

The Syrian Constitutional Committee Is Not About the Constitution

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The UN committee's chances of success are limited but still worth pursuing to a prompt conclusion, in part to prevent Russia from draping its window dressing over an illegitimate process.

Last week, UN Special Envoy for Syria Geir Pedersen announced that the Syrian constitutional committee launched in September 2019 can hold its next meeting as soon as the coronavirus pandemic allows. This narrow mechanism was not designed to resolve the years-long conflict via legal solutions, but rather to start a political discussion among Syrians. Yet despite the committee's limitations, the United States and its allies should invest more effort in it—otherwise, Russia will be free to exploit the constitutional process as a way of normalizing the Assad regime without addressing any of the war's root causes.

THE CONSTITUTION AS A TOOL TO ENGAGE RUSSIA

For years, UN envoys have tried to bring Syrian parties to a political settlement but found themselves paralyzed by Moscow, which has steadfastly protected the regime from the consequence of refusing to negotiate with the opposition. The United States, regional actors, and Europe declined to challenge this protection by escalating militarily with Russia once it intervened on the ground, instead limiting their pressure to economic sanctions and diplomatic engagement.

Hence, constitutional reform gained traction because it was one of the few topics in which Russian diplomats evinced interest. Working toward a new constitution was at the center of U.S.-Russian discussions in March 2015. Two months later, Moscow presented a first draft that was roundly rejected by all Syrian opposition elements; a second draft in January 2017 met with a similar response. Nevertheless, in May 2017, Russian officials proposed a "national reconciliation conference" in Sochi, then helped the regime hand-pick the Syrian factions that would be invited to discuss a new constitution there. By year's end, constitutional reform featured as one of the core components of the Da Nang memorandum jointly issued by President Vladimir Putin and President Trump.

Then as now, Moscow seemed to view constitutional reform as a flexible framework for launching an international diplomatic process and muting Western critics while preserving its policy approach and limiting the scope of what "change" in Syria might ultimately encompass. Although UN Security Council Resolution 2254 called for a political process consisting of three essential elements—a transitional government, free and fair elections, and a new constitution—Russia has gradually diluted the discussion to the latter element alone.

THE CONSTITUTION AS A "CONSTRUCTIVE AMBIGUITY"

In urging Syrians to take up issues such as constitutional principles, state reform, and power-sharing arrangements, international actors are well aware that there are different understandings of these matters in Washington, Moscow, Ankara, Berlin, and Paris. Yet foreign officials have deemed it useful to maintain this ambiguity for the time being as a waystation on the road to more detailed discussions.

Thus, when Russia, Turkey, and Iran proposed a constitutional committee during the January 2018 Sochi conference, the idea was later accepted by the "small group" (i.e., Britain, Egypt, France, Germany, Jordan, Saudi Arabia, and the United States) on condition that it remains under full UN auspices. The group was amenable to this process in large part because the Assad regime accepted it as well, making it the only instance of Damascus engaging in a negotiation on anything since 2011.

The proposal also gave the regime and its backers time to reconquer territories across Syria (the same dynamic [seen today in Idlib](#)) while deflecting pressure ahead of the country's 2021 presidential election. For their part, Europe, Turkey, the UN, and the United States saw the committee as a "door opener," allowing them to put the Syrian opposition back on track and build confidence without discussing the individual fate of Bashar al-Assad.

OPAQUE SETUP AND UNCLEAR GOALS

Although the constitutional committee was based on a tacit understanding that it would refresh the Syrian political process framed by Resolution 2254, Assad, Iran, Russia, and Turkey took eighteen months to agree on its

composition. An opaque compromise was reached around three categories of representatives: fifty from the regime, fifty from the opposition, and fifty from Syrian civil society, the latter ostensibly nominated by the UN but in practice largely imposed by Moscow and Ankara.

Another major problem was the exclusion of northeast Syria, which stemmed from the open conflict between Turkey and the People's Defense Units (YPG), the Kurdish militia that dominates the area. Ankara barred any members of the YPG-led Autonomous Administration of North and East Syria from participating in the committee—a missed opportunity to deescalate tensions between the two sides and clarify the YPG's goals regarding decentralization versus separatism.

Also unclear is the committee's overarching goal: does it aim to produce a new constitution or just amend the current one? And what mode will it use to ratify the new charter: a public referendum or a parliamentary vote? If the latter, will a new parliament be chosen before that vote?

REGIME OBSTRUCTION CONTINUES, AND MOSCOW PLAYS ALONG

Although constructive ambiguity can sometimes facilitate progress on the less sensitive elements of a political process, the parties eventually have to tackle the conflict's core elements, however intractable they may seem. Yet by November 2019, after two meetings of the constitutional committee, the regime once again blocked discussion of the core issues and centered the discussion on fighting "terrorism." Far from being a constitutional matter, this issue has more often been the regime's tool for conflating Syria's political opposition and [armed jihadist groups](#). Damascus also refused to discuss any issue related to army oversight, deeming this a "redline"—even though civilian authority over military forces is a core constitutional issue in countries all over the world. Recently, the UN special envoy suggested that a new arrangement had been found to restart substantive talks, but the pandemic has prevented the parties from scheduling a new meeting.

The regime's goal is clear: to delay the committee long enough for Assad to hold (and win) the 2021 presidential election under the current constitution. It remains unclear how much Russia is willing to use carrots and sticks to convince Damascus that it should engage in legitimate talks. This is exactly the situation that has blocked UN negotiations in Geneva for years—with Moscow's blessing, Damascus tries to slowly strangle the process while [Assad reigns over a country in ruins](#), temporarily allowing that some parts of it [will stay under Turkish influence](#).

INVESTING IN THE COMMITTEE—OR ENDING IT IF NECESSARY

There is no magical solution to the current stalemate, especially if Washington decides to continue the military withdrawal it began amid Turkey's October 2019 incursion in the northeast. Not engaging more assertively on the constitutional committee and other political issues would further weaken the U.S. and allied position. Meanwhile, the regime and Russia are [using every opportunity](#) to increase their leverage over the international community, as the Security Council's January negotiations over cross-border humanitarian access amply demonstrated.

It is therefore urgent that Washington and its allies take decisive action on the constitutional committee—first to support it and give it a real chance to succeed, and then to terminate it if it does not deliver within the next couple months. This includes linking additional sanctions to each instance of regime obstruction, and offering technical and financial support to committee representatives from the opposition and civil society. Some form of wider consultation with the diaspora is also necessary to compensate for the lack of transparency in the committee appointment process—in particular, Europe, Turkey, and the United States should provide platforms for Syrians outside Syria to express their views on constitutional reform.

These steps would place the ball firmly in Russia's court, compelling it to push the regime on contributing to a serious constitutional draft. And if the committee does not finalize its work well before the 2021 election season, U.S. and European officials should be ready to call for its termination.

BEYOND THE CONSTITUTION

Of course, even a new, legitimately brokered constitution would represent only the first step in a long process—on its own, the charter will neither end the people's agony nor enable hundreds of thousands of refugees to return home. The UN should therefore prepare the steps that could potentially follow a successful constitutional committee, such as designing a robust monitoring mechanism for the presidential election and preparing safe, neutral voting options for the diaspora.

Hopes are not high for a transparent constitutional and electoral process in Syria. Nevertheless, a carefully tailored effort from the United States and Europe would increase this possibility—or at least prevent Russia from draping its window dressing over an illegitimate process.

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