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The Day After: Supporting a democratic transition in Syria. Vision, principles, objectives, challenges, and recommendations

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The Day After. Supporting a Democratic Transition in Syria

Vision, Principles, Objectives, Challenges, and Recommendations

Among the challenges confronted by the Syrian opposition since the start of the Syrian revolution in March 2011 has been the lack of a unified vision for Syria's future and of concrete and detailed planning to respond to the significant challenges that will accompany a post-Assad transition. The absence of a clear vision and detailed plans has reinforced fears among some segments of Syrian society about what the future might hold should the Assad regime collapse. It has also constrained efforts by the international community to support the opposition in its efforts to overthrow the Assad regime. To address this gap, The Day After project provided a framework within which some 45 prominent opposition representatives of varied backgrounds participated in a facilitated process of transition planning. The project has now published a document that provides a comprehensive vision for a post-Assad order, agrees on principles and goals, identifies challenges and risks, and puts forward concrete recommendations in six policy fields crucial for a successful transition. The document also offers recommendations for measures to be taken immediately to put in place the foundations for a successful transition.

Today, Syrians are struggling to overthrow an authoritarian regime and secure the opportunity to live in a stable, peaceful democracy. Transitions to democracy are always difficult. Those that occur in the wake of armed conflict face the most daunting of challenges. They must contend not only with the legacies of dictatorship, but with the immediate consequences of violence – human, social, institutional, and economic – which vastly complicate, and often overwhelm, efforts to build and con-

solidate democratic institutions and norms in a traumatized, post-conflict society.

Even under the most difficult circumstances, however, prospects for a successful transition improve when it is anchored in shared principles and a shared commitment to clearly defined goals. Transitions that are guided by an understanding of the pathway to be followed, agreed principles, and the destination that citizens are working to reach are much better equipped to meet and overcome the challenges they

inevitably encounter. In addition, transitions are more likely to succeed when they take into account the specific historical experiences of a country, its social structure, cultures, and traditions. The odds of success increase further when risks and challenges that may disrupt a transition are identified, strategies for mitigating them developed, and when sufficient flexibility is built into a transition plan to ensure that it remains relevant even under volatile and unpredictable conditions.

Against this backdrop and with the objective of making a substantial contribution to transition planning for Syria, The Day After project was conceived. Acting under the auspices of a Syrian Executive Committee, the U.S. Institute of Peace (USIP) in partnership with the Stiftung Wissenschaft und Politik (SWP) facilitated its deliberations.

Goals and Core Principles

Participants in The Day After project identified the following as goals that should guide the efforts of transitional authorities. Progress toward the achievement of these goals will increase prospects for a successful post-Assad transition:

- ▶ Citizenship and equality of all citizens, rather than sectarian, ethnic, or gender considerations, should be decisive in relations between individuals and the state.
- ▶ Syria should be a civil state in which the role of the security forces should be to protect the security and human rights of all citizens.
- ▶ Unity of state and territory together with elements of decentralization will allow for citizens' participation on all levels.
- ▶ The economy should be managed to realize social justice, human development, sustainable development, and the protection of natural resources.
- ▶ The new political leadership and government should demonstrate a clear commitment to democratic principles and processes to break with authoritarian legacies.

- ▶ A new national identity needs to be developed, strengthened and promoted. Unity needs to be fostered among all components of Syrian society, and a consensus on the core values and fundamental principles of the nation as well as the new framework for governance needs to be built. Also, citizens need to be educated and empowered on the principles and practice of democracy.

These goals, which are at the heart of Syria's revolution, cannot be achieved by Syrian leaders on behalf of the people but must be realized by the Syrian people themselves through a process of civic education, national dialogue, and public consultation that allows the people to express their fears, needs, and aspirations directly to their leaders and each other.

Such a process should be grounded in the following core principles:

▶ **Inclusiveness and Participation:** An inclusive and participatory transitional process is one that includes all components of Syrian society. Inclusion is achieved by encouraging public participation to the greatest extent possible. Participation is a natural and legitimate right of the Syrian people, both to express freely their opinions, interests, and preferences to a transitional authority and to be confident that transitional authorities will be responsive to and promote inclusive participation.

▶ **Transparency and Accountability:** A transparent transitional process is one that is conducted in an open manner, through effective mechanisms for deliberation. Transparency is essential if Syrians are to be informed about and participate in shaping a new Syria. Accountability of public officials ensures that the opinions and preferences of the Syrian public are taken into consideration by the transitional authority.

▶ **Consensus:** A transitional process will benefit when decisions reflect as broad a consensus as possible among all components of Syrian society, and where decisions are reached by deliberation, negotiation, and persuasion to the greatest extent pos-

sible. This, along with inclusion, participation, transparency, and accountability, guarantees that decisions taken by transitional authorities reflect the interests and the aspirations of the nation, and not just one societal interest.

Participants in The Day After project recognize that working toward these goals and objectives will at times strain the capacities of Syrian society. The urgency to provide stability and security will at times be in tension with the demands for participation and transparency. Participants agree that it is important not to permit the needs of the moment, and the flexibility that will be necessary for the transitional authority to work effectively under difficult circumstances, to erode its fundamental commitment to all of the goals and principles that will shape the possibilities for building a democratic Syria in the post-Assad period.

Goals, objectives, challenges, and recommendations

Deliberations took place in six working groups addressing policy fields crucial for a successful transition: the rule of law; transitional justice; security sector reform; constitution making; electoral reform and the formation of a Constitutional Assembly; and economic restructuring and social policy. Each of the six working groups identified goals, objectives, and challenges, and provided detailed strategies and recommendations.

Rule of Law: The goal of efforts to consolidate the rule of law in Syria is to transform Syria from a state governed by the arbitrary power of individuals to a state of law, in which no individual is above the law and all are subject to the protections and obligations of the law. In addition, rule of law activities are intended to ensure the administration of the regular justice system in the transition; to revoke jurisdiction from extra-ordinary courts; to address the limited capacity of the current justice sys-

tem; and to avoid lawlessness, violence, and criminality during the transition.

Efforts to consolidate the rule of law are expected to reflect certain requirements. They must be:

1. consistent with international human rights norms and standards;
2. legally certain and transparent;
3. drafted with procedural transparency;
4. drafted in a way that provides ordinary citizens a role in the process of law-making; and
5. publicly promulgated.

After the fall of the Assad regime, the obstacles to establishing the rule of law will be considerable. The existing justice system is weak. It lacks legitimacy and trust as well as mechanisms of oversight and monitoring. The prison system is opaque with the existence of secret prisons and detention centers, multiple lines of control, and many unlawfully detained people. There is a danger of serious crime escalating during the transition, as it has in other post-conflict countries, undercutting consolidation of the rule of law.

To pave the way for establishing the rule of law, steps should be taken even prior to the fall of the Assad regime. The following are considered priorities: identify trustworthy current justice sector personnel who can lead or support the justice system from the outset of a transition; raise awareness about the importance of safeguarding records and critical justice infrastructure; identify critical infrastructure, sites, and records so that they can be protected and preserved; establish a legal committee to review existing laws and make recommendations concerning which laws to amend or repeal in the first months of the transition.

Transitional Justice: In keeping with international norms and standards, a transitional justice program in Syria should include processes and mechanisms that are not only retributive but also restorative. Transitional justice should be designed to

1. achieve justice for the victims of recent and past abuses;

2. create alternatives to violent forms of redress that will deepen conflict and social fragmentation;
3. provide some truth about the conduct of perpetrators and the experiences of victims;
4. provide mechanisms that help to prevent further abuses and restore citizens' faith in state institutions, thus helping to strengthen the rule of law;
5. support the restoration of trust among citizens and the development of a new positive vision of Syria;
6. provide for "social repair" for victims but also for society at large in light of the collective legacies of violence, repression, and authoritarianism over the past five decades.

Under any plausible scenario of regime change, efforts to achieve transitional justice will face enormous challenges. Chief among them are: a divided society with sectarian and regional tensions that have been exacerbated in the wake of armed fighting; the urgency of popular demands for accountability and justice that a new government might be unable to address; an insufficient resource base on which a post-Assad government will depend to implement transitional justice; and the limited capacity and compromised legitimacy of public institutions, including judicial and prosecutorial institutions.

The Day After project recommends establishing the foundations of a transitional justice prior to the fall of the regime. Necessary steps include: establishing a Preparatory Committee to begin to map a strategy of transitional justice; preparing to safeguard records and documentation; beginning public messaging and outreach to avoid revenge attacks and raise awareness of transitional justice mechanisms; anticipating international interest; considering appropriate frameworks to coordinate and integrate the variety of transitional justice mechanisms; and preparing personnel who will be engaged in transitional justice institutions.

Security Sector Reform: Security sector reform (SSR) must flow from and is directly related to the establishment of democratic principles and the organization of a democratic government. It is therefore vital to the consolidation of a new democratic order and must be pursued simultaneously with efforts to provide for transitional justice and the rule of law. To advance this aim:

1. civil-military relations should be established in line with democratic principles, i.e., the armed forces, law enforcement, and intelligence agencies will be led by and operate under civilian authority;
2. service in the security sector will be open to all Syrian citizens, regardless of their ethnic background and/or sectarian affiliation;
3. the main function of the security sector will be to provide an effective security environment for the Syrian people so as to enable citizens to exercise political, economic, social, and cultural freedoms, while maintaining public order and defending the country's sovereignty and territorial integrity;
4. the security sector will be completely detached from politics;
5. at the same time, the government will provide for the professional development of the army, intelligence services, and police sectors.

Immediately after the fall of the Assad regime, the transitional government will likely encounter urgent security challenges, such as: civil disturbances, looting, and revenge attacks; attempts by regime remnants, including the Shabiha and other pro-regime paramilitary groups, to fight, retaliate, and destabilize the situation; armed groups transforming into private militias which refuse to come under the unified control and civilian authority of the transitional government.

In order to effectively counter these risks and lay the foundation for democratic reform of the security sector, steps need be taken prior to the fall of the regime. Most prominent among them are: building trust

between the political leadership of opposition groups and the Free Syrian Army; initiating efforts to improve command and control among armed opposition groups, ensure their compliance with human rights standards, and secure their acceptance of civilian authority; creating an oversight committee to manage the process of SSR in the transitional period; preparing for the establishment of a transitional security force based on the Syrian National Police and other resources, including by providing the police with appropriate training; and conducting a preliminary vetting of retired and active high-ranking officers in the army and police to identify trustworthy individuals who might take leadership roles in security sector reform.

Constitution Making: Syria's constitution making process should be seen as an opportunity to develop, strengthen, and promote a national identity and foster unity, build trust, contribute to national reconciliation, and support a culture of democracy. To achieve these goals the constitution making process should incorporate the core principles of inclusiveness, transparency, participation, consensus, deliberation, and national ownership.

Syria's constitutional moment is not just an opportunity but also a challenge. If conducted unwisely – in violation of these core principles – constitution making in Syria could exacerbate existing fault lines, divide the country, and contribute to greater long term violence and instability. It could also undermine the legitimacy of the transitional authorities and any government that follows. The Day After project therefore emphasizes that the design of Syria's new constitutional order must emerge through an inclusive national dialogue that accommodates the needs and interests of Syria's diverse society. Only through such a process can Syria's transition enjoy legitimacy.

The process should include the following steps:

1. the 2012 Constitution should be abolished and a transitional legal framework

- established, based on either an appropriately amended version of the 1950 Constitution or a new legal framework;
2. the transitional legal framework should include fundamental rights and freedoms, transitional governance provisions, the roadmap for the negotiation and drafting of the permanent constitution, and agreed upon constitutional guarantees that must be incorporated into the permanent constitution;
3. the constitution should be negotiated, drafted, and approved by a Constitutional Assembly, with additional consideration to utilizing a national referendum for final ratification;
4. the Constitutional Assembly should be as inclusive and representative as possible, reflecting the diversity of Syria;
5. decisions by constitution making officials should be transparent and achieved, as much as possible, by consensus.

Electoral Reform and the Formation of a Constitutional Assembly:

The goal of electoral reform is to support Syria's transition to a democratic political system, guided by a constitution that is democratic in character and results from a democratic process. The first and most important step in this process is the design of the mechanisms through which the Syrian people will choose the drafters of a new constitution. The new constitution will provide the foundations for the design of an electoral system in which public officials are chosen by voters through free, fair, and inclusive multi-party elections based on electoral laws, including regulations, and procedures that ensure that all components of Syrian society are represented equitably, and that citizens are able to hold public officials accountable for their actions.

A post-Assad Syria will have to balance high public expectations to hold elections quickly with the need to establish the prerequisites for meaningful elections. Today, Syria's electoral infrastructure is weak. The legal framework needs to be thoroughly

overhauled; political parties other than the Ba'th Party and its affiliates have to be legalized; and the history of exclusion and marginalization of certain groups needs to be rectified.

The criteria for designing an election system for a Constitutional Assembly should be somewhat different from the criteria for elections to a parliament in the future. This first legislature has the crucial task of overseeing the writing of a new Syrian constitution. To ensure that in this founding document all relevant Syrian voices are represented, inclusion must lie at the core of the mechanisms that lead to the actual drafting of the constitution. In future, elections must also produce a parliament that is legitimate, representative, identifies with Syrians and expresses their preferences. Legitimacy will be based on democratic processes facilitating the inclusion of all significant voices: foremost among them national, ethnic, and religious minorities and women. Elections should also nurture the embryonic party system and allow space for popular independents to contest and win elections.

Economic and Social Policy Reform:

The most urgent priority of the post-Assad period will be to repair the economic damage caused by the armed struggle to basic infrastructure, homes, and businesses; to provide relief to those whose lives have been upturned by violence and flight; and to restore as quickly as possible the normal functioning of the Syrian economy, including basic social services. Whether Syria experiences a transition that results in stability, peace, democracy, and economic security will depend heavily on how quickly and effectively a new government is able to respond to these pressing economic and social requirements. In the longer term, securing the dignity and freedom of the Syrian people will require the development of economic and social policies that promote opportunity and fairness through transparent and participatory processes. With these immediate and longer-term

objectives in mind, the focus of economic and social policy during the transitional period should be:

1. to address immediate social needs and provide relief with food, medicine, shelter, water, and energy;
2. to start to reverse the corruption and devastating effects on the political economy of more than 50 years of predatory and exclusionary Ba'thist rule;
3. to reconstruct and redevelop areas damaged during the revolution;
4. to stimulate the local economy through job creation in reconstruction and redevelopment;
5. to promote entrepreneurship and improve economic governance to support equitable private sector development;
6. to strengthen social policies to provide appropriate economic and social protection for all Syrians;
7. to encourage macroeconomic stability through the adoption of effective mechanisms of economic governance, anticorruption, policy making, and oversight.

After the collapse of the current regime, Syria's economic and social challenges will be formidable: ongoing insecurity will hamper recovery; the cost of addressing humanitarian needs, reconstruction, and redevelopment will be huge; the economy has all but collapsed under sanctions, and public reserves will have been emptied; multiple foreign actors will try to satisfy their interests; there will be a lack of qualified personnel and a legacy of pervasive corruption; and the population might remain distrustful of public policies.

To address these challenges The Day After project recommends that even prior to regime change needs assessments should be initiated with the help of local networks; immediate priorities following a regime transition should be defined; and networks and actors crucial for humanitarian help, reconstruction and development should be identified.

An invitation for debate

The Day After document is not a templated approach to transition in Syria. Indeed, participants did not work out a blueprint. Rather, the main intention is to make a substantive contribution to the debate among Syrians about the vision

of what a post-Assad Syria should contain and what needs to be done to ensure a transition towards this vision. In this sense, it is to be seen as an invitation for debate and further development – first and foremost among Syrians themselves.

The Day After Project: Background and Overview

The Day After project brought together a group of Syrians representing a large spectrum of the Syrian opposition – including senior representatives of the Syrian National Council (SNC), members of the Local Coordination Committees in Syria (LCC), and unaffiliated opposition figures from inside Syria and the Diaspora representing all major political trends and components of Syrian society – to participate in an independent transition planning process.

During the period from January to June 2012, this group of approximately 45 Syrian participants, supported by leading international experts in transition planning, convened six times to develop a shared vision of Syria's democratic future, define goals and principles of a transition, and to prepare a detailed yet flexible transition planning document. Participants met in plenary as well as intensive working group sessions. While each of the six working groups focused on the specific challenges in the respective policy field, all of the groups were guided by a shared commitment to clearly defined goals and principles.

The project has been facilitated by the U.S. Institute of Peace (USIP) in partnership with the German Institute for International and Security Affairs (Stiftung Wissenschaft und Politik, SWP). In these efforts, Steven Heydemann, a senior advisor for Middle East initiatives at USIP; Rami Nakhla, a program specialist and director of the Syria Transition Support Network at USIP; Muriel Asseburg, a senior fellow in SWP's Middle East and Africa Division; and Sakina Abushi, a

researcher in the same division, have been key facilitators. Leading technical experts have provided input and supported the working groups' deliberations: Vivienne O'Connor and Mark Shaw on the Rule of Law; Beatrice Pouligny and William A. Shabas on Transitional Justice; Robert Perito and Donald Planty on Security Sector Reform; Michèle Brandt and Jason Gluck on Constitution Making; Andrew Reynolds on Electoral Reform and the Formation of a Constitutional Assembly; and Graciana Del Castillo and Raymond Gilpin on Economic and Social Policy Reform.

The project has been led by a Syrian Executive Committee which has agreed to constitute itself as a non-profit organization, The Day After Project, to be registered in Belgium. Project activities have been funded by the U.S. Department of State, the Swiss Foreign Ministry, a Dutch NGO, Hivos, and a Norwegian NGO, Noref. In addition, the German Foreign Ministry's support has been crucial for the project's success.

Project participants have also contributed to other groups' activities, such as the Working Group on Economic Recovery and Development co-chaired by Germany and the United Arab Emirates, and the group working on transition planning under the direction of the Arab League. A temporary office to be set up in Istanbul, the Syrian Transition Support Network, will oversee the implementation of recommendations made by project working groups in three key areas: security sector reform, transitional justice, and the rule of law.

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