



Political solution in **Syria** The **Constitutional** Committee and its outcomes



**A policy paper prepared and issued by the
Fraternity Foundation for Human Rights**

December 2021



Political solution in Syria The Constitutional Committee and its outcomes

**A policy paper prepared and issued by the
Fraternity Foundation for Human Rights**

December 2021

Title:

(Political solution in Syria and the Constitutional Committee and its outcomes), This paper is mainly focused on exploring ways to enhance the participation of Northeast Syria in the process for drafting a new Syrian constitution by the Constitutional Committee established pursuant to Security Council Resolution (2254) issued in December 2018, given the importance and the substantial impact of this participation on the political solution and peace and common Syria destiny.

Intellectual property:

Fraternity Foundation for Human Rights FFHR

Publisher&Preparation and issue:

Fraternity Foundation for Human Rights FFHR

Date of publication:

20 December 2021

Languages:

Arabic, English

Design:

Team Network for Media & Art-Production

About FFHR

a non-governmental, non-profit human rights organization. established on the first of January 2013 in Syria and its permanent headquarters is in Germany. led by Syrian human rights defenders

FFHR seeks to promote and protect the right to freedom of peaceful assembly and of association for all Syrians. And advocating the Syrian individuals and groups to ensure that they have this right and can implement it. and support their role in effective civic engagement in political decision-making

Fraternity Foundation for Human Rights thanks everyone who contributed to the completion of this work, especially our researchers inside Syria, our legal support unit, our colleagues, our legal advisors, and human rights lawyers from Egypt and elsewhere

contact:



@FFHRSY



INFO@FRATERNITY-SY.ORG



WWW.FFHRS.ORG

Introduction: The goal of the paper.....	3
Firstly: Syrian constitutional process	
1.1. Background on the course of the Syrian constitutional process.....	4
1.2. The deadlocked state of the process of drafting the Syrian constitution.....	5
1.3. Establishment and the structure of the constitutional committee.....	7
Opinion on specialized Committees and general principles.....	9
Secondly: Peace and Syrian constitution	
2.1. No hope for a political solution while violating 2254 resolution continues.....	11
2.2. Northeast Syria between the actual reality and the actual of representation in the solution.....	12
Thirdly: Outcomes and recommendations to amend the course of the constitutional crisis	
3.1. Basic requirements to ensure the democracy and legitimacy of the new constitution.....	14
3.2. Criteria for selecting members of the Constitutional Committee.....	16
3.3. Rules, procedures, and competencies of the work of Constitutional Committee.....	18
Fourthly: A proposal for new configuration of the Syrian Constitutional Committee.....	22



This paper is mainly focused on exploring ways to enhance the participation of Northeast Syria in the process for drafting a new Syrian constitution by the Constitutional Committee established pursuant to Security Council Resolution (2254) issued in December 2018, given the importance and the substantial impact of this participation on the political solution and peace and common Syria destiny.

FFHR firmly believes that the constitution is the supreme law that sets the ground rules for the form of the state, the system of government, and it regulates public authorities, the relationships between authorities, the limits of each authority, and the duties and fundamental rights of individuals and groups.

Since the constitution that is being drafted represents a historical document for the struggle of all segments of the Syrian people in their movement that began in 2011, it requires the legitimate representation of all segments and social groups of the Syrian people including political forces, trade unions, workforce, and religious and cultural forces.

Through this paper, FFHR presents its vision and point of view based on the opinion of civil society organizations operating in Northeast Syria, which were collected through a series of education processes on constitution for these organizations and a comprehensive questionnaire of their views, suggestion, and aspirations (the survey was conducted during November 2021 in the field and through interviews with 64 civil organizations of mainly the citizens of the region).

The outcomes of the questionnaire were then utilized to prepare this paper as a contribution to the ongoing dialogue seeking to emerge from the crisis that the process of drafting the constitution has reached as a result of the confused course that was drawn by the Constitutional Committee with the participation of some international and local parties. To develop a vision on the importance of ensuring the participation of all segments of Syrian population in this process, which Fraternity Foundations believes to be an essential aspect of implementing UN Resolution 2254 on the solution in Syria, which is mainly based on a political solution to the Syrian conflict that has been going on for more than a decade, this vision considers a non-derogable full participation of Northeast Syria as way to strengthen peace in Syria and the shared destiny of all Syrian with all their differences and disagreements to avoid further tensions and civil conflicts, which will ensure a united Syria based on the values of human rights, equal citizenship, and respect for national, religious, regional, and political diversity. In the same contexts, lies the importance of considering human rights conventions as a scientific and practical basis to ensure an effective civil participation of all Syrians for the success of the process of drafting a new Syrian constitution. Because of this consideration, FFHR continuously seeks to ensure that human rights conventions are the main source of the Constitutional Committee's work as a first step, and later placing international human right conventions at the highest place in the hierarchy of Syrian legislation as a second step.

This paper concludes with a comprehensive and complete proposal by FHR for the establishment of the Constitutional Committee and the mechanism of it work based on the recommendations and findings contained in this paper, which were discussed in depth in the second and third sections of this paper. FFHR greatly values the work of the international community and supports Resolution 2254 in letter and spirit. Therefore, it proposes the establishment and work mechanisms for the Constitutional Committee according to its vision as a Syrian human rights organization that has been working since the beginning of the movement of the Syrian people and is an essential part of the Syrian civil and human rights movement

1.1. Background on the course of the Syrian constitutional process:

The process of setting a course for drafting a Syrian constitution is in the throes of a very critical stage. This was reflected in three directions, two of which were the results of internal and regional interactions represented in Astana talks and the Sochi summit, and the third was through the United Nations where between 2012 and 2018 eight meetings and negotiation rounds were held, which were called Geneva peace talks on Syria (Geneva I, II, III, IV, V, VI, VII, & VIII).

In February 2014, the former United Nations Envoy, Mr. Lakhdar Brahimi, succeeded for the first time to hold indirect negotiations between the Syrian government delegation and the delegation from the National Coalition for Syrian Revolutionary and Opposition Forces. On 18 December 2015, the United Nations Security Council unanimously adopted resolution 2254 submitted by the delegation United States of America, which calls for all parties to engage in peace negotiations in January 2016, recognizing the role of the International Syria Support Group as the central platform for facilitating United Nations efforts to achieve a lasting political settlement in Syria.

The resolution stipulated the importance of the success of negotiations between the Syrians under the supervision of the United Nations, and to establish a credible, inclusive, and non-sectarian governance, setting a schedule and process for the drafting of a new constitution within six months and holding free and fair elections, pursuant to the new constitution, within 18 months and administered under the United Nations supervision.

On 23 February 2017 the Geneva IV talks took place at United Nations headquarters in Geneva between the Syrian government and the Syrian opposition under the auspices of the United Nations. These talks followed reaching a ceasefire agreement in late December 2012, and two rounds of negotiations between the Syrian regime and the armed opposition in Astana, Kazakhstan. Participants in these talks, led by the UN Special Envoy for Syria Staffan de Mistura, reached an Agreed Agenda that consists of four ‘baskets’:

First basket: items on the issue of establishing an inclusive non-sectarian system of government, with the hope that this will be agreed on within six months.

The second basket: issues related to establishing a timetable for drafting a new constitution, with the hope of achieving that within six months

The third basket: everything related to holding free and fair UN-supervised elections within 18 months, after drafting a new constitution.

The fourth basket: strategic issues related to countering terrorism; security governance issues; and mid-to-long-term confidence-building measures

Geneva VIII and the 12 Living Intra-Syrian Essential Principles:

On 30 November 2017, the UN Special Envoy for Syria Staffan de Mistura gave a document on the “12 Living Intra-Syrian Essential Principles” to representatives of the Syrian government and the opposition

The High Negotiations Committee or the Syrian Negotiating Committee:

it is an umbrella body which was created to represent the Syrian opposition inside Syria, represented by the National Coordination Committee, and outside Syria, represented by the National Coalition for Syrian Revolution and Opposition Forces. The High Negotiations Committee was founded in December 2015 at a conference held in Riyadh, Saudi Arabia. Its mission is to directly supervise the negotiating process with the Syrian government, under the auspices of the United Nations. A new version of the commission was established during the Riyadh Conference 2 in November 2017 following a series of resignations of its member.

Vienna peace talks for Syria: It was called the ninth round of the UN-brokered peace talks on Syria, which was held in Vienna, Austria between 25–26 January 2018, between the Syrian government and opposition, during which the UN envoy met with the delegations of the Syrian regime and the opposition. The United States, Britain, France, Jordan, and Saudi Arabia submitted to the UN Special Envoy to Syria Staffan de Mistura a peace proposal, the so-called "informal paper", aimed at reviving the Geneva peace talk on Syria based on Resolution 2254. This round was held in Vienna instead of Geneva because for logistical reasons, and it came just days before the Syrian peace process in Sochi resort, Russia.

Astana talks: under the auspices of Russia, Turkey, and Iran. The first round of these talks took place in January 2017, and the seventh round was held in October of the same year. The main outcome of these talks was the talk of the need for indirect negotiations, the release of all detainees, and establishing de-escalation zones, amid complaints of lack of commitment to ceasefire by the Syrian regime and its allies.

Sochi talks: The participants in the National Dialogue Congress in the Russian resort of Sochi on Tuesday 30 January 2018, agreed in the final statement to form a constitutional committee comprising the Government of the Syrian Arab Republic delegation along with wide-represented opposition delegation for drafting of a constitutional reform as a contribution to the political settlement under UN auspices in accordance with Security Council Resolution 2254

The Syrian Constitutional Committee: The Syrian Constitutional Committee is a United Nations-facilitated constituent assembly process that seeks to reconcile the Syrian Government headed by President Bashar al-Assad and the Syrian opposition, in the context of the Syrian peace process, by amending the current or adopting a new Constitution of Syria. The UN hopes that this would lead to negotiations which would subsequently lead to a peaceful end of the Syrian Civil War

The Constitutional Committee was created with a formal approval by **both parties** involved, as well as the United Nations, in the absence of several Syrian entities because of the objections of the two parties and due to international and regional interventions. For example, the Syrian Democratic Council, the political wing of the Syrian Democratic Forces in the Autonomous Administration of North and East Syria, was excluded. Also, there was a dispute over the participation of the so-called the 'third sector', also known as civil society sector, the majority of which was absent, and the political parties provided merely its representatives through this sector—as extensions to these parties, but under the cloak of the Syrian civil society.

1.2. The deadlocked state of the process of drafting the Syrian constitution:

The constitution occupies a central place in any legal system. Because it is the law upon which all state institutions and laws are based, the prime guarantor of the rights and freedoms of citizens, the backbone of governing the relationship between the three branches of government, and the determinant of the nature of the international relations between the state and the rest of the international community. Therefore, the process of drafting a new constitution is an exceptional and historic event in the lives of people, and in the transitional stages when a country is recently emerging from a dictatorship or military rule. The process of drafting the country's new constitution is of particular importance and symbolism. After all, building a new state effectively begins with technical process of drafting a new constitution, it is therefore of utmost importance that this process be deliberate and through a participatory process for all components of the nation.

It has been proven from various international and regional experiences that the arduous of the transitional period will be difficult and drafting a new constitution can only be through a complete process called the constitution-making process or the foundational process, which is a complex and long path that includes successive and interrelated processes. That path first starts with the entities charged with drafting the constitution; second the process of setting the rules and procedures of those entities; third the process of drafting of the constitution; fourth the process of ratifying the new constitution, through a popular referendum, and finally the process of entering the constitution into force, with guarantees for its implementation and oversight over its implementation by relevant judicial and grass-root bodies.

It has been proven from comparative experiences that the way the constitution-making process is designed has a profound effect on the outcome of this foundational path, whether on the final version of the constitution, or in terms of its content or in terms of its legitimacy and effectiveness. Thus, attention must be paid to the constitution-making process.

The success of the process of drafting a new constitution is dependent on several important factors:

- Stability and cease of military actions in conflict countries to enter the political process
- Fair and inclusive representation of all parties and community groups
- Ensuring that citizens are openly and transparently informed of the stages and procedures of the process of drafting the constitution, which enhances confidence in the process
- Assessment of material and human resources necessary for the management and the implementation of the constitution-making process
- Controlling the temporal element and setting reasonable deadlines to conclude the constitution-making process
- Establishment of a regulatory list for entities charged with drafting the new constitution, outlining the tasks, procedures, and competencies, to avoid conflict of jurisdiction between different entities, or deviation of one of those entities from the foundational path

In this context, Fraternity Foundation for Human Rights-FFHR believes that it is essential to agree on the contents of the constitution on the one hand, and to write these contents in precise legal terms that make it applicable on the other hand. This is because the process of preparing draft constitution goes through two dimensions at the same time—a political dimension and a technical dimension.

The political dimension of drafting a constitution is manifested in the following principal components:

- a. Through the discussions that are presented, which revolve primarily around the form of the political power and its institutions, and around the rights of citizens and their relationship with the three authorities.
- b. Through the political nature of the actors to determine the constitutional contents, which are mainly represented by the existing political forces inside and abroad, representing all national, religious, and political components, and include the three areas of control in Syria
- c. Through the method adopted to make the political decision on the constitutional contents, negotiation processes and strategies for working with the main actors to draft the constitution.

The technical dimension of the process of drafting the constitution is equally important:

The constitution, despite its political nature, does not constitute a political speech or a declaration of principles. Rather, it is a legal document in the state at the top of the legislative hierarchy, and it includes the general principles that outlines the legislative and executive policies in their economic, social, political, and cultural dimensions. The constitutional document must therefore be written in a legal, sound, scholarly, and precise language. This is because drafting any article in the constitution in a good language will have dire political, economic, and social consequences.

Constitutional experiences in several countries have shown that the inaccuracy of the constitutional text and its contradictory appearance may lead to a great deal of instability in a way that impedes state institutions and undermines citizens' enjoyment of their rights.

Given that the main objective of the constitutions that are drafted during the transitional stages is to break with the previous regime by establishing a new constitutional and legal system that constitutes a new social contract.

To ensure the success of this stage that aims at drafting a good constitutional document, which will later be submitted to a popular referendum, it is important that the political parties involved in drafting the constitutional document possess a political will, and it must be a real political will, that is open to dissenting views, and a genuine will to reach compromises and avoid crises to ensure the quality of the constitutional document. Moreover, It is important that the content of the draft constitution be the product of a broad negotiation and participatory process that does not exclude any party, active political forces, or a geographic area.

1.3. Establishment and the structure of the constitutional committee:

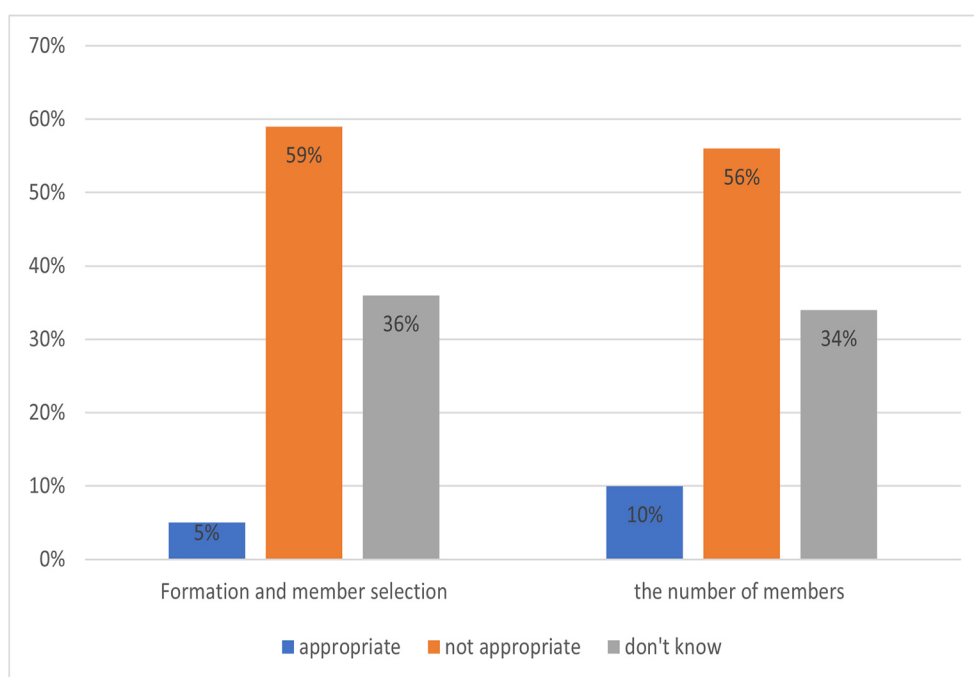
Pursuant to Security Council Resolution 2254, and in the discharge of his mandate, the UN Special Envoy for Syria, Geir O. Pedersen, facilitated the establishment of the Syrian Constitutional Committee. After 4 years, the Committee was finally established on 26th of September 2019. And the Special Envoy for Syria, Geir O. Pedersen, issued the ‘Terms of Reference and Core Rules of Procedure’, following the approval of the Syrian government.

- The Constitutional Committee shall have a large and a small body
- The large body shall comprise 150 men and women—50 nominated by the Government; 50 nominated by the Syrian Negotiations Commission; and 50 civil society.
- The small body shall comprise 45 men and women—15 nominated by the Government from among its 50; 15 nominated by the Syrian Negotiations Commission from among its 50; and 15 from among the 50 civil society.
- The small body shall prepare and draft the constitutional proposals and the large body shall adopt them. The large body may be convened, in parallel or periodically as the work of the small body proceeds, to discuss and adopt proposals.

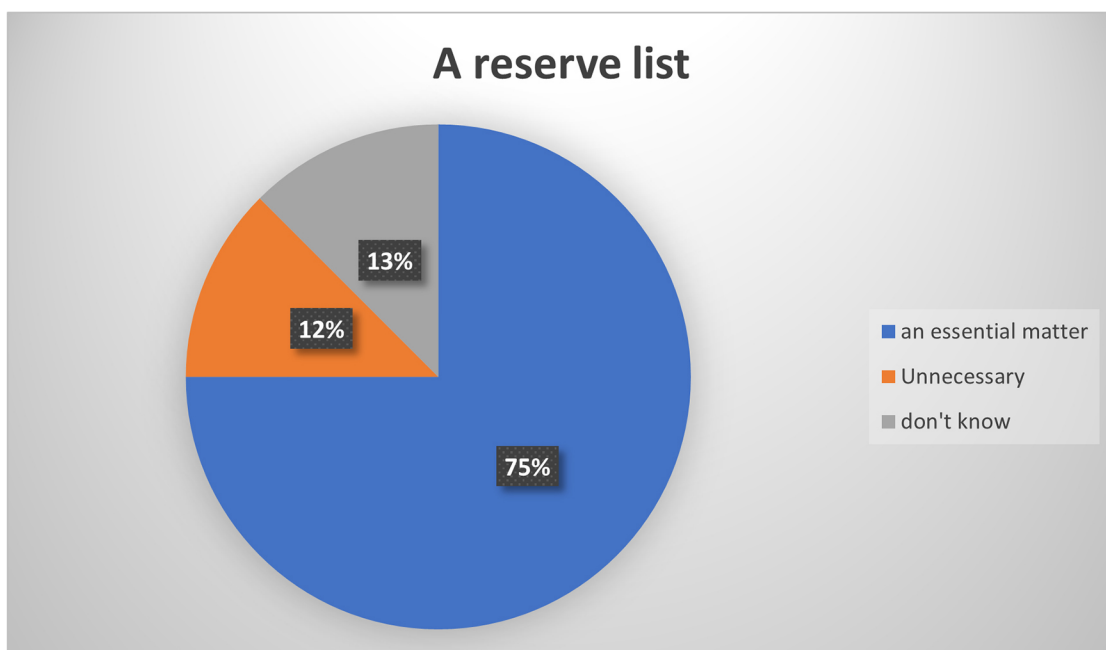
The results of the questionnaire on the way with which the Constitutional Committee was established, its members were selected, and the number on the members.

On the question on the way with which the Constitutional Committee was formed and its member were selected, 23 organization answered they know nothing about the way with which the Syrian Constitutional Committee was formed, while 38 organizations said that the way with which the Constitutional Committee was formed was not appropriate, and only 3 organization viewed the way to be appropriate.

With regards to the number of members of the Constitutional Committee, 36 organizations participated in the questionnaire thought that the number was not adequate, while 6 organizations thought the number adequate, and 22 organizations answered with ‘don’t know’.



In establishing the Constitutional Committee, the office of the UN special envoy, overlooked identifying a reserve list for the Committee's members in the event of the resignation of key members or their absence for any other reasons, which is an important matter to ensure the continuation of the work of the Committee.



On this shortfall in establishing the Committee, in 48 organizations considered having a reserve list for the Constitutional Committee's member to be an essential matter.

Fraternity Foundation for Human Rights believes that the Constitutional Committee should establish specialized committees to draft the constitution, according to the following version:

- **Specialized committees by substantive subjects:**

comprise of preamble – citizenships and declaration on rights – principles and regulations of the political, economic, social, and cultural system – specialized Kurdish committee – distribution of state's natural wealth and resources – public rights and freedom – woman committee – children and people with disabilities committee – citizens abroad – electoral system – the three branches of government – rule of law and the independence of the judiciary – defence and national security – public resources and its distribution – national institutions – the supreme constitutional court – questioning of ministers, prime minister and the president – amendment to the constitution – transitional provisions – committee on the rights of minorities

- **Coordination and drafting committee:**

to be tasked with receiving the reports from the substantive committees and collects their proposals on articles to be included in the draft constitution, and to work on these proposals to improve them and introduce appropriate amendments to them in order to transfer them into an integrated project for the constitution, with consistent and coherent provisions that are formulated as a single living unit.

- **A committee of experts to formulate the final draft of the constitution:**

to be tasked with reviewing the draft constitution, and to consider it as a single unit, and adjustment to the legal wording of the text as imposed by the "legal drafting science" in terms of using accurate and understandable expressions and uncomplicated sentences in its structure. Phrases to carry the "must and obligatory" meaning with regards to the state's responsibility for public rights and freedoms, or when dealing with the economic and social rights of citizens.

- **Fraternity Foundation for Human Rights believe that the Constitutional Committee should define the general principles that will be addressed in the Constitutional Document, which should include the following principles:**

- ☐ Principle of the independence and sovereignty of State.
- ☐ Principle of civil state
- ☐ Principles of popular sovereignty and democracy
- ☐ Principle of self-determination of peoples
- ☐ Principle of the devolution of power and the right to political participation
- ☐ Principle of the rule of law and citizenship
- ☐ Principle of equality and non-discrimination
- ☐ Principle of freedom and human dignity
- ☐ The principle of non-derogation of human rights, rights and freedoms
- ☐ The principle of freedom of information and the right to freedom of information
- ☐ Principle of the independence of the judiciary
- ☐ Principle of separation of powers.
- ☐ Principle of separation of powers.
- ☐ The principle of respect for human rights in accordance with international conventions on human rights
- ☐ Principle of compensation for damage and reparations for victims
- ☐ Principle of the primacy of international conventions over the constitution

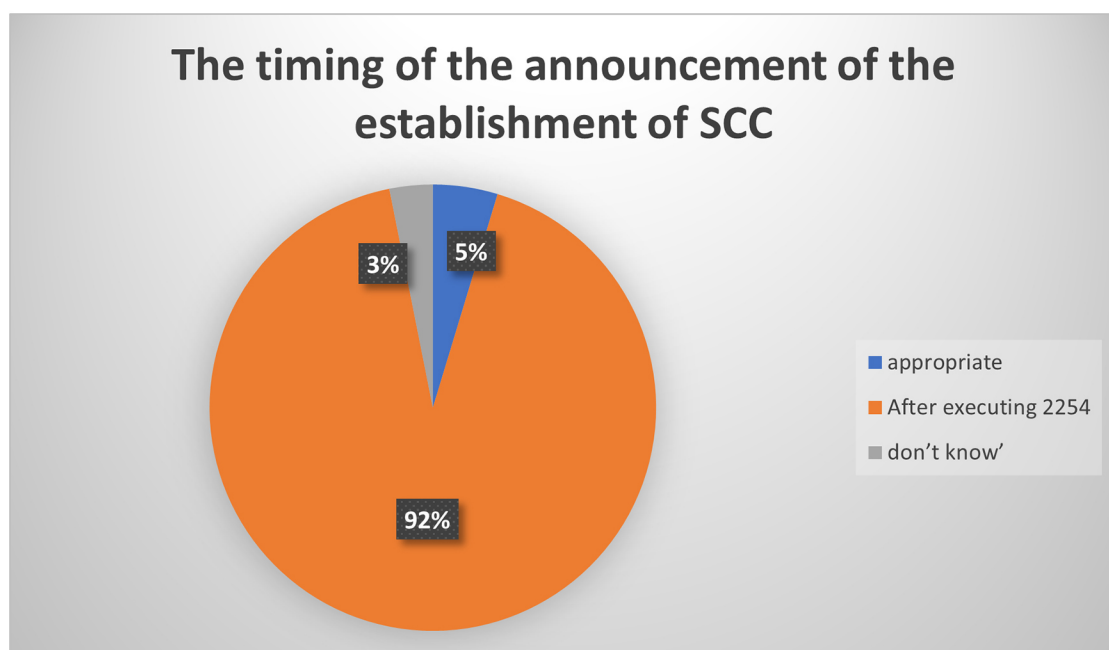
- ❑ Rules of constitutional monitoring over laws and the function of public authorities
- ❑ Accountability rules over ministers, prime minister, and the president and the term limit for the president of the republic
- ❑ Principle of protection of the rights of minorities and ethnic minorities and all components of Syrian society.
- ❑ Representation of women, minorities, and people with disabilities
- ❑ Principles of supra-constitutional measures, which can be repealed and amended, except for when they provide more rights and protection
- ❑ Principles of questioning ministers, prime ministers, and the president
- ❑ Criminalization of genocide, crime against humanity, war crimes, torture, enforce disappearance, extra-judicial killings. Moreover, these crimes should never be subject to a statute of limitations, or be a subject to amnesty or reconciliation agreements/decisions
- ❑ Determining a term limit for the president of the republic



2.1. No hope for a political solution while violating 2254 resolution continues:

The observer of the collective state of the Syria notes the extent of the division caused by the Syrian conflict on all regions of Syria through the complexity of the dramatic scene and the hierarchical and grass-roots fragmentation of Syrian societies, whether in the whole of Syria or in conflict areas. As components of Syrian societies in areas controlled by the main three powers (northwest which is controlled by Syrian opposition, northeast which is controlled by Syrian Democratic forces, and areas controlled by the Syrian government), are not united and don't have the same visions for a Syrian solution, although everyone agree on the need to end the Syrian tragedy.

All Syrians suffer from the lack of legitimate representation because on one hand, there has not been stability and halt to the hostilities as stipulate to in Security Council Resolution 2254 on the political solution in Syria, and on the other hand, all parties to the Syrian conflict, particularly Syrian government, which despite accepting to participate in the peace process, has always obstructed any real progress in the process in the hope to expand the areas of control and increase their influence by taking advantage of the violation of articles 5,6,7,8 of Security Council Resolution No. 2254, adopted unanimously on December 18, 2015, related to a cease-fire and a political solution in Syria. Similarly, the Syrian opposition, with the guidance and support of Turkey, launched two military operations against the areas controlled by the Syrian Democratic Forces and displaced hundreds of thousands of civilians from the cities of Afrin, Ras al-Ain (Serê Kaniyê) and Tal Abyad in 2018 and 2019, and attacks and combat and hostile clashes continue to this day, while the Syrian government continues its military operations against the areas of Idlib and the northern countryside of Aleppo, and continues to blackmail the areas controlled by the Syrian Democratic Forces in the northeast Syria, whereas the south is still experiencing turbulence and demographic changes and demographic engineering sponsored by Russia, Iran, Turkey. As-Suwayda governorate is still unstable in light of the complexity of the security scene and volatile situation due the tension between the Syrian Druze and military militias loyal to the Syrian government.



On the question on the timing of the announcement of the establishment of the Syrian Constitutional Committee, 59 of the organizations that were surveyed thought that the timing should coincide and be conditional to a ceasefire, while only 3 organizations thought the timing to be appropriate, and two organization answered with 'don't know'.

2.2. Northeast Syria between the actual reality and the actual of representation in the solution:

The most complex area in the Syrian scene is the northeast of Syria, which, despite its civil administration represented by the Autonomous Administration of North and East Syria, which was established in 2014, and was later expanded following the liberation of other areas from the control of the Islamic State, mainly in 2018, and its military administration represented by the Syrian Democratic Forces, the main ally of the Global Coalition To Defeat ISIS, led by the United States of America, the participation of this area was not comprehensive and did not represent all its components.

Main components in Northeast Syria:

Northeast of Syrian is divided according to its main component into:

I. Autonomous Administration of North and East Syria (AANES), which has a political wing, represented in the Syrian Democratic Council (SDC), and a military wing represented in Syrian Democratic Forces (SDF), which is the largest force in the area and compose primarily of Kurdish, Arab, and Assyrian/Syriac, as well as some smaller Armenian, Turkmen, and Chechen forces. Within this component, there are several political parties and organizations known as ‘autonomous administration parties’, in addition to representatives of Arab and Kurdish clans, representatives of Islamic, Christian and Yazidi religious bodies, and civil institutions for women and youth

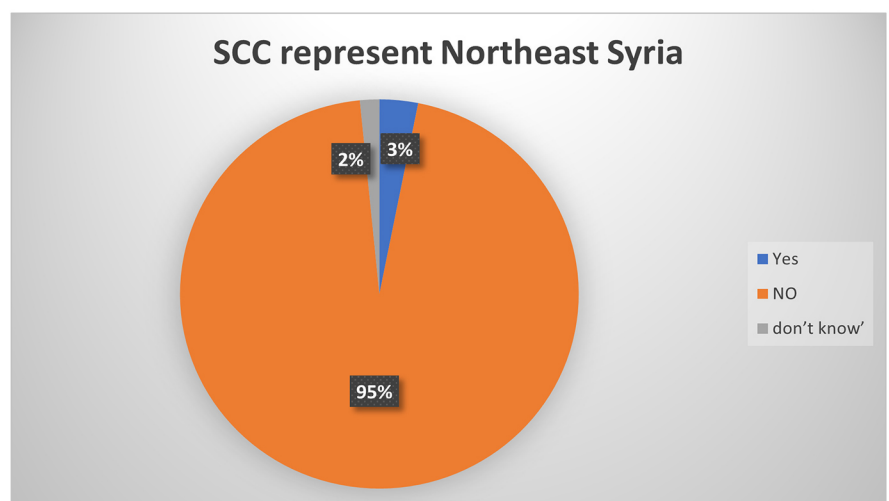
II. The local opposition:

which are the political forces that oppose AANES and is mainly represented by the Kurdish National Council (KNC) parties in Syria, the Assyrian Democratic Organization, and Syria's Tomorrow Movement. These parties, although they are in the region, they are part of the National Coalition of Syrian Revolution and Opposition Forces and the Syrian Negotiations Commission in which they are represented by three members in the large body member in the small body

III. The foreign-based opposition:

which compose of a group of Syrian individuals and personalities in their individual capacity and social and clan status derived from tribal divisions that do not agree with the clan as whole which does not empower these personalities given the divided position and the distribution among parties.

Regarding the question on whether Northeast Syria is represented in the Constitutional Committee for drafting a new Syrian Constitution, 61 organizations answered that this committee does not represent Northeastern Syria, while two organizations thought the area is represented, and one organization answered with ‘don’t know’.

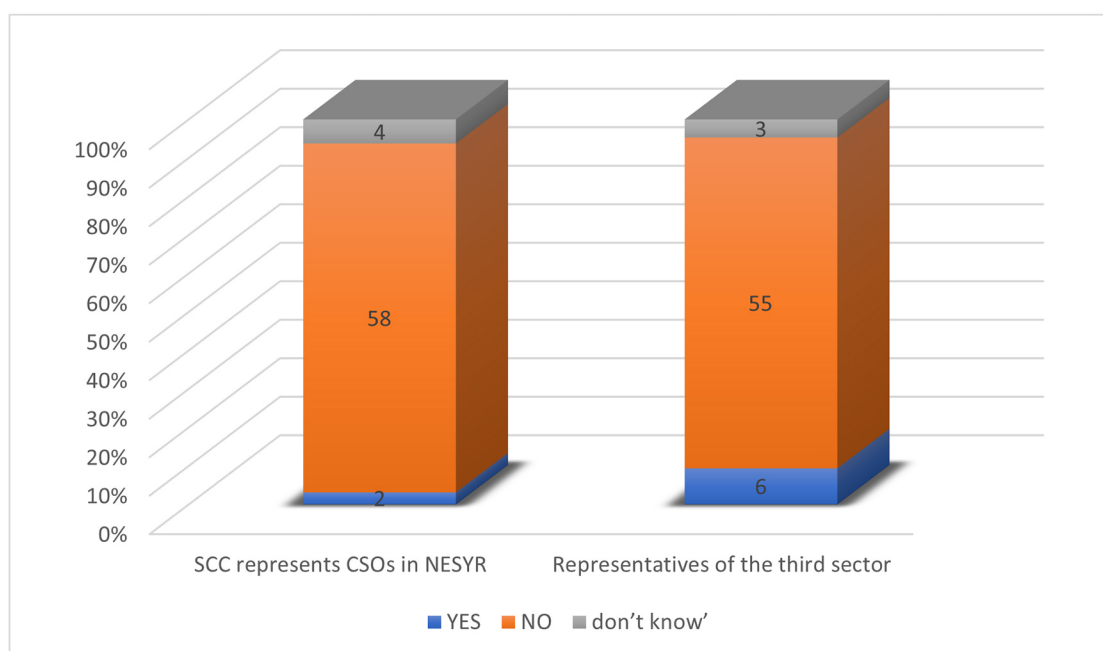


IV. Civil society organizations in Northeastern Syria

which are independent organizations from political parties and possess legal personality in accordance with AANES law on the work of civil society organizations that are not politically affiliated with it as non-governmental and non-profit organizations.

On the question of whether civil society organizations in Northeastern Syria believe that the Syrian Constitutional Committee represents them, 58 organizations—90.6% of the organizations participating in the survey—answered that the Committee does not represent them.

Although there are individual representatives who were appointed to the Committee in the third sector, who were named as representatives of civil society, these individuals do not represent civil society organizations, but rather they participated in their individual capacity as activists. A total of 55 of the surveyed organizations said that representatives of civil society organizations in the Syrian Constitutional Committee don't represent civil society organizations in Northeast Syria—accounting for 85.9% of the organizations that participated in the survey.



CSOs in NESyria believe that SCC represents them

This proposal attempts to address the abovementioned problems that resulted from the path planned by the Constitutional Committee, out of a firm conviction that constitutions are not written by force from one party over the other, nor in the dark to serve the interest of one institution over another, especially following revolutions in which peoples sacrificed their lives and young people risked their future.

It is of utmost importance that all components of Syrian society are represented, where all institutions representing each component nominate their representative to the Constitution Drafting Committee. This representation will ensure that the legitimacy of the members of the Committee is not contested, in addition to expressing the political, social, and cultural framework in the process of drafting the constitution. Given the importance of the participation of Northeastern Syria with its three components in promoting peace and the unity of the Syrian destiny, the following must be achieved:

3.1. Basic requirements to ensure the democracy and legitimacy of the new constitution:

The Fraternity Foundation for Human Rights believe that it is necessary to set several guarantees and conditions that should govern the process of preparing and drafting a democratic constitution that lives up to the hopes and aspirations of the Syrian people and is commensurate with the reality created by the mass movement since 2011. The following guarantees, in our view would ensure achieving the hoped consensus:

I. Promoting Syrian-Syrian peace

Through the implementation of Resolution 2254, especially Articles 5,6,7,8 related to the halt of all hostilities and a ceasefire in Syria. This particularly includes attacks launched by Turkey on the areas of Northeastern Syria and ensuring the cessation of all violations committed daily by the Syrian opposition against the citizens in the area under Turkey's military and political control. Also, the cessation of the Russian attacks on the areas of Northwest Syria under the control of the Syrian opposition and compelling the Syrian government to restrain its security services in carrying out arrests and travel bans against civil society activists in the areas under its control

II. Ensuring a comprehensive and fair representation of all different components of society including:

- a. Political components that enjoy popular legitimacy, represented by existing parties.
- b. Syrian national components with no exception.
- c. Components representing religious institutions.
- d. Scientific and Academic Components: These are expressed by academics and technicians from different groups and disciplines.
- e. Population and geographic components: compose of the three Syrian regions (areas under the control of the opposition, areas under the control of the Syrian government, Northeastern Syria)
- f. Gender and type components: to be represented by Syrian women, youth of both sexes (under the age of 35) and representatives of the LGBT community.
- g. Civil society components: represented by various institutions working in the fields of civil work, especially human rights organizations, and development agencies.
- h. Components that represent the institutions of the three de facto authorities (the government, the opposition, the Autonomous Administration of North and East Syria), which are represented by public bodies and institutions

III. Ensuring the legitimacy and democracy of the representation of all components of the society:

Democratic and practical considerations in the process of drafting the constitution emphasize that the various components of society have the right to determine the scope from which the members of the Constitutional Committee will be selected, by bodies that represent those components. For example, without seeking to be exhaustive, if civil society organizations enjoyed the legitimacy of representing their representatives through free elections that preceded the formation of the Constitutional Committee, then this legitimacy gives these organizations the right to nominate a number of their members to Constitutional Committee

IV. Ensuring the effectiveness of the work of the Constitutional Committee and its ability to achieve:

Given that the constitutional debate—especially with regard to drafting a new constitution, or reforming the current constitution, or the futile outcomes of the Syrian Constitutional Committee established by the United Nations from a narrow sector of experts, jurists, and legal experts—is limited to the rest of society sectors

There is an urgent need, at the substantive and technical level, to represent a number of constitutional and legal experts within the Constitutional Committee and according to specific requirements that guarantee the aforementioned democratic representation standards, and their distribution among the different chambers within the Constitutional Committee, in order to ensure the richness and control of the constitutional debate and also preserve the unity of the draft constitution envisaged to be finalized before submitting to the final drafting committee

V. Ensuring the transparency of the Constitutional Committee and agreement on a timetable to achieve its task

The constitutional committee must have a perception of the appropriate timeframe for the completion of its work, even if this requires an extension to the planned duration for the preparation of the draft constitution, while specifying the deadline. If the political and societal debate over the establishment criteria required all this time, then the proposal, discussion, preparation, drafting and determination of the provisions of the constitution should take the same amount of time, commensurate with the importance and historical significance of that process.

Given that the constitution is the supreme law that defines the basic rules for the form of the state and the basic duties and rights of individuals and groups, in the aftermath of a popular revolution, the public debate and deliberations of the Constitutional Committee and the extent with which it interact with the visions and proposals of the components of the Syrian society, whether through dialogue or listening to them, are the main prerequisites for the success of the work of the Constitutional Committee.

And from broadcasting the joint sessions of the Constitutional Committee's committees through a visual media, or by establishing committees tasked with listening to citizens and groups in several committees of the Constitutional Committee as part of the process the interaction between the Constitution Drafting Committee and Syrian public, which was the case in many experiences of constitution drafting worldwide. (Egypt, South Africa, Brazil). Moreover, the process of broadcasting the constitutional committee's debate sessions enhances the guarantees of popular and societal oversight over the course of the constitution-drafting process.

VI. Ensuring the agreement on the output of the Constitutional Committee

Although practical conception of drafting a new constitution for the country presumes adequate time frame for the work of the Committee, however, the process and the discussion must not go on indefinitely, and the time frame should only aim to achieve consensus on the content, provisions, and articles of the constitution among the members of the committee.

The public interest, in the view of the Fraternity Foundation, requires that the discussions of the members of the Constitutional Committee lead to clear outputs, without trying to arbitrarily impose an opinion or will on other opinions, which would cause crises that might threaten the work of the Constitutional Committee itself. This anticipated consensus is one of the essential conditions to consider the draft constitution ready for a referendum, and to avoid transferring the expected differences amongst the members of the community into the popular referendum.

Accordingly, we suggest that the Constitutional Committee vote on the contents and wording of the articles of the constitution by a majority of 75% of its members.

VII. Ensuring a minimum level of public participation in the referendum on the new constitution:

The success of the process of drafting and writing the new constitution can only be achieved by ensuring the participation of the Syrian people in the referendum on the Constitution, which is the main requirement for the legitimacy of the constitutional document. The Fraternity Foundation believes that the main path to achieve that is by maximizing the role of civil society institutions in activating campaigns to advocate for popular and political participation in the constitutional referendum process.

VIII. Ensuring a minimum level of popular consent as a requirement to adopt the new constitution.

Considering many international experiences, it has been found that the most common consensus is a simple majority (fifty percent plus one) in the constitutional referendum process.

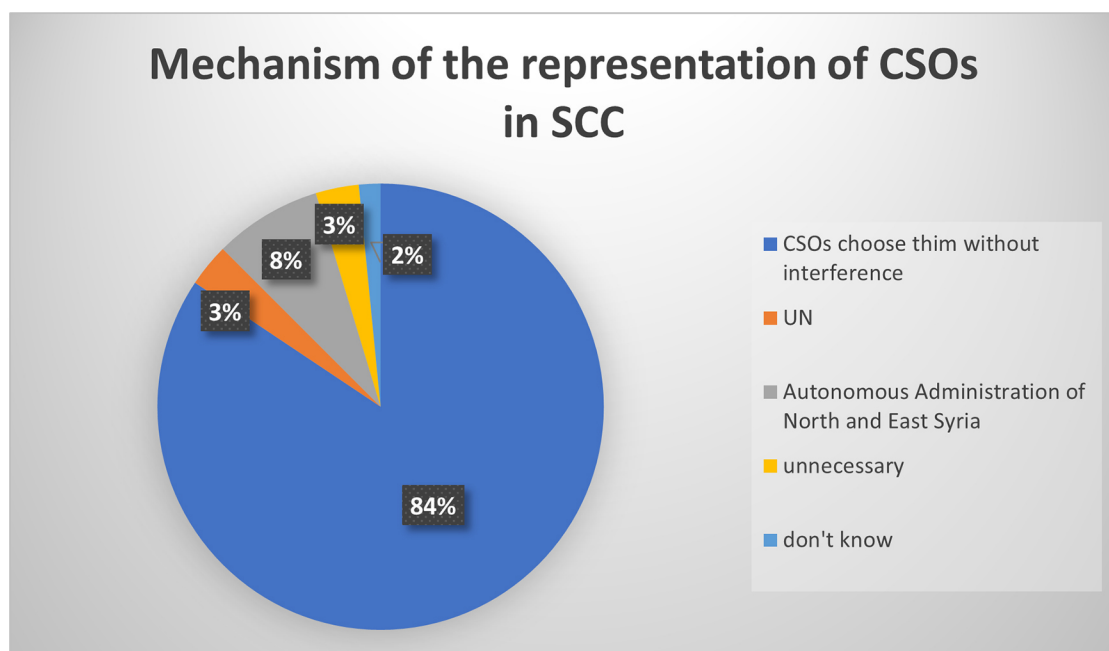
3.2. Criteria for selecting members of the Constitutional Committee:

The Fraternity Foundation believes that components of the Syrian society represented in the Constitutional Committee should be categorized and divided, and when selecting members of the Constitutional Committee, it should be taken into account that the representation of women should not be less than 30%. Also, the representation of the youth, under the age of thirty-five, should not be minimal, and that seats should be distributed according to the following groups:

- The political component
- The substantive and technical component of constitutional and linguistic experts, whom should be nominated by the United Nations, provided they are legal professors with expertise in constitutional issues
- Academic and legal component, that composes of academics specialized in economic, social, and political sciences.
- The Syrian military personnel component, who are specialized in law.
- The Syrian civil society component, in which the civil society organizations themselves agree on their representatives without interference from any party, and under the supervision of the United Nations, provided that they are chosen from among the civil organizations that have been established for at least 5 years and that they are effective entities on Syrian soil in particularly, those who are inside Syria and in the neighboring countries in the refugee camps sectors, and have a specific and clear jurisdiction.

- Representatives of religious institutions in the three regions.
- Geographical component, that includes equitable geographical distribution of Syrian representatives inside and outside the country.

On the question of the representation of the civil society organizations sector in Northeastern Syria in the Constitutional Committee, 54 of the surveyed organizations opinionated that the organizations of Northeast Syria should choose their representatives without interference, and only 2 organizations said that the United Nations should choose the representatives from these organizations, while 5 organizations thought the Autonomous Administration of North and East Syria should choose those representatives from the organizations, and finally 2 organizations said that there is no need for civil society organizations to be represented in the Constitutional Committee. It should be noted that none of the organizations knew the appropriate mechanisms for choosing its representatives to the Constitutional Committee



Conditions or criteria for selecting the members of the Constitutional Committee.

- Good reputation, integrity, and independence
- Professional competence
- Must not have a history of corruption in political life
- Is not accused or suspected of committing crimes or violations
- Must be accepted and approved by the party, group, or minority he/she represents
- should not be associated with have a relation to an entity, group or faction that have committed grave human rights violations
- Written commitment that he/she will not run for upcoming presidential or parliamentary elections
- Written commitment that he/she will not accept appointment to any institution or body stipulated in the constitution
- Written commitment that that he/she accepts to work voluntarily in the Constitutional Committee
- Provide a psychiatric record proving that there is no history of addiction or substance abuse that might impede the ability to make decisions.

3.3. Rules, procedures, and competencies of the work of Constitutional Committee

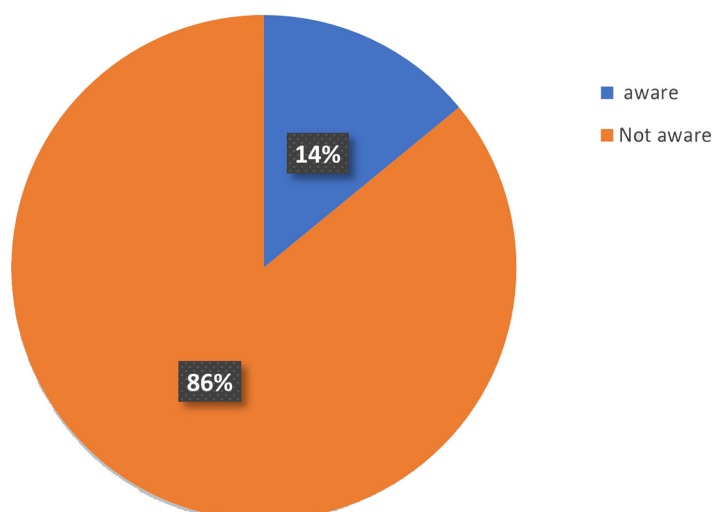
I. Voting mechanism:

- The Constitutional Committee would by a majority of 75% of its members on each article of the draft constitution separately before its approval.
- With the approval of two-thirds of the members of the Constitutional Committee, a request to extend the period for preparing the draft constitution may be granted for a maximum of six months, provided that the necessary legal procedures be issued in this regard.
- The draft constitution shall be put to a public referendum once 75% of the member of the Constitutional Committee approved the draft, and within a maximum two-week period from the date of approval.
- The constitution shall be adopted once approved by 51% of the participants in the constitutional referendum, inside and outside Syria.

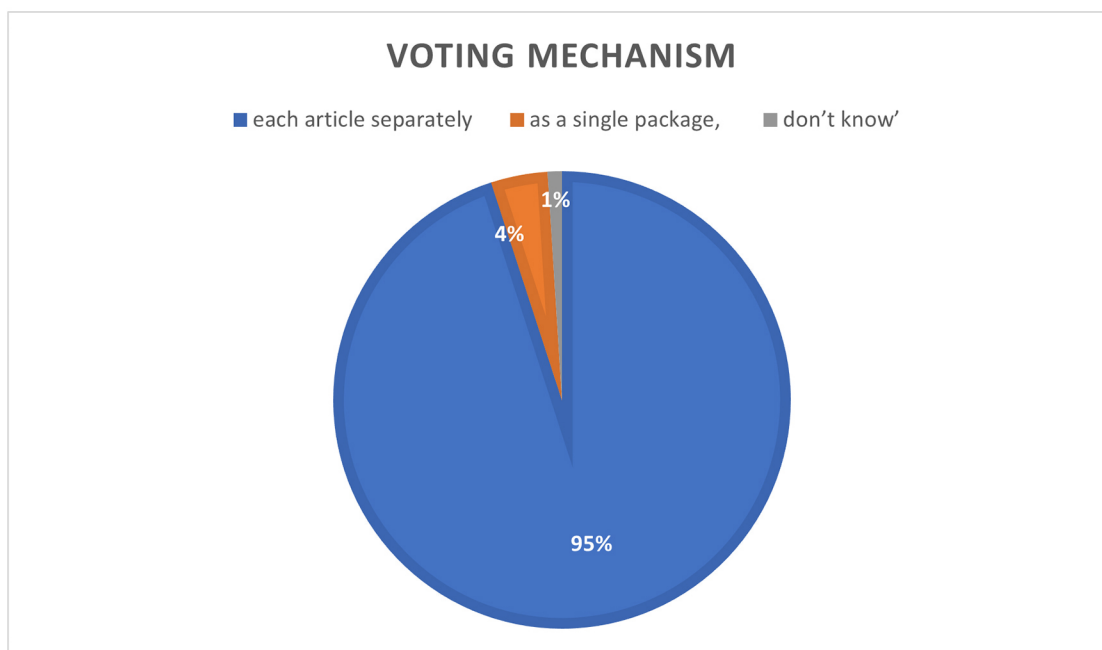
The opinion of CSOs on the voting mechanism within the SCC..??

A total of 55 organizations believed that they have not reviewed the voting mechanism in the Committee, compared to 9 organizations who were aware of the voting mechanism in the constitutional committee.

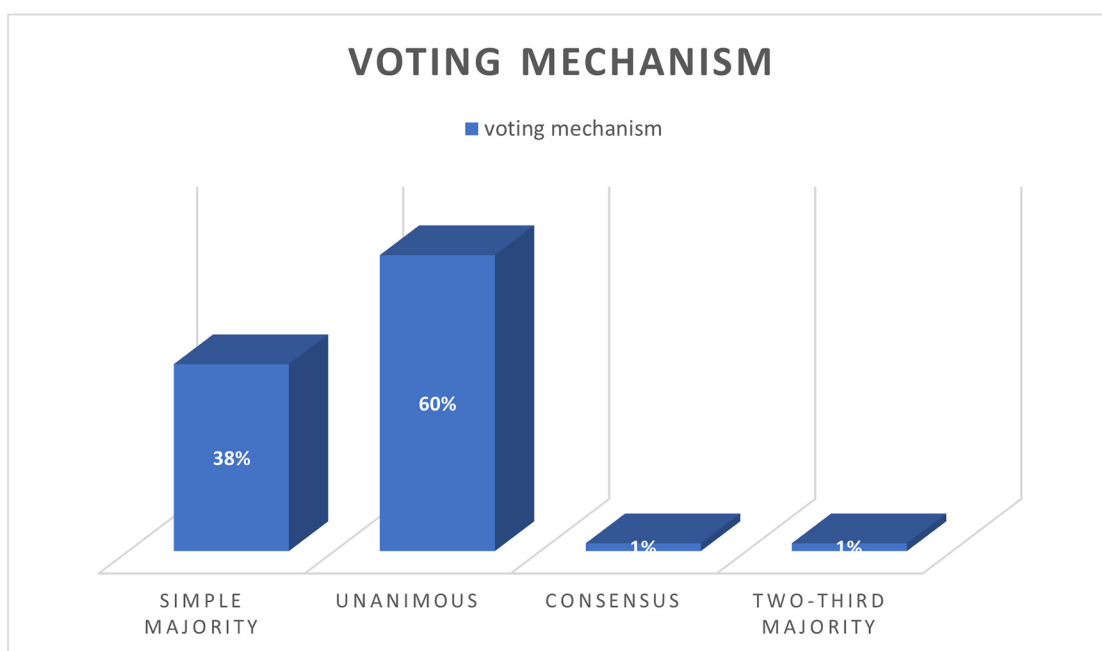
CSOs aware of the voting mechanism



Fifty-nine organizations considered that voting should be on each article separately, while 4 organizations considered that voting on should be on the draft constitution as a single package, and only one organization answered with ‘don’t know’.



Twenty-four organizations considered that the voting mechanism should be by a simple majority; while 38 organizations thought the vote should be unanimous; one organization felt that the vote should be consensus; and one organization considered that the vote should be by a two-third majority.



II. Establishment of committees for the Constitutional Committee.

- a. The Constitutional Committee chooses a chairperson, two deputies and a general secretary by a majority of 75% of its members
- b. Formation of a public committee to discuss the proposed articles of the constitution, and vote on each article separately and by consensus.
- c. A drafting committee consisting of ten members at most, of constitutional experts, to regulate the drafting of the final draft that is referred to it by the general committee. Its work should not include reformulating or modifying the wording, as its role is limited to adjusting the drafting from constitutional, legal, and linguistic perspectives.
- d. A committee to hear and receive suggestions from the general public on the draft constitution.
- e. A number of qualitative committees equal to the number of chapters in the constitution. Each committee is responsible for submitting proposals on the constitutional articles for each chapter and presenting them for public discussion between the members of the specific committee and the members of the general committee.
- f. A specialized Kurdish committee by all Kurdish parties, and no political party should be excluded from it.
- g. Minority rights committee of Yazidis, Syriacs, Druze, Armenians, Turkmen and Syrian Circassians.

Five organizations deemed the current method appropriate, while 57 organizations considered that the Constitutional Committee's office should be formed from, one chairman, 3 deputies, a vice president, a media spokesperson, and the Committee's secretary general, two organizations answered that they did not know anything about the subject.

“

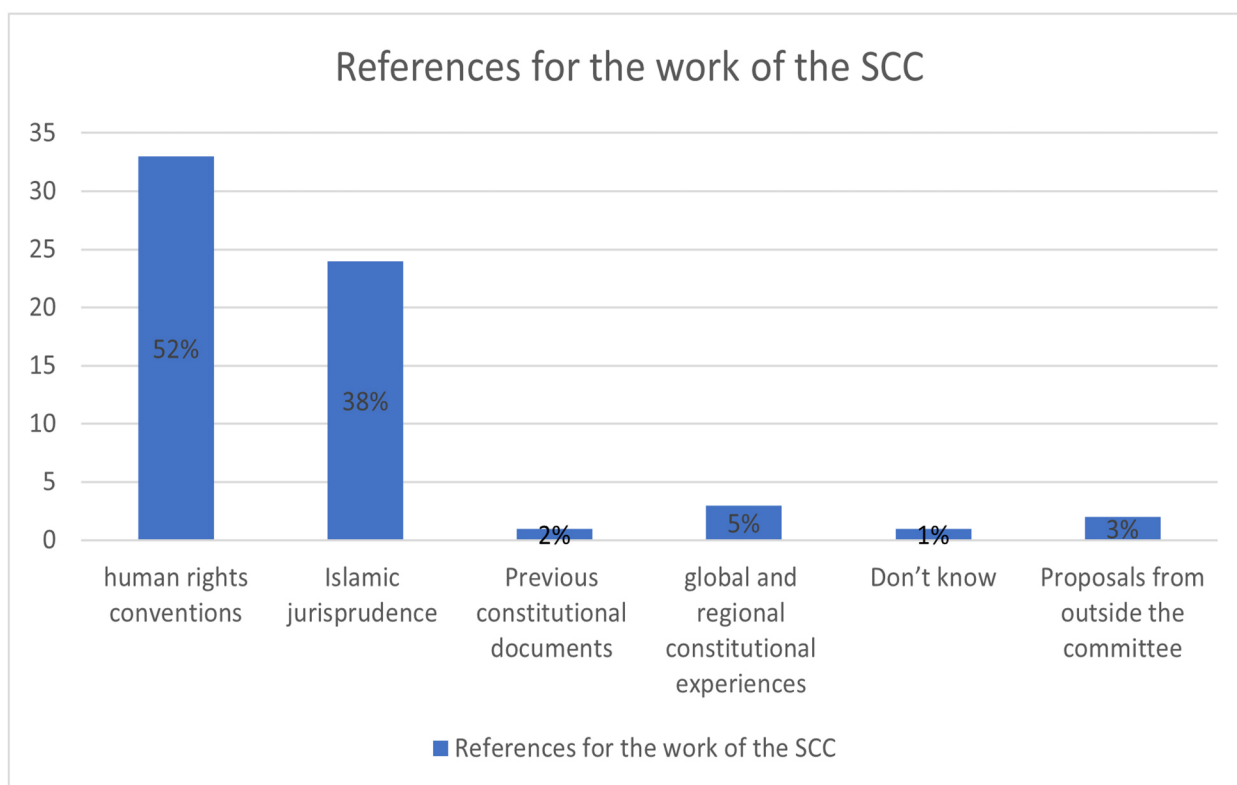
Sixty two organizations thought the Constitutional Committee should comprise of the following committees: a committee on instruments of statehood and society; a committee on rights, duties and public freedoms; a committee on the system of government and public authorities; a committee on independent and oversight bodies; a committee on proposals, dialogues and community communications, a technical committee for drafting and research, and the Constitutional Committee may—when necessary—establish other substantive committees with the approval of the majority of its members, with the addition of a women's committee. Two organizations did not agree with this formation; however, they didn't submit a different proposal.

III. References for the work of the Constitutional Committee:

The Constitutional Committee shall use the following documents as a reference for its work:

- a. Previous constitutional documents (e.g., Draft Royal Constitution 1919- 1920; constitutions of the mandate period 1943-1928; 1949 draft constitution; 1950 constitution; 1953 constitution; unity constitution; secession era constitution 1961; Interim constitutions 1973-1964; permanent Constitution of 1973; and 2012 Constitution).
- b. The Constitutional Committee shall use the global and regional constitutional experiences as a reference, particularly the constitutions of post-conflict states, such as the federal constitution of Iraq.
- c. The Constitutional Committee shall be guided by international standards for the protection and promotion of human rights as a primary source for its work.

With regards to the sources and references for the work of the Constitutional Committee, 33 organizations, 51.5% of the organizations that were surveyed, said that international human rights conventions should be a source of the committee's work, while 24 of them said that Islamic jurisprudence should a source of the committee's work.



Fraternity Foundation for Human Rights proposal on the establishment and work mechanisms of the Constitutional Committee is comprehensive and complete for all Syrians:

Based on the outputs and recommendations contained in this paper, which are discussed in detail in the second and third sections, while Fraternity Foundation for Human Rights while appreciate the work of the international community and supports Resolution 2254 in letter and spirit, it proposes establishment and work mechanisms for the Constitutional Committee—according to its vision as a Syrian human right organization, which has been active since the popular movement began, and as a main component of the civil and human rights movement—as follows:

I. Composition of the Constitutional Committee:

- a. The Constitutional Committee shall be composed formed of a hundred (100) original members, in addition to fifty (50) reserve members. The reserve member shall replace the original member by way of election in case of force majeure, explicit or implicit resignation in any form, or in the case absence from three successive sessions without presenting an acceptable excuse to the committee
- b. Membership of the Constitutional Committee is a national duty and a voluntary work carried out by its members without compensation.

II. General provisions of the Constitutional Committee:

- a. Reserve members of the Constitutional Committee may attend the sessions and meetings of the Committees to express their opinion and advice without the right to vote
- b. The Constitutional Committee or any of its member may invite experts and specialists they deem appropriate to participate in some of its sessions or meetings to express opinion and advice without the right to vote.

Complete minutes for the sessions of the Constitutional Committee, and minutes for the meetings of its main bodies, in which the names of those present and absent, a summary of the discussions and decisions shall be written.

- d. The minutes must be brought immediately to the Committee's session and meetings for approval and ratification, and it must be signed by the chair of the session or the meeting, as per the case
- e. The chair of the Constitutional Committee, after its approval, determines the date for submitting the draft constitution to a popular referendum, and the chair shall be authorized to communicate and coordinate with the relevant authorities to conduct this referendum
- f. The work of the Constitutional Committee does not end until after the result of the referendum on the draft constitution is announced.
- g. Members of the Constitutional Committee shall enjoy immunities and protections that enable them to perform their role.
- h. The Constitutional Committee shall have an independent budget to be allocated from state resources.
- i. Each specialized substantive committee consists of no less than fifteen members, whose appointment is issued by a decision of the Constitutional Committee. Each member of the main Committee shall join one of these committees according to their first preference, and they shall have a second choice as a reserve.
- j. Each specific committee elects a general rapporteur and an assistant rapporteur to manage its work and organize its meetings, and each committee sets its activity plan. Each substantive committee may form from among its members sub-committees to be assigned specific tasks within its area. These sub-committees shall submit the results of its work to the substantive committee for consideration and decision. Each substantive committee may, according to what it deems fit, seek the assistance of qualified and experienced people. Each specialized substantive committee must finish drafting the provisions of the draft constitution that fall within its competencies in accordance with what is decided by the Constitutional Committee's bureau in its activity plan. Each specific committee may, after the approval of the bureau body, seek the

III. The presidency/management of the Constitutional Committee:

- a. The Constitutional Committee elects from its members a chairperson, three deputies, and an official media spokesperson. The Committee shall choose a secretary general and a number of assistant secretaries from its members or elsewhere.
- b. The head of the Constitutional Committee is the one who represents it, maintains its order and the dignity of its members, chairs its sessions, participates with its bureau in setting its agenda, calls meetings, manages its discussions, announces its decisions, and generally supervises the proper functioning of its work, its various bodies, and its technical secretariat.
- c. Twenty members of the Committee may call for a meeting at a request submitted to its president or whoever takes his place, and in the event of their absence, the same number shall have the right to directly call the members of the Committee for a meeting.
- d. The oldest deputy of the Constitutional Committee shall deputize for the president of the Committee in his absence. The three deputies shall follow up on the work of the association's committee in tandem.
- e. The spokesperson, exclusively, shall speak on behalf of the Constitutional Committee, and deal with the media and presents press releases on the Committee's activities and performance.
- f. The Secretary General of the Constitutional Committee shall supervise its substantive secretariat, assisted by the assistant secretaries, and shall propose the technical and administrative staff working in this secretariat and define its tasks and terms of reference and everything related to its administrative and financial management. And this shall be presented to the Bureau of the Constitutional Committee for approval.

IV. The Bureau of the Constitutional Committee

- a. The Bureau of the Constitutional Committee shall consist of its chairman, deputies, the Secretary General, his assistants, spokesperson, and the rapporteurs of the substantive committees. The Bureau of the Constitutional Committee shall set the rules and procedures regulating its internal work.
- b. The Bureau of the Constitutional Committee shall undertake the coordination work between its bodies, develop its activity plan, and provide the necessary assistance to ensure the orderly conduct of the work of the Constitutional Committee, in cooperation with its substantive secretariat.
- c. The Bureau shall receive, on a real-time basis, results of the work of the substantive committees and transmits them to the General Drafting and Research Committee for review, revision, and amend its provisions, while considering the unity and the sound legislative harmonization of the proposed texts, in preparation for submission to the main sessions of the Constitutional Committee.

V. Quorum for the validity of the meeting of the Constitutional Committee:

- a. The convening of the Constitutional Committee shall be valid if the majority of its members are present, and if the meeting begins properly, it will continue to be so even if some of its members leave the meeting room. In all cases, a quorum of a majority of the Committee's members is required when making decisions. The Constitutional Committee shall take its decisions on procedural issues by an absolute majority of the members present.
- b. The Constitutional Committee shall approve the proposed articles of the draft constitution article by article by consensus, and if this consensus is not achieved, the text is presented to the vote and approved by a majority of sixty-seven (67) members of the Constitutional Committee. If that majority could not be achieved, then the text shall be submitted to a meeting between the Constitutional Committee and relevant substantive committee, to review the text and review its drafting. The reviewed text then shall be re-submitted to the Constitutional Committee within a period not exceeding forty-eight hours from the date of text referral to the joint meeting. In that case, the text shall be adopted by the approval of at least fifty-seven (57) of the members
- c. The Constitutional Committee shall allocate one or more session for complete final reading of the draft constitution, and its final approval as a whole.

