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An Analysis of Commonalities and Divergences of Syrian Constitutional Papers Since 2011

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1. Introduction: The Mechanism of Analysis

A few months into the popular movement in Syria, which began in March 2011, groups of Syrians began organising conferences and workshops which gave rise to papers laying out different visions for the country's constitution. Several civil and political movements emerged, moreover, which posited the fundamental principles which they believed should govern any new constitution of Syria.

In a previous paper, entitled *Syrian Visions: Mapping Syrian Constitutional Papers Since 2011*,¹ we presented these different constitutional documents, numbering 44 in total, a summary of which can be found in Table 1.

This paper shall attempt to analyse the commonalities, consensuses and divergences among this collection of documents, and identify the main gaps and constraints therein. The make-up of these different documents differs, however, as does the extent to which they examine the legal and technical details related to the writing of a constitution; while some concentrate on the general constitutional principles which should be taken into consideration for a future constitution, others present thorough, comprehensive proposals. As such, the research team has relied on a group of fundamental constitutional determinants which are usually examined in the drafting of a constitution in a post-conflict country, taking into consideration the uniqueness of Syria's context, and the various dynamics brought about by its conflict. These determinants are:

1. The nature of the state (the identity of the state, the form of governance, and the constitutional principles governing the three branches of power: the executive, the legislature, and the judiciary);
2. Issues related to transitional justice, and the constitutional measures to restrict violence and achieve justice for the victims of the war;
3. General rights, freedoms and duties, with a focus on women's rights within the constitution;
4. Constitutional principles, checks and controls for the security and military establishment;
5. The systems of governance in all their administrative levels;
6. The economy and development;
7. Proposed social, legal and rights-based bodies and committees.

¹ Turkmani, R. Saffour, H. (2019). *Syrian Visions: Mapping Syrian Constitutional Papers Since 2011*. LSE – Conflict Research Programme. Available at: <https://bit.ly/32QFB5N>

	Paper	Date of Publication	Source
1	The Vision of the Local Coordination Committees for the Political Future of Syria	2011/6/11	Local Coordination Committees
2	The Concluding Statement of the First Consultative Congress of Independent Opposition Figures	2011/6/27	The first Consultative Congress of independent opposition figures, held in Semiramis Hotel in Damascus
3	The Concluding Statement of the Consultative Congress called by the National Dialogue Committee	2011/7/12	The Consultative Congress called by the National Dialogue Committee in the Sahara Complex in Damascus
4	Charter for Dignity and Rights	2011/9/17	The National Coordination Body
5	The Kurdish National Congress' Paper	2011/10/26	Conference held in Qamishli
6	National Covenant for a New Syria	2011/11/5	The Syrian National Council
7	The Vision of the General Commission for the Revolution	2012/1/22	The General Commission for the Revolution
8	Document of Covenant and Charter	2012/3/25	The Muslim Brotherhood in Syria
9	The Political Vision and Founding Principles of the National Coalition for Syrian Revolutionary and Opposition Forces	2012/11/8	The National Coalition for Syrian Revolutionary and Opposition Forces
10	"Looking for a Democratic Constitution" Document	April 2013	Coalition of Syrian Women for Democracy
11	Interim Constitutional Declaration	2013/5/17	The Syrian Center for Legal Studies & Researches
12	The National Compact (The Cairo Documents)	2013/7/3	Opposition conference held under the auspices of the Arab League
13	Syria Transition Roadmap	2013/8/30	Syrian Center for Political and Strategic Studies

	Paper	Date of Publication	Source
14	Principles from the Draft Constitution Proposal	2013/12/8	A proposal presented by a member of the executive body of the National Coordination Body, Dr. Munzir Khaddam
15	The Vision of the Popular Front for Liberation and Change	2013/12/24	The Popular Front for Liberation and Change
16	The Social Contract Pact	2014/1/6	Democratic Self-Administration, Al-Jazire
17	Constitutional Principles from the Manifesto of the Syrian Republic Party	2014/4/1	The Syrian Republic Party
18	Fundamental Constitutional Principles	2014/6/14	The Center for Equal Citizenship
19	The Process of Building a Gender-Sensitive Constitution in Syria	November 2014	Syrian Women for Democracy, in partnership with the EuroMed Feminist Initiative
20	Basic Principles of the National Bloc League in Syria	2014/12/21	The National Bloc League in Syria
21	Principles of the Oslo Group for Dialogue in Syria	2015/3/19	The Oslo Group for Dialogue in Syria
22	Constitutional Principles from the TAMAS Conference	2015/11/20	The Civil Syrian Coalition
23	The Vision of a Group of Syrian Experts	2015/12/3	A group of Syrian experts
24	Declaration of Rights	2016	Kawakibi Organisation for Human Rights
25	Outcomes of the Conference “Building an Inclusive Gender-Sensitive Constitution: A Syrian Path Towards Democracy”	2016/3/1	Syrian Women for Democracy, in Partnership with the EuroMed Feminist Initiative
26	The Principles of the Citizenship and Affiliation Forum	2016/4/8	The Citizenship and Affiliation Forum Conference
27	A Vision of Transitional Constitutional Reforms	2016/4/10	The Nation Building Movement

	Paper	Date of Publication	Source
28	A Declaration of Constitutional Principles for the Transitional Period	2016/4/20	A Group of Civil Society Organisations
29	Principles Issued by the Civil Society Support Room	2016/4/27	The Civil Society Support Room in Geneva
30	Determinants of the Future Constitution of Syria	2016/5/28	Results of the conference “On the Determinants of the Future Constitution of Syria” in Vienna, on the invitation of the Organisation of Global Initiative for Peace
31	Syria’s Transition Governance & Constitutional Options	June 2016	Results of a Series of Workshops Organised by the Syrian Civil Coalition (TAMAS) in Partnership with the Carter Center
32	The Social Contract Document for the Democratic Federation of Rojava	2016/6/28	The conference of the Constituent Social Council of the Democratic Federation of Rojava
33	The Document of the Internal Opposition Delegation to Geneva	2016/9/7	The Internal Opposition Delegation to Geneva
34	The Constitutional Principles of the Al-Tadamon Party	2016/9/15	The Al-Tadamon Party
35	Executive Framework for a Political Solution	2016/9/20	The High Negotiations Commission
36	A Proposal for the Administration of the Kurdish Regions	2016/12/12	The Kurdish National Council
37	The Syrian Constitution Shall Be Written by Syrians	2017/2/1	Statement Issued by 40 Civil Society Organizations
38	Outcomes of the Constitution Workshop in Cairo	2017/3/18	Syria’s Tomorrow Movement
39	Principles Related to the Constitution Basket in the Geneva Negotiations	2017/5/12	The Kurdish National Council in Syria

	Paper	Date of Publication	Source
40	The Constitutional Proposal of the Liberal People party	2017/9/24	The Liberal People Party in Syria
41	Istanbul III Paper: 31 Principle Points for a Draft Constitution in Syria	2017/12/1	Dialogue Workshop of Various Syrian Opposition Groups in Istanbul
42	General Guidelines Representing the Spirit of the Constitution	2018/5/7	The Day After for the Support of Democratic Transition
43	The Bucharest Paper	2018/7/3	Results of Discussions from Opposition Working Groups
44	Towards an Engendered Democratic Syrian Constitution	2019/6/1	The Syrian Women's Political Movement

Table 1: The List of Syrian Statements and Papers Pertaining to the Constitution Published Since 2011

2. The Nature of the State

2.1 State Identity: Civil, Secular, Religious

- The papers that were studied concur on the nature of Syria as a free, independent state, sovereign over its entire territory, and focus on the unity and indivisible nature of the Syrian territory. There is a near total consensus, too, regarding the respect for ethnic, racial, religious and sectarian diversity in the country, and an emphasis on the respect for democratic principles. While none of the papers explicitly contradicts these principles, most of the papers simply give a broad indication as to the identity of the state, using general terms and expressions. Others, however, employ more detailed terms such as a 'secular state,' or a 'civil' or 'democratic' one, as shown in Table 2. Several papers use the term 'civil' or 'pluralistic' state, yet do not provide a clear, precise definition of these terms, nor what is intended by their use.

State Identity	Number of Papers	Percentage	Comments
A free, independent state	44	100%	
Syrian territorial integrity	44	100%	Some of the papers that were issued in the first few months after the start of the uprising in 2011

State Identity	Number of Papers	Percentage	Comments
			include indirect references to territorial integrity, with direct emphasis on this issue emerging later, chiefly after 2015.
Republic	15	34%	
Civic state/Dawla Madania	13	29.5%	
Democratic	33	75%	
A secular state, or the principle of separation between religion and the state	9	20.4%	
Pluralistic	14	31.8%	
Sunni Islam as the religion of the state	1	2.2%	From the constitutional proposal of the Liberal People Party

Table 2: State Identity According to the Studied Papers and Statements

- The majority of the papers do not touch upon the Syrian constitution's religious sources of legislation – one of the predominant controversial issues among the diverse Syrian political currents. They also refrain from identifying the religion of the state, with the exception of the Liberal People Party. Some of the papers, however, address this issue by indicating a number of sources of legislation and emphasising that 'Islamic and Christian law,² and the humanitarian and religious messages, are sources to inspire legislation,' as stated in the paper issued by The Day After for the Support of Democratic Transition. It is worth noting that only in two papers can clauses be found which pertain to a specific religious group; the Citizenship and Affiliation Forum calls for greater genuine representation of Christians in Syria, and the paper issued by the Liberal People Party in Syria stipulates that 'Sunni Islamic Law shall be the primary source for legislation,' while also calling for the President, the Prime Minister the Head of Parliament, and the Head of the Supreme Constitutional Court, to be Sunni Muslims. Meanwhile, the Syrian Women's Political Movement explicitly calls for religion not to be relied upon as one of the sources of legislation, particularly in relation to personal status laws.

² For example, see report *العلمانية المغنونة في سوريا*, Mohammad Dibo, published by the Awan website, 8/12/2018, available at the following link: <https://bit.ly/2mkLMvH>

- The term ‘civic state’ (Dawla Madania in Arabic) is used to denote two meanings: the first is a state in whose affairs the military forces do not interfere, and in which civilians are the holders of power; the second is a secular state, or a state whose religion is clearly separated from public affairs. Despite the fact that the constitutional papers are not to be considered a representative sample of all the societal forces in Syria, the mention of a ‘civic state’ in 13 of the 44 papers, and of a ‘secular state’ in five of them, and the reticence to link religious legislation to constitutional articles, could be a significant indicator of the wish among Syrians to avoid a revival of a military or religious state, and their pursuit of a state which is more open to its different religious, sectarian and doctrinal groups. It is important to note that while many papers do not employ the terms ‘secular’ or ‘civil’, the nature of the system of governance that many of these papers call for is indeed a secular one.

On the other hand, the demand in a number of the papers for a civic state, and the absence, among most, of details of the relationship between religious legislation and constitutional principles, could also be interpreted differently. It is perhaps a reflection of the desire to find a general Syrian consensus around the frameworks governing the Syrian state, to avoid controversial subjects which might prevent many Syrian entities from rallying round the constitutional proposal put forward, and to put these details on hold until such time as a practical mechanism for drafting the constitution has been found.

That most of the papers – 33 in total – call for a state which respects the principles of democracy or pluralism, is an indicator of the Syrian community’s appetite for genuine democratic transition in their country. This is, moreover, in accordance with the popular demands that were made during the peaceful period of the Syrian uprising.

2.2 The Form of Governance

- Discussion around the future form of governance in Syria occupies significant space in those papers which engage in a thorough examination of constitutional details. Meanwhile, those which focus on general principles simply comment on general rights and freedoms, and emphasise the principles of the transfer of power and the independence of the three powers, without expanding further on the desired forms of governance. Table 3 outlines most of the alternatives that were put forward regarding the form of governance in Syria.

The Form of the State	Number of Papers	Percentage
Parliamentary republic	4	9%
Mixed/semi-presidential/parliamentary-presidential	5	11%
Federal state	3	6.8%
Democratic federalism	1	2.2%
Parliamentary by two chambers – a chamber representative of the demographic forces, guaranteeing the inclusion of all minorities,	1	2.2%

and a chamber representative of the regions and states.		
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Table 3: The Forms of State Identified by the Studied Papers and Statements

- Table 3 sheds light on the divergent opinions that surround this issue, and the clear departure of the majority of papers which address this issue from the presidential republic system. We could interpret this as a response to the absolute presidential system currently prevailing in Syria, which gives the President near-absolute powers over all apparatus of the state. There is, accordingly, a reluctance to revive the ‘one-man system’ or ‘one-party system’ in the post-conflict period. As such, many papers put forward proposals to curb the tyranny of power, including reducing the powers of the President and the executive, and widening the margin of political participation through Parliament.
- In the papers published by Kurdish-Syrian entities, we find that there is a clearer shift towards a parliamentary system within a federal state, which includes a significant margin for self-governance in the Kurdish-majority areas. It should be noted that these papers contain more detailed constitutional clauses and articles, presenting comprehensive visions of the constitution, the state, and its powers, laws and legislation. We can interpret this distinction thusly:
 - Given the clear side-lining of several Kurdish political entities from the UN-backed political negotiations process, including the constitutional process, which has already been determined in the form of the Syrian Constitutional Committee, many of these entities considered that presenting a detailed constitutional proposal, clarifying their proclivities and aspirations for the future, could compensate to some extent for their exclusion from the actual negotiating table, and could guarantee at the very minimum that their rights and demands remain heard in the political process.
 - The long history of the marginalisation of the Syrian Kurds’ constitutional and legal rights, particularly since the Ba’ath state took power in Syria in 1963, have made it necessary to demand unequivocal constitutional guarantees, which ensure the rights of Syrian Kurds and restrict discriminatory practices wrought by the successive governing powers in Syria.
 - Several Kurdish entities are looking to protect and preserve the administrative and governmental gains that they have obtained over the last few years, particularly in the areas of Syrian Democratic Council (SDC) and Democratic Union Party (PYD) control in North-East Syria.

2.3 Constitutional Principles

Despite the amendments that were introduced into the 2012 constitution in Syria, such as the rescinding of Article Eight which was included in the 1973 constitution and which stipulated that ‘Syria’s Arab Socialist Ba’ath Party is the leading party in state and society,’ and despite the issuance of a Parties Law and an amendment to the General Elections Law, to widen the margin of political participation in Syria, the current constitution continues to give the President absolute authority over all the branches of power and governmental institutions. For the President wields executive power through the Cabinet,³

³ Article 83: The President of the Republic and the Prime Minister exercise executive authority on behalf of the people within the limits provided for in the constitution.

while his powers also include the appointment of the Prime Minister and his deputies, the appointment of the ministers and their deputies, and the approval of their resignations and their dismissals from office.⁴ Furthermore, he sets the general policy of the state and oversees its execution in a meeting with the Cabinet over which he presides.⁵ The President is, moreover, the commander-in-chief of the Syrian army and the armed forces.⁶

Further to this, it is the President who calls Parliament to session, who issues the laws that are approved by Parliament, and who is also entitled to oppose them with a justified decision.⁷ He is also able to dissolve Parliament with a justified decision,⁸ and can consider draft laws and transfer them to Parliament to consider them for approval.⁹ He also has the authority to legislate outside the convening of Parliament, or during its session, if necessary. Finally, the President is the head of the Supreme Judicial Council,¹⁰ and appoints the seven members of the Constitutional Court.¹¹

That all of these powers are concentrated in the hands of the President precludes any checks on the legality of the decisions he issues. It was this, and more besides, which pushed the Syrian constitutional papers included in our study to move towards a total separation of the three powers, with an emphasis on the necessity of the total independence of the judiciary. All the papers, even those which discuss general principles, make reference to the necessity of the separation and independence of the three powers, and the reduction of the powers afforded to the executive. A number of these papers conclude that the best guarantee for this separation lies in the move towards a parliamentary system which would prevent the revival of a highly-centralised, autocratic governing power not subject to any kind of effective oversight.

Likewise, the constitutional papers examine, besides the separation of powers and the independence of the judiciary, five additional principles pertaining to the nature of the Syrian state, as shown in Table 4. These principles are: equal citizenship, the rule of law, the transfer of power, the protection of minorities and their rights; and the enshrinement of human rights.

Constitutional Principle	Number of Papers	Percentage
Separation of powers	26	59%
Independence of the judiciary	10	22.7%

⁴ Article 97: The President of the Republic shall name the Prime Minister, his deputies, ministers and their deputies, accept their resignation and dismiss them from office.

⁵ Article 98: In a meeting chaired by him, the President of the Republic lays down the general policy of the state and oversees its implementation.

⁶ Article 105: The President of the Republic is the Commander in Chief of the army and armed forces; and he issues all the decisions necessary to exercise this authority. He might delegate some of these authorities.

⁷ Article 100: The President of the Republic shall pass the laws approved by the People's Assembly. He might also reject them through a justified decision within one month of these laws being received by the Presidency. If they are approved a second time by the People's Assembly with a two thirds majority, they shall be passed by the President of the Republic.

⁸ Article 111: The President of the Republic might decide to dissolve the People's Assembly in a justified decision he makes.

⁹ Article 112: The President of the Republic might prepare draft laws and refer them to the People's Assembly to consider them for approval.

¹⁰ Article 133: The Supreme Judicial Council is headed by the President of the Republic; and the law states the way it shall be formed, its mandate and its rules of procedures

¹¹ Article 141: The Supreme Constitutional Court consists of at least seven members, one of them shall be named president in a decree passed by the President of the Republic

Constitutional Principle	Number of Papers	Percentage
Equal citizenship	18	40.9%
Rule of law	15	34%
Transfer of power	11	25%
Protection of minorities and their rights	3	6.8%
Enshrinement of human rights	20	40.5%

Table 4: Constitutional Principles

From the above table, we can note the following:

- While the majority of papers agree on the respect of human rights principles, there is thereafter some degree of divergence; some of the papers use human rights as a reference point, while others call for its adoption as one of the sources of writing the constitution, with still others referring to human rights more loosely. Below are some examples:
 - ‘The State undertakes to respect international conventions regarding Human Rights, and social and economic rights, and to guarantee that each citizen or resident can exercise his/her rights.’ (The National Coordination Body, 2011).
 - ‘Syria shall guarantee for its citizens that which is enshrined in international human rights law, and fundamental freedoms including the freedom of belief, opinion, expression, assembly and the media, among others.’ (The Syrian National Council, 2011).
 - ‘The Syrian Republic shall respect the rule of law, democracy, and human rights principles as represented by the Universal Declaration, international law and its treaties. No law or legislation may be passed which violates these principles’ (The Syrian Center for Legal Studies & Researches, 2013).
 - ‘Commitment to the Convention on the Elimination of all Forms of Discrimination Against Women, and lifting Syria’s reservations to clauses of this Convention’ (The Syrian Republic Party, 2014).
 - ‘The protection of the rights of the most marginalised groups, women and young people’ (The Nation Building Movement, 2016).
 - ‘Respect for fundamental rights as stipulated in the Universal Declaration of Human Rights’ (The Social Contract Document for the Democratic Federation of Rojava, 2016).
 - ‘The Kurdish National Council is aware that the legal anchoring of the minority rights chartered by the UN (UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities) are a basic prerequisite for depriving ethnical discrimination of its foundation.’ (The Kurdish National Council, 2017)

- A number of the papers state, either in general terms or with greater detail, the importance of the independence of the judiciary, as a direct result of the application of the principle of the

separation of powers. For the Syrian President is the head of the country's Supreme Judicial Council, issues laws, as the president within a presidential system, and is, by the very nature of the position, the head of the executive. The three powers – the legislature, executive and judiciary – thereby come together in the hands of the President, something which is incompatible with the principle of the independence of the judiciary and the separation of powers.

- The rule of law and equal citizenship are, according to the constitutional papers, fundamental principles for Syrians and their future. They also state the necessity of the transfer of power, emphasising it as a fundamental requirement for country's future. It is apparent that there is a large sector of Syrians trying to achieve a democratic political life in which power is transferred between different members of Syrian society, through parties, elections and the competition over political, economic and social programmes which would serve Syrians and their future. To give some examples:
 - The Syrian National Council's paper says that, 'Syria shall be a civil, democratic, pluralistic state, whose system shall be presidential/parliamentary, whose sovereignty shall belong to the people, and which shall be based on the principle of equal citizenship, the separation of powers, the rule of law, and the protection of minorities and the guarantee of their rights.'
 - . ' The vision of the General Commission for the Syrian Revolution, meanwhile, includes the following: 'Transfer of power and the separation of powers is an established, basic principle among the constitutionally-guaranteed principles of the state, which shall not be lessened under any circumstance, regardless of shifts in the majorities and minorities within the legislative and the executive apparatus.' The document by the Coalition of Syrian Women for Democracy, meanwhile, says, 'Syria is an independent democratic and civil Republic governed by the rule of law on the bases of separation of powers into the legislative, executive and judicial and on the principle of rotation of powers.' The Document of Covenant and Charter issued by the Muslim Brotherhood in Syria, for its part, states that Syria is, 'A democratic pluralistic deliberative country according to the finest modern thoughts of humanity; a representative republic, in which people choose those who govern and represent through the ballot box, in an impartial free transparent election.'
- Some constitutional papers refer to the principle of protecting minorities, in order to redress the deficiencies that have prevailed in the country, and to guarantee that no future system may exploit or control minorities or prevent them from accessing their rights. This guarantee, moreover, would contribute to Syrian societal stability, give protection and reassurance to minorities, and ensure that their presence is respected, that their rights are preserved and that they are represented, the fundamental safeguard for this being the Syrian constitution and its articles. To give some examples:

From the Kurdish National Congress (2011): '[it is necessary to] guarantee the freedom of religion and the practice of religious ceremonies, and respect and protect them within the constitution', and this paper also talks about the necessity of ensuring national rights for Syrians, Chaldeans, Assyrians and other minorities. Then from the Principles of the Kurdish National Council: 'The Kurdish National Council is aware that the legal anchoring of the minority rights chartered by the UN (UN Declaration on the Rights of Persons Belonging to

National or Ethnic, Religious and Linguistic Minorities) are a basic prerequisite for depriving ethnic discrimination of its foundation.’ And in the Istanbul III Paper: 31 Points for a Draft Constitution in Syria (2017): ‘Syria respects, protects, and fulfils internationally recognized human rights and minority rights.’

It could be the case that equal citizenship, which is put forward in the constitutional papers as one of the fundamental principles for drafting any future Syrian constitution, takes shape as a safeguard for the rights of minorities. For this kind of citizenship is the foundation for a rights-based system which preserves the rights of all, and makes them equal in rights and duties, in the state and in institutions. This equality, in turn, is based on a Syrian national identity, human dignity, and the respect for an enshrinement of human rights, and it therefore protects them from any violation of this rights system and preserves rights even given religious, doctrinal, racial or intellectual differences, among others.

3. Issues Related to Transitional Justice

Transitional justice, and the compensation of victims and those who have been harmed in recent decades, are perhaps among the most significant issues that must be addressed in the securing of Syria’s future. This significance has increased still further with the spread of war over the last few years, the growing numbers of killed, imprisoned, missing and forced disappeared, and the intensification of political, religious and sectarian polarisation. Judicial accountability of the perpetrators, reparations policies, compensation for victims and the families of victims, and reconciliation between communities, have surfaced as widespread popular demands, and as a major trajectory for several rights-based civil society organisations which have emerged since 2011.

This interest in transitional justice is not, however, reflected in the Syrian constitutional papers and proposals (see Table 5); only six papers of the sample studied examine the legal policies and measures which have to be addressed during the period of political transition. Moreover, among these papers, the extent to which the legal details are addressed also varies, with some papers, such as that published by the Syrian Center for Legal Studies & Researches, presenting a comprehensive vision of the judicial and legal bodies and mechanisms, and the social policies that would have to be applied during the political transition period. Other papers that took on this topic, meanwhile, simply highlight the general and fundamental principles, and legal determinants, needed to achieve justice for victims and hold to account those who have committed war crimes and crimes against humanity.

Overall, 86% of the papers do not engage with the topic of transitional justice at all, a percentage which is both high and concerning. While we might be able explain the absence of transitional justice from the papers that were published in the first few years of the Syrian conflict, whose primary aim was to present overarching principles focusing mainly on the nature of the state, rights and freedoms, without entering into technical and legal details, the same cannot be said for the absence of this crucial issue from the papers that were published during the last few years.

Treatment of Transitional Justice	Number of Papers	Percentage
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No reference to transitional justice	38	86.3%
Reference to one of the transitional justice measures	2	4.5%
General reference to the necessity of a path to transitional justice	3	6.8%
Presentation of mechanisms for the transitional justice period	1	2.2%

Table 5: Transitional Justice

As for the constitutional papers which do reference transitional justice, further details can be found in Table 6 below:

Name of Paper	Date	Proposal	Reference
The Vision of the Local Coordination Committees	2011	This paper presents the need for justice and tolerance, without vigilantism or retribution, as the two guiding principles that should address any rivalry, and accountability as an overriding principle, with no exceptions. It thus alludes to transitional justice measures without making direct mention to what these would be.	Social forces calling for change from inside Syria
The Political Vision of the National Coalition	2012	This paper confirms the need for accountability and the lack of impunity, alluding to transitional justice measures without giving them direct mention.	The Syrian National Coalition
The Syrian Center for Legal Studies & Researches	2013	This paper puts forward mechanisms for a transitional period, directly referencing specific transitional justice mechanisms. It proposes a Committee for Transitional Justice, specifying its establishment, appointment, duties and outcomes, according to the scope of its powers.	Research Centre

Name of Paper	Date	Proposal	Reference
The Bill of Rights issued by the Kawakibi Organisation for Human Rights	2016	This paper states the necessity of Syria entering a period of transitional justice.	Civil Society
The principles laid out in the 'Executive Framework for a Political Solution' issued by the High Negotiations Commission	2016	This paper states the need to begin a transitional justice process, with certain mechanisms specified, such as accountability, transparency, fairness and equitable recourse.	Civil Society
'The Syrian Constitution Shall Be Written by Syrians' – a statement issued by 40 Civil Society Organizations	2017	This paper calls for the launch of an integrated path for transitional justice based on the truth, accountability, fairness and reparations in order to protect national unity, prevent revenge, and establish durable societal peace.	Civil Society

Table 6: Proposals for Transitional Justice in Syria

We can see from this table that there are three approaches to the issue of transitional justice:

- 1) One of the measures pertaining to transitional justice is referenced, such as that which is found in The Vision of the Local Coordination Committees (2011), which makes reference to the principle of accountability with no exceptions. The Political Vision and Founding Principles of the Syrian National Coalition (2012), likewise, states the following: 'lack of impunity ... is a comprehensive principle which allows for no exceptions.'
- 2) The need to pursue a process of transitional justice is alluded to in general terms, without specifying mechanisms for this process. An example of this is found in the paper issued by the Kawakibi Organisation for Human Rights, entitled the Bill of Rights, which mentions near the end of the paper that Syria must enter into a period of transitional justice following its armed conflict. Meanwhile, among the principles found in the Executive Framework for a Political Solution, issued by the High Negotiations Committee (2016), it is mentioned that it is necessary to 'achieve civil peace and national reconciliation, and deter vigilantism and retribution through constitutional and legal controls to be implemented by institutions which adopt uniform, clear and effective mechanisms of accountability and transparency. Furthermore, achieve transitional justice through fairness and equitable recourse. All cases of naturalization initiated since March 2011 (except for the naturalization of Kurdish citizens) shall be deemed void and so too will cases of land and property acquisition made to non-Syrians since that date'. Further still, the statement entitled The Syrian Constitution Shall Be Written by Syrians, issued by 40 civil society organizations, stipulates the launch of an integrated path for transitional justice based on the truth, accountability and fairness.

3) The need for a transitional justice process, and detailed legal and judicial mechanisms for its implementation, is referenced. Among the most important of these papers in this regard is that published by the Syrian Center for Legal Studies & Researches (2013), which proposes the formation of a Committee for Transitional Justice, which would have its own rules of procedure and modes of operating, and whose duties are laid out as follows:

- Releasing all detainees, searching for missing persons and settling the legal affairs of the victims.
- Pursuing the consolidation and strengthening of civil peace, conducting national reconciliation, spreading awareness on the creation of regional committees for reconciliations and the use of all types of media, workshops and public assemblies.
- Establishing a central court and branch courts to put on trial those responsible for war crimes, crimes against humanity or serious violations of human rights, with the guarantee of all the conditions of a fair trial.
- Conducting a civil census for all material and physical damage and the creation and management of a compensation fund financed by the state budget, donations, grants, and local, Arab and international aid, with priority given to families of victims and the injured, and the securing of alternative housing to those whose homes were destroyed.
- Establishing a special committee in order to document all the periods that the country lived through and to immortalise the memory of those who gave their lives and wealth for the future of the nation, and to include them in the school curriculum as an example to be emulated, as a beacon of light, and to be remembered always.

The lack of encouragement by the international community for Syria to undergo an integrated transitional justice process has led to the absence of this issue from the Syrian papers that were issued under international auspices. They were affected by political pressures of the international community to push for a political solution, without addressing the importance of transitional justice processes.

Likewise, there is an absence among the papers published by Kurdish political entities of an examination of transitional justice. This is a result of their focus on the injustices that the Kurds have been subject to in Syria, having suffered decades of oppression and the removal of rights.

The majority of that which relates to transitional justice can instead be found in papers written by research centres, civil society organisations and opposition-affiliated movements.

It should be noted, finally, that the voices calling for transitional justice are both loudest and clearest when discussing a rights-based and legal solution for the Syrian issue. These calls subside when discussion turns to a political settlement, something which is often considered a circumvention, leaving the country vulnerable to a resumption of war at any moment.

4. General Rights, Freedoms and Duties

There is no doubt that the totalitarian and securitised nature of the Syrian governing system, the resulting restriction in the scope of freedoms, and the total monopolisation of the public sphere in the interests of Ba'ath Party institutions, and their local allies and middlemen, were the main motivators behind the popular protest movement in the country. This is demonstrated in the papers studied, which place an emphasis on the principles of equal citizenship; the widening of the space for general rights and their

protection; the protection of ethnic, sectarian and religious diversity in the country; the eradication of all forms of discrimination; the emphasis on the respect of the dignity of citizens; and the adherence to human rights laws. The most significant rights, principles and constitutional determinants put forward are summarised below:

- Full equality between men and women in all rights, duties, employment and application of the law;
- Equal citizenship, regardless of religion, sect, sex, race, political views, language, national group, ethnicity, disability, reproductive roles or wealth;
- Commitment to international conventions and agreements, and working to enshrine them in national legislation;
- Respecting and protecting the diversity, particularities, cultural rights and beliefs of all members of the Syrian people, and securing national rights for Kurds, Syrians, Assyrians, Circassians, Armenians and Turkmens;
- Guaranteeing full rights for women, and their active participation in political life and all other areas.

Aside from the abovementioned general principles and determinants, some of the papers put forward more details proposals and policies which can be summarised in the below points:

- The right to form organisations, unions, and political parties, and prohibiting the authorities from interfering therein (the National Coordination Body, 2011);
- Abolishing state security courts, the special and exceptional courts and limiting military courts to the trial of military personnel, and reviewing the penal code and the categories of political crimes, and the passing of laws recognising human rights principles (the National Coalition for Syrian Revolutionary and Opposition Forces, 2012);
- Prohibiting arbitrary arrests, restricting arrests by the public prosecution to those that are have a reasonable basis, outlawing physical and psychological torture, and having direct judicial supervision over investigation procedures;
- Passing media laws guaranteeing freedom of expression, and a new personal status law guaranteeing equality between men and women including the woman's right to pass on her nationality (the Popular Front for Liberation and Change, 2013);
- Committing to the Convention on the Elimination of All Forms of Discrimination Against Women, and rescinding all legal reservations previously made to this convention (the Syrian Republic Party, 2014);
- Protecting the most vulnerable people, women and youth (the National Building Movement, 2016);
- Ensuring food security, shelter, employment and welfare (TAMAS and Carter Center, 2017);
- Constitutional protection for the national rights of the Kurdish people, and finding a fair, democratic solution within the framework of the unity of Syrian land and people (the Syrian National Council, 2011);
- The right to access information and the freedom of scientific research (Oslo Group for Dialogue in Syria, 2015).

4.1 Principles Related to Women's Rights

The majority of the constitutional papers strove to demonstrate significant awareness of, and engage closely with, Syrian women and women's rights, particularly in light of the considerable aspirations for the consolidation of women's rights in society, and the enormous hardships they have faced throughout the war. Within this context, we can note the following:

- All the constitutional papers and principles call for equal citizenship between women and men, with all gender-based discrimination prohibited.
- While some of the papers include more general demands for women's rights, there is a shift in many others towards a more detailed examination of the nature of women's rights being called for. Some papers stipulate equality between men and women in society-building, and in building the political, social and economic system, while others push back against the discrimination in existing policies, or the discrimination in the application of public policies, and call, for example, for a legal climate which guarantees women's rights and equality, the equality of opportunity, and women's attainment of all freedoms.
- Some papers look to mechanisms which would champion women and ensure their representation, specifying a representation of no less than 30% in decision-making positions, and noting the importance of female empowerment in the pursuit of equal representation.
- Female empowerment is also underscored in the attempt to ensure women are able work in all executive, legislative and judicial fields and bodies, as is the demand to remove all restrictions which would prevent such empowerment.
- Several papers demand that women have the right to grant their nationality to their spouses and children.
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- On a legal level, among the most significant demands is the application of CEDAW, the Convention for the Elimination of All Forms of Discrimination Against Women, in Syria, along with a new personal status law which would guarantee equality between men and women.
- The constitutional papers also call for governments to strengthen the culture of equality in society, and non-discrimination in public policies.
- There is also a reference to the need for female participation in the drafting and application of peace accords, a field where representation is low.
- Some of the papers with a religious background, such as the Document of Covenant and Charter of the Muslim Brotherhood in Syria, place an emphasis on the equality between men and women, in dignity and aptitude, and women's enjoyment of full rights.

Below are some examples from the constitutional papers of the shift from broad demands to more specific demands with regards to women's rights:

- 'The constitution shall guarantee the eradication of all kinds of discrimination against women, and shall seek to create a legislative and legal climate that secures their political, economic and social empowerment in accordance with all relevant international conventions and as is in keeping with societal culture.' (The Cairo Documents, 2013).
- 'The people of Syria recognize the equal worth of women and men in their rights to fully participate, and freely determine and build a political, economic and social system of their own free choice ... Syrian governments enhance culture of equality and non-discrimination reflected in government public policies' (Coalition of Syrian Women for Democracy, 2014).

- 'The representation of women in all designated bodies shall be no less than 30%, with the aim of achieving equity, and their right to grant nationality to their husbands and children shall be guaranteed.' (Determinants of the Future Constitution of Syria, 2016).
- 'The drafting of a new [personal status] law ensuring real equality between men and women (including the right of women to grant nationality to their children)' (the Popular Front for Liberation and Change, 2013).
- 'Women and men are equal in dignity and aptitude, and women shall enjoy their full rights.' (Charter of the Muslim Brotherhood in Syria, 2012).

4.2 Matters Related to the Kurdish Issue

Among the greatest challenges facing those charged with writing the future Syrian constitution, and among the most significant in the face of the country's democratic transition, is how to engage with the Kurdish issue. This is particularly the case given the lack of a suitable climate for Syrians to engage in dialogue, discuss the Kurdish issue, and put forward visions for a nation-wide solution, and there are clear divergences between the various Syrian-Kurdish currents in how to approach the issue on a national, regional, and international level. Complicating matters still further is the exploitation by a number of regional states, those with influence in the Syrian sphere, of the Kurdish issue, their fuelling at times of Kurdish-Kurdish disputes, and the increased Arab-Kurdish polarisation in relation to the Kurdish issue.

In Constitutional Papers by Kurdish bodies

The constitutional papers published by Kurdish-Syrian entities present a number of proposals and ways in which to approach the Kurdish issue. Among the most significant are listed below.

- There is an emphasis on the freedom of religion and the rights of the different linguistic groups, and their recognition as an integral component in the Syrian national fabric; and on national rights for all ethnicities, including the Kurds, Syrians, Chaldeans, Assyrians, Circassians, Armenians and Turkmens.
- There is a consensus among the papers issued by Syrian-Kurdish entities regarding the need to commit to the international human rights conventions and treaties, and to consider them an essential reference for the constitution.
- The majority of the papers call for an official recognition of the Kurdish ethnicity as an integral ethnic group in Syria, for the recognition of Kurds as the second largest ethnic group in Syria, and for a future constitution which guarantees their protection, and the protection of their culture and identity.
- It is emphasised that the Syrian-Kurdish issue may only be addressed within a genuinely democratic climate, which guarantees the rights of equal citizenship for all Syrian societal groups.
- Some of the papers issued by Kurdish political entities focus on the geographic spread of the Syrian Kurds, particularly in the north-east of the country, without addressing the general rights and freedoms in the rest of the country. For example, The Social Contract Pact for Democratic Self-Administration (2014) specifies its scope in Al-Jazire, Kobani and Afrin, and specifies the authorities, councils, and modes of governing in this region, as well as the principles that govern it.

Likewise, the Proposal for the Administration of the Kurdish Regions (2016) presents the fundamental rights in the Region, and its responsibilities, authorities, government, judiciary, and the powers of its Council and its president.

The Draft Social Contract Document for the Democratic Federation of Rojava, Northern Syria (2016), likewise specifies in its Preamble the peoples of Rojava present in the area, and considers Syria to be a federal state; it also specifies the languages and principles that govern the area without addressing the other regions and that which relates to them, nor the principles that govern them.

- Some of the papers use the term ‘the Kurdish people’ as an integral component of ‘the Syrian peoples,’ and demand that the Kurdish people’s right to self-determination should be a guaranteed right in any future constitution of the country.
- Some papers call for the equal participation in the state and its institutions for all ethnic groups within a parliamentary system which takes into account the proportional distribution of Syrian ethnic groups.
- As mentioned above, the constitutional papers issued by various Kurdish groups are more detailed in their desired constitutional clauses and articles. Most of these papers, moreover, link the Kurdish issue to those of federalism, decentralisation and local governance, as one of the potential solutions which would guarantee the rights of Syrian Kurds. There is a disparity in the extent of the ‘federalisation’ of the state from one group to the next, with some papers calling for a federal state based on regions and areas. We will look more closely at the governance proposals put forward in the section on Decentralisation and Systems of Governance.

In Constitutional Papers by non-Kurdish bodies:

The rights of the Kurdish people, and the widening of their participation in public life, are addressed in some papers published by non-Kurdish entities, while others simply emphasise equal citizenship for all Syrian societal groups as a guarantee of achieving fairness and equal representation of all Syrians, without indicating a specific ethnic group. Among the most important shared determinants between these papers relating to the Kurdish issue are as follows:

- The creation of specific constitutional guarantees to ensure the national and ethnic rights of Kurdish Syrians in a democratic transition period, ensuring the unity of the Syrian people and territory (Syrian National Council, 2011). Moreover, the necessity of a constitutional recognition of the Kurdish ethnicity as an integral ethnic group in Syria; a guarantee of their protection and identity; the consideration of Kurds as an integral part of the Syrian nation; and the guarantee of the same rights for the other ethnic groups considered part of Syrian society (The Cairo Documents, 2013).
- The elimination of the legacy of tyranny and discrimination against the Kurds and other groups, through clear mechanisms for transitional justice and equal citizenship (Local Coordination Committees, 2011).
- Granting the right to self-determination to ethnic, religious and linguistic groups (The Istanbul Paper for a Draft Constitution in Syria, 2017).

5. Constitutional Issues Related to the Security and Military Establishment

Significant space in the constitutional papers is given over to clauses related to the creation of constitutional controls governing the functioning of security and military establishment. This is an attempt to curb the possibility of re-producing a military/security-based political system like the Ba'ath system of rule. The clauses relating to the security and military establishment can be summarised as follows:

- There is an emphasis on the complete separation of the security and military establishment from political affairs, and the creation of mechanisms which protect general rights and freedoms from any intervention by these institutions. Moreover, it is highlighted that the duty of the military establishment is to protect the country from external threats, with no control over the internal affairs of the country. To give some examples from the texts:
 - ‘The Syrian army is the guarantor of national sovereignty, dignity and civil liberties. It is one of the pillars of the State and the crucible for national unity. It safeguards national security and constitutional principles but cannot interfere in the political aspects of the country.’ (National Coordination Body, 2011).
 - ‘The mission of the Syrian armed forces shall be limited exclusively to the defence of country ... and the protection of the borders ... in the face of any external aggression or threat.’ (General Commission of the Syrian Revolution, 2012).
 - ‘The military and security departments responsibility is protecting homeland and people not protecting authority and regime, and do not interfere in the political competition between parties and national groups.’ (Covenant and Charter of the Muslim Brotherhood in Syria, 2012).
 - ‘The army, including its officers and soldiers, shall remove itself from political and party work, and shall refrain from interfering in political affairs and the public sphere.’ (National Coalition for Syrian Revolutionary and Opposition Forces, 2012).
 - ‘The separation of the military, security and judicial institution from partisan action; this is the most important requirement for a political system that is based on party pluralism, and that which is attained by a peaceful transfer of power’ (Syrian Republic Party, 2014).
 - ‘The armed forces shall be the protectors of the nation, borders, sovereignty and the constitution, and they shall not interfere in politics’ (Internal Opposition Delegation to Geneva, 2016).
 - ‘Army personnel shall be forbidden from engaging in political work or membership in political parties and movements as long as they are in service.’ (High Negotiation Committee, 2016).
 - ‘It shall not be permitted for the army to interfere in political, party, sectarian, or racial affairs, or the internal affairs of the state, or in political, security, administrative, organisational, legislative and judicial affairs of the state, under any circumstance.’ (Liberal People Party in Syria, 2017).
- Subjecting security and military establishment to legal accountability by the independent judiciary and independent rights bodies is emphasised, as is the rule of law over all security institutions, their branches, and their apparatus. To give some examples from the texts:

- ‘The army and security forces [are subjected] to the elected civil authority. Persons working in the military or the security services are to be banned from work in the political sphere.’¹²
- ‘The military and security forces are completely subject to civilian authorities.’ (The Day After, 2018).
- ‘The security apparatus shall work under Syrian law and its jurisdiction.’ (The General Commission for Syrian Revolution, 2012).
- ‘Members of the security forces, the military, and the police ... shall be required to perform their functions and exercise their powers in the national interest, respecting the culture of accountability, human rights, and democratic principles.’ (TAMAS and Carter Center, 2017).
- ‘The establishment of effective administration, civilian oversight, and accountability systems for the security forces, including the non-state paramilitary forces, must be a high priority for the Transitional Governing Body...Civilian oversight bodies over the security forces and agencies shall have the capacity to exercise effective control over operations, budgets, funding, and expenditures.’ (TAMAS and Carter Center, 2017).
- A number of constitutional papers issued by different Kurdish entities put forward detailed visions related to reforming the security sector and re-structuring the military establishment. Many of these papers focus on the nature of the security and military system within Rojava, the Areas of Self-Administration. Below are some examples from the texts:
 - The Social Contract Pact for Democratic Self-Administration (2014) states the following: ‘The People’s Defence Units (YPG) shall be the only national institution responsible for defence and safety of the regions’ lands and their territorial sovereignty.... The issuing of orders to the YPG shall be entrusted to the YPG’s general leadership.’
 - The Proposal for the Administration of the Kurdish Regions (2016) presents the Peshmerga forces as the Region’s defence forces, with responsibility over the protection of its external borders. This paper also grants the President of the Region wide-reaching powers over these forces.
 - The Social Contract Document for Democratic Federation of Rojava (2016), put forward by the Syrian Democratic Council, states that the Syrian Democratic Forces (SDF) should be the only force charged with defending the Region, overseen by what is known as the Democratic Peoples’ Conference and the Defence Council.

6. Decentralisation and Systems of Governance

- Most of the papers and statements that were covered in the study consider the highly-centralised nature of the present regime, and the relationship between the various state apparatus and institutions with the capital in Damascus, to be a key obstacle in the face of any future political transition in the country. This is particularly given the various implications of the political and administrative centralisation of the Ba‘ath state, including: huge disparities in the economic and social development in Syria; the support of major city centres at the expense of rural areas; the prevention of genuine representation of the local communities; and the strengthening of networks of local middlemen who are inextricably linked to the central security apparatus. We

¹² The Syrian Constitution Shall Be Written by Syrians, Issued by 40 Syrian Civil Society Organisations

have, as such, found a clear consensus between all the different papers regarding the shift to a more decentralised administrative and political system, which grants the rural areas and localities wider-reaching powers over the management of their affairs.

- The definitions and determinants governing the desired form of decentralisation varies between the different papers. Some of these papers do no more than confirm their respect for the principles of decentralisation in any future constitution, and do not enter into technical and legal details thereof, nor do they specify the relationship between the localities and the central government. On the other hand, several papers, particularly those written by Kurdish political entities, address the subject of decentralisation and local administration in significant detail. While some propose a complete vision of a ‘federal state’ made up of a number of regions which enjoy self-administration to a great extent, others propose a ‘federal system’ as a governance system which ensures democracy and local representation.
- Despite the differences surrounding the level of decentralisation called for in a future Syria, there is a certain consensus among the papers which address decentralisation and local administration around the territorial integrity of Syria, the consideration of the Syrian state as one, indivisible country, which has sovereignty over its political borders, and the idea that true representation of the localities is not possible without a free and fair electoral system within a democratic climate which guarantees equal citizenship for all Syrians.
- In terms of other common points, particularly in papers issued by non-Kurdish actors, emphasis is placed primarily on ‘administrative decentralisation,’ without addressing the desired level of political or financial decentralisation. As an example, The Cairo Documents (2013) states: ‘The state shall adopt the principle of administrative decentralisation, whereby local services administration shall be based on representative executive institutions which manage citizen affairs and development in the provinces and districts, with the aim of achieving sustainable and balanced development.’ Further to this, the document issued by the Center for Equal Citizenship (2014) asserts that ‘the people are the holders of power, and they shall practise this power through elected councils, in free, fair and transparent elections, given they are the source of power, within the framework of expanded administrative decentralisation.’
- Likewise, some papers, such as the Nation Building Movement’s document (2016), call for a kind of administrative decentralisation which does not hinder the economic and political centralisation of the central government. The document calls for the creation of ‘fully-elected local councils, which would have wide-reaching powers and real potential to take on services and developmental demands of their regions, without its subordination with regard to sovereign matters and in the central government’s public policies being affected. These represent the common denominator for the participation of all the people across the country in key decision making for society as a whole. In this framework, the management of the state’s resources and economic planning is maintained centrally with a wide margin for local economic projects.’ The Executive Framework for a Political Solution, issued by the High Negotiations Commission (2016), meanwhile looks to the adoption of ‘principle of administrative decentralization in managing the country’s affairs, giving the people of each governorate and district a role in managing their local affairs: economic, communal, and daily life affairs in ways that do not adversely affect the unity of the country.’

- Moreover, Syrian-Kurdish currents and entities set out comprehensive arrangements for Syrian decentralisation, the relationship between the centre and the localities, and the distribution of powers and roles between them. The Social Contract Pact for Democratic Self-Administration (2016), states that ‘democratic self-administration in Syria [shall be] a part of future Syria that must be built on a system of political decentralisation, given that the federal state is the optimal political system for Syria, and shall organise, on this basis, the relationships between the Administration and the centre.’ Meanwhile, the paper entitled A Proposal for the Administration of the Kurdish Regions (2016) puts forward a wider vision for ‘the Region of Syrian Kurdistan,’ which it defines as ‘a geographically-connected political and legal unit within the Syrian state. It shall include the area that Kurds traditionally reside in. It shall be bordered by Turkey in the north and west, and by Iraq in the east.’ With regards to the powers of the Region and its relationship with the centre, it states: ‘Syrian Kurdistan shall be a Syrian Territory... which is part of the Syrian state... and shall be entrusted with all the rights and duties that do not fall within the specific, exclusive responsibilities of the whole state ... [It] shall be represented in all central state institutions ... The rights, commitments and lands of the Region, and its wealth, shall fall under the protection of the constitution. They may not be changed without the agreement of the Region ... The Regional Transitional Government shall agree with the Syrian Transitional Government on a temporary demarcation of the lands of the Region under the supervision of the international community. The primary standard for this temporary demarcation shall be those lands in which resides a Kurdish majority.’
- The papers that call for a ‘federal state’ are the Istanbul Paper (2017) and the Bucharest Paper (2018). These papers divide Syria into three basic levels: The national/federal level, the regional level, and the local level, with each level enjoying different powers. The national/federal level would be responsible primarily for the army, defence, the currency, nationality, the Penal Code, property laws, banking and stock exchange laws, and benchmarks for economic development social security. The regional level would have powers related to education, health, the police, and personal status, family and inheritance laws, as well as the planning of regional infrastructure and development and culture.

7. The Economy and Development

Syria has faced monetary, economic, political and social chaos and instability throughout the past nine years, with a stark absence of regular national economic policies. This is the result of multi-faceted, country-wide war, destruction and conflict, which has weakened the Syrian economy, left it vulnerable to collapse, and has produced policies which address the ongoing war, conflicts and interventions, rather than policies targeting economic development. More critical even than this is the war economy, which began to dominate the country as a result of the breakdown of security and stability. This has manifested itself in smuggling operations, drugs and weapons trade, the departure of a number of areas from the scope of economic growth, the expansion of foreign intervention, and the gradual growth of foreign control over the country’s vital facilities. It is this which has contributed to the departure of the Syrian economy from reformist forces, in the event that they had economic plans that would contribute to the process of economic positive transformation in order to start the process of development.

To return to the analysis of the constitutional papers and their engagement with the issue of economic development, we have found that they centre on three main axes closely related to economic development and the development of societal capital. These axes are as follows:

Constitutional guarantees:

Most of the papers that addressed topics related to economic development state that the Syrian state's natural resources are the national resources of all Syrians, and that they must not be politicised or used as pressure tools in the hands of power. They also state that public money and public property must be used solely in the interest of the Syrian people, taking into consideration the fair distribution of wealth, and the guarantee of free markets, investment and private property.

Economic and development policies

These are sketched out in the various papers and are presented a cornerstone in the path towards development. The most important of which are: the achievement of social justice and sustainable development on all levels; the development of social solidarity policies; the application of the principles of good governance; and the achievement of industrial, agricultural, service and touristic development.

Measures:

These are actions and steps which can be taken to achieve the proposed policies, and guarantee the creation of a fair tax system between the Syrian social strata, the fight against unemployment, the activation of scientific research, and literary, intellectual and artistic production, the care of the deprived and poorest areas, and the encouragement of local and national investment.

8. Proposed Social, Legal and Rights-Based Bodies and Committees

Many of the constitutional papers studied propose the establishment of specialised committees or bodies set up to address a specific problem, ensure a specific right, or confront some of the constitutional challenges of the future. These [proposed] committees and bodies tell us the inclinations of the constitutional papers at hand, their priorities, and their practical proposals for the country's political transition.

Below is a summary of the most significant bodies and committees, either temporary or permanent, which were proposed by the papers in the study, along with their powers and working mechanisms:

- The Concluding Statement of the First Consultative Congress of Independent Opposition Figures from 2011, which was the first opposition congress convened inside Syria following the start of the popular movement, includes a suggestion for an independent, credible investigation committee to investigate the killings of protestors and Syrian soldiers.
- In the paper presented by the Syrian Center for Legal Studies & Researches, three integrated bodies are proposed to govern a temporary transitional period or a period of transitional governance, until such time as the situation in the country has stabilised, and a permanent constitution, and parliamentary and presidential election measures, have been adopted. These three bodies are:
 1. **The Interim Government:** This government would run the country during the transitional period, and its formation would take into account the political, religious and sectarian diversity of the Syrian people. The maximum term of this government would be two years, and it would enjoy all executive powers in order to keep the affairs of the

state in motion and run them during the transitional period, and decisions would be taken by a two-thirds majority. Among its most significant duties would be the formation of the National Assembly to lay down a new constitution for the country; the holding of elections to decide the National Assembly delegates; the holding of local council elections for towns and cities; and holding a referendum on the constitution in a safe, fair and neutral climate.

2. **The National Assembly:** This would be made up of 120 members, and its task would be to set in place a new draft constitution for the country. The National Assembly would take decisions pertaining to the constitution by a three-quarters majority of its members, and its task should be completed within a maximum of one year. The National Assembly should be considered legally disbanded following the ratification of the constitution in a referendum, which would become valid from that date.
 3. **The Committee for Transitional Justice:** This would be made up of legal, judicial, social, economic and cultural figures, and its tasks would include the following:
 - Releasing all detainees, searching for missing persons and settling the legal affairs of the victims.
 - Pursuing the consolidation and strengthening of civil peace, conducting national reconciliation, spreading awareness on the creation of regional committees for reconciliations and the use of all types of media, workshops and public assemblies.
 - Establishing a central court and branch courts to put on trial those responsible for war crimes, crimes against humanity or serious violations of human rights, with the guarantee of all the conditions of a fair trial.
 - Conducting a civil census for all material and physical damage and the creation and management of a compensation fund financed by the state budget, donations, grants, and local, Arab and international aid, with priority given to families of victims and the injured, and the securing of alternative housing to those whose homes were destroyed.
 - Establishing a special committee in order to document all the periods that the country lived through and to immortalise the memory of those who gave their lives and wealth for the future of the nation, and to include them in the school curriculum as an example to be emulated, as a beacon of light, and to be remembered always.
- Meanwhile, the Popular Front for Liberation and Change (2013) proposes the creation of ‘a Senate, which shall be elected based on individual constituencies across the country ... which pursues a greater representation of families, sects, ethnicities, dignitaries, and leading societal figures, which increases the representation of the regions, and which is considered an opportunity and a platform to put forward, discuss, and resolve demands of the people, with participation between the Senate and Parliament.’
 - In their constitutional proposal, the Syrian Center for Political and Strategic Studies (2013) puts forward the creation of two bodies:
 1. A transitional government to manage ‘transitional period [which would] issue a supplemental constitutional declaration [to the 1950 Constitution] that clarifies the powers of this government, especially those regarding decrees and laws, the government’s tasks, working mechanisms, [and] formation criteria.’
 2. A constituent assembly responsible for legal and constitutional reform, and which lays down a new constitution.

- As for the Proposal for the Administration of the Kurdish Regions (2016) in Syria, it calls for the formation of a ‘Human Rights Committee’ which would be ‘an independent body in the Region, [which works] under the higher supervision of the Regional Council ... It shall monitor the execution of fundamental rights, receive lodged complaints, carry out investigations ... It shall be entitled to enter into [governmental] buildings ... [Its work] shall also include the area of the police and Regional defence forces ... Half of the members of the Committee should be Kurds and the other half should be from other groups.’
- The paper issued by the Kurdish National Council (2017), the Istanbul Paper (2017), and the Bucharest Paper (2018), all agree on the necessity of establishing ‘a constitutional court’ which ‘monitors human rights, the rights of all ethnic, religious, and linguistic groups, and the division of power and resources; it also protects the values of the constitution. The second chamber elects the judges with a two-third majority. An independent electoral commission prepares the election and receives the recommendations from the president, the first chamber, the regional governments, and the ethnic, religious, and linguistic groups, the parties, and the lower court.’
- Finally, it is important to note that paper published by The Syrian Women’s Political Movement (2019) is the only paper to address the Constitutional Committee being facilitated by the United Nations, given that this paper was published after work began on this committee. This paper indicates the necessity of ensuring the participation of women in the drafting of the constitution by seeing it and voting on it before it is issued. It also calls for the consideration of gender representation and female quotas in the formation of the Constitutional Committee, and specifies this quota at a minimum of 30% of the members of the Constitutional Committee, which will be tasked with discussing and drafting the constitution. It also calls for clear standards in the selection of the members nominated for the Constitutional Committee, given that the process of drafting a constitution is a technical one and is not of ‘apportionment based on political affiliations.’

9. Concluding remarks

Syrian political and civil organisations bodies have been coming forward with their visions, proposals and principles on the subject of Syria’s future constitution ever since the first few months of the country’s uprising. They have attempted, in doing so, to translate the wide-reaching and diverse popular demands of the country into a clear legal and constitutional framework. A reading and analysis of these papers has shown us that the commonalities and crossovers which exist between them are greater than their points of difference. Although a significant number of these papers put forward only general constitutional principles, without addressing the more detailed legal issues, we are still able to draw up an outline of the common points shared by the majority of the papers which we studied. These points can be summarised as follows:

- Syria shall be a united country, with sovereignty over its entire territory, and with a civil identity. It shall respect national, ethnic, religious, sectarian, cultural and political pluralism, and gender equality, within the framework of equal citizenship for all before the law, in accordance with human rights principles. It shall respect and guarantee the freedom of religion, religious practices, social traditions, and cultural and national rights of all its citizens.
- The state shall be based on the principle of the transfer of power, the rule of law, and the separation between the three main branches of power (the executive, the judiciary and the legislature),

ensuring the complete independence of the judiciary and its institutions, the most important being the Supreme Constitutional Court and the Supreme Judicial Council. Executive powers shall be diminished, and wider powers shall be given to the legislature and the judiciary, within a parliamentary or parliamentary/presidential (mixed) system.

- The security and military establishment shall be kept separate from political life and shall be subject to civilian oversight, in the aim of protecting the sphere of general rights and freedoms from the interference of the security and military.
- The state shall ensure the creation of a political, legal, and legislative climate which guarantees the active participation of women in all areas and all laws which discriminate against women shall be rescinded.
- There shall be greater decentralisation of the political and administrative system, giving wider-reaching powers to the localities in the management of their affairs.
- The state shall adopt balanced developmental policies with regard to all cities, areas and localities, taking into consideration a fair distribution of wealth and the guarantee of the freedom of markets, investment and private property.
- Those who committed war crimes and crimes against humanity must be held to account, and victims must be compensated according to clear, transparent mechanisms in which all citizens are treated equally.

One of the most evident gaps in the constitutional papers studied is the lack of clear definitions and determinants of a number of essential concepts such as decentralisation, transitional justice and state identity. These concepts are referred to in a general context in most papers, even in the most detailed ones, without explaining the mechanisms of their implementation and the ways to practically interpret them on the ground.

With regard to decentralisation, most papers which addressed this concept agreed on the need to apply some form of “administrative decentralization”. Some of these papers even emphasized on what has been termed “extended decentralisation”, without giving a clear definition of the powers to be transferred from the centre to localities and without describing the relationship between the central government and the local councils, whether at the provincial, city, village or town level. Even the constitutional papers issued by Kurdish political parties, which primarily dealt with the concept of “political decentralisation” in more details limited their definitions and determinants of political decentralization and the relationship with the centre to north-eastern Syria.

Moreover, the papers dealing with the elections focused mainly on the electoral processes and regulatory framework of the presidential elections, and then the legislative or parliamentary elections in fewer details, without any reference to local elections and their legal frameworks, which may play a key role in resolving local disputes and supporting the stability of the country in the post-conflict setting.

As we've mentioned earlier, transitional justice has started to appear in the Syrian constitutional papers which were issued after 2013, mainly as a result of increased levels of violence and the expansion of the geographical area affected by the conflict. However, most of the papers which dealt with transitional justice focused on the mechanisms of legal and criminal accountability for war crimes and human rights violations, with general and often transient references to reparation mechanisms for victims and their families.

As for the state's identity and its nature and reliance on religious laws, most papers avoided going into those details. General and abstract terms, that could be interpreted in more than one way, were presented, such as "civic state" or "pluralistic state". This ambiguity in giving a clear definition of the identity of the state may create more chaos and political and ideological polarization in the post-conflict phase, especially since these identifiers were presented by parties that differ profoundly from each other on political and ideological grounds, where each has its own vision and definition of a "civic state" and the relationship between its institutions and religious laws and values, such as Islamic law.

Finally, one of the issues we consider pivotal when it comes to constitutional reforms in post-conflict countries that have been absent from almost all of the studied papers are the political, social and economic rights of IDPs, refugees, forcibly displaced persons and returnees, and the necessary mechanisms for their protection, preservation of their rights and reintegration into the public space. In addition, there is no reference to post-conflict housing, land and property rights and their inevitable relation to reconstruction and damage compensation mechanisms.



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