



Participatory Approach to Writing a Permanent Constitution in Syria



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Executive Summary

The dawn of 8 December 2024 marked a founding moment in Syria's political transition after more than half a century of authoritarian totalitarian rule. This opportunity, potential, and the realization of the dream of building a state of law, citizenship, and institutions are closer than ever.

Such an important imperative requires opening a public debate on, the challenges it faces and how to address them, as well as on the great opportunity Syrian men and women have to build a new Syria that believes in freedom, justice, and dignity for all.

Following a series of landmark political developments — the Victory Conference and the inauguration of Mr. Ahmad al-Sharaa as President of the Republic, to the adoption of the Constitutional Declaration, the formation of the government — drafting a permanent constitution has emerged as a top priority and the decisive factor in the country's future.

Insofar as it reflects and engages with society's priorities and needs, building a permanent constitution can lead to stability and peace, opening political channels for influence and expression that steer away from violence.

On the other hand, the magnitude of challenges – both internal and external – facing the country is enormous, and therefore it will be difficult for the government alone to respond to all these imperatives without a national consensus and broad internal support. The opportunity to write a permanent constitution is an opportunity to build trust between the government and citizens, and to engage in the process of writing the constitution by resuming the national dialogue to achieve national consensus on which the constitution shall be written and endorsed.

Hence, the question is how can Syrian men and women participate in writing their constitution, and how can this participation be reflected in a national consensus that achieves the unity of Syrian territory and the stability of the country, and transforms the conflict in Syria from a conflict between parties that use violence to political pluralism that adopts peaceful constitutional and national frameworks and expresses itself freely within constitutional institutions and through a real representation of the interests of citizens?

To answer these questions, The Day After conducted 17 dialogue sessions throughout Syria, as well as one with Syrian refugees in Lebanon and one with expatriates held online. Therefore, this paper aims to identify challenges and opportunities facing the constitutional process from the perspective of the participants, ways for their engagement as they see them from their individual, social, and ideological perspectives, and what the core constitutional issues are from their respective points of view and the degree of difference or agreement around them.

Analyzing the views of participants, the study concluded:

■ A phase Constitutional Process

The magnitude of the challenges identified by participants suggests that it will be extremely difficult to begin drafting a permanent constitution. However, the absence of a constitutional framework for such a process necessitates either amending the constitutional declaration or drafting a temporary constitution that provides a framework for building a permanent constitution with a participatory mechanism.

■ Civic Education

Participants highlighted the importance of civic education on political, constitutional, and citizenship issues, whether for members of the constituent assembly tasked with drafting the constitution or for citizens, provided that this be part of a process of building the permanent constitution in a participatory manner.

■ Resumption of national dialogue

To build a permanent constitution, participants discussed the importance of resuming national dialogue and building on what has been achieved, stressing that the dialogue must start at the local level before moving to the national level. They stated that the dialogue must have several phases, starting with the identification of the debatable core constitutional principles, then moving towards building possible consensus around such topics.

Common attitudes to core constitutional principles

The conducted dialogue sessions show common visions among Syrians and issues that are disputed, as follows:

— Solid commonalities:

The advantage of these points of convergence is that they focused on pivotal issues such as the governance system, being a democratic system based on the sovereignty of the people expressed through transparent and fair elections; the separation of powers; the determination of the powers and duration of the president's term; the promotion of political pluralism; the formation of a national army overseen by civilian authorities; the independence of the Constitutional Court and the strengthening of its oversight role and the independence of the judiciary; and crucially, the protection and guarantee of internationally recognized fundamental rights and freedoms, and the election of a constituent assembly to draft a permanent constitution.

— Commonalities around basic themes only

Decentralization came up in all dialogues as a common demand and the only way to unify of the country. However, there were differences in how each group understood the desired decentralized system, shaped by the realities of the regions they lived in. There were areas that consider decentralization essential to achieving development. So, decentralization needs to be considered in more detail to understand the reasons and motives for demanding it, which will help reach a comprehensive consensus on the form of decentralization that can be useful in Syria.

— Different attitudes to identity

The issue of religious and ethnic identity has generated multiple, sometimes conflicting perspectives, and, in any case, this indicates the need to focus on it and devote sufficient time and effort to building consensus.

Recommendations

As a result, upon analyzing the participants' views, this paper came to the following conclusions:

I. Recommendations to the Syrian Government

Concerning the process of building a permanent constitution

1

- Establish a clear legal framework for the process of building a permanent constitution by amending the constitutional declaration or drafting an interim constitution that paves the way for the writing of a permanent constitution.
- Resumption of the national dialogue and building on what has been achieved in the past through a mechanism that ensures inclusivity and advance planning.
- Conducting public consultations at two levels:
 - ▢ **Local:** To identify the main issues related to the reality of communities.
 - ▢ **National:** To build consensus on these issues.

Protecting civil and political space

2

- Ensure a safe public space that enables Syrians to freely express their views and participate in determining their future.
- Respect for the fundamental freedoms stipulated in the Constitutional Declaration and international conventions, including the right to political and civil assembly.
- Recognize civil society as a full partner in the consultations, and benefit from its specialized expertise.

Civic and constitutional education

3

- Prepare the drafters of the constitution through training programs on constitutional principles and the experiences of other countries.
- Raising citizens' awareness of their constitutional rights, governance system, and the rule of law.
- Develop curricula to promote political and constitutional culture by the Ministries of Education and Higher Education.

Transitional Justice

4

- Establish a clear timeline for the transitional justice process, including key milestones for reparations, truth and accountability.
- Engage victims and their families to build trust and prevent the recurrence of violence.
- Ensure that reconstruction does not perpetuate violations or benefit perpetrators.

Common Attitudes among Participants

5

- A broad consensus on a democratic political system based on the separation of powers and the supremacy of the constitution.
- Consensus on the independence of the judiciary and the subordination of the military to civilian authority.
- Consensus on the election of a Constituent Assembly to draft a permanent constitution.
- Agreement on a comprehensive and participatory transitional justice pathway.
- Recognition that decentralization is generally accepted, though there are differences over its nature.
- Lack of a clear consensus on national identity, while recognizing the existence of basic grounds to build on.

II. Recommendations to Civil Society

- Lobbying and advocating for the establishment of a participatory process for drafting a permanent constitution.
- Active participation in public consultations as a key partner.
- Conducting awareness programs on the importance of participation and constitutional principles.
- Convey the voice of local communities to the Constituent Assembly.
- Produce ad hoc research on core issues of the constitution and submit it to the drafters.
- Exercise responsible oversight throughout consultations and make suggestions for improvement.
- Support polls and focus group discussions to communicate public opinion to decision-makers.
- Benefiting from the accumulated experiences over the past years to build awareness materials and support dialogues.

III. Recommendations to the International Community

- Provide financial and technical support to Syrian institutions to be able to engage in the constitutional process.
- The United Nations must play a role in mediation and oversight to enhance trust between the Syrian parties.
- Support the participatory process of the constitution drafting at the financial, logistical, and advisory levels.

Introduction

The fall of the Assad regime on 8 December 2024 was an unprecedented conjunction in Syria's modern history, opening a wide window for Syrian men and women to launch a real political transformation path. This incident has revived aspirations to build a participatory democratic system that breaks with decades of authoritarian rule and establishes a state capable of protecting rights, achieving justice, and ensuring that the violations that Syrian society has suffered over the past years are not repeated.

In this context, the "Victory Conference" held on 29 January was the first milestone in the path of political transition, as it resulted in a number of decisions, most prominently the appointment of Mr. Ahmad al-Sharaa as President of the Syrian Arab Republic for the transitional period, and he was tasked with appointing the People's Assembly and repealing the 2012 constitution. This was followed by the National Dialogue on 25 February, and on 10 March, a preliminary agreement was announced with the Syrian Democratic Forces, followed by the constitutional declaration on 13 March, which set the constitutional framework for the transitional period, followed by the formation of the Syrian government, and then the formation of two-thirds of the Syrian People's Assembly, which will be completed with the appointment of the remaining third of the members by the President of the Republic.

This pathway was a matter of sharp political division between Syrians in general and the participants in the dialogue sessions in particular. Some have found that it was aligned with the requirements of the present stage and the delicate circumstances that the country is facing, taking into account insecurity, external threats, and the fact that some areas are outside the control of the state, and especially in light of the heavy legacy of systematic and widespread human rights violations committed. On the other hand, the opposing view holds that the entire pathway, with all its milestones, lacks legitimacy and fails to achieve the desired inclusion of Syrians, at the geographical, social, ideological, or political levels.

Given this division, the imperative of drafting a permanent constitution and establishing a new social contract has never been more pressing, especially since drafting a permanent constitution requires a participatory process that secures its legitimacy by grounding it in national consensus.

This shall strengthen national ownership of the process, the sovereignty of the people comprising multiple and distinct groups and build a participatory path for transitional justice that achieves accountability, reconciliation, and non-repetition. Thus, the legitimacy of the constitution can be strengthened by building it through a participatory mechanism between leaders and society and grows stronger over time with its enforcement.¹

1- A Practical Guide to Constitution Building, Markus Böckenförde, Nora Hedling, Winluck Wahiu, International Institute for Democracy and Electoral Assistance (International IDEA), 2011, ISBN: 978-91-86565-38-1, p2.

The Problem

In light of the current political, security, and economic conditions, it is important to engage the community in the drafting of a permanent constitution. If the process achieves the widest possible consultations and a high level of participation, the adoption of the permanent constitution could constitute a step in the right direction towards unifying and stabilizing the country and launching the reconstruction process. Here, the following question arises:

How can a participatory constitutional process be built in Syria?

What are the priorities, main challenges, and core issues that should be addressed at the current stage, as an essential step towards establishing a new social contract that reflects the aspirations of Syrians and establishes democratic governance based on rights, participation, and equality?

Methodology

This study builds on the Syrian Constitutional Declaration of 2025, the Syrian constitutional legacy, and international law as points of reference, based on Article 12 of the Syrian Constitutional Declaration, in which the Declaration adopts all international conventions ratified by the Syrian state, especially those related to the right to involve citizens and various groups of society in the process of drafting a permanent constitution.

The study aims to identify the opinions of Syrian men and women regarding the drafting of a permanent constitution, how citizens and society will engage in this process, and the basic conditions for the success of this engagement. The study relied on the 'research action participatory' method, using various tools, including a desk review of previous studies and international conventions and standards for drafting a permanent constitution in post-conflict situations. It also focused on international experiences in building an effective participatory pathway for citizens in drafting the constitution. The study was mainly based on a number of meetings that included men and women from the governorates of Deir Ezzor and its countryside, Aleppo and its countryside, Idlib and its countryside, Masyaf, Palmyra, Raqqa, Salamiyah, Hasakah, Qamishli, Tartus, Latakia, Damascus and its countryside, and Syrian refugees in the Lebanese Beqaa, in addition to online sessions that included Syrian refugees and expatriates in several countries.

The study also adopted a methodology based on victims' rights in terms of targeting 30% of victims or their families in the sessions conducted inside and outside Syria. It also adopted a gender approach by including women, with over 40% of attendees. There were questions specifically on women's involvement, their rights, challenges, and aspirations about the process of drafting the constitution. The study also targeted the youth (ages 20 to 35) by ensuring balanced representation in the sessions, with over 30% of attendees. University students in Aleppo were invited to a special session that also focused on their vision for participation in the constitution-drafting process, their aspirations, and the challenges they face during this crucial period of their lives.

Many Syrian constitutional and political experts were met, and the study sought to approach these visions through international experiences similar to the Syrian context, and the best legal experiences in this context that can be applied in Syria, by answering the following questions:

1

What are the options available to Syrian men and women in writing their permanent constitution?

2

How can society, with its various groups, be involved in the process of drafting the constitution, regardless of where Syrian men and women are located during the process?

3

How can community engagement lead to a national consensus that ends conflicts and violence and pushes for peace and stability?

4

What are the core constitutional issues for Syrians; what do they agree and disagree on?

5

How can the enforcement and implementation of the permanent constitution be ensured?

To answer these questions, this study has been divided into **four sections**:

SECTION I

Options for the constitutional process

01

SECTION II

The participatory pathway for constitution drafting

02

SECTION III

Core constitutional issues

03

SECTION IV

Recommendations

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Section I: Options for the constitutional process

According to the outputs of the dialogue sessions, the options available for the Syrian constitutional process are linked to three main factors. The first is the challenges facing a participatory constitutional process; the second is the opportunities that emerged with the overthrow of the Assad regime; and the third is the views of Syrian men and women on the constitutional process.

First: Challenges facing a participatory constitutional process

Participants in the dialogue sessions believe that the launch of the process of building a permanent constitution in Syria is governed by a number of challenges, which can be decisive in this process:

1. Political Will

Participants in the dialogue sessions discussed all stages of the political process, beginning with the Victory Conference, the Constitutional Declaration, the formation of the government, and the formation of the People's Assembly.

There was a general agreement that there was a lack of a participatory approach in the constitutional and political pathway. Some opinions attributed that to economic, security, and social conditions, while other views pointed out that despite these circumstances, or rather because of them, participation could have contributed to advancing the process by building trust, continuous dialogue, and power-sharing.

The absence of traditional terminology such as democracy, people's self-governance, and the peaceful transfer of power raised participants' concerns that the transitional process would adopt plans drawn from the top of the transitional political system, leading to a top-down rather than a bottom-up process.

One participant said, "I want a constitution that preserves human dignity, not a constitution imposed from outside the country or written by people who do not represent us... Constitutions should not be written behind closed doors, but rather through genuine dialogue with the public."

2- Dialogue session conducted by The Day After (TDA) on the Participatory Track for Writing a Permanent Constitution with Syrian refugees on 13 October 2025.

According to participants in the dialogue sessions, the following points represented repeated patterns throughout the transitional pathway so far:

a. Lack of transparency

Lack of transparency was reflected when participants raised several patterns that promote intransparency, such as:

- Decisions imposed by higher authorities without consultation or listening to local communities.
- One participant said, "Even the Sharia schools were moved to other places outside the city by a decision of the Homs Endowment Directorate, without any consultation with us."³
- Participants linked media independence, judicial independence, and transparency. One participant said: "There is the fourth estate, which is the media, and it must also be independent like the judiciary and not affiliated with the government. The judiciary also cannot be independent when it is affiliated with the Ministry of Justice, which is part of the government. Likewise, the media cannot be independent when it is affiliated with the Ministry of Information..."⁴
- Lack of transparency is exacerbated by constitutional provisions that may be open to multiple interpretations and by the absence of oversight. "The constitution must be clear, leaving no loopholes, so no one can circumvent it or use it for their own benefit."⁵
- Some participants also considered that the lack of transparency in the current process raises fears of a return of authoritarianism. On the other hand, participants believed that transparency is part of the participatory approach, and proposed a set of measures to enhance transparency and enable society to participate and monitor the political process, such as periodic reports, the publication of draft laws and draft constitution, holding public sessions, full transparency through the media, ensuring the independence of the judiciary and the independence of the media, and an effective role of the Constitutional Court.

3- Dialogue session conducted by TDA on the Participatory Track for Writing a Permanent Constitution with societal actors on 27 October 2025.

4- Dialogue session conducted by TDA on the Participatory Track for Writing a Permanent Constitution with societal actors on 16 August 2025.

5- Dialogue session conducted by TDA on the Participatory Track for Writing a Permanent Constitution with societal actors on 19 October 2025.

b. Interval between announcing the process and implementation

Participants expressed serious concerns about rushing the political process, linking it to a lack of transparency, an absence of a clear roadmap, and the absence of public dialogues and debates before any step of implementation. On the other hand, the peculiarity of the situation across different regions of Syria and the impact that a hasty political and constitutional process would have on them were raised in the discussions.

In the Jazira region: Raqqa, Hasakah, and Deir Ezzor, participants considered that such a rushed track ignores the multiplicity of powers in their areas.

In the north, in Idlib and Afrin, participants saw that this rush ignored the issue of violations and missing persons.

In the center of the country and in the cities of Masyaf, Salamiyah, Damascus, and Aleppo, the hasty process involved societal exclusion and the reproduction of a narrow elitism. On the other hand, in all sessions, participants agreed that there should be no fast constitutional process without advancing transitional justice.

C. Focus on the outcome disregarding fundamental flaws in the process

The most prominent example raised on this topic was the formation of the People's Assembly. Participants believed that the process of forming the People's Assembly was nominal, not transparent, not based on popular participation, under the president's control, and did not provide citizens with any real role.

These views were different from one area to another. In afflicted areas, Idlib, Afrin, Palmyra, and Deir Ezzor, participants believed that elections were not possible before transitional justice.

In areas far from the center, Raqqa, Hasakah, Qamishli, and Deir Ezzor, participants believed that the People's Assembly did not represent them at all. In the cities of Aleppo and Tartus, criticism of the institutions was prevalent due to the lack of separation of powers and an independent constitutional court.

Syrian refugees, on the other hand, believed that the elections were invalid without the participation of Syrians outside the country.

In general, forming the People's Assembly was widely criticized because the criteria of the process were ambiguous, parameters for selecting electoral bodies were missing, the lists were changed and did not comply with basic criteria, selection and categories criteria were disregarded, judges were excluded from the membership of the electoral bodies and candidacy, the Supreme Committee did not comply with the periods it set out, three Syrian governorates were absent from the process, and civil society organizations were not allowed to monitor the process.

Consequently, the participation that has taken place in the constitutional process so far has been less than it was hoped, which calls for the government and the people to seek to achieve the best form of effective participation of Syrian men and women regardless of their cultural and social backgrounds, circumstances, place of residence, and the extent to which they, their cities and villages, were affected by the violations that have been committed.

2. Lack of participation in the management of the transitional period

The constitutional framework for the management of the transitional period lays out two core issues:

.1

The transitional president leads the transitional period through his direct and indirect powers over all constitutional institutions. This phase spans five years and ends with the adoption of the permanent constitution.⁷

.2

The Constitutional Declaration regulates the transitional period, but it does not provide for the transition from the declaration to the permanent constitution, which may require amending the Constitutional Declaration or passing a law in the People's Assembly. Although there were other experiences that acted outside the constitution by calling for a national or constitutional conference,⁸ repeating the experience of the National Conference held on 25 February 2025 in the same way may increase divisions and perpetuate mistrust.

7-The Constitutional Declaration stipulates the powers of the President of the Republic in forming a supreme committee for the selection of members of the People's Assembly, which in turn supervises the formation of electoral subsidiary bodies, and these bodies elect two-thirds of the members of the People's Assembly. The President then appoints one-third of the members of the Assembly to ensure fair representation and competence. The President and ministers exercise executive power, and he appoints members of the Constitutional Court. The Constitutional Declaration can be amended with the approval of two-thirds of the People's Assembly upon the proposal of the President of the Republic. It also stipulates that the People's Assembly shall assume the legislative power until a permanent constitution is adopted. The term of office of the People's Assembly is a renewable thirty months. The Declaration does not specify who will renew it. The Constitutional Declaration specifies that the period of the transitional period shall be set at five calendar years as of the date of its entry into force, and shall expire after the adoption of a permanent constitution for the country and the organization of elections in accordance with it. See articles (24, 31, 50, 26, 52, 47).

8- Constitution-making and Reform: Options for the Process Authors Michele Brandt, Jill Cottrell, Yash Ghai, Anthony Regan Date November 2011 Publisher Interpeace ISBN 978-2-8399-0871-9, p53, available at the following link: https://www.interpeace.org/wp-content/uploads/2011/09/2011_11_Constitution-Making_Handbook_English.pdf, last seen, 25/10/2025.

Interim constitutions usually provide a detailed framework for the constitution-building process. The interim constitution is often intended to provide this framework. However, putting all the details in the constitution may make the process less flexible; the absence of a constitutional framework and its replacement by a legal or administrative procedural framework may allow the process to be manipulated or adjusted by a parliamentary majority.⁹

Striking a balance between these two situations leads us to the need for a constitutional framework for the core issues in the transition from the transitional period to the adoption of a permanent constitution, leaving other details to laws or administrative procedures.

There have been similar views about the absence of participation. Despite the geographical diversity and political conditions of each region, there was consensus that the current transitional phase is being managed from the top without real popular or institutional participation. Despite this common attitude, the interpretation of non-participation was different in different areas:

In the cities of Tartus, Masyaf, Raqqa, and Aleppo, there is a feeling of complete exclusion from decision-making. On the other hand, in Idlib and Qamishli, participants expressed the absence of institutional channels for participation. In both Latakia and Hama, a lack of trust in the transitional process emerged, and in Raqqa, Deir Ezzor, Hasakah, Idlib, Aleppo, and Damascus, participants believed that the lack of participation poses a structural threat to the transitional period and called for broad participation in it. Participants in the youth and expert sessions prioritized the participation of experts and elite leadership in the process. In areas where security is precarious, such as Tartus, Masyaf, and Latakia, security and stability are prioritized.

This indicates the importance of the presence of political will on the part of the Transitional Authority to provide an effective participatory pathway aimed at achieving national consensus, which would allow for the reunification of the country, the extension of state control over the entire Syrian territory, and the reduction of the crises the country is facing.

9- Ibid, p54.

3. Significant weakness in the political and institutional capacity to support constitution building

The rebuilding of the Syrian state remains a major challenge to drafting a permanent constitution and providing the necessary support. This process is further complicated by the fact that institutions were implicated and involved in facilitating the conditions and tools for war crimes and crimes against humanity perpetrated by the Assad regime.

While participants agreed on the need for institutions capable of supporting the participatory process, they attributed the institutions' weakness to factors specific to the region's security and political situation.

In areas far from the center, such as Raqqa, Hasakah, Deir Ezzor, Qamishli, participants believed that the political and administrative institutional weakness was a result of the multiplicity of powers and the absence of the state, and that any constitutional process would remain hanging in the air without the structure of the state. Thus, these areas link the absence of the state and the inability to build an actual constitution.

In severely affected areas such as Idlib, Afrin, Aleppo, and Palmyra, participants believed that the weakness of institutions was due to the military division, the absence of a unified authority, and the collapse of administrative and security structures because of the war, and that the security chaos prevented any serious constitutional process.

In the cities of Tartus, Masyaf, and Latakia/Wata al-Khan, i.e., cities where state institutions continued to function, we do not see institutional weakness. Instead, they see excessive institutional control that prevents participation and renders institutions mere façades. These areas believe that weakness is not the absence of institutions, but the subordination of institutions to the executive authority, which empties the process of its meaning.

In major cities, Damascus, Aleppo (university students), and Hama, participants emphasized that institutions are not independent and are unable to draft a constitution due to a lack of competencies and political bureaucracy. Refugees, on the other hand, believed that institutional weakness at home stripped them of representation.

All in all, the process of building, restoring, and reforming institutions is an essential priority to open a participatory process for constitution drafting.

4. Syrian areas outside the control of the state

The fact that some Syrian areas were outside state control was an issue deeply debated by participants, as territorial fragmentation directly threatens the inclusivity and legitimacy of any constitution-building process.

Some participants believed this confirmed that the conflict was not over. One participant said: **“There are no indications that the conflict has stopped. This is up to the authority that considers that, since the conflict with Assad has ended, the conflict in the country is over. Currently, there are two open conflicts: with Suwayda and in the northeast negotiations. We do not know what is happening with these negotiations.”**¹⁰

This reflected different views depending on the specificity of the region; areas concerned with this issue, such as Raqqa, Hasakah, Qamishli, and Deir Ezzor, believe that the multiplicity of authorities (SDF, factions, autonomous administration, and foreign forces) obscures the idea of the state and makes any constitutional path unimplementable. Participants from these areas reported suffering from security and economic fragility and felt politically marginalized. There are also fears that exclusion deepens societal and geographical divisions; participants linked exclusion from the political process to the deepening of division and a break from the center, as one participant said, **“How can we participate if the state does not reach us?”**¹¹

10- Dialogue session (online) conducted by TDA on the Participatory Track for Writing a Permanent Constitution with Syrian refugees and expatriates on 19 November 2025.

11- Dialogue session conducted by TDA on the Participatory Track for Writing a Permanent Constitution with societal actors on 1 September 2025.

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On the other hand, participants from Aleppo, Idlib, Afrin, and Palmyra believed that the widespread displacement and destruction in these areas make them marginalized and out of the process of participation.

While participants in Masyaf, Tartus, Latakia, and Wata al-Khan saw that they were inside the state in a phony manner but were practically excluded from real participation. Participants in Damascus, Aleppo, and Hama believed that the existence of areas outside state control means the absence of national legitimacy for elections and the constitution. On the other hand, refugees saw themselves as out of control and, therefore, completely out of the constitutional process, and they believed that the process disregarded millions of Syrians.

Participants viewed geographical exclusion as a form of political exclusion and raised concerns about repeating the experience of the former regime because the lack of state control over entire regions means, in practice, excluding these areas from national decision-making.

This necessitates reaching initial agreements and understandings that allow for the launch of a constitutional process across Syrian territories; work must continue to consolidate these agreements through trust-building and ongoing dialogue.



One participant said that “the problem is that what happened in Suwayda after the recent massacre has become a complex situation. Feelings of fear and complete mistrust prevail. On the other hand, despite the track that started in Amman and the Damascus – agreement of 16 September, it is still rejected by the majority in Suwayda... In my opinion, the solution starts with confidence-building measures, which can help break down the issue... Accountability and even acknowledgment before accountability... The issue of destroyed villages, compensation for the people, and bringing them back to their villages...”¹²

12- Dialogue session (online) with Syrian refugees and expatriates.

5. Fragile security situation

Participants believed that the fragile security situation is the biggest obstacle to any constitutional path or transitional phase. The absence of security means the inability to participate, so participants unanimously agreed that there must be a security and military force to protect the constitution.

One female participant said, “The current authority is making excuses, but now the situation is unstable, especially in northeastern Syria. There are excuses and threats by extremist organizations There should be no exclusion because of the security situation.”

What further complicates this issue is the absence of a neutral national army. “So far, the army in Syria has not turned into an inclusive national army, but its loyalty has remained factional, and it has been divided into factions. The absence of a neutral national army reflects a big problem in building the state.” One participant said.

The absence of a neutral national army further complicates the security situation and fragility, especially after the horrific massacres committed in both the Syrian coast and the city of Suwayda, which have increased the societal division and rift between Syrian men and women.

In light of this, the challenge of the security situation poses a direct threat to the constitution-building process, as happened in Iraq and Somalia, where constitutional commissioners were killed, and in Afghanistan, rockets were fired in an attempt to hit the tent of the Constitutional Council. Therefore, appropriate security measures must be developed to protect the constitutional process. In other experiences, the constitution drafters addressed the issue of security in different ways. In Eritrea, the administration directly communicated and negotiated with security and military commanders in all aspects of the process. In Albania, local police and gendarmerie forces were sufficient to confront threats of violence. In Afghanistan in 2004, the military searched every vehicle entering the constitution-drafting zone for bombs, a practice that became common after the events of 9/11.

13- Dialogue session conducted by TDA on the Participatory Track for Writing a Permanent Constitution with societal actors on 2 September 2025

14- Dialogue session conducted by TDA on the Participatory Track for Writing a Permanent Constitution with societal actors on 30 September 2025

15- Constitution-making and Reform: Options for the Process, op. cit., p171.

Participants came up with a clear and common set of solutions to address the fragile security situation, namely:

01

Seeking to build a unified and neutral national army.

02

Limiting weapons solely to the state and ending factionalism. This was the most recurrent demand in almost all sessions.

03

Strengthening the civil police and building law-abiding security agencies. Participants called for local police and internal security forces to operate in accordance with a clear law that is not under the purview of the military.

04

Some participants linked security to the existence of an independent judiciary capable of protecting citizens' rights and holding accountable those who committed violations during the transitional period.

05

Managing security by local councils. The Pact of Hajin and its residents were presented as an example of the local population's role in controlling security in areas far from the center.

16- The Pact of Hajin and its residents issued by Hajin dignitaries in 2019, which sets out strict measures for controlling the security situation in the region.

Thus, the security situation in each region must be studied separately, and those in charge of the constitutional process should clarify their precise needs with the security forces responsible for their respective regions, and discuss the expected scenarios and potential threats, and the subsequent determination of the number of security officials, and their competence and ability to address the expected security challenges.

However, this may seem insufficient given the complexity of the security situation in Syria, and if the constitution-building body finds it necessary, the international community can provide useful support in this area. United Nations peacekeepers, in coordination with the government, can provide structured, efficient, and experienced support to constitution-building processes.

6. The Heavy Legacy of Systematic Abuses Constituting War Crimes and Crimes Against Humanity

The delay in accountability and transitional justice, and the government's unwillingness to engage in an inclusive process, pose a threat to the constitution-building process. Participants believed that transitional justice was a prerequisite for constitution drafting that cannot be ignored.

However, participants highlighted the need for a clear plan, frameworks, timeframes and key milestones for the transitional justice process to mitigate violence and retaliation.¹⁷

17- Dialogue session conducted by TDA on the Participatory Track for Writing a Permanent Constitution with societal actors on 1 October 2025

7. The Deteriorating Economic Situation

In all sessions, participants considered that the fragile economic situation would weaken the constitution-drafting process, rendering it phony and unable to produce a genuine social contract. Their view can be summarized as saying that poverty weakens people's ability to participate in the constitutional process and shifts their focus more toward the economic situation.

Participants presented a number of solutions:

01

Improving the economic situation and securing job opportunities are necessary imperatives that encourage participation. One participant said:



Our biggest concern was, as young people, before the liberation, to have our day pass in peace. We ignored most of our dreams. Now they should focus on job opportunities for the youth... and improving the economic situation.

02

Transparency, by clarifying the nature of economic agreements made by the government, without actually improving the economy.

03

Combating corruption, waste, and tax evasion.

18- Dialogue session conducted by TDA on the Participatory Track for Writing a Permanent Constitution with societal actors on 19 August 2025

19- Dialogue session conducted by TDA on the Participatory Track for Writing a Permanent Constitution with university students on 28 September 2025

8. The presence of millions of displaced Syrians inside the country and refugees outside the country, and returnees

Participants considered that the question of IDPs, refugees, and returnees constitute one of the biggest challenges to the constitutional process, and it affects the legitimacy of the process. There was broad consensus on the need to involve refugees, returnees, and people from the destroyed areas. This can be done in cooperation with Syrian embassies and consulates worldwide to design appropriate consultation mechanisms.

Emphasizing the safe and voluntary return that preserves the dignity of refugees, returnees expressed the great difficulties they face after their return, including the lack of support in rebuilding their destroyed homes, basic services, and job opportunities, and the insecurity.

As a result, participants believed that the solution is not to wait for everyone's return, but to establish realistic participation mechanisms that make the constitutional process representative of all Syrians, wherever they are, with clear security and legal guarantees.

9. External interventions



“... The role of foreign forces in determining the aspects of the transitional period cannot be ignored.” One participant said. “If influential countries do not agree on general guidelines, no internal project will have a chance for success... We can at least work to minimize foreign influence to the minimum.”²⁰

Foreign intervention culminates in Israel's occupation of new Syrian territory and the displacement of its population, its repeated assaults on the sovereignty of the Syrian state, and the killing of Syrian citizens in Daraa and its countryside.

True partnership with Syrian society, with all its diverse components, will form the basis for immunizing the country against foreign interventions and any form of interference and aggression.

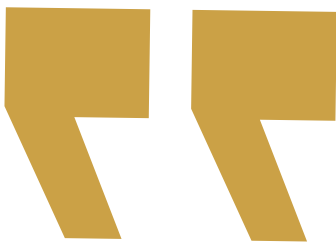
20- Dialogue session conducted by TDA on the Participatory Track for Writing a Permanent Constitution with legal experts on 24 October 2025

II. Opportunities for a participatory constitutional process

Here are the available opportunities most agreed upon by participants to build a participatory constitution:

1. A rare transitional window that allows the constitutional debate to be opened in public for the first time

All participants agreed that the overthrow of the Syrian regime has opened up all possible opportunities for a political transition in the country, despite the great challenges. One participant says:



We must take into account the reality of Syrians today – millions of refugees, victims and displaced people – and ensure that the new constitution reflects their hopes and rights. We have a historic opportunity, but we also have major challenges ahead. What is needed is for all to participate in this process in order to avoid reproducing a despotic regime again.²¹

21- Dialogue session conducted by TDA on the Participatory Track for Writing a Permanent Constitution with Syrian refugees on 13 October 2025

2

The unparalleled determination and resolve of Syrians to build a new Syria, to live in safety, freedom, and dignity with their families. “We as Syrians have gone from one nightmare to another, from Hafez to Bashar, and now we have a new phase that has opportunities and mistakes. We must be more aware and rational and know what we want from the next constitution.” A participant said.

3

Participants agreed on the priority of achieving transitional justice, and that drafting a new constitution is an opportunity to deliver justice for victims and previously marginalized areas. “... I am from Deir Ezzor, and our area has always been marginalized,” a female participant said. “There is no electricity, no schools, no job opportunities. Therefore, I want the new constitution to stipulate that the resources of each governorate are first reinvested in their respective area before they are transferred to the center.”

4

The presence of a civil society that has great experience and expertise in working with local communities and working on political and constitutional issues.

22- Dialogue session with Syrian refugees

23- Dialogue session with Syrian refugees

5

Broad support from the international community for Syria's stability, reconstruction, and return of refugees.

6

The existence of a successful historical experience in Syria to build on, such as the 1950 constitution.

7

Growing public political awareness about rights, freedoms, and the form of the political system, as a result of 14 years of conflict.

8

Having constitutional expertise, both local and in the diaspora, capable of engaging in the process.

9

Availability of digital and organizational tools that allow for broad consultation.

These opportunities open up all the possibilities and hopes of all Syrians, in their determination to settle in a safe country where they can enjoy their rights and freedoms under the rule of law.

III. Views of Syrian Men and Women on the Constitutional Process

Participants' opinions differed on the constitutional process, but they shared a widespread view that it is not possible to draft a permanent constitution given current challenges. Nevertheless, they said there should not be a long wait, as the permanent constitution must be approved to achieve security and economic stability and launch a comprehensive reconstruction process.

1. Postponement of the Constitutional Process

The majority of participants in the dialogue sessions considered that it is not possible to draft a permanent constitution now, given the state's lack of control over the entire Syrian territory and the security situation, which will not allow elections. According to participants, the committee that will write the constitution must be freely elected.

“

*... Are we able to hold real elections now?*²⁴

However, some participants raised concerns about the difficulties and challenges that might arise from not writing the constitution, for several reasons, including the lack of a participatory approach in leading the transitional period and the continuation of the fragile and evolving security situation, which may consolidate the rule of de facto authorities over the entire Syrian geography and take the country back to the stalemate of the pre-Assad overthrow.

Consequently, the country may not be able to afford to continue in such a non-participatory approach to governance. In addition, addressing the heavy legacy of the Assad regime requires confidence-building measures and sharing power, as part of sharing responsibility. The comprehensive reconstruction, development, and investment attraction require constitutional institutions to ensure the process is carried transparently, free from corruption and nepotism. The reconstruction process carries significant risks for international supporters or investors in a country whose constitutional institutions, especially the judiciary, lack independence, transparency, efficiency, and legal stability, and could be addressed by a permanent, participatory constitution based on national consensus.

2. Interim Constitution

Taking into account participants' awareness of the current challenges to drafting a permanent constitution, several viable options were put forward, including adopting an interim constitution or establishing interim arrangements, such as amending the Constitutional Declaration.

“Fifteen experts were interviewed on whether it is more appropriate for Syria now to have an interim or permanent constitution?” One female participant said, “...The majority of answers tended to favor an interim constitution, as it would be more flexible and appropriate for the transitional period, while others believed that a permanent constitution would achieve longer stability and encourage investment...”²⁵

In light of the significant challenges in writing a permanent constitution, the option of an interim constitution or amending the current constitutional declaration may be an appropriate way out to address the challenges that may impede the writing of a permanent constitution and allow for the process of building a permanent constitution to take place in multiple phases.

South Africa's experience is a case in point. The interim constitution was one phase of the process of drafting a permanent constitution. An interim constitution was drafted in 1994 and included the 34 principles contained in the political agreement. The permanent constitution was then drafted, but the Constitutional Court of South Africa declared it unconstitutional because it was incompatible with the agreed 34 principles, thereby nullifying a large part of the new constitution.²⁶

25- Dialogue session with legal experts

26- Richard Albert Four Unconstitutional Constitutions and Their Democratic Foundations, Cornell International Law Journal, Vol. 50, No. 2 (2017), pp. 169-204, Available at the following link: <https://scholarship.law.cornell.edu/cilj/vol50/iss2/1/>, last visited, 20 October 2025.

The entire process took place in two phases: first, a transitional constitution was drafted, followed; then, democratic elections were held to form a new government, and a new legislative council, the Constitutional Assembly, was formed. Second, the Legislative Council drafted the final constitution, in accordance with the agreed constitutional principles, and the South African constitution was adopted in 1996.

It should be noted that the powers granted to the Constitutional Court in the interim constitution, and the political actors' will to activate the court's role and respect its rulings, have mainly contributed to ensuring that the new constitution reflects the agreed-upon principles.

These clear stages of writing a permanent constitution in South Africa are not found in Syria, in terms of the absence of a constitutional framework for drafting a permanent constitution on the one hand, and the lack of a participatory approach to lead the transitional period on the other. This raises significant concerns about missing the opportunity of the five-year transitional period, which should be seen as a sufficient opportunity to build a genuine national consensus during the transition.

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Accordingly, drafting an interim constitution can be appropriate for the Syrian context, as it can form part of the phase of drafting a permanent constitution.

In light of the criticism by participants of the way of writing and approving the constitutional declaration, the process of adopting the interim constitution should fulfill the following:

01

The presence of a preliminary political agreement or national consensus on core issues that can be built upon and strengthened.

02

Developing appropriate constitutional mechanisms and frameworks for drafting a permanent constitution through a participatory mechanism, including the formation of the committee or the body that will draft the constitution, the criteria and mechanisms for conducting public consultations, and the mechanism of endorsing the permanent constitution.

03

Ensuring the independence of the Constitutional Court and giving it the necessary powers, which can play a more significant role in ensuring the progress of the constitutional process in accordance with what has been agreed upon, and that such an agreement is fully reflected in the permanent constitution.

It should be noted that the interim constitution may reflect the primary constitutional principles that can be agreed upon, provided that work continues during the transitional period to address the remaining fundamental principles. The security and economic conditions may not be conducive to the writing of a permanent constitution, and at the same time, writing the interim constitution does not require the large-scale measures required for a permanent constitution.²⁸

However, drafting an interim constitution requires societal participation, and the constitution-drafting committee should reflect Syria's ideological, political, social, cultural, religious, ethnic, and national diversity, provided that several parties participate in appointing the committee.

Ultimately, the interim constitution can protect against the explosive situation that drafting a permanent constitution could give rise to under the current circumstances in Syria, as the adoption of a permanent constitution that is not carefully considered and does not adequately involve society and political and civil forces may close all the doors of possible dialogue in the country.

28- Constitution-making and Reform: Options for the Process, op. cit.,p37.

3. Permanent Constitution

Through the dialogue sessions, three foundational points were observed that reflect a broad agreement among participants:

Broad agreement on the fact that the country is currently not ready to draft a permanent constitution. On the other hand, some participants expressed concerns that not drafting a permanent constitution might restrain investment and economic activity, leading to stagnation in the current situation, particularly in areas outside state control.

01

There was almost complete agreement among participants that the legitimacy of a permanent constitution is based on public participation in the drafting process.

02

The permanent constitution is the ultimate break-up with the tyrannical regime.

03

Thus, what is expected from the permanent constitution is that it would provide a framework for the new social contract that allows Syrian men and women to move forward in a unified country.

Participation in drafting the permanent constitution has therefore become a must to achieve stability and end the causes of division in Syrian society.

India was among the first countries to view the constitution as a means to transform social, political, and economic relations.²⁹

So, despite the complexity of drafting a permanent constitution, the available opportunities can be sufficient to overcome these obstacles, especially with Syrians determination to take part in building their country, which is a key driver of the process's success .

In light of this, drafting the constitution may require breaking the process down into several phases, with a temporary constitution drafted as the first phase for no more than one year, provided that a permanent constitution is adopted before the end of the transitional period provided for in the constitutional declaration.

29-Ibid, p15.

2

Part Two: The Participatory Track for Drafting a Permanent Constitution

After more than half a century of depriving Syrians of participation in public, political, and civil life, this demand was central to the 2011 revolution of freedom and dignity. This demand served as the basis for discussions during the dialogue sessions. It turned out that the participatory approach to drafting the constitution for participants is key to achieving stability in the country.



“... We can recall the experience of building the constitution of 1950, which had wide societal approval and public deliberations that people could attend and take part in.” One participant said. “There were active political and societal entities involved in the drafting of that constitution; something we lack today. Genuine participation in building the constitution is the only way to ensure its legitimacy and achieve justice and citizenship for all Syrians.”

Participants in the dialogue sessions said that 14 years of secret civil and political activism at home and public activism abroad have brought Syrians closer to understanding their rights and duties and to adopting diverse perceptions of how to build the Syrian homeland. That is because they acquired diverse experiences in civil and political work, whether at the individual or collective level, in terms of the presence of a strong and effective civil society that has been able to work on political affairs and human rights, mobilization and advocacy, and acquiring high-level experiences in this regard, and the ability to reach and work with various local communities throughout the Syrian territory.

First: The Importance of Community Participation in the Drafting of the Permanent Constitution

The importance of community participation in the drafting of a permanent constitution is evident in the following:

1. The Legal Framework of the Right to Community Participation in the Constitution Drafting Processes

The Syrian Constitutional Declaration of 2025, in Article 14, guarantees the right to political participation. Participation in the drafting the constitution and in community consultations is one way to realize the right to political participation. International conventions and treaties to which Syria is a signatory also protect this right, in accordance with Article 25, paragraph (a), of the International Covenant on Civil and Political Rights, which is explicitly adopted in the 2025 Constitutional Declaration, Article 12.

31- Constitution-making and the Right to Take Part in Public Affairs, Hart, Vivien, Washington D.C.: United States Institute of Peace Press, 2010. Political Science, Law, Published 30 April 2010, p1. Available at the following link: https://www.usip.org/sites/default/files/Framing%20the%20State/Chapter2_Framing.pdf, last visited, 26 October 2025.

2. The Political Goal that can be achieved by societal participation in constitution-drafting in post-conflict phases

National consensus in Syria is an essential pillar for building the Syrian State and achieving stability. It has become imperative in light of the former and current divisions on preserving the rights of individuals and groups. While constitutions are an appropriate means of drawing the formal outlines of mechanisms for the exercise of public authority, in countries with diverse demographics, the constitution can serve as an expression, and perhaps the only available expression of national unity.³²

The role of public participation has increased across post-conflict states and is increasingly seen as lending popular legitimacy to the constitution-building process and its outcomes through consultation with the people and by taking their views into account. In South Africa, 2 million public contributions were collected, and the views of South Africans' were reflected in the constitution.³³

Therefore, national consensus must serve as the basis for the country's permanent constitution, and societal participation in its drafting is one of its main tools.

Notably, Syrians' nostalgia for the 1950 constitution was evident in the dialogue sessions, not only in its final articles but also in the participatory manner in which it was constructed and subsequently approved. In addition, Syrians see their participation in the drafting of the permanent constitution not only as a right but also as a duty, as one of the participants said,

“ Our presence is a national duty. ³⁴

32- Constitution-Making: An Introduction, Mark Tushnet, 1984 Texas Law Review [Vol. 91:1983, 2013. Pp. without number.

33- A Practical Guide to Constitution Building, op. cit., p., p16. Available at the following link: <https://texaslawreview.org/wp-content/uploads/2015/08/Tushnet.pdf>, last visited, 10 October 2025.

34- Dialogue session with university students.

Second: Forms of Societal Participation

Community participation in constitution drafting requires that citizens be involved throughout all phases of drafting a permanent constitution. Participants in the dialogue sessions emphasized that participation should be in:

The planning phase involves measures that will define all the milestones of the process.

The phase of building consensus from the local level to the national level.

The phase of adoption of the Constitution.

Continued participation after the constitution's entry into force.³⁵

35- The societal participation does not end with the entry of the constitution into force. There should be legal and constitutional provisions to achieve this participation in the political and permanent constitutional track. The more constitutional frameworks managed to regulate this process in the future, the more citizens will be able to find legal outlets to present their opinions and aspirations away from violence.

According to constitutional literature and the best experiences in this context, three main methods of community engagement have been used:

01 Electing representatives of the constitution-drafting bodies

02 Educating citizens

03 Public consultations and dialogues

Some countries used all three methods together, others used a combination of them, while others used only some of these methods. For example, South Africa used methods 1 and 3 in the period 1994-95, while Rwanda used methods 2 and 3 in 2001.

However, international experience shows that using the first method only, although it is the cornerstone of building a political process that leads to a constitution based on national consensus, is not enough, due to the fact that elections offer citizens a top-down agenda, through structured choices created by governments, candidates, or political parties.³⁶

On the other hand, these previously tested frameworks converge with the overall vision of participants in the sessions, who thought that community participation is mainly related to the election of their representatives to the drafting body, their participation in public consultations and dialogues, in addition to their familiarity with more than one draft of the constitution before its final adoption.

36- Constitution-making and the Right to Take Part in Public Affairs, op. cit., p., p32.

1. Constitution Drafting Committee

The history and culture of each country are important factors shaping its constitution-drafting committees. In Latin American countries, constituent assemblies were often adopted. West African countries resorted to constitutional conventions.³⁷ In India, the Constituent Assembly served as parliament, and in Kenya, all members of parliament were members of the Constituent Assembly, which could not convene while parliament was in session.³⁸

Going back to the constitutional experiences in Syria, we could find that the Syrian people, throughout their recent history, have known multiple and different mechanisms for writing their constitutional documents:

- Appointed or elected constituent assemblies.

- Constitutions imposed by an individual ruler, a military council, or partisan entities.

Constitutions enacted with or without a referendum.³⁹

36- Constitution-making and the Right to Take Part in Public Affairs, op. cit., p., p32.

37- Constitution-making and Reform: Options for the Process, op. cit., p42.

38- Ibid, p50.

39- Constitutional Alternatives for Syria, Darraji, Ibrahim et al, National Agenda for the Future of Syria – Economic and Social Committee for West Asia (ESCWA), 2018, P.60, available at: https://www.unescwa.org/sites/default/files/event/materials/constitutional_options_for_syria_-_nafs_2018_ar.pdf ; last visited on 10 October 2025.

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Hence, elected constituent assemblies were not alien to the Syrian experience on the one hand, and a constituent assembly directly elected by the people is of particular importance in light of the Syrian context and the ultimate goal of approving a permanent constitution, on the other hand.

In all dialogue sessions, breaking with the past emerged as a major demand of the Syrian men and women, upon which the idea of a political transition is based, through transitioning from a dictatorial regime to a system of government that establishes the rule of law, implements transitional justice, and qualifies as a system that allows society to move forward by respecting the rights and freedoms that have been violated in the past.

This enormous task requires a transition from the revolutionary legitimacy that has established the constitutional process and institutions so far to the legitimacy of the public's will, based on the rule of the people.

The permanent constitution will establish the new constitutional authorities, the mechanisms for their formation, their powers, and their relationships with one another. It will also establish the rule of law and the separation of powers. This requires direct authorization from the public, and all these powers should be established through an authentic elected constituent assembly, which would block the return of autocracy, whether through revolutionary legitimacy or any other means.

Although some believe it is very difficult to hold elections due to the lack of accurate statistics and documents, others see these challenges as overamplified and believe the country can address them.

“

One participant said, “There is an opinion that says it is impossible to hold elections because of the problems of the civil registry and that there are unregistered births and there are people who do not have documents. In fact, this is not very accurate, because people born outside the country who are not yet registered are not eligible to vote. All the people eligible to vote today are over 18, so they have documents because they were born before 2011. Even where there are no ID cards, any document proving a person’s Syrian citizenship may be sufficient to participate in an electoral process. Yes, we have a census problem, but this does not make any electoral process impossible.”⁴⁰

Looking at international experiences, we find that since 1987,

65%

of constitution drafting experiences, have featured a Constituent Assembly

elected directly by the people, while

12%

have featured Constituent Assembly members appointed by the executive authority. In other cases, members have been appointed by the leaders of conflicting parties, or indirectly by members of the legislature or through a national conference.⁴¹

40- (Online) dialogue session with refugees and expatriates.

41- Discussion paper on the selection of members of the constituent commission, comparative experiences and lessons learned, International Institution for Democracy and Elections, November, 2012, P. 5, available at: <https://constitutionnet.org/sites/default/files/finalidea.pdf> ; last visited on: 8 October 2025.

Among the countries that have chosen to elect a constituent body directly by the people are Tunisia, Namibia, East Timor, and Afghanistan.

In Namibia, the announcement of the election of the Constituent Assembly stated that its members would be nominated by legally recognized parties and specified simple eligibility criteria for candidacy. Any person over 21 was eligible to vote in the constituent elections, and the proportional representation system was adopted. As a result, the constitution was unanimously endorsed by the Constituent Assembly, and only one amendment has been made since its adoption in 1990, indicating general satisfaction with its content, and its continued acceptance. Political life in Namibia remains active and has not been subject to any state of emergency that could suspend the constitution.⁴²

42- Ibid, P.8.



Training and educating members of the Constituent Assembly

Most constitution-drafting processes included education to prepare drafters, including educational programs tailored to their needs, and attendance at workshops organized by external or internal parties to learn from other experiences.

This process can take place in several stages, starting with the provision of information and training on rules and procedures, as well as core constitutional issues, such as identity, human rights, women's rights, the rights of victims' families, transitional justice, and decentralization and its types. At a later stage, the drafters may receive educational programs focused on civic education and public consultation mechanisms.

Such a process is important because constitution drafters may not necessarily have a strong grasp of constitutional principles, may have lost their professional and educational opportunities due to the conflict, or may lack experience in governance.⁴³

They will also play a significant role in community consultations and in educating citizens about fundamental constitutional issues or those on which there is significant disagreement. Therefore, disagreements during the drafting of the constitution should be limited to those based on political or ideological grounds rather than on cognitive or scientific grounds. Thus, knowledge can help build national consensus and generate new ideas appropriate to the context.⁴⁴

43-Constitution-making and Reform: Options for the Process, op. cit.,p55.

44-Ibid, p50.

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One participant said, “There is an opinion that says it is impossible to hold elections because of the problems of the civil registry and that there are unregistered births and there are people who do not have documents. In fact, this is not very accurate, because people born outside the country who are not yet registered are not eligible to vote. All the people eligible to vote today are over 18, so they have documents because they were born before 2011. Even where there are no ID cards, any document proving a person’s Syrian citizenship may be sufficient to participate in an electoral process. Yes, we have a census problem, but this does not make any electoral process impossible.”⁴⁵

45- Dialogue session with societal actors.

2. Educating Citizens


The topic of raising awareness and education on constitutional and political issues emerged as central for participants, who emphasized its importance and proposed many ways to implement it in this framework.

“One participant said: “We cannot ask people to participate in the drafting of the constitution if they do not have basic knowledge about what the constitution is and what its function is. We need simple awareness campaigns that explain constitutional concepts in a language that everyone understands, away from legal complexity.”⁴⁶

Educating citizens, both men and women, about the constitution, constitutional processes, institutions, state-building, forms of government, and basic principles such as citizenship, the rule of law, separation of powers and decentralization is part of the participatory process of building the constitution, especially that building national consensus requires a conscious knowledge of the disputed principles, which can reduce conflicts and contribute to reaching consensus that accommodates different interests.

46- Dialogue session with legal experts.

Civic education comes at the center of the participatory process and is defined as any activity that helps prepare the public for participation, both before and after the drafting and adoption of the constitution.



Prior to the adoption of the constitution, civic education aimed to prepare the public to enhance their knowledge not only of the constitution-drafting process but also of the nature and extent of opportunities for participation.

During the drafting of the constitution, it aims to raise awareness and knowledge of the constitution's roles, the options available for its content, and the core constitutional issues.

After the drafting of the constitution, it aims to prepare the people and develop their capacities and knowledge to participate in public affairs and to exercise and protect the rights granted to them by the constitution.

Any civic education program should be inclusive and open. Because the constitution affects all members of the country, it should represent everyone, i.e. all different age groups from schoolchildren to the elderly, literates and illiterates, people with special needs and people with disabilities, speakers of the different languages that exist in the country, including those who do not speak the official language, and every group in society, whether it is defined by class, culture, ethnicity, religion or any other basis.

Priority should be given to reaching out to groups that rarely participate in political life, such as marginalized groups, the poorest classes, rural people far from city centers, and nomads. Preparing people effectively in this regard is not limited to organizing a one-off event or workshop but is an ongoing process of instilling a culture of public participation, democratic values and practices, and constitutional principles.



Who conducts civic education?

The Constituent Assembly, with or without a mandate, initiates the process of civic education. It may form a committee responsible for this subject. Civic education is widely recognized as an essential part of constitution-making processes, particularly participatory processes. It is sometimes referred to in the official mandates of some constitution-drafting bodies, such as in the Uganda Constitutional Commission, whose 1988 Basic Law empowered it to encourage public debate and awareness of constitutional issues.⁴⁷

South African Constituent Assembly leaders, on the other hand, were not legally mandated to conduct civic education, but they announced that they would engage and consult with the public on the constitution, as this would enhance a sense of ownership and legitimacy of the process and the constitution. To this end, the Assembly's Board of Directors established a community outreach division, which was planned over a four-month period. The focus was on reaching as many citizens as possible, including the illiterate and most vulnerable, through open public meetings on the Constitution, meetings with civil society organizations to discuss specific issues, an advertising and media campaign, and civic education workshops.

47- Constitution-making and Reform: Options for the Process, op. cit.,p91.

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Civic education included the country's constitutional history, why the constitutional reform process is necessary, and democratic principles, institutions, and practices to promote democratic behaviors.

This was done through the use of posters, brochures, and leaflets, in addition to a bi-monthly constitutional bulletin entitled (Constitutional Talk) that distributed 160,000 copies weekly, booklets such as "You and the Construction of a New Constitution," comic stories, and an official website of the Assembly developed in cooperation with the University of Cape Town. A weekly television program, "Constitutional Talk," was aired to discuss basic constitutional issues of interest to society and its various actors, in addition to a radio talk show aimed at listeners who prefer radio. The program was 1 hour long, available in 8 languages, and reached over 10 million South Africans per week.

10,000 people also used the 'Constitutional Dialogue Line' to call, submit memos, or receive information. This line was available in five languages, and Braille copies and recordings of the final constitution were also printed, along with photocopies of the Bill of Rights. Educational materials about the final constitution were distributed to schools, as part of the 'National Constitution Week' event.

To carry out these tasks after the adoption of the constitution, the Community Reach out Division continued to work for a few months after the end of the Constituent Assembly, sending 4.5 million copies of the draft constitution, in a simplified format, and 12 million copies of the final constitution by mail free of charge, in addition to distributing them to taxis, newspapers, and schools. Copies of the final constitution were also sent to members of the official security forces.

Various media, civil society organizations, trade unions, the Ministry of Basic and Higher Education, and political parties participated in these activities.

Preliminary public discussion sessions were held in all governorates, attended by representatives of political parties, civil society actors, members of the Constitution Drafting Committee, and citizens who presented their views and proposals on basic constitutional issues. For the first time, the public saw the formerly belligerent factions meet peacefully to discuss constitutional issues.

TDA

An external assessment showed that three-quarters of South Africans—about 30 million—had heard of the process, and nearly 20 million knew they could make proposals on constitutional issues.⁴⁸

Thus, many governmental and non-governmental actors can be involved in the process, such as civil society, political parties, local administrations, schools, universities, trade unions, and all media outlets. There is also a need to use the internet, especially in the Syrian context, where millions of Syrians are refugees or living in the diaspora.

Before any referendum on the constitution, the goal of civic education is to inform the public about both the referendum process and the proposed new constitution. After the draft constitution is prepared, the goal of civic education is to inform the public about its content and prepare the public to provide input on the draft and key constitutional issues, so that citizens can make informed interventions during any public debate.

After the adoption of the constitution, the aim of civic education becomes to inform the people how key provisions impact the lives of certain groups or communities, what are the civic responsibilities under the constitution, and what are the responsibilities of the main government agencies and other bodies entrusted with the implementation of the constitution, such as educating the judiciary about any new duties or institutional changes that may occur as a result of the constitution.

All these efforts were addressed and presented during the dialogue sessions, which confirm that they are possible, especially by civil society which has exerted tremendous effort on constitutional issues, civic education, citizenship, and forms of political governance. This experience and the resources on these topics, such as booklets, research, training manuals, and experienced cadres that provide a suitable basis for a comprehensive education and awareness-raising process for all groups of society across the entire Syrian geography.⁴⁹

48- Ibid, pp 94-93.

49- Ibid, p95.

The Syrian government also has a major role in civic education, which needs the cooperation and coordination of multiple ministries. The Ministries of Basic and Higher Education have a very important role in this process, both in terms of developing curricula and including subjects that focus on raising awareness of political and public issues, especially the constitution, laws, constitutional institutions, values of citizenship, mutual respect, the rule of law, the concept of public service, and above all, of course, the system of individual rights and duties, and the relationship of the individual with the state and society at large.

The national consultation process could be accompanied by the launch of community-based legal education programs across schools and universities that would introduce students to their constitutional and human rights and restore the role of the law in their daily lives.

The Ministry of Information and national, local, and private media institutions also have an important role to play in initiating an outreach plan that accompanies the preparations for the national consultations, including:

01 Developing weekly legal awareness-raising programs on TV and radio.

02 Training media professionals in legal terminology and human rights, spreading a culture of justice and the rule of law, and combating hate speech.

03 Creating interactive platforms that allow citizens to raise their legal issues and request free consultation.

04 Broadcasting legal and constitutional debates.

This plan can go hand in hand with the launch of the constitutional process, preferably preceding it, because it will pave the way for citizens to express their views and for the national dialogue to be built.

3. Public consultations and dialogues

Public consultations and dialogues in constitution-drafting processes help build national consensus and incorporate societal recommendations into the final constitutional text. However, these consultations require a clear legal framework that enables proper planning and clarifies the process for all parties and citizens.

Public consultations and dialogues

In Uganda in 1995, the law establishing the Constitutional Commission directed the Commission to reach a national consensus on constitutional issues, obliging it to seek public views through public meetings, debates, seminars, workshops, and other forms of polling public opinion. It also obliged the committee to review the constitution in force at the time and to propose a new constitution that, *inter alia*, establishes a free and democratic governance system that ensures the basic rights and freedoms of Ugandans. The Constitutional Committee was tasked with reaching a national consensus on the most appropriate constitutional arrangements for their country and was given the power to stimulate public debate and awareness of constitutional issues.

The provision for public consultations in the legal mandate is therefore important in post-conflict situations, as it can put pressure on constitution drafters to find constructive ways to consult with previously opposing groups. In some processes for which no legal mandate or detailed plan was specified, disagreements arose among the drafters over the need for public consultation, the process's boundaries and phases, and how to analyze public opinion.⁵⁰

While public consultations can be part of the process of educating citizens and use the same tools, according to the dialogue sessions, there was an insistence on the necessity and priority of an inclusive national dialogue.

50- Constitution-making and Reform: Options for the Process, *op. cit.*, p105.

a. Resumption of National Dialogue

National congresses are typically large, unelected bodies, composed of representatives of a wide range of interests, constituted to discuss constitutional and other future options in situations of acute national crises during the transition from authoritarian regimes to more democratic ones, and were established mainly (but not exclusively) in Francophone countries in Africa from the late 1980s to the early 1990s.

In addition to government representatives, most national congresses consisted of representatives chosen by various interest groups such as opposition political parties and civil associations. They often consisted of more than 3,000 people. A national congress can express the agreed and disputed core issues.⁵¹

The national dialogue, held in Damascus on 25 February 2025, remains a controversial issue in discussions of the constitutional and political process in Syria at present, including dialogue sessions.

Some believe the national dialogue was unprecedented and reflected diverse Syrian views, and the interests of different groups. Others focus on the fact that the dialogue was formal and fast-paced and did not, in any way, constitute the national dialogue aspired to under the conditions the country is experiencing. Several communities see that their interests were not represented as desired, especially that civil and political entities were excluded from participation. It is also noteworthy that the hours of dialogue between Syrian men and women were insufficient to discuss the core constitutional issues, nor to build national consensus around them, especially in light of the political and societal division that Syria is currently witnessing.

However, there was a significant tendency among participants to build on what had been achieved and resume the national dialogue within specific parameters, drawing on the insights of Syrian men and women and on the criticism directed at the national dialogue conference on 25 February.

51- Ibid.,249.

A Constituent Assembly empowered to draft the constitution could form a committee to conduct public consultations and national dialogue. Participants in the sessions considered that such consultations should meet the following criteria:



Inclusivity

The dialogue sessions show that participants frequently associate consensus with inclusive participation, reflecting a general view that the inclusion of all groups, communities, stakeholders, and ideological, civic, and political movements is an inevitable foundation for reaching a productive and sustainable consensus.

One participant said that “consensus means the participation of all components, civil society and political entities to ensure that everyone is represented in the constitution, so that everyone feels that the constitution protects their rights.”⁵²

According to participants, the standard of inclusivity in the Syrian context is supposed to reflect diversity through the members of the National Conference, and to take into account geographical diversity; including cities, rural areas, remote and distant areas; expatriates and refugees; people with disabilities and victims and their families; political and civil entities, including political parties, civil society, trade unions, religious, ethnic and national components; and to set a quota for women of no less than 30%.

In other words, respecting Syrian diversity in all its forms, in a way that builds confidence among every Syrian citizen that they are adequately represented at the conference. In addition, there should be experts from civil society. International experts with experience in other countries, or United Nations experts, can also be involved.

52- Dialogue session with societal actors.



Transparency

Transparency in public consultations and national dialogue is basically linked to the existence of clear, advanced, and flexible legal frameworks. This is essential for confidence-building measures between the authorities and society, and among communities themselves. The presence of international UN oversight of national dialogue processes as a neutral actor has been a confidence-building factor, especially in deeply divided societies emerging from protracted conflict. Giving civil society sufficient role and space to play an effective oversight role throughout the process is also one of the arrangements to build confidence in national consultations.



Prior planning

Community consultations can be initiated on two parallel tracks: the first is education and civic awareness, and the second is the national dialogue process. These processes require prior planning, which helps establish an organized process that can achieve inclusivity and transparency within a specific, clear time frame. To determine what it can and cannot do, and what it should do, this planning process needs preliminary consultations with local communities, representatives of political parties, trade unions, and, in a broader sense, civil society.

b. Design of the Consultation Process

The design of consultations should take into account the desired outcome: to build national consensus and to reflect the public's aspirations in the final constitutional document. This creates a major challenge for including thousands of documents that will emerge from these dialogues in the final constitutional text.

Therefore, it is not enough to engage society; it is necessary to build societal consensus reflected in the constitution. This could be relied upon to achieve stability and reduce the intensity of conflicts.

One participant said, "Today, is this country really capable of achieving stability in the absence of national consensus?"⁵³ Facing this challenge requires looking at the consultation process as an interactive and political process, whose goal is not only to record what Syrian men and women want, but also to achieve a real national dialogue in which consensus is made within these dialogues and not outside them, in a way that can reflect the convergence of views and the flexibility or inflexibility of the consensus.

Implementing the process across different phases and levels could help reach a crucial consensus on essential constitutional issues. This necessitates designing the process on two levels:

53- (Online) dialogue sessions with refugees and expatriates.



Local level

At the local level, the process can go through two phases:

Phase One: Public consultations can aim to debate the constitution and the political system in general, provided that this phase identifies the essential constitutional issues to be discussed.

Phase Two: focuses on core constitutional issues and concludes with Syrian's basic consensual aspirations regarding them.



National level

Local dialogues can agree on local representatives to participate at the national level and convey their messages on the constitution's core issues .

This should not mean that this design limits community participation to core constitutional issues; rather, the door should always be open to Syrian's views on various issues related to the drafting of the constitution or the social contract. Focusing on the core issues and building consensus around them, however, will directly help prevent overriding or ignoring these visions and aspirations, given the multitude of proposals and the drafting committees' inability to read thousands of files or bring together views that are often contradictory.

c.Ongoing and Continuous Process

It is important that community participation does not solely depend on societal dialogues. A parallel process can be organized through constant communication with society, civil society organizations, civic blocs, and political parties.

Community participation can find mechanisms to reach the largest number of Syrians, especially outside the country, by holding remote seminars, conducting parallel national dialogues in the diaspora, and using clear electronic platforms managed by a competent body that receives messages from citizens and civil and political blocs.

Hence, the fulfillment of the national dialogue process, despite all the obstacles it faces, cannot happen without being reflected in the permanent constitutional document, and it can be one of the sources of the constitution.⁵⁴

54- Constitutional Alternatives for Syria, *ibid*, P82.

d. Guarantees of rights and freedoms

A successful national dialogue and meaningful community consultations require a safe political and civil space that allows everyone to express their visions and concerns alike. Such a space cannot be secured without ensuring the exercise of the rights and freedoms stipulated in the Constitutional Declaration and which are provided for in the International Bill of Human Rights and the international conventions to which Syria is committed. This is a must to achieve a transparent and inclusive process that could bear fruit through national consensus that reflects the needs and aspirations of the Syrian Society.

At the top of these rights are freedom of opinion and expression, freedom of the media, freedom in cultural work, the right to political participation, the right to assemble, and the right to form political parties. The exclusion of civil assemblies and political parties will constitute a serious flaw in the consultation process.

e. Freedom of Forming Political Parties and Civil Groups

Political parties have an important role to play in supporting national dialogue, whether through effective participation in dialogue and consensus-building, educating society on political issues, or mobilization and advocacy.

They also provide peaceful political tools for citizens to express their opinions, including opposing the authority. There must be no impediments to oversight of the national consultation process.

f. The Role of Civil Society

International experiences prove that civil society has a fundamental role in political change towards democratic systems,⁵⁵ and the experiences of civil society in different countries prove that even when there is no political will to build a participatory path to write the constitution, civil society has the capabilities to push and lobby for comprehensive political change and impose societal participation in the political and constitutional process.

55- Kenya: the struggle for a new constitutional order, first published in 2014 in association with the Nordic Africa Institute, PO Box 1703, se-751 47 Uppsala, Sweden by Zed Books Ltd, 7 Cynthia Street, London n1 9jf, UK, p98.



Lobbying and Advocacy for a Participatory Constitutional Process

The experience of civil society in Kenya is one of the most inspiring stories globally. Despite the division in civil society there, Kenya's new constitutional order is largely the product of a concerted effort by civil society organizations in collaboration with other progressive forces.⁵⁶

During the period 1995 to 1997, a movement for constitutional reform emerged and developed, as civil society and state actors entered into a dialogue about dissatisfaction with the current constitution. The movement mobilized a number of actors and put the issue of constitutional reform on the public and government agenda. However, it failed to change the fundamental power relations that enabled the state to dominate society and excluded the majority of ordinary Kenyans from power.

The movement began when a group of human rights organizations mobilized for a broader coalition of civil society organizations and churches, leading to the founding of the Citizens Alliance for Constitutional Change, which in turn reached out to opposition politicians, religious groups, and others about the idea of constitutional change. In 1997, the Civil Society Forum to Discuss Constitutional Reform Proposals was launched, with 500 delegates participating in the first session of the National Congress Assembly in Nairobi. Calls for political change were raised in the run-up to the 1997 elections, and mass demonstrations calling for reform erupted before the elections — and when they were suppressed by the Government, international condemnation increased the pressure on the Government to negotiate. Ultimately, the government agreed to engage in dialogue, but only with elected deputies within the reform movement, thereby excluding civil society.

56- Ibid, p100.

Although this frustrated civil society actors within the movement, it had an impact by stimulating the creation of an inter-party parliamentary group to discuss constitutional reform, which eventually passed some reforms, and by committing to establishing a constitutional review committee to study the issue after elections.⁵⁷

Considering this, Syrian civil society can play a pivotal role in promoting the constitutional process by building coalitions and leading mobilization and advocacy campaigns to lay the foundations for a participatory constitutional process.

One participant said: "... Efforts of civil society are beginning to take shape, some of which are very important... There is a group that discusses truth and justice and monitors the transitional justice process in Syria. There is another group that sees how much Syria can abide by international treaties as stipulated in the constitutional declaration. There is a third group on the issue of asset recovery and investigation in relation to justice.... A group could be formed related to lobbying for the adoption of constitutional principles..."⁵⁸

Participants strongly emphasized the need to rely on civil society to launch a societal constitutional process, including raising awareness and introducing the constitution and constitutional principles, and to what extent it is possible to build societal consensus around them. Participants also proposed creating a civil alliance to play this role, with roles divided according to the competence and experience of each civil organization or group.

57- Kenya: the struggle for a new constitutional order, op. cit., pp 103-107.

58- (Online) dialogue session with refugees and expatriates.



As a Partner in National and Local Consultations

59- Dialogue session conducted by TDA on the Participatory Track for Writing a Permanent Constitution with societal actors on 24 September 2025.

Participants said that the absence of participatory participation in the current political process should be taken into account, and therefore it is necessary to move quickly to push for a participatory constitution-building process based on national consensus.

Participants also thought that civil society in diaspora and refugee communities can coordinate with civil society in Syria to hold community dialogues and discussions with the aim of building societal consensus, raising awareness of the role of expatriates and refugees in shaping the constitution, and asserting their voice.

Over the past 14 years, Syrian civil society has played various roles in the Syrian context, and in areas where the state has been absent, provided basic services without replacing the state. This experience calls for thinking about giving civil society its role this time, in parallel with, in coordination with, and alongside the state.

One participant said, “Civil society is capable of creating a base for raising awareness and plays the role of oversight and monitoring. It knows how to separate between its civil and political roles and to be as a part of a civil movement that is independent.”⁵⁹

No doubt that confidence building may be the first stage of the process of drafting a permanent constitution for Syria. In the Syrian context, which is full of stumbles and mines and which is loaded with a dark historical legacy, the process of rebuilding trust between society and the state seems to be indispensable, and civil society can be the link that can bridge distances and rebuild trust with regard to societies that have been subjected to violations and massacres during Assad's rule and after its fall.

Civil society organizations can thus play an effective logistical role in managing dialogue sessions, providing technical support, providing experts, and conducting training in mediation, conflict resolution, and consensus building.

On the other hand, civil society has an important role in mobilization and advocacy, especially in terms of supporting special tracks and gatherings with basic topics such as student and women groups, in addition to providing support for holding specialized conferences, especially those based on the rights of citizens or on core issues such as conferences for youth, conferences on women's rights and political participation, or conferences related to the demands of victims and their families.

Civil society can also help organize and facilitate direct meetings between citizens or political and civic groupings and the drafters of the constitution.⁶⁰

60- Constitution-making and Reform: Options for the Process, op. cit., p314.



Playing a Supervisor Role

Participants focused on the oversight role of civil society and stressed the need to promote the freedom of civil activism, as it can serve as a link between society and the authorities and should be characterized by neutrality and honesty in conveying their voices, while criticizing and raising awareness of the process. One female participant said "... Media and civil society... They must have the power to monitor, publish reports, and detect any transgression. Transparency can only happen with the participation of people."⁶¹

Civil society and the media can therefore play a valuable role by monitoring and evaluating public consultations and making suggestions for improvement. These roles can become very important in different ways. Regular monitoring can serve as a basis for reporting that provides citizens with independent assessments. Regular, reliable monitoring by civil society can also be useful to the government.

Civil society can play this role through the following:

- Building communication channels with citizens to receive and follow up on complaints, communicate transparently and publicly with government institutions, and provide feedback on the results of the process to public opinion.
- Training civil cadres to play their human rights and supervisory roles, as well as mediation and negotiation, rather than only logistical roles.

61- Dialogue session with societal actors.

Monitoring must be systematic, meaning that monitoring bodies must develop a strategy for gathering information and know what they are looking for. Monitoring should also be flexible, as the constitution-drafting process is influenced by a variety of political and social factors, so information may come from multiple sources, some of which are unexpected. Therefore, official sources should not be relied upon solely. On the other hand, criticism should be objective and address the positive and negative aspects of the process.⁶²

Civil society monitors the extent to which the outcomes of community consultations are reflected in the final constitution, as proposals accepted at some point may not appear in the draft constitution. It is important for civil society actors to monitor the process, review drafts to ensure ideas are accepted, and point out omissions. This must be done before the final draft of the constitution is reached, and it would be difficult to make substantial changes.

In addition, civil society actors typically conduct research on specific issues related to their main concerns, such as the protection of human rights, the protection of women from violence and discrimination, decentralization, or the nature of the economic system. This research is often used to develop proposals that provide drafters with information and recommendations for addressing the Constitution's key issues.

62- Constitution-making and Reform: Options for the Process, op. cit., p317.

Civil society can also contribute to political lobbying by engaging directly with decision-makers, such as the drafters of the constitution, to gain support for a position on an important issue, such as the design and functioning of the process itself, as well as questions about the constitution's content.

Civil society can also help with opinion polls and focus group discussions to provide decision-makers with information on the public's perceptions, views, and positions on certain issues. It can also help in providing statistics or facts about the current context. Civil society and academic institutions have provided researchers for constitution-drafting bodies to look into any issue requested by the drafters, as was the case in Afghanistan in 2004.⁶³

Given the importance of such roles for civil society, a free and safe environment for civil actors should be available. The adoption of criteria for knowledge and information is essential to fulfilling citizens' right to civil assembly. It is noteworthy that the current procedures, which adopt the rules of the former law of licensing institutions, in addition to the lack of clarity on the role of the political administration in granting approvals and licenses and linking them to the Ministry of Foreign Affairs, all limit the freedom of civil work, restrict it, and prevent it from carrying out its role.

63- Ibid, p314.



Awareness-raising and Educational Role

Civil society is a link between society and authority, and, as mentioned earlier, it can play several roles in awareness-raising and education. What qualifies it more than others to carry out these roles is its ability to reach the entire Syrian geography and its experience working with all Syrian men and women, since close partnerships have been built through civil society organizations that cross the former lines of conflict, and these partnerships can be invested in.

Civil society has worked directly over the years on issues of education, such as civic and political participation, electing representatives at the district and neighborhood levels, and opening debate on core issues and how to build consensus.

The way civil society organizations work, which is mainly based on the needs and priorities of local communities, has left a great deal of experience in dealing with the challenges facing these communities, and experience in exploring the priorities of each community, and thus building the education process according to the priorities and what is available within these communities.

Syrian civil society does not start from scratch, but has enormous resources of experts, academics, and media activists, in addition to research, policy papers, and serious books on economics, politics, decentralization, centralization, the constitution, national identity, and diversity, in addition to booklets on civic education, citizenship, identity, oral history, human rights, women's rights, transitional justice, elections, political systems, the constitution, and constitution-building processes.

All of these materials exist in different forms, including written research, videos, and illustrated booklets.

For several years, Syrian civil society organizations have increasingly relied on podcasts, which can provide information to illiterate people and people with visual impairments and are more likely to be disseminated.

g. Financial Resources

The financial question is raised as an obstacle to conducting an effective and large-scale participatory process. The cost of drafting the constitution in South Africa has been estimated at 30 million US Dollars, i.e., less than one US Dollar per capita; it cost 10 million US Dollars in Uganda, and 6 million US Dollars in Ethiopia.⁶⁴

Nevertheless, there is a valid view that the cost of such consultations and dialogue is certainly less than the cost of any conflict that could arise if this process is bypassed.⁶⁵

It should be added that the presence of a qualified and experienced civil society at the local, national, and international levels is a key factor in supporting these efforts. In addition to the widespread determination of society to participate in the construction of the new Syria, which qualifies this process as the reconstruction of the state and society, and should therefore not be seen in isolation from the reconstruction of destroyed cities and villages. In this regard, Syrian diplomacy and civil society organizations can work closely together to lift all sanctions imposed on Syria, provided that this lifting is permanent and genuine.

Furthermore, supporting national dialogue will have long-term effects on the country's future and stability, enabling the safe, voluntary, and sustainable return of refugees.

64- Constitution-making and Reform: Options for the Process, op. cit., p37.

65- Constitutional Alternatives for Syria, ibid, P 83.

4. Mechanisms of Adopting the Constitution

The mechanisms for adopting the constitution vary from one experience to another, but experiences that relied on community participation have adopted mechanisms that allow citizens to review several drafts of the constitution, with sufficient time for discussing and debating them, including through television interviews or public dialogue sessions, all before the constitution is approved or put up for a referendum.

This mechanism gives drafters an opportunity to revisit the issues raised by public debate and critique, which in turn offers another opportunity to re-debate them and work toward solid consensus.

In other countries, experts have been invited to revise the constitution, as in East Timor in 2002 and in Afghanistan in 2004. As a result, it is important to ensure that the public is properly informed about the draft's content, allowed to evaluate it, and that the necessary and correct information is provided on the points that incite citizens' anger.⁶⁶

One female participant said, "It is important to conduct dialogues and awareness-raising sessions to be informed about the constitution's contents, what the meaning of different authorities is, and what the meaning of and difference between governance systems. Then, those who would say yes or no should be aware of the contents of the constitution and understand it. It is important for me to know what the constitution includes before I say yes, so my approval becomes meaningful."⁶⁷

Following the presentation of one or more drafts for public debate, including the review of the final draft or multiple drafts by experts, the constitutional adoption process becomes due. This process can be carried out in two ways: either by adoption by a constituent assembly or by referendum.

Each of these processes has its advantages and disadvantages; thus, it is essential to adopt the mechanism that reflects the broadest possible national consensus.

66- Constitution-making and Reform: Options for the Process, op. cit., p29.

67- Dialogue session with societal actors.

01

Constitutional Adoption by a Constituent Assembly

A constituent assembly directly elected by the people can ratify the constitution. However, the core issue in this regard pertains to the voting mechanism.

While requiring unanimity carries the risk of paralyzing the adoption process after all the effort put in, the simple majority vote is equally inadequate because it fails to ensure broad national consensus. In light of the severe political and ideological divisions within Syrian society, this necessitates the adoption of a two-thirds supermajority.⁶⁸

68- Ibid.,p218.

02

Constitutional Adoption via Popular Referendum

Ratification by a constituent assembly can be combined with a referendum, as in Iraq in 2005; alternatively, the adoption process can be left entirely to a referendum. Nevertheless, in deeply fractured contexts, a referendum threatens to undermine the equal citizenship rights of all citizens and may lead to the rejection of the constitution by marginalized groups.

Furthermore, a referendum typically requires a vote on the constitutional text as a whole; while most sections might align with the interests of various groups, certain articles may harm or threaten these interests. Referenda are also occasionally used to advance the interests of the ruling authority, even when detrimental to democracy. A case in point is the Justice and Development Party (AKP) in the 2010 constitutional amendment referendum in Turkey, where it successfully passed a broad package that expanded the authority of civil courts while curbing the jurisdiction of military tribunals, enhanced gender equality, provided protections for children, the elderly, veterans, and individuals with disabilities, and granted individuals the right to file constitutional complaints. Yet, within this very package, which was welcomed by the international community, the party managed to push through constitutional clauses that undermined the independence and powers of the Turkish Constitutional Court.⁶⁹

“

A participant noted:

*...Even referenda must take into account the protection of citizens' rights, to guarantee full and equal citizenship for all.”*⁷⁰

69- "The Role of Constitutional Judiciary in Democratic Transition Phases," Rola Baghdadi, PhD dissertation, Faculty of Law and Political Science at Beirut Arab University, 2024.

70- A dialogue session with community actors.

In contrast, the Maldives mitigated the risks of a referendum by using it to decide a single highly contentious issue: whether the political system should be presidential or parliamentary.

Once this issue was resolved, the constituent assembly promptly moved to adopt the constitution. Referenda have also been used for matters of self-determination, as seen in Canada and South Sudan,⁷¹ whereas other countries, such as Portugal and Haiti,⁷² banned constitutional referenda altogether.

Thus, employing referenda in contexts of acute societal fracture requires heightened caution to avoid polarizing public opinion, particularly in environments marked by deep divisions, as in Syria.⁷³

71- Constitution-making and Reform: Options for the Process, op. cit., p30

72- Ibid, p219.

73- A Practical Guide to Constitution Building, op. cit., p., p17.

03

Endorsement by an Independent Non-Drafting Body

In South Africa, the Constitutional Court was required to certify that the final constitution complied with the thirty-four principles enshrined in the interim constitution.

This mechanism is highly effective in ensuring that agreed-upon core principles are reflected in the final text. The feasibility of utilizing this mechanism in Syria remains contingent upon several factors, the most critical of which is the viability of drafting an interim constitution or amending the current constitutional declaration, provided that it establishes an independent constitutional court equipped with the appropriate powers to fulfill this role.

3

Section III: Building Consensus on Core Constitutional Issues

In every transitional political context, a set of core issues emerges, linked to that context. Achieving consensus on these issues constitutes a foundational starting point toward constructing the social contract and achieving political transition.

Therefore, it is imperative to address these issues before initiating the constitutional drafting process, as reaching consensus on them will help define the constitutional principles that will guide the participatory drafting process. Agreeing on these principles, particularly in political transitions, can ensure the transparency and legitimacy of the process in the eyes of public opinion.

Consequently, all stakeholders invested in the process are likely to be more prepared and aware of how to participate in it and monitor its progress. Furthermore, pre-agreed principles regarding the substance of the constitution can be of paramount importance, particularly as they reassure all parties that they have a chance to influence the constitutional drafting process.

Here, the question arises: Who determines these core issues?

Drawing on historical precedents of political transition, a wide array of actors can make decisions regarding core constitutional principles. In post-conflict scenarios, parties to the peace process typically agree upon them. In other instances, the legislature embeds them within the legislation that establishes the process itself. Conversely, in participatory constitution-building, these issues can serve as a baseline for public consultations.

In South Africa, the primary parties involved in the negotiations to transition from the apartheid regime agreed upon an elected constitutional assembly tasked with conducting public consultations on the final constitution. They also agreed on thirty-four constitutional principles to provide detailed guidance regarding the substance of the new constitution to be prepared by the assembly.

These principles encompassed the form and structures of government; relations between national and sub-national governments aimed at ensuring decentralization; the protection of minority interests; the safeguarding of human rights; and the establishment of independent public institutions. All of these were enshrined in an interim constitution, which also established an independent constitutional court mandated to verify that the 34 principles were accurately reflected in the final constitution.

Consequently, agreeing on shared principles is an indispensable component of the constitutional process. Throughout the dialogue sessions, participants converged on certain principles with clarity and consistency, demonstrating a distinct trajectory toward a high or solid consensus, in contrast to other principles that remain contested.

74- Constitution-making and Reform: Options for the Process, op. cit.,p60-61

First: Core Constitutional Principles Shared within the Syrian Societal Vision

The dialogue sessions reflected broad and sweeping consensus among the participants, stemming from firm determination to break with the past, prevent the recurrence of previous abuses, establish justice and the rule of law, and ensure the full enjoyment of public rights and freedoms.

1. Shared Perceptions of Power Structures and Form of Political System

a. Democracy in the Participants' Visions

Democracy constituted a crucial issue in the participants' discussions, whether mentioned directly or referenced through its constituent elements, such as fair elections, the right to vote and run for office, majority rule, political participation, political pluralism, the separation of powers, and the prevention of the concentration of power.

Conversely, a few expressed apprehensions toward democracy in light of current challenges on the premise that it might exacerbate chaos.

Consequently, this apprehension was not directed at democracy as a permanent system of governance, but rather at current challenges that constrain the drafting of a permanent constitution.

b. Participants' Perspectives Regarding the Form of Political System

Although the participants' views during the sessions did not converge on a single mode of governance, opinions ranged from advocating a parliamentary or a semi-presidential system, intended to ensure a total break with the Assad era, to a presidential system that strictly circumscribes the president's powers and prevents the concentration of power.

“ *One participant noted:*

Regarding the political system, there is an ongoing debate on the presidential and parliamentary models.

A presidential system vests the president with expansive powers, which is what we fear after a long experience with authoritarianism.

A parliamentary system, on the other hand, curbs this power and enhances oversight and accountability. I am inclined to favor a parliamentary system because it allows for a plurality of political forces and prevents the concentration of power in the hands of a single individual.”⁷⁵

“ *In contrast, another participant offered an alternative view:*

“I slightly disagree, because a parliamentary system requires robust political parties and a deeply entrenched political culture, both of which are currently lacking. Without genuine parties, a parliamentary system might devolve into chaos or a new form of dominance. Perhaps a semi-presidential system is the most appropriate for the initial phase, as it distributes power between the president and parliament in a balanced manner.”⁷⁶

75- A dialogue session with legal experts.

76- A dialogue session with legal experts.

The outcomes of the dialogue sessions also reveal a third perspective supporting a conditional presidential system; as one participant remarked:

“

...A presidential system is the best, provided that presidential powers are strictly monitored.”⁷⁷

Despite the absence of a single definitive consensus or a dominating view, these three models are proposed on the basis of fully agreed-upon core foundations, namely, the separation of powers and the right to vote and run for election. Thus, these views ultimately reinforce the explicit and implicit consensus on democracy and the separation of powers as foundational prerequisites for the form of political system.

77- A dialogue session with societal actors.

C. The People as the Source of Powers

The Constitutional Declaration provoked widespread debate when it omitted any reference to the principle that the people are the source of sovereignty, a principle adopted by the vast majority of the world's constitutions. Sovereignty belongs to the people, and it is manifested in a directly elected constituent assembly, from which constitutional powers, such as the parliament, the presidency, the government, and the constitutional court, emanate. Consequently, these derived branches are shielded by virtue of being descended from an original authority grounded in popular sovereignty, which can neither be amended nor abolished except by an equivalent original authority directly elected by the people.

Therefore, it is imperative to return to the foundational principles deeply rooted in international constitutional history in general, and Syrian constitutional history in particular, and to explicitly stipulate that the people are the source of sovereignty, exercising it through free, fair, and transparent elections of their representative to parliament and the presidency, as well as through the election of a constituent assembly empowered to draft a new constitution or conduct constitutional revisions.

Across all dialogue sessions, a broad consensus emerged that the foundation of legitimacy lies in the actual, substantive participation of the people in building the constitution, ensuring that the text reflects the popular will, given that the constitution constitutes the new social contract among Syrian men and women.

“ One participant stated:

Every constitutional reform experience in the world began under suboptimal circumstances, but the popular will is what made the difference.”⁷⁸

Another added: “The constitution is a social contract, and it only acquires its legitimacy if voted upon by the people in all their components. Any new constitution must be built upon comprehensive national consensus.”⁷⁹

Accordingly, societal and popular participation in drafting the constitution is rendered meaningless unless the text of the permanent constitution clearly and explicitly stipulates that the people are the source of all powers.

78- A dialogue session with legal experts.

79- A dialogue session with societal actors.

D. The Principle of the Separation of Powers

Despite the Constitutional Declaration enshrining the principle of the separation of powers,⁸⁰ it subsequently contradicts this very principle through the following:

The concentration of powers in the hands of the President of the Republic, who forms the Council of Ministers, and appoints and dismisses ministers. The president also appoints one-third of the People's Assembly and designates the committee tasked with forming the electoral commission, which, in turn, selects the remaining two-thirds from among its members. Furthermore, the President unilaterally appoints members of the Constitutional Court and holds the exclusive right to propose amendments to the Constitutional Declaration.

The Constitutional Declaration defines the relationship between the People's Assembly and the government within a rigid framework of separation. In contrast, the principle of the separation of powers operates on a functional separation between these two branches, ensuring mutual checks and balances. This balances the two powers by granting the government the power to dissolve parliament, which must be coupled with a call for early elections, thereby placing the fate of parliamentarians in the hands of the electoral commission rather than the government. Conversely, the government must be held accountable to parliament and subject to votes of no confidence.⁸¹

In light of this, the design of relations between powers in the Syrian Constitutional Declaration contradicts the separation of powers, ultimately subordinating all authorities to the President of the Republic. Moreover, this rigid separation paralyzes the legislative and executive branches from properly fulfilling their respective mandates and precludes any mutual oversight. Consequently, under these circumstances, the President alone becomes the sole guarantor of the proper functioning of constitutional institutions.

80- Article 2 of the Syrian Constitutional Declaration

81- Issam Suleiman, *Constitutional Judiciary and the Principle of the Separation of Powers*, pp. 24–25.

The President's unilateral appointment of the Constitutional Court, combined with the absence of constitutional provisions defining its mandate to safeguard the separation of powers, creates a profound defect in enforcing this principle, as no constitutional entity is capable of implementing and protecting it.

The absence of an effective separation of powers was one of the most recurring critiques leveled against the Constitutional Declaration during the dialogue sessions.

In contrast, participants across all sessions clearly and explicitly emphasized the necessity of enshrining the separation of powers, safeguarding this principle, and monitoring any infractions against it. It was evident to the participants that this specific principle served as the dividing line between the former authoritarian regime and the new Syria.

“ One participant noted:

One of the core points is the separation between the three branches; the President must not possess the power to issue legislative decrees in the absence of parliament, nor control judicial appointments. This is what practically transformed the former Syrian regime into an absolute presidential system, even though on paper it was semi-parliamentary.”⁷⁵

Accordingly, the constitutional codification of the separation of powers must be manifested objectively in the relationship between the legislative and executive branches, as outlined above. The constitution must also adopt a mechanism that guarantees the independence of the Constitutional Court, vesting it with the necessary powers to exercise judicial review over any transgression by authorities of their mandates or constitutional functions.

Consequently, the principle of the separation of powers emerges as a primary pillar of the political transition and break with dictatorial rule. Given the broad consensus surrounding this principle, it is a prime candidate for adoption as an unamendable, fixed principle in the constitution, akin to the Brazilian model, which stipulates that no proposed constitutional amendment aimed at abolishing the separation of powers shall be considered.⁸³

83- Article 60, Paragraph 4, Clause III of the 1988 Constitution of the Federative Republic of Brazil, with its 2024 amendments.

E. Limiting Presidential Terms

The successive eras of Assad's father and son rule formed the foundation of the Syrian demands for political transition. One of the most critical elements proposed to break with the previous era was limiting the term in office for the President of the Republic, following the father's absolute grip on power from his takeover in 1970 until his death in 2000, and his subsequent transfer to his son, who remained in power from 2000 until his overthrow on 8 December 2024.

This experience with absolute power and the devastation it brought upon the Syrian people has made citizens wary of leaving the presidential term unrestricted.



As one participant noted:

The number of presidential terms must be clearly defined, leaving no room for interpretation.”⁸⁴

In this regard, while some nations restrict leadership to a single term,⁸⁵ the broader international practice limits it to two terms.⁸⁶

It is highly recommended that Syria establish a constitutional lock that renders the number of presidential terms unamendable, particularly during the volatile and uncertain climate characterizing the political transition phase, thereby preventing the country from slipping back into authoritarianism.

84- A dialogue session with legal experts.

85- Constitutional Alternatives for Syria, op. cit., p. 116.

86- Ibid., p. 117.

F. The Role of the Military and Security Forces

The crisis of the national army and security forces in Syria is not confined to the events of the past 14 years, during which the military turned against the people and, alongside security agencies, perpetrated widespread, systematic human rights violations constituting war crimes and crimes against humanity. Rather, it extends across a historical trajectory of military intervention in politics, evidenced by the numerous military coups led by army officers, including the 1963 Baath Party coup, followed by Hafez al-Assad's own coup and seizure of power in 1970.

Against this historical backdrop, and in light of the proliferation of unregulated weapons and the presence of militias outside state institutions, participants stressed the military's absolute impartiality, demanding that its role be constitutionally defined and subordinated to an elected civilian authority, while strictly confining the possession of arms to the state.

“

As one participant noted:

“...It must be a completely civil state, meaning no one can exploit religion, the military, or nationalism to impose their opinion. We want a state that treats everyone equally, just like the youth said today: a state of citizenship, not a state of loyalties.”⁸⁷

87- A dialogue session with societal actors.

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In light of this, enshrining the following principles constitutionally can lay the groundwork for building a national army and security forces with clear and circumscribed mandates:

- 1 The state's exclusive monopoly over the authority to establish military and security agencies, and its right to decommission and seize all illegal weapons without compensation.
- 2 Affirming the subordination of all security agencies to the provisions of the constitution and the rules of national and international law.
- 3 Obliging security agencies to maintain strict neutrality and prohibiting their interference in partisan and political affairs.
- 4 Subjecting the security and military agencies to civilian oversight.
- 5 Respecting cultural and national diversity in operation and employment.⁸⁸

88- *Constitutional Alternatives for Syria, op. cit., pp. 120–124.*

G. Restricting States of Emergency

The issue of the state of emergency was repeatedly raised, with participants demanding the inclusion of constitutional guarantees to curb executive overreach during such times, specifically through parliamentary and judicial oversight.

H. Ensuring Political Pluralism

Pluralism, in its political, social, and ideological sense, constituted a point of consensus across all sessions. One female participant noted: “It is impossible to impose a single political or ideological mold... pluralism is the baseline of any legitimate constitution.”⁸⁹

The discussions across all sessions demonstrate that a political transition from dictatorship to democracy in a diverse society like Syria requires national political parties capable of serving as vehicles for the political, social, and economic demands of various segments of society. This requires the inclusion of constitutional provisions that guarantee the right to political participation, civil assembly, and the formation of political parties, in accordance with the following:

- Enshrining political pluralism and the right to establish political parties.
- Recognizing the constitutional rights of the political opposition to enhance its role and efficacy.
- Regulating the electoral process to guarantee transparent, fair, and credible elections that command the trust of citizens, bolster the efficacy of political parties, and ensure the peaceful transfer of power.⁹⁰

88- Constitutional Alternatives for Syria, op. cit., pp. 120–124.

89- A dialogue session with societal actors.

90- Constitutional Alternatives for Syria, op. cit., pp. 128–132.

2. Fundamental Rights and Freedoms

Fundamental rights and freedoms have long constituted the core of any transitional process in post-authoritarian and post-conflict states. The Syrian people have endured every form of systematic and widespread violation of fundamental rights and freedoms, which frequently constituted war crimes and crimes against humanity, leaving behind millions of direct and indirect victims. This reality was reflected across all dialogue sessions through the following points:

- An unprecedented level of awareness among participants regarding their rights, mechanisms for their protection, how they are affected by the nature of the political system, and the state's obligations to safeguard them.

“ *One female participant noted:*

...My son was in prison for years. When he was released and had barely begun to rebuild his life, they arrested him again... Who guarantees that this will not happen tomorrow? We want a clear law for accountability, equality, and the political and social rights of women. We are exhausted by marginalization and injustice.” ⁹¹

- Fundamental rights and freedoms emerged during the sessions as the ultimate objective and the foundational benchmark against which stances on all matters were formed, including positions on the former regime, democracy, the separation of powers, judicial independence, ... etc.

“ *One participant stated:*

“I want to speak from the heart; we Syrians are exhausted by war, poverty, and oppression. We want to live in a country we love, where we feel safe, without feeling threatened by the authorities or by one another. If the constitution does not deliver this, it is meaningless.” ⁹²

91- A dialogue session with Syrian refugees.

92- A dialogue session with societal actors.

“ *Another female participant added:*

My greatest fear is that we return only to find our children being detained once again without cause. We want a law that protects human dignity, prohibits arbitrary detention, and guarantees accountability. We want a constitution that protects our children from the pain we lived through and guarantees that this tragedy will never be repeated.” ⁹³

“ *Another participant noted:*

We need a constitution that guarantees rights clearly, rather than leaving them on paper. There must be implementation mechanisms and guarantees; otherwise, we will simply reproduce authoritarianism.” ⁹⁴

- The elevation of economic and social rights, women’s rights, the rights of persons with disabilities, youth rights, and victims’ rights alongside political rights emerged as a foundational, high-priority demand. Poverty has become endemic, entire cities have been nearly destroyed and left without basic services, and millions of citizens are in need of reconstructing their homes. Furthermore, the lives of millions of women have been overturned by war, displacement, detention, and enforced disappearance; these women have fought valiantly and will not accept being marginalized again. The youth, who have endured violations, war, displacement, lack of access to education, a lack of employment opportunities, declining educational quality, and heightened security risks, alongside those disabled by the war or other causes, constitute segments of society experiencing widespread marginalization. Finally, millions of victims and their families require the realization of accountability, truth-seeking, recognition, apologies, memorialization, compensation, and reparations.

93- A dialogue session with Syrian refugees.

94- A dialogue session with societal actors.

“ One female participant stated:

...I do not want a single article in the constitution that talks about women as if they are a secondary addition. I want gendered and just constitutional language that explicitly mentions 'every male and female citizen,' not just 'citizens,' because a woman is not an auxiliary to a man; she is a full partner in rights and duties... I want real equality, because we paid the price just as men did, if not more.”⁹⁵

- The following rights were repeatedly invoked during the dialogue sessions (fundamental rights and freedoms, fundamental civil rights, property rights, restitution of rights, social rights, women's rights, equal opportunity, equality, education, liberty, dignity, justice, cultural and linguistic rights, the recognition of national holidays, the recognition of ethnic and religious diversity, the fundamental rights of all components of society, freedom of political parties, freedom of opinion, political rights, ethnic and religious rights, collective rights, freedom of expression, the recognition of cultural identity, the right to non-discrimination, children's rights, public freedoms, personal freedoms, freedom of belief, assembly, artistic expression, peaceful protest, and the formation of political parties, judicial independence, independent media, the separation of powers, the rule of law, the right to stand for election and vote, the freedom to practice religious rituals, active citizenship, political participation, the right to education and support for research, the right to healthcare, the right to participate in fateful decisions, human rights enshrined in the Syrian Constitutional Declaration, the right to work, the right to adequate wage, the right to adequate housing, the right to adequate medical treatment -including the right to obtain sufficient information regarding one's illness and available treatment options- the right to peaceful demonstration, and the right to monitor the constitutionality of laws).

This significant consensus on guaranteeing rights and freedoms, combined with the resolve to break with the former regime, must drive the adoption of fundamental rights and freedoms as an unamendable, permanent pillar in the constitution.

95- A dialogue session with Syrian refugees in Lebanon.

According to the participants, it is imperative to fulfill the following:

- Stipulate and adopt the fundamental rights enshrined in international human rights laws, including social, cultural, economic, civil, and political rights, as well as the rights of women, persons with disabilities, children, and future generations.
- Provide rights and freedoms with constitutional guarantees that prevent their violation and offer judicial mechanisms for their protection, including direct access to the Constitutional Court to challenge the constitutionality of laws.
- Establish independent constitutional institutions, such as human rights commissions, to promote and protect of human rights.
- The Constitutional Declaration's adoption of international treaties signed by Syria constitutes an important precedent,⁹⁶ yet it remains insufficient to protect rights; mechanisms must be established to operationalize them.
- Indeed, while this is one of the most progressive articles in the Constitutional Declaration, it additionally requires an independent and competent constitutional court to which citizens can appeal directly when a law violates a fundamental right or freedom protected by international conventions.
- Abolish all forms of immunity for security forces, particularly when they infringe upon the rights and freedoms of citizens.
- Stipulate clear constitutional boundaries and frameworks for states of emergency, defining their legal justifications and duration, and vesting the Constitutional Court with the mandate to exercise judicial review over emergency laws.
- Prohibit any entity from shielding its decisions against judicial challenge.

96- Article 12 of the Syrian Constitutional Declaration

3. Addressing Historical Grievances

This issue constitutes a fundamental challenge for the Syrian government and society; stability cannot be achieved without justice.

It serves as the primary test for the protection of rights and freedoms. Without accountability for the crimes committed, constitutional provisions safeguarding the right to life, for instance, would be rendered meaningless. The history of nations is a continuous trajectory that neither breaks abruptly nor is forgotten suddenly, and the pages of history cannot be turned without a resolution. The political system and society must internalize this lesson to prevent recurrence.

“ One participant stated:

*'Some countries that went through similar circumstances initiated transitional justice pathways prior to drafting their constitutions, because they sought to heal wounds first. In our case, it might be preferable for the two processes—the constitutional and the transitional justice pathways—to run in parallel, ensuring that the constitution is built upon the foundations of justice and accountability rather than on settlements.'*⁹⁷

Conversely, participants articulated their demands for justice based on their lived experiences and the extent to which they and their regions were affected by the crimes committed. Participants from historically marginalized areas such as Deir Ezzor, Raqqa, Qamishli, and Hasakah emphasized justice in development and the equitable allocation of resources and wealth.

97- A dialogue session with legal experts in Damascus.

“ One participant stated:

Deir Ezzor needs to be allocated a fair share in development and reconstruction, particularly from oil and agricultural resources, to guarantee economic justice and prevent the inequitable exploitation of resources. A local development fund dedicated to reconstruction must be established, funded by 20% to 30% of these resources, to achieve sustainable development.” ⁹⁸

In contrast, refugees and returnees focused on their right to property restitution and reconstruction.

“ One participant stated:

I do not believe in building a state without clear rules. We have paid a heavy price, and we cannot start anew as if nothing happened. I want a constitution that protects me as a citizen and restores my confiscated property. ...To this day, people cannot reclaim their property despite possessing title deeds (Tabu). ...I do not want a constitution that shields killers or keeps corrupt officials in their positions; rather, I want a constitution that restores rights to their rightful owners.” ⁹⁹

98- A dialogue session with societal actors in Qamishli.

99- A dialogue session with Syrian refugees in Lebanon.

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The term 'justice' was one of the most frequently recurring words across all sessions and garnered deep consensus among the participants, who articulated their vision for transitional justice along the following points:

- 01** Transitional justice is the foundational pillar upon which the constitution rests and a prerequisite for transitioning from a state of war to one of peace and stability.
- 02** Transitional justice must be holistic, encompassing all violations and all victims.
- 03** Transitional justice is a comprehensive and integrated process that entails accountability, compensation, reparations, recognition, and memorialization, and the state bears the obligation to realize it.
- 04** Transitional justice must target institutions, institutional reform, the eradication of corruption, and the elimination of nepotism.
- 05** Victims, their families, women, and refugees must be actively included in transitional justice pathways; social justice must be achieved for victims and their families, alongside the provision of psychosocial support.
- 06** Providing support to women in accessing justice and legal remedies.
- 07** Establishing an independent truth and accountability commission operating on national consensus.
- 08** Developing programs for the reintegration of affected individuals and holding perpetrators accountable according to fair judicial standards.
- 09** Social justice, equity in development, and fair resource distribution are fundamental demands for achieving justice for historically marginalized regions.
- 10** Affirming the state's responsibility in providing remedies, truth-seeking, prosecuting perpetrators, institutional reform, reparations, preservation of memory, and memorialization.

4. Decentralization

The proposition of decentralization emerged as a core theme in all sessions. While this proposition reflected a common perception among participants and a broad consensus on the principle itself, their proposals for the form and scope of decentralization varied according to the underlying rationale for their vision of centralization. The primary factors driving this proposition can be summarized as follows:

- Severe centralism and administrative marginalization Countering regional marginalization, inequity in resource distribution, uneven development, and prioritizing major urban centers to the exclusion of others.

“ One participant stated:

Services in the city of Palmyra are profoundly deficient, and all administrative transactions are subject to protracted procedures channeled through the Homs Governorate. ... Each city has its own specificities, and these specificities must be respected in the upcoming constitution. ... Palmyra is 160 km from Homs and 220 km from Deir Ezzor, meaning it is physically removed from decision-making centers... Therefore, we require broader local powers to manage our service, agricultural, and economic affairs in a manner commensurate with the nature of our region.”¹⁰⁰

100- A dialogue session with Syrian refugees in Lebanon.

- Countering the concentration of powers historically vested in the President of the Republic and maintained in the current Constitutional Declaration, as detailed above, decentralization is proposed as a mechanism that enables broader popular participation in governance.
- Safeguarding cultural and national specificities, in opposition to the view that the religious and national majority has the right to impose its vision.
- The current reality in Syria, characterized by the total or partial destruction of several Syrian cities, presents decentralization as a solution that enables the mobilization of local capacities and energies for reconstruction, managing the process through mechanisms tailored to the conditions of each area.
- The heavy burden of the past and its long-term social, economic, and political repercussions necessitates a decentralized system of governance capable of dismantling these structural obstacles at the local level.
- Decentralization against threats of fragmentation, secession, or autonomy projects.

Participants emphasized that a democratic, decentralized system guarantees participatory governance, enabling localities to manage their own resources and bolster their political and economic participation by granting them full devolution of authority over their domestic affairs, without central authorities' interference. Furthermore, local elections within a decentralized framework will serve as a mechanism for political oversight and accountability by strengthening community-based oversight.

Decentralization also allows for the equitable management of wealth, respect for regional specificities, and the achievement of balanced development without the marginalization and exclusion that Syrian areas, whether cities, towns, or rural areas far from the centers, have experienced.

Conversely, the constitutional and territorial unity of the country requires the supremacy of the national constitution and its institutions over local legislation. It also requires the centralization of core defense functions, such as the army and security — meaning the existence of a single army and unified security agencies under the authority of the Syrian state and the oversight of the Syrian parliament — and the centralization of foreign policy. Finally, it entails ensuring balance, integration, and equity in development among governorates, which implies central control and management of macro-economic sectors.¹⁰¹

A democratic decentralized system is deemed the appropriate solution to guarantee the broadest possible popular participation in governance and politics, allowing various governorates and areas to contribute to politics and the economy. In such a system, local authorities are granted full devolution of power over their local affairs, ensuring that the central government does not exercise any control or interference, provided that the relationship between the center and the governorates is constitutionally and legally regulated.

The existence of an independent constitutional court vested with appropriate powers serves as the ultimate safeguard of the country's legal, political, and economic unity under a decentralized system.

101- Hazem Nahar, Decentralization in the Syrian Context, The Republic Party Website, 2025, available at: <https://rpsy.org> (last accessed November 1, 2025).

5. Enforcing the Constitution and Ensuring Its Effectiveness

The enforcement of the constitution and ensuring its effectiveness were central topics of discussion in community dialogues. In all sessions, the problem of the constitution not being applied or respected was raised.

“ One participant stated:

I previously attended a training on the state, constitution, and politics, and it was only then that I understood that the Syrian constitution was merely ink on paper. It was not applied, and citizens did not feel it. It was as if we were entirely outside the constitution, as if its existence meant nothing to us”¹⁰²

“ Another participant says:

The problem is not the constitution, the problem lies with governance and authority, for it is they who bypass the constitution and the laws. The Syrian constitution itself is not the problem; rather the failure to implement it is. For example, take citizenship: is there a single one of us who feels like a citizen with rights to demand in Syria? As seen in the video, the people are under military boot. The powerful are the ones in control of authority. So, the problem lies in implementation, not in the constitution.” ¹⁰³

In contrast, participants broadly agreed that the Constitutional Court and the judiciary are the two institutions capable of protecting the constitution and ensuring its application.

102- Dialogue session with Syrian refugees in Lebanon.

103- Dialogue session with civil society actors in the Maarrat Misrin area in Idlib Governorate

a. The Constitutional Court

In every country in the world, the constitution represents the will of its people, expressed through the original constituent authority,¹⁰⁴ the authority that grants the constitution a position superior to all other legal rules, given that this authority is the highest in the political system.¹⁰⁵

From this emerges the principle of constitutional supremacy, which dominates all other legal rules.¹⁰⁶ This principle has evolved into one of the foundational principles of modern democratic rule of law, to the point that it has become nearly impossible for any state to be considered democratic unless the constitutional rules hold supremacy over all other rules. Thus, the principle of constitutional supremacy has become inseparable from the principle of legitimacy,¹⁰⁷ and the principle of uniformity in the structure, relations, and exercise of governance, and the ruler's subjection to the law as well as those whom he rules.¹⁰⁸ And because protecting the principle of constitutional supremacy requires mechanisms that ensure respect for the hierarchy of legal rules, this mandate has been entrusted to the Constitutional Court.

For the Constitutional Court to oversee the enforcement and application of the constitution, it must be an independent court with the competence and powers necessary to fulfill this role. The mechanism for forming the court and its powers must be stipulated in the the constitution so that they cannot be manipulated by the legislative authority.

104- Abd al-Razzaq al-Sanhuri, *The Science of Legal Principles*, Egypt, 1936, p. 16.

105- Elias Abu Eid, *The Constitutional Council between Text, Ijtihad, and Comparative Jurisprudence*, Part Two, First Edition, 2007, p. 81.

106- Ibrahim Muhammad Salih al-Sharfani, *The Constitutional Court's Review of Legislative Discretionary Authority*, Halabi Legal Publications, First Edition, Beirut, 2016, p. 37. See also: Kamal Ghali, *Principles of Constitutional Law and Political Systems*, Al-Riyad Press, Damascus, 1980–1981, p. 8.

107- Abd al-Aziz Muhammad Salman, *Procedures of the Constitutional Case*, Dar Sa'd Samak, Cairo, 2015, p. 35. See also: Munzir al-Shawi, *Constitutional Law*, Part Two, National Library, Baghdad, 1970, p. 55.

108- Khalid Omar Abdullah Bajnid and Ahmad al-Jizani, *The Intermediary in Constitutional Systems and Constitutional Law*, Aden University Press and Publishing House, Aden, 2003, p. 73.

“ One female participant stated:

Every time the constitution was amended in Syria, the aim was to extend the ruler's power. The amendments passed easily because parliament was not independent, and the Constitutional Court was merely a formality.” ¹⁰⁹

In this regard, participants emphasized an active role for the Constitutional Court in ensuring the application of the constitution and protecting rights and freedoms, as well as the court's independence, according to the following points:

- A pivotal role for the Constitutional Court is in overseeing the application of the Constitution, protecting the principle of the separation of powers, and enabling citizens to seek redress by accessing the court to protect their constitutional rights.
- The independence of the Constitutional Court from political authorities.

Within this framework, to activate a significant role for the Constitutional Court, it is possible to derive fundamental principles adopted by post-conflict states in their constitutions, through which they succeeded in granting the Constitutional Court a significant and effective role in ensuring the enforcement of the constitution:

109- Dialogue session with legal experts in the city of Damascus.

Independence of the Constitutional Court

- The constitution must stipulate the mechanism for forming the court, the immunity of its judges, and the procedures for dismissal, in a manner that prevents undermining the court's independence through legislation.
- The independence of the Constitutional Court requires that it be formed through a mechanism that prevents a single entity from controlling the process. For this reason, in democratic states and states undergoing democratic transition, several bodies are responsible for nominating the court's members. In Bulgaria, the members of the court are appointed as follows: four by the President of the Republic, four by the National Assembly, and four by the General Assembly of the Court of Cassation. In Romania, the President of the Republic appoints three, the Chamber of Deputies appoints three, and the Senate appoints three.¹¹⁰ In Lebanon, the parliament appoints five members, and the government appoints five, both elected by a two-thirds majority.¹¹¹
- On the other hand, limiting the term of office of the court's judges, whether by prohibiting renewal or by a single extended term until retirement age, helps separate the judge from the appointing authority and entrenches their independence. This is especially true when the judges' term of office is longer than that of those who appointed them, and when the constitution stipulates judges' immunity and clear procedures for dismissal.

110- Al-Waseet for Constitutional Systems and Constitutional Law, *op. cit.*, p. 288.

111- Pursuant to Article Two of the law establishing the Lebanese Constitutional Council, as amended by Law No. 150 of 1999, published in Official Gazette No. 54 dated 11/11/1999, p. 3177 et seq. See: Muhammad Rif'at Abd al-Wahhab, *Review of the Constitutionality of Laws and the Constitutional Council in Lebanon*, p. 319.

Powers of the Constitutional Court

The Constitutional Court must be vested with the necessary powers to carry out its work of protecting the constitution and ensuring its proper enforcement. Chief among these powers are:

- Constitutional stipulation of the court's powers, in a manner that prevents the legislative authority from undermining the court's powers through legislation.
- Monitoring the constitutionality of laws, and in particular the protection of constitutional rights and freedoms, through the stipulation of mechanisms for subsequent review that allow citizens to access the court to protect their constitutional rights whenever those rights are threatened or violated through laws that contravene the constitution.
- The power to interpret the constitution is of decisive importance during the transitional phase. Constitutions drafted during a transitional period may be general, ambiguous, and sometimes contradictory, under pressure to reach consensus among national forces. It is therefore necessary to vest the power to interpret the constitution in the Constitutional Court, as disagreements over constitutional interpretation may escalate into a severe and sometimes decisive political crisis.
- Vesting the Constitutional Court with the power to resolve electoral disputes.
- Vesting the Constitutional Court with the power to review constitutional amendments in terms of both form and substance.
- Stipulating the power of the Constitutional Court to exercise oversight over the constitutionality of political parties.

b. Independence of the Judicial Authority

The issue of judicial independence and competence garnered broad consensus among all participants and was linked primarily to achieving justice, recovering rights, and securing guarantees for the exercise of their rights in the future.

“ One participant stated:

I believe we need a system that guarantees a balance among the three branches of power: the legislative, the executive, and the judicial. The focus must first be on ensuring the independence of the judiciary, because it is the pillar that protects the constitution itself. If the judiciary remains subordinate to the executive authority, no political system will have any meaning.” ¹¹²

“ Another participant said:

*... When we talk about the constitution, we must talk about the independence of the judiciary. If the judiciary is not independent, who will protect the constitution? ...”*¹¹³

“ Yet another participant stated:

Even the issue of judicial independence needs to be addressed, because the current constitutional declaration grants the president broad powers that include appointing members of the Supreme Judicial Council and the Constitutional Council, and consequently the judicial authority is not fully independent.” ¹¹⁴

¹¹²- Dialogue session with legal experts in the city of Damascus.

¹¹³- Dialogue session with civil society actors in the Wata al-Khan area in Lattakia Governorate.

¹¹⁴- Dialogue session with civil society actors in the city of Deir ez-Zor.

In light of this, the importance of constitutionally stipulating the following becomes apparent:

- Adopting the principle of separation of powers and affirming the independence of the judicial authority.
- Stipulating clear and detailed constitutional mechanisms and principles, where necessary, enshrining the independence of the judiciary from the executive authority, whereby the executive authority may not obstruct the enforcement of a judicial ruling, including by criminalizing interference in judicial proceedings.¹¹⁵
- Stipulating the independence of the judiciary from the legislative authority, and in particular when the latter exercises its constitutional power to pass laws, in a manner that prevents it from infringing upon the independence of the judicial authority and the independence of the Supreme Judicial Council.¹¹⁶
- The judicial authority shall have jurisdiction over all matters of a judicial nature and shall alone have the power to decide whether any matter brought before it for determination falls within the scope of its jurisdiction as defined by law.¹¹⁷
- Constitutionally stipulating the formation of the Supreme Judicial Council, its independence, and that the majority of its judges be elected, with the council assuming responsibility for the selection and appointment of judges, disciplinary proceedings against them,¹¹⁸ and the administration of the justice system, along with stipulating its financial and administrative independence.

115- The immunity from forced execution enjoyed by the state/administration entrusted with a task of public benefit, and by the legal entities arising from it, may constitute a limit on the judiciary's authority over them and an obstacle to the individual's right to enforce a ruling against them. This is what has led several states to develop means of enforcing rulings against the state, such as the possibility available to a judge of imposing personal penalties on public officials who are required to enforce rulings issued against one of the state's administrations. See: Guide on Standards of Judicial Independence, The Legal Agenda, 2016, p. 16, available at: <https://rebrand.ly/d8q32f5>

116- Ibid., p. 16.

117- Basic Principles on the Independence of the Judiciary, United Nations, Clause Three, available at:

<https://www.ohchr.org/ar/instruments-mechanisms/instruments/basic-principles-independence-judiciary> Last accessed on 2/11/2025.

118- Ibid., p. 33.

- Adopting the principle of the natural judge as a fundamental guarantee of the right to a fair trial. This principle requires that a person be tried before an ordinary specialized established court. In the application of this principle, exceptional courts, special courts, emergency courts, and courts with retroactive effect are prohibited.¹¹⁹
- Defining the jurisdiction and authority of military courts solely to crimes and offenses of a military nature, for the trial of members of the armed forces who have committed crimes and violations.¹²⁰
- The independence of the public prosecution from the Ministry of Justice, prohibiting interference in its work, and linking the public prosecution to the Supreme Judicial Council.¹²¹
- Enshrining the principles of a fair trial, such as public hearings, the justification of judicial decisions, the confidentiality of deliberations, a panel of multiple judges, the right to appeal, and the state's obligation to provide a lawyer when a litigant is unable to do so.¹²²
- All principles relating to the right to a fair trial as stipulated in the Constitutional Declaration.¹²³

119- Ibid., p. 5.

120- International Principles on the Independence and Accountability of Judges, Lawyers, and Prosecutors, Practitioners' Guide No. 1, International Commission of Jurists, Geneva, 2007, p. 69. Available at: https://www.icj.org/wp-content/uploads/2013/08/PGJL_Arabic_ElecDist.pdf Last accessed on 1/11/2025.

121- Ibid., p. 57.

122- The Legal Agenda, see pp. 75 to 81.

123- Articles 17 and 18 of the Syrian Constitutional Declaration of 2025.

6. Establishing Independent Institutions to Support Human Rights and Free and Fair Elections

Participants in the sessions highlighted the necessity of establishing independent institutions to work on:

- An independent body for the protection of human rights, to receive reports of violations of human rights, women's rights, and children's rights, and to investigate them, and to submit periodic reports to the public and to the parliament, as well as reports on the extent to which the state fulfills its international obligations. It would also monitor freedom of expression, monitor and visit prisons and places of detention, investigate violations of the rights of detainees or cases of torture, monitor hate speech and incitement of violence, and hold public sessions on issues of violence against women, children, or the most vulnerable groups.¹²⁴
- An independent anti-corruption body, vested with meaningful powers, and publishes its reports to the public.¹²⁵ It would receive complaints and reports, establish secure reporting channels, and refer its files to the competent judiciary. It would, in particular, investigate bribery, embezzlement, illicit enrichment, abuse of power, conflicts of interest, and expose corruption networks within ministries and public institutions.
- Establishing an independent truth and accountability commission, based on the involvement of victims and their families in shaping the mechanisms of justice, and developing programs for the reintegration of those affected and the accountability of perpetrators in accordance with fair judicial standards.
- A Supreme Elections Commission to oversee the electoral process, by managing the entire electoral process, overseeing voter registration, approving candidate names and lists, monitoring electoral campaigns, managing election day, vote count, and the announcement of results, and evaluating integrity and transparency. Among the most notable examples of this is the Independent High Authority for Elections in Tunisia¹²⁶

124- Principles Relating to the Status of National Institutions for the Promotion and Protection of Human Rights (Paris Principles), Clauses 1, 2, and 3, United Nations General Assembly Resolution 48/134 of 20 December 1993, available on the official United Nations website at: <https://www.ohchr.org/ar/instruments-mechanisms/instruments/principles-relating-status-national-institutions-paris> Last accessed on 10/11/2025.

125- Article 6 of the United Nations Convention against Corruption, 2003, available on the United Nations website at: https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50024_A.pdf Last accessed on 12/11/2025.

126- Chapter Eight, Article 134 of the Tunisian Constitution of 2022.

Second: Fundamental Constitutional Issues Requiring the Building of Consensus

National Identity

The question of national identity in Syria has often been raised as one of the drivers of sharp division within Syrian society. Even the political parties active throughout Syria's history have generally focused on the religious or ethnonational identity of Syrian society before turning to national identity itself. The most prominent example of this is the Baath Party, which worked to produce national identity through nationalist identity, while an opposing view sees national identity solely through the lens of religious identity. Amid all this, Syrians have been deprived of Syrian identity and citizenship for decades, including those who obtained Syrian identity yet were deprived of their linguistic and cultural rights over long decades.

The scale of this division requires achieving a national consensus that recognizes Syrian diversity and respects the country's history and its multiple cultures. A legitimate constitution cannot be drafted in a deeply divided and diverse society without full participation; therefore, planning to incorporate diversity from the earliest stages is part of a good starting point.¹²⁷

127- A Practical Guide to Constitution Building, op. cit., p. 27.

a. Religious Identity

The dialogue sessions reveal a variety of views in this regard:

- A view that advocates for the necessity of constitutionally stipulating the Islamic identity of the Syrian state, with Islam as the principal source of legislation, while preserving freedom of belief and the provisions of the Abrahamic religions, as stipulated by the Constitutional Declaration in Article 3. This view holds that secularism poses a genuine threat to individuals' freedom of belief, particularly in light of the French and the Turkish experiences prior to the 2010 constitutional amendment.



One participant poses:

Constitutional legitimacy means... aligning the constitution with society, such as taking into account social, religious, and cultural specificities". ¹²⁸

- A view that advocates for the civil identity of the state and rejects any religious identity, including as a cultural identity, and holds that Islamic jurisprudence or other religious law should not serve as a source of legislation. This view is held by groups that cut across sects and religions in Syria, with a significant segment of religious minority communities.



One participant stated:

It is important that we be clear about the concept of civil state. The civil state is not opposed to religion; rather, it is opposed to both religious and political authoritarianism. It is the state of law and citizenship, where all are equal before the constitution regardless of their beliefs." ¹²⁹

128- Dialogue session with civil society actors in the Maarrat Misrin area in Idleb Governorate.

129- Dialogue session with legal experts in the city of Damascus.

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- A view that advocates for the Islamic cultural identity as the identity of the state, without Islamic jurisprudence or religious law serving as the primary source of legislation.

““ One participant stated:

“... Syrian society remains sensitive regarding the question of religious identity. If people feel the constitution ignores the majority’s religion , it will spark significant social resistance. It is preferable to write in conciliatory language: we respect religion, but we affirm the civil nature of the state and the rule of law.” ¹³⁰

- A view that advocates that Syrian national identity must reflect the country's religious, national, and cultural diversity.

““ One participant stated:

Recognition of religious, national, and sectarian diversity is fundamental. All citizens must be equal in rights and duties.” ¹³¹

Building national consensus on this subject may not be easy, and it will be necessary to address the legitimate and historical concerns of communities, and to strike a balance between what the religious majority considers an entitlement, driven at times by violations of their rights to practice their religious rituals and obligations and discrimination against them, and at other times by being stigmatized by the former regime with the accusation of terrorism.

This must be balanced against the concerns of religious minorities, which have been reinforced by the violations committed against religious minority communities, whether in the Syrian coastal region or in Suwayda Governorate, and by the hate speech exchanged without effective safeguards on social media platforms.

Accordingly, this subject requires genuine consensus, built upon safe and free spaces for dialogue, in which Syrians raise their concerns and seek to understand them, whether related to historical roots or to the recent and current political reality. Understanding alone allows for bridging viewpoints and reaching solid agreements.

130- Dialogue session with legal experts in the city of Damascus.

131- Dialogue session with civil society actors in the city of Qamishli.

In this context, there are principles that must be constitutionally respected, linked to the great religious and cultural diversity of Syrian society, drawn from international law and successful experiences, as follows:

- The recognition of a religion as the state's religion or official religion, or the recognition that its adherents constitute the majority of the population, must not hinder access to any right stipulated in the constitution, in international human rights law, or in the conventions to which Syria is a signatory. It must not lead to any discrimination against adherents of other religions or non-religious people either.
- If religion is a source of legislation, it must not in any way constrain public and private freedoms, or any other recognized rights, nor lead to any discrimination against persons who do not accept or who oppose the official ideology.¹³²

132- Constitutional Alternatives for Syria, op. cit., p. 113.

b. Ethnonational Identity

The dialogue sessions targeted multiple and diverse areas across Syria, from city centers to remote villages and rural areas. Although multiple nationalist affiliations were represented in those sessions, Syrian Kurds were the primary bearers of the ethnonational identity question, which was raised as one of their fundamental demands. These demands center primarily on ensuring that the name of the state is neutral with respect to nationalities, and thus on removing the word “Arab” from the name of the state, recognition of Kurdish nationality alongside Arab nationality, and, by extension, recognition of the linguistic and cultural rights of the various nationalist affiliations in the constitution.

“ One participant stated:

The Syrian constitution must focus on the principle of citizenship as the foundation that guarantees equality among all members of society, regardless of their nationalist or religious affiliations. It is also necessary for the constitution to stipulate the right to speak and learn in any language, as this is one of the fundamental cultural rights that strengthens belonging and preserves diversity.” ¹³³

It was not surprising that this was one of the main topics in the preliminary agreement between transitional President Ahmad al-Sharaa and the commander of the Syrian Democratic Forces, Mazloum Abdi, as the second clause stipulated that the Kurdish community is an indigenous community within the Syrian state, and that the state guarantees its citizenship rights and all its constitutional rights.

133- Dialogue session with community actors in Hasakah

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While the Constitutional Declaration, alongside the provisions of the agreement of March 10th, marked some progress on the level of ethnonational identity, particularly through its stipulation of building a citizenship-based state in the declaration's preamble, the state's guarantee of the cultural diversity of Syrian society in all its components, and the cultural and linguistic rights of all Syrians,¹³⁴ as well as equality among citizens without discrimination on the basis of race, religion, ethnonational affiliation, or lineage,¹³⁵ in addition to the recognition of the Kurdish community as an integral part of Syrian society and the affirmation of its right to citizenship in the agreement, this progress represents a major step forward but remains incomplete. There are still demands for explicit recognition of Kurdish culture and Kurdish ethnonational identity in the constitution.

In addition to the above, it is necessary to affirm that reinforcing the principle of equal citizenship, non-discrimination on the basis of religion, race, ethnic affiliation, or gender, guaranteeing the combating of discrimination, and stipulating equal opportunities, alongside constitutional recognition of the existing nationalist affiliations and their full cultural and linguistic rights, can allow for the protection of diversity as a shared foundation of identity, within a framework of respect for the rights and freedoms stipulated in the International Bill of Human Rights as they relate to minorities and indigenous peoples.¹³⁶

134- Article 7 of the Syrian Constitutional Declaration

135- Article 10 of the Syrian Constitutional Declaration

136- Constitutional Alternatives for Syria, op. cit., p. 115.

Conclusion

There is no doubt that the fall of the former regime has opened the door to political change in Syria. This shift has been awaited for more than half a century, and for which Syrians have paid dearly including, innocent lives, homes, lands, and years of being refugees living at the margins away from all that bonds to their families, neighbors, memories, and homeland.

Although the conflict has subsided, it persists as participants across all discussion sessions repeatedly stated.

Consequently, Syrians find themselves before an invaluable opportunity for change in a complex reality where violence continues to be the only driver.

Hence, it is essential to understand the following indicators that the discussions and participants' comments point out:

- Participants are adamant about achieving peace and stability and putting an end to violence through national consensus.
- The sessions show that participants have greater flexibility and the ability to build a national consensus than political leaders in their areas. This is an extremely important indicator that must be taken into account as a crucial backbone for the social contract to be reached.
- Breaking with the former regime and all it represents and preventing the recurrence of the tragedy emerged as a common goal for participants.
- Participants referred to transitional justice as a model for a new Syria: a new model for justice, rule of law, combating impunity, non-repetition, and the state's responsibility to uphold justice and respect the rights and freedoms of citizens.

Circumstances may seem hard and coercive, and sometimes irreversible. Furthermore, violence continues to prevail in the Syrian landscape. Therefore, reaching preliminary agreements that put an end to violence or preclude it and confronting hate speech and sectarianism may allow the situation to calm, giving room for those who seek stability to play a role and have a voice, working towards dismantling the past contract and building national consensus and stability through a participatory constitution that preserves the rights and dignity of Syrians and upholds justice and rule of law.

4

Section Four: Recommendations:

**First: To the Syrian
government:**

01 Regarding the permanent constitution drafting

- 01 Working to amend the constitutional declaration or draft an interim constitution that provides a constitutional framework for the process of permanent constitution drafting through a mechanism that ensures societal participation throughout the process.
- 02 The committee amending the constitutional declaration or drafting the interim constitution must reflect Syria's political, social, ideological, cultural, religious, ethnic and nationalist diversity. Multiple parties must be involved in their appointment.
- 03 Transitioning from legitimacy by virtue of the revolution to legitimacy by virtue of popular will requires popular authorization through an authentic constituent assembly elected directly by the people.
- 04 The national dialogue must be resumed, building on what has been reached earlier. The constituent assembly commissioned to draft the constitution may form a committee to undertake public consultations and national dialogue, provided that these consultations meet the requirements of inclusivity, transparency and prior planning.
- 05 Public consultation processes must be designed on two levels: local and national. The process must also go through several stages. In the first stage, core constitutional issues may be identified, while later stages aim to build consensus around them.
- 06 Preliminary agreements and understandings must be reached with areas outside state control while working hard to reach consensus, build trust, and continue the dialogue.

02 Safeguarding and ensuring the protection of civil and political spheres

- a. For public consultations to succeed, a safe political and civil space must exist where everyone can freely express their views and concerns. Such a space cannot be secured without guaranteeing the exercise of rights and freedoms enshrined in the Constitutional Declaration, international human rights law, and international agreements to which Syria has ratified. Foremost among these rights are freedom of opinion and expression, freedom of the media and cultural activity, the right to assemble, and the right to form political parties.

- b. Civil society must be considered an essential partner in public consultations and national dialogue processes. Its expertise, knowledge, and technical resources must be utilized, and its space and freedom of civil action, as well as relevant international standards, must be safeguarded.

03 Civic education as part of engaging Syrians in making their constitution

- a.** It is essential to equip constitution-makers with constitution-drafting and adoption procedures, as well as core constitutional principles, through educational programs tailored to their needs. They must also attend workshops organized by domestic or foreign actors to learn about other experiences.

- b.** It is essential to educate citizens on the constitution and constitutional processes, institutions, state-building, types of governance systems, and basic principles such as citizenship, the rule of law, separation of powers, decentralization, human rights, and women's rights, as part of the participatory pathway to constitution-building.

- c.** Both the ministries of education and higher education play a vital role in this track by developing curricula that include subjects on political and public affairs.

04 Setting clear transitional justice frameworks before drafting the constitution

Delays in accountability and transitional justice processes, along with rising concerns about the government's inability to carry out a comprehensive process in the short term, constitute a challenge to constitution building.

Nonetheless, setting clear timeframes and milestones for the transitional justice process, coupled with direct communication with victims and their families and, promoting their participation, may mitigate violence and calls for revenge.

05 Commonalities and disagreements of participants

The dialogue sessions have shown that participants have shared attitudes towards:

• **System of governance**

A democratic political system based on the people being the source of powers, separation of power, where presidential terms are defined, and political pluralism is guaranteed.

• **Guaranteeing public rights and freedoms**

In accordance with international human rights law and the international agreements which Syria has ratified, as well as the independence of the constitutional court, the supremacy of the constitution, and the independence of the judiciary.

• **Constitution adoption**

Through voting within the elected constituent assembly.

• **Defining the role of the army and security**

service and subjecting them to civilian oversight

• **Preventing any entity**

from insulating its decisions against appeal

• **Building a transitional justice**

pathway that is inclusive, participatory, and non-discriminatory grounded in the centrality of victims and their families, the state's obligation to uncover the truth and the need to ensure the reconstruction process does not entrench violations and emphasizing women's leadership in transitional justice.

On the other hand, a common agreement emerged on decentralization, while views varied in terms of its nature and scope. Yet, the sessions revealed a lack of agreement on national identity, while showing some flexibility, allowing for the development of useful consensus in this context.

Second: To Civil Society

- 01** Putting pressure and advocating for a participatory constitutional process, building coalitions for this purpose, working with all actors on the ground and in the diaspora and refugee communities to hold community dialogues aimed at building societal consensus.
- 02** Acting as a key partner in public consultation processes, including through providing technical and logistical support, educating members of the constituent assembly and the public on basic constitutional issues, in addition to providing support in mobilization and advocacy.
- 03** Working to raise awareness of the importance of societal participation in constitution-making.
- 04** Being a reliable link between the constituent assembly and the citizens.
- 05** Undertaking its oversight role with a sense of responsibility and objectivity through monitoring and evaluating public consultation processes and offering suggestions for improvement.
- 06** Conducting research on specific topics related to the core issues of the constitution, such as protection of human rights, protecting women from violence and discrimination, decentralization, and the type of economic system. These research papers must be used to prepare proposals that offer information and recommendations for constitution makers on how to address the main issues in a constitution.

- 07** Taking part in exerting political pressure through directly engaging with decision-makers, including constitution-makers, in order to mobilize for a specific position about important issues like the design and progress of the process itself, in addition to questions related to the content of the constitution.

- 08** Civil society could offer support through opinion polls and focus group discussions to provide decision-makers with information on public attitudes, views, and positions vis-à-vis certain topics, as well as statistics and facts about the current context.

- 09** Providing periodical reports and studies on the needs and priorities of local communities, thereby building the education process based on priorities and what is available within these communities.

- 10** It would also be good for civil society, given its experience, to invest in the resources it worked on over 14 years, including civic education booklets, citizenship, identity, oral history, human rights, women's rights, transitional justice, elections, political systems, and constitution-making processes.

Third: To the International Community

- 01** Lifting economic sanctions on Syria, especially the Caesar sanctions, and engaging with civil society to end the impact of already-lifted sanctions to allow the economic situation in Syria to improve and contribute to a participatory constitution drafting process.
- 02** Providing financial, technical, and advisory support to the Syrian state institutions to enable them to engage in a participatory constitutional process.
- 03** An oversight and mediation role by the UN in the participatory constitutional process, especially in facilitating the process and supporting Syrians in reaching an inclusive national consensus on the constitution, could help build trust in the process.
- 04** Providing financial, advisory, and logistical support for the participatory constitution-making process.

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