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Between discriminatory law, patriarchal culture, and the exclusionary politics of the regime

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WOMEN'S INTERNATIONAL LEAGUE FOR
PEACE & FREEDOM





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and the exclusionary politics of the regime

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Between discriminatory law, patriarchal culture, and the exclusionary politics of the regime

“Citizenship means belonging to the land, and the rights resulting therefrom, such as education, health, expression of opinion, life, safety, the right to a nationality, along with political, civil, and social rights. These are conditions of citizenship.”

Woman participant in a consultative session in Idlib.

Citizenship is defined, in its simplest form, as the direct relationship between the state and citizens—female and male—in which the state guarantees them a set of rights and privileges, established by the constitution and regulated by laws. In return, citizenship requires a set of responsibilities within the limits of the laws applicable in a given state. Citizenship is conditional on three factors: 1) the right to acquire a nationality; 2) the rights and duties arising from the acquisition of nationality (equality before the law); and 3) participation in public life.

In Syria, obtaining Syrian citizenship did not automatically enable women (or some men) to gain access to all their rights, whether political, economic, cultural, or social. Many structural factors have contributed to preventing this, perhaps most prominent of which is the blatant legal discrimination against women. Syrian law abounds with many clauses that are discriminatory on a gender basis, be it the law denying Syrian women the right to grant citizenship to their children, personal status laws, property laws, the penal code, or others. This legal discrimination is thus one of the most prominent factors that has undermined, and continues to undermine, the status of women as active citizens in society, due to the forms of vulnerability that the law enshrines.

Therefore, in the transitional phase through which Syria is passing, and in order to ensure gender-sensitive transitional justice mechanisms, the concept and application of active citizenship for women (and men) must be placed within two contexts. The first is an understanding of the complex nature of this relationship between women as citizens and the state in the period leading up to 2011. The second requires a multi-faceted understanding which includes: 1) a gender analysis of women’s political and legal statuses, linked with the compounded forms of legal, administrative, and gender-based discrimination that women have suffered since 2011, especially in cases of asylum and displacement; and 2) an understanding of the nature and forms of “intermediation¹ in relation between the state and citizens,” whether old or new, that have come to govern the relationship between women and the state, and consequently women’s access to the full range of rights and social entitlements.²

1. Piper, Laurence, von Lieres Bettina, The crucial role of mediators in relations between states and citizens, <https://bit.ly/33OdyFx>, last accessed on April, 15, 2020

2. Social entitlements are the set of resources and services that governments should have binding obligations to provide to citizens namely the right to work, the right to earn a decent livelihood, the right to affordable health care and education for women and men and their families, and the right to social welfare benefits. To read more: Abou-Habib, L. (2011). The ‘right to have rights’: Active citizenship and gendered social entitlements in Egypt, Lebanon and Palestine. *Gender and Development*, 19(3), 441-454. Retrieved April 4, 2020, from www.jstor.org/stable/41306016

Such an intersectional analysis would contribute to identifying transitional justice mechanisms from a gender perspective, by monitoring and documenting the legal violations that affected women before and during the conflict. Subsequently, it could make for the application of mechanisms of reparations to address the grievances suffered by women. This is to be done through highlighting the forms of structural discrimination and its tools (political, security, patriarchal, sectarian, and economic) which establish unequitable status for women in regards to citizenship. Accordingly, gender-sensitive transitional justice mechanisms must expand the existing mechanisms for monitoring and documenting violations so that they are not limited to legal discrimination, but rather extend to the causes that contribute to it. Accordingly, these gender sensitive transitional justice mechanisms will, gradually and systematically, lay the foundations for the equal status of women as active citizens in society in political, societal, economic, and other terms.

In an effort to research the effects and consequences of systematic legal exclusion, social marginalization, and the regime's punitive practices (administrative, political, and security) in perpetuating women's vulnerability and promoting legal, and societal, exclusion of women, and the consequences on women's status as citizens with deficient rights, a series of field consultations were held to explore the views and positions of women in Syria, Turkey, and Lebanon regarding these issues. The consultations were organized by Dawlaty and the Women's International League for Peace and Freedom, in partnership with Zenobia, Release Me, Nophotozone, Start Point, Syrian Women Survivors, and Damma. These consultations also aimed at monitoring the gender effects of successive displacements on women, and the failure of judicial and legal structures to address the undermining of women's legal and social status. In this effort, the organizations involved sought to develop a preliminary conception of transitional justice mechanisms in need of adopting a gender perspective.



The complex nature of citizenship in Syria before 2011: Deficient and conditional citizenship for women

Many reports have addressed the concept and application of citizenship in Syria before 2011, often beginning their historical analysis in 1963. These reports state that the concept of citizenship that prevailed in Syria, and was entrenched by the two Assad regimes, had a totalitarian approach which fused and homogenized ethnic and gender identities, and made unavailable the partial and preferential rights of citizens to express their identities and their social, linguistic, cultural and regional choices.³ In an article on the “Anatomy of a Syrian Citizenship,” Rustum Mahmoud notes that “since the hegemony of nationalist currents in the late 1950s, in antiquated and accumulated fashion, [Syria] has always suffered from ‘a problem of minorities’ due to their lack of presence, prestige, and contribution to the country’s general identity with its institutions and public space. Under the guise of a civil secular state, and equal citizenship, the aspirations and identities of specific Syrian social groups that were constantly seeking to realize themselves, their existence and even their private space, were suppressed within this general citizenship opted for by the state. [These aspirations] were thus stifled and completely destroyed by tools and tendencies of so-called equal citizenship.”⁴

By putting this concept into practice, we find that access by women (and some men) to all political, social, economic and cultural rights was governed by three types of intermediation. That is, for women (and some groups of men) to enjoy their rights was not the default, as required by international laws and agreements, but rather, in order to ensure it, it had to come through three affiliations/intermediations: 1) religious/sectarian; 2) military; 3) masculine/patriarchal. Thus, instead of the state system in Syria being a social welfare system,⁵ economic and social policies were influenced by sectarian considerations, the militarization of security, and a patriarchal and male-chauvinist culture, resulting in quotas and a set of privileges confined to a specific political and economic group. The consequence of this was economic corruption, which further increased the exclusion of women and undermined their political and social status.

This was expressed by women during the consultation sessions, in which they indicated that their citizenship in Syria, and consequently their access to rights, were unequal compared to men prior to 2011.

● “Because of the political situation in Syria and the domination and tyranny of the Assad family, we were effectively second-class citizens, deprived of our rights, which, despite being recognized by the law and the constitution, were not applied. Thus, we discovered we were citizens deprived of our full rights, and that while we performed our duty towards the state, the state did not fulfill its role towards us.”

A group of participants in a consultation session in Turkey.

3. Hassan al-Nifi, The Concept of Citizenship in the Syrian Consciousness (Arabic), The New Syrian, Undated.

4. Rustum Mahmoud, Autopsy and Critique of a Syrian Citizenship (Arabic), Al-Jumhuriya.

5. By social welfare, we mean the goal of social welfare being to advance society as a whole, and to achieve the minimum standard of living that guarantees human dignity for different groups of society.

- “The relationship between us and the state is a negative one. When a woman wants to defend her rights, you find everyone standing against her.”
A group of participants in a consultation session in Idlib.

In their analysis of the reasons for the lack of direct relationship with the state, or what they referred to as a “negative” relationship, the women pointed to sectarian, security-military, and patriarchal factors (intermediators), which in one way or another prevented them from obtaining rights and entitlements or from being considered citizens equal in rights and responsibilities to all others. In other words, access to rights, and consequently to citizenship, was exclusively governed in Syria by certain affiliations and not others, totally undermining the fundamental values of citizenship.

On “security-oriented” sectarian intermediation, many reports indicate that a system of sectarian quotas was present in Syria.

- “I wanted to transfer my employment post from one place to another, and the Director of Education did not accept this. However, because a student of mine was the daughter of a Security Officer in the State Security Branch, and belonged to a certain sect, she helped me through her father and I chose the school that I wanted after only one phone call from the Security Officer to the same Director of Education. Ethnicity is another layer that hindered access of some women from ethnic groups/minorities to active citizenship rights. The Syrian educational system promoted and entrenched, through school subjects, religious and national socialist education, on the basis that “all Syrians are Arabs, therefore excluding other ethnicities in Syria, such as Kurds, Armenians, and Circassians.”⁶

This was confirmed by a participant in a consultation session in Turkey, who said, “Kurdish women did not have the right to an identification card.”⁷

On the militarization of security and its role in undermining the notion of citizenship, it is worth noting that Syria “was governed by the emergency law, or martial law, whereby the law allows the army and security forces to operate outside the rules of civil law. In the event of accountability for the army and security forces, this was only tried in (secret)

6. Deutsche Welle, Hassan Abbas: Citizenship is the Foundation of a Democratic Civil State in Syria (Arabic), Deutsche Welle, 5 July 2013, last accessed on 16 February 2020.

7. On 5 October 1962, based on Legislative Decree No. 93 dated 23 August 1962 and using what were known as census committees spread all over the province, the Syrian authorities in Hasaka randomly stripped tens of thousands of Kurdish families of their Syrian nationality. As a result, over quarter of a million of Syrian citizens of Kurdish origins lost their nationality and found themselves deprived of their citizenship. The issue of Kurdish citizens deprived of their Syrian nationality is still unresolved to this day; successive Syrian governments were not able to find appropriate solutions for it, despite persistent and repeated demands by those affected. Source: OHCHR, Persecution and Discrimination against Kurdish Citizens in Syria, <https://lib.ohchr.org/HRBodies/UPR/Documents/session12/SY/KIS-KurdsinSyria-eng.pdf>

military courts.”⁸ This has produced a broad security apparatus capable of operating independently of the army and police, by relying on intelligence provided by a wide network of informants.⁹

In this context, during the consultation sessions some women pointed out the limited political activity conducted by women, and the effect of this on translating and transferring the forms of oppression that men suffered in the public sphere into the private sphere, which affected women doubly.

- “My husband entered political prison before 2011 over his criticism of a particular party, which reflects aspects of the Syrian reality in which men and women lived, and negatively impacted their relationship with women. The men exercised repressive power inside the home due to pressures and the deprivation of their freedom of expression.”

A participant in a consultation session in Lebanon.

In their discussions, the women addressed the impact of the overlap of these factors, as the repression practiced on women and men citizens in the public sphere translated into another set of oppressive tools, albeit with a masculine face, as women were prevented from accessing their rights due to the patriarchal and masculine culture that prevailed, and still prevails.

- “In Syria, and before the revolution, the relationship between the state and women was not direct, and it always required the presence of a male who would be a mediator or her ‘representative’.”

A group of participants in Turkey.

- “Before 2011, Syrian women were absent from family and society. Girls were prevented from completing their university studies because they were in villages, and due to fears of criticism within their social environment, and fear also of the family elders [patriarchs].”

One of the participants in the consultation sessions in Lebanon.

The complex and exclusionary nature of citizenship in Syria prior to 2011 affected the status of women, designating them as “second-class citizens” due to the interplay between discriminatory legal frameworks and societal norms that women suffered from (and continue to). The women who participated in the series of consultation sessions in Turkey, Lebanon and Syria unanimously agreed on these discriminatory interplayed

8. Dawlaty, No Peace Without Justice, Transitional Justice in Syria.

9. Dawlaty, No Peace Without Justice, Transitional Justice in Syria.

structures, especially in regards to nationality,¹⁰ ownership, and personal status,¹¹ (particularly regarding custody and inheritance, divorce, domestic violence, guardianship, and custody), as well as the penal code.¹²

- “The child custody law is unfair to women, as is the habit of coercing women victims of rape to marry their rapists”; “victims are married to perpetrators in accordance with Article No. 395 of the Penal Code, whereby the victim is deprived of her rights and the aggressor enjoys immunity.”
- “Syrian women cannot grant their nationality to their children.”
- “Divorce involves great injustices towards women, because if a woman requests divorce, she must give up all her rights and dowry. The notion of the bayt at-taa (house of obedience) is unfair to women and punishes them by keeping them under men’s threats in order to coerce them into returning to their house.”
- “Many families do not grant women their right to inheritance, because society deems it shameful for women to demand or obtain inheritance. If a woman complained and took her inheritance rights through the law, society would stigmatize her, viewing her as lacking honor or manners.”
- “There is no Law to protect women from domestic violence in Syria, because women cannot speak out about violence due to shame. The travel law also prohibits mothers from escorting their children under the age of 18 when traveling, without their husbands’ permission.”

Participants in the consultative sessions in Turkey, Idlib, and Lebanon.

This complex nature of the notion of citizenship has also limited or undermined the political participation of citizens in general, with some sectarian or security privileges. As Mukhopadhyay (1998) put it, ‘custom, tradition and religion have inevitably subordinated

10. Syrian women cannot confer nationality to children unless the father is unknown or stateless and the child is born inside the country.

11. Personal Status law in Syria “is based on differentiation in legal status between women and men, who have the highest position in most articles of the law, with the status of women ranked second.”
Source: Raseef 22, Analysis: does Syria’s new personal status law achieve equality between men and women?
<https://raseef22.com/article/1072451-analysis-does-syrias-new-personal-status-law-achieve-equality-between-men-and-women>

12. Article 548 (amended in 2009 and 2011) of Syria’s Penal Code allows for a lesser punishment, capped at 7 years’ imprisonment, for men who kill their wives, sisters, mothers or daughters on finding them engaging in an “illegitimate” sexual act. The normal punishment for murder is hard labor for 20 years.
Source: Equality Now – https://www.equalitynow.org/syria_the_penal_code

women's rights and interests to the control of patriarchal families and elite males.'¹³ In the case of Syria, customary laws have precedents over statutory laws. Hence, women's right to political participation is caught in contradiction as the state 'manipulates' the status-quo for political gains and interests.

"Women's right to vote and women's inheritance, granted by law, are denied by patriarchal norms. This contradiction between statutory and customary laws allows the state to maintain this 'modern, secular' image, while blaming the lack of compliance on the 'regressive' populace. The lack of political will from the state's side to challenge these norms in return for political allegiance, puts women's rights and participation as a bargaining chip between conservative community leadership and the government."

Salma Kahaleh.

This has exacerbated the dearth of freedoms, but with a compounded exclusion of women which also undermined the perception of them as active political entities. "At the time of the elections in Syria, they (family members) used to take my identity card, and those of all women in the family, and vote on our behalf. I did not know that my vote could change anything. We also knew that it was frowned upon for a woman to run for elections." – Another participant in the consultation sessions in Turkey.

The regime appears to have used women's participation in a formalistic or imagined way, in an attempt to promote itself in the eyes of the international community. This was confirmed by women in one of the consultation sessions, who echoed that women's political participation was formalistic and required partisan, political, or security affiliation.

● "Even in the Women's Union, if a woman was not supported by the security [apparatus], then she could not obtain any rights; besides, nepotism rendered the expertise of women irrelevant. And if a woman entered the political arena, she would be [regarded as] 'dishonest'"

One of the participants in the consultation sessions in Turkey.

13. Mukhopadhyay Maitrayee and Singh Navsharan, Gender Justice, Citizenship and Development, IDRC, 2007 https://www.idrc.ca/sites/default/files/openebooks/339-3/index.html#page_15

After 2011: A deficient and haphazard concept of women's citizenship due to security-military and patriarchal-tribal factors

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- "The relationship between the state, women, and citizenship is now confused and deficient, as it is governed by customs, traditions, (patriarchal) culture, and the security and police state outlook."

One participant in the consultation sessions in Idlib.

Any path to transitional justice in Syria seeking to address the harms and injustices committed against women resulting from discrimination, marginalization, and exclusion, must first examine these forms of discrimination as an extension of the context that prevailed in Syria before the revolution and armed conflict. The depth of the aforementioned problems and contradictions regarding citizenship in Syria have contributed to the exacerbation of many problems on several levels, such that women are the ones paying the highest price for them.

While women's human rights remain grossly violated, it is necessary to analyze the punitive and retaliatory nature of the regime's relationship with male and female citizens after the revolution and conflict, and its impact on the perpetuation of these violations. It is also necessary to analyze the alternatives that have emerged to fill the void in these forms of citizenship and belonging, as some areas that have fallen outside of regime control tended to establish the concept of self-government, while others sought to re-entrench the clan or tribal group as an alternative to the concept of the state.

As such, some of the areas that had succeeded in freeing themselves from the regime's control—due to the exclusionary nature of state institutions (legal, judicial, military, security, and political), and their increased punitive and reprisal practices against citizens—sought to find alternatives to citizenship by promoting their sectarian, tribal, and regional identities. Women in these areas paid the highest cost in light of the complex and problematic nature of the situation in Syria, as they still suffer from complex forms of marginalization and exclusion that have and continue to prevent their access to gender justice in any shape or form.

Militarization, punishment, and reprisals against those who oppose the regime

After the revolution, the Syrian regime ramped up its exclusion and marginalization of groups and communities that opposed it. To this end, it used many repressive tools to exclude women and men, and did not hesitate to use violence, imprisonment, and even murder to intimidate men and women and prevent them from claiming their rights. Among the most prominent tools used by the regime, employed in the service of its interests, are:

■ SEXUAL HARASSMENT, GENDER-BASED VIOLENCE AND RAPE

(There is a dedicated policy brief on this subject matter.)

- “My husband was detained, and I went to inquire about him. The guards insulted me, and harassed me with vulgar and abusive language. The security personnel also exploit women sexually and economically; in short, they pillage what they are supposed to protect.”

One of the participants in the consultation sessions in Turkey.

■ THE PROLIFERATION OF ARMS AND THE ABSOLUTE POWER GRANTED TO ARMED MEN

- “The distribution of weapons without accountability enabled their use by them (the regime) to dominate people.”

Participants in the consultation sessions in Turkey.

- “Connections with members of the security play a big role in Syria, and even the lowest ranking member of the security [apparatus] can do what no tribal leader can.”

One of the participants in the consultation sessions in Turkey.

■ PROPERTY THEFT IN LEGAL GUISE

A set of decrees and laws was issued between the years 2012 and 2018 (Decrees No. 66, 63, 19, 11 and Law No. 10) most of which overlap in their attempts to strip property rights from anyone who had opposed the regime. As such, they provide legal cover to the theft and expropriation of citizens' property. The magnitude of this problem is made evident when it intersects with personal status laws (regarding inheritance) or property laws (regarding proof of ownership), especially for divorcées, widows, or wives and relatives of the kidnapped, detained and missing.

- “This law is a grave injustice. They took my home from me, because I am outside the country, and because I cannot go back and prove my ownership, as I fear arrest. Those outside the country cannot sell their property inside, even through a legal representative. Of course, we will stay silent and won't demand [our rights] because if the regime knows that my husband, a dissident, is outside the country, they could imprison me if I go and demand it. A woman in Syria cannot sell anything, and must have a legal mandate from a man, and if the man has disappeared, she loses everything.”

One of the participants in a consultation session in Turkey.

- “Even if women try to obtain proof of ownership, they are exploited and pay huge sums to settle pending issues, which weakens them financially. These laws are unfair to women. Women in areas outside the regime's control have been denied property rights.”

“These laws have nearly severed the relationship between women and the state.”

A participant in a consultation session in Idlib.

■ THE ISOLATION OF AREAS OUTSIDE REGIME CONTROL

This has contributed to the deprivation of women's civil rights and social entitlements (e.g., education and healthcare) due to administrative centralization and the non-recognition of the totality of administrative processes (e.g., marriage, divorce, custody, and birth registration) that take place in areas outside regime control, rendering women legally vulnerable:

- "Everything that takes place in areas outside regime control is not recognized, from education to other rights such as property, inter alia. The fundamental separation of the territory from the state deprived its citizens of the recognition of their rights."

One participant in a consultation session in Idlib.

- "As long as we are refugees, we cannot go to regime areas to register our marriages and the births of our children, and they (administration in areas outside the regime control as well as authorities in other neighboring countries) are always asking for proof, which is a grave injustice to us."

A participant in a consultation session in Turkey.

■ ARBITRARY ARREST

- "In Syria, women are afraid to claim their rights, fearing the regime will imprison them because of their husbands, brothers, or any other relatives."
– One participant during a consultation session in Turkey. "Fear of arrest will prevent women from trying to prove ownership."

A participant in the consultation sessions in Idlib.

Citizenship in Areas Outside Regime Control: A Return to Tribal, Sectarian, and Regional Affiliations of a Patriarchal Nature

- "Cultural traditions hinder access to justice because customs are stronger than law."

One of the participants in the consultation sessions in Turkey.

The collective retreat into sub-affiliations such as clan, sect, or region in areas within¹⁴ and outside the control of the regime can only be seen as a natural product of historical

14. "This has happened in some regime areas as well, especially with the Druze community in Sweida and Jaramana. It was a way to protect the community from the regime's repression, and it also led to justice being administered by community elders, even on serious criminal matters such as kidnapping, etc. ... So while our information is on areas outside regime control, there is also this 'retreat' in government held areas again."

exclusion (mainly for ethnic minority groups) whether social or political, practiced by the authoritarian and totalitarian regime.

Women in many areas covered by the consultation sessions, especially in Syria (Idlib) and Turkey, indicated that women's access to the totality of their rights, or to justice, whether through official channels (courts) or unofficial channels (enforced through social groups/ community structures i.e family elders, sheiks, etc..) in areas outside the control of the regime, is governed by tribal and sectarian norms and authorities. This doubles the barriers imposed on women.

- "Currently, and especially in the liberated areas, it is very difficult to access our rights. In the liberated areas, there is no law or legal authority. The ruling factions place relatives and acquaintances in high positions, even if they are unqualified, and the same corruption exists in regime areas as in the liberated areas. The situation is very bad and nepotism permeates all public offices."
One of the participants in the consultation sessions in Turkey.
- "Some sects are closed to outsiders, and do not resort to the law but rather rely on their own references and authorities. Religious authority has become stronger than legal authority in areas outside regime control, and women fear divorce because of social stigma, which forces them to endure humiliation and torture so as not to be called a divorcée, especially after giving up their rights and being deprived of custody over their children. Moreover, restrictions are imposed on women's mobility, preventing them from moving without a mahram [male relative], even within her own area."
One of the participants in the consultation sessions in Idlib.

"Citizens Without a Country": Citizenship in Countries of Asylum as a Form of Identity Crisis and Loss of Rights

- "In cases of displacement or asylum, the (national) identity card is forgotten, and it no longer officially represents the citizen because it is often replaced by UN documents, such as the UNHCR registration number."
A participant in the consultation session in Lebanon

The participants in consultation sessions, especially in Lebanon and Turkey, cited the administrative and political constraints experienced by women in countries of asylum, which mainly affect access to their rights through judicial means. These obstacles are closely related to policies that are exclusionary toward refugee women, men boys and girls, including the non-renewal of residency permits in some neighboring countries such

as Lebanon and Turkey. It is also organically associated with punitive policies pursued by the Syrian regime, most evident in the matter of possession or renewal of civil documents.

Refugees in Lebanon noted many obstacles that prevent women gaining access to justice.

- “Illegal residency in Lebanon, the difficulties in settling the legal status of Syrian refugees in Lebanon, and their exorbitant costs, in addition to the lack of identity documents which are lost as a result of bombing, burning, theft and exploitation; all this makes the situation worse and prevents access to justice and the courts. Women cannot return to Syria to renew their papers, due to fear of arrest or the scourge of war.”

A participant in the consultation sessions in Lebanon.

Women who have lost their husbands may face multiple challenges, leading in some cases to the separation of families, due to the dependence on men and the need for “male approval” in the settlement of administrative status, which is impossible in the event of the death or loss of the husband.

- “There are women who have lost their husbands and do not have the necessary documents to claim their rights, and there are even women who, after having received approval to seek asylum in European countries, obtained the approval without their children due to lack of papers and the absence of the father.¹⁵ [...] While trying to obtain a travel permit from one Turkish state to another, they asked me for the guardian’s consent to be able to travel with my daughter, although I did not register my marriage, neither in Syria nor in Turkey. The employee would not accept it except with the consent of the guardian. Laws in countries of refuge are unfair to women, and hinder their paths and affect their lives.”

One of the participants in the consultation sessions in Turkey.

- “I filed a divorce, and they asked me for the family record or anything to prove my marriage in court, but I told them I have nothing because I got married by a sheikh, so they told me that I am not married and don’t have any rights, and that they cannot help with anything.”

One of the participants in the consultation sessions in Turkey.

15. Refugee women cannot resettle their kids without either proof that the father is dead or approval from him to let the kids be resettled. Therefore, women with children whose husbands are missing cannot get resettled easily. It’s not just male approval but fathers of the children specifically.

Entry points towards active citizenship for women from a transitional justice perspective

Prior to 2011, the concept of citizenship was not inclusive of all social groups, sects, and genders in Syria, due to control by security services over political and economic decision-making, and the suppression of all manifestations of democratic expression across the various groups of Syrian society. In the aftermath of the revolution in 2011, and the conflict that ensued, the problematic aspects of citizenship in Syria were more firmly grounded, including aspects that were present but not immediately apparent.

The Syrian revolution was perhaps one of the first forms of democratic expression to be undertaken by various classes of Syrians, especially those that suffered from multiple forms of oppression and marginalization. This is especially the case with regards to women's active participation in the popular revolution and political mobilization, and to the different groups in the rural areas which were the most marginalized and oppressed by the regime.

The regime, meanwhile, developed and used ever-increasingly lethal means of suppressing any and all civil and political attempts to deviate from its security, political and military control. It continued to use multiple tools of repression, exclusion, and marginalization, at times with legal and administrative cover, flagrantly violating all international laws at others. As such, the regime resorted to the use of chemical weapons, and direct bombardment of civilians, and has sought to justify these practices under different pretexts including "the war on terror" and "promoting homogeneity".¹⁶ However, these practices have become clear to the international community, and there developed a consensus that the violations and criminal practices of the Assad regime may be among the most flagrant practices of the kind witnessed in the recent history of conflicts.

Confronted with this broad criminality and exclusion by the regime, some areas, especially those outside regime control, have found the alternative to be the return to social forms of organization such as clans, sect, and confession. Although these practices may seem in line with the reality of the regime in Syria, they are nonetheless obstructive phenomena for any social and democratic transformation in the transitional period in Syria.

Returning to the idea of citizenship, before 2011, access to rights and entitlements, and consequently the exercise of active citizenship, were not automatically available to both men and women. Such access was conditional on specific political, security, sectarian, or class affiliations that were essential for the exercise of rights. In the case of some minority groups, such as the Kurds, it was conditional on their non-assertion of ethnic, cultural and linguistic identities. Yet we find in analyzing gendered citizenship that women's access to these rights specifically had to go through an additional, fourth intermediary—the male-chauvinist and patriarchal one.

16. "We lost our finest youth and infrastructure, but we won a healthier and more homogenous society –Al-Assad in a speech during the opening of the Foreign Ministry and Expatriates Conference – 2019.



The concept of citizenship requires additional research as a result of the factors of displacement and asylum, and the emergence of a variety of alternative partisan, sectarian, tribal, religious, and regional identities and affiliations. This is the result of the regime's wide-spread illegitimacy, and the need for some governance structures on which these groups can rely in organizing their affairs. Women may represent the group most affected by this fragmentation, since the authorities that have emerged are by and large exclusive of women. Furthermore, the legal, political and security exclusion and arms proliferation intersect and overlap with patriarchal, tribal, and class structures to the detriment of women on a whole.

Despite the bleakness of this picture, the women participants have identified several means of building on the transformations that have occurred since 2011, and obtaining women's rights to citizenship, and of respecting women as active participants in the political and economic life of the country.

Civil society, according to the participants in the consultation sessions, are an essential entry point for the reclamation of women's rights, as they have become the alternative to the state in responding to violations at such a scale, through documenting them. "The governing body is supposed to be the state, but NGOs have now replaced the state," said one of the participants in a consultation session in Idlib. Others added that some rights are only attained by NGOs, with the state and law non-existent: "It's everyone for themselves."

The shift in women's gender roles may be another approach on which to build. Although it was initially motivated by economic needs, the entry of women into the labor market has produced an evolution in their social and political status, and positively affected their ability to participate in decision-making on matters that concern them or their communities.

- “Before 2011, women were under the shadow of men, because society was purely patriarchal, but after 2011 the situation changed as women began working.”

One of the participants in a consultation session in Turkey.

- “Freedom is very costly, and we women have paid the price [...] But it was worth it.”

A woman participant in a consultation session in Lebanon.

- “We did not know our rights before the conflict, but now we do.”

Another participant in the consultation sessions in Lebanon.

- “In Syria, women used to submit to society, but now they take decisions that suit their lives and do not submit to society’s view of them. Women’s characters have been strengthened after displacement.”

One of the participants in the consultation sessions in Turkey.

In summary, mechanisms for monitoring and documenting legal violations that affected women, before and during the conflict period, should apply means of redressing grievances suffered by women, and seek forms of structural discrimination and tools (political, security, patriarchal, sectarian, and economic) that have established unequal status for women in citizenship. Consequently, gender-sensitive transitional justice mechanisms must expand the tools for monitoring and documenting violations, so that they are not limited to legal discrimination, but rather extend to include the reasons that contribute to this discrimination, to gradually and systematically lay the foundations for enhancing women’s equal positions as active citizens in society within political, societal, economic, and other contexts.

As such, placing the concept of citizenship and its active practice by women themselves within the context and mechanisms of transitional justice in Syria requires monitoring legal violations that take place against women, and their status from a gender perspective, in order to ensure their fair, equal, and equitable access to justice. This is provided that transitional justice is accompanied by institutional reforms, whether in the legal, judicial, or societal contexts. However, these mechanisms alone may remain inadequate unless they are complemented by identifying and addressing the structural impediments that the regime has embedded, and the conflict put clearly on display, which prevent women collectively from exercising active citizenship. These security, military, patriarchal, and sectarian impediments have historically established, and continue to cement, the status of women as “second-class” citizens, limiting their potential for active political, economic, and societal participation in the transitional phase, and thus their access to justice in all its forms.

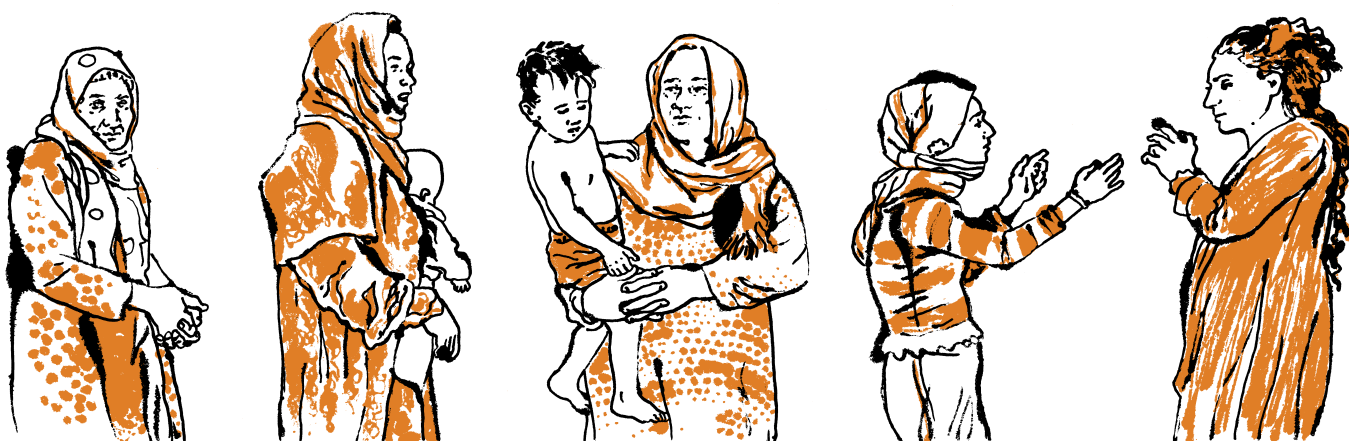
The most pertinent recommendations to the international community, the United Nations, and actors developing and supporting gender-sensitive transitional justice mechanisms in Syria are as follows:

1. Ensure the application of intersectional gender-sensitive transitional justice mechanisms in Syria, particularly in documenting violations and legal grievances that have affected women, whilst considering the gendered root causes that have led to this historically systematic exclusion of women, and the further consolidation of these forms of exclusions in light of the conflict which have affected women's status as active citizens.

This in turn demands several requirements, including but not limited to:

- Analyzing complex and structural obstacles that have historically prevented women from participating in public life and the fulfillment of their role in exercising active citizenship.
- Implementing gender-sensitive monitoring mechanisms with an intersectional dimension, ensuring that women of all different groups have access to their economic, social, and political rights, as part of direct monitoring of legal violations affecting women.
- Monitoring the intertwined effects of the conflict on the status and citizenship of women, and addressing legal and societal issues related to displacement and asylum.

2. Promote the integrity of judicial institutions, so that their frames of reference are civil and rights-based, through the separation of powers and the dismantling of the close links between security agencies and the judiciary and between the latter and the sectarian system (mostly under civil codes) to ensure the judiciary's integrity and equal access by women across different groups, sects, and needs, to gender and social justice and transitional justice.



3. Build on the shifts in gender roles by continuing to spread the gendered notions of citizenship, through education on citizenship, and the values of social justice among all groups of society, especially in the context of societal reconciliation and institutional reform efforts.
4. Remove all forms of structural and gender-based discrimination from Syrian law, in line with international agreements, and lift any reservations to these agreements, especially the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and ensure the right of women to grant their nationality to their families, so as to ensure that all women enjoy their political, economic, social, and cultural rights under the new constitution.
5. Restructure the security services, such as the army and the police, and disengage them from the intelligence and penal system. This requires effective accountability of criminals and their non-inclusion in the amnesty provisions, and institutional reform that follows rules governing the performance of these security services.
6. Demand that the regime lifts all punitive measures imposed on male and female citizens with regard to proof of real estate ownership.
7. Ensure a direct relationship between male and female citizens and the state under the law, and dismantle any security, political, military, sectarian, patriarchal, or capitalist means that prevent women and men from accessing their rights equitably and fairly. This could be achieved by laying the foundations of a political system guaranteeing social and democratic transformation in the transitional period in Syria, based on pluralism, monitoring, and accountability





The human rights of women in Syria

Between discriminatory law, patriarchal culture,
and the exclusionary politics of the regime

Policy paper 2020



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