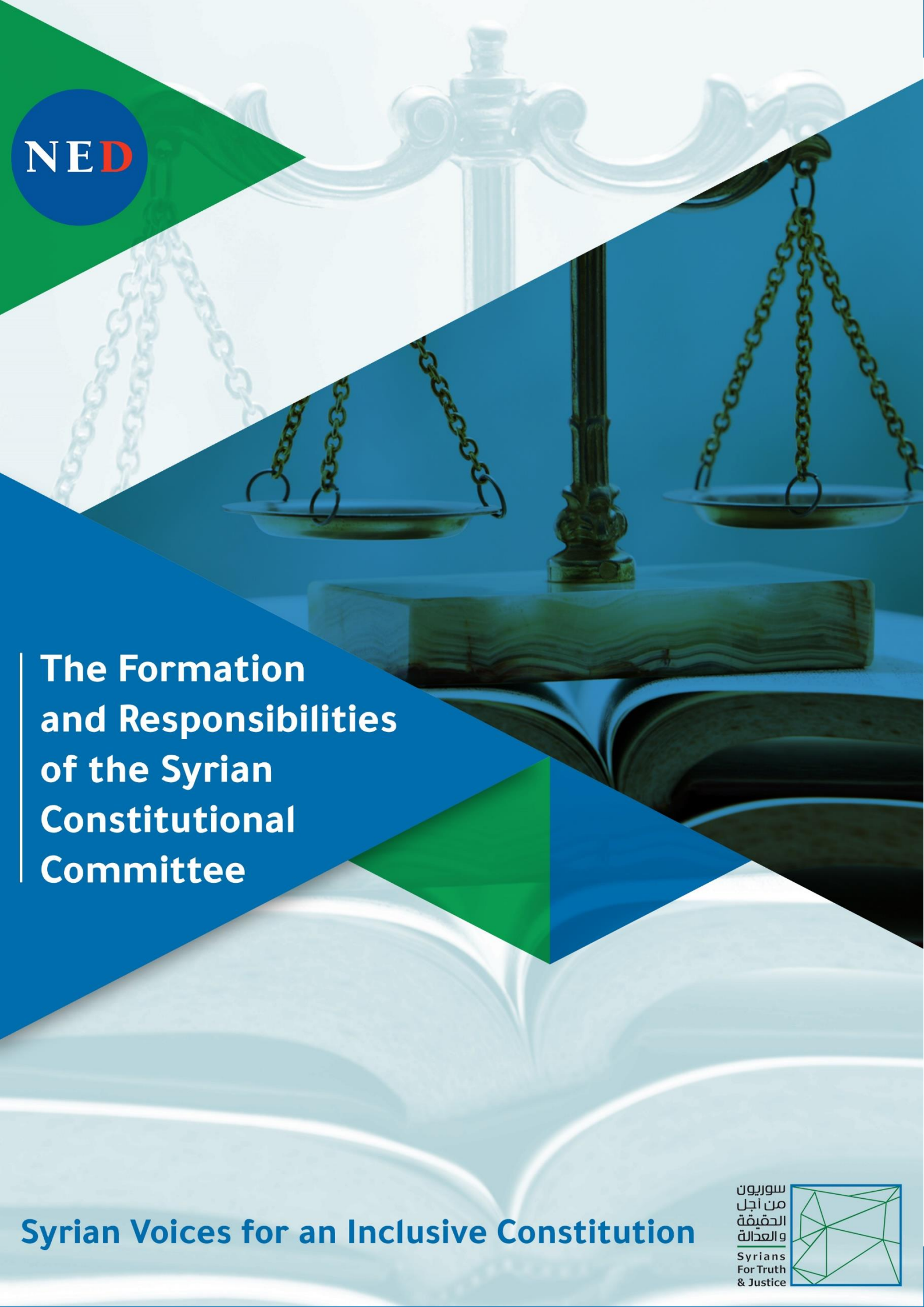


The logo for the National Endowment for Democracy (NED) is located in the top left corner. It consists of a blue circle with the letters 'NED' in white, where the 'D' is slightly larger and red.

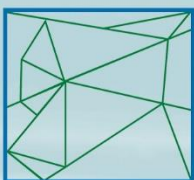
NED

The background of the cover features a close-up of a pair of brass scales of justice resting on a stack of open books. The scales are positioned in the upper right, and the books are spread out below them. The image is overlaid with large, diagonal geometric shapes in shades of blue and green.

The Formation and Responsibilities of the Syrian Constitutional Committee

Syrian Voices for an Inclusive Constitution

سوريون
من أجل
الحقيقة
والعدالة
Syrians
For Truth
& Justice



The Formation and Responsibilities of the Syrian Constitutional Committee

Syrian Voices for an Inclusive Constitution – Report 1

Syrian Voices for an Inclusive Constitution

Throughout 2020, Syrians for Truth and Justice (STJ), with the support of the National Endowment for Democracy (NED), organized consultations and documented the perspectives of over 80 Syrian civil society representatives, activists, and civilians in Northeastern and Northwestern Syria on topics related to the constitution-building process in Syria. We chose participants who were not given the opportunity to contribute their thoughts about the new Syrian constitution and gave them the opportunity to discuss issues related to how it should be drafted. Among them, 74.7% believed that the Committee should write a new constitution, and 14.5% believed the current constitution should be amended.

To share the results of our consultations in Syria, STJ is publishing this report as the first of a series of five exploring the following topics:

Report 1: The Formation and Responsibilities of the Syrian Constitutional Committee

Report 2: Inclusivity and Diversity

Report 3: Transitional Justice

Report 4: Governance and Judicial Systems

Report 5: Socio-Ecological Justice and Personal Experiences

Our sixth report summarizes the five published reports, as well as sheds light on the outcomes and notable recommendations which emerged from the project.

A constitution lies at the foundation of a country's political system, outlines the principles and values which regulate its society, defines the powers and limits of the ruling authority, establishes the relationship between the executive, judicial, and legislative branches of government, and sets the tone for accountability mechanisms. Even more, a constitution can carry the symbolic power to unite a country — even one as diverse as Syria. However, just as these powers enable constitutions around the world to protect and support the citizens who uphold them, so can these powers, when improperly exercised, impair their nations and their people.

Within conflict zones like Syria, the existence, creation, and amendment of a constitution can spark either decades of peace, democracy, and progress, or decades of continued conflict and deterioration. Recognizing the foundational role constitutions play and the importance of a fair constitution-building process, UN Resolution 2254 established the Syrian Constitutional Committee as one political solution to the Syrian conflict. Assembled with the approval of both the Syrian government and the opposition Syrian Negotiations Commission, and facilitated by the United Nations, the constituent assembly endeavors to amend or adopt a new Syrian Constitution. After the UN assembled the Syrian Constitutional Committee in 2019, Syria began moving towards a new or amended constitution as part of the path towards national peace and stability.

While UN General Secretary António Guterres calls the Constitutional Committee part of a “Syrian-owned and Syrian-led” peace process, there has been significant controversy surrounding which Syrian communities are represented in the Constitutional Committee and the role foreign powers have played in choosing them. Both Turkey and Russia influenced the delegates chosen in the Syrian Constitutional Committee, testifying to the impact foreign powers continue to have not only on the Syrian conflict, but on the Syrian peace-building process. However, even as foreign powers arguably have a disproportionate influence on the Constitutional Committee, many Syrian communities find themselves left out of the constitutional process. For example, according to the Middle East Institute, the Committee is “strongly skewed against the Kurds, who comprise only 4% of its total membership, less than half of their percentage of the population as a whole¹.”

Today, the human rights and needs of Syrian civilians inspire the need for both a fair constitution and constitutional-building process. 9.3 million Syrians are food-insecure — the

¹ Shaar, Karam, and Ayman Dasouki. “Syria’s Constitutional Committee: The Devil in the Detail.” The Middle East Institute, 6 January 2021, <https://www.mei.edu/publications/syrias-constitutional-committee-devil-detail>.

highest number ever recorded²— as a result of the continuation of the Syrian conflict and the Covid-19 pandemic. Multiple actors within Syria continue to violate human rights on a large scale and the means of holding them accountable remain inaccessible or non-existent. The deterioration of the country across these dimensions highlights the importance of the constitutional building process as a step towards a political solution. Accountability structures, inclusivity standards, and transitional justice mechanisms included within the constitution can not only attest to the country's principles, but establish the document as a legal precedent for the protection of minorities, the independence of a free and fair judiciary, and other safeguards which seek to protect the human rights of Syrian civilians.

While the final constitution published by The Syrian Constitutional Committee, if honored, can protect the rights of citizens, the process of writing the constitution is just as important. The constitutional-building process can provide disenfranchised Syrian citizens the opportunity to share their priorities for the country they want to live in after years of conflict. Simultaneously, if the constitutional-building process fails to be inclusive of the interests of diverse groups within Syria and earn the people's trust in its legitimacy, then the new or amended constitution may detriment, rather than help, Syria's peace-building process. Consequently, STJ advocates for governmental and nongovernmental actors to reconsider the diversity of the current Syrian Constitutional Committee and make the delegates more inclusive of Syrian regions and communities in order to successfully draft a Syrian constitution through an inclusive process of national consensus which includes the voices of all factions of Syrian society.

With those diverse voices in mind, STJ does not believe that the solution cannot be quickly imposing a new and permanent constitution on a society still recovering from the wounds of war, but instead engaging in a critical, multifaceted process which accounts for the differences of opinion within the communities the constitution must ultimately advocate for.”³ It is with this conviction that STJ implemented the project ‘Syrian Voices for an Inclusive Constitution’ over the past year. Throughout 2020, Syrians for Truth and Justice organized nine consultations with over eighty participants and documented the perspectives of Syrian civil society representatives, activists, and civilians on topics related to the constitution-building process in Syria. A series of five reports explore the data retrieved from our consultations with Syrian citizens, contextualize the findings with historical and contemporary critical conversations, and provide recommendations on how to improve inclusivity across the

²[Syria Introduces limits on subsidised bread as economic crisis bites](#), The Guardian, 2020

³ [Constitutional Options for Syria: Governance, Democratization and Institutions Building](#), The National Agenda for the Future of Syria (NAFS) Programme, 2017

different dimensions of Syria's constitution-building process. In addition to providing historical context on Syria's constitutions and introducing the Syrian Constitutional Committee, the following report explores how the Syrian citizens we spoke to perceive this current attempt to write or amend a new Syrian Constitution.

The Syrian government began drafting the current Syrian constitution in the second half of 2011 in response to the Syrian Uprising. After protests erupted across the country in March 2011, President Bashar al-Assad promised a package of reforms and alluded to a rewriting of the existing constitution, or at the very least significant amendments. Subsequently, on 15 October 2011, President Bashar al-Assad issued Decree No.33 calling for the formation of a 29-member constitutional rewriting committee which would ultimately draft "The 2012 Constitution of the Syrian Arab Republic". The newly drafted constitution was authorized on February 27, 2012 by Presidential Decree no. 94; however, rather than appease an unsettled populace, the new constitution met with scathing critique.

The 2012 constitution maintains the majority of the previous constitution's provisions and articles, leading critics to argue it is a "revised" rather than a "rewritten" constitution. The constitution outlines a republican system of governance, emphasizing the maintenance of the country's borders: "The Syrian Arab Republic is a democratic state with full sovereignty...and may not waive any part of its territory." The constitution emphasizes the Islamic identity of Syria, defining Islam as the religion of the President and Islamic jurisprudence as a major source of legislation. The international reception to the 2012 constitution varied from a pleased Russia to a discontented France, which, along with other Western nations, considered the referendum "a farce" given Syria's ongoing military operations.⁴

Many of the declarations explicated in the 2012 constitution about the importance of human rights and minority protections in Syria failed to manifest in the everyday lives of Syrian civilians, undermining faith in the legitimacy of the constitution as a transitional legal document and not merely placating words. We believe that in order for a new constitution to succeed in unifying and stabilizing Syria where the current 2012 constitution failed, its creation must incorporate the diverse voices of its people.

⁴ [West Considers Referendum on New Syrian Constitution 'Trickery and Counterfeiting'](#), Al-Manar, 2012.

The Syrian Constitutional Committee (SCC)

The SCC was established as a result of United Nations' resolution 2254⁵ and officially announced after the 2018 Syrian National Dialogue Conference in Sochi as part of an international strategy, approved by Russia, Turkey, and Iran, to resolve the Syrian conflict. The strategy is framed within four "baskets": achieving a credible non-sectarian transitional government, drafting a future constitution, holding free parliamentary elections within eighteen months under the supervision of the United Nations, and fighting a united war against terrorism. While all four baskets are equally important, the Committee views the process of writing a revised constitution as integral to outlining the concrete steps needed to implement the other three baskets.

The committee consists of both an expanded and smaller body of members. The expanded committee consists of 150 members, 50 chosen by the Syrian government, 50 by the opposition, and 50 by a special United Nations envoy which selected experts and civil society representatives from varying ethnic, religious, and geographic backgrounds. The smaller body, composed of 45 total members, includes 15 members each nominated by the three parties. The smaller body takes charge of preparing, drafting, and presenting proposals to the expanded body for approval.⁶

Methodology

The project 'Syrian Voices for an Inclusive Constitution' facilitated a total of nine consultations during which over 80 professionals, civil society activists, community leaders, and Syrian civilians were presented with information on the Constitutional Committee's progress towards writing a new or amended Syrian constitution. The 83 participants discussed their questions with a member of the Constitutional Committee, either from the Opposition group or the Civil society group. Topics in the conversations included the Committee, its goals and objectives, the content of the constitution, the constitution in a transitional period, and governance and judicial systems.

After their conversations with committee members, participants were provided with a detailed survey of over forty questions related to different sections of the constitution-building process. The overarching themes included:

⁵ UN Security Council, *Security Council resolution*, 2254, (2015), 15-22539

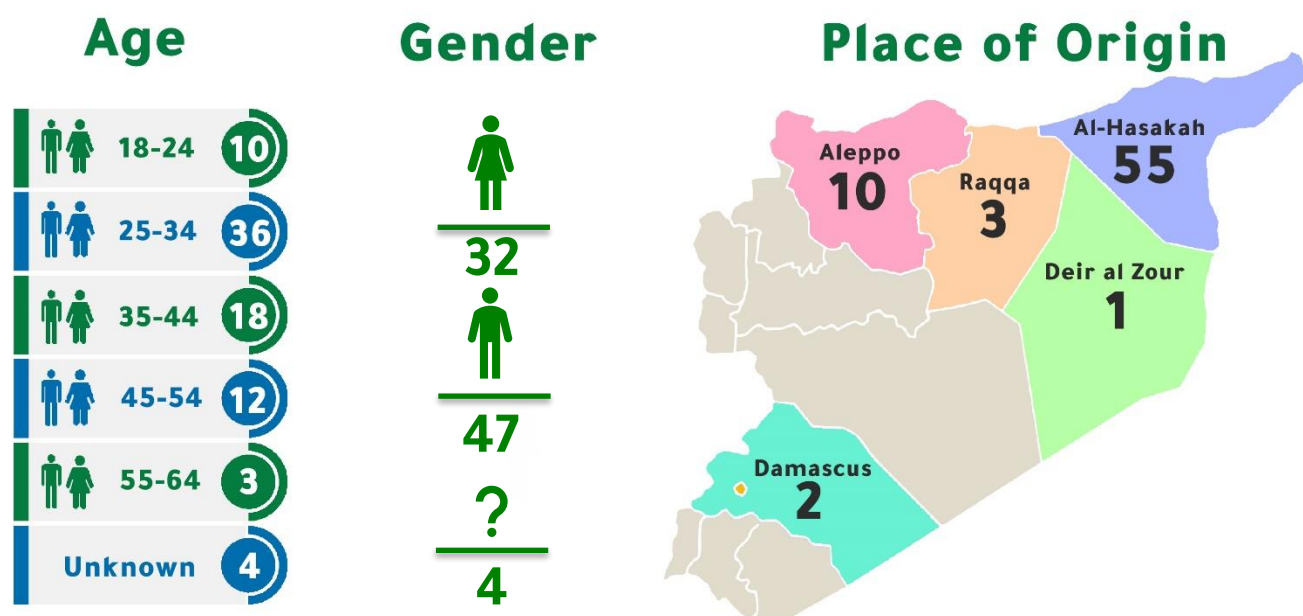
⁶ [Discussion about the Syrian Constitutional Committee with Lawyer Kamal Salman](#), Zaki Mehchy, Chatham House, 2019

1. The constitutional Committee
2. Inclusivity and representation within the constitution
3. Transitional justice and the constitution-building process
4. Governance and judicial systems
5. Environmental and social justice

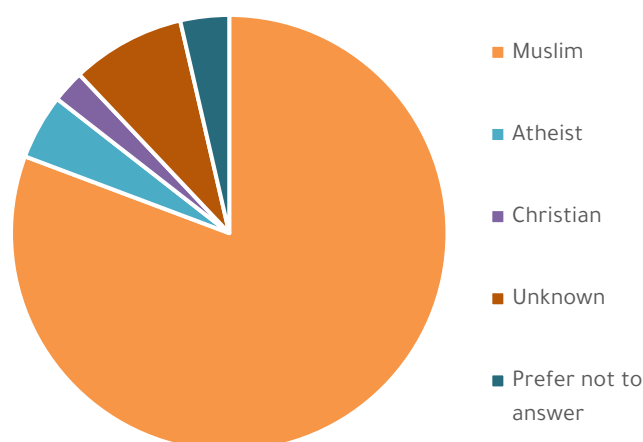
The following set of five reports by STJ share the perspectives of the participants voiced throughout both the consultations and survey.

STJ succeeded in gathering a diverse group of 83 Syrians to work with. While the study's sample size is comparatively small, it concentrates especially on elevating minority perspectives within Northern Syria and incorporates the opinions of participants who live in unstable zones which are harder for civil society advocates to reach, and therefore, listen to. 92.7% of the participants of this project currently live in Syria, of which all represent communities and minorities located in the North, Northwestern, and Northeastern areas in Syria. 38.6% of the participants are women and 55.4% are under the age of 35.

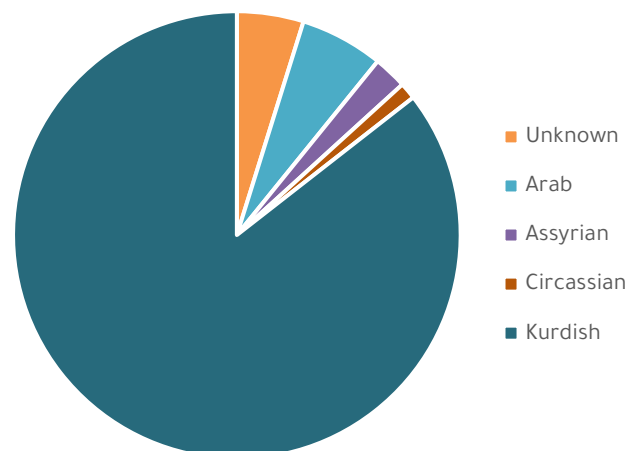
Demographics



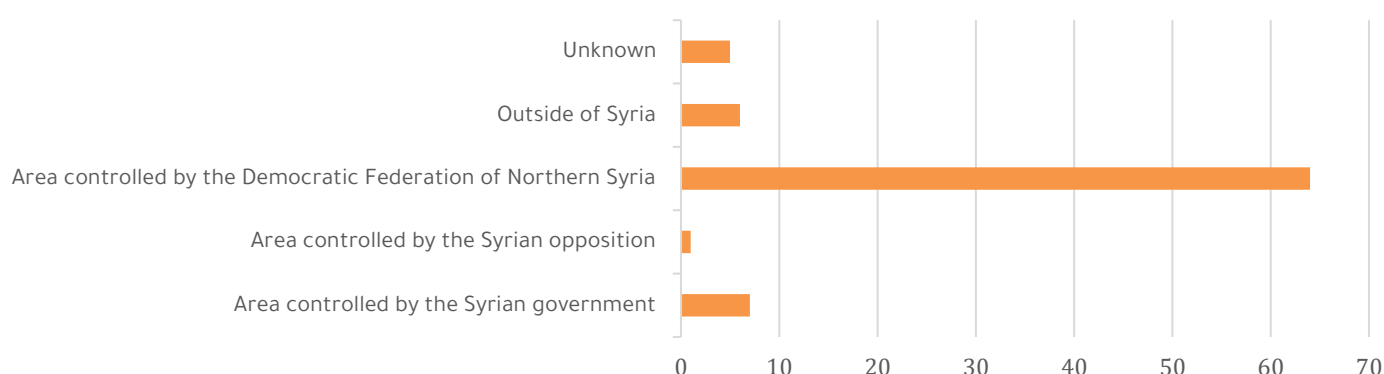
Religion



Ethnicity



Current Residency



Analysis - The Syrian Constitutional Committee

The participants' responses to the survey demonstrate their cautious optimism about the Syrian Constitutional Committee's capacity to rewrite or amend the Syrian constitution. In general, the participants were aware of the committee before the consultations with STJ. Only 8.4% of participants had not heard about the Constitutional Committee before participating in the consultations. Of the ones who did, 37.3% found out about the Committee through national media outlets and 42.2% through international online sources. Furthermore, 49.4% knew about both the structure and the objective of the Committee whereas 20.5% only knew about their objective. Interestingly, a significant number of people (24.1%) did not know how the Committee was structured nor its objective, even if they knew about its existence. This data suggests that there was not a single and coherent message sent out to all Syrian citizens about the existence of the Committee and even less so about specifics.

With regards to the objectives of the Committee, 74.7% advised the Committee to write a new constitution as opposed to 14.5% who thought only amendments were necessary. Additionally, participants strongly believed that the UN should approve the draft before bringing it to the people and putting it up for a referendum. This request for neutral international involvement in the constitution-building process might have something to do with skepticism about the Committee's role in writing this new or amended constitution. Namely, participants fear or are suspicious that the Committee functions as a smokescreen for other actors to write the actual new or amended constitution. The participants also frequently raised a concern over the exclusion of minorities in both the writing process and the future final result.

With regards to the Committee's work on the constitution acting as a solution to the conflict, 75.9% of participants understood that while rewriting the constitution serves as a necessary step in the peace process, it is one of many and alone is not a solution to the Syrian conflict. However, a minority of participants (12%) think a revised constitution is enough to end the conflict. 6.02% of participants find a new constitution unnecessary if the existing constitution was implemented properly.

Since the Committee emerged from the 'four basket' strategy proposed by the UN, STJ asked participants to reflect upon the other three baskets. 46.9% of the participants thought the baskets should be developed parallel to each other, in contrast to the 3.6% that consider the focus ought to be on one basket at a time. Furthermore, 28.9% voted for the adoption of the new/amended constitution prior to the discussion of the other three baskets.

Conclusion

The Syrian Constitutional Committee, despite delays due to schedule negotiation and Covid-19, began their ongoing meetings at the end of summer 2020. While their members meet, their elected officials continue to consult with Syrian citizens. One member, Sabah Alhallak, a member of the Syrian Women's League in 1985, mentioned that while Syrian citizens are skeptical at first in hearing about the Constitutional Committee's aspirations for a free and fair constitutional-building process, they begin to change their minds after recognizing that their perspective is being considered by actors involved in the process. The shift in opinion highlights the importance of educating Syrian citizens about the Constitutional Committee, maintaining transparency in the constitutional writing process, and incorporating the opinions of the Syrian people. The process of writing a new Syrian constitution, before even publishing a completed document, will be vital in both providing the opportunity for diverse groups across Syria to

negotiate a path out of conflict and building the anticipated constitution's legitimacy among the people.

Recommendations

In light of the data represented in this report, both from the consultations and the complementary sources, STJ recommends that the Syrian government, the international community and Syrian Constitutional Committee:

1. Recognize the current lack of ethnic and geographic inclusivity in the current Syrian Constitutional Committee, and work towards ensuring that diverse Syrian communities across the country have the opportunity to contribute their thoughts by incorporating them into the Committee;
2. Take into account the criticism received after the 2012 amendments of the constitution and actively avoid making the same mistakes on transparency and inclusivity;
3. Ensure the development of the other three “baskets”, as the constitution-building process will not be the sole solution to the conflict;
4. Clearly communicate with the people living in Syria about the constitutional committee, both in terms of providing information as well as conducting consultations on topics relevant to the Constitution;
5. Recognize the urgency of continuing the constitution-building process, seeing the pace with which the situation in Syria deteriorates and build a timetable of tasks which addresses it.



Our team of researchers and volunteers at Syrians for Truth and Justice are dedicated to uncovering human rights violations in Syria. Believing that diversity has historically defined and benefitted the country, we work everyday to promote inclusivity and justice to ensure that all Syrians are represented, and their human rights secured.