

كسر القوالب Breaking the mold

#Breaking_The_Mold

Arab Civil Society Actors and their Quest to Influence Policy-Making

Country: Syria

Transitional Justice in Syria: Civil Society as a Superintendent of Past Crimes

| An author from Syria |

CASE BACKGROUND

The concept of transitional justice in Syria emerged, clearly and explicitly, after the start of the country's movement in 2011. To this day, it is still transforming into a violent war, in which hundreds of thousands have been killed, injured or missing.

The war years were not Syrians' first time experiencing massive human rights violations in their country. In the 1980s, Syria lived a bloody period, during which a popular uprising erupted on a relatively small scale; it was suppressed and ended in a short period, causing the death, arrest and disappearance of thousands without the ability of civil society or human rights to demand any justice as a result of the uncommon violent repression that was practiced on civil and political actors during that period hindering the ability of civil society, which was modest in the size of its capacity and efforts at that time, to act. After 2011, the country entered a new phase of human rights violations, which continued and expanded unprecedentedly. The various Syrian regions witnessed many forms of violations, such as murder, arbitrary arrest, torture, forced disappearance, executions without trials, bombing with several types of weapons, even the ones internationally prohibited and the use of blockade and starvation policies as tools of war, in addition to the forced displacement of thousands from their homes. These are violations, most of which constitute war crimes and crimes against humanity and have been committed by all parties to the conflict in Syria, whether the Syrian regime and its allies, the armed opposition, or the various Islamic formations and factions, while the Syrian regime retains the largest share in it.¹

THE NEED FOR CIVIL ACTION

The large-scale violations committed in Syria for decades in general, and after 2011 in particular, and the accumulation of their results leading to sectarian tension and division within society, highlighted the need to prepare for an expected course of justice that is supposed to follow the stage of the war and establish a new phase in the country. It also indicated the need for a comprehensive national reconciliation project, with defining mechanisms and levels of accountability for those who committed human rights violations to avoid entering a cycle of endless violence and disturbance.

Since 2011, many human rights defenders, activists, and civil society organizations have developed awareness about the importance of working on the transitional justice and the need to involve groups in society in preparing for the stage that the country is supposed to go through after the end of the war, and in developing a future vision for the expected solution to the conflict.

This awareness was accompanied by knowing the important role that civil society can play in the success of the transitional justice process and paving the way for the associated legal procedures by overseeing the planning, implementing a national program for transitional justice, providing advice in the interest of the victims and preventing the prospective program from turning into a means to circumvent that interest, in addition to documenting violations, spreading the necessary legal awareness and encouraging victims to talk about their cases and know their conditions, to be able to forgive and accept each other again, in a way that contributes to the recovery of society.

¹ Some statistics and reports about the violations committed in Syria can be found through the following links:

Violations Documentation Center: <https://vdc-sy.net/ar/>

Syrian Network for Human Rights: <http://sn4hr.org/arabic/>

As a result, since 2011, a group of organizations and initiatives have been established. They have taken it upon themselves to prepare for the transitional phase in Syria on different levels, including the “The Day After” project in Turkey² and the “Citizenship League” project in Lebanon³, which are the subject of this paper.

CASE STUDIES OF CIVILIAN ACTORS ON THE ISSUE OF TRANSITIONAL JUSTICE

The idea of the “The Day After” was launched in early 2012 with a meeting of a few activists, jurists, academics and politicians to support the democratic transition in Syria and develop a flexible transitional plan in six areas: the rule of law, transitional justice, security sector governance and reform, electoral system design, the election of the Constituent Assembly, constitutional design, economic reform and social policies. A report was issued in mid-2012, containing recommendations in these fields⁴, based on other countries’ experiences that fought wars and applied for transitional justice programs, taking into consideration the Syrian specificity. “At that time, the assumption was that the fall of the Syrian regime was imminent and that the transitional phase had to be prepared in order to avoid chaos or to hijack the reins of affairs from certain forces that were not qualified to manage the Syrian issue”⁵.

With the prolonged war, the recommendations turned into an institutional project, adopting the same goals with flexibility in the mechanisms to reach them according to the rapidly and constantly changing reality. Thus, the “The Day After” project was established; it works on a set of programs and initiatives related to transitional justice, such as pieces of training, heritage protection programs and official documents, opinion polls, and meetings with international actors in this field such as investigation committees and special courts that aim to lay the foundations for holding violators accountable, reform state institutions, and compensate those affected.

As for the “Citizenship League”, it is a civil association established in 2011 in Syria and then moved to Lebanon. It works to consolidate the values of citizenship in Syria based on the principles of freedom, participation, equality, and responsibility. It aims to consolidate the relationship between Syrians and their state. Among its main programs is transitional justice, which works to define its concept and hold a dialogue about appropriate mechanisms by conducting training and dialogues between civil society activists and victims of the war on how to apply these mechanisms in the Syrian case and issuing a training manual and a set of brochures in this regard.

The training organized by the “Citizenship League” included cadres of civil society activists, especially human rights defenders, to prepare them to work within any prospective transitional justice project. More than 120 people inside and outside of Syria were trained on transitional justice principles and about 25 people on advanced mechanisms concerning this concept, including reparations and truth commissions. “We had a vision about the necessity of preparing qualified cadres to help spread knowledge in their societies about the concept of transitional justice and contribute to any program that will be implemented in this regard when the war ends”⁶.

Regarding collective efforts on the issue of transitional justice, the Transitional Justice Coordination Group was established in



February 2014. It includes 14 organizations and political bodies⁷ and aims to coordinate between organizations working in the field of transitional justice in areas including documentation, advocacy and awareness, to support their participatory work and exchange of information between them, to bring specific cases under the Law, and to form a media platform to publish everything that results from the group and the organizations working in this field. This group created bridges of communication between human rights institutions and issued reports and research papers on some of the important human rights issues in the Syrian arena.

Many groups and institutions are working on transitional justice, whether it is their main work or a program within their projects, including the “Caesar Families Association” and the “Association of Detainees in Sednaya Prison” and others. These groups follow several strategies and programs that aim to advocate for transitional justice issues and prepare for the expected paths, including awareness, documentation, and qualified cadres’ preparation.

WORK OBSTACLES

Active Civilian groups in the issue of transitional justice in Syria face many obstacles and challenges, which make their efforts dispersed and unable to achieve the desired goals. Among the most important of these obstacles, we mention:

- Syria’s lack of any political framework to sponsor transitional justice efforts. Despite the establishment of the civil society support room auxiliary to the Geneva negotiations, which raises many cases, including the transitional justice process, its effectiveness remained limited and subject to the conflicting parties’ administration without the ability to pressure them. The Executive Director of “The Day After”, Moatasem Al-Sioufi, says that the political process under the United Nations’ auspices intends to exclude everything related to justice and accountability for fear of stalling efforts and negatively affecting the negotiations. With all the networks, influential people and warlords associated with it, the Syrian regime categorically rejects the idea of transitional justice even as a term and replaces it at best with terms of national unity and reconciliation. But

2 The projects website on the internet <http://www.tda-sy.org/ar>

3 The projects website on the internet <http://sl4c.org/ar>

4 The full report can be viewed via the link <https://goo.gl/SvZ5JD>

5 Interview with Mutassim Al-Sioufi, Executive Director of The Day After Organization, on December 2018, 16

6 An interview with the transitional justice program official in the Citizenship League on January 2019, 8

7 Group website: <http://justicesyria.org/AR/>

without a political transition, we cannot talk about transitional justice. "The director of the transitional justice program at the Citizenship League adds: "All conflict parties refuse to apply the concept of transitional justice on themselves, and we fear that the idea of transitional justice will be sacrificed in political discussions to end the war and reach a peace agreement, whatever it costs."

- The absence of serious international will to pressure all parties, especially the Syrian regime, to put an end to the war and facilitate the implementation of some measures that may contribute to preparing the climate for transitional justice, such as reforming the judiciary and granting the necessary licenses to human rights organizations to be able to enter Syria and monitor and document the violations committed and so that the efforts of these organizations are not limited to interviewing Syrians outside the country, or with information obtained from activists living inside Syria but working in an environment fraught with security risks in order to document violations. This coincides with the Syrian political community's weakness and its lack of the necessary political tools that may contribute to pressure to end the war and pave the way for civil society organizations to make transitional justice initiatives successful.
- The difficulty of joint work between civil society organizations due to their inability to overcome the deep divisions within the Syrian society that has turned into dispersed groups, each of which owns its own narrative and grievance of what happened during the years of war and refuses to acknowledge the grievances of other parties. Most civil society actors have become affiliated with one party to the conflict without the other, even on transitional justice. "The political division has been sharply reflected in civil society and human rights work. We have human rights organizations that monitor violations against the Kurds only or against Arabs. Other organizations blame the Syrian regime only or Islamic extremist groups, forgetting the other parties' violations. Today we do not have a single narrative for the Syrian story, nor the Syrian civil work"⁸.
- The division of Syrian civil society and the absence of foundations for cooperation among its components in many cases, that has been reflected in the dispersion of transitional justice efforts. For example, it is necessary to centralize efforts to document violations with a single agency that gains the confidence of the community and victims, meets their needs, ensures that evidence is not lost and documented in accordance with international legal standards required to take criminals to courts and that resources are not wasted, which is what transitional justice programs are lacking in Syria until this day.
- The lack of priority to work on transitional justice programs compared to other programs that Syrians urgently need, due to the massive destruction in Syria, in terms of the economy, infrastructure and human resources. These priorities deprive transitional justice programs of even the necessary resources while requiring very large financial and human resources.
- In this context, it is necessary to talk about the complexity of the Syrian reality and its change very quickly, and the increase in the number of parties that violate human rights, and thus the size and nature of the violations and perpetrators, which are no longer necessarily Syrian with the intervention of many countries in the Syrian war. Therefore, groups working in the field of transitional justice face a challenge related to the need to be flexible and adapt to changing working conditions and priorities, which are very rapid and sometimes exceeding the ability to adapt to them.

- Here, another difficulty arises in how civil society organizations transitional justice efforts intersect with these organizations' funders' policies. The extent of these policies' capabilities to limit or change the course of transitional justice efforts, or perhaps, on the contrary, impose them as a condition for these organizations to obtain funding. This is reflected in the independence of civil society organizations from donors and their policies. "Indeed, since 2017, we have become convinced that transitional justice programs are no longer among the donors' priorities and concerns, which have differed towards other programs, and this has affected the extent of the Citizenship Association's ability to pursue its transitional justice program with the same pace and effectiveness."⁹

- On another level, with the continuing cycle of violence in Syria and the resulting economic and social behaviors, civil society organizations face another set of obstacles while planning or implementing any transitional justice programs. How can local conflicts that are protected by warlords who reject any accountability be confronted? How can the affected people be persuaded and compelled to accept some concepts of transitional justice, such as reconciliation with the prevalence of the concept of revenge and accountability in a personal manner that is not subject to the law in light of the proliferation of unorganized weapons? How can a large segment of Syrians have confidence in the flabby and politicized judicial systems that have lost their credibility and effectiveness for decades while they are supposed to have a pivotal role in the prospective transitional justice programs? More importantly, how can the adopted mechanisms and strategies for transitional justice approach Syrians' actual needs and not seem far from their reality and priorities, which are often limited to securing basic life resources?

CONCLUSION

It is important to think about the prospects for transitional justice in Syria and what civil society can play in the future, and it is necessary to focus on equality in the implementation of transitional justice and to ensure that it includes all Syrians, considering the specificity of the Syrian regions of great diversity and difference, as part of a comprehensive national vision for transitional justice in which civil society can exercise its oversight role during planning and implementation.

Given the complexity of the Syrian context and the many challenges facing civil work, it is possible to focus at the current stage on practical steps in the short and medium-term that civil society can implement, such as continuing to press to reveal the fate of the disappeared on all sides, given that the issue of the forcibly disappeared in Syria is one of the most complex cases and the one with most humanitarian impact on the victims; As well as continuing to document violations in an organized and systematic manner, given the importance of this in the future of transitional justice; Working on the participation of society and victims in building and implementing national mechanisms and strategies for transitional justice, by spreading awareness about it and forming local reconciliation committees that contribute to presenting the local view of civil society organizations so that their strategies truly express the interests of society and victims; In order to achieve the desired goal of including the issue of transitional justice within the political process that Syrians hope will be completed in a way that restores the victims' rights.

⁸ Interview with Mutassim Al-Sioufi, Executive Director of The Day After Organization, on December 2018, 16

⁹ An interview with the transitional justice program official in the Citizenship League on January 2019, 8

REFERENCES

الاتحاد العام للمرأة الفلسطينية، وزارة شؤون المرأة والمؤسسات والمراكز النسوية، ٢٠١٢، الوثيقة الحقوقية للمرأة الفلسطينية.

جريدة الوقائع الفلسطينية، ١٩٩٥، قانون الانتخابات رقم (١٣) لسنة ١٩٩٥، عدد ١٠.

١٩٩٥، المرأة والعدالة والقانون - نحو تقوية المرأة الفلسطينية، مؤسسة الحق، رام الله - القدس - الضفة الغربية.

خضر، أسى، ١٩٩٨، القانون ومستقبل المرأة الفلسطينية - صياغات ومقترحات من أجل تشريعات تضمن حقوق الإنسان والمساواة للمرأة الفلسطينية، ط ١، مركز المرأة للإرشاد القانوني والاجتماعي، القدس - فلسطين.

لجنة الانتخابات المركزية، ٢٠٠٦، تقرير الانتخابات التشريعية الثانية، لجنة الانتخابات المركزية، رام الله - فلسطين.

مركز المرأة للإرشاد القانوني والاجتماعي، منهاج في التوعية - نحو مشاركة سياسية فاعلة للمرأة الفلسطينية، مركز المرأة للإرشاد القانوني والاجتماعي، ٢٠١٣.

مركز شؤون المرأة - غزة، ٢٠٠٦، النساء والمشاركة السياسية بين المعوقات والإمكانيات المُتاحة، مركز شؤون المرأة - غزة، غزة - فلسطين.

مفتاح، المبادرة الفلسطينية لتعميق الحوار العالمي والديموقراطية، ٢٠١٧، المعوقات التي تحول دون الوصول إلى تمثيل متكافئ للنساء والشباب في أجهزة منظمة التحرير الفلسطينية وتعرقل وصولهم إلى مواقع صنع القرار، المبادرة الفلسطينية لتعميق الحوار العالمي والديموقراطية، فلسطين.

ELECTRONIC REFERENCES

دولة فلسطين، ٢٠١٧، التقرير الرسمي الأولي لدولة فلسطين حول إتفاقية القضاء على جميع أشكال التمييز ضد المرأة «سيداو» <http://www.mofa.pna.ps/ar/wp-content/uploads/2017/03>

مفتاح، المبادرة الفلسطينية لتعميق الحوار العالمي والديموقراطية، ٢٠١٣، ورقة حقائق حول مشاركة النساء بانتخابات مجالس الهيئات المحلية ٢٠١٢-٢٠١٣، http://www.miftah.org/Publications/Books/Women_Participation_in_Local_Government_Units_Elections2012_2013Ar.pdf

الهيئة المستقلة لحقوق الإنسان - ديوان المظالم، ٢٠٠٥، سلسلة تقارير خاصة ٤١ - إدارة <http://ichr.https://ichr.ps/ar/1/10#2005> إنتخابات الهيئات المحلية في المرحلة الثالثة

BREAKING THE MOLD PROJECT

In mid-2018, the "Civil Society Actors and Policymaking in the Arab World" program at IFI, with the support of Open Society Foundations, launched the second round of its extended research project "Arab Civil Society Actors and their Quest to Influence Policy-Making". This project mapped and analyzed the attempts of Arab civil society, in all its orientations, structures, and differences, to influence public policy across a variety of domains. This research produced 92 case studies outlining the role of civil society in impacting political, social, economic, gender, educational, health-related, and environmental policies in ten Arab countries: Lebanon, Syria, Palestine, Jordan, Egypt, Morocco, Tunisia, Yemen, and the Arab Gulf.

Over two dozen researchers and research groups from the above countries participated in this project, which was conducted over a year and a half. The results were reviewed by an advisory committee for methodology to ensure alignment with the project's goals, and were presented by the researchers in various themed sessions over the course of the two days.

THE CIVIL SOCIETY ACTORS AND POLICY-MAKING PROGRAM

at the Issam Fares Institute for Public Policy and International Affairs at AUB, examines the role that civil society actors play in shaping and making policy. Specifically, the program focuses on the following aspects: how civil society actors organize themselves into advocacy coalitions; how policy networks are formed to influence policy processes and outcomes; and how policy research institutes contribute their research into policy. The program also explores the media's expanding role, which some claim has catalyzed the Uprisings throughout the region.

THE ISSAM FARES INSTITUTE FOR PUBLIC POLICY AND INTERNATIONAL AFFAIRS AT THE AMERICAN UNIVERSITY OF BEIRUT

The Issam Fares Institute for Public Policy and International Affairs at the American University of Beirut (AUB Policy Institute) is an independent, research-based, policy-oriented institute. Inaugurated in 2006, the Institute aims to harness, develop, and initiate policy relevant research in the Arab region. We are committed to expanding and deepening policy-relevant knowledge production in and about the Arab region; and to creating a space for the interdisciplinary exchange of ideas among researchers, civil society and policy-makers.

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