



## **GENDER SENSITIVE CONSTITUTIONAL PRINCIPLES FOR SYRIA**

The basis of the constitutional declaration in the  
transitional period and a foundation for the future  
permanent constitution in Syria



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## GENDER SENSITIVE CONSTITUTIONAL PRINCIPLES

*The basis of the constitutional declaration in the transitional period and a foundation for the future permanent constitution in Syria*

**The principles were developed by the Coalition of Syrian Women for Democracy CSWD and are an outcome of the high level conference “Building an Inclusive Gender-Sensitive Constitution: A Syrian Path Towards Democracy” organized by the Coalition of Syrian Women for Democracy and Euromed Feminist Initiative on 30/05 – 1/06/2016 in Brussels. They are a result of the on-going efforts of the CSWD, human rights lawyers and legal experts, gender experts and researchers as well as other civil society actors, to stop the bloodshed and move to a non-violent transition towards democracy in Syria with a constitution building process, inclusive of gender equality and women’s rights.**

**This publication sets out the aims of the conference, its participants, topics of discussion and outcomes – the gender sensitive constitutional principles. It also provides useful background information, describing the broader project of which this event was part, and detailing the past activities of the Coalition of Syrian Women for Democracy with the support of Euromed Feminist Initiative IFE-EFI, towards this aim.**

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# Outcomes

## High level conference of legal and gender experts

### **“Building an Inclusive Gender-Sensitive Constitution: A Syrian Path Towards Democracy”**

The Coalition of Syrian Women for Democracy (CSWD) held the conference: “Building an Inclusive Gender-Sensitive Constitution: A Syrian Path Towards Democracy” on 30 May – 1 June 2016 in Brussels, organized in partnership with the Euromed Feminist Initiative IFE-EFI in the framework of the program: “Supporting transition towards democracy in Syria through preparing for an engendered constitution building process” funded by EU and Sweden. The conference gathered distinguished Syrian constitutional and legal experts, joined by gender experts and international observers, to reflect on the ongoing process of building and promoting a gender sensitive, democratic constitutional option for Syria with focus on drafting gender sensitive constitutional principles.

## Background

The Coalition of Syrian Women for Democracy CSWD was founded in July 2012 by a number of Syrian feminist organizations that shared a unified vision of a secular, democratic Syrian State, in which all citizens - women and men, are equal regardless of sex and gender, ethnicity or religion, and in which all citizens –women and men, are constitutionally guaranteed their rights and freedoms in compliance with the International Bill of Human Rights and all international women’s rights conventions and resolutions ratified by the State. Several feminist and human rights organizations joined the coalition later on, reaching now a number of 16 organizations, aiming to build a democratic State based on rule of law and separation and independence of powers; on full equality between women and men and human rights; a State that prohibits and criminalize all forms of discrimination and violence against women, and that adopts effective mechanisms to ensure the equal participation of women in political, social, economic and cultural spheres and in all decision-making positions.

The CSWD have from the beginning focused on putting forth and promoting engendered constitutional principles to guide the transition towards democracy in Syria. While working on achieving its goals, the CSWD has been building on lessons learned from the experiences of other countries. It published a booklet “Looking Towards a Democratic Constitution” (2012) and Recommendations for “Promoting nonviolent transition towards democracy through engendering constitution building process in Syria” from the international conference held on 11-10 April 2014 also in Brussels. It also published the report “Gendered constitution building process for Syria” (2014) and in 2015 some of its members were involved in the reference group for writing the handbook on engendering constitution-making: “ABC for a

gender sensitive constitution" (2016). Many actions of the CSWD took place since 2012. This ongoing work has been supported from the beginning by Euromed Feminist Initiative in the frame of different programs funded by Sweden and the EU.

## **Outcomes of the Conference**

The 3 days' conference was characterized by a high level and quality of discussion. Participants emphasized their belief that a democratic constitution must be gender sensitive, and agreed on gendering the entire constitution as well as all the principles that will form the foundation for the permanent constitution in the future.

They agreed on the principles of secularism meaning the separation of religion from State and legislation. However, due to the fact that the word "secularism" is often mistaken with "atheism," some participants suggested using instead: "State neutrality towards all religions" or "Separation of religion from State and legislation". Gender experts, however, insisted that secularism must be named clearly and concisely, as the best guarantee to revoke any discriminatory laws against women in the name of religion, mostly the personal status laws, which contradict with the principle of equal citizenship, even if stated in the constitution.

Another issue of heated discussion was related to the sources for legislation: supremacy of international treaties and agreements or religion as one of the sources of legislation. In the case of the latter, it was underlined that there is a risk, through interpretation of religious texts, to pass misogynist and discriminating against women laws, in opposition to the consensual principle of citizenship.

The majority of participants agreed on the principle of decentralization which the future Syrian State must be founded on and different forms were discussed. Some of them stressed the principles of pan-Arabism and the Syria's identity as Arabic.

These subjects remain open for further discussion.

The constitutional and legal experts enriched the ideas adopted by the CSWD on gender sensitive constitutional principles, which will be the basis of the constitution declaration in the transitional period, and a foundation for the future permanent constitution.

## Gender Sensitive Constitutional Principles for Syria

1. Syria is a sovereign, independent, democratic republic based on political pluralism and administrative decentralization, and has the full right to retrieve its occupied territories within the context of the unity of the Syrian land.
2. All Syrian citizens, women and men, are united under one national identity encompassing their different ethnic, cultural, and religious belonging. The constitution guarantees respect, equality, gender equality, non-discrimination as well as the establishment of equal opportunities for all these social components.
3. The constitution guarantees the achievement of full equality between women and men in citizenship rights so that both women and men can enjoy their civil, political, social, economic, cultural, and educational rights in all areas of public and family life.
4. The constitution prohibits discrimination, whether direct or indirect, against any citizen on the basis of gender, and obliges the State to issue national laws that prevent, prohibit and criminalize any act of discrimination against women and all forms of violence against them in both private and public life; to annul all discriminatory laws and texts, to lift all the reservations posed on the CEDAW, and to endorse its optional protocol.
5. The Syrian constitution is a secular one and explicitly mentions the separation of religion, from the State and legislation.
6. The people are the source of power. The constitution guarantees representation of Syrian people through free and impartial elections, which are administered by just laws that ensure women's equal participation, achievement of parity between women and men through providing for affirmative action as gender quota, and fair representation of all groups.
7. The constitution protects the separation of powers and the establishment of regulations that ensure a balanced relationship among them.
8. The constitution ensures equal participation of women in public, political, economic, and social life; their equal right to employment and to holding any decision-making position, as well as their equal representation in all designated and elected bodies.
9. The sources of legislation are international human rights treaties and agreements, women's rights conventions and resolutions as well as international human rights law and principles of social justice and gender equality.
10. All international treaties and agreements ratified by the State have supremacy over national legislation. The constitution and national laws comply with international agreements and conventions ratified by the State that protect the

political, economic, and social rights of women and men, on top of which is CEDAW.

11. The constitution guarantees the right to life and bans death penalty; it prohibits ill-treatment and abuse of women and men under any circumstances; it explicitly criminalizes all forms of gender-based violence and torture, including rape, and all other forms of abuse and inhumane treatment.
12. The constitution protects the independence of the judiciary and the equality of all citizens, women and men alike, before the law and in the law. The constitution also ensures equal access and women and men to legal entities, equality in treatment, and protection against sexual and physical violence, as well as providing compensations for victims of sexual violence within the system of transitional justice.
13. The constitution protects the right of women and men to transfer their citizenship to spouses and children.
14. The constitution protects the freedom of expression, thought and conscience, as well as the participation in decision making through political parties and civil society organizations, including women's rights organizations; publishing newspapers and other printed materials.
15. The constitution guarantees and protects women's and men's equal rights to education, work, property ownership, and inheritance.
16. The constitution ensures abolishing or amending all laws conflicting with these principles.

## Mechanisms to implement the gender-sensitive constitutional principles

- The constitution must be written in a gender-sensitive language. The words “women and men” must be clearly included after phrases like “all citizens” or “individuals” to emphasize that women and men are equal in worth, before the law and in the law.
- The constitution must prohibit the legislative authority from revising its articles in a way that negatively affect gender equality or any of the principles of freedom and justice. The constitution also must clearly state that the articles guaranteeing civil rights and freedoms, and equality between women and men are not subject to change, unless change was intended to emphasize or enrich, in case the legislative power needed to amend some articles.
- The constitution must include implementation mechanisms, such as articles and bodies for equality, to ensure it doesn't remain a declaration of principles. A supreme national body is created to implement and protect women's rights and establish gender equality in all ministries and local institutions and authorities, along with the gender equality committee in the parliament to monitor the implementation of gender equality law and related issues. The principle of gender equality is established clearly and through all governmental plans and programs.
- Current laws must be amended by the legislative authority to agree with all the rights and freedoms protected by the sought constitution. No article or law should stand in opposition to the spirit of the constitution. If any such contradiction is noted, laws must be amended to be compatible with the constitution, and therefore with international agreements on human and women's rights. Feminist organizations and human rights activists must be involved in the process of revising laws and systems and developing civil and criminal laws to ensure justice and eliminate of all forms of discrimination and violence against women.
- The national policy focused on education includes all Syrian children in the educational process, especially those who were deprived from it in the past years, as well as focusing on literacy programs and the spread of knowledge and awareness on democracy, human rights, and gender equality in all educational stages and in all media.
- The national policies reflect a positive image of women and stand in opposition to social tolerance towards discrimination against women, and mechanisms guarantee the protection of women's rights in reality. The constitution alone cannot protect women from cultural stereotypes and prejudices which continue to marginalize women in obvious or subtle ways.
- Independent civil records are provided for women, to further institutionalize the full citizenship of women.

- A clear work table is set for gender equality and all opportunities are sized to emphasize this issue.
- All social components in Syria are involved on establishing gender equality and raising awareness on women's rights on a local level, since even the progressive forces in Syria hesitate on the subject of gender equality and women's rights.
- All feminist and civil society organizations are engaged and actively participate in the preparation for negotiations and the creation of transitional governing bodies. Civil society organizations must have the freedom to work and be properly represented in committees that adopt programs and policies.
- The participation of women in negotiating delegations of Syrian political parties and powers is ensured at all stages.
- The discussions and negotiations pertain during the constitution building period, since it could change the balance of powers through the mobilization of democratic forces.
- Mechanisms must ensure the transparency and fairness of constitutional referendums and all stages of elections, as well the participation of civil society organizations in monitoring the elections.
- The electoral system is a proportional representative one in order to promote gender equality.
- This entire process is connected to democracy, since women's rights are an indivisible part of the international human rights.



