



EURO-SYRIAN DEMOCRATIC FORUM
المنتدى الديمقراطي السوري الأوروبي



CONFERENCE: WHAT NEXT FOR JUSTICE IN SYRIA?

Participant List

Marriott Hotel, Istanbul, Turkey
18-19 December 2018

Npwj.org



Istanbul Conference: “What Next for Justice in Syria?”

*a Syrian civil society appraisal of progress and challenges of
accountability campaigning and lessons learned*

18-19 December 2018

Syrian Civil Society

Abdul-Hamid AL AWAK
Professor of Constitutional Law

Haytham OTHMAN
Children of One World

Abdullah BASSAM
Syrian Network for Human Rights

Hiba BRIS
Space of Hope

Abdulvahap ASI
Jusoor for Studies

Ibrahim HUSSEIN
Syrian Judicial Council

Alaa Aldin ZAYYAT
TAMAS

Malek Abo HOSINE
Dawlaty

Ali ALHASAN
Free Syrian Lawyer's Aggregation

Mazen ZIR
Human Rights Guardians

Anwar ALBOUNNI
Syrian Centre for Legal Researches and
Studies

Mouaffaq NYRABIA
Euro-Syrian Democratic Forum (ESDF)

Anwar MAJANNI
Free Independent Judicial Council

Mouhamad HASSNO
Head of Assistance Coordination Unit

Assaad AL-ACHI
Baytna Syria

Moutasem ALSIYOUFI
The Day After (TDA)

Bahaa ALDEN
Najeeb Nabni

Rajaa AL TALLI
Centre for Civil Society and Democracy

Firas MASRI
Civilians for Justice and Peace

Rami HAMIDO
Alkawakibi Organisation for Human Rights

Hayma ALYOUFSI
Local Development and Small Projects
Support

Ruba ALNOMAN
Hurras



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Saad BAROOD

Bonyan

Mohammad FADLY

Security Sector Reform Expert

Mohieddeen HARMOUSH

Security Sector Reform Expert

Souhaib ALBOUSHI

Association for Peace, Justice and
Documentation (APJD)

Suha ALAKRAA

Start Point

Yaser ALFARHAN

Syrian National Commission for Missing
Persons and Detainees

Sameer ILEWE

Syrian National Commission for Missing
Persons and Detainees

Yasmin BINSHE

Yasmin Freedom

Mohammad SHAMALI

Military Expert

Yasmin KHALED

Save the Rest

Yassein HALHELAL

Aleppo Free Lawyers

Yasser SAID

Lawyers and Doctors for Human Rights

Zafer NAHHAS

Deepening Awareness and Restoring Bridges
(DARB) Organisation



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International Experts

Dalila BEN MBAREK

Independent Expert

Hanan RABBANI

Independent Expert

Hanna ZIADEH

Danish Institute for Human Rights

Hatem KOTRANE

Expert on Rights of the Child

Khalil IDRISI

Lawyer

Mohamed AL-TAJER

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Veronica BELLINTANI

Independent Transitional Justice Expert



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Diplomatic Representatives and International Organisations

Denmark

Ivan NIELSEN
Kim Buth OLSEN

Germany

Klemens SEMNTER

Norway

Elnor GASANOV

The Netherlands

Caroline SMIT
Paula SASTROWIJOTO

Office of the High Commissioner for Human Rights (OHCHR)

Alexander EL JUNDI
Tarek CHENITI

Syrian Interim Government

Fakher Aldin ALARIYAN



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Organisers

No Peace Without Justice

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Alison SMITH

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Morgan CLOUD

Euro-Syrian Democratic Form

Hussein SABBAGH



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Agenda

Monday 17 December 2018

Arrival of participants

Tuesday 18 December 2018

08:30-09:00 *Coffee and Registration*

09:00-09:30 **Opening session**

Introduction by the organisers

09:30-10:00 Conference Methodology, Thematic Sessions, Context and Objectives

How will society sustain the campaign for impunity in the long run?

10:00-11.30 Thematic Session I: **Narrating the past to build the future**

Chair: Hanna Ziadeh

Topics: How to counter negationist narratives and inform new generations. Accountability beyond Criminal Justice; Memorialisation, Oral Histories, Archives, Repositories; Untold stories: the Dom, the Ajanib and Maktumeen; Preserving Memory: a shared history for future generation; How do you deal with past violation and new types of violations; Who “owns” the information / evidence? Evidentiary standards and probative value. *Questions: What Lessons have been learned from the past efforts? How might things develop in the future? How are things challenges? How should they be addressed?*

11:30-11:45 *Coffee Break*

11:45-13:15 **Thematic Session II: Property Rights and the Right of Return**

Chair: Khalil Idrissi

Topics: Forced displacement and ethnic cleansing; Rights of returnees and real impact of so-called Law No. 10 and other restrictive measures; addressing deliberate demographic change. How will affected communities respond to attempts to normalisation by the regime (elections, reforms, amnesties, etc). *Questions: What Lessons have been learned from the past efforts? How might things develop in the future? How are things challenges? How should they be addressed?*

13:15-14:30 *Lunch*

14:30-16:00 **Thematic Session III: Combating Sexual and Gender Based Violence**

Chair: Hanan Rabani

Topics: How has Sexual and Gender Based Violence evolved over the conflict? How will SGBV evolve in the next years? Victims' empowerment and extractive practices / objectification? Who speaks for whom? Documentation, self representation and empowerment: *Questions: What Lessons have been learned from the past efforts? How might things develop in the future? How are things challenges? How should they be addressed?*

16:30-16:45 *Tea Break*

16:45-18:00 **Thematic Session IV: Children and Accountability**

Chair: Hatem Kotrane

Topics: Crimes against children; Dealing with Children perpetrators; Agency and self representation; Intergenerational trauma and post conflict narratives. *Questions: What Lessons have been learned from the past efforts? How might things develop in the future? How are things challenges? How should they be addressed?*

19:30 *Conference Dinner*

Wednesday 19 December 2018

09:00-10:30 **Thematic Session V: Detainees and Disappeared**

Chair: Mohammed Al-Tajer

Topics: Preparing for long term advocacy; Lessons learned from the Save the Rest campaign; How do we create advocacy space for families of disappeared: *Questions: What Lessons have been learned from the past efforts? How might things develop in the future? How are things challenges? How should they be addressed?*

10:30-12:00 Thematic Session VI: **Gender Dimensions in Accountability**

Chair: Dalila Ben Mbarek

Topics: The Myth of a gender-neutral approach; Gender dynamics and justice processes; Meaningful participation in shaping the narrative and the solutions; Who speaks for whom? Holistic and representative approaches; Intersectionality of Gender and other factors (social status/education, religion, geography). *Questions: What Lessons have been learned from the past efforts? How might things develop in the future? How are things challenges? How should they be addressed?*

12:00-12:15 *Coffee break*

12:15-13:45 Thematic Session VII: **Interaction with the international community**

Chair: Frej Fenniche

Topics: What focus for international advocacy, how will it change? Countering normalisation narratives; Exposing the human rights cost of non-conflict sensitive humanitarian aid; Long term engagement with international human rights and accountability processes. *Questions: What Lessons have been learned from the past efforts? How might things develop in the future? How are things challenges? How should they be addressed?*

13:45-15:00 *Lunch*

15:00-16:30 Closing Session: **Mobilising for long term societal resistance to impunity**

Reports from Thematic Sessions

Discussion and conclusions

Languages

Simultaneous interpretation will be available for all conference sessions in Arabic and English.

Venue

Courtyard Marriott at IST Airport, Fatih Cd. Dereboyu Sk. No.2, 34303 Halkali, Istanbul, Turkey
<https://www.marriott.com/hotels/travel/istcy-courtyard-istanbul-international-airport>

Airport Shuttle

the Marriott has a frequent and efficient shuttle service operating from Istanbul (IST) airport from 05h30 in the morning to 00h30 at night. Please call +90 212 6920000 on arrival.



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Context

After seven years of conflict, the world appears to be pushing for a normalisation of the situation in Syria, focusing on time-limited solutions, such as localised ceasefires and the provision of emergency and resilience assistance, or developing long-term plans on constitutional reforms and elections for which the conditions are still lacking, while paying little attention to accountability for the crimes that have been committed throughout the conflict. If in the past the international community wanted to raise its voice against war crimes, crimes against humanity and serious human rights violations in Syria, now its priority seems to be to establish some form of equilibrium and “stability” among the many local, regional and international warring parties in Syria on the basis of a diplomatic agreement based on normalisation, rather than peace in Syria.

There have been some results from voices having been raised in favour of accountability, such as the use of universal jurisdiction by some third countries, mostly EU Member States, to prosecute perpetrators and the United Nations General Assembly’s establishment of the International, Impartial and Independent Mechanism for Syria (IIIM). Nevertheless, the fight against impunity remains an unfulfilled task and it is now hard to imagine that a proper accountability process will take place in the near future, given the push towards normalisation. Against this backdrop, it is clear that for those who remain committed to the fight against impunity and to the development of genuine Transitional Justice processes, a different track is needed.

Next challenges for the accountability process in Syria

There is a need for a renewed long-term strategy for Syria aimed at fostering the pillars of a new Syrian social compact capable of bringing together torn communities, healing the wounds of the past and providing a shared vision for the future of Syria. During the past several years, the technical and financial assistance provided by States, INGOs and international institutions went through several phases. A first phase was characterised by efforts of those actors to build and enhance the capacity of Syrian NGOs, CSOs and activists to document human rights violations and interact with the international mechanisms set up by the UN, such as the Independent International Commission of Inquiry on the Syrian Arab Republic. In a second stage, international actors focused their action on advocacy activities and on interaction with the IIIM, the United Nations and

States willing to exercise universal jurisdiction. In the current phase, the fight against impunity and accountability for crimes of the past no longer appears to be a priority at the international level; while the need for justice remains undiminished, it is likely that the political and financial engagement of the international community will decrease and that donors may not be able or willing to underpin any transitional justice process.

Due to these considerations, the next challenge for Syrian civil society actors is to remain seized of the accountability issue and, building on their previous efforts, to move from a “project based” model of activities to a sustained and long-term political model.

Conference purpose

This conference is designed to provide an opportunity for Syrian civil society activists and democracy advocates to reflect on the work done so far on issues related to truth, accountability and transitional justice; develop new policy strategies and a shared approach; and prepare for longer-term work and campaigns with decreasing financial and political support from the international community. From this perspective, the conference aims at encouraging a brainstorming on a new strategy for civil society that includes ways to promote and strengthen their ability to self-organise and maintain their actions in the face of a risk of decreased international support for their justice goals. At the same time, the conference can be a moment that contributes to the development of a renewed civil society coordination based on a shared understanding of the new scenarios and priorities. In both these efforts, the conference will bring voices from other countries with chequered histories in transitional justice, to support Syrian human rights advocates and to learn from their efforts in the pursuit of justice since the start of the conflict in order to discuss new avenues for justice.

Participants

Syrian civil society actors working on issues of justice, accountability, transitional justice, victim support, community mobilisation and empowerment, facilitated by regional and international experts who can attest to what can work to keep the issues of truth, justice and accountability alive as a political obstacle to normalisation on an international level.



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WHAT NEXT FOR JUSTICE IN SYRIA?

Observations and recommendations arising from the
Conference: Chair’s Summary

WHAT NEXT FOR JUSTICE IN SYRIA?

Observations and recommendations arising from the Istanbul Conference 18-19 December 2018

Introduction

After seven years of conflict, the world appears to be pushing for a normalisation of the situation in Syria, focusing on time-limited solutions, such as localised ceasefires and the provision of emergency and resilience assistance, or developing long-term plans on constitutional reforms and elections for which the conditions are still lacking, while paying little attention to accountability for the crimes that have been committed throughout the conflict. Although there have been some results from voices having been raised in favour of accountability, the fight against impunity remains an unfulfilled task and it is now hard to imagine that a proper accountability process will take place in the near future

In this context, the Euro-Syrian Democratic Forum and No Peace Without Justice organised the Conference “What Next for Justice in Syria?”, which took place in Istanbul, Turkey on 18-19 December 2018. The conference hosted a diverse group of 55 participants from Syrian and regional civil society organisations, as well as diplomats, academics, UN representatives, and other experts working in the field of Human Rights and Justice. The goal of the conference was to give a platform for cooperation and an opportunity for Syrian civil society to reflect on progress made and challenges moving forward.

The Conference fostered an exchange of ideas among Syrian civil society actors on new strategies and ways to promote and strengthen the development of a renewed civil society coordination based on a shared understanding of the new scenarios and priorities. The format of the Conference, chaired by ESDF and NPWJ, allowed for seven plenary discussions on issues related to justice, accountability, transitional justice, victim support, community mobilisation and empowerment.

This document is the Chair’s summary of observations and recommendations from participants in the Conference, to be used to guide considerations for the future of civil society’s work in Syria.

Thematic Session I: Narrating the Past to Build the Future

This session sought to raise the discussion of how to counter negationist narratives and inform new generations and look at finding accountability beyond Criminal Justice. It also focussed on identifying common threads and goals in the experiences and work so that civil society groups can collaborate moving forward. Some of the main observations and recommendations which came out of this session included the following:

- Despite years of conflict and quashed democratic aspirations for reform, Syrian civil society continues to be a voice for the voiceless but lacks a unified narrative of the events and the violations of the war. The resulting disconnect is seen as a barrier to future accountability measures. Civil society should work to identify specific narratives which speak to a larger audience and can keep ongoing violations in the public eye.
- Civil society uses its limited power to support victims and amplify their stories. They should continue drawing attention to ongoing violations to International Bodies to press for accountability and work together to precisely identify and address the challenges they face on the ground.
- Evidence gathering – with a view toward long term transitional justice mechanisms – should be focussed on dealing with all sides of the conflict and be accompanied by coordinated archival efforts. However, many participants stated that archiving and evidence gathering, and

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the technical capacity which they require, needs more support by European organisations who have the skills and resources to contribute.

- Civil Society should also work on finding a mechanism for coordination between the actors in the field of documentation, including IIIM in order to collect and consolidate certificates and documents and stories that enrich the Syrian narrative and work on outreach in order to engage the widest possible categories of victims, in order to build a full picture of
- In order to build a cohesive narrative, there should also be a push to raise the stories of victims in the conflict to be relevant to the international community. Civil Society should characterize this narrative based on collective memories to strengthen the demand for transitional justice and equity for those affected.
- Despite a strong willingness to come together, and an agreement on the challenges which remain at the forefront of this work, this session showed that there is a technical disparity between the evidence required to support a united narrative, and in the abilities of groups to collect, record, and publicise it in a cohesive and unified manner.

Thematic Session II: Property Rights and the Rights of Return

This session was structured around the challenges of property rights and the rights of return for displaced Syrians since the beginning of the conflict, highlighting the current challenges surrounding Law 10 and issues of property ownership and documentation, as well as inherited properties which the regime has taken control of or sold to developers. This session sought to illuminate some of the practical barriers to the right of return. The chair identified the following points which came from the session:

- The international community must recognise related actions as the continuation of violations of property rights against the Syrian people. Violations in this respect have been ongoing since the mid-20th century;
- CSOs should use international connections to lobby friendly states and construction companies to recognise the property rights of former residents during reconstruction initiatives in Syria and continue to raise the alarm in the context of ongoing violations.
- Law n. 10, and its amended version known as Law n. 42, which gave Syrians a year to prove ownership of property slated for requisitioning and renovation by the government, should be considered as a way for the regime to expropriate properties from those who had left Syria as refugees or political opponents, or who no longer possess the necessary documents to claim their property or receive compensation. These laws also represent a legal tool for moving regime supporters into more advantageous locations and solidify the regime's base of support. It will be critical, in the months and year ahead, to look deeper into who will benefit from these legislative norms.
- Civil society should engage in documenting evidence of forced displacement and proof of property rights of those harmed by displaced and expropriation, including but not limited to Law No. 10. They should work to expose legislation and policies that enable the crime of forced displacement, expropriation or properties as crimes against humanity, working together with expert organisations to create case files on these crimes.
- Civil society should put international companies operating in Syria who may be working on development or reconstruction that if their work contributes to expropriation and displacement, they would be supporting an international crime, and they may be considered complicit in them and held accountable.

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- The Syrian regime has failed to deal with internally displaced people - which they targeted in the first place – and all armed groups are responsible for some of the violations. CSOs must work to document and record forcible displacement and deprivation of property and assist in proving the property rights of those who have been displaced.
- A large challenge surrounds the ownership of property, particularly ‘irregular’ buildings in the main cities. As a large number of buildings from the last several decades may not be properly recorded, and therefore easily confiscated or repossessed by the regime, or others.

Thematic Session III: Combating Sexual and Gender-Based Violence

SGBV has been utilised in Syria as a weapon of war, affecting both men and women. Such act has been used as a tool to instil fear, humiliate and punish or, in the case of terrorist groups, to enforce social order. Despite at the international level there are mechanisms to tackle this issue the situation, in particular for women, worsened throughout the conflict. International organisations and civil society have the responsibility to keep monitoring SGBV that occurred in Syria. At the same time, local organisations should convey support through monitoring, psycho-social support for victims and advocacy campaigns. The chair identified the following points which came from the session:

- Participants emphasised that armed conflicts foster discrimination against women, including State violence and violence at home. Some participants shared their own experience of sexual and gender-based violence which is common practice in detention and refugee camps.
- Combatting the social stigma suffered by victims of SGBV is of critical importance, as it is what affects them the most. Women are especially vulnerable to social violence and documented cases suggest that they are sometimes estranged from their families precisely because of the violence they suffered. The link between shame and SGBV needs to be addressed and psycho-social support must be offered to survivors.
- Several participants with experience on the ground reported a lack of collaborative efforts in regard to sexual and gender-based violence. Civil society organisations bear the responsibility to focus on professional monitoring, documentation and fact-finding.
- Efforts should be made to improve collaboration with the IIIM on documenting testimonies and evidence of cases of Sexual and Gender-based Violence perpetrated by armed groups, and parties to the conflict.
- The panel highlighted the importance of advocacy campaigns aimed at raising local awareness on women’s rights. Syrian and international civil society organisations should collaborate with feminist organisations to create a local narrative able to counter gender-based violence of any kind and increase the participation of women in the Syrian society. Women’s rights are human rights.

Thematic Session IV: Children and Accountability

During this session, participants addressed the issue of accountability for violence against children. The Syrian Arab Republic ratified the Convention on the Rights of the Child in 1993, yet their plight is often underestimated and little attention has been paid to accountability for crimes against children in Syria. Documentation of these crimes results particularly challenging and amongst the most pressing issues participants highlighted the plague of child soldiers, forced marriages and SGBV. The chair identified the following points which came from the session:

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- Participants recognised that all children are entitled to protection. Armed forces and non-State actors must ensure respect for international humanitarian law and avoid at all costs targeting children or using chemical weapons or cluster bombs against them.
- Several participants recognized the inefficiency of Monitoring Reporting Mechanisms (MRM) and called for:
 1. Updated statistical data disaggregated by age, sex, ethnic origin, national origin, geographic location and socioeconomic status on: Cases of torture and ill-treatment in juvenile detention centres and prisons Children involved in combat and support positions, recruited by both State and non-State actors; Children separated from their parents and orphaned during the war; Children placed in institutions and orphanages; Children placed with foster families and adopted domestically and internationally; Children in camps for internally displaced persons and in shelters.
 2. Investigation and prosecution of all perpetrators, both State and non-State actors, of civilian casualties, enforced disappearances, torture and ill-treatment of children, SGBV and abuse of detained children, as well as access for independent monitors and humanitarian organisations to all facilities where children are detained.
- Civil society should advocate for adequate measures ensuring birth registration and access to nationality for all children, including children born from ISIS fighters, foreign fathers and children born in neighbouring countries, in particular, Lebanon, Jordan and Turkey.
- Information concerning the working of the foster care system and the mechanisms for the oversight should be made more accessible and monitoring of orphanages under the control of religious communities should be improved.
- Children must be protected from sexual violence and victims must be supported through screening procedures and be provided with physical and psychological rehabilitation services, with consideration to:
 1. child marriage, sexual slavery, abuse and violence, and other harmful practices such as “honour killings”;
 2. the needs of children with disabilities, including psychosocial and prosthetic rehabilitation programmes;
 3. post-traumatic stress disorder, instances of self-harm, suicide attempts, substance abuse and addiction;
- Civil Society should continue to advocate to ensure that children are not engaged in child labour, and parties should work towards ensuring an adequate number of trained teachers, programmes to address the needs of children in crisis and post-crisis situations and access to education.
- Special care should be made to allow for children to be evacuated from besieged areas; to trace, reunify and reintegrate children separated from their families
- Recruitment and deployment of children in armed conflicts must be prevented by all parties
- Participants raised the need for programs to address the issue of children involved in terrorist crimes and their right to age-appropriate treatment and to the provisions of the Convention on the rights of the child, in particular articles 37, 39 and 40, and other United Nations standards. Civil society should work to improve, where possible, opportunities to re-educate and rehabilitate child victims of terrorist propaganda and brainwashing;

Thematic Session V: Detainees and Disappeared

Since the crisis began back in 2011, tens of thousands of people have been detained or forcibly disappeared in Syria. thousands have been tortured, detained incommunicado, and killed while detained. Several participants shared their experience of ill-treatment in Syrian detention centres and the session connected stories of detention and disappearance with possible ways forward. The chair identified the following points which came from the session:

- Participants agreed on the importance of documentation. The access to verified data and figures is arduous and the regime is not willing to collaborate when addressed on this issue. Data are necessary to give a definition of the scale of the issue.
- A National Committee should collect data on detention and disappeared individuals and facilitate the work of CSOs in this regard.
- The issue of disappeared people and ill-treatment of detainees should be referred to any mechanism for accountability, providing all documentation available, including maps and databases when applicable. Improved collaboration with, and outreach to, the UN Commission of Inquiry on Syria and the IIIM would help to enhance the quality and impact of documentation efforts.
- Sentences by extraordinary courts should be nullified and the security sector must be completely reformed to ensure a secure environment, which is of vital importance for the quest of justice and accountability and for ensuring the halt to political violence and an end to violations and abuses in the detention facilities.

Thematic Session VI: Gender and Accountability

Throughout the course of the Syrian conflict, women have been disproportionately affected by violence. They lost family members, faced poverty and hunger, and lost access to education and health care. In addition to that, they have generally been excluded from peace negotiations and, with Assad's military victory, they will face many challenges having their voices heard in the reconstruction and accountability processes. The inclusion of Syrian women in the accountability process is a necessity for a stable post-conflict Syria. Their inclusion at all levels of peacebuilding processes is crucial to create long-lasting peace and has the potential to promote sustainable development in the country. The chair identified the following points which came from the session:

- Several participants stressed the need to recognize the role of Syrian women in the war, and to ensure an equal participation in the reconstruction of peace and institutions, as a result of the equal involvement of both man and women during the war. Civil society should have a strategy to deal with women and have a framework to work with which takes into account their active participation in Syrian society and any future accountability processes.
- Participants emphasized the importance of women's access to education, health services, and inheritance rights as a precondition for their active participation in the transitional justice process. They stressed the fact that human rights are not "à la carte" and raised the concern that women are subjected to violations and repression from all sectors of Syrian society.
- In order to learn from similar experiences, participants recommended looking to other regional neighbours through the establishment of a network of Arab organisations and a more effective dialogue between countries in the Arab region in order to draw lessons learned from

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other experiences. In this regard, the Tunisian experience and women's inclusion in the accountability process has been evoked multiple times.

Thematic Session VII: Interaction with the International Community

During this session, participants addressed the interaction with the International Community. Since the beginning of the war, the UN Security Council has witnessed a deep polarisation. The military and political alliance between Syria and Russia has not only prevented the referral of Syria to the International Criminal Court but also ensured that the calls for the protection of civilians, the condemnations of the use of illicit war tactics, including siege and starvation, and the requests to ensure the release of political prisoners and the protection of humanitarian convoys would have limited effects on the ground as there are no viable mechanisms to enforce them; also the UNSC Resolutions relating to the use of chemical weapons had their efficacy strongly limited by the presence of Russia in the UNSC, which ultimately led to the closing of the UN-OPCW Joint Investigative Mechanism (JIM), the only mechanisms established by the UNSC with a mandate to seek accountability in Syria. The only positive step toward justice and accountability was the establishment of the IIIM, created by the UN General Assembly. Beyond the UN, participants noted that foreign countries have, sometime unknowingly, contributed to the war economy dealing with warlords and funding the regime and the rebel militias as well. In light of this context, participants addressed several issues, including:

- Humanitarian aid programs must be human-rights-oriented. UN humanitarian aid has been based on accessibility rather than the need itself, which has led to several instances where the UN facilities were only few kilometres from besieged areas, such as in Eastern Goutha, but unable to reach the besieged population, due to the obstacles posed by the regime. Furthermore, this politicisation of the aid can have a significant impact on justice and would be reflected in the Transition Justice process of the future.
- Civil Society should advocate for increased UN support in order to have fair and participative elections and to ensure that the Constitutional Committee is not a formality but an effective tool to involve all Syrian citizens in developing the new Constitution.
- Syrian civil society must continue cooperating with international mechanisms like the IIIM and invest in all opportunities to achieve progress in documentation and accountability. Nevertheless, as a result of the changing priorities of the international community, CSOs should re-evaluate their methods of asking the international support and develop new policy strategies for the a long-term.

General Recommendations

- Participants expressed an interest in targeted training on documentation methodologies, to raise the evidentiary value of the work, so that it can be used in future proceedings, nor only for reporting and advocacy purposes.
- Participants expressed an interest in establishing a process to follow-up the engagements and recommendations that arose in the course of the Conference.



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FINAL REPORT

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18-19 December 2018

Npwj.org

WHAT NEXT FOR JUSTICE IN SYRIA?

Observations and recommendations arising from the Istanbul Conference 18-19 December 2018

Background

After seven years of conflict, the world appears to be pushing for a normalisation of the situation in Syria, focusing on time-limited solutions, like localised ceasefires and the provision of emergency and resilience assistance, or developing long-term plans on constitutional reforms and elections for which the conditions are still lacking. All the while, these external actors are paying little attention to accountability for the crimes that have been committed throughout the conflict. If in the past the international community wanted to raise its voice against war crimes, crimes against humanity, and serious human rights violations in Syria, then now its priority seems to be establishing some form of stability among the many local, regional, and international stakeholders involved in the Syrian conflict through a diplomatic agreement based on normalisation rather than peace.

There have been some results from voices speaking in favour of accountability, like the use of universal jurisdiction to prosecute perpetrators, mostly in EU member states, and the establishment of the IIIM by the UN General Assembly. However, it is clear that those who remain committed to fight impunity and develop genuine Transitional Justice processes must take a different track. There is a need for a renewed long-term strategy for Syria aimed at fostering the pillars of a new Syrian social compact capable of bringing together torn communities, healing the wounds of the past, and providing a shared vision for the future of Syria.

To address these needs for a more robust civil society coalition working in Syria, this conference provided an opportunity for Syrian advocates for justice to reflect on the work done so far on issues related to truth, accountability, and transitional justice, develop new policy strategies with a shared approach, and prepare for the longer-term. The conference was designed to be a moment to develop an effective civil society coalition and a shared understanding of new action priorities, and to guide the actions of those who continue to support and believe in the efforts of civil society. Towards both of these goals, the conference was intended to bring voices from other countries with chequered histories in transitional justice and provide an opportunity for Syrian human rights advocates to learn from their efforts and discuss new avenues for justice.

Structure of event

The conference took place over two days, during which facilitators led participative discussions in order to bring together representatives of Syrian civil society organisations and representatives of the international mechanisms tasked to seek accountability and justice for Syria; the conference was an opportunity for Syrian human rights activists and civil society leaders to engage actively with and contribute to the work of international accountability options and promote a fair, effective and independent transitional justice system. It also increased and strengthened civil society capacity and skills to allow human rights activists and democracy advocates to contribute more effectively to the design and implementation of transitional justice measures, whether as partners or monitors or both.

The conference was an exchange of ideas among Syrian civil society actors on strategies and ways to strengthen the development of civil society coordination based on a shared understanding of the new scenarios and priorities. It also allowed space for reflection on the challenges civil society is facing in Syria.

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The format of the conference, chaired by ESDF and NPWJ, allowed for seven plenary discussions on issues related to justice, accountability, victim support, community mobilisation and empowerment of women. The thematic sessions were varied and highly participatory, with each facilitator raising questions designed to elicit discussion among the group and raise substantive conclusions about the ways civil society can move forward, and where challenges lie. There was also time between sessions for informal discussion and collaboration between participants, in order to build cooperation between civil society groups, experts, and others.

The first day featured discussions on narrative development and addressing challenges, forced displacement, Property Rights and the Right of Return, Combating Sexual and Gender Based Violence, and Children and Accountability. The second day focused on preparing for long term advocacy on detainees and the disappeared, Gender Dimensions in Accountability, and future interaction with the international community, including strategies for long term engagement with international human rights and accountability processes.

Facilitators/ speakers

The discussions during each session were introduced and chaired by regional experts on the respective topic. The opening session was introduced by Niccolò Figa Talamanca, Secretary General of No Peace Without Justice, and Hussein Sabbagh, Secretary General of the Euro-Syrian Democratic Forum. Following their introductions, each thematic session was facilitated by Hanna Ziadeh, Khalil Idrissi, Hanan Rabani, Hatem Kotrane, Mohammed Al-Tajer, Dalila Ben Mbarek, and Frej Fenniche.

Hanna Ziadeh is a Lebanese researcher and advisor on Human Rights Systems for the Danish Institute for Human rights, who specialises in regional nation-building and constitutionalism; Khalil Idrissi is a Moroccan lawyer with a specialty in property law; Hanan Rabani served as the head of Amman Human Rights Office with the UN Assistance Mission for Iraq. She worked with several local, regional and international organisations in the fields of human and women's rights and managed a national women's rights project in Palestine; Dr. Hatem Kotrane is a Tunisian expert on the Convention for the Rights of the Child and has worked with UNICEF and OHCHR on assignments related to the implementation of the CRC; Mohammed Al-Tajer is a Bahraini human rights lawyer who specialises in raising effective advocacy on the issue of detainees in Middle East; Dalila Ben Mbarek Msaddek is a Tunisian lawyer who specialises in Constitutional law and the inclusion of women in the state-building process; Frej Fenniche is the former Chief of Asia, Pacific, Middle East and North Africa Branch (APMENAB) at the UN Office of the High Commissioner for Human Rights, and Senior Human Rights Officer in charge of the coordination with NGOs.

Participants

Participants of the conference included representatives from Syrian CSOs and NGOs who work in the field of human rights, documentation and transitional justice, as well as representatives from the OHCHR Country office in Syria, independent regional experts, and members of the diplomatic corps from Germany, Denmark, the Netherlands, Norway, as well as representatives from Syrian Interim Government.

The organisations represented included: Lawyers & Doctors for Human Rights, an NGO dedicated to civilians in crisis to stop human rights violations and assist those who require services to seek justice and rehabilitation; Human Rights Guardians, a non-profit organization who works to enhance respect for human rights through monitoring human rights violations in Syria and refugee host countries; Bonyan, an independent NGO working in Syrian Affairs

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and development; Start Point, an NGO established in 2015 in Sweden to advocate for justice as well as support victims who suffered human rights violations in Syria; Hurras, a Syrian-based human rights organisation which works to deliver psychological, social and educational initiatives to children; The Day After (TDA), an NGO working on supporting democratic transitions in Syria; Jusoor for Studies Center, an independent institution specialised in publishing information, conducting studies and research concerned with political, social, economic, and legal affairs in Syria; Dawlaty, a non-profit foundation that believes in civic engagement, justice and nonviolent resistance, and works towards ensuring a democratic and peaceful transition in Syria; Children of One World, a non-governmental, non-profit organization dedicated to child protection and advocating for children rights; The Syrian Network for Human rights, an independent non-profit organisation working on documenting human rights violations in Syria; Deepening awareness and Restoring Bridges (DARB) Organisation, an NGO based in Gaziantep with the aim is deepening awareness and restoring peace bridges among different local communities; Alkawakibi Human Rights Organisation, a civic NGO concerned with the development of human rights with a special focus on woman's and children's rights as a cultural issue

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In the opening session Niccolò Figa-Talamanca, NPWJ Secretary General, welcomed and introduced participants to the format of the conference as well as the context and objectives for each thematic session, emphasising that the conference would be an opportunity for reviewing the shifting priorities of the international community in regard to the future of Syria and discuss and analyse what options the Syrian civil society community has to reinforce its effectiveness.

Narrating the Past to Build the Future

The first thematic session, led by Hanna Ziadeh, sought to raise the need for a unified narrative history of the revolution, and subsequent violations in Syria's recent history in order to regain the international interest and unite civil society efforts in pushing for accountability. The discussion focused on how to counter negationist narratives and inform new generations also as a way to develop tools which could allow to find justice and accountability beyond criminal justice. It also focussed on identifying common threads and goals in the experiences and work so that civil society groups can collaborate moving forward.

There was an overwhelming acknowledgement that building a narrative of the situation would require a much deeper investigation, and stronger documentation of the violations and impacts, which many agreed has proven difficult for civil society to conduct alone. Despite years of conflict and quashed democratic aspirations for reform, Syrian civil society continues to be a voice for the voiceless but lacks a unified narrative of the events and the violations of the war. The resulting disconnect is seen as a barrier to future accountability measures. Civil society should work to identify specific narratives which speak to a larger audience and can keep ongoing violations in the public eye. One of the main topics discussed was the need to keep victims' stories at the centre of civil society's work, also in their interactions with the international community; it was underlined how civil society should support victims and amplify their stories and continue drawing attention to ongoing violations to international bodies to press for accountability and work together to precisely identify and address the challenges they face on the ground.

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Many interventions underlined how evidence gathering, with a view toward long term transitional justice mechanisms, should be focussed on dealing with all sides of the conflict and be accompanied by coordinated archival efforts. However, many stated that archiving and evidence gathering, and the technical capacity which they require, needs more support by European and international organisations, which have the skills and resources to contribute. Civil society should also work on finding a mechanism for coordination between the actors in the field of documentation, including IIM in order to collect and consolidate certificates and documents and stories that enrich the Syrian narrative and work on outreach in order to engage the widest possible categories of victims, in order to build a full picture of the conflict.

Despite a strong willingness to come together, and an agreement on the challenges which remain at the forefront of this work, this session showed that there is a technical disparity between the evidence required to support a united narrative, and the abilities of groups to collect, record, and publicise it in a cohesive and unified manner.

Property Rights and the Rights of Return

In the second thematic session, Khalil Idrissi began by thanking the organisers and participants and introduced the topic of the session. Mr. Idrissi emphasised that this issue could have a strong detrimental effect on the demographic situation and social/cultural heritage of Syria, with relation to rights of belonging. Participants also acknowledged that these issues represented some of the most significant practical barriers to the right of return. This session was structured around the challenges of property rights and the rights of return for displaced Syrians since the beginning of the conflict, highlighting the current challenges surrounding Law 10 and issues of property ownership and documentation, as well as inherited properties which the regime has taken control of or sold to developers. This session also analysed some of the practical barriers to the right of return.

The participants raised several concerns relating to the so-called Law no. 10 and issues of property ownership and documentation, as well as property inheritance. Participants expressed many concerns over the way Law 10 and its amended version, known as Law n. 42, which gave Syrians a year to prove ownership of property slated for requisitioning and renovation by the government, have been implemented and stressed that the laws were being weaponised by the Syrian regime to both expropriate properties from those who had left Syria as refugees or political opponents and to move regime supporters into more advantageous locations in order to solidify their base of support. It was underlined how it will be critical, in the months and year ahead, to look deeper into who will benefit from these legislative norms and that civil society could assist by documenting evidence of forced displacement and proof of property rights of those harmed by displaced and expropriation, including but not limited to LawNo.10 and exposing legislation and policies that enable forced displacement and properties' expropriation. One participant also underlined how civil society should work with international companies working on development or reconstruction in Syria that if their work contributes to expropriation and displacement, they would be supporting an international crime, and they may be considered complicit and held accountable. CSOs should also use international connections to lobby friendly states and construction companies to recognise the property rights of former residents during reconstruction initiatives in Syria and continue to raise the alarm in the context of ongoing violations.

Speakers noted that the Syrian regime has failed to deal with internally displaced people (IDPs) and all armed groups are responsible for violations against them. On this they called for increased documentation efforts to record forcible displacement and deprivation of property

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and assist in proving the property rights of those who have been displaced. A big challenge which was underscored by the participants is the proof of ownership of property, particularly 'irregular' buildings in the main cities, as a large number of buildings from the last several decades may not be properly recorded and therefore easily confiscated or repossessed by the regime. Participants also emphasised the need to build on current documentation activities to expose additional legislation and policies that recognize the crime of forced displacement and expropriation of properties as crimes against humanity, and work together with expert organisations to create case files on these crimes.

Combating Sexual and Gender Based Violence

The third and final session of the day focussed on the prevalence of Sexual and Gender-based Violence (SGBV) in Syria. The session was facilitated by Hanan Rabani, who emphasised how SGBV has been used throughout the conflict as a weapon of war, affecting both men and women. Such acts have been used as a tool to instil fear, humiliate and punish or to enforce social order by all parties involved in the conflict.

The discussion focused on the experience of victims of SGBV, as well as the overall need to mainstream this issue within the context of transitional justice and accountability issues, and to improve documentation of violations. Several participants shared personal experiences of enduring SGBV at the hands of combatants or during detention at the hand of the regime. They stated passionately that in the aftermath of the violations, social stigmatisation and shame followed, underling how combatting the social stigma suffered by victims of SGBV is of critical importance, as it is what affects them the most. Women are especially vulnerable to social violence and documented cases suggest that they are sometimes estranged from their families precisely because of the violence they suffered. Several speakers raised the point that after detention, men are treated as heroes, while women are repudiated by their families because she may have been violated or raped. Several interventions argued that the link between social stigma and SGBV needs to be addressed and psycho-social support must be offered to survivors. Civil society should press for legal changes in order to foster long-term changes in the nature of community response. The group also highlighted the importance of advocacy campaigns aimed at raising local awareness on women's rights. Several other voices in the group raised the issue of fragmentation within, and between Syrian NGOs on sexual and gender-based violence, and argued that Syrian society as a whole, and not a particular side of the conflict, is the source of SGBV and other gender-based violations. Therefore, they stressed that good documentation is necessary for real accountability to take place.

Participants also explored the role of feminism in Syria and how it could be mainstreamed into other work on accountability, but many brought up that there is a challenge in implementing women's rights initiatives, on the topic of forced marriage or inheritance while there is ongoing conflict. Others argued that ignoring the social and political aspects of feminism, a large part of the narrative of the conflict will be ultimately missed.

Children and Accountability

The final session of the first day, focused on the issue of accountability for violence against children, was led by Hatem Kotrane, who highlighted how the Syrian Arab Republic ratified the Convention on the Rights of the Child in 1993, yet their plight is often underestimated, and little attention has been paid to accountability for crimes against children in Syria. Mr Kotrane began by expressing his frustration for the fate of Syrian children, violations against whom continue to lack proper documentation, and noted that they regularly include torture,

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forcible disappearance or imprisonment, and sexual violence. He also noted that while the Syrian government regularly reports to UN mechanisms on children and facilitates access to some detention centres where children are held, they are generally uncooperative with investigations on violations.

On the topic of forced recruitment by state and non-state actors, and children's participation in armed groups, speakers discussed several issues. Specifically, participants noted that civil society should work to improve, where possible, opportunities to re-educate and rehabilitate child victims of terrorist propaganda and brainwashing. Several speakers also recommended that civil society advocate for adequate measures ensuring birth registration and access to nationality for all children, including children born from ISIS fighters, foreign fathers and children born in neighbouring countries. Several participants also stressed the inefficiency of Monitoring Reporting Mechanisms (MRM) and called for increased advocacy directed at the government and international organisations to provide updated statistical data disaggregated by age, sex, ethnic origin, national origin, geographic location and socioeconomic status on: Cases of torture and ill-treatment in juvenile detention centres and prisons; Children involved in combat and support positions, recruited by both State and non-State actors; Children separated from their parents and orphaned during the war; Children placed in institutions and orphanages; Children placed with foster families and adopted domestically and internationally; Children in camps for internally displaced persons and in shelters.

Participants also called for investigation and prosecution of all perpetrators, both State and non-state actors, of civilian casualties, enforced disappearances, torture and ill-treatment of children, SGBV and abuse of detained children, as well as access for independent monitors and humanitarian organisations to all facilities where children are detained.

Challenges in access to education was raised by several speakers, who noted that education is crucial in providing the most opportunities for children.

Participants were asked why they do not present their concerns in Geneva at the Human Rights Council. One speaker noted that there are many barriers to this, including a lack of capacity and man-power to meet the needs of long-term advocacy campaigns and reporting, in addition to inability to travel to international fora like the HRC or UNGA.

Finally, one participant raised the issue of presentation of children in CSO advocacy campaigns and the challenge of exploitation. They stated that children protection is a new concept in Syria, with many educators and human rights defenders unaware of its implications. It is easy for NGOs to film a child who is reported to have been raped or married off to ISIS, but these organisations should be aware of potential harms that this might pose for children or their families to be reintegrated or rehabilitated after these events. Participants called for discretion and sensitivity when using the image or name of a child in advocacy campaigns.

Day Two

Detainees and Disappeared

The second day of the conference began by welcoming back participants and introducing the topic of detainees and the disappeared by Mohamed Al-Tajer, who underlined the immense challenge of accessing accurate statistics on these phenomena and commended the work of activists working on shedding a light on these issues also in coordination with UN mechanisms like the COI and the IIIM.. Since the crisis began in 2011, tens of thousands of people have been detained or forcibly disappeared in Syria; thousands have been tortured, detained incommunicado and killed in detention.

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During the debate, several participants shared their experience of ill-treatment in Syrian detention centres and the session connected stories of detention and disappearance with opportunities for future action. The group discussed the issue of political affiliations of detainees, with several speakers pointing out that violations and unlawful detention had been carried out by all parties in the conflict and separating victims into different categories undermines attempts to address violations. Several speakers also underlined what they see as minimal progress by the international community in advocating for the release of prisoners. Participants stressed that small organisations should not be the primary groups responsible for documenting conditions in detention centres, and that international organisations and governments should push for clarification on detainees. Another speaker raised the idea of the creation of a National Committee to collect data on detention and disappeared individuals which could facilitate the work of CSOs in this regard.

Participants agreed that the issue of detainees and disappeared, as well as cases of ill-treatment and torture in detention facilities, should be referred to any mechanism for accountability, providing all documentation available, including maps and databases when applicable. Improved collaboration with, and outreach to, the UN Commission of Inquiry on Syria and the IHIM would help to enhance the quality and impact of documentation efforts.

Session 6: Gender and accountability

Dalila Ben Mbarek Msaddek introduced the second session of day two stressing how throughout the course of the conflict in Syria, women have been disproportionately affected by violence. They lost family members, faced poverty and hunger, and lost access to education and health care. In addition to that, they have generally been excluded from peace negotiations and, with Assad's military victory, they will face many challenges having their voices heard in the reconstruction and accountability processes.

During the discussion that followed, participants emphasised the importance of women's access to education, health services, and inheritance rights as a precondition for their active participation in the transitional justice process. They stressed the fact that human rights are not "à la carte" and raised the concern that women are subjected to violations and repression from all sectors of Syrian society. Several participants stressed the need to recognise the role of Syrian women in the war, and to ensure an equal participation in the reconstruction of peace and institutions, as a result of the involvement of both men and women during the war. One discussant raised the idea of a shifting of traditional gender roles as a result of the conflict and noted that since many more women were 'left behind' as internally displaced persons rather than external refugees, there are distinct opportunities to engage on the improvement of women's rights. Participants agreed that civil society should have a strategy to deal with women and take into account their active participation in Syrian society and any future accountability processes. In order to learn from similar experiences, participants recommended looking to other regional neighbours through the establishment of a network of Arab organisations and a more effective dialogue between countries in the Arab region in order to draw lessons learned from other experiences. In this regard, the Tunisian experience and women's inclusion in the accountability process has been evoked multiple times during the debate.

All participants agreed that the inclusion of Syrian women in the accountability process is a necessity for a stable post-conflict Syria and their inclusion at all levels of peacebuilding processes is crucial to create long-lasting peace and has the potential to promote sustainable development in the country.

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Session 7: Interaction with the International Community

During this session, led by Frej Fenniche, participants addressed the interaction with the international community. Since the beginning of the war, the UN Security Council has witnessed a deep polarisation and the military and political alliance between Syria and Russia has not only prevented the referral of Syria to the International Criminal Court but also ensured that the calls for the protection of civilians, the condemnations of the use of illicit war tactics, including siege and starvation, and the requests to ensure the release of political prisoners and the protection of humanitarian convoys would have limited effects on the ground as there are no viable mechanisms to enforce them; also the UNSC Resolutions relating to the use of chemical weapons had their efficacy strongly limited by the presence of Russia in the UNSC, which ultimately led to the closing of the UN-OPCW Joint Investigative Mechanism (JIM), the only mechanisms established by the UNSC with a mandate to seek accountability in Syria. The only positive step toward justice and accountability was the establishment of the IIIM, created by the UN General Assembly.

Beyond the UN, participants noted that foreign countries have, sometime unknowingly, contributed to the war economy dealing with warlords and funding the regime and the rebel militias as well. During the discussion, participants stressed how UN humanitarian aid has been based on accessibility rather than the need itself, which has led to several instances where the UN facilities were only few kilometres from besieged areas, such as in Eastern Goutha, but unable to reach the besieged population, due to the obstacles posed by the regime. Furthermore, this politicisation of the aid can have a significant impact on justice and would be reflected in the transition justice process of the future. It was also highlighted how Syrian civil society must continue cooperating with international mechanisms and invest in all opportunities to achieve progress in documentation and accountability. Nevertheless, as a result of the changing priorities of the international community, CSOs should re-evaluate their methods of asking the international support and develop new policy strategies for the a long-term; finally, participants stressed the importance to have an increased UN support in order to ensure fair and participative elections and that the Constitutional Committee is not a formality but an effective tool to involve all Syrian citizens in developing the new Constitution.

Conclusions

The conference provided an opportunity for Syrian civil society activists and democracy advocates to reflect on the work done so far on issues related to truth, accountability and transitional justice; develop new policy strategies and a shared approach and prepare for longer-term work. The conference encouraged brainstorming on a new strategy for civil society that includes ways to promote and strengthen their ability to self-organise. At the same time, the conference also offered an opportunity for a renewed civil society coordination based on a shared understanding of the current scenarios and priorities. Participants expressed their eagerness to continue working on these issues and in establishing a process to follow-up the engagements and recommendations that arose from the Conference.