

# Building a Political System for a Future Syria



**P**olitical reform is linked to the development of political performance, and it is tied to the political legitimacy of a country's ruler. Political change or reform can occur as the result of a massive revolution, as seen in Syria. The term "forward-looking vision" reflects political aspirations for the political future, shaped by a break with the past authoritarian regime in Syria, more than it represents a slow, gradual process of reform in the traditional sense.

It must be noted that a forward-looking vision for Syria's political future is tied to a number of components of reform, which must all work in parallel. Both constitutional reform and reform of the party system are completely tied to such a vision; it is impossible to study one of them, or to try to achieve a comprehensive framework for just one of them, without building on what the rest of the components have achieved. In this sense, both a vision of the political future and political reform are completely tied to the constitution and the party system that will be designed. For example, the political system would become a presidential one (or closer to a presidential one) if the constitution granted the president greater powers; whereas if greater powers were granted to Parliament and the political parties that had won a majority of the votes, it would become a parliamentary system,

a semiparliamentary system, or a half-presidential/half-parliamentary system. However, it is not possible to predict what type of political regime will come next without knowing the leanings of the constitution.

One can consider that the transitional period will start as soon as the regime has fallen, and last until general parliamentary elections. The second period will begin with the announcement of the general parliamentary election results, and will continue from that moment. Each one of these stages will include a number of steps that will proceed logically. However, here we focus on the second period, given that the meaning of the vision for Syria's new political system lies in its future—a vision of the future whose hopes sparked the revolution. The following sections deal with administrative reform in Syria, a topic no less important than political and economic reform.

## THE FIRST PHASE: THE TRANSITIONAL PERIOD

### The Fall of the Regime

Syria's transitional period will begin as soon as the regime has fallen, yet there are naturally great differences among the Syrian opposition forces as

to what this will mean in practice. The one point of consensus is that all the symbols and pillars of the old regime must fall; in particular, the regime's head, Bashar al-Assad, must leave. Although the transitional period should begin as soon as the regime has fallen, the "liberation" of large areas within Syria have sparked major discussions among the Syrian opposition about the start of the transitional period and the rise of so-called liberated areas that are now free of the Assad regime's control.

Many people think that the actual transitional period will begin after the formation of a transitional government or a transitional body, as laid out in the First Geneva Convention.<sup>1</sup> This would take place through the isolation of Syrian president Bashar al-Assad, who will hand over his full powers to this transitional body, according to the text of the Convention. The United States and Russia met in May 2013 and formally agreed on the principles of the First Geneva Convention. As a result of this agreement, the Second Geneva Conference would be convened and attended by representatives from both the Syrian regime and the opposition, thus ensuring a smooth political transition of power and the beginning of the transitional period. Yet due to the constantly changing situation on the ground, this outcome seems unlikely. Hezbollah has officially intervened in the ongoing battles in Al-Qusayr and the Rif Dimashq Governorate, and it has announced its readiness to participate in battles in the far north of Syria, in order to create the impression that the regime is not interested in a political solution to the crisis.

The differences in how the superpowers interpret the Geneva Convention are still apparent. The United States and a number of countries friendly to Syria believe that the Convention clearly stipulates that Assad should not participate in the transitional period. Russia rejects this stance, believing that Assad should only step down through the ballot box, and that he should be an active participant in any political solution.

Many Syrians feel that nothing new will come from continuing debate between the superpower countries and the countries in the region, particularly if the facts on the ground do not change; the situation in Syria today clearly indicates that a

political or military solution to the current crisis has not been achieved.

In reality, Hezbollah has officially intervened in battles in Syrian cities like Al-Qusayr, in the west of the Homs Governorate, and in the Rif Dimashq Governorate. This, alongside its readiness to participate in other battles in northern Syria, specifically Aleppo, has played a large part in changing the balance of power on the ground, and has led to the delay of the political solution represented by the Second Geneva Convention. In what appears to have been a show of power, the Syrian regime has refused to make significant concessions, like Assad stepping down or handing over power. Indeed, the regime enjoys significant support from superpowers like Russia and regional states like Iran and Iraq, in addition to the support of Hezbollah and its combatants. It has put forward a military resolution to the crisis—the solution sought and pursued by the regime itself since the Syrian revolution first began more than two years ago. This proposal represents a serious scenario: that perhaps the Syrian regime will not fall, and that Assad may remain in power until the end of his term next year, or perhaps longer.

In contrast, the European Union has lifted a ban on the sale of arms to Syrians, which will compel Britain and France to work on the creation of internal, legal mechanisms to provide support to the Syrian opposition. There has also been a noticeable change in the White House's response—the Obama administration has confirmed that the Syrian regime is using chemical weapons, an act the United States supposedly considers intolerable. This has given rise to a new possibility: actual American or Western intervention—armed intervention, or a no-fly zone in Southern Syria, or aerial bombardment of areas critical to the regime. In addition to this idea, the Gulf Cooperation Council has issued a declaration attacking Lebanon's Hezbollah, and perhaps restoring a degree of equality to the military position—that is, unless the situation progresses further and the regime is forced to make real concessions.

The fall of the entire regime is not necessary, even though there are those among the opposition and the revolutionaries who are convinced that many

organizations within the state are still essential to the current, ongoing conflict. But these organizations—led by the security services and large parts of the army—will represent a great danger to Syria’s future if they are left intact. As long as the conflict goes on, it is no longer possible for Assad to stay in power, because he must ultimately face the consequences of killing more than 100,000 Syrians, displacing millions more, and destroying much of the infrastructure in many Syrian governorates.

Among the scenarios presented today is a military solution, which would end with a political solution that would tend to benefit the militarily advanced side in the conflict—particularly if the regime can maintain its military advantage by waiting for elections in the summer of 2014 and negotiating al-Assad’s participation in the presidential elections. Another scenario is for the revolutionaries to achieve significant victories, which would place difficult choices before Assad, forcing him to step down or be removed from power one way or another. This would result in the political transition being more or less shaped by the opposition or revolutionaries’ vision. Alternatively, it could mean that the Geneva Conventions would be applied; however, there are currently no clear indicators that this outcome is possible, particularly in the light of current information.

## CONSTITUTIONAL CHALLENGES

It is important to emphasize that the starting point of Syria’s transitional period is not related to the total fall of its current regime, including all the state’s organizations. This would inevitably also mean the fall of the state, although it is important to acknowledge that the members of a number of factions believe that truly overthrowing the regime means overthrowing the state and its institutions. They believe this will be the only way to establish a new kind of state, such as a religious one.

There was a long discussion in the the Syrian Expert House regarding the nature of overthrowing the state in Syria’s history. Some believe that overthrowing the regime is tied to overthrowing the entire military security system, and that the regime

cannot be regarded as overthrown or ended until the departure of the last officers and noncommissioned officers in the army and the security services who are linked to the regime ideologically, whether by religious or partisan ideology. The Syrian Expert House believes that the fall of the regime must be defined by a context that determines the beginning of the transitional process. The fall of the military-security system must entail the actual removal of Bashar al-Assad, as well as his inner circle of military and security decisionmakers. In addition, the real transitional period begins with Bashar al-Assad stepping down or being removed from his position as president of state. Then the power to command the Syrian Army (including all its types weapons, members, officers, and non-commissioned officers, as well as the full power to command the officers, noncommissioned officers, and

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the known members of the security services) should be transferred to another group of Syrians, as a result of the process of the power transfer. This process should be based on clear, documented mechanisms based on popular sovereignty, through two stages: a transitional period and a foundational period.

Perhaps the essential challenge for the Syrian revolution with respect to constitutional legality is to create a mechanism to transfer popular sovereignty under the current circumstances. It seems certain that a transitional entity resulting from any political agreement for the transfer of authority would have the power to manage the country during the transitional

period. Yet some think this should be accompanied by decrees that would legally and constitutionally define the framework for these powers. They believe that the composition of the transitional entity and its form of government, its term, and its powers should be determined, and that a date for popular elections should be set, which would thus empower people to restore their sense of authority and sovereignty.

## THE INTERIM CONSTITUTIONAL DECLARATION

The historic moment that will serve as the dividing point between Syria's current regime and its transitional period needs to be established constitutionally. Of course, these constitutional mechanisms must be based on popular legitimacy, and this requires research into mechanisms that will guarantee this legitimacy and that will be translated constitutionally into the transitional period.

This particular point was discussed at length in the Syrian Expert House's workshops, where participants concluded that the Constitution of 1950 should have limited powers if applied during the transitional phase. This is due to the fact that it would not be viable to apply the constitution's procedural articles, given that they are linked to Parliament, the cabinet it created, and the president. In addition, the president is elected by Parliament, which means that no mechanisms could be used before parliamentary elections are held. All parties naturally agree that the Constitution of 1950 cannot be Syria's permanent constitution, because it will not last for long and it would require numerous amendments to reflect today's concerns and the spirit of the revolution. However, this opens the door to amending the constitution, which would certainly be detrimental to its viability as an immediate foundational legal and legislative reference at this crucial historical moment following the fall of the regime. Amending the interim Constitution of 1950 would require a popular referendum, which would force the country as a whole to deal with a problem that instead should be tackled in detail through an elected Constituent Assembly.

Yet, conversely, others believe that the Constitution of 1950 does not contain sufficient instruments for managing the transitional period, because it contains only the necessary symbolic powers. Nevertheless, a real break with the past will only come by no longer operating under the Constitution of 2012 (which was developed by a committee tasked by Bashar al-Assad, and passed during the revolution),<sup>2</sup> and instead resorting to the only constitution developed and passed by an elected constitutional assembly in an atmosphere of democracy. The texts related to general freedoms and rights will guarantee the principles of human rights during the transitional period, which is expected to be a difficult stage.

There is nearly a full consensus, however, with regard to the fact that it is exceptionally important for the Constitution of 1950 to become the interim constitution, and we must invest in this consensus. This constitution will govern the country during the period that will begin the moment the Constitution of 2012 falls and will end the moment the new constitution—which will be created by the Constitutional Constituent Assembly and approved by the people in a general referendum—is implemented. The Constitution of 1950 thus will be used to prevent a constitutional vacuum, before a new constitution is adopted, issued, and implemented.

The next section explains the importance and symbolism of the Constitution of 1950. This is followed by an explanation of a series of appropriate steps to take regarding the constitution, according to the Syrian Expert House.

## THE CONSTITUTION OF 1950 AS AN INTERIM CONSTITUTION: ITS IMPORTANCE AND SYMBOLISM

The Constitution of 1950 is considered one of the most acceptable constitutions by the Syrian public because it was drafted by an elected Constituent Assembly. This Constituent Assembly was elected by electoral bodies on November 5, 1950, the first election in which Syrian women participated. In turn, the Constituent Assembly formed a committee that represented various political and nonpolitical

powers in Syria to draft the constitution. In its report to the Constituent Assembly, the committee pointed out that it had examined more than fifteen European and Asian constitutions.

After this, the Constituent Assembly began a discussion of the draft constitution, came to an agreement on 11 articles, and released the final version of the constitution, composed of 166 articles. The most heated topic of debate was whether Islam should be declared the religion of the state or the religion of the head of state, and, after a long discussion, the issue was resolved by preserving the structure of the Constitution of 1930, wherein Islam is the religion of the state.

The second issue that caused intense debate was that of putting an end to agricultural property ownership in the state, to reduce the influence of feudal families that had controlled large tracts of land in a number of rural areas. This issue was resolved by leaving the maximum amount of property ownership undefined. The third issue concerned the inclusion of an article stipulating the army's neutrality, and not permitting it to intervene in Syrian political life, an issue that had not been approved. The Constitution of 1950 preserved the parliamentary character of the system of government, reducing the powers of the president, removing his right to veto laws and decrees, and allowing him only ten days to sign them. However, it preserved his power to ratify international treaties, appoint diplomatic missions abroad, approve of foreign missions in Syria, and grant special pardons, as well as his position as representative of the state and his power to convene the Council of Ministers under his chairmanship.

Conversely, the constitution increased the powers of Parliament, and prevented it from waiving its legislative powers, even if only temporarily. It also increased Parliament's powers within the government, obligating the government to resign at the beginning of each legislative round, and it also increased the power of the judiciary to establish the Supreme Constitutional Court. The articles in the Constitution of 1950 dealing with basic rights were expanded, and include twenty-eight articles alone dealing with

basic rights and freedoms, including the inviolability of homes, freedom of opinion, freedom of the press, freedom of assembly, the freedom to demonstrate, and the right to a fair trial. The Constitution of 1950 also forbade arbitrary arrest and detention without trial for long periods of time, protected property rights and the participation in economic life, defined the state as owned by the public, and protected the rights of farmers and workers in particular. It established the right of every citizen to work, decreed that this work must be provided, and ensured the care of all sick, elderly, and disabled citizens. These articles also addressed the right of religious denominations to follow their own canons and educational systems. The constitution established education as a right for all citizens, proclaimed that it should be both compulsory and free, and tasked the state with eradicating illiteracy within ten years.

The following points summarize some of the most important characteristics of the Constitution of 1950. These points illustrate its viability to serve as a guarantee for the democratic transition during the transitional period, and as a foundational resource for the next constitution:

- ▶ It mandates the adoption of a republican parliamentary system.
- ▶ The president's term of office is determined to be five years.
- ▶ It distinguishes between the three branches of government; the legislative branch is primary in terms of powers, and it limits the executive's powers.
- ▶ It guarantees an independent judiciary, and includes the development of a High Court to monitor the constitutionality of laws and regulations.
- ▶ It is characterized by a consensus between the following three aspects:
  - Arab nationalism, wherein the first article stipulates: "The Syrian people are part of the Arab nation."



- Islam, wherein the constitution stipulates: “The religion of the President of the Republic is Islam” and “Islamic jurisprudence is the fundamental source of legislation.”
- Reformist socialism, which begins with giving “the law” an upper limit for land acquisition, supports small and medium-sized property ownership, and confirms the state’s support for establishing cooperatives.

## CONSTITUTIONAL STEPS FOR THE TRANSITIONAL PERIOD

There are currently at least three viable scenarios for the moment the regime falls—that is, the moment of transition from the current political regime to the transitional period. One possible scenario is that Bashar al-Assad and his inner circle are removed through decisive military action by the armed opposition, the Free Syrian Army. Alternatively, Bashar al-Assad makes full political concessions and leaves the country. As a result, the entire regime is overthrown all at once. This preferred scenario—which replicates the scenarios of the Arab Spring in Tunisia, Egypt, and Libya—has become much less likely given the current state of Syria.

The most important considerations to be taken into account in this scenario are fear of a constitutional vacuum, a smooth transition of power through proper constitutional mechanisms, laying the foundations for a new legitimacy, and establishing a clear constitutional break with the dictatorial past. When the regime falls, it will be a given for most Syrians that the Constitution of 2012 is no longer in effect, for the reasons noted above. Most important among these reasons is the way the Constitution of 2012 came into existence and the conditions surrounding its creation. However, ceasing to operate under the current constitution, without having prepared an alternative, inevitably means that the country will immediately descend into a constitutional vacuum. Therefore, here lies the role of the Constitution of 1950. There will be an announcement stating that the 1950 constitution has been adopted as an interim constitution, to serve

as the country’s general legal and legislative source of legitimacy.

At the same time, the transitional government will announce a constitutional declaration, including granting the government the powers of the executive branch. This declaration will also establish the foundational branches of government and the relationships between them, will detail the mechanisms of governance, and will delineate the powers of the transitional government, whose task shall not exceed managing the country’s affairs and ensuring proper preparation for the elections of the Constituent Assembly.

A number of ideas have been circulated on the structure and contents of the constitutional declaration. Without a doubt, the contents will be compatible with the planned constitutional steps and consistent with the fundamental legal articles in the Constitution of 1950. One of the most important aims of the constitutional declaration will be to raise the legitimacy of the executive branch, as represented by the president, the government, and the leaders of the military and security services. The goal will also be to increase the legitimacy of the current legislative branch, as represented by the members of Parliament. The constitutional declaration will also annul Syria’s emergency laws, particularly those that violate general freedoms, such as the law creating the court presiding over cases of terrorism, Article 16 of Law 14 of 1969 on security personnel’s judicial immunity, and Declaration No. 6 of 1966 against the goals of the revolution and hindering the implementation of socialism.

The constitutional declaration should also describe the structure and powers of the transitional government; the number of members of which the government will be composed, as well as their powers; and the political and penal responsibilities of the government and its members.

The constitutional declaration must be issued at the same time as the regime falls and the Constitution of 1950 becomes the constitutional reference for the country, in order to be compatible with the steps for drafting the constitution. The declaration will adopt the Constitution of 1950 in some areas, and in other sections it will describe the form and powers of the new government. However, the Syrian

Expert House believes that it may be more effective to separate the announcement of the adoption of the constitution from the constitutional declaration itself, in an effort to issue a document that will reassure the members of the public and increase their confidence that a constitution with political and legal weight exists, serving as a legal and constitutional source of law for the country. Thus, the constitutional declaration can be complementary to this process. In order to make the planned constitutional steps compatible with the constitutional declaration, the declaration does not necessarily need to grant the government the powers to form or appoint a committee to issue a draft of the constitution. Similarly, it does not need to grant the government powers to appoint an executive council or call for an unelected national popular assembly. These steps will be reserved completely for the elected Constituent Assembly, for which the constitutional declaration must include general details as to the number of members, its electoral mechanisms, and election laws.

In this context, there are two essential questions. The first one is: How will the elections for the Constituent Assembly proceed, and according to what law? It is likely that the country will not be ready for any altercations related to electoral law; therefore, it would be more effective to, first, cross the threshold of democracy, and then, second, authorize the transitional government (in consultation with the political forces) to adopt an electoral law in the constitutional declaration. It would be possible to use the Law of 1950, the same law under which the Constituent Assembly that produced the Constitution of 1950 was elected.

The second question that emerges in this context is: Which branch of government has the jurisdiction to issue a constitutional decree that includes the three issues of great importance: ceasing to operate under the Constitution of 2012 and adopting the Constitution of 1950; announcing the transitional government, including its members and tasks; and determining the electoral law for the Constituent Assembly? Here we must consider more than the minimum standard for elected democracy, and rely instead on what can be called revolutionary legitimacy, which is narrower in

scope. This highlights the role of the National Coalition for Syrian Revolutionary and Opposition Forces, which will without a doubt be the only power authorized for this work—especially if it includes all active opposition powers, including the military.

The second scenario can be summarized as the interim government first gaining the trust of the National Coalition's General Authority and starting its work, particularly in the service sector, and its subsequently gaining the trust of Syrians in general. In this case, the interim government could transform into the transitional government, which has limited tasks, as outlined in the previous paragraph. The advantages offered by this choice include reduced dependence on choices made before the holding of elections. This means that choosing the interim executive branch will be the responsibility of the revolution itself, or the National Coalition (as a revolutionary force), to select the members of the interim government. However, it will be the National Coalition's responsibility to determine the government's powers anew, according to the nature of their tasks. Its work will be temporary and central to the "Liberated" Areas, while seeking to gain the recognition and legitimacy that the Assad government currently still holds.

The third scenario concerns the success of the Geneva Conventions' second option, and the formation of a transitional government—or any other executive body—that includes both members of the revolutionary and opposition powers and also members from the regime. The fundamental change in this scenario is that the nascent government will adopt a hybrid legitimacy (international-national) through a referendum process sponsored by the world's superpowers. The other important change is that the hybrid transitional government will have wide-ranging powers; however, it will be impossible to properly study this option until the shape of the government or executive body and the details of its powers are made clear.

In any case, whatever the nature of the agreed-upon scenario, the transitional government will be faced with the test of the constitutional declaration and its challenges in organizing elections for a Constituent Assembly to draft the constitution, according to the new electoral law.

## A NEW LAW FOR THE TRANSITIONAL PERIOD

There is also a proposal for electing a Constitutional Assembly, to be composed of 290 members and divided into 32 constituencies through proportional representation, each containing 20 to 30 candidates competing for approximately 12 seats in each constituency. The borders of the constituencies have been developed according to the 64 administrative units currently in Syria. The voting process will be according to the open list system, so that voters have the right both to vote for the party list they deem appropriate, and also to choose their preferred representative from that list. A political party wins a given number of seats in the constituency in accordance with the number of votes its obtains, as well as the votes made for its candidates.

Individuals who have won the highest percentage of votes within one party will assume that party's seats in the Constitutional Assembly. That is, the most popular candidates from each party will assume the party's seats, regardless of their placement on its electoral list. Independent candidates are also permitted to run for office in all constituencies, and they will be included on separate lists, allowing voters to vote for them directly. Candidates are only allowed to run in one constituency.

The 290-seat composition of the Constitutional Assembly is calculated and determined by an internationally recognized rule using the cube root of the population. Given that the population of Syria is estimated at 24.5 million, there will be one seat in the Constitutional Assembly for approximately every 84,500 citizens. Elections will be held for all 290 seats in the assembly, and the Syrian Expert House believes that this electoral system will result in broad democratic representation for all groups and sectors of society.

## THE POLITICAL FUTURE OF SYRIA: POLITICAL REFORM AND THE TYPE OF RULE

The Syrian Constitution of 1973 and the recent Constitution of 2012 presided over a hybrid system

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of government. On one hand, the system is closest to a presidential system, granting the president very broad powers. On the other hand, the executive body of the government is considered relatively strong. It was not a half-parliamentary/half-presidential system, as is the case in France, because it does not depend on the results of the parliamentary elections to shape successive governments—in fact, it is quite far from this in reality. Of course, it is not a pure parliamentary system, where the president or king has an honorary position without any real powers, as opposed to the winner of parliamentary elections, who are given powers of governance, as in the British or Indian systems. In contrast, the system governed by the Constitution of 1973 (which has provided the theoretical basis for governance since the military coup carried out by Hafez al-Assad in 1970, called the Corrective Movement) was a system built on contradictions:

- ▶ Despite the fact that the system of government in Syria is theoretically a mixed party–civil system, it gives the Ba'ath Party great powers and status under the Constitution of 1973—for example, through its state and societal leadership, according to Article 8 of the Constitution, and in that the president is nominated by the party's national leadership.
- ▶ In practice, there are a number of multifaceted contradictions between Syria's system of governance and the constitution that has been applied in the country in the past period. In practice and



in reality, a security system has been the prevailing order in Syria since March 8, 1963, wherein the security services have assumed the role of civil government agencies in a number of aspects of citizens' lives, in terms of both politics and civil services.

- ▶ The second level to these contradictions between the system of governance and the structure of the constitution lies in the fact that the constitution itself has not been developed for Syria; it has focused on the president's family's solutions, that is, the president's close confidants instead of the known instruments of the state, as stipulated by the constitution. As a result, the constitution does not represent any real anchor of power in Syria; rather, it represents the vague semblance of a few aspects of governance in the country, such as the adoption of the Ba'ath Party's leadership of the state and society. The importance of the constitution has diminished under the rule of Hafez al-Assad and his son Bashar. In the periods that preceded Ba'ath Party rule, Syria saw violent disagreements that centered on those sections of the constitution related to the religion of the state, the religion of the president, and the source of legislation. However, this vibrant debate about the political and constitutional system in Syria has all but disappeared, as have debates like it; by the end of the 1970s, they were replaced by violent oppression, supported by the power of the security services and party loyalty. Yet even party loyalty has disappeared, with the focus on the security system having taken the place of relationships with the country's politics. As evidence of how much the role of the constitution has diminished in Syria—to the point of disappearing completely under Hafez al-Assad—one can cite the role of the High Constitutional Court in Syria. In the beginning, the High Constitutional Court retained its important ceremonial role in the folklore of Hafez al-Assad's rule; yet by the end of his life, this was no longer sufficient. By the end of the 1990s, the High Constitutional Court had no effective presence, and for a number

of years it went without a source of funding for its basic monthly expenditures.<sup>3</sup>

## SYRIA'S FUTURE: A PARLIAMENTARY OR PRESIDENTIAL SYSTEM?

Every democratic political regime has characteristics that lead to its success, just as social environment and demographic factors also play a prominent role in the success of a particular political system in a given country. The most prominent three forms of a democratic political system are the presidential system, the parliamentary system, and the semipresidential, semiparliamentary system.

### The Presidential System

The presidential system is a common political system, which puts executive powers completely in the hand of the head of state, who is elected directly by the people. The executive powers grant the president a high capacity to make the decisions he sees fit for achieving the platform he was elected to pursue. The best aspect of the presidential system is the complete separation between the branches of government. Parliament does not have the right to overthrow the president, hold him accountable to political decisions he has made, or even to impeach him; members of Parliament do not participate in the government headed by the president. The president also does not have the right to dissolve Parliament by executive decision, or to interfere or participate in its sessions.

In a presidential system, the president is accountable first and foremost to the people, and is authorized to appoint ministers who are responsible for implementing the president's vision and programs. Meanwhile, neither the political opposition nor electoral minorities play a front-and-center role in the executive branch, lending it greater stability.

However, a presidential democratic system can only succeed in a mature, stable, and democratic society with a high degree of political awareness, so that the decisions of the elected president will be accepted. If agreement and cooperation between the legislative and executive branches are lacking, this may

complicate the president's tasks, paralyzing the state. Additionally, this kind of system does not allow for much political accountability; the only way for people to hold the president and his party accountable is in the next round of elections.

## The Parliamentary System

The parliamentary system is characterized by a considerable level of overlap between the executive and legislative branches. In this system, the government is usually formed by a bloc winning a majority of seats, because the government must gain the majority's trust in order to carry out its work. Ministers are also members of Parliament, although Parliament maintains the right to appoint ministers from outside Parliament. The government is accountable to Parliament—both the government as a whole, represented by the president, and the ministers as individuals. Parliament has the right to withdraw its confidence from the government, just as the government has the right to dissolve Parliament; however, this would automatically mean the fall of the government.

In a parliamentary system, the head of state has symbolic or honorary powers, and may be granted some powers under special circumstances. In this system, the president is usually elected by Parliament, so that he does not enjoy much popular support, as this would afford him a degree of popular legitimacy approaching that gained by Parliament as a whole, and greater legitimacy than that enjoyed by any individual member of Parliament by vote.

Under this system, the ministers are granted greater powers than in the presidential system; the minister manages his or her ministry more freely, because he or she is personally accountable to Parliament. Similarly, decisions within the cabinet must be made by consensus. The prime minister is not able to impose his or her decisions on the other cabinet members, unless approved by a specific percentage of ministers.

The greatest advantages of the parliamentary system are that it encourages dialogue and serious discussion among all political forces on the major issues facing the country, and thus raises the level of politics in the state and society, increasing both trust

and communication between the political forces. This system also allows small political forces and minorities to play an important role in power.

However, there is no separation between the three branches of government in the parliamentary system, and the consolidation of the three branches could lead to the abuse of power and tyranny—particularly in developing countries, which lack strong democratic institutions. The date of elections in this system is not fixed, and the prime minister has the right to stay in office as long as he or she has the confidence of a majority of Parliament. This means that the prime minister has the right to call for new, early elections at his or her will, and can do so when he or she feels that his or her policies have the support of the people. One of the disadvantages of this system may be that the president and the prime minister are not chosen by the people, which may make it difficult for people to hold them accountable through their representatives alone. Small parties can often play major roles within this system—roles that are disproportionate to their actual popularity—and thus make decisions on sensitive subjects, including the formation of the government and whether to adopt various policies.

## The Semipresidential, Semiparliamentary System

The semipresidential, semiparliamentary political system combines both previous systems, wherein both the prime minister (who either has the faith of Parliament or has been elected by it) and the popularly elected head of state share the executive branch, and its powers are divided between both presidents. However, Parliament can hold the prime minister accountable and can replace him if it sees fit.

This system is characterized by a certain degree of cooperation between the head of state and the head of government. The lawmaking process and decision-making process are both smooth and flexible, and there is a large degree of stability in the state administration. Additionally, in certain cases the president has the right to dissolve Parliament and call early parliamentary elections.

However, the greatest disadvantage of the semipresidential, semiparliamentary system lies in the

## Syria will need to make radical changes in governance, adopting a policy of administrative decentralization.

possibility of the president and the prime minister being at odds with one another, which could lead to the paralysis in the state, especially if the prime minister belongs to a party that opposes the head of state's policies. In this system, it is possible for the president to resort to abusing his or her power to dissolve Parliament. He or she also may be forced to resort to a popular referendum when there is conflict between the legislative and executive branches.

There will certainly be a broad debate in Syria's future between political and social forces over the kind of system of government in the new Syria. Some may prefer a presidential system, which they believe will help support the difficult decisions Syria will face in its near future. They believe that this is the best option from a practical standpoint, because Syria does not currently have strong parties or an adequate political culture. However, Syria's historical experience—a long period of authoritarian rule during the Assad family's reign—encourages the opinion that a revised parliamentary system, which will give rise to a fully democratic government, will be able to control the initiative and truly express voters' desires. Thus, the Syrian Expert House recommends adopting this system in the future.

Syria will need to make radical changes in governance, adopting a policy of administrative decentralization. It must also strive to improve its administrative culture, whereby citizens of the governorates and rural areas run their own areas, seeking to reflect an important part of locally available resources for developing local areas, which will be an important factor

in creating political and economic stability during the next period.

### ESTABLISHING POLITICAL REFORM IN SYRIA

It is necessary to develop a set of basic ideas that constitute the foundation for political reform in Syria. These basic ideas for reform can be summarized as follows.

#### Possible Political Reform in the Eye of the Storm

The term “political reform” may not be entirely accurate at this stage, particularly after nearly two years of the Syrian revolution, which continues to demand radical change in the constitutional and practical foundations of rule in Syria. Yet at the same time, reform does not usually take place in a vacuum; nor does it occur as a result of unorganized, spontaneous demands for reform—even if the regime's mistakes have multiplied, and the country has reached a point where the status quo could not continue. Therefore, reform “in the eye of the storm,” or during an ongoing crisis, is the scenario one sees most often today. The process of political reform cannot be brought about in a vacuum; it requires a number of objective conditions on a number of levels, the most important being the psychological state of the public and elites alike. The Syrian revolution constitutes a rare platform for achieving a new form of government in Syria, representing a break with the country's recent past, which was filled with injustice and was inconsistent with establishing a modern state based on the grounds of citizenship.

#### Political Reform Does Not Necessarily Represent Ideological Reform

Political reform may be achieved as the result of a comprehensive theoretical or ideological doctrine, and it can at times be described as administrative reform, whether as a result of revolution or not. Yet it can also be achieved as the result of open-minded and developing thought, not necessarily as a result

of a doctrine of inclusiveness (e.g., the political reforms of the last century, associated with socialist and nationalist thought). Political reform can also be the result of a constantly changing process, one not limited to a single, rigid model. Each case is measured against its own conditions; it would be wrong to assume that if a particular element or circumstance present in one case of reform is lacking in another, that the process of reform will not occur or will not be successful in these cases.

### **Political Reform is an Integrated Process, One Representing All Classes and Sectors of Society**

Political reform is an integrated process that involves all strata of the political pyramid (see figure 9.1 and chapter 9). If political reform is confined to the ruling elite, the elites of the ruling class, or the intellectual or political elites (e.g., including political parties), it will not bring about real change in the long term, or a modern state with stability, power, and respect for the rule of law and citizens' rights. It is necessary to expand the grassroots base of those who will benefit from political reform; in other words, there is no way around establishing a front for reform, because the broader the base of participation in the reform process, the greater legitimacy the reforms will have. Reforms implemented for the sake of people's freedoms, their interests, and their future will no doubt motivate people to stand by these reforms and protect them from those who may seek to obstruct or abuse them. Therefore, reform must lead to social mobilization and create communal will. Otherwise, in the absence of public stakeholders, there will be no one to defend these reforms, and they will only lead to simple and ineffective changes.

### **Ensuring the Participation of Minorities during the Transition**

One of the most important initial steps to be taken during the transitional period will be to open negotiations with all portions of Syrian society that have a stake in the transition, including the country's ethnic and religious minorities—particularly Christians, Kurds, Alawites, Turkmens, and Druze—

as well as those who wish to participate in the interim and permanent governments. These negotiations are usually based on the framework of the transition process itself, but they can also include negotiations on the interim and permanent constitutions. Only the inclusion of all minorities will ensure the success of the Syrian transition.

The future integration of Syrian minorities will rely mainly on implementing administrative reforms that will give minorities proper representation and an ability to participate effectively in the constitution drafting process. Additional integration can be achieved through future legislation, in addition to constitutional amendments and minorities' participation in the makeup of the representative institutions and other advisory commissions. One of the ways to ensure minority representation is through quota systems for cabinets and ministries. Another method may be to redistribute political authority in a decentralized way in order to place greater emphasis on local governance. This, in a general sense, is a primary demand of the Kurdish minority in Syria.

The Kurds in Syria also demand that the next constitution specifically confirm Kurdish ethnicity as one of the major components of the Syrian people. Discriminatory laws and projects, such as the Arab Belt Project (which relocated Arab families to undermine Kurdish population centers), will need to be repealed and ended, and all victims of state-sponsored discrimination will need to be compensated. All those who lost their Syrian citizenship should be reinstated in the civil registry; the Kurdish language should be considered an official language in the Kurdish regions, along with Arabic; and Kurdish and minority folklore and culture should be supported, encouraged, developed, and enriched nationally as a main part of Syrian folklore.

### **Political Reform Is Variable and Develops According to Needs**

Political reform is determined by a number of factors, including the amount, type, and speed of reform demanded. Although the revolution has demanded vast, radical, and immediate political reform, and those involved in it hope that this will come about

quickly, reality tells us that rapid revolutions—no matter how well intentioned—may not yield positive results in the lives of citizens, both politically and nonpolitically. Rapid revolutions may not build nations in the modern sense of the term. In many cases, revolutions aspiring to rapid political change are a recipe for ruin, chaos, and regression. We are not saying that the change the Syrian Revolution strives for is not required or necessary; on the contrary, we believe that people are demanding change urgently. However, the current and quickly growing desire for rapid change represents a risk, even in a context of increasing violence perpetrated by the Syrian regime, which has forced Syrians to protect themselves from direct physical harm, and after suffering through the scourge of Assad’s rule through the past decades. The process of implementing random and improvised political reforms is highly risky, and would once again steer Syria down a road of instability, leading to injustice and social and political inequality. There are a number of understudied political transformations in Algeria and several African countries, where reform and a sincere desire for reform became transformed into long civil wars. Therefore, comprehensive political reforms are instead required—reforms that are both deep and long term, and that are simultaneously deliberate and systematic, so as to reflect the desires of people aspiring to freedom, without the country descending into chaos.

### Barriers and Obstacles to Political Reform

It is important to identify and define the barriers to reform on a political level; in every process of reform, there are those who stand in its way, just as in any process of change. The process of political reform represents a challenge for many within the political and social elite.

*The power of elements hindering reform.* Some think that in general, the small number of those opposing reform makes them marginal in their ability to stop it or ward it off. However, their tools and high level of organization enable them to play an extremely negative role, stopping the process of political reform and sometimes even reversing it. The obstacles to reform will never be few in Syria; there are many among the

political elite and social classes who are lying in wait for the process of political change. It would be naive to think that Syria will witness a smooth process of political change, even if the revolution achieves a decisive victory. It is not about who stood against the revolution, supporting Assad’s regime, or who stood silently on the sidelines; it is about large sections of society, living on the margins of political and economic life in Syria. The longer the revolution lasts, the greater the obstacles to the political change people hope for in a new Syria, given the numbers of people who have been affected negatively by the delay of the revolution’s resolution and victory. They cannot be expected to endure a real political reform process that takes a long time to bear fruit. Nevertheless, it has recently been proven that there is a high level of political consciousness in Syria about the revolution and the necessity of change. Particularly among young people, this understanding has not been reflected in either organized political mobilization or results on the level of political opposition, whether its older, traditional forms, or new ones which have emerged from the revolution. Yet we must never forget the opponents of political reform in Syria—people of influence, whose business and economic interests would have been affected, and who would have opposed reform with or without the revolution. It is quite unlikely that this group would give up their gains either easily or willingly.

*A multitude of disruptive factors.* A number of factors hinder political reform, and these factors are not limited to a group of people with certain interests. First and foremost are political factors, including the lack of political will on the part of the new ruling elite who have emerged from the revolution, and those expressing the ideology of the remnants of the collapsed regime.

*Chaos after the revolution.* The lack of political and social stability, or the spread of exclusionary religious extremism and terrorism, are factors that will result in the loss of a suitable climate for reformist political action. Various external factors will also have negative effects on political reform during the coming period in Syria, in more ways than one. First, foreign interests conflict with a number of visions of



political reform, which will produce a political vision that is more powerful and feared internationally. Second, the ruling class (whether elected or not) may distance itself from appearing to agree with international factors, including foreign opinions, pressure toward political reform, or particular forms for the next Syrian state. Of course, this is not much different from how the Syrian regime has acted, nor from other regimes that often invoke and reject the idea of “foreign pressure for reform,” exploiting popular opinion that usually opposes foreign interference, even if it appears to be coming to their aid.

### Syrian political society lacks basic political tools, such as political parties and professional political groups.

*The lack of basic political tools.* In the context of the factors impeding political reform in Syria after the revolution, it is no secret that Syrian political society is underdeveloped. Syrian political society lacks basic political tools, such as political parties and professional political groups. In addition, it will face new challenges to the process of building a modern state, the final product of the political reform process. Syrian society also lacks a culture of political participation—especially with regard to women and the members of other vulnerable groups, who rarely appear in civil society, such as trade unions and associations and forums. This points to the fact that society is not prepared to undertake real and meaningful reform.

*Cultural factors.* In addition to these factors impeding reform, cultural factors—such as the composition of communities and institutions, as well as values and prevailing patterns of behavior—represent highly important elements for the formation of political awareness. One also cannot ignore the detrimental effect of Syria’s cultural structure, which has a

tendency to exacerbate sectarianism. At times, this is a result of mistaken cultural prejudice; yet in most cases, it is a result of the regime itself, which Syrians see as embroiled in sectarianism. This stance toward the regime has only doubled during the revolution, and has led to waves of sectarianism and countersectarianism that have overcome the situation in Syria. The principle of automatic loyalty to a particular tribe or sect on national loyalty—or even general party loyalty—is the greatest challenge to building both a mindset for constitutional citizenship as well as democratic mentalities and practices.

*The economic factor.* It is no secret that economic factors, such as weak capacity and the lack of resources, are among the elements that negatively affect Syria’s ability to find the right tools for political reform and employ them to make the required reforms. In general, financial hardship, underdevelopment, poverty, and weak economic efficiency have never been an obstacle to the state’s intentions and ability to implement appropriate political reforms, build democratic institutions, and foster a culture of citizenship and human rights. The best proof of this is India, the largest democracy in the world, whose poverty did not prevent it from institutionalizing democracy and adopting an effective constitutional parliamentary system. In Syria, economic potential will play a key role in the formation of democracy after the current regime. There is no doubt that a sectarian or tribal mentality is prevalent in some areas and levels of society, that this has increased during the revolution, and that in the future this mentality will be exacerbated by political financing during the construction of Syrian democracy. These factors can only be overcome by establishing legal mechanisms to monitor and limit political spending, through legitimate administrative and judicial channels, that is, it must prevent money from corrupting constitutional values in Syria.

### MECHANISMS TO OVERCOME OBSTACLES TO REFORM

In many cases, historically, those seeking to implement political reform have resorted to buying approval to processes of change from opposing groups, including

those with influence, religious leaders, and tribal leaders. However, it is most effective to form broad popular fronts, in order to mobilize public opinion to confront counterrevolutionary groups.

At some point after their victory, the winning parties in the revolution may resort to imposing their politically revolutionary social and economic visions through the power of their victory, achieved by monopolizing the centers of power, including the armed forces, the media, and perhaps even religious platforms. The final scenario is one that would be appropriate for Syria after the regime has been toppled. We hope that the elites who are considered part of the revolution transform their political activities into a party within an organized framework, enabling them to engage in political activity that is more organized, effective, and generally of a higher level, both responding to the demands of the public and the political demands of the next period.

### Consequences of the Political Reform Process

It is inevitable that, in general, the political reform process in Syria after the revolution will be both a long-term and ongoing process, as well as an incremental one. Just as the goals of the reform process vary according to the circumstances and capabilities of a given state, the results of these reforms also vary from one country to another—and this very much applies to Syria. The scenario of political reform in Syria's future, including the limitations and consequences of reform, stems from an unpredictable set of circumstances that one will only be able to

understand after the fact. The fall of the regime, and the degree of resulting destruction to the state, are factors that cannot be predicted or known. This is particularly true after two years of revolution, after it was assumed when the revolution began that it would only continue for a few months. Yet certain circumstances influencing the consequences of the political reform process are known. For example, there is the possibility—or at least, the hope—that many segments of Syrian society, particularly its youth, will respond positively to the political reform process, in order to stop sectarianism and tribalism from developing in the Syrian consciousness.

However, the main factor necessary to engender effective political reform in Syria after the revolution is linking reform and its results to broad groups of the people. There are groups campaigning for reform to succeed and for its effects to be reinforced, and ensuring the survival of these groups and their future within Syrian society is essential in determining Syria's future. This is also linked to success in promoting civil society, both in culture and in practice, and in building political institutions capable of developing and adopting a democratic approach in their domestic and international dealings.

### ENDNOTES

- 1 For the text of the Geneva Convention, see <http://www.un.org/News/dh/infocus/Syria/FinalCommuniqueActionGroupforSyria.pdf>.
- 2 For the full text of the Constitution of 2012, see [http://parliament.sy/forms/new\\_laws/viewNew\\_laws.php?law\\_id=37&mid=30&cid=30](http://parliament.sy/forms/new_laws/viewNew_laws.php?law_id=37&mid=30&cid=30).
- 3 Volker Perthes, *The Political Economy of Syria under Asad* (London: I. B.Tauris, 1997).

## Recommendations

With regard to the transitional phase after the fall of the Syrian regime, the Syrian Expert House proposes a number of recommendations for the mechanisms of managing the transition, as well as the recommendations for the form of the Syrian state in the future.

### First: The Period after the Fall of the Regime

The participants in the Syrian Expert House agree that as soon as the president of the current regime steps down from power and a new executive body takes over, a transitional government will be running the country. This moment marks the beginning of the transition process, in order to build a modern Syrian state that meets the aspirations of the Syrian people. To manage this period systematically and according to proper constitutional and legal principles, and in order to lay a solid foundation for building the state's political structure, the Syrian Expert House proposes the following recommendations:

- 1 Form a national, transitional government, which shall not favor or be affiliated with one party or another. The task of this government will be to lay the groundwork for popular elections, and to select a Constituent Assembly representing real popular legitimacy. The task of this Constituent Assembly shall be to draft a permanent constitution for the country and manage the next stage, until the Constitution is issued and parliamentary elections are conducted.
- 2 Announce the transitional government in a decree after its formation, suspend the Constitution of 2012, and return to the Constitution of 1950. The decree should explain the transitional government's tasks and powers, including issuing constitutional declarations which supplement the Constitution of 1950.

- 3 Immediately after the previously mentioned decree, the transitional government should issue a constitutional declaration that explains the path of the transition process and determines the date of elections for the Constituent Assembly, which should not exceed a time period of fifteen months.

- 4 The transitional government should immediately make an announcement, repealing all laws inconsistent with the Constitution of 1950, most important, laws concerning public freedoms and human rights.

- 5 Alongside these tasks, the transitional government will manage the Syrian state and organize the affairs of its citizens, preparing and completing the electoral process including all the laws and decrees this requires, and will also form an Independent High Authority for the Elections (as explained in chapter 5).

- 6 The transitional government should issue a temporary law for parties, within a period ranging from three to six months at most (as explained in chapter 6).

### Second: The Constituent Period

This stage begins as soon as the process of electing a Constituent Assembly has been completed. This council will assume the management of the country, as the sole legal entity that has gained popular support. The Syrian Expert House proposes that the Constituent Assembly's work be structured as follows:

- 1 Limiting the Constituent Assembly's period of duration so that it does not exceed a maximum of two years, the amount of time needed to complete its main task: drafting the constitution and putting it to a referendum by the people.

- 2 Forming an inclusive new government, preferably one that includes all the major political groups, and which has the faith of a majority of the members of the Constituent Assembly (half the members +1).
- 3 Discuss and pass the legislation and laws proposed by the government, and monitor its performance during this period.
- 4 Issue a law defining a mechanism whereby to draft and discuss the proposed articles of the constitution, as well as a mechanism for voting.
- 5 The first draft of the constitution should be completed within a period not to exceed one year from the establishment of the Constituent Assembly.
- 6 Present the first draft of the constitution (including proposed amendments) for public discussion for a period not to exceed three months. The Syrian Expert House suggests conducting extensive consultations on the draft with professional syndicates, trade unions, and civil society organizations, and it further suggests that the Syrian media also play a role in this discussion.
- 7 As soon as public discussion has ended, immediately refer the final draft of the constitution to a popular referendum.
- 8 If the new constitution is adopted, the Constituent Assembly should continue to conduct its legislative duties until parliamentary elections, after which the Constituent Assembly will be dissolved and the transitional government will resign.

- 9 If the Constitution is not adopted in the popular referendum, those of its articles that have been rejected by the people should be reviewed and put to a referendum within a period not to exceed three months. If the Constitution is not adopted a second time, the Constituent Assembly should be dissolved and the people should call for new elections for the Constituent Assembly.

### Third: Forming a State System for Syria's Future

The Syrian Expert House believes that the best kind of political system for the state of Syria is a parliamentary system in which Parliament has broad powers and takes it upon itself to select the executive branch of government, hold it accountable, and monitor its performance. A parliamentary system will advance political life in Syria, raising the bar for politicians, and encouraging a larger proportion of Syrians to participate in state building and decisionmaking. A parliamentary system will allow people of different political views to voice their opinions and have them be heard in Parliament, as Parliament will contain representatives from all political groups in Syria that reflect the pulse of the street. This will particularly be the case if the electoral law ensures the broadest social and political representation possible, which is what the Syrian Expert House suggests in chapter 5 below.