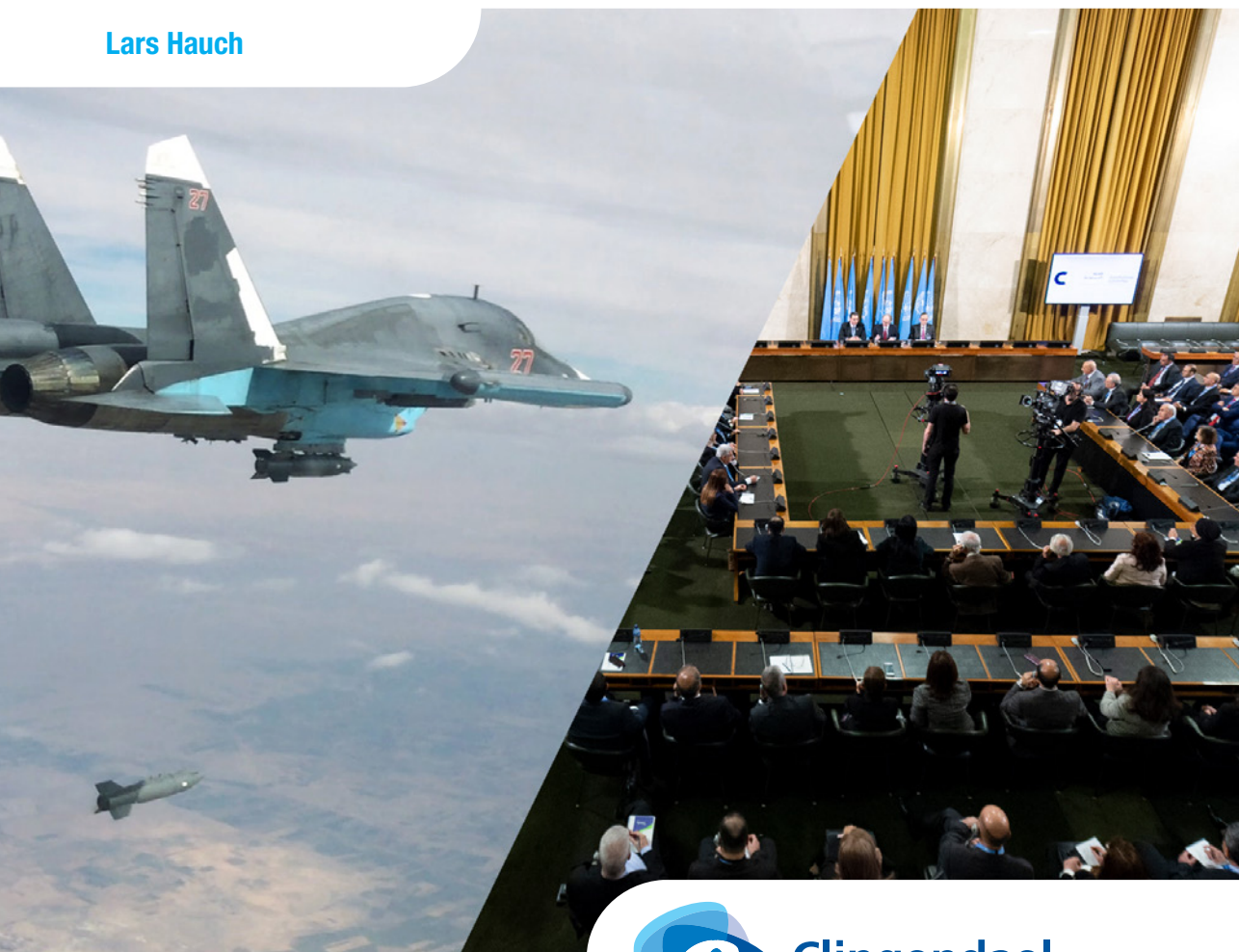


Mixing politics and force

Syria's Constitutional Committee in review

CRU Report

Lars Hauch



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Executive summary

Demands for constitutional reform date back to the early days of the Syrian conflict. However, the stalemate in the UN-led Geneva negotiations to resolve the conflict prevented serious discussion on constitutional reform until January 2018. At this point, the Russian government put pressure on the Government of Syria (GoS) to participate in its 'Constitutional Committee' initiative and requested assistance from the UN. After a further 21 months of negotiations about procedures and its composition, the Constitutional Committee formally commenced work in Geneva in October 2019. Yet after two rounds of meetings the process collapsed when the GoS delegation pulled out. A third round of meetings is scheduled for 24 August 2020. As the Constitutional Committee went from design into session and then broke down, the pro-Assad coalition retook most of opposition-held territory in Syria by force in the meantime.

This report takes a closer look at the Constitutional Committee process and military developments to reveal that they have so far been interconnected. It arrives at the conclusion that the GoS and Russia created and subsequently manipulated various linkages between conference room and battlefield to increase their own advantage.

A first exploited link is that once Russia had secured UN support for its Constitutional Committee project – connecting and legitimizing its own Astana/Sochi initiative in the process – it could keep the UN-led process on life support while the pro-Assad coalition pursued a military solution to the conflict without fear of greater political pressure from the international community. It should be recalled that the more exclusive, Russian-designed Astana/Sochi process was essentially a framework to facilitate a military solution to the conflict. This stratagem essentially prevented any Western military action from concretizing by dangling the tantalizing hope – or excuse – of a negotiated diplomatic breakthrough that never materialized.

A second link is that the pro-Assad coalition intentionally targeted civilians and civilian infrastructure to prevent political and civil society consolidation in opposition-held areas. This had the result that most opposition bodies and opposition-leaning civil society groups were forced to engage from abroad, which reduced their credibility and legitimacy. This stratagem precluded the formation of a better-grounded Syrian opposition to negotiate within the parameters of the Constitutional Committee.

A third and final link is that the pro-Assad coalition used military escalation to polarize the Constitutional Committee and thereby reduce its viability. The purposeful continuation of war crimes during the work of the Committee amount(ed) to a blunt provocation to Syria's opposition and civil society. Such acts logically increase tensions

between the negotiating parties and this stratagem therefore lowered the chance of participants working out compromises.

Nevertheless, the Constitutional Committee has some remaining potential to reduce polarisation and enable bridge building. It also keeps the demands alive that were formalised in UN Security Council Resolution (UNSCR) 2254 and can act as a counterweight to a gradual rehabilitation of the GoS under Bashar al-Assad. However, it appears that a meaningful process can only be achieved through a strategy of directly confronting the GoS and Russia. This is because of the aforementioned linkages and because a hard counterweight is needed against the GoS approach for dealing with the conflict based on Russia's military backing. As long as the pro-Assad coalition can thwart diplomatic efforts through military escalation, the Constitutional Committee's prospects remain bleak.

Therefore, measures to revitalise the Committee must go beyond political, financial and technical assistance to the Committee itself and include political pressure on the GoS and Russia. It is from this perspective that the report recommends a joint European-Turkish-led humanitarian intervention in north-west Syria. Not only would it help solve the EU-Turkish dispute over refugee politics and protect up to 3 million cornered civilians, it could also change the balance of forces to the effect that the Constitutional Committee might be reinvigorated. This is the case especially because the Caesar Syria Civilian Protection Act, which recently went into effect, signaled to Moscow that there will be no political normalisation or socioeconomic recovery without significant political concessions from Damascus. In other words, Russia might pressurise the GoS into considering concessions via the Constitutional Committee if and when this would clear the way for a political resolution of the conflict.

1 Introduction

In October 2019, after nearly two years of preparatory negotiations, Syria's Constitutional Committee was officially launched in Geneva. However, its relatively promising kick-off soon turned into a familiar pattern of mutual verbal attacks between the Government of Syria (GoS) and the opposition. A second round of meetings scheduled for late November collapsed before it even began. The GoS delegation left on the first day under protest that its legitimate demands – which in reality broke the protocol agreed for the Constitutional Committee – had been ignored. Two weeks later, the GoS, supported by Russia and Iran, launched a major military offensive against opposition-held areas in Syria's north-west that displaced close to a million civilians. Since then, the Constitutional Committee's work has been on hold. A third round of meetings is scheduled for 24 August 2020¹. However, meaningful discussions and achieving actual results remain unlikely under the current circumstances.

In the roughly two years since Russia initiated the Constitutional Committee – framed as a step towards a political solution to the Syrian conflict – the pro-Assad coalition² has retaken most opposition-held territory in Syria by force. While military developments on the ground seem to be detached from the Constitutional process, both are actually interconnected. This report explores the dynamics between the Constitutional process and simultaneous military developments.³ Specifically, it identifies four phases of the

1 See: <https://dppa.un.org/en/special-envoy-syria-announces-third-session-of-syrian-constitutional-committee-calls-release-of> (Accessed 25 July 2020).

2 The pro-Assad coalition is composed of three elements. First, the Government of Syria (GoS), including the Syrian Arab Army (SAA) and various affiliated militias. Second, Russia and its forces, which intervened in the Syrian civil war in September 2015. Russia's military engagement also includes the deployment of private contractors such as the Wagner Group and Vega. Third, Iran, including Iranian military advisers, troops and Shia militias with origins in Afghanistan, Pakistan, Iraq and Lebanon, most prominently the Lebanese Hezbollah.

3 The report was commissioned as part of Clingendael's [Levant research programme](#). The author would like to thank Samar Batrawi and Erwin van Veen (Clingendael), as well as a Syrian civil society activist (who prefers to remain anonymous) for their helpful comments. The report's content naturally remains the author's responsibility. Methodologically, the report is based on a survey of official documents, online and social media and 19 conversations with senior UN diplomats, constitutionalists, experts in international law and delegates of the Constitutional Committee's bodies. Most interviews were conducted on a confidential basis between December 2019 and July 2020. Out of the 19 interviews, two were conducted with representatives of Syria's opposition, three with members of the Constitutional Committee's opposition body, two with representatives of Syrian NGOs, another two with members of the Constitutional Committee's civil society body, three with UN diplomats working on the Syrian conflict, one with a UN

Constitutional Committee that unfolded between January 2018 and April 2020 and outlines how the pro-Assad coalition undermined the Committee's opposition and civil society bodies in Geneva through military escalation. It also discusses how the Committee and the political legitimacy that it conferred upon the Russian-dominated Astana process served as a political cover to pursue the GoS's desired military solution to the Syrian conflict and how the accompanying violence caused polarisation within the Committee itself.

Despite the current stalemate in the Committee due to the GoS refusing to engage in a political process, the Committee could serve as a platform for mediation with the potential to create constructive dynamics between various Syrian stakeholders and keep alive the idea of a political transition that was envisioned in UNSCR 2254.

Revitalising this potential requires direct confrontation with the GoS and Russia because the GoS' approach to the conflict is based on Russia's military backing and the division of the spoils of war in order to retain the loyalty of its henchmen and local allies. In other words, political, financial and technical assistance to the Committee itself are not enough to open a window of opportunity. Instead, a European-Turkish-led humanitarian intervention in Syria's north-west that changes the balance of forces must be considered. Such a humanitarian intervention could protect the roughly 3 million civilians cornered in greater Idlib and also help in creating the leverage needed to revitalise the Committee.

diplomat who was part of De Mistura's team, two with Turkish diplomats, one with a French diplomat, two with European constitutionalists, and a final one with Nawar Saban, a Turkish military expert at the Omran Center for Strategic Studies. It was not possible to interview members of the GoS delegation or GoS-leaning members of the civil society delegation due to a lack of access.

2 The road towards the Constitutional Committee: Previous initiatives

Demands for constitutional reform date back to the early days of the Syrian conflict. The following three initiatives preceded the Constitutional Committee (initiated in January 2018).

The Geneva Communiqué (June 2012)

The Geneva Communiqué⁴ was a joint declaration put forward on 30 June 2012 by the Action Group for Syria (AGS). The AGS, initiated by then UN Special Envoy for Syria Kofi Annan, involved representatives from the League of Arab States, the European Union, China, Russia, Turkey and the US.⁵ Later known as Geneva I, the meeting constituted the first major UN-sponsored conference on the Syrian conflict. In addition to a sustained cessation of armed violence, the Communiqué called for the formation of a national unity government that would oversee a political transition process. It also envisaged a new constitutional order that would be put to public vote and prepare the ground for free and fair elections. However, the Communiqué was never implemented due to escalating fighting and the absence of monitoring and enforcement mechanisms for any ceasefire, as well as unbridgeable differences regarding President Assad's future role. It nevertheless remained an important document with a high degree of international legitimacy on which following initiatives would build.

4 See: https://peacemaker.un.org/sites/peacemaker.un.org/files/SY_120630_Final%20Communique%20of%20the%20Action%20Group%20for%20Syria.pdf (Accessed 12 June 2020).

5 More precisely, the AGS included the 'Secretaries-General of the United Nations and the League of Arab States, the Ministers for Foreign Affairs of China, France, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Turkey, Iraq (Chair of the Summit of the League of Arab States), Kuwait (Chair of the Council of Foreign Ministers of the League of Arab States) and Qatar (Chair of the Arab Follow-up Committee on Syria of the League of Arab States) and the High Representative of the European Union for Foreign Affairs and Security Policy, chaired by the Joint Special Envoy of the United Nations and the League of Arab States to Syria'. See: https://peacemaker.un.org/sites/peacemaker.un.org/files/SY_120630_Final%20Communique%20of%20the%20Action%20Group%20for%20Syria.pdf (Accessed 12 June 2020).

United Nations Security Council Resolution 2254 (December 2015)

To this day, UNSCR 2254⁶ serves as the main point of reference for international diplomacy on the Syrian conflict. The unanimously adopted resolution was negotiated within the International Syria Support Group (ISSG) that started meeting in Vienna in October 2015.⁷ The ISSG centred on key stakeholders such as Saudi Arabia, Qatar, Turkey, France, the UK and the US, as well as Russia and Iran.⁸ Iran's participation was a novelty facilitated by the cautious rapprochement between Iran and the US in the context of the Joint Comprehensive Plan of Action (JCPOA), which was signed in July 2015. Until then, the US had vetoed Iranian official involvement at international level. Only four weeks before the meetings in Vienna kicked off, the Russian Air Force started bombing opposition forces and civilians throughout Syria. Against this background, Moscow was eager to engage in an internationally legitimised political process to add its diplomatic weight to the power projection of its direct military intervention on the side of the GoS. Adopted in December 2015, UNSCR 2254 reconfirmed the need to fully implement the Geneva Communiqué from 2012 and laid out a roadmap for political transition under UN auspices that stipulated free and fair elections to be held within 18 months. It furthermore called for the drafting of a new constitution.

Despite the fact that UNSCR 2254 urged for a nationwide ceasefire to enable the political process, Syrian warplanes targeted an influential opposition leader shortly after the resolution was adopted on 18 December. The following week, Zahran Alloush, leader of the Islamist faction Jaysh al-Islam, was killed by an airstrike in a suburb of Damascus. Alloush and his faction had been involved in the formation of the High Negotiations Committee (HNC), an umbrella body that was meant to represent Syria's opposition in the UN-sponsored negotiations scheduled for January 2016. As a respected leader with a military background and political ambitions, he was representative of the kind of opposition that the GoS and its Russian allies considered a real threat. Alloush's death set the trend for a year of military escalation and political stalemate.

6 See: <http://unscr.com/en/resolutions/2254> (Accessed 12 June 2020).

7 See for example the ISSG's statement from 14 November 2015 that can be considered a pre-version of UNSCR 2254: <https://reliefweb.int/report/syrian-arab-republic/statement-international-syria-support-group-vienna-november-14-2015> (Accessed 12 June 2020).

8 More comprehensively, the ISSG included the League of Arab States, the European Union, the UN, China, Russia, Turkey, the US, Egypt, France, Germany, Iran, Italy, Jordan, Lebanon, Oman, Qatar, the UAE and the United Kingdom.

Russia's draft for a new constitution (January 2017)

On 23 January 2017, Russia, Turkey and Iran came together for a summit in Astana (now Nur-Sultan), the capital of Kazakhstan, marking the start of the Astana Process. Building on the negotiations on the withdrawal of armed opposition groups from besieged East Aleppo, the three governments met to discuss a nationwide ceasefire they had declared on 28 December 2016. The UN Security Council endorsed the Astana Process as an important contribution to the UN-led track that was struggling to facilitate negotiations between the conflict parties.⁹ In fact, the Astana Process was about to replace the UN-led track in Geneva as the main venue and catalyst for diplomacy on the Syrian conflict.

Three days after the Astana summit, Russia hosted a group of opposition representatives friendly to it in Moscow. Both of the Syrian opposition's most relevant bodies, the High Negotiations Committee (HNC) and the National Coalition for Syrian Revolutionary and Opposition Forces (SNC), refused to attend. Nevertheless, Russia portrayed the meeting as a step towards a settlement of the conflict and presented a draft for a new constitution. By suggesting to drop the attribution "'Arab' from the country's official name, limiting the President's mandate to a single seven-year term, and creating a new body called the "'Assembly of Regions' that would restrict the President's power, the Russian draft envisioned a more inclusive and less centralised Syrian state.¹⁰ But Russia had violated the one principle shared by all Syrian parties: It tried to impose a prefabricated constitution instead of respecting a Syrian-led process, which both the GoS and all opposition groups demanded. Facing fury from all sides, the Russians backed down and never again suggested a draft. While the initiative failed, it nevertheless helped Russia to frame the Astana/Sochi process as a broad approach to finding a political solution to the Syrian conflict instead of serving only as a trilateral platform to balance its direct interests with those of Iran and Turkey.

Meanwhile, the pro-Assad coalition did not itself adhere to the ceasefire it had declared. Instead, it took advantage of the momentum created by the fall of East Aleppo as major opposition stronghold, which had a demoralising effect on opposition armed groups. Maintaining psychological and military pressure looked like a promising strategy. From January 2017, GoS forces launched attacks on opposition-controlled areas around

⁹ See: <http://unscr.com/en/resolutions/doc/2336> (Accessed 11 June 2020).

¹⁰ While the Russian draft for a new constitution envisioned a more inclusive and less centralised Syrian state, Russia's actual behaviour points to a desire for centralisation. Therefore, a distinction has to be made between the draft that Russia presented publicly and the Russian government's true vision for Syria. After all, constitutional reform has little impact as long as the GoS does not respect the document. For a full text of the Russian proposal see: <https://sputniknews.com/middleeast/201701311050216226-syrian-constitution-full-text/> (Accessed 27 June 2020).

Damascus, such as the Barada Valley. They also shelled East Ghouta, the stronghold of Jaysh al-Islam, whose political leader Mohammed Alloush was a chief negotiator on behalf of the Syrian opposition in Astana. Russia and its allies in Damascus justified the escalation by claiming to legitimately target Jabhat Fatah al-Sham (JFS), the former Al-Nusra Front, which was excluded from the ceasefire. But JFS's presence in East Ghouta was rather limited.¹¹ While its several hundred fighters had no offensive capabilities, the pro-Assad coalition's shelling of civilian areas prompted East Ghouta's armed opposition groups to return fire. It was the act of systematically ignoring ceasefire agreements under the pretext of attacking terrorist groups that thwarted any efforts to reduce the fighting. This loophole was implemented in all following agreements.¹²

11 That was especially the case in Duma, Jaysh al-Islam's centre of power, which was targeted in particular.

12 A ceasefire agreement for north-west Syria announced on 5 March 2020 was the first exception, noting that the 'targeting of civilians and civilian infrastructure cannot be justified under any pretext'. See: https://www.mid.ru/en/foreign_policy/news/-/asset_publisher/ckNonkJE02Bw/content/id/4072593 (Accessed 11 June 2020).

3 Phases of the Constitutional Committee

Twenty-two months passed between Russia's initiative to form the Constitutional Committee in its Black Sea resort of Sochi in January 2018 and the Committee's collapse in November 2019. This period can be subdivided into four phases.

Phase 1: The birth of the Constitutional Committee (January–June 2018)

Constitutional process

The idea to form the Constitutional Committee was originally put forward by the Russian government. On 30 January 2018, Russia opened what it called the 'Congress of the Syrian national dialogue' in its Black Sea resort of Sochi.¹³ In reality, relevant parts of Syria's opposition – including the Syrian Negotiation Committee (SNC),¹⁴ the body that represented Syria's opposition in the UN-sponsored Geneva process – either boycotted the summit or were not invited. Russia, however, released a joint statement that claimed to represent all segments of Syrian society.¹⁵ It requested the UN to assist the Constitutional Committee's work and support the process in accordance with UNSCR 2254. The UN welcomed the initiative as a chance to revitalise the Geneva process. Hours after the announcement, UN Special Envoy for Syria Staffan de Mistura expressed his gratitude towards Russia.¹⁶

During the following months, de Mistura was busy meeting the Astana guarantors, European governments, regional stakeholders and US representatives to gather support for the Constitutional Committee. But de Mistura's success in mobilising support for

13 See: <https://tass.com/world/987522> (Accessed 11 June 2020).

14 The Syrian Negotiation Committee is the successor organisation of the High Negotiations Committee (HNC), not to be confused with the National Coalition for Syrian Revolutionary and Opposition Forces, commonly named 'Syrian National Coalition' (SNC). The Syrian Negotiation Committee was created at the Riyadh II conference in November 2017. In contrast with the HNC, which was founded at the Riyadh I conference in December 2015, it includes representatives of the Moscow and Cairo platforms.

15 See: www.mfa.gov.tr/final-statement-of-the-congress-of-the-syrian-national-dialogue_en.en.mfa (Accessed 11 June 2020).

16 See: <https://www.un.org/sg/en/content/sg/note-correspondents/2018-01-30/note-correspondents-staffan-de-mistura-special-envoy-syria> (Accessed 11 June 2020).

the initiative could not conceal the fact that there was significant dissent regarding its nature and procedures. Central points of contention were the formation and composition of the Constitutional Committee. At first, the idea was that the UN would have the mandate to choose delegates, but this was quickly discarded in the face of Russian and Turkish objections. A proposed compromise was that Russia and Iran would pick 50 delegates for the GoS, Turkey would pick 50 delegates for the opposition and the UN would choose 50 delegates for civil society. However, final agreement could not be reached.

Parallel military developments

Russia's diplomatic initiative coincided with a military escalation inside Syria. In the week after the National Dialogue Congress on 29–30 January 2018, Syrian airstrikes killed more than 200 civilians in East Ghouta and wounded over 600 more. Zeid Ra'ad Al Hussein, the UN's former High Commissioner for Human Rights, described this first week of February 2018 as one of the bloodiest periods of the entire conflict.¹⁷ The escalation marked the beginning of a series of offensives that crushed the nominal de-escalation zones that had been announced in Astana on 4 May 2017. The first aid convoy since November 2017, which the GoS authorised in February, reached only 2.6 per cent of the approximately 272,500 civilians in East Ghouta.¹⁸

By mid-March 2018, East Ghouta was divided into three separate areas. At this point, the armed opposition groups had lost 70 per cent of their former territory. Anticipating defeat, Ahrar al-Sham, one of the armed factions inside East Ghouta, was the first to negotiate its surrender and safe conduct to the province of Idlib on 21 March. Others, including Failaq al-Rahman, soon followed. Only a hard core of Jaysh al-Islam, the dominant faction in the enclave together with Failaq al-Rahman, refused to lay down arms. In response, GoS forces attacked the group's stronghold of Duma with chlorine gas, killing at least 70 people. Jaysh al-Islam surrendered a day later. Altogether, the offensive killed at least 1,700 civilians, wounded another 5,000, and displaced a total of 130,000.¹⁹

After the surrender of East Ghouta, the pro-Assad coalition turned on the de-escalation zone in northern Homs. In late April, while de Mistura was meeting with Turkish, Iranian and Russian officials in Geneva, and declared that the mutual exchanges regarding

17 See: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22647&LangID=E> (Accessed 12 June 2020).

18 See: <https://news.un.org/en/story/2018/02/1002911> (Accessed 11 June 2020).

19 See: <https://www.rescue.org/article/weve-been-buried-alive-inside-eastern-ghoutas-underground-bunkers> (Accessed 11 June 2020); <https://reliefweb.int/report/syrian-arab-republic/who-response-evacuation-civilians-east-ghouta-chronological-analysis-15> (Accessed 12 June 2020).

the Constitutional process had been constructive, the pro-Assad coalition escalated bombardments on the area along the M5 highway between northern Homs and southern Hama. After Russian negotiators threatened²⁰ to wipe out the area and its inhabitants, local armed opposition groups agreed to a surrender deal. While Jaysh al-Tawhid, the most influential opposition group in Talbiseh, negotiated a deal with Russia and remained as a local force – now under Russian command – 35,000 fighters and civilians left towards Idlib.²¹ On 15 May 2018, the nominal de-escalation zone was officially back under GoS control.

Key dynamics

By successfully securing the UN's support for the Constitutional Committee and, more reluctantly, the Astana process in general, Russia managed to increase its political relevance. It also reduced the negotiations concerning the fourfold transition envisioned in UNSCR 2254 – governance, constitution, elections and counter-terrorism – to the subject of the constitution. This raised skepticism among the opposition, which feared being involved in a one-dimensional process that would help the GoS gain international legitimacy without taking any steps towards real power sharing.

The UN, on the other hand, deemed it a success that Geneva – not Sochi – became the host city for the Constitutional Committee. Although the result of direct negotiations between UN Secretary-General Guterres and Russian Foreign Minister Lavrov in Vienna, it could also be seen as a rather bureaucratic victory. But once again, the pro-Assad coalition sabotaged diplomatic progress with military escalation. While the UN was busy mobilising support for the Constitutional Committee and the political track it hoped would come with it, the pro-Assad coalition deployed its forces to continue its attacks on the nominal de-escalation zones, starting with East Ghouta in February 2018. In this manner, the pro-Assad coalition created the impression of working towards a greater political settlement while in reality it was crushing major opposition-held areas in the country. This strategy took advantage of the UN's slow-grinding wheels and the international community's tendency to embrace initiatives that obviated the need to work on serious and feasible solutions to the Syrian conflict.

20 See: <https://siegewatch.org/wp-content/uploads/2015/10/PAX-report-Siege-Watch-10b.pdf> (especially page 41) (Accessed 11 June 2020).

21 See: United Nations Human Rights Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, Geneva: A/HRC/39/65, [online](#), 2018 (Accessed 11 June 2020).

Phase 2: The fight over participants and procedures (July 2018–September 2019)

Constitutional process

After five months of fruitless discussions about the Constitutional Committee's formation and composition, the GoS came up with its own list of 50 government representatives in July 2018. This initiative infringed protocol, but the GoS argued that it should have the right to decide over the names to ensure a Syrian-owned process. The UN accepted the list and, as corollary, granted the opposition the right to submit a list as well. By mid-October, both the GoS's and the opposition's lists had been confirmed, but the list for civil society representation remained a key sticking point. Initially, the UN was meant to choose these delegates. But since Russia and Turkey had lost their privilege to compose the lists for the GoS and opposition delegations respectively, they tried to increase their involvement in the composition of the civil society delegation. The ensuing conflict continued for 12 months until October 2019. During that time, the UN tried to balance the various interests by effectively splitting the body into two blocks. Ultimately, the GoS decided on 29 names considered to be GoS-leaning while the UN decided on 21 names considered to be opposition-leaning. As well as the fight about the civil society body, July 2018–September 2019 was characterised by discussions about the Committee's procedures.

Finally, in late September 2019, UN Secretary-General António Guterres announced the so-called 'Terms of Reference and Core Rules of Procedure'.²² The structure the document outlined has not changed since, with the Constitutional Committee consisting of a large body that includes all 150 delegates, and a small body composed of 45 delegates – 15 nominated by the GoS and 15 by the Syrian Negotiation Committee (SNC). The civil society body could not nominate its 15 delegates on its own. Instead, eight were chosen by the GoS and seven by the Syrian Negotiation Committee. The small body prepares and drafts the constitutional proposals that the large body is meant to adopt. Both bodies can take decisions based on supportive votes from a minimum of 75 per cent of their members. This means that each delegation has the possibility to block decisions and that decisions can only be made by broad consensus.

Parallel military developments

In mid-July 2018, the pro-Assad coalition began to amass troops in southern Syria and started to target towns and villages with air strikes and artillery. Russia joined the bombardments after it revoked the de-escalation agreement on 22 July.²³ When the

22 See: https://reliefweb.int/sites/reliefweb.int/files/resources/S_2019_775_E.pdf (Accessed 11 June 2020).

23 See: <https://www.reuters.com/article/us-mideast-crisis-syria/assad-defies-united-states-preses-assault-in-southwest-syria-idUSKBN1J113X> (Accessed 11 June 2020).

US, nominally a guarantor of the agreement along with Russia, also signaled that it was going to stay out, the pro-Assad coalition launched a major ground offensive against the southern de-escalation zone that covered parts of Daraa, Quneitra and Suweida. At the end of the month, southern Syria was nominally back under GoS control. The various armed opposition groups that had gathered under the banner of the Southern Front did not resist in a collective, organised fashion. Instead, individual surrender deals were negotiated town by town, setting off a domino effect that led to a quick collapse of resistance.

After having captured three of the four de-escalation zones, the pro-Assad coalition turned towards greater Idlib. In mid-August, GoS helicopters dropped leaflets calling for people to reconcile – the GoS's term for surrender. But the leading jihadist faction, Hayat Tahrir al-Sham (HTS), effectively cracked down on locals who promoted reconciliation. On 18 September 2018, Russia and Turkey signed a Memorandum of Understanding, known as the Sochi agreement, which set up a demilitarised buffer zone along Idlib's frontlines that would guarantee the de-escalation zone's survival. The deal also foresaw a reopening of the M4 and M5 highways and obliged Turkey to deal with HTS. It was obvious, however, that Russia and Turkey followed opposing strategies. While Turkey aimed to secure a long-term pocket for Syria's internally displaced people (IDPs), Russian officials described the Sochi agreement as a 'temporary measure' that would ultimately result in a return of the GoS to Idlib.²⁴

In the following months, hostilities declined but never ceased. Meanwhile, HTS took the opportunity to turn on rival armed opposition groups and successfully expanded its control in north-western Syria. HTS's expansion was explicitly addressed in the final statement of another summit in Sochi on 14 February 2019, in which Russia, Turkey and Iran announced their intention to 'jointly counter these attempts'.²⁵ The way was thus paved for the next offensive that displaced more than 55,000 civilians in February 2019 alone.²⁶ After a temporary decrease in violence, the pro-Assad coalition again escalated bombardments in late April, followed by a major ground offensive that took the strategic towns of Kafr Nabuda and Qalaat al-Mudiq in northern Hama in early May.²⁷ Due to heavy casualties on both sides, the fighting halted temporarily in June.

24 See: <https://sana.sy/en/?p=147799> (Accessed 11 June 2020).

25 See: <http://en.kremlin.ru/supplement/5388> (Accessed 11 June 2020).

26 See: <https://www.humanitarianresponse.info/en/operations/stima/infographic/syrian-arab-republic-idp-and-returnee-movements-february-2019-en-ar> (Accessed 11 June 2020).

27 See: <https://apnews.com/d5fa0105cbe5412c8e9c6884ab3ef30a> (Accessed 11 June 2020); <https://www.aljazeera.com/news/2019/05/syrian-troops-capture-strategic-town-rebels-residents-190509103251352.html> (Accessed 11 June 2020).

After a short break, the pro-Assad coalition continued its slow but steady advance, ultimately capturing the town of Khan Sheykhoun in late August.²⁸ Opposition resistance in northern Hama eventually collapsed. Between May and mid-August, the offensive displaced a further 576,000 civilians.²⁹ It was then that the Turkish observation posts turned out to be incapable of securing the de-escalation line agreed by Russia and Turkey. GoS forces simply circumvented the Turkish observation post at Morek, roughly 5 km south of Khan Sheykhoun, while the Turkish military did not attempt to stop the advance.³⁰ In mid-September 2019, the ground offensive halted and Russia announced another unilateral ceasefire, but resumed heavy air strikes on civilian settlements in Idlib a few days later.

Key dynamics

The protracted negotiations about the composition of the civil society delegation and the Constitutional Committee's procedures resulted in a decline of the UN's influence on the process. Originally intended as a way to include respected individuals that could serve as bridge builders between the GoS and opposition, the civil society delegation became increasingly politicised. After 20 months of discussions, the GoS, Russia and Turkey had one by one excluded high-profile figures, including independent Kurdish representatives in the case of Turkey. The remaining delegates still had prominent profiles, however, and splitting the civil society delegation into a GoS-leaning and opposition-leaning side did not entirely subvert the idea of having a more neutral group of stakeholders in the Committee. But all civil society political 'heavyweights' – i.e. with the prospective ability to build bridges between opposing groups – had been vetoed by the GoS and Russia. At the same time as the GoS and Russia prevaricated over the Constitutional Committee's composition and process, they created new facts on the ground. Twenty months after the Constitutional Committee's initiation, all armed opposition groups were cornered in Syria's north-west. The ongoing bombardment of civilian infrastructure in the opposition-held areas was a clear indication that the pro-Assad coalition intended to continue its offensives, thus fully realising its military solution for the conflict. Equipped only with a mandate to facilitate discussions, the UN's room for manoeuvre was rather limited. Staffan de Mistura's remark that he had resigned his post as UN Syria envoy because he could not stand the idea of shaking President Assad's

28 See: <https://www.reuters.com/article/us-syria-security-northwest/syrian-army-takes-towns-in-northwest-that-rebels-held-for-years-idUSKCN1VD0P1> (Accessed 11 June 2020).

29 See: <https://reliefweb.int/report/syrian-arab-republic/syrian-arab-republic-recent-developments-northwestern-syria-situation-3> (Accessed 11 June 2020).

30 See: <https://www.telegraph.co.uk/news/2019/08/20/assad-troops-force-syrian-rebels-retreat-key-town/> (Accessed 11 June 2020).

hand illustrated vividly the bitterness among UN officials about how they had been played and rendered impotent.³¹

Phase 3: The Constitutional Committee goes live (October – November 2019)

Constitutional process

The reshuffling process within the civil society delegation continued throughout October 2019. In that context, a small number of delegates of the GoS-leaning block resigned due to security concerns. Even though the 'Terms of Reference and Core Rules of Procedure' noted that the security of delegates, their families and property must be guaranteed, the GoS continued to intimidate individuals in an attempt to secure the loyalty of those within its reach in Syria and, to some extent, Lebanon. A prominent example of these dynamics was the arrest of Mohammad Ali Sayegh, a Syrian lawyer with the National Coordination Committee for Democratic Change (NCC), which is part of the tolerated opposition. Sayegh was detained on 8 October on the Syrian Lebanese border while he and three of his colleagues were travelling to a meeting in Riyadh. The UN interfered and, combined with pressure from Russia, Sayegh was released.

On 30 October 2019, the Constitutional Committee finally met officially for the first time in Geneva. The opening ceremony was followed by separate discussions within each delegation. Unlike previous negotiations in Geneva, the start of the Constitutional Committee was remarkably respectful. In their opening speeches, both Hadi al-Bahra, co-chair of the opposition delegation, and Ahmad Kuzbari, co-chair of the government delegation, signaled a willingness to compromise. In early November, the small group of the Constitutional Committee continued meeting for a week of daily discussions. As well as some discussions about general procedures, these meetings focused on well-known issues. While the government body highlighted the importance of sovereignty, the fight against what it called terrorism and the necessity to end sanctions, the opposition stressed the need for a ceasefire. As expected, this early phase achieved no concrete results regarding either a constitutional reform process or a new constitution.

Parallel military developments

Attacks in Idlib continued throughout October 2019. Meanwhile, the political and military focus shifted to north-eastern Syria, where Turkey had launched Operation Peace Spring on 9 October. For years, President Erdoğan had vowed to invade areas controlled by the

31 See: <https://www.theguardian.com/world/2019/nov/05/ex-un-syria-envoy-says-he-quit-to-avoid-having-to-shake-assads-hand> (Accessed 12 June 2020).

Syrian Democratic Forces (SDF), a coalition led by the Kurdish People's Protection Units (YPG), which Turkey equates with its parent organisation, the Kurdistan Workers' Party (PKK).

During a speech before the UN General Assembly on 24 September, Erdoğan made his threats concrete by presenting a plan for a so-called safe zone that would reach 32 km deep into Syrian territory and stretch for 180 km along the border of both countries.³² He managed to secure US President Trump's support for the offensive. Thereupon, the US forces that had been working closely with the YPG since 2015 withdrew from the border area and exposed the SDF to the invading Turkish troops and their allies from the pro-Turkish Syrian National Army (SNA).

The Turkish invasion combined with the possibility of a full US withdrawal from Syria forced the SDF to enter into hasty negotiations with Russia and the GoS.³³ By mid-October, Turkey had secured a 120 x 32 km corridor between Tall Abyad and Ras al-Ain. But a further advance in accordance with Turkey's initial plans was ultimately thwarted by Russian forces. On 22 October, Turkey and Russia signed a Memorandum of Understanding³⁴ that effectively accepted the established Turkish-controlled corridor and obliged Russia and the GoS to guarantee the removal of the YPG from the rest of the border area.

Key dynamics

By keeping attacks against armed opposition forces in Idlib limited throughout October 2019, Russia and the GoS deviated from their habitual strategy of nipping UN-sponsored tracks in the bud through military escalation. This helps explain the relatively consensus-oriented behaviour of the government delegation during the Constitutional Committee's launch. However, although the following period showed this approach to be as temporary as it was insincere, it served the pro-Assad coalition's purposes for a short while. After 21 months of protracted negotiations, the Constitutional Committee – originally a Russian initiative – had to commence if it was not to disappear into oblivion and damage Russia's reputation.

However, the next week of meetings within the civil society delegation showed the Constitutional Committee's potential and limits in equal measure. The week started with what a member of the civil society body described as a 'big fight' over the body's

32 See: <https://www.al-monitor.com/pulse/originals/2019/09/erdogan-pushes-syria-safe-zone-unga.html> (Accessed 11 June 2020).

33 The SDF's marginalisation was in line with the non-existent representation of the Democratic Union Party (PYD) in the Constitutional Committee.

34 See: <http://en.kremlin.ru/supplement/5452> (Accessed 11 June 2020).

self-conception. The dispute was triggered by remarks from a government-leaning delegate who said that there would be no such thing as civil society in Syria and that the government-leaning side of the civil society body would follow the directions of the GoS without intending to take any decisions on its own. Even though the body's effective split into two halves implied that one side would be government-leaning, this open declaration was perceived as an affront by those delegates who believed in the idea of functioning as an independent block, with the potential to build bridges within the body itself, but also between the GoS's and the opposition's bodies.

Later that week, emergent collaborative dynamics ultimately triggered a more confrontational stance from the GoS. Initially, one of the opposition-leaning delegates addressed Abod al-Saraj, a lawyer and teacher who remained well respected among many Syrians despite working for the Syrian state under the Assads, in a polite and kind manner. She stated how much she valued Mr. Saraj and that she would appreciate being able to attend one of his lectures in Damascus again, but that she and many others had reason to be based outside Syria. Later, Mr. Saraj was surrounded by delegates and facilitated a respectful meeting of individuals from both sides. It was precisely this sort of dynamic – in which respected individuals break through the polarisation and create the potential for common ground – that the GoS tried to prevent.

As a reaction to several such constructive micro-interactions, the government delegation began to adopt more confrontational rhetoric. On the one hand, it changed its self-description from 'government delegation' to 'government-backed', thus implying that the GoS would not be bound to any decisions made by the Constitutional Committee. On the other hand, it started to verbally attack the opposition body by calling it the 'Turkish delegation' and later the 'terrorist delegation'. The opposition body in turn denounced the government body as the Iran-leaning and 'Mukhabarat delegation'. What had started as a promising week, ended in confrontation. In an interview on 31 October 2019, President Assad made the GoS position very clear when he denounced members of the opposition delegation as foreign-led agents and terrorists and stated that the opposition delegates would be Syrian *'only in terms of an identity card, passport and nationality. But as for belonging, that is a different discussion, to which we all know the answer too aside from the diplomatic discourse'* [*i.e. Assad implies they are terrorists and/or traitors*].³⁵

35 See: <https://www.sana.sy/en/?p=177331> (Accessed 11 June 2020).

Phase 4: Discussions collapse (November 2019 – April 2020)

Constitutional process

In the run-up to the second round of meetings of the small group of the Constitutional Committee scheduled for 25 November 2019, both the GoS and opposition delegation were asked to submit agenda proposals. While the opposition delegation's proposal focused on constitutional issues, the government delegation presented a list of so-called 'national principles' that all delegates would have to accept as a precondition for further discussions. These principles included commitments against terrorism as well as the condemnation of sanctions and Turkey's Operation Peace Spring. Faced with strong objections from the opposition and parts of the civil society delegation – who rejected preconditions as a violation of the agreed protocol – the meeting risked collapse on its first day. In an attempt to find a solution, UN-envoy Pedersen went back and forth between the delegations that refused to get together. At the end of the day, the government delegation left the meeting, citing that its legitimate demands had been ignored. While President Assad made clear that *'there is no Geneva'*, UN-Envoy Pedersen continued trying to find common ground for an agenda in order to facilitate a new round of discussions.³⁶ However, the Constitutional Committee's work has since been on hold. On 30 March 2020, Pedersen announced that the Constitutional Committee's Co-Chairs had agreed on an agenda for the next round of meetings, 'discussing the national foundations and principles'.³⁷ The UN-Envoy emphasised that the principles the three delegations can suggest are not meant as preconditions for further discussions on constitutional matters. Later, in mid-June, Pedersen announced a third round of meetings scheduled for late August 2020.

Parallel military developments

In late November 2019, the pro-Assad coalition gradually increased air strikes and shelling on north-western Syria. On 20 November, five days before the start of the Constitutional Committee's second round of meetings, GoS forces fired two surface-to-surface rockets into a camp for internally displaced people (IDPs) at al-Qah, a village just east of the Turkish border, killing at least 16 civilians. After weeks of heavy bombardments, pro-Assad coalition forces then launched a major ground offensive in mid-December, pushing towards the M5 highway that connects southern Syria with the city of Aleppo. A wave of air strikes and artillery fire resulted in the displacement of at least 200,000 civilians in December alone.³⁸

36 See: <https://sana.sy/en/?p=177331> (Accessed 11 June 2020).

37 See: <https://dppa.un.org/en/security-council-briefing-situation-syria-special-envoy-geir-o-pedersen-2> (Accessed 11 June 2020).

38 See: <https://twitter.com/markito0171/status/1209372813699801089/photo/1> (Accessed 11 June 2020).

Until that point, the Turkish forces in the area had not push back. Instead, as had happened four months earlier in the countryside of northern Hama, GoS forces simply circumvented both established and newly created Turkish observation posts. In late January 2020, GoS forces captured the strategic town of Maarat al-Numan and pushed further north towards Saraqib. Turkey initially reacted by increasing arms flows to the National Liberation Front (NLF). However, throughout February, amid the continuing advance of the pro-Assad coalition in Western Aleppo, Turkey began to deploy thousands of troops and heavy weapons into Idlib. At first, Turkish forces did not engage in combat activities, hoping that their presence would be a sufficient deterrent. But after 33 Turkish troops were killed in an air strike on 27 February 2020, Turkey went on the offensive. Operation Spring Shield did not target Russian forces – who appeared to have been responsible for the Turkish casualties – to avoid a direct confrontation and keep the Astana track alive. Instead, Turkey's operation dealt a devastating blow to GoS forces. Relying heavily on armed drones and embedded special forces, within seven days Turkish forces allegedly killed or severely wounded more than 3,000 GoS-linked troops, downed three war planes and eight helicopters, and destroyed hundreds of tanks, howitzers, armoured vehicles and rocket launchers.³⁹

On 5 March 2020, one week into Turkey's offensive, President Erdoğan travelled to Moscow for direct discussions with President Putin. At that time, over 960,000 civilians had been displaced by the fighting.⁴⁰ They agreed on a new ceasefire that froze the frontlines and stipulated joint patrols along the M4 highway that runs through opposition-held territory.⁴¹ According to the agreement, the M4 also serves as a six-kilometer-deep buffer zone along both sides of the highway. The M5, on the other hand, was untouched by the deal and remains under control of the GoS. Turkey had demanded a full retreat back to the initial Sochi lines, but the military facts that were already created on the ground were not reversed. Since then, the ceasefire deal has prevented major fighting. But the history of Idlib's numerous ceasefire deals suggests that, in the absence of GoS willingness to negotiate a political solution, fighting will resume at some point. While the joint Turkish-Russian patrols have been unsuccessful due to public protests and security concerns, GoS forces restarted shelling frontline areas and

39 These numbers were provided by the Turkish Ministry of Defence and cannot be independently verified. However, available footage suggests that a significant amount of military hardware has indeed been destroyed. See: <https://www.aa.com.tr/en/middle-east/turkey-neutralizes-3-000-regime-elements-in-idlib-syria/1754130> (Accessed 11 June 2020) and https://www.youtube.com/watch?v=_Q3vKrdGhxA (Accessed 11 June 2020).

40 See: https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/nws_flash_update_20200305_final.pdf (Accessed 11 June 2020).

41 The deal officially runs under the name 'Additional Protocol to the Memorandum on Stabilization of the Situation in the Idlib De-Escalation Area'. See: https://www.mid.ru/en/foreign_policy/news/-/asset_publisher/cKNonkJE02Bw/content/id/4072593 (Accessed 11 June 2020).

concentrating reinforcements in early April. Anticipating a new offensive, Turkey also deployed reinforcements, including advanced air defence systems and missile launchers, and built up new military positions close to the M4 highway.

Key dynamics

In reaction to the relatively constructive dynamics at the start of the Constitutional Committee, the GoS distanced itself from the initiative and deadlocked discussions. To achieve this, it broke the agreed protocol by ordering the government delegation to instead impose pre-conditions – which, according to one attendee, Ahmad Kuzbari called ‘natural principles that every Syrian would agree to’ – and simultaneously escalated its military campaign in north-western Syria. This escalation not only served military goals, but also sent a strong signal to those involved in the Constitutional process. The ballistic missile attack on the Al-Qah camp was an example of this strategy. Not only was it a blunt provocation to the delegates, it also put the opposition and civil society delegation in a difficult position because it underlined that no political process whatsoever would stop the pro-Assad coalition from committing war-crimes against civilians. It was thus another piece in the puzzle of the pro-Assad coalition’s well-established strategy of collectively punishing civilians and, at the same time, undermined the Constitutional Committee’s legitimacy among Syrians.

Even before the government delegation left Geneva, claiming its legitimate demands had been ignored, President Assad had openly declared that his administration would not participate in the Constitutional Committee. By stating that a Constitutional reform could only take shape after the final defeat of terrorism – the GoS term for opposition groups in general – he paved the way for a major offensive that would seize roughly one-third of the opposition-held areas left after the Sochi agreement of September 2018. This military escalation made it nearly impossible for the UN envoy and his team to find common ground for a mutually agreed agenda to revitalise the Constitutional Committee. Several delegates from the opposition and civil society delegation cited that they did not see any purpose in attending further meetings without a stable ceasefire being in effect.

Five months after the collapse of the Constitutional Committee’s work in late November 2019, the UN envoy has negotiated an agenda for the next round of meetings. His approach to include the GoS delegation’s demands of discussing national principles while ruling them out as preconditions can be seen as a concession to keep the process going.

4 Links between conference room and battlefield

As evidenced in the preceding sections, the Constitutional Committee process and military dynamics on the ground have been closely connected in the GoS strategy of reconquest. Due to the imbalance of power between the pro-Assad coalition and the opposition since 2015, the former has been able to link and exploit both the battlefield and conference rooms for its own advantage in the following ways:

Buying time to create facts on the ground: Russia initiated the Constitutional Committee to create a bridge between the Astana/Sochi process and the UN-led peace process that was based on UNSCR 2254. By securing the UN's support, Russia successfully legitimised its more exclusive Astana/Sochi process, even though it was in fact a framework to facilitate a military solution to the conflict and to deconflict Russia's regional interests with those of Turkey and Iran. By keeping the UN-led process on life support, the pro-Assad coalition bought time to create facts on the ground without having to fear greater political pressure from the international community that could have translated into military pressure. After all, the complete absence of a political process would have increased the likelihood of military pressure since foreign states might have decided to force the pro-Assad coalition into negotiations through military intervention.

Expediting the destruction of political opposition and governance alternatives within Syria: The pro-Assad coalition's military strategy of collectively targeting civilians and civilian infrastructure since early phases of the conflict has hampered political and civil society consolidation in opposition-held areas. This has meant that governance alternatives to the GoS could not develop on a large and organised scale. As a result, opposition bodies, as well as opposition-leaning civil society groups and individuals, have been forced to engage mostly from abroad. Detached from their communities, these groups have gradually lost credibility and legitimacy. This dynamic also plays out with the opposition and opposition-leaning side of the Constitutional Committee, whose members have to work from abroad and thus remain detached from a large part of the communities on whose behalf they negotiate.

Creating and maintaining polarisation: While the Constitutional Committee and the accompanying UN-sponsored political process provided the pro-Assad coalition with political cover to continue its military offensives, at the same time these offensives undermined the Constitutional Committee's viability. For Syria's opposition, and also for parts of the civil society delegation that have been demanding

a meaningful ceasefire for years, the purposeful continuation of war crimes is nothing less than a blunt provocation. In addition, such acts evidently increase polarisation between the negotiating parties and put pressure on everyone to take sides in a more uncompromising manner.

5 Outlook and policy recommendations

Under the current circumstances, the Constitutional Committee is unlikely to resume its work or generate meaningful results. As a senior UN diplomat put it in a recent interview, 'Russia can force the Assad government to be present in Geneva physically, but can't force it to genuinely engage'. The GoS's de facto pulling out from the Committee negotiations in Geneva, combined with the military escalation in north-west Syria that followed, clearly suggests that Damascus, Moscow and Tehran are still working towards a military solution to the conflict. But that does not necessarily mean that the Constitutional Committee has failed conclusively.

An assessment of the Constitutional Committee's prospects of 'success' depends on how the term is defined. If success is equated with cementing a new constitution in Syria's political and legal system to pave the way for a political transition in accordance with UNSCR 2254, the Constitutional Committee is likely to fail. The GoS has plenty of possibilities to delay the process over several years, or to prevent a new constitution being implemented. Should Russia put pressure on its ally to adopt and implement a new constitution, the GoS is unlikely to respect it.

However, another way of defining the potential success of the Constitutional Committee is in terms of process and relations. Its launch in October 2019 showed that the concept and its set-up can facilitate exchanges and (some) understanding between groups that would otherwise remain more distant. Hence, the process has some potential to counter polarisation and allow bridge building. It also keeps alive the demands formalised in UNSCR 2254 and can act as a counterweight to the rehabilitation of the GoS under Bashar al-Assad that is emerging in parts of the Gulf. Last but not least, the large proportion of women delegates is a novelty in Syrian politics that might influence the country's politics over the longer term (29% of the Constitutional Committee's delegates are female). This does not guarantee real empowerment or rule out 'state sponsored feminism', but it allows a number of women to gain political experience.

However, to reap such process and relational benefits, the Constitutional Committee must be made to exist beyond its current state of sleepwalking, which is mostly the result of the GoS delegation pulling out. Overall, it is likely that a meaningful process can only be achieved through an active strategy of confrontation with the GoS and Russia. It must be underpinned by a clear and credible threat of dissolving the Committee if no improvements can be realised. But it must also be recognized that this in itself will not be sufficient because the potential of the Constitutional Committee is directly linked

with the balance of power on the ground. As long as this balance remains in effect an imbalance, a corrective intervention is needed. Revitalization of the Constitutional Committee's prospects to discuss real but modest political change in Syria – against the backdrop of the Caesar Act and a battlefield situation that is at least temporarily stalemated – can be put into effect via a three-pronged approach:

First, the Constitutional Committee itself must be strengthened to operate more capably and effectively. This can be achieved, for example, by the European Union as well as its individual member states providing the body with longer-term political, financial and technical support, especially for members of its opposition and civil society bodies.

Second, the UN-Envoy should announce a temporary freeze of the Constitutional Committee and limit the activities of his team to a minimum in case the GoS delegation does not engage in a credible and sustainable manner during the third session scheduled for 24 August 2020. Should this happen, Mr. Pedersen should expose the GoS delegation's refusal to stick to the protocol and the GoS's overall distancing from the Committee as the reason for the freeze. He should furthermore make it clear that a resumption of meaningful discussions is conditional on a nationwide ceasefire.

Third, a joint Turkish-European military humanitarian intervention should be fielded in northwest Syria. As long as the pro-Assad coalition can thwart diplomatic efforts by escalating militarily, the Constitutional Committee's prospects remain bleak. Although the Turkish-Russian understanding in north-western Syria has proven unable to guarantee a stable ceasefire, Turkey has strong incentives to stabilise the region in order to prevent a further influx of refugees. The same applies to the European Union, which has so far outsourced much of the work to Turkey. The EU's and Turkey's shared interests could enable a jointly conducted humanitarian intervention to create the leverage necessary to revitalise the Constitutional Committee in a meaningful way, and also help solve the EU-Turkish dispute over refugee politics and protect the up to 3 million civilians cornered in greater Idlib.

Shaping a Turkish-European military intervention in northwest Syria

Given the present state of EU-Turkish relations, such an intervention is not evident. The framework below outlines how a successful intervention might be accomplished.

Step 1: Form a multilateral military alliance for a humanitarian intervention: The situation in north-west Syria is critical to any cessation of hostilities. In order to create the military deterrence necessary to obtain a ceasefire and to start looking for a negotiated political solution to the war, Turkey, the US, France, the UK, Germany and other willing EU members should form an alliance that can transform Turkey's presence in greater Idlib into a multilateral military humanitarian intervention. The probability of 3 million Syrians pushing towards Turkey's border if there is renewed conflict provides adequate

realpolitik incentives for a morally overdue humanitarian intervention.⁴² Even though the US is not directly affected by refugee movements, supporting the alliance could be an effective way to improve its relations with NATO ally Turkey and counter both Russian and Iranian influence.

Step 2: Develop the operation's legal foundation: An international military build-up can work as a deterrent, making clear that a GoS takeover of Idlib by force is off-limits. Yet, the legal foundation of such an intervention is critical. Even though the concept of humanitarian interventions has been damaged, the deadlock in the UN Security Council combined with the severe human rights violations and war crimes against Syrian civilians are sufficient to make a strong case. The problem is that laying out a concrete plan for the duration and 'time afterwards' – a requirement for a legally sound intervention – is very difficult to establish. Nevertheless, the intervention could argue that it will withdraw once a political settlement guaranteeing the safety of civilians is effectively in place. The roadmap for such a settlement has already been agreed by the international community, including Russia and Iran, and is laid out in UNSCR 2254. From this perspective, the resumption of the Constitutional Committee's work, which is legally connected with UNSCR 2254, could be considered a start.

Step 3: Execute a European-Turkish-led humanitarian intervention: A multilateral humanitarian intervention has to be conducted with a precise distribution of competences. While Turkey can shoulder much of the military work, the other countries have to provide significant political, financial and logistical support, especially in the form of humanitarian assistance to Syrians who live out of the GoS's reach. European countries ought to deploy intelligence gathering assets, reconnaissance forces and air defence systems in southern Turkey similar to the deployments that were part of NATO Operation Active Fence (2012–15).

Step 4: Invite Russia to support the intervention: There is no doubt that Russia would oppose a European-Turkish intervention, but it has good reasons to tolerate it. Apart from economic and political issues unrelated to Syria, Moscow has a strong interest in maintaining Turkey as a partner in its Syria policy. This applies particularly to the Astana/Sochi process that, without Turkey, constitutes merely a 'Friends of the Syrian regime' club. Moreover, Idlib is not essential to Russia as long as it is assured that the issue of radical extremist groups will be taken care of. This is precisely the reason why Russia might support such a mission through, for example, joint ground patrols and reconnaissance flights. Inviting Russia in an auxiliary role would be smart politics since

42 The existence of incentives based on realpolitik does not mean that European-Turkish cooperation will happen. A French diplomat highlighted the current tensions between Paris and Ankara, which go back to disagreements over Turkey's policy in north-eastern Syria and imply that the initiative needs to be designed and communicated as a way to rebuild their relationship.

it puts the professed Russian commitment to a stable ceasefire in north-west Syria to the test. The exit route for both Russia and the intervention is also clear: the roadmap of UNSCR 2254.

Challenges ahead

Enforcing a safe zone as part of a humanitarian intervention would face many challenges that go beyond legal issues and confronting Russia. Three in particular stand out and would need to be addressed.

The issue of Hayat Tahrir al-Sham: Hayat Tahrir al-Sham (HTS) and other designated terrorist organisations⁴³ have undermined ceasefires in the past and need to be handled carefully. In light of HTS's current dominance, the European-Turkish alliance should contain the organisation to the greatest extent possible. Turkey could use its working relations with HTS to engage in a pragmatic negotiation process for that purpose. HTS developed as a result of the mix of the pro-Assad coalition's scorched earth war against its domestic enemies and their incremental banishment to the north-west. A consolidation of the north-west based on a stable ceasefire and temporary international mission will create different conditions that will allow Syria's potentially powerful civil society to re-emerge. Chances are high that a Syrian-led response to the dominance of HTS will develop endogenously.

The problematic relationship with Turkey: Turkey's role in Syria and beyond is one of concern. President Erdoğan follows his nationalist agenda by waging a war against the PKK and its Syrian affiliate that infringes international law. The same applies to the tens of thousands of Syrians that have gathered under the banner of the Syrian National Army (SNA) and conduct crimes in Turkish-controlled territory while being on Ankara's payroll.⁴⁴ While these problems make Ankara a difficult partner and cannot be ignored, turning away from Turkey has not improved anything in the past. An engagement at eye level with Turkey and a consolidation of the opposition-held areas, on the other hand,

43 While HTS has largely adhered to the March 2020 ceasefire, Hurras al-Din (HaD), a jihadist formation with close ties to Al Qaeda, continues to undermine it and is likely to continue doing so in the form of hit-and-run attacks if there were a humanitarian intervention. Nawar Saban, a Turkish military expert at the Omran Center for Strategic Studies, noted that large military offensives against the group would be ineffective. Instead, Turkish and US intelligence should target the group's leadership in coordination with factions of the National Liberation Front (NLF).

44 The Turkish-backed SNA's main areas of operation are in northern Aleppo (Operation Euphrates Shield 2016, Operation Olive Branch 2018) and in a corridor between Ras al-Ayn and Tal Abyad (Operation Peace Spring 2019). See: <https://www.hrw.org/news/2019/11/27/syria-civilians-abused-safe-zones> (Accessed 28 June 2020) and <https://www.amnesty.org/en/latest/news/2018/08/syria-turkey-must-stop-serious-violations-by-allied-groups-and-its-own-forces-in-aftrin/> (Accessed 28 June 2020).

opens room for diplomacy and the demobilisation of SNA fighters, who should not be considered a lost cause.

Consider consequences for humanitarian aid: The GoS understands very well that control over humanitarian assistance is an important source of power. Over the years, it has successfully centralised the organisation and distribution of aid, as far as possible shifting it to Damascus. Out of fear of reprisals and faced with tremendous bureaucratic obstacles, UN agencies and INGOs have submitted to the GoS, which, in turn, systematically politicises and weaponises aid.⁴⁵ Any international intervention in northwest Syria is certain to create further impediments to the delivery of humanitarian aid in this area, especially for UN agencies and INGOs operating from Damascus. As a result, aid delivery mechanisms that operate from Turkey should be strengthened ahead of, or in parallel with, a humanitarian military intervention to prevent worsening the situation. There is also the additional challenge of reducing the extent of regime capture of aid, which should be taken to hand as a matter of urgency by the US and Europe. They should threaten to shift more of their aid to local mechanisms and to north-west Syria if the GoS continues to impede impartial, neutral and independent humanitarian assistance.⁴⁶

If Europe is serious about preventing the bloody Syrian civil war from turning into a permanent, low-level conflict with regular insurgencies and terrorist attacks, the Constitutional Committee must be revived. Presently, it is the only forum for dialogue that centres on Syrians and has a chance of gradually building the relations and confidence that might ultimately develop some form of negotiated solution. Reviving the Committee requires a balance of forces that rules out further escalation by the GoS and its allies. This requires greater European military cooperation with Turkey in Syria, supplemented by coordinated humanitarian and diplomatic activity.

The humanitarian intervention outlined above has, combined with the Caesar Act, a real chance of bringing Moscow to the conclusion that a settlement is not only necessary but requires concessions. There are plenty of challenges and it is late in the war, but the fate of millions may rest on such action. Whether Moscow's influence will be adequate to bring Damascus to the negotiating table ready to make concessions is a matter for another report, but at a minimum the regime will come under even more pressure, which will limit its ability to wreak further destruction.

45 See: <https://assets.documentcloud.org/documents/2861241/Taking-Sides-the-United-Nations-Loss-of-pdf> (Accessed 8 June 2020).

46 See also: <https://foreignpolicy.com/2020/06/24/how-to-aid-syria-without-aiding-assad/> (Accessed 28 June 2020).