



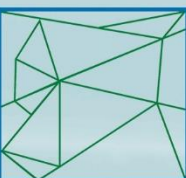
NED



**“Syria’s Diversity
Must Be Defended
and Supported By Law”**

Syrian Voices for an Inclusive Constitution

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“Syria’s Diversity Must be Defended and Supported by Law”

Report 2 – Syrian Voices for an Inclusive Constitution

A faint background image of a pair of scales of justice, symbolizing law and justice.

Syrian Voices for an Inclusive Constitution

Syrians for Truth and Justice (STJ), with the support of the National Endowment for Democracy (NED), organized consultations and documented the perspectives of over 80 Syrian civil society representatives, activists, and civilians in Northeastern and Northwestern Syria on topics related to the constitution-building process in Syria. We chose participants who were not given the opportunity to contribute their thoughts about the new Syrian constitution and gave them the opportunity to discuss issues related to how it should be drafted. Among them, 74.7% believed that the Committee should write a new constitution, and 14.6% believed the current constitution should be amended.

To share the results of our consultations in Syria, STJ is publishing this report as the second of a series of five exploring the following topics:

Report 1: The Formation and Responsibilities of the Syrian Constitutional Committee

Report 2: Inclusivity and Diversity

Report 3: Transitional Justice

Report 4: Governance and Judicial Systems

Report 5: Socio-Ecological Justice and Personal Experiences

Our sixth report summarizes the five published reports, as well as sheds light on the outcomes and notable recommendations which emerged from the project.

Peace-building discussions frequently use the term “inclusivity”, and it remains a vital component to conflict resolution in the Syrian context. The last years of war heightened ethnic and religious tensions in the diverse country, sowing division, and resentment. Any durable result to the Constitutional Committee’s actions necessitates the inclusion of diverse voices. Inclusivity must be at the forefront of both the constitution building process and the content of the new or amended Syrian constitution the committee prepares. In this context, inclusion throughout the constitution-building process in Syria means consulting with all sectors of Syrian society regardless of region and political perspective, as well as paying special attention to include women.¹

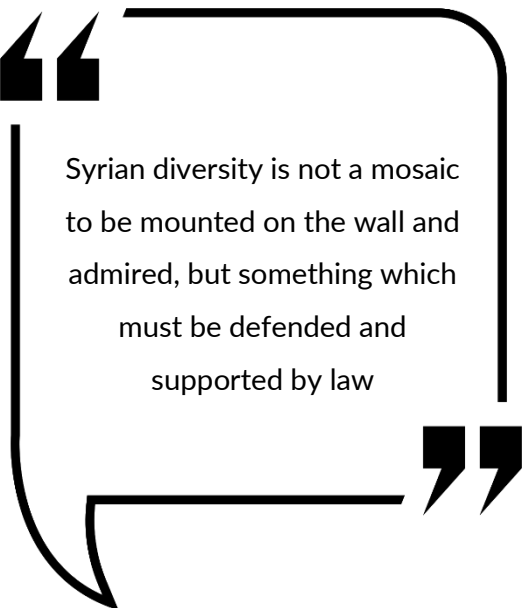
Despite the importance of inclusivity, multiple communities across Syria share the real fear that their needs and interests will not be represented by the Constitutional Committee, including leading members of Syrian civil society, Syrian Kurds, and other marginalized groups in Northeastern Syria. Already, the Constitutional Committee’s composition does not represent true inclusivity. According to the Middle East Institute, the Syrian Constitutional Committee “is strongly skewed against the Kurds, who comprise only 4% of its total membership, less than half of their percentage of the population as a whole.”²

Bringing together all the voices within Syria to discuss their needs for the present, and aspirations for the future, will not only support the durability of the new and amended constitution, but can serve as a starting point for Syrians to begin addressing the consequences of the war which divided them. The benefits of a truly inclusive constitution-building process is not only a constitution representative of Syrian society, but a process which allows for reconciliation among opposing groups, addresses grievances, and prevents further polarization and conflict deterioration³. In other words, advocating for inclusivity in the constitution-making process will have a positive impact not only on the constitution, but on the holistic peace-building process. However, achieving inclusivity is not an easy task.

¹ “Constitutional Options for Syria.” ESCWA, The National Agenda for the Future of Syria (NAFS) Programme, November 2017. Last visit 15 August 2021. https://archive.unescwa.org/sites/www.unescwa.org/files/events/files/nafs_constitutional_options_for_syria_-_position_paper.pdf

² Shaar, Karam, and Ayman Dasouki. “Syria’s Constitutional Committee: The Devil in the Detail.” The Middle East Institute, 6 January 2021, Last visit 3 August 2021. <https://www.mei.edu/publications/syrias-constitutional-committee-devil-detail>

³ Ladley, Andrew. “Constitution-Building After Conflict: External Support to a Sovereign Process.” IDEA, 1 July 2011. Last visit 15 August 2021. <https://www.idea.int/publications/catalogue/constitution-building-after-conflict-external-support-sovereign-process?lang=en>



Syrian diversity is not a mosaic to be mounted on the wall and admired, but something which must be defended and supported by law

Sabah Alhallak, a member of the Syrian Women’s League since 1985 and a current member of the Syrian Constitutional Committee, has said one of the primary concerns during the committee meetings is turning symbolic discussions about diversity and inclusivity into actions. In her words: “Syrian diversity is not a mosaic to be mounted on the wall and admired, but something which must be defended and supported by law.”

When the Syrian government amended the constitution in 2012, the constitution failed to be inclusive and consequently failed in both

reconciling the differences among the people and paving a new path forward for the nation. The Constitutional Committee must not make the same mistake in writing this new Syrian Constitution.

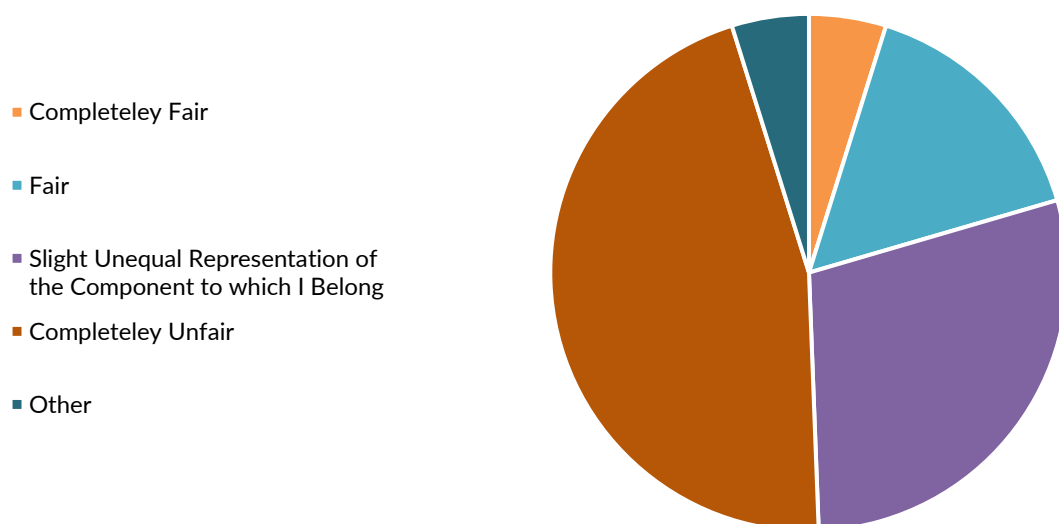
In this report for the project ‘Syrian Voices for an Inclusive Constitution’, we bring together diverse Syrian voices together to answer controversial questions of Syrian national identity and human rights and highlight the opinions of underrepresented groups. Inclusivity processes are often time consuming and the subjects they raise highly contentious. However, real inclusivity requires these difficult conversations, which is why the following report outlines and contextualizes competing ideas about Syrian identity which emerged from our interviews with respondents. While we will explore where Syrians disagree, we will also show where they agree or are willing to compromise, demonstrating that inclusivity in the constitution-building process is a powerful step towards reconciliation and peace.

Inclusivity in the Committee

Today, Syrians across demographics are skeptical about the Constitutional Committee’s inclusivity and therefore its capacity to represent diverse Syrian voices in the constitution building process. As Sabah Alhallak has found in her consultations with Syrian citizens, many doubt the Constitutional Committee can enact real change, rather than merely symbolic change. After all, the revised 2012 constitution claimed to value Syrian diversity; however, since then the rights promised to Syrians, especially minorities, in the new constitution to live freely and in security have failed to manifest beyond words.

In the last report, the majority of our participants testified to knowing about the Constitutional Committee’s existence. However, 63.9% of those we interviewed did not believe that Committee members were fairly selected or that the members would represent the diverse demands of Syrian society. The participants’ lack of faith in the Constitutional Committee’s inclusivity may stem from the lack of Kurdish representation in the Committee given that 85% of our participants identified as Kurdish. As it stands, there are only seven Kurdish members out of the 150 composing the Constitutional Committee. Consequently, 45.8% of our participants found their ethnic/social group to not at all be represented in the Committee and 28.9% found the representation only slightly unfair. While the majority of our participants voiced uncertainty in the fairness of the Committee’s representation, a fifth of participants, 20.5%, deemed the election of committee members fair.

Is the Representation Ratio of the Social/Ethnic Group in the Committee Fair?



Citizenship and State Identity

One of the strongest points of contention between the Syrian participants in STJ’s project and those surveyed in other non-governmental organizations like The Day After is the question of Syria’s Arab identity. The 2012 Syrian Constitution gives the name “Syrian Arab Republic”. The emphasis on the Arab identity of the nation, to many non-Arab Syrians, ignores the nation’s ethnic diversity. 86.7% of our respondents favoured removing the word “Arab” from the nation’s name, and 72.3% advocated for changing the phrasing “Syrian Arab Citizenship” to “Syrian Citizenship” in the constitution. 16.9% of respondents suggested leaving “Syrian Arab Citizenship” in the constitution, but adding “Syrian Kurdish Citizenship.” While the majority of

our participants agreed to some change in the new constitution’s definition of Syria’s ethnic identity, other, mostly Arab, participants surveyed in similar initiatives disagreed. For example, 67% of respondents to The Day After’s project “Which Constitution Does Syria Need?” rejected removing the term “Arab” from Syria’s name and constitution.⁴

The disagreement between participants over Syria’s national identity is not a modern phenomenon, but rather one rooted in Syria’s history. Throughout the twentieth century, debates over Syria’s Arabism or Syrianism have played out across its twelve constitutions with the country only being officially named “The Syrian Arab Republic” in 1961⁵. In other words, our participants are not having a new debate, but rather adding to a long-lasting one which is important to consider when drafting the new constitution.

Likewise, the inclusion of official languages remains a point of discussion. Almost half of the participants in The Day After survey opposed the inclusion of Kurdish as a second language in the constitution⁶. In contrast, 65.1% of STJ participants argued that more languages, like Kurdish and others spoken by a significant number of Syrians, should be included in the constitution. There is precedent for the inclusivity of languages in a country’s constitution in the region. For example, in Iraq both Arabic and Kurdish are documented as their official languages. One place for compromise may be found in 22.9% of our participants who stand for including other official languages like Kurdish only in the areas where the majority of the population speaks those languages.

Despite this point of contention, however, our participants, as well as those surveyed in other projects, were nearly unanimous in their support for equal rights and protection for all Syrians, regardless of ethnicity, under the law. 92% of our participants believed that people should be eligible for Syrian citizenship under equal conditions defined and regulated under the law. Participants in The Day After Constitution project, as well as the July 2012 Final Communique of the Action Group for Syria (Geneva II) advocated for the same, demonstrating that while Syrians may have ethnic and linguistic differences in how they wish to legally define their national identity, they all share a common belief in a pluralistic Syria in which the human rights of all who would call themselves Syrian are protected.

⁴ “Which Constitution Does Syria Need.” The Day After, July 2018. Last visit 15 August 2021. https://tda-sy.org/wp-content/uploads/2020/03/Which-Constitution-does-Syria-need_.pdf

⁵ For more on this issue, read “The Deprivation of Existence: The Use of Disguised Legalization as Policy to Seize Property by Successive Governments of Syria.” Syrians for Truth and Justice, 9 October 2020. Last visit 15 August 2021. <https://stj-sy.org/en/deprivation-of-existence-the-use-of-disguised-legalization-as-a-policy-to-seize-property-by-successive-governments-of-syria/>

⁶ “Which Constitution Does Syria Need.” The Day After, 2018.

Universality of Human Rights

The notion of creating equal conditions within a constitution aligns with international law’s definition of Universal Human Rights. The Syrian state is a party to many international conventions and treaties that form the nucleus of international human rights and humanitarian law. These include the ICCP, the ICESCR, the Convention on the Rights of the Child, the Four Geneva Conventions of 1949 and its first additional Protocol of 1977 and many other international conventions⁷. However, Syria’s history abounds with violations of these treaties and conventions. In other words, the Syrian courts have not applied the provisions of international conventions and international norms whose standard they claim to follow.

The participants of the Day After survey almost unanimously agreed that the constitution should mention the Syrian state’s commitment to the International Declaration of Human Rights⁸. The participants surveyed in STJ’s project, despite the differences in demographics and perspectives, agree that Syria must commit to the International Declaration of Human Rights. 88% of respondents believe that all people are equal and should be treated as such, as stated in the Universal Declaration of Human Rights, though only 79.5% believe that the equality of people’s identity and rights should be written in the constitution. 84.3% of our respondents believed that commitment to international norms and conventions should be clear and acted upon, and 72.3% agreed that the constitution should articulate the commitment and include accountability mechanisms to ensure the commitment to the international standards of human rights are honored. Participants suggested including an article or annex that highlights the intention/guarantee to comply with international conventions, laws, and norms.

Gender Equality

Even though women’s rights are human rights, it is worth discussing them separately, acknowledging the need for explicit engagement by the Syrian state to achieve gender equality. The current 2012 Syrian constitution is not gender sensitive. Many articles use masculine pronouns to refer to officeholders, implicitly denying women’s rights to hold the highest offices in the nation. The 2012 constitution’s failure to use gender-neutral language undermines other articles which attempt to enshrine gender equality. One example of a successfully and recently engendered constitution is that of Tunisia, which uses gender inclusive language. Moreover,

⁷ “International Covenant on Economic, Social, and Cultural Rights.” The United Nations General Assembly, 16 December 1966. Last Accessed 15 August 2021.

<https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

⁸ Which Constitution Does Syria Need.” The Day After, 2018.

articles 34 and 46 of the Tunisian constitution guarantee women’s representation in elected bodies and protect women’s rights, demonstrating the gendered initiatives constitution makers can take to promote gender equality under constitutional law.

The majority of our participants (83.1%) agreed to a gender-neutral constitution; however, the majority also lacked faith that the Constitutional Committee is moving towards gender equality. Consequently, its incumbent on the Committee not only to engender the constitution during the writing process, but also address key issues where the new constitution can demonstrate its commitment to gender equality. For example, the majority of our participants are concerned with the failure of the Syrian Nationality Law No. 276 to provide equal citizenship to men and women by denying mothers the right to pass citizenship to their children. 78.3% of our participants argued for an amendment which guarantees a mother the same right as a father to grant citizenship to their children.

Conclusion

During consultations with groups across Syria, members of the Constitutional Committee like Sabah Alhallak have been attempting to hear the thoughts of diverse citizens across the country. While at first the consultations have begun with skepticism, Alhallak optimistically notes that they end with Syrian citizens sharing their thoughts and hopes for the new constitution. This tells us that Syrians are willing to be engaged in the constitution building process -- they must merely be provided with proof that someone is listening. Consultations and conversations between diverse groups in Syria is in itself a victory in working towards an inclusive, peace-building process. However, in order to have meaningful consequences, words about diversity must turn into tangible actions.

Recommendations

In light of the data represented in this report, both from the consultations and the complementary sources, STJ recommends that the Syrian government, the international community, and Syrian Constitutional Committee:

1. To include in the Syrian Constitution the supremacy of international law and obligations over domestic law, especially those set forth in human rights conventions that Syria has ratified. The national laws must be amended accordingly, and in the case of conflict with national laws and international obligations, the national courts must be able to

refer to and directly apply the provisions of those international human rights conventions.

2. Make Syrian citizenship available to Syrian civilians regardless of their religious, gender, and ethnic identity and maintain a diverse perspective when considering defining Syria’s ethnic and religious identity;
3. Urge the actors involved to enhance the representation of different ethnic and social groups within Syria within the transitional bodies created, such as the Syrian Constitutional Committee, to ensure inclusivity in Syria’s transitional justice processes;
4. Focus on the importance of using gender neutral language in the constitution that is inclusive to all individuals, men and women;
5. Guarantee the protection of women’s rights in the constitution, eliminating gendered exclusion or discrimination under personal status laws;
6. Enforce the article already included in the 2012 constitution: Citizens shall be equal in rights and duties without discrimination among them on grounds of sex, origin, language, religion, or creed.



Our team of researchers and volunteers at Syrians for Truth and Justice are dedicated to uncovering human rights violations in Syria. Believing that diversity has historically defined and benefitted the country, we work everyday to promote inclusivity and justice to ensure that all Syrians are represented, and their human rights secured.