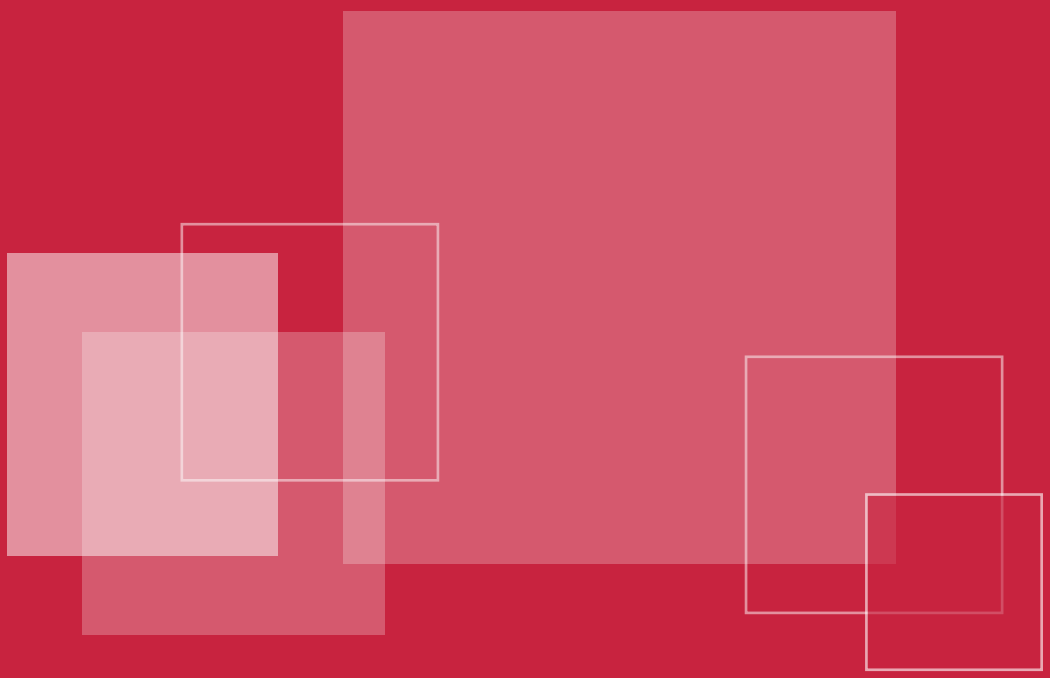
Laying the Foundations for Future Elections in Syria

International IDEA Discussion Paper 1/2018



Laying the Foundations for Future Elections in Syria

International IDEA Discussion Paper 1/2018

Frank McLoughlin

© 2018 United Nations Economic and Social Commission for Western Asia

This paper was developed by UN ESCWA and International IDEA with the purpose of providing Syrian and international stakeholders with key elements to be considered in future electoral processes in Syria, including necessary pre-conditions, appropriate timing, representation and access to elections. This paper is independent of specific national or political interests. Views expressed in this paper do not necessarily represent the views of the United Nations, International IDEA, its Board or Council Members, or those of their respective Member States.

The electronic version of this publication is available under a Creative Commons Attribute-NonCommercial-ShareAlike 3.0 (CC BY-NC-SA 3.0) licence. You are free to copy, distribute and transmit the publication as well as to remix and adapt it, provided it is only for non-commercial purposes, that you appropriately attribute the publication, and that you distribute it under an identical licence. For more information on this licence visit the Creative Commons website: ‹http://creativecommons.org/licenses/by-nc-sa/3.0/›

International Institute for Democracy and Electoral Assistance
Strömsborg
SE–103 34 Stockholm
Sweden
Telephone: +46 8 698 37 00
Email: info@idea.int
Website: ‹http://www.idea.int›

United Nations Economic and Social Commission for Western Asia
P.O. Box 11-8575, Riad el-Solh Square
Beirut, Lebanon
Website: ‹http://www.unescwa.org›

Cover design: International IDEA

Created with Booktype: ‹https://www.booktype.pro›

Contents

Acknowledgements 4

Executive Summary 5

1. Introduction 7

2. Goals 8

3. Preconditions for Successful First Elections 10

4. Electoral Legal Framework 13

5. The Electoral Management Body 17

6. The First Election(s) 27

7. Other Key Issues 32

8. Challenges Ahead: Conclusions 45

References 46

About the author 50

About International IDEA 51

About UN ESCWA 52

Acknowledgements

This paper has been a collaborative effort between International IDEA and the National Agenda for the Future of Syria Programme (NAFS) established by the United Nations Economic and Social Commission for Western Asia (UN ESCWA) and, as such, has involved contributions from a number of staff in both organizations.

International IDEA would especially like to thank Frank McLoughlin for authoring the report, as well as Shana Kaiser, Zaid Al-Ali, Therese Pearce-Laanela and Adebayo Olukoshi for their extensive input and support. UN ESCWA would like to express gratitude to Andrew Mash, Riwa Nasreddine, Bassel Kaghadou, Omar Dahi, Rana Mitri, Mariam Farah, Rhea Younes, Kaja Holmeide Blattmann and Martti Antola for their support in the production of the paper.

Both organizations would like to express their sincere thanks to the Syrian experts who contributed to the conceptualization of the paper and who offered their expertise and constructive comments to make it relevant to the Syrian context. This paper also benefited from the rich discussions held during an expert group meeting which gathered Syrians to discuss a first draft of the paper and which was organized by NAFS at the United Nations House in Beirut, Lebanon, in April 2017.

Executive Summary

This paper is the product of an April 2017 Experts' General Meeting held in Beirut at the offices of the United Nations Economic and Social Commission for Western Asia (UN ESCWA) and is part of Phase II of UN ESCWA's series on the National Agenda for the Future of Syria (NAFS). The Meeting participants included distinguished Syrian legal and election experts and members of UN ESCWA. The Meeting was moderated by a representative of the International Institute for Democracy and Electoral Assistance (International IDEA). This paper includes the inputs of Meeting participants on the future of elections in Syria, as provided verbally at the Meeting and through subsequent written submissions. The goal of the Meeting was to discuss some of the key challenges that Syria is likely to face in establishing an electoral process, and to begin to consider ways to address these potential challenges.

Meeting participants acknowledged that it is difficult to discuss optimal approaches to re-establishing the electoral process in Syria given how much is still unknown regarding Syria's future. Negotiations regarding an end to the conflict are ongoing and it remains unclear as of the end of 2017 what kind of consensus may emerge regarding the electoral process. Whether a referendum or an election is to be the initial electoral event, or whether local or regional elections might take place before national elections, after national elections or simultaneously remain unknowns. The body to be charged with enacting provisional electoral laws remains uncertain, and the structure and composition of the electoral management body (EMB) remains unknown. The ultimate role of international actors in supporting the electoral process is also unknown. The future status of Syrians in the diaspora, including millions of current refugees, remains unclear. Given this lack of information, experts recognized that the best approach to meeting potential challenges may yet be unclear and dependent on the result of negotiations and changes in circumstances.

With this uncertainty in mind, participants discussed what they see as the goals of any electoral process, and the many preconditions that must be met before any type of free and fair election can plausibly be held in Syria. Necessary ingredients for a healthy electoral environment include, but are not limited to, an end to violent conflict, the rebuilding of a sound physical and electoral infrastructure, developing an adequate provisional constitutional and legal framework, and robust civil society involvement in all phases of the electoral development process. It is also essential that there is the political will among all stakeholders to hold meaningful elections and to abide by the results, as well as belief among the Syrian electorate that voting matters and will result in accountable leadership.

Meeting participants also began a discussion of the elements of a sound electoral legal framework for Syria and how that framework might be developed in a manner that promotes

its legitimacy. During the discussion there was general agreement on the importance of inclusiveness in the legislative drafting process and on the need for any provisional legislation to meet international electoral standards. Experts also discussed the role and structure of a potential national EMB for the administration of the electoral process, and the need for this body to be empowered to act independently of the state and other powerful forces. Participants dedicated part of their discussions to the complex issue of the role that international entities such as the United Nations might play in ensuring free and fair elections in Syria's future.

Participants discussed some of the pros and cons of the sequencing of the electoral process, including the advantages and disadvantages of holding a referendum before elections, and the ideal order of national and subnational elections once they take place. The discussion then turned to specific issues that are challenging for any country attempting to re-establish democracy, such as establishing an optimal electoral system, developing a fair voter registration system, the application of just standards regarding the definition of Syrian 'citizenship', electoral dispute resolution and combating electoral fraud and corruption, the role of the media and civil society in initial elections and the issue of the accessibility of the process for all Syrians, including women, minority groups and others who may have faced a history of political and social marginalization.

A consistent theme throughout the Meeting was the participation of Syrians in the diaspora, and internally displaced Syrians, in the electoral process. In accordance with Security Council Resolution 2254, participants emphasized the importance of ensuring that Syrian refugees and other eligible Syrians in the diaspora, as well as Syrians internally displaced from their communities, have a full opportunity to freely exercise their right to participate in the political process as voters and candidates. Experts, however, noted some of the extreme challenges associated with ensuring the right to vote for these groups, such as the high risk of intimidation or coercion of refugees, the challenge of ensuring proper identification for those Syrians who may no longer possess legal documentation, and the unique difficulties in ensuring the rights of Syrians abroad or the internally displaced to vote in local elections.

In conclusion, it is important to stress that this paper is the result of a discussion that is still only beginning. UN ESCWA and International IDEA welcome the input of Syrians everywhere with ideas on how best to develop a free, fair, effective and sustainable electoral process for Syria. It is the hope of both organizations that, when the preconditions are finally met for holding elections that are acceptable to all, the discussion that produced this paper will have continued—and will have generated approaches that help to ensure the viability and permanence of Syrian democracy.

1. Introduction

This paper is the product of the Experts' General Meeting held on 28 April 2017 at the offices of the United Nations Economic and Social Commission for Western Asia (UN ESCWA) as part of Phase II of the project on the National Agenda for the Future of Syria. The meeting was attended by distinguished Syrian electoral and legal experts and representatives of UN ESCWA, and was moderated by a representative of the International Institute for Democracy and Electoral Assistance (International IDEA). The purpose of the meeting was to begin to collect feedback from Syrian experts on issues related to establishing an electoral process in Syria when conditions in the country allow for elections.

To help obtain targeted feedback, the meeting focused on a preliminary draft paper developed by International IDEA on the issues that many countries have faced in holding elections after a period of internal conflict. Among the issues discussed in the paper were: developing an electoral legal framework; establishing an electoral management body (EMB); determining the optimum time and the optimal preconditions for holding first elections; and the special challenges that will face Syrian election administrators in a number of key areas, such as conducting voter registration, facilitating voting among the diaspora, setting standards for candidate eligibility, choosing the most appropriate electoral system and ensuring electoral justice, to name just a few. The robust but constructive feedback provided by the meeting participants has been incorporated into this revised version of the paper.

Nonetheless, this paper remains part of an ongoing process. In most instances, this paper is unable to state with conviction that a particular approach is the 'best' approach to meeting an electoral challenge facing Syria—only that there may be strengths and weaknesses in a variety of approaches and that these strengths and weaknesses may change as circumstances change. UN ESCWA and International IDEA therefore hope to obtain additional feedback on these issues from other Syrian electoral stakeholders in the future, in order to better shape decision-making on the establishment of an electoral process for Syria when the time comes.

2. Goals

By unanimously adopting Security Council resolution 2254 of 18 December 2015, the United Nations expressed its support:

> for free and fair elections, pursuant to the new constitution, to be held within 18 months and administered under supervision of the United Nations, to the satisfaction of the governance and to the highest international standards of transparency and accountability, with all Syrians, including members of the diaspora, eligible to participate . . .[1]

The process envisaged in Resolution 2254 is most likely to be successful, and perceived as successful, if certain goals are met.

First, that election results reflect a true representation of the freely exercised democratic will of the Syrian electorate.

Second, that steps are taken to ensure that elections, which are by their nature contentious, do not impede or reverse ongoing efforts to establish peace.

Third, that the electoral process should emphasize the importance of Syrian citizenship and exclude the establishment of discrimination on the grounds of race, colour, sex, language, religion, political or non-political opinion, national or social origin, wealth, birth, or any other type of discrimination that could threaten the restoration of peace.

Fourth, that the electoral process is fully accessible to Syrians at home and abroad. Both practical impediments to voting and standing related to refugee or internally displaced person (IDP) status (e.g., lost identification documentations) and unjust legal impediments (e.g., lengthy in-country residency requirements to be eligible to participate in elections) must be addressed.

Fifth, although temporary measures (e.g., significant international involvement) may be required to ensure that the first elections after the resumption of peace are sufficiently free and fair, that there is also an emphasis on making the electoral process sustainable in the near future.

Sixth, in all respects, that electoral laws and institutions help to ensure that the results of the first elections are seen as legitimate by a critical mass of Syrian electoral stakeholders. Steps to promote legitimacy would include ensuring to the extent possible the independence of the electoral process, the openness and inclusivity of the electoral law-making process and electoral operations, and the adoption of measures to ensure that electoral fraud, voter intimidation and all other forms of electoral crime or misconduct are minimized.

Endnotes

1. United Nations, Security Council, 'Security Council Unanimously Adopts Resolution 2254 (2015), Endorsing Road Map for Peace Process in Syria, Setting Timetable for Talks', Press release, SC/12171, 18 December 2015, <https://www.un.org/press/en/2015/sc12171.doc.htm>.

3. Preconditions for Successful First Elections

In 2017 contemplating free and fair elections in Syria's future may seem premature. There are many requirements that must be met before elections can be conducted in an effective manner with results that would be perceived as legitimate. Such preconditions will not be easy to put in place; many will require years of peace or a spirit of reconciliation that will take time to cultivate after such a lengthy period of destructive conflict.

One essential precondition is that there is an adequate level of **peace and stability** to prepare for and conduct elections. Elections require both security and a sense of security—even the threat of violence or intimidation may skew turnout, resulting in outcomes that are not widely perceived as legitimate. It is to be hoped that peace and stability will follow on from an agreement reached by key factions in Syria's complex political environment. This could be limited primarily to an agreement calling for a cessation of violence or might involve a more comprehensive political settlement. An additional challenge in this area will be to ensure that, once peace and stability have been achieved, security forces, paramilitary groups and other actors on Syrian territory and beyond do not intimidate voters and candidates or otherwise impede the electoral process, either in Syria or among the diaspora which currently comprises millions of Syrians.

Resolution 2254 calls for the holding of elections after the drafting and promulgation of a **new constitution** that is perceived as fair and legitimate. Whether a critical mass of Syrian stakeholders will accept the process for choosing the constitution's drafters, the mechanism for ratifying the constitution and the content of the constitution itself will be factors in determining whether this important precondition has been met prior to holding initial elections.

Peace and stability, although essential, will not in themselves be sufficient preconditions for holding elections. Syria will also need time and the will to establish, or re-establish, a meaningful **social contract** among all of its citizens. As productive as ongoing negotiations in Geneva and Astana may be, they tend to focus on active combatants within Syria. Other groups are not necessarily well represented in these processes. An ongoing **national dialogue** or similar mechanism will therefore be required that promotes **reconciliation** among all groups in the country and the diaspora, and that ensures a transition among factions from enemy combatants to political rivals. Whatever format such a process takes, it will be important that it provides assurances to Syrians that key factions and stakeholders are committed to addressing future challenges constructively and, ultimately, to empowering the Syrian electorate to determine the direction of the country through the electoral process.

Another requirement will be that the country's **infrastructure** (e.g., transportation, electricity, buildings), as well as the country's overall economic status are sufficiently strong to allow for meaningful elections. It is unlikely that Syria will recover quickly from the effects of internal violence coupled with sanctions imposed on the country by other states. Infrastructure includes the existence of an adequate **electoral infrastructure**, such as adequate logistical capacity to deliver electoral materials to polling stations in Syria and to diaspora communities around the world, and the capacity to cast and count votes in suitable polling and counting stations. On a related note, elections are likely to require a system for collecting accurate **data**, such as population statistics, voter registration information and possibly electoral boundary-related data. Modern technological approaches to the conduct of elections could address some of these challenges. International actors could also play a useful role in addressing these concerns.

Another precondition will be the existence of an adequate **electoral legal and institutional framework** that is perceived as legitimate by Syrian stakeholders. This will include not only the establishment of a national EMB, but also support for other necessary components of a credible electoral process, such as an independent judiciary and an electoral dispute resolution system. Laws and institutions will have to ensure not only that the franchise is extended to Syrians living in the diaspora, but also that these citizens are able to vote from abroad or run as candidates for office without facing undue legal or practical obstacles.

Electoral laws and institutions will need to encourage a voice on governance for all Syrian groups and support the meaningful participation of women, youth, minorities and other groups, as both participants in the electoral process and leaders within the electoral administration. The legal framework in this instance refers not only to laws pertaining directly to the electoral process itself, but also to **legal provisions ensuring the free operation of all stakeholders in the democratic process**, including laws governing political parties, civil society organizations (CSOs), electoral observation organizations and media outlets, and laws more generally ensuring the freedom of speech, association and assembly, as well as other rights essential in a democracy. Ensuring the constitutionality and fairness of these laws will require the establishment of independent judicial institutions with the power to review laws and order changes where they fail to meet constitutional or international standards. In conjunction with the development of an electoral legal framework, it will be essential to develop laws and institutions that identify and combat corruption in both the private and public sectors. Rampant corruption in either sphere can damage the perception of electoral integrity and legitimacy.

Diverse **development of civil society and its organizations** will be important at an early stage, to provide constructive input into the law-making and election processes, to observe the electoral process at all stages, to help ensure that election results are genuine and attempts to manipulate results are exposed, and to help give voice to the wide variety of groups present inside Syria and within the Syrian diaspora. Those CSOs in Syria today that are widely perceived to have maintained their independence and impartiality should be encouraged to play a role in the electoral process and supported by other Syrian stakeholders and the international community.

The development of **broadly based, programmatic political parties,** or coalitions of political parties, although perhaps not an absolute precondition for holding first Syrian elections, will in the long run contribute to the promotion of policy discussions based more on national policy concerns and less on the narrow interests of distinct groups in society. Along these lines, it will be essential that political party development proceed on a level playing field, so that one party does not monopolize political power because of inherent resource advantages, such as greater financial wealth or organizational capacity.

For elections to be successful at any stage in a nation's development, **voters must be knowledgeable** about the purpose of voting, how to go about voting or registering to vote and the powers and responsibilities of those for whom they are voting. As importantly, **voters must perceive that voting matters**—that the election of a national or local leader, or national or local lawmakers, will result in leaders who are accountable to the people who have elected them, and that voters will have the ability to elect new leaders if the existing leaders fail to deliver on their promises. Ideally, turnout among eligible voters in both Syria and the diaspora in all its diversity will be uniformly high across all groups, so that the elected leadership will reflect that diversity.

Finally, the elections must be held at such a time and in such a manner that they **do not reverse the progress made in meeting the preconditions** described above. This might mean that the 18-month timeframe for elections following the development of a new constitution spelled out in Resolution 2254 may not be practicable. The establishment of state institutions generally, and of independent electoral and judicial institutions in particular; the promotion of a vibrant, non-partisan civil society sector; and the rebuilding of Syria's economy and infrastructure are only some of the preconditions that could take a significant amount of time to put in place. Considerations in determining whether elections will enhance rather than reverse progress will include whether an optimal electoral system for promoting peace and stability has been developed, and a determination of what type of first elections (referendum, local, parliamentary or presidential, or a combination of these) might pose the least risk to the maintenance of peace and stability.

4. Electoral Legal Framework

4.1. An Inclusive, Transparent, Participatory Process

It will be essential to ensure that the laws governing the electoral process, including the laws governing political parties, civil society, the judiciary, the media and other democratic institutions, are seen as legitimate by a large cross-section of Syrian stakeholders. Legitimacy entails convincing a critical mass of Syrian stakeholders, including the people themselves, that laws are being developed, drafted and passed for positive reasons and to achieve positive results, and that laws once enacted will be applied fairly to all. Creating this perception of legal legitimacy may be particularly challenging because the body drafting and promulgating temporary laws before the election may itself be unelected. How this body is constituted and whether the voices of diverse Syrian stakeholders are heard within it will play a key role in determining whether the laws it produces are seen as legitimate.

Re-establishing the sense that a country is governed by 'the rule of law' is challenging when that sense has been shattered both by violence and evidence that some groups or factions in society can operate with impunity. In this sense, the technical development of clear, fair laws is not sufficient: laws must be developed in a manner that builds public and other stakeholders' confidence in the meaningfulness of 'law' in general. Doing so will also address the 'culture of fear' that can emerge when elections take place with a perception that there is no rule of law. Even well-organized elections under a strong legal framework will not be seen as legitimate if citizens are afraid to speak or organize, intimidated into voting for one party or candidate, or otherwise unconvinced that all the stakeholders in society are operating under the same laws and liable to face the same consequences for violating them.

Under these circumstances, it will be important that these laws are developed as part of an inclusive, transparent and participatory process. Regardless of what temporary law-making body will have the final say on the content of electoral laws, efforts to provide Syrian citizens based inside and outside Syria, as well as key electoral stakeholders such as CSOs and political parties, with an opportunity to provide input into draft legislation will help ensure that these laws are clear, fair and legitimate. Such inputs may be gathered either online or in person from Syrian citizens from all parts of the country and diaspora, and through targeted meetings between lawmakers and CSOs that represent important interests in Syrian society, such as women's rights issues, issues affecting minority communities, and the rights of people with disabilities.[1]

In these circumstances, it is also important that those who receive such inputs demonstrate that they have meaningfully considered them, even if they ultimately reject them. In the drafting of both laws and EMB regulations, this can be accomplished in part by ensuring that

comments on draft legislation are publicly recorded and, to the extent possible, legal drafters provide a rationale for why they have accepted, accepted in part or rejected stakeholders' inputs. By listening, and showing that they are listening, Syria's legislative drafters are more likely to gain citizens' trust in the quality and fairness of the provisional electoral legal framework.

4.2. Keeping the Old vs. Introducing the New

Lawmakers will be faced with the challenge of determining which aspects of the current Syrian electoral legal framework should remain and which should be changed. A break from a previous regime often provides an opportunity to conduct significant reform of the entire legal framework. In the case of elections, the opportunity to redraft key electoral legislation is also an opportunity to change those aspects of previous Syrian electoral laws that were perceived to be unfair, undemocratic or just ineffective. However, there may be features of the Syrian electoral process that have won acceptance from Syrian voters over time, and that should not be sharply reformed. For example, legal drafters may wish to retain elements of the Syrian electoral system, such as the presidential system or multi-member parliamentary constituencies, if there is concern that a sharper break from previous Syrian electoral frameworks will create confusion among the Syrian electorate or alienate Syrian voters from the process altogether.

It may be that well-regarded and respected laws from previous eras in Syria's history, such as laws in place prior to 1963, could serve as a model when considering electoral legal reform. Some have suggested that existing laws such as Legislative Decree 107 of 2011, known as 'the Local Administration Law', which decentralizes governance in Syria and has won support from a wide array of stakeholders within Syria, could serve as a model for future lawmakers.[2] If governance within Syria is assessed as fairer and more effective at, for example, the local level, then radical legal reform may be less of a priority at that level.

The Open Government Declaration

The Open Government Partnership (OGP) is a growing global movement toward promoting greater openness and public participation in law- and policymaking. According to the OGP website: 'To become a member of the OGP, participating countries must endorse a high-level Open Government Declaration, deliver a country action plan developed with public consultation, and commit to independent reporting on their progress going forward.'

The Open Government Declaration includes the following language:

'We value public participation of all people, equally and without discrimination, in decision-making and policy formulation. Public engagement, including the full participation of women, increases the effectiveness of governments, which benefit from people's knowledge, ideas and ability to provide oversight. We commit to making policy formulation and decision-making more transparent, creating and using channels to solicit public feedback, and deepening public participation in developing, monitoring and evaluating government activities. We commit to protecting the ability of not-for-profit and civil society organizations to operate in ways consistent with our commitment to freedom of expression, association, and opinion. We commit to creating mechanisms to enable greater collaboration between governments and civil society organizations and businesses.'

Source: Open Government Partnership, 'Open Government Declaration', September 2011, ‹https://www.opengovpartnership.org/open-government-declaration›.

4.3. International Electoral Standards

As the Special Envoy noted in developing the 'basket' of issues related to the first elections in Syria, it will be essential that the international electoral standards contained in international conventions and treaties are incorporated into Syria's new electoral legal framework.[3] These standards are widely considered as factors that determine the integrity of the electoral process.[4] Applying international standards as part of a first election also has a practical aspect: if the standards are followed this can undercut attempts by some stakeholders to challenge the overall fairness of the electoral process because they are unhappy with the results. Lawmakers may wish to consider not only the full range of UN-based conventions and treaties governing human rights, political and civil rights, and the electoral process, but also any conventions or advisory language developed specifically for the Arab region.[5] For example, article 25 of the International Covenant on Civil and Political Rights (ICCPR) states that:

> Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:
>
> (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
> (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
> (c) To have access, on general terms of equality, to public service in his country.[6]

Building on this statement of fundamental rights, the UN Human Rights Committee has adopted General Comments that provide more detailed interpretation and analysis of these and other provisions in the ICCPR. For example, paragraph 11 of the Committee's General Comment on article 25 of the ICCPR states that:

> States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. Where registration of voters is required, it should be facilitated and obstacles to such registration should not be imposed. If residence requirements apply to registration, they must be reasonable, and should not be imposed in such a way as to exclude the homeless from the right to vote. Any abusive interference with registration or voting as well as intimidation or coercion of voters should be prohibited by penal laws and those laws should be strictly enforced. Voter education and registration campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community.[7]

Lawmakers should be encouraged to look to both the texts of key provisions and authoritative interpretations of texts when developing national laws governing the electoral process.[8]

Endnotes

1. For a recent UN statement on the importance of participation in public affairs see UN Human Rights Council, 'Resolution on equal participation in public affairs', A/HRC/RES/30/9, adopted by the Human Rights Council on 1 October 2015, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/232/93/PDF/G1523293.pdf?OpenElement>. It notes 'the importance of participation of all citizens in political and public affairs, in particular women, persons belonging to marginalized groups or to minorities, and persons in vulnerable situations, including by engaging them in designing, evaluating and reviewing policies and legislation on participation in political and public affairs . . . '; and calls for 'exploring new forms of participation and opportunities brought about by new information and communications technology and social media as a means to improve and widen, online and offline, the exercise of the right to participate in public affairs . . . '.
2. Araabi, S., 'Syria's decentralization roadmap', Carnegie Endowment for International Peace, 23 March 2017, <http://carnegieendowment.org/sada/68372>. The author notes that there are challenges in using Decree 107 as a model, in part because of differing perceptions of its function in the eyes of the Syrian government and the Syrian opposition. He concludes that because of these and other complications, 'Decree 107 is not in itself a panacea and . . . its inclusion in the current peace negotiations in Geneva will not inherently produce a more representative political arrangement. Nevertheless, the mechanism enjoys broad legitimacy, and even a marginal devolution of political authority to the local level could empower a wide variety of actors, producing tangible stability and innovative political arrangements to weather the difficult years ahead'.
3. For a detailed analysis of how a wide variety of UN-based treaties and conventions touch on electoral and other key political and civil rights, see Tuccinardi, D. et al., *International Obligations for Elections: Guidelines for Legal Frameworks* (Stockholm: International IDEA, 2014), <http://www.idea.int/sites/default/files/publications/international-obligations-for-elections.pdf>; and the Carter Center's Election Obligations and Standards Database, <https://eos.cartercenter.org>.
4. See, e.g., Norris, P., *Why Electoral Integrity Matters* (New York: Cambridge University Press, 2014), p. 9: '[I]t is proposed to ground the overarching concept of electoral integrity broadly in terms of international commitments and global norms, endorsed in a series of authoritative conventions, treaties, protocols, and guidelines'.
5. Regional conventions such as the Arab Charter on Human Rights and associations such as the Organization of Arab EMBs may be helpful resources in this area.
6. United Nations, Office of the High Commissioner on Human Rights, 'International Covenant on Civil and Political Rights', <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>.
7. UN Office of the High Commissioner on Human Rights, 'General Comments under article 40, paragraph 4 of the International Covenant on Civil and Political Rights', CCPR/C/21/Rev.1/Add.7, General Comment no. 25 (57), para. 11, 27 August 1996, <http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.7&Lang=en>.
8. The Carter Center's Election Obligations and Standards Database (note 3) contains a comprehensive, regularly updated record of relevant international and regional conventions, treaties and other documents, and their application in various countries.

5. The Electoral Management Body

5.1. The Degree of International Involvement in the EMB

As part of the UN supervision of elections contemplated by Resolution 2254, lawmakers may need to decide whether the initial EMB should be more transitional in nature, with more direct involvement of international actors such as the UN, or whether the new EMB should be designed to be permanent, perhaps with little or no direct UN involvement in overseeing initial electoral operations. Among the advantages of temporary international involvement are the vast expertise that international electoral assistance providers can offer, which could facilitate conciliation and dialogue.[1] The perceived neutrality of international experts may be particularly important in countries that have emerged from conflict and may be highly polarized politically. International involvement may also bolster international support for the electoral process, including financial support, which may be critical depending on the resources available to national electoral stakeholders following the resumption of peace.

International involvement may have negative effects too. The perception of local control of the electoral process may be diminished.[2] It has also been argued that reliance on international experts to administer elections can make the later establishment of a permanent EMB more difficult, because international experts might use technologies and other resources that cannot be sustained once international organizations exit the electoral process.[3]

As discussed at the Experts' General Meeting, some may see the UN as a neutral, truly global organization that has played a positive role in attempting to promote peace and reconciliation in Syria, and that may be able to help develop a political agreement that would be difficult for Syrian factions to achieve on their own. Others, however, may be more doubtful about whether it is appropriate for the UN, or any international organization, to play a direct role in electoral administration, and believe that for the UN to do so would be contrary to the principle of Syrian national sovereignty. The UN's role in supervising or otherwise overseeing Syrian elections will require careful analysis, including of its perception among key stakeholders within Syria and the diaspora. This particularly includes Syrian refugees, who may be reluctant to speak to an agency like the UN if they perceive that it might result in involuntary repatriation or otherwise negatively affect their status.

It was suggested that, regardless of the terminology contained in Resolution 2254, an optimal role for the UN might be as a resource to a national electoral body that would supervise the electoral process. The UN could in this instance provide valuable support to the electoral process through training, and logistical and financial support. Where elections are to be administered among the diaspora, the participating experts considered UN involvement and collaboration with national electoral authorities even more important.[4]

5.2. The 'Optimal Type' of EMB

There is no easy answer to determining the optimal structure or form of an EMB for Syria going forward. The structure or form that best serves Syria will depend to a great extent on the national context. Concerns about the lack of independence of the Syrian institutions that have played a role in electoral administration in the past, such as the judiciary or the Ministry of the Interior, may lead to a lack of confidence in the abilities of these institutions to administer future elections, regardless of other changes in the political context.

Structure alone may not determine whether an EMB has the 'fearless independence' necessary to administer fair, neutral elections in a politically charged environment or in an environment where the government or other powerful forces might choose to apply pressure to influence EMB decision-making.[5] An EMB created under either the Independent Model or the Mixed Model may be preferable for Syria, because the legal independence of these EMBs can be more easily guaranteed in the constitution or electoral legislation.[6] Again, this would not guarantee that the EMB could operate independently, but it would help to establish from its creation that the EMB is independent as a matter of law. As discussed in more detail below, identifying and recruiting EMB leaders and staff who are themselves both impartial and seen as impartial will also be crucial to establishing fearless independence.

However, if the Constituent Assembly or other temporary governing authority after the re-establishment of peace enjoys a unique level of trust as a neutral or politically balanced body, there might be merit in the idea of developing a temporary EMB that operates under the Constituent Assembly along the lines of the Governmental Model. This EMB might then be replaced by a more permanent EMB that would operate according to the Independent or Mixed Model in accordance with the terms of the new constitution.

The Electoral Commission of Ghana

'Ghana's Electoral Commission (EC) established its independence in a relatively short period of time. The 1992 constitution had provided the formal requirements of autonomy and independence. The timeline and conditions that it faced with the November 1992 presidential election deadline allowed it little opportunity to develop its own character and operational processes or to address perceptions that it was not credible. The criticism of the presidential election and the opposition's boycott of the parliamentary election highlighted the weakness of the foundations for its political independence, but the actions the EC took to strengthen these foundations after the 1992 elections were deliberate and focused. The single most important factor was its own determination, expressed through the bold decisions it took to assert its independence with the support of political parties, civil society and to some extent the international community. The EC used all the powers it was granted to demonstrate its political independence . . .

'The willingness of an electoral management body (EMB) to use its powers in a way that is likely to cause the incumbent power to resist requires an unusual degree of leadership, and sometimes even personal courage. In many ways such leadership is the basic ingredient of the "fearless independence" expected of independent EMBs.'

Source: Dunne, S. and Smith, S., *Electoral Management During Transition: Challenges and Opportunities* (Stockholm: International IDEA, 2012), pp. 29–30, ‹https://www.idea.int/publications/catalogue/electoral-management-during-transition-challenges-and-opportunities›.

Electoral Administration in the Arab World

'The need for an independent EMB has been identified in most emerging democracies, and all post-conflict elections. In the search for trust and legitimacy, independence from government may be guaranteed either by multi-partisan recruitment of commissioners or by the appointment of independent personalities with a legal or other professional backgrounds (i.e. academics, engineers, civil society activists), or a mix of the two. A mixed model of electoral administration could also be recommended with a Ministry or other executive agency running the elections under strict supervision of a genuinely pluralistic collective body with clear regulatory, surveillance and even adjudication responsibilities. It would all depend on strategic considerations among the elites, and their assessment on which mechanism would better ensure a neutral and transparent performance by the EMB. There is no safe recipe, except that consensus and acceptance among the elites is needed. The format of a regulatory and decision-making collegial body and a professional secretariat is quite a common practice in shaping electoral commissions.'

Source: United Nations Development Programme, 'Comparative experience in electoral administration and the Arab world', April 2011, p. 14, ‹https://aceproject.org/ero-en/misc/undp-comparative-experience-in-electoral›.

5.3. Other Indicators of EMB Independence

There are two other indicators of EMB independence that Syrian EMB designers may wish to consider in determining the optimal institutional framework of the new EMB. Assuming that the EMB will be based on either the Independent or the Mixed Model, the first indicator is the degree of financial autonomy the EMB enjoys from the legislative and executive branches of government. All EMBs must rely on legislatures or other budgetary officials in the government to obtain the funds necessary to operate. Independent EMBs, however, generally have the freedom to allocate their budgets and disburse funds as they see fit, in accordance with the law and accountable to the legislature, judiciary or other bodies.[7]

Another key indicator is the perceived independence of the individuals appointed to oversee electoral management. In some countries, judicial officers have been appointed as chairpersons or other board members of an independent EMB. In cases, however, where a judiciary may lack formal independence, or where it may be perceived by stakeholders as not truly independent, EMB designers may seek leaders from other sectors, such as non-partisan CSO heads or respected public servants.[8] It can be a challenge in politically polarized environments to identify persons who command respect from all political sides as ethical and impartial. Ideally, a body such as a Constituent Assembly or another new Syrian political entity will enjoy sufficient trust among stakeholders to be able to appoint EMB leaders who are widely seen as judicious and incorruptible. Given the political polarization in Syrian society today, however, some neutral, international involvement in the appointment of EMB leaders may be warranted as a temporary measure.

5.4. Qualifications of EMB Leadership

The procedures by which EMB leaders are appointed can increase the likelihood of identifying persons who meet the high standards of personal independence and integrity required for the position. In addition to citizenship requirements, legal provisions governing the qualifications of EMB leaders may require that they can demonstrate evidence of political neutrality and non-participation in activities that may have violated human rights, or that they possess professional qualifications such as specific academic or legal training.

Composition of the Supreme Electoral Tribunal of Bolivia

'The law defines the composition of the Supreme Electoral Tribunal as follows: the Supreme Electoral Tribunal shall be composed of seven members, of whom at least two shall be of indigenous origin. From the total number of members of the Supreme Electoral Tribunal, at least three will be women.'

Source: Law of the Plurinational Electoral Body [Bolivia], 16 June 2010 (article 12), quoted in Ballington, J. et al., *Inclusive Electoral Processes: A Guide for Electoral Management Bodies on Promoting Gender Equality and Women's Participation* (New York: UNDP and UN Women, 2015), p. 30.

In cases where party members are authorized to serve on EMB boards, they will generally still be required to act impartially and may be prohibited from serving if they are party activists or have recently held political office.[9] Although many countries prohibit office holders from other parts of the government from serving as members or leaders of EMBs, in countries such as Germany (Head of the Department of Statistics) and Tonga (Auditor General) certain public officials serve on EMBs because they hold these other positions in government.[10] To help ensure acceptance, it will also be important to make these decisions following an open and inclusive period of public input, during which the suggestions of key electoral stakeholders and the Syrian public have been considered.

Another major factor in determining whether an EMB will be perceived as legitimate is the degree of diversity in the body's leadership. Leadership that reflects a gender balance and Syria's diverse population will build confidence in the fairness and representativeness of the institution that is essential to democracy. Moreover, ensuring that women and members of minority groups serve as EMB leaders will help an EMB understand the unique challenges that members of these groups face in accessing the electoral process as voters, candidates and electoral disputants, or in other capacities. Some countries have mandated as a matter of law EMB diversity based on gender and other factors.[11] In other cases, EMBs have made inclusiveness part of their internal policies.[12]

5.5. Scope of EMB Duties

Determining the EMB's specific responsibilities in conducting the first elections, those responsibilities that are to be shared with other institutions and those that are exclusive to other institutions will be important considerations for Syrian lawmakers that will depend on Syria's legal and institutional landscape after peace is restored and a constitution is promulgated. It might not be practical to put too many duties on the new EMB, which may lack the capacity in the short term to effectively perform them. However, if other institutions in Syria (e.g., the judiciary, the ministries or agencies governing political parties or CSOs) lack capacity, the EMB may be the better option to take up expanded responsibilities.

International IDEA has identified the core duties of an EMB as determining who is eligible to vote; receiving and validating candidate and/or party nominations; administering the voting process; counting the votes; and tabulating the votes in accordance with the electoral system and announcing those who have won seats based on the system.[13] Big jobs in any country, these core responsibilities may be extremely challenging for Syria's EMB. Given the large number of Syrians currently living overseas, and the difficult living circumstances faced by Syrians in many of these circumstances, determining who is eligible to vote and administering the voting process will be complex undertakings. Syrian embassies and consulates abroad and international organizations are likely to be called on to assist.

Examples of EMB Regulatory Authority

'A more usual practice is for an EMB, particularly an independent EMB, to be empowered to make reviewable regulations by filling in the detail of concepts contained in the law, or filling existing gaps in the law. For governmental EMBs, this power may be held by the ministry within which the EMB is located. Such regulations in most countries are subject to review, generally by a court or constitutional court, to test whether they are within the powers of the EMB (or ministry) to make, and whether they are otherwise consistent with the law . . . In Namibia, the EMB has the power to issue proclamations that by law must be gazetted, and that cover issues such as political parties' code of conduct, some procedural issues on voter registration and parties' disclosure of foreign donations. The Indonesian EMB has specific regulatory powers in some critical areas, including voter registration, candidate registration, the conduct of election campaigns and voting processes.'

Source: Catt, H. et al., *Electoral Management Design: Revised Edition* (Stockholm: International IDEA, 2014), p. 51, ‹https://www.idea.int/publications/catalogue/electoral-management-design-revised-edition›.

In addition, determining voter or candidate eligibility will be a politically sensitive undertaking in some cases because it may involve determining who is ineligible to participate because of alleged criminal activity related to Syria's ongoing conflict. Cases of political exclusion could be enforced by an EMB, but decisions on these matters probably sit better with transitional justice tribunals or other judicial bodies established in Syria.

Other common duties taken on by EMBs as noted by International IDEA include delimiting electoral district boundaries; regulating the election campaign period and the conduct of political parties and candidates (in particular during the election campaign); and registering third parties and regulating their behaviour.[14] In addition, EMBs may be called on to regulate opinion polls; control and where possible prevent electoral fraud; instil community responsibility to encourage democracy at home and elsewhere; and regulate the conduct of the media during elections.[15]

Some of these additional duties may fit naturally in the overall scope of duties of the EMB, such as controlling and preventing electoral fraud. Other issues may be sensitive and require the shared involvement of other actors, such as delimiting electoral boundaries and regulating political parties. In cases where an EMB is asked to adjudicate on electoral matters, such as the eligibility of a candidate or the propriety of using state buildings to conduct campaign activities, it will be important that the parties in the case have the opportunity to appeal EMB decisions to an administrative or other independent court.

5.6. EMB Regulatory Authority

Electoral processes are detailed processes that require clear regulation of even minor procedures (e.g., which finger gets inked, rules governing campaign posters). A failure to adequately regulate an electoral process leads at a minimum to inconsistent electoral practices taking place from one governorate to another or from one polling station to another, which can negatively impact the perceived integrity of the overall electoral process. An absence of comprehensive regulation of the electoral process can also contribute to manipulation of the process by some electoral actors.[16]

It is therefore typical for EMBs to be granted the authority to issue their own regulations that carry the force of law. To ensure that regulations conform to the electoral law, and that the EMB has the power to make such a regulation, they are usually reviewable by a court, in many cases an administrative court. As with law-making, the better practice is to ensure that

electoral stakeholders have an opportunity to comment on draft regulations before they are enacted. An EMB might consider conducting public meetings or other outreach efforts to collect input from stakeholders on draft regulations, and as a means of educating political parties, candidates, the media, observers and other stakeholders on the purpose and meaning of new regulations.

5.7. Codes of Conduct and Binding Agreements between Electoral Stakeholders

There are other sources of law that the new EMB may wish to support or take the lead in developing. Codes of conduct are employed in several countries to govern various stakeholders. In the case of EMB staff, EMBs often have the authority to require that all EMB personnel adhere to codes of conduct that ensure their ethical behaviour and professionalism. EMBs have also contributed to the development of mandatory or voluntary codes of conduct governing political parties, candidates, media, electoral observers and other actors in the electoral process.

In a particularly polarized political environment, an EMB or other body may consider proposing that parties and candidates enter into voluntary agreements to refrain from violent or other divisive rhetoric in the course of campaigning. An agreement may include promises to respect electoral results and the authority of the EMB, properly exercised. The Abuja Accords between presidential candidates in Nigeria in 2015, which included such promises, appeared to minimize violence during that campaign.[17]

5.8. Structure of EMB: Centralized vs. Decentralized

The degree of decentralization of the EMB is likely to be a crucial issue in Syria. It will be important that the EMB, regardless of its form or structure, establish a presence throughout Syria, and throughout the diaspora if this is feasible. Long-term activities such as the voter registration process may require a longer local EMB presence throughout the country and abroad.[18] Local EMB offices can also play an important role in electoral dispute resolution, either as an initial venue for reviewing or considering complaints, or by providing local citizens with information on how to register complaints with local courts or other entities. Establishing a presence in Syria's diverse communities from an early stage in the electoral process will help to ensure that local communities perceive the electoral administration as both efficient and trustworthy.

Syria's development in recent years of 'Elections Management Committees' at the regional level, and the relative success of the decentralized local council system, could facilitate attempts to create an effective decentralized EMB network. Although experiences have varied from region to region, the degree of acceptance and trust that the local management of elections and local governance appear to enjoy might serve as a foundation for the development of an EMB with some degree of devolved authority at the regional or local level. As in many other areas of planning for a future Syrian electoral process, 'thinking outside the box' on issues such as decentralization by building on what seems to work effectively in Syria today may be necessary.

5.9. EMB Secretariat Development and Short-term Staffing

A perennial challenge in many countries is how to recruit skilled professionals to manage the electoral process. This challenge begins with recruiting professionals to the EMB Secretariat, the unit responsible for implementing the electoral process. Depending on the model of EMB, the head of the Secretariat may be a public official who has other duties between

electoral processes, or an individual retained, part-time or full-time, to direct the electoral administration.[19] Identifying the right head of the Secretariat and other senior management will be governed by the level of skills or experience available. As importantly, recruiting the best people for the job will depend on how likely it is that they will be able to operate independently of government pressure or influence, or pressure from other powerful interests.

Developing the organization of the Secretariat will require detailed planning. Depending on resources, the number of full-time or senior staff that the EMB is able to employ might be limited. International IDEA suggests that planning for the structure of a Secretariat will depend on the final decision on the scope of EMB duties and responsibilities, the time needed to complete tasks, the number of people necessary to complete the tasks within the allotted time, and the skillsets of the peoples called on to perform these functions, among other factors.[20] It may be practical for a Secretariat to delegate tasks to subordinate directorates, such as a directorate for out-of-country voting, a directorate for voter registration, a directorate for finance and administration, and so on.

It is not uncommon for EMBs to require additional fixed-term staff or consultants to assist with time-sensitive duties on or before election day.[21] In the case of more decentralized EMBs, it will be important to develop lines of communication and oversight between regional and local administrators and the national Secretariat.[22]

In addition to the dedicated professionals responsible for supporting the effective administration of elections from national or regional EMB headquarters, thousands of personnel will be needed to undertake fixed-term duties linked to the administration of the process before, on and after election day. Ensuring that this pool of fixed-term employees reflects the gender, linguistic and overall diversity of Syria will be particularly important. Assigning both men and women to each polling station or centre throughout the country, and ensuring that key staff members are fluent in the predominant language of the locality or region, will facilitate the overall voting process and ensure that certain groups, such as conservative religious women or Kurdish-speaking Syrians, feel welcome at the polls.

Fixed-term staff will require effective training and strong oversight. Techniques for training personnel on assisting voters, candidates and others would include 'cascade training', which entails a small team of trainers training others on relevant electoral procedures, who in turn train other groups.[23] An EMB might also seek to establish mobile training units, which might be particularly important in cases where trainers are training staff in administering polling stations or other electoral activities outside Syria.[24] Regardless of the method, it will be important for the EMB to develop manuals, instructional videos and other tools for fixed-term election staff members to refer to and rely on in addition to their training.[25]

Reporting by the Central Election Commission of Armenia

'The CEC [Central Electoral Commission] submits one annual financial report on expenditures to the Control Chamber of the Republic of Armenia (parliamentary body), and another to the Oversight and Audit Service, which is composed of independent experts and CEC secretariat members. In addition to financial reporting, within three months after each election the CEC chair reports to the National Assembly about the implementation of the electoral process. The ConECs [Constituency Electoral Commissions] contribute to this CEC report.'

Source: Catt, H. et al., *Electoral Management Design: Revised Edition* (Stockholm: International IDEA, 2014), p. 101, ‹https://www.idea.int/publications/catalogue/electoral-management-design-revised-edition›.

5.10. Provisions on EMB Transparency

Given the likelihood that the electoral environment in Syria will be contentious, a degree of transparency will protect the new EMB against becoming a political target. Transparency measures can take a variety of forms, most notably:

- Publication, on paper and online, of key electoral legal provisions, all the electoral regulations and the decisions of the EMB pertaining to the elections, as well as information on the EMB leaders themselves. In the case of paper documents, these should be widely disseminated throughout Syria and abroad.
- Publication of periodic reports, or a report shortly after election day, on the EMB's budget and activities, and aggregated data on electoral disputes and their resolution.
- Publication, as soon as practicable, of election results down to the polling station level, including any changes to results based on the adjudication of electoral disputes.
- A comprehensive archive of documentation on the voting process, as well as EMB-related records on contracting vendors, approval of EMB membership, and so on.
- Frequent briefings or updates on electoral activities and developments. It is often wise for an EMB to establish a communications point-person to handle enquiries from the media and election observation organizations.

5.11. Provisions on EMB Accountability

To build and maintain confidence in the EMB, it will be essential that it remains accountable to the law and the people it is meant to serve. There are several recommended methods for ensuring accountability. To ensure that an EMB's decisions are consistent with the law, for example, it is often advisable to authorize courts or other tribunals to hear appeals regarding these decisions. Legislative accountability, including accountability to Syria's interim Constituent Assembly or other law-making authority, might take the form of regular reporting or testimony by the EMB leadership to the relevant authority on the status of electoral preparations. International IDEA also discusses a range of measures related to assessing the performance of an EMB (e.g., internal goal-setting and assessments based on those goals), the financial accountability of the EMB (e.g., internal or external auditing) and other assessment methodologies, all of which Syrian EMB designers might wish to consider when deciding how the EMB will report to others on its performance and activities.[26]

Another form of accountability can be found in complaint processes against EMB personnel who have been accused of breaking the law or other types of misconduct. It will be important to empower Syrian citizens to report incidents of misconduct by EMB personnel, with the assurance that complaints will be handled objectively and transparently according to due process and with protections for both the complainant and the EMB personnel accused of wrongdoing.

One final note on accountability: There is often a fine line between valid accountability measures, such as those described above, and inappropriate interference in the day-to-day operations of an EMB. Syrian lawmakers will need to ensure that mechanisms designed to provide oversight of an EMB, or to discipline individuals found guilty of misconduct, are not abused by other parts of the government or other powerful forces in society, who may attempt to exploit these mechanisms to influence EMB decision-making or to persecute EMB officials.

Returning Officers and Electoral Registration Officers in the United Kingdom

'Elections have historically been run by returning officers, who are appointed by local authorities. They are responsible for the conduct of the poll and have some discretion over the timing of the count. An electoral registration officer is responsible for compiling the electoral register. Both returning officers and electoral registration officers are local government employees, but are independent of both the central and local governments with respect to their electoral duties. They are instead accountable to the courts system as independent statutory officers, and can be prosecuted for being in breach of their duties.'

Source: James, T. S., ACE Electoral Knowledge Network, 'The United Kingdom: Electoral Governance in Transition?' in 'Electoral Management', [n.d.], <http://aceproject.org/ace-en/topics/em/electoral-management-case-studies/the-united-kingdom-electoral-modernization/>.

Endnotes

1. Catt, H. et al., *Electoral Management Design: Revised Edition* (Stockholm: International IDEA, 2014), pp. 18–19, <https://www.idea.int/publications/catalogue/electoral-management-design-revised-edition>.
2. Catt et al. (note 1), p. 19.
3. Catt et al. (note 1), pp. 267–68.
4. More information on the types of assistance that the UN can provide can be found at <http://www.un.org/undpa/ar/elections> (in Arabic) or <http://www.un.org/undpa/en/elections> (in English).
5. Catt et al. (note 1), pp. 21–22.
6. Under the so-called Independent Model, EMBs are autonomous of the executive branch of government and administer elections independently. They are often governed by a board of neutral officials or experts, or may have multiparty membership. They are usually accountable to the legislature or judiciary, and may enjoy varying degrees of financial autonomy. Under the Governmental Model, EMBs are housed within the executive branch of government. They generally do not have boards and are answerable to a minister or another official in the executive branch. Under the Mixed Model, EMBs have components that operate independently, and components housed within the executive branch. In mixed-model EMBs the independent component often sets policy and the governmental component is responsible for implementation. For a full discussion see Catt et al. (note 1), pp. 6–12.
7. Catt et al. (note 1), p. 7.
8. Catt et al. (note 1), p. 22.
9. Catt et al. (note 1), p. 118.
10. Catt et al. (note 1), p. 118.
11. Catt et al. (note 1), p. 88.
12. Catt et al. (note 1), p. 89.
13. Catt et al. (note 1), p. 75.
14. Catt et al. (note 1), pp. 76–77.
15. Regulation of the media during elections, and of candidate and party use of the media, can be an extraordinarily complex and sensitive undertaking. This is the case in part because the media itself is evolving, and new forms of online or social media communication are supplanting more traditional print and broadcast media. Above all, the freedom of the press to report, investigate and criticize must be preserved. However, EMBs also have an interest in ensuring that all candidates and parties have a fair opportunity to be heard. EMBs themselves also may take different approaches in

collaborating with media outlets, through mechanisms such as voter education campaigns and public service announcements regarding the electoral process. For more on this topic, see 'Media Issues' in Chapter 7 of this paper. For an in-depth examination of the relationship between the media and the electoral process, see ACE Electoral Knowledge Network, 'Media and elections', third edn, 2012, <http://aceproject.org/ace-en/topics/me/med/default>.

16. Birch, S., *Electoral Malpractice* (Oxford: Oxford University Press, 2011), pp. 82–83, for example, describes how during the 2000s gaps in Nicaragua's electoral legal framework created the potential for political manipulation.
17. United Nations Development Programme (UNDP) Nigeria, '2015 Nigeria General Elections: Presidential Candidates pledge peace, sign Accord', 14 Jan. 2015, <http://www.ng.undp.org/content/nigeria/en/home/presscenter/articles/2015/01/14/2015-nigeria-general-elections-presidential-candidates-pledge-peace-sign-accord.html>; and UNDP Nigeria, 'On the eve of elections: Presidential front-runners renew pledges to peaceful polls, and respect outcome', 27 Mar. 2015, <http://www.ng.undp.org/content/nigeria/en/home/presscenter/articles/2015/03/27/on-the-eve-of-elections-presidential-front-runners-renew-pledges-to-peaceful-polls-and-respect-outcome.html>.
18. Catt et al. (note 1), p. 17.
19. Catt et al. (note 1), pp. 146–47.
20. Catt et al. (note 1), p. 150.
21. Catt et al. (note 1), p. 150.
22. The International IDEA Handbook, *Electoral Management Design*, contains much more detailed information on EMB strategic planning, operational planning and electoral timelines for Bhutan and Zambia. See Catt et al. (note 1), pp. 145–64.
23. Catt et al. (note 1), p. 188.
24. Catt et al. (note 1), p. 188.
25. Catt et al. (note 1), p. 189.
26. For a more detailed discussion see Catt et al. (note 1), pp. 285–301.

The First Election(s)

Regardless of what type of elections they may be, the success of Syria's first elections is likely to have a significant impact on the long-term re-establishment of democracy. There is no question that the first elections will have a significant impact on Syria's EMB. The modifications to laws and procedures resulting from a new constitution and legal framework mean that new mistakes in administering the electoral process are likely to be made. Moreover, some political participants might attempt to take advantage of the lack of familiarity with electoral law and new procedures to manipulate electoral outcomes. EMB leaders and all electoral stakeholders will need to address these challenges before, on and after election day if the first elections are to be deemed legitimate.

The timing, type and scope of the first elections are likely to be set out as part of the constitutional drafting process. Below is a brief overview of some of the factors to consider when holding the first elections following the resumption of peace and the establishment of a new constitutional framework. As with much else in this paper, Syria's unique historical and political context will be significant factors in determining the impact of holding certain types of elections, or combinations of types of elections, as a first step.

6.1. Sequencing Elections: The Chicken and the Egg

Countries emerging from a period of violent conflict or non-democratic rule often face a major challenge in making the transition to stable democracy: how to enact and ratify a new constitution and other essential laws before there is an electoral law in place to enable the people to choose their lawmakers. This has been compared to the classic riddle of 'the chicken and the egg': should the drafters of a new constitution be elected, or is it more important to have a constitution in place before electoral laws are drafted and enacted?[1] In post-conflict contexts, some countries have opted to elect an assembly to draft a new constitution, while others have developed interim constitutions using appointed assemblies. In each case, the choice was based on that country's unique context.

Security Council Resolution 2254 proposes a set sequence of activities: the establishment of a schedule and process for drafting a new constitution, followed by elections pursuant to the new constitution.[2] Assuming that this sequence is followed, the first electoral activity in Syria might be a referendum on the ratification of the new constitution. Alternatively, if leaders choose not to use the referendum mechanism as part of the constitutional ratification process, the first elections could be national (i.e., parliamentary or presidential, or for a constitution-drafting body), subnational (e.g. for regional parliaments, local councils or mayors) or a combination of both.

South Africa

'Following decades of violence and oppression, negotiations on the transition from apartheid to democratic rule were formally opened within the Convention for a Democratic South Africa (CODESA) in December 1991, with a range of political parties plus several Bantustan leaders. Though CODESA collapsed in June 1992, private talks between the ruling National Party (NP) government and the African National Congress (ANC) produced a Record of Understanding, which set a timetable for establishing a democratically elected Constitutional Assembly and agreed on an interim Government of National Unity (GNU) to govern during the final constitution-making process. The five-year GNU included all parties gaining more than 5 per cent of the democratic vote, allowing for a gradual transition to majority rule via a coalition government. This provision assuaged the NP's concerns about its political marginalization as a newly disempowered minority. The ANC and the NP also agreed to reach bilateral consensus on issues before bringing them to the Multi-Party Negotiating Process . . .

'The Multi-Party Negotiating Process produced the interim constitution in 1993, which as a political settlement was fundamentally a peace agreement. It set forth an agreed set of 34 constitutional principles for the final text, reached through a process of "sufficient consensus" between the NP and ANC. The interim constitution also established a 490-member Constitutional Assembly (comprised of the new bicameral legislature), tasked with producing a permanent constitution within two years.'

Source: International IDEA, *Interim Constitutions in Post-Conflict Settings* (Stockholm: International IDEA, 2015), pp. 23–24, ‹https://www.idea.int/publications/catalogue/interim-constitutions-post-conflict-settings›.

In deciding how to embark on first elections, there are two major factors to consider: whether the timing and type of election will support, or at least not impede, ongoing progress towards stable democracy; and whether the EMB and other institutions within the country have the capacity to do the job in a way that ensures electoral integrity. Given the rapidly changing circumstances in Syria, it is impossible to provide firm answers to these questions. With the input of key experts, however, this paper can tentatively discuss some of the likely advantages and disadvantages of various sequencing options.

6.2. Referendum First

It is possible that before holding elections, Syria will choose to hold a referendum, most likely related to the ratification of a proposed constitution. A referendum can present certain advantages for an electoral administration attempting to establish its capabilities. A referendum ballot is usually, but not always, a question of voting 'yes' or 'no' on one or more questions.[3] Although a referendum involves campaigning and advocacy for each side of the argument, there will probably be no need to register candidates or parties to formally participate in a referendum campaign. Ballot design would be relatively simple and if the questions on the ballot were identical for all Syrian voters, the same ballot could be used throughout the country and the diaspora. There would be no need to develop ballots unique to each city or governorate. There would perhaps also be fewer concerns about Syrians in the diaspora or those internally displaced within Syria having to provide proof of residency in a particular locality. Proof of Syrian citizenship would be enough to vote in a referendum.

Referendums, however, can be intrinsically flawed. The drafting of the question or questions on which citizens are voting can be confusing or excessively complicated.[4] Significant voter education might be necessary on the issues being debated and the impact of different results, particularly if a multi-article, legal document such as a constitution were

being voted on. Furthermore, referendums, like elections, can be contentious, and may result in campaign and campaign finance violations, intimidation, fraud and other manipulations of the results if safeguards are not in place. Referendum results may also be attacked as lacking legitimacy, especially if turnout is low, the result is close or a referendum is approved in certain areas of the country, or by certain groups in the country, but rejected in other areas or by other groups. In the latter case, some countries require referendum approval by a 'double majority'—a majority of national voters and a majority of voters in all subnational jurisdictions.[5] A referendum process on such a fundamental issue as constitutional ratification might prove risky for these reasons.

6.3. Elections First: Which Elections and Where?

Regardless of whether Syrian leaders choose to hold national elections in conjunction with local or governorate-level elections, to hold elections at different stages or even to break down national and local elections into several stages, such as by holding elections in phases in different regions of the country, there are general issues related to electoral operations to consider.

A first consideration would involve the capacity of the EMB to conduct more than one election at the same time. Administering both national and local elections might tax the capacity of a new EMB, since it would involve developing multiple sets of ballots, vetting thousands of candidates with different legal standards for eligibility and, in the case of electoral justice institutions, result in a large volume and variety of electoral violations, complaints and disputes on which to decide. Electoral stakeholders could also face the challenge of educating voters on multiple elections involving different electoral systems.

Egypt

'Two days after President Mubarak's ouster, the Supreme Council of Armed Forces (SCAF) appointed an eight-member committee to draft amendments to the 1971 constitution. The Constitutional Declaration (30 March 2011) included a roadmap for presidential and parliamentary elections. Following elections, the constitution of the Arab Republic of Egypt (26 December 2012) was drafted by a 100-member Constituent Assembly in a process that was fraught with disagreement between Islamists and non-Islamists. After a military coup deposed President Morsi and suspended the 2012 constitution, an appointed committee drafted the current January 2014 constitution.

'A major point of contention was the sequencing of elections and constitution drafting; holding elections first was seen as destructive to the integrity of the constitutional process, because it meant that the discourse was hijacked by partisan politics. The elections were held first largely because the Muslim Brotherhood saw an opportunity to dominate Parliament, which would elect the Constituent Assembly.

'Egypt's post-revolution debate has been about party allegiances rather than the content of the constitution, which makes it likely that the current constitution will have to be amended before long. The 2014 constitution eliminates the Shura Council and substantially increases the scope of presidential powers. Power remains heavily centralized, and procedures for appointing local government are largely undefined.'

Source: International IDEA, *Interim Constitutions in Post-Conflict Settings* (Stockholm: International IDEA, 2015), pp. 14–15, ‹https://www.idea.int/publications/catalogue/interim-constitutions-post-conflict-settings›.

Holding different elections at different times, however, also imposes costs. Multiple elections would involve multiple periods of voter registration, and development and updating to ensure that voter rolls are accurate before each separate election. The costs of retaining and training personnel to oversee polling stations over multiple election periods would also increase. Several separate elections could lead to voter fatigue and contribute to a drop in turnout and enthusiasm among the Syrian electorate.

Whether national elections should precede or follow local elections, or take place at the same time, is a difficult question. Generally speaking, each type of election will possess advantages and disadvantages in efforts to re-establish democracy.[6] Some scholars have advocated holding national elections before local elections since, in a post-conflict context, sequencing elections in this manner will promote the formation of national political parties.[7]

It has also been argued that holding local elections first can be positive because it puts the focus on local, practical concerns and de-emphasizes the sensitive issues of ideology or national identity common in national elections.[8] Participants in the Experts' General Meeting noted the success of electoral processes at the local level in Syria and suggested that a 'bottom-up' approach to sequencing elections, where public pressure contributes to fairer, more open local elections in some parts of Syria, might be an appropriate electoral starting point. Some scholars, on the other hand, have argued that holding local elections first could contribute to the development of divisive identity-based political parties, which could later lead to fractures in broadly based national political party development.[9]

Holding national and local elections at the same time may in some circumstances create positive connections between local and national leaders, who may depend on each other for support and help to build broadly based national parties together.[10] It was also pointed out at the Meeting that holding national and local elections together would remove the incentive for losers in one election to attempt to cheat in the following election in order to compensate for their electoral losses. Participants also discussed the possibility of holding elections in different phases in different regions of the country. It was argued that this would assist the new EMB with administering elections, since a simultaneous nationwide election or set of elections would be a much more challenging enterprise for the EMB to oversee. Furthermore, it was suggested that, following the restoration of peace, some regions in Syria might have greater capacity than others to hold elections sooner, and perhaps a greater eagerness to do so. Nonetheless, this approach could also have negative impacts if a staggered electoral process is seen as favouring certain areas of the country over others, and might promote the fragmentation of the country.

Local Elections First? Pros and Cons

'In Kosovo, for instance, local elections held soon after the conflict ended (in 2000, less than one year after the war) helped weaken the political power of the party associated with the Kosovo Liberation Army while strengthening moderates in Ibrahim Rugova's Democratic League of Kosovo. Elsewhere, local consultation processes preceding national elections, such as the World Bank's Community Empowerment and Local Governance project in East Timor in 2000, moved the political focus onto more nuts-and-bolts issues of development. The 2010 local elections in the Democratic Republic of the Congo, by contrast, had little positive impact on the highly flawed presidential elections conducted the following year. And the very act of holding sub-national elections before national ones may also strengthen separatist parties with territorial bases, as occurred prior to the break-up of Yugoslavia.'

Source: Reilly, B., *Timing and Sequencing in Post-Conflict Elections*, CRPD Working Paper no. 26 (Leuven, Belgium: Centre for Research on Peace and Development, 2015), p. 9, ‹https://soc.kuleuven.be/crpd/files/working-papers/working-paper-reilly.pdf›, citing Brancati, D., *Peace by Design: Managing Intrastate Conflict Through Decentralization* (Oxford: Oxford University Press, 2009).

Endnotes

1. See, e.g., International IDEA, *Interim Constitutions in Post-Conflict Settings*, Discussion Report, 4–5 December 2014 (Stockholm: International IDEA, 2015), p. 10, <http://www.idea.int/sites/default/files/publications/interim-constitutions-in-post-conflict-settings.pdf>.
2. United Nations, Security Council, 'Security Council Unanimously Adopts Resolution 2254 (2015), Endorsing Road Map for Peace Process in Syria, Setting Timetable for Talks', Meetings coverage, SC/12171, 18 Dec. 2015, <https://www.un.org/press/en/2015/sc12171.doc.htm>. Resolution 2254 expresses its support for: '[A] Syrian-led political process that is facilitated by the United Nations and, within a target of six months, establishes credible, inclusive and non-sectarian governance and sets a schedule and process for drafting a new constitution, and further expresses its support for free and fair elections, pursuant to the new constitution, to be held within 18 months . . . '.
3. Beramendi et al., *Direct Democracy: The International IDEA Handbook* (Stockholm: International IDEA, 2008), p. 54, <http://www.idea.int/publications/catalogue/direct-democracy-international-idea-handbook?lang=en>.
4. Beramendi et al. (note 3), pp. 54–55.
5. Beramendi et al. (note 3), p. 57.
6. Reilly, B., *Timing and Sequencing in Post-Conflict Elections*, CRPD Working Paper no. 26 (Leuven, Belgium: Centre for Research on Peace and Development, 2015), p. 9, <https://soc.kuleuven.be/crpd/files/working-papers/working-paper-reilly.pdf>.
7. Reilly (note 6), p. 9, citing Linz, J. and Stepan, A., *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe* (Baltimore, MD: Johns Hopkins University Press, 1996), pp. 98–107.
8. Reilly (note 6), p. 9.
9. Reilly (note 6), p. 9.
10. Reilly (note 6), p. 9.

7. Other Key Issues

7.1. Citizenship/Candidate and Voter Eligibility

Citizenship is an important consideration in determining the eligibility of people to vote, and of candidates to run for office at all levels. Because of the tragic circumstances that Syria has faced over the past seven years, there may have been many instances where Syrian citizens have been unfairly or illegally deprived of their citizenship. Other Syrian citizens, such as some Kurdish Syrians, may have lost citizenship prior to the current conflict, and may require restoration of their citizenship rights to ensure full representation in a future Syrian government. Experts noted that others may have gained Syrian nationality in recent years, or may have been granted Syrian citizenship in an illegal or improper manner, and that this concern must also be addressed when setting standards for candidate and voter eligibility.

Many other Syrians, particularly in the diaspora, have opted to gain a second citizenship. Moreover, Syrians in the diaspora may be more likely to have spouses or children who are non-Syrian or who have dual nationalities. In developing laws governing the eligibility of candidates and voters, lawmakers may need to strike a balance between personal citizenship requirements, which are common in all countries, and developing measures for those Syrians who might have lost their citizenship status under adverse or illegal circumstances, dual national Syrians or Syrian citizens who may have non-Syrian spouses or children. International principles indicate that properly naturalized Syrians should enjoy the same voting rights as native-born Syrians.[1]

The conflict in Syria has also created other challenges in setting fair rules for the eligibility of voters and candidates. Residency requirements for Syrian presidential candidates, which were adopted in a recent electoral law, unfairly deny the right to full political participation to Syrians who have been compelled to reside in the diaspora during the conflict.[2] It will be essential that Syrians who have recently returned to Syria and those who remain in the diaspora have the opportunity to vote and to run for office; and that the law makes these rights clear and enforceable. Issues that have emerged in other countries, such as the disqualification of candidates due to unjust or politically motivated criminal convictions, may also need to be considered by Syria's constitutional drafters and lawmakers.

Syrian leaders may also wish to consider the issue of whether military personnel on active duty should be allowed to vote. This is a contentious issue in many countries and a significant number ban military personnel from voting while a significant number allow it.[3]

7.2. Candidate Vetting/Encouragement

Candidates typically face more rigid eligibility standards than voters. For example, in many countries the minimum age to run for certain offices may be higher than the minimum voting age. Prospective candidates may need to present evidence of professional qualifications or proof of past military service, or there may be other requirements. Setting overall eligibility standards that are too rigid risks excluding many potentially strong candidates, including women, youth and others who may be new to Syria's political process. To encourage candidates who represent the full diversity of Syria, the EMB in conjunction with CSOs and political parties could provide orientation and training for those from underrepresented groups in society who are interested in becoming candidates. The fees or deposits required to run for office should also be kept low to encourage candidate diversity.

Another factor that may be more unique to Syria is the process by which certain prospective candidates are determined to be ineligible based on human rights violations or other criminal activity related to the conflict. It might be advisable for the EMB not to play a role in making eligibility decisions in these circumstances, since doing so could open the EMB up to criticism from some political stakeholders. Regardless of how candidate vetting related to criminal activity during the conflict is achieved, it will be essential that it is conducted fairly and in a manner that preserves trust in the fairness of the process among all major electoral stakeholders. A transitional justice mechanism that approaches alleged crimes related to the conflict in an impartial manner may be required to make such determinations.

7.3. Census/Electoral Boundaries

Another sensitive, time-consuming issue in many countries is the determination of accurate population statistics and the drawing of fair electoral boundaries.[4] Experts noted that the most recent available population data, collected in 2009, is not considered legitimate by many. The challenge of collecting accurate population data for Syria is compounded by the numbers of Syrian citizens in the diaspora and of internally displaced Syrians, as well as the challenge of determining residency for the purpose of voting in local elections or for local parliamentary candidates.

Depending on how challenging this issue proves to be, one option Syrian leaders might wish to consider is a national list system of proportional representation, where all voters elect lists, or candidates on lists, from a single national ballot consisting of all the political parties running for office. Seats are allocated based on the proportion of votes received.[5] Such a system could be used as part of the initial electoral cycle or perhaps for the first two or three electoral cycles only, until the new legislature determines another system that might be more conducive to Syrian democracy in the long run.

Equal suffrage—that every vote should have roughly the same weight as every other vote—is a fundamental principle of democracy.[6] Another important principle that is often overlooked in many democracies is that the drawing of electoral boundaries should not be conducted with the intention, or effect, of diluting the voting power of a particular community or minority group. Boundary makers will need to ensure that the drawing up of electoral districts does not result in the unequal representation of certain groups in local or national government.[7] Although some EMBs have electoral boundary delimitation included within the scope of their duties, Syrian decision makers might wish to consider whether the new EMB is best situated to conduct this task, should the redrawing of electoral boundaries be required in Syria. A respected body such as a specialist tribunal or an ad hoc boundary commission might be better placed to perform this highly technical and politically sensitive task—at least in advance of the initial elections.

The ACE Electoral Knowledge Network on Post-Conflict Electoral Systems

'The time needed to set up the infrastructure for different electoral systems varies. For example, electoral registration and boundary delimitation are both time-consuming exercises [that] can lead to legitimacy problems. At one extreme, if all voters vote in person and voters are marked at the polling station, List PR [proportional representation] with one national district may be feasible without either registration or boundary delimitation. At the other extreme, a plurality/majority system with single-member districts may require both if no acceptable framework is in place. In any event, the system adopted for a first transitional election may not be the most suitable in the longer term—although a process of continual change in which voters and parties are never able to adapt to the effects of the evolving system may also be undesirable.'

Source: ACE Electoral Knowledge Network, Electoral Systems, 'Additional issues Relevant to Post-Conflict and Transitional Elections' [n.d.], ‹http://aceproject.org/ace-en/topics/es/esd/esd07›.

7.4. Choosing the Electoral System

Determining the optimal electoral system for Syria will depend almost exclusively on Syria's political context.[8] Among the factors to consider are Syria's recent electoral history and its overarching goals regarding democratic development, including political party development. In addition, the importance of maintaining not only trust in the electoral process among a wide variety of electoral stakeholders, but also peace and stability as the electoral process takes root must also be considered. In determining which electoral system is best suited to achieving these goals at the national and local levels, Syrian leaders might wish to consider systems that meet the criteria identified by International IDEA, namely:

- Providing representation;
- Making elections accessible and meaningful;
- Providing incentives for conciliation;
- Facilitating stable and efficient government;
- Holding the government accountable;
- Holding individual representatives accountable;
- Encouraging political parties;
- Promoting legislative opposition and oversight;
- Making the election process sustainable; and
- Taking account of international standards.[9]

All of these criteria are important but some are worth emphasizing in the light of Syria's unique context. First, Syria may wish to include features in its national or local electoral system that are familiar not only to voters, but also to other stakeholders such as political parties and local elected leaders. Introducing a radically new system could theoretically improve the level of representation and governmental accountability, and address more of the factors described above, but if it is too novel and confusing it might depress turnout and lead voters to disconnect with the process.

Second, Syria's electoral system designers will have to focus on the needs of Syrian candidates and voters in the diaspora. The importance of participation by Syria's diaspora means that a system is required that does not favour candidates who have had an opportunity to campaign inside Syria over candidates based in the diaspora. Special elections among voters in the diaspora, or quotas for diaspora-based candidates, either on the electoral lists or in the Syrian legislature, could address this issue, although other measures might also be effective.

Third, measures that reduce the likelihood of conflict should be supported wherever possible. Systems that are likely to result in unequal representation of certain groups in society, or winner-takes-all elections for executive leadership, might result in voters on the 'losing side' becoming disillusioned with the system. Some groups could instead choose to operate outside of the electoral process. Non-violent conflict and contentiousness are unavoidable in elections but decision makers should attempt to avoid systems that are likely to prevent sizeable groups from obtaining fair electoral representation, since this could lead to protest and possibly even violent conflict.

Fourth, in accordance with international standards and in order to establish legitimacy, designers should seek to ensure that women and members of marginalized groups have a full and meaningful opportunity to participate in the electoral process and in democratic governance. This can be accomplished in a variety of ways, most notably through provisions for reserved seats or quota requirements in national or local legislative bodies, or political party requirements that women and other groups must be placed at or near the top of closed political lists.[10] On this topic, experts attending the Experts' General Meeting expressed concern about the absence of gender balance in some newly created local councils.

The topic of choosing an appropriate electoral system triggered robust debate and discussion among the experts attending the Meeting. Some, noting the importance of establishing a system that would minimize the likelihood of groups feeling that they had 'lost' the election, suggested that a national list proportional representation (PR) system, or some other form of PR system, would best satisfy all groups. Others expressed concern about the possibility that such a system would fail to protect the rights of political minorities, since some groups might be too small to reach an electoral threshold under a PR system.

There was also a significant amount of discussion around whether it would make sense to impose quota requirements, allocating a certain percentage of seats to women and perhaps also to other groups in the country. Participants discussed the example of Morocco, which has imposed requirements for the number of female candidates that have resulted in an increase in the proportion of women in parliament in that country. Participants in the Experts' General Meeting expressed support for ensuring, as a minimum goal, that each gender had at least 30 per cent of the seats in any one parliamentary body. Some experts suggested that there should be an equal number of women and men standing as candidates in each constituency. Participants also expressed concern, however, that setting a formal quota for female parliamentarians, especially if imposed in the long term and coupled with quotas for other groups, might become overly complicated and could damage the ideal of voting based on citizenship, which Syrian leaders hope to encourage.

Experts also discussed the viability of introducing a bicameral legislature as a way to ensure that certain groups, such as Syrians based in the diaspora, are represented. Other participants suggested a mixed system that comprised both a national list PR system and elections of other parliamentarians based on geographic location. It is clear that the identification of an optimal electoral system for Syria will be crucial, and that more thought and input should be considered on the subject before an optimal solution can be arrived at.

Approaches to Establishing a Voter Registry

'Maintaining accurate electoral registers is a costly task. Each EMB needs to determine which voter registration checks are necessary, and which, given levels of public trust and the controls in place to prevent polling fraud, may be redundant and can be eliminated to save money. Comparing data on the electoral register with information from other government agencies can help maintain the electoral register cost effectively, although it may raise concerns over data privacy. If the electoral register can be derived from a reliable and politically acceptable national civil registration database, as is done in Senegal and Sweden, or if records of births and deaths are computerized and accessible to the EMB, costs can be cut significantly. Continuous voter registration may, in the long run, be another measure to keep down costs.

'Local conditions will be the primary factors for determining the most sustainable voter registration mechanism for a country. Permanent and continuously maintained registers will be most viable where the information needed to keep them up to date can be obtained from other government agencies that have access to accurate and publicly trusted data, or where there is a strong culture of compliance with a requirement for voters to notify the government of changes in their circumstances, such as new addresses. In the absence of both of these factors, the register will quickly become obsolete, and a periodic update process, involving major efforts to capture information, may be required.'

Source: Catt, H. et al., *Electoral Management Design: Revised Edition* (Stockholm: International IDEA, 2014), p. 323, ‹https://www.idea.int/publications/catalogue/electoral-management-design-revised-edition›.

7.5. Voter registration

After Syria's years of conflict and the dispersal of millions of Syrian citizens to the diaspora, ensuring an accurate and complete voter register will be a very difficult undertaking. Experts noted that the voter list was abolished as far back as 1981, ostensibly to allow Syrians to vote anywhere in the country.

It will require leadership from the EMB to reach out to citizens in the diaspora and those internally displaced within Syria to ensure that they are registered accurately and that the registry is up to date in other respects (e.g., that new voters are added on reaching voting age and deceased persons are removed). A political accord will probably be required to agree on criteria for the acceptance of identification papers, such as the birth certificates and death certificates issued in recent years by Syrian opposition groups as well as the Syrian government. The issue of forged or invalid identification documents, which is reportedly widespread among Syrians refugees in the diaspora, will present an immense challenge for electoral administrators.[11]

7.6. Campaign and Campaign Finance Laws

Campaign-related laws, including laws on campaign finance, can be challenging to enforce. With thousands of candidates from numerous political parties campaigning throughout a large country such as Syria, and perhaps in other countries around the world where Syrian citizens reside in large numbers, substantial resources are likely to be required for an EMB or other state institutions to ensure that all campaign events, expenditure, donations and other campaign-related activities comply with the law. Participants in the Experts' General Meeting expressed concern about individuals or groups that have benefited financially from Syria's conflict using their wealth to unduly influence electoral campaigning.

One step to help facilitate the enforcement of campaign-related laws is to ensure that such laws, which may also include agreed on codes of conduct for campaigns, are clear and unambiguous. Campaign provisions that prohibit the insulting of another candidate's 'dignity' or Syria's 'national honour', or that use similar terminology that can be difficult to define legally, could expose campaign law enforcement authorities to charges of bias or favouritism if such provisions are perceived as being enforced in an unequal manner. Another step is to ensure that campaign laws are comprehensive. A failure to regulate activities such as the use of state-owned resources by candidates or in-kind contributions to campaigns can destroy the perception of a 'level playing field' that is necessary to ensure that elections are perceived as free and fair.

An EMB cannot be everywhere and monitor every action. An independent body such as a court of accounts may be an appropriate regulator of this challenging aspect of the electoral process. Legal provisions that require electoral stakeholders to act in a transparent manner may be advisable, particularly in the area of campaign finance. Requirements on campaign spending and the reporting by political parties and candidates of donations above a certain size would assist an EMB and campaign finance regulators in ensuring compliance with the law. Public reporting requirements on donations would have the added benefit of educating voters on the sources of funding of political parties and candidates. Empowering all citizens by creating a simple, straightforward, confidential process for reporting election misconduct would also facilitate the identification of campaign-related violations of all types.

7.7. Out-of-Country/Out-of-District Voting

Millions of Syrian voters are likely to be based overseas during the first election following the resumption of peace and the establishment of a new constitution. Many other Syrian voters may still be internally displaced—that is, based within Syria's borders but unable to return to their home electoral district. Ensuring that IDPs and refugees have the ability to exercise their fundamental rights to vote will be a serious test of the integrity of the electoral process, the technical capabilities of Syria's EMB, and the diplomatic skill of Syria's leaders and international supporters.

A first concern is whether refugees, the internally displaced and other Syrians who are away from their home electoral districts against their will have the freedom to vote for the candidates and parties of their choosing without intimidation or coercion.[12] Ensuring that these voters can cast their votes freely will depend in part on the establishment of a clear electoral legal framework with enforceable penalties and a commitment by all powerful political interests to refrain from repressive measures to force voters to support a certain candidate or party. Domestic CSOs, such as accredited observer organizations, international election observation organizations and international organizations such as the United Nations will play a constructive role in ensuring that refugees and other Syrian citizens in the diaspora can cast a free and secret vote for the candidates and parties of their choosing.[13]

Among the concerns raised at the Experts' General Meeting on this topic were the challenge of verifying the identity and eligibility of voters and candidates, guaranteeing the accessibility of the voting process for all Syrians and ensuring that Syrians are able to vote for the specific candidates representing their home districts. Participants stressed their concerns about the ability of both Syrians in the diaspora and Syrians who are internally displaced to vote in local elections. Neither group is likely to be able to return to their home regions or localities in the near future, which could deny these citizens their right to vote for local leaders in their communities of origin.

Voting by Refugees and Displaced Persons in Bosnia and Herzegovina

'The right of return is articulated throughout the Dayton Accords. As such, the signatories expressly committed themselves to creating an environment conducive to IDP [internally displaced person] and refugee return. However, these conditions failed to materialize and, in some cases, continued to deteriorate between the signing of the Accords and the September 1996 elections. According to an International Crisis Group assessment, "By mid-August, only 100,000 of 2 million refugees and displaced persons had returned, and principally to areas where the returnees belonged to the majority ethnic group. And even this is a misleading figure because close to 80,000 persons belonging to minority groups [had been] displaced since the signing of the [Dayton Accords]".

'Despite the framers' expectation in the Elections Annex that: "By election day, the return of refugees should be well underway, thus allowing many to participate in person in elections in Bosnia and Herzegovina", alternate plans were made in anticipation of the need to enfranchise those refugees and displaced persons who had not yet returned. These alternate plans, including options for absentee balloting, are alluded to in Annex III, article IV of the Accords and outlined in detail in articles 6-8 of the Provisional Election Commission's (PEC) electoral "Rules and Regulations". The OSCE, as mandated by the Accords, was charged with organizing the modalities and technical aspects of out-of-country voting. A special body, the Refugee Elections Steering Group (RESG) was created to deal specifically with refugee voting.

'The ensuing Bosnian elections in September of 1996 set the standard for ensuring the electoral rights of conflict-forced migrants. The Dayton Agreement not only mandated the inclusion of displaced Bosnians within the electoral process, but also provided the tools, mechanisms and extensive powers election administrators would need to have at their disposal in order to secure the electoral right. However, the international community's lackluster commitment to ensuring adequate electoral preconditions, when combined with the social wounds of the conflict—which included ethnic cleansing, rape as an instrument of war, and the extensive loss of civilian life—made these goals a daunting challenge. Additionally, the tension between securing an immediate peace (i.e., the highly autonomous powers granted to the two entities) and the long-term goal of creating a tolerant and multiethnic Bosnia appear to be at odds. Political elites continue to base their support on fear and nationalist claims, making the implementation of the Dayton Agreement highly problematic.'

Source: International Organization for Migration (IOM), *Case Studies on the Participation of Conflict Forced Migrants in Elections: Participatory Elections Project* (Geneva: IOM, May 2003), p. 9, ‹http://www.geneseo.edu/~iompress/PEP%20Case%20Studies%202003.pdf›.

Voter identification will be a challenge. Documentation may have been lost due to the conflict. 'Social documentation', or the organized use of testimony or vouching for a person's identity, can be an effective alternative but such systems can be difficult to administer.[14] Ensuring that internally displaced or diaspora voters, once identified, can vote for the candidates or parties standing in their village, municipality or governorate will also require technical skill. Depending on the variety of ballots, out-of-country voting sites will need the capacity to produce ballots on demand based on the voters' home electoral residence.[15]

Finally, political discussions will be needed between Syria's leaders and the leaders of countries where significant numbers of Syrian citizens are currently residing, and clear ground rules will have to be established for the conduct of electoral operations, including electoral campaigning, on foreign soil.[16] Syria's electoral stakeholders must ensure that they respect concerns about host country sovereignty.[17] Conversely, host countries must refrain from attempting to pressure or otherwise influence the Syrian electoral process. As in other areas, the United Nations and other respected international actors could play a constructive role in ensuring that host countries permit a reasonable degree of electoral activity and wide

access for Syrian citizens to the electoral process abroad. Experts expressed the hope that, in addition to international organizations, CSOs working in Syria and among the diaspora will be able to assist internally displaced Syrians and Syrians overseas to freely cast their votes.

7.8. Electoral Justice and Dispute Resolution

Electoral justice is an essential component of a free and fair electoral process. The establishment of a viable, independent electoral justice system should be part of any planning process prior to an initial election. International IDEA defines electoral justice as:

> the means and mechanisms: (a) for ensuring that each action, procedure and decision related to the electoral process is in line with the law (the constitution, statute law, international instruments and treaties, and all other provisions); and (b) for protecting or restoring the enjoyment of electoral rights, giving people who believe their electoral rights have been violated the ability to make a complaint, get a hearing and receive an adjudication.[18]

Effective and fair electoral justice systems share certain characteristics.[19] The challenge for any country emerging from a period of extreme political polarization is to identify institutions with the integrity, independence and other characteristics required to make politically sensitive decisions on electoral disputes and crimes. Although the EMB itself might play a role in investigating and even serving as an initial adjudicator in some forms of electoral dispute (as occurs in several countries), it could face conflicts of interest when handling other cases, especially if the conduct of the EMB, its leaders or staff, are at issue.[20] Courts or other bodies unconnected with electoral administration might therefore be better placed to serve as 'institutions of last resort', or institutions from which there is no appeal.

When deciding on allegations of electoral crime, the courts must be the ultimate adjudicators, since widely recognized standards of due process can best be applied by criminal courts or, as is the case in some countries, specialized electoral courts.[21] Existing courts often act as institutions of last resort to consider other kinds of electoral complaint that do not reach the level of criminal activity, and to provide remedies such as the nullification of votes cast at a certain polling station, the disqualification of a candidate or fines for campaign misconduct by political parties. In cases where most stakeholders do not regard the courts as independent, the designers of the electoral justice system might consider establishing an ad hoc complaints commission with the specific task of resolving electoral disputes. As is the case with the EMB, such a commission would require leadership from people of demonstrable integrity and impartiality (e.g., respected civil society leaders or public servants). In periods following conflict, where identifying impartial actors may be difficult, this commission might give some responsibilities to trusted international actors, at least in the short term.[22]

As with the electoral process, to be effective, the electoral dispute resolution process must be both fair and perceived to be fair. Transparency measures such as the publication of detailed decisions on matters of electoral misconduct and the dissemination of aggregate information on the types and disposition of complaints build public confidence in the process and can serve to educate stakeholders on the consequences of electoral misconduct. CSOs are increasingly supporting electoral justice processes using innovative communications and social media technology, such as smartphone technology and crowd-sourcing, to detect and report electoral misconduct or to independently verify and publicize electoral results at the polling station level. Syria's electoral justice institutions might wish to consider developing similar collaborative efforts with civil society watchdogs.

Electoral Dispute Resolution in Spain

'Some EDRSs [electoral dispute resolution systems] provide that the court with jurisdiction to resolve challenges, and in specific instances to ensure that a particular electoral action or decision is compliant with the legal framework, is authorized to exercise oversight over not only its legality but also its constitutionality—or at least is authorized to put the question of unconstitutionality before the organ with jurisdiction over constitutional justice. In Spain, for example, the Administrative Court (Tribunal Contencioso Administrativo) can refer a matter to the Constitutional Court (Tribunal Constitucional), which hands down the ruling. This means that if the action or decision concerned is based on an unconstitutional law or general provision, it is overturned as a result. This happens in EDRSs that confer jurisdiction on the constitutional court or council, on a supreme court which is part of the judiciary, or on some of the specialized electoral courts—as in Ecuador and Mexico. In this way, the EJS [electoral justice system] provides a comprehensive defence of electoral constitutionality and legality.'

Source: Orozco-Henriquez, J., *Electoral Justice: The International IDEA Handbook* (Stockholm: International IDEA, 2010), p. 40, ‹http://www.idea.int/sites/default/files/publications/electoral-justice-handbook.pdf›.

7.9. Media Issues

Constitutional guarantees on freedom of expression and a free press are key components of a democratic process. This includes protections for media outlets against the improper use of defamation laws to stifle valid criticism or dissent. However, Syrian lawmakers may wish to regulate the media in other ways (e.g., by using provisions to grant parties or candidates free time on public broadcasters or access to private media resources at fixed rates) to ensure that candidates and parties obtain equal access to state-owned and other media. Domestic and international electoral observation organizations, and in some cases EMBs, may monitor both private and state-owned media to ensure that coverage is balanced and to report on the amount and type of coverage that different parties and candidates have received.

Various types of social media have emerged as major forums for communicating political ideas and viewpoints. A challenge facing all democracies today is how to ensure freedom of expression, to which bloggers and other social media posters have a right, while combating the rise of attempts by domestic or international actors to use social media to manipulate electoral outcomes. Further discussion in this area will depend to a great extent on Syria's media landscape and Syrian citizens' methods of accessing electoral or other political news. Participants at the Experts' General Meeting expressed concerns about the proliferation of media outlets, including social media platforms, where calls for violence or instances of hate speech against certain groups are widespread.

Experts stressed the importance of ensuring that media professionals are properly trained on the purpose of elections and on electoral procedures. The media can play an important role in eliminating the culture of fear that many potential Syrian voters are likely to be experiencing. It was noted that, in many democracies, certain media outlets often act in a biased manner. Syrian law- and policymakers might wish to look at some examples from democratic countries of where the media are regulated in relation to the electoral process.

The Media and Elections in Canada

'The Canadian system is also, in effect, a mixed one. Between elections, there is an allocation of free party political broadcasts: 60 per cent for the opposition parties and 40 per cent for the governing party. The exact allocation of these broadcasts is generally made by the parties themselves (although the Canadian Broadcasting Corporation will make the allocation if the parties cannot reach agreement). In addition to these "free time broadcasts", there are occasional ministerial and prime ministerial broadcasts. There is an opposition right of reply to the latter, but not the former. In election periods, however, this system is overlaid by one of paid political advertising. There is a given amount of advertising time available, which is allocated to the parties according to a formula that they agree among themselves. They are then allowed to purchase advertising time up to the limit of their allocation.'

Source: ACE Electoral Knowledge Network, *The ACE Encyclopaedia: Media and Elections*, 3rd edn (2012), p. 119, citing Penniman, H. R. and Ranney, A., 'The regulation of televised political advertising in six selected democracies', Committee for the Study of the American Electorate [n.d.], ‹https://aceproject.org/ace-en/pdf/me›.

7.10. Civil Society and Electoral Observation Regulation

Ideally, a vibrant, politically neutral, diverse, civil society community enhances democratic development in a variety of ways, including by providing constructive input into electoral law-making and regulation-making, support for candidacies from marginalized or underrepresented groups, voter education, and electoral observation. Experts noted, however, that ensuring civil society impartiality and non-partisanship in Syria has in the past been a significant challenge. To the extent possible, Syrian electoral leaders should identify independent CSOs and encourage their establishment where they may not yet exist.

Effective observation of Syria's initial election will be particularly crucial. Syria's lawmakers and other decision makers should therefore encourage election observation by a wide variety of impartial domestic and international organizations in all phases of the electoral process. Standards for international electoral observation can be found in the Declaration of Principles for International Electoral Observation and the Code of Conduct for International Electoral Observers. The latter has been endorsed by several international organizations including the UN Secretariat.[23] International electoral observation reports can be valuable guides for electoral officials seeking to apply lessons learned to improve subsequent electoral processes. It is important to emphasize that electoral observers also have obligations of their own, such as to respect the laws of the country in which they are working and to maintain strict impartiality throughout the electoral process.

Domestic electoral observation organizations also play a crucial role in ensuring electoral integrity. Because they possess knowledge of the cultural and linguistic context that many international observers lack, they are generally more capable of conducting context-specific analyses and assessments of the strengths and weaknesses of a national election process. As with international electoral observation organizations, it is important that these groups have the opportunity to observe all phases of the electoral process, from the announcement of the election date and voter registration efforts through to the electoral challenge period and the official announcement of the final results. To encourage a diverse and inclusive group of domestic observers, regulations should be liberal in granting accreditation to domestic organizations and the individual observers who represent them, on the condition that these observers maintain respect for the law and impartiality as described above.

Civil Society Participation in Indonesia's Elections

'Civil society organizations active during the election [in 2014] included not only those with a particular attention to electoral issues, such as Perludem, the People's Voter Education Network (JPPR), and the Independent Election Observer Committee (KIPP), but also organizations focused on sectoral issues such as counter-corruption (Indonesia Corruption Watch, Transparency International Indonesia), environmental management (Walhi, Jatam, Sawit Watch, ICEL, Kiara), budget transparency (Fitra), public services (Ecosoc Rights, Yappika), legal reform (PSHK, the Legal Aid Institute network), women's empowerment (Indonesian Women's Coalition, Women's Solidarity) and disability rights (SIGAB, PPUA Penca).'

Source: Hasanuddin, L., 'After a lively election, what's next for Indonesia's mobilized civil society?', Asia Foundation, 13 Aug. 2014, ‹http://asiafoundation.org/2014/08/13/after-a-lively-election-whats-next-for-indonesias-mobilized-civil-society/›.

7.11. Anti-Fraud and Anti-Corruption Measures

Many of the measures described in this Chapter—including a clear legal framework, a free media, robust and diverse electoral observation organizations and an effective electoral justice system—will help prevent electoral fraud. One suggestion that Syrian lawmakers and EMB leaders might wish to pursue in addressing fraud is to examine cases where fraud may have been alleged in past elections. For example, if there is a tradition for polling centres in certain locations, such as at border points or those serving nomadic populations, to report inflated turnouts, or if they appear to have been subject to other types of fraud, these sites should be monitored more strictly by the EMB. In addition, diverse party or candidate representatives, the media, and observers should be encouraged to observe these polling sites to help ensure that fraud does not occur.

7.12. Accessibility of the Electoral Process

A final consideration for Syria's future election administrators is the accessibility of the electoral process, including electoral dispute resolution mechanisms. Women in particular may face challenges in accessing the process as voters and complainants. The EMB and other institutions, such as the courts, should develop programmes and procedures to ensure that women feel comfortable accessing polling stations and electoral justice venues. This would also extend to linguistic minorities, where the existence of voter education materials and ballots in all the significant languages of a region or governorate would improve the accessibility and comprehensibility of the electoral process. The same is true for people with visual impairments, or mobility-related or other disabilities. This issue is universal to all electoral processes, but it is worth noting its importance as Syrian lawmakers and electoral process designers look for ways to ensure that the Syrian electorate maintains its confidence and trust in the new electoral process. In the case of Syria, the importance of developing and administering a fair and accessible voting process for the millions of Syrians at home, and the millions more displaced from their district or homeland, will be a significant goal of lawmakers and electoral officials.

Endnotes

1. UN Office of the High Commissioner on Human Rights, General Comments adopted by the Human Rights Committee under article 40, paragraph 4 of the International Covenant on Civil and Political Rights, Addendum, General Comment No. 25 (57), CCPR/C/21/Rev.1/Add.7, 27 Aug. 1996, <http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.7&Lang=en>. Paragraph 3 states that: 'Distinctions between those who are entitled to citizenship by birth and those who acquire it by naturalization may raise questions of compatibility with Article 25 [of the ICCPR]'.
2. Georges, N., 'Election Law in Syria: The Architecture of Unfair Representation', The Legal Agenda, 22 May 2014, <http://legal-agenda.com/en/article.php?id=2999>.
3. Excerpts from a number of national laws covering military voting rights can be found on the ACE Electoral Knowledge Network at <http://aceproject.org/ero-en/topics/legal-framework/military-voting-000717.doc/view>. A table of countries that either authorize or prohibit military voting can be found at <http://aceproject.org/electoral-advice/archive/questions/replies/204229904#965146150>. The table was last updated in 2004 and reflects the legal situation applicable in those countries at that time.
4. Reynolds, A. et al., *Electoral System Design: The New International IDEA Handbook* (Stockholm: International IDEA, 2005), p. 153, <https://www.idea.int/publications/catalogue/electoral-system-design-new-international-idea-handbook>.
5. Reynolds et al. (note 4), pp. 153–54. A drawback of this approach, however, is that a national elected parliament, even though its members reflect proportionally the percentage of votes received nationally by each party, may be less able to serve the needs of a particular region or locality.
6. UN Office of the High Commissioner on Human Rights, 'International Covenant on Civil and Political Rights', article 25(b), <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>.
7. This practice is known as 'gerrymandering' in the United States and has been a concern there for more than 200 years. See Drum, K., 'Gerrymandering is heading back to the Supreme Court', Mother Jones, 21 Apr. 2017, <http://www.motherjones.com/kevin-drum/2017/04/gerrymandering-headed-back-supreme-court>.
8. For an interactive approach to weighting the different factors in electoral system development see the International IDEA Best Electoral System Test (BEST), <http://www.idea.int/data-tools/tools/best-election-system-test>.
9. For a more detailed discussion see Reynolds et al. (note 4), pp. 9–14.
10. Reynolds et al. (note 4), pp. 121–22.
11. Karas, T., 'Not Syrian, not Turkish: Refugees fleeing war lack documentation', Al Jazeera America, 24 September 2015, <http://america.aljazeera.com/articles/2015/9/24/not-syrian-not-turkish.html>.
12. Ellis, A. et al., *Voting from Abroad: The International IDEA Handbook* (Stockholm: International IDEA, 2007), p. 153, <http://www.idea.int/sites/default/files/publications/voting-from-abroad-the-international-idea-handbook.pdf>.
13. Unethical activities may include attempts by powerful political interests to favour certain refugees who are likely to support certain parties or candidates by facilitating repatriation or adopting other measures to make voting easier for these groups, or conversely by attempts to displace other citizens shortly before election day because of their likely political preferences. See Ellis et al. (note 12), p. 157.
14. Ellis et al. (note 12), p. 155.
15. For a recent example of out-of-country voting in which voters were able to vote for candidates in their specific home governorates see International Foundation for Electoral

Systems (IFES), 'Electoral Technical Assistance for Iraq for Out-of-Country Voting', 4 Mar. 2010, <http://www.ifes.org/publications/electoral-technical-assistance-iraq-out-country-voting>.

16. Ellis et al. (note 12), p. 156.
17. Ellis et al. (note 12), p. 156.
18. Orozco-Henriquez, J., *Electoral Justice: The International IDEA Handbook* (Stockholm: International IDEA, 2010), p. 1, <http://www.idea.int/sites/default/files/publications/electoral-justice-handbook.pdf>.
19. Integrity Action has identified the following principles: integrity, participation, lawfulness (the rule of law), impartiality and fairness, professionalism, independence, transparency, timeliness, non-violence (freedom from threats and violence), regularity and acceptance. Electoral Integrity Group, *Towards an International Statement of the Principles of Electoral Justice: The Accra Guiding Principles* (London: Integrity Action, revised May 2016), <https://integrityaction.org/publication/towards-an-international-statement-of-principles-of-electoral-justice-accra-guiding>.
20. Orozco-Henriquez (note 18), p. 77.
21. Orozco-Henriquez (note 18), pp. 47–48.
22. See, e.g., the Electoral Complaints Commission of Afghanistan, which included international commissioners between 2004 and 2010.
23. The Declaration can be found at <http://www.osce.org/odihr/16935?download=true>.

Challenges Ahead: Conclusions

This paper is a record of the beginning of a discussion that will continue as circumstances change and new developments emerge in Syria and among the Syrian diaspora. It is the hope of UN ESCWA and International IDEA that this discussion will also expand from a small group of distinguished Syrian experts to a wider discussion that includes an even wider range of stakeholders in Syria's electoral future. This will ensure that all perspectives are valued and considered, particularly by those Syrian leaders who will be called on, hopefully soon, to build an electoral process that will help the country move to stable, open and democratic governance.

Substantial steps must still be taken, of course, before that goal can be attained. These steps include the key task of establishing political consensus on a positive path towards democracy within Syria. Enhancing public and other stakeholder confidence in the meaningfulness of the electoral process, and the importance of casting a vote, will also be a challenging but crucial undertaking. Another key next step will be to identify the legal prerequisites for an EMB to emerge and administer elections, specifically related to the provisions in any transitional declaration on the EMB itself, its independence, how it is to be constituted, the independence of the judiciary that will adjudicate on its output and claims against it, and its scope and purview.

In making these choices, Syrian leaders will need to ensure that the voices of all are heard, and that there is fair representation for women and other groups at all levels of government. In achieving all this, Syrian leaders, with the support of the international community, must guard against undue external influences on what should be a process administered by Syrians for the benefit of Syrians at home and abroad. UN ESCWA and International IDEA look forward to finding ways to work with Syrian electoral stakeholders to further the discussion.

References

ACE Electoral Knowledge Network, Electoral systems, 'Additional issues relevant to post-conflict and transitional elections', [n.d.], <http://aceproject.org/ace-en/topics/es/esd/esd07>.

ACE Electoral Knowledge Network, 'Media and elections', third edn, 2012, <http://aceproject.org/ace-en/topics/me/med/default>

ACE Electoral Knowledge Network, 'Voting rights for the military: Excerpts from legal framework of various countries' [n.d.], <http://aceproject.org/ero-en/topics/legal-framework/military-voting-000717.doc/view>

ACE Electoral Knowledge Network, Practitioners' Network, 'Voting Rights of the Military', 15 Nov. 2006, <http://aceproject.org/electoral-advice/archive/questions/replies/204229904#965146150>.

Araabi, S., 'Syria's decentralization roadmap', Carnegie Endowment for International Peace, 23 Mar. 2017, <http://carnegieendowment.org/sada/68372>.

Ballington, J. et al., *Inclusive Electoral Processes: A Guide for Electoral Management Bodies on Promoting Gender Equality and Women's Participation* (New York: UNDP and UN Women, 2015), <http://www.undp.org/content/undp/en/home/librarypage/democratic-governance/electoral_systemsandprocesses/guide-for-electoral-management-bodies-on-promoting-gender-equali.html>.

Beramendi, V. et al., *Direct Democracy: The International IDEA Handbook* (Stockholm: International IDEA, 2008), <http://www.idea.int/publications/catalogue/direct-democracy-international-idea-handbook?lang=en>.

Birch, S., *Electoral Malpractice* (Oxford: Oxford University Press, 2011).

Carter Center, Election Obligations and Standards Database, <https://eos.cartercenter.org>.

Catt, H. et al., *Electoral Management Design: Revised Edition* (Stockholm: International IDEA, 2014), <https://www.idea.int/publications/catalogue/electoral-management-design-revised-edition>.

Drum, K., 'Gerrymandering is heading back to the Supreme Court', Mother Jones, 21 Apr. 2017, <http://www.motherjones.com/kevin-drum/2017/04/gerrymandering-headed-back-supreme-court>.

Dunne, S. and Smith, S., *Electoral Management During Transition: Challenges and Opportunities* (Stockholm: International IDEA, 2012), <https://www.idea.int/publications/catalogue/electoral-management-during-transition-challenges-and-opportunities>.

Electoral Integrity Group, *Towards an International Statement of the Principles of Electoral Justice: The Accra Guiding Principles* (London: Integrity Action, revised May 2016), <https://integrityaction.org/publication/towards-an-international-statement-of-principles-of-electoral-justice-accra-guiding>.

Ellis, A. et al., *Voting from Abroad: The International IDEA Handbook* (Stockholm: International IDEA, 2007), <http://www.idea.int/sites/default/files/publications/voting-from-abroad-the-international-idea-handbook.pdf>.

Georges, N., 'Election Law in Syria: The architecture of unfair representation', The Legal Agenda, 22 May 2014, <http://legal-agenda.com/en/article.php?id=2999>.

Hasanuddin, L., 'After a lively election, what's next for Indonesia's mobilized civil society?', Asia Foundation, 13 Aug. 2014, <http://asiafoundation.org/2014/08/13/after-a-lively-election-whats-next-for-indonesias-mobilized-civil-society/>.

International Foundation for Electoral Systems (IFES), 'Electoral Technical Assistance for Iraq for Out-of-Country Voting', 4 Mar. 2010, <http://www.ifes.org/publications/electoral-technical-assistance-iraq-out-country-voting>.

International Institute for Democracy and Electoral Assistance (International IDEA), 'Best Electoral System Test (BEST)', <http://www.idea.int/data-tools/tools/best-election-system-test>.

International IDEA, *Interim Constitutions in Post-conflict Settings*, Discussion Report, 4–5 December 2014 (Stockholm: International IDEA, 2015), <https://www.idea.int/publications/catalogue/interim-constitutions-post-conflict-settings>.

International Organization for Migration (IOM), *Case Studies on the Participation of Conflict Forced Migrants in Elections: Participatory Elections Project (PEP)* (Geneva: IOM, May 2003), <http://www.geneseo.edu/~iompress/PEP%20Case%20Studies%202003.pdf>.

James, T. S., ACE Electoral Knowledge Network, 'The United Kingdom: Electoral Governance in Transition?', in 'Electoral Management' [n.d.], <http://aceproject.org/ace-en/topics/em/electoral-management-case-studies/the-united-kingdom-electoral-modernization/mobile_browsing>.

Karas, T., 'Not Syrian, not Turkish: Refugees fleeing war lack documentation', Al Jazeera America, 24 Sep. 2015, <http://america.aljazeera.com/articles/2015/9/24/not-syrian-not-turkish.html>.

Norris, P., *Why Electoral Integrity Matters* (New York: Cambridge University Press, 2014).

Open Government Partnership, 'About OGP', <https://www.opengovpartnership.org/about/about-ogp>.

Open Government Partnership, 'Open Government Declaration', Sep. 2011, <https://www.opengovpartnership.org/open-government-declaration>.

Organization for Security and Cooperation in Europe-Office for Democratic Institutions and Human Rights (OSCE-ODIHR), Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers, 27 October 2005, <http://www.osce.org/odihr/16935?download=true>.

Orozco-Henriquez, J., *Electoral Justice: The International IDEA Handbook* (Stockholm: International IDEA, 2010), <http://www.idea.int/sites/default/files/publications/electoral-justice-handbook.pdf>.

Reilly, B., *Timing and Sequencing in Post-Conflict Elections*, CRPD Working Paper no. 26 (Leuven, Belgium: Centre for Research on Peace and Development, 2015), <https://soc.kuleuven.be/crpd/files/working-papers/working-paper-reilly.pdf>.

Reynolds, A. et al., *Electoral System Design: The New International IDEA Handbook* (Stockholm: International IDEA, 2005), <https://www.idea.int/publications/catalogue/electoral-system-design-new-international-idea-handbook>.

Tuccinardi, D. et al., *International Obligations for Elections: Guidelines for Legal Frameworks* (Stockholm: International IDEA, 2014), <http://www.idea.int/sites/default/files/publications/international-obligations-for-elections.pdf>.

United Nations Development Programme (UNDP), 'Comparative experience in electoral administration and the Arab world', Apr. 2011, <https://aceproject.org/ero-en/misc/undp-comparative-experience-in-electoral>.

UNDP Nigeria, '2015 Nigeria General Elections: Presidential candidates pledge peace, sign Accord', 14 Jan. 2015, <http://www.ng.undp.org/content/nigeria/en/home/presscenter/articles/2015/01/14/2015-nigeria-general-elections-presidential-candidates-pledge-peace-sign-accord.html>.

UNDP Nigeria, 'On the eve of elections: Presidential front-runners renew pledges to peaceful polls, and respect outcome', 27 Mar. 2015, <http://www.ng.undp.org/content/nigeria/en/home/presscenter/articles/2015/03/27/on-the-eve-of-elections-presidential-front-runners-renew-pledges-to-peaceful-polls-and-respect-outcome.html>.

United Nations, Human Rights Council, 'Resolution on equal participation in public affairs', A/HRC/RES/30/9, adopted by the Human Rights Council on 1 Oct. 2015, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/232/93/PDF/G1523293.pdf?OpenElement>.

United Nations, Office of the High Commissioner on Human Rights, International Covenant on Civil and Political Rights, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>.

United Nations, Office of the High Commissioner on Human Rights, 'General Comments under article 40, paragraph 4 of the International Covenant on Civil and Political

Rights', CCPR/C/21/Rev.1/Add.7, General Comment no. 25 (57), para. 11, 27 Aug. 1996, <http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.7&Lang=en>.

United Nations Security Council, 'Security Council Unanimously Adopts Resolution 2254 (2015), Endorsing Road Map for Peace Process in Syria, Setting Timetable for Talks', Press release, SC/12171, 18 Dec. 2015, <https://www.un.org/press/en/2015/sc12171.doc.htm>.

About the author

Frank McLoughlin is a Programme Officer with the International IDEA Electoral Processes Programme. McLoughlin's research and work focuses on the analysis of the fairness and effectiveness of electoral legal frameworks, with a special emphasis on electoral justice systems. His previous work experience includes serving as a legal analyst and advisor with electoral observation missions in Egypt and electoral technical assistance projects in Iraq and Afghanistan. He has also served as an advisor on rule of law projects throughout the Middle East and North Africa.

About International IDEA

The International Institute for Democracy and Electoral Assistance (International IDEA) is an intergovernmental organization with the mission to advance democracy worldwide, as a universal human aspiration and enabler of sustainable development. We do this by supporting the building, strengthening and safeguarding of democratic political institutions and processes at all levels. Our vision is a world in which democratic processes, actors and institutions are inclusive and accountable and deliver sustainable development to all.

What do we do?

In our work we focus on three main impact areas: electoral processes; constitution-building processes; and political participation and representation. The themes of gender and inclusion, conflict sensitivity and sustainable development are mainstreamed across all our areas of work.

International IDEA provides analysis of global and regional democratic trends; produces comparative knowledge of good international democratic practices; provides technical assistance and capacity-building on democratic reform to actors engaged in democratic processes; and convenes dialogue on issues relevant to the public debate on democracy and democracy building.

Where do we work?

Our headquarters are located in Stockholm, with regional and country offices in Africa, the Asia-Pacific, Europe and Latin America and the Caribbean. International IDEA is a Permanent Observer to the United Nations.

<http://idea.int>

About UN ESCWA

The United Nations Economic and Social Commission for Western Asia (UN ESCWA) is one of the five Regional Commissions of the United Nations, and is mandated to promote and support sustainable social and economic development in its member States and regionally. As part of its mandate to promote human development and democratic transition in the region, UN ESCWA launched the National Agenda for the Future of Syria (NAFS) Programme in 2012 as a platform for dialogue to engage Syrian experts and stakeholders in developing policy alternatives for Syria in preparation for a post-agreement phase.

<https://www.unescwa.org/sub-site/national-agenda-future-syria>

This paper is the product of the Experts' General Meeting held on 28 April 2017 at the offices of the United Nations Economic and Social Commission for Western Asia (UN ESCWA) as part of Phase II of the project on the National Agenda for the Future of Syria.

The meeting was attended by distinguished Syrian electoral and legal experts and representatives of UN ESCWA, and was moderated by a representative of the International Institute for Democracy and Electoral Assistance (International IDEA).

The purpose of the meeting was to begin to collect feedback from Syrian experts on issues related to establishing an electoral process in Syria when conditions in the country allow for elections.

International IDEA
Strömsborg
SE-103 34 STOCKHOLM
SWEDEN
info@idea.int
www.idea.int

United Nations Economic and Social
Commission for Western Asia
P.O. Box 11-8575, Riad el-Solh Square
Beirut
LEBANON
www.unescwa.org