Civil Society role within the constitution-building process in Syria
19 – 22 February 2018
Gaziantep, Turkey

Supported by:
Background

After almost eight years of war, its root causes and the call for freedom of the Syrian population still remain to be addressed. Any realistic prospect for a political solution to work needs to promote a political transition that meets the legitimate aspirations of the Syrian people and enables them independently and democratically to determine their future.

Over the course of the years, several initiatives at the national and international level attempted to address the pressing need to revisit and update the Syrian Constitution. Syrian civil society organisations, governments and international institutions have worked in the past several years to define the modalities and content for a constitution-building process within the broader efforts by the international community to provide a comprehensive framework for a Syrian-led, Syrian-owned political transition to end the conflict in Syria. UNSC Resolution 2254, unanimously adopted by the UN Security Council on 18 December 2015, still represents the latest attempt by the international community to provide a comprehensive framework for such political transition; it states that “The Syrian people will decide the future of Syria”, and expresses support for a Syrian-led political process that would establish “credible, inclusive and non-sectarian governance”.

The political environment around Syria remains extremely divided and violent; the need for constitutional reform has also been used as a tool to wage political warfare in Syria. In February 2012, already one year into the war, the Government in Damascus passed a constitutional reform, whose main features were to set a limit of two seven-year terms for future presidents and the abrogation of Article 8, which stated “the Arab Socialist Ba’ath Party leads the state and society”. However, the reform process took place in a political environment of rampant violence and in the absence of any participatory process. Instead of responding to the key demand for a political transition, the adoption of the constitutional amendment in 2012 further fuelled the civil and political strife in Syria and ensured regime survival rather than the change that was being demanded. More recently, the Final Communiqué of the Sochi conference, organised by Russia at the end of January 2018, called for the formation of a “Constitutional Committee to draft a constitutional reform as a contribution to the political settlement under the UN auspices in accordance with Security Council Resolution 2254”. Like the events of 2012, this announcement was also received with scepticism and further increased the political divide in Syria, due to the direct involvement of Russia in the conflict in Syria at the side of the Assad regime.

There is an urgent need to empower political activists and civil society leaders to advocate for an open and democratic society and for the protection of human rights, civil liberties, political freedoms and the rule of law; and promote the principles of inclusiveness, transparency and accountability during the constitution drafting process. It is critical to engage communities inside Syria on the discussions around the constitutional process by raising awareness and rallying Syrians around human rights and equality principles to be in the Constitution and ensure that women, young people and vulnerable groups have a role in the process at all levels and their voices are equally heard in the discussions around the Constitution. The drafting of the new constitution is not simply a legal and technical process, but it represents the basis upon which to begin rebuilding the social fabric of Syrian society, addressing the root causes of the war and ensuring that transitional justice processes and mechanisms for non-repetition are established.
Structure of the training
The training took place over two days, during which Professor Awak gave an in-depth presentation about basic constitutional elements and practical examples of constitutional methods as well as historical overviews of different constitutional building-process that took place in other countries.

Starting from the root causes of the violence in Syria, examples were given to develop a new Syrian discourse to empower Syrian civil society with the necessary tools to monitor the developments inside the country and at the international level, and to hold decision-makers accountable to rule of law and human rights principles.

Each session was very participative, the facilitator engaged with participants who asked questions and shared their views openly, in the attempt to play a coordinating role and build up a unanimous voice for the best future for Syria. Professor Awak built a truthful atmosphere where each participant had the chance to discuss and outline their thoughts, priorities and interests.

The trainer
One Syrian expert provided guidelines and supported the participants during the training. Professor Abdul Hamid Al Awak is a trainer and advisor in the fields of constitutional and administrative law, human rights and international humanitarian law. He holds a doctorate in constitutional law, a Masters degree in administrative law and he is a Doctor at the Turkish University of Artcolo Mardin in the Faculty of Political Science and International Relations. He served as Director of Administrative and Legal Affairs in the Directorate of the Dajleh and Al-Khabour and served as a judge until he was appointed adviser and lecturer at the University of Euphrates. Professor Awak published several books on the impact of Arab revolutions on the legal status of Heads of State, federalism and contemporary problems in Syria and constitutional jurisprudence. He served as an advisor during the Geneva II Middle East peace conference in January 2014 and during the Astana I conference in January 2017.

Participants
The participants consisted of representatives from Syrian CSOs and NGOs who work in the field of human rights protection, rule of law and transitional justice and constitutional reform, with a focus on smaller organisations that could particularly benefit from this training course. The organisations represented included: Abaad Center for legal studies is a civil society organisation based in Idlib and established in 2015 to elaborate studies, legal research and strategic planning; Adalah, a Syrian CSO that works on promoting the dissemination of human rights, democracy and values of citizenship; Badael, a Syrian NGO that is committed to strengthening civil society groups and NGOs; Civilians for Peace and Justice, an organisation dedicated to constitution reform, transitional justice and the rule of law; the Free Syrian Lawyers Aggregation, which works towards the strengthening of the rule of law and justice in a way that protects freedoms, public and private rights, achieves equality and preserves human dignity; Free Syrian Lawyers association is a civil society organisation working on the rule of law, justice and the protection of human rights; the Syrian Center for Studies and Human Rights, a human rights organisation that works on transitional justice and capacity building for Syrian CSOs; the Syrian Federation for the Defense of Detainees, an international humanitarian human rights organisation based in Vienna, Austria, which works to prepare case-files on war crimes and crimes against humanity committed in Syria; Justice for Life, a Syrian organisation composed of human rights activists and defenders who work
on documenting human rights violations and advocacy campaigns; and The Day After (TDA), an independent, Syrian-led civil society organisation working to support democratic transition in Syria.

**Day One – 19 February**

Mr Ghashim from NPWJ welcomed the participants, explained the background of the workshop and laid down the key objectives of the workshop. The participants introduced themselves and their organisations. Professor Awak was introduced and explained how he will start from a very broad concept of Constitution in order to provide a framework in which participants have the chance to elaborate specific strategies in the context of the constitutional-building process in Syria.

Professor Awak underlined how the Constitution is the main fundamental legal and political document of a State; fundamental and not ordinary law because it is a legal act with a stronger legal force. It is essential to build the State. It represents a supreme normative act within the legal order of the State, and it is the regulator of the most important social and political relations within the State. The adoption of the constitution represents for the State the initial act to build up the structure of the country: its territory, its national order, its sovereignty and its rights and freedoms. In this context, it is correct to say that there is no common definition of what is in a constitution, rather, it is the constitution itself that declares its main aspects and elements.

After this brief introduction, Professor Awak explained the distinction between linguistic, formal and material meanings of the constitution as a legal act.

First, the linguistic aspect of the constitution. In origins, Syria did not have a proper Constitution, the modern concept of constitution does not exist in Arabic language, rather, in origin, it had denoted a code or a collection of laws. Naming a law with the term constitution, does not elevate it to a constitutional text but more elements are necessary.

The formal meaning of constitution can be summarised in its written form, its codified form and its legal force. In a formal sense, a constitution exists only if it has a written form, which gives transparency of the content of the constitution as a fundamental and higher legal act. But, we know it is not exactly true: the United Kingdom does not have a written constitution but at the same time we can state the existence of its constitution. Therefore, the main purpose of a written form is to inform citizens with its content as a guarantee of liberties and autonomy; it facilitates ambiguous interpretation of meanings and it is a prerequisite for legal safety and equality. The second element of the formal meaning of constitution is codification, meaning that the constitution is unique and singular in a position of relevance among other laws. The last aspect of constitutional formal meaning is its supreme legal force. It is a prerogative that belongs only to the constitution, it gives to the constitution a supreme status in the hierarchy of legal acts and differentiates it from other laws.

The material concept of constitution is given by a set of norms that regulates the basis of the legal order, its foundations. In this sense, a constitution is a bridge between the state and its laws. The material meaning of the constitution focuses on the substance, on the content of the constitutional norms: it is the form of the state order, the form of government, manner of creating and organising the highest organs but also their relations and limitation of a state powers by fundamental freedoms and rights.
Professor Awak remarked how important is to understand that these elements are the results of decisions taken in conjunction by society, they arise from the needs of the people. It is vital for an effective Syrian constitution to design a constitutional text that reflects the exigences of the society. This concept was stressed with the supra-constitutional principles example. In discussing the option of having Islam as a supra-constitutional principle, Professor Awak underlined how crucial is to focus attention on the technical aspects rather than on the theoretical discussion around it, as it can be misused to divert the paramount objective of the discussion. Whether or not Islam will be recognised as a supra-constitutional principle, it would be the result of the will of the people.

The constitutional building process
Constitutional text can be exercises of people's sovereignty, usually through the work of a constitutional assembly or the result of a grant of part of his or her power from the monarch. The former is said to be a democratic method while the latter is a mere concession on the part of authority, but it is not democratic, even though it is something already own by people. Even the so-called social contract is not fully democratic, here the monarch contracts with people to give part of his or her power. Professor Awak again stressed the role of citizens in the constitutional building process as fundamental as the constitution is a text for the people and from the people.

Within the democratic constitution-making process, it is possible to identify different bodies or methods performing this task. Decision-makers have access to several alternatives to the traditional approaches and conscious decision on the design are increasingly being made, including the constitutional assembly; it is a body representing the people vested with “constituent power”; referenda; and combined methods.

In this regard, Syria has the urgent need to represent each and every minority group with balanced power that is the expression of an inclusive system which reproduces the agreement between everyone.

The aim of this session was to give participants the tools that they need to design a framework in which they can elaborate practical solutions and strategies for a stable constitutional building process. Creativity has to be used to find an inclusive Syrian solution for the Syrian constitution.

Role of constitution in transitional period
In the last morning session, attention was given to the role of the constitution in transitional periods. Participants were provided with three different transitional models. The first model is the emanation of a permanent constitution. Usually, a permanent constitution is found in stable countries, it derives its legitimacy from the people, either from a referendum or from an assembly. A permanent constitution should tackle all aspects of society. The second option is to develop a temporary constitution. Often used after revolutions or wars, as for example in Egypt and Iraq, it claims to speak for all citizens and includes basic rights, the structure of the government and its functions but also ideology. Finally, the emanation of a constitution declaration, used when a movement needs time to be fully agreed. This latter method is aimed at seeking its legitimacy, it is a sort of chart which needs further consented developments, as if it grows with the new-born society. The constitution declaration must be comprehensive but not detailed, precise, temporary and humanitarian. This method raised consent among the participants as it gives voice to those who do not have a voice. Whether or not we could identify the author of the possible, future Syrian declaration, the crucial point is at this moment, to advocate to share with every group the option of a constitutional declaration.
Principle of Separation of powers

The afternoon session focused on the theory of separation of power. After a brief introduction to Plato, Socrates and John Locke, the facilitator provided a detailed summary of Montesquieu’s vision of the doctrine of separation of powers. Starting from the point that the theory is not enough to avoid tyranny, he stressed the importance of the introduction of practical tools into the constitutional text. The division among the powers set out in the constitution cannot prevent the misuse of the power itself. In the effort of writing a constitution, Syrians should focus their attention on the complementary tools that practically can avoid the concentration of power in one single entity. As an example, participants stressed the role of the media as a way to prevent tyranny.

Professor Awak highlighted the need of creativity: over the years, political parties gained a lot of experience that gave them the tools they need to manipulate the principle of separation of powers. He stressed the importance of having a deep understanding of past and different examples from different countries in order to benefit from them and avoid mistakes, always focusing on the real needs of the Syrian population: the solution must be a Syrian constitution for Syrians.

Executive power

- in the federal systems

As an example of executive power in a federal system, Professor Awak explained the Swiss model, where the Federal Council, composed of seven power-sharing Federal Councillors elected by the Federal Assembly, holds the executive power. The Council operates as a combination cabinet and collective presidency. The President and the Vice-President of the Confederation, elected by the Federal Assembly from among the members of the Federal Council for one-year terms, have almost no powers over and above their six colleagues; the main functions of it is to represent the country.

- in the parliamentary systems

The facilitator illustrated 2 types of parliamentary systems: a classic one and an advanced one. An example of an advanced parliamentary system can be found in the 5th French Republic. In this example, more power is given to the Head of State, who is a President directly elected by the people. The President signs all the laws with exception of the ones needed to form and dissolve the government; while the Prime Minister is appointed to countersign laws (this model is usually defined as semi-presidential system). The example of a classic parliamentary system can be found in Britain and Iraq: power is mostly given to the parliament and the head of government, i.e. the Prime Minister, while the Head of State has no effective power.

- in the presidential systems

In this form of government, the president has the power but he can delegate to other ministers. He is elected by the people and not appointed by the parliament. Ministers implement the agenda of the President and they are appointed by the President.

After this overview of the executive power in the different forms of government, the facilitator opened the discussion on the possible best solution for Syria. The non-feasibility of presidentialism in Syria now is to be connected with the risk of concentration of power in one single person, which could jeopardise the effort of the constitutional-building process. During the following discussion, several participants stressed how the parliamentary system might bring the risk of disintegration of the country, as the lack of central power might produce divisions and underlines how a presidential system might be best suited for Syria. Professor Awak pointed out how the problem here is not to be found in the central power but rather, in a stronger system: the parliamentary system has guarantees. In a transitional moment as the current one, there is a need to appoint an assembly for
the constitutional building process. The constitutional committee which was recently proposed in Sochi could represent a great opportunity for a better change, but it is crucial to understand its best use: the objectives should be clear and focused and all of its members should be civilians and not military. In the attempt to understand how better to benefit from the work of the new-born committee, participants agreed to advocate for the creation of rules that regulates the committee itself. In particular, the necessity of having a 2/3 majority rule for adopting any decision in order to ensure large and shared political support emerged as a central issue.

From the discussion among the participants the suggestion emerged that the best scenario for Syria, in this transitional moment, might be to have a temporary Constitutional Declaration, a temporary cabinet and a temporary president.

*Legislative power*

- **in the federal system**

Professor Awak illustrated the federal bicameral system, even though everything here depends on different characteristics of different countries. The legislative power appoints the Cabinet but it cannot dissolve the parliament. On the contrary, it is possible that the parliament dissolves the cabinet. In this example, we can say that the cabinet is employed by the parliament.

- **in the parliamentary system**

There is flexibility between the parliament and the cabinet: both can dissolve the other. Usually the head of the majority party is the prime minister (for example in the UK, people vote for their representatives in parliament and the leader of the party that wins the most seats becomes the Prime Minister). Sometimes the cabinet delegates certain topics (e.g. taxation) to the parliament. Laws have to pass through the parliament but when we speak about regulation or directive they can be emanated by the government, without the involvement of the Parliament. The trend for contemporary constitutions is that it is the parliament that passes the laws while the government has the power to do it only in certain situations and for specific topics. Moreover, the parliament can benefit from the expertise of consultant and technicians who can assist in drafting legislation.

- **in the presidential system**

There is absolute separation of power; no balance is found: the president cannot dissolve the parliament, but he has the right to object to certain laws. This form of government knows different types of communication between the president and the parliament: it is feasible to build up joint committees or hire consultants and technicians.

In the open discussion that followed this overview on the doctrine of separation of powers, Professor Awak expressed the opinion that federalism is not feasible in Syria right now. This form of government presumes certain factors (such as dimension or economic exigence) that we cannot find in Syria. The claim based on the presence of minorities, that foresee a federal state for Syria, is not only not sufficient, but it could be extremely risky as it brings out several difficult problems to address. First, ethnicity is spread throughout Syria, there is no territorial division: Iraq experimented the same model with negative consequences. Moreover, federalism is not a guarantee for minorities’ rights. Second, the central power would dominate everything unless councils for each province will be established. The is a need to avoid falling in the common mistake to confuse between administrative decentralisation and federalism.

The facilitator insisted on political transition and resiliency: political transition leads to the elaboration of a constitution while a constitution does not necessary foster political transition. One
of the major concerns that emerged in the discussion was the fact that Staffan de Mistura, the UN Special Envoy for Syria, appears to be mainly focused on the drafting of the constitutional text than on the transitional political process.

Day 2 – 20 February

The second day of training began with the presentation of the different mechanisms for the protection of the constitutional text. After the presentation of different options employed in other constitutional building process, the facilitator focussed his attention on the creativity of the audience: articles declaring the supremacy of the constitution are not sufficient, rather is it vital for the independency of the constitutional process that strong and solid tools preserving the constitutional text are introduced in the structure of the State as to avoid manipulation of powers.

According to Professor Awak, despite the crucial role of the Constitutional Court, its presence is not exhaustive: every Constitutional Court that works under a regime can be easily influenced. Therefore, in a situation of this kind, it is vital to guarantee the independence of the body in order to protect the independence and the role of the constitution.

Constitutional mechanism for the protection of constitutional text: the French example

After a brief introduction of different methods of protection of the constitutional text, Professor Awak presented an historical overview of these mechanisms, starting from the role of the French Senate, which was established in 1799. At that time, it did not have any monitoring role and it was considered not effective. In 1852, a second attempt failed as well, leading the Third Republic to believe in the usefulness of the body. After WWII, in the attempt of creating a parliamentary system, the Senate gained a reconciliatory role rather than a monitoring role. Currently, the Constitutional Council is composed by 3 members nominated by the president, 3 members nominated by the National Assembly and 3 members nominated by the Senate, while all former presidents are honorary members.

It was only in 1971 that, for the first time, the Constitutional Council questioned the constitutionality of a law. After the first question of the law in 1971, progress was made in the role of the council in underlining the need of the introduction of rights and freedoms in the constitutional text, in giving the national assembly the power to question the law (until 2008, this power was given to people negatively affected by laws). The French experience is vital to understand the necessity of flexibility and progress that the Syrian Constitution should aspire to: originally, the French Senate had limited powers and its authority was built up progressively over the years. The crucial point is, for Syrian decision-makers, to understand the possibility of the evolution of the body that can adapt to the society over the years, modelling its functions along with the needs of the society.

Despite the fact that the French experience must be example to understand that progress needs time, Syrians should find a solution to speed up the process of democratisation of the country.

Professor Awak continued listing a few examples of unconstitutional laws in Syria such as the appropriation law, the criminalisation of resignation from a public job and the length of application of the emergency law. In this context, the discussion focussed on the prohibition for a political party to be based on religion or race. During the discussion that followed, participants considered that the crucial point is to ensure that the political system does not allow political parties and
governments based on race, but without falling in the “Iraq’s mistake” of De-Baathification, as it is not feasible and extremely dangerous. From this discussion, it emerged that parties based on ethnic grounds should also be banned and that for a political system to work properly, parties should be agenda-based and not ethnicity-based.

According to the facilitator, the new Syrian approach should benefit from its own experience in order to develop its own political discourse. In this context, a rationalised constitution, a constitution that does not allow the society to remain blocked, is the better example for Syria.

**Historical overview of the Syrian constitution**

The second session of the morning was dedicated to an historical overview of Syrian constitutional history. Professor Awak discussed the historical constitutional building process in Syria, highlighting positive and negative examples of the constitutional process.

The 1920 constitution represents a good model to take inspiration from; this text was drafted through consensus, it contained provisions like the prohibition of disintegration of the State (something missed in the Iraq’s Constitution), as well as the right of freedom from torture, equality, freedom of religion, freedom from unlawful detention and special laws to protect minorities; freedom of association, freedom of expression and mandatory education, which did not start with Ba’ath party, as many people believe.

The 1920 Constitution presented a classical parliamentary system. The legislative power was exercised by two Chambers with balanced power. Senators remained in office for 9 years and they were half elected and half appointed by the king, in order to represent every minority. In addition, the Constitution established that the Armed Forces should be kept out of political life. Although it did not provide for the religion of the State, it stated that the king should be Muslim and the son of the previous king. This provision is remarkable as it influenced other constitutions. Between the limited powers of the king, who is not accountable, there is the appointment of the Prime Minister. In addition, relatives of the king were prohibited to hold public positions. The judicial power was covered by the Higher Court, which had the power to charge officials and issue decisions. The Constitution also established that the governor of each province had to be Arab.

During the period of the French mandate, Syria knew a period of constitutional instability characterised by the constant adoption, suspension and restoration of different constitutional charters.

Although several coups d’état made the promulgation of the 1950 constitution extremely difficult, it is often known as the best example of Syrian constitutional text. Overall, it provided a parliamentary system and declared Syria as an Arab republic, part of the Arab homeland and it assured freedom of religion. On the other hand, the president, appointed for 10 years by the parliament, served both as Head of the State and High Commander of the Armed Forces. Despite the fact that elections were open without gender discrimination, nomination was exclusively a male prerogative. The judicial power was represented by a High Constitutional Court with broad powers, nominated jointly by the parliament and the president. From the discussion that followed, it emerged that 1950 constitution is not suitable for Syria in this historic moment as it provides broad power both for the president and for the parliament.

Professor Awak continued illustrating the current Syrian constitution. After the revolution started, in 2012 a technical committee was appointed with the aim to amend the constitution.
Unfortunately, the domination of the Ba'ath party with the subsequent pressure perceived, have almost boycotted the vote. Many formal and political reservations were made. The result was a political situation paralysed by the dominance of the Ba'ath party, which could count not only on the wide legislative powers in the hands of the president, but also on his extremely wide executive power: he appoints and dissolves the government, which is accountable to him. In addition, the government’s role is reduced to a mere implementation role of the president's policy. The president is liable only for high treason, for which the text does not provide a definition. Judicial power is also represented by the president. The result of these amendments provoked mistrust among the population as systematic violations occurred even though the constitutional text provides for their prohibition.

The Tunisian constitutional-building process
The aim of this session centred on the Tunisian constitution was to raise awareness on common mistakes committed in constitutional building processes and to obtain inspiration from mechanisms and procedures already developed, always with a clear vision of which kind of future for Syria we are advocating for.

The Tunisian constitutional building process started in 1955, when a National Assembly was created. After years of talks, in 1958 the adoption of the Constitution was done without any consent from the people: the National Assembly merely copied and pasted the French text, without taking into account the needs and cultural basis of the country. The Constitutional Assembly drafted the 1959 Tunisian constitution in order to reinforce the rule of Habib Bourguiba, the nationalistic leader who led Tunisia to independence. To achieve this, the drafters reinforced executive powers. The document also stressed the influence of Islam, placing Tunisia within the Great Arab Community and stating that that Arabic is the national language.

After the violent uprising in 2011, another National Assembly was created with the aim of drafting a new Constitution that could end tyranny, poverty, unemployment, corruption and political restrictions. The new-born National Assembly created 6 technical committee with specific objectives. A participatory process was built-up: the assembly called 450 sessions in 3 years with the sustain of foreign experts from Lebanon and South Africa but also many NGOs were asked to share their line of thoughts. These rationalised approaches gave room for all of the actors to be involved in the process creating an inclusive and open forum of discussion. An excellent reconciliatory role was played by Ennahdha, the major Islamic Tunisian party, which pushed for an inclusive process where each minority and each group was represented.

The breakthrough for the stability of Tunisian constitution was the decision taken by Ennahdha not to stand in the election: they well understood that the lack of technicality from their side, always marginalised from the political life of the country, could jeopardise the dream of stability of the constitution and the new-born country. The result was a pluralistic system, pillar of the Tunisian constitution stability.

The facilitator underlined how no constitutional text or constitutional experience has to be used as a draft for the Syrian constitution; actors involved in the discussion should bear in mind that each example is given for a better comprehension of the topic in order to create a new vision based on Syrian cultural and social roots. Whether or not civil society and the powers involved will decide, for example, on Islam as religion of the country, it will be expression of a participatory and shared discussion between the consent of all parties.
Participants highlighted how Tunisian political landscape seems not to be very stable. To this Professor Awak responded that it is fundamental to distinguish between the constitution and the political environment of a country. In the case of Tunisia, the political instability is not determined by the constitutional text, which is a courageous example of constitutional-building process, but by the dialectic among the Tunisian political and social forces.

Transitional Justice
The last session of the training touched the basic element of transitional justice. Immediately Professor Awak pointed out how crucial it is to avoid so-called revolutionary justice: the real aim of transitional justice is not to have a revolutionary tribunal but a fair process that could bring justice. Feelings of revenge born from unfair trials would destroy the correct and fair bases on which Syria must be re-build upon.

There are almost 40 transitional justice examples from which Syrians can take inspiration, each of them with its own context and specific characteristics.

First, actors should focus on the aim of the process, all of those who are involved have to work towards a common aim: revealing the truth, reach accountability, reconciliation and preservation of common memories, ability to reach a democratic society after wars, tyrannies or revolutions. It is also important that these aims are enshrined in the constitutional text. Open discussions are encouraged to understand people's feelings and expectations.

The second phase of the transitional justice process is covered by what can be called the formal aspect of the process, namely the competent entities which should monitor, set the timeframe and the mandate of the bodies appointed for the process. Transitional Justice should not be included in the constitutional text, or at least not every detail, subsequent laws can expand on that. Some of the participants raised the option that Transitional Justice procedures might be set out in the temporary constitution.

In Tunisia, the Commission for Truth and Dignity is composed by 15 members selected by the families of the victims, human rights defenders, civil society and the National Assembly based on different expertise. Attention and precision was given to the mandate: “to investigate major crimes or gross and systematic violation of human rights perpetrated by the State, individuals or group of individuals who operate on behalf of the State, including all kinds of sexual violence, enforced disappearances, executions, corruption, misuse of public resources”. It is important to underline that transitional justice held accountable all individuals, not just those related to the regime.

In the discussion that followed, participants were very interested in practical aspects of the Transitional Justice process. First, in addressing the modality of compensation, Professor Awak underlined the importance of having a realistic attitude towards it: funds needed to compensate the victims are public funds, owned by the State. Therefore, it is vital to elaborate different methods of compensation, not only monetary compensation but also and especially creative examples that can best repay the consequences of violations. Participants considered several non-material examples of compensations, such as revealing the truth about violations and providing guarantees that they will not be repeated, apologies, memorials and commemorations, agreeing that these meaningful ways would better repair the violations perpetrated and better reconcile victims to justice.
Conclusions
Although several Syrian civil society groups continue working on elaborating possible “constitutional scenarios”, the training’s discussion and conclusions highlighted how they might still not be sufficiently prepared to develop and engage in sustained work both on the elaboration and the support to any constitution-building process. Supporting them in this process, alongside technical support on the constitutional principles for a new Syria, will be critical in the months ahead. The training further highlighted an increased interest and willingness to engage by Syrian civil society actors on the constitutional building process. All participants expressed their eagerness to continue working on these issues and to participate in future trainings and mentoring on the constitution. Most of the participants felt the organisation of the workshop was excellent. Participants’ evaluation of the various sessions ranged between good and excellent and most felt that they benefited well from the expertise of the facilitator. Some participants expressed their wish to have more information provided in written documents rather than simply presented during the discussion.

The training was an opportunity to foster the technical capacity of the civil society activism and to understand the necessity to strength the presence of women, young people and vulnerable groups for an inclusive and participatory constitutional building process.
Annex 1 – Biography of the expert

Curriculum vitae
Dr. Judge Abdul Hamid Al Awak PhD in constitutional and administrative law

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Nationality: Syrian  Residency: Turkey

Target Job
- PhD in Constitutional Law and Political Systems.
- Member of the teaching staff at the University of Mardin, ARTUKIO Turkey - Faculty of Political Sciences and International Relations.

Scientific qualifications and certificates

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<tr>
<td>PhD in constitutional law</td>
<td>Beirut Arab University</td>
<td>2015</td>
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<tr>
<td>Master of administrative law</td>
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<td>Diploma in Public Law</td>
<td>Islamic University of Lebanon</td>
<td>2007</td>
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<tr>
<td>B.Sc of Law</td>
<td>Aleppo University</td>
<td>1990</td>
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Job History
From October 01, 2010 up to February 02, 2015

Lecturer in addition to work in the judiciary
Al Furat University, Law School
Lecturer of constitutional law, administrative Law, Criminology and Penology
- Specify the general framework of the curriculum
- Specify references and subjects
- Give entire curriculum lectures
- Preparation and issuance of examination result

From January 01, 1998 up to date

Judiciary
March 01, 2005 up to date
Counselor of Court of first- instant
From December 1, 2004 up to January 31, 2005
Director of Public Prosecutions in the province of Hasaka

From January 01, 1998 up to November 31, 2004
Magistrate Criminal Court

From January 07, 1993 up to January 01, 1998
Director of the Legal and Administrative Affairs at the General Directorate of the basin of the Tigris and Khabur

- Organize all supply and public works contracts.
- Follow up all lawsuits in the relative courts.
- Issuance of all administrative memos for the Directorate.
- Respond to all legal inquiries for all departments

Current job:
Assist Prof. at Mardin Artuklu University – Mardin – Turkey

Books and Research

- Liability for damages of public works contracts.
- Comparative research study between the laws of Syria, Lebanon and France.
- The Impact of Arab Revolutions on the Legal Status of the Head of State (Comparative Study between Egypt and Tunisia with Contemporary Political Systems, 200 pages)
- Federalism in Syria and Contemporary Problems (A Comparative Analytical Study on the Form of a Future State 160 pages)
- Brief study (Syrian security forces and the need for constitutional and legal reform).
- A study published in the form of a series of articles (the legitimacy of constitutional rules in the transitional period).
- Trainer for many courses including:
  - Formulation of constitutions and contemporary political systems.
  - Constitutional mechanism for the protection of public rights and freedoms.
  - Gender in the Constitution.
  - Between the diagnosis and concentration of power and the sharing of power.

- Publishing of a range of studies and research’s in the following medias
  - Lawyers, magazine belongs to the Bar Association in Syria.
  - Ishraqat Ashtaroot Magazine.
  - Justice Magazine, magazine published by the Syrian Ministry of Justice
  - Al Manar newspaper (Iraqi)
Annex II - Program

### Day One – Monday 19 Feb 2018

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<th>Time</th>
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| 9:30 – 10:00 | Welcome remarks  
*Introduction of participants and workshop orientation. Identification of expectations* | Mustafa Ghashim, NPWJ |
| 10:00 – 11:15 | **Basic tools of Constitutionalism – part 1**  
Definition and sources | Prof. Awak            |
|             | **Coffee break**                                                        |                      |
| 11:30 – 12:30 | **Basic tools of Constitutionalism – part 2**  
Overview of the different constitutional models. | Prof. Awak            |
|             | **Light lunch**                                                          |                      |
| 13:30 – 15:30 | **Constitution-building and Constitutional mechanisms for the protection of the constitutional text.** | Prof. Awak            |
|             | **Coffee break**                                                        |                      |
| 15:45 – 16:15 | **Principle of separation of powers**  
(The relationship between the authorities in contemporary political systems within the presidential and parliamentary systems) | Prof. Awak            |

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| 09:30 – 10:00 | Welcome remarks  
*Review of first day* | Mustafa Ghashim, NPWJ |
<p>| 10:00 – 10:45 | <strong>Presentation of the constitutional building mechanism</strong> | Prof. Awak            |
|             | <strong>Coffee break</strong>                                                        |                      |</p>
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<td>11:00 – 12:30</td>
<td><em>History of the Syrian Constitution</em></td>
<td>Prof. Awak</td>
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<td><strong>Lunch</strong></td>
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<td>13:30 – 14:30</td>
<td><em>Syrian civil society organisations’ engagement in the Syrian constitution-building process post 2011</em></td>
<td>Prof. Awak</td>
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<td>14:30 – 15:30</td>
<td><em>The Tunisian constitutional-building process</em></td>
<td>Prof. Awak</td>
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<td><strong>Coffee Break</strong></td>
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<td>15:45 – 16:45</td>
<td><em>Transitional Justice and constitutional building processes</em></td>
<td>Prof. Awak</td>
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<td>16:45 – 17:30</td>
<td><em>Conclusions</em></td>
<td>Mustafa Ghashim, NPWJ</td>
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Annex 3 - Concept Note

After almost eight years of war, its root causes and the call for freedom of the Syrian population still remain to be addressed. Any realistic prospect for a political solution to work needs to promote a political transition that meets the legitimate aspirations of the Syrian people and enables them independently and democratically to determine their future.

Over the course of the years, several initiatives at the national and international level attempted to address the pressing need to revisit and update the Syrian Constitution. Syrian civil society organisations, governments and international institutions have worked in the past several years to define the modalities and content for a constitution-building process within the broader efforts by the international community to provide a comprehensive framework for a Syrian-led, Syrian-owned political transition to end the conflict in Syria. UNSC Resolution 2254, unanimously adopted by the UN Security Council on 18 December 2015, still represents the latest attempt by the international community to provide a comprehensive framework for such political transition; it states that “The Syrian people will decide the future of Syria”, and expresses support for a Syrian-led political process which would establish “credible, inclusive and non-sectarian governance”.

The political environment around Syria remains extremely divided and violent; the need for constitutional reform has also been used as a tool to wage political warfare in Syria. In February 2012, already one year into the war, the Government in Damascus passed a constitutional reform, whose main features were to set a limit of two seven-year terms for future presidents and the abrogation of Article 8, which stated “the Arab Socialist Ba’ath Party leads the state and society”. However, the reform process took place in a political environment of rampant violence and in the absence of any participatory process. Instead of responding to the key demand for a political transition, the adoption of the constitutional amendment in 2012 further fuelled the civil and political strife in Syria and ensured regime survival rather than the change that was being demanded. More recently, the Final Communiqué of the Sochi conference, organised by Russia at the end of January 2018 in Sochi, called for the formation of a “Constitutional Committee to draft a constitutional reform as a contribution to the political settlement under the UN auspices in accordance with Security Council Resolution 2254”. Like the events of 2012, this announcement was also received with skepticism and further increased the political divide in Syria, due to the direct involvement of Russia in the conflict in Syria at the side of the Assad regime.

There is an urgent need to empower political activists and civil society leaders to advocate for an open and democratic society and for the protection of human rights, civil liberties, political freedoms, and the rule of law; and promote the principles of inclusiveness, transparency and accountability during the constitution drafting process. It is critical to engage communities inside Syria on the discussions around the constitutional process by raising awareness and rallying Syrians around human rights and equality principles to be in the Constitution and ensure that women, young people and vulnerable groups have a role in the process at all levels and their voices are equally heard in the discussions around the Constitution.

The drafting of the new constitution is not simply a legal and technical process, but it represents the basis upon which to rebuild the social fabric of Syrian society, address the root causes of the war and ensure that transitional justice processes and mechanisms for non-repetition are set up. Although several civil society groups have continued to work on elaborating possible “constitutional scenarios”, they might still not be sufficiently prepared to develop and engage in sustained work both on the elaboration and the support to any constitution-building process. Supporting them in this process, alongside technical support on the constitutional principles for a new Syria, will be critical in the months ahead. The role of civil society in a future, democratic Syria will be to monitor the situation inside the country and to hold institutions and decision-makers accountable to the rule of law and human rights principles. Civil society can already start playing this role by coordinating and amplifying the voices, priorities and interests of Syrian citizens, particularly in respect of a new Constitution.