**U.S.: Assad’s ‘Machinery of Death’ Worst Since the Nazis**

July 7, 2014

By Josh Rogin

The Daily Beast

http://www.thedailybeast.com/articles/2014/07/07/u-s-assad-s-machinery-of-death-worst-since-the-nazis.html

New evidence of the Assad regime’s mass murder shows a systematic approach to atrocities not seen since the Holocaust, says the State Department’s top war crimes official.

Tens of thousands of photographs showing the Syrian government’s torture, murder, and mass starvation are evidence of the kind of systematic atrocities not seen Hitler’s Nazi regime exterminated millions during World War II, according to the State Department’s top war crimes official.

Stephen Rapp, the State Department’s ambassador-at-large for War Crimes and director of the Officeof Global Criminal Justice, has reviewed large sections of a huge collection of photos and written records of Syrian government atrocities smuggled out of the country by a former military photographer known as “Caesar.” Rapp spoke about the evidence at a July 3 event at the Atlantic Council in Washington.

“This is solid evidence of the kind of machinery of cruel death that we haven’t seen frankly since the Nazis,” he said. “If it is as it appears thus far, we’re talking about more than 10,000 individuals being killed in custody over the period from 2011 to 2013, including largely men but also some very, very young men and boys and women… It’s shocking to me, as a prosecutor—I’m used to evidence not being so strong.”

Rapp's strong condemnatioin of Assad and his call for international action to respond to Assad's crimes against humanity comes as the Obama administration is [engaged in an internal debate](http://www.thedailybeast.com/articles/2014/07/03/iraq-crisis-pushes-u-s-closer-to-assad-the-dictator-it-said-must-go.html) over how hard to actually push for regime change in Syria, given the rise of terrorism in the region.

Another former war crimes prosecutor who has reviewed some of the evidence tells The Daily Beast that he believes the photos indicate at least indirect “Russian government responsibility” for the atrocities.

Some of the photos first [emerged](http://www.cnn.com/2014/01/20/world/syria-torture-photos-amanpour) in January. That’s when a team of international war crimes prosecutors [released a report](http://i2.cdn.turner.com/cnn/2014/images/01/20/syria-board.of.inquiry.doha.jan.2014.18.1.version.x.to.print..pdf) based on the Caesar trove that concluded there was “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” that amounted to war crimes and crimes against humanity.

The report was written by noted international war crimes prosecutors David Crane, Desmond de Silva, and Geoffrey Nice, and was partially funded by the Qatari government. At the time the report was issued, Russian Foreign Minister Sergei Lavrov publicly cast doubt on its findings and called for independent verification of the [allegations](http://online.wsj.com/news/articles/SB10001424052702303802904579334783258429274).

Rapp said the U.S. government is nearly finished with its own forensic analysis of 28,000 of the photos and they not only appear to be genuine, but they also show a level of systematic atrocities that implicate Syrian officials including Syrian President Bashar al-Assad in crimes against humanity.

“Thus far the indication is that it would be impossible to have fabricated this kind of material, and having personally seen hundreds of the images of twisted bodies with real wounds and real human beings of every shape and size, this is not phony evidence,” he said. “These bodies were brought to one location from 24 other facilities, in which they had been tortured to death in a variety of ways: ligature strangulation, burning, bruising, starvation, evisceration, the most horrendous things you can imagine.”

Assad’s crimes may not technically be classified as “genocide,” because they don’t show a concerted effort to exterminate one group. Nor is Assad the worst mass murderer since the Nazis; the Khmer Rouge, for example, slaughtered hundreds of thousands during its reign in Cambodia. But Assad’s actions are crimes against humanity and are as serious and horrendous as other situations in the past that fit the technical definition of genocide, according to Rapp.

Assad himself is implicated in the crimes for the purposes of future prosecutions, Rapp said, because as head of the Syrian government and military he holds command responsibility and is therefore responsible for what the photos show is a policy of torture and murder of civilians. Assad also granted amnesty for crimes committed by his forces; it’s another action that indicates his responsibility.

“This is a situation in which clearly there is a high command and a responsiveness throughout those chains of command,” Rapp said about Assad’s Syrian Arab Army, which is shown perpetrating the crimes in the photos. “Clearly there has been zero effort to hold anybody accountable no matter how vicious, no matter how horrid the conduct of the forces of the army of the Syrian Arab Republic.”

Rapp said a large part of the Caesar archive had also been shared with Paulo Sérgio Pinheiro, chair of the Independent International Commission of Inquiry on the Syrian Arab Republic at the United Nations.

Some of the images smuggled out of Syria by Caesar were shown to [U.N. Security Council members](http://www.foxnews.com/world/2014/04/15/horror-syria-war-displayed-at-un) in April. Afterwards, U.S. Ambassador to the U.N. Samantha Power said, “The gruesome images of corpses bearing marks of starvation, strangulation and beatings and today’s chilling briefing indicate that the Assad regime has carried out systematic, widespread and industrial killing.”

But a Security Council effort in May to refer the Assad regime to the [International Criminal Court failed](http://www.theguardian.com/world/2014/may/22/russia-china-veto-un-draft-resolution-refer-syria-international-criminal-court) due to vetoes by Russia and China.

“Perpetrators of crimes have no fear or thought of consequence. Impunity has made its home inside the Syrian Arab Republic,” Pinheiro [said last month](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14731&LangID=E).

Rapp said there was a process underway to prepare the evidence for a future criminal prosecution by placing the evidence in custody outside the direct control of any one country. He did not say when exactly the U.S. would complete its ongoing forensic analysis or what the Obama administration intends to do when that analysis is finished.

International war crimes scholar Cherif Bassiouni—who led the U.N. investigations into war crimes in Yugoslavia, Bahrain, and Libya, and helped create the International Criminal Court—also saw many of the photos of atrocities brought out of Syria by Caesar. He spoke with The Daily Beast exclusively about the evidence.

Bassiouni said that top officials from countries directly aiding the Syrian army could also be implicated in the crimes against humanity being perpetrated by the Assad regime. In particular, he said the torture and killing was done in a systematic way he recognized from his time studying the Soviet Union.

“What I see in the pictures is to a large extent an anomaly to the culture of the Syrian army. The way these pictures were taken show a great deal of systematicity, reflecting a culture that is systematic in its approach. This culture, in my opinion, is more reflected in Russia,” he said. “What you see in Russian bureaucracy today, particularly in the successor to the KGB and military, is really no different than what existed in the USSR. The people haven’t changed and their methods haven’t changed.”

Soviet tactics of interrogation and mass torture of civilians were also revealed in some of the Eastern European countries whose security services were Russian-trained, Bassiouni said. Those tactics are shown in the pictures to be still in practice in Syria.

“We see a pattern of systematicity and discipline in the taking of the pictures, the numbering of the persons, etc., which has never occurred before in the history of Syria. It has occurred in Russia,” he said. “If I compare the cultural practices of the Syrian military in the past, their practice has always been to torture, kill, get rid of the bodies, get rid of the evidence. When you look at the practices of the USSR and the eastern European countries, everything is documented.”

Even if the Russian advisers helping the Syrian army aren’t directly involved in the torture, they could be held responsible for aiding the army in other ways, such as maintaining airplanes that drop barrel bombs on civilians, which is also a war crime, Bassiouni said. Members of the Russian leadership that knew or should have known about such assistance could also be prosecuted.

“There is a Russian government responsibility on the basis of command responsibility,” he said. “It attaches legal culpability to the military hierarchy supervising those Russian ‘civilians’ engaged in that action.”

There are three possible options for how the Caesar evidence could be used in future prosecutions against Assad and his cohorts. The U.N. Security Council could again attempt to refer Assad to the International Criminal Court. Alternatively, there is an informal proposal to set up a special inquiry into atrocities in Syria.

Thirdly, the domestic criminal justice system of Syria could bring the cases after the armed conflict ends, using war crimes laws that are already on the books there. Assad is the commander of the Syrian army, so he could be prosecuted under domestic laws that govern military conduct, Bassiouni said.

The Obama administration has been too slow to collect, investigate, verify, and eventually announce what is inside the Caesar evidence, in Bassiouni’s view, because they fear that confronting Assad about his own criminal culpability might hamper efforts to negotiate with Assad over an end to the Syrian civil war.

Assad has been offered safe passage to a third country as a carrot for handing over power. That might not be possible if his crimes against humanity were publicly confirmed, Bassiouni said, but Assad has already passed on that offer.

When the U.S. government does complete its forensic analysis of the Caesar evidence, the Obama administration will be forced to make a policy decision about whether to announce the results and whether to press for immediate accountability. In Bassiouni’s view, the U.S. will have to act if and when it finally concludes that the evidence is real and definitive.

“It places a moral and legal burden on the United States. The moral burden is self-evident.  But the legal burden derives from the fact that this type of torture killing is a violation of the torture convention, which is ratified in U.S. law,” he said. “It obligates us to take whatever measures we can to prevent the continuation of it. Obviously the very least would be for us to make it public, to create the necessary public pressure on Assad, and possibly the governments of Russia and Iran, to formally notify the government of Bashar Assad of their responsibility under international criminal law.”

“There is a point,” Bassiouni added, “when you just can’t look the other way.”