Vetting processes as part of a comprehensive approach to Transitional Justice in Syria
No Peace Without Justice
Gaziantep, Turkey
29-30 September 2016
On 29-30 September 2016, No Peace Without Justice (NPWJ) in collaboration with The Day After (TDA) organised a discussion session on ‘Vetting processes as part of a comprehensive approach to transitional justice in Syria’, which was held in Gaziantep, Turkey, with the financial support of the Open Society Foundation. The Roundtable discussion’s main objectives were to facilitate an initial discussion with several Syrian activists working in organisations that focus on transitional justice and to explore opportunities to establish a future initiative looking at the development of an examination and vetting process, as part of the larger transitional justice process.

The workshop brought together ten individuals, including key members of civil society organisations, human rights and transitional justice activists.

**Background**

Vetting is a major transitional justice issue that countries have to address, but it often receives less attention than other issues. It is however a crucial topic that should be discussed and planned for with sufficient time to ensure that when the vetting process occurs, it is done in the best and most just way possible and does not result in major purges of public workers and an inevitable vacuum of power where a massive State apparatus is left with nobody who knows how it used to work, creating huge problems with how to make it work for the future.

Vetting is an important and crucial step destined to take place during Syria’s transition. The integration of armed groups into the military and security forces and DDR mechanisms are currently on the agenda and plans of Syrians and other international actors. In addition, there is a growing conviction in Syria that offering combatants government-secured jobs could be an effective incentive to get individuals to give up their weapons. As well as the security sector, vetting is also a crucial process for other areas of public employment. The screening of candidates for public office, the barring of candidates from public office, the removal of holders from public office, will be a difficult yet critical part of rebuilding Syria, which needs to be orchestrated with great care. A well thought out and collaboratively constructed plan of implementation will be a fundamental step to ensuring the process is conducted in a just manner and maintains the trust of the people. This, and more, make vetting in Syria a very important component of Transitional Justice and security sector reform.

In spite of the importance of developing a vetting process for Syria, there has been little or next to no effort invested in its preparation. An initial discussion among TJ actors on how to start the preparation for this component is badly needed. In response, NPWJ organised the “Roundtable on Vetting as part of a comprehensive approach to Transitional Justice in Syria” which aimed to facilitate an initial discussion on the topic with key Syrian organisations working on Transitional Justice.

The meeting explored what work has been done so far in the Syrian context on the topic and allowed participants to learn from each other about any existing initiatives. Participants discussed
how civil society and transitional justice actors can contribute in the future to this mechanism(s) and used the meeting as a planning session to kick start a larger initiative on vetting that can be developed and taken forward with key TJ actors and subject matter experts.

Structure of the Workshop:
The Roundtable and its agenda were designed after in-depth discussions with Syrian organisations concerned about the transitional process in Syria. The participants agreed to meet and discuss the topic for two days. At this stage of the discussion, they preferred to meet without the presence of international experts to keep it a solely Syrian process initially, while developing a plan to communicate with experts in the coming stages.

Day one
The first day’s objective was to build the participants’ knowledge on the theory of vetting by identifying academic documents and other research on the issue and discussing how they relate to and could be utilised in the Syrian context. Areas discussed included:

- The necessity of the vetting process for Syria and positive and negative outcomes.
- Who would implement the vetting process in the transitional phase in Syria?
- How could the organisations attending the workshop prepare for the process and assist its development.
- The achievements and mistakes experienced by other countries who went through similar processes. Participants agreed that they would like to look at lessons learned in other contexts in more detail with subject experts in coming meetings.

Day two
The second day included discussion on: priorities of the vetting process; what to be cautious about; the relationship of civil society with the process; what official institutions are working in this field; and who should be responsible for this process in the future. Participants also discussed the next steps that they could take to facilitate the work of these institutions.

Participants
The following organisations participated in the workshop: Free Syrian Lawyers Aggregation, Start Point, Syria Justice and Accountability Center (SJAC), The Day After (TDA), Syrian Network for Human Rights (SN4HR), Free Syrian Lawyers Association, Syrian Institute for Justice and Accountability (SIJA), Higher Judicial Council and a number of other Syrian activists who work in the transitional justice and human rights fields.

Day one – 29 September
Rami Nakhla, the Syria Project Coordinator at NPWJ, welcomed the participants, explained the background and key objectives of the workshop. The participants then introduced themselves and their organisations to the group.

To start the meeting, and in order for all participants to build some background and basic knowledge on the topic, Mr Nakhla gave a brief review of a number of key articles and other references on the topic of vetting. This primarily focused on the “UN guide for vetting”, to explain the general concept of vetting processes in the global context. Key points in the briefing, included:
Why the background of the government official in countries in transition phase should be vetted.

 Factors that affect the vetting process that should be considered in the Syrian context.

 Ensuring the basic conditions of the examination and vetting process, such as political will, support by certain institutions of subjecting their employees to a vetting process, legality of vetting, financial and logistical requirements, time and time sensitivity of the process.

 Caveats and risks to be aware of, and working on avoiding them, such as a political and civil servant vacuum that could contribute to destabilisation and undermining of the transitional phase, as a result of a severe vetting process.

 Types of vetting processes, such as whether to vet specific individuals or everybody, whether to reappoint employees to old positions and whether it should be a private or public process.

 The design of the vetting process. Should you involve and consult communities in the design of the process? What should the penalties be that result from the examination process?

 Respect international standards and consider them during the examination and vetting process.

 Each point was discussed widely, with participants sharing their opinions and knowledge on the subject. Some participants emphasised the need for civil society to prepare and work to advocate to those involved in the negotiations of the political transition at the national and international level. Some also suggested to start working on making lists that include the names of those who have committed and been involved in grave crimes in Syria. They felt that such people should not be involved in the coming transitional period or in any political positions or matters. Others highlighted the need to consider those who have committed non-violent crimes but who are involved in extortion, exploitation and theft of property. They also discussed where information should be given if the government falls or during a transition period and shared their hope for a truth commission to be created to help the process.

 A major challenge in regards to documentation is the systematic destruction by combatant forces of sensitive documents, when they feel there is a risk of losing control over certain areas and buildings. Another challenge is the poor collection and safe guarding of documents that are left behind. To counter this, the group discussed the need to raise awareness on the importance of this kind of documentation for the future of Syria and possible ways to prevent the destruction of incriminating documents. Although the latter action is more difficult, participants felt it was possible to do more and to educate more people about the necessity of preserving documents that might be used in the vetting process, in addition to the necessity of saving evidence and documents in their original state. They reflected on an example from a participant who highlighted the work done in East-Germany to prevent the wholesale destruction of the STASI's archives, allowing re-unified Germany to investigate those documents and initiate public prosecutions, some of which are still on-going. The conversation then focused on the fundamental yet contentious issue of where to hold collected data. Some participants were in favour of merging different organisations’ databases. Others wanted to know whether there even are comprehensive and secure programs and databases to keep evidence. Participants stressed the importance of building knowledge around categorising data according to crimes and on understanding the reliability and credibility standards of data.
Another key topic discussed was how to ensure the process of vetting is a fair and productive one and preventing abuse of this mechanism to seek revenge. There were concerns raised about the destabilising consequences of a total dismissal of the sheer number of officials who committed violent and non-violent crimes who still work for the government. Others highlighted that to deal with this issue, and depending on their crime, it is recommended to change the service location or maybe demote the rank of some officials rather than a total dismissal, which might have negative consequences. Managing this process professionally is fundamental to restoring the confidence of the people in State institutions. It is important that people understand that the majority of civil employees have nothing to do with the crimes committed, but are simply doing their job to feed their families and are likely unable or very scared of the consequences if they were leave their position. The participants stressed once again the importance of maintaining independent and fair vetting institution to prevent politicising its mandate and utilising it to delegitimise political opponents.

Re-integration of armed groups is an even more complex issue. Some felt the opportunity needed to be open to those who are in the armed groups and wish to be integrated into the security and military institutions. However, others felt that those who carried weapons are most likely to have engaged in crimes and thus should not be allowed into government jobs.

Some participants suggested that the beginning of the transitional period would start after the signing of the political transition agreement and would be the best time to carry out a vetting process. In an ideal situation, which does not appear to be the way things will go, the hope would be that opposing sides would accept each other and that those involved in the bloodshed should be dismissed and all evidence be presented in court.

As for preparing a list of criminals, some participants highlighted that Human Rights Watch (HRW) worked on such a list in 2011, which included the heads of a number of security apparatus, the list was issued at the end of 2011. They agreed on the importance of following up on this initiative and updating the list to make it more comprehensive. The group agreed to focus on compiling an initial list which starts from the beginning of 2016, and if this is successful, then they will go back through the previous years. How to utilise the list and whether to use them for advocacy purposes is a discussion that still needs to take place. In connection to this and moving forward with other work on vetting together, the question of the legitimacy of this group to work on this topic was brought up and something they agreed to consider more.

As a conclusion to the morning session, the participants took some time to consider the objectives of the vetting process, as a way to help them focus on what they want to achieve. Objectives discussed included:

- Dismissal of those who committed gross human rights violations from State institutions to achieve societal stability.
- Ensure the recovery of State and society, as not to conflict with civil democratic values and to ensure the non-recurrence of human rights violations.
- Reform the State institutions’ work and exclude criminals and corrupt individuals who impede achieving democracy in Syria in the future.
- Maintenance and improvement of institutions including the eradication of corruption, Restoration of the institutions’ formal role.

At the end of the session, the participants agreed on the need to conduct another workshop or Skype meeting and to communicate with experts to discuss vetting and its mechanisms in more detail, as well as learning from other countries’ experiences.
Day 2 – 30 September

Mr Nakhla reviewed the most important points and ideas that were discussed and covered on the first day.

The participants shared their views and suggested to divide the topic into two parts. The first was related to lists of perpetrators who committed gross human rights violations, war crimes and crimes against humanity; the second aimed at developing a vision of the Syrian vetting process, discussing who should be included in the process and how to prioritise the investigations.

One of the participants presented a paper explaining the significant role of civil society organisations at this time and how it must be a key partner in guiding society to take the right decisions during the current and transitional period. According to one participant, the presence of Syrian civil society in advocating for a political negotiating process has gained them legitimacy on the ground. The group saw it as important to take advantage of the role played by these organisations during the current and the transitional phase in relief work, advocacy and political negotiations in the political field, as well as in the vetting process, to work well in trying to improve the stability of Syrian society and keep the State's institutions away from exploitation and ruin. Participants want to ensure the exclusion of those who committed crimes against humanity and those who have destroyed Syria's economic and educational assets, whether through military or political positions. At the same time, it is important to consider people who have been forced to be involved in fighting either for the SAR, Shabiha (secret police) or other armed groups and therefore to ensure the vetting process is absolutely independent, professional and fair one, including being open to international monitors.

The conflict in Syria has gone on for over 5 years now, with thousands of actors being involved from every side. The number of crimes committed in this time is unimaginable and therefore it is impossible to identify all of those who have committed crimes. However, as part of a vetting process it is important to begin to decide who should not be allowed to work in State institutions after the war. In a brainstorming session the group made the following list:

- All heads of security branches and different areas from the center (Damascus) and all governorate levels, down to the town level (while still ensuring the restructuring of the Ministry of Defense – Ministry of Interior).
- Military units, air and naval leaders of various ranks, including fixed and mobile, which were involved in shelling civilians and carrying out field executions, taking into consideration the distinction of levels of responsibility between those who are making orders and those who are following orders.
- All security committees in the governorates and centers and those who are linked to the security departments that participated in pillaging, looting and forced displacement of civilians, in addition to national defense’s militias leaders.
- Political and military decision makers of the national leadership of the Baath Party and members of the crisis cell.
- Military and civil judges, heads of known and unknown prisons.
- Media personnel, imams and preachers who, irrespective of their side, engaged and incited sectarian violence. (This item was contested by number of participants who believe this would be a violation of freedom of expression).
• Student Union heads and some university professors who led sectarian discrimination against students.
• Revolutionary forces leaders who were proven to commit war crimes against civilians, looting, kidnapping and forcible arrest.

A discussion then ensued on what kind of sanctions might be applied against perpetrators. Penalties will vary from politicians, military and administrative actors and dependent on involvement in crimes. It was agreed that it is not really the role of this group, at this time, to identify appropriate punishments but that it should be identified by the judiciary in the legal system that will be used at the time. However, some procedures, such as deportation, transport, separation and early retirement, were discussed. The group also talked about the need for committees to be formed for the vetting process and to create and maintain strong links with human rights groups who have been collecting evidence of crimes since the beginning of the revolution. Data such as interviews with defectors from the regime, or other armed groups will also be key evidence in making the right decision about how to deal with people.

There was also a focus on what is required from civil society organisations at this stage to help prepare in the best way for the vetting process. Ideas included:

• Work with specialised jurists and judges to develop the work of vetting committees and drafting laws that give legitimacy to work as preparation of the next phase.
• Work on creating multiple committees (military - administrative - political) and training them about the vetting process so they can help in monitoring the process.
• Preparing a questionnaire to have the views of the citizens in Syria and abroad, about positive and negative points on the vetting process.

In regards to the timing of a vetting process, some participants felt that prioritising people in high positions and who have committed bigger crimes was the way forward, while others highlighted the importance of carrying out the vetting process before any political agreement, as well as after it, and at the beginning of the transitional period and after it, linking the vetting process to a political solution. All participants agreed that it is very important to carry out a vetting process on those in charges of the transitional governing body first.

In conclusion, the groups discussed ideas on how to move forward, highlighting the need to expand their knowledge through meeting with professional experts and reviewing vetting processes and practical frameworks. They also underlined the need to look at other countries’ experiences of vetting, especially from Arab and Western countries.

The next steps agreed on to do before and in the next workshop are:

• Communicate with organisations and individuals involved in transitional justice with particular expertise on vetting.
• Develop an agenda for the next workshop in collaboration with experts from Arab countries or international experts from Argentina, Bosnia, Spain etc.
• Form a committee to draft the list’s visions.
• Share with the participants the report of this workshop.
Annex I: Program of the workshop

### Day One – Thursday, 29 September 2016

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<thead>
<tr>
<th>Time</th>
<th>Activity</th>
<th>NPWJ</th>
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<tbody>
<tr>
<td>10.00 - 11.00</td>
<td>Welcome remarks, introductions and presentation of aims of roundtable</td>
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<td></td>
<td><strong>Coffee break</strong></td>
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<tr>
<td>11.30 - 13.00</td>
<td>Understand current vetting situation in Syrian context</td>
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<td>Discuss what has been done so far.</td>
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<td>Learn about any existing initiatives.</td>
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<td>Agree on interest in developing an initiative on vetting.</td>
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<td></td>
<td><strong>Lunch</strong></td>
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<td>14.00 - 15.30</td>
<td>Reflect on successes and mistakes of other countries</td>
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<td><strong>Coffee break</strong></td>
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<tr>
<td>15.45 - 17.00</td>
<td>Decisions to be made in a vetting process</td>
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<td>Who does the vetting and how are they selected?</td>
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### Day Two – Friday, 30 September 2016

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<tr>
<th>Time</th>
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<tbody>
<tr>
<td>10.00 - 10.15</td>
<td>Review of previous day</td>
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<tr>
<td>10.15 - 11.15</td>
<td>Decisions made in a vetting process continued…</td>
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<td></td>
<td>• Timing and Duration: When does vetting occur and how long does it last?</td>
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<td>• Rationale: How is vetting justified? What are the reasons for vetting?</td>
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<td>• Scope: How many people are screened? How many people are sanctioned?</td>
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<td>• Criteria: What misconduct is being screened for?</td>
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<td></td>
<td><strong>Coffee break</strong></td>
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<tr>
<td>11.30 - 13.00</td>
<td>Decisions made in a vetting process continued…</td>
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<td></td>
<td>• Targets: What are the institutions and positions to be vetted?</td>
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<td>• Sanctions: What happens to positively vetted individuals?</td>
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<td>• Design: What are the type, structure, and procedures of the vetting process?</td>
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<td>• Coherence: How does the vetting relate to other measures of institutional reform? How does it relate to other transitional justice measures?</td>
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<td></td>
<td><strong>Lunch</strong></td>
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<tr>
<td>14.00 - 15.30</td>
<td>Planning session for next workshop</td>
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<td></td>
<td>Suggest/ agree on names of potential experts to facilitate next workshop</td>
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<td>Decide who will be invited</td>
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| 15.45 - 17.00 | **Planning session for next workshop continued…**  
|              | Develop rough agenda for follow up workshop |