crimes against humanity and rape. The 58 counts of murder and 4,000 counts of torture that he is charged with are regarded as crimes against humanity. The one count of rape and the one count of sexual assault are regular crimes under the German criminal code.

■ **Noor Hamadeh:** That might change very soon. Last November, the lawyers of the civil parties in Koblenz filed a motion. They demanded that the sexual violence charges will also be considered crimes against humanity. Why they were not already though? Is sexual violence not an equally serious crime as torture?

■ **Asser Khattab:** Not just that, in the Syrian context, it is just as much a weapon of warfare. Its use is systematic and widespread. It is targeting civilians. It is basically regime policy. It ticks all the boxes of a crime against humanity, and yet Anwar R.'s indictment does not reflect this.

■ **Noor Hamadeh:** The official reason for this is that there was not enough evidence to prove the systematic and widespread nature, but for many activists and survivors, this is a tough pill to swallow. Hundreds of thousands of Syrians are affected by sexual violence, either directly or indirectly.

■ **Asser Khattab:** Unfortunately, sexual violence is often overlooked. In this episode we want to go into why that is. We want to dissect the phenomenon of conflict-related sexual violence in Syria. We will try

to identify the stigmas and societal norms that underpin it and the way it is used as a tool by the regime. We want to unpack its impact on different groups of people and dispel some of the misconceptions around it.

We think it is important to talk about this because sexual violence is one of the main reasons people flee Syria. It is the cheapest, most effective weapon in the history of the world.

■ Noor Hamadeh: When it comes to gender, there are a lot of myths. Every culture, community, and country in the world has its own. Here is a common one, "women are weak," and another one, "men are strong." These are just two myths, but we do not usually call them myths. We call them norms. Gender-based violence is rooted in these kinds of norms. If someone violates a norm, they become a target for violence. For example, in many cultures, gay men are perceived as weak. They are breaking the rules, but it is not just rule-breaking that triggers violence. Some gender norms have inequality and oppression built into them, so the violence is a result of the rule. This is why women so often fall victim to gender-based violence, because when all women are viewed as weak, and men as strong, women are then seen as a population that can be taken advantage of.

When the type of violence that someone experiences is sexual, regardless of what it is based on, or if it is directed at someone's sexuality, it is sexual violence. This includes any sexual act or attempt to obtain a sexual act. Violence in this context is not just a closed fist or a bullet, it is less about the method used than about the manner in which a person is treated. It is more about coercion. Sexual and gender-based violence, or SGBV for short, encompasses all these things. It comprises not only rape and attempted rape, but also sexual abuse, forced pregnancy, forced early marriage, domestic violence, marital rape, trafficking, and verbal sexual harassment. SGBV happens all the time, everywhere. It happens everywhere in the world and also everywhere within societies. It is not confined to any particular class, age, or type of relationship. During any emergency, everyone who is impacted by that emergency is at a higher risk of experiencing SGBV.

One of the emergencies that usually leads to a particularly big increase in SGBV is conflict. The perpetrator might be affiliated with the state, and the victim a member of the opposition. There might

be a climate of impunity because there is no state anymore, just war. SGBV that is directly or indirectly linked to conflict is called conflict-related sexual violence, or CRSV. In Syria, the conflict has cultivated a climate of lawlessness and heightened stigma. As a result, sexual violence has played a big role in Syria since the uprisings began in 2011. It is rampant within, but not exclusive to the ranks of the Syrian army and in detention centers.

■ **Asser Khattab:** The overwhelming majority of detainees experience some form of sexual violence, and that is not just rape, as Noor explained before. The most common are probably verbal sexual harassment and forced nudity.

■ **Rehab:** During the investigations, they used to insult me with degrading words, such as "slut." They threatened me throughout the investigation that they will strip and rape me. They used dirty words that I cannot remember. Disgusting talk.

■ **Noor Hamadeh:** This is a quote from a report "Words Against Silence" that focuses on the violence against Syrian women detained in state security prisons. The words belong to Rehab, who spent two years in prison. In the same report, we learned about Munir, who spent two years in Saydnaya prison, and made the following comment about forced nudity.

■ **Munir:** The purpose of nudity is to break the detainee's will and sense of humanity. It is a way to tell the detainee that he/she is in a place where his/her humanity has no value. Nudity here is not only the stripping of clothes, but the stripping of one's dignity.

■ **Asser Khattab:** Throughout the episode, you will hear more quotes from survivors. We pulled them from reports on SGBV and CRSV in Syria. Conducting the research for these reports can be challenging, and we will go into that later on.

■ **Noor Hamadeh:** First, we will look at the purpose of SGBV in Syria. What does the regime achieve by weaponizing it?

■ **Asser Khattab:** Within the walls of torture prisons, it can be a way to extract information. Like Munir explained before, it is a means to break a person.

■ **Noor Hamadeh:** However, the impact of CRSV is felt far beyond

the individual detainee, and this is where its true purpose lies. The threat of sexual violence instills deep fear into Syrian people. Its ability to terrorize everyone is virtually unparalleled. People are terrified of getting raped in detention centers, as several reports confirm.

■ **Asser Khattab:** They are not just scared they will face sexual violence themselves, but they are scared for their loved ones as well. Especially their female family members.

■ **Noor Hamadeh:** Before we continue, a note on gender categories. Sexual violence affects men, women, and non-binary people in Syria. There is no such thing as the female experience of SGBV, or the male one, or the LGBT one. Every story of sexual violence is unique, and that is because the whole experience is shaped by so many more factors than gender. Just consider a mother with a liberal family, with financial security and plenty of access to aftercare. Then consider a childless gay man from a conservative family without money or access to support. Their experience is not just different because one is a woman and the other is a man. Their financial situation comes into play, their sexual identity, the shape of their family, and the place where they live. In short, when talking about SGBV, all aspects of someone's position in society intersect. That said, gender is an important category and many reports differentiate by gender.

To make things a little bit clearer, we are going to look at the impact of SGBV on women first, then on men, and then on LGBT people. Women are disproportionately affected by SGBV everywhere, and Syria is no exception. Women in Syria are targeted in part for the same reason that any woman living in a patriarchal society is. She is weak, she has no worth, she belongs to men. The myths we call norms and treat like truths. In more conservative parts of Syria, patriarchal structures manifest themselves, very clearly. It even has a name: "honor."

■ **Joumana Seif:** In many parts of Syria's society, its concepts of honor is constructed around the notion of female virginity before marriage and sexual fidelity afterward. That means that in some areas, in some cases, they consider that for the victims of sexual violence, being killed is much better than being raped.

■ **Noor Hamadeh:** That is Joumana Seif. She is a Syrian lawyer and human rights activist. She has been a research fellow at the European Center for Constitutional and Human Rights since 2017 and she was

one of the authors of the above "Words Against Silence" report, the one that the stories of Munir and Rehab appear in. As Joumana Seif explained, in some parts of society a woman's dignity is tied to her virginity and later on, her sexual fidelity.

By staying a virgin until marriage, and by being true to her husband, a woman does not just protect her honor, but the honor of her family as well. In fact, you could say that she does not only have honor, she represents honor, other people's honor. If she experiences some form of sexual violence, either her virginity is damaged or her fidelity, her honor is violated and so, her family's honor is too.

Loss of honor can be extremely humiliating and destabilizing. It is to be avoided at all costs. This is a mentality that the Syrian regime exploits. They subject women in detention centers to sexual violence because they are women, but also because the regime understands something. It understands that if a family knows or suspects that a woman was subjected to SGBV, they will probably reject her. Consider the story of 19-year-old Zainab.

■ **Zainab:** Upon my release, I went back to my relatives and my aunt. They refused to have me, and accused me of having been subjected to shameful things in prison that tarnish their honor. I was then forced to go back to Damascus. I met a young man from Daraa, who gave me shelter and asked me to marry him, which I did. We spent a few months in Damascus. During that period, I tried to call my sister at her house in Homs. I told her that I am married and live with my husband in the Saydnaya area. She told me that one of my brothers wants to get rid of me because I disgraced the family. A couple of months later, two young men came to where I live with my husband, Dia, in Damascus, and tried to kill me. They had a fight with my husband, stabbed him with a knife in his back, and ran away.

■ **Asser Khattab:** In an attempt to regain a family's honor, it is easier to blame and punish the woman afterward than it is to go after the perpetrator. The consequences for her depend on her position in society. A woman could be discriminated against financially, separated from her children, or even killed by her own family.

■ **Joumana Seif:** The married women were divorced by their husbands because they feel that their honor is touched or violated. They do not want their children to be raised by these women. These women were totally rejected, they were separated from their

children, and they can hardly find a job opportunity. In many cases, they have to leave, they have to travel to be alone. Most of the time they are suffering from isolation, being discriminated against for being stigmatized. It has a very bad impact.

■ **Noor Hamadeh:** For many women, being released from detention is both the end of a nightmare and the start of another one. For the regime, going after a woman like this is a way to destabilize an entire society, one family at a time. All of this takes a huge toll on a survivor's mental health.

■ **Joumana Seif:** Sexual and gender-based violence has profound and long-lasting impacts, and on women especially, as they are feeling responsible for dishonoring their families. Often, they conceal the abuse they endure from their relatives. It is difficult to handle that, to deal with that, because here there is something in the culture that we are graced with, sexual and gender-based, where they have a really profound impact mentally.

■ **Asser Khattab:** This mental impact, not just the trauma, but also the shame, the taboo, the stigmatization. This toll that sexual violence takes on Syrian women makes it very difficult to speak up.

■ **Joumana Seif:** Speaking out is not easy, and usually it takes time, it takes years for survivors to speak up about it. That is very normal, and that is what happens after having real psychosocial support, real treatment.

■ **Asser Khattab:** Joumana is talking about the special facilities that are in place for survivors of SGBV in and around Syria. Centers that offer medical treatment as well as psychological and social support can help women get to the point where they can talk about their trauma. Many will suffer from PTSD, depression, and hopelessness for a long time, maybe even forever.

■ **Noor Hamadeh:** Sexual violence against women exploits the same gender norms and conflict dynamics as sexual violence against men. To put it broadly, men are expected to be strong, heterosexual, and they should protect their families. We spoke about this to Pinar Erdem, who is a lawyer and researcher. She is the author of a 2020 Human Rights Watch report on sexual violence against men, boys, and transgender women in the Syrian conflict.

■ **Pinar Erdem:** We see that it is mostly based on gender norms, the roles assigned to men, and the roles assigned to women, and the notion of masculinity. We see that sexual violence used against men and boys, for example, is basically to hinder the "manhood," which is basically taught to those people from the day they are born, meaning how should a real man be, what should a real man be like. They should be protectors. They should not be subject to violence because that is not in their nature, et cetera. It is basically related to gender norms.

■ **Asser Khattab:** Within the framework of these norms, men being victims of violence is not compatible with fulfilling their assigned roles and meeting society's expectations. Surviving sexual violence, being humiliated, enduring insults aimed at wives and sisters, being dominated and sexually abused by other men, sometimes in front of women, this plays into gender norms in a way that damages male survivors differently, in a way that brute force generally cannot. Hadi is a survivor of sexual violence in Syria and detention centers. He was the subject of a case study that says the following: "He also stated that the lieutenant colonel asked his colleagues before starting the interrogation, 'Did you bring his wife, sister, and mother?' The colleague answered, 'Yes, we did, sir.' Then he insulted his wife and his mother, and said he will do everything he wants to them with no mercy."

■ **Noor Hamadeh:** As for the impact of CRSV against men on their communities, gender norms dictate them too.

■ **Pinar Erdem:** Actually, by attacking men themselves, they are attacking the society as a whole, because they are attacking the roles that men are assigned, which is to be the protector of the family, the protector of the society. It is to basically show that the society itself is vulnerable to all sorts of violence.

■ **Asser Khattab:** The perception that a man loses his manhood and with that his ability to protect the people around him leads to him being stigmatized. This stigma following sexual violence is one of the most damaging effects of CRSV against men. It is also, of course, a myth.

■ **Pinar Erdem:** When we talk about the stigma around sexual violence against men and boys, for example, there are myths about this. Meaning there are myths around saying that real men cannot

be raped, or men are less affected by sexual violence compared to women, or only gay and bisexual men are subject to such types of violence, or the perpetrators are gay or bisexual men. There are many stigmas around the notions of masculinity.

■ **Noor Hamadeh:** Until these myths are tackled, men will be very reluctant to talk about their experiences. As long as that is the case, sexual violence against men will remain a dramatically underreported issue. We would like to highlight here, again, that only looking through the lens of gender obscures other factors that impact the experiences of survivors of SGBV. Not any man's story is the same. For example, some men are actually hailed as heroes after being released from detention.

■ **Pinar Erdem:** In some cases, men and boys are ostracized and stigmatized because of how society thinks that if they are subjected to rape, they are not a real man anymore. Still, I also heard that yes, especially if they are subject to sexual violence in detention centers, once they come out of the detention centers they are somehow seen as heroic for this.

■ **Asser Khattab:** Out of all the survivors of SGBV and CRSV, there is probably no group so vulnerable, targeted, misunderstood, and overlooked as LGBT and non-binary people. The people whose whole existence is against the rules.

■ **Pinar Erdem:** Well, look, LGBT people are already stigmatized and ostracized by their families and the community in Syria with or without the conflict. Basically, this is due to homophobia and transphobia.

■ **Noor Hamadeh:** This vulnerability only increases when there is conflict. LGBT people, once their sexual orientation or gender identity is revealed, generally experience an escalation of violence, especially sexual violence.

■ **Pinar Erdem:** With conflict, the violence they are subject to increases because of an environment where there is no rule of law, and there is amplified stigma. We can actually say that they become legitimate targets of such violence during this conflict

■ **Noor Hamadeh:** Take Yussuf, a 28-year-old gay man. He was brought to Al-Khatib Branch, Branch 251.

■ **Asser Khattab:** Yussuf said that he was detained by the *mukhabarat*, the intelligence service, during an anti-government protest at the beginning of 2012 in Damascus. He told Human Rights Watch that although he was not targeted by the intelligence agency because he was gay, once they learned about his sexual orientation through checking his phone, violence during interrogations increased drastically. He explained that after intelligence officers detained him for joining the protests, they beat him severely until he confessed to acts that he did not commit.

■ **Yussuf:** I was being beaten, and I was going to die. At the end, you want them to stop, so you start saying yes to things that you have never committed.

■ **Asser Khattab:** Once they discovered his sexual orientation, the violence intensified.

■ **Yussuf:** All the aggression was multiplied by 10, I would say. They were happily doing it. They were, of course, raping us with sticks.

■ **Noor Hamadeh:** That was an excerpt from Pinar's report. It illustrates the fact that he was not just punished for taking part in a protest, but also for being gay. From the same report, here is a story that belongs to Saba, a transgender woman. The report reads: "She was already in prison before the Syrian conflict started. Following a few years in Saydnaya prison, she was transferred to Hama Central Prison after the conflict started in 2011, where other detainees raped her multiple times. Saba stayed in the central prison until 2015."

■ **Saba:** I was always soft-looking. It deprived me from my family and my life. I was almost 32. Even if you are caught with other people, they would interrogate you individually. It is the same routine that applied to everybody just for being gay or trans. We are beaten, treated with violence, and insulted. Not by one person, but by many. They could tell from our appearance. Perpetrators were both guards and prisoners. If someone asked for me, I had to go and see them among the normal prisoners.

■ **Asser Khattab:** One of the most shocking and heartbreaking parts of the experience of some Syrian LGBT people relates to homophobic and transphobic violence. Not violence that necessarily happened in detention centers, not stories of prison guards and intelligence services, but of families. Here is another excerpt from

the report. "Fuad, a 23-year-old gay man, received a threatening text message from his mother on September 5, 2018, when she learned that her son was gay. 'May God break your heart, like you broke mine. You [slur], you effeminate. I give you only one week to leave the country, or else I will kill you myself.' Fuad said: 'My stepfather wanted to send a rogue government militia to kill me and detain me. He put my name in all the checkpoints and wanted to kill me. I left Syria on September 19, 2018.'"

■ **Noor Hamadeh:** As for the mental and physical impact that CRSV has on LGBT people, it is similar to other survivors as well as LGBT survivors, that it is hard to find adequate care. This is due to the lack of funding and trained personnel. They are left to deal on their own with sadness, pain, depression, self-isolation, fear and anxiety, insomnia, nightmares, impotency, infertility, lasting shame, self-blame or humiliation, paranoia, and loss of hope.

One of the biggest challenges in mapping CRSV is finding survivors who are willing to talk. Obviously, it is a delicate topic to discuss with anyone. It gets harder when speaking out could get you rejected by your husband, fired by your boss, or killed by your brother. One researcher who we spoke to said that sometimes women even get taken advantage of by the people who claim they just want to document their experience.

■ **Asser Khattab:** People often do not report sexual violence to the authorities either. The justice system is not designed in a way that takes the specific needs of survivors of sexual violence into account. Giving a statement to a police officer or testifying in court can be overwhelming and traumatizing. Justice mechanisms expose survivors to intense scrutiny. Many are blamed, accused of lying, and subjected to harassment.

■ **Noor Hamadeh:** On top of that, seeking justice or providing documentation for many survivors of SGBV and CRSV just is not a priority. Their priorities are working and making money, and taking care of themselves and their families.

■ **Asser Khattab:** Hundreds of thousands of people will live with their trauma. They survived, but they paid twice. Once in a prison, once for the rest of their lives.

■ **Noor Hamadeh:** In light of all this, it is pretty difficult to believe

that there is not enough evidence to add sexual violence as a crime against humanity charge on Anwar R.'s indictment.

■ **Joumana Seif:** From my point of view, it does not make sense not to be, or not to address as a crime against humanity in Koblenz, or in the indictment. I do not know why, but it should be.

■ **Noor Hamadeh:** What needs to be considered that many of the experts we spoke to alluded to is that the failure to effectively address sexual violence in a legal way stems from the same gender norms, the same rules, the same myths that drive sexual violence in the first place. As long as we do not tackle these harmful societal norms, justice mechanisms will continue to fall short everywhere in the world.

■ **Asser Khattab:** Joumana Seif has high hopes for labeling the sexual violence charges as crimes against humanity.

■ **Joumana Seif:** Its impact is very important in that it will offer the access to justice for a hundred, or thousands, of people in Syria. Now we are establishing the base of any other justice effort, not only in Germany, but in Europe, elsewhere, and even in Syria and the future.

■ **Asser Khattab:** It has been a while since we heard from Hannah El-Hitami, and here is a short update from her.

■ **Hannah El-Hitami:** Apart from the analysis of satellite images showing mass graves that we talked about a while ago, this year has started with three survivors' testimonies, and two of them were joint plaintiffs. They confirmed once again what we have heard repeatedly during the past few months about the prison conditions, the abuse, and the lack of nutrition, medical care, and hygiene. What really struck me once again was the two of them mentioned underage detainees who were in the cells with them.

One of the witnesses talked about a 14-year-old boy who was suffering from a painful gunshot wound. The other witness said that a teenage boy was repeatedly tortured by a guard called Abu Al-Ghadab. This individual, by the way, has come up in so many of the testimonies, and he is also mentioned in the indictment as a perpetrator of sexual violence during one of the interrogations. Abu Al-Ghadab, which translates to something like "father of rage," was described by many witnesses as the cruelest prison guard in Branch 251.

He was described as tall and lean with a Deir Ez-Zor dialect and black hair, and detainees were always afraid when it was time for his shift. Although, I have been wondering if Abu Al-Ghadab was actually just one person during the whole time, or perhaps that this was a nickname that was used more frequently for the guard in charge of torturing prisoners. We will not know for now, but we can only hope that one day Abu Al-Ghadab might be held accountable one way or another.

■ **Noor Hamadeh:** The next time you will hear from us will be shortly after the verdict of Eyad A., which is scheduled for Wednesday next week. We will be putting out a bonus episode two days later, on Friday, to discuss the decision of the judges in Koblenz. It will be a historic outcome, no matter the verdict.

■ **Pauline Peek:** Special thanks to Rehab, Munir, Zeinab, Hadi, Yussuf, Saba, and Fahad for sharing their stories.

CHAPTER

23

THE VERDICT AGAINST EYAD A.

Season 2 | Episode 6 Bonus | February 26, 2021

Eyad A. is now officially the first person to be held accountable in court for complicity in crimes against humanity committed during the Syrian conflict. Fritz Streiff, Hannah El-Hitami, and Saleem Salameh went to Koblenz to witness this historic decision.

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■ **Asser Khattab:** My colleagues, Fritz, Hannah, and Saleem went to Koblenz this week. They were there for the verdict against Eyad A. After 62 days in court with proceedings spanning 11 months, the judges in Koblenz sentenced him to four and a half years in prison. He is now officially the first Syrian regime official to be convicted for their actions since the beginning of the uprising.

■ **Saleem Salameh:** The emotion of hearing something in the language that is my mother tongue and a language I really understand, while this might sound pretty romantic, it really meant so much to me. I can just imagine what it meant to other people who are even more involved in this.

■ **Asser Khattab:** This trial would not have been possible without the work of so many Syrians who worked tirelessly to make something happen that had never happened before. It is historic. It is symbolic.

■ **Fritz Streiff:** This is Fritz and Hannah standing in front of the courthouse. We just left the courthouse about half an hour ago and just wanted to tell you in a very summarizing way what happened today. Next week, we will dive a little bit deeper into the verdict of today and what was said, how the judges explained the verdict. We will analyze that in more detail. Just about today, Hannah, maybe you can take it from there?

■ **Hannah El-Hitami:** We were here really, really early. I think you guys were here at 6:00 AM. I took some more time, got some coffee,

and arrived later. Normally, there are only five people visiting the court as audience and/or press. Today, there were far more than 50 people. There were some people who did not get in. I think a lot, around 57, were allowed inside. That was different than usual. Everyone was waiting to see what this first verdict would be like.

When we were inside the courtroom, there was a positive surprise. As we have talked about before, it has been an issue that there has been no translation into Arabic. Today, for the first time, the whole verdict was actually read out in German and then consecutively translated for the audience into Arabic.

■ **Fritz Streiff:** That was really a positive surprise. A lot of Syrians in the audience were able to understand exactly what the judge was saying. That was great. Then what happened?

■ **Hannah El-Hitami:** Well, they started out by saying that Eyad A. is sentenced to four and half years imprisonment for aiding and abetting crimes against humanity. Then they explained it in about one and a half hours, which mainly focused on the context. I think that is something that we have seen often in this trial, that a lot has been focusing on the context to prove the crimes against humanity. I think nobody has any doubts about that anymore.

The judge repeated what exactly the regime was doing against the population and what happened to the people who got arrested arbitrarily. A far shorter paragraph of her verdict concerned Eyad A.'s position in all this. She also confirmed that he did play a role. He could have somehow gotten out of his work, and he had chosen that work voluntarily. He had even asked to be transferred back to an operative branch, like Branch 251 and its religious department, after being in an office job that he considered boring.

They were convinced of his guilt. Since he has already been in prison for two years, he is going to have to serve another two and a half years, if there is no successful appeal, because right after the trial his defense lawyers actually said they will appeal.

Not everyone was happy. For the first time, we actually heard something from Eyad A.'s family. His son and cousin were there. In the name of the family, they said that they believe he is innocent, and they will do everything to prove his innocence. His cousin actually emphasized that from their family as well, so many people

are missing. They are completely for the trial and for releasing all detainees. They just do not want their relative, Eyad A., to be counted as one of the regime criminals, but as one of the oppositionists. They were, of course, very disappointed by this verdict. They said that they are hoping that it will be possible to change it by appealing.

■ Fritz Streiff: When we walked out of the courtroom, there was a lot of press and media attention.

We heard from Syrian activists that have been following this trial and have been pushing for justice and accountability for Syria for so long, and they said that this is seen as an important signal, in the sense that this is the first time there is a tangible result of these efforts toward justice for Syria even all these years. We are talking about allegations, and now crimes, as found by the court, that are already almost 10 years old. It has been a long time. They are seeing this as an important signal, as an important step.

At the same time, we also heard colleagues emphasize that they appreciated the judge making it explicit that Eyad A. today was not convicted as a representative or in place of the Assad regime that orchestrated this systematic and widespread attack against its own civilian population, but for his own acts and for his own limited contributions to this structure. In this sense, I think they also see this as a fair verdict. We will have more next week in a more detailed episode, where we will take some time to dissect some of these questions and update you further.

EMPTY

CHAPTER

24

JUDGMENT

Season 2 | Episode 6 | March 5, 2021

Fritz Streiff, Asser Khattab, and Hannah El-Hitami take a closer look at the verdict against Eyad A. Who is celebrating? Who is disappointed? And what does this mean for the case against Anwar R.? This chapter includes a court report, reactions and opinions from outside the courtroom in Koblenz, and analysis about the impact of this verdict.

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■ **Deborah Amos:** A German court took a groundbreaking step today to hold Syrian officials accountable for crimes in that country's long civil war. The court convicted a former member of the Syrian security services for abetting torture...

■ **Male News Anchor:** It is the first trial worldwide about torture by the Syrian state, and the Higher Regional Court Koblenz has ruled...

■ **Female News Anchor:** At the trial, prosecutors argued that Eyad Al-Gharib had helped to arrest protesters who were later tortured and murdered by the regime. He was handed a four-and-a-half year jail sentence...

■ **Fritz Streiff:** How are you? It is Fritz from the podcast.

■ **Anwar Al-Bunni:** Hi! How are you?

■ **Fritz Streiff:** Good. What is your reaction?

■ **Anwar Al-Bunni:** I am so happy. Really grateful for the court, really. I am happy because the decision came not against one person. I think it is a message of hope. The balance of fear has changed now.

■ **Wassim Mukdad:** This is the first step of a long way to reach justice.

■ **Fritz Streiff:** A worldwide first finding by a criminal court of crimes against humanity committed by the Syrian regime. This is huge and long-awaited after 10 long years of impunity. This is a full and complete success, some say, or at least an important first step, but others are not as jubilant.

■ **Asser Khattab:** This verdict from the Koblenz court and the experiences and emotions around it are an illustration of how justice and judicial truth can mean so many different things to different people.

■ **Fritz Streiff:** During the trial in the court, justice is being administered live. With witness testimonies, the introduction of evidence, and all the parties being involved and exercising their procedural rights, it is quite a clinical process, very rule-focused. All for a fair trial. Very much focused on the individual defendant and with the goal of a fair administration of justice. That is what the judges did last Wednesday in Koblenz. The court made this very clear during the reading of its oral verdict. This decision is about an individual and his crimes. Eyad A. and his limited contributions to the larger crimes by the Assad regime. Eyad A. was not on trial for the atrocities of the regime, but for his concrete and limited personal part in those atrocities, according to the court.

■ **Asser Khattab:** As soon as the verdict is spoken, as soon as members of the public leave the gallery and walk down the stairs of the courtroom and out into the open, into normal life, that clinical view on justice starts developing, starts changing, and takes on countless shapes and forms. From that moment, the court, in a way, loses its grip on the interpretation of the kind of justice that it had administered just a few minutes earlier. There is then ample space for more emotional and comprehensive views on justice.

■ **Fritz Streiff:** Our court reporter, Hannah El-Hitami, our Arabic series producer, Saleem Salameh, and I went to Koblenz last week. We were there to document this historic verdict, and to collect impressions, voices, and opinions from Syrian court observers and activists, victims, and Eyad A.'s cousin and teenage son who were also there. Our day last Wednesday started early. We wanted to make sure that we would get some of the limited seats in the public gallery. When we arrived at the courthouse shortly before 6:00 AM, there was already a group there. Mostly Syrians who had been queued up since before 5:00 AM.

It was cold. One of those really fresh early mornings of late winter. People brought hot coffee and exchanged thoughts. There was a certain nervousness in the air. Then when we finally got in, a rumor started making the rounds. For the first time since the beginning of the trial, there would be simultaneous translation into Arabic for the public gallery. The court announced that this was an exception to the rule. It was a very welcome exception to the many that do not understand the trial language, German, and could now follow in Arabic.

I could feel this meant a lot to many. Then the nervousness made way for concentration. After the prosecutor and Eyad A. and his lawyers came in, the judges followed. Everybody rose from their seats and the presiding judge started reading the verdict.

Hannah El-Hitami: Just like the prosecutor's plea two weeks ago, the verdict also focused mainly on the larger picture of the crimes, and just briefly mentioned Eyad A.'s role in them. The presiding judge talked about the situation in Syria for more than an hour and went back all the way to the rule of Hafez Al-Assad. She explained how the secret services became an instrument of power for the Assad family from the very beginning. Then she said, and I quote, "Bashar Al-Assad took over the structures and used the secret services, especially from 2011 on, to intimidate and annihilate the opposition."

She talked in detail about the beginning of the uprising in March 2011. She talked about the first protests in Daraa, the military sieges of cities such as Daraa and Douma, and mentioned, of course, the shooting at peaceful demonstrators.

A Syrian visitor that we talked to said that it actually really moved him emotionally when the judge described the events that happened in Syria, and how she acknowledged that the protests were peaceful and that they were met with live ammunition, arbitrary detention, and forced disappearance, and with protesters being tortured and even killed. The judge also stated that the Caesar files prove the atrocities that happened in the regime prisons. She added that she personally would never forget these images. She referred to the internal documents that prove that orders came from the very top.

These documents had been smuggled out of Syrian government offices, carefully analyzed by an NGO called CIJA, and they had then been presented in court. According to the verdict, all this evidence

proved that since 2011 the Syrian regime had, in fact, waged a widespread and systematic attack against the civilian population. This is the definition of crimes against humanity. The fact that she defined it as crimes against humanity, this was why the verdict was so important to so many journalists, activists, and observers from Syria.

A Syrian woman we spoke to said that she could not really grasp what she had felt inside the courtroom. She had mixed feelings. She wondered whether she could really be happy because with all the crimes happening in Syria, one verdict against a small low-ranking officer was not entirely satisfying. She said that the crimes are continuing and that thousands are still missing. She said that on the one hand, she did want to acknowledge the importance of this verdict, but at the same time she felt that she still needed to stay rooted in reality and keep fighting for those who are still missing.

Regarding the role of Eyad A., here is a quick reminder of the crimes that he was indicted for. At a protest in Douma in the fall of 2011, he had arrested protesters and taken them to Branch 251 even though he knew they would be tortured there. In a way, he contributed a small part to making crimes against humanity possible. The judge explained that every person in Branch 251 was tortured. Everyone was held in inhumane conditions, and everyone had to hear the screams of other detainees. Nobody knew if they would get out alive.

According to the judge, being held in this branch was itself a form of torture, and she said that Eyad A. had known about all of this. She rejected the defense's argument that he should be acquitted because he did not have a choice, that he would have risked his own life if he had not followed orders. She said he could have avoided arresting protestors by faking an injury or an illness, or by just leaving the protest without anyone noticing since there was a large number of security forces present. Of course, he decided by his own free will to work for the secret service before and after the uprising. Then the presiding judge arrived at the sentencing part of the verdict.

Eyad A. was sentenced to four and a half years in prison for aiding and abetting crimes against humanity, specifically torture and severe deprivation of liberty. The prison sentence could have been up to 11 years for aiding in abetting crimes against humanity, but it was lowered because he had defected quite early and because the court acknowledged that he had been part of a hierarchical structure

and acted by command. In addition, the judges recognized that in his favor, he had supported the German police with his witness testimony about the crimes in Syria to the extent that his conviction had only been possible based on his own statements about his work for the secret service. Some of the information he had provided was also added to the indictment against Anwar R. After having fallen asleep during the prosecutor's plea and having cried during the defense's plea two weeks ago, Eyad A. did not show much emotion during the verdict. He looked tired and resigned. He waved a quick greeting to his teenage son and his cousin who were seated in the courtroom.

Eyad A.'s cousin said that the family believed that Eyad had done everything he could not to be part of the regime and its crimes. He added that the fact that Eyad A. had given his testimony to the German police proved that. He said the family would try everything to prove their point of view on his case. In another conversation I had with him later, he claimed that defectors like Eyad A. were celebrated as heroes back in 2012 and that his family also had many missing and killed by the Assad regime.

The defense announced they would likely appeal. That means that they do not accept the verdict and that a higher court has to check all the files of the proceeding and make sure no mistake was made. If in the end the verdict is confirmed, Eyad A. has two and a half more years in prison, because he has already spent two years in pretrial detention. He might apply to get released even sooner, depending on a number of factors, of which two are general public security and his behavior in prison.

Asser Khattab: Fritz, I must say that it has been quite surprising in some elements. For almost a year now we have been talking mostly about Anwar R. I think objectively his case is more interesting for some Syrians than Eyad A. The extent of the accusations against him far exceeds those against Eyad, and he was on a higher level in Branch 251. He is more infamous, in a way. I did not think the response to Eyad A. would be that conflicted, but I guess it makes sense because even though Eyad A. was less prominent and less of an official, he is definitely more controversial. For example, there are actually many people who believe he should have gotten a longer sentence. They thought he worked for the Syrian *mukhabarat*, the secret police, he has done bad things, he should get more than four and a half years.

■ **Fritz Streiff:** And he was the first worldwide, first person to be convicted for crimes against humanity by the Syrian regime, or at least his part in it.

■ **Asser Khattab:** Exactly, and that is precisely why some viewed it as somewhat of a disappointment, that the first-ever verdict would have instead been harder on people like him. I thought that would be the predominant view, but actually, it was not. So many opposition Syrians were talking about how Eyad A. was actually a victim of a certain sense of this symbolism of the trial because they had a certain sympathy, not with him as a person, but with his case and certain elements in it. Some people genuinely believe that he has a true story of defection from the Syrian *mukhabarat* and actually switched sides.

Many people believe that he says that he did his best to save his life while trying to show that he is obeying orders, but not really obeying them. I was surprised to see the extent of people who sympathized with his story, but also the extent of people who switched back and forth in their opinion on the verdict in the few days after it was issued.

■ **Fritz Streiff:** Okay, so it was not like there were two camps that were predetermined and met in discussions after, but it was really an organic discussion that also invited people to change their minds. That is interesting.

■ **Asser Khattab:** The exchanges were heated at some point, regarding how people view this. People were discussing it, providing certain points. I have heard survivors of detention or relatives of people who are detained saying that they actually sympathize with Eyad A. I heard others say no, they do not have any sympathy, and actually, the fact that it is four and a half years shows that maybe this is exactly what he deserves for what he has done.

■ **Fritz Streiff:** Does this also have to do with the probability that there are so many others like Eyad A. that used to be lower-ranking, that used to be part of the system, and that people can, in that way, identify with him?

■ **Asser Khattab:** In a way, yes, because people differentiate between the ranks people are serving in, whether in the army or even in the secret police, especially when we were talking about people who volunteered, joined, or were conscripted before the war,

because it was something that people just did before regardless of political view. Because, while many people knew what the Syrian regime was before 2011, it was their regime. It was their country. That is what they have, that is what they have got, this is the army that exists and many would go serve because they have to.

Someone has to serve because there is this compulsory service. Some end up in the *mukhabarat* and some end up in the army. It was accepted by many defectors. Now, it goes back to the extent of crimes that the person is accused of having committed before they defected. This is always brought up in Anwar R.'s case. In that, his defection does not wipe clean every accusation that has been leveled against him. Whereas they look at Eyad A., well, some people look at Eyad A. as someone who could be honest, in a certain sense, about his story of defection and his trajectory.

■ **Fritz Streiff:** What did you hear from the people that really are quite happy about what happened in Koblenz last week?

■ **Asser Khattab:** The people who were quite happy about the verdict are also divided into people who were happy he got a verdict and a punishment, and people who were mad that the punishment was too short and was not harsh enough. In general, both think he is guilty and deserves to be punished. Of course, there are people who said they expected and hoped for the maximum sentence that could be given to someone like Eyad A. They were not satisfied with four and a half years.

He volunteered in the Syrian *mukhabarat*. Some said the Syrian army would have been a little bit different, but the *mukhabarat* has always been vicious and harmful. Whereas the army before the war did not have much to do with civilians directly, the *mukhabarat* is something else. He certainly must have done something that is bad, according to them, because you cannot serve in a place like Branch 251, or the state security in general, and not do very bad stuff. You must have condoned and participated in these crimes. They think that his role goes beyond arresting people and taking them, for example, to Branch 251 or to another prison. They think that he could have done much more. They would ask you, "What was he doing all these years serving here in the *mukhabarat*?"

■ **Fritz Streiff:** Yes, that is the thing about a court verdict, right? It is absolutely limited to the exact facts or the exact allegations. The

allegations were 35 counts, the court found 30 of those counts to have occurred, and then that is it. Of course, more happened. Of course, he was active all those other years as well. We do not know what else he may have done.

■ **Asser Khattab:** Speaking of the symbolism of this, and speaking of crimes against humanity and of these accusations, so many people, despite their discussions and thoughts about the verdict against Eyad A., are still thinking more about Anwar R. They were reminding each other that there is still the case of Anwar R. that is ongoing. Those Syrians who have been talking about the verdict, and who have been talking about Koblenz, and trying to follow it, whether researchers, or journalists, or ordinary people, they have been having these discussions about Eyad A., but also keeping in mind that there is this other big fish who we are still waiting to hear about.

This is something that some of those Syrians have said, along the lines of "Actually, I do not care that much about Eyad A. I am waiting to hear about Anwar R. because he is the person who is accused of more human rights violations, and who used to have more of a senior role in the Syrian *mukhabarat*." And this trial is still going on.

■ **Fritz Streiff:** The Eyad A. verdict of last week occurred within the framework of the trial against these two people, but it is its own case. Having said that, it does, of course, also serve as a direct precedent for the other case in this trial: the case against Anwar R. In the sense that if the court has now found that crimes against humanity occurred in this framework, and in this timeframe, and that Anwar R. was also the head of the investigation unit at this same branch, then it would be extremely surprising if the court did not come to the same conclusion in the case against Anwar R. If this happens, then I think the people that are looking at Anwar R.'s case will potentially be more satisfied.

■ **Asser Khattab:** After what I saw in the discussions, I would be inclined to imagine that when the verdict of Anwar R. comes, obviously, it is going to be a very big day for Syrians. I can imagine the verdict being discussed or debated in Syrian circles on whether it was just, or he could have also gotten harsher treatment. I guess we will always have people who will say he should have got more, especially Syrians who are used to what a person like Anwar is accused of having done in prisons. I can imagine we are going to see less sympathy when it comes to the verdict of Anwar R., on whom

there is more or less of an agreement in Syrian circles, as it seems to me.

■ **Fritz Streiff:** We will keep everybody updated on how the trial continues. I am personally very curious to see what this verdict means outside of Koblenz, for other cases in Germany, perhaps in Europe. In Germany, you have the case against that former military hospital doctor, Alaa M., which may go to trial soon, and other European jurisdictions may have cases in the making. It will be really interesting to see how the Koblenz verdict, this first one, will also be referred to or will play a role in those kinds of cases as well.

■ **Fritz Streiff:** Next time on Branch 251 we will again take a step back from the Koblenz trial, and try to put it into perspective.

■ **Asser Khattab:** There is a reason that the Koblenz trial is happening. There is a reason why it is very symbolic for so many Syrians around the world. It is not only what has been happening in the past decade in Syria, but what has been happening throughout decades in the country.

It is an important month for so many Syrians around the world: it has been 10 years since the Syrian revolution against President Bashar Al-Assad started, and so many are reflecting on it. So much of what happened in the past 10 years has led us to where we are now with the Koblenz trial, and with so many other paths to justice that are taking place. In the next episode, we are going to talk about this anniversary and what it means to Syrians, and try to set things in context.

EMPTY

CHAPTER

25

ANNIVERSARY

Season 2 | Episode 7 | March 19, 2021

This chapter, after much deliberation, focuses on the perspectives of Noor Hamadeh and Asser Khattab, who respectively speak about the role of the Syrian diaspora and the issue of return to Syria. The chapter concludes with stories from Syrians we collected in Koblenz right after the verdict in the case against Eyad A.

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Fritz Streiff: Things do not always go according to plan. In fact, they rarely do. I can tell you right off the bat that this episode you are hearing is not the episode we planned to make initially. Let me explain why. When we developed this podcast, the episode about the 10-year anniversary of the Syrian revolution was one of the first we knew we had to make. It sat at the top of our wish list before it moved to our episode planner and then to our production schedule. Content-wise, it had always been a fluid idea: maybe we would describe the very beginning of the revolution, or maybe we would go into geopolitics. Then we thought of drawing a direct line from the first protests in Daraa in 2011 to the Koblenz court of 2021 to explain how we got to where we are today, or maybe we should profile someone who organized the early protests and had to start a life elsewhere since then. As we were pitching ideas and developing and brainstorming, we felt that something just was not right. Our podcast Branch 251 has always had the ambition to empower Syrians, to amplify Syrian voices, and to be sure that our team reflected this philosophy.

While we deeply believe that this is the right thing to do, we also want to acknowledge that it means that we do not always have the distance necessary to write a script, develop an outline, and record narration. The truth is that the story of the Syrian revolution is dynamic, and it is current. It is something that some of our colleagues are living and experiencing every day. When this anniversary approached, this fact came into focus like it had not before. This anniversary has left Syrians all over the world to reflect on the last 10 years of their lives.

I recently listened in on a Clubhouse meeting on the topic of the Syrian revolution and memories of it. As I listened, I heard how Syrians in the diaspora exchange thoughts, memories, and quite a bit of pain. For anyone that was not touched by the Syrian revolution, it is impossible to know what that is like, but you do not have to know. Just trust that it is difficult enough to put all the thoughts and feelings that come with the anniversary into writing and narration for a podcast episode, and so we decided to do something different with this episode.

We asked Asser and Noor to simply sit down in front of a microphone and let their thoughts flow for a few minutes. They each chose a topic to discuss. What you are about to hear is their unscripted train of thought. You will first hear Noor. We asked her what role she thinks the Syrian diaspora will have to play in the next 10 years in telling the story of the Syrian people.

■ Noor Hamadeh: I actually think the Syrian diaspora will play a really big role in the Syrian story, the Syrian narrative, moving forward over the course of the next 10 years. First of all, I think one important thing is that what makes up the Syrian diaspora has changed so much in the last 10 years. Prior to 2011, when I think about the Syrian diaspora, I would think about Syrians who left Syria years ago and who have raised families abroad, and people who are Syrian but were born and raised abroad. This to me was the Syrian diaspora prior to 2011.

When I think now about what the Syrian diaspora encompasses, I think about all the types of people that I just mentioned, but I also think about Syrians who left post-2011, Syrians who had to flee the conflict, Syrians who were afraid for their lives and left the country. I think now the Syrian diaspora encompasses all of those people. It encompasses people who have never lived in Syria, but also people who lived their entire lives in Syria and now have only been outside of Syria for 5 years or 10 years maximum, but who very much lived under the Assad regime, who very much lived the conflict and experienced it throughout the country.

I think the diaspora has a really big role to play in telling the Syrian story moving forward because for so many of them, I think one really important element, is that the civil society space and the space for freedom of expression inside Syria, especially in government-held areas, is extremely limited. What that means is that there is limited

civil society or at least there are limited things that Syrian civil society can do safely. What that means is that the most vibrant and active civil society actors are outside of Syria. I think most of the advocacy efforts, most of the efforts to tell Syrian stories, to share experiences, to raise awareness around the world about what is happening in Syria, are efforts happening outside of Syria by Syrians outside of Syria.

To me, that is really important because I think one thing that has resulted from Syrians leaving the country, and from the revolution in the first place, is the opening up of space to be more vocal to have conversations that previously people were not willing to have, to be critical and think critically about things that previously people had not really questioned or were taught that they could not question. I think that is really, really important moving forward for Syrians and for thinking about the experiences that Syrians have had. I think this means that a lot of Syrians are looking at their past experiences and what the Syrian government and Assad regime has done in Syria through a different lens.

I also think that the revolution and the thinking behind the revolution and the demands of the revolution have also resulted in wider conversations about what freedom means and what rights are important, and has turned into opening up of greater conversations about a larger number of topics. I think that is really important for the Syrian narrative because it means that now people are really thinking critically about what has happened in the past and what is currently happening in a way that maybe they may not have been willing to speak about earlier.

Regarding the role of the Syrian diaspora in advocacy efforts, I think a lot of Syrians play a really important role in raising awareness and advocacy to their government representatives. I think for a lot of governments, the only real connection they have to what Syrians really want is through members of the diaspora who are reaching out to political actors, to policymakers, to share with them and represent Syrians, both inside Syria and outside Syria, based on who they are able to be in contact with, and who they have conversations with. I think that is really important for shaping the way that a lot of governments respond to Syria. Obviously, I think a lot of governments do not really respond to Syrians' demands and that is really unfortunate, but I still think that those conversations and those connections to political actors have been really important.

I also think the Syrian diaspora plays an important role in the political process, in the constitution drafting process. They have been involved in that, and I think it plays an important role because at the end of the day, even if someone is not living inside Syria, they still are Syrian and even Syrians who are part of the diaspora and have been their entire lives, they still are Syrians and they still have a connection to the country. I think they play a really important role when it comes to the constitution drafting process or international advocacy and efforts toward ensuring human rights in Syria in terms of raising awareness.

I think an important thing to keep in mind is that the Syrian diaspora is extremely diverse and so that also means they can play different roles. That includes people who come from illegal backgrounds, come from any other background, they can all play an important role in creating efforts toward justice, like the trial in Koblenz. I think things like that will be repeated in different countries and I think a big part of that will be because of the efforts of Syrians within the diaspora and their advocacy within the country that they are living in.

■ **Fritz Streiff:** Asser chose to discuss return, if he thinks it will ever be possible, and what this would look like.

■ **Asser Khattab:** To me, the question of return is a complicated yet a very important one, and should be addressed. I think that in the middle of all the claims and the talk of Syria being safe again and people being able to return, with some governments even in Europe pushing for people to go back to Syria or be sent back to Syria because it is safe, allegedly, for them to go back there, is very important to clarify that actually, most of the reasons that pushed people to leave in the first place and prevented them from returning until now are still present in Syria.

Even if your city, town, or village is not technically being bombarded at the moment, is not the scene of explosions and two-sided attacks, it still is a place where the *mukhabarat*, the secret police, are still scrutinizing everyone. They still keep their eye on every word that is being said or every action that is being done. People returning to Syria are being arrested at the border. They do not have to be a journalist, activist, or politician to be arrested. We never know the reasons for some people. The arrests, the detention, the torture, all of these things, they still exist.

Assad is still in power and people who have left as refugees are regarded as people who have less of a sense of patriotism than those who remained. The regime could even go further to accuse people of having committed treason, or having abandoned their country, or for men, in particular, for having not done the military service, which is also another reason why so many people have left. It was a conscientious decision that they would not want to serve in this army, not so much because of fear for their lives, as much as they did not want to be put in a position where they would have to fire and shoot at fellow Syrians and innocent civilians in order to protect the regime.

Returning is complicated. There is already talk of returning, even as a visit, being a privilege to some Syrians that the vast majority of those of us abroad do not have. I am sure that many people dream of the day they return. I personally am very nostalgic for some aspects of my life in Syria that I had to abandon quite abruptly and go abroad. I am sure that so many Syrians are the same. Some want to move back there and resume their lives there the moment they are able to, which for many people means the moment the regime has fallen and it is clearer what is going to replace it.

To others, it could be a little bit more complicated, because I know and I also understand that for so many Syrians, that country and their lifestyle, even before the revolution and the war, was so complicated, so full of challenges, so full of difficulties, that it has become quite difficult for them to separate what they feel toward their home, school, favorite streets and restaurants, and all the nice memories they have from the daily challenges they had to face there as Syrians under the police state and everything else that is wrong in Assad's Syria.

Many of them had decided never to go back again. Maybe they will change their minds. Some of them believe they might change their minds. Some are firmly saying, "I never want to go back to Syria, and I do not want my children to grow up in Syria, and I do not want my children to go to a Syrian school." Now, this is all a belief that Syria will remain the same, the education will remain the same, the situation will not change. We have to understand, I think, that it is a very traumatic experience for so many people, and they do not want to see it repeated even if some of the circumstances have changed in the country.

Returning for a visit would be great. Of course, everyone would be delighted to see the places they love and have missed so much, and the people they loved and miss so much. Even though for so many Syrians, almost everyone has left. Life there for so many people is tough, and I have not been able to find people who readily can answer that yes, they want to go back to Syria as soon as possible and settle there, and abandon whatever they have done in the past 10 years or less, in the case of many people as well in the West, or in neighboring countries, or wherever they are today.

■ **Fritz Streiff:** We would also like you to hear some Syrian stories that we collected in Koblenz right after the verdict in the case against Eyad A. They are a collage, a loose collection of impressions and thoughts. Some may answer questions, some may raise them.

■ **Male 1:** The main aspect that moved me today was the judge's description of the events of the revolution. She transported us way back to the beginning of the non-violent revolutionary movement, when we first came out as united Syrians in nonviolent gatherings and protests. She talked about the flowers, about the peaceful approach. She talked about the peaceful assemblies that were met with bullets, torture, arbitrary arrest, enforced disappearances, and even death. The president of the court walked us through all of these memories with her words.

I believe that a very important message was stated and presented today. There is a judicial system that brings justice through this trial, and the upcoming ones. This might even encourage other countries to walk the same path toward justice. The mentioning of Bashar Al-Assad specifically in this trial, the conversation about how he used the same methods as his father, Hafez Al-Assad, and how he followed in his footsteps by giving the security services complete authority to suppress protests. This was a significant point today, along with fixing this fact into a sentencing hearing for the first international trial. It was crucial.

■ **Male 2:** I wholly believe in the revolution. The revolution at its core is a concept and ideology. What has happened today, along with being a month away from celebrating the 10th anniversary of the revolution, presents a huge boost of hope for Syrians. This reassures them that no matter how long it takes, the revolution will triumph and the war criminals will all be dragged to court and will be prosecuted and brought to justice. This is a wonderful message

to receive a month before the anniversary. Every person who was frustrated by the world turning a blind eye to the massacres in Syria, they will receive a boost of hope today. Their optimism will verify lives. I am sure that people have started to renew their faith in the world and the judicial system, but we have to do our duty now. We have to present the judicial system with whatever is needed to prosecute these criminals.

Female: I have mixed feelings about it all and I think many Syrians are going through the same feeling. The most painful matter is that the various violations are still ongoing. Families of the hundreds of thousands of the forcibly disappeared still do not know anything about their people. The shelling is ongoing and there are still cases of enforced disappearances happening. Syrian and international organizations report monthly on enforced disappearances by the regime. Although I do want to acknowledge this moment and its importance in history, I still need to keep both feet on the ground. I need to be in touch with reality.

At this moment, my thoughts keep drifting back to every Syrian, everyone who is still within Syria's walls and the exhausting economic circumstances. Everyone dealing with the collapse of the Syrian currency. What does justice look like to them at this exact moment? I am privileged to be in Germany and to be witnessing this historical moment up close while people in Syria do not even have electricity or an Internet connection to follow along. They are exhausted living under a vicious machine that is crushing their souls every day. This trial is the least of their concerns. What is justice to them? Justice to people in Syria after those 10 years might just be being able to survive. It might be just making it to the end of the month to have enough money to buy fuel to keep them warm during the cold winter months.

EMPTY

CHAPTER

26

A CUP OF COFFEE

Season 2 | Episode 8 | April 2, 2021

A popular Syrian actress was invited for a "cup of coffee" in Branch 251. Years later, she is too afraid to testify in court about her strange encounter with Anwar R. Regarding the case, the motion to add sexual violence as a crime against humanity to the charges against Anwar R. is accepted.

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■ **Pauline Peek:** Our court reporter Hannah could not make it to a few sessions in Koblenz last month, so instead, we have a guest court reporter named Luna Watfa. After Luna's report, Noor and Asser will offer their thoughts on some of the things Luna told us.

■ **Luna Watfa:** I am Luna Wafta, a freelance journalist. I personally have attended all the court sessions to cover the Koblenz trial. For those of you who have been following the podcast, you might remember that I was a guest in the first season. I will tell you what happened during the last two court sessions.

On March 24, 2021, the day of the 66th session of the Koblenz trial, an investigator from the federal criminal police answered questions about the statement of a Syrian witness who was supposed to come and give her testimony herself in court. However, the witness emailed the judicial panel that she is not in a good mental state to personally attend the court, and that she fears for her family members who are currently in Syria, especially after what happened with other witnesses and the threats their families received.

The witness, a well-known Syrian actress and director, was arrested at the beginning of the revolution. The accused, Anwar R., allegedly summoned her to his office after she arrived at Al-Khatib Branch. According to what she described, he was respectful to her. He served her coffee and praised her work, telling her how much he and his family liked her work. The witness testimony read out by the officer said that she was very scared, but at the same time she had a feeling

that Anwar R. wanted to help her. This, of course, was a very strange position to be in, because, on the other hand, he was representing the regime. Does this mean that her testimony was in favor of the accused Anwar R.?

In order to answer this question, we must clarify an important point. Usually, when the criminal police investigator comes to recount the testimony of a witness who is unable to attend the session, it is only limited to what the witnesses mentioned in their statements to the criminal police. This has an important consequence. With the investigator on the stand instead of the witness, the judges and the defense lawyers will not be able to ask many questions. After all, the person they are asking the questions to is not actually the witness. The investigator cannot answer something that is not included in the testimony. They cannot really speak for that witness. For this reason, it is extremely difficult to determine what the witness meant when she said she thought Anwar R. was trying to help. The judges cannot really ask her to clarify her position toward Anwar R: is it positive about him and speaking in his defense or not? What is certain is that she talked about her detention experience and the fear in which she lived because of that, whether or not her experience with Anwar R. was overall positive. She did not want to go through the same experience again. The fear of detention was the reason behind her leaving Syria. That was the 66th session.

Going back to the 65th session held on March 17, 2021, a witness and plaintiff for civil rights submitted his testimony to the panel of judges. The Syrian witness said he was arrested on March 31, 2012, in Branch 40 and was later transferred to the Al-Khatib Branch. This witness talked about being tortured during his interrogation and about the poor conditions inside the prison, but he also mentioned methods of torture that he either saw or heard about from other detainees. Among these methods was beating or electric shocks directed at the genitals. Why is this detail important? Because this brings us to the end of the session. The judges stated that it is now possible to add sexual violence to the set of allegations submitted, according to Article 7 of the German Code of Crimes Against International Law. In order to understand the importance of the judge's words, about adding sexual violence to the group of charges, it is necessary to go back in time to know what happened before this session.

As we previously mentioned, at the 45th session on November 19, 2020, a request was submitted by the lawyers Patrick Kroker and

Sebastian Scharmer on behalf of eight plaintiffs in this case. The podcast team has made an entire episode on sexual and gender-based violence in security branches and prisons under the title of *They Pay Twice*. It became quite evident to the lawyers that sexual assault is systematic in Syria, and it is occurring on a daily basis in the branches of the Syria intelligence. In their opinion, it should be considered a crime against humanity in this case. Based on this, the lawyers asked the judges to consider these charges as crimes against humanity in this case file, and not as individual crimes. They emphasized the importance of considering them as main charges as crimes against humanity when issuing their verdict, given that the accused, Anwar R., was the head of the investigation department at Al-Khatib Branch. In this capacity, he would be responsible for the occurrence of these assaults in his department. And not only for the individual charges of rape and sexual harassment, but rather for the crime of sexual assault as a systematic crime against humanity.

The public prosecutor's response to the request of the lawyers took place in the 51st session held on December 16, 2020, in which they said the federal public prosecution rejects the submitted requests and remains in its position and adheres to what was said in the indictment. For them, there was nothing that proves the extension of systematic violence against Syrian civilians to include the sexual aspect, according to statements that have been made so far and according to the witnesses. Thus, for the public prosecutor's office, there was no need to add sexual violence to the list of indictments and press charges against the accused.

After the public prosecutor's response, it was up to the judges to accept or reject the request. This is what happened during the 65th session, which was held on March 17, 2021. Herein lies the importance of the judges' response. Why? Because sexual violence is usually an individual crime, not a systematic one, which is an important prerequisite for labeling something a crime against humanity. Now, based on universal jurisdiction, for the first time in Germany it will be possible to consider sexual violence a crime against humanity, according to Article 7, paragraph seven of the German Code of Crime Against International Law.

To clarify, Article 7 stresses the following: for the purpose of the statute, crimes against humanity mean any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population with knowledge of the

attack. The seventh paragraph states, "Rape, sexual slavery, enforced prostitution, enforced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity."

Should the court decide this in the verdict against Anwar R.? This decision, this verdict is expected to be handed down sometime in the fall.

■ Noor Hamadeh: I think it is important to note that the actress and movie director who is a witness did not testify in person. I think this is really huge. Obviously, first of all, the fact that she did not feel safe going to the court and testifying highlights something that people have brought up several times before, which is that the court has not necessarily been very protective of witnesses, considering the threats to their safety or their family's safety when they do testify in the court. I think it is significant that there was not a way the court could make her feel safe to testify in person. I also think it is significant because testimony, when in person, in large part comes through the questions that are being asked. Not just the statement that is made, but also questions by her own lawyers. Then also questions in cross-examination by the defense. Those are all really important ways of clarifying her testimony. That is already clear in what Luna said about some of the questions that came up about her testimony and the light that she was painting Anwar R. in. I also think something Luna said that was important is the point the witness made about Anwar R. seemingly being nice to her and offering her coffee.

I think part of why, at least in this case, this is happening is because she does play a significant role in Syrian society, as someone who is an actress, a director, and a public figure to a certain extent. I can imagine he was trying to paint himself in a good light in front of her without actually having to do anything to demonstrate that he is, in fact, someone who is there to look out for her or protect her in any way. The outcome was that she was detained and she did suffer in detention. Regardless of the way Anwar R. acted with her and the way he treated her, at the end of the day she did have to face detention. Anwar R.'s role did play a part in that, right? He played a decision-making role that led her to detention. Regardless of the light that she is painting him in, regardless of the way he treated her, that result still happened. He was still involved in that, unless there is a way to prove that he was not. Considering his role in Branch 251, he did play a role in her detention.

■ **Asser Khattab:** Actually, very interestingly, I have heard several stories from Syrian detention survivors and Syrians in general about their visits to the *mukhabarat* branches, as they call it in Syria, to "get a cup of coffee." Which is basically, I mean, it could be an interrogation, could be an investigation, could be detention and could lead to much worse things. Usually they use this code term "getting a cup of coffee" at the *mukhabarat* branches. Some of those people have either told me or told the media, I have seen reports about it, that there is always this Syrian official in the secret police or in the intelligence, who is trying to seem like he is an understanding person. He is a reasonable person who wants to hear the other person out or hear what the demands are. For example, if they had criticized the president, regime, or government, is there anything that can be fixed? Is there any common ground that can be reached? Stories like this happen all the time; they have been reported.

It is always someone like Anwar R., who is a senior official, who is trying to portray himself in a different way, a way that is more civilized, maybe a way that is more humane. The same experience also, as you said Noor, and as we have seen from the story of this witness, it ends up not being very civilized and not being very friendly. It almost always turns into enforced disappearance or detention, torture, abuse, sexual abuse, and sometimes even death or murder in prison under torture. Whatever they are trying to do by seeming nice or helpful at least is not in line with other practices that are happening in the same prisons, in the same branches.

■ **Noor Hamadeh:** Luna also said that the court approved the motion to have sexual and gender-based violence included as a crime against humanity, which I think is huge. For one, this is huge because it is a crime that has been used in a widespread and systematic manner in the Syrian context. I think there is no denying that. We go into detail about this in our episode *They Pay Twice*. The second reason why it is huge is because generally this is a crime that has been difficult to prosecute in the context of crimes against humanity, not just in the Syrian context. It is something that international lawyers have really struggled with.

I am hoping that if Anwar R. is found guilty of the crime against humanity of sexual and gender-based violence, in future cases, lawyers can turn to this case and look at what it was that made the court decide the charge of crimes against humanity should apply to sexual and gender-based violence. That can be used as evidence or

presented to suggest that, in future cases, sexual violence can also be considered a crime against humanity based on the same degree of evidence or the same types of crimes or events being perpetrated.

Asser, you said you have been speaking with or seeing a lot from Syrians on social media about the case. I am wondering if you have seen anything relating to people's views or reactions to the crimes against humanity charge of sexual and gender-based violence?

■ **Asser Khattab:** No, I do not think it was ever brought up in these conversations, at least not the ones that I was privy to. They are really not getting into the accusations or the procedures, as much as the questions of is Eyad A. really guilty and should we forgive him because he defected? Either with Anwar R. or Eyad A., they have not really been discussing the actual accusations or crimes as much as the broader context and whether this is helpful or not helpful, or will this have the effect or stuff like this.

I was wondering what stands out the most for you from what we have heard from Luna?

■ **Noor Hamadeh:** Honestly, for me, I think what keeps coming to the back of my mind is the fact that we had a witness who chose to provide her testimony through a written statement. Obviously, I can completely understand the safety concerns that she had and the mental health concerns that came with such a trial. I guess what I am trying to say is that it is a shame that she was not able to provide the full testimony. It is a shame that this type of trial obviously results in the types of mental health and safety concerns she has which result in that kind of thing. That is an unfortunate reality of this case. I would have been really interested to hear more from her.

■ **Asser Khattab:** Yes, I agree. We could have easily witnessed a debate in the courtroom about some of those statements that have been made. Some follow-up questions could have contributed to clarify a little bit more of the situation and maybe help the judges understand how her experience could fit into the larger scheme of the accusations leveled against Anwar R. It is such a pity.

I agree with you, Noor, but it is also a reminder that this is not a thing like the films, where you can just go to the courtroom and deliver a passionate statement. Whenever that is possible, of course, it is welcomed, but we are talking in realistic terms where people have

to worry about their mental health and have to worry about their relatives and their family and loved ones. The fact that this is not possible, even for so many Syrians who are supposedly safe because they are outside of Syria, it turns out that actually, maybe they are not. It is still very complicated to put themselves at such a risk, even though this could help the course of the trial.

■ **Noor Hamadeh:** Exactly. This is a significant trial from a justice and accountability, and an international law perspective. It is also very significant for the people involved, for the witnesses. If they are having to reopen old wounds, that is absolutely not an easy thing to do.

EMPTY

CHAPTER

27

FACTORY OF FEAR

Season 2 | Episode 9 | April 16, 2021

In this chapter, Fritz Streiff and Asser Khattab explore the historical ties between Germany's intelligence services and Syria's "mukhabarat." How did they come about and what did Syria learn from Germany? How does Koblenz fit into this?

EMPTY

■ **Fritz Streiff:** Germany, the country that for the first time put Syrian regime officials on criminal trial, has historical ties with Syria. Those ties include some, well, let us say from a historical perspective, "interesting episodes." That is what we want to talk about today.

During the reading of the oral verdict against Eyad A. back in February, presiding Judge Kerber emphasized the role of the *mukhabarat* in the structure behind the crimes against humanity that the court found to have taken place. The *mukhabarat*. We have heard this term so often now. Let us start with that, Asser. What does *mukhabarat* actually mean? And is it specifically a Syrian term?

■ **Asser Khattab:** Well, no. The term itself is used widely in Arabic and it describes the same thing in other Arab countries. Namely, the intelligence services. It has a very similar connotation in those countries, but yes, in another way, the *mukhabarat*, as we have used the term on this podcast, and more generally in the context of this trial, is very much a Syrian story.

Unlike what many people think, the roots of the police state in the country do not lie in the 2011 revolution. It was not invented by Bashar Al-Assad when he came to power after his father's death in 2000 either. Even during his father Hafez Al-Assad's three-decade reign over the country from 1970 to 2000, the *mukhabarat* was not new. It had been around for a long time.

■ **Fritz Streiff:** The era of the Syrian police state, although it has

continued to change over the decades, can be traced back to the mid-1950s. It is widely believed that the assassination of prominent Syrian army general Adnan Al-Malki in 1955 was used to unleash the secret police onto the Syrian people and allow them to start dominating the lives of Syrians. From that moment, the power and cruelty of the secret police kept steadily increasing.

■ **Asser Khattab:** In 1963, the Arab Socialist Baath Party came to power. The party stood for a highly ideological mix of socialist anti-imperialist and pan-Arab nationalist principles. With them in power, the dominance of the *mukhabarat* continued to increase. The incoming Baath government made the secret police rise above the state itself and its establishments.

The military and security institutions became bigger and more powerful than the state itself, rather than being a powerful component of it. The state allowed the secret police to become so big because the secret police was really the state's secret weapon. It helped them hold onto power. When Hafez Al-Assad came to power in 1970, the *mukhabarat* as we know it today started to take shape.

■ **Fritz Streiff:** In the verdict against Eyad A., the Koblenz Court referred to the *mukhabarat* as "an essential element of the Assad rule, which had as its goal the decomposition of society and a climate of mistrust." That word decomposition is the most accurate translation of the German word that Judge Kerber used, which is *Zersetzung*. That word originates from its use by the East German Intelligence Services, the *Stasi*. Decomposition is what the *Stasi* called a psychological warfare technique it used against its own people. Judge Kerber used it in comparison with how the *mukhabarat* works. From the early days of the Hafez Al-Assad rule, torture, both physical and mental, was administered by the *mukhabarat* to reach those goals.

■ **Asser Khattab:** We spoke to Jaber Al-Baker, who is a Syrian journalist and researcher who has worked extensively on the history and present of the Syrian *mukhabarat* and its complexities.

■ **Jaber Baker:** The Syrian regime is a nebulous regime, meaning that it is everywhere, but its presence is not tangible. It is more liquid than solid and enters all the junctions of the Syrian state's establishment without it being tangible.

■ **Asser Khattab:** There are numerous *mukhabarat* branches in Syria. Their differences and similarities cannot be laid out clearly because the nature of their remit is not quite specified to start with. Some of those branches are more military and linked to the army, such as the Military Security Branch, which is one of the most notorious ones and does not limit its work to military affairs at all. There are also branches that are supposedly more civilian, such as the General Intelligence, more commonly known as the State Intelligence, which is most known to Syrian civilians as it has a major role in policing them. This is the very intelligence apparatus that the Al-Khatib Branch is part of, and where both Anwar R. and Eyad A. worked.

Another major division is the Air Force Intelligence. While the name might prompt one to think that this branch only has to do with aerial intelligence gathering, their influence goes far beyond that. This is all part of the nebulous nature of the Syrian regime, as Jaber puts it. The names imply different jurisdictions and areas of interest, but they all have the shared goal of keeping the regime in power, and they could all crack down on people's basic rights in similar ways as Jaber explained to us. There is a kind of competition between them, which helps the Syrian regime control them better and makes them more efficient.

■ **Jaber Baker:** The anchors of the security operators were often overlooked by Syrians who considered that it has a purely military duty. But, with time and with the Caesar photos and other files that are emerging, we are discovering that the military police has a very important role, like that of oil and engines. The Syrian security operators and the *mukhabarat* all have a specific task: to keep the regime in power. This requires these apparatuses to infiltrate every single detail of life in Syria, whether in military or civilian circles. It goes from having collaborators who are street vendors, to appointing ministers, diplomats, and ambassadors. There is a kind of competition between those apparatuses to prove their loyalty to the regime, which is what allows them to exist.

■ **Fritz Streiff:** According to the Koblenz court's first verdict, Hafez's son Bashar took over the existing *mukhabarat* structures and used them to his advantage. The presiding judge said, "The *mukhabarat* played a decisive role in oppressing the uprising after it started in March 2011." In fact, Bashar Al-Assad, "used the *mukhabarat* to suppress and annihilate the uprising."

■ **Jaber Baker:** This duty of the *mukhabarat* to infiltrate civilian life is part of the state's socialized terrorization that the regime has practiced since the 1970s against the Syrian people in order to perpetuate its existence, because the Syrian society is vibrant and resistant.

■ **Fritz Streiff:** The court learned from Syrian expert witnesses during the trial that the main goal of the torture practice of the *mukhabarat* before the uprising was to get information for general infiltration and intimidation purposes. Then, in response to the uprising and ever since, the main goal is direct intimidation, punishment, and killing.

■ **Asser Khattab:** Those are the words of the court in Koblenz, Germany. What is interesting though, is that Germany has historic ties to this intelligence service called the *mukhabarat*. Ties that go back at least to the post-World War II years, when former Nazi officials came to Syria as intelligence advisors. A different Germany, but Germany, nevertheless.

■ **Fritz Streiff:** After the fall of Nazi Germany, many former officials in the Hitler regime tried to flee from Germany. They wanted to hide their identities and establish new and low-key lives in other countries. Many famously relocated to countries in Latin America, but some of them actually ended up in Syria, where they were granted new lives and protection. Why, though? Why would anyone protect these people who had had so much blood on their hands? We asked Noura Chalati about this. Noura is a PhD candidate at Freie Universität Berlin and a research fellow at Leibniz-Zentrum Moderner Orient in Berlin.

■ **Noura Chalati:** Declassified CIA documents talk about German military advisors in Syria who were former Nazis and served in the Schutzstaffel SS. The main timeframe we are talking about here is from 1948 to 1954. During that time, several hundred officers came to Syria to modernize the Syrian army and also got involved in reorganizing Syrian military intelligence. These officers were mainly recruited in Germany, Austria, or Switzerland, or from prisoner of war camps in Italy or Egypt, it seems. For their travel, they were provided with visas and travel documents.

Syria was considered a convenient destination because after World War II, many of these officials were both jobless and afraid of potential

prosecution, and thus, Syria provided a welcome safe haven and a lucrative place to work in.

■ **Asser Khattab:** Former high-ranking Nazi officials could find refuge in Syria in exchange for advice on how to improve Syria's intelligence services, Syria's *mukhabarat*. Perhaps the most famous of such cases is that of Alois Brunner. Brunner is said to have been the right hand of Adolf Eichmann. He was in charge of a concentration camp in Darcy during the occupation of France. Brunner is accused of having caused the death of hundreds of thousands of Jews during World War II.

Brunner settled in Damascus where he was allegedly known as Dr. Fischer. He reportedly provided consultations to the Syrian regime on the *mukhabarat* sector, but Brunner was not as safe as he might have hoped. While he was consulting with the Syrian regime, the Israelis apparently tried to have him killed through their intelligence services the Mossad. They sent him a letter bomb that exploded in his hands and although it caused him considerable damage, it did not kill him.

■ **Fritz Streiff:** Brunner was not the only Nazi that relocated to Syria. A declassified CIA document from November 1948 states that a total of at least 235 former Nazis came to Syria.

■ **Asser Khattab:** It is impossible to say how influential former Nazi officials advising the Syrian intelligence services really were. The declassified CIA documents speak of a timeframe of former Nazi officials in Syria between 1948 and 1954, but that is not where the story of German intelligence advisors in Syria stops. According to Jaber, detention survivors' testimonies from the 1980s included them saying they heard people speaking in German in prisons such as the Palmyra prison.

■ **Fritz Streiff:** Who were these Germans in these Syrian prisons in the 1980s?

■ **Noura Chalati:** In 1963, there was a coup in Syria that brought the Baath party to power. There was a change in policy, or there was a change in ideological direction. The *Stasi* involvement in Syria started before Hafez Al-Assad came to power. The first formal cooperation request that I know of is from 1966. It was a letter from the head of foreign intelligence in the GDR, Markus Wolf, to his superior, Erich

Mielke, that says the Syrian Interior Ministry was to get in contact with the *Stasi* because the Syrians were very interested in training their political police.

■ **Asser Khattab:** When political landscapes change, new alliances or at least new relationships can be formed. That was the case between the newly founded East German State and the new Syria after the coups in the 1950s and 1960s.

■ **Fritz Streiff:** We are now at the beginning of the Cold War, a highly politically-tense period in modern history, and of course, the age of spies and intelligence. The world was basically divided into two blocs that stood diametrically opposed to one another. The East German GDR State with its intelligence services was a key member of the Communist Bloc, and Syria was part of the Non-Aligned Movement supposedly between the Capitalist West and the Communist East.

■ **Asser Khattab:** That did not keep these two states from interacting with each other, especially the East German Intelligence Service, the *Stasi*, and its Syrian counterpart, the *mukhabarat*.

■ **Noura Chalati:** Mostly the cooperation took shape in mutually-sent delegations, exchanges of students, and the training of personnel. The purpose of these exchanges was to learn from each other, especially about the functioning and the organizational setup, mostly of the East German institutions. As far as I can say, most requests for cooperation or exchanges came from the Syrian side. Surely, during that time personnel relations were established during these frequent visits and exchanges. Occasionally, I do find some very detailed minutes of dinner conversations and that is always quite fun to read. You would not imagine how drunk all of these intelligence officers got all the time.

■ **Fritz Streiff:** After the hangovers passed, the gathered intelligence was put to work. The *mukhabarat* started using the techniques and methods they learned from the *Stasi*, not just on Syrians in Syria. Noura found documents showing that Syrians living in East Germany at the time were also followed and surveyed by the *mukhabarat*, including through bugging devices in their homes.

■ **Asser Khattab:** Inside Syria, the *mukhabarat* quickly started using similar techniques on dissidents, but not just dissidents. Going back to Koblenz again, as presiding judge Kerber noted

when reading out the verdict against Eyad A., the Assad rule started employing techniques to sow a general climate of mistrust with the aim of disintegrating society.

■ **Noura Chalati:** In my comparative analysis of the *Stasi* and the *mukhabarat*, it is very interesting to see how both agencies used extensive surveillance mechanisms and eavesdropping monitoring of the civilian population, and how are these techniques and these mechanisms were very similar within both agencies. This is definitely something that the Koblenz trial also brings to light. It is one important aspect where I see similarities between my work and what comes to light in the Koblenz trial. There is a lot of information about how the culture of fear influences individual activities, individual practices, individual behavior, and how this leads to self-discipline, when there is the possibility that someone is listening or watching.

■ **Fritz Streiff:** Much of this was known already, but the Koblenz trial and especially the verdict against Eyad A. really made it clear again, this central role that the *mukhabarat* played and still plays in instilling fear in Syrians and how people start self-disciplining, self-censoring in reaction to that.

■ **Noura Chalati:** One other thing that I am thinking about now with regard to the Koblenz trial is that of bureaucracy. What I see in the relations is that they have been very bureaucratic, and not only have the relations been very bureaucratic with lots of minutes and protocols and paperwork and so on, but also the topic of stipulations has been bureaucratic. The Syrian side was very interested in learning about bureaucratic structures, the bureaucratic apparatus in the GDR. For example, I have one document that states that the Syrian Intelligence was interested in learning from the *Stasi* about population registers and how the *Stasi* collects and keeps and maintains information about the population. Interestingly, the *Stasi* was not willing to pass on this program, because they said it would take too much effort, time, and money to reorganize or to rebuild that program in a way that the Syrians could use. I think this is already an interesting hint at what the Syrians were interested in.

■ **Fritz Streiff:** We learned from Noura that *Stasi-mukhabarat* relations ended around the mid-1980s. Both states were in huge economic crises at the time and apparently the Syrians were unable to settle certain bills with East Germany. Then, something remarkable happened that solved this problem in a rather extreme way. The East

German State ceased to exist shortly after the fall of the Berlin Wall. All the records and files about this relationship went into the archives for us to now study and learn from. As Carl Sagan said: "You have to know the past to understand the present."

■ **Asser Khattab:** That is right. From Jaber and Noura's accounts, we learned that the *mukhabarat* has had input over decades from German sources, individuals, and institutions that are no longer part of the modern German state, from a different period in international relations and relations between intelligence services.

■ **Fritz Streiff:** What remains, though, is that some of the key ways in which the *mukhabarat* oppresses and controls its own people seem to, at least in part, originate from German teachings. The bureaucracy, the eavesdropping on your own people, the structure.

■ **Asser Khattab:** And so, just like many Germans were scared of the Gestapo, just like many East Germans were scared of the *Stasi*, the Syrian people are afraid of *mukhabarat*. There is one central element to all of this in terms of what this produces among people, and that is fear.

■ **Fritz Streiff:** It seems this fear is absolutely central to the workings of these intelligence services that we heard about today. It is both a method and a goal. Teaching the power of fear is how they influenced each other and learned from each other, creating a culture of fear to control the population and secure the tight grip on dictatorial power.

CHARACTER WITNESSES

Season 2 | Episode 10 | April 30, 2021

As the trial against Anwar R. continues, the proceedings have focused on his alleged contributions to the systematic violence in Syria. What was his role within the mukhabarat exactly? In this last court update of the season, Hannah El-Hitami tells us about two ex-detainees who detailed their personal experience with Anwar R. during their time in the notorious Branch 251.

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■ **Asser Khattab:** The Koblenz trial against Anwar R. continues. During the last sessions, the judges heard from witnesses that had personal encounters with him.

■ **Hannah El-Hitami:** As you know, Eyad A., the lower-ranking of the two defendants, was sentenced at the end of February to four and a half years in prison for aiding and abetting crimes against humanity. Since then, the trial against Anwar R. has continued separately and is now more focused on him personally.

Last year, the judges heard a lot of witnesses who talked about the general situation in Syria and the systematic violence against peaceful protestors and political prisoners. Evidence such as the Caesar photos, as well as testimonies on the general prison conditions or the structure of the secret services, were relevant for the cases against both Eyad A. and Anwar R. They were needed to establish the framework in which both defendants acted, which has been defined as a widespread and systematic attack against the civilian population. Meaning crimes against humanity.

Now that Anwar R. is the only defendant, it is time to find out what his personal role and part in these crimes was, and how he was involved in torture and killings at Branch 251. We have started hearing more testimonies that directly concern him, and that will continue during the next weeks and months. Two witnesses we heard in April had personal encounters with Anwar R. in Syria. They saw him more than once, and they recognized him once again in the courtroom. Both

witnesses were joint plaintiffs, which means they are civilians who joined the public prosecutor in the indictment because they are themselves aggrieved parties. Meaning victims or families of victims of the crimes.

One of them was a Syrian journalist who was detained in March 2011 and spent almost two weeks in Al-Khatib Branch. He said he had seen Anwar R. working as a secret service officer at several protests in Damascus that he had participated in. Anwar R. was observing the protests in his capacity as an officer. The witness described one situation at a protest where he tried to help his friends who were about to be arrested. For that, Anwar R. punched him in the face, according to this testimony.

Then, a while later, at the funeral of a famous Syrian film director named Omar Amiralay, this same witness was filming the funeral procession and he recognized Anwar R. in the crowd once again as a security officer. He took a picture of him that he saved on his laptop. He said in court that he hoped at that moment that he could use this photo one day to hold the officer accountable who had punched him on an earlier occasion. Indeed, Anwar R. is being held accountable today, but this photo that he was talking about unfortunately does not exist anymore. It might have been a very helpful piece of evidence, but it was taken from the witness when he was arrested at his home and taken to the Al-Khatib Branch a few weeks later. It seems he was arrested for his general activity in anti-regime protests.

Once he arrived at the branch, the officers looked at this laptop and he got into even more trouble for having that photo on his computer of the person who he identified as Anwar R. He was interrogated and beaten so heavily that he said he could only crawl back to his cell afterward. He said that during one of his interrogations, Anwar R. was in the room and that he questioned him, and that once again, he punched him.

Anwar R.'s defense lawyers argued that this could not be true because Anwar R.'s job was not to surveil protests. Therefore, the witness could not have seen him on the streets before his arrest. The claimant must have been a different officer that he encountered and that he photographed. They said their client only worked in the office, and they added that Anwar R. did not even have the kind of personality to punch someone in the face.

The week after this journalist's testimony, we heard one of the until-now quiet and few female witnesses at Koblenz. She was detained with her mother in Al-Khatib Branch in May 2012. At this time, she already knew Anwar R. because one year before, her sister who is politically active had been arrested in Al-Khatib Branch as well. The witness had gone with her parents to the branch at the time to try and get her sister released. They were actually able to meet the sister in Anwar R.'s office.

According to the witness, her sister's headscarf was bloody and her face was swollen and bruised when Anwar R. had her brought into the office. The witness also described how her father asked Anwar R. if they could take her sister home, and he answered that they would keep her for a few days to educate her.

He was cold as ice, the witness said in court, while Anwar R. was sitting just a few meters away from her and taking notes about what she was saying. This situation with her sister was only her first encounter with Anwar R., because one year later the witness herself was arrested at a protest, and she was also taken to Al-Khatib Branch. There, she asked Anwar R. for help because he was the only person she knew in the branch.

She had spent several days in a solitary cell, and she said she was about to lose her mind there. On top of that, she had been sexually abused by one of the guards. At this moment, all she wanted was to return to the communal cell with the other women, and she hoped that Anwar R. would grant her this one wish. According to her testimony, he did not, and she was returned to the solitary cell alone.

This witness was the first one who was accompanied to the Koblenz courtroom by a psychosocial trial assistant. This is actually the right of all victims, and it can be very helpful when they talk about their traumatic memories. In this case, the assistant sat next to the witness, kept her hand on her shoulder, and supported her when she started crying during the hardest parts of her testimony: when she was talking about the sexual abuse she experienced and about how guilty she had felt that her mother had been arrested with her.

Both of these witnesses were mentioned by Anwar R. in the statement he gave in court in May 2020, but he told a different story about them. He said the first witness, the journalist, must have confused him because Anwar R. never met him and never left the branch to

observe any protests. Regarding the female witness, Anwar R. reacted to her testimony with a statement that was read by his lawyer on the second day of her hearing. In it, he claimed he did interrogate her sister, but he never hurt her and that he even stepped in when she was being beaten by officers from another branch.

He said he did not recall any personal encounter with the witness herself, or her asking him for help during her own detention. But he claimed that she would have never done that if her sister had had any bad experiences with him before. Anwar R. claimed that the fact she turned to him for help proved she had not heard anything negative about him before.

During the next few weeks, we may hear even more witnesses who have had personal experiences with defendant Anwar R. Unfortunately, several witnesses have informed the court that they will not give their testimonies as planned. Some said they feared for their family's safety, and others claimed they had other personal reasons for not attending. Those witnesses who do not live in Germany are not obliged to appear in court when they are summoned. Therefore, several hearings have been canceled, but the schedule throughout summer is still quite full.

Nonetheless, the defense complained these cancellations were unnecessarily prolonging the trial and thereby prolonging their client's pre-trial detention. The head judge responded that he could not really do much about that, and said that compared to trials of a similar size in other courts, this one was actually running pretty smoothly.

■ **Asser Khattab:** I think it is very interesting how the testimonies we heard could place Anwar. They could remember him in his office, outside in a public place, in a demonstration or protest event, and they could describe his demeanor, what he said and how he acted in general. How valuable do you think this type of testimony is?

■ **Noor Hamadeh:** I think it is really interesting that each of the witnesses had encounters with him before their own detention and they have descriptions of what his demeanor was like before they were detained. I think this testimony is valuable because, like you said, it really speaks to his character, especially the second witness speaking about how cold he was when she and her family went to retrieve her sister, and the way he acted then. I think that alone says

a lot about what kind of person he is, what role he played within the *mukhabarat* system, and how complicit he was within that.

I also think the testimony placing him at the protest is significant because it demonstrates a more active role in the abuses that he is accused of being a part of. Obviously, whether or not he was at the protests, if he is guilty of the crimes he was accused of, he still played an active role, but placing him at the protest places him in even more of an active role, and I think that is significant.

Asser Khattab: I can see the complexity of this situation because when I was listening to Hannah describe the first part of the first testimony, I also asked myself, "Wait, what is Anwar R. doing in the protest or in all of these outside events, because he should be in his office somewhere. He is a senior officer."

I could see how his defense could use this argument, but we have also heard so many stories about the Syrian *mukhabarat* and how some of those officers were actively involved, not just in a bureaucratic way. One example is Eyad A.'s famous story that he was given the command directly by Hafez Makhoul to shoot at demonstrators. This shows there are big names that could be actively present in those places. I could see how this could introduce some arguments between the defendants and the witnesses and the judges in the court.

Noor Hamadeh: Yes, definitely. I think just because his position was a desk job does not mean he could not be on the ground at protests as well. Another thing that I thought was significant in the defense's and Anwar R.'s testimony was his response to the second witness's testimony, saying that if he had been so cold and if he had harmed her sister, then she would not have asked for his help the second time. I think that statement from Anwar R. really demonstrates a lack of understanding of the desperation that she probably felt in that moment. When she was in detention, when she was being tortured, when she was in solitary confinement, she must have been so desperate. I can imagine that even if Anwar R. was cold in the past, even if she knew he had harmed her sister, I can understand that just knowing him in her mind would give her the hope that maybe he could help her. I think that statement coming from Anwar R. really demonstrates a lack of understanding of the type of desperation someone in her position might have.

■ **Asser Khattab:** Noor, you referred to the mental and psychological pressure that comes from having to testify in court and relive all of these circumstances. Thinking about this, it does not really surprise me to hear how several people who initially were supposed to testify in court, did not do so after all or may change their minds. Most likely this is after considering the threat this could do to them, to their family, to their loved ones, to the damage that it could do to them also to relive these difficult times.

It also brings to my mind how we heard about the psychological trial assistant. I am personally hearing about this for the first time. I do not know about you Noor, but it seems quite strange that this is only coming up now. I do hope that people had known about this, had information about this because we know that access to information, given language barriers and other factors as well, could have been a problem.

■ **Noor Hamadeh:** I had the same thought. This is the first time I am hearing about this kind of support to witnesses during the trial. My initial thought was that she may have been the first witness to request that, but I also think a big problem here is that this could have been a service that many witnesses were not aware of. I think this is something that has existed, but witnesses just did not realize they could use this kind of support. I think it is important for the court to make sure witnesses are aware that this is available to them.

It is interesting that the second witness met Anwar R. two times, the first time going with her family to try and retrieve her sister from the detention center, and the second time when she actually was detained at Branch 251. As far as I know, this was a relatively common practice for family members to try and retrieve family members from detention centers.

■ **Asser Khattab:** Yes, these are stories that I have been hearing and reading about and discussing since before the Syrian revolution started in 2011. It has always been one of the most common ways to get someone out of prison. The *mukhabarat* know it, and they use that. Sometimes it resembles a kidnapping the way we hear about it, because they could know this family is capable of paying a certain amount of money to get their relative or family member or loved one out of jail. At the same time, the family of the person who has been detained or forcibly disappeared knows that they will have to put in so much money and use so many connections. First to just be able

to locate where the person is. Are they being held by the Air Force Intelligence, the State Intelligence, the State Security? Then, to try to push for the person's release, which in Syria and given the absence of the rule of law altogether, paying is one of the most effective ways to get someone out. Sometimes there is not even a sentence to wait for someone. There is no real accusation, so bribes from family members have always been one of the main ways to get someone out, as far as I have heard and read.

■ **Noor Hamadeh:** I think you are right, and I would say this has also become a systematic practice. As you said, people are not just paying bribes to get their family members out, they are also paying bribes to just know where they are. For so many people, they disappeared, and it is not clear where they are being held. Even aside from that, people are also paying just to visit them.

A lot of times, as much as people pay to find out where people are or to have their family members released, sometimes these requests are not even met. They make the payments, which often is large sums of money, and they do not end up getting information about where their family member is or they do not get to visit them or the family member. They are given an excuse for why the family member is not released, and they are asked for more money. This results in a huge exploitation of the detainee's family members as well, which is a huge problem. All in all, I think this is a really significant and really interesting testimony. I am really looking forward to hearing more from Hannah in the courtroom in the third season.

■ **Asser Khattab:** Next time on Branch 251 we are getting the whole team together to discuss where this trial stands one year after it began.

EMPTY

CHAPTER

29

THE KOBLENZ TRIAL – 1 YEAR LATER

Season 2 | Episode 11 | May 14, 2021

The whole "Branch 251" team comes together to discuss where we stand one year after the start of the Al-Khatib or Koblenz trial and if reality lived up to our expectations. This is the final chapter of Season 2.

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■ **Asser Khattab:** Welcome to this special and last episode of this season of Branch 251, which comes only a few days after the first anniversary of the opening of the trial in Koblenz of Anwar R. and Eyad A. for crimes against humanity that they are accused of having committed in Syria. I am joined by the entire team of Branch 251 to talk about this remarkable year, some of the episodes, and what may be coming next.

I guess we can start by talking about the pretrial period. In this period, we did not know yet that there would be a trial in Koblenz against those two individuals under something that is called universal jurisdiction. I would like to pose this question first to Fritz: did you see this trial coming?

■ **Fritz Streiff:** From the work that I have been doing on Syrian accountability, I knew there was a lot of work that already had been done in terms of criminal case-building in European countries. I think the German federal prosecutor had started the structured investigation into crimes committed in Syria in 2011. We knew that many civil society organizations, including Syrians, had been collecting evidence and filing complaints in Germany and other countries, including France. I think all of us working in this field had an idea that soon a case like this may come about, that an arrest may be made and a trial may start. That it would be those two individuals and that it would be in Koblenz, I would say it was quite unexpected from my perspective.

■ **Asser Khattab:** Given the fact that you are the person who started this podcast, can you place a moment in time when you first had the idea for this project?

■ **Fritz Streiff:** The two were arrested in February 2019, a good year before the trial started. Honestly, it was probably only in early April 2020, just a few weeks before the trial started, I had this idea. I knew this trial was coming, and I knew it was going to be the worldwide first regarding crimes against humanity committed in Syria and that it was going to be historic in that way. The idea for this podcast just came to me on a random Tuesday or something. All of a sudden, I thought, "Let's make a trial podcast."

■ **Asser Khattab:** As far as I understand, you have been interested in the subject of podcasts in general for some time now.

■ **Fritz Streiff:** Exactly. I was actually waiting for a topic to make a podcast on for a while. Then it just came together like that.

■ **Asser Khattab:** Noor, I want to jump quickly to you and see whether you also saw this trial coming. I know there was news about the arrest of the two individuals. That was quite popular at the time. Not everyone necessarily was able to foresee that a trial was going to start.

■ **Noor Hamadeh:** To be honest, I had the same sense as Fritz. I was very aware of civil society efforts to document information, to try and work toward developing cases against different individuals, and to try and think about what avenues were available through universal jurisdiction. I saw some trial coming, that this was something that was going to be coming up. But this trial in particular, I definitely did not see coming and was not conscious of until the news broke.

■ **Asser Khattab:** I am like you. I remember the time when news of the arrest, especially of Anwar R., was being talked about by everyone, especially in journalism circles. I found it fascinating news from the beginning. But I did not necessarily manage to imagine where that would lead specifically, especially given that only through this trial did I learn about universal jurisdiction and how it works. Before, I could not really imagine how Germany or any other country could go about such a process. Staying with you Noor, what were your expectations for justice mechanisms?

■ **Noor Hamadeh:** Like I said, I was very conscious that a lot of Syrian civil society organizations had been working toward documenting information that could be used in future justice processes. I was aware that people were trying to identify methods of developing cases through universal jurisdiction in particular. I think my expectation was that this kind of thing would happen. But I did not quite expect such a trial to happen now. Obviously, it is a welcome step. I think what is so great about it is that after this trial came out, you start hearing a lot more about other civil society actors, Syrian organizations, and international human rights organizations filing complaints under universal jurisdiction cases for war crimes or crimes against humanity that happened in Syria. I think that is a really exciting result of this trial. In terms of expectations, I did not really expect anything to happen so soon. I thought of justice in the Syrian context being delayed a bit more. It was unexpected but welcome.

■ **Fritz Streiff:** Noor, as you were talking, I was just thinking that maybe one reason some of us were thinking that justice would still be delayed a little bit is that the regime was increasingly safe in its position in power. Starting concrete justice mechanism steps like a criminal trial in a different country while a criminal regime is still in power is, of course, a very complex and difficult endeavor. Maybe that is why we did not expect it to happen when it happened. I agree with you. It definitely marked a milestone of a new phase in the search for justice and accountability for crimes in Syria.

■ **Noor Hamadeh:** I think that is exactly right. I think from my perspective that is exactly why I did not foresee steps for justice taking place in the present moment because the regime was, like you said, so comfortable in its position. Obviously, that does not mean that people affiliated with the regime cannot be prosecuted, but it definitely limits what can be done.

■ **Asser Khattab:** I can imagine that when you first heard about this trial, it was not purely technical legal thoughts that came to your mind. There might have been something else as well. Could you remember what first went through your mind at the time?

■ **Noor Hamadeh:** I was definitely very hopeful when I first heard about the trial, and was really looking forward to hearing what would happen with it. I was definitely thinking about what kinds of doors this trial would open for future justice efforts. How was it for you, Asser?

■ **Asser Khattab:** Very similar to you. There was this time when we heard about the arrest being made. Everyone was talking about it. Then I forgot about it for a while. I guess I was focusing more on what was happening inside the country. Then the trial started and I think that generated a lot of excitement at the time. I definitely started thinking about justice for crimes committed in Syria in new dimensions that I had not thought of before. I wonder what you expected this trial would do?

■ **Noor Hamadeh:** I expected a couple of things. I expected and hoped that it would result in convictions. That is first of all. Secondly, I hoped and expected that the information that would come out through this trial would result in furthering future justice efforts. By that, I mean information coming out in the trial about other individuals who were implicated in crimes who might also be present in Europe. Information that might shed light on the regime's strategies, for example.

I also expected and hoped it would give survivors of alleged crimes committed by Anwar R. and also by Eyad A. some level of peace or comfort. Through our interviews with people, I know that did not necessarily happen for everyone. I hoped that it could have been positive for some people at least.

■ **Asser Khattab:** I actually did not know what to expect at the beginning beyond, for example, a verdict or a conviction. A few years of prison for everyone, with the accusations against them proven. What I did not expect is seeing so much more with this trial. Like the aspects of documentation of crimes against humanity generally in Syria, and the wider picture of the *mukhabarat*, its work, and the meaning of its being mentioned in testimonies for the first time in an international court. Fritz, Saleem, and Hannah have all been to Koblenz during the production of this season. Fritz, you were there with Saleem and Hannah during one of the most important and controversial milestone sessions of the Koblenz trial. I wanted to ask you: what was it like to be there in Koblenz, and was it really how you expected it to be?

■ **Fritz Streiff:** One observation I had about that first visit was the contrast of the global media attention. The amount of media attention from international outlets, the framework of the trial, the content of the trial with international crimes, crimes against humanity, torture, all these international aspects and elements were in contrast with

this relatively provincial German town. I talked to some locals also on the street and pretty much nobody had any idea of what was going on in that courthouse. That contrast is what I remember about that first visit to Koblenz where the trial was happening, but really it was more physical. It was more happening in a sort of international, global, digital framework of interested people. Hannah, you were there from the beginning at every session; what is your memory of those beginning days and weeks?

■ **Hannah El-Hitami:** Well, I have to say now that I have been there for almost a year, almost every week, traveling back and forth and spending two or three days there, I have gotten so used to it. I have developed my routine and I know almost everybody who works in the court. There is a small group of people who are always there, some observers from NGOs and journalists once in a while. But I do remember that at the very beginning, I was much more nervous because a court seems like something so official and you do not know how to behave, you do not know what you are allowed to do and what you are not allowed to do. That has changed completely now. Now I feel it is almost my office, but at the same time I feel like it is really important for me to not become too used to it and not become indifferent.

I have heard so many survivors and their stories now, and there have been many testimonies about really horrible torture experiences, so after all these days I spend in court, I just feel like it is important to not become desensitized. I know some of the observers and myself, sometimes we talk about what we heard inside and someone is like, "Well, what about this testimony that we heard today? Was it important?" Then someone says, "Well, no, it was nothing new." Of course, it was something new because someone added a new piece of evidence. It is still really important to respect every single story. Yes, I think that is my experience, getting used to it, but at the same time, being surprised every once in a while by the stories that people share in the courtroom.

■ **Saleem Salameh:** The first time I went to Koblenz it was for the trial and for the verdict of Eyad A. I think it was very interesting, because usually I work on the production side, and for me this was my first encounter with the reality of what is happening. It was like a reality check. This is more than what happens when we just make the podcast episode or when I work on the bi-weekly updates with Hannah.

What really struck me the most is that I really felt that the place was owned by Syrians. Although it was happening in Germany, the sense of Syrians and the sense of people being there, the trial being covered or translated to Arabic, the verdict really gave me the sense that this actually feels very Syrian. This emotion also translated later, which is something that I am going to talk about later on, in the Syrian voices we heard after the court and also in the rest of the episodes.

I remember being outside and looking for people to interview for our podcast. Literally everyone was looking for Syrians to talk to, hear their opinion, and capture their emotions and feelings at that very moment. This image will always stay in my head that this is something for the Syrian people. Of course, the opinions differed and every person or every group of people had their own views on what was happening, or what was the decision and all of these things. But the moment itself, that exact moment was very Syrian. That for me was a very emotional moment.

■ **Asser Khattab:** Thank you so much, Saleem. We do want to hear more about those voices that you had the experience of speaking with and hearing from. I guess this is a good point to talk about how one year later those expectations have lived up to reality. Noor, I will start with you.

■ **Noor Hamadeh:** I think the trial has so far lived up to my expectations in the sense that there was a verdict in the case against Eyad A., and the case against Anwar R. is still ongoing. I also think the trial and everything around it has ended up being a little bit more complicated than I expected. One thing being, as Asser mentioned earlier, the documentation element of this trial that resulted in a documentation of crimes against humanity in Syria beyond just Anwar R. and Eyad A.'s role in it. I think that is one aspect of it. Another element has been realizing the complication of universal jurisdiction, and realizing that while it might be a good way to hold people accountable in a complex setting, there are also complications that come with universal jurisdiction. One being the fact that the trial is held in Koblenz, Germany, which is a place that, location-wise, is not necessarily accessible to so many Syrians. Then, one thing that has been discussed a lot is the language issue in the trial as well.

I do think the trial has lived up to my expectations in the sense that it is pushing justice forward, however, I am realizing that universal jurisdiction is a bit more complex than I originally anticipated.

Fritz Streiff: Yes, I think Noor, it is good for us to mention those challenges as well, because obviously, a worldwide first trial will have major undefined expectations in the beginning and will come with the obvious challenges. I think one thing we can definitely already conclude now is that a regional court in Germany trying an international crime case like that is not perfect. It is far from perfect. These regional courts are not the International Criminal Court in The Hague. They do not have the same resources or the same capacities.

I do not see how in this German context that will really change and whether there will be many lessons learned for future trials in similar regional courts in Germany. Especially when we are looking back. We did an episode on this in the first season in which we compared this trial with the first trial using the German Code of Crimes Against International Law. We did not see many lessons learned between around 2009-2010 and the Koblenz court. I do not have too high of hopes in that regard. One thing I wanted to add is that witness protection has been a major challenge. It is something that regional courts, such as the one in Koblenz, may not be well enough equipped to handle in a satisfactory way. I would like to hear from Hannah about this because she wrote about the issue of witness protection in *Der Spiegel*.

Before I hand it over to Hannah, I wanted to quickly note there is an interesting report mostly on these challenges published by SJAC and the ICWC on the occasion of the one-year anniversary. Hannah, you know more about this issue of witness protection, perhaps you can add something to this.

Hannah El-Hitami: Yes, the witness protection issue was of course just one of many challenges that became more and more visible as the trial proceeded. It is interesting that you also mentioned the ICC in comparison to what is happening in Koblenz. I also felt that when we were speaking about expectations, I imagined that the court in Koblenz and the trial would be something very international, very grand. Something like the ICC, although I have never been to the ICC, but I imagined it like that. That it would be international, in several languages, and recorded for history. This has not happened. It has not been internationally accessible, it has not been multilingual, and it has not been recorded.

From very early on, I felt it was an issue that an international trial was being conducted under the German Code of Criminal Procedure

like every other local, everyday criminal trial in Germany. That there were no additional rules that were specific for a trial of this size and this international relevance. For example, witness protection was not there because obviously Germany can do nothing about threats or attacks in Syria.

Of course, they can offer witness protection in very exceptional cases in Germany, but the danger was not in Germany, it was mainly in Syria for families of witnesses who are still living there. Almost every single witness has family living in Syria. There was no support in that regard and there was no real support for traumatized witnesses. There was psychosocial trial assistance, something that victims can have, but I do not think they knew about it because almost nobody used it. A lot of witnesses were struggling emotionally in court, and I think they would have needed special assistance. There were so many things that I felt like this is a very local court and it is a very international trial, so they are not really fitting well together.

■ **Asser Khattab:** We spoke during the podcast this season about the expectations of many Syrians for this trial. Some were saying they have been let down so far by the outcome of the trial. I am referring specifically to the verdict that has already been issued against Eyad A. and which sparked quite a lot of discussions and even arguments within the Syrian circles. There were so many different opinions in these discussions. Some felt the trial was actually meeting their expectations or even exceeding them in some cases, whereas others were very critical of what the outcome has been so far.

■ **Saleem Salameh:** Yes, I think especially from my interactions with the Syrian people that we interviewed for the podcast for the Arabic season, and also from the people I talked to when we were in Koblenz, that it is not just that some people feel positively about it and other people feel negatively. In fact, and especially after doing the final episode for the Arabic season, many people had both high hopes and low hopes when it came to the trial. Within each person, both sides existed.

For me it was really interesting to see that, in fact, it is not just black and white. It is not just either fully accepting or supporting the trial, or fully being against it. I think that the most remarkable thing or the thing that I can collect from the people that we interviewed is that everyone felt it is a step toward justice. The word "justice" meant so much for the fact that it is actually happening and something is taking place. The word "justice" was the word that almost every person who

we interviewed or who shared their voice and their opinion used. I think that means something for the trial. In my opinion, it is not the only answer, and it does not have to be the one answer, but it is something that exists within the trial. Almost everyone agreed it is going to take us to the next step. It is the beginning of something that is going to be much bigger in the future. I think it means everyone is hoping for what comes next, and not just relying on this as the final result or outcome. I thought that was really interesting.

■ **Asser Khattab:** Noor, what do you think this trial means or has meant to other Syrians?

■ **Noor Hamadeh:** I agree with a lot of what Saleem said. We have seen a lot of hope from people we have interviewed, but we have also seen a lot of skepticism. I think for a lot of Syrians, it is hard not to be skeptical because so many Syrians have been so let down by the international community. I think they find it difficult to trust international mechanisms, international efforts, so I can understand that. But there has also been a lot of hope, and I think that also goes for the verdict against Eyad A., even with so many mixed responses to that. Some people were really happy with the results, some were disappointed, some were dissatisfied. There is definitely a mix, but one thing for sure is that we have seen a lot of hope. Even if people were disappointed in this trial, in particular, they are hopeful that it will lead to justice in the future.

■ **Asser Khattab:** What does it mean to you, Noor?

■ **Noor Hamadeh:** For me, I think I feel the same way that a lot of Syrians do, which is I am feeling hopeful, and also very much feel this is a first step toward future accountability efforts. I definitely do not see this trial as the ideal form of accountability, but it is a step in the right direction. It is a step that is going to bring out important information that needs to be shared with the world. It is also a step that is going to encourage others to take similar steps and to use international law to be creative about accountability efforts.

■ **Asser Khattab:** Hannah, what is something most people do not know or do not get about the trial?

■ **Hannah El-Hitami:** I definitely feel something maybe most German or European people do not understand about the trial is how differently Syrians are perceiving the trial. Syrians, not just in general,

but even those who are very directly and personally affected, and who are themselves survivors or family members of victims. I think you all mentioned this earlier, that there is so much criticism. Some people feel it is going very well, others feel that there are a lot of flaws in the trial, others are not following it at all or do not care about it at all.

I feel like this is something that was not well represented in German media. It seemed there was this one narrative of the German state bringing justice to the Syrians who are just so grateful and happy that they finally get the chance to talk. I am not saying that in a derogatory way, of course. A lot of Syrians were very, very grateful that they were able to talk about what happened to them, and they really felt respected. And that is totally important, I agree, but I think it is important to see how many different opinions there are.

Especially after the verdict, when you followed the Arabic media, there were so many articles that had all the diverse opinions about the verdict in one long article. I felt this was something really missing from the German and English media landscape.

Fritz Streiff: I wanted to add something that I think a lot of people do not understand. It is the same field as what Hannah just described as well, but it is also something that I also do not fully understand. After the verdict against Eyad A. that Hannah also just described, in front of the courtroom we witnessed a lot of different moments, and a lot of different dynamics at play, as Saleem was describing some of them earlier. What really left an impression on me was seeing the different Syrians interact with each other after the verdict from the different sides, if you want to call it that. What I mean with that is, Eyad A.'s family was there, his cousin and his son. To me, it was absolutely fascinating to see how they were interacting with the other Syrians present in the court and outside of the courtroom, especially in two moments.

One of the moments was when Eyad A.'s son was talking with a young Syrian activist who was protesting her father's disappearance in Syria. She was protesting in front of the court, and after the verdict, she was talking with Eyad A.'s son. I did not understand what they were saying, as they were speaking in Arabic, but from what I gathered, they were exchanging stories. Eyad A.'s son was saying how difficult it was for him to deal with the situation that his father was imprisoned for something he did not think he should be held accountable for.

She was describing how she has not seen her father in thousands of days. I felt that it was incredibly complex and powerful.

The second moment was similar but also very different in many ways. As Eyad A.'s cousin and son were leaving the scene in front of the court, they were talking to some of the Syrian justice activists and case builders, Anwar Al-Bunni and some other people that were standing with him. They were very friendly with each other, laughing and smiling, and even hugging goodbye as they were leaving. Obviously, things are not black and white, and obviously, things are never binary with good guys and bad guys. I get that. But in that moment it took me a moment to, and still, I think about that, to reconcile how those relationships work and what those moments meant. I would love to hear your reaction to that, your take on that, Asser.

■ **Asser Khattab:** You are absolutely right. Things are not black and white. Most people regarded the case of Eyad A. as much less significant than Anwar R. because he was not as senior in the Syrian *mukhabarat*. There are not that many accusations leveled against him in comparison with Anwar R. People are generally keeping their eyes on the verdict against Anwar R. What we did not anticipate from the beginning, or at least I did not anticipate from the beginning, is how the Eyad A.'s case would be much more controversial.

We saw that there were so many divergent views. I also got to hear from someone whose father is, until today, in Syrian regime prisons, who actually said she sympathized with Eyad A. and with his case and found it really touching. She did not think he deserved to be put in this place of being the symbolic first person to be convicted of aiding and abetting crimes against humanity in Syria. Obviously, many people did not agree with her and said that actually, the verdict against Eyad A. was not very satisfactory and that they wanted more. That he took part in crimes on a very grand scale in their view, and he deserved more than that. Many found that he deserved exactly what he got. We saw that even with the opposition or people who are aligned with the opposition, the views were very divergent, which shows that yes, it is not black and white.

■ **Fritz Streiff:** That moment between Eyad A.'s family members and someone like Anwar Al-Bunni, who is so clearly a symbol for the justice efforts and accountability efforts, such a scene of friendliness and amicability. What does that say to you?

■ **Asser Khattab:** I was surprised. I remember my surprise years ago, when I started to hear about, for example, rebel or opposition checkpoints being stationed very close to Syrian regime checkpoints. They got to know each other and drink tea together and exchange greetings every morning or every evening. This was happening in several areas in Syria, many people were reporting on this. They know they are on different sides, they know that one day they will probably get orders to shoot against each other or go into battles with one another.

As long as those commands did not come, they were able to recognize certain aspects of humanity in each other. I remember a scene I saw one day when people were being evacuated from a formerly rebel-held neighborhood in Homs, in central Syria, when a Muslim cleric came out. Before he went onto the bus that was supposed to take him to the north, he saw the pro-regime, Muslim cleric, and they recognized each other.

They had been friends, or had known each other for years, and they went and hugged each other and kissed each other on the cheeks before they bid farewell, and the opposition person went to the north. These scenes that we see repeatedly show you that maybe at first, they are hard to comprehend, but then you realize that yes, it is not simple.

■ **Fritz Streiff:** What it really showed to me as well was that in this very concrete situation that I observed, eventually, they are both suffering. Both of those groups are suffering from the same thing, which is Assad's tyranny and Assad's regime. In German, you have this word called *Schicksalsgemeinschaft*, meaning a community of fate or destiny. That is the word that came to me after reflecting on this a little further. You called it shared moments of humanity, and I think that is spot on.

We really dove deep into this kind of stuff. I thought I would mention it because it is something that has been on my mind. I think it is something that a lot of people do not understand about this trial and about the complexities and the gray zones involved.

■ **Asser Khattab:** I want to put the question out there and hear about everyone's favorite episodes. I actually do not know this. Even though I am a member of the team, I do not think we have had a behind-the-scenes discussion about it. I am really keen on knowing

the answers of all my team members. Maybe I will start with you, Fritz. What was your favorite episode or the one that you thought was most significant?

■ **Fritz Streiff:** You are putting me on the spot here. I did not think about it, but I will go for the one where we collected voices from Syrians inside of Syria and outside of Syria about the trial, in terms of content and approach. Also, in terms of what we wanted to present to the listeners, this was probably the most valuable episode of this season. I want to give compliments to my colleagues that were involved in producing that. We all contributed to it, but that was really a great episode.

■ **Saleem Salameh:** I actually want to channel what you are saying Fritz, especially in the Arabic season, the first season of the Arabic podcast. We really heard a lot of Syrian voices, from the trial, to people who reached out to us, to the specialists who talked about specific topics that we discussed in the season. I feel like I cannot just name one episode, but I would say that the episodes where we listened to Syrian people and Syrian voices, these felt really powerful.

I want to say that the reason is not just because of what the episode was addressing, but the communication itself with the listeners or with the Syrian people outside of the podcast when they were sending their recordings. I felt like there was a lot of trust and a lot of hope on the podcast itself. That moment felt so special for me because it was showing me that, "Okay, we are doing this and it is actually reaching the very people we actually wanted to make this Arabic season for."

It really felt like a reward. From the messages and from the way people expressed their emotions toward the podcast and then later on sharing their opinion about the trial and verdict and what is happening generally in Syria, I feel like it is a big journey. It is not just what is relayed inside of the episode, but also what happens backstage that impacts us as team members.

■ **Asser Khattab:** Hannah, what was your favorite episode?

■ **Hannah El-Hitami:** I would say my favorite episode was the one on mental health, the Arabic episode, because I think it is a topic that is totally under-discussed. I think so many Syrians in Germany would really need therapy or any kind of support dealing with traumatic

memories and experiences. At least that is what was very obvious in the courtroom from the witnesses who spoke there. Of course, the language barrier makes that pretty difficult here in Germany. I think it was just great to hear from these initiatives that were presented in the episode.

■ **Asser Khattab:** Pauline, we have not heard from you yet. What was your favorite episode?

■ **Pauline Peek:** This is such a hard question. In every episode there is something that I am really proud of. That can be something as small as smoothing out a recording mistake to the point that it is completely imperceptible, or it can be finding the music that fits the mood perfectly. Or it can be an interview that you have conducted before the recording. Then, of course, there is the fact that I learned so much about Syria and justice efforts just because I get to work with such competent colleagues like yourselves as well as very inspiring guests.

It is a hard one. I guess the first episode I got to help make has a very special place. It was the episode about Syria fatigue back in season one. Other than that, my favorite episode was also the one that was actually the hardest to make. The episode about sexual and gender-based violence, *They Pay Twice*. It appeared in both the English and the Arabic season. I felt very honored to be in charge of an episode that felt so important and urgent.

■ **Asser Khattab:** I came to this recording session wanting to say that my favorite episode is *They Pay Twice*, and it still is for sure one of my favorites. When you spoke about difficult episodes, I think we on the Arabic series team really struggled with the episode that had to deal with the 10th anniversary of the Syrian revolution. It was very hard. I found it very hard for myself, and for so many Syrians around the world, to look back and reflect on those 10 years and all that we have lost on a personal or national level.

That ended up driving us to try something new. For me and Noor to be speaking, to be answering questions that we have posed to one another, and to share how we actually are feeling, and stuff from our discussions with other Syrians and try to convey the atmosphere as best as we could. I think that made it into a very special episode after a time when I was really dreading it and dreading making it for a long time. This brings me to you, Noor, what was your favorite episode?

■ **Noor Hamadeh:** Asser, now you are making me question my favorite episode because you bringing up how we arrived at our decision to record that episode in the way we did makes me really appreciate it more. Like you said, I was also dreading working on that episode, but then I really enjoyed it. But I think if I did have to choose my favorite episode it would probably be *What's Choice?* I really enjoyed working on that one and doing the background research.

I also thought it answered a really important question that was in the back of my mind when I started reading about this trial and was also on the back of a lot of other people's minds, which is regarding the question essentially of choice and how much of a choice Eyad A. or Anwar R. had in making the decisions they made considering the environment they worked in. I really enjoyed being able to dissect that in the episode in the way that we did.

■ **Asser Khattab:** Well, thanks everyone. I really enjoyed these conversations. I hope that our listeners have enjoyed it as well.

EMPTY

CHAPTER

30

BEGINNINGS

Season 3 | Episode 1 | August 27, 2021

In the first chapter of the third season, hosts Fritz Streiff, Nour Hamadeh, and Naya Skaf cover what has happened in court since May. As the end of the trial is nearing, the proceedings zero in on Anwar R.'s role in Assad's bloody regime.

EMPTY

■ **Fritz Streiff:** The team has been on a summer break since our last episode in May, but the trial in Koblenz has been continuing. Today, we are filling you in on what has happened since that last episode.

■ **Noor Hamadeh:** Last season, we hosted this podcast along with Asser Khattab. Unfortunately, Asser has moved on from the podcast to bigger and better things. I want to introduce our listeners to our new co-host Naya Skaf, a Syrian independent journalist and presenter. We are so thrilled to have you join us. Now over to Hannah to update us on what has happened in the past few months.

■ **Hannah El-Hitami:** The majority of witnesses during the past few months were survivors of Branch 251. Since the last podcast episode that we had in May, we actually heard eight former detainees, five of whom were also joint plaintiffs, and one of them was a woman. In addition, there was a German police officer who told us about his questioning of another survivor and witness, because that witness actually had refused to show up in court.

Generally the witnesses had quite similar experiences to the many other survivors who already testified in the past almost one and a half years. Most of them were arrested during or after demonstrations, or just arbitrarily. They spent some time in the Al-Khatib Branch, but were also transferred to and from other branches. They were interrogated and tortured, and all of them were held in tight, overcrowded cells with bad nutrition, lack of air, lack of daylight, and medical care.

■ **Naya Skaf:** Okay, so the court heard eight former detainees. How many witnesses did we hear in total?

■ **Hannah El-Hitami:** 13.

■ **Naya Skaf:** Which testimonies were especially memorable?

■ **Hannah El-Hitami:** Actually, one that stuck in my mind is the one I mentioned of the witness who was not actually in court. He did not show up, which he had the choice to do because he lives in Norway. I think we mentioned before that only the witnesses who live in Germany have to appear if they are summoned. This witness did not come, and I think the reason might have been that he had a really terrifying experience, and maybe he just did not want to recount it again and relive it all over again. Apparently he had already broken down during his police questioning in Norway.

Then he was also questioned by the German police, and that German police officer who questioned him testified in court. This German police officer told the court that the witness had told him he was suspended from his wrists in Branch 251, a torture method known as *shabeh*, where detainees are hanging from their wrists, and their toes hardly touch the ground. That is a very painful position that they have to stay in for hours. They are also beaten at the same time. He said that there was a man suspended next to him in the same position, and that at some point the man died, and he continued hanging next to this dead man for hours. This was a very, very horrible experience for him and he had trouble talking about it.

■ **Noor Hamadeh:** Yes, I can imagine this testimony stood out and that this was probably a very difficult story for him to recount. Were there any other witness testimonies that stood out to you?

■ **Hannah El-Hitami:** Yes, another witness that I found interesting had been a boxer on the Syrian national team, and he was excluded from the team in the early 2000s for political reasons. Apparently, he came from a family of influential business people, and they had been known for being oppositional to the Assad regime, so this ended his sports career. This guy came into the courtroom, sat down, and just immediately started crying. Of course, he was not the first witness to cry in this court, but it was just so moving that he could not even start talking, he just immediately broke down.

Then, when he did start talking, he said he had been arrested 13 times altogether. He was obviously physically and mentally traumatized. I guess it was just especially tragic to see someone like him who used to be this big, successful boxer, a strong, tough guy, who then ended up broken in so many ways. I guess that just illustrated what the experience of detention in Syria does to people. This witness said that he met Anwar R. in the Al-Khatib Branch and that Anwar R. ordered the guards to torture him.

He said Anwar R. could be very friendly one moment, with what he called a "yellow smile," but then he could be very cruel just a second after that. He also said he received electric shocks, that he was beaten with cables every day, and also suspended with the *shabeh* method I mentioned before. He still suffered medical issues with the nerves on his wrists, for example, and he had surgery after leaving the country. Also mentally, he said he suffered from memory loss and that he had been in therapy for years.

■ **Naya Skaf:** Hannah, as I am hearing this, I am wondering, we have heard so many stories like these before and the judges have heard them too. Of course, every testimony is valuable, but for the collection of evidence at this point of the trial, what is the added value of hearing more and more accounts like these, especially since testifying is such hard emotional work for witnesses?

■ **Hannah El-Hitami:** That is a good question. It is true that some elements are quite repetitive, which makes a lot of sense because they were all in the same branch. To me, it seems like many of the witnesses who testified after Eyad A.'s verdict in February have been witnesses who had personal encounters with Anwar R. Maybe the judges are trying to find out more about his personal role in the crimes, and also about his position in the branch at the time. Another very basic reason is that some of the recent witnesses were joint plaintiffs. I think there are about 20 at the moment, and they had not testified yet, so it was just their turn to testify. I think there will be around three more to come.

■ **Noor Hamadeh:** Apart from ex-detainees' testimonies, were there other types of witnesses in the last few months?

■ **Hannah El-Hitami:** Yes, there was one type of witness that we had never heard from before, and honestly did not even think existed: a doctor who treated prisoners in Branch 251.

■ **Naya Skaf:** What made you think that did not exist?

■ **Hannah El-Hitami:** So many survivors of the branch have been asked about whether they received medical care while being imprisoned, and most said there was not any. The most, anyone had mentioned, were some painkillers or antibiotics being thrown into the cells, but definitely not a doctor. Then, there was this guy who was a medical assistant. He worked in the Red Crescent Hospital which is right across from the branch. He said that starting in August 2012, he and his colleagues went to the branch's prison almost every day to examine and treat the prisoners' injuries. It was very surprising to hear about this extensive and regular medical care for prisoners. Then again, this medical assistant was talking about a time later than when most of the survivor witnesses had been in the branch, starting from the summer of 2012.

■ **Fritz Streiff:** In a way, maybe this witness testimony, even though it is very new and we had not heard this before, can be seen as another piece of the large puzzle that the court is trying to put together. They are trying to put together a timeline, like a puzzle of what happened at Branch 251 in the period of the indictment between April 2011 and September 2012. This piece of the puzzle is perhaps located between the accounts of torture and unbearable detention conditions that we have heard early in the trial. And also, the piece of what happened to those who did not survive, what happened to the bodies.

Early in the trial last year, we heard about the Caesar photos, and we heard from the gravedigger. Perhaps this account fits into the middle of those two puzzle pieces.

■ **Hannah El-Hitami:** Yes, that is right. This was actually new information for the court and for us observers, but it added to the big picture. This witness said most of the patients looked like the bodies in the Caesar photos. Pale, hair unkempt, skinny, with clothes that were old and torn. He said their injuries were nothing like what he had learned in medical school. He talked about treating hundreds of inmates, and witnessing deaths in the branch itself, but also in the hospital because some of the prisoners in the worst conditions were transferred to the hospital. He said that almost every day someone died. The reasons for the deaths were their overall condition, and also indirectly the consequences of torture. For example from infected wounds but not from the torture itself as a direct cause. He said that it was hard to determine what exactly had caused their deaths.

Especially since he and his colleagues were not allowed to examine the bodies.

■ **Fritz Streiff:** I can imagine, as he said himself, they were not trained in med school for these kinds of circumstances.

■ **Hannah El-Hitami:** This testimony really offered some valuable insight into how the hospitals in Syria were systematically incorporated into the torture system. We have this doctor who was there to treat prisoners, but we know about other doctors who participated in the torture themselves.

■ **Fritz Streiff:** We are just at the beginning of understanding this, to understand the role of medical professionals in the structural torture that the Koblenz court already decided is a core part of the Assad regime's response to the revolution. Just a few weeks ago in late July, the German Federal Prosecutor's Office published an indictment against a former Syrian military doctor called Alaa M. We have mentioned this case before and it has been big in the media as well, but now we know the exact charges in that case. That case will probably go to trial sometime later this fall at the Higher Regional Court in Frankfurt. More on this soon. We are preparing a special episode about the role of medical professionals in the state-sponsored torture structures of the Assad regime.

■ **Hannah El-Hitami:** The trial against Alaa M. that you just mentioned is probably going to start before this one ends, or maybe at the same time. Right now, it seems like Anwar R. is going to receive his sentence sometime in November. Before that, we might hear from some witnesses requested by the defense. In fact, one of his relatives appeared in court in July, just before the summer break started. That was really interesting. It was Anwar R.'s cousin and his son-in-law, as he is married to Anwar R.'s daughter. He told the court that Anwar R. had confided in him about his plans to defect as early as April 2011. Overall, he reproduced the defendants' own version of the events by saying he had always helped prisoners and ordered their release. That is why he was being observed, and his authority was taken away from him. The problem with this witness was there were just so many contradictions between his testimony in court and what he had told the asylum authorities some years ago when he arrived in Germany, especially regarding the reason why Anwar R. left Syria, and what his reputation was in the opposition.

Another issue was that the witness was reading his whole testimony from a piece of paper he had brought, so it seemed pretty unauthentic, and perhaps even prepared with external help. Maybe they were not his own words, especially because he was often unable to answer any detailed questions that went further than his written notes. Anwar R. had requested this witness, but I am not sure if it did much good for him.

■ **Noor Hamadeh:** Hannah, thank you so much for this update.

■ **Hannah El-Hitami:** Thank you, and let us see what happens during the next and probably final weeks in court.

■ **Naya Skaf:** We will almost certainly see the judgment in the case against Anwar R.

CHAPTER

31

THE WALLS HAVE EYES

Season 3 | Episode 2 | September 17, 2021

In this chapter Noor Hamadeh and Naya Skaf speak about how power, security, and fear interrelate and co-produce militarized cityscapes, or security cities. In particular, they address Syria, the kingdom of silence, where walls have ears, buildings have eyes, and everyone looks around before talking. Cities where everyone is being watched and considered a threat to be eliminated if they try to speak up and reclaim their rights against those in power.

EMPTY

■ **Naya Skaf:** According to Lewis Mumford, a famous historian and philosopher, cities are naturally in a state of perpetual war with other cities, but simultaneously, they are in a natural state of self-defense. This is evident through fortifications, defense mechanisms, and surveillance technologies that cities use against external enemies, especially since wars were taking place outside of city walls. The goal of these mechanisms is to maintain security and reassure the population by protecting the borders from external enemies. Historically, this was represented by the construction of walls, lookout windows, and towers that overlook the city gates to decide who could enter and who could not.

■ **Noor Hamadeh:** In the 20th century, cities, their spaces, and infrastructure became not only the battleground but also the weapons of wars themselves. They became a space for exercising power and domination, a place to manifest fear, to control and subjugate threatening and subversive elements. During the last 100 years, these practices were weaponized against the inhabitants of the cities themselves if they represented a threat to the ruling authority of the city or the country.

■ **Naya Skaf:** One of the recent examples is what happened in Syria in November 2012, after the outbreak of the Syrian revolution, and in an attempt to control the infiltrators as saboteurs as seen by the state. The Syrian authorities cut off the internet and telephone networks for more than 48 hours. This measure was condemned by

Reporters Without Borders, which put Syria as one of five countries on its list of enemies of the internet in March 2013.

Countries on this list, which includes China, Iran, and Syria, have governments that are engaged in strict surveillance of news platforms. They try as much as possible to control what is published on public and personal pages. This led to massive violations of freedom of information and speech, with measures including interception of Skype calls, virus and malware attacks, and others. As a result, a very large number of activists were arrested and tortured in order to extract information from them.

■ **Noor Hamadeh:** To understand more about the Al-Khatib Security Branch, we have to go back a bit in time and try to understand the formation of the militarized city or the security city in general, and more specifically the militarization of Damascus. Throughout history, countries were governed by different types of power and authorities. Among them is the power of rulers that established disciplinary societies that are required to be obedient to the ruling regimes. These regimes regulate people's activities, behaviors, and habits; they discipline, control, and monitor their movements like at army barracks, prisons, and even schools.

The power of the ruling regime was visible in the form of monumental architecture that glorifies rulers. European countries reached their modern governmental form in the 16th and 17th centuries and because of their absolute authority, and their colonization of other countries, their cities were expanding. Expanding cities created a need for strategic urban planning to ensure the security of the state and its ruling regime. This is how the old military city emerged, with castles, towers, and walls, built to support practices of control, oppression, and torture, not only in the colonizing country itself but in the colonized countries as well. At that time, the European regimes met any revolution, uprising, or liberation movement with tyranny and brutality and demonized, suppressed, and dehumanized the revolutionaries, either by using violence or annihilation. This happened whether the revolutions were societal, demanding the rights of minority groups, or independence movements.

■ **Naya Skaf:** Stephen Graham, the author of the book *Cities Under Siege* says that these countries' regimes were testing the characteristics of the power of sovereignty and militarization

practices through what is called the boomerang effect, meaning they tested them in colonized cities first, and then applied them in their local cities afterward. In the 19th century, the so-called "third world," including the Middle East and North Africa region that Syria is a part of, was a testing ground for security measures and targeting practices, and the field of experiments for techniques of control, classification of revolutions, militarization of cities, and surveillance of citizens. They were tested in the "third world" and then used in the rebellious neighborhoods in the local cities, which is what happened in Algiers and the suburbs of Paris. In Algeria, Marshal Bugeaud replanned entire neighborhoods in Algiers, after completely and brutally demolishing them as a part of his strategy to stop the victories of the resistance. He used the same scheme in Paris to weaken its revolutionaries by planning broad military avenues to stop their advances, avenues that were introduced in the renewal planning of Paris in the 19th century.

■ **Noor Hamadeh:** During the great Syrian revolution of 1925, the revolutionaries settled in Ghouta and attacked the brigades and buildings of the French occupation in Old Damascus. The French authorities at the time tried to control the city and ensure its stability. They surrounded it with barbed wire and allowed for a limited number of entrances. They responded to the rebel attacks by wiping out a part of the Al-Oukaibeh neighborhood and established instead several wide streets like those of King Faisal and Baghdad Street. This is where Branch 251 is located now. This was an order to cut off the supplies of the Ghouta rebels and keep them away from the Old City. At the time when the French occupation forces were able to control the resistance, the first act of urbicide occurred in the modern history of the city.

■ **Naya Skaf:** Urbicide means the complete or partial destruction of cities. It is an act of violence and the goal is to achieve a political or military victory.

■ **Noor Hamadeh:** The Old City of Damascus was bombarded for two days by aircraft and with artillery installed on Al-Mezzeh mountains. Several significant neighborhoods in the Old City were destroyed, such as the famous Sidi-Amoud neighborhood, which has been called Al-Hariqah since then, as well as the straight street in Medhat Basha Souq.

This means that the colonized and the colonizer cities, for example, Algiers and Paris, have some specific characteristics in common. They tend to have borders, checkpoints, gates, fences, and protected areas, as well as neighborhoods of an ethnic and sectarian nature. You are likely to find military bases around the financial districts, in addition to wide boulevards and panopticon prisons, which are our focus for today.

■ **Naya Skaf:** The panopticon is a design concept for institutions of mass surveillance, quarantine, and imprisonment, developed by the English philosopher Jeremy Bentham. It is a circular building composed of cells located in the circumference of the cells that are under the constant and close watch of guards that sit in a central tower. That tower represents the source of absolute power. The panoptic prison guarantees several things such as surveillance, maintaining security, isolation, and transparency. All these things are necessary to track the movements of the prisoners, record their habits and psychological states, and keep this information for later.

The concept of the panopticon, also called panopticism, expresses strongly and clearly how space can be controlled. Panopticism is an architecture of dominance, where security apparatuses spread through the city and gained power because, like guards in a panopticon, they are omnipresent, but you are never quite able to tell if the guards are watching.

The architecture of panopticism is familiar to many Syrians because of the presence of security branches that imprison citizens for the slightest suspicion. In a sense, security branches control the entire scene in Syria, and specifically the city of Damascus. In a way, each and every neighborhood is under surveillance, but what has controlled the sky above Damascus is a regal panopticon, the presidential palace which is located at the top of Mount Qasioun, a landmark mountain that overlooks the city of Damascus. It was designed by the Japanese architect Kenzo Tange in the 1980s in a way that allowed the country's present yet invisible leader to see his prisoners from his tower overlooking the imprisoned city: imprisoned until proven innocent.

■ **Noor Hamadeh:** During the 20th century, the need to fortify cities increased. The new military urbanism emerged as the spaces of daily life and civilians themselves became either targets or threats to the security apparatuses. This became the argument for expanding

surveillance measures, targeting and controlling everyday networks and spaces. The idea of this new military urbanism revolved around fortifying the city and intensifying the military and security aspects of urban life. This means that militarization, security, and fear became the key elements of cities. Today, we are focusing on security and fear as they are closely related to Syria's many security branches, including Branch 251. The security of Western cities in the 20th century was associated with military regimes, and national security was the justification for every military operation until now.

With the high rates of attacks all over the world, the principle of defense for security has been normalized. Exclusion and suspicion have become an integral part of security measures, or at least an indispensable feature. The distinctions between peace and war, and between police, intelligence, and the military at the local, national, and global levels have disappeared. Of course, East and West share these features now.

■ **Naya Skaf:** But then, what is security exactly? Security basically means protecting society from any deliberate criminal acts. Although it starts with lofty values, it does not really care much about laws or human rights. The only thing that matters to those in charge of security is the pursuit of individuals or groups that are considered threatening, subversive, or intrusive, and treating them as objects of information and intelligence about their participation in any allegedly criminal or illegal activities.

All of this happens under the name of national security, but lofty goals supposedly justify any techniques, practices, or actions of a brutal nature. This much is clear in Syria. On the other hand, security is related to society, its social structure, and its culture. Security is nourished and nurtured by a primal feeling that is fear. Fear is a currency used to justify any cause. The militarization of cities has fueled the politics of fear, which in turn reinforces the exclusion of the other, getting people to fear each other, all in the name of security. This dynamic has deeply affected Damascus which many know as the "kingdom of fear."

■ **Noor Hamadeh:** "The walls have ears" is a phrase that accurately explains the situation in Syria. Fear in Syria was born out of daily life, out of people's feelings and obsessions, desperately trying not to challenge the authority of the Assad family and the Baath party. Fear is linked to propaganda, misinformation, and disinformation

practices, and intimidation by identifying and sentencing those who are seen as a threat.

That involves stigmatization, marginalization, and the exclusion of those who are deemed to be a threat as well. Take for example, revolutionaries or opponents of Assad's rule who used to live in now regime-controlled areas, whether it was in Darayya, Jobar, or Qudssaya. They were criminalized, isolated, and excluded, and their areas were wiped out. The government's messaging makes these people sound like terrifying criminals when all they did was exercise their right to protest.

■ **Naya Skaf:** Fear is a tool for regimes to control the people. It is a group of feelings created by the authority in order to paralyze opposition movements, the thinking, and agency of the people. What better way, they would say, to expel fear of people and national fear than with security. With fear, cities are entrenched with internal boundaries that create communities within communities. This allows those in power to control them, manipulate their interests, and negatively affect the social fabric of the city. After that, exclusionary city planning policies, and you have got full-on panic.

■ **Noor Hamadeh:** In Damascus, the spaces of fear or what is called the "fearscapes" are numerous and clear. They embody the modern military urbanism of the city. One of the most important fearscapes is spaces of control which exercise the same power of the panopticon, but using cameras and sensors. In a control area you are closely watched, recorded, and scrutinized by a verified but invisible power.

CCTV has invaded urban spaces all over the world, especially after the development of technologies that made the devices cheaper, smaller, and more efficient, but many people would argue that instead of instilling a feeling of security, they feed into fear of terrorism. The Syrian regime is not as digitized as Western regimes, which means it has not adopted modern security methods, modern surveillance procedures, and techniques. Instead, it relies on the naked eye of informants to ensure stability. This is due to unreliable electricity and communications devices.

While it differs from the cities of the developed world in this way, they both share the creation of small panopticon units in every neighborhood on every street. In Syria, not because of cameras,

but because of informants, people feel that they are being watched by the ever-present eye of the regime all the time. Hafez Al-Assad established strong security apparatuses through which he controlled Syria.

He appointed confidants and deployed informants, all of whom were themselves targets for monitoring. According to Human Rights Watch, there are 27 security centers in Syria of which seven are main security agencies. These centers have branches and prisons spread throughout the country.

What is particularly shocking is that each of them operates completely independently of the other agencies, and each has its own investigation rooms and its own interrogation techniques. There is no coordination or clear boundary between the different forms of information gathering. Not only that, unions, public institutions, and offices of the ruling Baath party were also centers for monitoring and tracking citizens. Even the kiosks located in streets and next to parks monitor and eavesdrop on people's meetings and gather information about them, like many security branches, or many panopticons scattered throughout the city.

■ **Naya Skaf:** In Damascus, there are many security apparatuses under different authorities, one of which is the State Security Branch or the State Security Department. According to a Syrian human rights organization, there are at least 10 powerful security branches affiliated with the State Security Department where detainees are taken and any information about them stops at the door of the branch.

Before the revolution, before reports from human rights organizations came flooding in, before anyone testified, whether before a journalist, researcher, a camera, or German judge, hardly anyone knew what went on in these branches. There were no detailed accounts of what the building even looked like from the inside. With what we see from the outside, speculations were always made, but no one knew for sure. All of this has changed and because of survivor's testimonies, including the witnesses in Koblenz, we have a clear picture of the ugliness of the branches and those who work in them. We now are beginning to understand how far their barbarism and brutality can reach.

■ **Noor Hamadeh:** Branch 251, or Al-Khatib Branch, is named after

its location near Al-Khatib Square, and located next to the Baghdad Street in Damascus. Al-Khatib Branch is a building located in a dense residential area that was constructed in the 1940s. The Al-Khatib area, like any other area, has services such as a mosque, a school, and a hospital. The branch's street is called "Intelligence Lane" among residents. The neighborhood was always closed to cars with roadblocks until 2000. One could always walk there, at least until the revolution changed that as well.

Security measures tightened during the years of the revolution and it became impossible to navigate sprawling checkpoints. The branch building consists of three floors, just like the neighborhood buildings in the Al-Khatib area, which are inhabited by middle-class people. The branch has an extension, an additional floor, in addition to an unused garden. Before it became a security branch and a detention center, Al-Khatib Branch was a residential building that was repurposed. And like any panoptic prison, it is believed that there are underground floors housing many cells.

■ Naya Skaf: According to testimonies of detainees, Branch 251 contains around 29 cells, 24 of which are for solitary confinement with inhumane dimensions, and five for collective detention. Both types suffer from inhuman conditions. They do not have windows or fans for ventilation. The only lighting comes from a bulb that is illuminated 24 hours a day so that detainees lose their ability to distinguish between day and night. The area of each collective cell is similar to any residential room, that is 15 square meters, but the difference is the number of people who are in it.

In the estimation of one of the witnesses, the group cell for men crammed in around 150 people at times, which meant that the space available for one person is only 10 square centimeters, which is 10 times less than the normal space of a person standing comfortably. We mentioned this to highlight the pain that arises just from taking away the personal space of detainees. This results in other problems like skin and respiratory infections and diseases. So, how about the torture itself?

As we mentioned before, all this information would have never been available without the stories we heard from survivors, especially those who testified during the Al-Khatib trial in Koblenz. The Koblenz trial's witnesses are people who defied the fear despite the fact that the cause of that fear is still present and continues to feed into it. And that cause is Syrian security.

CALL AND RESPONSE

Season 3 | Episode 3 | September 24, 2021

In this court update, Hannah El-Hitami and Fritz Streiff discuss the most recent testimonies, as well as the court's puzzling decision to block the recording of the final pleas and a motion to label the charge of enforced disappearance as a crime against humanity. Like many times before, the seemingly dry, bureaucratic legal questions that the Koblenz court grapples with during this trial raise fundamental questions about international law, universal jurisdiction, and justice itself.

EMPTY

■ **Fritz Streiff:** Hannah, what happened in Koblenz since our last court update two weeks ago?

■ **Hannah El-Hitami:** I actually have not been to Koblenz these past weeks, but I have read the European Center for Constitutional and Human Rights reports and spoken to some of my contacts on the ground in order to keep you updated on the recent developments. Generally, there were more survivor witnesses who confirmed once again the description of treatment and the prison conditions in Branch 251. These were actually the last survivor witnesses and plaintiffs before the collection of evidence by the court closed.

■ **Fritz Streiff:** The Koblenz court is really trying to get a very complete picture of those contextual elements, it seems. It makes sense if you take a step back and have a look at a large number of charges in the indictment against Anwar R. He is charged as a co-perpetrator in 4,000 counts of torture and originally 58 counts of murder. The second part has actually been updated since the beginning of the trial with another 10 counts, so in total, it is 68 counts of murder.

■ **Hannah El-Hitami:** The court is gathering all the evidence presented to it in this really large framework of charges.

■ **Fritz Streiff:** It makes sense that we are hearing many stories describing the general treatment of prisoners and the prison conditions at Branch 251.

■ **Hannah El-Hitami:** There was also a special testimony that is stuck in my mind, which was by a Syrian artist who testified anonymously. He is apparently famous, but we do not know who he is. He was detained and was interrogated by Anwar R. personally. Anwar R., it seems, treated him quite well and told him that he was not "scum" like the other protesters. When the witness's father came to pick him up at the branch, Anwar R. went to meet the father and introduced himself. Apparently, the witness's father was also a very famous artist, although we also do not know who he is.

The witness assumed Anwar R. wanted to meet him because he was a famous artist. This resonates with some testimonies that we heard in the past that showed that Anwar R. had a particular admiration for culture and arts, treating artists in the prison better than others, and having some light conversations with them about cultural topics. I find this very interesting because it reminds me of other historical contexts where professional cruelty went hand in hand with a certain admiration for intellectual and aesthetic sophistication.

■ **Fritz Streiff:** I remember when you told us about this testimony, we both had this similar reaction, and we talked about it, this historical reference. There is something about that. A well-known example of this is Adolf Hitler's fascination with Richard Wagner and his operas. Also, it reminds me of the Bosnian Serb war criminal Radovan Karadzic, who reportedly was a passionate writer of poetry. Not just reportedly, in fact, he had published some of his, I think what real poets would say, rather mediocre poetry.

■ **Hannah El-Hitami:** I guess if we want to try to understand Anwar R. better, not just in the context of the charges against them, but as a person, I find this testimony very interesting.

■ **Fritz Streiff:** I agree. What else do you have for us?

■ **Hannah El-Hitami:** Apart from the recent testimonies, I would actually like to use this update to tell you about two important issues that have been and are still being discussed over a longer term. One of them is this question of whether the trial should be recorded. This is something that academics, NGOs, and others have been lobbying for from the very beginning because they see the trial as historic and they want to preserve it for future generations, to study it and perhaps even learn from it for future trials.

Last month, the court rejected this request for the third time. The judges had originally argued that recordings could put witnesses at more risk and also make them feel insecure and less willing to testify. In the last request, the European Center for Constitutional and Human Rights, the ECCHR, merely asked to record the final pleas and the verdict. This was also rejected, though, based on the argument that trials can only be recorded when of special historical significance for Germany, and they argued that this trial was only of special significance for Syria.

■ **Fritz Streiff:** The court also made reference to this part in German law when they first refused the recordings back when we reported on it in August of last year. I was wondering then, and now again, and for the third time, how does that make sense when you are talking about the first criminal trial worldwide against former Syrian regime officials taking place, not in The Hague, not in any other country, but in Germany?

■ **Hannah El-Hitami:** Yes, this seems like another example of how the German judiciary is conducting an international trial in a very national framework. Because the whole principle of universal jurisdiction is based on the idea that certain crimes are so grave, they concern the international community as a whole, regardless of national borders. Yet this German court is arguing that the Al-Khatib trial is not historically significant for Germany, and therefore, based on Germany's Criminal Procedure Code, may not be recorded.

That does not seem logical to me. If countries are to conduct more of these universal jurisdiction trials in the future, it only makes sense that they adapt their criminal procedure codes in an adequate way. Until then, journalists, NGOs, and of course us at the podcast, are doing our best to document and preserve this important trial.

■ **Fritz Streiff:** I find this one a really hard one to pass over. It is probably a longer discussion that we and the whole field around this trial and universal jurisdiction should have. If the code on German Criminal Procedure does not allow for it when interpreting it in a narrow sense, which is what the judges seem to have been doing, that is one thing, and you can hide behind those articles and paragraphs if you want. As far as I understand, the court and its judges do have the authority to allow this on a case-by-case basis, including if a trial is of special historical significance for Germany, which this one clearly is. It is almost as if the German system does not allow itself to be proud

of the achievement of being the jurisdiction that is pioneering in this sense.

Another debate, one that has not yet been decided, is the question of whether enforced disappearances should be evaluated as crimes against humanity in the indictment. In addition to the torture, killing, and sexual violence against civilians, the joint plaintiff lawyers brought this motion forward to also recognize how much terror the Assad regime has caused Syrians by disappearing their loved ones without a trace. Until today, tens of thousands are still missing, and their families do not even know if they are still alive. This motion by the joint plaintiffs has not yet been decided. In August, the prosecution announced they would not be joining the motion.

■ **Fritz Streiff:** From what I understand from Syrian colleagues, this is perhaps the most underestimated and undervalued form of structural torture in the whole Syrian tragedy. When you look at similar historical examples of this crime, it really becomes clear how insanely cruel this actually is. Just thinking of other historical examples like the Mothers of the Plaza de Mayo in Argentina, who embody not knowing where your loved ones are and holding out this hope that becomes increasingly desperate. Also, in the legal sense, it is considered an ongoing crime. As long as the person or the body has not been found, it goes on and on and on. From what I gather, and I can only imagine, it is a whole different level of mental torture on the family and the next of kin. More generally, it really tears at the deepest fabrics of society. That makes you wonder why, in this case, did the prosecution not agree that this crime should be qualified as a crime against humanity in the indictment?

■ **Hannah El-Hitami:** Well, apparently, they argued that enforced disappearances were not the aim of the regime, but merely a side effect of arrests and that the actual aim of arrest was to get information. Obviously, the statement provoked anger among the audience and among the plaintiff lawyers, because after all, this trial has clearly shown that that was not the case. So many people were detained for no reason and tortured arbitrarily. Some were never even asked any questions, they were simply punished for questioning the regime.

■ **Fritz Streiff:** The choice not to join the motion of the joint plaintiffs is also a strategic one by the prosecution. It would have put them in a really difficult position, namely to have to prove a crime that

has actually never been successfully prosecuted as an international crime, never in history.

Not only would the prosecution have to show the systematic nature of enforced disappearances, specifically in the framework of the limited, roughly one-year timeframe of the indictment in this case, but it is also really hard not to crack in terms of legal elements that need to be proved. For example, one of the prerequisites for this crime is that family or friends of the disappeared person need to have requested official information on their whereabouts with the authorities, and never receive anything.

■ **Hannah El-Hitami:** That is one of the reasons why Syrians reacted with such disbelief to the prosecutor's decision because, in Syria, there are hardly any official ways of requesting information on arrested people, and on top of that, whoever tried to get information would risk being detained and tortured themselves.

■ **Fritz Streiff:** The prosecution would still have to show this, to prove this element, which seems close to impossible, including for reasons that you just mentioned in the Syrian context. Last week I spoke to a colleague who has been in the field of international criminal law for a long time, and I spoke to her about this. She said it is one of those examples which clearly shows that how the crime is included in international codes, including in the German one, seems to have been designed and written by legal experts perhaps with little or no practical criminal law courtroom experience. And the reality then is that this makes it extremely hard for prosecutors to eventually successfully prosecute the crime. Strategically, from the prosecution's point of view, they may have decided they would rather not even try.

■ **Hannah El-Hitami:** Imagine if they try and then fail, the headline could be "Anwar R. and the regime he represented acquitted of enforced disappearances as crimes against humanity."

■ **Fritz Streiff:** That would not only be unfortunate but perhaps also counterproductive. They chose to prosecute this part of the indictment, enforced disappearances, on the basis of the German Criminal Code instead of the International Code of Crimes Against International Law. They are prosecuting it as a so-called national offense, which is less difficult and has a higher chance of succeeding, and in the end, that may be more important for the victims waiting

for justice. They are waiting for some kind of healing, at least if you compare it with potentially unsuccessful prosecution as a crime against humanity.

■ Hannah El-Hitami: Let us wait and see how the court decides on this matter. I will definitely be back in Koblenz next week for some of the last testimonies and I will let you know as soon as possible what happens. Then we are going to hear the final pleas by the defense, the prosecution, and the joint plaintiff lawyers before the verdict.

DO NOT HARM

Season 3 | Episode 4 | October 8, 2021

When you think of dictatorial regimes, you might think of state-controlled media or of the army on the side of the state, but what about the healthcare sector? Do they side with the regime? And what does that even look like? Since the uprising in Syria began, regime-aligned doctors have played a powerful role within Assad's torture apparatus. In this chapter Naya Skaf and Noor Hamadeh take a first look at the darker side of medicine within the context of war-torn Syria.

EMPTY

■ **Naya Skaf:** During the proceedings in Koblenz, the judges have been consistently asking witnesses about medical care in the Al-Khatib Branch. A picture has arisen of neglect bordering on abuse. One witness testimony actually came from a doctor who was tasked with looking after detainees' health in Branch 251. He testified to the conditions of the detainees, both dead and alive.

■ **Noor Hamadeh:** There is something seemingly paradoxical about the presence of doctors in a place that is designed to harm people. A man who worked for seven years as a guard at the Al-Khatib Branch said he had to ask the head of the branch several times to get even one single painkiller for a prisoner.

■ **Naya Skaf:** Why are doctors even there, then? What are they doing in detention centers? How did we get here? What kind of doctor intentionally neglects or hurts people?

■ **Noor Hamadeh:** On today's episode, we are taking a first look at a huge and complex topic, medical violence in Syria. Medical violence is silent, intimate, and secretive violence. Silent, because often it is a crime of omission, of neglect. Intimate, because the perpetrator knows you in a deeply personal and sensitive way. Secretive, because the traces are hidden, the evidence destroyed, the damage whitewashed, filed away as natural and inevitable. Syria's healthcare system has a long history of instrumentalization for political purposes that continued when the Baath Party came into power in the 1960s onward. Before the 1960s, marginalized areas

were typically neglected in peripheral places such as Idlib, Daraa, and the countryside. Most of Syria had little to no medical services. Urban centers such as Damascus, on the other hand, had a high concentration of modern healthcare facilities.

The Baath Party sought to change this and directed resources toward facilities and medical services in peripheral and rural areas. Clinics and hospitals sprung up where there had not been any before. Crucially, this brought Baathist healthcare professionals into these areas.

■ **Naya Skaf:** The Baath Party's ambitious plan to reduce inequality was not necessarily bad. Tackling inequality also was not necessarily the goal. It was more a means to an end, political manipulation to gain popularity. The consequences, intended or not, were disastrous. The party essentially politicized the entire sector, which is supposed to strive to be apolitical. Instead, boundaries were drawn along ideological and sectarian lines. -Consequently, discrimination against and polarization of non-Baathist medical professionals ran rampant within the healthcare sector.

■ **Noor Hamadeh:** We want to take a moment here to acknowledge that not a single healthcare system in the world operates in a vacuum. Bias and politics influence doctors worldwide. However, the instrumentalization, politicization, and subsequent militarization of Syria's healthcare sector deserves our special attention. To this day, it plays an important role in Assad's deadly regime.

■ **Naya Skaf:** In 1964, the Baath Party waived medical school tuition. Studying medicine would be free of charge. When the time came for those students-turned-doctors to treat people who demonstrated against the regime, they were branded as traitors. The intelligence services of the regime arrested nurses and doctors and interrogated them. People who were doing what they were trained to do had to hear that they were ungrateful and disloyal to a state that educated them and provided them with the opportunity. Nothing is free.

■ **Noor Hamadeh:** Under Hafez Al-Assad's rule, efforts to manipulate the healthcare sector became more brazen. Medical students used the Baath Party salute to swear their oath of medical ethics. When applying for a job in healthcare, party membership was more important than professional qualifications. Practicing doctors that were loyal to the regime would receive more government

funding, grants, scholarships, and government positions. Whatever one's career ambitions in the medical field were, if they were not accompanied by fierce party loyalty, you could forget about them.

■ **Naya Skaf:** This is not just a story about politicization, it is also one of militarization. Militarization occurs when a regime increases the presence of the military, in this case, in the country's healthcare sector. In Syria, militarization was meticulously and patiently executed. Medical professionals and aspiring medical students were persuaded, if not coerced, to have a career within the military. Military doctors were then deployed not just to military hospitals but also to military prisons and security branches, such as Branch 251. What we see today is a striking number of army and security officials that are also doctors. Let us not forget that the Syrian president himself was a doctor, a trained ophthalmologist.

■ **Noor Hamadeh:** Over time, the military and its sprawling intelligence agencies built an elaborate surveillance system that extended to all aspects of Syrian life. The healthcare sector was no exception. Within hospitals, ideological fault lines were reproduced. In the 1980s, the regime ramped up the marginalization of dissenting voices in the medical sector. Doctors, nurses, cleaners, and guards reported to intelligence services about their colleagues' suspicious activities.

■ **Naya Skaf:** Suspicious activities included disobedience, criticism of the government, affiliation with an opposition party, and refusal to participate in an election. Any and all of these supposed offenses could get a doctor or a nurse in trouble. By 2011, when the uprising began, the Syrian healthcare sector was largely run by regime loyalists. It was deeply intertwined with the military, and the security apparatus was ever-present.

In short, the healthcare sector was perfectly positioned to take on its deadly role. It was not just a breeding ground for perpetrators, as some doctors did everything they could to adhere to their ethical standards. Unfortunately, standing their ground was becoming more dangerous within the walls of increasingly politicized and militarized hospitals.

In July 2012, with the uprising in full swing, things reached a new boiling point. Bashar Al-Assad introduced a sweeping anti-terrorism law. In regime-controlled areas, treating protesters was now

considered an act of terrorism, and treating civilians in opposition-held areas was labeled terrorism as well.

■ **Noor Hamadeh:** According to the NGO Physicians for Human Rights, at least 930 medical professionals were killed between 2011 and 2021, with the first four years being particularly deadly. Hospitals where they worked faced targeted airstrikes, for example, or they were detained and executed, or tortured to death.

■ **Naya Skaf:** The anti-terrorism law and intense violence forced many doctors to make an impossible choice: stay and risk your own life, or quit and leave countless people at the mercy of Assad's bloody regime.

■ **Noor Hamadeh:** Some estimates suggest that roughly 10–15% of healthcare workers, including medical students, rejected the regime. They left their jobs or their studies, but they did not leave Syria. They went underground to help build a parallel network of health facilities to treat injured demonstrators. About half of Syria's medical professionals fled the country. The rest stayed either in silence or in support of the regime.

■ **Naya Skaf:** Let there be no mistake, plenty of medical professionals in Syria are victims of the regime. Doctors, nurses, and paramedics that continue to work despite relentless aerial attacks did and still do essential work, but they are fighting an uphill battle.

Here is a 2012 quote from a highly trained surgeon in Homs named Abu Hamzeh that was featured in *The Guardian*. "One day I treated a patient in the emergency room. The next day he was sent to the CT room for a brain trauma he did not have the previous day. That is how I discovered that they did things to him at night. After two days, the patient died from his brain trauma. He would not have died from the injuries I treated the first day." Stories like Abu Hamzeh's deserve their own space. In this episode, however, we will be focusing on the "bad" doctors. The ones that weaponized their skills and expertise. Doctors that instead of doing no harm, did. The shape that this harm takes varies widely. Regime-aligned doctors could be working in civilian hospitals, clinics, prisons, detention centers, military hospitals, or intelligence branches. They might be reluctantly or wholeheartedly anti-opposition. They might be deeply and actively involved in interrogation and torture. They might be tasked with actually treating people, or they might not really do much of anything at all.

■ **Noor Hamadeh:** Before we get into it more, let us talk for a bit about what medical violence is. Medical violence is a category of violence that involves the systematic use of medical professional skills. Much like, for example, the category of domestic violence, the definition says less about the specific type of damage that is being inflicted or the methods used, and more about the context of the violence and the dynamic between the perpetrator and the victim.

■ **Naya Skaf:** It is not just limited to straightforward perpetration either. Facilitating, supervising, and legitimizing can all fall under medical violence.

■ **Noor Hamadeh:** For example, there are cases of doctors writing up false medical reports about detainees that died. The doctor's failure to investigate the real cause of death and instead come up with a natural cause of death is considered medical violence.

■ **Naya Skaf:** Medical violence, in general, is a unique category of violence because it revolves around the medical professionals' identity and actions. It is a process more than an act. It can be enabled by a political decision, then lead perpetrators down a path of torture and killing. Each step of this path is shaped by medical knowledge and skills.

■ **Noor Hamadeh:** Since medical violence is such a broad term, and because it is such a widespread practice in Syria, we have to narrow our scope a bit. For now, we will focus on the role of medical professionals in prisons and intelligence branches like Branch 251.

■ **Naya Skaf:** Before the uprising in 2011, the role of doctors in prisons was limited. Typically, it was their job to monitor detainees and only intervene to keep them alive and conscious during their interrogation and torture.

■ **Noor Hamadeh:** In fact, many times it is what doctors do not do that can be just as deadly as what they do. For example, depriving a hurt or sick detainee of care means that the smallest injury could be fatal.

■ **Naya Skaf:** Since it is standard procedure to collect information on the detainee's health, prison doctors usually have an idea of the preexisting conditions of the prisoners. It is valuable knowledge that can be easily exploited. For example, a prisoner could have asthma.

The doctor knows full well that this person requires certain living conditions as well as treatment. Just by understanding this, he can hand the people in charge of interrogation an invisible weapon, perfectly tailored to this specific prisoner. Because, why go through the trouble of beating someone if you can trigger the same amount of stress by simply denying them care?

■ **Noor Hamadeh:** Practices like these are intentional. They are systematic and they are an efficient regime tool. While neglect is still the most common form of medical violence in intelligence branches, since 2011, it seems that doctors have taken on a more active role as well. We should bear in mind, however, that every branch is different. In some branches, doctors provide a bare minimum of care, whereas, in other branches, doctors actively participate in torture. In some branches, there are no doctors at all. The following quote belongs to a former detainee. Upon arrival, he was examined by a doctor.

■ **Detainee:** They blindfolded me and stripped me of clothing. Then, they called the doctor. The doctor did not talk to me. He touched my limbs and chest, then pressed my stomach. Then, he said, "He has strong muscles. Start with three."

■ **Naya Skaf:** Three is a number that corresponds to a level of intensity on a sliding scale. It was the level of torture the doctor thought would be appropriate for this detainee.

■ **Noor Hamadeh:** There are reports of doctors actually performing torture on prisoners as well. Survivors of Syrian detention centers and hospitals have told shocking stories of doctors torturing and killing other inmates. Broadly speaking, we have learned that doctors in prisons and intelligence branches consciously created circumstances that increased the likelihood of death. So many detainees suffered and died in detention centers, and not despite the presence of doctors, but rather because of it.

■ **Naya Skaf:** For perpetrators in Syria, these tactics of medical neglect and violence were not just cheap, they were also an effective form of psychological torture. In our episode on sexual violence *They Pay Twice*, we already discussed how psychological and emotional stress can effectively break a person with minimal effort on the part of their perpetrators.

■ **Noor Hamadeh:** This is a dynamic that we see in the context of

medical violence in Syria as well. The relationship between a patient and a doctor, or a patient and a nurse, is unique in how intimate it is. There is this other person who knows a lot about you: personal intimate facts. They are supposed to be someone you can trust, someone who cares for you and cares about you, someone who once swore an oath to treat the ill to the best of one's ability. It begs the question, how do people who are supposed to be healers end up doing so much damage?

■ **Naya Skaf:** For this, we spoke to Uğur Ümit Üngör. He is a professor of Holocaust and genocide studies at the University of Amsterdam and the Institute for War, Holocaust, and Genocide Studies in Amsterdam. He is also the author of the book *Syrian Gulag: Assad's Prisons, 1970 to 2020*, which is scheduled to be published in March 2022 and in which he discusses the immense power doctors have in the context of Syria's prison system.

■ **Uğur Ümit Üngör:** First and foremost, as an authoritarian government, the Assad regime has ambitions to overtake large parts of its professional workforce. That includes not only doctors, but also journalists, peasants, or lawyers. With these particular professional sectors in society, the regime has ambitions to draw them into its own orbit by politicizing them, by having these types of groups be loyal, first and foremost, to the regime rather than to their own profession. Another important factor in the mobilization of Syrian doctors or in the committing of very serious crimes against humanity is the particular class and sectarian structures of Syria.

There was, starting from the 1970s and the 1980s, the gradual rise of Alawite doctors in the system and the almost takeover of the medical profession in Syria by military doctors, also mostly of Alawite background and very loyal to the regime. In the eyes of these particular doctors, the profession should not be ceded to the bulk of the Syrian population but should be controlled by them. This particular mentality also has led them to be mobilized in the perpetration of violence. In principle, there is nothing that makes medical professionals particularly vulnerable to mobilization for violence in Syria. It is important to look at the cultural context in which doctors in Syria operated. Namely, in the past half-century, Syria has developed immensely. Doctors and the medical profession have grown exponentially, which has also meant that doctors have received much more respect. Doctors have relative power in society. That power, of course, is something that the regime is aware of and that can be used or abused for various purposes at any time.

Of course, the key moment was in 2011, when people started massively demonstrating in Syria and the regime started considering any medical support to wounded demonstrators as a form of support to those demonstrators politically. By driving that wedge into society, by pulling the medical profession into a profoundly politicized direction, pulling them away from what they are supposed to be doing, this is one way the regime really made it impossible to provide any humanitarian support to anybody outside of those groups that were approved by the regime.

■ **Naya Skaf:** History is full of examples of medical violence, from the German doctors experimenting on prisoners in concentration camps during World War II to American and British psychological torture programs following 9/11. The common denominator between any instances of medical violence is the presence of a regime with exclusionary policies. Is there anything unprecedented about the Syrian case though?

■ **Uğur Ümit Üngör:** What is unique or unprecedented about medical violence in Syria is the absolute disrespect for medical neutrality. That includes medical neutrality in the sense of the medical facilities under the control of the regime, as these were thoroughly militarized. Also medical neutrality in terms of the facilities under the control of the opposition, as these were, attacked and assaulted deliberately. Of course, in civil wars, it often happens that hospitals end up in the line of fire. The very specific politicization and targeting of medical facilities, medical personnel, and the profession in general, is really unique and unprecedented.

■ **Noor Hamadeh:** We could list many forces that drive medical violence. The similarities between the medical profession and military institutions are many: doctors' efficiency, organization, and ability to select victims, to instill fear and make threats, the appearance of legitimacy, the gravitas of the title, and the access to tools and medication. Medical violence is of significance because it has a lasting impact on victims and on society as a whole. It shatters their trust in humanity and trust in what medicine represents for civilization and its well-being.

■ **Naya Skaf:** Before we end, we want to address a very sticky dimension of medical violence and its perpetrators. We mentioned before that we are discussing "bad" doctors. This does not fully capture, of course, the complexity and the elusiveness of perpetration. What

we have been discussing today is violence that takes place among more violence, mass violence. With that come difficult questions of motivation, responsibility, and choice.

■ **Noor Hamadeh:** Just like in any other context of mass violence, scholars, judges, and the people swept up in the bloodshed themselves are confronted with people who do not fit neatly in the category of victim or perpetrator. Some people are a bit of both. This is also the case when it comes to medical violence. It is really hard to figure out what to make of these people.

■ **Naya Skaf:** If nothing else, the tales of healers turned perpetrators underline the Assad regime's deliberate policy to implicate entire sections of Syrian society by poisoning, manipulating, and destroying institutions and communities, promoting acceptance and indifference toward victims, and the regime's continuous genocidal violence.

■ **Noor Hamadeh:** While the trial in Koblenz is in its final phase, other new trials are on the horizon. This summer, the German federal prosecutor general indicted Alaa M. for crimes against humanity. Alaa M. is a doctor.

■ **Naya Skaf:** The allegations against him are very serious. His alleged crimes are unspeakably cruel and horrific.

■ **Noor Hamadeh:** If the court accepts the prosecutor's indictment, and decides to allow the case to go to trial, then the proceedings against Alaa M. are set to start soon in Frankfurt, Germany. It will likely bring a lot more attention to the role of medical professionals in the torturous Assad regime.

■ **Naya Skaf:** Once again, it will be through the brave testimony of Syrian survivors that the world will find out more about the inner workings of Bashar Al-Assad's Syria. But now, let us get an update from Hannah El-Hitami.

■ **Hannah El-Hitami:** The last days in court in Koblenz actually turned out to be quite interesting. We actually heard some witnesses that were requested by the defense, who had something good to say about Anwar R. or something in his favor. One of them was an officer from the German federal police. This story is a little bit complicated. I am going to try to break it down. Actually, almost all the witnesses

in Koblenz were questioned by the police before they were later summoned to court. This police officer had questioned one of the plaintiffs, a filmmaker, who was detained in Al-Khatib Branch and who later testified in Koblenz. He testified in September.

Back then when this police officer questioned the witness, the plaintiff told him he had met the famous Syrian human rights lawyer Anwar Al-Bunni to make a film about his work. They met in Germany. The witness said to the police officer that Al-Bunni showed him a picture of Anwar R., told him his name, and told him he had worked in Al-Khatib Branch. Back then, the witness said he recognized Anwar R. in that photo because he had seen him in the branch before. He recognized him again when he was shown pictures at the police station during his police interrogation.

We have a witness who talked to Anwar Al-Bunni first and saw a picture, potentially of Anwar R. Later he went to the German federal police and was shown more pictures, recognized Anwar R. again, and now was in court. The problem is that in court last month, he changed his testimony. He said no one had ever shown him any photos. Anwar Al-Bunni had not shown him any photos. There was a contradiction, and that is why the court summoned that police officer to find out what happened during the interrogation. The police officer confirmed that he had heard that the photo had, in fact, been shown to the witness before he ever came to the police.

We are not really going to know what actually happened, but it seems that the defense is trying to prove that witness testimonies in this trial have been manipulated by Anwar Al-Bunni. We will see what the court makes of this and how the court evaluates the credibility of these witnesses and their testimonies.

Another testimony that I found very interesting was from a Syrian novelist who is apparently quite successful and famous. He was detained in the branch back in February 2011. He was interrogated by Anwar R. personally, but he remembered that encounter to be quite friendly. He said they talked a lot about literature and that Anwar R. actually told him it had been his dream to become a writer.

I guess this is another example of what we talked about recently, how Anwar R. is very fond of culture and arts, and that he even wishes to be a writer himself. These two, Anwar R. and this witness, met again in Turkey and they even developed a friendship. I guess

this witness also did not really say much about Anwar R.'s political position, whether he was with the regime or with the opposition. He did say that when they met in Turkey, Anwar R. told him that he would have liked to defect much, much earlier, but he could not because he could not have left his family. They met several times. Anwar R. actually stayed at this witness's home for a few nights when he was in a difficult situation and stranded in Istanbul.

The witness asked him once or several times why he was not sharing all the insider information he had with international courts and investigators. Anwar R. responded that one day he will write a book about it, but he is not so fond of being in touch with the media and so on.

Perhaps he will have time to write that book if he goes to prison. We are still not sure when or if he will be convicted, but there are some new motions by the defense so the trial could be prolonged a bit, but the verdict is still expected to happen by the end of the year.

EMPTY

CHAPTER

34

YOU HAVE NICE HANDWRITING

Season 3 | Episode 5 | October 22, 2021

Whether they run into ex-militia fighters on the streets or receive anonymous threats over the phone, for many Syrians abroad, the Assad regime is never too far away. In this chapter Naya Skaf and Noor Hamadeh explore the insidious ways in which fear and intimidation permeate the Syrian diaspora. With the hosts are guests Mohammad Al-Abdallah, the Executive Director of the Syria Justice and Accountability Centre, and Ahmad Helmi, a Syrian activist and human rights defender living abroad.

EMPTY

■ **Noor Hamadeh:** On May 24, 2011, a 73-year-old doctor joined a protest outside of the Syrian embassy in Washington. He had left Syria 40 years earlier. Now he wanted to show his support for the reforms that protesters back home had started demanding so loudly and passionately just weeks earlier.

■ **Naya Skaf:** And it so happened that he, together with four other protesters, was invited into the embassy to meet with the ambassador himself, supposedly to discuss the issues.

■ **Noor Hamadeh:** Just a few hours after the meeting, the doctor received word from his brother back in Syria. The *mukhabarat* had been at his doorstep. They wanted to warn him that his American brother was causing trouble in the USA.

■ **Naya Skaf:** A few weeks earlier, in the UK, another Syrian was invited into the embassy he was protesting in front of. This Syrian ambassador assured him that the attacks on his city that he had heard of were all media lies. Meanwhile, he noticed someone was secretly taking pictures of him.

■ **Noor Hamadeh:** Yet another family in Syria received a visit from the *mukhabarat*. They were presented with a picture of their family member at a demonstration back in the US and told "Tell your boy not to bring snakes into the family nest."

■ **Naya Skaf:** These are all examples from a 2011 report from

Amnesty International, which details the experiences of members of the Syrian diaspora. As the uprising began, they took to the streets in solidarity with their fellow Syrians back home. They protested in the US, the UK, France, Germany, Sweden, and many more countries. Countries with high standards of free speech and other civil liberties.

■ **Noor Hamadeh:** After all, for some, moving to a different country offers new opportunities for advocacy. You are less likely to be forcibly disappeared by the *mukhabarat* in a country like England than you are in Syria. And yet, all these people in the report suffered consequences. Their families back in Syria were interrogated, abused, and monitored. Their social media feeds were hacked. Somehow, the Syrian regime found them wherever they were.

■ **Naya Skaf:** In this episode, we will be exploring what Amnesty International at the time called "the long reach of the *mukhabarat*." We will be looking at the limitations of escape and to what extent a Syrian refugee actually finds refuge in other countries. It is a wildly underreported and challenging topic. Even still, there is plenty of evidence to suggest that ten years and thousands of miles from Syria later, Syrians abroad are still being blackmailed, intimidated, and threatened. A report issued by the EU's Asylum Support Office as recently as June of 2021 confirms it. Ten years later, Syrians all over the world still get phone calls with demands or warnings. For some, fleeing the country was not enough.

■ **Noor Hamadeh:** Even Syrians who are not directly targeted by shadowy figures aligned with the regime can never really escape simply because of the fact that a number of Assad's henchmen live among them, either in sleepy German villages or in cities in the Netherlands. Their oppressors have become their neighbors. Many lay low, moving through life in anonymity. But then some still honor their loyalty to Assad, gathering information, monitoring, and reporting on their fellow countrymen.

■ **Naya Skaf:** What is it like to live like that? To live in fear even after you have settled in a new country? What is the reality behind the reports? There is no one answer to this. Even if there was one, it would be, "It depends." However, a recent investigation published in a renowned Dutch national newspaper, *NRC*, does shed some light on this question, at least on the situation for Syrians in the Netherlands. And so, we will look at the Netherlands for now as a sort of case study.

■ **Noor Hamadeh:** First, let us talk about scale. The Dutch article focuses on the Netherlands, but it does suggest that potentially hundreds of regime loyalists with varying degrees of blood on their hands are currently living in Western Europe. After 2011, when the regime violence escalated, some felt that things were heating up too much and many of them entered Europe, dispersed, and dissolved into a new society. We are talking specifically about *shabiha* here. *Shabiha* are members of pro-regime militias. Not army officials, not intelligence agents, but state-funded groups of men who do Assad's dirty work. They drag opposition figures from their homes and beat up protestors.

■ **Naya Skaf:** *Shabiha* perpetrate the kind of violence that led many Syrians to flee in the first place, even crimes against humanity in some cases. The article features an interview with a *shabiha* who is thought to have recruited child soldiers. He speaks openly about his ties to the pro-regime militia, and he visited Syria as recently as 2019 to maintain his ties to the regime. You can imagine how distressing it is for Syrian refugees to be confronted with *shabiha*.

Unfortunately, Syrians in the Netherlands rarely report these people to the authorities and even if they do, they are not guaranteed a response. Instead, they have created websites on which to identify and warn each other about potential perpetrators in their new country of residence, to ward off potentially traumatic encounters.

■ **Noor Hamadeh:** But the culture within the Syrian community in the Netherlands is not naturally one of solidarity and support. If anything, a climate of distrust prevails among Syrians abroad, fueled by fear. You can never be sure of someone's history. And even if you are, maybe their past is not in the past after all. Because just as there are *shabiha* living anonymously in Europe, unpunished for horrible crimes and eager to remain that way, there is evidence to suggest that a section of the Syrian diaspora in the Netherlands coordinates with the Syrian authorities. They are the eyes and ears of the Assad regime.

■ **Naya Skaf:** The presence of people who are in touch with the Syrian regime has a few notable effects on Syrians in the Netherlands. First, it fosters this feeling of mutual distrust. Second, it stifles advocacy and activism. Fewer people dare to show up to demonstrations because they run the risk of being filmed by mysterious men. Third,

it means that dissenting voices are heard no matter where they are. There are known cases of people criticizing the regime only to then receive footage of their loved ones beaten up back in Syria. And last, there are disturbing accounts of Syrians in the Netherlands receiving phone calls from unidentified men, blackmailing them, demanding large sums of money or else their loved ones will get harmed.

■ **Noor Hamadeh:** Practices like these are also called transnational repression. And it is something we actually know happens in more countries than just the Netherlands.

■ **Naya Skaf:** Mohammad Al-Abdallah is the Executive Director of the Syria Justice and Accountability Centre, SJAC for short. SJAC is a Syrian-American NGO that works on issues relating to justice and accountability in the Syrian context. Mohammad believes that the situation in the Netherlands is not unique. And he has a good reason. In 2019, SJAC obtained and analyzed a batch of sensitive documents belonging to the Syrian regime.

■ **Mohammad Al-Abdallah:** The documents were collected through different periods of time throughout the conflict. The first batch was around 2013 and 2014, and the second was around 2015 and 2016. Later we did extractions of our own where we got almost exclusive access to documents from Idlib, and more importantly, from Raqqa and Tell Abyad, from the northeast area where no other documents are extracted. The documents have one clear characterization. They came from areas on the border of Syria because those are the areas the government forces left quickly. It was easier to extract the documents to the other side. Not all the documents are post-2011, some of them are from prior to the conflict. Not all of them show direct linkages to war crimes, or crimes against humanity. A lot of the documents are routine paperwork, bureaucratic processing, and sometimes there are security reports about the areas, but there is nothing really special about them.

■ **Naya Skaf:** Some of the documents provided proof that the Syrian authorities were spying on Syrians abroad. Specifically the embassies in both Spain and Saudi Arabia.

■ **Mohammad Al-Abdallah:** Actually, the Syrian embassies abroad are collecting names and sending them to Damascus.

■ **Naya Skaf:** It is important that the documents showed that both

these Syrian embassies operated similarly. It supports the theory that this type of repression is widespread.

■ **Mohammad Al-Abdallah:** It came from two different, far apart countries, Saudi Arabia and Spain, where you cannot actually say it was only the embassy in Saudi Arabia acting on its own because they are Arabic-speaking or because Saudi Arabia was against the government. No, clearly this is a systematic effort the Syrian embassies abroad are engaged in. They try to collect as much information about dissidents and activities outside. This is what the Syrian embassies are doing.

■ **Noor Hamadeh:** So, embassies were, and to the extent they still exist, continue to be, extensions of Assad's security apparatus. Useful tools to keep an eye on Syrians abroad. Many Syrian embassies around the world have closed since 2012, though. So, what about other actors?

■ **Mohammad Al-Abdallah:** The cell phone carriers, the landline phone services, basically, any communication the Ministry of Communication is involved in. Basically, they record and save everything. At some point the Syrian government also had the Syrian Electronic Army, which was a group of hackers. Based on what we know from documents and personal experience, it was searching for hard evidence.

■ **Noor Hamadeh:** What Mohammad describes here is formal monitoring, which involves institutions such as the cell phone carriers and embassies. But the regime also relies on informal monitoring, which involves individuals reporting on each other to the intelligence services.

■ **Mohammad Al-Abdallah:** There are a lot of Syrians abroad, and unfortunately, there is a history of Syrians who, I am not sure if you are familiar with this expression, "have nice handwriting." That usually means someone who writes reports, who is an informant. They report to the intelligence services, and before it used to happen through handwritten reports. A lot of people were arrested in Damascus's airport or were asked to report to the intelligence services upon arrival from abroad, or were reported by their peers, their classmates or roommates, Syrians studying with them outside.

■ **Naya Skaf:** Mohammad mentioned that the motivations of

people who report on each other could be fueled by fear as much as anything else.

■ **Mohammad Al-Abdallah:** That is why Syrians do not talk to each other when they live abroad. You do not want to talk to other Syrians, because you either have to report them, or they will report you to somebody. Nobody talks to anybody, nobody trusts anybody. It is a very isolated community.

■ **Noor Hamadeh:** The presence of people who cooperate with Syrian intelligence branches, or who are intelligence officers themselves, poses a real threat to Syrians abroad. A *New Yorker* article published in September 2021 described how a high-ranking intelligence officer named Khaled Al-Halabi infiltrated a group of Syrians in Europe who were trying to set up civil society projects in rebel-held territory in Syria. He was trying to find out things about them, their names, their activities, and their phone numbers. Al-Halabi is believed to have been responsible for war crimes, including rape, torture, and murder.

■ **Naya Skaf:** It is clear that the regime and its network of informants, agents, and institutions are particularly interested in stifling dissent. For that reason, it is often activists who are most at risk. Ahmad Helmi is an activist and human rights defender, and is himself a member of the Syrian diaspora. He knows that Assad's henchmen are active outside of Syria. They pose a risk to the safety of activists and their loved ones back in Syria.

■ **Ahmad Helmi:** It is definitely a valid point for activists because those Syrians who are still connected to Syrian intelligence are writing reports back to Damascus and sometimes are even actively threatening, or at least bothering, the activists.

Actually, I believe that the Syrian regime is closely following not only me but all the activists, all the Syrian activists around the world. But so far, I have not encountered any accidents, neither with me nor my family. But I think someday they will have the time to deal with those people and then they will start. With the Syrian regime nothing passes with time, nothing is forgotten. They record everything. So someday they will threaten my family, there will be threats to the safety and security of my family. It did not happen yet, but I am pretty sure it will happen once the Syrian regime and intelligence have the time for that.

I have taken this decision to move on in this movement. To fight for democracy and human rights in Syria, regardless of whatever the consequences will be. And I have informed my family of my decision since day one. I know there will be risks, but I do not have the luxury to assess those risks or to do anything about them. Because I cannot stop. Stopping the activism and advocacy and campaigning is not an option, it is only a luxury. I do not have it.

And for me, with my personal safety, I have been through enough, so nothing else scares me, to be honest. I was shot by a sniper during one of the non-violent, peaceful demonstrations and I have been detained, tortured, and forcibly disappeared for three years. So, I think there is not much more they can do and even if there is, it is not about me. What scares me the most is my family, but as I told you, stopping now is a luxury. It would mean that everything I have been through would be lost, along with my family, my community. Syria will have lost and would go away with the wind.

■ **Naya Skaf:** We have learned that the reach of Assad's security apparatus affects activists. But how does it affect activism?

■ **Ahmad Helmi:** Actually, it is interesting how it has developed. Lots of survivors and activists that we contact these days to participate in advocacy are mostly not willing to unless they are using fake names. And when it comes to participation in person, they will not because they are afraid their face or voice will be recognized and that will be reported back to Damascus, and Damascus will keep the record.

But the interesting development here is that, before 2015, it was the opposite. People had the courage and people were not afraid of using their own names or participating in activities, advocacy, convening in person, live or in media, social media etc., because there was a chance, or at least hope for Syrian people that the situation in Syria would change, that the Syrian regime would change or would fall. We felt that they were weak. But now people are seeing the Syrian regime regaining power all over Syria. People are more afraid now. With every week that passes, I feel like we are losing more activists. More people are becoming more quiet.

■ **Noor Hamadeh:** It was surprising to hear, of all people, an activist speaking so openly about disheartening facts like these. But Ahmad pointed out that activism is becoming increasingly dangerous, especially for people who have family in Syria. And not because of

Assad's secret activities, but rather because of the legitimizing of the regime by others. He lays the blame for that particularly on the international community.

In October 2021, the American magazine *Newsweek* put a portrait of Assad on its cover with the bold headline "He's back." And in Denmark there has recently been a push to declare Syria safe to return to. At the beginning of October 2021, Interpol, the global policing organization, let Syria back into its communication networks, a move which is especially dangerous for activists abroad.

■ **Ahmad Helmi:** Lots of activists are really scared. Even lots of non-activists, victims, survivors, and former activists are scared that their legal situation, whether in the EU or other countries, will be jeopardized. We are still trying to assess the risk and how to deal with it. It might not lead to the arrest of me or other activists, but I think it might at least affect a visa application or an asylum application.

■ **Noor Hamadeh:** When Syrian human rights lawyer Anwar Al-Bunni went shopping in his local Turkish supermarket in Berlin in 2014, he spotted a man that he vaguely recognized but could not immediately place. The penny dropped only later, when he mentioned the encounter to a friend. Anwar Al-Bunni had of course spotted Anwar R.

■ **Naya Skaf:** The reason we do not say his last name, and have not for the last one and a half years, is because German authorities decided to prosecute Anwar R. and he is now officially a defendant in a criminal procedure.

■ **Noor Hamadeh:** And the reason that we are making a podcast about it is because this German trial is the first worldwide criminal trial against regime officials. In the context of everything we have talked about today, it is worth pausing on that for a moment. The *NRC* article from the Netherlands argues that there are dozens of *shabiha* living there, and have been living there undisturbed for years.

■ **Naya Skaf:** And yet the first Dutch trial against regime officials or *shabiha* has not started. So far, the Dutch authorities have been focused on jihadists, people who fought with groups like ISIS and Al-Nusra. It is a testament to the different ways in which countries' authorities tackle the problem of the Syrian regime's presence

within their borders, and a testament to the political will of different countries' governments. Because there probably are a lot of parallels between the plight of the Syrian community in the Netherlands and say, Syrians in Germany, Sweden, France, and so forth. But it is only in Germany and only in 2020 that we see case-building and investigations in these countries resulting in a criminal trial against former regime officials, albeit against two relatively low-ranking accused.

■ **Noor Hamadeh:** At best, European countries are just slow because they are trying to be careful and precise. But there are hints of incompetence, indifference, and as some critics would argue, plain opportunism as well. Remember the *shabiha* living in the Netherlands that allegedly recruited minors for his militia? The reason why he agreed to do an interview with a Dutch national newspaper in the first place was because the Dutch immigration services already investigated him but did not take any action. And the intelligence officer accused of war crimes that the *New Yorker* wrote about? He was initially refused asylum in France. In fact, it was under the Refugee Convention clause that states that asylum can be denied to those suspected of war crimes or crimes against humanity. However, according to the *New Yorker* article he was whisked away to Austria with the help of Austrian and Israeli intelligence services, who saw him as an asset. He apparently ended up under Austrian protection, with a flat in Vienna and a 5,000 Euro monthly stipend. No one knows where he is now.

■ **Naya Skaf:** In any case, many Syrian refugees who should be safe where they are, are actually not. And the efforts of the authorities of their new home countries to protect them too often fail the millions of survivors of oppression, persecution, torture, and violence.

■ **Noor Hamadeh:** Yes, Koblenz is a step in the right direction, but what if the road is longer than we thought? What if it runs through our own backyard?

EMPTY

SENTENCED FOR LIFE

Season 3 | Episode 6 | November 5, 2021

Sometimes people who do not have a German passport end up behind bars in Germany. But depending on their status, their punishment does not end as they walk out of prison. In this chapter Fritz Streiff and Naya Skaf explore how free ex-convicts without a passport really are. And with the help of Thomas Oberhäuser, chairman of the executive committee of the Working Group on Migration Law in the German Bar Association, they discuss what could happen to Anwar R. and Eyad A. if they were finally convicted for what they are accused of: crimes against humanity.

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■ **Hannah El-Hitami:** Last month in court we heard two more insider witnesses. One had been requested by the defense while the other by the prosecution. I always find these insider witnesses really interesting because they worked inside the system so they really know how things were done and how hierarchies worked.

At the same time, I am always a bit surprised when they come without lawyers like these two did. It is a fine line as we see in Eyad A.'s case, since he started out as a witness and then because of something he said, turned into a suspect and then a defendant in court. As most of the insider witnesses were somehow involved in the regime's doings, they might have been involved in crimes or they might have been hierarchically responsible for crimes. I think it is a pretty risky thing for them to testify. In this case, nothing happened to them but I will summarize their testimonies.

One of them was a pilot in the army and he comes from a really influential prominent family in Syria, a family of army officers. He even said that he knew Bashar Al-Assad and Hafez Makhoul personally. He defected six months before Anwar R. did in 2012 and they had some common friends. He assisted Anwar R. with his defection. He picked him up from the Jordanian border and organized an apartment for him and his family so they did not have to stay in the refugee camp.

When he picked him up from the border, they were in the car together and talked about certain opinions and the situation in Syria. The witness remembered that Anwar R. said he wanted to

defect earlier and that he did not really agree with what the regime was doing. The witness also said that Anwar R. cooperated with the Jordanian secret service and provided some documents that he had brought with him. He helped organize a safe route for Syrian civilians to come to Jordan. He also said that he met Anwar R. a bit later again in Jordan and that Anwar R. was really afraid that the Syrian secret service was after him and would try to kill him even in Jordan.

The second witness was a secretary. He worked in Branch 285, which is a branch similar to Branch 251, where people were also interrogated and tortured. They had their own prison as well. Anwar R. had worked in that branch before he transferred to Branch 251 and then spent a few more months there before his defection. The defense has claimed that he was transferred back to Branch 285 as punishment because he had helped so many prisoners, so they just put him in some unimportant job to keep him out of the way. This secretary who worked with Anwar R. for quite a long time said that it did not seem like a punishment because Anwar R. still had his company car and his own office. He still had an employee to bring him coffee and tea just like the other officers. That part of the story was not really confirmed. On the other hand, this witness remembered Anwar R. as being very kind and friendly. He always greeted the low-ranking employees such as himself, which apparently other officers did not do. As a person, he said Anwar R. was a good man.

Later in October, nothing new happened in court. It was mostly requests by the defense for more witnesses and then arguments by the prosecution against those requests, and some decisions about those requests by the court. As soon as all that is sorted out, we will hopefully know when the final pleas are going to take place, and finally when the verdict is actually going to happen. I guess for many of us with that verdict, this whole trial, and this whole story is coming to an end. For the defendants, the verdict is just the beginning of a whole new chapter.

■ Naya Skaf: As Syrians and the rest of the world watch closely for what could be the final weeks of the Koblenz trial, we thought of traveling with you in time and visiting the future together. In this podcast, we have considered the past and the present at length but what about the future? The future of Anwar R. and Eyad A., and the type of life that awaits them after the trial and possible appeals are done, when the world is not watching anymore and a kind of normalcy starts. What really is normal in this context? What would

their life be like after five years, 10 years, 20 or more years, as much as it would take for them to get released, that is, if both get a final conviction?

Fritz Streiff: Lots of people are waiting for the verdict in this case, but what about their life afterward? Does the story not continue for the two defendants? We wanted to try to understand this ourselves, whether Anwar R. and Eyad A.'s punishment, if they are finally convicted, stops when their prison years are served. Does their punishment somehow continue to live on and shape the life that both will continue to lead?

By the way, when we say life after prison in these cases, it is worth mentioning that we are still speaking theoretically here. Eyad A. was convicted already back in February 2021, but he decided to appeal his sentence, which means that it is not final yet and he remains innocent until finally confirmed to be proven guilty. Anwar R.'s case in Koblenz is ongoing as you know, so the same goes for him as well.

Naya Skaf: To understand the future situation that Anwar R. and Eyad A might find themselves in, we will explore various questions in today's episode on life after prison in Germany for non-German citizens. Our Arabic series producer, Saleem Salameh, discussed these questions with Thomas Oberhäuser, who is chairman of the executive committee of the Working Group on Migration Law in the German Bar Association, DAV. Thomas told us what could happen to Branch 251 ex-officers Anwar R. and Eyad A. if they were finally convicted for what they are accused of, crimes against humanity.

Fritz Streiff: When someone who does not have a German passport has to go to prison in Germany, a question then usually arises as to what will happen to their right of stay once they are released from prison. They have done something that goes against the law and that has landed them behind bars. This is usually considered reason enough to expel them. The authorities then make an assessment on a case-by-case basis to decide if this person can be expelled or not.

Naya Skaf: Usually when it is a serious crime like the allegations in Eyad A.'s and Anwar R.'s cases, then the decision would likely be to expel them. Upon release, they would receive an expulsion order that says, "Leave the country," but the whole thing is not as simple as it may sound.

■ **Fritz Streiff:** Absolutely not, because part of that assessment is the core question of what would happen to this person after being expelled to his home country. For example, in Eyad A. and Anwar R.'s cases, they would likely face the risk of torture or even worse because of their defection and because of the testimonies they gave before and during the trial.

According to international law and also the relevant provisions in German residence law, expulsion is prohibited if there is a threat of the death penalty, or considerable and concrete danger to life, health, or freedom of that person. For example, in a situation in which there is the threat of torture in the home country if the individual was to be sent back there, then there will usually be a ban to expel this person.

■ **Naya Skaf:** To quickly recap here, in Germany when someone has asylum status, this generally means they cannot be expelled to their home country. If an individual truthfully told their story of being in danger where they came from, and as a result received asylum status, that person should normally not be able to get expelled. However, there are various scenarios in which that status could change or be taken away again.

■ **Fritz Streiff:** Exactly, and that is what we learned from Thomas Oberhäuser. Let us take a look at these different scenarios. One scenario in which a previously received asylum status could change is when the person did not tell the truth in the asylum procedure with the application. If a Syrian asylum seeker changed or played down his role or involvement in crimes, and the authorities then found real facts showing that he obtained asylum status by lying about being in danger or leaving out incriminating facts, then it is likely that the status would be taken away. This is a procedure, by the way, that happens a lot in the United States, where the authorities use this as a tool to expel war criminals who they cannot prosecute. They do not have laws like the universal jurisdiction provisions in Germany that are being used to prosecute Anwar R. and Eyad A. Another scenario would be that the asylum applicant was fully honest during the application procedure that got them the asylum status, but through this honesty the person admits to certain crimes. The authorities might decide to actually transfer their dossier from the migration and refugee authorities where the application procedure is happening to the justice authorities, as was the case with Eyad A. A criminal prosecution might follow and the German authorities can, but do not have to, withdraw the asylum status.

Again, this is a decision-making procedure that happens on a case-by-case basis, and here it gets even more foggy, because even if the authorities withdraw the asylum status from this individual, this does not necessarily mean he will be expelled immediately or ever. Remember, there might be a ban on expulsion because of the situation that individual might face in his home country

■ **Naya Skaf:** In practice, the state then says, "You have to leave this country, but we cannot expel you ourselves because you might either be in danger if you go back to your home country, or you might still have valid asylum status. Still, you were convicted for a serious crime." What happens then, where do they go?

■ **Fritz Streiff:** This bizarre situation leaves a person like that with basically two options. Either they leave the country voluntarily and will then never be allowed to come back, or the second option is to remain somewhat, as the authorities would put it, "illegally" in the country and with the knowledge that if circumstances in their home country improved, the authorities would then go ahead and expel them.

■ **Naya Skaf:** Fritz, that is the dilemma. The state would want to expel foreigners that have committed a serious crime, but the authorities cannot do it in practice for the time being. In case there is a change in the circumstances in their own home country, then they will expel them. They are in a waiting position in a legal limbo. In that, they are considered to be illegally staying in Germany, a confusing situation to find yourself in. It may not be entirely just, if you consider that they have already served the punishment the court handed them.

■ **Fritz Streiff:** With all this knowledge, let us zoom into a case like the one of Anwar R. and Eyad A., and assume they eventually get convicted and serve time in prison. We know that Anwar R. had received asylum status before he was arrested and put on trial. We are not 100% sure what Eyad A.'s asylum status is at the moment. Before his arrest and in those interviews, he volunteered the information that actually led to his arrest. We do not know where that procedure went and for the time being, it may just be on pause. Looking into the future when they eventually get released, the state will likely want to expel them because of the serious crimes they committed. That is what we just learned. At the same time, the authorities might decide in their individual cases that it is in fact not safe to expel them.

■ **Naya Skaf:** They will not be able to expel them for the time being and they would find themselves in the confusing situation we described before. Plus, in Eyad A.'s case, there is the asylum procedure. A conviction will definitely not work in his favor to get asylum status.

■ **Fritz Streiff:** The thing is that if they choose to go with the first option we outlined earlier and decide to leave Germany, then their only option would be to go to a third country. For example, another Arab country or any other non-European Union country, because leaving Germany alone is not enough. We learned from German lawyer Thomas Oberhäuser that the expulsion order they would get would say something like "You are not allowed to stay in Germany, or even in the European Union." In case they have special links to another European country, such as family living there, this country would then have to ask Germany if it agrees that this person would get permission to stay in this other country. Usually, in practice they would refuse that. If they decide to go with a second option we described, which is to stay in Germany, they end up in that confusing limbo and waiting position, the so-called illegally staying in Germany position. This begs the question, during that time when they stay in Germany, how can they lead anything even resembling a normal life?

■ **Naya Skaf:** According to Thomas Oberhäuser, they will not be able to get a residence permit in Germany, let alone start the process of naturalization to get the German passport. They also will not be allowed to work, not in Germany nor elsewhere in the EU. They are not allowed to travel across borders. They can do things to try to find their way around, like learning German if they want to. That is of course anyone's right. They can try to adapt, but they have no legal right to stay. In other words, it may not really benefit them, as they would be investing in something they know will end sooner or later.

■ **Fritz Streiff:** This life sounds very challenging, Naya, but it does not stop here. It turns out, despite the fact that they cannot work or settle or even be free to move around, they would still need to renew their permission to stay, although it is considered staying "illegally."

■ **Naya Skaf:** How does that make sense?

■ **Fritz Streiff:** It is yet another one of those confusing and partly contradictory components of this entire complexity. Plus for every

such renewal to stay illegally they even have to pay, despite the fact that as you said before, they are not even allowed to work. The money for paying for these renewal procedures becomes yet another challenge for them. The challenges are really piling up here in a systematic way. When we asked Thomas about this, he said that this is the German authority's way of saying, "Get out of Germany. We do not like you."

■ **Naya Skaff:** What about family members like a wife, children, brothers, and sisters? Are they also affected by this situation that convicted criminals would face, for example, in Eyad A. and Anwar R.'s case, if they get convicted? If their families are not directly affected, can they and their status perhaps help them after they get released?

■ **Fritz Streiff:** Usually there is a concept that is called family reunification. That is when there are direct family members that already reside in Germany, which is usually a reason to stay or to be invited to Germany if you live in another country and you apply for asylum. By the way, in German law, what is considered a direct family is only husbands, wives, and children under the age of 16. But in this situation we are discussing in this episode, core family members related to Anwar R. and Eyad A. who live in Germany will not be able to help them or keep them from being expelled. In similar cases we heard from Thomas, family members can and might decide to leave the country along with the person that is affected by the order to get expelled, but they do not have to leave. They are not directly affected by the decision. They can stay if they want to. The question is, do they really have a choice if they want to be together?

We have said it before, the situation just has piling up complexities and challenges. Either you leave Germany and the European Union, or you stay in this confusing waiting position. You cannot become a resident, you cannot work, you cannot move across borders freely, and all the while you have to pay to even stay in that entire insecure limbo situation. Your family members cannot really help you to stay either. Plus, let us not forget, this is after they have served their punishment in prison. These future problems and challenges that Eyad A. and Anwar R. might face do not count toward possible mitigating circumstances that the judges in Koblenz could consider when sentencing them. All in all, Naya, this might sound a bit dramatic, but it seems to me that this would be the end. From all aspects, it does not seem there are many opportunities for them here. It is a dead-end street.

■ **Naya Skaf:** Yes, I agree.

■ **Fritz Streiff:** What if Anwar R. would be found not guilty of the crimes he is accused of and actually wins this case? It seems very unlikely but still, just to think this through for a second here and looking at the topic of today's episode, what would happen?

■ **Naya Skaf:** That probably will not happen, though you never know. If we want to explore the answer, then as Thomas told us, if he is found not guilty, he has every right that a refugee would be entitled to. To start with, with the simple fact that he would keep his asylum status, he could start a procedure toward becoming German. He can and might ask for compensation for the time that he has been in detention during the trial. In other words, if the court ends up deciding that he is innocent in the sense of the indictment, then his life continues to be the same as it was before the trial started.

Speaking of that, what comes to mind right now is how he asks for protection from people that he claimed were threatening him. Remember early on in the trial, Anwar R.'s lawyer told the court about his fear of Syrian intelligence officers in Berlin, that there were members of the *mukhabarat* observing and following him. He was quite sure of it because he knows how they operate and move from his decade-long experience. He was sure they were plotting to kidnap and kill him. I was thinking if he was not found guilty, would he want to ask for protection again? Would he be able to get it? Thomas told us this might be almost impossible, since asking for protection requires a lot of investigation and it has to be a really dangerous situation for people who require protection.

■ **Fritz Streiff:** All this is quite thought-provoking. Another thought worth pausing on is, in light of everything that we have talked about in today's episode, should these types of criminals actually keep on paying a price for what they have done and have already served time for in prison? Does their punishment really end after prison? If it does not, is that really fair?

■ **Naya Skaf:** We talked to Thomas about this and he had an opinion on this very thought.

■ **Thomas Oberhäuser:** That is a really big ethical problem and I think it is a legal problem too, but nobody really takes it seriously. Someone who has done something wrong and has to go to prison,

the criminal court decides how long he has to go to prison until he has done his penance. Afterward, a foreigner will get a second sentence, a second decision that says, "You will be expelled then, too." That is in the opinion of most people, a second conviction, a second sentence.

This is not really in accordance with our constitution and everything you have in mind, because you will be handled differently just because you are a foreigner. You have done the same thing like a German, but you will be handled very differently. The German goes to jail while you go to jail and have to face another decision afterward. This is something that is not really fair and we fight against this. In the case of Anwar R. and Eyad A., it is clear they can face more than one sentence, in my opinion, when they have done these things. For many other people, it is worth fighting against this nonsense where they make different decisions just because someone is a foreigner. This is something that is really a decision for a lifetime for a lot of people, and it is worse than the criminal sentence because you cannot come back. This is really a cruel thing.

EMPTY

CHAPTER

36

THE BUSINESS OF WAR CRIMES

Season 3 | Episode 7 | November 19, 2021

War is expensive. On paper, the Assad regime should be broke. And yet, its pockets seem deep enough to carry on waging a bloody war on the Syrian people. In this chapter Noor Hamadeh and Fritz Streiff attempt to answer the question that is probably on your mind right now: how do they do it? Thanks to Nick Donovan for sharing insights on his research with Global Witness.

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■ **Noor Hamadeh:** It is early morning in Damascus. As the call for morning prayer sounds from the city's mosques, many residents wake up to perform their prayer, after which they take their place in line to receive government-subsidized bread. Syrians stand in these lines for hours, sometimes up to seven hours, just to retrieve bread to bring back to their families, but standing in line for so long means they are not able to work to support their families. In some cases, their children stand in line instead, often missing school, just so their families get to eat that night.

According to the UN, about 90 percent of Syrians live in poverty. The average Syrian government salary is about 50,000 Syrian pounds, which is almost the cost of a trip to buy groceries. The conflict in Syria has devastated the Syrian economy. In 2010, 50 Syrian pounds was worth one US dollar. Now 2,500 Syrian pounds is equivalent to the same amount.

■ **Fritz Streiff:** How is the Syrian government able to continue running a regime of torture and repression? Syrians and government-held areas are still very fearful of the regime's harsh hand. Despite the dire economic situation, Syrians are not taking to the streets to call for government reform. They are scared of the consequences they might face because Syria's *mukhabarat* are still very much active. They are still monitoring Syrians as they have for decades, listening for anyone to speak out against the government, to say something wrong.

After over 10 years of the Syrian regime's war effort, Syria is undergoing a dire economic crisis, and many Syrian government officials, people close to the Assad family, are facing extensive sanctions imposed on Syria by other governments. How is a regime that should be absolutely broke able to finance not only this war effort, but also the *mukhabarat*, its detention centers and intelligence branches like Branch 251? How are they able to keep such a complex system running and pay the salaries of positions like the ones Anwar R. and Eyad A. held?

■ **Noor Hamadeh:** Well, the regime is not doing it all on its own. It is getting help. After the revolution in 2011, the Syrian government relied heavily on support from Russia and Iran. For example, Iran provides a large part of Syria's oil without payment, but it is also not for free. Syria has been gradually racking up a significant debt to Iran over the years that it will have to eventually pay back.

Russia's role is one that is much more notorious. In 2015, Russia decided to intervene in Syria on behalf of the Syrian regime, providing military support, including air support that included dropping barrel bombs on civilians from the sky. This was what really propped the regime up. Russia took on a significant part of funding the war effort, but Iran also contributed by funding *shabiha* and sending Iranian militias to support the regime. *Shabiha* literally means ghosts and it is the word Syrians use to refer to pro-regime militias.

■ **Fritz Streiff:** It sounds like a lot of the actual war effort, such as the aerial bombardments and the actual fighting, was paid for and is still being paid for and executed by Russia and Iran, which means this freed up the Syrian regime's finances quite a bit.

■ **Noor Hamadeh:** That is right. But that on its own has not been enough to keep the regime afloat. The Syrian government has also found ways to take advantage of the already cash-strapped Syrian public. The government has done things like charge really high prices for administrative tasks that are basic necessities for many Syrians, such as requiring Syrians to exchange \$100 at the border with Lebanon when they enter Syria, military conscription exemption fees, property-related administrative fees, and passport renewal fees. Despite the fact that it is now one of the weakest passports in the world, it is also the most expensive passport to renew. Syrian passports need to be renewed every two years, and this can cost anywhere from \$300 to \$800. There is even a reconstruction tax that

Syrians have to pay, although reconstruction in Syria has not really started.

■ **Fritz Streiff:** There is also the currency exchange rate. The Syrian central bank has the power to manipulate exchange rates and uses an artificially inflated exchange rate for anyone who changes other currencies into Syrian pounds through official channels. This means that in some cases the bank holds onto 51 cents per US dollar. This is more than half the money lost to the exchange rate. Another way the Syrian regime is able to maintain enough wealth to continue to operate in the way that it does is because of its control of the economy, businesses, and business owners in Syria.

■ **Fritz Streiff:** We spoke to Joseph Daher, an affiliate professor at the European University Institute who specializes in the political economy of Syria. He highlighted something really important, which is that the regime has complete control over the economy and Syrian business. Because it has this control, the regime and the people close to it choose where the money goes. They choose to prioritize whatever it is they need to protect themselves. That includes making sure they continue to have deep pockets, that they continue to live comfortable and luxurious lifestyles, but also that they are able to maintain the system of fear that has gripped Syrians for decades. This fear keeps Syrians in line and prevents them from rising up in anti-government protests again, despite the current economic crisis and dire living conditions they have to endure.

■ **Noor Hamadeh:** Joseph Daher explains how the Syrian regime relies on an economic system of crony capitalism. Crony capitalism is an economic system where a small class of people who are closely tied to the government use their connections to the government to gain economic advantages over other businesses. He explained to us exactly how this works in Syria.

■ **Joseph Daher:** When we speak about former crony capitalism, we have to understand the particular political economy of the region, not just limited to Syria. Most of the regimes of the region are basically patrimonial ones, much like Syria, and Libya, and the Gulf monarchies. What do we mean by this patrimonial nature of the regime? It means that the centers of power are concentrated in a small group or a person and that they concentrate all the powers, military, economy, political, et cetera. The army, or the main section of the army, is not there to protect the state, but rather a particular

ruling class. In this setup, economic opportunities are very often linked to the connections businessmen have with the centers of power.

■ **Noor Hamadeh:** As Syria descended deeper into war, these "crony capitalists" reacted by deepening their relationship with the regime because being tied to the regime and making it so that the regime relies on them was their only option for survival. That is the only way to maintain their positions in society and their financial success. Business people found different ways to demonstrate their loyalty to the regime, from promoting pro-regime propaganda through their businesses, to orchestrating pro-regime rallies, and more terrifyingly, creating and financing pro-regime militias. They use the profits they made from their successful businesses to establish new militias to support the regime's war effort.

■ **Fritz Streiff:** One of the most notorious business people who has been a close ally to the Syrian regime and to the Assad family is Rami Makhoul. He has a household name in Syria. Rami Makhoul is Bashar Al-Assad's maternal cousin. When Bashar Al-Assad became president in 2000, Makhoul was allowed to become the wealthiest businessman in Syria. Makhoul financed at least four different pro-regime militia groups. There are even reports that Makhoul smuggled cigarettes into Syria to use as currency to pay members of the militias. Joseph Daher described him as the banker of the family.

■ **Joseph Daher:** His economic power throughout the 2000s expanded in a way that was amazing, with the crown jewel being the Syrian telecommunication company, which was one of the biggest private companies in Syria with 6,000 employees. But he was also involved in oil and gas, construction, banking, airlines, retail, you name it basically. Some analysts were saying that he controls nearly 60% of the Syrian economy either directly or indirectly through his network of affiliates, because not all the companies are the same.

■ **Fritz Streiff:** 60% of the Syrian economy, that is how deeply tied up the Syrian economy is to him. Makhoul is also closely tied to Syria's *mukhabarat*. His brother Hafez Makhoul is head of the 40th Division which is closely affiliated with Branch 251. With such close family connections to intelligence, it is also said that Rami Makhoul has substantially funded the *mukhabarat* through his businesses. But Rami Makhoul was not the only business person that benefited

from and supported the regime. He is just one of a few selected business people in Syria who both benefit from their closeness to the Assad family and use their positions to further uphold the government.

■ **Noor Hamadeh:** It sounds like these business people really benefited from being so close to the regime. They made a lot of money and monopolized entire sectors of the economy, but how exactly did this benefit the regime?

■ **Fritz Streiff:** Well, first of all, having the top businesses in the country in their pocket is huge for the regime. Like Joseph Dagher said, it means they can control large parts of the economy. The regime gets to control where the money goes, and what this means is that the Syrian government is siphoning all the money in the country into itself and a small group of loyalists, as opposed to investing it in things that Syrians need or social services, supporting small business growth, or rebuilding the country in a way that Syrians can benefit from. Second, the regime has built-in political and military support. These cronies used their wealth to fund the salaries and weapons of pro-government *shabiha*, but also a new class of business elites started to appear. As the regime's war continued and more and more of the business people who are close to the regime were sanctioned by the United States, Canada, and the European Union, doing business internationally in the way they were previously accustomed to became more difficult. Syria became more and more economically isolated and over time, a new class of economic elites or cronies emerged. They would start companies in their own name, acting as fronts while all along someone else was really running the show and giving them a cut.

■ **Noor Hamadeh:** The business of continuing to finance a war, especially under economic sanctions can get really complicated. The people involved have to develop complex business networks, including having people act as fronts in companies they secretly control throughout the world, developing shell companies, companies without any real business activities to move money and using those to transfer and maintain money in different banks and investments around the world. This is something that Nick Donovan, who researches the financing of conflicts, spoke to us about. Nick's research focused on one financial network that facilitated the Syrian regime's money transfers, the Khouri network. Mudalal Khouri is a Syrian-Russian man who controls a network to facilitate the

movement of illicit finances. Nick says that Khouri's is a money-moving business.

■ **Nick Donovan:** They provide the pipes through which money can be transferred for many different reasons.

■ **Noor Hamadeh:** Khouri's network played a pivotal role in helping the regime move money where it was needed.

■ **Nick Donovan:** When the revolution started and the war was going very badly in about 2012, Mohammad Makhlof, the uncle of the president, went over to Russia and started to investigate moving some of the family or regime money into Moscow. The network that we were investigating helped them buy about \$40 million worth of property in Moscow's skyscrapers. The US sanctions notices mentioned how members of this network led by Mudalal Khouri helped the Syrian central bank buy banknotes. They also helped them buy ammonium nitrate. A central bank official was trying to procure ammonium nitrate, which can either be used for fertilizer or for explosives, and they were helping them move money around to make these purchases which were essential for the Syrian war effort. The Syrian economy needed banknotes, it needed ammonium nitrate, whether it was for agriculture or explosives, and it was running short of ways to get them.

■ **Noor Hamadeh:** In particular, Nick Donovan, along with a team of experts, looked into how these networks facilitated the Syrian regime's access to components of chemical weapons. One thing Nick said that was very interesting was that somehow, although it is unclear to Nick and his colleagues, Syria's intelligence apparatus had oversight over the SSRC, the Scientific Studies and Research Center, the Syrian government's entity in charge of Syria's chemical weapons program. Chemical weapons purchasing in Syria is decentralized, which means that intelligence branches made their own decisions about what types of weapons materials they wanted as long as they were under a certain value.

■ **Fritz Streiff:** One case in particular highlights another way in which business plays a key role in facilitating the Syrian government's war crimes. In 2019, three NGOs, the Syrian Archive, Trial International, and Open Society Justice Initiative, filed complaints about alleged sanctions violations with prosecutors in Germany and Belgium. For full disclosure, I worked on this case at the time.

What we asked for from the prosecutors was to investigate a case in which Belgian, German, and Swiss companies allegedly violated export control laws by shipping isopropanol, a precursor chemical that is used to produce sarin gas, a chemical weapon used by the Syrian regime against civilians on multiple occasions but most famously in Ghouta in August 2013 and Khan Shaykhun in April 2017. Together, these two attacks killed more than 1,400 people, including many children.

According to Steve Costas at Open Society Justice Initiative, the shipments were part of a contract with a Syrian pharmaceutical company that claimed to be making a gel form of a medication called Voltaren, an anti-inflammatory drug. While there is no evidence that this isopropanol was used for anything other than manufacturing Voltaren, there are a couple of things that raise concern and that the three NGOs asked the prosecutors to further investigate. First, German and EU law required shipments of concentrated isopropanol to Syria to be approved by the government and these shipments were not approved. Second, the OPCW was busy destroying Syria's stockpile of concentrated isopropanol at the exact time the Syrian pharmaceutical company ordered this concentrated isopropanol from the European companies. Third, the Syrian pharmaceutical company that ordered the isopropanol, called Mediterranean Pharmaceutical Industries, or MPI, was directed by Abdul Rahman Al-Attar, who was known to be close to the Syrian regime and supported it in evading sanctions. Fourth, lastly, a Swiss press report showed that approximately 80% of the concentrated isopropanol was never delivered to MPI, suggesting that it was diverted.

■ **Noor Hamadeh:** If the isopropanol was not all being used to develop Voltaren, then where was that isopropanol going?

■ **Fritz Streiff:** It is hard to say. There is no proof that it was going straight to the SSRC for the production of sarin gas, or even more concretely that this isopropanol was used to produce a sarin gas that was then used in a chemical weapons attack, but this kind of situation raises red flags about what the isopropanol was being used for. What this shows is two things. First, this case shows that the Syrian regime seems to be using sophisticated networks to acquire the necessary chemicals to produce what is probably the most heinous part of its weapons arsenal. Second, this case shows how complex it is generally to run a business in Syria right now.

Another reason running a business in Syria right now is so difficult is that often business people are asked to foot the bill for the Syrian regime whether or not they want to. That way the regime can alleviate its financial burdens and continue to funnel money to the places it wants. Eyad Hamid, a senior researcher at the Syrian Legal Development Program, interviewed Syrian business people for a report on the effectiveness of sanctions in the Syrian context. In one example Eyad shared, a Syrian businessman who owns warehouses in Homs loaned his warehouses to be used as temporary *shabiha* organization spaces.

■ **Noor Hamadeh:** There was also another Syrian businessman who owns warehouses in Homs, and between 2011 and 2014 his warehouses were used as temporary detention centers when the regime's own detention centers did not have enough space to hold all their detainees.

■ **Fritz Streiff:** It is very unclear if these people voluntarily loaned their property to the regime, or if they did so out of fear. One insider who spoke to Eyad said that anyone who owns a fleet of anything in Syria, buses, cars, ships, was without a doubt required to loan them to the regime at one point or another. Eyad also heard reports of people close to the regime going to different businesses and telling them, "You gained your wealth because the regime let you, or because of your relationship with the regime." He would then ask them to contribute to a charity that acted as a front for the Ministry of Defense. These stories Eyad shared highlight an important point. These business people get to reach extreme levels of wealth and prosperity because they are close to the regime, although these stories show that this comes at a cost. The regime expects you to pay it back.

■ **Noor Hamadeh:** It also means that you can only really be as powerful as the regime allows you to be. What happens when you fall out of favor with the regime?

On April 30, 2020, the above-mentioned Rami Makhoulf, Bashar Al-Assad's cousin and arguably the most influential business person, posted a video to his Facebook page speaking out against a tax fraud claim the Syrian government made against Syriatel, a Syrian telecommunications company and Makhoulf's largest company. Makhoulf said that half of Syriatel's profits had gone to the government in 2019. Syriatel had paid \$23.4 million in taxes that year,

but now the government was asking for almost an additional \$500 million.

■ **Fritz Streiff:** In this video, Makhlouf tries to connect with the Syrian people. He talks about all the ways he spent his money for the Syrian people, especially through his charity called Al-Bustan.

■ **Noor Hamadeh:** Although there were reports that money going through Al-Bustan was used to pay the *shabiha* salaries.

■ **Fritz Streiff:** After all the favors he received from the regime, all the corruption, abuse, and bullying of other Syrian business owners, Makhlouf paints a picture of himself as a victim of the regime's greedy hand. This was an unprecedented moment in Syria's political history. But it seems like what is happening here is that the Syrian regime is taking another strategy with its cronies. It is demanding more and more of their money. Syriatel's profits are not for Syriatel employees, they are not for their investors, they are not for Rami Makhlouf, they belong to the Syrian government. Maybe some of that money will be spent on wheat or fuel for Syrians, but it will also be spent on intelligence services, on the salaries of the *mukhabarat*, of people who work in intelligence branches that need to keep running. Branches like Branch 251, salaries for officers like Eyad A. and Anwar R.

■ **Noor Hamadeh:** An even more insidious way the regime finances itself is through its ability to control and manipulate humanitarian aid. UN agencies that operate in Syria have to do so through the Syrian regime with the regime's approval, and the regime has some strict rules about how humanitarian agencies can operate in Syria. Money for humanitarian aid has to go through the Syrian central bank, which exchanges currencies at a false rate, and the central bank ends up pocketing a huge percentage of that money.

■ **Fritz Streiff:** When money goes into Syria for humanitarian aid to support the Syrian people, not all of it is actually going to the Syrian people. A lot of it ends up further financing the regime. The regime also requires UN agencies to work with a specific set of charities in Syria. Charities like Al-Bustan, which was started and owned by Rami Makhlouf, and the Syria Trust that was founded by Asma Akhras, Bashar Al-Assad's wife, who is facing a criminal investigation in the UK on allegations that she has incited, aided, and encouraged war crimes by Syrian government forces. These charities pick and choose

what communities and what neighborhoods they want to support. They also pick and choose how money is spent and where it goes.

■ **Nick Donovan:** All wars require finance. Even if you are really ideologically motivated, you still need money to buy food and boots for your soldiers and ammunition. None of that is done for free.

CHAPTER

37

ANWAR WHO? PART 1

Season 3 | Episode 8 | December 3, 2021

The verdict in the groundbreaking case against Anwar R. is expected to be delivered soon. Fritz Streiff and Noor Hamadeh start a special two-part journey into Anwar R.'s road to Koblenz, as well as all the possible roads that might lay ahead. In part one of this chapter they are joined by legal advisor Antonia Klein.

EMPTY

■ **Fritz Streiff:** Anwar R. is a good guy. He is just a bureaucrat who was at the wrong place at the wrong time and had nothing to do with any criminality before 2011. Then he realized something was wrong. He was appalled by the criminal methods of the inner circle of the Assad and Makhoulouf gang. He was offended, so he complained and he helped prisoners. He put their names on release lists and as a result, he was sidelined and degraded. He saved his family when the moment was right to leave the country. He left his post in Syria as soon as he could to do the right thing and help the other side with all knowledge and documentary evidence he could provide. He was even vouched for by a prominent member of the opposition. He took part in official opposition activities. He was convinced he did nothing wrong but then found out to his utter surprise that his former role and some of the activities he performed in that role were now seen as illegal by his new host country.

■ **Noor Hamadeh:** Anwar R. is the former head of the investigation unit of the Al-Khatib Branch or Branch 251 in Damascus, Syria. In this role, he was responsible for crimes against humanity including murder, torture, and sexual violence. He was an active part of the Assad killing machine and not just since 2011, but long before that too.

■ **Fritz Streiff:** Anwar R. is a pure professional. He is a highly-educated investigator who was very good at his job and still is. With a law degree from Damascus University, he rose through the ranks of a typical intelligence service career. He made it all the way

to a small circle of elite officers. Anwar R. found his role within the system. He identified his limits and his redlines. He is a professional investigator with a certain pride in his job. He followed his rule book of how to perform his job meticulously, namely investigating crimes and collecting intelligence, not more, but also not less. What did that mean in Syria at the time, and even before that? What kind of methods did he employ for that, or rather, had other employed? Well, that is another story, but he never got his own hands dirty sitting behind his well-organized desk.

■ **Noor Hamadeh:** Anwar R. is a typical opportunist. He is a chameleon that knows exactly when and in what context to change color so that he easily blends into the environment he has just adopted to increase his chances of survival. He is like a flag in the wind. Just look at his biography and the choices he made. A perfect career in a dictatorial regime for decades, rising through the ranks and working extra hard to please the ruling elite because he was from another Islamic denomination. Then, when the tables started turning, he turned his back on all of that to save his own skin, to secure his part in the future of a new Syria after the imminent fall of the Assad regime, to be on the right side of history. His choice to defect was not born out of a conviction that the regime he had served was now all of a sudden bad and wrong. That would have been a grave type of self-deception. Rather, it was convenient. In fact, it was necessary. Change sides, change color, because that is what a chameleon does when it needs to.

■ **Fritz Streiff:** Anwar R. is a double agent who has been playing cat-and-mouse games with multiple intelligence agencies, including his own. He has been on the payroll of at least two, probably more, secret services during the course of his life. When he defected, he did not really defect. He still provided information to the regime back home and other services. He provided information and documents to whoever if it helped his situation. His stories of being followed by the *mukhabarat* in Berlin and the fear that they would kidnap and kill him that he reported to the Berlin police were a well-crafted cover, but then the police arrested him and his home base dropped him. Just like that?

■ **Noor Hamadeh:** Anwar R. is a victim. He was taken advantage of and when he needed help and asked for it from those same authorities that invited him to Germany, but they arrested him instead. He was led to believe that he would be protected by the

country that had provided him with a special protection visa. When he needed help the most, when his life was at risk, he found himself behind bars and indicted as responsible for atrocity crimes. Now he is the main accused in the first worldwide criminal trial against former Syrian regime officials for crimes against humanity. He is a scapegoat.

■ **Fritz Streiff:** Anwar R. is the perfect symbol of the regime as a whole, the perfect illustration of a regime that is responsible for the most atrocious crimes, and when confronted with hard evidence, just denies everything as if they never happened. Giving the most absurd answers when they are challenged with the facts. That is what the regime does, and that is what Anwar R. has done in Koblenz.

■ **Noor Hamadeh:** From what we heard in more than 100 days of trial, Anwar R. could be all of these versions, but which one is he really? The Koblenz trial is slowly coming to an end. In today's two-part episode, we want to zoom out a bit and take a detailed and critical look at the core questions in preparation for this final verdict. Again, who really is the defendant?

■ **Fritz Streiff:** This will be a trip through the case and the trial so far, a good look at the accused and at the expectations for the verdict.

■ **Noor Hamadeh:** To go back to the beginning, we talked with our court reporter Hannah El-Hitami about how the case actually started.

■ **Fritz Streiff:** A lot has been written and said about this, but not all of it seems accurate, Hannah. What is up with that?

■ **Hannah El-Hitami:** One of the myths that has been reproduced throughout media coverage of this trial is that Anwar R. was arrested after famous Syrian human rights lawyer Anwar Al-Bunni met him by chance near the refugee home in Berlin. While it is true that they crossed paths, and of course, it is a great story to tell how people from such different ends of the Syrian human rights landscape end up in the same place in Germany, but that was not how it all started.

■ **Noor Hamadeh:** What triggered his arrest then? How did he get onto the radar of the German War Crimes Unit?

■ **Hannah El-Hitami:** I have to admit that I myself had understood a wrong version of the events for a long time. Anwar R. thought he was being followed by the Syrian secret services in Berlin and went to the German police in 2015 to ask them for help and protection. I had understood that the police complaint he filed at the time was the reason why the authorities started digging into his past, but turns out it was not.

He actually lived without any problems for another two years, until 2017. Anwar R. was summoned by the police in the south of Germany to testify in a case against another suspect, another former Syrian secret service officer and defector had recommended Anwar R. as a witness to the police. So he went to testify, but it soon turned out that he could not be of much help because he had worked in a different branch than the suspect, but at the same time, he spoke a bit too openly about his own past during that meeting. He talked about arbitrary arrests and about interrogations where "one could not always stay polite." This testimony was then forwarded to the federal police who started collecting information about him. Then they started considering him a suspect. In a way, he indirectly turned himself in by feeling too safe in his position as a defector and refugee in Germany. He did not really think his past might come back and haunt him. For me, I think it is still interesting to hear that he was also afraid of the *mukhabarat* following him in Germany and that he did go to the German police to ask for help.

■ **Fritz Streiff:** Did that come back during the trial, Hannah?

■ **Hannah El-Hitami:** The fact that Anwar R. was so paranoid came up several times, yes. Witnesses who had met him after his defection remembered that he was afraid from the moment he left the country for Jordan. He probably had every reason to be. "He knew who he had worked for and what they were capable of," said one witness, himself a high-ranking defector from the Syrian army.

■ **Noor Hamadeh:** Some defendants just categorically deny all charges. Was that an option in Anwar R.'s case?

■ **Hannah El-Hitami:** Well, there were never really any doubts that he had worked in the branch, that he was a colonel, and that he was hierarchically in charge of investigations. On one hand, all the information gathered about Branch 251 from the beginning of the trial can be seen as evidence against him. All those survivor witnesses

who described the inhumane conditions in the underground prison, the lack of food, hygiene, medical care, a situation the court has considered a form of torture in itself, and then of course, the torture that took place during interrogations.

■ **Fritz Streiff:** From the verdict in the case against Eyad A., we know that these crimes were committed in the framework of a widespread and systematic attack against the civilian population. That is the element that makes them crimes against humanity. During the first phase of the trial, the prosecutor presented a lot of evidence to that effect, which we discussed during the course of the podcast, ranging from the testimony of the so-called gravedigger, the Caesar photos, and the Syrian expert witnesses that testified as well. What role did Anwar R. play in these crimes?

■ **Hannah El-Hitami:** In his own initial statement in May 2020, Anwar R. said he did not order torture nor support it, and that he did not know about deaths in the branch while he was there, but of course those would have been his responsibility as well.

■ **Fritz Streiff:** Okay, but he did confirm that he was there, that he was the head of investigations during the time of the indictment between April 2011 and September 2012?

■ **Hannah El-Hitami:** Right, in Branch 251 and also for a short while in another quite similar branch, Branch 285. However, no witness claimed that Anwar R. was ever himself a torturer. The guards were in charge of that. One witness claimed to have been punched in the face by Anwar R., but this was unusual compared to many other testimonies of witnesses who had personal encounters with him. The overall picture was not really that he was the kind of person who physically assaulted anyone himself. Some witnesses, however, confirmed that they had traces of torture on their bodies when they came into his office. They also confirmed that the prisoners' screams could be heard in his office that was on one of the upper floors of the building. That means he must have known what was happening. There were witnesses who had met him in the prison, and most of them actually remembered that he was quite friendly, even offering tea and cigarettes and speaking with them reasonably. I remember one of the plaintiffs said that he talked to her like a friendly uncle, but at the same time he refused her desperate wish to be transferred to the communal cell when she felt she was going crazy in solitary confinement.

■ **Noor Hamadeh:** We heard some good things about his behavior toward detainees, but also some testimonies like this one that suggests a "good cop, bad cop" dynamic he engaged in.

■ **Hannah El-Hitami:** Some witnesses said that they were tortured directly after he interrogated them, so they assumed that this was the routine to have a somewhat reasonable interrogation, but if it was not satisfactory, then it would be followed by torture to break them for the next questioning.

■ **Fritz Streiff:** How did the defense try to make its case?

■ **Hannah El-Hitami:** There were some attempts by the defense to discredit specific witness testimonies by pointing out contradictions or by suggesting that they had been tampered with. But with 4,000 cases of torture and 68 killings and several cases of sexual violence, questioning individual statements can hardly challenge the accusations as a whole.

■ **Noor Hamadeh:** It sounds like the defense was trying to sow doubt regarding certain witness testimonies to prevent the court from concluding his guilt "beyond a reasonable doubt," but surely that was not their only line of defense. What other strategies did they have?

■ **Hannah El-Hitami:** As I mentioned, they never tried to deny that Anwar R. was in the branch, that he was a colonel, that he was head of investigations, but that he had helped so many prisoners, that he lost the trust of his superiors and was left in his position only pro forma, without any actual authority. He claims that he was even transferred to the other branch, Branch 285, as a punishment for his behavior. His lawyers have argued that the power balance in the secret services was based more on religion than on rank and that he, as a senior officer, had less power than his Alawite colleagues and that he would have risked his life with any wrong move.

■ **Fritz Streiff:** Right, so here the defense would be painting a picture of someone who was stuck in a relatively high position of the hierarchy but without any actual responsibility. In a way, the defense tried to steer the court away from any conviction that he could be qualified, or his activities could be qualified as co-perpetrating the crimes.

■ **Hannah El-Hitami:** That is how it seems, but there were documents presented by the Commission for International Justice and Accountability, the CIJA, that showed his signature on internal documents from Branch 251, where he was part of a crisis committee and decided with others how to deal with certain detainees. One insider witness remembered that until his defection and even after his transfer to Branch 285, Anwar R. had a company car, his own office, and a busboy who served him tea.

On top of that, none of the insider witnesses knew about cases where officers who were considered disloyal were kept in their position and only stripped of their authority. On the contrary, several witnesses mentioned officers who had hardly given any reason for suspicion and yet they were imprisoned, tortured, killed, or at the very least, removed.

■ **Fritz Streiff:** What you were describing there, that document with the accused's signature on it really seems like a key piece of evidence in any international criminal investigation. In combination with the witness testimonies, that seems like a pretty tough one to get out of for the defense.

■ **Noor Hamadeh:** I want to go back to the line of defense for a moment. If his lawyers seemed to have argued that despite his position, he did not have any real authority, how did they try to prove that?

■ **Hannah El-Hitami:** As far as I recall, there was no factual evidence that supported the argument that he had no authority in the branch. There was a relative who confirmed that Anwar R. had told him about that, but since the alleged reason for his loss of authority was his support for the prisoners and his sympathy for the revolution, the defense focused on his character as another line of argument. There were some witnesses who spoke favorably about his character. As I mentioned before, there were ex-detainees who were treated well by him, some of whom he even met again later in Jordan or Turkey, and two low-ranking insider witnesses who remembered him as a friendly and respectful superior who treated them well and greeted them, unlike other high-ranking officers in the branches. There was also a defected army officer who said that Anwar R. had cooperated with a Jordanian secret service after his defection and had provided them with internal documents he had brought with him. He even helped the Jordanian secret service find a safe route for Syrian civilians fleeing the country. Also, several defense witnesses

confirmed that he told them he had wanted to defect much earlier, but he would not have been able to take his family, which is why he waited. There was also information about his work for the opposition after leaving Syria. He even went to the peace talks in Geneva in 2014 as part of their delegation.

■ **Fritz Streiff:** I feel like we are slowly getting somewhere and it seems, as we suggested in the beginning, his story is one of many layers. There is not just one Anwar R., is there?

■ **Hannah El-Hitami:** I am sure there is one, but it is hard to know what his real face is. On the one hand, it really does seem that he honestly changed sides, but then on the other hand, there are doubts about that. For example, his daughter's asylum hearing was quoted at one point in court. There she said they left Syria after an almost fatal attack by the Free Syrian Army on her brother, Anwar R.'s son. Apparently, they told him the next time they would kill him. So yes, your son almost getting killed is a very good reason to leave your country, but it casts doubts on whether he left because he actually turned against the regime or just to keep his family safe.

■ **Noor Hamadeh:** These doubtful intentions say something about his character, but what about the crimes he is accused of? That is what the court will eventually have to consider.

■ **Hannah El-Hitami:** Well, the persecution argued more than once that his behavior after the defection or his wish to defect earlier or his opinion about the revolution did not change the fact that he was responsible for the alleged crimes. However, it can make a difference in his sentencing whether he was totally convinced of what he was doing, or whether he committed the alleged crimes reluctantly and out of a situation of pressure and risk to his and his family's life.

■ **Fritz Streiff:** These could be the so-called mitigating circumstances during the reading out of the verdict against Eyad A. that the court described the judges can take into account. That is not the only technical legal question that can make a difference when we consider what Anwar R.'s sentence could actually be if he is convicted.

■ **Noor Hamadeh:** To understand those technical legal questions better, we called up Antonia Klein of the European Center for Constitutional and Human Rights, or ECCHR, where she works as a

legal advisor. Antonia has monitored the trial closely. She talked to us about the importance of understanding some of these technicalities. We started by asking her what her expectations of the verdict are right now.

■ **Antonia Klein:** At the moment, it looks like the charges of murder and also killing, torture, severe deprivation of liberty, and sexualized violence as crimes against humanity will be confirmed. If Anwar R. is convicted as co-perpetrator of murder, then he would face an obligatory life sentence, which translated into German law is 15 years plus X, which I can explain more.

■ **Noor Hamadeh:** If the charges of murder as a co-perpetrator are confirmed, the court is obliged to hand down a life sentence. What if he does not qualify as a co-perpetrator for the conviction of murder?

■ **Antonia Klein:** The defense seems to aim at a conviction for aiding and abetting murder and crimes against humanity. In that case, the sentence would be reduced to three to 15 years of imprisonment.

■ **Noor Hamadeh:** That is a pretty wide range, three to 15 years; how is that determined? Is that where the mitigating circumstances might play a role?

■ **Antonia Klein:** The concrete length of imprisonment would then depend on different factors. For example, the high number of victims would be considered, as well as other crimes that have been committed, and the effects of them, such as of SGBV and torture. Also, the fact that he deserted, that he spoke out, then different factors would come into play.

The three-year option is a rather theoretical one. If we look at the high number of victims, the high number of murders and killings, and the fact that sexualized violence is involved, it seems impossible that only three years will come out of it. We also see Eyad A.'s sentencing when he has, in comparison to Anwar R., what I would say is minor guilt. That could also be an indication that we would not stick to three years.

■ **Fritz Streiff:** Okay, a quick recap here: Antonia thinks that a conviction is likely, that the charges will be confirmed as indicted, and that the eventual type of punishment depends on how those charges are classified by the court. It could be anything from three

years to a life sentence, which is a wide range. Now here is another thing: the so-called life sentence in Germany is not the same as actual life in prison.

■ **Antonia Klein:** I think that is very important because the life sentence wording is really confusing. Under German law, everyone should have the possibility to regain freedom from prison before his or her death. That is the reason why the law provides for parole after 15 years under three preconditions. The first is if the convicted person consents to that parole. The second is if the severity of the convicted person's guilt does not require continued imprisonment. I can speak about that in a second. And the third is if suspension of the imprisonment can be justified with regard to the public security interests.

With regard to the public security interest, in case he is convicted for murder and faces this lifelong sentence and we look 15 years ahead, we can say it is not very likely that Anwar R. will commit these crimes again because he is here in Germany. It is really not foreseeable that he will be "recidivistic" in that regard, because there is just no room and the context is missing for the crimes.

Most interesting, I think, is the severity of guilt. That is particularly interesting at the moment because the Koblenz Court will decide if he is convicted of murder as a perpetrator, and then the court will directly decide whether it sees the severity of guilt. If it confirms the severity of guilt, then it becomes less likely that parole will be granted after 15 years and at this point in time, it is unclear when he would get out of prison.

■ **Noor Hamadeh:** Antonia explained to us that this test the court will perform regarding the severity of guilt depends on a number of factors. What it comes down to is that the judges take into account everything they learned about the accused. His personality, how he conducted himself before and after committing the crimes, what his objectives and reasons were. The court will also look at the crimes: how brutal they were, how many victims, how long was the period during which the crimes were committed. The judges take all of that into account, and decide whether the severity of guilt can be established.

■ **Fritz Streiff:** With that decision, they kind of pre-decide whether Anwar R. would have the right to request parole after 15 years if

convicted. In a way, the court can already decide whether this will be a relatively short "life sentence" or not.

■ **Noor Hamadeh:** Right, because if they decide that the severity of guilt can be established, there would be no parole after 15 years. Antonia told us he could theoretically remain in prison until he dies. In Germany, a life sentence does not mean prison for the rest of someone's life. With a life sentence, parole is usually possible after 15 years, except when the court decides on the severity of guilt, which makes it impossible to determine when parole might be granted, but definitely later than 15 years.

■ **Fritz Streiff:** Antonia made the additional point during our conversation that even if Anwar R. is convicted, this quite likely does not mean, in legal terms, that he is guilty, because he might and probably would appeal the sentence. As long as the appeal is running, possibly all the way to the highest court, the presumption of innocence is valid. Again, this is speaking in legal terms, but we cannot yet speak of a finally convicted criminal. Such an appeals process might take years.

■ **Noor Hamadeh:** The wheels of justice turn slowly.

■ **Fritz Streiff:** They do indeed.

■ **Noor Hamadeh:** There seem to be so many ways to describe who and what Anwar R. is. Hannah, you attended almost every single trial session yourself, you have seen and observed Anwar R. in detail. What is your final take on him?

■ **Hannah El-Hitami:** He was always very interested and focused during the sessions. I remember journalist Christoph Reuter, who met Anwar R. in Jordan years ago and who testified in Koblenz as well. He said Anwar R. was highly intelligent and had a photographic memory. In court, he was always taking notes. Sometimes it seemed to me that he saw himself as an investigator on his own case. He frequently exchanged greetings and smiles with the translators and lawyers in the room. He did seem quite respectful and friendly. Of course, why would he not be? We like to imagine criminals as inhumane monsters or ice-cold sociopaths. I am not the first court observer who realizes that in the end, they are, of course, just human beings. That is perhaps the scariest part.

EMPTY

CHAPTER

38

ANWAR WHO? PART 2

Season 3 | Episode 8 | December 3, 2021

The verdict in the groundbreaking case against Anwar R. is expected to be delivered soon. Fritz Streiff and Noor Hamadeh embark on the second part of this journey into Anwar R.'s road to Koblenz, as well as all the possible roads that might lay ahead. In part two of this chapter they are joined by legal investigator Mariana Karkoutly.

EMPTY

■ **Noor Hamadeh:** This is part two of a special episode in preparation of the upcoming verdict in the case against Anwar R. If you have not listened to the first part, you should do that before continuing.

■ **Fritz Streiff:** Picking up from the first part, when we consider everything we discussed with Hannah, what we have seen during the trial, the many conversations we had with people that have followed it and that are directly or indirectly affected by it, how would you characterize Anwar R.?

■ **Noor Hamadeh:** For me, Anwar R. is a typical desk criminal. Someone who is responsible for atrocious crimes, but does not get his own hands dirty. At the same time, he did not only engage in paperwork, he also allegedly directly ordered others to commit acts of torture and arbitrary detention.

Based on some survivor testimonies, and we also heard from Hannah in the first part of the episode, Anwar R. seemed to give a false sense of safety to detainees at Branch 251 before ripping it away.

■ **Fritz Streiff:** He is an active desk criminal?

■ **Noor Hamadeh:** I think so. I also find it interesting that Anwar R. thought that defection would save him from being viewed as a criminal, because before that defection, and even before the revolution in 2011, he was still the head of investigations in a Syrian regime intelligence branch. While it might not have been as

widespread, people were still arbitrarily detained and tortured at Branch 251 prior to 2011. What about you?

■ **Fritz Streiff:** What strikes me most about him is how he seems to have thought that the crimes he committed, assuming here that he will be convicted, would somehow be erased from his biography, from his record, by defecting, changing sides, and being invited to a new country. You could almost call it a naiveté that was fully focused on the future and disregarded the past, the alleged criminal past. I think there is even more to it. Perhaps he did not think the crimes would be forgotten, but rather, he is actually convinced he did not commit any. That would, in turn, mean that at some point he lost his moral compass, if he ever had one. Because even if you do not have blood on your own hands, if you hear the screams, if you order torture even indirectly, and if you are knowingly part of a criminal regime for decades, I think every human being feels that that is not right, that it goes against some basic principle of humanity.

You feel that, but perhaps he did not feel that. That is almost tragic, committing crimes against humanity without knowing it, without realizing it, or even worse, knowing it and somehow perceiving it as normal. In that way, his case and his biography are in fact quite illustrative of the criminal Syrian regime as a whole.

■ **Noor Hamadeh:** Let us turn back to the upcoming verdict. We heard from Antonia Klein of the ECCHR about the pretty wide range of conviction possibilities. What about the unthinkable? Is there a chance that Anwar R. could actually get acquitted?

■ **Fritz Streiff:** In our conversation with her, we pressed Antonia quite hard on this. It would not be the first time legal proceedings and verdicts would surprise the general public, or that the legal truth would be not in line with the actual facts, but Antonia was very clear. According to her, based on the wealth and depth of evidence presented, and on certain hints the court has given during the course of the trial, an acquittal is unlikely, and apparently not even the defense seems to be steering toward arguing for an acquittal.

■ **Noor Hamadeh:** That is her speaking as a lawyer. She is not excluding the possibility of acquittal in absolute terms.

■ **Fritz Streiff:** You are right. It is her lawyer's way of saying, "It is not going to happen."

■ **Noor Hamadeh:** Takes one to know one.

■ **Fritz Streiff:** Says the lawyer. You are a lawyer yourself. Noor, about this idea of "takes one to know one," you are a Syrian-American yourself, and we have been discussing this question together for many weeks and months now. The question of what this verdict, what this trial actually means, especially for Syrians. We know from our Syrian colleagues that the trial is a legal milestone, and symbolically significant, but it is not justice for Syria as a whole, it is far from it. It is only a tiny symbolic step in that direction.

■ **Noor Hamadeh:** Like with Eyad A., there is not one opinion on this case. In fact, from what I have heard and seen, there is a pretty wide range of feelings about it. On the one hand, many are really looking forward to seeing a regime perpetrator held to account. This case will truly go down in history, not just because it is the first crimes against humanity trial against a Syrian regime perpetrator, but also because it is an official record that documents witness testimony, and if he is convicted, demonstrates an official legitimization of the experiences of Syrian survivors of Syrian government crimes against humanity and oppression.

On the other hand, though, prosecuting Anwar R. does not change the experiences that survivors of detention and disappearance in Syria and their family members faced. It does not take back what happened. For some Syrians, the trial is not really addressing their needs.

■ **Fritz Streiff:** This is also what we heard from Mariana Karkoutly, a Syrian legal investigator and human rights activist based in Berlin. We spoke with her about the value and significance of the upcoming verdict.

■ **Mariana Karkoutly:** It proves again everything that survivors and victims have been speaking about. Being in detention centers and being tortured, and having faced a lot of violations of their rights, this is all proof that this happened. Personally, I did not need this trial for it to be proved. I have seen a lot of my friends getting out of detention centers, and I have seen what kind of torture marks were on their bodies. I have seen them having become 20 or 30 kilos thinner because they were starved in detention centers. But for someone who is just looking at the matter from a distance, it is proof. It proves those crimes happened against unarmed protestors

who were appealing for their rights of freedom, dignity, and justice. Those particular individuals have been talking about those crimes since 2011, and even before Syrian human rights lawyers had been talking about what happens in these detention centers. They had been writing reports and these reports were sent to international organizations.

The trial did not bring to light any new facts. It brought proof within a judicial system. Hopefully it will say "After the verdict of Anwar R. and after the verdict of Eyad A. in February 2021, we can now say with proof and with clear investigation that these crimes happened and these crimes are still happening."

■ **Noor Hamadeh:** What Mariana shared with us here is her view on how a verdict, a judicial decision, can serve as concrete proof that these structural crimes in fact happened and are still happening. Going beyond that, Mariana also shared her thoughts with us on a deeper, less legal, and more philosophical level.

■ **Mariana Karkoutly:** I am not even thinking about the verdict in a sense of its details, but from still being under shock, or still being in the whole process of "This is happening." To be honest, the biggest aspect of this trial that I see is the very idea that Syrians are today able to discuss a justice scenario that is not imagined but can be applied. For me, this is the biggest aspect of this trial.

What you have said as well is huge and very important, this creation of a legal precedent will help us now and in the future when we work on such cases and raise them up to the Syrian authorities. It has already built up a detailed description of how the Syrian regime systematically works and functions. Definitely, for me, it is the way it lays and builds up the understanding of what justice is. I can appeal for it for the first time in my life. This is wonderful.

■ **Fritz Streiff:** That is what I took away from our talk with her. That sense of how a fair criminal trial, a clean justice process, can mean so much more than a search for legal proof, for accountability for pure punishment. I find it quite encouraging that fair and equal justice has this potential power, and can provide that platform to be empowered, to have a voice, and be heard. On the other hand, the talk with Mariana left me with a pessimistic feeling that is so well known to many in this field.

■ **Noor Hamadeh:** I know what you are referring to, especially now in the context of the so-called normalization that has been happening.

■ **Mariana Karkoutly:** We have been pushing for recognition of this. We have been pointing to the Koblenz trial taking place in Germany and at the same time, the German interior ministers are meeting every six months to decide whether Syria is a safe country for Syrians to return to. This is absurd. This is absolutely absurd as long as Assad's regime stays there.

These two verdicts have to, theoretically, play a role in any decision made by any European government at the time of deporting Syrians or sending them back to their countries. I am not sure the verdicts ever will, because the arguments that we were always faced with is "Well, there are a lot of Syrians who can go back to Syria, and they will not be prosecuted because they are not politically involved." This reflects a very weak understanding of how the Assad regime works and functions.

Although, within a trial, such as the Koblenz trial, this is reflected. We see that civilians, not only protesters, were taken to the detention centers in Syria and tortured. Sometimes, people were taken to detention centers just because they belonged to certain areas, areas in cities such as Daraa, Homs, Damascus, or Aleppo that protested against the regime. Sometimes, people were taken from the checkpoints on this sole basis.

The above argument therefore reflects no understanding of how the Syrian regime functions. The trial will definitely offer a precedent upon which other cases related to Syrian war criminals and detention centers can be built. I am not sure it will have a big role to play politically when it comes to Syrians being deported to Syria.

This is exactly where the fear of a lot of witnesses lies. I do not want to be a witness in a case when I could potentially be sent to Syria and then tortured for this particular reason. This is something that we can never ensure. We can never say, "Give your testimony and we will ensure you that you will not be deported to the country you came from."

■ **Fritz Streiff:** For way too many years so many Syrian activists, survivors, and families of victims and the disappeared have fought

this uphill battle. The current climate of so-called normalization, politically-stoked fear of being sent back to Syria, despite everything that has been known since before the revolution even started, is disheartening.

■ **Noor Hamadeh:** I think some Syrians are, in the end, just not primarily interested in criminal trials in some German town, but have other things on their minds. Next to the daily needs of those who are still in Syria, whether in regime-controlled areas or outside of them, their thoughts are more concerned with long-term solutions, sustainable justice and peace in Syria, reparations, and remedies for families of survivors and so on.

■ **Fritz Streiff:** This trial in Koblenz, and Eyad A. and Anwar R., they are tiny in the larger context. At the end of the day, we too ask ourselves, does it really matter who Anwar R. is?

CHAPTER

39

AT HOME IN THIS WORLD

Season 3 | Episode 9 | December 17, 2021

As the verdict in the groundbreaking case against Anwar R. draws near, it is time for the team's final say. In this chapter, Hannah El-Hitami walks us through the final pleas of the prosecution and the joint plaintiffs.

EMPTY

■ **Noor Hamadeh:** We are in the final stages of the trial in Koblenz. It looks like we have a date for the verdict even though the court still has not 100% confirmed it. You never know what could still happen, especially with the worsening public health situation surrounding Coronavirus.

■ **Naya Skaf:** If everything goes according to plan from now on, the final verdict in the trial will be announced by the court on Thursday, January 13. You can at least pencil that into your calendars now.

■ **Noor Hamadeh:** In our last episodes, we tried to find answers to the question of who the main defendant, Anwar R. really is. Even though we really tried hard, we still do not really know, or at least it seems possible for everyone to have a slightly or massively different view on him and his character.

■ **Naya Skaf:** He is just so hard to read. That is what we also heard from our court reporter, Hannah El-Hitami, who attended the court sessions in the past weeks as usual. We asked her how Anwar R. reacted to the final pleas by the prosecution, and the joint plaintiffs, the victims officially participating in the trial.

■ **Noor Hamadeh:** He was stone-faced and had no visible reaction to what were at times quite emotional statements.

■ **Naya Skaf:** Diligently taking notes, documenting his own trial.

■ **Noor Hamadeh:** An investigator in his own case. I think we have all seen that side of him throughout the trial.

■ **Naya Skaf:** What did Anwar R. and the judges hear from the prosecution and the joint plaintiffs?

■ **Hannah El-Hitami:** After 103 days of trial, the collection of evidence was finally closed on December 1, and the day after the prosecutors, Jasper Klinge and Claudia Polz, started with their final arguments. It took around four-and-a-half hours altogether, so it was a really long day. On top of that, the heater in the courtroom was broken, so everybody was freezing and wearing their jackets.

Mr. Klinge started with a quote by an Austrian Jewish poet who had been persecuted by the Nazis who said "Whoever is subjected to torture cannot feel at home in this world anymore." Mr. Klinge said that all the survivor witnesses in this courtroom had made clear how devastating their experiences in Al-Khatib Branch had been and how that had changed their lives forever. He said that he hoped this trial had helped them feel a little bit at home again in this world. He added that trials like these are also necessary to enable a peaceful coexistence of peoples in the world. Also, he acknowledged that testifying in a trial like this can be really hard, and even re-traumatizing for victims, and that the state has to do everything possible to make them feel safe. I guess he was reacting to some criticism there had been about the lack of witness protection, and how many witnesses had said that they were unwilling or reluctant to talk because of their families who are still living in Syria.

Regarding the crimes themselves, the prosecutors did not spend that much time defining the circumstances in which they were committed because they could just refer to the judgment in the case of Eyad A., which was in February. There, the judges defined the Syrian regime's actions as a widespread and systematic attack against the civilian population, which means crimes against humanity.

Then the prosecutors quoted several witnesses to describe the general prison conditions and the general experience in Branch 251. How the prisoners received a so-called "welcome party" when they arrived and they were beaten and tortured. How they heard other inmates' screams day and night. How they suffered from a lack of hygiene, air, medical care, and food. How they were permanently fearing for their lives. He said that from what the witnesses had said,

it became clear that apart from the physical torture the prisoners experienced, the mere stay in the branch was torture. Many had said that hearing the screams and constantly fearing for their lives was actually worse than physical abuse.

The prosecutors took a very long time to argue against the defendant's statement because, as you might remember, Anwar R. gave a statement in May 2020 where he said all his authority was taken from him after he helped so many prisoners and he was seen as disloyal by his superiors. This was his excuse for what happened and his argument for why he was not responsible for the crimes. The prosecutors argued that he never mentioned this version of the events before the beginning of this trial even though he had many opportunities to talk about this. For example, during his asylum procedure, or when he went to file a complaint with the police in Berlin, but he never said this. He only started saying this when he was accused in this courtroom.

They also quoted witnesses who knew that Anwar R. was present at important meetings with the highest-ranking officers, even with Ali Mamlouk, until a very late point, in 2012. Their point was that he would never have been invited to those if he had been seen as disloyal.

They also mentioned several prisoners who met Anwar R. during their detention in Branch 251 and who saw him give orders or who saw him make decisions. The ironic thing is that Anwar R. argued that he helped a lot of prisoners, but the prosecutors argued that even if he made decisions to help prisoners, this would still mean he had authority.

Another part of the plea dealt with the number of victims that had been subjected to torture in the branch. The prosecution calculated several numbers that witnesses mentioned at different points of the trial. Because of the principle of innocent until proven guilty, they always had to assume the lowest possible number. Finally, they assumed that 4,000 cases of torture had actually been proven throughout the trial, which is the same number that Anwar R. had been indicted for at the beginning of the trial. This did not change.

While they did not change their assessment of the number for torture, the number of deaths changed. In the beginning they had accused him of 58 deaths, although now they only saw that 30 deaths had been proven throughout the trial. They calculated them

by adding up all the dead bodies mentioned by witnesses, but they only counted those they considered certain. Of course, they had to consider that prisoners who were in the branch at the same time might have seen the same corpses, and therefore, they could not count them twice. By the way, 11 of these deaths were counted due to the testimony of Eyad A., because he had told the German police as a witness before he became a defendant that he saw 11 dead bodies while working in the branch in 2011. This was, by the way, not the only time the prosecutors quoted the testimony of Eyad A. as evidence for the crimes of Anwar R.

The prosecutors also argued that the prisoners did not die from natural causes in the branch. They said they were killed actively, and not just killed passively, by not being provided medical assistance or nutrition, and also killed actively through violence and torture by the prison guards.

Finally, they also talked about the crimes of rape and sexual assault that they saw proven in three cases, so one case of rape and two of assault. Altogether, they concluded that Anwar R. had committed a crime against humanity. It is just one crime against humanity, but it includes torture, rape, sexual assault, and severe deprivation of liberty.

On top of that, they found proof of dangerous bodily harm in 26 cases and taking of hostages in two cases. Based on that, they requested a lifelong imprisonment for the defendant, and argued that the special severity of his guilt should be acknowledged by the court. This would mean Anwar R. cannot request early release after 15 years as is usually possible with lifelong prison sentences in Germany.

This week and last week, it was the joint plaintiffs' turn to speak. Just a quick reminder, joint plaintiffs are survivors or family members of victims, so 26 individuals altogether in this trial, who have joined execution as civil parties. They are also represented by lawyers, so there were statements by seven lawyers and six of the plaintiffs themselves. A lot was said, so I will just try to summarize some of the points that I found most interesting.

There was a very poetic and powerful statement by a plaintiff, Hussein Ghrer, a Syrian blogger and former detainee. He talked about the experience of being disappeared in Syria, and the experience that he described as vanishing behind the sun where not even the flies can

find you. He talked about how the disappeared person becomes like "Schrödinger's cat." Nobody knows whether you are alive or not. Even the detainees themselves do not really know whether they are going to be alive a moment from now.

I think one reason he used his statement to talk about that experience of being disappeared was because the crime of enforced disappearance was not part of the indictment. The joint plaintiffs had actually requested it should be included in the indictment, but the court rejected that. I would say that every Syrian and everybody who knows a bit about Syria knows that enforced disappearance is used systematically by the regime to terrorize the population. It is actually one of the most painful experiences for friends and families because they never know what happened to their loved ones. They keep hoping, but they can never really find closure.

It was not just Hussein Ghreer who mentioned forced disappearance. It was also pointed out by the plaintiff lawyers in some of their statements. They used their statements to give an overview of their client's stories but also to criticize some aspects of the trial. For example, that enforced disappearances were not included, that the court did not provide translation for the public, and that the court refused to record the hearings or even the final pleas because, as it had argued, it did not consider this trial of historical importance for Germany. Another point that was criticized was that there were not sufficient possibilities for witness protection in this trial, but also more generally in international trials held in a German court. One of the lawyers argued that the shortcomings of this trial were actually important learning points, so they should be mentioned and discussed because there will be similar trials, and it would be good to change those problems in the future.

Of course, there was not only criticism of the trial. A point that was mentioned by plaintiff Ruham Hawash was how the trial had helped her win back her dignity, even though it had been very difficult for her to participate at first. She said she had always told people her story about how she had been detained and how her rights had been abused, but that now, this story continued. Now she could talk about how she helped hold one of the perpetrators accountable. That had been a really great experience for her.

Another plaintiff, a psychiatrist and former detainee, compared the trial to psychotherapy. He said one needs to find meaning in

suffering in order to survive. For this plaintiff, the trial had done just that, given him meaning. By helping to uncover the Syrian regime's torture machinery, he was able to deal better with his own painful experiences. He said he hoped he had supported the Syrian people's quest for freedom and that he hoped no people would ever suffer again like the Syrians had.

What really stuck in my mind is how another plaintiff said that he could have forgiven Anwar R. if the defendant had shown remorse and taken responsibility for what happened, but he did not. The lawyers added to this by addressing Anwar R. directly and telling him that he could and should have supported international investigations by providing all the inside information he had on the secret services. All of the lawyers addressed him, saying it was not too late. He still has his last words, and he can still break his silence and really start talking. One of the lawyers, himself a Muslim, even appealed to Anwar R. on religious grounds, telling him to show remorse in order to be forgiven and not to carry his guilt into the afterlife.

As I said, the defendant has the last word, and he will be able to speak in January right after his lawyer's final pleas. I heard he has quite a lot to say, so let us see what happens after the Christmas break.

■ **Noor Hamadeh:** I think having listened to Hannah's report from the courtroom, there are a few things that stick out from the final pleas by the prosecution and the joint plaintiffs. As a lawyer, my attention was caught by the way the prosecution arrived at the final counts of proven crimes based on the core fair trial principle of innocent until proven guilty, and only counting the crimes they can confidently say were in fact individual events or bodies.

■ **Naya Skaf:** What is most striking to me in that regard is that they lowered the number of murders from the originally indicted 58 counts to 30. During the trial, the number had actually increased to 68, but now the prosecution says there are only 30 conclusively proven. The prosecutor said "In relative terms, as in the larger picture, that seems like a pretty low number in comparison with the 4,000 counts of torture that were originally indicted and now also proven." But yes, I get what you mean, Noor. It is that fair trial principle. Honestly, it is one of the elements of this trial experience that made a difference to me and many others. This is fair justice based on the rule of law and not some sort of shame trial.

■ **Noor Hamadeh:** At the same time, the prosecution did definitely go for the highest possible sentence with life imprisonment and the special severity of guilt, which would make early parole after 15 years impossible if the court accepts this.

■ **Naya Skaf:** These legal technicalities are important, of course, but I think for many of the followers of the trial, another point the prosecutor made was important. He stressed the central role of victims in this case. They are just asking this court for a form of justice, a part of justice, or a step toward justice, without which there will never be peaceful coexistence between people.

■ **Noor Hamadeh:** He acknowledged that right at the start of his statement, and in a way, reminded the court that it has a pretty huge responsibility.

■ **Naya Skaf:** The higher regional court in Koblenz will issue the final verdict in the first worldwide criminal trial against former Syrian regime officials. A big responsibility indeed.

■ **Noor Hamadeh:** Speaking of the central role of victims in this trial, what did you think of the statements by the joint plaintiffs, the participating civil parties?

■ **Naya Skaf:** There are a few different aspects here. I was very touched by the language, the style of some of it. Hussein Ghrer used poetry to get across how difficult it is to explain his personal experience in Branch 251. That likely resonates with the experiences of many others. It is interesting that the prosecutor also referred to poetry. He quoted a survivor of the Holocaust, and he too used poetry to describe the indescribable.

■ **Noor Hamadeh:** I also think we need to mention here the bravery it took to take part as a witness in a trial like this. For survivors to expose themselves to this procedure and potentially putting themselves in the regime spotlight for a year and a half, this must have taken its toll. I am glad that some of them told the judges this experience of participating in a justice process like this helped them win back their sense of dignity. Despite all the criticism of this trial, the lack of translation and outreach, the failure to include enforced disappearances in the indicted crimes, people were helped by the trial as well. It served as a positive human experience.

■ **Naya Skaf:** One person that has not, at least until now, used the trial to turn the experience into something positive, it seems, is the main accused, Anwar R. One of the survivors who joined the case as a joint plaintiff talked about forgiveness. So far Anwar R. has missed a chance. He could have helped the case. He could have, but he has not, and so it seems he has forfeited the chance of forgiveness.

■ **Noor Hamadeh:** And the chance for a lower sentence, or at least for being released earlier. The lawyers made that point, and that it is not too late. Who knows? Maybe Anwar R. will make the turnaround and surprise everyone when he has the last word before the trial ends.

■ **Naya Skaf:** I remember, a few weeks ago, there was talk that the final verdict in the trial could be next week on December 22, but the court decided to stretch things out a little bit longer, perhaps to give everyone some time to breathe around the holidays.

■ **Noor Hamadeh:** The court has not heard all the final arguments yet. There will be one more session in the new year on January 6 or 7, before the judges announce their decision probably a week later on January 13.

■ **Naya Skaf:** The last session on January 6 and perhaps 7th will be all about the defense team's final arguments. I am very curious to find out what Anwar R. and his lawyers will tell the court. We have heard that Anwar R. might speak himself and is preparing a lengthy statement. That makes me wonder if it will be just more of what we have heard so far, and what we have discussed during the last episodes *Anwar Who?*. Maybe he still has something surprising, like an ace up his sleeve.

CHAPTER

40

SORRY NOT SORRY

Season 3 | Episode 10 | January 7, 2022

In this chapter, Hannah El-Hitami provides a report from Koblenz and details the session that was dedicated to the closing defense arguments. It was the last session before what is expected to be the biggest day in the Al-Khatib trial. The verdict of Anwar R.

EMPTY

■ **Naya Skaf:** We hope you had nice holidays and a good start to 2022. May this year be a just one. It is becoming more and more relevant now that we are fast approaching the final judgment in the case.

■ **Fritz Streiff:** Today is Friday, January 7, just a few days before the judges will announce their decision, which is scheduled for next Thursday, January 13. We have been working toward that day for a long time and now it is just around the corner.

■ **Naya Skaf:** During the last couple of episodes, together with our court reporter, Hannah El-Hitami, we brought you the final arguments by the parties to the case. We heard about how the prosecutor tried to convince the judges that a life sentence is the only possible verdict in the case.

■ **Fritz Streiff:** And Hannah told us how the survivors who joined the case as civil parties, or so-called joint plaintiffs, addressed the court as well. One round of the final pleas is still missing, the last arguments by the defense and Anwar R.'s final words.

■ **Naya Skaf:** This is what Hannah will tell us about today. As usual, she was in the courtroom this week and listened to the defense lawyers and Anwar R. make their case one final time.

■ **Hannah El-Hitami:** I went into yesterday's hearing quite excited because I had heard that Anwar R. himself would speak, and we were

all wondering whether he would say something new, something surprising. If you remember, the last things we heard in this trial were the joint plaintiffs' final, closing statements, and they had all urged Anwar R. to tell the truth, to share all the information he has about the secret services, and to finally take responsibility for the crimes he was accused of. What Anwar R. ended up saying in his final words was disappointing, but I will get to that later.

First of all, his lawyers started with their pleas, which lasted from 9:30 AM until around 1:00 PM, and they made sure to emphasize that they did not wish to defend the Assad regime at all, they did not wish to defend its crimes, and they found it necessary and important that these crimes be investigated. They added that no politician should conduct any business or diplomatic relations with such a criminal regime. They said it was very clear that people had been systematically tortured in Al-Khatib Branch and all over Syria, but of course, there is a "but."

They said they were here to defend the individual, Anwar R., and that even though crimes against humanity had been committed in Syria, they had not been committed under his authority. They said that even though they understood the political relevance of this trial and the great meaning it had for Syrian survivors and activists, they urged the court to treat this trial as a criminal trial and to really only look at the defendant's individual contributions to the crimes or lack thereof. Both of the lawyers requested Anwar R. be found not guilty and immediately released. They talked a lot about how he helped prisoners and how he even once punished soldiers for abusing prisoners. They said that there had been three types of witnesses in this trial. First there were those who had met him in the branch and who were treated well by him. Second there were those who claimed they might have met him but who did not actually recognize him for sure. Finally, there were those who only later heard of him or were shown pictures of him or told that he was the head of investigations and so just assumed that he was the one who abused them.

In this context, the Syrian lawyer Anwar Al-Bunni's name came up again. As we heard before, the defense has been accusing him of having influenced the investigation behind the scenes and showing potential witnesses pictures of Anwar R. and telling them his name so that they ended up believing he was the one responsible for their suffering in Al-Khatib Branch.

Apart from Anwar Al-Bunni, they also commented on a whole list of individual witness testimonies, either debunking them or using them to show their clients' good behavior toward prisoners. They also repeated quite a lot of Anwar R.'s initial statement from May 2020, where he claimed he had lost all authority in the branch in early summer 2011 because he released so many prisoners and because he questioned the regime's ways more than once.

In the lawyer's view, none of the evidence presented during the whole trial during more than 100 hearings actually invalidated or disproved the version of events that Anwar R. himself presented in May 2020. They argued that he defected as soon as he could and he even worked for the opposition directly afterward, and that he should not be charged as a scapegoat for the real criminals. The high-ranking political and military leaders who had organized the crimes, but then stayed in the background while they were committed. They are the ones that should be put on trial. That is what the defense lawyers argued.

Finally, it was Anwar R.'s turn to speak, except he did not. The statement he himself authored was read out in German by his personal translator. This translator usually sits next to the defendant during the hearings and helps him communicate with his lawyers or answer any of his language-related questions. So, what did Anwar "say" in his statement?

Honestly, not much that was new. He started by talking about how the regime reacted violently to the protests and how the number of prisoners in the Al-Khatib Branch exploded. It became much too high, he said, like a tsunami. He said he tried to keep the number low by suggesting to release most of them, and at the same time his hometown, Al-Houla, became a center of protests against the regime. These two developments together led to his superiors doubting his loyalty. He had already said that in his original statement and he recounted once again how all this authority was taken away from him, how he stayed and helped as much as he could, even though he had very limited possibilities and even though he was constantly risking his own life. But he talked about a new situation we had not heard about before, and I thought it was actually quite interesting. He said that after he had already lost much of his authority, and was already seen as suspicious by the other high-ranking officers, a massacre occurred in his hometown of Al-Houla in May 2012. Anwar R. said it was committed by the ruling Alawite minority together with

Shia militias. Two days later, his boss Tawfik Younis called him to his office and there was a journalist present from Russian television. Anwar R. was told to prepare a statement for television saying that Islamist terrorists were responsible for the massacre. When he refused to do so, his boss said, "You have put all your cards on the table. They are all losing cards. Go to your office." After that, it did not take much longer until Anwar R. was transferred to another branch, he said, from where he then finally defected.

While he did take some time to acknowledge that prisoners arrived in the branch with sometimes lethal injuries and that they were tortured or even killed there, he blamed someone else for each of those events. For example, officers from other branches, his superiors, or the notorious Hafez Makhlof, the powerful and cruel cousin of Bashar Al-Assad, who he claimed was the real leader of Branch 251.

He even said that sometimes he was sitting in his office and he would hear screams from the prison downstairs. So, he would call there and ask what was going on, and he was told that an officer from another branch was interrogating and torturing prisoners. He said he informed his boss about these abuses several times but was told to keep quiet.

He emphasized once again that he never ordered the torture or abuse of any prisoner at all. He said, "I left my job. I left 26 years in office behind because I did not want to be the reason that prisoners were hurt or that their blood was spilled." He also said that he objected to being an instrument of abuse and killing.

Finally, Anwar R. did apologize to the victims and their families, but not really for his own actions. Instead, he apologized for not having been able to help more than he did. He quoted a verse from the Quran saying, "If you kill someone, it is like killing all of mankind and if you give life to someone, it is like giving life to all mankind."

Then he claimed that without him, many of the prisoners he had helped would now be among the images in the Caesar file. He claimed that he too had been a victim of the regime. He said he had lost seven close relatives, and among them his 10-year-old grandson, when the regime violently attacked civilians.

In the end, he said he was approaching his 60th birthday and was suffering a lot from chronic diseases and from the displacement

from his homeland and the separation from his children and grandchildren. He asked the court for a fair verdict, but also said that he respected and believed in German law and the German judiciary, so he would accept whatever they decided.

Yes, finally we did hear his own voice for one short moment when he said, *Naam*, which means yes when he was asked whether these had in fact been his own final words.

■ **Fritz Streiff:** All in all, I think the defense lawyer's closing statements and Anwar R.'s own final words were neither new nor surprising, and were disappointing for anyone who had hoped that he might use this chance to perhaps even ask for forgiveness or at least for one last try to help the case and with that, perhaps himself and his future, to get a lower sentence.

But with what he said, he is staying stuck in the middle. While he clearly condemns the regime and says that he wants nothing to do with that criminal gang, he apparently could not get himself to accept his perhaps limited part and responsibility for the crimes. He could not say sorry, or rather, all he could get himself to utter was along the lines of "Sorry, not sorry."

■ **Naya Skaf:** With the defense arguments presented to presiding Judge Kerber and her colleagues, and Anwar R.'s final words, the trial is actually over, or almost. Now we are only waiting for the announcement of the verdict next week on January 13.

■ **Fritz Streiff:** It will be the final decision by this set of judges at this court, but I think it is pretty obvious that Anwar R. will appeal his sentence, except if he gets a surprisingly low one next week.

■ **Naya Skaf:** All eyes on Koblenz next week.

■ **Fritz Streiff:** Exactly. We will be there to follow the announcement of the decision and to bring you our impressions on the next and final episode of this podcast.

EMPTY

CHAPTER

41

GUILTY

Season 3 | Episode 11 | January 21, 2022

It is here. The verdict in the case of Anwar R. It took almost two years and more than 100 hearings with 80 witnesses appearing in court. The first worldwide criminal trial against former Syrian regime officials was long and complex, with ups and downs, praise, and criticism. And at the end of all this, Anwar R. was handed a life sentence for his co-perpetration of murder, torture, sexualized violence and rape, and severe deprivation of liberty as a crime against humanity. In this final chapter, the team takes you along on its last trip to Koblenz, to the courtroom, to the judgment.

EMPTY

■ **Noor Hamadeh:** Anwar R. has just been found guilty of crimes against humanity and will have to serve a life sentence in prison. The higher regional court in Koblenz has reached its decision in the first worldwide criminal trial against former Syrian regime officials for crimes against humanity.

■ **Naya Skaf:** After about 21 months and more than 100 trial days, January 13 was the big day, the climax of the entire trial. Of course, we already had the first decision in the trial a year ago in February 2021 in the case against the co-defendant, Eyad.

■ **Noor Hamadeh:** But now we have the judgment in the case against the main defendant Anwar R., a former colonel in the Syrian General Intelligence services and the man accused of having been the head of interrogation at detention center Branch 251, also known as the Al-Khatib Branch.

■ **Naya Skaf:** Anwar R. is the highest-ranking former regime official on trial in Europe for atrocity crimes committed in Syria. When his verdict came, all eyes were on Koblenz. Our colleagues, Pauline Peek, Hannah El-Hitami, and Fritz Streiff traveled there to report on this historic event.

■ **Fritz Streiff:** We arrived the day before the verdict. Hannah and Pauline came from Berlin, and I came in from Paris. The day of the verdict started very, very early: 4:45 in the morning.

■ **Hannah El-Hitami:** Yes, the doors of the court were scheduled to open at 8:00, but there were not that many seats available for the general public. Anyone who was really serious about getting a spot had to be there much, much earlier. I heard from the earliest arrivals who came to the courtroom at 3:30 in the morning.

■ **Noor Hamadeh:** What kind of people were in that line?

■ **Fritz Streiff:** We arrived, and like Hannah said, there was a group of people that had been there since just past 3:00 AM. It was a mix of activists interested in the case and who had followed the case, and a group of Syrians, including some who are survivors from the very crimes that were committed at Branch 251 and who wanted to make sure they get a spot inside. While we were waiting in line for the doors to open, we spoke to some of the others waiting, among them Ahmad Helmi.

■ **Noor Hamadeh:** For those of you listening, you might remember Ahmad Helmi from the third season. He is a Syrian human rights defender and a survivor of three years in nine different detention facilities in Syria. Back then, we spoke to him about how even abroad it is becoming increasingly difficult to speak up against Bashar Al-Assad.

■ **Fritz Streiff:** Why are you here?

■ **Ahmad Helmi:** I wanted to feel for the first time how it is to be in a court and not be behind bars and in a court where you are not expected to be beaten up or you are not expected to be tortured.

■ **Fritz Streiff:** How are you expecting to feel after the judgment?

■ **Ahmad Helmi:** Actually, unless it is a non-guilty verdict I already feel that we have achieved something. It does not matter what the verdict is. Is it a 10-year or a 20-year to lifetime verdict? It does not matter because Anwar R. is only one person and the symbolism of the verdict is in the fact that there is a court in a country that respects the law that says there is systematic torture in Syria.

■ **Fritz Streiff:** We also ran into Nuran Al-Ghamian. You might remember her from the first season. She is a survivor of Branch 251 herself and she met Anwar. R twice. We asked why she was here again for the judgment.

■ **Nuran Al-Ghamian:** Obviously, it is going to be a really big day, and it means a lot to me to know what call they will make and to face the criminal. It is really something I cannot describe. Even when I testified the first time here in Koblenz, it was really hard to make eye contact with Anwar.

■ **Fritz Streiff:** Today you will see him again.

■ **Nuran Al-Ghamian:** I am going to see him again.

■ **Fritz Streiff:** Before entering the courthouse I had a chat with Hussein Ghrer, one of the joint plaintiffs, the civil parties that joined the case. We discussed his testimony in the first session. He was a witness in this trial and also a plaintiff.

■ **Hussein Ghrer:** I am here today to personally hear the verdict and most importantly, the reasoning behind the verdict, how the judges, the court see the context in Syria. How do they see the role of this individual in the bigger apparatus who used to commit crimes against the Syrians?

■ **Fritz Streiff:** What are you expecting this judgment will make you feel afterward?

■ **Hussein Ghrer:** Actually, I am not sure. First of all, of course it is very important to hear that the perpetrator has been convicted, and especially as I said, part of a bigger system. I also feel this is just a tiny step in this long journey of justice. We do not know what could come later. I cannot say I would be happy. I cannot say I can welcome it as I should, because the higher-ranking criminals are still free and committing crimes. There are still tens of thousands of Syrians detained and being tortured every day. It is a very complex feeling.

■ **Hannah El-Hitami:** Shortly past 8:00 AM, it was finally time to go in, although it took almost two hours for everyone in line to go through the security check. Of course, all recording equipment had to be left behind at the door.

■ **Pauline Peek:** I am outside the courtroom and it is 9:00 AM. I originally planned to go inside and had been standing in line for three and a half hours, but there were so many people behind me that I decided to give up my spot. I think there are still 50 people outside. There are people holding banners and photos of loved ones.

This is a day that is very focused on a perpetrator and on one man, and in the hustle and bustle of all this culpability, the sentencing, and the verdict, as some people pointed out, it is actually the victims that we should not lose sight of. Here they are holding signs and photos of their loved ones, trying to make everyone remember what this is about and why we are here.

■ **Noor Hamadeh:** You really paint a very powerful image of what it looked like to be there at the courtroom, to see all these people on a really important day for them. Fritz and Hannah, why do not you tell us what happened inside?

■ **Fritz Streiff:** After you enter the courthouse there are a ton of security checks. Then you walk up this pretty impressive long stairway to the upper floor and then on the left side of the hallway you open the doors. You get into the courtroom from the back, and along the backside of the room there is the elevated bench where the judges sit higher than the other parties. Then behind the judges there is a really ceremonial-looking and huge bookshelf that holds all these books that I assume are books of German laws and rules of procedure that are symbolically behind the judges and governing all that they do.

■ **Hannah El-Hitami:** Yes, this courtroom actually used to be a library and they changed it because they did not have a large enough room for this trial. I guess they kept at least some of the books. Like you said, there are the judges in the front, and then on the left side, we have the two prosecutors and two translators who simultaneously translate everything from German to Arabic for the case parties so someone like Anwar R. himself can listen to the translation through headphones. Only this time for the verdict, the two translators also translated from German to Arabic for the people in the public gallery. Everyone present in the courtroom could actually follow the verdict in Arabic through the loudspeakers. Opposite them on the right side of the room, we have Anwar R. with his personal translator and his defense lawyers. Then in the center facing the judges we have the civil parties or joint plaintiffs and their lawyers, and right behind them we have us, the public.

■ **Fritz Streiff:** That is where we were sitting and waiting for the judges to come in and announce the verdict. The room was pretty packed, in relative terms. Obviously, due to COVID it was not at full capacity. Then Anwar R. came in through this side door and had to

walk across the room to his seat. I saw him almost two years ago at the beginning of the trial. It seems to me from the way he is walking and the way he is holding his body that his physique is a bit more frail. I have the feeling that he has grown a bit older during the course of this trial. He sat down, rearranged his mask, and looked around a little bit. Then he did what he has done for most of the trial, which is just stare to the front and take notes every now and then, and wait like everyone else for the judges to come in, which they then did. Everybody got up from their seats and waited for the presiding judge Kerber to read out the summary of the judgment.

■ **Pauline Peek:** I am outside the courtroom in Koblenz. It is about 11:00 AM. Anwar R. has just been found guilty of crimes against humanity and will serve a life sentence in prison. There are dozens of camera crews, journalists, people on the phone, people being interviewed. It definitely feels like an important moment and it feels special to be so close to it. I am curious to hear what Fritz and Hannah will have to say. I expect it will take another couple of hours before the verdict is actually completely read out. Last time with Eyad A., it took about three and a half hours, and I expect it to take a bit longer today. I am going to try and talk to some people.

■ **Hannah El-Hitami:** This was the moment that Anwar R.'s guilty verdict started making headlines around the world. Inside the courtroom while the verdict was being read out, Anwar R. was stone-faced as always, staring into space. I was really trying to see any kind of movement on his face, some kind of facial expression. He must be shocked by the fact that he will be spending at least the next 15 years of his life in prison, but he did not react at all. Then as soon as the first few sentences of the verdict were read out, everyone was allowed to sit down. He immediately started taking notes and I almost felt that he was holding onto his pen and taking notes to distract himself from any kind of emotions that might be welling up inside. I did notice that during the first time the court took a break he was taken outside the courtroom, which is quite unusual because he usually stays inside, especially when the breaks are very short. Maybe he did actually need a moment to himself to digest what had just happened.

■ **Fritz Streiff:** That is what happened inside the courtroom. Outside, of course, it was different. The verdict was slower to reach the people that were waiting. Pauline was there and got a hold of a few people to get their immediate reaction.

■ **Pauline Peek:** Hey Naya. How are you?

■ **Naya Skaf:** I am very happy. Very happy at the moment. It is a beautiful morning. It is sunny. There is justice in the air.

■ **Pauline Peek:** Is today a good day?

■ **Naya Skaf:** Yes, very much.

■ **Pauline Peek:** What do you think this will mean?

■ **Naya Skaf:** I think it brought some sense of justice to Syrian people, to people who really suffered from this regime. It really made me smile because with all the bad news that is coming from the country, I think that people in the regime or officials are really held accountable. Basically, I am very excited for all the detainees. I am happy for all the families who will maybe have a bit of relief that this could be the first step toward a more wholesome system of accountability toward the Syrian regime.

■ **Pauline Peek:** How did you find out about the verdict?

■ **Naya Skaf:** I was waiting for it. It was a symbolic situation because I was in the dark tunnels of the underground and I got out to the sun when I got a message that he got a life sentence. I was like, "Oh my God." I smiled. I was really smiling. Finally, some good luck. Finally, some good luck for people who really suffered a lot. I am very excited for all the detainees. I am happy for all the families that maybe they will have a sense of a bit of relief. This could be the first step toward a more wholesome system of accountability toward the Syrian regime. With the unfair reality that was lived by and is still lived by many, many Syrians, this conviction for the countless crimes that all people in Syria have felt for more than 50 years is something to celebrate. It is the beginning. Of course, we always think it is the beginning. It is not enough, but it is the first step.

■ **Fritz Streiff:** Outside of the courtroom Pauline then spoke to Joumana Seif, who works at the European Center for Constitutional and Human Rights in Berlin, or ECCHR, which has supported a number of joint plaintiffs and witnesses throughout the trial.

■ **Pauline Peek:** Joumana, can I get your reaction to the verdict that just came in?

■ **Joumana Seif:** I think it is okay, and I hope that the survivors themselves are satisfied with this verdict. I think it is a good, important step. It is a real recognition of the crimes committed in the detention facilities and in the Al-Khatib Branch as crimes against humanity.

I hope that this step will be a strong base for future work. We need more steps. It is very important, but it is not enough. I also hope the other European countries will do the same and open more investigations and utilize the universal jurisdiction to push for justice for Syria.

■ **Pauline Peek:** Does the verdict match your expectations or are you surprised?

■ **Joumana Seif:** I think it matched my expectations. I think it is okay. I am really looking to hear from the survivors themselves and to discuss that. In the end, I know very well it is not about the verdict itself. It is about much more beyond that. This trial really contributed a lot to letting justice and accountability work, and to push for more steps.

■ **Pauline Peek:** We are standing outside the court right now. Are you a little bit sad not to be in the courtroom?

■ **Joumana Seif:** It is okay. I am supporting all the survivors and my colleagues from ECCHR are inside, so we are in contact. It is important to tell the whole world about these crimes.

■ **Pauline Peek:** Is today a good day?

■ **Joumana Seif:** For the survivors, yes. For the road of justice for the Syrians, yes. I think it is a good day.

■ **Noor Hamadeh:** Joumana is really emphasizing the impact this trial will have on future justice efforts for Syria.

■ **Fritz Streiff:** Yes, that is exactly right. Joumana is pointing toward the significance of what this means for the joint plaintiffs, for the Syrian civil parties that joined the case. One of whom you will hear from next, someone named Amjad.

■ **Pauline Peek:** We just heard the verdict. What is your first reaction to it?

■ **Amjad:** We are very happy. It is a very delicate moment for all Syrians here that we have taken a step toward the justice that we are demanding. We hope the verdict will be a life sentence and that he can never come out because a lot of people have been harmed by decisions made by him and also the government he represents.

■ **Pauline Peek:** What does today mean to you?

■ **Amjad:** This day is a historic day because it has meaning to all Syrians. Not only this trial, but also the upcoming trials which will start in the coming days. It is a turning point for us to hold all criminals to account and for no one to escape from judgments of the crimes they committed.

■ **Fritz Streiff:** We also checked in with Nuran again, this time after the verdict and while the court still was in session, but during one of the several breaks.

■ **Nuran Al-Ghamian:** Basically, I am tired. I am sleepy and feeling cold and starving. I think we are all in this situation. It is tiring, this kind of thing, especially for us as survivors.

■ **Fritz Streiff:** Do you know who you will talk to and tell about this first? Who was not here?

■ **Nuran Al-Ghamian:** My mother, because she was there with me and my sister as well. We all were at the same place, at Al-Khatib Branch, at different times and in different periods. My mother was a really important part of this trial but she could not make it here, so I am definitely going to call her.

■ **Fritz Streiff:** Ahmad Helmi, who was outside a lot supporting other activists and talking to the press, also had a moment to spare for us.

■ **Pauline Peek:** What do you think of today's verdict?

■ **Ahmad Helmi:** The verdict itself did not give me this amazing feeling, but what came after it, the reasoning that the judge started to narrate for why they made this verdict, how torture in Syria is systematic and done by the state. That evidence established a status that we can start from in our advocacy and in future accountability. It also feels good to hear a verdict from outside the bars, without

handcuffs, without being scared that you will go back to prison. It feels good to see the handcuffs on the right hands finally.

■ **Pauline Peek:** You are a survivor yourself. What does this day mean for you and what does it mean for other survivors?

■ **Ahmad Helmi:** For me, I do not know. It feels that the challenge has started and there is too much to be done. With this small yet important victory, I feel I have more energy and more power to continue fighting for justice and accountability.

■ **Pauline Peek:** Because last time we talked you were quite pessimistic about activism in general, that it was becoming more dangerous and it felt more pointless than it maybe did before. Do you think this has changed anything? Or is that being too optimistic?

■ **Ahmad Helmi:** For me, it did. You need something to give you this push of energy because you start to lose hope. You start to lose meaning when you feel like you are running, you are fighting, you are struggling every day and the crimes are still ongoing. It is still ongoing today, but at least we have achieved something. For me, it is going to change reality. I hope that it will change the reality for other Syrian human rights defenders and activists.

■ **Noor Hamadeh:** A lot of different reactions. I am wondering, what were your thoughts at this moment when you were there?

■ **Fritz Streiff:** We were leaving the courtroom, and I was standing with Hannah, and we are starting to reflect a little bit on what happened today. What is your first take?

■ **Hannah El-Hitami:** What we expected to happen, happened, the lifelong sentence. What did not happen was the special severity of guilt. It was taking much longer than expected. I actually saw several people dozing off. I have heard all these testimonies before, so I am like, "Okay, this is nothing new to me," but then, of course, sometimes you just take a moment and you remember, well, these are actually pretty horrible stories and someone actually went through all that. You should not be there being like, "When is this over." You should reflect and remember all those people. It has been interesting, but I think the most interesting thing is all the people that are here, all the activists, from all over Germany, and even other countries.

■ **Fritz Streiff:** It was a long line this morning, and it was a hassle to get inside. What stuck with me is the very sensitive way the presiding judge is doing this. I think she is paying attention to every party in the courtroom, including the accused, but definitely the civil parties, the joint plaintiffs going through the accounts again, and giving them their moment. Also, what stuck with me was that she used a very interesting characterization and a possible answer to our question from an earlier episode *Anwar Who?* I think she called him "an eager, intelligent, reliable technocrat."

■ **Hannah El-Hitami:** I also thought it was interesting that she started by saying that it is not the Assad regime here on trial, it is Anwar R. I remembered that she said exactly the same thing with the first verdict.

■ **Fritz Streiff:** Which is this fine balance because, at the same time, she then goes into the history of how we got to this point. The state crimes that were already being prepared if not committed before 2011, and how Assad used the intelligence services to violently suppress and annihilate dissent. It is this interestingly fine balance this court is walking by pointing that out, that Assad and his inner circle are not on trial. Yet at the same time they are definitely making it known and clear in which state crimes context the crimes that Anwar R. is now convicted for were committed.

■ **Hannah El-Hitami:** Okay, she is saying that, but we all feel differently about it. It has to be about the crimes of the Assad regime because the only way we can even put someone like Anwar R. on trial in Germany is if his crimes are related to crimes against humanity. The crimes against humanity have to be related to a widespread and systematic attack. It is not about individual crimes. Yes, the verdict has to be about his individual crimes, but the trial is about the crimes of the Assad regime. I think that is something that she might want to deny, but it is always in the room.

■ **Fritz Streiff:** I agree. Legally speaking, that is totally right. Part of the accusations can only be proven if the state crimes are literally proven in this very trial as well. There you go.

■ **Noor Hamadeh:** By now, we have had a few days to let the verdict sink in to read and think about it. Do any of you have any new thoughts?

Fritz Streiff: From my perspective, what I have been asked a couple of times since returning from Koblenz is what I think about the judgment and if I think it was fair. I want to say it was fair, and that it also has to do with this one question that was the core question for me when I went to Koblenz. We were describing it in earlier episodes, this question of whether the judges would find that particular severity of guilt, which they did not.

We heard this in the beginning of the announcement of the verdict. They later explained why they did not describe Anwar R.'s guilt as particularly severe, which would have meant he could not ask for release on parole after 15 years, but only after about 20 years or more. In summary, the court did put Anwar R.'s defection from the regime to his advantage. He has again stated that he clearly does not agree with it, and with what he calls the crimes that they started committing. Clearly, there are a lot of gray zones, and the reasons for his defection, and all that we have discussed in the podcast are not clear. The court did mention that was to his advantage. In the two moments during the trial that he spoke, he did in fact confirm and admit to some of the crimes he was accused of. That is why he did not get that particular severity of guilt. In the larger scheme of things, I think that is fair.

Noor Hamadeh: This was something I was thinking about when I first heard the verdict. I was really happy about the verdict, but I kept wondering how this squares with Anwar R.'s perception of himself as the person who was doing everything he could to protect and save people using his position. That was going through my mind. How does he square this vision of himself with this courtroom, this place where justice is supposed to take place. After all this evidence was presented in front of him, still his vision of himself is not the one that everyone else agrees with. I imagine that must have been weird for him to recognize that his vision of himself is not perceived as reality by many people, or by most people. I actually heard about the verdict right when I woke up. It was the first thing that I saw when I woke up. I had a million text messages and all the news notifications. It was a really good way to wake up. It was a really exciting day. I had that initial excitement, but what was going through my mind was, "What is next? How is this trial going to impact future trials? What does this mean for Syria?"

Going through my mind was that this big thing happened, and I am really excited to hear what people have to say and what people

anticipate this will mean moving forward. There is one person here who has been to almost every single session of the trial. Hannah, I am really curious to hear your thoughts.

■ **Hannah El-Hitami:** As someone who has watched the trial for almost 100 days, I have to admit that I have started seeing quite a lot of flaws in it, which does not mean that I do not respect and understand the meaning it has for survivors, and for Syrians in general. I think this was underlined again by the fact that so many people were outside and inside the courtroom, and so many people got up early to be there. That trial was a very important step for many people, and especially to record what has been happening in Syria for history and to have that acknowledged by a court.

That being said, I just want to talk again, about those technicalities that have gone wrong. Technicalities sound like trivial stuff, but they were actually quite big issues. Remember the whole language problem, the fact that non-German speakers had very little access to the trial. And the fact that it was not recorded, even though it is such a historical trial that could be very important for future generations.

I talked to Ameenah Sawwan from the Syria Campaign this morning, and she said that she, as a Syrian, felt excluded from the trial. That it felt like a trial by Germans for Germans. This is the whole contradiction, that universal jurisdiction is supposed to be international. That is why a German court can even prosecute someone from Syria, but then we have seen it being executed in a way that is not international at all.

Another aspect was the problem of witness protection. Witnesses who were in court and realized that what they were going to say might be dangerous for their families still living in Syria. They did not realize they would have to testify anyway. I think those flaws are really important to keep in mind for the future.

Also, there is an even deeper lying problem, which I started to call the defective dilemma, which is the fact that the regime is still in place and only those who have turned their backs on it can be prosecuted and put in court. I am not saying that a person becomes innocent just because they defected. People like Anwar R. still played their part, and in his case, a big part in the regime's crimes. But it just makes you wonder what the purpose of justice is and how justice works.

Obviously, it is there for victims and survivors, but in a political context, it should also somehow be directed toward the future. If you think about it in a transitional justice approach, it is important that justice creates a basis for society to overcome a conflict and live together again in the future, and to rebuild. That is something I am not sure has been represented well in this trial. This has left many questions in my mind about how and whether these kinds of trials from afar can actually provide a comprehensive type of justice.

■ **Noor Hamadeh:** With the end of the trial, we have also reached the end of our podcast. We want to take a moment here to thank all of our listeners for their continued interest in our podcast. It has been an absolute pleasure to bring the episodes to you. I have learned so much through exploring the intricacies of the trial, the historic and social context around it, and through meeting and talking to so many Syrians on this issue. I hope that everything we shared through the podcast has been beneficial and educational for many as well. Thank you all so much for your comments and feedback, the critiques, and the kind words that you have shared with us over the past 21 months.

■ **Naya Skaf:** We want to thank everyone that has participated in our podcast, the many guests and sources without which we could not have told the stories we brought to you. Thank you all so much for sharing your expertise, insights, and stories with us. On a personal note, a big thanks to the podcast team for embracing me as the newest member for the second Arabic and third English seasons. I was lucky to be involved in such an important and needed matter of justice.

■ **Fritz Streiff:** When this podcast started almost two years ago, I would have never imagined that it would become such a great project. I am really proud of my colleagues who have made it all possible. Pauline, Saleem, Hannah, Noor, and Naya, working with you has been really an amazing experience. I think the special skill sets, insights, and approaches to our difficult and complex topic that every single one of you brought to the team and the mix of all that is reflected in each of the episodes. That shaped our podcast into what it became and what it is now. The compliments that we have received along the way, they are all for you. Special thanks to those behind the scenes like Farah and Hadi, who helped us with communications and the website. Of course, to Laurens and Maarten for their early and continuous support and advice on strategic and technical questions.

Now, while there will be not any new episodes of this podcast coming your way, the ones we have broadcast will remain online. The same goes for our Twitter and Instagram channels. Feel free to contact us there and be in touch. Our website will also stay live. There are some exciting plans in the pipeline with new podcast ideas. There are so many trials like the one in Koblenz that has just finished. There are many that are either already happening or about to start, like the one in Frankfurt against Alaa M. that we just discussed.

There are some that are expected to begin in the near future. There are so many stories to tell surrounding them and so much information to share, so you will hear from us again soon.

EYAD A.'S APPEAL REJECTED

Season 3 | Episode 11 Bonus | May 6, 2022

There is a short but important update: the German Federal Court rejected Eyad A.'s appeal arguments following his conviction in February 2021. In this bonus chapter, Fritz Streiff summarizes the appeals court's decision and relates it to the wider significance of the Al-Khatib trial. He explores what the decision means for Eyad A. himself and the time he will still have to spend in prison, and what the decision means for the overall struggle for justice and accountability for Syria, especially in these times of the so-called 'normalization' of the Assad regime.

EMPTY

Fritz Streiff: Hi everyone, it has been a while since we last put an episode out, after the final judgment in the case against Anwar R. back in January. Although we wrapped up our podcast, we came back for a short but important update regarding the Al-Khatib trial.

This week, as you might have heard or read, the highest German Federal Court published its decision in the appeals case of Anwar R.'s co-accused, Eyad A. You will remember that the judgment in his case came about 10 months into the Koblenz trial on February 24, 2021. It was the first judgment in a criminal case against former Syrian regime officials for crimes against humanity. The court decided the Syrian regime has committed crimes against humanity, and that Eyad A. was one of the regime's willing executioners of a widespread and systematic attack on the civilian population. It was a big day for many, especially Syrian victims and/or witnesses who were involved in building the case and participating in the trial.

And at the same time, it was the start of an intense discussion among many who were following what was happening in the Koblenz courtroom. You might remember that many were wondering whether convicting a relatively low-ranking regime officer as sort of a symbol for the much larger and wider crimes of the regime was the right, moral thing to do.

We discussed this on the podcast at the time, and took a closer look at this debate, which really went to the heart of the question of what justice is and what it can deliver in a limited legal context.

Now, in late April 2022, the German Federal Court decided that the Koblenz judges made no mistake in law when they found Eyad A. guilty. He had appealed the length of his sentence, but the appeals court referred to the Koblenz court's correct interpretation and application of the law.

Because Eyad A. had helped the prosecutor's case against his co-accused Anwar R. by providing information and evidence against him, the court took that into consideration when determining the length of his sentence of a relatively low four years and six months. Many on the other side of the debate argued for a conviction of crimes against humanity.

With the appeals judges' decision, the judgment in Eyad A.'s individual case is now absolutely final and there are no more options to appeal except the Constitutional Court which seems unlikely in this case, though you never know.

Eyad A. will likely be able to leave prison relatively soon. He received a now-confirmed four years and six months in total. It has been more than a year since the judgment in his case, which was added to the time he spent in pre-trial detention, which was also more than a year, and the time he spent in detention during the 10 months of his trial. With the possibility to apply for early release, he could be a free man soon.

What that might mean for him and his family is another question, which we also took a closer look at in our final season of the Branch 251 podcast in the episode *Sentenced For Life*, which I suppose says it all.

On a final note, and zooming out again from Eyad A.'s individual case, we can also now finally state in confirmed legal terms that the Syrian regime indeed committed crimes against humanity when crushing the early period of the Syrian revolution. The Koblenz judges decided this in February 2021, in what I found then and still find a carefully crafted and well-argued decision. Now this has been confirmed by the highest appeals court.

It is a legal fact. And an important reminder to any and all states, international organizations, and media in these times of the so-called "normalization" of the Assad regime. This is not a normal but a deeply, unspeakably cruel criminal regime.

Separate from *Branch 251* but not too far from trials and courts related to crimes against humanity in Syria, we at *75 Podcasts* are now working on a brand-new podcast which we will publish soon. Stay tuned!

EMPTY

THIS WILL REMAIN

Postface by Fritz Streiff

Justice is not perfect because it tries to marry reality with the law, and those two concepts are hardly compatible. At the very least, it is a highly complicated relationship. Because the law is abstract. It tries to fit structure, rules, and procedure to an organically evolving body of personal and collective experiences. Every case, every context, and every circumstance is different. But the law is reactive and mostly based on past experience. By its very nature, justice is late – often too late. What is more, when justice is attempted in highly intricate international contexts, its late nature can mean years, sometimes decades, of frustration. Justice is and never will be perfect. But I believe that it is our best shot at approaching a meaningful degree of satisfaction for victims and healing for communities.

The Al-Khatib trial in Koblenz will be remembered as an instructive and illustrative experience of international justice in all its complexity, hopes, challenges, and criticisms it faces. This was a national court exercising the task of administering proper international justice in a loaded context of historic significance and expectations, fed by a decade of waiting.

The Koblenz court was not fully prepared for the momentous task entrusted to its judges. On the podcast, we heard about the frustrations many experienced, from observers to witnesses to victims to lawyers. The judges did their best to exercise what they know how to do: run a proper criminal trial. But when applying German law and procedure to a foreign and complicated context, the gap between Koblenz and Syria understandably turned out unbridgeable.

Two episodes that will always remind me of this large distance between the reality of the Koblenz judges and the Syrian experience are *Duty vs Fear* (Episode 1 of the English series' first season) and *What's Choice?* (Episode 4 of the English series' second season). In exploring what choice the co-defendant Eyad Al-Gharib really had in the various contexts he found himself in during his biography leading up to the allegations he faced in court, the presiding judge listed a whole number of options.

In the court's assessment, one of the options the defendant might have had to avoid becoming part of the allegations, she noted, could have been to "call in sick" the morning of the day that the allegations took place. Most observers, and certainly many of my Syrian colleagues who were in the courtroom that day, looked at each other in disbelief at such a suggestion.

Access to the courtroom and proper translation was another massive issue for the affected and interested Syrian community, as were the lack of official trial recordings and a number of other fundamental problems. As we heard in the episode *Death in Detention* (Episode 13 of the English series' first season), similar issues occurred in previous national trials in Germany dealing with international crimes. This begs the question whether, or more hopefully, to what extent, lessons will be learned from Koblenz for other similar trials now and in the future. The currently ongoing ones against Syrian regime-affiliated defendants in Frankfurt and Berlin are not boding well in this regard.

Some argue that national trials, such as the one in Koblenz, are the future of international criminal justice, with the International Criminal Court (ICC) and specialized tribunals complementing them, rather than the other way around. For good reasons, this complementarity principle was a core element the negotiators agreed on when setting up the ICC in the late 1990s. I agree with this trend in the complicated international legal and political framework we find ourselves in. But we should just know that these national trials will never be perfect. Just like the trials at the ICC in the Hague, with all its international outfits and capacities, have not been perfect, not by a long shot, during the 20 years of its existence.

At the end of the day, despite all of the challenges, the trial the Koblenz court conducted and the judgments it handed down were of high quality, clean, and fair. I was very impressed with my Syrian colleagues commenting on their admiration for the fair

procedure and by their lack of desire for revenge. Rather, witnessing a fair criminal trial seemed to give them hope – that another way of punishing the guilty is indeed possible.

It has been said, on our podcast and elsewhere, that this trial was a small but significant step in the right direction. It is my conviction that it is more than that. This court, with its five judges, patiently managed 20 months of meticulous presentation and discussion of evidence, on every single element of the allegations, over more than 100 days of trial. The rights of the defendants were given the proper space and time, and victims were able to meaningfully participate as parties to the trial. In the end, what came out of this long and detailed exercise of justice was the first judgment by a criminal court in the matter of the violent oppression by the Syrian regime of the peaceful revolution by the Syrian people. Both defendants were found guilty for participating in a crime against humanity, which the Bashar Al-Assad regime orchestrated, executed, and for which he is ultimately responsible.

This will remain.

And it is an achievement of which everyone involved in the Koblenz trial can be proud. First and foremost, all survivors and members of Syrian civil society who worked tirelessly on this case, and on many others, together with their partners. We do not say this often as Germans, but in this instance, I am proud of my mother country. The German justice system, with its police, prosecutors, lawyers for the defense and victims, and judges deserve regard and respect for this achievement. What is more, and often forgotten, is the political will at the basis of this work that made the investigations and eventual trial possible in the first place. There are no trials without adequate political support.

These judgments are many things. They are certainly a strong political message, which will be supported by increasingly more trials and judgments following in the coming years. They will form a concrete body of proper court decisions proving the immense guilt of the Syrian regime. This dossier of court decisions will be brought to the table and be part of any current and future political discussions in the framework of a transitional justice process for Syria. With the decisions of the Koblenz court, the element of justice has properly and undeniably become part of this political process, which in some ways has already started and will last for years to come.

The Koblenz judgments are not going anywhere.

The war in Syria is over, they say, Bashar Al-Assad is not going anywhere. In late 2021, *Newsweek* ran a cover story with his portrait and the title "He's Back." Bashar Al-Assad might indeed successfully return to those political tables and the international arena to a certain extent. After listening to or reading through our podcast, these images of normalization of a deeply criminal regime are painfully disturbing. But history and political processes are funny things. Just ask the Milošević, Mladić, and Karadžić types of this world, who found themselves arrested and behind bars while they were comfortably participating in negotiation processes for years after the Srebrenica massacre. These dynamics can have the most unexpected twists.

When the time is right, justice will take advantage of exactly that, and after some years of comfortable sitting at those international tables once again, the tides will turn and Bashar Al-Assad will stand trial. Not today, not tomorrow, but eventually. When exactly? Nobody knows. Where? In Damascus, inshallah.

Fritz Streiff
December 5, 2022

EMPTY

**“Whoever has succumbed to torture
can no longer feel at home in the world.”**

Jean Amery, as quoted by the German Federal Prosecutor in the
Koblenz courtroom during his final plea on December 1, 2021.