

The Constitutional Declaration in Syria: Exceptional Powers for the Transitional President and the Risks of Entrenching Authoritarian Rule Hindering the Transition to Democracy



STJ Calls For A Comprehensive Review Of The Constitutional Declaration To Ensure Its Transitional Character, To Establish The Principle Of Separation Of Powers, To Expand Societal Participation In The Processes Of Drafting And Implementation, And To Activate Oversight And Accountability Mechanisms, As Well As To Avoid Marginalizing Any Of The National, Religious, Or Cultural Components, And To Enshrine Popular Sovereignty As The Foundation For Any New Social Contract

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1. Introduction

1.1. Context of the Declaration

After the suspension of [the 2012 Constitution](#), and pursuant to the statement issued by the so-called “[Victory Conference](#)” on 29 January 2025, the Syrian Transitional Administration [announced](#) on 2 March the formation of a committee composed of [seven legal experts](#) tasked with drafting a constitutional declaration for the upcoming transitional phase.

In addition to the “Victory Conference” statement, the formation of the drafting committee was also based on the [outcomes](#) of the “National Dialogue Conference” held in February 2025, which called for preparing a constitutional declaration to pave the way for a transitional period grounded in the rule of law, justice, and citizenship. According to its preamble, the declaration also drew upon the [Independence Constitution of 1950](#).

Despite relying on references that were intended to grant it historical or consensual legitimacy, Syrians for Truth and Justice (STJ) believes that the declaration raises [critical concerns regarding its legitimacy, its content](#), and its actual capacity to meet the aspirations of Syrians after more than a decade of uprising and suffering. The declaration is neither presented as a temporary, time-bound transitional document nor as a permanent constitution derived from the free will of the people. Instead, it takes on a hybrid form —exceeding the framework of a temporary arrangement without rising to the level of a complete constitutional text— a form that may reflect superficial flexibility but opens the door to profound legal and political challenges.

The declaration, consisting of 53 articles, sets out the foundations for a detailed system of governance that could persist for years, without being the product of a genuine and inclusive national debate or the result of a transparent participatory process. Rather than paving the way for a genuine democratic transition, there is a fear that it could be used as a tool to reproduce [centralized authoritarian rule](#) and entrench [exclusionary practices](#) under a new legal guise, thereby undermining the pluralistic constitutional foundation that should accompany the country’s moment of political transformation.

The committee submitted the [draft](#) transitional constitutional declaration to Transitional President Ahmad al-Shar’a, who [signed](#) it on 13 March 2025, establishing it as the constitutional reference for the transitional period, which the declaration set at five years.

1.2. The Syrian National Dialogue Conference

The Syrian National Dialogue Conference was held in Damascus on 24–25 February 2025 with the aim of launching a consultative process to pave the way for drafting a constitutional declaration and outlining the features of the coming phase. In preparation for the conference, a [preparatory committee](#) consisting of seven members hosted discussion sessions across various governorates and [consulted with approximately 4,000 people](#) to collect views that could help shape a vision for the constitutional declaration, a new economic framework, and an institutional reform plan.

Despite the symbolic and political significance carried by holding the conference, it sparked a wide wave of criticism from the moment it was announced, targeting both its form and its content. The preparations for it were seen as hasty and brief, with the announcement made [only two days](#) prior to its convening, which many invitees considered an indication of a [lack of seriousness](#) and sufficient preparedness to address such [an important national milestone](#). This led some political and academic figures to decline the invitation.

Serious questions were also raised regarding the representation of political and ethnic components, as the Kurdish National Council pointed to the exclusion of influential forces from the invitation list and considered that participation was conducted in a selective manner that did not reflect the principles of national partnership. Moreover, the conference [lacked clear mechanisms](#) for implementing its outcomes or ensuring follow-up on its recommendations, raising doubts about its effectiveness and its ultimate results.

As for its [final statement](#), despite affirming concepts such as “the unity of Syria” and “its sovereignty,” it was issued in a general form, stripped of any concrete commitments, particularly in light of the absence of a timeline or a detailed vision for the transitional process. Accordingly, the conference appeared closer to a [message directed at the international community](#) than to a genuine national dialogue platform that expressed a unifying national political will.

1.3. The Committee for Drafting the Constitutional Declaration

The announcement of the formation of the committee tasked with drafting the constitutional declaration on 2 March 2025 raised numerous questions regarding the transparency and seriousness of the process. Although the committee had not officially announced the commencement of its meetings, content from the draft began to leak to the media within hours of the presidential decree. Non-Syrian media outlets, including [Al Jazeera](#) and [Al Modon](#), published excerpts from the declaration’s provisions and later a near-complete draft consisting of 43 articles, even before it was known whether the committee had actually held its first meeting.

This suspicious timing reinforced the perception that the draft—or the majority of its content—had been prepared in advance, and that the committee was formed later merely to give a [formal legal veneer](#) to a prearranged decision. The absence of any official clarification from the relevant authorities raised legitimate questions about the transparency of the drafting process, the respect for the principle of participation, and whether there would be opportunities for the public to engage with and examine the mechanisms for building the constitutional framework for the transitional phase.

As for the committee’s composition, it consisted of seven legal experts, including two women. Despite the academic backgrounds of the members, their areas of expertise were limited exclusively to the legal field, with no representation of experience in politics, economics, or the social sciences, which raises concerns in a transitional context that requires multidimensional approaches.

It is also notable that most committee members shared [similar intellectual orientations](#), reflecting a bias in its formation and excluding a broad spectrum of national competencies that

had emerged during the Syrian uprising, especially those involved in political and constitutional debates over the past years. Rather than serving as a mirror of the intellectual and political diversity within Syrian society, the committee remained confined to a narrow technical-legal framework, thereby weakening its representational legitimacy and its capacity to produce a constitutional text that reflects the pluralistic character of the upcoming stage.

Furthermore, the committee lacked genuine representation of ethnic and religious components and did not sufficiently consider gender balance – with only two women among its seven members – nor did it reflect diversity of identities and orientations. This entrenches the committee’s limited inclusiveness and representativeness, undermining its prospects for building a broad-based social contract through its work.

1.4. Methodology and Core Themes of this Paper

This paper is based on a critical analysis of the Syrian Transitional Constitutional Declaration issued in March 2025, through a comparative legal and political reading that takes into account the current transitional context in Syria, and draws upon international constitutional standards as well as Syria’s legal obligations under treaties it has ratified.

The paper does not approach the declaration merely as a procedural transitional document, but rather treats it as a foundational and pivotal text that is supposed to lay down the contours of the upcoming political system and define the nature of the relationship between the state and society. Within this framework, the paper examines the declaration through three core themes that constitute fundamental pillars of any democratic transformation process:

- The principle of separation of powers and the powers of the Transitional President of the Republic
- The extent to which transitional justice is incorporated as a comprehensive and fair mechanism
- The inclusivity of the declaration in reflecting the various components and diverse identities of Syrian society

These themes are supplemented by a comparative analysis linking the 2025 constitutional declaration with Syria’s previous constitutions of 1950, 1973, and 2012, in order to measure the degree of progress or regression in the core constitutional principles addressed in the paper.

The paper does not claim to cover every aspect of the text but rather focuses on those elements that affect the deep political and constitutional structure and directly influence the legitimacy of the transitional phase and the pathways for building a new social contract.¹

¹ Syrians for Truth and Justice has prepared a legal paper on the key constitutional principles that the Syrian constitution should include, so that the constitutional process serves as a transformative tool for positive change. Syrians for Truth and Justice. “[Syria’s New Constitution: Ten Constitutional Principles for a Just and Inclusive Democratic State](#)” 31 January 2025.

2. First Theme: The Powers of the Transitional President of the Republic and the Issue of Separation of Powers

The principle of separation of powers is one of the fundamental pillars of any democratic system that respects the rule of law. It is an essential safeguard to prevent the concentration of power in the hands of a single person or entity and to ensure that each branch is accountable to the others. The transitional constitutional declaration, in its Article 2, states: “The state shall establish a political system based on the principle of separation of powers.” However, it contradicts this principle in its other articles by enshrining an almost absolute presidential dominance.

2.1. Concentration of Powers in the Hands of the President and the Absence of Institutional Balance

According to the constitutional declaration, the transitional president holds near-absolute executive and legislative powers, including the issuance of decrees, and laws approved by the People’s Assembly / Article 39, appointment of the government, declaration of a state of emergency, appointment and dismissal of senior officials, and ratification of treaties. The declaration deprives the People’s Assembly of the power to impeach the president, to vote on granting or withdrawing confidence from ministers, or to exercise effective oversight over the executive branch.

2.1.1. Appointment of Members of the People’s Assembly:

Article 24 grants the Transitional President of the Republic the authority to form a higher committee that selects the members of the People’s Assembly and supervises the election of two-thirds of them through subsidiary bodies. As for the remaining one-third, the president appoints them directly.² This arrangement subjects the legislative authority to presidential dominance, by combining the power to oversee the electoral process with the authority to appoint members of it, which contradicts the principle of separation of powers, undermines the institutional independence of the Assembly, and strips the elections of their representative substance.

2.1.2. Enshrining Noble Values and Virtuous Morals

Article 33 also adds a dangerously ideological dimension by granting the Transitional President the authority to “promote noble values and virtuous morals,” a vague phrase often used to justify restrictions in the name of ethics or religion. This phrase represents one of the most dangerous ideological formulations in the declaration, as its conceptual ambiguity allows it to be used as a restrictive tool to justify repressive policies. Moreover, it contravenes the principle

² On 13 June 2025, the Transitional President of the Republic issued Presidential Decree No. 66 of 2025, establishing a committee called the “Higher Committee for People’s Assembly Elections.” The decree tasked the Higher Committee with overseeing the formation of subsidiary electoral bodies, which would in turn elect two-thirds of the members of the People’s Assembly. <https://www.sana.sy/?p=2231640>

of legal certainty, which requires clarity of rules and provisions, and threatens intellectual and political pluralism in the name of “values.”

2.1.3. Signing International Treaties

Article 37 further provides that the Transitional President of the Republic shall have the “final signature” on treaties concluded with states and international organizations. However, conferring a “final” nature on the president’s signature creates ambiguity regarding the sequence of procedures for ratifying international treaties, such that the People’s Assembly’s ratification under Article 30 of the declaration³ has no legally binding effect if it is not coupled with the approval of the Transitional President. If the latter refuses to sign, the treaty’s entry into force is blocked, and the People’s Assembly has no constitutional means to complete or override the process.

2.1.4. Declaration of War, General Mobilization, and the State of Emergency:

Article 41⁴ grants the Transitional President of the Republic extensive powers to declare war and general mobilization, as well as to declare a state of emergency, based on the approval of the National Security Council, without requiring the approval of the People’s Assembly (bearing in mind that the composition of this Assembly suffers from structural imbalances and weak independence, as noted above).

It should be noted that the National Security Council was established by a [decree](#) issued by the Transitional Syrian President Ahmad al-Shar’a on 12 March 2025, just one day before the issuance of the Constitutional Declaration. The Council consists of seven members, chaired by the Interim President, and includes the Ministers of Foreign Affairs, Defense, and Interior, the Director of General Intelligence, along with three members appointed by the president: two advisors and a specialized technical expert.

While Article 41 requires consultation with the head of the People’s Assembly and the President of the Constitutional Court (who is appointed by the President of the Republic) in the event of a state of emergency, the decision essentially remains in the hands of the Transitional President of the Republic. The approval of the People’s Assembly is required only to extend the state of emergency after its initial three-month period expires. These powers raise questions about the balance of powers, particularly since the adopted formulas do not impose genuine

³ Article 30 of the Constitutional Declaration states the following: “The People’s Assembly shall undertake the following tasks... (c) the ratification of international treaties.”

⁴ Article 41 of the Constitutional Declaration provides as follows: (1) The President of the Republic shall declare general mobilization and war after the approval of the National Security Council. (2) If a serious and imminent threat arises that endangers national unity or the safety and independence of the homeland, or hinders state institutions from carrying out their constitutional functions, the President of the Republic may declare a partial or total state of emergency for a maximum period of three months, in a statement to the people, after obtaining the approval of the National Security Council and consulting with the Head of the People’s Assembly and the President of the Constitutional Court. It may be extended once more only with the approval of the People’s Assembly.

parliamentary oversight before taking critical decisions, such as entering into war or restricting rights and freedoms.

2.1.5. Amendment of the Constitutional Declaration

Article 50 of the Constitutional Declaration provides for the possibility of amending it “with the approval of two-thirds of the People’s Assembly upon the proposal of the President of the Republic.” This formulation raises concerns in a transitional context that is supposed to be based on participation and mutual oversight. Restricting the right to propose amendments solely to the interim President entrenches executive dominance and excludes other authorities and political and societal actors from contributing to the revision of the constitutional framework governing the transitional period. Moreover, requiring the approval of two-thirds of the People’s Assembly does not constitute an adequate safeguard, given the lack of guarantees for its genuine representation of political and social pluralism. This arrangement lacks the principle of separation of powers and weakens oversight over the executive branch, potentially opening the door to substantial amendments being carried out unilaterally or without genuine national consensus.

2.2. Subordination of the Judiciary and the Weakening of its Independence

With regard to the judiciary, the Supreme Constitutional Court – the body theoretically responsible for overseeing the constitutionality of laws – is appointed exclusively by the President (Article 47), effectively making it an executive tool under a judicial guise. This problem is compounded by the continued application of the Judicial Authority Law of 1961, which keeps the judiciary administratively and financially subordinate to the executive branch, in violation of judicial independence. Under this framework, the President of the Republic chairs the Supreme Judicial Council and is represented by the Minister of Justice (Article 65), who in turn presides over half of the Council’s members subordinate to him; the Deputy Minister of Justice is an employee of the Ministry of Justice, and the Head of the Judicial Inspection Department is also an employee reporting to the Minister of Justice. Moreover, the Minister of Justice heads the Public Prosecution, which means he supervises the Prosecutor General, further reinforcing his dominance over members of the judiciary, stripping the judiciary of its independence, and depriving judges of their immunity.⁵

This presidential model has been widely criticized by Syrian and international organizations, including a [report](#) by Human Rights Watch, which considered that the declaration limits the judiciary’s ability to hold the president accountable because of “the authority to appoint all seven members of the Higher Constitutional Court without parliamentary or other oversight. Without mechanisms to guarantee judicial independence or the creation of an independent body to oversee judicial appointments, promotions, discipline, and removals, the judiciary”.

⁵ For more details, see: Syrians for Truth and Justice. [Syria: The Interference of the Executive Branch in the Judiciary and its Impact on Safeguarding Democracy](#). 22 February 2025

Powers and Positions of the Syrian Transitional President **Ahmad al-Sharaa** According to Syria's Interim Constitutional Declaration



Establishes

(Article 24/1)

a High Committee tasked with selecting the members of the People's Assembly

Appoints

(Article 24/3)

one-third of the members of the People's Assembly

Exercises

(Article 31)

executive authority alongside the ministers

(as the Head of the Executive Authority)

Serves

(Article 32)

as the Commander-in-Chief of the army and armed forces

Appoints

(Article 34)

one or more vice presidents, defines their powers, relieves them of their duties, and accepts their resignations

Appoints

(Article 35/1)

and dismisses ministers and accepts their resignations

Issues

(Article 36)

executive and regulatory decrees, bylaws, orders, and presidential decisions in accordance with the laws

Represents

(Article 37)

the state and undertakes the final signing of treaties with states and international organizations

Appoints

(Article 38)

heads of diplomatic missions to foreign countries and terminates their service, and accepts the accreditation of foreign diplomatic missions

Proposes

draft laws (Article 39/1)

Enacts

(Article 39/2)

laws passed by the People's Assembly and has the right to object to them

Grants

special pardons and restores civil rights

(Article 40)

Declares

(Article 41/1)

general mobilization and war after the approval of the National Security Council

Chairs the National Security Council and appoints its members.

(Article 41/2)

Declares

a state of emergency (after the approval of the National Security Council and consultation with the Head of the People's Assembly and the Prime Minister); the state of emergency may not be renewed a second time except with the approval of the People's Assembly

Appoints

members of the Supreme Constitutional Court

(Article 47)

Proposes

amendments to the Constitutional Declaration, which are adopted following the approval of two-thirds of the People's Assembly.

(Article 50)

Serves

(Article 51)

as the President of the Supreme Judicial Council,

pursuant to the Judicial Authority Law No. 98 of 1961 in force.

2.3. Violation of International Obligations and Constitutional Standards

These extensive powers granted to the Transitional President of the Republic conflict with [recognized constitutional principles](#) and constitute a direct violation of Syria's obligations under several international treaties that define the fundamental principles of good governance, separation of powers, and guarantees of political and civil rights. The [International Covenant on Civil and Political Rights](#), ratified by Syria in 1969 (making its provisions legally binding on the country), stipulates in Article 14 the requirement of judicial independence, and in Article 25 the necessity of guaranteeing political participation through free elections and access to public services without discrimination or exclusion. Furthermore, Article 2 obliges the state to take all legislative measures necessary to guarantee the rights enshrined in the Covenant.

At the regional level, Syria acceded to the [Arab Charter on Human Rights](#) in 2007, and is therefore also bound by its provisions affirming judicial independence (Article 12) and the right to political participation (Article 24). These commitments strengthen the legal basis for [criticizing the authoritarian structure](#) enshrined in the transitional constitutional declaration, and support calls for a substantive review to ensure the balance of powers and to place limits on presidential authority.

As for the [Venice Commission principles](#) (2016), officially known as the European Commission for Democracy through Law, although Syria is not a member, they are considered among the [most internationally recognized constitutional references](#) and are relied upon by United Nations and European Union institutions when assessing constitutional texts in political transition contexts. These principles emphasize the need to [refrain from granting the executive branch permanent legislative powers](#), and highlight the importance of having reciprocal institutional oversight mechanisms among the three branches of power.

Likewise, the unlawful interference of the executive branch in the work of the judiciary constitutes a violation of the [Basic Principles on the Independence of the Judiciary](#) adopted by the United Nations General Assembly in 1985. In addition, the [UN principles on the rule of law](#), adopted as normative references for state-building in post-conflict situations, stress that the concentration of power without independent institutional oversight leads to the erosion of fundamental rights and the reproduction of authoritarian systems.

The powers granted to the Transitional President of the Republic under the constitutional declaration reveal a clear tendency toward the concentration of power, in a manner difficult to reconcile with the requirements of a transitional phase aimed at building a pluralistic democratic system (noting that this term is not even mentioned in the declaration). In the [absence of effective parliamentary or judicial oversight](#), and with the marginalization of the people's role in appointment and accountability mechanisms, a legitimate question arises as to whether this structure truly paves the way for a participatory transitional phase or simply [reproduces patterns of individual rule](#) under a new guise. In this context, justifications based on "transitional necessities" or "security considerations" are insufficient to override Syria's legal obligations, nor are they consistent with relevant international principles, which stress the need for separation of powers and for ensuring balance and reciprocal oversight. Accordingly, there is a pressing need to review the structure of the interim political system in order to ensure

respect for constitutional standards and to provide a genuine foundation for a sustainable democratic transformation.

3. Second Theme: Transitional Justice in the Constitutional Declaration

The Constitutional Declaration addresses transitional justice (particularly in its fourth chapter), which can be considered a progressive step compared to previous Syrian constitutional texts. This is the first time that terms such as “enforced disappearance,” “the non-applicability of statutes of limitations to war crimes and crimes against humanity,” and “transitional justice” have been included in an official constitutional document. However, while these references are symbolically important, they suffer from legal and methodological shortcomings that could undermine the prospects for achieving comprehensive and independent justice during the transitional phase.

3.1. Reduction of the Concept and Restriction of Accountability

Article 18 of the Constitutional Declaration stipulates the duty of the state to protect “human dignity and bodily integrity” and to “prevent enforced disappearance and physical and psychological torture,” and affirms that “crimes of torture shall not be subject to a statute of limitations.”

Moreover, Article 49 provides for the establishment of a “Commission to achieve transitional justice, based on effective, consultative, and victim-centered mechanisms, to determine means of accountability, the right to know the truth, and the provision of redress to victims and survivors, in addition to honoring martyrs.” The same article, in its second paragraph, excludes “war crimes, crimes against humanity, genocide, and all crimes committed by the ‘former regime’” from the principle of non-retroactivity of laws. It also criminalizes “the glorification of the Assad regime and its symbols,” or the denial and justification of its crimes.

While the inclusion of these concepts in a constitutional document represents a notable shift in Syrian legal discourse, the article shows a clear selective approach to justice, as it restricts accountability to the crimes of the previous regime without any reference to the widespread violations committed by other active parties in the conflict, including armed opposition factions, de facto authorities, ISIS, as well as certain foreign forces.⁶

This narrow definition of accountability runs counter to the core principles of transitional justice, foremost among them the principle of non-impunity, and risks undermining the legitimacy of the entire process if accountability is used as a selective tool that exempts

⁶ See, for example: Independent International Commission of Inquiry on the Syrian Arab Republic. [Rule of Terror: Living under ISIS in Syria](#). 14 November 2014. See also: Independent International Commission of Inquiry on the Syrian Arab Republic. [A/HRC/39/65](#). 9 August 2018. See also: Human Rights Watch. [Everything is by the Power of the Weapon](#). 29 February 2024.

perpetrators of documented violations against civilians who are not affiliated with official authorities.

Moreover, the Article does not provide a clear definition of victims, nor does it set out objective criteria for reparations, which could open the door to discrimination in recognizing victims on the basis of political or geographic affiliation or the identity of the perpetrating party. Transitional justice cannot be built on discrimination or selectivity; rather, it requires comprehensive accountability and the recognition of the rights of all victims without exception, in accordance with the principles enshrined in Article 10 of the Constitutional Declaration itself “Citizens are equal before the law in rights and duties”, Articles 1 and 2 of the [Universal Declaration of Human Rights](#), and Article 2 of the [International Covenant on Civil and Political Rights](#).

It is worth noting that Transitional President Ahmad al-Shar’a issued [Decree No. 20](#) on 17 May 2025, establishing the “National Commission for Transitional Justice.” Despite the importance of this step, it raised several substantive and procedural concerns. The commission was announced without proposing any participatory mechanism for its formation, nor did it clarify guarantees related to its independence, its powers, or the limits of its mandate, which weakened the prospects of considering it a genuine step toward a comprehensive transitional justice process. Furthermore, the decree did not include any clear national strategy or an integrated roadmap to accompany the work of the commission, making it closer to a symbolic measure lacking the elements of effectiveness.

Establishing a commission under the umbrella of the executive authority and in isolation from the participation of victims and civil society raises serious concerns about diluting the concept and turning it into a political or technical tool that does not meet the demands of justice and accountability, nor contributes to building societal trust or establishing guarantees of non-repetition.⁷

According to Decree No. 20 establishing the commission, it was required to develop its internal regulations “within no more than 30 days” of its issuance. However, despite the deadline passing, the commission has not issued any clarification or official announcement on the matter up to the date of publication of this paper, in clear violation of the decree.

Based on the above, it is important to stress that the committee concerned should adopt a comprehensive and non-discriminatory approach to transitional justice, grounded in truth-seeking, accountability, reparation, and guarantees of non-repetition. STJ also reminds the commission of the need to align its work with the Constitutional Declaration, international human rights law, and international humanitarian law, as well as the UN’s guiding principles in this field. It emphasizes the importance of centering victims by actively involving them in the design and monitoring of the commission’s work, and adopting performance indicators based on the satisfaction of survivors. It also stresses the necessity of ensuring full transparency in

⁷ Syrians for Truth and Justice. [Joint Statement on Decree NO. 20 Stipulating the Establishment of a National Commission for Transitional Justice](#). 23 May 2025

the commission's operations and enhancing its cooperation with relevant international mechanisms to guarantee an effective and holistic justice process.

3.2. Limits on Freedom of Expression

Article 49(3) states that "The state criminalizes the glorification of the defunct Assad regime and its symbols. Denial of its crimes, praise for them, justification of them, or trivialization of them shall be considered crimes punishable by law," which raises a legal issue related to freedom of expression. Regional courts, such as the [European Court of Human Rights](#), have confirmed in their jurisprudence that public debate about political systems remains protected as long as it is not accompanied by actual incitement to hatred or violence.⁸ Moreover, the [Rabat Plan of Action \(2012\)](#), issued by the Office of the United Nations High Commissioner for Human Rights, recommends that the criminalization of political expression should not be used to restrict fundamental rights, and emphasizes the need to consider elements such as intent, context, content, and audience.

Therefore, stipulating the criminalization of "glorification" in vague terms and without a precise definition opens the door to using justice as a tool of repression, and contradicts Syria's obligations under the International Covenant on Civil and Political Rights, in particular Article 19, which guarantees freedom of opinion and expression, and Article 15, which affirms the principle of non-retroactivity of criminal laws except for acts criminalized under international law at the time of their commission. Moreover, restricting this criminalization solely to glorifying the previous regime, without expanding its scope to include "glorification" of other parties, undermines the neutrality of the text and raises concerns about discrimination in the legal protection of freedom of expression.

3.3. The Absence of Criminalization of Hate Speech

During the years of conflict, Syria has witnessed a rise in sectarian and nationalist speech inciting violence. Nevertheless, the Constitutional Declaration contains no explicit provision criminalizing hate speech or incitement on sectarian or ethnic grounds, at a time when the country is experiencing an unprecedented wave of such discourse.⁹

⁸ In the case of [Jersild v. Denmark \(1994\)](#), the Court addressed the conviction of a Danish journalist for broadcasting an interview with a youth group that made racist statements. The Court found that the purpose of the interview was informative rather than promotional, and that the journalist could not be held responsible for the statements of others, which constituted a victory for freedom of expression in public debates, even those involving sensitive topics. In contrast, in the case of [Féret v. Belgium \(2009\)](#), the Court upheld the conviction of a Belgian politician for distributing electoral leaflets containing speech that incites hatred against Muslims and immigrants. The Court considered that such speech exceeded the limits of freedom of expression, especially when it came from a person in a position of political influence, and threatened public safety and social coexistence. These judicial precedents illustrate that the Court distinguishes between legitimate political speech, which contributes to public debate, and speech that involves incitement to hatred or violence, which can be restricted to protect democratic values and the rights of others.

⁹ Syrians for Truth and Justice. [Syria: The Role of Hate Speech in the Massacres that Took Place in the Coastal Region in March 2025](#). 26 May 2025

Although Article 7 of the Constitutional Declaration includes general principles related to national unity and peaceful coexistence, stipulating in its second paragraph the state's commitment to "achieve coexistence and societal stability, preserve civil peace, and prevent forms of sedition and division and incitement to violence," this provision does not rise to the level of an explicit and clear criminalization of all forms of incitement to hatred, discrimination, or violence on sectarian or ethnic grounds.

STJ believes that this article is insufficient to address the phenomenon of hate speech, as it focuses on preventing discriminatory acts by the state without extending to speech originating from individuals or non-governmental entities, which is one of the main sources of hate speech in the Syrian context. Moreover, limiting criminalization to "incitement to violence" ignores the danger of discourse that dehumanizes certain groups or perpetuates stereotypical and discriminatory images against them without an explicit call for violence. Therefore, relying on Article 7 alone would leave many harmful forms of expression outside the scope of legal regulation.

It should be noted that the [International Convention on the Elimination of All Forms of Racial Discrimination](#) (ICERD), which Syria ratified in 1969, affirms the necessity for the state to adopt legislative measures to prevent the dissemination of ideas based on racial superiority or hatred, and criminalizes advocacy of racial discrimination or violence (Article 4).

Likewise, [the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations](#) (United Nations General Assembly Resolution 60/147 of 2005) obligate states to ensure full guarantees of non-repetition, which cannot be achieved without addressing incitement and the cultural and social causes of conflict.

3.4. Incomplete Legal Framework

Despite the use of transitional justice terminology, the declaration does not obligate the state to adhere to clear standards regarding investigation and prosecution, nor does it link the establishment of the National Commission for Transitional Justice to any national strategy or comprehensive approach. The absence of genuine representation of victims or civil society in setting the commission's priorities deprives it of its reconciliatory dimension and makes it closer to a merely formal tool.

Furthermore, the declaration contains no reference to the need to review severe penalties, foremost among them the death penalty, which has long been used in Syria as a tool of political repression and exclusion. This penalty contradicts the spirit of transitional justice, which seeks to establish the principles of fair accountability, protect the right to life, and avoid retaliation. The [Special Rapporteur on extrajudicial, summary or arbitrary executions](#), as well as many transitional justice principles issued by the Office of the High Commissioner for Human Rights,

have recommended that countries emerging from conflict freeze or abolish the death penalty as part of confidence-building measures and guarantees of non-repetition.¹⁰

The [Second Optional Protocol to the International Covenant on Civil and Political Rights](#) stipulates that states must take all necessary measures to abolish the death penalty within their jurisdiction. From this perspective, Syria should move toward ratifying this protocol as an essential step in its democratic transformation and in line with international human rights standards.

It is notable, from the perspective of analyzing international standards, that the Constitutional Declaration does not include any reference, even in general terms, to conventions or principles that are fundamental to building effective transitional justice mechanisms. Documents such as the [four Geneva Conventions](#) (which Syria ratified in 1953, making it legally bound by international humanitarian law), as well as the [Rome Statute of the International Criminal Court \(1998\)](#) and the [International Convention for the Protection of All Persons from Enforced Disappearance \(2006\)](#) — even though Syria has not ratified the last two — are all key international references, some of which fall under customary international law and therefore constitute binding legal obligations on all states, including Syria.

Accordingly, the inclusion of transitional justice concepts in the Syrian Transitional Constitutional Declaration is a symbolic gain, but it is not sufficient. The current provisions suffer from a lack of comprehensiveness, ambiguous wording, and the absence of binding mechanisms, making this form of justice closer to political rhetoric than to a legal obligation. Transitional justice, as defined by international standards, is not merely about holding a former regime accountable but is a comprehensive national project to uphold rights, provide redress to victims, and rebuild societal trust based on equality, transparency, and the rule of law. Without adopting a comprehensive and independent legal framework, there is a real fear that the National Commission for Transitional Justice will become a cosmetic tool that conceals continued impunity and deepens division, rather than opening a genuine path to national reconciliation.

4. Third Theme: Lack of Inclusivity in the Constitutional Declaration

The Transitional Constitutional Declaration came at a stage that was supposed to lay the foundations for a new social contract, one that would overcome sectarian divisions, political exclusion, and ethnic discrimination that have marked public life in Syria for decades. Although some of its articles attempted to reference concepts of inclusivity and citizenship, the final text remained selective and even rife with contradictions that undermine the essence of equality and the pluralism of components.

¹⁰ Syrians for Truth and Justice. [Syria: Death Penalty as a Tool of Political Repression and Elimination of Opponents](#). 10 October 2024.

4.1. The Name of the State and the Arab National Identity

Article 1 of the declaration states that the “Syrian Arab Republic” is an independent state, thereby maintaining the name adopted by the constitution of the Ba’ath Party. This choice has sparked numerous objections, particularly from non-Arab communities who see this formulation as marginalizing their cultural and ethnic identity, including Kurdish and Syriac groups who have [called](#) for adopting the name “Syrian Republic” as a more neutral and inclusive alternative. Insisting on this designation, without opening a public debate about its implications, effectively excludes non-Arab components and contradicts Article 1 of the International Covenant on Civil and Political Rights, which enshrines peoples’ right to self-determination and the right to define their cultural and political identity.

4.2. The Religion of the President and the Source of Legislation

Article 3 reproduces the traditional provision that stipulates the “religion of the President of the Republic shall be Islam, and Islamic jurisprudence shall be the principal source of legislation.” This article ignores the existence of other monotheistic or non-monotheistic religions and non-religious beliefs, despite Syria’s wide religious diversity. Such a provision restricts the principle of equality in holding public office and excludes entire sectors of society, in clear violation of Article 26 of the International Covenant on Civil and Political Rights, which prohibits religious discrimination, as emphasized by the UN Human Rights Committee in its recommendations to several states.¹¹

4.3. Limiting to Arabic Language and Denial of Cultural Pluralism

Article 4 enshrined Arabic as the sole official language of the state, without recognizing other languages as national official languages, despite their historic use in the country, such as Kurdish, Syriac, and Aramaic. This contradicts Article 7 of the declaration itself, which in its third paragraph states the duty of the state to “guarantee the cultural diversity of Syrian society in all its components, and the cultural and linguistic rights of all Syrians.” It also contradicts Article 15 of the [International Covenant on Economic, Social and Cultural Rights](#) (to which Syria has been a party since 1969), which affirms individuals’ right to participate in their own cultural life, and conflicts with Article 30 of the [United Nations Declaration on the Rights of Indigenous Peoples \(2007\)](#), which guarantees the use of language and the practice of culture within state institutions.

¹¹ See: Human Rights Committee, General Comment No. 18 on “Non-Discrimination,” which clarifies that Article 26 of the International Covenant on Civil and Political Rights guarantees equality before the law and prohibits discrimination on the basis of religion or belief, including in access to public employment. See also: General Comment No. 22 on Article 18 of the Covenant, which affirms that freedom of religion or belief includes theistic, non-theistic, and atheistic beliefs, and prohibits imposing any discrimination or restrictions on that basis.

4.4. The Absence of Political Representation and Disregard for the Diversity of Components

The drafting committee ignored genuine representatives of all Syrian components, which led to a lack of societal consensus on the Constitutional Declaration and generated objections from national forces and entities that were marginalized in the process due to the absence of any meaningful representation. This increased the sense of exclusion and reduced the legitimacy of the document as an inclusive umbrella for the transitional phase.

For example, the Kurdish National Council [expressed](#) its rejection of the declaration as it stands, considering it a continuation of exclusionary practices, stating that it does not represent the Kurds and does not take into account their demands for national recognition, language, and political partnership.

Similarly, the Syrian Democratic Council [rejected](#) it on the grounds that “Any constitutional declaration must be the result of genuine national consensus, not a project imposed by one party.”

Other [reports](#) also cited a Kurdish political consensus rejecting the declaration, arguing that it does not reflect any genuine intention to build an inclusive state for all its people, but rather reproduces the same ethnic and religious dominance that Syrians revolted against. A review of draft proposals submitted by Kurdish bodies, such as the Autonomous Administration, shows a fundamental divergence in the vision of the relationship between the state and society, as these documents demand the constitutionalization of cultural and national rights, which the declaration completely ignored.¹²

In addition, Sheikh Yousef Jarbu', one of the spiritual leaders of the Druze community in Syria, [expressed](#) fundamental reservations about the Constitutional Declaration, saying it “does not meet the aspirations of the Syrian people,” does not respect Syria’s diversity, departs from the principle of participation, and raises questions about protecting the rights of citizens in a state of one color. Moreover, Sheikh Hikmat al-Hijri, the leader of the Druze community in Syria, also [announced](#) his rejection of the declaration, affirming that it does not fulfill the people’s aspirations and the goals of the revolution, and that the new administration has not provided any real guarantees for the rights of Syria’s diverse components.

Several Christian clergy in Syria also expressed reservations about the Constitutional Declaration issued in March 2025, considering that it does not reflect the aspirations of all components of Syrian society. Among them, Bishop Jack Mourad, Archbishop of Homs, Hama, and Nabek for the Syriac Catholics, voiced [his concern](#) that the Constitutional Declaration may

¹² See, for example: the document “[Social Contract of the Democratic Autonomous Administration of the Region of North and East Syria](#)” issued in December 2023, which included the vision of the Syrian Democratic Council (SDC) for Syria’s future as a decentralized democratic system that recognizes ethnic and religious pluralism. See also: [the statement](#) of Ilham Ahmed, Co-Chair of the Executive Committee of the SDC, in September 2019, in which she affirmed that the formation of the Syrian Constitutional Committee took place without the participation of the Autonomous Administration, making it, in their view, illegitimate and its outcomes non-binding.

not guarantee the rights of religious minorities, pointing out that some of its provisions could marginalize non-Muslim communities in the country.

Furthermore, several prominent Syrian civil society organizations expressed their reservations about the draft Constitutional Declaration, pointing to the absence of inclusive representation of Syria's components. For example, the Syrian Center for Media and Freedom of Expression [noted that](#) the current Constitutional Declaration does not reflect a comprehensive national political consensus, but rather resulted from a closed process confined to a limited legal committee, amid the actual exclusion of Syria's political society and its civil components. The Center expressed fears over the lack of genuine political and social representation, which could lead to ignoring the diversity within Syrian society and threaten to lose the national compass at a founding moment that should be unifying.

The Equal Citizenship Center [considered](#) that the declaration lacks genuine involvement of civil society, which may lead to pitfalls in the transitional phase. The Day After organization [expressed](#) its concern that the declaration does not reflect the will of all Syrians, raising questions about its inclusiveness. The Syrian Feminist Lobby, in its [statement](#), pointed out that the declaration was drafted in the clear absence of active women's participation, whether in the drafting committee or in the new government, which included only one woman. The lobby considered that this limited representation does not live up to the struggle of Syrian women and does not reflect the principle of participation that should govern the transitional phase.

Syrian businessman and chairman of the [Madaniya](#) Board of Directors, Ayman Asfari, also [stated](#) that the Constitutional Declaration does not reflect the will of the Syrian people. He expressed concern about the lack of separation of powers and the granting of broad powers to the president without effective oversight mechanisms on one hand, and about the exclusion of essential components of Syrian society on the other, warning that this threatens to deepen geographical and sectarian divisions and undermines the prospects of building a democratic state based on equal citizenship and the rule of law.

4.5. Absence of Democracy and the Principle of Popular Sovereignty

The Constitutional Declaration lacked any provision affirming that "sovereignty belongs to the people" or that "the people are the source of authority," which is a [well-established constitutional principle](#) in previous Syrian constitutions and is a foundational element of any democratic system. The people, as the holders of sovereignty, are the ones who delegate public powers through elections and who constitute the constituent authority empowered to draft or approve constitutions, as affirmed by Article 21 of the Universal Declaration of Human Rights, which states that "the will of the people shall be the basis of the authority of government."

The absence of such an affirmation in the text of the declaration cannot be considered a mere oversight but rather effectively [suspends the principle of popular sovereignty](#) indefinitely, subject to the outcomes of the transitional phase. The upcoming constitutional process will determine whether the constituent power will be returned to the people to exercise democratically through their representatives, or whether it will remain held by the existing

executive authority, thereby overriding the principle of popular delegation and the requirements of constitutional legitimacy.

It is also notable that there is no explicit mention of the concept of “democracy” throughout the entire text of the Syrian Constitutional Declaration, which reflects an ambiguity about the vision for the future state and a reluctance to commit to a genuinely pluralistic political system. Referring to [democracy](#) in foundational documents is essential, not only as a form of government but as a fundamental guarantee of accountability, political participation, and the protection of rights and freedoms. Modern constitutions¹³ — particularly in post-conflict countries — often begin with an explicit acknowledgment that the state is “democratic,” as a principled commitment to building a political system based on popular sovereignty, the peaceful transfer of power, and respect for pluralism.

The absence of this concept in a declaration intended to guide a transitional phase weakens the declared commitment to the principles of building a state governed by the rule of law and raises doubts about the intentions to establish an alternative system that respects the aspirations of Syrians as expressed since 2011. This omission also conflicts with a number of international reference documents that recommend that post-conflict constitutional frameworks include explicit provisions on democracy, accountability, and political representation to guarantee the non-recurrence of authoritarianism.¹⁴ These documents emphasize that including the concept of democracy in foundational texts is not merely a linguistic choice but a fundamental commitment that establishes the foundations for a successful transition toward a political system that respects citizens’ aspirations and guarantees their rights.

Although Article 7(3) of the declaration, states that “the state shall guarantee the cultural diversity of Syrian society in all its components and the cultural and linguistic rights of all Syrians,” the Constitutional Declaration reproduces structural patterns of exclusion that were among the reasons for the outbreak of the Syrian conflict, by maintaining a singular state identity, requiring Islam as the religion of the president, and failing to effectively implement cultural and linguistic pluralism in practice. This empties the principle of citizenship of its substance and undermines any real possibility of building a new, just, and inclusive social contract.

¹³ For example: Tunisia – Constitution of 2014; Sudan – Constitutional Declaration of 2019; South Africa – Constitution of 1996; Iraq – Constitution of 2005; Rwanda – Constitution of 2003 (amended in 2010).

¹⁴ See: the [Guidance Note of the UN Secretary-General on Democracy](#), which affirms that democracy is a core value of the United Nations and calls for its promotion through the support of human rights, development, peace, and security. See also: the document [“Democracy and Human Rights: The Role of the United Nations”](#), which resulted from the conclusions and recommendations of a global roundtable on “Democracy and Human Rights,” held at the United Nations in New York on 11–12 July 2011, and co-organized by International IDEA, the UN Department of Political Affairs and the UN Office of the High Commissioner for Human Rights, which highlights the importance of incorporating principles of democracy in post-conflict constitution-building processes.

5. Comparison Between the Syrian Constitutions (1950, 1973, and 2012) and the Constitutional Declaration (2025)

The following table presents a comparison between previous Syrian constitutions and the 2025 Constitutional Declaration, based on the themes addressed in this paper. The comparison aims to highlight the advances or regressions in some core constitutional aspects, noting that the analysis is limited to the points that constituted central themes of this paper. It is also worth mentioning that the 1950 Constitution was cited as one of the references in the drafting process of the 2025 Constitutional Declaration, yet the comparison shows differences between the two documents on a number of fundamental principles, with the 1950 Constitution providing, in many areas, broader guarantees of rights and freedoms and a clearer balance of powers.

Theme	1950 Constitution	1973 Constitution	2012 Constitution	2025 Constitutional Declaration
Democracy	Mentioned: "Arab Democratic Republic" (Article 1)	Mentioned: "Popular, Democratic, and Socialist State" (Article 1)	Mentioned: "Democratic State" (Article 1); "Power shall be exercised democratically," "Respect for the principles of national sovereignty and democracy" (Article 8)	Not mentioned
Popular Sovereignty	Mentioned: "Sovereignty belongs to the people," "Sovereignty is based on the principle of government of the people, by the people, and for the people," "The people exercise sovereignty" (Article 2)	Mentioned: "Sovereignty belongs to the people" (Article 2)	Mentioned: "Sovereignty belongs to the people," "Based on the principle of government of the people, by the people, and for the people," "The people exercise sovereignty" (Article 2)	Not mentioned
Separation of Powers	Clearly established throughout the constitution despite the absence of an explicit article on	Limited due to the broad powers of the executive branch (Articles 50–148). Explicit mention of	Very limited due to dominant executive powers (Articles 55–149). Explicit mention of	Mentioned but contradicted by articles granting wide executive authority: "The state shall establish a political system based on the

	<p>separation of powers.</p> <p>Explicit mention of judicial independence: “The judiciary is an independent authority” (Article 104);</p> <p>“Judges are independent” (Article 105)</p>	<p>judicial independence (but other articles grant the executive branch broad powers that effectively restrict it): “The judiciary is independent” (Article 131);</p> <p>“Judges are independent” (Article 133)</p>	<p>judicial independence (but other articles grant the executive branch broad powers that effectively restrict it): “The judiciary is independent” (Article 132);</p> <p>“Judges are independent” (Article 134)</p>	<p>principle of separation of powers” (Article 2).</p> <p>Explicit mention of judicial independence (but other articles grant the executive branch broad powers that effectively restrict it): “The judiciary is independent, and no authority shall prevail over judges except the law” (Article 43)</p>
Presidential Powers	<p>Limited powers (Articles 58, 69–87, 90, 95, 120, 155, 165).</p> <p>The president can be tried in cases of constitutional breach and high treason, and is also accountable for ordinary crimes (Articles 86, 122).</p> <p>“The presidential term is five full years,”</p> <p>“It may not be renewed except after five full years have passed since the end of the presidency” (Article 72)</p>	<p>Broad powers (Articles 83–114, 123, 132, 139, 145, 149).</p> <p>The president can be tried only in the case of high treason (Article 91).</p> <p>“The president of the republic is elected for seven years” (Article 85)</p>	<p>Nearly absolute powers, with some formal checks (Articles 83–117, 124, 133, 141, 147, 150).</p> <p>The president can be tried only in the case of high treason (Articles 117, 146).</p> <p>“The president of the republic is elected for seven years,” “He may not be re-elected except for one consecutive term” (Article 88)</p>	<p>Nearly absolute powers (Articles 24, 31–41, 47, 50).</p> <p>No mention of trial or accountability.</p> <p>No clear reference to a presidential term, but vaguely indicates the transitional phase the current president leads: “The transitional phase shall be five years starting from the date of entry into force of this constitutional declaration, and shall end after the adoption of a permanent constitution for the country and the organization of elections in accordance with it” (Article 52)</p>
Enforced Disappearance and Torture	<p>Enforced disappearance not mentioned;</p> <p>Torture mentioned: “No one shall be tortured or treated in a humiliating manner” (Article 10)</p>	<p>Enforced disappearance not mentioned;</p> <p>Torture mentioned: “No one shall be tortured physically or morally or treated in a humiliating manner”</p>	<p>Enforced disappearance not mentioned;</p> <p>Torture mentioned: “No one shall be tortured or treated in a humiliating manner” (Article 53)</p>	<p>Enforced disappearance and torture both mentioned: “The state shall protect human dignity and bodily integrity and shall prevent enforced disappearance and physical and</p>

		(Article 28)		<p>psychological torture, and crimes of torture shall not be subject to a statute of limitations" (Article 18).</p> <p>"War crimes, crimes against humanity, genocide, and all crimes committed by the defunct regime are excluded from the principle of non-retroactivity of laws"; "The state criminalizes the glorification of the defunct Assad regime and its symbols, and considers denial of its crimes, praise for them, justification of them, or trivialization of them as crimes punishable by law" (Article 49)</p>
Hate Speech and Freedom of Expression	<p>Hate speech not mentioned; Freedom of expression mentioned: "The state shall guarantee freedom of opinion, and every Syrian shall have the right to freely express their opinion by speech, writing, photography, and other means of expression" (Article 14)</p>	<p>Hate speech not mentioned; Freedom of expression mentioned: "Every citizen has the right to freely and publicly express their opinion by speech, writing, and all other means of expression" (Article 38)</p>	<p>Hate speech not mentioned; Freedom of expression mentioned: "Every citizen has the right to freely and publicly express their opinion by speech, writing, or all means of expression" (Article 42)</p>	<p>Hate speech not mentioned; Freedom of expression mentioned: "The state shall guarantee freedom of opinion and expression" (Article 13)</p>
Pluralism and National Identity	<p>Pluralism mentioned; Only Arab identity mentioned. "Syrians have the right to form political parties" (Article 18); "Syrian Republic" (title of Chapter One);</p>	<p>Pluralism not mentioned; Only Arab identity mentioned. "The Arab Socialist Ba'ath Party is the leading party in society and the state and leads a progressive national</p>	<p>Pluralism mentioned; Only Arab identity mentioned. "The political system of the state is based on the principle of political pluralism"; "Licensed political parties and electoral blocs</p>	<p>Pluralism mentioned, Only Arab identity mentioned. "The state shall protect the right to political participation and the formation of parties" (Article 14).</p>

	<p>“Our people who are part of the Arab nation,” “the Arab Syrian people” (preamble);</p> <p>“Syria is an Arab Republic” (Article 1)</p>	<p>front” (Article 8, as well as multiple mentions in the preamble);</p> <p>“Syrian Arab Republic,” “the Arab region of Syria is part of the Arab homeland,” “the people in the Arab region of Syria are part of the Arab nation” (Article 1);</p> <p>“The goal of the education and culture system is to create a nationalist, Arab, socialist generation” (Article 21);</p> <p>“Arab socialist national culture is the basis for building Arab socialist society” (Article 23)</p>	<p>contribute to national political life” (Article 8);</p> <p>“The Syrian Arab Republic is proud of its Arab affiliation, and of its people being an inseparable part of the Arab nation” (preamble);</p> <p>“Syrian Arab Republic,” “the people of Syria are part of the Arab nation” (Article 1)</p>	
Religion of the President and Source of Legislation	<p>Mentioned and limited to Islam: “Islamic jurisprudence is the principal source of legislation” (Article 3)</p>	<p>Mentioned and limited to Islam: “The religion of the President of the Republic is Islam,” “Islamic jurisprudence is a principal source of legislation” (Article 3)</p>	<p>Mentioned and limited to Islam: “The religion of the President of the Republic is Islam. Islamic jurisprudence is a principal source of legislation” (Article 3)</p>	<p>Mentioned and limited to Islam: “The religion of the President of the Republic is Islam, and Islamic jurisprudence is the principal source of legislation” (Article 3)</p>
Language	<p>Mentioned and limited to Arabic: “Arabic is the official language” (Article 4)</p>	<p>Mentioned and limited to Arabic: “Arabic is the official language” (Article 4)</p>	<p>Mentioned and limited to Arabic: “Arabic is the official language of the state” (Article 4)</p>	<p>Mentioned and limited to Arabic: “Arabic is the official language of the state” (Article 4)</p>

6. Recommendations

Based on the analysis presented in this paper, STJ sees the need for a fundamental review of the Transitional Constitutional Declaration to ensure its compatibility with the principles of democratic governance, its adherence to international constitutional standards, and its

alignment with the aspirations of the Syrian people who have struggled to build a just, democratic, and pluralistic state.

The importance of this review is highlighted in light of the need to establish a genuine balance of powers by limiting the absolute powers granted to the executive branch and ensuring the existence of effective oversight mechanisms; to include a comprehensive vision for transitional justice that commits to fairness and non-selectivity and sets out clear mechanisms for accountability and reparations; and to ensure the inclusivity of the declaration by effectively recognizing ethnic, religious, and cultural diversity and enshrining the principles of popular sovereignty and equal citizenship as the basis for the next political system.

Accordingly, STJ recommends that both the Transitional President of the Republic — as the authority empowered to propose amendments to the Constitutional Declaration under Article 50¹⁵ — and the upcoming Transitional People's Assembly — as the authority empowered to ratify amendments — take the following steps:

1. **Restrict the powers of the President of the Republic in the Transitional Constitutional Declaration to ensure a genuine separation of powers**, establishing clear limits on executive authority, particularly with regard to declaring a state of emergency, legislating, and unilaterally proposing amendments to the declaration.
2. **Incorporate effective and institutional oversight mechanisms** by the legislative and judicial branches, including enabling People's Assembly to vote on granting or withdrawing confidence, to effectively ratify treaties, and to hold the president accountable.
3. **Guarantee the independence of the judiciary** by establishing an independent Supreme Judicial Council, separating judicial appointments from the executive branch, and amending the 1961 Judicial Authority Law to ensure judicial independence.
4. **Redraft the transitional justice provisions** to ensure accountability for all parties to the conflict, and to establish a timetable and working mechanisms for the independent transitional justice commission with genuine participation from victims and civil society.
5. **Review and amend the articles related to freedom of expression and the criminalization of glorification or denial**, to ensure they are not used as repressive tools, and to comply with international standards on freedom of opinion and expression.
6. **Include clear provisions criminalizing hate speech and sectarian or ethnic incitement**, in line with Syria's obligations under the Convention on the Elimination of All Forms of Racial Discrimination and other international standards.
7. **Suspend the use of the death penalty** during the transitional phase as a preliminary step toward its **abolition**, in accordance with Syria's international legal obligations, transitional justice standards, and by **acceding to the Second Optional Protocol to the International Covenant on Civil and Political Rights** aiming at the abolition of the death penalty.

¹⁵ Article 50 of the Constitutional Declaration states the following: "The Constitutional Declaration shall be amended with the approval of two-thirds of the People's Assembly upon the proposal of the President of the Republic."

8. **Explicitly enshrine the principle of popular sovereignty**, stipulating that “the people are the source of authority,” to ensure legitimacy stems from the popular will rather than the existing authority.
9. **Include concepts of democracy and pluralism in the preamble and core provisions**, as cornerstones of the upcoming political system, and as a public commitment to building a state of law and institutions.
10. **Guarantee full equality for all Syrians** by reviewing formulations related to the identity of the state, the religion of the president, and the official language, in a way that reflects ethnic, religious, and cultural diversity, enshrines pluralism in both text and practice, and recognizes other languages and religions to prevent exclusion or dominance in the name of the majority or traditional references, ensuring that all components feel a sense of belonging to an inclusive social contract.

Finally, STJ calls on **civil society organizations to play an active role in advocacy efforts**, especially those related to achieving comprehensive and non-selective transitional justice, and to ensure the genuine representation of victims and civil society in the formation of the transitional justice commission in order to guarantee its independence and effectiveness, and to reject the use of transitional justice as a tool for political retaliation.



ABOUT STJ

Syrians for Truth and Justice (STJ) started as an idea in a co-founder's mind while attending the U.S. Middle-East Partnership Initiative's (MEPI) Leaders for Democracy Fellowship program (LDF) in 2015. The idea became a reality and flourished into an independent, non-profit, impartial, non-governmental human rights organization.

ABOUT Ceasefire



The Ceasefire Centre for Civilian Rights aims to empower civilians in situations of armed conflict or prevailing insecurity to document violations of their rights; to seek justice and accountability for violations of civilian rights; and to develop the practice of civilian rights protection and raise public support for the promotion of civilian rights.

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