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CONFLICT  
RESEARCH  
PROGRAMME

## Conflict Research Programme

# Syrian Visions: Mapping Syrian Constitutional Papers Since 2011

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## About the Conflict Research Programme at LSE

The Conflict Research Programme aims to understand why contemporary violence is so difficult to end and to analyse the underlying political economy of violence with a view to informing policy. Our research sites are Iraq, Syria, South Sudan, Somalia and the Democratic Republic of Congo.

The Syria conflict research programme focuses on five interrelated research topics. The function and legitimacy of public authority, identity politics, economic drivers of the conflict, civiness and reconstruction. The programme uses a mixed methodology using primary and secondary sources. The programme collaborates with the Middle East based Governance and Development Research Centre.

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## Introduction

After decades of near-silence in the Syrian public arena regarding the constitution and the rights and freedoms which it protects, the popular movement, which began in Syria in March 2011, paved the way for a public debate surrounding these issues. Matters such as the form of the state, the system of governance, democracy, and the protection of rights and freedoms became the subject of public discussion, despite continued oppression. These matters came to be documented in several papers and statements issued by Syrian political and civil society, and in the conferences and workshops which have been held since then to deliberate these issues.

While between March 2011 and November 2015, such constitutional papers were published at a rate of approximately five per year, there was a significant increase following the publication of the statement by the Working Group for Syria on 15/11/2015 in Vienna,<sup>1</sup> which included the need to draft a new constitution, and following UN Resolution 2254<sup>2</sup>, issued on 18/12/2015, which stipulated a schedule being set for drafting a new constitution. This put the issue of the constitution front and centre in the on-going negotiations process surrounding the Syrian political settlement. During the ten months after the Vienna statement was issued, 15 constitutional papers were published, the majority of which were the result of workshops and conferences held on this topic. Before long, however, this interest waned, following the failure of the Geneva talks to make progress in the constitutional process.

This paper aims to map the documents comprising constitutional visions which have been published by Syrian civil and political society since March 2011. It does so without embarking on an analysis of their contents, which is something we shall address in a subsequent paper.<sup>3</sup> We acknowledge that the content of these papers on its own is not sufficient to express all that Syrians want from a new constitution, particularly given the absence of political representation mechanisms, and the dominance of a climate of oppression which curbs public discussion of these issues. However, bringing together these papers remains a key indicator of the visions of Syrian actors, on both political and civil levels. It is, moreover, important to have them as a reference and an archive, in light of the total absence of Syrians, and their aspirations, from the international meetings which address the subject of the Syrian constitution.

To map these papers we used several research methods and conducted interviews with active civil society and political figures. To date, 44 papers have been mapped, the majority of which address constitutional issues and principles in detail, with the exception of a few papers which were released in 2011 and which point only briefly to some of these issues. We decided to include the latter in the document, given the significance of when they were issued – during the first few months of the public movement in Syria. Some other papers, meanwhile, present full constitutional drafts.

Finally, it should be noted that the papers presented here have been ordered according to their date of publication, and we have extracted the relevant sections in each paper without editing or changing any of the language. All the papers were mapped originally in Arabic and are available in the Arabic version of this paper. We translated all the papers from Arabic except these that are provided in English by the source. Namely, these are the papers numbered 4, 6, 8, 21, 29, 31, 35, 41, 43 and 44 in the following table.

<sup>1</sup> The statement of the Working Group for Syria on 15/11/2015 in Vienna is available at the following link: <https://www.un.org/undpa/en/Speeches-statements/14112015/syria>

<sup>2</sup> UN Resolution 2254 is available at the following link: <https://www.un.org/press/en/2015/sc12171.doc.htm>

<sup>3</sup> *Syrian Visions For Their Country: An Analysis of Constitutional Papers*, forthcoming.

## List of Syrian Statements and Papers Pertaining to the Constitution Published Since 2011

	Paper	Date of Publication	Source
1	The Vision of the Local Coordination Committees for the Political Future of Syria	2011/6/11	Local Coordination Committees
2	The Concluding Statement of the First Consultative Congress of Independent Opposition Figures	2011/6/27	The first Consultative Congress of independent opposition figures, held in Semiramis Hotel in Damascus
3	The Concluding Statement of the Consultative Congress called by the National Dialogue Committee	2011/7/12	The Consultative Congress called by the National Dialogue Committee in the Sahara Complex in Damascus
4	Charter for Dignity and Rights	2011/9/17	The National Coordination Body
5	The Kurdish National Congress' Paper	2011/10/26 1	Conference held in Qamishli
6	National Covenant for a New Syria	2011/11/5	The Syrian National Council
7	The Vision of the General Commission for the Revolution	2012/1/22	The General Commission for the Revolution
8	Document of Covenant and Charter	2012/3/25	The Muslim Brotherhood in Syria
9	The Political Vision and Founding Principles of the National Coalition for Syrian Revolutionary and Opposition Forces	2012/11/8	The National Coalition for Syrian Revolutionary and Opposition Forces
10	"Looking for a Democratic Constitution" Document	April 2013	Coalition of Syrian Women for Democracy
11	Interim Constitutional Declaration	2013/5/17	The Syrian Center for Legal Studies & Researches
12	The National Compact (The Cairo Documents)	2013/7/3	Opposition conference held under the auspices of the Arab League
13	Syria Transition Roadmap	2013/8/30	Syrian Center for Political and Strategic Studies
14	Principles from the Draft Constitution Proposal	2013/12/8	A proposal presented by a member of the executive body of the National Coordination Body, Dr. Munzir Khaddam
15	The Vision of the Popular Front for Liberation and Change	2011/12/24 3	The Popular Front for Liberation and Change
16	The Social Contract Pact	2014/1/6	Democratic Self-Administration, Al-Jazire
17	Constitutional Principles from the Manifesto of the Syrian Republic Party	2014/4/1	The Syrian Republic Party
18	Fundamental Constitutional Principles	2014/6/14	The Equal Citizenship Center
19	The Process of Building a Gender-Sensitive Constitution in Syria	November 2014	Syrian Women for Democracy, in partnership with the EuroMed Feminist Initiative
20	Basic Principles of the National Bloc League in Syria	2011/12/21 4	The National Bloc League in Syria
21	Principles of the Oslo Group for Dialogue in Syria	2015/3/19	The Oslo Group for Dialogue in Syria
22	Constitutional Principles from the TAMAS Conference	2011/11/20 5	The Civil Syrian Coalition
23	The Vision of a Group of Syrian Experts	2015/12/3	A group of Syrian experts
24	Declaration of Rights	2016	Kawakibi Organisation for Human Rights
25	Outcomes of the Conference "Building an Inclusive Gender-Sensitive Constitution: A Syrian Path Towards Democracy"	2016/3/1	Syrian Women for Democracy, in Partnership with the EuroMed Feminist Initiative



26	The Principles of the Citizenship and Affiliation Forum	2016/4/8	The Citizenship and Affiliation Forum Conference
27	A Vision of Transitional Constitutional Reforms	2016/4/10	The Nation Building Movement
28	A Declaration of Constitutional Principles for the Transitional Period	2016/4/20	A Group of Civil Society Organisations
29	Principles Issued by the Civil Society Support Room	2016/4/27	The Civil Society Support Room in Geneva
30	Determinants of the Future Constitution of Syria	2016/5/28	Results of the conference "On the Determinants of the Future Constitution of Syria" in Vienna, on the invitation of the Organisation of Global Initiative for Peace
31	Syria's Transition Governance & Constitutional Options	June 2016	Results of a Series of Workshops Organised by the Syrian Civil Coalition (TAMAS) in Partnership with the Carter Center
32	The Social Contract Document for the Democratic Federation of Rojava	2016/6/28	The conference of the Constituent Social Council of the Democratic Federation of Rojava
33	The Document of the Internal Opposition Delegation to Geneva	2016/9/7	The Internal Opposition Delegation to Geneva
34	The Constitutional Principles of the Al-Tadamon Party	2016/9/15	The Al-Tadamon Party
35	Executive Framework for a Political Solution	2016/9/20	The High Negotiations Commission
36	A Proposal for the Administration of the Kurdish Regions	201/12/12 6	The Kurdish National Council
37	The Syrian Constitution Shall Be Written by Syrians	2017/2/1	Statement Issued by 40 Civil Society Organizations
38	Outcomes of the Constitution Workshop in Cairo	2017/3/18	Syria's Tomorrow Movement
39	Principles Related to the Constitution Basket in the Geneva Negotiations	2017/5/12	The Kurdish National Council in Syria
40	The Constitutional Proposal of the Liberal People party	2017/9/24	The Liberal People Party in Syria
41	Istanbul III Paper: 31 Principle Points for a Draft Constitution in Syria	2017/12/1	Dialogue Workshop of Various Syrian Opposition Groups in Istanbul
42	General Guidelines Representing the Spirit of the Constitution	2018/5/7	The Day After for the Support of Democratic Transition
43	The Bucharest Paper	2018/7/3	Results of Discussions from Opposition Working Groups
44	Towards an Engendered Democratic Syrian Constitution	2019/6/1	The Syrian Women's Political Movement

## 1 The Vision of the Local Coordination Committees for the Political Future of Syria

**Date of publication:** 11-6-2011

**Source:** The Vision of the Local Coordination Committees for the Political Future of Syria<sup>4</sup>

The principles that we aspire to govern public life in the new Syria are as follows:

1. Syria shall be a republic and a civil state, ruled by Syrians, and not by any individual, family or party. It shall not be handed down from fathers to sons.
2. Syrians shall be one people, who are equal in rights and duties, and no-one shall enjoy privileges or shall be deprived of rights as a result of his religious, sectarian or ethnic background.
3. All religious, cultural and ethnic groups that make up Syrian society shall be respected in the new Syria, on the basis of citizenship, and none shall enjoy special privileges in the state. They shall have rights and duties on an equal basis with all. The future Syrian state shall necessarily and wholeheartedly renounce its authoritarian past, and rid itself of the legacy of discrimination towards Kurds and other groups, through a set of political, legal, and even symbolic measures that qualify it as a state for all its citizens.
4. Justice and tolerance, without revenge or retaliation, are the two guiding principles that shall address any rivalry between Syrians, and remove the trace of ethnic discrimination and persecution that built up over decades of Baathist policies.
5. There shall be no immunity for anyone above the law, and accountability shall be an overriding principle, without exceptions.
6. National resources shall be the property of all Syrians, and the yields of development must be directed towards the raising of capacities and quality of life of the most deprived demographics and groups.
7. The new Syria shall be free and independent of will, and shall, with the international community, commit to its agreements which guarantee national and ethnic rights.
8. Any current legitimate interests shall not be affected; however it shall not be accepted for the state to protect prejudicial and unjust economic and political positions.

## 2 The Concluding Statement of the First Consultative Congress of Independent Opposition Figures

**Date of Publication:** 27/6/2011

**Source:** The First Consultative Congress of Independent Opposition Figures<sup>5</sup>

*The concluding statement of the first Consultative Congress of independent opposition figures, which was the opposition's first conference held inside Syria since the start of the popular movement, included two points related to the form of the desired state and the justice councils. These are as follows:*

1. Supporting the peaceful, popular uprising to achieve its aims in the transition to a democratic, civil, pluralistic state, ensuring political, cultural and social rights and freedoms for all Syrian citizens, and ensuring justice and equality between all citizens regardless of race, religion and sex.
2. Bringing an end to the security option, withdrawing the security forces from cities, towns and villages, and forming an independent, credible investigation committee to investigate the killings of protestors and Syrian soldiers.

<sup>4</sup> Available in Arabic at the following link: <https://bit.ly/2EWDbsj>

<sup>5</sup> Available in Arabic at the Consultative Congress Webpage: <https://bit.ly/2IOHDSU>



### 3 The Concluding Statement of the Consultative Congress called by the National Dialogue Committee

**Date of publication:** 12/7/2011

**Source:** The Consultative Congress called by the National Dialogue Committee<sup>6</sup>

*The concluding statement of the Consultative Congress called by the National Dialogue, held at the Sahara Complex in Damascus, included a number of points related to the constitution, as presented below:*

- It is necessary to immediate release all political prisoners and prisoners of conscience, who were not included in the previous amnesty decrees, and who have not committed any crimes punishable by law; and to recognise that the right to express opinion is inviolable and protected in the nation and constitution, and that general freedoms are the right of all citizens.
- It is necessary to enhance the value of human rights, and protect them according to the highest constitutional, humanitarian and modern standards; the creation of a high council for human rights in Syria is recommended.
- The national opposition is an indivisible part of the Syrian national fabric.
- The prestige of the state shall be part of the national mandate, and it shall aim to preserve the dignity and security of the nation and of its citizens.
- The Congress looks to the establishment of a state of rights, law, justice, citizenship, pluralism and democracy, which recognises the ballot box as a basis for the political mandate.
- Syrian shall be a nation for all, and a country of exemplary pluralism.
- The application of the principle of the rule of law, with application to all who commit a crime punishable by law, and holding all to account without exception.

*The official news on the conference and which published the statement also included the following text, which indicates discussions around the constitution that took place during the conference. These were included as examples of points of view put forward, and not as points agreed upon by all attendees:*

'The Consultative Congress examined the articles of the constitution, and the discussion reflected a range of healthy, patriotic perspectives, including the issue of Article Eight. It was found that its amendment would necessitate the amendment of a number of constitutional articles, as well as its introduction. Therefore, it was recommended that a political legal committee is established, in order to review the constitution in all its articles, and put forward appropriate suggestions for the drafting of a new, modern constitution for the Syrian Arab Republic, one which would guarantee political pluralism, social justice, the rule of law, and fundamental human rights, and would empower women and allow for their role and protect children's rights and lay down rights and duties of citizens equally for all.'

### 4 Charter for Dignity and Rights of the National Coordination Body

**Date of Publication:** 17/9/2011

**Source:** Document of the Charter for Dignity and Rights<sup>7</sup> – the National Coordination Body.

The uprising/revolution in Syria is a watershed moment in the history of Syrian society and the Syrian State. As with all the revolutions of the "Arab Spring", it represents a qualitative leap, a human message and a set of universal values that are the common denominator of the aspirations of the Syrian people and the vindication of the sacrifice of its martyrs.

From the "Sahifa" constitution drafted by the Prophet when he arrived in Medina, to the Human Rights declarations of the modern era, charters, agreements and contracts have established the rules by which citizens in a country govern their lives

<sup>6</sup> Available in Arabic at the following link: <http://www.alhayat.com/article/1521396>

<sup>7</sup> Available at the following link: <https://bit.ly/30VclJq>

together. Their contents are necessary and vital milestones, particularly during periods of change, transition and construction. Society, in all its component parts, uses these rules as points of reference. They are also the foundations for a state to defend fundamental freedoms and safeguard its sovereignty. These rules are immutable, regardless of the electoral, political or social majority. These rules are inalienable and indivisible.

These rights, freedoms and rules, whether civic, political, economic, social, cultural or environmental, consecrate the freedom and inherent human dignity that Syrians are striving for in their endeavours to build a new republic.

We, the undersigned individuals or communities, undertake to work towards the creation of a new republican regime, based on the following principles that we adopt as the objective of the peaceful youth revolution:

1. The Syrian people are free and sovereign over their land and state, which constitute a single, indivisible political entity. The people cannot surrender an inch of their territory, which includes the Golan Heights. The people have every right to fight and recover the occupied territories by any means possible.
2. The people are the source of all legitimacy and sovereignty, which are exercised through a democratic, civic and plural republican regime based on institutions and the rule of law. There is no monopoly on or inheritance of power in any form.
3. The Syrian State is founded on the principle of complete equality between its citizens, and of their rights and obligations. More specifically, there is complete equality between men and women, without any discrimination by race, colour, gender, language, ethnicity, political opinion, religion or religious denomination. Specifically, this equality is inspired by the founding motto of the first republic: "Religion is for God, the Fatherland is for everyone."
4. The Syrian State guarantees respect of social diversity, beliefs, interests and particularities of all Syrian people. It recognises the cultural and political rights of all its constituents in their aspirations for development and protection. It considers them all to be integral and major parts of the unified body of the Syrian people.
5. The Syrian State guarantees respect for civil liberties, including freedom of information and the freedom to be informed, the formation of civil associations, trade unions and political parties, freedom of conscience and religion and the freedom to peacefully demonstrate and strike. The State establishes rules to protect these freedoms against the hegemony of financial or political power.
6. The State undertakes to respect international conventions regarding Human Rights, and social and economic rights, and to guarantee that each citizen or resident can exercise his/her rights.
7. Syria is an integral part of the Arab Nation. The country seeks to deepen all forms of cooperation with the other Arab countries. The Syrian State, however, shall respect the cultural and social aspirations of all other national identities that make up the Syrian people: Kurd, Assyrian, Armenian, Circassian, Turkmen, etc.
8. The Syrian people pledge to support the Palestinian people and their right to establish a free, sovereign and independent State, with Jerusalem as its capital. The Syrian people also pledge to support all other Arab peoples in their aspirations of freedom and to defeat authoritarianism.
9. The Syrian people are linked to the other Muslim peoples by common historical roots and human values derived from divine messages. Furthermore, the Syrian State wishes to establish close collaboration with Turkey and Iran in order to create a regional alliance that plays a major role.
10. The Syrian State is founded on a strict separation of executive, legislative and judiciary powers and the principle of the rotation of power through free elections via secret ballot.
11. The Syrian army is the guarantor of national sovereignty, dignity and civil liberties. It is one of the pillars of the State and the crucible for national unity. It safeguards national security and constitutional principles but cannot interfere in the political aspects of the country.
12. A new constitution must lay the foundations of a pluralistic democracy and an electoral system. These systems must ensure the right to representation in the legislative power of all categories of the Syrian people in all regions of the country. They also guarantee the right of existence for all political persuasions and thought, without the hegemony of one in particular, in line with rules ensuring the stability of the parliamentary regime and the rotation of the majority by ballot. The systems also accurately regulate political parties' resources and financial expenditures.
13. The President of the Republic is the guarantor of the constitution, national security and the separation of powers. The President will be elected by direct voting for a maximum of two four-year terms of office.

14. The Prime Minister is designated from the parliamentary majority. He is responsible for the executive power and accountable to the people as represented by parliament. Each minister has complete freedom to lead his ministry within the framework of the ministerial declaration submitted to parliament for approval.
15. Local administration is founded on elected institutions and institutions with executive power that manage citizen affairs and development in governorates or regions. The local executive administration is accountable to elected local officials. The local governor only acts as the representative of the Head of State.
16. The State protects private property, which can only be seized in the public interest and for fair compensation. Property cannot be seized for the benefit of private interests.
17. The State safeguards public funds and goods for the benefit of the people. Policies are based on social justice, fair and sustainable development and the redistribution, via the tax system, of income and wealth between different social categories and between the governorates and regions. The State also guarantees the freedom of investments and markets, in accordance with anti-monopoly and anti-speculation rules. The State is the guarantor of worker and consumer rights.
18. The State is committed to fighting all forms of poverty and unemployment, with the objective of full employment and decent, dignified jobs. It also pledges to ensure that, at prices and under conditions appropriate to the level of income, all citizens have access to basic public services: housing and national land-use planning; drinking water and wastewater treatment; electricity, telephone and internet; roads and public transport; quality education and training; general health care; retirement pensions and unemployment benefits.

## 5 The Kurdish National Congress' Paper

**Date of publication:** 26/10/2011

**Source:** The Outcomes of the Kurdish National Congress<sup>8</sup>

*Taken from the outcomes of the Kurdish National Congress which took place in the city of Qamishlo [Qamishli] on 27/10/2011: It shall be necessary to 'constitutionally recognise the Kurdish people as a major constituent in the country.' This necessitates 'the constitutional recognition of their presence as a major constituent among the Syrian people, and the second biggest ethnicity therein, and the creation of a fair, democratic solution to their national cause which includes their right to self-determination within the unity of the country.' It shall likewise be necessary to 'guarantee the freedom of religion and the practice of religious ceremonies, and respect and protect them within the constitution, and ensure national rights for Syriacs, Chadleans, Assyrians and other minorities.'*

## 6 National Covenant for a New Syria

**Date of publication:** 5/11/2011

**Source:** Fundamental Principles for a New Syria from the Manifesto of the Syrian National Council<sup>9</sup>

1. Syria shall be a civil, democratic, pluralistic state, whose system shall be presidential/parliamentary, whose sovereignty shall belong to the people, and which shall be based on the principle of equal citizenship, the separation of powers, the rule of law, and the protection of minorities and the guarantee of their rights.
2. Syria shall guarantee for its citizens that which is enshrined in international human rights law, and fundamental freedoms including the freedom of belief, opinion, expression, assembly and the media, among others. All its citizens shall be equal in rights and duties, regardless of ethnicity, religion or sex.
3. The government shall commit to large-scale plans for economic and human growth.
4. The new Syria shall commit to fighting poverty and assisting deprived areas, and shall consider the achievement of justice and equality of opportunity between all citizens a national duty – achieving justice in the distribution of national wealth, whereby national resources are considered the property of all Syrians in the framework of good

<sup>8</sup> Available at the following link: <https://bit.ly/2WoWyVI>

<sup>9</sup> Available at the following link: <https://bit.ly/2WoWyVI>

governance, and directing the yields of development towards raising the capacities and quality of life all demographics and groups, at the forefront of which are the most deprived.

5. The new Syria shall commit to eradicating illiteracy and providing accurate knowledge and information to all citizens.
6. The new Syria shall be formed by its democratic, civil system, whose constitution shall be the optimum safeguard for all ethnic, religious and sectarian demographics.
7. The constitution shall guarantee the national rights of the Kurdish people and a fair, democratic solution to the Kurdish issue in the framework of Syrian unity, in its land and its people, and with the practice of the rights and duties of equal citizenship between all citizens.
8. The constitution shall guarantee the national rights of the Assyrian and Syriac people and a fair, democratic solution to the Assyrian and Syriac issue in the framework of Syrian unity, in its land and its people, and with the practice of the rights and duties of equal citizenship between all citizens.
9. The new Syria shall guarantee full rights for women, including their active participation in political life and all other areas.
10. The new Syria shall be a positive state and a genuine factor in Arab, regional and international stability.
11. The new Syria shall endeavour to regain sovereignty over the occupied Golan, with reliance on relevant international legal decisions.
12. The new Syria shall support the full and legitimate rights of the Palestinian people.
13. The new Syria shall endeavour to strengthen Arab solidarity and regional solidarity, and its relationships with other states shall be based on mutual respect and national interests.

## 7 The Vision of the General Commission for the Syrian Revolution

Date of publication: 22/1/2012

Source: The Vision of the Syrian Revolution General Commission<sup>10</sup>

Principles and values:

1. The Syrian people shall be one people, and discrimination against any individual, group or sect shall not be permitted.
2. Syrian territory within its internationally-recognised geographic borders shall constitute one, indivisible nation.
3. Individual citizenship shall be the basis of all rights and duties.
4. Legitimacy in Syrian state and society shall be that which is derived from the will of the people at the ballot box, without lessening the constitutionally-guaranteed right of anyone to call for and pursue their own visions.
5. The country's natural and acquired resources shall be the property of the Syrian people, and the principle of constitutionally-guaranteed social justice shall apply to them, with the endeavour to achieve collective progression for the state, and a decent life for its citizens.
6. Transfer of power and the separation of powers shall be an established, basic principle among the constitutionally-guaranteed principles of the state, which shall not be lessened under any circumstance, regardless of shifts in the majorities and minorities within the legislative and the executive apparatus.
7. The mission of the Syrian armed forces shall be limited exclusively to the defence of country, people, and the protection of the borders, land and territorial integrity, in the face of any external aggression or threat.
8. The security apparatus shall work to apply Syrian law and shall fall under its jurisdiction.
9. Observing relationships of integration, solidarity and cooperation in all aspects, with all Arab and Islamic states, insofar as they serve the common good of the peoples, and serve crucial causes, at the forefront of which shall be the Palestinian cause.
10. Observing balanced relationships with countries of the world and international organisations, insofar as they serve the greater good of the people and nation, and support the legitimate common good of the human race.

<sup>10</sup> Available at the following links: <https://bit.ly/2o6B5kB> and <https://bit.ly/2Z7waN5>

11. All foreign relationships and agreements of the Syrian state shall be subject to review by the state apparatus, which shall be derived from the permanent constitution, on the basis of the greater good of the people and nation.

## 8 Document of Covenant and Charter Issued by the Muslim Brotherhood in Syria

**Date of publication:** 25/3/2012

**Source:** Document of Covenant and Charter Issued by the Muslim Brotherhood in Syria<sup>11</sup>

For a free country, free life for every citizen. In this crucial stage of the history of Syria, where the dawn is born from the womb of suffering and pain, on the hands of the Syrian heroes, men and women, children, youth and old men, in a national overwhelming revolution, with the participation of all components of the Syrian people, for all the Syrians.

We, the Muslim Brotherhood in Syria – from Islam's religion true principles, based on freedom, justice, tolerance and openness – we present this covenant and charter, to all of our people, committed to it in the letter and spirit, a covenant which safeguards rights, and a charter which dispels fears as a source of reassurance and satisfaction.

This covenant and charter represents a national vision, common denominators, adopted by the Muslim Brotherhood in Syria, and introduced as a new social contract, establishing a modern and safe national relationship, among the Syrian society components, with its all religious and ethnic factions, and all current intellectual and political currents.

**The Muslim Brotherhood in Syria is committed to Syria in the future to be:**

1. A civil modern state with a civil constitution, coming from the will of the Syrian people, based on national harmony, written by a freely and impartially elected constituent assembly, protecting the fundamental rights of individuals and groups from any abuse or override, ensuring an equitable representation to all components of society.
2. A democratic pluralistic deliberative country according to the finest modern thoughts of humanity; a representative republic, in which people choose those who govern and represent through the ballot box, in an impartial free transparent election.
3. A state of citizenship and equality, in which all people are equal, regardless of their ethnicity, religion, ideology, or orientation, going by citizenship principles which are the basis of rights and duties, in which all citizens are allowed to reach the highest positions, based on the rule of elections and efficiency. **Women and men are equal in dignity and aptitude, and women shall enjoy their full rights.**
4. A country that respects human rights – as approved by God's laws and international charters – of dignity and equality, freedom of thought and expression, of belief and worship, of media, political participation, equality of opportunities, social justice and providing the basis needed for a decent living. In which no citizen is oppressed in his belief or worship, or restricted in a private or general matter. A country that refuses discrimination, prevents torture, and criminalizes it.
5. A country based on dialogue and participation, not on exclusivity, exclusion, or transcendence, all its people participate equally, in building and protecting it, enjoying its wealth and goods, committing to respecting all its ethnic, religious, and sectarian component, and the privacy of those components, with all their civilizational, cultural, and social dimensions, and the expression of these components, considering this diversity an enriching factor, an extension to a long history of co-existence, in a generous frame of human tolerance.
6. A state in which people govern themselves, choose their way, determine their future, with no guardianship of any autocratic ruler or one party system, and be their own decision makers.
7. A country with respect for institutions, based on the separation of the executive, legislative, and judicial powers, where the officials are in the service of people, and their permissions and following mechanisms are specified in the constitution, and the military and security departments responsibility is protecting homeland and people not protecting authority and regime, and do not interfere in the political competition between parties and national groups.

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<sup>11</sup> Available at the following link: <https://bit.ly/2nk6kbbk>

8. A country that renounces terrorism and fights it, and respects intertts, charters, treaties and conventions, as a factor of security and stability in its regional and international perimeter. Establishes the best equal relations with its friends, in the forefront its neighbor Lebanon, for its people suffered – as the Syrian people – from the scourge of the system of corruption and tyranny, and works on achieving its people's strategic interest and restoring its occupied land in all legal means, and supporting the legal demands of the Palestinian brotherly people.
9. A state of justice and law, where there is no room for hatred, revenge, or retaliation. Even those whose hands are contaminated with people's blood, of any part, it is their right to have a fair trial, before an impartial and independent tribunal.
10. A country of intimacy and love, between the sons of the big Syrian family, in the light of a massive reconciliation, [forsaking] all false pretexts adopted by the system of corruption and tyranny, to intimidate the citizens of one nation of each, to prolong his rule and to sustain its control on everyone.
11. This is our vision and aspiration for our desired future, our covenant in front of God, and our people, and in front of all people. A vision that we assure today, after a history full of national working for decades, since the founding of the brotherhood, by the hands of Dr. Mustafa Assiba'ey, God's mercy be upon him, in 1945.
12. We presented its features clearly and ambiguously, in the National Honor Charter in 2001, and in our political project in 2004, and in the official papers approved by the Brotherhood, on various social and national issues.

## 9 The Political Vision and Founding Principles of the National Coalition for Syrian Revolutionary and Opposition Forces

**Date of publication:** 8/11/2012

**Source:** The Political Vision of the National Coalition for Syrian Revolutionary and Opposition Forces<sup>12</sup>

The new Syrian state shall be based on the following fundamental principles:

1. Syria shall be a civil, democratic and pluralistic state, based on the principle of citizenship, all of whose citizens shall be equal in rights and duties, according to the provisions of the constitution and applicable laws. It shall not discriminate between citizens in their rights on the basis of their sex, race, political and ideological affiliation, their national and ethnic origins, or their religious and doctrinal beliefs.
2. The Syrian state shall officially recognize the different ethnic groups in Syrian society, and shall recognise their right to adopt their own language and traditions, and to practise their rituals in an atmosphere of freedom as guaranteed by the law.
3. The new Syria shall pursue the electoral democratic system as its only route; it shall be based on political pluralism and the peaceful transfer of power, which rejects violence and preserves citizens' rights, including the right of religion, opinion, expression, membership in political parties, free press, the right to work, protest and strike, and the right of movement and of creativity in various fields.
4. Syria shall adopt the principle of elections in order to choose the people's representatives in Parliament, which represents the legislature, independent from the executive. It shall likewise hold elections to choose the President for a designated term of no longer than five years, which is renewable once without further extension or renewal.
5. The new Syria shall adopt a law for political parties, and further laws for elections, for media, and for the press, allowing for honest competition between different political currents, on the basis of equality of opportunity, both in the utilisation of public provisions and facilities, and in media outlets.
6. The judiciary shall be completely independent from the executive, in accordance with the principle of the rule of law, with no immunity for anyone above the law, and of accountability and lack of impunity, given that it is a comprehensive principle which allows for no exceptions. The independence of the judiciary shall be strengthened through procedures of selecting the judges, the executive shall not be allowed to control the salaries of judges, and they shall not be able to be dismissed except where they are implicated in acts punishable by law.
7. The prohibition of arbitrary arrests, or those based on unqualified suspicion, and the limiting of arrests to those ordered justifiably by the public prosecution; the prohibition of all forms of physical and psychological torture of detainees to extract information, and the direct supervision by the judiciary over the detainee's investigation period,

<sup>1</sup>Available in Arabic at the following link: <https://bit.ly/2KrTr8m>



whose timeframe shall be determined by the law, for his transfer to fair courts in which rights of defence and assigning lawyers for him shall be afforded.

8. The abolition of state security courts and the special and exceptional courts, and the limiting of the military courts to the trial of military personnel only. Likewise, all exceptional laws shall be nullified, and all those accused shall be referred to the ordinary relevant courts. The penal laws shall be reviewed, along with the categories of political crimes, which were fabricated by the tyrannical regime, and laws which are in accordance with international human rights laws shall be passed. And the legal principle, of the accused being innocent until proven guilty, shall be adopted. Likewise, the condition of prisons and detention and arrest centres shall be reviewed, with prisons transformed into places of education, treatment and the preparation of its inmates to live ordinary lives following release.
9. Preserving the independence of the trade union and professional organisations for workers, farmers, professionals and craftsmen, and special unions for artists, writers, journalists and others, with no interference by the authorities in their affairs or internal workings, in their duties, in the realization of their programs, and in the development of the national economy through means permitted by law. Guarantees for the life and retirement of their workers shall be ensured.
10. The activation and establishment of civil society and civic bodies to incorporate the various civil and civic areas, and investing in human rights committees, children's rights, and in promoting women and their equality with men in rights, duties and work.
11. The Syrian army shall be a collective national institution, under the authority of the executive, whose duty shall be to protect the nation from aggression and to liberate its occupied territories. The army, including its officers and soldiers, shall remove itself from political and party work, and shall refrain from interfering in political affairs and the public sphere.
12. Private property shall be a firmly-established civil right, preserved by the state, within the framework of economic policies which encourage productive enterprises, and opening-up on a commercial and investment level, and equality of opportunity shall be ensured between citizens in work, production and investment. The state shall pursue the development of policies to achieve social solidarity and family care, and the direct provision of services to disabled people and people in need, and with the support of civil society organization for their provision. The state shall likewise strive to develop education and activate scientific research, and artistic and literary production.
13. Syria shall be part of the Arab League and shall work to consolidate the relationships of brotherhood and cooperation with Arab and neighbouring states, which are bound to the Syrian people by a long history of cultural and scientific exchange and commercial cooperation. Syria shall support the legitimate, historic rights of the Palestinian people in the establishment of their national state, with its capital in Jerusalem.
14. Syria shall respect international conventions, which were established for international justice and peace, and shall respect all its commitments which do not infringe on its sovereignty, independence or territorial integrity.

## 10 Looking for a Democratic Constitution

**Date of publication:** April 2013

**Source:** "Looking for a Democratic Constitution" Document Issued by the Coalition of Syrian Women for Democracy<sup>13</sup>

Founding Principles:

Syria is an independent democratic and civil Republic governed by the rule of law on the bases of separation of powers into the legislative, executive and judicial and on the principle of rotation of powers.

Sovereignty is indivisible and un-transferable, pursued through free and democratic elections and through surveillance of people over the work and performance of the three competent authorities whose neutrality is guaranteed by the law.

The people of Syria recognize the equal worth of women and men in their rights to fully participate, and freely determine and build a political, economic and social system of their own free choice.

<sup>13</sup> Available at the following link: <https://bit.ly/2WhJHzP>

Freedom, pluralism, solidarity, equality between women and men, peace, social justice, respect for human rights of women and men, the rule of law and a democratic multiparty system as well as preservation of environment are the highest values of the Constitutional order of the Syrian State.

Syrian governments enhance culture of equality and non- discrimination reflected in government public policies, maintains values and principles of civil peace and guarantees that the Syrian Army remains completely on neutral grounds in all aspects of political life.

The State provides and guarantees full equality between all citizens, women and men without distinction of ethnic origin, gender or religion. All citizens, women and men are equal before the law; enjoy the right to equal protection and benefit of the law, with a capability of equal access to legal institutions with equal treatment.

The State shall not discriminate directly or indirectly against anyone on the ground of ethnic or social origin, color, class, gender, sex,

## 11 Interim Constitutional Declaration

**Date of publication:** 17/5/2013

**Source:** The Syrian Center for Legal Studies & Researches<sup>14</sup>

Interim constitutional declaration for Syria's transitional period

### Chapter One: General Principles

Introduction: The validity of current constitution and all laws and exceptional courts, such as Law 49/1980, the Terrorism Court Establishment Law; Article 16 of Law 14/1979 pertaining to the protection of members of the security services from trial; Law 6/1964 pertaining to opposition of the aims of the revolution and the obstruction of the application of socialism; and Decree 55/2011 pertaining to the amending of the Criminal Procedure Law by extending security detention and the delegation of judicial control to the security apparatus, shall hereby be suspended. Moreover, the [Exceptional Military and Security] Field Courts and all laws that obstruct the process of democratic transition shall be suspended.

The provisions of this declaration shall be applicable to the transitional period and its validity shall end with the authorisation and implementation of the new constitution.

Article One: The Syrian Republic shall be a sovereign state, and shall be an indivisible geopolitical unit, no part of which may be relinquished, and shall be part of an Arab, regional and international system.

Article Two: The Syrian Republic shall be a state of ethnic, religious and sectarian diversity, and all its citizens shall be equal in rights and duties, regardless of religion, race, sex, race or belief.

Article Three: The Syrian Republic shall respect the rule of law, democracy, and human rights principles as represented by the Universal Declaration, international law and its treaties. No law or legislation may be passed which violates these principles. The judiciary shall be the primary reference for the preservation of rights.

Article Four: Personal freedom, freedom of expression, freedom of opinion, freedom of religion, and freedom to participate in decision-making through political parties, civil society organisations, peaceful protests and the issuing of newspapers and publications, shall be legitimate and protected rights for all Syrians.

### Chapter Two: The Interim Government

Article One: During the transitional period, the state shall be governed by an Interim Government, whose total number of members shall be a multiple of three, and whose formation shall maintain the political, ethnic, religious and sectarian diversity of the Syrian people.

Article Two: The Interim Government shall be entrusted with all executive powers and shall take up temporary legislative powers which are valid during the transitional period, and which may be confirmed or withdrawn by the elected parliament. This is in order to keep the affairs of the state in motion during the transitional period. Decisions shall be taken by a two-thirds majority, and the Prime Minister shall represent the Government and the state before foreign entities.

Article Three: The maximum term for the Interim Government shall be two years.

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<sup>14</sup> <https://bit.ly/2XqS8u4>

Article Four: The Government shall carry out reconstruction; build infrastructure; provide services to citizens; restructure the judiciary, ensuring its full independence; enhance and maintain the administrations and institutions; endeavour to maintain security; and accept unconditional aid from foreign entities for the purpose of reconstruction.

Article Five: In addition to its duties in managing state affairs, the Interim Government must undertake the following duties: the formation of the National Assembly to put in place a new constitution for the country; the holding of elections to appoint the National Assembly delegates; the holding of local council elections for towns and cities; holding a referendum on the constitution in a safe, fair and neutral climate; setting a new election law; and overseeing the holding of parliamentary and presidential elections.

Article Six: The members of the Interim Government may not be nominated for the parliamentary and presidential elections in their first two cycles.

### Chapter Three: The National Assembly

Article One: The National Assembly shall be formed in order to set down a new draft constitution for the country. It shall be made up of 120 members, half of whom shall be elected directly by the people or by the elected local councils, depending on the system of the governorate, each of which makes up one constituency, and each governorate shall have a number proportional to its population. The other half shall be selected by those with legal and economic expertise, and dignitaries, in a way that ensures the presence of all constituents of Syrian society.

Article Two: The National Assembly shall take decisions pertaining to the constitution and its articles by a three-quarters majority of its members, and the Assembly must complete its task during a period not exceeding one year from the date of its inception.

Article Three: The National Assembly shall conduct its work in total transparency and shall conduct a campaign to raise awareness and clarify its work in collaboration with the government, civil society organisations and media outlets.

Article Four: On completion of the draft constitution by the National Assembly, the Government shall put it to a general referendum, with a stipulation that it gains a majority of the number of citizens registered for the referendum, or two thirds of actual voters, and Syrians living outside of the country shall have the right to participate in the referendum, and the Government shall facilitate this participation.

Article Five: In the event that draft constitution does not achieve the required votes, it shall be returned to the National Assembly to be amended and presented again for a referendum in a period not exceeding three months, and in this case a majority of voters shall be sufficient.

Article Six: The National Assembly shall be considered legally disbanded following the ratification of the constitution in a referendum, and it shall become valid from that date.

### Chapter Four: The Committee for Transitional Justice

Article One: An independent committee shall be created, entitled the Committee for Transitional Justice, and it shall be made up of independent legal, judicial, social, economic and cultural figures. It shall be able to appoint the experts and individuals that it wants in order to carry out its task.

Article Two: The Committee shall set out its rules of procedure and its mode of operating.

Article Three: The duties of the Committee for Transitional Justice shall be as follows:

- Releasing all detainees, searching for missing persons and settling the legal affairs of the victims.
- Pursuing the consolidation and strengthening of civil peace, conducting national reconciliation, spreading awareness on the creation of regional committees for reconciliations and the use of all types of media, workshops and public assemblies.
- Establishing a central court and branch courts to put on trial those responsible for war crimes, crimes against humanity or serious violations of human rights, with the guarantee of all the conditions of a fair trial.
- Conducting a civil census for all material and physical damage and the creation and management of a compensation fund financed by the state budget, donations, grants, and local, Arab and international aid, with priority given to families of victims and the injured, and the securing of alternative housing to those whose homes were destroyed.
- Establishing a special committee in order to document all the periods that the country lived through and to immortalise the memory of those who gave their lives and wealth for the future of the nation, and to include them in the school curriculum as an example to be emulated, as a beacon of light, and to be remembered always.

### Chapter Five: The Army and the Security Forces

Article One: The army, the security forces and the security apparatus shall be subject to the orders and authority of the Interim Government.

Article Two: The army shall be restructured to that of a professional army dedicated to defending national borders, and the security apparatus shall be restructured with respect to its role, function and personnel. The internal security forces shall be equipped so that all apparatus shall be able to protect the security of the country and the physical safety of its citizens. All civil or military persons or leaders involved in the murder of civilians either in participation, the giving of orders, or incitement, shall be handed over to the Committee for Transitional Justice to be fairly tried.

Article Three: The internal security forces shall assist the security apparatus and the army when necessary to reinstate security and law, and to withdraw illegal weapons.

### Chapter Six: Conclusion

The Interim Government shall carry out the political, media and security preparations for parliamentary and presidential elections in a fair and neutral atmosphere, monitored by local, Arab and international civil society organisations in accordance with the Articles of the new constitution. The duties of the Interim Government shall end with the declaration of the formation of the legitimate Government in accordance with the new constitution.

## 12 The National Compact, “The Cairo Documents”

**Date of publication:** 3/8/2013

**Source:** The Syrian Opposition Conference held under the auspices of the Arab League<sup>15</sup>

The participants of the conference pledged that a new constitution of the country would ratify the contents of this pact, as follows:

1. The Syrian people shall be one people, whose flesh, throughout history, was built on total equality of citizenship regardless of origin, colour, sex, language, ethnicity, political opinion, religion or sect, on the basis of a comprehensive national accord, and no religion or belief may be imposed on anyone, nor may anyone be deprived the freedom to choose and practise his religion. Women shall be equal with men, and none of the gains of their rights may be withdrawn. Likewise, citizens shall have the right to occupy any position in the state, including the position of President, regardless of religion or ethnicity, whether man or woman. The Syrian people are thus proud of the rich and diverse civilisation, and cultural and religious depth, which forms an integral part of their culture and society, and builds their state on the basis of unity in diversity, with the participation of its different constituents without any discrimination or exclusion.
2. Humanity shall be the ultimate goal of the relationship between the citizens of the one nation, which is based on the commitment to international conventions and protocols on human rights, and social and economic rights, solidified by mankind, and on the guarantee of the enjoyment of these rights by both citizens and residents.
3. The Syrian people shall be free and sovereign over their land and state, which are an indivisible political unit, of which no inch may be relinquished, including the occupied Golan. The Syrian people shall have the right to fight for the return of their occupied lands by all possible means.
4. Individual, public and collective freedoms shall form the basis of the relationship between the people of the one nation. The state shall guarantee public freedoms, including the freedom of access to information and media, the establishment of civil associations, unions and political parties, and the freedom of religion and the practice of religious ceremonies, and the freedom of peaceful strike and protest. The state shall lay down rules to protect these freedoms from the hegemony of money or political power. Likewise, the Syrian state shall guarantee the respect of societal diversity and the religions, interests and characteristics of the entire spectrum of the Syrian people. It shall recognise the cultural and political rights of all its people and their aspiration for development and care.

<sup>15</sup> Available in Arabic at the following link: <https://bit.ly/2Z4ZjZg>

5. The constitution shall guarantee the eradication of all kinds of discrimination against women, and shall seek to create a legislative and legal climate that secures their political, economic and social empowerment in accordance with all relevant international conventions and as is in keeping with societal culture.
6. The Syrian state shall recognise the existence of a Kurdish ethnicity among its people, and recognise their legitimate national identity and rights in accordance with international conventions and protocols within the framework of the unity of the Syrian nation. The Kurdish ethnicity in Syria is considered an integral part of the Syrian people. The state shall likewise recognise the existence, identity, and national rights of Assyrian and Turkmen Syrian ethnic groups, which shall also be considered an integral part of Syrian society.
7. Syria shall be part of the Arab World, whose peoples are closely connected by culture, history, interests and larger goals, and a shared destiny. Syria is a founding member of the League of Arab States, and shall strive to strengthen the various forms of cooperation and interconnection between Arab countries.
8. The Syrian people shall commit to supporting the Palestinian people and their right to establish a free, sovereign and independent state with Jerusalem as its capital.
9. The Syrian people shall be connected to all other Islamic peoples through shared historical roots, and humanitarian values based on the Abrahamic messages.
10. Syria shall be part of the global system and is a founding member of the United Nations and its affiliated organisations, and shall thusly be committed to its conventions, and shall strive with other countries of the world to establish an international system removed from all central conflicts, hegemony and occupation, a system based on balanced relationships, mutual interests and common responsibility in facing overarching challenges and dangers that threaten world security and peace.
11. The people shall be the source of legitimacy and authority which are achieved through a pluralistic, civil, democratic and republican system, in which the law has dominance and which is based on institutions. There must be no monopoly or inheritance of power in any form whatsoever.
12. Institutions of governance in the Syrian state shall be based on periodic elections; the total separation between executive, legislative and judicial powers; the principle of the transfer of power through free and secret elections; and the respect of election results which are decided at the ballot box, whatever the result may be.
13. A new constitution shall authorise the foundations of the civil, pluralistic, democratic system and a fair, modern electoral system which guarantees the right of participation of all political and ideological currents, according to rules which ensure the widest representation of the people, the stability of the parliamentary system, and accurately controls the financial resources and expenditure of political parties and groups.
14. The Syrian army shall be the national institution which protects the country, maintains its independence and territorial sovereignty, strives for national security, and it shall not interfere in political life.
15. The state shall adopt the principle of administrative decentralisation, whereby local services administration shall be based on representative executive institutions which manage citizen affairs and development in the provinces and districts, with the aim of achieving sustainable and balanced development.
16. The state shall protect private property, which may not be seized except for the public good, within the law and in exchange for fair compensation, without re-allocating it for private interests.
17. The state shall protect public funds and public property for the benefit of the people. Its policy shall be based on social justice, sustainable, balanced development, and the redistribution of income and wealth through the tax system between social classes and between districts. It shall be based, too, on the guarantee of the freedom of investment and economic initiative and equality of opportunity and markets within controls which fight monopoly and speculations and protect the rights of workers and consumers.
18. The Syrian state shall commit to eradicating all kinds of poverty and discrimination, and to fighting unemployment with the aim of full, dignified, appropriate employment with equitable wages. It shall commit to achieving justice in the distribution of national wealth, and achieving balanced development and the protection of the environment, and the securing of basic services for all citizens: housing, zoning, clean drinking water, sanitation, electricity, phone and internet connections, roads and transportation, quality education and training, comprehensive health insurance, pensions and unemployment benefits, and at prices fitting the standard of living.

## 13 Syria Transition Roadmap

**Date of publication:** 30/8/2013

**Source:** Syrian Center for Political and Strategic Studies<sup>16</sup>

Solving the Problem of the Constitution – Recommendations:

Proceeding from the importance of the transitional period and its impact on the future of the modern Syrian state—because the most important of the Syrian revolution's demands were for a democratic state that spreads freedom and social security and is ruled by fair law under the framework of a constitution that represents all Syrians, because the Syrians who have demanded and called for freedom and transparency will not accept being ruled by the same systems and constitutional frameworks through which the Ba'ath regime managed the state, and because it is not possible for a constitutional vacuum to exist in a great, civilized country that seeks to be a role model—the Constitutional and Legal Reform Working Group within the Syrian Expert House recommends the following:

1. The transitional government or administrative body entrusted with managing the transitional period should issue a decree that suspends the Constitution of 2012 and temporarily reinstates the Constitution of 1950 without amendment until the new constitution is issued.
- 2: The government charged with managing the transitional period must issue a supplemental constitutional declaration to this decree that clarifies the powers of this government, especially those regarding decrees and laws, the government's tasks, working mechanisms, formation criteria, and life span, and the legal time frame for carrying out elections.
- 3: The Syrian Expert House's Constitutional Reform Working Group believes that electing a constituent assembly is the ideal constitutional drafting mechanism, despite its drawbacks. The participation by the people in the drafting of their constitution by electing the members of this assembly is an essential step toward adopting the principle of democracy. Therefore, the group believes that the government charged with managing the transitional period must create an atmosphere for transparent and fair elections for selecting the members of the constituent assembly and help as much as possible to educate the voters of the importance of this assembly's role and function.
- 4: The working group also believes that the national forces—parties, political currents, and civil society organizations—must play their role in educating Syrian citizens about the importance of both these elections and the constituent assembly's role. The political forces will also express their care for the nation, the Syrian state, its unity, and its long-term and short-term future by selecting candidates who possess the ability and competence to carry the national responsibility that has been placed upon their shoulders.
- 5: The Syrian Expert House also recommends that an appropriate body studies the articles and clauses of the Constitution of 1950, taking into consideration all the different points of view held by national components—especially those relating to the rights and representation of the Kurds, Turkmen, Assyrians, and other minorities—and place these studies before the constituent assembly.

## 14 Principles from the Draft Constitution Proposal

**Date of publication:** 8/12/2013

**Source:** Draft Constitution Proposal by the Dr Munzir Khaddam, member of the executive committee of The National Coordination Body<sup>17</sup>

<sup>16</sup> Available at the following link: [http://syrianexperthouse.org/reports/Syria\\_Transition\\_Roadmap\\_Full\\_en.pdf](http://syrianexperthouse.org/reports/Syria_Transition_Roadmap_Full_en.pdf)

<sup>17</sup> Available in Arabic at the following link: <https://bit.ly/2WRugCE>



Principle One: The Syrian Republic shall be an independent, sovereign state with indivisible geographic unity, whose system shall be democratic, whose official language shall be Arabic, and which shall permit the use of the languages of its various ethnic groups.

Principle Two: The political system in the Syrian Republic shall be a parliamentary, republican system based on the principles of democracy, equal citizenship before the law in general rights and principles, political and party pluralism, peaceful transition of power, the separation and balance of powers, the rule of law, and the respect of human rights and freedoms; all this as described in the constitution.

Principle Three: The army, the armed forces and its subsidiary apparatus are a national institution which shall protect the country and maintain its independence, territorial integrity, and its people, and shall ensure the sovereignty of the Syrian state over its territory.

Principle Four: The state shall apply the principle of administrative decentralisation.

Principle Five: The national economy shall look to achieve sustained overall development, raise the standard of living, achieve welfare, eradicate poverty and unemployment, increase work opportunities, and increase production and national income.

Principle Six: International human rights law and general humanitarian values shall be the basis for the rights and freedoms of Syrian citizens.

Principle Seven: Dignity shall be the right of every individual, and the state and society shall guarantee its respect and protection, and under no circumstance should any human being be degraded or disrespected.

Principle Eight: Freedom of religion shall be preserved, and the state shall guarantee the freedom to practise religious ceremonies and the establishment of places of worship for Abrahamic religions; this is as laid out in the law.

Principle Nine: The rule of law shall be the basis of governance in the state. The independence of the judiciary and judicial immunity are two essential guarantees for the protection of rights and freedoms.

## 15 The Vision of the Popular Front for Liberation and Change

**Date of publication:** 24/12/2013

**Source:** The Vision of the Popular Front for Liberation and Change<sup>18</sup>

*The constitutional issues below are taken from a paper outlining the aims and principles of the Front for Liberation and Change:*

1. Guaranteeing political action, and the independence of organisations and trade union, social, professional and cultural bodies, and the development of their role in protecting the rights of groups that they represent, and in making their voice heard in public affairs through all legitimate means, including the right to strike, and the amendment of labour laws for the guarantee of workers' rights, the preservation of their achieved rights, and granting those who are laid off the right to litigation in order to reclaim their rights.
2. A presidential-parliamentary system, in which powers are distributed between the institution of the Presidency and that of the government, whereby the defence and foreign powers lie with the Presidency, and the remainder of the powers lie with the government, over which the Parliament shall be given the right of effective supervision, by having the authority to grant or withdraw confidence therein, either fully or partially. Likewise, the new constitution shall rely in its composition on the spirit of the new Article Eight and shall build the foundations for a true separation of powers in order to become a modern civil state, and shall override Article Three in the current constitution which lessens the citizenship of the Syrians and the equality between them, and the laws shall be amended based on the new constitution within a reasonable timeframe, in addition to the development of Article Nine which looks to Syria's rich diversity, towards the confirmation of cultural rights in their entirety for all Syrians, regardless of their origins. The Front likewise emphasises the necessity of finding a lasting solution to the problem of the *Maktoum* [stateless] in the province of Hasakeh.
3. The parliamentary election law shall be proportional, with Syria as one constituency, and competition shall be allowed on the basis of comprehensive political manifestoes, allowing the strengthening of the political movement and the consolidation of a collective national identity. Proportionality shall be applied in all types of local, administrative and other elections.
4. The creation of a Senate, which shall be elected based on individual constituencies across the country.

<sup>18</sup> Available in Arabic at the following link: <https://bit.ly/2ZfPeJ9>

5. The guarantee of the rights of thought and expression, bringing to an end all kinds of oppression and arbitrary detention, and identifying the conditions for imposing a state of emergency and martial law, which shall be in three cases only: natural disasters, war, and war on great corruption.
6. A media law shall guarantee the freedom of self-expression of different national currents, and shall guarantee societal self-expression with the utmost credibility.
7. The total eradication of the Personal Status Law, which goes back to the period of Ottoman occupation, and the drafting of a new law ensuring real equality between men and women (including the right of women to grant nationality to their children).
8. Maintaining the freedom and independence of Syria, the legacy of generations and the will of revolutionary heroes; opposing all projects of military, economic and cultural colonial hegemony; and securing the assets necessary for that by adopting the choice of total resistance, in order to overthrow the effects of the Balfour Declaration and Sykes-Picot Agreement.
9. Emphasising the choice of the Syrian people in the liberation of the Golan and all usurped and wrested territories, and rejecting any form of 'direct and indirect negotiations' with the Zionist enemy since these shall neither liberate territory nor preserve national sovereignty.
10. Restoring the original role of Syria in the Palestinian cause which shall be the basis of the conflict between our people and the 'Israeli' enemy, working towards an active role in the unity of the peoples' struggles, both of the region and of the world, for sovereignty, for the right to self-determination, and for the mutual recognition of rights, and against occupation and unprecedented imperial military spread.

## 16 The Social Contract Pact for Democratic Self-Administration

Date of publication: 6/1/2014

Source: The Social Contract Pact for Democratic Self-Administration of the Area of Al-Jazire, Syria<sup>19</sup>

The most important points in the Social Contract Pact include the following:

1. This contract is called the Social Contract Pact for Democratic Self-Administration (in the areas of Al-Jazire, Kobani and Afrin), and the Preamble of the Social Contract for the Areas of Democratic Self-Administration shall be considered a binding part of this contract.
2. The people shall be the source of power and have sovereignty, and this sovereignty shall be practised through institutions and elected councils, and there shall be no legitimacy in any power that contradicts the social contract in the areas of democratic self-administration.
3. The people shall be the source and basis of the legitimacy of all councils and administrative bodies in society, and this is based on the democratic principle, and no person or group may monopolise or singularly occupy their [political] position.
4. Syria shall be a free, democratic, independent sovereign state, with a parliamentary, federal, democratic, pluralistic, consensual system and the areas of democratic self-administration (Al-Jazire, Kobani, Afrin) shall geographically be part of Syria, and Qamishlo [Qamishli] shall be the centre of the area of democratic self-administration in the district of Al-Jazire.
5. The area of Al-Jazire shall be a district shared between Kurds, Arabs, Syriacs, Armenians and Chechens, and adherents of the religions of Islam, Christianity and Yazidism. The relationships between these nationalities and religions shall be based on the principle of brotherhood, partnership and common living.
6. All individuals and components of the democratic self-administration shall be equal before the law in rights and duties.
7. The areas of democratic self-administration shall commit to non-interference in the internal affairs of states, shall observe the principles of neighbourly cooperation, and shall strive to resolve conflicts through peaceful means.
8. This administration shall be an example of democratic self-administration in Syria, and a part of future Syria that must be built on a system of political decentralisation, given that the federal state is the optimal political system for Syria, and shall organise, on this basis, the relationships between the Administration and the centre.
9. This contract shall guarantee the principle of the separation of legislative, judicial and executive powers.

<sup>19</sup> Available at the following link: <https://bit.ly/2ViJcG8>

10. The area of self-administration shall adopt the principle of transitional justice in the eradication of all racist projects and policies that discriminate against the residents of the administration, which were created by successive autocratic governments and regimes, and shall give fair compensation to those who were victim thereof.
11. The People's Defence Units (YPG) shall be the only national institution responsible for defence and safety of the regions' lands and their territorial sovereignty.... The issuing of orders to the YPG shall be entrusted to the YPG's general leadership.
12. The democratic self-governing areas have a Commission for Internal Affairs as represented by the general administration of the *Asayish*.
13. The international pacts and charters pertaining to human rights shall be an essential and complementary part of this contract.

## 17 Constitutional Principles from the Manifesto of the Syrian Republic Party

**Date of publication:** April 2014

**Source:** The Political Vision of the Republic Party<sup>20</sup>

*The constitutional issues contained in the political vision of the Republic Party published in April 2014 [are as follows]:*

Principle One: The necessity of drafting a document summarising a definition of citizenship and the fundamental rights of citizens guaranteed by the constitution and the law, based on the principles and values of international human rights law. This document brings together the full definition of these rights, and may also be used for awareness raising and political motivation for citizens, whereby they can be introduced to their rights and strive to practise them. The importance of all groups in Syrian society participating in the formulation of this definition and this document should be emphasised.

Principle Two: The necessity of updating and reviewing all legislation and laws with the aim of achieving consistency with the concepts of citizenship and the principles of human rights.

Principle Three: Supporting ideological and political pluralism, respecting the opinions of others, and respecting one's differences, are basic elements in the support of the values of equal citizenship.

Principle Four: The basis of this system shall be the adherence to the basic principles of the modern, democratic, national state, at the forefront of which is the separation and cooperation of the three powers; the principle of the rule of law and the independence of the judiciary; the right of participation in public affairs and the enjoyment of political rights; that the people are the source of all power; the respect of human rights; their equality in human dignity and equality before the law, and in rights and duties, regardless of sex, origin, language, religion or doctrine; the recognition of the need to protect general freedoms and to maintain freedom of thought and of expression, the right to organise, and the freedom of the press and publication; and the endeavour to pass necessary legislation to regulate these rights and freedoms, provided that this regulation does not cause harm to the core of the rights and freedoms that these laws regulate.

Principle Five: The Rule of Law

All individuals shall be subject to the law regardless of the social position that they hold, or the political or administrative professional centre that they occupy; likewise the powers of the state in all its levels shall be subject to the law, as are the actions issued by its institutions and apparatus. Any action, carried out by public authorities, which is contrary to the constitution and the law shall be considered null, and shall require accountability and the application of deterrent laws.

Principle Six: Political Pluralism

Political and party pluralism represents the firm foundation for the transfer of power and its peaceful transition between organised political forces and groups, and is the most efficient and effective means to deepen and strengthen political awareness in society, to strengthen its immunity against autocracy, and to preserve the rights, sanctities and freedoms of individuals.

Principle Seven: Peaceful Transfer of Power

The peaceful transfer of power is at the core of the democratic process and is the optimal method to solve the issue of conflict over power in all its different levels.

In order to make this principle concrete, a group of guarantees must be pursued, of which the most important are:

<sup>20</sup> Available in Arabic at the following link: <https://bit.ly/2KwEgut>

- The separation of the military, security and judicial establishment from party work; this is the most important requirement for a political system that is based on party pluralism, and that which is attained by a peaceful transfer of power during specified periods.
- The embedding of the administrative and legal system in the state and its subjection to checks and balances that are not affected by the process of the peaceful transfer of power, which should be limited to the upper political levels.

Principle Seven: Commitment to the Convention on the Elimination of all Forms of Discrimination Against Women, and lifting Syria's reservations to clauses of this Convention.

Confronting religious or tribal extremism, which prevents women from enjoying their rights as laid out in international conventions.

Principle Eight: Widening female participation in political life, to give prominence to the position of Syrian women and to activate their positive role in building and participation, given they are essential partners in the process of development.

Principle Nine: Integration and consistency in Syrian domestic and foreign policy, with foreign policy committed to the principles and aims of the Syrian people, and in the Syrian national interest above all other interests, at the forefront of which is the preservation of Syrian independence and sovereignty, its unity, the protection of its security and stability and the safety of its territory, the service of the national economic interests, and the support and strengthening of comprehensive development strategies.

Principle Ten: Commitment to regional Arab causes, and the support of the Palestinian people in their just cause.

Principle Eleven: Social justice and economic growth under the auspices of a free market.

Principle Twelve: The mission of the armed forces shall be the defence of the nation and its protection from any domestic or foreign threat, and it shall be the protector of Syrian nation.

## 18 Fundamental Constitutional Principles

**Date of publication:** 2015

**Source:** Paper of constitutional principles from Dr Faiq Hweiji, the director of the Equal Citizenship Center<sup>21</sup>

Fundamental constitutional principles

What the Syrian people are currently striving for, and what must be agreed upon, is a set of constitutional principles (or Declaration of Rights) that guarantee the building of a new nation whose basic standard is full, equal citizenship for all individuals and members of the Syrian people, with no discrimination, exclusion or marginalisation for any reason. The most important of these can, in our opinion, be concentrated in the following points:

1. Syria shall be a geopolitical unit with full sovereignty, derived from the power of the people, and shall be part of the Arab world;
2. The state shall recognize the national rights of minorities, in the framework of one Syria in people and territory;
3. The state shall be based on the principle of the rule of law, and shall commit to the principle of the separation of powers and their integration, with the independence of the judiciary guaranteed;
4. The state shall acknowledge and maintain that the people are the holders of power, and they shall practise this power through elected councils, in free, fair and transparent elections, given they are the source of power, within the framework of expanded administrative decentralisation;
5. It shall be a state of institutions and citizenship, through which all its citizens are equal, under and before the law, and in rights and duties, regardless of religion, creed, nationality, sex, political opinion, wealth or otherwise.
6. It shall be a civil, pluralistic, democratic state which is committed to and respects international conventions pertaining to human rights, and in particular that which relates to women's rights, and it shall pledge to work accordingly.
7. The state shall ensure the respect for individuals' freedoms, dignities and rights in equal citizenship, in particular in that which relates to the right to life, to political participation, to occupying positions, to organizing political parties

<sup>21</sup> Available in Arabic at the following link: <https://bit.ly/2WujrHb>

and civil society organisations, and taking part therein, and the right to expression, opinion and protest, and the right to information exchange.

8. The state shall recognize the right of citizens to adopt and practise beliefs, while it prohibits *takfir* and the incitement to hate and violence between sects, religions, sexes and nationalities; this is based on the principle: "Religion is for God, the Homeland is for All".
9. The state shall grant all its citizens the right to access a minimum of social justice, represented in social welfare, healthcare, compulsory education, and necessarily the provision of work opportunities guaranteeing the provision of a decent life;
10. The state shall grant all its citizens the right to achieving justice before a judiciary whose independence, neutrality and impartiality the state shall be obligated to ensure, given that shall be responsible for the practice of general rights and freedoms;
11. The state shall guarantee for its citizens the right to a direct appeal before a specialised constitutional court, insofar as the law is in accordance with these principles, and the state shall ensure the neutrality, independence and impartiality of this court.

## 19 The Process of Building a Gender-Sensitive Constitution in Syria

Date of publication: November 2014

Source: Syrian Women for Democracy<sup>22</sup>

### The Principles of Structuring the Constitution's Contents:

In order to guarantee and preserve women's rights in the draft constitution, a number of main principles must be adhered to:

- A secular constitution shall stipulate the separation between the state, religion and laws in clear language, with a clear guarantee of the freedom of religion, worship and practice.
- The constitution shall prevent the legislature from revising its articles in a way which negatively affects equality between men and women, or the core of justice and freedom. It shall stipulate, in clear language, that the articles which guarantee civil rights and freedoms, and the equality between men and women, may not be subject to change, with the exception of changes which lead to its strengthening or enrichment, in cases where constitutional articles must be amended by the legislature.
- The constitution shall guarantee mechanisms for strengthening the role of women in public and political life, such as setting female quotas, and it shall be made clear that these affirmative measures are temporary measures, until the principles of full, equal participation have been achieved. Furthermore, women must never be considered 'an accessory' or 'the other,' but rather must be treated as independent in thought and personality. Real democracy shall allow for and ensure that the individual, man or woman, has the right to expression and participation.
- All international treaties and agreements that have been ratified by the state shall take precedence over national laws. This shall include, but shall not be limited to, the Universal Declaration of Human Rights. The constitution and national legislation must be in accordance with the international agreements related to political, economic and social rights, and the international agreements ratified by the state, in particular the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the lifting of all reservations to its attached Optional Protocol, and its ratification, must be guaranteed.
- Moreover, the constitution shall prohibit discrimination between citizens, women and men, in clear language, in all its forms, according to international law, and in particular CEDAW.
- The constitution shall stipulate implementation mechanisms, such as gender-equality bodies and laws, to ensure that the constitution does not remain a declaration of principles.
- The constitution shall be written with gender-sensitive language and the phrase 'women and men' shall be clearly specified after general phrases such as 'all citizens' or 'individuals,' and women and men shall be recognised as being equal in value and in law.

<sup>22</sup> Available at the following link: <https://bit.ly/2mn0NQF>

### 1- Political Identity

- The state shall guarantee full equality between all citizens, women and men, in citizenship rights, including civil, political, social, economic and cultural rights, in all areas of public and family life.
- All citizens, women and men, shall be equal before and under the law, and they shall enjoy the right to equal protection and benefit of the law. The state shall guarantee for them equal access to legal institutions with equal treatment.
- All forms of discrimination against women shall be prohibited, with discrimination considered a crime punishable by law. Non-discrimination clauses and gender-equality provisions should also focus on specific areas such as marriage or work, and address the stereotyping of women in the media and in education.
- Successive governments shall pursue policies and temporary measures, including affirmative action, in order to ensure the political empowerment of women: democracy and parity, and gender-balanced participation between the two sexes in all areas of power. There should be a minimum 40% quota for women in all legislative, executive and representative committees and institutions, in order to address the structural, gender-based discrimination and exclusion, with an aim to achieve parity (50/50%).
- Language should be used which employs both the masculine and feminine forms, bearing in mind the symbolic value in a constitution. This should be carried out by a special committee for the gendering of language, for functional titles and job roles. The masculine form should no longer be considered a neutral reference. Clear, precise and unambiguous language must be used to prevent any misinterpretation, such as in the Tunisian "Right to life" example.
- Special provisions shall address the public/private gap (which consigns women to the private sphere, wherein they are expected to take on a subordinate role). An egalitarian family structure shall be adopted, with equal provisions that allow all forms of discrimination in the private and public spheres to be addressed, and allow for the combining of work and family life.
- A gender-equality committee shall be established to fight all forms of discrimination and work according to international conventions and agreements for the protection of women's rights. This committee must be independent from the governing system, and must observe and oversee the general policies of the state. It shall also have a role in raising awareness through proposing laws and legislation, and studying existing legislation to ensure it is in concordance with international agreements for the protection of women's rights.

### 2- Power Structures – the Legislature, Executive and Judiciary, Composition and Function, the Electoral System

- The main sources of legislation shall be international conventions and agreements, international human rights law, and the principles of social justice.
- Personal status law shall be regulated by modern civil law.
- The separation of the legislature, the executive and the judiciary, and the total neutrality of the Syrian army in political life in all its aspects, guaranteed by the state.
- Provisions for affirmative action, such as gender quotas, to ensure the participation of women and the principle of gender equality in the structures of the legislature, the judiciary and the executive, as well as in national governing bodies and local administrations.
- Measurement provisions in the fields of education, health, criminal law, and combatting all kinds of crime, including violence against women.

### 3- Civil, Political, Social, Economic and Cultural Rights:

The measures in the field of civil, political, social, economic and cultural rights shall be binding, and shall be regulated through international and regional women's rights mechanisms, such as the CEDAW agreement. They include:

- Prohibition of all forms of violence against women in private and public life.
- Specific protection against sexual violence, physical abuse and sexual exploitation.
- Right to education, work, and property/land/inheritance.
- General commitment to women's political participation, in addition to a female quota in Parliament of no less than 21%, with an aim of reaching equal participation of women in politics, on all levels.
- The constitution shall ensure that the children of all citizens, women and men, have the right to obtain Syrian nationality and citizenship rights.



- The constitution shall ensure for all children the right to be protected from all forms of violence, in particular domestic violence.
- The constitution shall ensure the right to life, and shall prohibit the death penalty as the punishment for any crime, and no person, man or woman, may be subject to any form of maltreatment, and it shall clearly and precisely stipulate the prohibition of torture completely, including rape which is considered torture, and other forms of cruel, inhumane or degrading treatment; these crimes shall be punishable by law.
- The constitution shall ensure for vulnerable women, such as those in poverty, breadwinners, or heads of households, opportunities for education and employment, and the building of capacities and the development of skills, and the provision of necessary protection to them. With this aim, the government shall adopt related, comprehensive empowerment policies.
- The state shall guarantee for men and women with special needs opportunities for education and employment, and skills and capacities development, and shall work on providing protection and necessary support for them, and facilitate their full inclusion in society.

## 20 Basic Principles of the National Bloc League in Syria

**Date of publication:** 21/12/2014

**Source:** The Rules of Procedure of the National Bloc League in Syria<sup>23</sup>

1. The future Syria shall be a parliamentary, democratic republic with full sovereignty, and shall respect all ethnic groups.
2. The people shall be the source of all power.
3. The future Syria shall acknowledge the intellectual, cultural and political pluralism of citizens.
4. The future Syria shall separate between the three powers (the legislature, the judiciary and the executive), shall distribute [power] fairly, and the authority of the law shall be the highest authority.
5. The future Syria shall uphold its citizens' rights and duties, regardless of religion, creed, sect, race, sex or wealth, given it is a state of citizenship.
6. The future Syria's democratic political system shall be based on the principle of peaceful transfer of power.
7. The future Syria shall issue all laws and decisions based on parliamentary, constitutional legitimacy.
8. The main mission of the future Syria's national army shall be to preserve the borders and sovereignty of the nation, and it shall not interfere in political affairs in any way.
9. The future Syria shall be an indivisible unit within the framework of a democratic political system which guarantees the right to elect town councils and their heads, the expansion of the provinces' powers, and shall confirm the unity of Syria's territory.
10. The future Syria shall be for all Syrians in all their religions, sects, creeds, races, intellectual and cultural currents, and political powers.
11. The future Syria shall be an indivisible part of the greater Arab nation, and shall maintain a unique relationship with Islamic countries and the peace-loving countries of the world.

## 21 Principles of the Oslo Group for Dialogue in Syria

**Date of publication:** 19/3/2015

**Source:** Main constitutional principles of the Oslo Group for Dialogue in Syria<sup>24</sup>

The main constitutional principles of the Oslo Group for Dialogue in Syria are as follows:

Principle One: Recognition of the unity and sovereignty of the Syrian territory.

Principle Two: Equal citizenship and human dignity for all.

<sup>23</sup> Available in Arabic at the following link: <https://bit.ly/2ZezW7n>

<sup>24</sup> Available the following link: <https://bit.ly/2MfY5Wh>

- ❖ Citizenship is be a framework of equal and inalienable rights and duties.
- ❖ The concept of citizenship must be stipulated in the constitution.
- ❖ Citizenship is based on equality between citizens regardless of religion, race, social position or sex.
- ❖ Likewise, the strengthening of the principle of citizenship necessitates that the constitution guarantees equality between men and women, and the opposition to all forms of discrimination against women.
- ❖ Citizenship makes up the framework for the relationship between individuals before the state.
- ❖ Citizenship relies on a feeling of belonging to the state and involves shared participation in public life (including political participation that should be based on equal political rights between citizens).
- ❖ Citizenship relies on the rule of law, whereby all rights of citizens are protected.
- ❖ National exclusivity unites citizens over differences in their religions, creeds, and beliefs, and forms the basis of their unity and of the respect of the religious, cultural and ethnic characteristics of all its groups. Citizens – both individually and collectively – are equal in their rights and duties, and in the expression of these particularities, on the basis of mutual respect and adherence to the components of collective national identity.

Principle Three: Co-existence and mutual respect between [national] constituents.

- ❖ Co-existence and mutual respect are one necessary result, among many, of recognising diversity; the people of each religion or constituent have their own characteristics, and it necessitates that the behaviour of followers of all religions is considerate of these characteristics and maintains the respect of their adherents.
- ❖ The faith of each religion or creed's followers in the validity and truth of their own doctrine must not negatively affect the human relationships between people and must not lead to hateful intolerance.

Principle Four: Freedom of religious beliefs

- ❖ Religious belief shall be a personal freedom of each citizen, allowing him to practise his religion according to his beliefs, in accordance with constitutional controls and the law.
- ❖ The state shall guarantee freedom of conscience and freedom of belief, including the right to choose one's belief and the right to express it, in accordance with constitutional controls and the law.
- ❖ The existing sects shall have a legal personality as defined in the law.

Principle Five: Freedom of opinion and expression

- ❖ Freedom of opinion, though and peaceful expression – without infringing on the beliefs, ethnicity or culture of others – shall be protected by the constitution and guaranteed by the power of the law.
- ❖ Prior censorship against any of these freedoms shall not be permitted.
- ❖ The state shall guarantee the right to access media and information according to the operative laws.
- ❖ Academic freedoms and the freedom of scientific research shall be guaranteed, taking into account human rights and international conventions.
- ❖ Freedom of peaceful assembly and protest shall be protected in the constitution and specified in laws issued by the state on this matter.
- ❖ The freedom to join social and political parties, associations and groups shall be protected in the constitution and shall be subject to laws issued by the state on this matter.

Principle Six: Security and safety of all and the rejection of violence

- ❖ The safety and security of citizens is the responsibility of the state and its institutions.
- ❖ The rejection of violence in all its forms as a means to achieve political, economic or social aims.
- ❖ The strengthening of the culture of nonviolence shall be the collective responsibility between state, citizens, and civil society organisations.
- ❖ The state shall issue a collection of laws and procedures to ensure the implementation of this principle.

Principle Seven: Religious, ethnic and racial diversity

- ❖ The acknowledgement that all religions, ethnicities and cultures in Syria are considered part of the fabric of the nation.
- ❖ This principle is considered a consolidation of the principle of equality in citizenship and of the principle of the unity of Syrian territory.

Principle Eight: Labour rights and equality of opportunity

- ❖ The state shall guarantee equality in law for its citizens in the filling of positions, entrepreneurship and professions, the freedom of movement, and the right to access healthcare and work through all legitimate means, with consideration of district-level planning, which guarantees the progress towards achieving economic sufficiency and social welfare.

- ❖ Any discrimination between citizens in these or other rights, owing to their religion, belief, sex, race, physical abilities or district, shall not be permitted; it contradicts the right of equality, and is in opposition to the concept of citizenship.

The participants of the meeting also propose two important, urgent proposals, in light of the current security and military circumstances:

1. We request the international community's wholehearted efforts to end the presence of all foreign fighters, given that it is a manifestation of blatant terrorism, and to strive to stop all acts of violence in order to end the conflict and achieve peace.
2. We call for the strengthening of the humanitarian aid system, and for all Syrians in need, wherever they may be, to be connected to it.

## 22 Constitutional Principles from the TAMAS Conference

Date of publication: 20/11/2015

Source: The Second TAMAS Conference Report<sup>25</sup>

That which was issued in the Vienna statement, that the Syrian constitution will come to light within one year and a half, i.e. during the assumed transitional period, would involve a huge amount of urgency and risk, in the context of a fundamental issue which must not be rushed. That is to say, the constitution, any constitution, given that it is the social contract agreed upon by 'the nation,' around which its life, today and in the future, revolves, and given that it is the primary framework guaranteeing rights and freedoms, and a reference for all laws and legislation, its formation must be the result of the interaction of a majority, if not all, of the active elements of society, in terms of parties, unions, civil society organisations etc., and all other active social forces. This will not be possible during the transitional period, which will be witness to a large degree of political and military polarisation, of instability, and of international and regional mobilisation, all of which works through subnational societal forces moved, significantly or insignificantly, by political money. Therefore, in our view, and in concordance with many research centres that worked on this topic, it is better for the Syrian people, for the future of Syria and its stability, that a group of constitutional principles (sometimes referred to as a Declaration of Rights) are discussed and published within a temporary constitution document or declaration, which establishes a group of agreed-upon basic principles, such as:

1. The unity of civil, democratic and pluralistic Syria.
2. The separation and cooperation of powers, and in particular the guarantee of the independence of the judiciary.
3. The guarantee of state neutrality towards ethnic and religious groups and all subnational expressions.
4. The acknowledgement that the people are the source of all power in the state.
5. The guarantee of the application of the principle of the rule of law.
6. The guarantee of rights and freedoms as per international law and the pursuit of their inclusion within local legislation.
7. The guarantee of the principle of equal citizenship, regardless of religion, sex, nationality, sect, and all other kinds of discrimination not based on merit.
8. The articulation of the most far-reaching forms of administrative decentralisation in the management of the different areas of Syria, with the recognition of the rights of national minorities according to international standards.

With this group of basic principles, and others, a preliminary period of political stability could be guaranteed, during which work would be carried out on drafting a modern constitution which expresses the wishes of the Syrian people, who rose up for the sake of freedom, dignity, justice and equal citizenship above all else.

## 23 The Vision of a Group of Syrian Experts for Political Transition

Date of publication: 3/12/2015

Source: The Vision of the Experts Group<sup>26</sup>

<sup>25</sup> Available in Arabic at the following link: <https://bit.ly/2WigCUU>

<sup>26</sup> Available in Arabic at the following link: <https://bit.ly/2a5YXgy>

*This vision was published by a group of experts in the newspaper al-Araby al-Jadeed on 3/12/2015.*

First, general principles:

The new Syria shall be based on a set of general principles, the most important of which are as follows:

1. The new Syria shall be one, sovereign, independent, pluralistic, democratic republic, of which no part may be seized or relinquished. It shall be a member of the Arab League, the Organisation of Islamic Cooperation, and the United Nations and its affiliated organisations, and it shall commit to its charters and shall strive to establish an international system free of conflicts, and one based on cooperation, the exchange of interests, and the division of responsibility in the face of public threats and challenges that threaten the security and peace of the world.
2. The Syrian people shall be one people, and they shall be the source of power, practised through fair, periodic elections governed by the law, and whose political system shall be based on pluralism and one citizenship through which all Syrians shall be equal in rights and duties, regardless of colour, sex, language, nationality, political beliefs, religion or creed.
3. The new Syrian state shall commit to the international treaties, conventions and pledges pertaining to human rights, and in particular those of which it is a signatory. It likewise shall commit to protecting legitimate religious and cultural rights of all its Arab, Kurdish, Turkmen, Assyrian, Syriac, Circassian, Armenian constituents, among others, in the framework of the unity of people and state, and these groups shall be considered an integral part of the Syrian people.
4. The new Syrian republic shall rely on the principle of administrative decentralisation in managing affairs of the country, and shall give the residents of each province and area a significant role in managing their local economic, societal and day-to-day affairs, insofar as it does not negatively affect the unity of the country.
5. The new Syrian republic shall pursue balanced and sustainable human and economic development, and shall guarantee the freedom of investment and economic initiative in the framework of equal opportunities, and shall protect worker and consumer rights, and the fair distribution of income, and shall strive against unemployment and poverty, and for social justice and the protection of the environment.

## 24 Declaration of Rights

**Date of publication:** 2016

**Source:** The Kawakibi Organisation for Human Rights<sup>27</sup>

Preamble:

These 'principles' comprise an introduction and twenty-four principles which pursue the following overarching aims: the consolidation of Syrian identity as a part of historical Syria; the identification of its political identity by linking its existence and destiny to the will of Syrians; the establishment of its cultural and political path, and achieving it through political powers emanating directly from the people, in particular the Presidency and the Government, which shall not be determined for Syrians by any party or group; the secularisation of political and social life through three new laws, namely the Parties Law, the Personal Status Law, and the Elections Law; the consideration of any sectarian or religious discrimination or racism a crime against the security of the state and society...; and the liberation of the legislature from the game of electoral constituencies, which have always been based on the size of the financial and sectarian sectors, facilitated by a new Elections Law based on proportionality.

Principle One: The Syrian Republic shall be free and shall have full sovereignty over all its territory within the demarcated political borders.

Principle Two: Syrians shall be one people in all their racial, religious, sectarian, and linguistic diversity.

Principle Three: The Syrian entity, whatever the conditions of, and factors in, its origin, shall today be based on the will of the Syrian people.

Principle Four: Syrians shall be free and the constitution shall guarantee the basic freedoms that make up the bases of human rights law: freedom to work, freedom to own property, freedom of movement, freedom of expression, freedom of conscience... They shall practise their freedoms within the scope of laws as their natural and political rights, and the Syrian

<sup>27</sup> Available at the following link: <https://bit.ly/2lqtWSh>

authorities in all their institutions, and their subsidiary executive forces, shall protect and maintain these rights, and empower citizens so that Syria may be a domain which safeguards free thought, and a refuge for supreme humanitarian values.

Principle Five: Syrians, men and women, shall be equal in rights and duties before the law; no Syrian shall take precedence over another; discrimination between citizens and privilege granted to one group over another shall not be permitted; and the relationship of the state with the citizens shall be as individuals.

Principle Six: The Syrian people shall be the source of power, and this shall be derived from direct voting according to constitutional laws, whose principles are included in this pact.

Principle Seven: The Syrian system shall be a democratic, representative republic, and its legislature shall be represented by a parliament elected by the people, and by a constitutional assembly, whose powers shall be to review the constitutionality of laws and decisions issued by the legislature and the executive, through two institutions, the presidency and the government, i.e. a semi-presidential two-faceted system.

Principle Eight: The power of the legislature and the executive shall be derived from the people, in a general referendum passed by secret vote.

Principle Nine: Within the concept of freedom of expressions, and in order to apply it, Syrians shall have the right to protest, the right to strike, and the right to form political, social, cultural, artistic, scientific, agricultural and sporting groups, among others, and the right to form general and professional unions which work on the basis of special laws that regulate, protect and govern these activities for the common good.

Principle Ten: The political system in Syrian shall be based on the principle of party pluralism.

Principle Eleven: All political activity shall be public work, which shall strive for public aims, and therefore shall have to fulfil conditions and general basic rules upon whose basis it is organised in order to serve the common good, which shall be its slogan and goal. The concept of political freedom shall be inextricably linked to public interest as it relates to the principles of this pact... So each announcement, thought or project which is incompatible with the common good shall also be incompatible with the concept of true freedom that Syrians consider the supreme value governing their life.

Principle Twelve: A new Parties Law shall adhere to the following conditions:

- ❖ The party and its overall aims should have no religious or sectarian principles.
- ❖ Pluralism in the make-up of the party, so no party can be exclusive in a particular sect, creed or race.
- ❖ Clarity in its internal rules and regulation, legitimacy in the source of its leadership, and announcement of its manifesto and overall political decisions.

Principle Thirteen: The President shall be elected by all Syrians directly in a general referendum, and the length of his term shall be five years.

If none of the candidates wins a majority of half the votes cast in the first round, a vote shall be carried out of the two candidates with the highest number of votes in a second round.

Principle Fourteen: All Syrians, male or female, shall have the right to vote once they have reached the age of eighteen.

Principle Fifteen: The parliamentary members shall be elected by all Syrians in a general referendum for one term, and the Parliament's term shall be five years.

Principle Sixteen: Voting shall be carried out for the legally-recognised party (or front or bloc), with candidates of each party gaining a number of representatives proportional to the number of votes granted it by the people.

Principle Seventeen: Voting shall be carried out for the presidency and the Parliament over one day. The one ballot paper shall contain the name of the candidate for the presidency and the name of the party, bloc or front for whose parliamentary candidates the citizen wishes to vote.

Principle Eighteen: The largest party or the largest formation of blocs in Parliament shall assume power.

Principle Nineteen: Each political organisation (party, block, front) in the process of being established shall be given rights to work, spread and meet for a particular time period or until it meets all required legal conditions. When these conditions are met it shall legally gain political party authorisation, the right to participate in public political activity, and confirmation of the rights that political parties enjoy, among them taking part in general elections and governing.

Principle Twenty: Any political parties which pursue a racist or sectarian program, or any party whose members abandon it with their public withdrawal and the request to remove their names from its official lists whose statement is lodged with the relevant authorities ... or any party which harms the rules of procedure with illegal practices that contravene it, shall lose their license, so that the citizens do not trustingly become victim of their leaders and the deviation of their political morals.

Principle Twenty-One: Sectarian, religious and racial discrimination in speech, writing, action, teaching, media, incitement, recruitment or policy is an attack on the security of the state and the safety of society, and so shall be considered a crime punishable by law.

Principle Twenty-Two: A voluntary, civil law for personal status shall be completed by the state in its legal representation, so just as Syrian citizens shall be free in their adoption of the religious creed that they want to follow according to the freedom of their conscience, and just as they shall be free to choose the confessional law which is in accordance with their conviction and status, so too shall they be free to choose the civil law, which is one of their duties and rights as citizens.

Principle Twenty-Three: Each citizen born in Syrian and has come of age on its territory shall be granted Syrian nationality on request, as long as there is no special legal barrier depriving him of this right, as is the case in all civilised countries. It may not be withdrawn nor may anyone be stripped of it arbitrarily.

It should be noted that property and nationality rights must be maintained, and with retroactive effect.

Notes: Given that Syrian will enter the stage of transitional justice after armed conflict, work must be carried out to choose a constituent body to draft a new constitution for the country, all members of which must undergo a vetting process. This body shall take on, temporarily, legislative business until such time as a new constitution for the country is confirmed, and its work shall be monitored by civil society organisations and the procedural rules shall be set upon its establishment.

## 25 Outcomes of the Conference “Building an Inclusive Gender-Sensitive Constitution: A Syrian Path Towards Democracy”

Date of publication: 1/3/2016

Source: Syrian Women for Democracy, in Partnership with the EuroMed Feminist Initiative<sup>28</sup>

1. Syria shall be a sovereign, independent, democratic republic based on political pluralism and administrative decentralisation, is within Syria's territorial integrity, and it shall have the full right to liberate its occupied lands.
2. All individuals of the Syrian people, men and women, shall be brought together by a united national identity, in its diverse national, cultural, religious, and ethnic affiliations, and the constitution shall guarantee respect, equality, gender equality, non-discrimination and equality of opportunities between all these constituent groups.
3. The constitution shall ensure the realisation of full equality between men and women in citizenship rights, including their enjoyment of civil, political, social, economic, cultural and educational rights and freedoms, in all areas of public and family life.
4. The constitution shall ensure that no prohibited discrimination is practised, either directly or indirectly, against any person as a result of their gender, ethnic or religious affiliation, among others. The state shall commit to issuing national laws to prevent, prohibit and criminalise any discrimination against women, and all forms of violence against women in private and public life, and to oppose it, and to rescind all existing discriminatory laws and texts, and to rescind all reservations related to women's rights as per the CEDAW agreement, and to ratify its attached protocols.
5. Syria's constitution shall be a secular constitution that shall stipulate the separation between religion, and the state and legislation, in clear language.
6. The people shall be the source of power, and the constitution shall guarantee the access of representatives of the people, through free and fair elections, which shall be carried out according to just laws ensuring the achievement of equity between women and men, through adopting positive discrimination procedures such as female quotas, and a fair representation of all demographics.
7. The constitution shall guarantee the principle of the separation of power and put in place controls which shall ensure a balanced relationship between them.
8. The constitution shall guarantee, and the state shall commit to, the empowerment of women to participate in economic, social and political public life, and ensuring equal rights for women and men in the occupying of all positions in the state and all decision-making positions. The representation of women in all designated and elected bodies shall be equal with that of men.
9. The main sources of legislation shall be international conventions and agreements, international human rights law, international decisions and agreements related to women's rights, and the principles of social justice and gender equality.

<sup>28</sup> Information about the conference at the following link: <https://www.efi-ife.org/ar/node/134>



10. All international agreements and treaties that are ratified by the state shall have supremacy over national laws. The constitution and national legislation must be in harmony with the international agreements related to political, economic and social rights of women and men, and the international agreements ratified by the state, at the forefront of which is CEDAW.
11. The constitution shall guarantee the right to life, prohibit the death penalty as the punishment for any crime, and no person, man or woman, may be subjected to any form of mistreatment, and it shall stipulate clearly and precisely the prohibition and criminalisation of all forms of gender-based violence, and the total prohibition of torture, including rape, which is considered torture, and other kinds of cruel, inhumane or degrading treatment.
12. The constitution shall guarantee the independence of the judiciary, and equality between all citizens, men and women, before and in accordance with the law. It shall ensure that they are able to access the legal bodies with equal treatment, including special protection from sexual violence, physical harm or sexual exploitation, and shall guarantee the compensation of victims of sexual violence within the transitional justice system.
13. The constitution shall guarantee the right for women, like men, to pass on their nationality to their spouse and children.
14. The constitution shall guarantee freedom of expression, opinion, belief, and participation in decision-making through political parties and civil society organisations, including women's-rights organisations, and the freedom to issue newspapers and publications.
15. The constitution shall guarantee and protect equal rights for men and women in education, work, property and inheritance.
16. The state shall commit to abolishing or amending all laws or legislation that are in opposition to these principles.

## 26 The Principles of the Citizenship and Affiliation Forum

**Date of publication:** 8/4/2016

**Source:** The Third Conference of the Citizenship and Affiliation Forum in the al-Hawash Private University<sup>29</sup>

After presenting and analysing the results of the survey which relied on a statistical sample of 2452 individuals who voted in the Forum's survey, the clauses of the concluding statement were voted on. No clause that did not gain three-quarters of the votes was included; the following recommendations were signed:

1. Christians in Syria declare that they are Syrians before any affiliation to any religion; that their affiliation to Syria as a homeland for all comes before any other affiliation; that they are one of the constituents of the fabric of this nation; and that they have been native to this land for thousands of years.
2. The Christians of Syria believe in their historic role in connecting together the groups of the homeland, and they are fully prepared to welcome representatives of all the constituents of the Syrian people and manage a Syrian dialogue whose aim is the safety, security and peace of the nation.
3. The Forum calls for the establishment of a secular, democratic state based on a secular constitution, which shall lay the groundwork for a true social contract through which all are equal, and which shall apply the law and accountability.
4. The Forum recognises that all citizens in Syria are equal in rights and duties within the nation, and they see that in any constitution, law or teaching, these principles must be achieved.
5. The Forum shall strive to achieve a true representation of the Syrian Christian constituent in elected councils and bodies, in and outside Syria, and in the countries of the diaspora. This is not for sectarian aims, but rather with the aim of allowing their voices to be heard, and allowing the true Christian position to come to light, in particular in international forums which on occasion play this card; it is left to the Patriarch, the chair of this Forum, to select the volunteer representatives who are able to work and communicate through all sectors of society and all Christian sects.
6. The Forum recognises that the Syrian expatriates make up an essential part of the fabric of the nation, and they must be communicated with through effective channels and mechanisms, via local civic organisations or

<sup>29</sup> Available in Arabic at the following link: <https://bit.ly/31fPcmh>

- associations which strive to include them in the political, social and economic life of the nation, and through laws which allow them to practise their rights as Syrian citizens, despite their residency in the countries of the diaspora.
7. The Forum shall strive to consolidate the culture of volunteerism for the sake of human and infrastructural reconstruction, through the formation of teams that detect, investigate and address cases of social deviation, in order to improve the conditions arising from war, and establish and implement the programs in cooperation with the relevant institutions of the state.

## 27 A Vision of Transitional Constitutional Reforms

**Date of publication:** 10/4/2016

**Source:** Nation Building Movement: A Vision on Transitional Constitutional Reforms<sup>30</sup>

Potential constitutional options for the next period:

### The Experience of the 2012 Constitution

The experience of the 2012 constitution reflected negatively on the reality of the Syrian situation. The constitution was received in the same way as if it were any other decree or law, familiar only to those who are specifically interested or specialised therein. What it was supposed to be, however, was a public matter involving all citizens, instilling a feeling of ownership over the document, and consolidating the belief in it as a social contract binding all citizens of the country. The current, critical problem lies in the production of an entire constitution both quickly and without a serious process behind it; it is a constitution, moreover, which might be changed within a few years, which will affect how seriously people take it. Further to this, all the actors in the political negotiations arena are not able to propose constitutions on their own, especially in context of the international interventions and influence. This is among the most important points to defend, and should be the top priority of anyone who wants to be remembered by history as having played a part in the saving of Syria.

In light of this, two options present themselves: first, the amendment of certain articles of the current constitution, and second, a constitutional declaration containing general principles and a vision for a new Syria, with some basic articles governing the transitional period, while resorting to the current constitution in any matter not covered by this declaration.

The mandate of both of these options should be limited to one year only, ending in the holding of parliamentary elections, and during which an interim constitution for the country would be written.

After this, there should be a transition into the second interim period, ending in the holding of presidential elections and during which a new permanent constitution for Syria would be written.

In this way, the country would be able to avoid unforeseen social shocks, as well as the repercussions of the current political tensions and polarisation. This would prevent the decisions and choices from being taken in a rush and allow them to be accompanied by a sense of belonging and ownership among the largest possible number of Syrians. The option of conducting elections and starting the process of the political transition, in addition to deepening the discussion of constitutional issues, will also allow for the emergence of a new political class and new leaders who are more closely connected to their constituents.

### The main constitutional points to be considered in the first transition:

Whether the option adopted is the amendment of the current constitution or the creation of a constitutional declaration, it is important to examine a number of key issues. How many of these issues will be introduced into the constitution will remain subject to political negotiations. Only issues where consensus is achieved are likely to be adopted, even if these are not constitutionally sufficient to govern the transitional period; accordingly, maintaining the old constitution could be useful to avoid a constitutional vacuum, as happened, for example, in Egypt.

#### First: Identity and Basic Principles

<sup>30</sup> Available at the following link: <https://bit.ly/2KzrR9l>

#### Declaration of Rights

1. Identity and Belonging: What the identity of the Syrian people is, the space to which they belong, and how to achieve constitutional citizenship.
2. The extent to which rules of religions, and ideologies exist in the public sector (the secularism of the state).
3. The protection of the rights of the most marginalised groups – women, young people, other groups (quotas)
4. Fundamental rights and freedoms, and ways to protect and guarantee them on the basis of 'Everything which is not forbidden is allowed.'

#### Second: Form of Governance

##### ❖ Semi-Presidential System

Governance in Syria shall be based on a semi-presidential system, a model which is considered among the most favourable for Syria's situation. The parliamentary system is an unstable system, particularly given the party fragmentation which we are suffering, and which signifies instability of governance. The presidential system, meanwhile, is based on strict centralisation in decision-making.

The semi-presidential system is distinguished by a basic principle, which is the balance of powers between the President, the Parliament, and the Government led by the Prime Minister. Maintaining the balance between the three authorities is considered the greatest challenge, whereby none of these authorities is able to obtain basic powers and constant influence over any of the others, while the President having a fixed term creates stability in the context of political conflicts and crises. Likewise, the fact that the Prime Minister is subject to accountability before Parliament lends political flexibility, while the presence of two executive bodies (the President and the Prime Minister) allows for power sharing between competing parties, thus avoiding scenarios where the winning party has hegemony over all authorities.

Practically, this vision is not so far removed from the current constitution, for it is an articulation of Article 83 of the constitution, that is, a semi-presidential system in which the Prime Minister enjoys powers independent from those of the President, and the President is not able to dismiss him unilaterally, rather only in the event that Parliament withdraws confidence from the government. The President, meanwhile, has the right to dissolve Parliament and call legislative elections.

##### ❖ Presidential Powers

- The right to approve a referendum.
- The dissolution of Parliament once per year, and calling new elections.
- Leadership of the army and foreign affairs.
- The appointment of foreign ambassadors (noting the adoption of a custom that requires having an evaluation session with the Foreign Affairs Committee in parliament, with a non-binding result for the President).
- Negotiating regarding treaties and their ratification.
- Calling Parliament for an exceptional session
- Calling the Supreme Constitutional Court to meet, selecting three of its members, and appointing its head.
- During a state of emergency, the President shall be given special powers during times of crisis in order to protect democracy, with the general powers restored as quickly as possible. A state of emergency is decreed with a parliamentary majority of two-thirds.

Likewise, Article 3/75 must be amended, which stipulates the nomination of the President must be supported by a specific number of parliamentary members, and making him directly supported by citizens at least in the first and second transitional stages.

##### ❖ Prime Ministerial Powers and the Powers of the Council – referring draft laws to Parliament directly

- Issuing decrees and decisions in accordance with the President
- The Prime Minister, with the President, shall authorise the Government's formation.
- The Government shall be generally responsible for managing internal political and governmental work in the country.

##### ❖ The State's Administration Relies on Expanded Administrative Decentralisation

Administrative decentralisation, if presented thoughtfully, could prove to be one of the most important inroads to the Syrian political solution; a path towards strengthening national unity; a key factor in challenging the threats of partition; and a way to create new political leaders.

The overall framework we see governing the decentralisation currently being called for, has reached the possibility of fully-elected local councils, which would have wide-reaching powers and real potential to take on services and developmental

demands of their regions, without its subordination with regard to sovereign matters and in the central government's public policies being affected. These represent the common denominator for the participation of all the people across the country in key decision making for society as a whole. In this framework, the management of the state's resources and economic planning is maintained centrally with a wide margin for local economic projects. These councils shall also have powers to approve budgets, manage independent budgets, form executive offices, and supervise the work of the governmental apparatus.

#### Third: Judicial Power and the Supreme Constitutional Court

##### ❖ Ensuring the independence of the judiciary

Many studies have been published about the separation of the judiciary from the executive, and the guarantee of its independence. All these studies have confirmed the necessity of a constitutional amendment which would change the position of the President from also occupying the position of the President of the Supreme Judicial Council. The reality is that the intervention of the executive in the function of the judiciary is, at its core, a result of the Minister of Justice taking over this branch and its powers, in appointing judges, their transfer and discipline, and overseeing the work of this branch, and it is the honorary role of the President to be a guarantee for the independence of the judiciary.

Our vision for the separation of powers route is based on the transfer of powers of the Minister of Justice to a judge who is elected by judges of the Court of Cassation and the Supreme Administrative Court. This judge would become the head of the Supreme Judicial Court, and the Minister would remain responsible for the work of the apparatus of the public prosecution, and the Justice Assistances.

##### ❖ The Supreme Constitutional Court

1. The Supreme Constitutional Court shall be made up of nine members, three of whom are chosen by the President, three by the Prime Minister, and three by the Head of Parliament. The President shall select the head of the Court.
2. The term of office of the Court shall be ten years at a minimum.
3. Appeals shall be accepted before the Court by the President, the Prime Minister, the Head of Parliament, or a specific number of parliamentary members.

## 28 A Declaration of Constitutional Principles for the Transitional Period

**Date of publication:** 20/4/2016

**Source:** Declaration Memorandum on Constitutional Principles for the Upcoming Transitional Period, issued by a group of civil society organisations<sup>31</sup>

To: The Syrian Negotiating Parties  
The International Syria Support Group  
The United Nations Special Envoy Stefan de Mistura and his Team

We, the Syrian organizations working in the fields of documenting violations, accountability, transitional justice, and supporting a democratic transition in Syria, who have signed this memorandum, following the media reports on the drafting of a new constitution before August, submit this memorandum to the Syrian negotiating parties, to the United Nations Special Envoy and his team, and to the states supporting the negotiations as a procedural memorandum specifying our organizations' position on matters pertaining to the next Syrian constitution.

The signatories agree that the writing of a permanent Syrian constitution should come at a later time subsequent to the transitional stage. The drafting of a permanent Syrian constitution should take place through a constitutional committee, which would be established through a process that is agreed upon through elections, and would have a membership that is also agreed upon through elections and on the basis of legal and constitutional experience, and upon the review of members' résumés and characters.

The text of UN Resolution 2254 expressed support for a political process under Syrian leadership, facilitated by the United Nations, to "define a timeframe and a mechanism to draft a new constitution." However, the resolution did not in any way stipulate that a new Syrian constitution should be completed by non-Syrian parties before August.

<sup>31</sup> Available at the following link: <https://bit.ly/2MfM9Ux>

The undersigned organizations believe that the timeframe that the American and Russian parties have announced is not at all realistic. This timeframe deprives the Syrians from thoroughly planning the process for drafting a new constitution. It also opens the door to pre-prepared constitutional drafts that could be readily imposed on the Syrian people. Moreover, the process of drafting the new constitution is exactly as important as the new constitution itself. If a guarantee is given that a wide segment of the Syrian people can participate by putting forth their demands for the new constitution, the drafting process itself can be part of the peace-building process.

The signatories affirm that Syria needs, in the transitional period, a constitutional declaration or a temporary draft constitution that focuses on the following constitutional principles in advance of the drafting of a new constitution once the security situation has stabilized and refugees have returned to Syria:

1. The people are the source of authority and legislation.
2. The division of powers, and the affirmation of the principle of checks and balances in the constitution.
3. Making the army and security forces subject to the authority of elected civilian officials, and banning military and security figures from politics.
4. Banning torture as well as harsh, degrading, and inhumane treatment.
5. Independence of the judiciary.
6. The constitution guarantees individual rights, including freedom of conscience, freedom of expression, access to information, privacy, and the guarantee of religious freedoms.
7. The constitution guarantees the freedom to assemble and protest, including the freedom to form parties and civil society organizations.
8. Forbidding discrimination among Syrians on the basis of gender, origin, language, religion, creed, wealth, social position, political beliefs, disability, or for any other reason.
9. Giving damaged areas priority in development and reconstruction efforts.
10. Ratifying international agreements on human rights, and committing to implementing them.
11. Equality before and in the law, specifying clear bases for respecting the principles in force, and the rule of law.
12. Total equality between all citizens, male and female, in civil, political, economic, and social rights, and in all fields of public and family life; and the implementation of policies and mechanisms to achieve the principle of proportionate representation between women and men in legislative and executive bodies, and in all representative institutions, including parties and civil organizations.

The organizations that have signed this memorandum affirm that the United Nations and the International Syria Support Group must abide by the decisions of the Security Council and allow the Syrian people to participate in the drafting of their country's next constitution.

## 29 Principles Issued by the Civil Society Support Room

**Date of publication:** 27/4/2016

**Source:** The principles issued in the third round of the rights groups in the Civil Society Support Room<sup>32</sup>

The principles issued in the third round of the rights groups in the Civil Society Support Room, 20-27 April, 2016

### Constitutional Principles

The Security Council Resolution 2254 stipulates its support for a political process led by Syria and facilitated by the United Nations... and "sets a timetable and process for drafting a new constitution."

The Civil Society Support Room (the rights group) sees that the writing of a permanent Syrian constitution that will take place in the upcoming period, will come after the transitional period, on the condition that Syrians undertake the writing of the constitution themselves through a Constituent Assembly, and that Syria requires at the start of the transitional period a declaration of the following constitutional principles:

1. Recognising the unity, independence and sovereignty of the Syrian territory.
2. Syria shall be a democratic state based on citizenship and political pluralism ('a democratic civil state' has been put forward, and discussion around this is still on-going).
3. The people shall be the source of power and of legislation.

<sup>32</sup> Available at the following link: <https://bit.ly/2LNRTWp>

4. Consolidating the principle of the Rule of Law and the separation of powers, and including the principle of checks and balances clearly in the constitution.
5. Prohibiting torture and cruel, inhumane and degrading treatment.
6. The independence of the judiciary.
7. The constitution shall safeguard individual rights, including that of the freedom of religion, freedom of expression, access to information, privacy, and safeguarding the practice of religious ceremonies.
8. The constitution shall safeguard the right to the freedom of assembly and protest, including the freedom to establish political parties and civil society organisations.
9. Prohibiting discrimination among Syrians on the basis of sex, ethnicity, language, religion, creed, or other reasons.
10. Ratifying international human rights treaties and protocols, committing to their application and integrating them in the constitution.
11. Total equality before and under the law among all citizens in civil, political, economic and social rights, and in all areas of public and family life, and the application of policies and processes so that women occupy 30% of positions in legislative, executive and judicial bodies, and in all representative institutions, including parties and civil organisations, with the aim of full equality.

Notes pertaining to the constitution, which were issued by the fifth round of meetings of the Civil Society Support Room, between 1/3/2017 and 4/3/2017:

The vision of the Civil Society Support Room regarding the Constitution can be summarised as follows:

1. No permanent constitution may be produced in the midst of conflict.
2. It shall be Syrians who write the constitution of the country.
3. A modern, democratic constitution shall be based on equality and citizenship, shall strengthen the principle of the separation of powers and the independence of the judiciary, and shall guarantee the building of a democratic society.
4. The transitional period shall be governed by a constitutional declaration which shall regulate the legal framework of this period, organise the work of the transitional powers, guarantee general freedoms, and strengthen the protection of human rights.
5. It shall be the responsibility of civil society to participate in the drafting of the constitutional declaration and, later, the permanent constitution; it shall likewise be incumbent upon civil society to participate in a national and societal dialogue to create a national consensus around these principles.

## 30 Determinants of the Future Constitution of Syria

**Date of publication:** 28/5/2016

**Source:** Principles issued from the conference held in Vienna<sup>33</sup>

The principles issued at the conference held in Vienna between 25 and 28 April 2016

1. Syria shall be a non-sectarian, democratic state, based on the principle of full and equal citizenship, political pluralism, and decentralisation in the distribution of powers between the centre and the localities, and that is within the unity of the Syrian territory.
2. The state shall commit to full neutrality towards all religions and ethnicities, shall respect all religions, and shall not discriminate between citizens on the basis of sex, colour, religion, race, creed, religion, wealth and prestige.
3. The separation of the legislative, executive and judicial powers and the independence of the judiciary.
4. All citizens shall have the right to occupy public positions and jobs according to merit.
5. The Syrian people are ethnically, religiously and culturally diverse, compatible with mutual co-existence and the pursuit of common good.

<sup>33</sup> Available in Arabic at the following link: <https://bit.ly/2HZRYEx>



6. The constitution shall guarantee equal national rights for all ethnic groups that make up the Syrian people, according to international covenants and conventions.
7. The general freedoms of the Syria people shall be protected in accordance with international human rights law, and the two international covenants pertaining to civil and political rights, and cultural, social and economic rights, and all related international conventions.
8. The constitution shall guarantee the rights of full and equal citizenship for women, and the state shall commit to enabling their participation in social, economic and political public life, and shall ensure they occupy decision-making positions. The representation of women in all designated bodies shall be no less than 30%, with the aim of achieving equity, and their right to grant nationality to their husbands and children shall be guaranteed, as well as the rights of the child, in accordance with international conventions.

## 31 Syria's Transition Governance and Constitutional Options

**Date of publication:** June 2016

**Source:** The Syrian Civil Coalition (TAMAS) in Partnership with the Carter Center<sup>34</sup>

1. During the transition foreseen in United Nations Security Council Resolution (UNSCR) 2254 (2015), the principles adopted herein shall supersede any contradictory constitutional provisions, legislation and decrees currently in force and shall be binding on all state organs.
2. All obligations undertaken by Syria through the signature and ratification of international humanitarian laws and human rights instruments are herewith proclaimed as the law of the country, shall prevail in case where there is a contradiction with Syrian law, and are enforceable by the judicial authorities of the country. [May wish to list the principal international instruments ratified by Syria.]
3. One of the principal aims of the transition foreseen in UNSCR 2254 is to ensure the sovereignty and territorial integrity of Syria.
4. During the transition foreseen in UNSCR 2254, the following principles shall control the exercise of all public powers:
  - a. Peace – all who exercise public power, de jure or de facto, to acknowledge and actively assist in bringing an end to the violence, with the objective that there would never be a resumption of civil war or significant armed conflict.
  - b. Healing – all who exercise public power, de jure or de facto, to acknowledge and stop the injury caused to all aspects of Syrian life – including to the families of and those killed and injured, detained without due process of law, displaced from their homes, or dispossessed of property - prevent the resumption of injury, and repair the injury as best and as quickly as possible.
  - c. Change – all who exercise public power, de jure or de facto, to acknowledge that the core purposes of the transition is to establish eventually a new constitutional and governance order in Syria, reflecting these fundamental principles.
  - d. Dignity – all who exercise public power, de jure or de facto, to guarantee basic human rights in relation to food security, shelter, education, health, employment, and welfare for all.
  - e. Gender Equality – all who exercise public power, de jure or de facto, to adopt a gender perspective that includes the special needs of women and girls during repatriation and resettlement, rehabilitation, reintegration and post-conflict reconstruction; involve women in all implementation mechanisms of the peace agreements, as well as measures to ensure the human rights of women and girls, particularly as they relate to the constitution, the electoral system, the police and the judiciary; and protect women and girls from gender-based violence.
5. The constitution and laws of Syria shall ensure the equality of all before the law and an equitable legal process, and shall prohibit any form of discrimination based on religion or sect, language, national origin, and gender.
6. There shall be separation of powers between the executive, legislature, and judiciary, with appropriate checks and balances to ensure accountability against the arbitrary exercise of power.

<sup>34</sup> Available the following link: <https://bit.ly/2MfY5Wh>

7. The independence of the judiciary shall be ensured, the decisions of the judiciary shall be respected by all, and the judiciary shall be appropriately qualified, independent, and impartial, and shall have the power and jurisdiction to safeguard and enforce the present principles, the constitution, and all fundamental rights.
8. There must be an efficient, nonpartisan, career-orientated public service representative of the Syrian citizenship, functioning on a basis of fairness, which must serve all members of the public in an unbiased and impartial manner and must, in the exercise of its powers and in compliance with its duties, execute the lawful policies of the government in the performance of its functions. The structures and functioning of the public service, as well as the terms and conditions of service of its members, must be regulated by law.
9. Members of the security forces – military, intelligence, and police – and the security forces as a whole shall be required to perform their functions and exercise their powers in the national interest, respecting the culture of accountability, human rights, and democratic principles, and shall be prohibited from furthering or prejudicing the interests of ruling political parties or elites. The establishment of effective administration, civilian oversight, and accountability systems for the security forces, including the non-state paramilitary forces, must be a high priority for the Transitional Governing Body. Civilian oversight bodies over the security forces and agencies shall have the capacity to exercise effective control over operations, budgets, funding, and expenditures.
10. Provisions shall be made for freedom of, and access to, information so that there can be open and accountable administration of government.
11. All who exercise public power shall accept that public revenue is raised from and governance conducted on behalf of the people of Syria, and that there should be effective mechanisms by which the people could exercise reasonable measures of control over their lives and their governance, including transparent accounting of public expenditures.

## 32 The Social Contract Document for the Democratic Federation of Rojava

**Date of publication:** 28/6/2016

**Source:** Draft Document of the Social Contract for Democratic Federation of Rojava, Northern Syria<sup>35</sup>

*The Contract is made up of 11 Chapters, divided into 4 Sections, with a total of 85 Articles. Here we present part of this contract, and specifically that which is related to the basic principles of the constitution.*

### Preamble

We, the peoples of Rojava, Northern Syria – Kurds, Arabs, Syriacs, Assyrians, Turkmen, Armenians, Chechens and Circassians, Muslims, Christians and Yazidis, and our different creeds and sects – recognise that the nation state has engendered problems, acute crises, and tragedies for our people. There is nothing more indicative of that than the oppression and tyranny that our Syrian people, in all their constituents, have suffered at the hands of the centralised, autocratic, totalitarian nationalist regime, and the state of destruction, devastation and fragmentation of the fabric of society that the country has reached. Kurdistan, Bet Nahrain and Syria are today at the center of the chaos being witnessed by the Middle East, which has suffered tyrannical and dictatorial governments.

We therefore find that the democratic federal system is the optimal system to address the historic, social and national issues in Rojava Kurdistan, Maarabu Bet Nahrain and Syria. It ensures the equal participation of all individuals and groups in discussion, decision-making and implementation. It takes into account ethnic and religious differences according to the characteristics of each organised group, on the basis of mutual co-existence and fraternity of peoples. It ensures equality of all peoples in rights and duties. It is based on a geographic concept and political and administrative decentralisation within a united Syria, and the respect for human rights conventions and the preservation of civil and world peace.

Under a democratic federal system, all strata of society, at the forefront of whom are women and youth, shall form their organisations and democratic institutions, and shall freely practise all political and social activities, and shall enjoy all the advantages afforded by a liberal, free and equal life.

The democratic federal system of Rojava, Northern Syria, shall rely, in this contract, on the culture of the Mother Goddess, and on the humanitarian and moral heritage of the apostles, the prophets, the philosophers, and the wise men in search of truth, justice and equality, and on the legacy and cultural richness of Syria, Kurdistan and Bet Nahrain's civilisation. This

<sup>35</sup> Available in Arabic at the following link: <https://bit.ly/31i3Byo>

contract was agreed with the free will of all constituents of Rojava, Northern Syria, and according to the principles of the democratic nation.

#### General Principles:

Article 1: This document is called The Social Contract for Democratic Federation of Rojava, Northern Syria (for the areas of Northern Syria), and the preamble is considered an integral part of this contract.

Article 2: The Democratic Federation of Rojava, Northern Syria, shall derive its legitimacy from the will of the people and groups, through free and democratic elections, whereby all administrative apparatus and councils are established through elections.

Article 3: All the languages that exist in the Democratic Federation of Rojava, Northern Syria shall be equal in all areas of social, administrative, educational and cultural life. Every people shall organise their life and manage their affairs in their own language.

Article 10: Democratic, environmental, and participatory communal life shall be the basis for all relationships, given that the natural peaceful state of existence is found in the development of relationships within society and between societies, and the relationship with nature according to the principle of mutual interdependence and integration.

Article 11: Enabling co-existence according to the principles of the democratic nation, which are replete with the spirit of fraternity between the peoples and groups in Rojava, Northern Syria, within a free, fair, democratic societal system.

Article 12: Building a democratic environmental society in order to put an end to the cruel treatment, plundering and destruction of the environment, and placing the human being as the most important being of the natural world.

Article 13: The Democratic Federation of Rojava, Northern Syria, shall be based on the principle of placing land, water and energy under public ownership. It shall adopt the environmental industry and participatory economy as a foundation. It shall not allow the exploitation, commodification and objectification of women. It shall strive to achieve a standard of living that meets all material and immaterial needs within the economic sphere.

Article 14: The Democratic Federation of Rojava, Northern Syria, shall adopt the co-presidential system in all aspects of political and social life, among others, and shall consider it a basic principle in the equal representation between the two sexes, and shall contribute to the organisation and strengthening of the Democratic Confederation of Women as an entity pertaining to this.

Article 15: Ensuring the freedom of women in society, and equality between the two sexes in rights and duties.

Article 16: Women shall represent themselves in equality with men in all areas of life (political, social, cultural).

#### The Second Chapter on General Rights and Freedoms:

Article 19: Democratic Federation of Rojava, Northern Syria, declares its respect for fundamental rights as stipulated in the Universal Declaration of Human Rights, and shall support and apply them.

Article 22: The peoples, groups and constituents shall have the right to free self-determination. Oppression, cultural erosion, extermination and colonialism shall be considered crimes against humanity, against which they shall have the legitimate right to resist.

Article 23: Each region or group shall have the right to decide on the affairs and matters that pertain to them, so long as they are not in opposition to the social contract.

Article 24: Societal groups and groupings shall have the right to self-organise according to their particularities.

Article 25: All people shall have the right to freedom of thought, conscience and religion, and the right to self-organisation and self-expression.

Article 26: All people shall have the right to participate in political life, and stand for election, in accordance with the law.

Article 27: No person may be degraded or excluded as a result of differences in colour, sex, race, religion or creed.

Article 30: Women shall have the right to equal participation in all areas of life (political, social, cultural and economic).

Article 36: Individual freedom may not be limited without a legal basis.

Article 37: The right to self-defence shall be a sacred right, which may not be restricted. The law shall guarantee for all the right to litigation.

Article 39: The cultural, ethnic and religious groups and constituents shall have the right to name their self-managed area, preserve their culture, and form their democratic organisations. No person or constituent may coercively impose his belief on others.

Article 43: The law shall guarantee freedom of the media, press and publication.

Article 44: All people shall have the right obtain and access information.

Chapter Eight

## Article 78: Legitimate Defence Force

The Syrian Democratic Forces shall be the armed defence forces in the Democratic Federation of Rojava, Northern Syria, based on voluntary enrolment of the people on the one hand, and the duty of self-defence on the other. They shall be charged with defending the Democratic Federation of Rojava, Northern Syria, and the Democratic Federation of Syria, and protecting it in the face of any potential attack or external threat. They shall ensure the protection of lives and property of citizens in the event of external attacks. They shall organise themselves semi-independently, according to the characteristics of the conscription system. Their actions shall be overseen by the Democratic Peoples' Conference and the Defence Council. Their presence and duties shall remain in place as long as there is any existing external threat or attack.

Chapter Nine:

## Article 79: The Social Contract Council

The Social Contract Council shall be made up of a number of judges, legal experts and jurists, and their number shall be determined, and the method of selecting them and the work of the Council shall be organised, through a law issued by a two-thirds majority of the members of the Democratic People's Congress. The People's Congress shall, on their selection of the members of the Social Contract Council, observe a representation of all the constituents.

## Article 80: The Duties of the Social Contract Council

1. Interpreting the social contract texts.
2. Examining the compatibility of the laws issued by the People's Congress, the decisions issued by the Executive Council, and the laws and decisions issued by the Regional Councils, with the Social Contract.
3. Arbitrating in conflicts related to the application of this contract between the Democratic People's Congress, the Executive Council and the Justice Council.
4. Arbitrating in disputes between the Federation and the regions, or between the regions.
5. If one of the litigants in the course of an appeal argues for the unconstitutionality of a legal text being applied by the courts whose decision is being appealed, and the court examining the appeal sees that the argument is serious and that the appeal must be decided, the lawsuit shall be stopped and the argument shall be referred to the Social Contract Council.
6. Ratify the results of general elections or general referenda.
7. The Social Contract Council shall confirm and issue the laws agreed by the Democratic People's Congress.

Chapter Ten

## Article 81: The System of Justice

This is a system of democratic justice which resolves specific issues in justice and social rights, through the participation of the people and their self-organisation. The vision of justice is here based on the moral principles of the democratic society. It aims to build a society which applies the democratic, environmental approach and vision which believes in the freedom of women as a foundation, and is taken from participatory, communal life starting from it. It organises its ranks on a moral and political basis. The services of justice are run through social participation, and the organisation of democratically-formed local units.

### 33 The Document of the Internal Opposition Delegation to Geneva

**Date of publication:** 7/9/2016

**Source:** Announcement of the Declaration of Rights, presented by the Internal Opposition Delegation in Geneva<sup>36</sup>

Bill of Rights

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<sup>36</sup> Available in Arabic at the following link: <https://bit.ly/211Eicd>

1. Syria shall be a secular, democratic republic whose (mixed) system shall be a parliamentary-presidential system, with full sovereignty. It shall be an extension of the Syrian state which has continued without interruption for the past three thousand years.
2. Syria shall be a state with ethnic, religious and sectarian diversity, and men and women shall be equal in rights and duties. All Syrian citizens shall have the same rights and duties, and discrimination shall not be permitted.
3. It shall be an indivisible geopolitical unit, of whose territory no part may be relinquished.
4. It shall be part of the Levant and of an Arab, regional, and international system.
5. The people shall have sovereignty and it may not be monopolised or claimed by any individual, group or party, and it shall be based on the people practising their sovereignty through democratic elections that are manifested in a fair and transparent elections law, which shall adopt proportionality in elections, the system of one constituency, and administrative decentralisation.
6. The primary language of the country shall be Arabic, and the right of minorities to speak and teach their languages and civilisation shall be maintained.
7. The capital of the country shall be Damascus.
8. Syria shall be a state which commits to human rights law and the principles of democracy, and the freedom of thought and religion shall be guaranteed, and no legislation or law may be issued which violates these rights.
9. The armed forces shall be the protectors of the nation, borders, sovereignty and the constitution, and they shall not interfere in politics.
10. None of the Bill of Rights may be amended.

### 34 The Constitutional Principles of the Al-Tadamon Party

Date of publication: 15/9/2016

Source: Constitutional principles and a constitutional-based vision from the perspective of the Al-Tadamon Party<sup>37</sup>

#### The Constitution:

- It is a group of basic principles which specify the general rights and duties of citizens in the country, in order to ensure their freedoms, of different kinds, protect their private property within the limits of the law, and achieve equality between them.
- The constitution lays down the form of governance (republic, monarchical, parliamentary, etc.) the way in which the public powers are organised within the state, and the relationship of these powers with one another.
- The constitution is considered the highest law in the state, and the constitutional rules are the most important and highest-ranking type of legal rules.
- The new constitution of Syria shall express the will of the people, as a result of a referendum, and it shall be the legal source for all powers, which may not violate the constitution; it is therefore the protector of individual rights against any aggression on the part of authority.
- The constitution shall be based on the principle of the separation of powers.

#### The Pillars of the State

- a. The people: they who hold Syrian citizenship and who are equal in rights and duties.
- b. The territory: made up of land, sea and airspace.
- c. The power: political, administrative, legislative and judicial power.

#### Constitutional Principles:

1. Syria shall be a simple, democratic, secular state with full sovereignty; it shall geographically indivisible while also adopting the administrative decentralized system, and its power shall be democratically derived from the people.
2. Islamic religion shall be the main source of law, and the state shall ensure the respect of all religions and the freedom to practise religious ceremonies, as long as they do not infringe on the public system.
3. The Arabic language shall be the official language of the state, and the languages of all ethnicities shall be respected.
4. The capital of the state shall be the city of Damascus.

<sup>37</sup> Available in Arabic at the following link: <https://bit.ly/2mfkOZ5>

5. The governance system shall be presidential-parliamentary (shared).
6. The new constitution of Syria may not be amended except with the approval of two-thirds of the parliamentary members, and no part of the constitution may be suspended, violated or amended except through a popular referendum.
7. The army and the armed forces shall be a national institution whose responsibility is the defence of the safety, sovereignty and unity of the nation's territory, and this institution shall not be politicised nor shall it belong to any party.
8. Institutions of the state shall be preserved as they are the property of the people.
9. The constitution shall be laid down by a legal constituent assembly, elected for this task by constitutional law specialists from political parties; the members of this assembly shall not subsequently occupy any political or governmental position, with the exception of the constitutional court.
10. The right to run for office and to vote shall be protected for all citizens, and this right may not be overturned except by a judicial decision.
11. Supervising the constitutionality of laws; this shall be done by an assembly which examines the extent to which the laws issued by the legislature and executive are constitutional. This assembly shall consist of judges holding the position of advisor to the Court of Cassation, having left the judicial corps, and the assembly's supervision shall apply to previous, current and future [laws].

**Key stipulations of the new constitution:**

1. The existence of mechanisms to supervise the application of democracy.
2. The ability of citizens to hold parliamentary members to account and remove their membership from them.
3. The ability to oppose, through democratic channels, the laws issued by the legislature or executive.
4. The existence of mechanisms to supervise voting.
5. The existence of a supervising mechanism for the separation of powers.
6. The guarantee of secret voting.
7. The guarantee of the individual freedom, from the principle of the right of equal citizenship.
8. Adopting a quota system in Parliament for political parties, to have parties' voices heard in Parliament.
9. Lack of dual nationality for the President and ministers.
10. The term of the President being set at five years, and renewable only once.

**The constitutional vision of the Al-Tadamon Party is based on the following:**

Holding presidential and parliamentary elections under the provisions of the new constitution, and forming a government in which all demographics of the Syrian people are able to participate, and which can be elected by parliamentary members or by direct election (in accordance with the constitution).

**The vision of the Al-Tadamon Party for the transitional period:**

The solution shall be found in the formation of a Transitional Governing Body, which shall consist of the following:

1. The Transitional National Council: This shall form an alternative to the current parliament, which should be dissolved immediately after the formation of the transitional governing body. The Transitional National Council shall have a full legislative and supervisory role to oversee the transitional period and the issuance of the new constitution, and it shall be made up of all political blocs and civil society.
2. The National Transitional Government: This shall also be made up of all political blocs and civil society, and shall have temporary executive powers.
3. The National Military Council: This shall come under the authority of the Minister of Defence and shall include different armed factions which are joined together in the Syrian army, on the condition that these factions have not been classed as terrorist organisations, and that they accept and are in accordance with this political solution; its role shall be to fight against terrorism, preserve Syria's unity, and move the country from a state of instability into one of stability.
4. The High National Council of the Judiciary: Its duty shall be to restructure the judicial corps, decide on stalled provisions, release detainees, and disband the terrorism court and the field court.

Important note: The validity of the Transitional Governing Body shall end with the election of a new parliament, government and president, according to the new constitution, within a specified time period.



## 35 Executive Framework for a Political Solution

Date of publication: 20/9/2016

Source: The Document of the Executive Framework for a Political Solution published by the High Negotiations Committee<sup>38</sup>

### General Principles

The political transition process is based on the immediate and unconditional implementation of relevant UNSC Resolutions, particularly UNSCR 2254 of 2015, which constitutes the basis of the call for the start of the political process. It is also imperative to focus on the full implementation of operative paragraphs 12, 13, and 14 of this Resolution, as they constitute legal obligations for the international community to implement in preparation for the launch of the political process, in addition to operative paragraphs 15, 16, and 17 of UNSC Resolution 2118 of 2013.

The process for transition to a new governance system in Syria constitutes the basic objective of the political negotiation process in accordance with: the Geneva Communiqué of 2012, the second annex of UNSC Resolution 2118 of 2013 based upon UN General Assembly Resolution No 262/67 of 2013.

This transitional process represents a just political solution which meets the demands of the Syrian people and protects their state and society while ensuring the liberties and rights of all its components in accordance with a set of basic principles summarized herein:

1. Syria is an integral part of the Arab World, and Arabic is the official language of the state. Arab Islamic culture represents a fertile source for intellectual production and social relations amongst all Syrians of different ethnic backgrounds and religious beliefs as the majority of Syrians are Arabs and followers of Islam and its tolerant message which is distinctly moderate.
2. Syria is an independent sovereign state. No part of its territories may be separated or conceded. Nor can its right to regain its occupied territories by all legitimate means guaranteed in the UN Charter be waived. Further, Syria shall comply with international conventions and treaties and the requirements of its membership in the Arab League, Organization of the Islamic Conference, and the United Nations and its affiliated organizations. Syria also endeavors to contribute to international efforts to establish an international order free from conflicts and based on cooperation, mutual interests, and shared 10 responsibility in facing all threats to international peace and security.
3. The Syrian people are the source of powers which they practice through regular and fair elections regulated by law. Their political system shall be based on Democracy, plurality and citizenship which provides for equality in rights and duties for all Syrians without discrimination on the basis of color, gender, language, ethnicity, opinion, religion, or ideology.
4. The ruling system shall be based on principles of separation of powers, independence of the judiciary, ensuring fundamental rights and liberties for all citizens without discrimination, and protection of the right of political expression, freedom of the press, and the right of access to information.
5. The social contract in the new system shall be based on the principle of citizenship where all components of the Syrian people are represented. It further builds upon principles of freedom, equality, justice, and equal opportunities.
6. The Kurdish cause shall be considered a national Syrian cause and action shall be taken to ensure their ethnic, linguistic, and cultural rights in the constitution.
7. The Syrian state shall abide by international conventions and treaties related to human rights, particularly those to which it is party. It shall further commit to securing all legitimate cultural and religious rights for all of its components within the framework of unity of the state and the people.
8. The Syrian state shall adopt the principle of administrative decentralization in managing the country's affairs, giving the people of each governorate and district a role in managing their local affairs: economic, communal, and daily life affairs in ways that do not adversely affect the unity of the country.
9. The state shall work on achieving balanced and sustainable economic and human development within the framework of equal opportunities, fair income distribution, combating unemployment and poverty, and achieving social justice and environmental protection.

<sup>38</sup> Available at the following link: <https://bit.ly/337ThsG>

10. Women shall enjoy all their individual and public rights. The state shall ensure their active participation, which is constitutionally guaranteed at a rate of no less than 30 per cent, in all official institutions and decision-making bodies and positions.
11. The basic principles of the political agreement for the transitional period will ensure public participation in the formulation of national policies and the development of the required mechanisms to achieve this. The rules of decision-making by consensus will apply with respect to legislative and executive procedures which pertain to specific components of the Syrian society. In the event consensus is unattainable, a two-thirds majority decision shall suffice.
12. Achieve civil peace and national reconciliation, and deter revenge and retribution through constitutional and legal controls to be implemented by institutions which adopt uniform, clear and effective mechanisms of accountability and transparency. Furthermore, achieve transitional justice through fairness and equitable recourse. All cases of naturalization initiated since March 2011 (except for the naturalization of Kurdish citizens) shall be deemed void and so too will cases of land and property acquisition made to non-Syrians since that date.
13. The prevention of all forms of foreign interference and the rejection of subordination and the alignment policies enshrined by the regime, and the expulsion of all non-Syrian fighters, sectarian militia, armed groups, mercenaries and military or paramilitary forces belonging to foreign countries from all Syrian territory.
14. The mission of the army and armed forces shall be to defend the homeland and protect its security, independence, and territorial integrity. In doing so, they shall be subject to the decisions of the government. Army personnel shall be forbidden from engaging in political work or membership in political parties and movements as long as they are in service.
15. Confronting and eliminating terrorism – be it consequences of state terrorism practiced by the regime or terrorism practiced by individuals, groups, and organizations – and promoting international efforts to combat terrorism and obliterate the ideological, political, and organizational factors that give rise to it, such as extremism, sectarianism, political tyranny, and corruption.

## 36 A Proposal for the Administration of the Kurdish Regions

**Date of publication:** 12/12/2016

**Source:** The Kurdish National Council<sup>39</sup>

Publications of discussions from 12<sup>th</sup> November 2016

*We present the following from this proposal:*

- **Introduction**

In order to achieve democratic transformation in Syria, and the protection of the freedom, dignity and rights of the individual and of society, and in order to protect and strengthen diversity in the Region;

In order to preserve the state of the law and to put an end to exclusion and discrimination, and to ensure peaceful coexistence coming from a spirit of national reconciliation, beginning with the conviction that diversity in Syria and Syrian Kurdistan necessitates division among themselves of duties and responsibilities in cooperation and unity; beginning with the attempt to achieve economic development in the Region and ensure basic livelihood for future generations, the people of the Region of Syrian Kurdistan, as a part of the Syrian state, present this proposal for the management of the Kurdish-majority areas. It represents a historic turning point in the divergence from dictatorship and oppression, and the beginning of a new era characterised by freedom, equality, justice, and mutual understanding between Kurds, Arabs, Assyrians, Yazidis, Muslims, Christians and all other people and societies living in the region.

- **I) General Principles**

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<sup>39</sup> Available at the following link: <https://bit.ly/2kPogcE>

**Article 1 (Syrian Kurdistan)**

1. Syrian Kurdistan shall be a Syrian Territory
2. The Region shall be entrusted with all the rights and duties that do not fall within the specific, exclusive responsibilities of the whole state.
3. The Region shall participate in all general decisions of the Syrian state according to the Syrian constitution. Likewise, the Region shall be represented in all central state institutions.
4. The rights, commitments and lands of the Region, and its wealth, shall fall under the protection of the constitution. They may not be changed without the agreement of the Region.
5. This constitution shall be considered the highest authority, above all the other rulings related to the Region, and it shall be interpreted in accordance with the spirit and meaning of the main law.

**Article 2 (Purpose)**

1. The Region shall protect and strengthen the security and peace in the area, in Syria and in the world.
2. The Region shall respect and realize the rights and freedoms of all individuals and societies and the general welfare and sustainable development.
3. The Region shall strive to achieve equality and comprehensive participation and shall encourage equal participation of all in all areas of political and social life.

**Article 3 (The Region)**

1. The Region of Syrian Kurdistan shall be a geographically-connected political and legal unit within the Syrian state. It shall include the area that Kurds traditionally reside in. It shall be bordered by Turkey in the north and west, and by Iraq in the east.
2. The Regional Transitional Government shall agree with the Syrian Transitional Government on a temporary demarcation of the lands of the Region under the supervision of the international community. The primary standard for this temporary demarcation shall be those lands in which resides a Kurdish majority.
3. The Regional Transitional Government shall, with the Syrian Interim Government and under the supervision of the international community, work on the issues of expulsion, the illegal destruction of property, and the issue of refugees. And once the agreed-upon measures regarding these issues are implemented, the territory of the Region shall be determined.
4. Amendments to the territory shall require the agreement of the affected population.

**Article 4 (The People of Syrian Kurdistan)**

1. The people of the Region of Syrian Kurdistan shall be all the citizens who live permanently in the Region.
2. The Region shall respect and support population diversity.

**Article 5 (The Region's Authority)**

1. The Region of Syrian Kurdistan shall be a democratic region that is subject to the authority of state law.
2. All powers of the Region shall be derived from the will of the people.
3. The practice of all powers in the Region shall be linked to this constitution. The basis and limits of all practices of powers shall be the law, the common good and proportionality. The application of the laws retroactively shall be prohibited.
4. The practice of power in the Region shall be subject to the principle of the separation of powers. Opportunity must be given for the public to follow up on how power is practised. Laws, provisions and decisions must be published in the official newspaper as well as online.
5. The Region shall take responsibility for all harm that is caused through the implementation of the duties of Region, as well as illegal practices and those which result from neglect and lack of care.

**Article 6 (Responsibility)**

1. All individuals who practise power in the Region must respect this constitution and work in accordance with the spirit and meaning of this constitution.
2. Misuse of power shall be prohibited. All forms of corruption shall be prohibited.
3. One person shall not be able to work in more than one governmental authority at any one time.

4. All those who work in the authorities, before taking up their duties, must recite the following oath: "I swear that I will obey the provisions of this constitution with full conscience, without corruption, and I will respect, protect and defend the rights and freedoms of all citizens."
5. All those who practise power in the Region shall be responsible for their actions. Those who intentionally or as a result of neglect cause harm shall take personal responsibility.

#### **Article 7 (Headquarters)**

The headquarters of the Regional Council and Government shall be the city of Qamishlo [Qamishli], while the headquarters of the Regional Constitutional Court shall be the city of Kobani. The Regional Council may make amendments thereof through legislation.

#### **Article 8 (The Flag, National Anthem and National Holidays)**

1. The flag of the Region shall be made up of three equal horizontal strips, whose colours from top to bottom shall be as follows: red, white and green, with a yellow sun with 21 rays in the middle. The flag shall symbolize the joint affiliation between the Region and the Kurdish-populated areas in other countries, and solidarity with them. In order to underscore the Region's allegiance to the central state, the Region's flag shall be raised next to the Syrian flag.
2. The Region shall have its own symbol, national anthem and national holidays.

#### **Article 9 (Official Languages)**

1. The official languages in the Region of Syrian Kurdistan shall be Kurdish, Arabic, and Assyrian.
2. All people shall be entitled to use their own languages, their own names, and the names of their areas as per their custom.

#### **Article 10 (Religion and the State)**

The principle of separation between state and religion shall be applied in the Region.

#### **Article 11 (Natural Resources)**

All natural resources that do not fall within private property shall be publicly owned by the Region, and shall be used in such a way as they sustainably serve the common good of the people.

#### **Article 12 (Syrian Civil Rights)**

Citizens of the Region shall practise all rights and commitments that pertain to their Syrian nationality.

#### **Article 13 (The Responsibilities of the Region)**

1. The Region shall be self-organised and shall own the resources that are found within it.
2. The Region shall be responsible for all duties that fall within the exclusive jurisdiction of the Region and those for which responsibility is shared with the central government. It shall also be possible for the Region to grant itself other duties.
3. The Region shall enact all laws of the state.
4. The Region of Syrian Kurdistan, within the framework of its responsibilities, shall be entitled to sign agreements with the other Syrian territories, and also with all active international forces. Whereas, foreign policy shall be implemented in coordination with the relevant public institutions of the Syrian state.

#### **Article 14 (Participation in the Central State)**

1. The Region shall organize elections through the central state institutions. Where Region quotas are established for the Syrian state institutions, the Region shall assign those who should take up these posts.
2. International law and the Syrian constitution shall take precedence before the laws of the Region. Amendments to the Syrian constitution or withdrawing from principles in international law shall require the agreement of the Region in the event that they relate to the authorities of the Region. This shall be decided with a two-thirds majority of the Regional Council.
3. The laws of the central state that fall within the domain of its exclusive powers shall take precedence over the laws of the Region where these laws are issued democratically and constitutionally. The Regional Parliament shall be consulted.

4. The laws of the Syrian state that fall within the responsibilities shared with those of the Region shall require the approval of the Regional Council.
  - a. The Regional Parliament shall approve them based on the principle of a simple majority.
5. Where an agreement is not reached between the Region and the Syrian state, the Syrian constitutional court shall arbitrate between them. The Syrian constitutional court shall deliver its judgment after the approval of a majority of the Region's members represented within in.

- **III) Responsibilities:**

#### **Article 51 (Duties of the Region)**

1. The Region shall be responsible for the implementation of governmental duties that do not fall within public responsibilities, which are among the exclusive duties of the central state.
2. The Region shall perform all duties assigned to it in accordance with the Syrian constitution and those which it assigns to itself.
3. The Region shall implement the comprehensive set of laws issued by the Syrian state at the expense of the Syrian state.
4. The Region shall implement the laws which pertain to it at the expense of the Region.

#### **Article 52 (Responsibilities of the Region)**

1. The Region, in the framework of supreme rights, shall manage all issues that fall within its exclusive authority.
2. The Region, in the framework of supreme rights and in joint cooperation with the central government, shall manage all issues for which responsibility is shared between them.
3. The Region shall issue legislation and assign the duty of implementing them to the municipalities. And here the Region shall take into account the specific needs of the Arab-majority municipalities.
4. The Region has the following responsibilities:
  - The management of the Region, including its institutions, the regional divisions, and its finances.
  - The protection and achievement of fundamental rights, and the strengthening of peaceful coexistence.
  - The protection of the border and the security of the Region including its security forces, police, intelligence services, prisons, and protection against disasters.
  - The planning, building and operations of infrastructure and construction plans.
  - Healthcare centres in the Region and hospitals.
  - The educational system in the Region
  - Development in the Region including agricultural, industrial, service and touristic development.
  - Management and use of the natural resources and public property.
  - Protection of nature, the countryside and cultural heritage.
  - Social security.
  - Individual and family rights and inheritance.
  - Labour law and official holidays in the Region.
  - The penal code.
  - Working with other territories and active international forces.

#### **Article 53 (Duties of the Municipal Councils)**

1. The municipal councils shall be responsible for the implementation of all governmental duties that do not fall within the responsibilities of the Region.
2. The municipal councils shall undertake all duties that this constitution entrusts to the municipal councils and those that the municipal councils entrust to themselves.
3. The independence of the municipal councils shall be guaranteed by the constitution.
4. The Region shall take on the financial costs derived from the implementation of the duties that it assigns to the municipal councils.
5. The municipal councils shall take on the expenses derived from the implementation of the administrative duties in the domain of its administration.

6. The municipal councils shall have the right to be heard and to put forward their positions regarding issues that pertain to the interests of said councils.

- **IV. The Powers of the Region**

#### **a) The Regional Council**

##### **Article 56 (Elections and formation)**

1. The citizens of the Region shall vote in general, direct, free elections, equally, according to the principle of secret elections. The Regional Council shall be elected for a term of four years.
2. The Regional Council shall be made up of one hundred seats. Elections shall be based on the principle of proportional representation.
3. The municipal councils shall form the constituencies. Here, appropriate representation must be guaranteed for the different religious sects.
4. At least forty percent of the Regional Council seats shall be designated for women.
5. Each member of the Regional Council who takes a position in the Regional Government shall give up his position in the Regional Council. His successor shall take over the vacancy.

##### **Article 58 (Electing the Prime Minister of the Region)**

The Regional Council shall hold its first meeting presided by the oldest member.

According to the principle of secret elections, the Council shall elect the Prime Minister and three deputies from among its members.

At least one of the deputies of the Prime Minister must be a woman.

At least two of the deputies of the Prime Minister must be speakers of different languages or belong to different a religious sect from that of the Prime Minister.

##### **Article 59 (Members of the Regional Council)**

1. The members of the Regional Council shall enjoy parliamentary immunity.
2. A member of the Regional Council may not be at the same time a member of other governmental authorities.
3. As soon as they take the constitutional oath, the Regional Council member shall end his professional ties and resign from his other positions. Voluntary work shall be exempted.
4. After the member leaves the Regional Council he shall be entitled to return to his previous work which he had been occupying according to its conditions at the time before his membership of the Council.
5. The Regional Council members shall receive an appropriate salary, which may not be reduced during the period of their membership in the legislative sessions.
6. The Regional Council members shall have to disclose their membership in other places and their departmental links.

##### **Article 61 (Responsibilities)**

1. The Regional Council shall take on all duties in the Region and those that this constitution does not assign to other governmental authorities.
2. The Regional Council may not hand over its legislative, electoral and regulatory powers to other governmental authorities.

##### **Article 62 (Laws and Legislation)**

1. Five members of the Regional Council, or an assigned parliamentary committee, shall be able to present a law or a request to the Council to be voted on.
2. Each twenty-five members of the Regional Council membership shall be able to propose amendments to the constitution.
3. Twenty-five members of the Regional Council shall be able to make a request to the central parliament.
4. Draft laws must be published in a limited time in the official newspaper, on the condition that this happens at least thirty days before they are discussed.
5. Before a law is issued, the people to whom the law applies must be given an opportunity to present their opinion. The issued laws enter into force after a period of at least thirty days.



**Article 64 (Election Results)**

1. The Regional Council shall elect the Prime Minister, and he shall place trust in the members of the government.
2. After every new election, the Regional Council shall elect five of the members to be part of the Judicial Selection Body. They may be re-elected.
3. A head of the Finance Office, one member of the Human Rights Council in the Region, and one member of the Higher Election Commission shall be elected.

**Article 65 (Regulation and Supervision Rights)**

1. The Regional Council shall supervise the government and administration.
2. Supervision shall include the right to request information, to perform checks and to carry out accountability at any time. Responses must be made within a specified time period.
3. The Regional Council shall be able to appoint an investigation committee with the approval of a simple majority of its members.
4. The Regional Council shall be the highest supervising authority over the courts, the public prosecution and the independent committees. This shall be limited only to foreign matters in order to keep affairs running.

**Article 66 (Powers of Dismissal)**

1. The Regional Council shall be entitled to dismiss the Prime Minister of the Region and his deputies by an absolute majority of the Council members.
2. In the event that a dangerous constitutional violation is suspected, the Regional Council, based on a request by the Supreme Prosecutor General shall be able to dismiss the President of the Region and the Government members from their duties. The Council shall decide this based on a two-thirds majority of its members. The decision of dismissal shall enter into force immediately after being taken. Where conflicts arise, the Supreme Constitutional Court shall arbitrate.
3. The Regional Council shall decide with a simple majority on lifting the immunity from its members.

**Article 68 (Participation in the Central State)**

1. Amendments to the Region's borders, or parts thereof, and central constitutional changes, must have a two-thirds majority of the Regional Council members.
2. In the event that a decision of the central state to ratify an international agreement or pledge requires the approval of the Region, a simple majority of the Regional Council shall suffice.
3. Planning, construction or maintenance of central state infrastructure in the areas of the territory must be approved by a simple majority.
4. The Regional Council, based on the proposal of the President of the Region, shall select representatives of the Region in central state institutions, with the exception of the Region members in the central Supreme Constitutional Court.

**Article 70 (Elections)**

1. Citizens of the Region shall vote in general, direct and free elections, equally, according to a secret ballot for the President of the Region.
2. The President of the Region shall be elected for a period of five years. S/he may be re-elected once.
3. Each individual carrying Syrian nationality, who is a permanent resident of the Region of Syrian Kurdistan, and who has reached the age of forty years old by the day of the election, may become a candidate for the Presidency of the Region.

**Article 71 (Responsibilities)**

The President of the Region shall represent the Region in domestic and foreign affairs.

1. The President of the Region shall be the commander-in-chief of the Region's Defense Forces.
2. The President of the Region shall call the inaugural session of the Regional Council and shall set the election dates.
3. The President of the Region shall undertake the tradition of medals and decorations and shall name the citizens who are to be honored.

**Article 72 (Powers of Nomination, Ratification and Dismissal)**

1. The President of the Region shall ratify the appointment of the members of the Supreme Constitutional Court of the Region, and all the Region's members of the central Supreme Constitutional Court of Syria.
2. The President of the Region shall ratify the appointment of the head of the financial bureau in the Region.
3. The President of the Region shall dismiss the Government in the event that confidence in it is lost, and s/he shall likewise dismiss the members of the Regional Council in the event of the disbandment of the Council.
4. The President of the Region shall nominate the representatives of the Region to the central state institutions.
5. The President of the Region shall name one member for the Human Rights Committee of the Region and one member for the Elections Committee of the Region.

**Article 73 (Participation in the Legislature)**

1. The President of the Region may raise a proposal for a constitutional amendment to the Regional Council.
2. The President of the Region shall sign the laws issued by the Regional Council.
3. The President of the Region may refuse to ratify the issued law and return it to the Regional Council. The second decision issued by the Regional Council after this shall be considered definitive.
4. In the event that the President of the Region refuses to sign a legally-issued definitive law, this law shall be considered signed after the passing of fourteen days from its final confirmation by the Regional Council.
5. Where disputes arise, the Constitutional Court shall arbitrate.

**Article 74 (Territorial Defense Forces)**

1. The Territorial Defense Forces (the *Peshmerga*) shall defend the Region and its external borders.
2. Based on a given request, the President of the Region may permit the armed defence forces to undertake duties outside the lands of the Region in other Syrian areas on the condition that, prior to this, the period and definition of the mission is clearly laid down. The President of the Region must inform the Regional Council and Government about the kind and length of the mission.
3. The President of the Region shall be responsible for the legality of the actions of the armed defence forces. The President of the Region must, in particular, ensure that the armed defence forces, during the execution of their duties and through their training and education, respect and protect fundamental rights.
4. Recruitment to the armed defence forces shall be voluntary, with the condition that recruits have passed the age of eighteen years old.
5. It shall be prohibited for any armed group not to rely upon the legal principles of this constitution.

**c) The Regional Government****Article 76 (The Formation of the Government)**

1. The Regional Government shall be made up of the Prime Minister, Deputy Prime Minister, and a maximum of ten ministers.
2. Half the members of the Government should be made up of Kurds and the other half should be made up of other groups, on the condition that among them is at least one member who is Assyrian.
3. Women must fill at least half the Government seats.

**Article 80 (Responsibilities of the Prime Minister of the Region)**

1. The Prime Minister of the Region shall be responsible for the governmental plan, the coordination of its projects, and the implementation of the laws and legislation of the central state, and the laws and legislation of the Region.
2. The Prime Minister of the Region shall decide on the general guiding principles to implement the governmental plan.
3. The Prime Minister of the Region shall be responsible for the foreign affairs of the Region.

**Article 81 (Responsibilities of the Regional Government)**

1. The Regional Government shall put in place the governmental plan and the budget.
2. The Government shall be responsible for implementing the legislation of the central state and the legislation of the Region, shall carry out management of the Region and shall issue necessary guidance in this regard. It shall carry out higher supervision of the Finance Bureau of the Region.

3. The Government shall present proposals for constitutional amendments to the Regional Council, shall present draft laws, and shall take the necessary measures to implement decisions.
4. The Regional Government shall be responsible for coordination between the central state apparatus and the apparatus of the Region, and shall practise higher supervision of the work of the municipal councils.
5. The Regional Government, on the basis of a central state request, shall allow for the entry of the Syrian army into the Regional territory, and shall set a clear, specific time limit for the execution of its temporary mission.
6. The Regional Government shall take responsibility for financial accountability before the Regional Council and shall present the revenues and expenses to the Council.

#### **Article 84 (The Police)**

1. The leadership of the Regional police shall fall to the government, which shall supervise the municipal police.
2. The Government shall appoint a police chief in the Region for a period of seven years. S/he may be re-appointed.
3. The police chief shall be accountable to the Regional Council and government.
4. The police chief shall be responsible for the legality of the actions of the Regional police; in particular, s/he shall, by leading the police and through their teaching and training, take responsibility for ensuring their respect for and protection of the law.

#### **d) The Judiciary**

##### **Article 75 (The Formation of the Judiciary)**

1. The judiciary in the Region shall be made up of the Constitutional Court, the public prosecution, and the criminal, civil and administrative courts.
2. The members of these bodies shall make up the judicial authority in the Region. They shall be committed to independence and they may not pursue any other professional or political activity.
3. They shall elect six members from among themselves to the Judicial Selection Committee, who may not be re-elected.
4. The appropriate climate should be ensured for the work of the judges, and a salary for them must be guaranteed.
5. The court of the Peshmerga shall be responsible for investigating criminal offenses that are committed by individuals of the Region defence forces. This shall be governed by the law.
6. The establishment of special or exceptional courts shall be prohibited.

##### **Article 87 (Responsibilities of the Regional Constitutional Court)**

1. The Regional Constitutional Court shall be the highest judicial authority in the Region, and it shall monitor adherence to the constitution.
2. The Constitutional Court in the Region shall elect its head from among its members.
3. It shall determine the constitutionality of issued laws and constitutional amendments proposed by the President of the Region, one of the members of the Regional Government, or ten members of the Regional Council (judicial review only). The request must be presented during a period of no more than thirty days from the date of the issuance of the law. It shall decide on the delay of implementing the procedure.
4. It shall arbitrate in the event of disputes between the institutions of the Regional authority and their members, and between the institutions of the municipal councils and their members.
5. It shall determine, based on a given request, the constitutionality of popular initiatives.
6. Based on complaints lodged by those affected, it shall ascertain the constitutionality of the decisions made by the administrative, criminal and civil courts (supervision of the enforcement, concrete judicial review).

#### **e) The Independent Committees**

##### **Article 89 (Human Rights Committee)**

1. The Regional Human Rights Committee shall be an independent body in the Region. It shall work under the higher supervision of the Regional Council.
2. It shall monitor the execution of fundamental rights, receive lodged complaints, carry out investigations, draft recommendations to the Regional Council, the Government and administration, and periodically publish reports for the Regional Council as well as reports about extraordinary incidents. It shall be able to give its opinion about all proposed legislation. It shall help to apply international human rights commitments and shall be active in the field

- of research and education. It shall be entitled to request information from all bodies and institutions of the state at any time, and shall be entitled to enter into the buildings where Regional governmental duties are being performed.
3. The responsibilities of the Committee shall also include the area of the police and Regional defence forces.
  4. The Regional Council, the President of the Region and the Judicial Committee shall each elect one member of the Regional Human Rights Committee. These members shall appoint nine other members. The length of membership in one cycle shall be six years and shall be renewable.
  5. Half of the members of the Committee should be Kurds and the other half should be from other groups, on the condition that at least one of them is an Assyrian.
  6. At least half of the members of the Committee must be women.

- **V) Participation of the People**

#### **Article 91 (Popular Initiatives)**

1. Citizens of the Region shall have the right to present popular initiatives to the Regional Council and request a popular referendum regarding this.
2. The topic of the popular initiative may include all political issues that fall within the framework of the Regional Council's responsibilities.
3. The popular initiatives that look to amend the constitution shall not be accepted. Likewise, popular initiatives that pertain to the budget, the governmental budget law, and civil service rights shall not be accepted.
4. The popular initiatives must be in accordance with the principles of the Region's constitution and the supreme governing laws. The Regional Council may present a verification request about the constitutionality of the popular initiatives to the Regional Constitutional Court.

- **XII) Finances**

#### **Article 99 (The Region's Participation in Central State Income)**

1. The Region shall be entitled to obtain an equal portion of the Syrian central income, including international aid and loans.
2. Distribution shall be carried out on an equal opportunities basis and according to the demographic proportion of the residents. The resources existing in the Region should be considered, as well as developmental needs. The payment of taxes, and the politics of oppression, deprivation, expulsion and persecution that previous governments used against the residents of the Region, should also be considered.

#### **Article 100 (Central State Taxes and Regional Taxes)**

1. The Region shall carry out the collection of all taxes and fees that are imposed by central state laws and Regional laws.
2. The Region shall prepare reports for the central state regarding taxes that have been collected and the state is permitted to view them.
3. The Region shall contribute to an appropriate incurring of central state expenses including the assistance of other regions.

#### **Article 102 (Financial Transfers in the Region)**

1. Half the Region's revenue shall be given to the municipalities for the execution of their duties.
2. Distribution shall be carried out on an equal opportunities basis and according to the demographic proportion of the residence. The existing resources within the municipality and its development needs shall also be taken into consideration.

#### **Article 105 (Region- and Municipality-Owned Companies)**

1. The owned companies and associations of the Region and municipalities must be organised economically and shall fall under the higher supervision of the Regional Council and municipal council. Annual reports must be prepared on the expenses and revenue.
2. Total or partial privatisation of state-owned companies and associations shall require the approval of the Regional Council and municipal council.

- **XIV) Constitutional Amendments**

#### **Article 110 (Constitutional Amendments)**

1. Twenty-five members of the Regional Council shall be able to propose a constitutional amendment. This same right shall be granted to the Government and to the President of the Region.
2. The constitutional amendment shall be considered accepted and enter into force where two-thirds of the members of the Regional Council agree to it, and with the approval of a majority of those representing non-Kurdish constituents.
3. Where the constitutional amendment relates to the composition and territory of the municipalities, or their rights and responsibilities, approval of the councils of those municipalities shall be required as well as that which is aforementioned.

- **X) Transitional Provisions**

#### **Article 112 (Entry into Force of the Constitution)**

1. This constitution shall be considered legally valid upon the approval of two-thirds of the voters in a general referendum.
2. The voters who shall be allowed to vote are:
  - Individuals registered in the civil registry of the Region at the time of the referendum.
  - Individuals whose nationality was stripped from them in 1962 who are known as *Maktoum*, and their offspring.
  - Individuals who are entitled to participate in the vote must register themselves before participating in the referendum.
3. If a person is unable to present verification documents for the abovementioned criteria, they may be accepted under oath in the presence of two witnesses.

## **37 The Syrian Constitution Shall Be Written by Syrians**

**Date of publication:** 01/2/2017

**Source:** Joint statement made by 40 Syrian civil society organisations<sup>40</sup>

- TE Syrian negotiating parties
- TE Ministers of The International Syria Support Group (ISSG)
- HE Antonio Guterres, United Nations Secretary General
- HE Staffan Di Mistura, United Nations Special Envoy to Syria

We, the undersigned Syrian organizations, received with great indignation and alarm, the news of the Russian government handing a group of Syrian dissidents a copy of its suggested version of a Syrian constitution. We consider this action as an affront to the right of the Syrian people to decide the constitution and the future of their country. It is an action that reveals a mentality of an occupier that dictates its will on the occupied people, and in a way that violates the rules of national sovereignty, international law, and the right of the people to self-determination.

The undersigned Syrian civil society organizations, reaffirm their position on the need to end the war in Syria, and their commitment to a politically negotiated solution based on a peaceful political transition process to be reached in negotiations in accordance with international resolutions issued in this regard, and in line with the terms of the Geneva I Communiqué of the Syria Working Group issued on June 30, 2016. The undersigned organizations believe that the process of drafting a permanent Syrian constitution must come at a later stage at the end of the transition period, and that the constitution should be drafted by a National Constituent Assembly. The negotiating parties should agree upon the composition of this assembly and the procedures for electing its members. The membership of the Assembly should be based on legal and constitutional expertise, and the status of individuals and their integrity. After that, the proposed constitution should be submitted to a referendum to ensure the consent and buy in of the Syrian people.

In this context, the undersigned organizations affirm their support to the international efforts to expedite the negotiation process in Geneva, and believe that this process must be coupled with confidence-building steps among all parties in order to create the suitable conditions for the success of these negotiations. This process should be in line with the stipulations of the international resolutions issued by the Security Council in this regard; in particular:

<sup>40</sup> Available at <https://bit.ly/2K5wtEs>

- A nationwide cease-fire
- The release of detainees and abductees, men and women
- Lifting of all sieges and the continuous and unhindered humanitarian access to all areas
- Stopping the practice of forced displacement of the population

The undersigned emphasize that the outputs of the negotiating process should be consistent with the aspirations of the Syrian people in the establishment of a state that respects freedom, dignity and citizenship. Further, they emphasize that in the transitional phase Syria needs a constitutional declaration, or an interim constitution that focuses on the following constitutional principles:

1. The unity, independence, and sovereignty of the Syrian territory, and the People as the source of authority and legislation.
2. Separation of Powers, and establishing the principle of checks and balances clearly in the Constitution.
3. The Constitution must safeguard the peaceful transfer of power, so as to prevent tyranny and dictatorship, and to ensure that no one should serve as a president for more than two consecutive terms.
4. Subjecting the army and security forces to the elected civil authority. Persons working in the military or the security services are to be banned from work in the political sphere.
5. The Constitution must safeguard the rights of individuals, including freedom of thought, freedom of expression, freedom of access to information, freedom of privacy, and religious freedoms.
6. The Constitution must safeguard the rights to assembly, demonstrations, and strikes, including the right to establish political parties and civil society organizations.
7. The Constitution must safeguard community diversity in Syria, and the rights of communities to participate in governance through adopting the principle of decentralization, and ensure a just solution to the Kurdish issue within the framework of the unity, independence and sovereignty of the Syrian territory.
8. Independence of the Judiciary, and the ratification of international human rights treaties and a commitment to implement them.
9. Launch an integrated path for Transitional Justice based on the truth, accountability, fairness and reparations in order to protect national unity, prevent revenge, and establish durable societal peace.

Prevent discrimination on the basis of sex, origin, language, religion or creed, wealth or social status, political views, or disability or any other reason. Safeguard the full equality of all citizens, men and women in the civil, political, economic and social rights, in all spheres of public life and family life. Adopt policies and mechanisms to achieve the principle of equality between women and men in the legislative and executive bodies, in all representative institutions, including political parties and civic associations.

## 38 Outcomes of the Constitution Workshop in Cairo

**Date of publication:** 18/3/2017

**Source:** Outcomes of the Constitution Workshop that the Movement held in Cairo<sup>41</sup>

From the Outcomes of the Constitution Workshop that the Movement held in Cairo on 17-18 March 2017

- There is a need for a political process resulting in an international political document for the Syrian solution, which could come from the development of a constitutional declaration or a draft constitution, governing Syrian life and relations, developed during the transitional period, followed by the drafting of a new constitution by a Constituent Assembly.
- It is necessary that the constitutional declaration, or constitution, and any international document for the political solution, maintains the principles of freedom, citizenship, democracy, the separation of religion and state, the rights of constituents and minorities and women, and general political and economic rights, the rule of law, the peaceful transfer of power, and the separation of powers.
- The participants agreed that Syria should have a decentralised system, and they discussed the options of decentralisation and federalism, and the alternatives of the presidential, semi-presidential, parliamentary and

<sup>41</sup> Available in Arabic at the following link: <https://bit.ly/2QR9ptV>



council systems. There was a discussion around the demands of the Kurds, and the other constituents, and their vision for the future of Syria. They emphasised the rejection of, and resistance to, terrorism and religious, sectarian and ideological extremism.

- It is necessary to have a constitutional body which would oversee the work of transitional governance, and this body would be independent from the governing body, and would have powers that will be prepared in the upcoming period to ratify a new constitution, which will delineate the characteristics of the state, the form of governance, and the separation of powers.
- Underscoring the articles preserving political rights for individuals, which strengthens the principle of citizenship, and which necessitates the empowerment of citizens and the consolidation of the constitutional culture. This must include gender considerations in the drafting of the constitutional contents, by guaranteeing female representation in political and public life.

### 39 Principles Related to the Constitution Basket in the Geneva Negotiations

Date of publication: 12/5/2017

Source: The Kurdish National Council in Syria<sup>42</sup>

- To create a democratic state of Syria, in which all population groups enjoy their full political, social and cultural participation rights, wide-ranging principles of power sharing must be defined in the constitution. The allocation of competencies to the local, regional and central level is an applicable approach for this purpose. Hence, within the scope of the constitutional debate a commission has to be set up, whose task it is to discuss which forms of decentralisation are eligible for Syria. Inter alia, the federal approach, for which the KNC pronounces itself, has to be discussed.
- Powerful institutions, notably independent courts, are a crucial precondition for the sharing of powers to succeed. The Kurdish National Council therefore demands a legal anchoring of an independent and powerful jurisdiction in the constitution, in particular also the establishment of an independent constitutional court which includes representatives from all ethnic and religious groups.
- The Kurdish National Council recommends the establishment of a bicameral system, in which the second chamber ought to be composed of the provinces' / the regions' / the federal states' representatives. The establishment of both chambers must be regulated by the constitution.
- Veto right has to be granted to the Kurdish National Council in all constitutional issues concerning culture, language, education, decentralisation and minority rights. This must also apply to the decision making in all working groups and subcommittees. The right to veto regarding minority rights is to be granted regardless of the Kurds defining themselves as an autonomous nation and not as a minority. The Kurdish National Council is aware that the legal anchoring of the minority rights chartered by the UN (UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities) are a basic prerequisite for depriving ethnical discrimination of its foundation. Veto right in all mentioned areas also is to be granted to other groups, for instance the Assyrians. Collectively, Kurds, Assyrians and potentially additional groups must have an absolute right to veto in the areas mentioned above.
- The Kurds, apart from / alongside the Arabians, are to be recognised as an autonomous nation in the constitution. Syria is to be described as a multi-national state in order to reflect the religious, ethnical and national diversity of the country and to prevent renewed discrimination of ethnic and national groups in the future.
- Provided that the constitution is to be adopted by constitutional referendum, the opportunity of participation in the referendum is to be guaranteed for all Syrians living in diaspora. An internationally organised census has to precede the constitutional referendum. Its purpose is to ensure the registration of all inhabitants of Syria and to secure the access to participation in the referendum for those groups as well, who have been excluded from the political process in the past, for example by deprivation of citizenship. Furthermore, the constitution needs to have a majority in all Syrian regions, including those with a Kurdish majority.

<sup>42</sup> Available in Arabic at the following link: <https://bit.ly/2Z9qMcj>

For this purpose, new boundaries have to be defined for the provinces prior to the constitutional referendum. The boundaries have to grant the Kurds their own territory (where there is a Kurdish majority). The Kurdish population's approval of the constitution and its votes carrying weight is of importance for legitimising the new democratic structures and for protecting peace and territorial integrity in Syria.

Once the approval of a constituent assembly has occurred, the representation of Kurds in this assembly at not less than 15 per cent of the votes has to be ensured. Each of the assembly's decisions requires a double majority, both by the majority of the assembly's members in total, as well as a majority amongst the different national groups' representatives. Aside from the approval by the majority of Arabians, the approval of the constitution by the majority of Kurds, Assyrians and potentially other (e.g. religiously defined) groups has to be secured.

## 40 The Constitutional Proposal of the Liberal People Party

**Date of publication:** 24/9/2017

**Source:** From the full text of the constitution on the Liberal People party's website<sup>43</sup>

*The full text of the constitution can be found on the party's website, available in this study, and we present below the main ideas and principle features of this draft constitution.*

Regarding the main principles of the state:

Article One: The Syrian Arab Republic shall be a parliamentary democratic, racially pluralistic, fully sovereign, indivisible state, no part of whose territory, nor the independence over any part of its territory, may be waived, regardless of the reasons and motivations, and the Syrian Arab Republic shall cooperate with the Arab, Islamic, regional and international people on the principle of mutual respect.

Article Two:

1. The system of governance in the state shall be a parliamentary republic.
2. Sovereignty shall be with the people, who shall be represented by Parliament, elected by the people freely and fairly.
3. The people shall practise sovereignty over the state through Parliament, elected by all people in free and fair elections, within the limits prescribed for Parliament in the constitution.
4. The three powers – the legislature, executive and judiciary – shall be independent and separate from one another, and in the event of any conflict, the legislature represented in Parliament shall take precedence.

Article Three:

1. The religion of the state shall be Sunni Islam, given that the vast majority of the people are Sunni Muslims, and religious minorities and other creeds shall be allowed to practise their religious ceremonies freely.
2. The religion of the President, the Head of Parliament, the Head of the Supreme Constitutional Court, and the Prime Minister shall be Sunni Muslim.
3. Sunni Islamic Law shall be the primary source for legislation, and the constitution shall take into consideration the religious provisions of other minority religious sects. It shall guarantee for them the freedom to practise their religious ceremonies.
4. The constitution shall respect all religions, sects and races in Syria, and shall guarantee their freedom insofar as it is not in opposition to the provisions of the constitution.
5. Personal status of other religions and religious sects shall be protected and preserved in the constitution insofar as it is not in opposition to the provisions of the constitution.

Article Four:

The official state language shall be Arabic, as the vast majority of the people are Arabic-speaking Arabs, and other racial minorities shall be allowed to practise their own languages freely, in addition to Arabic, in the areas where they are present.

Article Five:

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<sup>43</sup> Available at the following link: <https://bit.ly/2K4T3xg>

The capital of the state shall be the ancient, historic city of Damascus, and the Parliament shall have the right, if absolutely necessary, to temporarily change the capital, given a majority of ninety percent of its members, among whom shall be the Head of Parliament.

Article Ten:

1. The political system of the Syrian Arab Republic shall be based on the principle of democracy, and political and party pluralism, and the security and armed forces shall not have the right to intervene in political affairs of the nation.
2. The Syrian people, in all their demographics, shall practise the democratic process through popular elections, or a free and fair popular referendum, for the whole spectrum of the Syrian people.
3. The different political parties shall participate in national political life, on condition that they respect the democracy, unity and national sovereignty of the Syrian nation, and all the demographics of Syrian people.
4. Public employment and public money shall not be exploited for political, party, electoral or personal aims.
5. The law shall govern the provisions related to the clauses of this article.

Article Eleven:

The constitution shall guarantee the protection of Syrian society's cultural diversity in all its constituents and demographics, as the condition of strengthening national unity of the Syrian nation, and for all constituents of the Syrian nation.

Article Thirteen:

The armed forces on Syrian territory shall be diverse and not limited to the army; the divisions of the armed forces, the number of individuals in each, and their powers, armament and subordinates, are outline in Article 112.

#### Regarding the strengthening of the role of women:

Article Twenty-Five:

1. The state shall provide to women and men, each according to their nature, the opportunities that allow them each to participate actively and fully in societal affairs.
2. The state shall work towards removal the constraints that prevent the development of women and men, and their participation in the building of society.
3. The state shall ensure for each citizen the right of movement, travel, residency and work in any part of the nation's territory, and no group shall be entitled to establish racial or sectarian cantons in the Syrian nation.
4. The law shall govern the implementation of the clauses of this Article.

#### Regarding rights and freedoms:

Article Thirty-Five:

1. Freedom shall be a basic, legitimate right for all citizens guaranteed by the constitution.
2. The state shall guarantee for its citizens their personal, social, economic, political and financial freedoms.
3. The state shall preserve the dignity, security, safety and rights of its citizens, protected by the constitution.
4. Citizenship shall be a basic principle in the state, involving rights and duties which every Syrian citizen personally enjoys, practises and commits to.
5. Citizens in all their demographics shall be equal in rights and duties.
6. The state shall guarantee, for all religions, creeds and sects of all citizens, the freedom of religion, and the freedom to practise religious ceremonies.
7. The state shall guarantee the personal freedoms and equality of opportunity for all citizens.
8. The law shall govern the implementation of the clauses of this Article.

Article Forty-Eight:

1. Permanent, temporary and compulsory military service shall be a constitutional duty, and the law shall govern the percentage of minorities in the army, armed forces and security apparatus.
2. Defending the safety and unity of the nation, and preserving its secrets, shall be a duty for all citizens.
3. It shall be strictly forbidden for any individual in the armed forces or in the various security forces to join any political party, or racist, sectarian or racial group.

#### Regarding the Legislature:

Article Fifty-Seven:

1. Legislative power shall be assumed by Parliament, elected legitimately and fairly by the people, in the manner specified in the constitution and the laws pertaining to elections.

2. The President is not entitled, nor is any other power outside Parliament, to dissolve Parliament.

Regarding the Powers of the President:

Article Eighty-Three:

1. The President and his deputies, the Prime Minister and his deputies, and the ministers and their deputies, shall practise executive power in the state, within the limits of the constitution.
2. The President, within the limits prescribed in the constitution, shall practise his executive powers after free and fair elections by the people.
3. The President shall take the constitutional oath before Parliament before taking on his executive duties
4. The Prime Minister and his deputies, and the ministers and their deputies, shall practise executive power after taking the constitutional oath before the President, within the limits prescribed in the constitution.

Article Eight-Four:

The conditions for running for the office of the President are as follows:

1. He must be at least forty years of age.
2. He must enjoy Syrian nationality, of two parents who enjoy Syrian nationality.
3. He must have his civil and political rights, and must not have been convicted of a dishonourable crime or misdemeanour.
4. He must not be married to a non-Syrian spouse.
5. He must be an Arab proficient in the Arabic language.
6. He must be a Sunni Muslim Arab, of two parents who are Sunni Muslim Arabs.
7. He must have been born in the Syrian Arab Republic, and be residing therein for a period of no less than ten years of his life prior to his candidacy.
8. He must have obtained the minimum of a university degree.
9. He must be a soldier or a member of the security forces during the ten years prior to his candidacy.

Regarding the Armed Forces and Security Forces:

Article One Hundred and Twelve:

The armed military forces on Syrian territory:

1. The armed forces shall be made up of the army, security forces, the state guard, border guard, constitutional guard, republican guard, and all their formations and types shall be the property of the people, for the protection of the people and nation.
2. The armed forces in the state shall be divided as follows:
  - a. The Syrian army, in all its land, air, sea and missile formations: its mission shall be to protect the nation's territory and sovereignty from any external aggression. It shall not be permitted for the army to interfere in political, party, sectarian, or racial affairs, or the internal affairs of the state, or in political, security, administrative, organisational, legislative and judicial affairs of the state, under any circumstance. The government's Minister of Defence shall be the commander-in-chief of the Syrian army, and it shall be from him/her that all decisions, orders and instructions related to the Syrian army, and necessary for the practice of this authority, are issued. The position of the Minister of Defence shall be a political position along with all other ministries, and it shall not be mandatory for the Minister of Defence to have come from the military.
  - b. The police forces and internal security, in all their land, air, sea and missile formations: their mission shall be to protect the security of the Syrian people, in all their sects, races, religions and political leanings, and to protect the infrastructure of the state, key locations and centres of national wealth. It shall be specialised in the internal security of the state, and it shall not be allowed to use these forces against the people or to politicise them. The police forces and internal security shall include all the apparatus of the intelligence, secret police and police in all its different types, and the different supervision apparatus, the information security apparatus, and all that relates to the internal security of the state. The police forces and internal security shall come under the authority of the Minister of the Interior, who shall be the commander-in-chief of the police forces and internal security. It shall not be mandatory for the Minister of the Interior to have come from security forces or the military, and the position of the Minister of the Interior shall be considered a political position along with all other ministries.
  - c. State guards, in all their land, air, sea and missile formations, and the air defence, and the special security and the special intelligence: their mission shall be to protect the institutions of the state, the three branches

of the republic system (the legislature, executive and judiciary), and Parliament, in order to grant protection to the republic state system. The state guard shall have a special system for intelligence and information, in cooperation with the Ministry of the Interior. The state guards shall come under the authority of the Head of Parliament, who shall be the commander-in-chief of the state guards, and it shall not be mandatory for him to have come from the military or security.

3. The armed and security forces, and the state guard, in all their divisions, may not be politicised, as mentioned in the previous paragraph of this Article; no member of the armed or security forces, or the state guard, may join any political party, or racial or sectarian group, or religious party, and the Law shall specify the penalty for those who violate the provisions of this paragraph.
4. The police and security forces shall be national institutions established to serve the people and preserve the internal security of the nation, in accordance with the constitution; they may not be used to oppress, degrade, ridicule or attack the people, and they shall not be entitled to arrest any person or persons without an official judicial warrant or in cases of a witnessed crime.
5. The law shall specify the armament, number of persons, and duties of each of the abovementioned military forces, and it likewise shall govern the implementation of the clauses of this Article.

#### Regarding the State of Emergency:

Article One Hundred and Fourteen:

1. In cases of severe threat to the safety of the people and nation, the President shall make a justified request to announce a state of emergency, for a limited period, to Parliament, and the state of emergency shall be announced with a three-quarters majority of the parliamentary members.
2. The Emergencies Law shall be extended at times of critical need, for a limited period, by request of the President to Parliament, and this extension shall come into effect with a majority of eighty percent of the parliamentary members.
3. The state of emergency shall be terminated with the end of the designated period, or with a justified request by the President to Parliament, and the decision to repeal the state of emergency shall come into effect with an absolute majority of the parliamentary members.
4. A state of emergency may not be implemented without specifying a time limit.
5. A state of emergency may not be implemented for more than four months, and it may not be extended more than twice, for two months each time.
6. The law shall specify the emergencies that shall allow for a state of emergency to be implemented, and the law shall also govern the implementation of the clauses of this Article.

#### Regarding the centrality of the state:

Article One Hundred and Thirty:

The Syrian Arab Republic shall be made up of different administrative units, and the law shall govern their form, number, borders, responsibilities, legal personality, financial and administrative independence, and their relationship with the central state authority.

#### Regarding the Judiciary:

Article One Hundred and Thirty-Three:

1. The judiciary shall be completely independent and the constitution shall guarantee its independence.
2. The President and the Supreme Judicial Council shall put into effect and oversee the independence of the judiciary.

Article One Hundred and Thirty-Four:

1. Judges shall be independent, and there shall be no authority over them in their responsibilities except for the law.
2. The honour of judges, the supervision of their consciences, their morals and God shall be the guarantor for people's rights and freedoms, and the justice of their cases.

Article One Hundred and Thirty-Eight:

1. The motto of the judiciary and courts in the state shall be the following words of the Almighty God: 'Be just: that is next to piety.'
2. Judicial decisions shall be issued with the phrase: "In the name of God, in the name of the people and the nation".

#### Regarding Amendment of the Constitution:

Article One Hundred and Fifty:

1. The President, or one third of the parliamentary members, shall have the right to propose a constitutional amendment.
2. The proposed constitutional amendment shall include: the texts that are proposed to be amended, prior to and following amendment, and the reasons put forward for this amendment.
3. Immediately after a proposed amendment has been received, Parliament shall assemble a special committee of parliamentary members specialised in the law, in order to examine it.
4. Parliament shall discuss the proposed amendment, and if it is agreed upon by a majority of three-quarters of Parliament, with the approval of the President, the amendment shall be considered final.

Article One Hundred and Fifty-Three:

This constitution may not be amended until two years have passed since its entry into force.

Article One Hundred and Fifty-Four:

The effective laws and legislation issued before the entry into force of this constitution shall remain valid until they have been replaced with those that are in line with the provisions of the new constitution, on the condition that this takes place in a period of no more than one year following the entry into force of this constitution.

Article One Hundred and Fifty-Five:

Legislative elections for Parliament shall take place with a popular, general, free, fair and secret referendum, within ninety days of the ratification of the constitution.

## **41 Istanbul III Paper: 31 Principle Points for a Draft Constitution in Syria**

**Date of Publication:** 1/12/2017

**Source:** Outcomes of a Dialogue Workshop from Various Syrian Opposition Groups in Istanbul<sup>44</sup>

During the fourth dialogue workshop in Istanbul, members of various groups of the Syrian opposition worked for four days intensively on the cornerstones of a future constitution for Syria. Their discussion was based on the Istanbul-Paper II, which summarizes the results of the workshop from May 2017 in 23 points. The participants worked through seven thematic blocks and went more and more into detail. Accordingly, the previous points have been adapted and supplemented. In the end, the participants agreed on 31 points, which are represented in the following document.

Istanbul-Paper III

1. Syria is a democratic state. All state power is based on the will of the people and is exercised for the benefit of the population.
2. Syria is a constitutional state that respects the principles of separation of powers. The law is the basis and gatekeeper of all state power.
3. Syria is a federal state that shares power and resources between the national, regional, and municipal levels.
4. Syria respects, protects, and promotes the diversity of its population. All ethnic, religious, and linguistic groups are a part of Syria's identity and are recognized as an integral part of Syrian society. All groups big or small have the same claim to the respect and protection of their rights, preservation, and support of their cultural identity and to the heritage as well as the right to preserve and promote their cultural identity and equal opportunity in the state.
5. In determining the name, flag, the anthem and further traits of the Syrian state the diversity of its population will be taken into consideration.
6. Syria respects, protects, and fulfils internationally recognized human rights and minority rights. Actions and statements directed against the fundamental principles of the constitution or inciting hate and violence, are prohibited.
7. Syria's territorial integrity is guaranteed.
8. All levels of the Syrian state guarantee the equal participation of all groups in the state and its institutions and ensure equal political, economic and social opportunity for all citizens. The administration at all state levels is inclusive and represents all groups in accordance with their proportion of the overall population. An overrepresentation of very small and dispersed groups is permitted.

<sup>44</sup> Available at the following link: <http://knc-geneva.org/?p=1921&lang=en>

9. On the national level the following languages are recognized as equal official languages: Arabic, Kurdish, Turkmen, and Assyrian. The needs of other language groups will be taken into consideration. In every region at least one national language must be recognized as an official language. The regions can designate one or more additional languages as official languages.
10. Syria guarantees equal rights and responsibilities for men and women, and ensures the adequate representation and co-determination of women in all institutions of the Syrian state. In all federal, regional and municipal institutions the representation of women must be at least 30 percent.
11. Syria is a democratic civil state that is based on a separation of religion and state. Freedom of religion and conscience for all is respected and protected by the national constitution. The state treats all religious groups with respect and constitutionally recognizes the religion of the Yazidi.
12. Syria has a constitutional court that monitors human rights, the rights of all ethnic, religious, and linguistic groups, and the division of power and resources; it also protects the values of the constitution. The constitution determines the number of judges, their term in office, and the requirements of eligibility for election. The second chamber elects the judges with a two-third majority. An independent electoral commission prepares the election and receives the recommendations from the president, the first chamber, the regional governments, and the ethnic, religious, and linguistic groups, the parties, and the lower court. During the election and the preparations for the election it must be ensured that the different regions of Syria and the ethnic, religious, and linguistic groups are adequately represented. At least one constitutional judge has to be a native speaker of Arabic, Kurdish, Turkmen, and Assyrian. If there is a draft bill or another parliamentary directive, one quarter of the members of the second chamber, one quarter of the members of the second chamber, the president, or two regions can call on the constitutional court to make a decision on the constitutionality of the draft within a specific time period. Regions, municipalities, and other state actors as well as natural and legal persons that address a violation of the constitution can file a grievance to the constitutional court. The grievance can address government actions or nonfeasance. The constitutional court annuls laws and rulings that violate the constitution. In the case of an emergency it reviews the adherence to the emergency laws. The constitutional court decides quickly. It carries out a preliminary review to ensure that an urgent procedure is treated with the appropriate urgency and that abusive procedures are met with rebuff. If the trial court delays the process for undue reasons, the plaintiff can appeal directly to the constitutional court. The constitutional court has personal and institutional independence and financial resources that allow it to function efficiently.
13. An independent electoral commission plans, organizes, and carries out the elections. The Syrian president is elected directly. That person is elected when he or she obtains the majority of votes of the entire population and the approval of the majority of the regions. The president's function is mainly representative and symbolic. The president appoints a member of parliament to the role of prime minister. The latter takes office when a two-third majority in parliament shows a vote of confidence. The prime minister forms a cabinet, which must be approved by the parliament.
14. The Syrian parliament is comprised of two chambers. In the first chamber all groups are represented according to their demographics. The representatives are elected directly. In the second chamber all regions are represented with the same number of votes. The regions decide how their representatives are chosen. The election process in the regions ensures an adequate representation of all ethnic, religious, and linguistic groups. The Assyrian and Yazidi communities as well as other very small and dispersed groups have an additional claim to a representative in the second chamber. Decisions that affect regional responsibilities, as well as projects in the common interest of the Syrian state, require the approval of two-thirds of the members of the second chamber.
15. The national level is only responsible for the areas assigned to it by the constitution. This includes:
  - a. Defence,
  - b. Currency,
  - c. Citizenship,
  - d. Political Foreign Relations,
  - e. Criminal Law,
  - f. Property Law, Contractual and Commercial Law, Debt collection and Bankruptcy Law, Banking law and Stock Exchange Law,
  - g. The planning and implementation of projects that are in the common interest of the Syrian state; the national level works closely with the regions particularly affected by these projects and takes their interests into consideration.



16. The remaining state functions fall under the responsibility of the regions, notably education, health, police, civil law, family law, and inheritance law, the planning and implementation of regional infrastructure and development and culture. The regions are responsible for protecting the environment and cultural assets, as well as for realizing Syria's obligations under international law.
17. The regions are responsible for education and operate schools and universities independently. They recognize the right of ethnic, religious, and linguistic groups to self-determined education and respect and protect the autonomy of the university. They authorize and supervise private educational institutions. The regions design the education system and determine the curricula in accordance with the International Convention on the Rights of the Child and other obligations Syria has under international law. To facilitate the mutual recognition of educational qualifications, the regions coordinate the levels of education and general educational objectives. The national level can support university teaching and research and coordinate international cooperation; in doing so it respects the responsibilities of the regions and the autonomy of the universities.
18. The regional governments are responsible for the police. The national level is in charge of the federal police, whose job is to protect the national constitution and guarantee international police cooperation.
19. Political foreign relations are the exclusive responsibility of the federation. Syria respects international law and fosters peaceful relations to its neighbours and to the international community.
20. Regions can work together with other regions or international actors to fulfil their functions and areas of responsibilities and to this end negotiate contracts. They are required to inform the national level about these activities. If a region or the majority of the first chamber is of the opinion that this cooperation is violating the constitution or is damaging Syrian interests, it can call on the second chamber. The latter decides with a two-thirds majority if the cooperation is permissible.
21. The military, the security agencies, and the police are under civil control and are accountable to the national and regional parliaments respectively. The secret service is subject to supervision by a parliamentary commission.
22. Together the national and regional levels ensure for the highest standards of social security. The national level regulates old age and survivor benefits, health and accident insurance as well as unemployment insurance. The regional level carries out the regulations. An appropriate share from the revenues of natural resources is available for social security and supplements the revenue as a premium. Every person in need has a claim to state assistance and care.
23. The national and regional levels ensure the provision of water, energy, and means of communication to the population.
24. Every region has its own constitution and its own administration. The regional constitutions as well as the regional laws cannot contradict the higher laws of the country and international laws.
25. The borders of the regions will be redrawn. A commission made up of domestic and international experts works out proposals for a redrawing of the borders under UN direction. This redrawing takes into consideration ethnic, religious, and linguistic criteria and consultations are carried out. Building on the proposals of the commission the first parliamentary elections for both chambers and the presidential elections take place. The second chamber appoints a border commission from their members in which all ethnic, religious, and linguistic groups are represented. The border commission receives applications for changes to the regional borders, consults with the domestic and international experts and works on proposals for the second chamber. The proposed boundary changes take effect when all members present in the second chamber approve them. In the absence of a consensus in the second chamber, referenda take place in the regions under question. The border commission plans and monitors the implementation of the referenda and can entrust the UN with the monitoring.
26. Independently of their place of residence, ethnic, religious, and linguistic groups enjoy the right to cultural self-determination, in particular in the areas of education, religious practice, and fostering culture. To this end, they can establish institutions that ensure cross-border cooperation.
27. The regions recognize the rights of all groups to local self-government. The borders of the municipalities will be redrawn if need be and ethnic, religious and language criteria will be taken into consideration.
28. The national level is responsible for customs, value added tax, and the special exise tax. The regions levy direct taxes on the incomes of natural and the net income of juridical persons. The natural resources belong to the regions and all of Syria; the regions administer the natural resources in the interest of the entire state. The revenue from the natural resources serves to cover the needs of all regions. The region that has the natural resource has a claim to an appropriate share of the revenue from that resource. The financial compensation between the federal and regional levels as well between the regions ensures that all state communities have access to the funds they need

to fulfil their functions. The following criteria are decisive for the compensation: population numbers, need for social benefits, economic development, need for reconstruction and compensation for past injustices. An independent financial commission keeps watch over state financial resources and annually work on proposals for the parliament on financial compensation. The commission is comprised of independent experts for public finances and is appointed by both chambers of parliament.

29. All levels of state are obliged to share information, to loyal cooperation, and to peacefully put aside conflicts.
30. An independent commission compiles suggestions for the parliament concerning the transitional justice and ensures that the crimes of the past are being prosecuted.
31. The process of drafting a constitution must align with the principles laid out in this document and take into consideration the legitimate interests of all ethnic, religious, and linguistic groups. The claim of all Syrian components to equal participation in the state also applies to the process of drafting a constitution. The following constitutional principles must not be limited or repealed: democracy, rule of law, human rights, the rights of ethnic, religious, and linguistic groups, the Social State Principle, and federalism.

## 42 General Guidelines Representing the Spirit of the Constitution

**Date of publication:** 7/5/2018

**Source:** 'The Day After' Website for the Support of Democratic Transition in Syria<sup>45</sup>

The principles below are binding guidelines that represent the spirit of the constitution from which it cannot deviate.

1. The transitional and permanent constitutions will begin with "We, the Syrian people," to underscore that the people, and not any party or government, are the sovereigns in Syria.
2. Syria is a civil, democratic, and free state.
3. Syria is a territorially unified state.
4. Syria is a multi-ethnic, multi-religious, multi-lingual, multi-sectarian society that respects its diversity.
5. As a multi-ethnic society, Syria recognizes ethnic diversity as a valued part of its social fabric. Syria is a part of the Arab world.
6. The state is neutral toward religion, respects its values, and neither compels nor impedes religion among the people.
7. Islamic sharia, Christianity, and other religious and humanist traditions are sources to inspire legislation.
8. Syria's system of government will be based on the principle of administrative decentralization.
9. Fundamental human rights are to be included among the constitutional principles: in particular, anti-discrimination, equality, and due process, as well as freedom of thought, mobility, consciousness, belief, opinion, expression, assembly, and association.
10. The rights and freedoms are to be guaranteed equally to male and female persons.
11. Every individual is equal before and under the law and has the right to equal protection of and benefit to the law without discrimination.
12. Every individual has the right to life, liberty, and security of the person.
13. The constitution should guarantee the independence of the judiciary.
14. The military and security forces are completely subject to civilian authorities.
15. Private property is protected.
16. The economy should incorporate principles of social and economic justice.

<sup>45</sup> Available in Arabic at the following link: <https://bit.ly/2QV0FCW>

## 43 The Bucharest Paper

**Date of publication:** 3/7/2018

**Source:** Summary of Discussions held in Istanbul and completed in Bucharest<sup>46</sup>

A summary of the discussions that were held during the workshop that was held in Istanbul between 10 and 13 November 2017, which were completed in a workshop in Bucharest between 31 May and 3 June 2018.

1. Syria is a democratic state. All state power is based on the will of the people and is exercised for the benefit of the population.
2. Syria is a constitutional state that respects and protects the principles of separation of powers and the independence of the judiciary. It is obliged to adhere to all principles of the rule of law. The law is the basis and gatekeeper of all state power. An independent commission shall take all necessary measures to prevent and combat corruption. In every ministry an anti-corruption official shall monitor the adherence to the principles of the rule of law.
3. Syria is a federal state that shares power and resources between the federal, the regional and the municipal level. The allocation of areas of competencies and responsibilities follows the principles of subsidiarity.
4. Syria respects, protects, and promotes the diversity of its population. All ethnic, religious, denominational and linguistic groups are a part of Syria's identity and are recognized as an integral part of Syrian society. All groups big or small have the same claim to the respect and protection of their rights, preservation, and support of their cultural identity and to the heritage as well as the right to preserve and promote their cultural identity and equal opportunity in the state.
5. In determining the name, flag, the anthem and further traits of the Syrian state the diversity of its population will be taken into consideration.
6. Syria respects, protects, and fulfils internationally recognized human rights and minority rights. The benchmark for all state activity is human dignity and the right to self-determination. The following principles apply:
  - o In its new constitution Syria explicitly guarantees internationally recognized civil, political, economic, social and cultural human rights.
  - o Syria ratifies the fundamental international human rights conventions and can only articulate reservations that are in accordance with the constitution and authorized by both chambers of the parliament. Syria will work closely together with international organizations, treaty bodies, and the UN Human Rights Council, and will support their operations. Syria will commit itself to the European Convention on Human Rights and will work closely together with the European Council and the European Court of Human Rights.
  - o All authorities and institutions that perform government tasks are committed to human rights. Legislators, governments, and administrations as well as the courts at all levels of government shall guarantee human rights and ensure that this also applies to between private persons. They shall effectively protect vulnerable groups, such as children and youth, women, same-sex persons, persons with disabilities, and members of a minority from violence, neglect, discrimination and oppression.
  - o Syria shall take all measures necessary to fully realize the guaranteed human rights for all persons. This includes, in particular, a review of the existing laws, the creation of new laws to safeguard human rights in all aspects of the law and life, the designation of necessary funds, and the creation of plans of action for the progressive improvement of the human rights situation. Legislators and governments shall regularly report on the implementation of the plans of action and the progress of the realization in human rights. They shall provide information when it is requested. The administration designates a human rights representative to every ministry as a contact person internally and externally whose task is to ensure that human rights are adequately considered in all state activities.
  - o Syria shall foster an active human rights culture. This includes human rights education for all those who exercise state power, regular sensitization for all civil authorities and state officials for human rights issues, the general human rights education and school education.
  - o Syria shall create an independent human rights institution whose job is to document the human rights situation in Syria, receive complaints, write reports, and to make recommendations on action to legislators, governments, administration and courts. The human rights institution has the necessary financial

<sup>46</sup> Available at the following link: <https://bit.ly/2oXJGG4>

resources over which it can freely dispose. It shall create and coordinate the work of specialized human rights commissions, e.g. an equality commission, an anti-torture commission, and a child rights commission.

- For the full realization of human rights Syria shall work closely together with civil society. The responsible authorities ensure that lawyers and other human rights defenders are able to freely and safely carry out their work and at all times have access to persons and information; the attorney-client privilege is guaranteed.
  - The constitution determines which human rights are inviolable and decides the conditions under which the remaining human rights can be restricted. Restrictions must be based on a legal basis, be in the public's interest, and regulated and implemented in a proportionate manner. Actions and statements that are directed against the fundamental principles of the constitution, or incite hate and violence, are prohibited.
  - Anyone who claims to be a victim of a human rights violation has the right to an effective remedy before an independent court. Access to court is guaranteed for all; in the case of need, there is a claim to free legal aid and representation by a specialist.
  - Human rights violations must be redressed. The court orders all necessary measures for restitution, compensation and prevention.
  - The transitional process shall be based on human rights. A human rights commission will be instated as soon as possible representing all ethnic, religious, denominational and linguistic groups as well as domestic and international experts. The commission will guide the process of transition, draft statements and make recommendations. Until the establishment of an independent human rights institution, the human rights commission will also address past injustices. It will document past human rights violations, secures documents and witness testimonies as well as drawing up proposals for reparations. It will work closely together with other national and international actors who also deal with transitional justice.
7. Syria's territorial integrity is guaranteed.
  8. All levels of the Syrian state guarantee the equal participation of all groups in the state and its institutions and ensure equal political, economic and social opportunity for all citizens. The administration at all state levels is inclusive and represents all groups in accordance with their proportion of the overall population. An overrepresentation of very small and dispersed groups is permitted.
  9. At the federal level Arabic, Kurdish, Turkmen, and Assyrian are recognized as equal official languages. Arabic is the working language; important decrees and decisions will be translated into the other official languages. The needs of other language groups will be taken into consideration. In addition to Arabic, the regions can determine one or several additional languages as official or working languages.
  10. Syria guarantees equal rights and responsibilities for men and women, and ensures the adequate representation and co-determination of women in all institutions of the Syrian state. In all federal, regional and municipal institutions the representation of women must be at least 30 percent.
  11. Syria is a secular state. The freedom of belief and conscience of all is respected and protected by the federal constitution; it is guaranteed for the entire population on all levels of the Syrian state. The state treats all religious and denominational groups with respect and it acts neutrally in religious and denominational questions; it constitutionally recognizes the religions of the Yazidi.
  12. The Syrian parliament consists of two chambers.
    - In the first chamber the entire population of Syria is represented. Representatives are elected directly by proportional representation in genuine, periodic, general, fair, and secret elections where the free expression of the electoral will is guaranteed. The regions shall serve as constituencies. The constitution determines the size of the parliament, ensures the compliance of a minimum quota for women and settles any incompatibilities, e.g. for clergy or military personnel. The electoral law decides on the elaboration.
    - In the second chamber all regions are represented with same number of votes. The regions decide on how their representation is to be appointed in their electoral laws. Additionally, the Armenian, Assyrian, Ismailis, Yazidi, Circassian, and Turkmen communities as well as other very small and dispersed groups have a claim to a representative in the second chamber; these representatives are directly elected by their respective communities. Decisions that affect regional responsibilities, as well as projects in the common interest of the Syrian state, require the approval of two-thirds of the members of the second chamber.

13. The Syrian president is elected directly. He/she is elected when they obtain the majority of votes of the entire population and the approval of the majority of the regions. The president's function is mainly representative and symbolic. The president asks the party that has received the most votes to form a government and appoints a prime minister. The prime minister forms a cabinet; the prime minister and the cabinet take office when both chambers pass a vote of confidence with an absolute majority. The prime minister and the cabinet are accountable to the parliament.
14. An independent electoral commission plans, organizes, and monitors the elections. The first elections will be planned and carried out in close cooperation with the UN and other international organizations.
15. Syria has a constitutional court that monitors human rights, the rights of all ethnic, religious, denominational, and linguistic groups, and the division of power and resources; it also protects the values of the constitution. The constitution determines the number of judges, their term in office, and the requirements of eligibility for election. The second chamber elects the judges with a two-third majority. An independent electoral commission prepares the election and receives the recommendations from the president, the first chamber, the regional governments, and the ethnic, religious, and linguistic groups, the parties, and the lower court. During the election and the preparations for the election it must be ensured that the different regions of Syria and the ethnic, religious, denominational, and linguistic groups are adequately represented. At least one constitutional judge has to be a native speaker of Arabic, Kurdish, Turkmen, and Assyrian. If there is a draft bill or another parliamentary directive, one quarter of the members of the second chamber, one quarter of the members of the second chamber, the president, or two regions can call on the constitutional court to make a decision on the constitutionality of the draft within a specific time period. Regions, municipalities, and other state actors as well as natural and legal persons that address a violation of the constitution can file a grievance to the constitutional court. The grievance can address government actions or nonfeasance. The constitutional court annuls laws and rulings that violate the constitution. In the case of an emergency it reviews the adherence to the emergency laws. The constitutional court decides quickly. It carries out a preliminary review to ensure that an urgent procedure is treated with the appropriate urgency and that abusive procedures are met with rebuff. If the trial court delays the process for undue reasons, the plaintiff can appeal directly to the constitutional court. The constitutional court has personal and institutional independence and financial resources that allow it to function efficiently.
16. The federal level is only responsible for the areas assigned to it by the constitution. This includes:
  - a) The military, defense, secret service and in cooperation with the regions, border protection.
  - b) The federal police who protect the federal constitution and ensure cooperation with international law enforcement.
  - c) Currency and an independent central bank
  - d) Citizenship
  - e) Political foreign relations
  - f) Criminal law
  - g) Property Law, Contractual and Commercial Law, Debt collection and Bankruptcy Law, Banking law and Stock Exchange Law
  - h) The planning and implementation of projects that are in the common interest of the federal Syrian state; the national level works closely with the regions particularly affected by these projects and takes their interests into consideration
  - i) The benchmarks of economic development and social security for which the federal state will work closely together with the regions.
17. The remaining state functions fall under the responsibility of the regions, notably education, health, police, civil law, family law, and inheritance law, the planning and implementation of regional infrastructure and development and culture. The regions are responsible for protecting the environment and cultural assets, as well as for realizing Syria's obligations under international law.
18. The regions are responsible for education and operate schools and universities independently. They recognize the right of ethnic, religious, denominational, and linguistic groups to self-determined education and respect and protect the autonomy of the university. They authorize and supervise private educational institutions. The regions design the education system and determine the curricula in accordance with the International Convention on the Rights of the Child and other obligations Syria has under international law. They ensure that the school lessons respect and supports the values of the federal and regional constitution and serves to facilitate a peaceful coexistence. They

- take all the necessary measures to prevent radical-religious or anti-constitutional content being taught in schools or that the education system is abused for religious or political reasons. To facilitate the mutual recognition of educational qualifications, the regions coordinate the levels of education and general educational objectives and ensure together a high and comparable quality. The federal level can support university teaching and research and coordinate international cooperation; in doing so it respects the responsibilities of the regions and the autonomy of the universities. When arranging the revenue sharing the costs of education especially must be taken into account.
19. The regions are responsible for domestic security insofar as the federal level is not responsible. The regions also protect their regional constitutions.
  20. Political foreign relations are the exclusive responsibility of the federation. Syria respects international law and fosters peaceful relations to its neighbours and to the international community. The parliament reviews Syria's existing obligations under international law for expediency and draws up proposals to conclude or terminate treaties of international law.
  21. Regions can work together with other regions or international actors to fulfil their functions and areas of responsibilities and to this end negotiate contracts. They are required to inform the federal level about these activities. If a region or the majority of the first chamber is of the opinion that this cooperation is violating the constitution or is damaging Syrian interests, it can call on the second chamber. The latter decides with a two-thirds majority if the cooperation is permissible. The latter can decide on the inadmissibility of the cooperation with a two-third majority.
  22. The military, the security agencies, and the police are under civil control and are accountable to the federal parliament and regional parliaments respectively. The secret service is subject to supervision by a federal parliamentary commission that is composed of equal members from both chambers.
  23. Together the federal and regional levels ensure for the highest standards of social security. The federal level regulates old age and survivor benefits, health and accident insurance as well as unemployment insurance. The regional level carries out the regulations. An appropriate share from the revenues of natural resources is available for social security and supplements the revenue as a premium. Every person in need has a claim to state assistance and care.
  24. The federal and regional levels ensure the provision of water, energy, and means of communication to the population.
  25. Every region has its own constitution and its own administration. The regional constitutions as well as the regional laws cannot contradict the higher federal laws and international laws.
  26. The borders of the regions will be redrawn. A commission made up of domestic and international experts works out proposals for a redrawing of the borders under UN direction. This redrawing takes into consideration ethnic, religious, denominational, and linguistic criteria and consultations are carried out. Building on the proposals of the commission the first parliamentary elections for both chambers and the presidential elections take place. The second chamber appoints a border commission from their members in which all ethnic, religious, denominational and linguistic groups are represented. The border commission receives applications for changes to the regional borders, consults with the domestic and international experts and works on proposals for the second chamber. The proposed boundary changes take effect when all members present in the second chamber approve them. In the absence of a consensus in the second chamber, referenda take place in the regions under question. The border commission plans and monitors the implementation of the referenda and can entrust the UN with the monitoring.
  27. Independently of their place of residence, ethnic, religious, denominational, and linguistic groups enjoy the right to cultural self-determination, in particular in the areas of education, religious practice, and fostering culture. To this end, they can establish institutions that ensure cross-border cooperation. The right to cultural self-determination shall be exercised within the framework of the federal and regional constitutions as well as in accordance with Syria's international obligations. This is carried out under the supervision of the regions, which ensure that the requirements of the regional curricula are fulfilled. The constitutional court makes decisions on any disputes.
  28. The regions recognize the rights of all groups to local self-government. The borders of the municipalities will be redrawn if need be and ethnic, religious, denominational, and language criteria will be taken into consideration.
  29. All levels of the Syrian state have financial autonomy and are responsible for their own budgets. The federal levels and the regional and local levels must ensure a balanced budget, financial supervision, and provide measures to prevent corruption. They have to take care of their own surpluses and debts. The federal level is responsible for customs, VAT, and special excise duties. In cooperation with the local levels, the regions levy direct taxes on the income of individual taxpayers and net the yield of juridical persons and guarantee an appropriate distribution of



the revenue between regional and local levels. The natural resources belong to the regions and all of Syria; the regions administer the natural resources in the interest of the entire state. The revenue from the natural resources serves to cover the needs of all regions. The region that has the natural resource has a claim to an appropriate share of the revenue from that resource. The financial compensation between the federal and regional levels as well between the regions ensures that all state communities have access to the funds they need to fulfil their functions. The following criteria are decisive for the compensation: population numbers, need for social benefits, economic development, need for reconstruction and compensation for past injustices. An independent financial commission keeps watch over state financial resources and annually work on proposals for the parliament on financial compensation. The commission is comprised of independent experts for public finances and is appointed by both chambers of parliament.

30. All levels of state are obliged to share information, to pursue an open and cooperative partnership, and to peacefully put aside conflicts.
31. All levels of the state are committed to the goal of creating a strong and diverse civil society. In doing so, they respect and protect the freedom of expression, association and assembly and only restrict the activities of civil society actors in accordance with the federal constitution and international law.
32. An independent commission compiles suggestions for the parliament concerning the transitional justice and ensures that the crimes of the past are being prosecuted. The composition of the commission shall ensure that all ethnic, religious, denominational, and linguistic groups are represented adequately and that the commission has the necessary expertise. The committee will also include international experts in transitional justice.
33. The process of drafting a constitution must align with the principles laid out in this document and take into consideration the legitimate interests of all ethnic, religious, denominational, and linguistic groups. The claim of all Syrian components to equal participation in the state also applies to the process of drafting a constitution. The following constitutional principles must not be limited or repealed: democracy, rule of law, human rights, the rights of ethnic, religious, denominational, and linguistic groups, the Social State Principle, and the federal state. All national and international actors involved in the transition shall join forces to work together so that the situation in Syria normalizes as quickly as possible. Anyone who left Syria or certain regions of Syria and would like to return to their homes shall do so under safe and reasonable conditions with the necessary support. Once this is possible, a census will be taken with international involvement. Based on its results, parliamentary and presidential elections will be held.

## 44 Towards an Engendered Democratic Syrian Constitution Based on the Values of Freedom, Dignity, Participation and Equality

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**Source:** The Syrian Women's Political Movement, Consultations of Eight Women's Groups<sup>47</sup>

On the Constitutional Process

1. Ensuring the engagement of public and societal groups (including women/feminists) in the context of the constitutional process and considering their demands, needs, and priorities to ensure the popular legitimacy of the constitution. Women must be involved in the drafting of the constitution by seeing it and voting on it before it issues.
2. Guaranteeing consideration of gender representation and women quota in the composition of the constitutional committee and setting the women quota at a minimum of 30% of the constitutional committee tasked with discussing and drafting the constitution.
3. Having clear criteria in the selection of those nominated for the constitutional committee so that the constitutional drafting process is a technical process rather than one subject to apportionment based on political affiliations.

On the Content of the Constitution

On the preamble/values and principles

<sup>47</sup> Translation available at the following link: <https://www.wilpf.org/wp-content/uploads/2019/07/Engendered-Constitution-EN.pdf>



1. The constitution must explicitly stipulate the values of equality and gender justice, guarantee women's dignity and freedom, respect, inclusion, and partnership, and putting an end to discrimination on all levels, particularly on the basis of race, sex, or gender.
2. Ensuring there are no provisions in the constitution that contradict those principles, particularly those pertaining to societal structure and the women roles.
3. It is essential for the constitution to include the principles of democracy and pluralism through activating a monitoring and accountability system, guaranteeing the president does not have absolute powers, and activating the principle of separation of powers.
4. It is essential that the constitution is in line with international conventions to which Syria is signatory and that it removes the reservations on CEDAW, particularly articles 2, 9, 15 and 16, in order to ensure equality.

#### On rights in general

1. The constitution must ensure and guarantee all political, economic, and social rights for women. The authority of the constitution must overrule the authority of social norms.
2. Ensuring the consolidation of women's right of active citizenship in Syria by establishing their right to grant their nationality to their husbands and children in case they are married to non-Syrian citizens.
3. It is essential that some provisions in the constitution are dedicated to the protection of women, and that the constitution is actually enforced.
4. It is essential that provisions about a women quota are included in the constitution to ensure women's participation in political life; "promoting women's participation in political life".
5. The constitution must not rely on religion as a source of legislation particularly in terms of the personal status law. It is essential to separate religion from the state, "Demanding civil marriage and that the constitution does not rely on religion as a source of legislation as the personal status law is the law which discriminates most between men and women;" "Religion must be separated from the state and religious authority over the state must be curbed."
6. The constitution must stipulate the minimum age for marriage at 18 years, "And it must stipulate that education is mandatory and ban marriage during the basic education stage."
7. Legal and constitutional protection of women survivors of domestic and household violence must be guaranteed.

#### On the religion of the president and their gender

- It is essential that the religion of the president is not determined in the constitution to ensure pluralism and democracy.
- The language of the constitution must be engendered to be gender-sensitive and include the rights of all male and female citizens. Special attention must be given to engendering article 84 which defines the conditions for running for office so as not to restrict candidacy to men.



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