The History of the Syrian Constitution

By Radwan Ziadeh

On 18 December 2015 the Security Council adopted Resolution 2254. This resolution requires, among other things, the drafting of a new constitution for Syria. As Syria embarks on the peace process, the foundations of which were laid out in Geneva, it is worth remembering the history of the various constitutions adopted by Syria in the past.

Syria has had at least twelve constitutions since it obtained independence in 1946 and since the last French soldier withdrew from Syrian soil in 1947. President Shukri al-Kuwatli, who was the first Syrian president after independence, amended the constitution Syria had inherited from the French and changed the electoral system. Al-Kuwatli then amended the constitution again in 1949 to allow the president to be reelected directly after the completion of his first term. Shortly thereafter, Husni al-Zaim deposed al-Kuwatli in a coup d’état on March 30, 1949, and suspended the constitution.

In August 1949, Sami al-Hinnawi led yet another military coup and then called for the election of a Constitutional Assembly to draft a new constitution. A new law was issued calling for the election of this assembly and Syrian women were allowed to vote for the first time. The Constitution of 1950, also known as the Constitution of Independence, marked a significant democratic development in Syria. It proclaimed Syria as a representative state, granted broad powers to the prime minister and, at the same time, limited the powers of the president. The constitution strengthened judicial authority, as well as the state’s democratic institutions, by modernizing the Supreme Constitutional Court. The Constitution of 1950 included rights and public freedoms and it was modeled on the Universal Declaration of Human Rights issued in 1948.

Even today, some opposition groups hold that the Constitution of 1950 is the best one to return to because it symbolizes an era of republican values and democracy. It was the first constitution in the region to give the women the right to vote and to participate in politics even before many European countries gave women these rights. Also, it was the first and only constitution drafted by a democratically elected Constituent Assembly in Syrian history.

Syrians re-instituted the 1950 Constitution twice. In 1951, it was suspended following a military coup. In 1953, a new constitution was promulgated which can be described as the first presidential constitution. It removed the position of the prime minister from government and gave extensive executive powers to the president in a system that resembled that of the United States of America. The president was now voted in by a popular vote, rather than the parliament.

The 1950 Constitution was reinstated after more military coups in 1954. Initially, al-Shishakli was first overthrown, but he reinstated himself in a countercoup. Afterwards, he restored the Constitution of 1950.

The 1950 Constitution was once again suspended in 1958 when the majority of Syrians voted to unite with the Republic of Egypt under Gamal Abdel Nasser to form the United Arab Republic. The 1950 Constitution was replaced with a temporary constitution drafted by Nasser. However, this constitution was discarded after Syria and Egypt separated in 1961. Then, the new Syrian government in 1962 decided to return to the 1950 Constitution until a new one could be drafted.

When the Ba’th Party came to power through a military coup in March 1963, it immediately suspended the constitution and imposed a state of emergency, which was not lifted until after March 2011. The
National Council for Revolutionary Command issued a temporary constitution for the country in 1964, another constitution in 1969, and a yet another one after Hafez al-Assad assumed power in 1971.

In 1973, Hafez al-Assad formed a committee to draft a permanent constitution for the country. This constitution was adopted via a popular referendum and imposed the Ba’th Party’s ideas and principles upon Syrian society. It proclaimed that the Ba’th Party was the leading party of the state and society and declared the Ba’th Party’s National Council for Revolutionary Command to be the sole organization authorized to nominate the president. This was the official beginning of the one party system that dominated Syria for almost four decades.

In 2012, this constitution was amended under the pressure of demonstrations that emerged at the beginning of the Syrian Revolution in March 2011. This newly amended constitution became the Constitution of 2012. Although the Constitution of 2012 nullified Article 8, which stated that the Ba’th Party was the leading party of the state and society, the broad and far-reaching powers of the president remained unchanged.

During the Geneva negotiation in 2016, the Syrian opposition recommended the immediate suspension of the 2012 Constitution and the reinstatement of the 1950 Constitution because it is the most recent constitutional document in Syria’s history to have been drafted by a fairly elected Constituent Assembly. While the 1950 Constitution enjoys some popular legitimacy, there are some points to consider. For one, the 1950 Constitution is 67 years old, and since then Syria has undergone many political and social changes. For that reason, the Syrian opposition called for the establishment of a transitional government, which would govern according to the Geneva communiqué in 2012 as a governing body. This transitional government would issue a constitutional declaration of limited power and duration. It would clarify the government’s powers, its tasks, and its administrative nature. It would define its time frame, its mechanisms, and its methods for organizing the election of a new Constituent Assembly charged with drafting a permanent constitution, which would be put to a referendum at a later point.

We are probably still very far from drafting a new constitution for Syria. But as this article has shown, we may surmise that Syria has had ample experience with constitutionalism. Given that Syria restored the Constitution of 1950 twice, it might be worth looking at for a third time.

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