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**The House Committee on Foreign Affairs  
Subcommittee on the Middle East, North Africa, and Central Asia**

**Hearing on “12 Years of Terror:  
Assad’s War Crimes and U.S. Policy for Seeking Accountability in Syria”**

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I appreciate the opportunity to offer my assessment of the situation in Syria and the U.S. response to it, and I commend the Committee for bringing oversight to this terrible crisis.

Twenty-seven months into the Biden administration, U.S. policy toward Syria is in crisis. Since coming into office, President Biden and his administration have assiduously resisted formulating a Syria strategy, but it is clear now that this deliberately negligent approach has put important American interests at risk.

**Why Syria is a Grave Danger That Cannot Be Ignored**

After more than a dozen years of war, the Biden administration, like much of the world, has grown tired of Syria. Unfortunately, Syria and the Syrian conflict still endanger American and international security interests in ways that cannot be ignored. The same dangers that compelled multiple U.S. administrations to adopt a hands-on approach to Syria are still present, along with some new ones:

- International terrorism, represented by the presence of ISIS, Al Qaeda, and similar groups, as well as the ticking time bomb of tens of thousands of ISIS-related detainees in weak northeastern Syrian jails;
- The world’s worst refugee crisis in more than 70 years, in which more than half of Syria’s prewar population fled the Assad regime’s warfare on the Syrian population;

- An accompanying humanitarian crisis, also created by Assad's warfare and starvation tactics against the Syrian population, and then exacerbated by the catastrophic February 6th earthquake, which fell most heavily on the millions of Syrians who fled Assad's attacks;
- Weapons of mass destruction, including Assad's use and proliferation of chemical weapons, as well as the still-unresolved matter of Assad's attempted nuclear proliferation with North Korean help;
- The threat of regional war created by the escalating military adventurism of the Iranian regime and its terrorist proxies, especially Hizballah and Hamas, as they attempt to turn Syria into a base from which to existentially threaten Israel;
- Great power competition with Russia, which has used Syria to regain a strategic foothold in the Middle East for the first time since 1973, with a view to destabilizing the US-led regional security system;
- A festering Turkey-PKK conflict that has dangerous implications for the NATO alliance, the global campaign against ISIS, and our bilateral relations with Ankara; and
- Narcotrafficking on an industrial scale by the Assad family, which has turned Syria into a narco-state while dumping billions of dollars worth of narcotics into the Gulf countries in particular.

For American and allied interests, each of these dangers is steadily worsening, and any one of them could erupt into an international crisis at any time. Each of these dangers is rooted in the behavior and nature of the Assad regime, which is the principal driver of the Syrian conflict. The threats listed above are all facilitated by the Assad regime's continuing war against the Syrian opposition and population, which has not stopped, even in the aftermath of the devastating February 6th earthquake in Turkey and Syria.

### **U.S. Government Neglect Has Led to Lost Opportunities**

In the face of these acute threats to important American interests, the Biden administration unfortunately has done little. While preserving the rhetorical goals of its predecessors, the administration has formulated no plans or means to achieve any of them except for counterterrorism and humanitarian assistance, and even in those two areas there has been no comprehensive policy to link their disjointed actions. As a result, the administration has lost many opportunities to put the

United States back in a leadership role and protect against the risks that Syria poses to U.S. and international interests.

The administration could have restored economic pressure against Damascus by fully enforcing the powerful Caesar Act while also formulating a strategy to shut down Assad's main streams of revenue: trafficking Captagon, diverting UN aid, and collecting extortionate fees from Syrian expatriates to renew passports and register vital documents. Inexplicably, the administration has largely failed to enforce the Caesar Act since coming into office, giving Assad and his mafia entourage a respite from U.S. economic pressure. Nor has the administration acted against sanctions defiance outside Syria, such as by stopping the UAE, Jordan, Kuwait, Armenia, and other countries from hosting Assad's sanctioned airlines. It would probably require a single warning letter from the Treasury Department to put a stop to this sanctions evasion. And despite the urging of Congress, the administration has done little to scrutinize international assistance flowing through Damascus, especially the ways in which the Assad regime manipulates and intimidates UN agencies to turn aid into a subsidy for the regime itself.

The Biden administration also should have connected Syria to broader U.S. national security policy concerning Russia. With Russia's destabilizing behavior in Europe, there has been no reason to withhold pressure from Russia's major middle eastern client just in the interest of creating a friendlier atmosphere with Russian diplomats. The Treasury and State Departments have failed to levy sanctions on Russian entities and persons as the Caesar Act envisioned, with emphasis on the Russian military and on all Russian companies that have operated in Syria or with the Syrian government. This would include both military industries and the Russian energy sector. Since the Caesar Act already contains secondary sanctions authorities, its use against Russian entities could have had a powerful impact by now in both Syria and Ukraine.

The administration also could have done much more to support the growing effort by European courts to hold the Assad regime accountable for war crimes and other atrocities, especially by creating formal evidence-sharing mechanisms. They also could have supported the formation of an international tribunal on Syria in The Hague (as previous administrations did with the International Criminal Tribunal on Yugoslavia and the Special Tribunal on Lebanon that investigated the assassination of Rafiq Hariri). And President Biden could have instructed the Justice Department and FBI to prioritize investigations of the fate of U.S. citizens who have disappeared into Assad's jails.

As the distinguished war crimes prosecutor Ambassador Stephen Rapp has noted, the body of evidence of the war crimes of the Assad regime far exceeds the evidence presented against the leaders of Nazi Germany at Nuremberg. I have had the privilege of reviewing some of the evidence that Ambassador Rapp cited. I have seen Syrian regime internal documents showing Bashar al-Assad's direct personal ordering of actions that constituted war crimes, as well as internal regime documents

that show beyond any doubt that he was fully aware of the crimes his military, security, and militia forces were committing on a massive scale.

To coordinate these and similar initiatives, and to conduct the diplomacy required to implement them, the Biden administration could have appointed a senior diplomat with a direct line to the State Department's leadership. For whatever reason, the administration chose instead not to appoint a U.S. Special Envoy for Syria for the first time since 2014. The absence of a special envoy has not been lost on our allies, partners, and the Syrian people, all of whom have interpreted it as a sign of U.S. neglect.

### **The Cost of the Biden Administration's Inaction**

These are but a few of the policy measures the Biden administration could have taken, at very low cost, to improve U.S. leverage in Syria, but did not. The administration instead has gambled that they could employ a policy of inaction without cost. It is now clear they have lost this bet. For President Biden's Syria policy, the risks of inaction have proven greater than the risks of action, as a recent letter by dozens of former officials and Syria experts, which I joined in signing, warned.<sup>1</sup>

Having left a policy vacuum in Syria, the United States is now watching both our adversaries and our friends move rapidly with their own policies and plans, to the detriment of American interests.

One consequence is that the Middle East is now closer to the brink of war than at any time since 2006. In the past few days, the Iranian regime demonstrated that it can mount serious attacks against Israeli territory from Lebanon, Gaza, and Syria simultaneously, while also carrying out an extended series of attacks against US troops in eastern Syria. As a former military officer at CENTCOM, I have been disappointed to see the Biden administration employ neither diplomatic, military, nor economic means to deter Tehran's military aggression against us and our closest regional allies, or to deter Tehran from shipping plane loads of weapons into Syria under the cover of "earthquake relief." At times it has seemed instead that it is the Biden administration, and not the IRGC, that is deterred.

Meanwhile, on the political level, the Biden administration's inaction and mixed messaging in Syria has resulted in a wave of Arab capitals making the deeply misguided decision to begin normalizing their relations with Bashar al-Assad. The fact that the Arab states are doing so without Assad having altered any of his destabilizing behaviors or fulfilled any condition of the many international resolutions against him lays bare the American policy failure.

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<sup>1</sup> See <https://www.dropbox.com/s/kctcqw3h9qsqof/Syria%20Policy%20Letter.pdf?dl=0>.

With the Caesar Act and other such authorities at their backs, it should have been simple for the Biden administration to forestall this wave of Arab capitulation to the 21st century's worst war criminal regime. After all, there is virtually no Arab government or entity that would put its access to the dollar at risk for the sake of the destitute, odious Syrian regime. But while the administration's press statements have echoed the same anti-Assad line as its predecessors, its actions have told a different tale. For more than two years the administration made almost no use of the Caesar Act or any other pressure tool, creating a regional perception that Washington had decided to discontinue sanctions against Assad, even as Congress expressed its opprobrium of Assad more consistently and universally than it has expressed itself on almost any other foreign policy matter.

On many occasions Biden administration officials have, in effect, encouraged the Arab capitals to normalize their relations with the Assad regime. They encouraged Syria's neighbors to include Assad in a regional energy deal and assured Arab and European capitals and the World Bank that the Caesar Act need not be a hindrance.

In the aftermath of the February 6th earthquake, the Biden administration hastily issued the overbroad general license 23, which punches a hole through the Caesar Act to allow transactions with the Assad regime's financial sector for six months. The Biden team rushed this general license into effect without assessing or mitigating the risk that the regime and its associates could abuse it; without any guardrails or enforcement mechanism whatsoever, including any measures that would stop the regime's longstanding practice of manipulating exchange rates to steal large portions of every wire transfer into the country; without any geographical restrictions, even though only the far northwest was heavily affected by the quake; without any input from the Syrian-American community or Syrian opposition, most of whom were shocked by the license; and without stopping to explain why it should allow virtually unrestricted transactions to Assad regime banks, not a single one of which operates in the most affected opposition-held territories along the Turkish border.

Meanwhile, the Assad regime, seeing a golden opportunity, has forced most international earthquake aid to flow through either the Syria Trust for Development, run by Bashar al Assad's kleptocrat wife Asma, or the Syrian Arab Red Crescent, much of which is an extension of the regime's security agencies.

According to regional sources, when Arab capitals, in the wake of the earthquake, queried senior Biden administration counterparts about potential U.S. reactions to normalization outreach to Assad, the administration's reply was not a red light, but a tacit green light: administration officials reportedly told Arab capitals that since they had decided to normalize with Damascus, they should bargain with Assad for better humanitarian access inside Syria. Senior administration officials also reportedly told Arab counterparts that they would prefer to see Assad restore normal relations with the Arab capitals than to see Russia broker a normalization deal between Assad and Turkey, since the latter would heighten the risk of a new Turkish attack against the US-allied Syrian Democratic Forces.

What Biden administration officials reportedly did not do was warn that restoring normal relations with Assad could incur U.S. sanctions if it involved economic relations of any kind. As a result, administration officials have created the impression that they wish to implement a normalization strategy toward Assad, but to do so by stealth, encouraging others to take the lead and create a situation that can be presented in Washington as a *fait accompli*, while declining to acknowledge their true intentions before Congress.

### **What Congress Must Do to Put U.S. Syria Policy Back on Track**

U.S. policy concerning Syria has therefore reached a crucial point at which it is incumbent upon Congress to reiterate its intent, instruct the Executive Branch to enforce U.S. law, and amend the Caesar Act so as to ensure the law's implementation and leave no room for evasion or willful misinterpretation.

The Caesar Act should be amended, updated, and expanded. It should encompass more sectors of the Syrian economy that are connected to the regime. It should address the Syrian financial sector and stock exchange to deter private and public Gulf and Chinese capital from investing in Syria. The Act should also address the Assad regime's practice of expropriating the property of those they have killed or driven from their homes, and then trying to use that property for lucrative new developments for which they seek international investors. Congress should also make it easier for this committee to be able to nominate names for Caesar designation via a joint letter of the chairman and ranking member, as is already possible under the Global Magnitsky Act. Congress must also protect the Caesar Act by limiting the waiver and license authorities contained within it so as to prevent the kind of abuse of this license authority that we are seeing in the deeply damaging General License 23 of February 9th of this year.

Congress should also move quickly to pass the "No UN Aid for Assad Act," introduced by Congressman Wilson in the 116th Congress, or a similar bill cutting off all UN aid to Assad regime-controlled areas in Syria and redirecting it to areas outside of Assad's control unless and until the UN can actually enforce its own standards and procedures to prevent UN aid from being diverted to the Assad regime.

Concerning normalization, Congress must pass a bill to deter and disincentivize those countries that are normalizing relations with the regime. The bill should require the U.S. interagency to produce a strategy to counter normalization and should require CAATSA-like sanctions for countries who formally normalize relations with Assad. To clear up the highly damaging mixed signals the Biden administration unfortunately has been sending, either this bill or the amended Caesar Act should explicitly block the Arab gas pipeline initiative the administration misguidedly endorsed. The bill should at the same time explicitly clarify that any entity that services a sanctioned Syrian regime

airline, such as the services provided to Cham Wings at several regional airports including Dubai and Amman, is also violating U.S. sanctions.

To ensure the United States remains in the lead on this issue, Congress should also pass the provision that Congressman Wilson sponsored in last year's National Defense Authorization Act which prohibits the U.S. government from recognizing Bashar al-Assad as the President of Syria or recognizing his regime as the legitimate government of Syria.

Congress should use its oversight power, including the foreign affairs committee's oversight over sanctions, to examine the current administration's lack of enforcement of the Caesar Act and other Syria-related sanctions authorities, as well as its tacit green-lighting of normalization efforts by the Arab countries. Congress should also use its oversight power to examine what the administration is doing to fully implement the Captagon Act sponsored by Congressman French Hill and passed as part of 2022 NDAA and to judge how that act might be expanded or enhanced in 2023 to accelerate the collapse of Assad's narcotics empire. It is impossible for the United States or anyone else to normalize with a narco-state, and Congress must keep up the pressure on this issue.

Finally, Congress should press the Justice Department to mount a criminal accountability effort as the European justice ministries are currently doing.

### **Conclusion: Why "Normalizing" the Assad Regime is Deeply Unrealistic**

For American interests, it is not sufficient for international capitals to decide they no longer wish to leave Assad isolated. The United States has longstanding problems with the Assad regime, some of which have existed for more than two decades. Even before 2011, the United States sought to isolate Bashar al Assad and his regime for their sponsorship of terrorism, human rights abuses, proliferation of weapons of mass destruction, wrongful detention of Americans, narco trafficking, material support to the Iranian regime, and their warlike hostility to all their regional neighbors. In addition, four U.S. presidential administrations have sought to organize international pressure on Assad for defying UN Security Council Resolutions on Lebanon, Iran, terrorism, and counterproliferation. The United States cannot establish normal relations with the Syrian regime, and should not support others to establish normal relations, without resolving these grave problems with the Assad regime's behavior and nature.

Some of the governments exploring normalization deals with the Assad regime argue that they are doing so out of pragmatism, that since Assad has not been deposed after twelve years of war, restoring normal relations with him and his regime is mere realism. Some Arab capitals add the argument that the Arab countries should offer Assad material incentives to distance himself from the Iranian regime and Russia. But these rationales are themselves highly unrealistic. The world has seen enough of the Assad regime to know that it will never, as it is currently constituted, change its behavior

either inside or outside Syria, and it will make no concessions of any kind unless under irresistible pressure.

Some of us who work on the Middle East have done so long enough to remember the multiple times in the past when normalizing Bashar al-Assad was tried and spectacularly failed. When I hear Arab leaders or other officials pitch normalization today, I immediately have vivid memories of the assassination of Rafiq Hariri in 2005, followed by international pressure, followed the blackmail of the 2006 Lebanon War, followed by the gradual erosion of international pressure, and culminating with the failures of the Annapolis Conference and the Riyadh-Damascus normalization initiative. I, for one, see no reason for the world to sit through that movie yet again, hoping in vain for a different ending.

We have also seen enough of the Syrian people to know that the more than half of them that oppose Assad will never accept living under his rule again. Assad has killed almost a million Syrians, yet they continue to resist him to a degree he must not have imagined possible when he began killing them in 2011. After twelve years of conflict, it is more telling that Assad has failed to defeat the opposition than that they have failed thus far to remove him from power. The fundamental reality in Syria is that Assad can never win.

What Syrians see in Damascus is a failed state whose institutions and economy are in free fall. The real Syria today is not a state where Assad hosts visiting dignitaries, but one in which average Syrians face starvation while a kleptocratic elite lives in conspicuous luxury. To Syrians, normalization policies that assume Assad has a guaranteed future or the ability to stabilize the entire country are preposterous and irrelevant, having no bearing whatsoever on Assad's credibility with many millions of Syrians, which is gone forever.

The simple facts are that Syrians who have rejected Assad's legitimacy for a dozen years will continue to do so *ad infinitum*, while Assad's own state is a mere shell that cannot be restored. The most unrealistic approach to Syria, therefore, is to imagine that Assad can turn back the clock to 2010, or that his rule is guaranteed to last for the long term.

To Syrian eyes, the facts warrant the world powers changing their Syria policies and arriving at an approach that might actually work. I urge Congress to lead the way for the entire international community by restoring, enhancing, and compelling the implementation of the pressure policy you originally encapsulated in the Caesar Act. It is quite literally the only possible solution to the Syrian tragedy.