WHAT NEXT FOR JUSTICE IN SYRIA?
Observations and recommendations arising from the Conference: Chair’s Summary
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
WHAT NEXT FOR JUSTICE IN SYRIA?
Observations and recommendations arising from the Istanbul Conference 18-19 December 2018

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.
• 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:
WHAT NEXT FOR JUSTICE IN SYRIA?
Observations and recommendations arising from the Istanbul Conference 18-19 December 2018

• 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;

• 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.
WHAT NEXT FOR JUSTICE IN SYRIA?
Observations and recommendations arising from the Istanbul Conference 18-19 December 2018

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.

• 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
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 where only few kilometres from besieged areas, such as in Eastern Gouta, 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.