

SNHR

الشبكة السورية لحقوق الإنسان
SYRIAN NETWORK FOR HUMAN RIGHTS

The Legal and Moral Necessity of Excluding Criminals from State Institutions during the Transitional Phase in Syria

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The Syrian Network for Human Rights (SNHR), founded in June 2011, is a non-governmental, independent group that is considered a primary source for the OHCHR on all death toll-related analyses in Syria.

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First: Introduction: Transitional justice is a fundamental pillar of the new Syria

After the end of half a century of the Assad Regime, Syria stands at a historic turning point. This new phase requires confronting the legacy of gross human rights violations while simultaneously laying the foundations for justice and civil peace. The Syrian people rose up fourteen years ago, aspiring to build a democratic state that would restore the dignity robbed by a repressive security apparatus. Following the fall of the regime on December 8, 2024, and the formation of an interim government, the country must transition to a new era. In this context, transitional justice is the most effective path to comprehensive national recovery from the effects of the conflict. It is the path to establishing a state based on the rule of law and respect for human rights and promoting national reconciliation to ensure long-term stability.

The pillars of transitional justice are embodied in: criminal accountability, truth-seeking and reconciliation, reparations and memorialization, and institutional reform in the judiciary, security, and military sectors. According to **the Syrian Network for Human Rights'** vision for the path of transitional justice in Syria after the fall of Assad, for these mechanisms to achieve their goals, they must be managed in an integrated manner and under unified oversight.

This report attempts to demonstrate that institutional reform, particularly the vetting and exclusion of individuals implicated in violations, is an indispensable condition for the success of the remaining pillars of transitional justice. Without a clear commitment to removing perpetrators and perpetrators from positions of power, mechanisms for accountability, truth, and reparations lose their effectiveness. This administrative exclusion, which targets individuals who lack a minimum level of integrity, is a necessary step to restore trust and legitimacy to public institutions and prevent the recurrence of violations.

The continued presence of these individuals exacerbates the suffering of victims, opens the door to vengeance, and feeds the perception that transitional justice is a mere formality lacking even the most minimal accountability. This failure constitutes a secondary sacrifice of the victims and demonstrates that the transition process is superficial, as it maintains the systems that enabled the violations. Such a course undermines public trust, hinders the building of democratic institutions, and threatens long-term stability.

This report will present the legal and theoretical justifications, based on victims' rights, for adopting a principled exclusion policy for all those proven to be involved in violations, as a basis for a just and stable future in Syria.

Fadel Abdulghany, director of the Syrian Network for Human Rights, said:

The appointment of individuals implicated in, or who participated in, past violations undermine the principles of transitional justice. Such steps send contradictory messages indicating a lack of rupture with the old regime. The retention of individuals with questionable records threatens the transitional project by preserving the human infrastructure that enabled the violations to occur.

SECOND: THE LEGACY OF SYSTEMATIC VIOLATIONS: THE EXTENT OF COMPLICITY WITHIN STATE INSTITUTIONS

A. The state as an instrument of oppression:

Syrian state institutions have been subjected to systematic politicization and corruption, transforming them from tools supposed to protect citizens into tools for oppressing them and consolidating the Assad regime's authority. This corruption has permeated all state institutions without exception. The security services, which expanded under Hafez al-Assad and reached the peak of their power under Bashar al-Assad, have become brutal tools of repression, directly subordinate to the executive branch. The executive branch has also imposed its hegemony over the legislative and judicial branches, stripping the judiciary of its full independence and turning it into a political tool for issuing arbitrary rulings and suppressing dissent.

The army has not been spared this politicization either; its unity has been dismantled and it has become one of the primary pillars of perpetrating violations. This systematic collapse of the state structure has transformed the institutions that are supposed to protect rights into entities that systematically violate them.

For fourteen years, the Syrian Network for Human Rights has documented the grave violations committed by the **Bashar al-Assad regime** in Syria, which have left devastating humanitarian and material consequences and deep scars on the structure of Syrian society and the state. The documented atrocities include:

- **Extrajudicial Killings:** At least **202,021 civilians** were recorded killed.
- **Enforced Disappearances:** Approximately **160,123 cases** of arbitrary detention and enforced disappearance were recorded.
- **Deaths under Torture:** At least **45,031 people** died under torture.
- **Use of Prohibited Weapons:** The Assad regime has systematically used internationally prohibited weapons against civilians, including at least **81,954 barrel bombs, 217 documented chemical attacks, 254 cluster munition attacks, and 52 incendiary weapons attacks.**
- **Forced Displacement:** Violations, primarily those committed by the regime and its allies, have displaced approximately **6.8 million people** internally and forced approximately **7 million others** to flee abroad.

B. Beyond Level One: Understanding the Collusion Network:

These gross violations were not the result of individual decisions by regime leaders alone, but rather a widespread system of collusion involving tens of thousands within the state apparatus. Comparative studies of authoritarian regimes confirm that these regimes rely for their survival on networks of collaborators that extend beyond the direct perpetrators of crimes and encompass multiple institutional and social structures.

In the Syrian case, the network of collusion extended to include the following categories:

- **Security and military personnel:** The Syrian Network for Human Rights documented approximately **16,200 individuals** implicated in the Assad regime, including **6,724 members of the official forces and 9,476 members of militias allied with the Assad regime.** Their roles included carrying out arbitrary arrests and practicing torture in detention centers.
- **Judges and the judiciary:** The judiciary was used as a tool to legitimize repression, with courts issuing arbitrary rulings with the complicity of a large number of judges.
- **Civil servants:** State institutions facilitated violations by maintaining records of detainees and disappeared persons, concealing information related to their deaths or looted property, and even using orphanages to conceal the identities of detainees' children.
- **Economic, Cultural, and Artistic Figures:** Literature demonstrates that repressive regimes require symbolic and social support to survive. Artists, businesspeople, and intellectuals have often played a role in normalizing and legitimizing repression by creating a «social cover» that lends a sense of acceptance to abuses. This includes businesspeople who have amassed their wealth through privileges granted by the regime, as well as civil society organizations run by figures close to the regime, such as Asma al-Assad.

THIRD: LEGAL AND THEORETICAL AUTHORIZATION FOR EXCLUSION (PURIFICATION AND AUDITING)

Removing individuals implicated in human rights violations from public office is not a retaliatory measure, but rather a legal and moral necessity established by the principles of international human rights law and transitional justice mechanisms.

A. International Law and the “Guarantee of Non-Recurrence”:

Ensuring non-recurrence is a fundamental principle of international law, particularly following periods of mass violations. This principle goes beyond merely halting violations; it obliges the state to restructure its institutions in a way that prevents the recurrence of the atrocities that occurred. Excluding individuals implicated in violations from official institutions is a direct manifestation of this obligation, as their retention perpetuates an institutional culture responsible for facilitating violations in the first place.

This commitment has been enshrined in a number of international instruments and regional jurisprudence, including:

- **The International Covenant on Civil and Political Rights:** obliges states to take legislative, constitutional, and other measures to ensure the implementation of rights and protect individuals from violations. It also permits necessary and legitimate restrictions in post-conflict contexts, provided due process is respected.
- **The Inter-American Court of Human Rights:** ruled that states must reorganize their governmental apparatus and all structures through which public power is exercised to ensure full and effective respect for human rights.
- **The European Court of Human Rights:** ruled in cases such as *Turic v. Slovakia* and *Zdanoka v. Latvia* that purges, when carried out in accordance with due process, are compatible with human rights standards. In some contexts, it has even deemed these measures necessary to protect the democratic system from the risk of institutional corruption.

B. Auditing and cleansing as established mechanisms of transitional justice:

Vetting and purges are two pivotal tools for reforming state institutions within the transitional justice process. The United Nations defines vetting as an integrity assessment process aimed at ensuring that individuals are fit for public office in the new regime, consistent with its standards and values. Purges, whose name derives from the Latin word “*lustratio*,” meaning “**purification by sacrifice**,” embody the need to cleanse institutions of the legacy of the authoritarian past.

The objectives of these mechanisms are as follows:

- Restoring public confidence in state institutions by removing those involved in violations.
- Transforming abusive institutions into national entities that protect rights rather than violate them.
- Dismantling the structures that enabled the commission of crimes.
- Preventing the return of repressive regimes in new forms.

It is essential to distinguish between vetting and criminal prosecution. Vetting is an administrative or political measure, not intended to impose criminal penalties, but rather to assess individuals' integrity and suitability for public office. This distinction is essential, as it bridges the impunity gap that judicial proceedings alone cannot cover by excluding individuals whose actions do not meet the criteria for criminal conviction but nevertheless undermine public confidence and the state's legitimacy.

FOURTH: PROPOSED LEGAL CRITERIA FOR EXCLUSION FROM PUBLIC INSTITUTIONS

To ensure the fairness and effectiveness of the civil service reform process, and its compliance with the principles of the rule of law, it is essential to establish a legal framework based on international standards. This framework must balance the requirements of accountability and institutional cleansing, on the one hand, and ensuring the protection of individual rights, on the other.

The Syrian Network for Human Rights proposes the following standards, which we believe are appropriate for application in the Syrian context:

A. Guidelines for the verification process:

Any audit process must be based on a set of basic principles that ensure its integrity and effectiveness. These principles aim to guide the process of administrative reform in a way that serves the goals of transitional justice, not to be used as a means of political revenge.

- **Individual assessment:** The process should be based on an assessment of an individual's conduct and personal responsibility for violations, rather than on group affiliation or political views.
- **Due process:** Strict procedural safeguards must be in place to protect the rights of those subject to scrutiny. These safeguards include prior notification of allegations, access to evidence, the right to legal representation, the opportunity to present a defense, a written and reasoned decision, and an effective appeal mechanism.

- **Independence and Transparency:** The audit body should be independent of the executive branch and protected from political interference. The process should be based on a clear legal framework, and its members should be selected according to transparent criteria to ensure integrity. Transparency should also be enhanced by publishing reports and decisions periodically, providing channels for receiving public complaints, and disclosing funding sources.
- **Proportionality:** The consequences of the audit must be proportionate to the degree of the individual's involvement and the seriousness of their actions. This requires a careful, multi-dimensional assessment, with sanctions ranging from dismissal to temporary or permanent ban from public office, depending on the level of responsibility.

B. A multi-level framework for assessing collusion and identifying exclusion:

Based on the principle of proportionality, the Syrian Network for Human Rights proposes a tiered framework to determine levels of complicity and the corresponding penalties. This approach ensures greater precision in allocating responsibility and distinguishes between those involved to varying degrees, allowing for options for accountability or reconciliation depending on each case.

- **Tier 1:** Mandatory and Permanent Exclusion applies to individuals who have held leadership positions or have been directly involved in committing serious human rights violations.
- **Criteria:** Includes senior regime leaders, particularly those in the first and second echelons of the security and military apparatus, and anyone proven to be directly involved in murder, torture, or violations using prohibited weapons such as barrel bombs and chemical weapons.
- **Tier 2:** Presumptive exclusion with the possibility of appeal applies to those who held positions of influence and contributed to enabling the oppressive regime, whether through legislation, justification, or facilitation.
- **Criteria:** Includes investigators and judges who issued arbitrary rulings, senior officials who drafted laws that violated fundamental rights (such as property confiscation laws), supervisors of detention centers that practiced torture, and cultural, media, or economic figures who provided intellectual or social cover for the violations.
- **Tier 3:** Individual review with the possibility of reintegration applies to lower-level staff who have not been found to have been involved in serious violations and whose roles were marginal or non-sensitive.
- **Criteria:** Includes rank-and-file soldiers, security personnel, and administrative staff in non-influential positions, for whom there is no evidence of direct participation in violations.

- **Considerations:** Recognizing that it is not possible to hold all those involved legally accountable, it is proposed to develop alternatives such as restorative justice mechanisms, including psychological and vocational rehabilitation, and engagement in civil service programs, provided that they are not returned to sensitive positions except after careful review. This is detailed in the vision issued by the Syrian Network for Human Rights on the path to transitional justice in Syria.

C. The role of the National Transitional Justice Commission:

The Syrian Network for Human Rights' vision emphasizes that the institutional reform process, including vetting, should be among the tasks of the National Committee for Transitional Justice.

- **Oversight and Implementation:** The committee must be granted independent powers to oversee the implementation of the audit, including establishing independent investigation committees, applying legal standards, making decisions, summoning witnesses, collecting evidence, and reviewing official documents.
- **Cooperation and Credibility:** The committee cannot carry out its mission in isolation from other actors. It must work closely with civil society organizations, which possess reliable expertise and accumulated data. It should also cooperate with international experts and organizations to ensure adherence to international standards and enhance the local and international legitimacy of the entire process.

FIFTH: THE NECESSITY OF FOCUSING ON THE VICTIM: WHY THE CLEANSING OF THOSE INVOLVED IS ESSENTIAL FOR HEALING AND RECONCILIATION:

The dignity and needs of victims must be at the heart of any genuine transition process. The administrative exclusion of those who committed or contributed to atrocities is a moral and humanitarian imperative that recognizes the victims' suffering and contributes to supporting the healing process and rebuilding community trust—essential elements for achieving sustainable peace.

A. Preventing re-traumatization and restoring the victim's dignity:

For millions of Syrians who have suffered devastating losses, the continued presence of those implicated in these crimes represents a daily and painful reminder of the injustice they have suffered. This constitutes what is known as “secondary victimization” and undermines the entire transition effort. Seeing those associated with past abuses retain power and privilege sends a message that the new state is condoning past crimes and prioritizing institutional continuity over the dignity of victims.

This situation fuels feelings of pain and anger, and clearly demonstrates that the victims' suffering has not yet been acknowledged. Hence, the administrative removal of these individuals serves as a symbolic and practical form of reparation, expressing the state's recognition of the suffering, restoring some of the dignity lost, and affirming the victims' status as citizens with rights.

B. Breaking the cycle of revenge and building trust:

When the state fails to isolate or hold known criminals accountable, it leaves a dangerous vacuum in the justice system. This failure opens the door to personal vengeance and paves the way for new cycles of violence, threatening social stability and undermining the prospects for national reconciliation.

In contrast, a systematic and transparent vetting process is a central tool for peacebuilding. It demonstrates to citizens that no one is above the law and undermines the culture of impunity fostered by the previous regime. This process restores confidence in state institutions and confirms that recourse to the judiciary and official institutions is the just means for resolving grievances.

SIXTH: CONCLUSION AND RECOMMENDATIONS:

Conclusions:

Building a new Syria based on justice, accountability, and the rule of law is an urgent national imperative to ensure that the painful past is not repeated. As the analysis in this report demonstrates, excluding individuals implicated in, or who have justified, human rights violations is not a selective or political measure, but rather a legal and moral obligation, rooted in the human rights principle of «guarantees of non-recurrence,» which requires states to effectively restructure their institutions to prevent future atrocities.

This measure transcends its legal nature and becomes a practical necessity to dismantle the culture of impunity, rebuild the legitimacy of state institutions, restore citizens' trust, and renew the social contract between the state and its citizens. It also carries, at its core, a profound moral duty toward the victims: to acknowledge their suffering, restore their dignity, and ensure they are not subjected to re-traumatization.

The implementation of a comprehensive, transparent, and fair vetting process represents the first true test of the transitional government's genuine commitment to the path of change. It is a milestone demonstrating that the new state is distancing itself from the practices of the past and basing its existence on the values of human rights and accountability. By embracing this principled choice, Syria can move beyond the formality of justice and embark on a long journey toward genuine national recovery and the building of a stable society based on respect for dignity and rights.

Recommendations by SNHR:

1. Enacting a special law for job purification and auditing:

The next legislative council should work on a vetting and cleansing law based on the fundamental principles addressed in this report, including individual assessment, due process, institutional independence, the principle of proportionality, and a tiered framework for assessing complicity. The importance of adopting a vetting and cleansing law extends not only to its final content, but also to the manner in which it is drafted. Involving civil society and victims' representatives in the legislative development stages is an essential part of the transitional justice approach and ensures the law's credibility, fairness, and operational effectiveness.

- Therefore, the Syrian Network for Human Rights recommends adopting the following mechanisms in preparing the purification and vetting law:
- Forming a multi-stakeholder drafting committee, comprising legal and human rights experts, representatives of civil society, and victims' groups, to prepare the draft law.
- Opening a public consultation process, including hearings in various Syrian governorates, with the participation of citizens, survivors, and local organizations, to receive comments and suggestions.
- Publish a preliminary draft of the law for public comment, allowing for a review period and receiving written objections, within procedures that ensure transparency and fairness.
- Include clear explanatory memoranda explaining the purpose of the law, the options adopted, and the means of appeal and accountability.
- Emphasize the role of the National Transitional Justice Commission in leading this process and provide guarantees of independence and oversight.

Respecting this participatory legislative process not only gives the law legal legitimacy, but also provides it with broad social acceptance and contributes to strengthening confidence in the transitional phase and its new institutions.

2. Benefiting from the Syrian Network for Human Rights database:

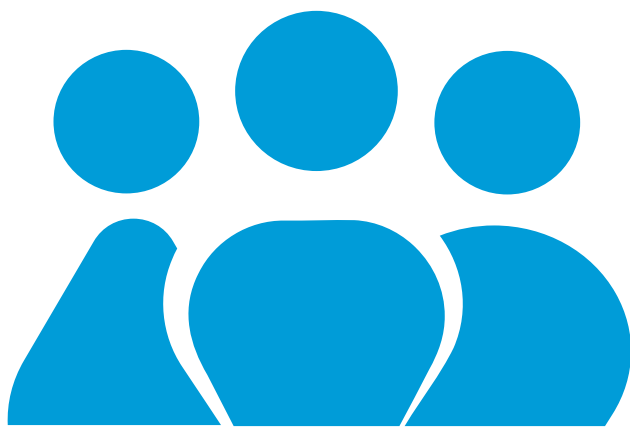
The Syrian Network for Human Rights relies on a broad documentation database it has compiled over the years. This database constitutes a primary reference that can be relied upon to identify individual responsibilities and sensitive locations, and it should be used within the official audit process.

3. Involving civil society and victims' groups in drafting and implementing the law:

Independent civil society organizations and victims' groups should be genuine partners in all stages of the transitional justice process, particularly in monitoring audits. An approach that places victims at the center of the process and actively engages them must be supported to ensure transparency and justice. The role of civil society organizations and victims should extend beyond participating in the drafting of the law to monitoring its implementation, through membership in review committees, the right to submit complaints, and contributing to the preparation of periodic reports on progress.

4. Launching a national awareness campaign on transitional justice and institutional cleansing:

Design and implement a broad awareness campaign targeting Syrian society, explaining the importance of institutional reform and transitional justice as alternatives to retaliatory practices. This campaign must take into account the cultural and social specificities of Syrian society, and messages must be delivered in a language that enables broad and cohesive popular support for a sustainable national reconciliation process.





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