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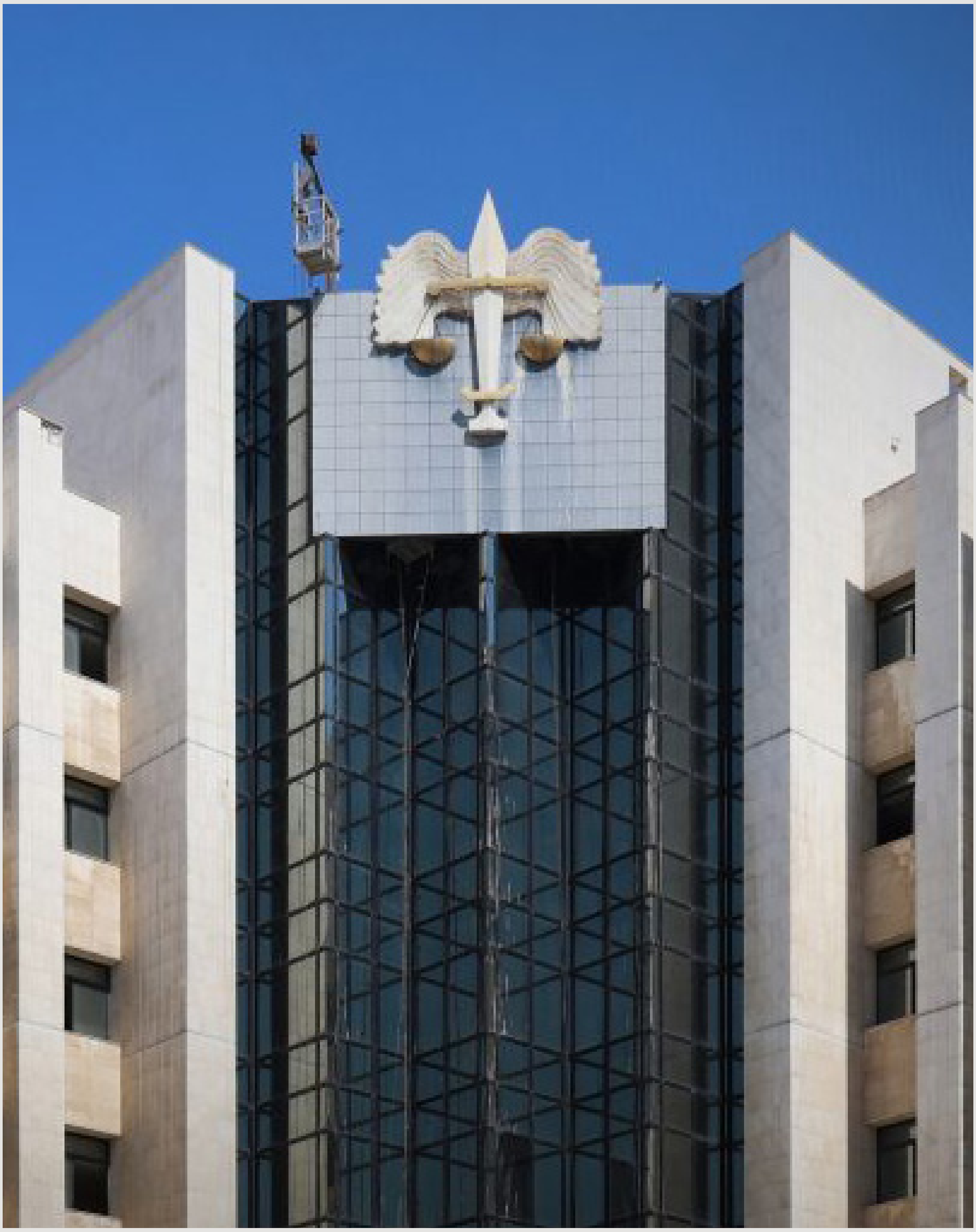
Syria Justice and Accountability Centre

Syria's Draft Transitional Justice Law:

Gaps in scope, crimes, and safeguards



The fall of the Assad government on 8 December 2024 created an opportunity to address more than five decades of repression, marked by widespread and systematic human rights violations, including arbitrary detention, enforced disappearance, torture, and mass killings. From 2011 onwards, other armed actors also committed serious violations, further complicating Syria's history of violence and the demands for accountability. The consequences remain unresolved for victims across the country, as families continue to seek information about the fate of detained and disappeared relatives, while survivors await justice and redress.

Transitional justice provides a framework for addressing these violations and upholding victims' rights to truth, justice, reparation, and guarantees of non-recurrence. A transitional justice law establishes the legal and institutional basis for implementing these commitments, with direct consequences for the effectiveness of prosecutions, the protection of individual rights, and the independence of the institutions entrusted with its implementation.

The law will also shape Syria's wider transition, providing an important test of whether public institutions can deliver impartial accountability and respond to victims' demands. Its credibility will depend on the consistent application of accountability measures and the inclusion of affected communities, both of which are essential to avoiding further divisions and rebuilding trust across Syrian society.

On 17 May 2025, Transitional President Ahmad Al-Sharaa **announced the establishment of the National Transitional Justice Commission**. With a draft Transitional Justice law now circulating, meaningful engagement with Syrian civil society and victims is essential to ensuring that their perspectives inform the final legislation. The draft provides a basis for further legislative development, recognizing victims' rights and establishing safeguards for accountability proceedings, seeking to establish the legal foundations for addressing past violations and advancing transitional justice in Syria. However, significant gaps remain concerning the scope of accountability, institutional independence, and the protection of individual rights. Building on the Syrian Initiative for Fundamental Rights' earlier **joint analysis of the draft law**, this paper examines these shortcomings and their implications for Syria's transition. Drawing on international standards and experiences from other transitional contexts, it identifies areas requiring revision and offers recommendations to strengthen the law before its adoption.

Scope of the transitional justice mandate

The draft defines transitional justice primarily around violations caused by the former government and militias affiliated with it. Article 1(4) limits the relevant crimes to those committed between 16 November 1970 and 8 December 2024, while Article 36(2) applies the same period to the jurisdiction of the specialized criminal chambers. Article 2, however, appears to extend the law to serious and systematic violations committed as a result of the collapse of Syria's security and legal environment. Read alongside the narrower definitions elsewhere in the draft, this provision leaves considerable ambiguity as to whether the law encompasses serious violations committed by all parties, or only those attributable to the former government and its affiliated militias.

The former government's responsibility for decades of repression gives clear reason for its crimes to occupy a central place in Syria's transitional justice process. Their scale and systematic nature also provide a legitimate basis for prioritization. However, the draft does not clearly establish whether its mechanisms extend to serious violations committed by other armed actors, including ISIS, HTS and its predecessor formations, SDF-affiliated forces, and Turkish-backed factions. While prosecutorial priorities may reflect the gravity and scale of particular crimes, the scope of accountability should be grounded in the nature of the violations rather than perpetrator affiliation alone. A framework that treats comparable harms differently risks leaving significant categories of victims outside its truth-seeking, accountability, and reparative mechanisms.

The temporal cut-off of 8 December 2024 creates a separate gap. Under Article 36(2), serious violations committed after that date fall outside the jurisdiction of the specialized criminal chambers, including abuses committed during the coastal massacres and in Suwayda. Some of these acts may amount to war crimes or crimes against humanity where the applicable legal elements are established. Their exclusion creates a divide between accountability for the former government and violations committed during the transition, even where the nature and gravity of the crimes are comparable. It also raises questions about the ability of the institutions implementing transitional justice to address violations committed under the new political order.

The temporal limits of the transitional justice mandate must be distinguished from Syria's continuing obligations under international law. A permanent domestic legal framework is therefore needed to criminalise core international crimes and provide a basis for their prosecution beyond the transitional justice process. The absence of explicit domestic criminalisation under the former government does not, in itself, preclude accountability for conduct that was already criminal under international law, provided that prosecutions respect the principle of legality.

Tunisia offers a useful comparison. Its **Truth and Dignity Commission had a broad mandate covering violations from 1955 to 2013**, yet its work became increasingly contested as investigations reached individuals and networks that had retained or regained influence after the transition. State cooperation became harder to secure, while the Commission **gradually lost the political backing** needed to sustain its work.

The Tunisian experience illustrates how the political context can constrain transitional justice, even where its formal mandate is broad. For Syria, this reinforces the importance of defining the law's scope clearly from the outset, ensuring that serious violations committed by other parties and during the transition are addressed within the existing framework or through an expressly linked process subject to comparable standards of investigation, victim participation, and accountability.

Definitions of crimes and modes of liability

The draft's definitions of international crimes require further clarification to ensure that Syrian courts can apply them consistently with established rules of international law. Article 41 appears to require that an act form part of a broader plan or policy, or be committed on a large scale, to qualify as a war crime. This imposes a higher threshold than international humanitarian law requires, as an individual act, such as the intentional killing of a protected person or an unlawful attack on civilians, can constitute a war crime where the relevant elements are met. Introducing this additional requirement risks excluding conduct that would otherwise constitute a war crime, thereby narrowing the scope of criminalisation under Syrian law.

The article also fails to distinguish between international and non-international armed conflicts, although this distinction is necessary to identify the applicable humanitarian law rules and define the corresponding offences. Syria's domestic legal framework must provide for the prosecution of grave breaches of the Geneva Conventions and applicable Additional Protocol I, alongside other serious violations of international humanitarian law committed during international armed conflicts. It must also address serious violations of Common Article 3 and other applicable laws and customs governing non-international armed conflicts. Several offences remain insufficiently defined. Article 41 contains further definitional gaps. Its reference to prohibited weapons does not identify the applicable legal prohibitions, while its treatment of bombardment fails to distinguish adequately between unlawful attacks and military operations conducted in accordance with international humanitarian law. The list of offences also lacks the precision required by the **ICC's Elements of Crimes**, creating uncertainty that could complicate prosecutions and lead to inconsistent judicial interpretation.

Article 42, concerning crimes against humanity, broadly reflects the international requirement that prohibited conduct form part of a widespread or systematic attack against a civilian population. However, it does not clearly define the broader attack or specify whether it must be carried out pursuant to a state or organizational policy, as required under the **Rome Statute**. It also leaves the constituent elements of offences such as persecution, enforced disappearance, and forced displacement insufficiently defined, creating uncertainty about the conduct and circumstances required to establish criminal responsibility. Furthermore, its omission of "other inhumane acts" risks leaving conduct of comparable gravity that causes great suffering or serious physical or mental harm outside the definition of crimes against humanity.

The draft also raises concerns regarding the rules governing criminal responsibility. Article 33 allows international crimes committed before the law's enactment to be prosecuted on the basis that they were already criminalized under international law. While this approach is consistent with the principle of legality, it does not adequately address the penalties applicable to such crimes. Under **Article 15 of the ICCPR**, the penalty imposed cannot be harsher than the one applicable when the offence was committed, and the accused must benefit from any more lenient penalty subsequently introduced. The draft's failure to distinguish between prosecuting conduct that was already criminal and applying penalties retroactively creates uncertainty for violations committed decades earlier and could expose judgments to challenge.

Article 34, concerning command responsibility, largely applies the same standard to military commanders and civilian superiors, despite the different requirements established under **Article 28 of the Rome Statute**. It also omits a clear requirement of effective control over subordinates, which is central to establishing a superior's criminal responsibility. These gaps could complicate prosecutions of senior officials while weakening safeguards against liability based primarily on hierarchical position.

Similar concerns arise from the provisions on crimes committed in furtherance of a common criminal purpose. Without a clear requirement to establish each individual's contribution, responsibility could be inferred from membership in a security institution, political party, or armed group. In Syria, where the former government's security and political structures were closely intertwined with networks of patronage and communal affiliation, this could extend criminal liability to individuals whose association with these institutions does not establish their participation in specific crimes. Such an approach also risks reinforcing perceptions that prosecutions are directed at particular groups rather than those individually responsible for violations.

Article 36 further extends criminal jurisdiction to legal entities and authorizes their dissolution, blurring the distinction between individual criminal responsibility and the administrative or civil consequences applicable to organizations. Such measures could affect employees and other individuals whose involvement in criminal conduct has not been established, with implications for institutional continuity and the rights of those associated with the organizations concerned.

Institutional independence and fair trial guarantees

Article 3 establishes the National Transitional Justice Commission as an independent body with legal personality and administrative and financial independence. It provides for at least thirteen members appointed by decree, with women comprising at least 30 percent of its membership. However, the draft establishes no public nomination process or formal role for victims' groups and civil society in reviewing candidates, nor does it provide for independent confirmation of appointments. The conditions of membership and procedures for removal are also left to executive regulations. As a result, institutional independence is recognized in principle, but the concentration of appointment authority and the absence of statutory protections for commissioners' tenure leave considerable discretion to the executive.

Comparative practice offers alternative models. South Africa's Truth and Reconciliation Commission followed a **public nomination and interview process** before presidential appointment, while Tunisia's Truth and Dignity Commission was **selected through parliament**. Although neither arrangement eliminated political pressure, both introduced a degree of separation between the executive and the appointment process. In Syria, the absence of comparable safeguards could affect the Commission's ability to pursue investigations independently, particularly where these implicate individuals with continuing political or institutional influence.

The question of institutional independence is equally relevant to the specialized courts established under Article 11. The draft provides for dedicated prosecution offices and judicial chambers, with judges selected by the Supreme Judicial Council, but leaves important aspects of their operation unresolved. It does not establish clear safeguards governing judicial appointments and removal, or adequately define the structure and jurisdiction of appellate proceedings. These gaps are particularly concerning given that the Syrian judiciary is itself among the institutions requiring reform after decades of political interference. Prosecuting international crimes also demands specialized judicial capacity, which remains limited within the existing system. Recent trials of Atef Najib, Wassim Al-Assad, and Ahmad Hassoun have **exposed shortcomings** in judicial practice, raising broader questions about the judiciary's capacity to adjudicate international crimes independently and impartially. These cases underscore the need for courts with the institutional safeguards and specialized competence necessary to meet the requirements of Article 14 of the ICCPR.

Article 64 recognizes important fair trial guarantees, including the presumption of innocence, access to legal representation, and the ability to challenge prosecution witnesses. However, it does not expressly guarantee the right to appeal a conviction or sentence before a higher court. It also leaves gaps concerning the exclusion of evidence obtained through torture, access to prosecution evidence, and judicial review of pretrial detention. These protections are central to the right to a fair trial under **Article 14 of the ICCPR**. The law should also clarify that the right to an effective defence encompasses the ability to contest the prosecution's case without such challenges being construed as "justification" of the former government's crimes under Article 1(17). This protection is essential to ensuring that the gravity of the allegations does not compromise the accused's right to a fair trial.

Prosecuting international crimes committed decades earlier will present substantial evidentiary and legal challenges, particularly where records are incomplete or evidence was collected under difficult circumstances. Leaving these safeguards insufficiently defined could weaken the courts' ability to establish individual responsibility and produce judgments that victims can rely on. The law must provide a stronger basis for proceedings that can withstand scrutiny, particularly as Syria seeks to establish a different standard of justice from that of the former government.

Victims, witnesses, and documentation

Victims must remain at the centre of Syria's transitional justice process, with a meaningful role in shaping how their experiences are acknowledged and the harm they have suffered is addressed. The draft recognizes this principle through Article 7, which provides for their participation in transitional justice proceedings, while Articles 13 to 15 establish mechanisms for reparations and a national victims registry. The reparations fund also includes two victim representatives on its board of trustees.

These provisions provide an important basis for recognizing victims' rights, but their role in decisions concerning their own redress remains insufficiently defined. The draft does not establish how victim representatives will be selected or how victims' different experiences and needs will inform reparations policy. This is especially relevant given the limitations in the law's scope discussed above, which risk excluding those harmed by other armed actors or during the transition. The fund is also subject only to the Commission's internal oversight, with limited provisions governing eligibility, financial scrutiny, or the review of rejected or delayed claims. These gaps could produce uneven access to reparations and leave victims with limited means of challenging decisions that directly affect them.

Meaningful participation also requires protection for victims and witnesses. Although the draft recognizes this as a foundational principle, it provides limited detail on its implementation. Testifying may expose individuals and their families to retaliation, particularly where former security officials and armed actors retain influence. Protection must therefore account for risks throughout proceedings and after their conclusion, with psychosocial support available to all victims and witnesses and additional safeguards tailored to the needs of survivors of torture and sexual violence, as well as children. Measures involving anonymity or restrictions on disclosure must also preserve the accused's right to access and challenge the evidence, including through cross-examination. Inadequate protection could deter individuals from coming forward, limiting their access to justice and the ability of investigators to establish responsibility.

The same considerations apply to information already collected by Syrian and international documentation organizations. Article 49, however, requires individuals and organizations engaged in documentation to surrender all documents, data, and evidence in their possession under threat of criminal liability. Organizations may also face fines, dissolution, or restrictions on their operations. Much of this material was collected remotely or outside Syria, under conditions that may restrict its subsequent use or disclosure. Individuals who shared their accounts may have consented to specific uses without authorizing their transfer to Syrian authorities. Disclosure may also be constrained by legal privilege, data protection requirements such as Europe's **GDPR**, or obligations arising from investigations in other jurisdictions. International criminal practice recognizes such constraints. The **Rome Statute** and the **Rules of Procedure and Evidence** provide mechanisms for receiving information on confidential terms and restricting its disclosure where necessary.

Article 49 makes no meaningful distinction between material that can lawfully be transferred and information subject to these restrictions. Its broad disclosure obligation could compromise source safety, breach commitments made during collection, and interfere with proceedings elsewhere. The threat of criminal sanctions may also discourage cooperation by documentation organizations, undermining relationships built over years of engagement with survivors. Existing archives will be important to Syria's accountability process, particularly given the volume of evidence collected by civil society. Yet compelling their transfer without adequate safeguards risks depriving individuals of control over sensitive information and exposing them to further harm through the very institutions established to deliver justice.

Sentencing, mitigation, and the death penalty

Articles 54 to 59 establish a mechanism allowing defendants to receive reduced sentences in exchange for a full and truthful confession, disclosure of command structures and orders, and information on detention sites or mass graves. A death sentence may be reduced to life imprisonment, a life sentence to a fixed term of fifteen years, and temporary sentences by up to one-third. Genocide, crimes resulting in death by torture, and offences attributed to the highest levels of leadership are excluded from the mechanism.

There is a strong practical case for creating incentives to disclose information that may otherwise remain inaccessible. Perpetrators and former officials may hold information that cannot readily be recovered from surviving records, particularly concerning the fate of the disappeared and the location of graves and detention sites. Their cooperation could help families establish what happened to relatives, support the identification and return of remains, and provide investigative leads against additional perpetrators.

The mechanism nevertheless asks victims and the wider public to accept a trade-off between punishment and information. For families who have spent years demanding both truth and accountability, disclosure may be understood as an obligation owed by perpetrators rather than leverage to be exchanged for leniency. Yet refusing any incentive for cooperation could leave crucial information inaccessible, particularly in cases that cannot be resolved through documentary or forensic evidence alone.

The central issue is how the law structures this exchange. The value of mitigation depends on whether the information provided is complete, independently verified, and capable of producing concrete results. Victims and their families have a direct interest in assessing a defendant's cooperation, particularly where disclosure concerns questions they have pursued for years. Their role should also encompass the consideration of leniency itself, since establishing the fate of a relative and determining the reduction in punishment warranted by that disclosure are separate questions. The draft's limited provisions for victim input risk leaving families with little influence over decisions concerning the crimes committed against them.

Colombia's Special Jurisdiction for Peace offers a useful comparison. Former combatants who fully acknowledge responsibility can receive **alternative sanctions combining restrictions on liberty with restorative measures in affected communities**. Even within this framework, reduced punishment has remained politically contested, particularly among **victims who consider the sanctions insufficient in light of the gravity of the crimes**. The Colombian experience nevertheless illustrates how leniency can be linked to obligations that require perpetrators to contribute directly to repairing harm.

The Syrian provisions, by contrast, leave the reparative dimension of sentence mitigation largely unaddressed. Defendants who receive reduced sentences are required to disclose information and acknowledge responsibility, but the mechanism does not require them to contribute to reparations or undertake restorative measures. Nor does it adequately define how the verified value of their cooperation will determine the degree of mitigation granted. As currently formulated, the provisions could allow substantial reductions in punishment without a corresponding contribution to addressing the consequences of the crimes, weakening the mechanism's wider reparative purpose.

The draft also retains the death penalty for the most serious international crimes. Article 47 makes it mandatory for genocide, while Article 46 permits it as an aggravated penalty for crimes against humanity involving mass killing, widespread enforced disappearance, or systematic torture and sexual violence. Capital punishment is also authorized for certain aggravated war crimes. Its inclusion reflects the gravity of these offences and demands for severe punishment among parts of Syrian society after decades of impunity. These sentiments were evident following the death sentences issued against Bashar Al-Assad, Atef Najib, and other former officials in August 2026, which prompted public celebrations in Damascus and Daraa. For victims and families who had waited years to see senior officials brought before Syrian courts, the severity of the sentences carried considerable symbolic weight.

The importance of these judgments to victims must be considered alongside the legal consequences of capital punishment. The first domestic trials of former officials have raised questions concerning evidentiary standards, the applicable law, defence rights, and judicial reasoning. These shortcomings carry particular weight in capital cases, where an execution makes any judicial error impossible to remedy. Syria is also still developing the legal framework and institutional safeguards necessary for prosecuting serious international crimes. The draft's provision for a mandatory death sentence for genocide raises an additional concern under the right to life protected by Article 6 of the ICCPR. As interpreted by the UN Human Rights Committee, mandatory capital sentences are incompatible with this right where courts cannot consider the individual circumstances of the offence and the accused.

The death penalty may also complicate Syria's ability to secure international cooperation. Many states face legal or policy restrictions on extraditing suspects or providing assistance where proceedings could result in execution without adequate assurances. This is particularly relevant to cases involving former officials abroad or evidence held in other jurisdictions. A moratorium on executions during the current period of institutional reform would preserve the ability of Syrian courts to prosecute and impose substantial custodial sentences while reducing the risk of irreversible judicial error and addressing an obstacle to international cooperation.

Vetting, reconciliation, and restrictions on rights

Articles 17 to 22 establish the vetting framework, under which a Records Review Committee assesses public employees and may recommend their retention, transfer, dismissal, or referral to prosecution. Article 20(4) prohibits decisions based on political, sectarian, ethnic, or regional affiliation, while Article 21 provides for a fifteen-year exclusion from public employment and political activity for specified officials and individuals implicated in the former government's crimes. Although individual review offers an important safeguard against collective exclusion, the grounds for vetting remain broad. Article 21(2)(a) extends exclusion to those who contributed through administrative, economic, or social means to supporting these crimes, leaving considerable discretion over the level of involvement required. Article 21 also leaves the relationship between vetting and criminal accountability unresolved. It allows exclusion on the basis of judicial findings or fact-finding committee determinations without specifying the applicable procedures or clarifying how the exclusion period operates alongside a criminal sentence. This ambiguity is particularly consequential where an individual is serving a prison sentence, raising questions about when the exclusion takes effect and how the two measures interact.

This discretion carries particular risks in Syria, where Alawis were disproportionately represented in parts of the former security and military apparatus and the Baath Party, and grievances against these institutions have at times been expressed in sectarian terms. Vetting based on broad forms of association could therefore produce uneven outcomes across communities, even where identity is not an explicit criterion. Iraq's de-Baathification process illustrates these risks. Coalition Provisional Authority Order No. 1 removed public employees largely on the basis of party rank, despite membership often being tied to professional advancement. The dismissals weakened state capacity and became associated with Sunni exclusion, while the process was subsequently used to disqualify hundreds of candidates ahead of the 2010 parliamentary elections. The Syrian provisions raise similar concerns about the potential for institutional reform to become a mechanism of political or communal exclusion where decisions are insufficiently tied to individual conduct.

Chapter Seven establishes local reconciliation committees under the Commission's supervision to address disputes arising from the former government's crimes, recommend reparations, and deal with the consequences of forced displacement. Article 24 preserves judicial proceedings and requires settlements to be voluntary. These mechanisms could help resolve disputes over return, property, and land that criminal proceedings alone cannot address. However, voluntariness may be difficult to establish where local power relations remain unequal and individuals face pressure to accept settlements. For some communities, reconciliation also carries associations with submission to political authority rather than agreement between parties on equal terms. For instance, community dialogues held since 2025, including with people affected by violence on the coast and in Suwayda, have highlighted the importance of accountability and meaningful political inclusion in creating the conditions for reconciliation. The absence of stronger safeguards against coercion could therefore undermine the legitimacy of local settlements and restrict victims' ability to pursue other forms of redress.

Article 65 introduces further restrictions. It allows limitations on public activity, residence, and return for individuals who participated in crimes through military, security, or militia formations, including where their presence is considered a threat to civil peace. Committees of local notables formed by the Commission implement these measures, while violations of residence and return restrictions are punishable by imprisonment of one month to one year. The broad concept of a threat to civil peace gives non-judicial bodies considerable discretion over individuals' freedom of movement and ability to return home. Without clear criteria and effective judicial oversight, such powers could enable prolonged exclusion from particular areas and, in some circumstances, amount to collective punishment or effectively perpetuate displacement.

Chapter Twelve criminalizes the denial, minimization, or misattribution of the former government's crimes, alongside their glorification or that of associated individuals and symbols. Articles 67 to 69 also cover justification, offending victims, and disregarding their suffering, with liability potentially extending to those involved in producing or publishing the material concerned. There is a legitimate purpose in preventing the rehabilitation of serious abuses and affirming victims' experiences as part of the public record. However, the offences are broadly formulated, particularly the undefined notion of disregarding suffering. This creates uncertainty over whether legitimate historical debate, journalistic reporting, legal defence, or artistic expression could attract criminal liability. Although Article 68(5) provides an exception for critical and documentary work, its protection remains limited by the wider language of the offences. Rwanda's genocide ideology legislation offers a relevant caution, having been criticized for its application to political speech beyond direct incitement. In Syria, similarly broad provisions could restrict discussion of the former government's crimes and the political order that followed, narrowing the space for independent scrutiny of the transitional justice process itself.

Building a credible and inclusive transitional justice framework

The draft provides an important foundation for transitional justice through its recognition of victims' rights and provisions for accountability. However, the legal and institutional gaps identified above could limit its ability to address violations consistently and secure public confidence. The scope of the law, the independence of the institutions responsible for its implementation, and the protection of individual rights will be central to how the process is received across Syrian society.

The memorandum accompanying the draft also raises questions about the principles underpinning this framework. It grounds the law in the constitutional declaration, Syria's international human rights obligations, and the maqasid of Islamic Sharia, with the latter receiving the most extensive elaboration. In Syria's religiously and socially diverse context, the prominence of Islamic jurisprudential concepts may be received differently across Christian, Druze, Alawite, Ismaili, and secular constituencies, particularly as questions concerning their place in the emerging political order remain unsettled. A clearer articulation of how this framing aligns with the law's commitments to equality and individual rights would help establish a common basis for justice across Syrian society.

The legislative process therefore presents an opportunity to address these shortcomings before the framework is adopted. Meaningful engagement with victims and Syrian civil society will be essential to ensuring that the final law reflects the range of experiences and needs arising from decades of violations and provides a credible basis for their redress.

SJAC calls on the Syrian transitional authorities to:

- Establish a more inclusive mandate: The law would benefit from defining criminal jurisdiction according to the nature of the crime rather than the identity of the perpetrator, while allowing institutions to prioritize violations according to their gravity, scale, and impact. This would preserve the centrality of the former government's crimes while ensuring that serious violations committed by other actors remain within the framework. The temporal scope should also account for abuses committed after 8 December 2024, either through the existing mechanisms or an expressly linked process subject to comparable standards of investigation, victim participation, and accountability.

- Align the definitions of international crimes with international law: Articles 41 to 43 should be reformulated in accordance with the Rome Statute, the Geneva Conventions, customary international humanitarian law, and the ICC's Elements of Crimes. This would involve removing the plan or large-scale commission requirement for war crimes, distinguishing between international and non-international armed conflicts, and clarifying the elements of crimes against humanity.

- Clarify the rules governing criminal responsibility: Article 33 requires clearer safeguards against harsher retroactive penalties, including the application of more lenient subsequent penalties, consistent with Article 15 of the ICCPR. The provisions on command responsibility would benefit from distinguishing military commanders from civilian superiors and establishing clear requirements for effective control and individual contribution. Criminal liability should rest on proven conduct rather than affiliation, while the civil and administrative liability of legal entities should be addressed separately.

- Strengthen institutional and judicial independence: Greater transparency in the Commission's appointment process could be achieved through public nominations, formal participation by victims' groups and civil society, and an independent confirmation stage. Establishing commissioners' conditions of tenure and grounds for removal in primary legislation would provide stronger protection against executive influence. Comparable safeguards are needed for the appointment and removal of specialized judges and prosecutors.

- Strengthen fair trial guarantees: Article 64 would benefit from expressly recognizing the right to appeal and clarifying other essential protections, particularly the exclusion of evidence obtained through torture, disclosure of prosecution evidence to the defence, and judicial review of pretrial detention, in accordance with Syria's obligations under the ICCPR.

- Ensure meaningful victim participation: Clear procedures for selecting victim representatives and determining eligibility for reparations would help ensure more equitable access to redress. Independent financial oversight and accessible review procedures for rejected or delayed claims would provide additional safeguards. Victims should also have a substantive role in decisions concerning reparations and sentence mitigation.

- Provide effective protection for victims and witnesses: A comprehensive framework is needed to address protection risks throughout proceedings and after their conclusion, with psychosocial support available to all victims and witnesses and additional measures tailored to individual needs. Protective measures involving anonymity or restricted disclosure must also preserve the accused's right to access and challenge the evidence, including through cross-examination.

- Safeguard documentation organizations and their sources: Article 49 would benefit from replacing blanket disclosure obligations with specific, necessary, and proportionate requests subject to judicial oversight. Such requests should respect consent, confidentiality, data protection, and source safety, with provision for redaction or restricted disclosure where appropriate. Criminal liability should not arise where the transfer of material is prohibited by law or binding protection obligations.

- Link sentence mitigation to verified contributions: Reductions in punishment should reflect independently verified disclosures that contribute meaningfully to truth-seeking and accountability. Relevant information should be shared with institutions responsible for missing persons and investigations, while appropriate reparative obligations and substantive victim participation would strengthen the mechanism's contribution to addressing the harm caused.

- Ensure proportionate sentencing: A moratorium on executions during the current period of institutional reform would provide an important safeguard against irreversible judicial error. Consideration should also be given to replacing capital punishment with custodial sentences, particularly in view of its implications for extradition and international legal cooperation. Permanent deprivation of civil and political rights could similarly be replaced with individualized and time-bound penalties.

- Prevent collective exclusion through vetting: Narrower grounds for exclusion and clear evidentiary thresholds would help ensure that decisions reflect individual conduct rather than institutional position or communal affiliation. The Records Review Committee would also benefit from stronger guarantees of independence and effective review and appeal procedures.

- Safeguard voluntary reconciliation and the right to return: The reconciliation framework should preserve victims' ability to withdraw and pursue other accountability mechanisms, with independent review of settlements where necessary. Restrictions on residence and return should fall within judicial authority rather than committees of notables, with decisions subject to individualized assessment, proportionality, time limits, and appeal.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