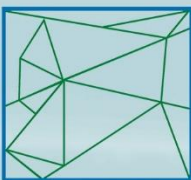
The background features a pair of golden scales of justice resting on a stack of books. The scales are positioned in the upper right, with their pans hanging down. Below them, several thick books are stacked, with one open book in the foreground. The entire scene is set against a light blue background with a green triangle in the top left corner. A large blue diagonal shape overlaps the bottom left, containing the title text.

Syrian Voices for an Inclusive Constitution

The logo for NED (National Endowment for Democracy) is a blue circle containing the letters 'NED' in white, with the 'D' in red.

NED

سوريون
من أجل
الحقيقة
والعدالة
Syrians
For Truth
& Justice



Syrian Voices for an Inclusive Constitution

Syrians share their opinions on the Constitutional Committee and what they want from the new Syrian constitution

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About the Organization

Syrians for Truth and Justice (STJ) is an independent, non-governmental, and nonprofit Syrian organization composed of a global network of Syrian human rights defenders of diverse backgrounds. From academics, to journalists, to legal professionals, STJ collaborates with experts of various nationalities to promote the cause of Syrian human rights and justice. The organization works towards a Syria where all Syrians can enjoy dignity, justice, and equal human rights. STJ believes that uncovering the truth and enforcing human rights are essential to reaching sustainable peace in Syria. Only by going through the processes of transitional justice, can we achieve our end goal: Syria's reconstruction and the safety of Syria's citizens.



This project was made possible by the *National Endowment of Democracy*, a private, nonprofit foundation dedicated to the growth and strengthening of democratic institutions around the world. We thank them for their support.



Project Summary

Syrians for Truth and Justice (STJ), along with other non-governmental actors, advocates for creating a Syrian constitution through an inclusive process of national consensus which includes the voices of all factions of Syrian society. With the diverse voices of the Syrian people in mind, STJ believes that the solution cannot be quickly imposing a new and permanent constitution on a society still recovering from the wounds of war, but instead engaging in a critical, multifaceted process which accounts for the differences of opinion within the communities the constitution must ultimately advocate for.¹ It is with this conviction that STJ implemented the project “Syrian Voices for an Inclusive Constitution”.

Throughout 2020, 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 14.5% believed the current constitution should be amended.

To share the results of our consultations, STJ published five reports:

1. “The Formation and Responsibilities of the Syrian Constitutional Committee”
2. “Syria’s Diversity Must be Defended and Supported by Law”
3. “Transitional Justice and the Constitution Process in Syria”
4. “Governance and Judicial Systems and the Syrian Constitution”
5. “Socio-Ecological Justice and the Syrian Constitution”

This report summarizes the project’s key findings, recommendations, and lessons learned.

¹ [Constitutional Options for Syria: Governance, Democratization and Institutions Building](#). The National Agenda for the Future of Syria (NAFS) Programme, 2017

Introduction

A constitution lies at the foundation of a country's political system, sets the tone for accountability mechanisms, and carries the symbolic power to unite a country – even one as diverse as Syria. However, just as these powers enable constitutions around the world to protect and support the citizens who uphold them, so can these powers, when improperly exercised, impair their nations and their people. Within armed conflict zones like Syria, the existence, creation, and amendment of a constitution can spark either decades of peace and progress, or decades of continued conflict and deterioration. Recognizing the foundational role constitutions play and the importance of a fair constitution-building process, the UN Resolution 2254 established the Syrian Constitutional Committee as one political solution to the Syrian conflict formed by the approval of both the Syrian government and the opposition Syrian Negotiations Commission. Facilitated by the United Nations, the constituent assembly endeavors to amend or adopt a new Syrian Constitution.

While UN General Secretary António Guterres calls the Constitutional Committee part of a “Syrian-owned and Syrian-led” peace process, there has been significant controversy surrounding which Syrian communities are represented in the Constitutional Committee and the role foreign powers have played in choosing them. Both Turkey and Russia influenced the delegates chosen in the Syrian Constitutional Committee, testifying to the impact foreign powers continue to have not only on the Syrian conflict, but on the Syrian peace-building process. However, even as foreign powers arguably have a disproportionate influence on the Constitutional Committee, many Syrian communities find themselves left out of the constitutional process. For example, according to the Middle East Institute, the 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 whole².”

Today, the human rights and needs of Syrian civilians inspire the need for both a fair constitution and constitutional-building process. 9.3 million Syrians are food-insecure – the highest number ever recorded³– because of the continuation of the Syrian conflict and the Covid-19 pandemic. Multiple actors within Syria continue to violate human rights on a large scale and the means of holding them accountable remain inaccessible or non-existent. The

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

³ [Syria Introduces limits on subsidized bread as economic crisis bites](#), The Guardian, 2020

deterioration of the country across these dimensions highlights the importance of the constitutional building process as a step towards a political solution.

A new or amended constitution has the power to be both a symbolic and legal precedent for social change. Accountability structures, inclusivity standards, and transitional justice mechanisms included within the constitution can not only attest to the country's principles but establish the document as a legal precedent for the protection of minorities, the independence of a free and fair judiciary, and other safeguards which seek to protect the human rights of Syrian civilians. While the final constitution published by The Syrian Constitutional Committee, if honored, can protect the rights of citizens, the process of writing the constitution is just as important. The constitutional-building process provides disenfranchised Syrian citizens the opportunity to share their priorities for the country they want to live in after years of conflict. Simultaneously, if the constitutional-building process fails to be inclusive of the interests of diverse groups within Syria and earn the people's trust in its legitimacy, then the new or amended constitution may detriment, rather than help, Syria's peace-building process.

The project *Syrian Voices for an Inclusive Constitution* facilitated a total of nine consultations during which professionals, civil society activists, and community leaders were presented with information on the Constitutional Committee's progress towards writing a new or amended Syrian constitution. The 83 participants discussed their questions with a member of the Constitutional Committee, either from the Opposition group or the Civil society group. Topics in the conversations included the Committee, its goals and objectives, the content of the constitution, the constitution in a transitional period, and governance and judicial systems.

After their conversations with committee members, participants were provided with a detailed survey of over forty questions related to different sections of the constitution-building process.

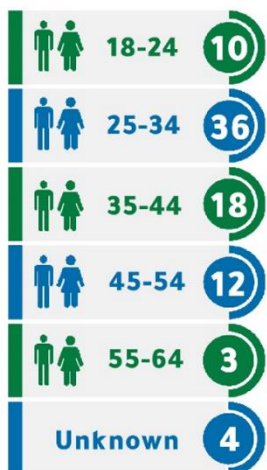
The overarching themes included:

1. The Constitutional Committee
2. Inclusivity and representation within the constitution
3. Transitional justice and the constitution-building process
4. Governance and judicial systems
5. Environmental and social justice

The set of five reports by STJ share the perspectives of the participants voiced throughout both the consultations and the subsequent survey. STJ succeeded in gathering a diverse group of 83 Syrians to participate in the consultations. While the study's sample size is comparatively small, it concentrates especially on elevating minority perspectives within parts of northern

Syria and incorporates the opinions of participants who live in unstable zones which are harder for civil society advocates to reach, and therefore, listen to. 92.7% of the participants of this project currently live in Syria, of which all represent communities and minorities located in northwestern and northeastern Syria. 38.6% of the participants are women and 55.4% are under the age of 35.

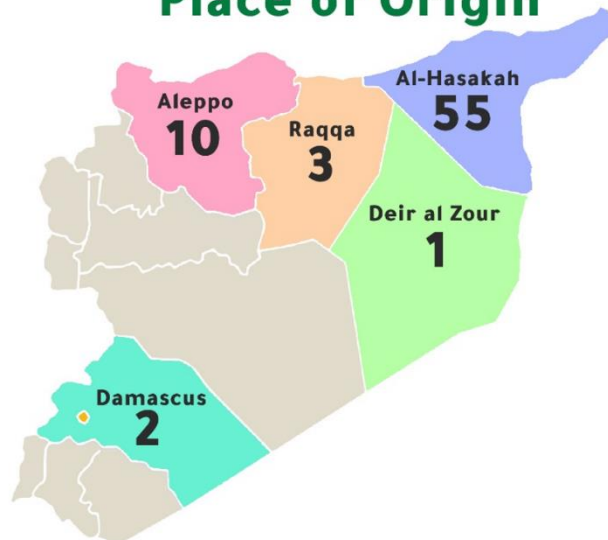
Age



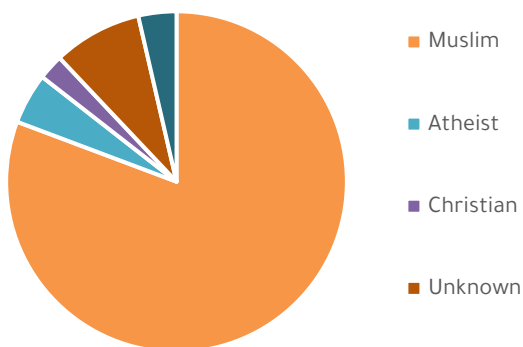
Gender



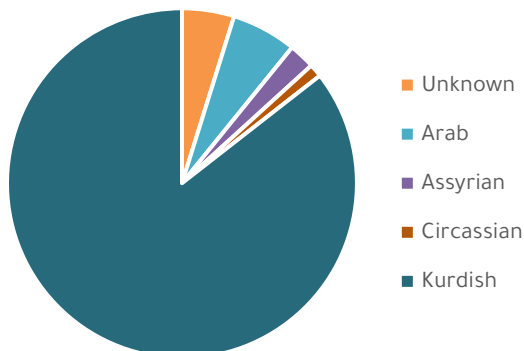
Place of Origin



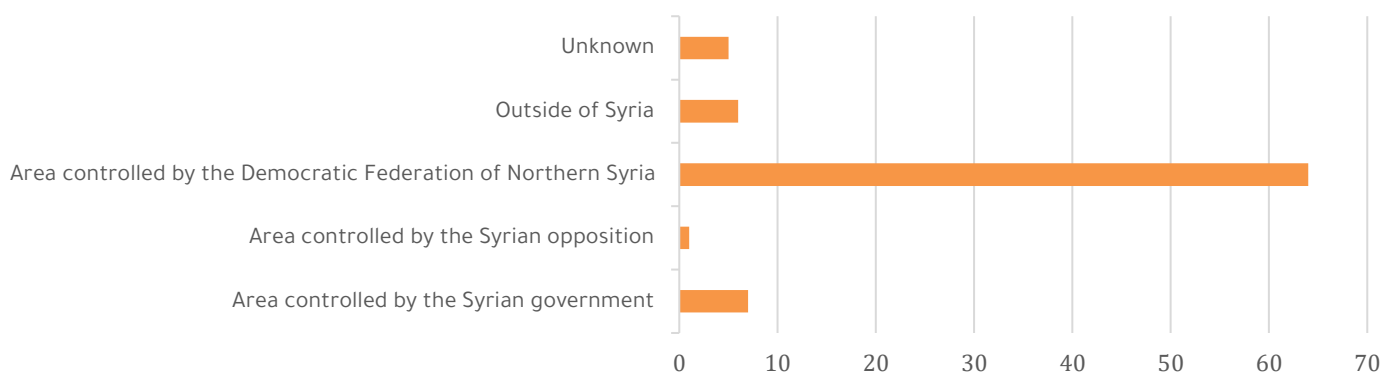
Religion



Ethnicity



Current Residency



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

All the consultations started with background information and a discussion on the Syrian Constitutional Committee. Space was reserved throughout the consultations and the survey for the participants to share their perspectives on the Committee. The first report therefore reflects the data on different aspects of the Syrian Constitutional Committee.

Amongst the participants there was cautious optimism about the Committee’s capacity to either rewrite or amend the Syrian constitution. However, even though the majority knew about the Committee, a significant amount did not know about the structure nor its objectives before joining our program. This outcome suggests that there was no coherent national message sent out and/or received by many people in northern Syria. Furthermore, while many participants consider the Committee’s work as a step forward in the peace-building process, a high number requested international involvement like the UN. This suggests skepticism that the Committee is merely a smokescreen for other actors to write the actual new or amended constitution without representing the peoples’ perspectives.

The Committee, despite delays due to schedule negotiations and Covid-19, continued their ongoing meetings at the end of summer 2020. While the members meet, their elected officials continued to consult with Syrian citizens. One member, Sabah Alhallak, a member of the Syrian Women’s League since 1985, mentioned that while Syrian citizens are hesitant at first in hearing about the Constitutional Committee’s aspirations for a free and fair constitutional-building process, they begin to change their minds after recognizing that actors involved in the process are genuinely interested in their perspective. The shift in opinion highlights the importance of educating Syrian citizens about the Constitutional Committee, maintaining transparency in the constitutional writing process, and incorporating the opinions of the Syrian people.

Report 2: “Syria’s Diversity Must be Defended and Supported by Law”

Peace-building discussions frequently use the term “inclusivity”, and it remains a vital component to conflict resolution in the Syrian context. However, transforming discussions about inclusivity into tangible actions remains a challenge. The extensive amount of data on inclusivity in relation to the constitution-building process is represented in the project’s second report. Because real inclusivity requires difficult conversations, the report discusses and contextualizes competing ideas about Syrian identity which emerged from our interviews with participants.

Despite opposing views among our participants, but also in relation to other survey outcomes, it seems that many Syrians share a common belief in a pluralistic Syria in which the human rights of all who would call themselves Syrian are protected. The respondents argue for emphasizing the state’s intent, either in the constitution or in an annex, to adhere to international norms and standards for human rights.

With regards to national identity, the continued debate about Syria’s Arabism or Syrianism remains important in the creation of a new/amended constitution. The majority of our respondents argued that the name of the constitution should be amended by taking out the word “Arab”, making it the Syrian Constitution. The leaning towards Syrianism over Arabism amongst our respondents’ perspective can be possibly - and only partially - attributed to the high level of participants that identify as Kurdish. Other suggestions for making the constitution more inclusive was either deleting “Arab” from Syrian Arab Citizenship or including other forms of citizenship like Syrian Kurdish Citizenship. In the same vein, our participants suggested including more national languages in addition to Arabic, or at least adding national languages in the areas where languages are spoken a significant amount.

On gender, many of our participants (83.1%) agreed to a gender-neutral constitution; however, the majority also lacked faith that the Constitutional Committee will move towards gender equality. In addition to generally supporting gender equality, our participants supported specific initiatives to improve women’s rights in Syria. For example, in relation to the Syrian Nationality Law No. 276, 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.

The discussion of inclusivity and identity told us that Syrians are willing to be engaged in the constitution building process, they must merely be provided with proof that someone is

listening. Currently, a majority of our respondents do not believe that the selection of committee members was fair. Moreover, only 20% felt that their ethnic/social group is currently represented by the Committee. While consultations and conversations between diverse groups in Syria is a victory in working towards an inclusive, peace-building process, to have meaningful consequences, words about diversity must turn into tangible actions.

Report 3: “Transitional Justice and the Constitution Process in Syria”

Syria will need more than an amended or new constitution to move forward from this past decade of violence and mass human rights violations. However, the data in our third report demonstrated that the Constitutional Committee embodies the spirit of moving towards a sustainable, peaceful future. Moreover, it reflects the views of Syrian respondents on how the constitution-building process can address consequences of the war by initiating or encouraging a transitional period in Syria.

The mechanisms implemented and topics dealt with during an early post-conflict situation are often referred to as transitional justice, representing actions that start dealing with the consequences of mass scale human rights violations. Even though such mechanisms are discussed throughout all five reports, this report highlights some that are significant transitional justice mechanisms.

The Constitutional Committee can be seen as a transitional body, as it symbolizes a break from the violence and conflict of the last decade. Many of our respondents felt it necessary for there to be an interim governance body as well as a committee and/or courts dealing with the consequences of the conflict and the needs of the victims. Our respondents reiterate this message by highlighting the importance of dealing with conflict related themes so that Syrian citizens will have access to justice, truth, reparations, and mechanisms which will prevent the recurrence of human rights violations.

With regards to the format of the constitution in relation to dealing with the consequences of the war, around 49% argued for a permanent version but with a type of annex that is valid throughout the transitional period. 20% argued for an interim constitution mainly dealing with conflict related issues, and a mere 6% voted for a permanent constitution that is not directly focused on dealing with the consequences of the conflict.

Report 4: “Governance and Judicial Systems and the Syrian Constitution”

A successful Syrian peace-building process requires mechanisms to bring the conflict to an end as well as mechanisms to ensure the conflict does not recur. Structural reforms written into a new or amended constitution are a vital tool for strengthening a country’s stability. Governance and judicial systems are the type of structures that often embody such reform. Therefore, this fourth report explores the possible systemic changes that can take place because of the new or amended Syrian constitution. Syrians from minority communities who feel unheard voiced their opinions on how they want governance and justice systems structured moving forward, what role religion will play in constitutional and legal systems, and how an independent and impartial judiciary should be organized and governed. Incorporating their insight on governance structures serves as a crucial step in creating a constitution established on the people’s consent.

Many of our respondents voted for a parliamentary governance system. Though a significant number of respondents believe in a decentralized or even a federal system, the perspectives were divided on to what extent this format should be implemented.

Similarly, the role religion plays in a constitution, as well as any state representative document or body, remains a divisive issue in both the global and Syrian context. Article 3 of the 2012 Syrian constitution stipulates that “the State shall respect all religions and ensure the freedom to perform all the rituals that do not prejudice public order; The personal status of religious communities shall be protected and respected.” While this article professes to protect citizens’ rights to practice their faiths, it also allows for the division of citizens into communities subject to different religious, sectarian, and legal systems.⁴ The religious rituals and norms that are protected under this article might be in conflict with other articles if they allow for discrimination and/or exclusion justified by religion.⁵

With regards to Islamic Law, only 12% of our respondents believe Islamic law should be a source of legislation and only 9.6% of our respondents think that Islamic law should be the main source of legislation. Many of the participants, 66.3%, believe that it is crucial for the

⁴ *Idem.*

⁵ The practices include mostly the arrangement of relation between men and women, such as marriage rights, child support and marriage dissolutions.

constitution to express its neutrality towards religion and affirm the equality of all Syrian citizens regardless of religion.

According to international guidelines establishing judicial independence and impartiality, the President should not have any major influence over the creation of judicial seats and the appointments of those who fill them. However, both historically and contemporarily in Syria, executive power dominates Constitutional Court appointments, giving the president the power to appoint judges. 34.9% of the participants believe that the articles in the constitution should be adapted to ensure the President of the Republic does not have the full authority of appointing the Syrian Supreme Constitutional Court (SCC) members and move into a system where only the Supreme Judicial Council has the power. Another significant group of respondents (25.3%), vouch for granting the appointment authority to multiple parties to be agreed upon and the share of each of those parties' names. Interestingly, a significant number of people testified to not knowing a sufficient solution, more than any other question in the survey.

Another aspect of the Syrian judicial system is related to the extraordinary courts⁶. The majority (54%) of our participants believe that the constitution should prohibit such extraordinary courts, whereas 32.5% believe that these courts should only be allowed under certain conditions that are outlined in the constitution.

The need for an independent judiciary in Syria remains of eminent importance. The inactivity of the SCC, and the extraordinary courts that undermine the value of legal professionals and a judiciary system are a danger to any future systemic change in Syria. The judicial appointment process determines who will interpret the constitution; therefore, a constitution not upheld by an independent and impartial judiciary can be dangerous. Furthermore, the participants highlighted the need for neutrality of the executive branch in the judiciary system as well as the need for increased public outreach with regards to the work and development of these systems. Finally, the space between the government and the people is large when it comes to such systemic topics, hence, the people should be better informed and included in any development of a governance and judicial system.

⁶ Special courts represent long lasting courts, such as military courts, and the exceptional courts represent temporary ones, such as terrorism courts.

Report 5: “Socio-Ecological Justice and the Syrian Constitution”

The increased understanding of the role of ecological factors, as well as the mass human rights violations that continue to take place, have increased the discussion on ecological and social justice in the context of a constitution. Our fifth report emphasizes the participants’ perspective on this issue. Our final report also includes individual views on the participation in the project.

Environmental Justice

The concept of “environmental justice” is defined as the role of nature and natural resources in relation to the livelihood of people. The notion of environmental justice in relation to the constitution gains importance when confronted by the (in)direct maltreatment of environmental resources in conflict zones. 71% of our participants agree that the new constitution should explicitly state that the state has the responsibility, and can therefore be held accountable, for managing natural resources and for making them accessible to all citizens in an equal manner. 12% of the participants opposed this view.

Social Justice

Another example that we discussed referred to access to healthcare. That a country has the means to supply all citizens with healthcare does not necessarily give all citizens access to them due, in large part, to economic inequality, poverty, geographic inaccessibility, lack of transport, and education. 84.3% of the participants agreed that the constitution should include the responsibility of the state to ensure the right to access healthcare and the means to prevent, receive treatment, and access medication. Not a single participant opposed this perspective and only a few left the question unanswered.

Participant Experiences

With regards to the experiences of the participants of joining the project “Syrian Voices for an Inclusive Constitution”, many expressed the importance of focusing on future generations, with one participant saying that “there needs to be a focus on future generations in terms of education, and [developing] talented people, for countries’ progress is measured by their culture and art”. Furthermore, the participants foresee obstacles when it comes to ensuring human rights, gender equality, and establishing a fruitful relationship with ethnic minorities to

be included in the constitution. Despite the challenges, they believe that these topics are crucial for the constitution-making process.

Finally, both at the start and at the end of the survey, the respondents were asked whether they felt represented by the Constitutional Committee. Interestingly, there was a shift. Whereas at first 65.1% did not feel that they were adequately represented by the Committee and only 28.9% did feel represented, at the end of the survey 49.4% did not feel represented and 33.7% did. This shift could be explained by arguing that the participants realized that some of their views are discussed and represented by the Committee after going through the survey.

Lessons Learned

One of the main take away points from the project *Syrian Voices for an Inclusive Constitution* is that the process of writing a new Syrian constitution, before even publishing a completed document, will be vital in both providing the opportunity for diverse groups across Syria to negotiate a path out of conflict and building the anticipated constitution's legitimacy among the people. The participants' interest in the committee members and their desire to share their beliefs, tells us that these conversations can build the peoples' faith in the Constitutional Committee, and consequently any constitution it writes.

Furthermore, the constitution, as both a symbol and a defining legal document, is the first step towards ensuring that the many different ethnicities and religious groups across Syria are protected and have a voice under the law. In other words, inclusivity is not a tokenization of diverse voices who share the same opinions, but rather a grassroots initiative which provides the platform for civilians from across Syria to voice their needs and aspirations for the new constitution. We must be wary of a professed inclusivity which includes representative faces in the constitution-building process but does not represent the will of the minorities they speak for. This superficial inclusivity will not only fail in its endeavor to write an inclusive constitution, but further disillusion minorities in Syria who already feel ignored and misrepresented from meaningfully engaging in the peace-building process.

Recommendations

Syrians for Truth and Justice believes that the creation of a new or amended inclusive Constitution for Syria is crucial for ensuring a peaceful future in which everyone is represented equally. The creation and development of the Constitutional Committee was a step in the direction of achieving this. However, the result from this project shows again that the constitution-making process does not remain unchallenged. To reach a truly inclusive constitution, both its process and its content must embody inclusivity.

This section highlights several recommendations derived from the five reports. Though we believe all the recommendations are equally important, we believe the recommendations below embody the foundation of an inclusive constitution-building process from beginning to end. They are based on the participants' perspectives and on the contributions of all other professionals to this project, both Constitutional Committee members and the academics that so generously shared their points of view with us.

STJ recommends that the Syrian government, the international community, and Syrian Constitutional Committee:

In the short term:

1. Continue to participate in or create consultations, thereby contributing to an inclusive constitution. These consultations should be inclusive, process oriented in nature, and accessible to all groups of Syrian citizens;
2. Take into account the criticism received after the 2012 amendments to the Syrian Constitution and actively avoid making the same mistakes on transparency and inclusivity;
3. Acknowledge and act upon the importance of youth as changemakers and place them at the forefront of the inclusive constitution building process.

During any interim actions:

1. Create an interim body (or multiple), that ensures accountability for all parties responsible for human rights violations, discovers the truth of what violations occurred over the past decade, provides reparations to those affected by the conflict, and implement structures and reforms that will prevent the country from relapsing into devastating war.

In the long term:

1. Maintain a diverse perspective when considering defining Syria's racial and religious identity;
2. Urge the actors involved to enhance the representation of different ethnic and social groups within Syria;
3. Focus on the importance of using gender neutral language in the constitution that is inclusive to all individuals, men and women;
4. Follow the international standards and norms that ensure a independent judiciary system in order to appoint judges and structure the Supreme Constitutional Court in a fair manner;
5. Implement a government structure with a more decentralized power format, one that reflects the will of the Syrian people.



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.