

FORCED DISPLACEMENT AND TRANSITIONAL JUSTICE IN NORTHERN SYRIA



Syrian refugee camp in the outskirts of Athens. Image by Julie Ricard

INTRODUCTION

Transitional justice refers to judicial and nonjudicial mechanisms that seek to respond to systemic or widespread human rights violations, to gain recognition of violations suffered by victims and to promote peace and democratic reconciliation in post-conflict states.¹ Transitional justice work can include one or more of the following: trial and prosecution of violations perpetrated; fact-finding processes; restorative justice processes in local communities; reconciliation processes at the individual, sectarian and national levels; background checks of civil servants who could be responsible for human rights violations to remove them from political positions or the armed forces; memorial initiatives (construction of memorials, museums, official days of mourning, etc.); compensation programs; and efforts to prevent recurrence of violations, such as reforming the military, security and judicial institutions.

Transitional justice procedures also aim to do the following: hold accountable main perpetrators during the conflict; improve social understanding of the conflict and factors that caused it to avoid recurrence; indicate institutional reforms to avoid repeat crimes; education, including reform of school curricula; reparations for victims and their families; a degree of harmony among individuals and communities; and national reconciliation.²

Transitional justice is subject to peace negotiations between parties to the conflict, usually built around a compromise between those parties. The negotiation process determines the type of transitional justice and the form it will take, while considering a balance between stability, accountability and nonrecurrence. The mechanisms for achieving such a balance vary depending on the context of the conflict, subject to the scale and pattern of violations, the balance of power between parties to the conflict, and effectiveness and direction of national and international pressure for accountability. Especially at the beginning of the peace negotiation process, transitional justice may be partially rather than fully or ideally implemented. Amnesty may be an incentive for armed groups to lay down their arms and enter into negotiations, and an institutional reform agenda may be introduced to convince warring parties they would benefit more from a political process than they would on the battleground. Therefore, the process of carrying out transitional justice mechanisms can be long and complex, extending for years after a peace agreement is reached.³

Forced displacement is a key issue in the transitional justice process, as it is closely related to gross human rights violations in several ways, often in the form of mass killings, arbitrary arrests, torture, rape, bombing and siege, not to mention that forced displacement can in itself constitute a war crime or a crime against humanity, a crime of persecution, or even a crime of genocide. Additionally, displacement often leaves its victims vulnerable to other human rights abuses. Without the basic protections of their homes, communities and authority structures, displaced persons are particularly vulnerable to acts of violence and human rights abuses, including detention, forced recruitment and sexual assault.⁴

Although transitional justice mechanisms address violations related to forced displacement of citizens, they often do not translate into **meaningful participation of the forcibly displaced in national transitional justice processes** in their countries of origin, who are marginalized groups struggling to have their voices heard within mechanisms that often leave them in the margins of a peace process and political transition and other mechanisms designed to allow them to return and integrate into their homeland. Debates about transitional justice in post-conflict

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states often tend to ignore the issue of who is entitled to participate and who is not entitled to make decisions regarding transitional justice, including the forcibly displaced.

Even at the **academic level**, there is a lack of studies dealing with refugees and displaced persons and their connection to transitional justice. Additionally, international agreements related to refugees such as the 1951 Geneva Convention do not mention any political and civil rights of refugees in their countries of origin after they have obtained refugee status; they are limited to clarifying refugees' economic, social and cultural rights in the country of asylum, meaning that the international community is concerned only with political and civil motives for asylums to assess refugee status, and those factors are then neglected.

Lacking in current transitional justice practices is a focus on linking transitional justice with forced displacement beyond the context of violations. Criminal prosecutions can target perpetrators of the violations that caused the displacement, such as exile and forcible transfer of populations, as happened in the International Criminal Tribunal for the former Yugoslavia; reparations programs may provide compensation to the forcibly displaced for some of the violations that caused them to flee, or for those who suffered during displacement, or for the crime of displacement itself, as happened in Guatemala; and repossession programs can return lost lands, homes and property, as happened in postwar Bosnia.

Beyond the scope of violations, however, transitional justice programs remain limited in access to forcibly displaced persons, especially refugees abroad. Internally displaced persons in post-conflict countries are usually surveyed for their views on transitional justice programs; however, this is not the case for refugees abroad, as seen in Afghanistan, Uganda and Bosnia. This highlights a global gap in perceptions of democracy in post-conflict countries, usually a narrow view that links democracy to elections only, with no focus on expanding participation in the political process to include forcibly displaced persons, mostly women, children and the older population as marginalized groups in the political process. In most international experiences, the participation of forcibly displaced persons in political processes in their countries relates to their safety when they return, something meant to be guaranteed by the transitional justice process. Thus, it is important to integrate refugees and forcibly displaced persons into transitional justice decisions and deal with them as partners to be consulted in the process, including in constitution drafting, new parliaments, trials, truth commissions, security sector reform and development plans in their countries of origin, as this will increase the likelihood that they will return to their countries.⁵

In the Syrian context, the issue of forced displacement is one of the deepest and widest humanitarian gaps, as the number of internally displaced persons and refugees in neighboring countries and elsewhere has exceeded half of all Syrians. With their competencies and capabilities, they constitute a large and indispensable human capital for the future of post-conflict Syria, and accordingly, special and serious arrangements must be made to implement a transitional justice process that matches and alleviates their suffering and provides real conditions for the return of those who wish to do so.⁶

Accordingly, this paper deals with forced displacement as an issue of transitional justice in the Syrian context and seeks to identify the extent to which it is integrated into transitional justice programs and processes by relevant international organizations and Syrian civil society organizations (CSOs), and whether forced displacement is treated within a humanitarian and human rights violations framework only. In addition, the paper asks whether there are broader dimensions to this framework. The paper also seeks to measure the participation and interaction of forcibly displaced persons in northern Syria in the discussion and decision-making processes regarding the form and content of transitional justice programs concerned with forced displacement in Syria.

The paper is crucial as it looks at the role of transitional justice as a tool to stimulate discussions related to forced displacement and address its economic, social and psychological effects. The paper also examines transitional justice's ability to expand political participation by recognizing the forcibly displaced as rights holders, thus expanding their participation in addressing the repercussions of displacement and later the reconstruction process, which may contribute in some way to rebuilding the bond of citizenship. Also, studying the Syrian case in the context of a broader project that includes several countries will enable the exchange of experiences in the field of forced migration and transitional justice, as well as the production of a comprehensive policy paper aimed at developing transitional justice processes and ensuring the participation of the forcibly displaced in it at the national level.

The paper aims to:

1. Promote recognition for forcibly displaced persons in the Syrian conflict and ensure their representation and inclusion in transitional justice processes.
2. Contribute to increasing knowledge of practitioners and policymakers on transitional justice, the importance of forced displacement, its causes and consequences, and its connection to broader issues in the Syrian issue, such as land grabbing and property rights.
3. Shed light on gaps, challenges and obstacles that prevent the participation of forcibly displaced persons in transitional justice processes in the Syrian issue.
4. Recommend transitional justice policies and practices that promote a comprehensive approach to addressing forced displacement, based on guidance from affected communities.

As it is so difficult to comprehensively and accurately calculate the forcibly displaced in the Syrian context to cover refugees outside the country and the internally displaced, this research is limited to internally displaced persons (IDPs) in Aleppo Governorate for the following reasons: There are groups representing IDPs in Afrin, Azaz, al-Bab and Jarablus, as these areas — which represent the research target population — host more than 40% of IDPs in northern Syria from the governorates of Aleppo, Damascus, Daraa and Homs, as well as Palestinian IDPs.

A deliberate research sample was drawn from the target population in the form of three focus groups: one group for women, consisting of eight women; one group for families of victims and forcibly disappeared persons, composed of eight people; and one group of representatives of associations for forcibly displaced persons, consisting of seven people.

Taken into consideration when selecting the sample of respondents was age (25 and over), representation of areas of displacement (Idlib, Homs, Daraa and others) and cultural and educational level (educated, uneducated), to diversify opinions presented during the discussions. Interviews were also conducted by phone calls with 11 forcibly displaced persons (six men and five women) in Aleppo, including political activists, workers in CSOs and survivors of detention. During the interviews, questionnaires prepared specifically for the paper were filled out. The paper relies on the results of focus groups and interviews as primary data sources and on published studies and research on forced displacement in Syria as secondary data sources.

I. Forced Displacement in Syria

The **phenomenon of forced displacement** has been part of the Syrian revolution since its outbreak in March 2011, as a result of the security clampdown adopted by the Syrian government in facing the protests. This phenomenon then developed into mass waves, especially with the militarization of the revolution and its transformation into a multilateral local and regional armed conflict. All the warring parties are implicated to varying degrees in forced displacement, but the Syrian government, supported by its allies, Russia and Iran, has committed the most crimes of forced displacement against civilians, especially when it included a basic clause in the so-called local reconciliation agreements, which allowed the Syrian government to regain control of opposition areas.⁷

The most recent years of the Syrian war have also led to heavy losses in the production and service sectors, reflected in huge **economic losses** that began with the outbreak of the armed conflict and developed as it extended over the years. The size of economic losses by the 10th year of war is estimated at \$530 billion, in addition to the destruction of about 40% of the country's infrastructure, resulting in a rise in unemployment to 42%, as well as a rise in poverty to 86% of the population.⁸

With the combination of economic factors, state of chaos and insecurity, and intensifying hostilities, Syria has become **the largest contributor of refugees in the world**, as statistics indicate that 15.2 million Syrians faced forced displacement from March 2011 to 2020, 9 million internally and 6.2 million externally.⁹ The massive displacement over the past years and the high number of deaths resulting from the conflict have led to a change in the demographic outlook for Syria, as the population decreased between 2010 and 2018 at a rate of 21%, from 21 million to 16.9 million. If the population had continued to grow at the same rate as before the conflict, 2.67%, it would have reached over 26 million by 2018.

1. Forced Displacement in Northern Syria

The northern Syrian governorates, Idlib, Aleppo and Hama, have been a destination for waves of internal displacement throughout the years of war, especially in periods that witnessed escalation of military operations, such as 2013-2014, during which Aleppo Governorate received about 1.787 million displaced people and Idlib Governorate, 708,000.¹⁰

With the Russian military intervention in late 2015, and an increase in military operations against the Islamic State (ISIS), **the number of displaced people increased in northern Syria**, which became the one destination for waves of forced displacement. In mid-2018, with military operations by Russia and the Syrian government moving toward northern Syria, the geographic area of opposition control began to shrink in the north, a region that was hosting a large number of IDPs both inside and outside camps. This led to the crowding of more than 2 million displaced persons within a narrow geographical area already housing the same number of original inhabitants. Thus, the number of citizens outside government control in the Aleppo countryside and Idlib exceeded 4 million, of whom IDPs constituted about 49%.¹¹

About 1,044,000 IDPs in northern Syria live **in camps**, distributed among 1,293 (including 382 “informal”) camps inhabited by about 186,000 displaced persons.¹² A camp is “a group of temporary housing units, including tents, caravans and rooms.”¹³ As for informal camps, they are “set up by people, not local or international organizations, to secure a safe place away from battlefields. Some of them are canvas tents, while others are public facilities such as schools and other shelters.”¹⁴ Women and children make up about 75% of total camp populations, including more than 10,000 widows with no income and more than 19,000 people with special needs.¹⁵

Displaced residents living in camps suffer **harsh conditions at every level**, especially with unhygienic and polluted environments and the inability of international and local organizations to adequately respond to camps’ needs in terms of shelter, reaching a deficit of 52%.¹⁶ Results of a study of 458 camps showed 66% of housing units in those camps are tents, and 27% are cement and mud rooms, 20% of which have cement ceilings, and the rest have ceilings of slats or no ceiling at all but merely waterproof fabric. This exacerbates the suffering of residents every winter in harsh weather conditions that can lead to the camps sinking or eroding, not to mention the deaths each winter as a result of the cold.¹⁷

The suffering of the camp residents is not limited to housing problems. **Unemployment** constitutes one of the most prominent problems for camp residents of working age. The unemployment rate among them is about 80% and is a result of instability and poor social conditions of camp residents, who rely mainly on humanitarian aid, the largest proportion of their income.¹⁸ This increases the suffering of camp residents, as international and local organizations are unable to meet the requirements of all the camps in terms of **food security and livelihoods**, where there is a deficit exceeding 50%. Organizations’ inability to meet camp requirements also affects the health sector by 83% and the education sector by 76%.¹⁹

The **conditions of IDPs outside camps** is not much better than that of their peers. A survey conducted by TDA of 10,000 men and women displaced toward northwestern Syria showed 71% of IDPs included in the study live in rented buildings, meaning additional burdens in difficult economic conditions; more than half find it difficult to secure food and clean water; about 78% find it difficult to secure fuel and oil derivatives; 56% find it difficult to obtain medical services; 45% of families cannot secure an acceptable level of education for their children; 87% reported difficulty in accessing legal services, such as registering marriages, deaths and births and obtaining personal documents, as state services have been halted in their new places of residence and they have their safety concerns about going to regime-controlled areas.²⁰

2. Psychological Conditions of IDPs

In terms of the psychological conditions of forcibly displaced persons, the focus groups show that they are struggling because of the trauma they lived through before and during displacement and the change in their quality of life in host areas, place of residence, income level and social environment, in addition to the violations they are subjected to in the areas of their displacement. One of the participants indicated that she “hates the term *displaced person*” and that she feels humiliated and prefers the term *immigrated* because it implies she was forced to leave her home and is unable to return. Another said that “her family members were separated during displacement, and she lost her social environment and was thrust into isolation.”

The difficulties of obtaining information about those forcibly disappeared in prisons by the Syrian government have increased the psychological suffering of their families and exposed them, as one participant in the focus groups explained, to “fraud by people who contact them through social media about providing them with information on their children in exchange for money,” but that information is often false. Families of detainees held by the Syrian government indicated the lack of official means to obtain information about their children and cases when “relatives residing in government-controlled areas were arrested and tortured for asking for the whereabouts of detainees held in government security agencies.”

The forcibly displaced women previously detained by the Syrian government suffer more difficult psychological conditions than others. One of the participants in the focus groups, a former detainee by the Syrian government, said that she “was unable to document her experience due to the lack of reliable authorities, and as it may put her relatives residing in government-controlled areas at risk; later, if legal fact-finding committees and trials are formed, she will document it all, but for the time being it is not possible.”

Another former detainee said she was not invited to document her experience by any human rights body but gave her testimony to the media. About that experience, she said, “I regret it; it was not what I wanted. I thought that talking about my experience

in the media was to prove the regime's crimes and violations and to show the world how much we were tortured, but things went in the opposite direction. The media only wanted to exploit the stories of our detention and incite emotions and feelings of pity, increasing society's negative view toward us, belittling our suffering, stigmatizing us with looks that always question whether we were raped, thinking I am lying and for sure I was raped, and as a result, we are wronged either way, whether we speak about it or not." These testimonies reflect the dangerous reality that IDPs are living and the lack of trust in human rights and media activities carried out by institutions in the areas to which they have been displaced.

Focus group participants added that the psychological suffering of IDPs increases with a lack of services. Although there are numerous parties providing services, including international bodies, local organizations, the interim government and local councils, they are not sufficient. Regarding IDPs' access to relief support, one participant said, "I felt humiliated when registering for relief support at one of the local authorities, and that led me to refuse assistance." As for psychosocial support, it is also a service unavailable to IDPs in terms of quantity and quality. One of the participants considered access to medical and psychological services a "luxury," and another added, regarding the quality of psychological support provided, "There are no specialists, and most of the psychological support programs for children are games and songs, and that's it." These testimonies are consistent with results of above-mentioned studies on the inability of international and local organizations to meet the needs of forcibly displaced persons and the population in northern Syria, because of poor resources and the large number of people in need.

In addition, IDPs in northern Syria suffer difficulties integrating into host communities, related to differences in societal cultures, and the difficulty of starting life over in terms of completing education and finding employment opportunities that match their qualifications. Many IDPs interviewed for this research expressed feelings of being discriminated against in employment opportunities between them and people of their host communities, who are given priority. Displaced women suffer more from these difficulties; it affects how they dress, finding work opportunities, and pursuing education, and subjects them to harassment they are unable to report because of social customs.

IDPs, like other residents of northern Syria, are subjected to violations that increase their psychological suffering by dominant factions, most notably enforced disappearance and torture. Although there are judicial institutions in their areas, they are controlled by these factions in a way that makes it impossible to do justice to the victims. One participant in the focus session, who is a member of the Council for the Displaced, said, "If a displaced person disappears, we have to wait days until we can find out who arrested him, then contact is made with local notables or leaders of the factions for his release, not with the police or the judiciary." Another participant added, "The factions have become so controlling over our lives that anyone can be arrested and then released for \$1,000."

3. Obstacles to IDP Return

Returning IDPs are limited in most areas of mass displacement, despite the cessation of hostilities in areas retaken by the Syrian government. Reluctance to return is not limited to refugees in neighboring countries but also applies to IDPs, whether in areas controlled by the government or outside them. **Reasons for not returning** can be summarized as follows²¹:

- 1. Massive destruction** of homes and infrastructure, reaching 80% in some areas, as a result of the Syrian government and allies' scorched-earth policy in many of the areas the government retook. This prevents return to small, mostly intact parts of an area, which is also not without its risks. As seen in eastern neighborhoods of Aleppo, many undamaged buildings collapsed on residents after developing cracks during military operations.
- 2. Expropriation resulting from the war economy** and loss of property, which can be divided into the following processes:
 - Looting of private property was carried out by government forces in all the areas they retook, which included home furniture, electrical wires and sanitation systems, leaving these properties uninhabitable or unusable.
 - Confiscation of private property by government forces or its militias to be used in military operations or as in-kind compensation to soldiers and officers.
 - Seizure of properties owned by IDPs to settle their own inhabitants, a practice used by government forces and Iranian militias in eastern neighborhoods of Aleppo, as homes were distributed among IDPs from Kefraya and Foua. This was also committed by Jaish al-Fateh factions in both those towns and by Hezbollah in al-Qusayr.
 - In addition to the previous operations, there were **"emergency sales"** of properties, including homes, land and cars, resulting from poverty under siege, as happened in Zabadani.
- 3. IDPs' loss of documents**, property deeds and IDs in the chaos of bombing, looting and fleeing, or they are being confiscated by government forces at checkpoints. This has led to IDPs' being unable to prove ownership of and recover their property, which may prevent them from returning. This problem is worse for IDPs from irregular housing settlements, who do not have official ownership contracts but rather semiofficial ones that were recognized in Syria before 2011.
- 4. Expropriation through urban planning**, as the Syrian government issued two important decrees, Legislative Decree No. 40 of May 2012 and Decree No. 66 of September 2012, to provide for the demolition of illegal housing and replace them with luxury cities.
- 5. The security situation** and actions by government forces, security services and related militias in recaptured areas, including arrests and forced conscription campaigns. The security chaos and spread of assassinations in recaptured areas, especially in Damascus countryside and Daraa, made areas retaken by the

Syrian government unsafe for the return of IDPs and prompted thousands who had remained in these areas to leave, especially the youth who fled compulsory conscription.

II. Pathways to Transitional Justice in Syria

The continuing conflict in Syria creates challenges to achieving transitional justice. The more time passes, the more wounded, forcibly disappeared and displaced persons appear, and higher the levels of economic loss, unemployment and loss of property reach, with increasing numbers of violations on all sides and number of people affected.

Transitional justice is further complicated by the conflict having a regional and international dimension, with the involvement of foreign parties and massive violations by allied forces against civilians. This requires an expansion of transitional justice to include a supranational dimension in the Syrian case. The most difficult challenge for transitional justice in Syria is achieving reconciliation after years of ethnic and sectarian conflict, which have caused deep fissures in Syrian society.²² In addition, military and political developments in Syria may have an impact on the future of transitional justice, as the regime's military triumph in retaking most of the land outside its control and disruption of the political process may enable it to control which form transitional justice will take in the future.

Accordingly, any political solution that does not include a fundamental change in the structure of the Syrian political system may impede transitional justice or produce a process that is hollow and lacks democratization, reconciliation and nonrecurrence of human rights violations. The U.N. Special Envoy to Syria Geir Pedersen, used the term restorative justice in one of his briefings before the U.N. and the Security Council, causing a wave of anger in Syria, reflected in a popular media and human rights campaign rejecting the term as a call for reconciliation without holding criminals accountable. This prompted Pedersen to apologize for the term and call it a mistake in translation.²³ This reaction reflects the distrust with which Syrians regard the countries and international institutions promoting transitional justice.

Despite these difficulties, Syrians have been aware of the importance of transitional justice since the start of the revolution. They began to organize themselves into more than 50 nongovernmental organizations specializing in transitional justice and to build connections and joint projects with one another. This has included advocacy, documentation, training and other activities. Some have worked on developing a plan for transitional justice in Syria, such as the "Supporting the Democratic Transition of Power in Syria" project run by TDA in 2012, which sought to develop a comprehensive vision for the democratic transition, including transitional justice mechanisms. The same applies to two projects by the Dawlaty organization and a plan for democratic transition by the Syrian Center for Political and Strategic Studies, all of which were submitted in 2013 and present a comprehensive vision for the transitional justice process.²⁴ However, these projects have not been implemented, as they are based on the revolution succeeding in overthrowing the Syrian regime, and therefore their conception of transitional justice centers on "victor's justice."

A number of Syrian organizations also formed a coalition called the Transitional Justice Coordination Group, consisting of approximately 20 CSOs working in the field of accountability and transitional justice, aiming to formulate a national vision for transitional justice in Syria, initiate a broad consultation process involving the population and encourage victims and their families to come together in victims' organizations. However, this coalition quickly retracted and did not result in a real unification of the organizations' efforts because of internal disputes.²⁵

Recent research on current gaps in documentation by international bodies and Syrian civil society, which surveyed all current international efforts in documentation and conducted extensive interviews with 14 Syrian CSOs active in documentation, concluded that documentation efforts have made the Syrian war the most documented conflict in history, as well as a glaring example of the collapse of international standards. The research also highlighted significant gaps and limitations in international efforts from the perspective of transitional justice, which prioritizes crimes committed by the Syrian government and ISIS while neglecting other major perpetrators, such as warring factions and foreign parties, and others responsible for providing logistical and financial support, as well as instigators of many major crimes. Additionally, international bodies are focusing their efforts on preparing files for criminal accountability while neglecting other aspects of transitional justice.

These gaps also afflict the activities of Syrian organizations, as the research concludes that all efforts are focused on documenting violations and investigation mechanisms for future criminal prosecutions. Despite their importance, these efforts are focused on criminal justice, and the documents that are collected, organized and analyzed will be useful only for retributive justice. Syrian CSOs also pay attention to memorialization and institutional reforms, while reparations and restitution of HLP rights receive less of their attention and resources.

Syrian CSOs "recognize the need to align their activities more closely with the needs and priorities of victims and affected communities than they have done in the past. A number of initiatives also seek to speak on behalf of victims and their families and defend their rights."²⁶ These results are consistent with our findings in this paper, which assessed performance from IDPs' perspectives, as shown in detail in the following paragraph:

III. Forcibly Displaced Persons and Transitional Justice

Through the information and data collected by focus sessions and interviews, which were conducted with a sample of IDPs in northern Syria, the following results were reached and distributed on several levels as follows:

1. Transitional Justice: Perceptions and Aspirations

Our research shows that most of the forcibly displaced persons in northern Syria who were interviewed do not have enough information about transitional justice, including its concept, mechanisms and results. Results showed that very few of the sample believe it is possible to achieve transitional justice in Syria, and the same number do not believe it

is, while the majority believe that a transitional justice process is uncertain for Syria and that it could be a partial and not comprehensive process, — i.e., it will not be fair enough.

These results are understandable given the participants' frustration: The military superiority of the government and its allies has shrunk areas under armed opposition control; the political process has been slow and ineffective, and there has been a lack of serious progress by the international community to stop violations committed by government forces in areas outside its control.

Forcibly displaced persons interviewed in northern Syria ranked the violations they have been subjected to in order of prominence: arrest and torture, of either themselves or a family member, at the hands of a dominant party; loss of a family member as a result of war operations; and physical and psychological suffering as a result of forced displacement. They consider the most prominent transitional justice mechanisms that can bring them redress to be fact-finding processes to identify those responsible for violations and criminal prosecutions and accountability for perpetrators of violations, followed by compensation and reparation programs, memorialization initiatives and community reconciliation.

This shows a focus on retributive transitional justice in particular, rather than other forms that do not prioritize criminal accountability. The results showed that most of the sample would refuse to return to their areas of origin or engage in a transitional justice process that does not include accountability for perpetrators of violations; confessions and apologies without holding perpetrators accountable for their crimes are not enough for them. One of the participants in the focus sessions said, "The criminals must be held accountable, from the smallest soldier to the largest official in the ruling system."

Overwhelmingly, the sample refused to engage in a transitional justice process that does not include a change in the form and structure of the ruling regime and a radical reform of the Syrian army and security services. This is understandable in the context of the Syrian conflict as a result of popular revolution against a dictatorial regime and of massive violations committed by the Syrian army and security services against civilians. As one of the participants, who was displaced from Ghouta in Damascus countryside, said, "The regime must be changed from its roots until a settlement is reached, and our property must be restored so that we can return and bury our martyrs properly and honor them" (referring to martyrs of the chemical massacre).²⁷ His words signify how important memorialization is for forcibly displaced persons. Another participant added, "I cannot give up any of the transitional justice programs; I want the criminals to be held accountable, and my property back, compensation for the violations I suffered, and importantly to perpetuate the memory of my martyred brother."

On the other hand, almost all forcibly displaced communities in northern Syria have special activities related to transitional justice and the role of displaced persons; most of these activities are sponsored by international organizations or Syrian civil society. These activities include training courses and educational seminars on transitional justice and the political process in Syria. It appears from IDPs interviewed on how much information they have on transitional justice that these activities are limited in their access and need to be developed to provide sufficient information about transitional justice processes and mechanisms.

2. Activities of Transitional Justice Stakeholders: An Evaluation

In the Syrian context, two parties are concerned with the transitional justice process and the political process: political institutions of the Syrian opposition — the National Coalition for Revolutionary and Opposition Forces, the High Negotiation Committee and the Constitutional Committee — and CSOs. Therefore, the opinions of the sample were polled on the activities of each party separately.

Political institutions: More than half of the sample consider that, as forcibly displaced persons, they do not have any representation in political institutions, and there are no mechanisms for communication between them and those institutions regarding developments in the political negotiation process or for them to specify their demands for the future of the transitional justice process. The majority of the sample also feel that their case as forcibly displaced persons is not well represented by these institutions, especially women, as many female respondents in the sample do not feel satisfied with how their case is represented in these institutions.

CSOs: Syrian CSOs have broader activities and a greater ability to reach forcibly displaced persons in northern Syria compared with political institutions. Most of the sample has participated in activities related to transitional justice with CSOs. More than half of them said activities revolved around documenting their testimonies regarding violations and they were not partners in designing programs or activities related to the transitional justice process. Many of those interviewed said they did not have information on how their testimonies would be used or on CSOs' activities related to transitional justice.

Many of the women participating in the sample said that CSOs, especially women's ones, do not pay enough attention in their activities to forcibly displaced women and considered their role as limited to providing testimonies about violations, and they are not partners in designing programs or activities by those organizations in terms of transitional justice.

Most of the sample said they felt marginalized and unable as forcibly displaced persons to have their voices and demands heard by political institutions and civil society organizations regarding transitional justice and a political solution in Syria. They also feel that this marginalization will affect their political activity and their desire to participate in the future in the political and transitional justice processes.

3. Integrating IDPs Into Transitional Justice: Obstacles and Problems

From the point of view of the activists who are among the forcibly displaced people in northern Syria, as well as of representatives of CSOs in the region, activities related to the transitional justice process face many obstacles.

1. **Restrictions on CSO activities** involving transitional justice by local civil and military authorities. A course for women on transitional justice was stopped in one

of the cities included in the sample, by the local council, on the pretext that there was no license, but the organizers believe “the real reason was the local dominant bodies’ fear of any activities relating to transitional justice as it could affect them in the future.” Therefore, documentation activities in northern Syria are limited to the Syrian government’s violations and do not address violations by other parties, despite the fact that displaced persons have been subjected to many violations, which prompted many of them to think of leaving Syria for neighboring countries.

2. **A general lack of confidence** among IDPs in the relevance of participating in transitional justice activities in Syria, as a result of the political and military situation on the one hand and of problems with organizations carrying out such activities on the other hand. The majority are not specialized, which leads IDPs to mistrust their activities. In addition, most of the transitional justice activities are giving general information only, without linking it to practical mechanisms. One human rights defender working on transitional justice in northern Syria said, “There is a general perception among IDPs that the point of transitional justice courses held by local organizations is just to obtain funding from donors. This is due to a general perception of CSOs on one hand, and on the other, their lack of specialization to engage in activities in a variety of fields, and then they suddenly announce activities in transitional justice.” A worker in one of these organizations added that “because of this perception among IDPs of local organizations, and because of their poverty, they demand to be paid to attend transitional justice activities held by the organizations.”
3. **Absence of a comprehensive national strategy** regarding transitional justice in Syria, and consequently lack of coordination between political, media and human rights institutions regarding transitional justice activities that promote a culture of justice and redress in the minds of IDPs. CSOs carry out individual activities that are often repetitive, and there is nothing new offered to IDPs, nor enough media coverage to raise awareness about the importance of transitional justice. One human rights worker said, “Transitional justice sessions offered in the north are more of a trend; all organizations at the same time announce activities related to transitional justice and provide the same information because they do not coordinate amongst themselves. As IDPs, we face difficulties in communicating with Syrian human rights centers abroad, in addition to the indifference shown by some of them towards documenting the suffering of IDPs and violations against them inside Syria.” A worker at a local organization in the north added, “We do not receive coverage or attention from Syrian media regarding our transitional justice activities, and this affects our ability to spread awareness and culture about transitional justice.”

IV. Recommendations

The continuation of the conflict and intractability of the political solution have cast a shadow over IDPs' attitudes toward transitional justice. On the one hand, the psychological pressures they face increase daily, pushing them to despair of even the possibility of a just solution. Consequently, they are losing their hope of returning and of the feasibility of any political activity or possibility of achieving real and comprehensive transitional justice. On the other hand, continuing violations mean Syrian organizations working on transitional justice must pay urgent attention to documenting and communicating with IDPs about violations and focus on criminal justice, a demand by IDPs, as the findings have illustrated.

Yet Syria's failure to enter into a political transition may provide an opportunity to develop and modify transitional justice processes to make it more compatible with developments in the political situation and more able to integrate IDPs as partners in every stage of the process in the future, whatever its form or results. In this context, the following recommendations can be made:

1. **To build a national strategy for the Syrian case** that coordinates, organizes and directs efforts by organizations and institutions working in transitional justice, and focuses on engaging forcibly displaced persons inside and outside Syria in the design and development of transitional justice. This general recommendation can be translated into practical steps as follows:
 - A. Activating joint work among Syrian organizations specialized in transitional justice or establishing an umbrella under which efforts are coordinated to evaluate their work after a decade of conflict, and to develop their previous plans to produce a national vision for transitional justice that takes into account changes in the military political situation in a way that is also more responsive to the needs and aspirations of victims. This is no longer a luxury but a necessity imposed by political and military events and the inability of any one organization – whatever its capabilities – to produce a national strategy for transitional justice in isolation from other organizations and victims. Moreover, over a decade of activities by Syrian organizations in documenting violations has created a huge database between them, and there must be a way to coordinate and share that data and plan a common vision for transitional justice.
 - B. Focusing on expanding participation of victims, especially those forcibly displaced, in building any national strategy or comprehensive plan for transitional justice in Syria, building from the bottom up and not the other way around. This means it is based on victims' demands and aspirations and can be achieved through:
 - i. Supporting the formation and organization of associations for victims according to the nature of the violation, which includes victims among forcibly displaced persons (arrest and torture, displacement and enforced disappearance, seizure of property, etc.). This would facilitate their inclusion in transitional justice processes that address the type of violation the victim prioritizes and to understand their views and aspirations for mechanisms of redress. Such links provide an opportunity for Syrian organizations specializing in transitional justice to build their strategies based on studies of each violation separately, to align with the aspirations and requirements of victims, as well as an opportunity to

truly integrate forcibly displaced persons as partners in the planning process. More importantly, victims' associations that include the forcibly displaced (IDPs and refugees) can help overcome security restrictions on the work of local organizations in northern Syria, since refugees, especially in countries with freedom of expression, can represent IDPs in voicing violations they remain silent about in northern Syria. In the Syrian case, we have an experience that can inspire: the Caesar Families Association, which demands truth, justice and rehabilitation for all victims of torture and enforced disappearance in Syria.

- ii. Given the large number of forcibly displaced people, it is not enough to rely on representative councils for IDPs or victims, which include IDPs to prove broad participation when designing transitional justice programs. Syrian organizations can rely on opinion polls specifically for IDPs, which can reach thousands and find out their demands and aspirations regarding transitional justice. Additionally, this method positively reflects psychologically on displaced persons and gives them the feeling that they are partners in decisions related to transitional justice.

2. To rebuild forcibly displaced persons' confidence in a transitional justice process as the only way to address violations they have suffered and provide redress for victims. This is directly connected to the above-mentioned steps, in terms of reevaluating pathways and perceptions of transitional justice in Syria and developing them in a way compatible with the Syrian political situation. It is also directly linked to the extent to which specialized Syrian organizations can integrate forcibly displaced persons as partners in formulating a comprehensive view of transitional justice. When formulating views of the transitional justice process, it is necessary to take into account what is known as management of expectations,²⁸ that is, to not raise victims' expectations, especially those of forcibly displaced persons, regarding the results of transitional justice mechanisms, as it has dangerous psychological effects on victims if results fall below expectations. Therefore, any conception of transitional justice must be realistically built, take into account all possibilities of a political solution and the impact of each on the transitional justice process and prepare victims psychologically for the possibility that transitional justice in Syria will be long and complicated.

3. To build confidence between forcibly displaced persons and Syrian organizations concerned with transitional justice, by addressing gaps in their work, including:

- A. Lack of confidence in the organizations' goals and activities concerning transitional justice, which need increased transparency in Syrian organizations on the one hand, and on the other a review of the means by which organizations promote their transitional justice activities.
- B. Problems in the content presented in preparatory transitional justice activities, like repetition and absence of practical applications. We stress the need for coordination among Syrian organizations in this field and for transitional justice activities to complement one another, as well as the need to focus on linking theoretical information with practical applications that increase forcibly displaced persons' confidence in transitional justice mechanisms. An example in this context is the path established by TDA in 2014 to convert property registries in liberated areas into electronic registries in

order to preserve them, which then developed into clarifying laws issued by the Syrian government that could lead to appropriation of IDPs' properties and ways to legally deal with this, in addition to support given to IDPs to reach international actors and advocate for the issue of property rights themselves.

- C. Designing programs to educate and train Syrian CSO workers specializing in transitional justice on the importance of the role of forcibly displaced persons as partners in their activities beyond the context of violations and documenting violations. This matter falls to international organizations that provide support for activities through Syrian organizations.
 - D. Expanding activities held by Syrian organizations working in transitional justice to reach the most vulnerable IDP groups, who may be politically marginalized in the future, such as the poorest families, the wounded and women who have no financial support. This includes using financial incentives, no matter how simple, to encourage them to participate in organizations' transitional justice activities.
 - E. Strengthening programs aimed at empowering and integrating women into transitional justice processes, especially survivors of detention, whether by the Syrian government or by other parties, as well as widows and families of detainees who will be entrusted in the future to defend and recover their relatives' property rights.
 - F. Intensifying humanitarian and relief organizations' efforts and resources for psychological support for the forcibly displaced to reach the largest possible number and offer the most effective support possible, which is able to address the psychological problems created by displacement. This needs increased support by international organizations in terms of resources and training for Syrian organizations.
4. **To identify mechanisms through the U.N. to issue Syrian IDPs and refugees with IDs and property records recognized by the Syrian government**, based on recognizing the state of displacement as forced and taking into account the inability of the forcibly displaced to communicate directly with government institutions as well as the danger this poses to them. The U.N. would act as mediator between the government and the displaced for the process of issuing documents. If this is not possible, then it can support Syrian organizations and local government institutions in areas outside government control in their efforts to preserve and issue identity papers and property records for the forcibly displaced, and obtaining recognition for these documents. This is extremely important for those who lost their official documents during displacement; it is an obstacle to their future political participation, as new documents issued by parties other than the Syrian government are not recognized and may even facilitate confiscation of their properties, thus minimizing their chances of return. Countries with large numbers of Syrian refugees must support obtaining recognition of ownership documents and registries for forcibly displaced persons as an important step toward the voluntary return of refugees.
5. **To expand the scope of studies that deal with forcibly displaced persons and transitional justice in Syria to include refugees** in neighboring countries and Europe. This is to establish a reliable scientific database for Syrian and international organizations to design relevant programs. It is also important for surveying the opinions of Syrian refugees, numbering

almost 6 million, and for studying how refugees' living conditions affect their attitudes toward engaging in political issues in their home country, like transitional justice or peacebuilding and post-conflict reconstruction, especially in light of their varying living conditions, which change based on their host countries.

In conclusion, it can be said that the Syrian case is very important as a case study on the relationship between forced displacement and transitional justice, due to the following factors: It is the largest in terms of numbers of displaced people, and the most violent in terms of the context in which the displacement process took place, and therefore it is the most documented case through the evidence collected about violations perpetrated, including forced displacement. What makes the Syrian situation more important is the mixing of political, sectarian and ethnic motives for the forced displacement process, which led to the emptying of entire regions of their population, a demographic change in Syria, and tore the Syrian social fabric. As a result of these factors, the process of sustainable peacebuilding and post-conflict reconstruction in Syria cannot, and may even be impossible, to take place without a comprehensive transitional justice process in which the forcibly displaced are partners in designing and directing it in a way that makes it compatible with their priorities and grievances.

This case study, "Forced Displacement and Transitional Justice in Northern Syria," is part of GIJTR's project on Forced Migration and Transitional Justice conducted by Consortium partners, the International Coalition of Sites of Conscience and the Centre for the Study of Violence and Reconciliation. This project addresses the disenfranchisement of forced migrants, including Internally Displaced People (IDPs), refugees, and asylum seekers, in national transitional justice processes in countries of origin. By looking beyond humanitarian approaches to addressing victimhood and human rights violations, this project examines forced migration as a transitional justice issue and the extent to which it has been integrated into transitional justice processes, developing recommendations for improving responses to forced migration. Through case studies of diverse country contexts in different phases of transition, and the experiences and activism of a variety of forced migrant groups—from refugees resettled in the diaspora and IDPs displaced by insurgency to trans-border migrants in regional conflicts—the project provides evidence-based policy solutions for addressing forced displacement through inclusive and holistic transitional justice processes, which are responsive to the needs and demands of affected populations. This case study was authored by The Day After.

ENDNOTES

- 1 Dallah, Kinan. 2021. "Forced Displacement And Transitional Justice". In *Map Of Forced Displacement: A Descriptive Monitoring And Legal Reading*, 149. Istanbul: The Day After Organization (TDA).
- 2 Jamar, Astrid, and Christine Bell. 2018. "Transitional Justice And Peace Negotiations With A Gender Lens", 1. New York: UN Women.
- 3 Ibid., p.3.
- 4 Dallah, Kinan. 2021. "Forced Displacement And Transitional Justice", Ibid. p. 149.
- 5 Harris Rimmer, Susan. 2010. "Reconceiving Refugees And Internally Displaced Persons As Transitional Justice Actors". Research Paper No. 187, 1-3. UNHCR.
- 6 "The Current Reality And Challenges O Transitional Justice As A Key Part Of Building A Sustainable Peace In Syria". 2018. National Agenda For The Future Of Syria Program, 6. Beirut: Economic and Social Commission for Western Asia (ESCWA).
- 7 AL-Alou, Sokrat. 2021. "Forced displacement under local reconciliation agreements". In *Map Of Forced Displacement: A Descriptive Monitoring And Legal Reading*. Istanbul: The Day After Organization (TDA).
- 8 "Study: 530 Billion Dollars Losses In The Syrian Economy Due To Battles". 2020. *Al Jazeera Net*. <https://bit.ly/3sc8uWm>.
- 9 Mustafa, Talal, Hussam Al-Saad, and Wajih Haddad. 2021. "Diagnosis Of Syrian Societal Destruction (1 Of 3)". *Violence And Conflict And Its Effects*, 92. Istanbul: Harmon Center for Contemporary Studies.
- 10 Idlebi, Omar, and Mahmoud Hussein. 2020. "Effects Of Displacement In Northern Syria", 15. Istanbul: Harmon Center for Contemporary Studies.
- 11 Ibid. p.18.
- 12 Al-Bashir, Abdullah. 2020. "Response Coordinators Team Releases Statistics On Camps In Northern Syria". *Al-Araby Al-Jadeed Newspaper*. <https://bit.ly/37sjneL>.
- 13 "Winter Requirements For North Syrian Camps". 2020. Fifth Edition, 9. Istanbul: Assistance Coordination Unit (ACU).
- 14 Al-Abdullah, Muhammad. 2018. "Livelihoods In Displacement Camps: A Case Study In Northern Syria", 9. Istanbul: Omran Center for Strategic Studies.
- 15 Al-Bashir, Abdullah. Ibid.
- 16 Ibid.
- 17 Winter Requirements in North Syria Camps, Ibid, pp. 10-19.
- 18 Al-Abdullah, Muhammad. Ibid. p.38
- 19 Al-Bashir, Abdullah. Ibid.
- 20 "In The Absence of The Choice To Remain Or Return: Mass Displacement And Consequences In Terms Of "Reconciliation Agreements": A Study Of 10,000 IDPs In Northwestern Syria". 2018, 41-52. Istanbul: The Day After Organization (TDA).
- 21 AL-Alou, Sokrat. Ibid.
- 22 The Current Reality and Challenges of Transitional Justice as a Key Part of Building a Sustainable Peace in Syria. Ibid. pp 1-20.
- 23 Al-Omari, Mansour. 2020. "Restorative Justice In The Context Of Transitional Justice". *Enab Baladi Newspaper*. <https://cutt.us/MNiOw>.
- 24 "Transitional Justice In Syria: Its Path And Fate". 2018. *Pro Justice Website*. <https://bit.ly/3jQjaYM>.
- 25 Ibid.
- 26 Nassar, Sima. 2020. "Documentation Gaps In Human Rights And Transitional Justice Violations In Syria And Ways To Address Them". *LSE Conflict Research Program*. <https://bit.ly/3porqCs>
- 27 UN chemical weapons inspectors confirmed that the nerve agent sarin was used in an attack on the Ghouta agricultural belt around Damascus on the morning of 21 August. The death toll of the massacre was more than 1,300. For more information about the chemical attack on Ghouta: "Syria Chemical Attack: What We Know". 2013. *BBC News*. <https://bbc.in/3yTD1wy>.
- 28 Abul-Dahab, Noha. 2017. "Transitional Justice Politics In Authoritarian Contexts: The Egyptian Case". *Brookings Institution*. <https://brook.gs/2ZUxPLo>.



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