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## **Views: The ‘Adaptation Approach’ as a Solution to the Justice Crisis in Post-Assad Syria**

Jalal Alhamad

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**Keywords:** Syria; Political Transition; Transitional Justice; Adaptation Approach; Tailored Method

Transitional justice in Syria remains a daunting challenge after the fall of Bashar al-Assad. The departure of the ruling family and senior regime figures, following decades of authoritarian rule, opened the floodgates for demands to hold perpetrators accountable for the widespread abuses committed over the years, especially following the 2011 uprising. These demands have sparked intense debate among Syrians and now face a serious deadlock. In their early days in power, the new authorities avoided taking a clear stance on transitional justice and instead cautiously indicated their position through social media influencers or senior officials in meetings held behind closed doors. Over time, and under mounting pressure from both local and international human rights organisations, they have begun to show some flexibility, expressing their intent to establish a specialised body to search for missing persons,<sup>1</sup> which they eventually formed in May 2025, alongside another commission for transitional justice.<sup>2</sup>

At the same time, the new leadership has firmly rejected any role for the United Nations in Syria. This rejection goes beyond the political function of the international body, represented by the UN Special Envoy for Syria and his team, and extends to the international mechanisms and investigative committees established to investigate human rights violations. Notably, these bodies hold extensive databases containing hundreds of thousands of documents. While the new authorities have shown some flexibility and a relative willingness to engage with the justice file, their stance risks undermining international efforts that have long supported Syrians in the sensitive work of monitoring, documenting abuses, and pursuing legal accountability. The main concern prompting this warning regards the Victory Conference held on 29 December 2025, which consolidated power in the hands of the de facto ruler Ahmed al-Sharaa, granting him full authority to shape all branches of government, including the legislative.<sup>3</sup> Meanwhile, various ministries have exceeded their mandates as caretaker bodies, as seen in their attempts to amend existing laws. The Constitutional Declaration, signed by President al-Sharaa in March 2025, further entrenched presidential control over all branches of power.<sup>4</sup>

The article explores the prospects for achieving transitional justice in Syria following political change, the challenges that stand in its way, and possible solutions to these challenges in light of ongoing political and security complexities. It concludes by emphasising the need to avoid rigid positions on justice and instead adopt a flexible approach that advances along pathways suited to the evolving context. The article also underscores the importance of pathways that are likely to face broad resistance from various actors.

Syrians are broadly divided in their views on transitional justice after the fall of Assad, falling into two main camps. One argues for the need to achieve justice for all, regardless of the nature of the violation or the identity of the perpetrator, viewing such justice as essential to building a durable and sustainable peace. The other camp sees justice as applying primarily to the defeated regime, which they regard as the principal violator due to the scale of its crimes. This view effectively exempts other parties to the conflict, including the current ruling factions, from accountability.

In his 2004 report No. 616 to the UN Security Council, then-UN Secretary-General Kofi Annan defined transitional justice as

the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof.<sup>5</sup>

In March 2025, the governorates of Latakia and Tartous on the Syrian coast witnessed identity-based killings carried out by armed factions affiliated with the new government.<sup>6</sup> This came in the wake of ambushes carried out by militiamen linked to the former Syrian regime, resulting in the deaths of dozens of General Security personnel working under the Ministry of Interior.<sup>7</sup> While those who attacked the security checkpoints accused the government of committing violations since assuming power, the factions retaliated by storming dozens of towns and villages, accusing residents of sheltering regime remnants and endorsing the abuses committed by Assad over the past fourteen years. These killings underscore the urgent need for civil peace - one that must be built on full acknowledgment of the violations and their impact on Syrian society and addressed through pathways that ensure justice and redress for the victims.

### **The Fall of Assad: Hopes for Justice Recede**

In a speech immediately after the November 2024 ceasefire agreement in Lebanon, Israeli Prime Minister Benjamin Netanyahu directly threatened the then-Syrian president and his regime, warning that if Assad continued 'playing with fire' by supporting Hezbollah, there would be consequences.<sup>8</sup> This marked a major turning point in Syria's unfolding political landscape, as

Iran's Axis of Resistance began to collapse in both Lebanon and Palestine. Netanyahu's threats followed years of targeted Israeli airstrikes, which intensified after 7 October 2023 and culminated in the bombing of the Iranian consulate in Damascus.<sup>9</sup> Signs began to emerge that Israel's war against Iran's regional influence was expanding into Syria. At the same time, Syrian opposition factions launched the Deterrence of Aggression campaign against the Assad regime.<sup>10</sup> Most Syrian and international observers initially believed it was a limited operation aimed at pressuring Assad into concessions at the negotiating table.<sup>11</sup> As the opposition's campaign gathered momentum, the regime faltered. Syrian forces and their allies responded sluggishly. Russia, Assad's main backer, offered only muted political support, while Iran failed to shape the battlefield. One by one, major cities fell to the opposition. A new chapter in Syria was clearly underway. On 8 December 2024, Bashar al-Assad fled, his top officials disappeared, and rebel factions seized control of Damascus.

Jihadist leader Abu Muhammad al-Julani, head of Hay'at Tahrir al-Sham (HTS), emerged at the forefront of the armed groups that took part in the capture of Damascus. This came after he formally adopted his *nom de guerre*, replacing his original name Ahmed al-Sharaa - a move suggesting he was positioning himself, perhaps with backing from others,<sup>12</sup> for a leading role in the next stage. During the swift battle, he appeared to reassure the international community - especially regional powers - by describing a future Syria that would not threaten regional peace and security. It was a message uncharacteristic of him, especially for Syrians familiar with his past rhetoric, signalling his attempt to position himself as a voice of the new era.<sup>13</sup>

Ahmed al-Sharaa began exercising the powers of the presidency shortly after entering Damascus. Two days later, he announced the appointment of Mohammad al-Bashir as prime minister, replacing Mohammad al-Jallali, Assad's prime minister who had declared<sup>14</sup> his willingness to continue in office to ensure the continuity of Syria's state institutions.<sup>15</sup> Al-Sharaa soon laid out a political agenda addressing major issues, including the formation of a national army, an economic vision, and a framework for relations with neighbouring countries. He also appointed a head of intelligence, who was later named minister of the interior.<sup>16</sup> Early on, and unilaterally, he set a five-year timeline for the transitional phase, a decision later affirmed in the constitutional declaration. This signalled his intent to remain in power well into the future, a perception reinforced by his foreign minister's active diplomacy and the efforts of regional envoys to promote the new political phase and present al-Sharaa as the right figure to lead Syria in the years ahead.

Pressure from Syrian civil society - aligned with the positions of key states invested in Syria and the broader Middle East - led to a noticeable shift in the rhetoric of al-Sharaa and his government. It became clear that the new leadership was actively seeking common ground with the international community to boost its chances of staying in power. The repeated scheduling and rescheduling of the national dialogue, along with its reliance on unofficial channels to signal intent, reflected an effort to test both local and international reactions. Then, in a move that ran counter to the trajectory of recent events, the Victory Conference was held on 29 December 2025. Citing 'revolutionary legitimacy,' the factions involved in the Deterrence of Aggression campaign declared al-Sharaa interim president. Worryingly, key military groups were absent. These included

factions from southern Syria, particularly Daraa and Suwayda, as well as from the northeast under the control of the Syrian Democratic Forces (SDF).

The day after the Victory Conference, al-Sharaa delivered his first speech, which included messages of reassurance to both the Syrian public and the international community. He emphasised his commitment to justice and national dialogue, but also announced that all authority and the political process would remain concentrated in the presidency during the transitional period. This included forming a legislative council and organising a national dialogue to ‘discuss political programming.’<sup>17</sup> Steps quickly followed, including the formation of a preparatory committee for the national dialogue. In its press conference, the committee failed to clarify its mandate, working mechanisms, or the role of the National Dialogue Conference (NDC) it was tasked with organising.<sup>18</sup> It also announced that it would engage with individuals rather than political entities, an approach that aligned with al-Sharaa’s early insistence on receiving visitors in their personal capacity rather than as representatives of political parties or civil organisations.<sup>19</sup>

The committee further stated that its decisions would be advisory to the president. The NDC was held hastily on 24 and 25 February 2025, with some participants receiving invitations only a day - or even hours - in advance. It concluded with a vague statement seemingly designed to appease multiple sides but containing several gaps, including a notable avoidance of any reference to democracy or the separation of powers.<sup>20</sup> Al-Sharaa also formed a committee to draft a provisional constitutional declaration. One committee member stated that its task was to legally frame the presidency’s vision. The declaration was released about ten days later,<sup>21</sup> and on 29 March 2025, a transitional government was announced, in which HTS took control of the sovereign ministries.<sup>22</sup>

### **Official Rhetoric: Ambiguity over Justice**

The interim Syrian president appeared in a recorded meeting with a group of social media influencers, which aired on 12 February 2025<sup>23</sup> but had been filmed weeks earlier. He spoke of his commitment to justice but quickly qualified it, stating, ‘If personal rights claims interfere with state-building, then we must say building the state takes precedence over individual rights.’ Moreover, he added, ‘I’ve given you all of Syria back. I’ve restored the greatest right.’ In this appearance, al-Sharaa laid out his position on justice, placing the first major obstacle in its path by framing it as potentially at odds with the project of rebuilding the state. He suggested that toppling the Assad regime alone may constitute justice for Syrians, thus advancing a narrative that excluded direct engagement with victims or their demands.

Al-Sharaa did not meet with Syrian human rights organisations or victims’ associations until 5 February 2025, and only following coordinated pressure.<sup>24</sup> This delay was especially notable given that he had already met with the mother of detained American journalist Austin Tice,<sup>25</sup> as well as with UN High Commissioner for Human Rights Volker Türk on 15 January 2025<sup>26</sup> and ICC Prosecutor Karim Khan on 17 January.<sup>27</sup> These meetings were widely seen as prioritising outward-

facing politics over Syrian victims, aiming to demonstrate the new government's ability to meet international expectations - including the justice process.

Meanwhile, fifty-one Syrian organisations held a conference on transitional justice in Damascus on 24 and 25 January 2025, establishing a new pathway for advocacy and pressure. A representative from the caretaker government's Ministry of Justice attended. The conference concluded with concrete recommendations on the principles needed to achieve transitional justice in Syria. These were later presented at a side event ahead of the Paris Conference on Syria the following month.<sup>28</sup>

Several human rights entities - including victims' associations and both Syrian and international organisations - accuse the factions that assumed power in Syria of committing widespread violations against Syrians over the past fourteen years.<sup>29</sup> Their claims are reinforced by the fact that the interim president and several top military leaders are listed on international terrorism watchlists<sup>30</sup> or have been designated as terrorists by multiple states.<sup>31</sup> This lends weight to the view that the new Syrian leadership's attempts to narrow justice and challenge human rights narratives are not incidental. Rather, they appear driven by an awareness among those now in power that they themselves may face legal accountability.<sup>32</sup> This unserious approach to justice carries the risk of reigniting armed conflict, especially given the widespread proliferation of weapons, the fragile security landscape, and al-Sharaa's decision to dismantle the intelligence services and military and discharge thousands of personnel.<sup>33</sup> Any deviation from a serious pursuit of justice could mean a return to square one and further undermine prospects for peace. These concerns have only grown in light of repeated violations<sup>34</sup> and the appointment of figures accused of abuses to senior military, security, and civil positions.<sup>35</sup> The aforementioned identity-based killings that swept Syria's coastal governorates between 6 and 10 March 2025 are a recent case of such violations that underlie these concerns.

The new authorities' unclear position on justice has been exemplified by their handling of former regime figures. The new state institutions have reached settlements with prominent figures from the former regime,<sup>36</sup> while hundreds of former Syrian army personnel remain in detention awaiting similar arrangements. The process has lacked transparency, with no clarity on whether it follows an official framework - particularly as victims and local communities have been completely excluded. Syrian security forces also arrested individuals said to be responsible for violations committed by the former regime in Damascus.<sup>37</sup> Yet, these arrests came more than two months after the regime's fall, raising questions as to why these individuals had not been detained earlier, especially since the suspects had remained in Damascus and made no effort to go into hiding. The arrests seemed to follow public pressure, which culminated in a demonstration in the capital.<sup>38</sup> Doubts deepened due to the lack of transparency around the legal steps taken with those who were detained or surrendered themselves, such as former Interior Minister Mohammad al-Shaar.<sup>39</sup>

## The Long Road to Justice

It is not difficult to understand the international community's willingness to engage with Syria's new leadership. While each regional or international actor may have its own objectives, they all agree on the need to give the current government an opportunity to govern. Instability in Syria has had major security, political, and economic repercussions for neighbouring countries such as Jordan, Lebanon, Turkey, Iraq, and several Gulf states. These countries are now seeking to establish some form of stability in Syria and appear to see an opportunity for cooperation, hoping to avoid the kind of fragmentation that led to civil wars in Libya and Sudan. At the same time, cooperation in Syria offers an opportunity to strengthen the recent political and economic rapprochement among regional powers, following years of tension, particularly between Turkey and Qatar on one side and Saudi Arabia, Egypt, and the UAE on the other. Still, this path is far from smooth. Regional competition over influence, driven by the vacuum left by Iran's retreat, the growing Israeli role following its war on Gaza and southern Lebanon, and a shared desire to prevent a new conflict within or over Syria, are all shaping how the region approaches post-Assad Syria.

On the international level, European countries are eager to resolve one of the conflicts that has directly affected them, in hopes of easing financial burdens and halting a major source of refugee flows amid ongoing economic strain. On the other hand, although Syria has not ranked among the United States' strategic priorities in recent years, maintaining a degree of attention to the Syrian file remains important, particularly within the broader effort to shape a new regional order in partnership with key allies, including Israel.<sup>40</sup> Justice, therefore, particularly criminal accountability, is unlikely to be a priority at the regional or international level, at least for now. The states involved in the Syrian question are primarily interested in moving toward a form of political stability, even if that requires compromises in the pursuit of justice.

Nevertheless, Syrian civil society has a significant opportunity to continue exerting pressure, especially as human rights organisations have amassed vast amounts of data through one of the most extensive documentation efforts of violations. This momentum has grown further with the exposure of atrocities following Assad's fall, particularly as opposition figures and former regime insiders have spoken publicly about the brutality of his rule. Among them are individuals who contributed directly to the justice file, such as defector Farid al-Madhhan - known as Caesar - who leaked thousands of images documenting torture in Assad's prisons.<sup>41</sup>

On the international level as well, several mechanisms have been established to address justice in Syria. These include special inquiry committees, legal cases launched by Syrian and international organisations under universal jurisdiction, and the case brought by the Netherlands and Canada before the International Court of Justice for violations of the Convention Against Torture.<sup>42</sup> There is also substantial evidence against current officials, many of whom are listed on international terrorism watchlists. Together, these efforts offer a strong basis for requiring the new government to demonstrate its commitment to justice as a sign of genuine engagement with both local and international expectations. This moment presents a real opportunity for Syrians to sustain

the pressure and ensure that justice remains on the table in spite of ongoing efforts to sideline or dilute it.

### **The Road to Justice: Adaptation Approach**

None of the parties involved in the Syrian conflict have a genuine interest in comprehensive justice. All sides were implicated in the civil war, and all their leaders are accused of serious human rights violations. This helps to explain the statements and actions of the current government regarding transitional justice, as well as the reluctance of other forces controlling parts of Syria to engage with it. President Ahmed al-Sharaa even articulated this position through a presidential decree establishing the National Commission for Transitional Justice, which confined the commission's mandate to addressing violations committed solely by the former regime, while overlooking those committed by other parties.<sup>43</sup>

The new political reality in Syria, as well as the shifting landscape in the broader Middle East, calls for a rethinking of how to move forward on the path to justice. There is a pressing need to avoid rigid or reactionary approaches and to remain open to more flexible, practical solutions. In this context, I propose viewing justice in Syria through the lens of what is possible. This means adapting justice mechanisms to the Syrian context in order to preserve the window of opportunity that has emerged after decades of violations. Such adaptation allows civil society within Syria to make use of the remaining space to establish initial pathways toward justice and to seek political, financial, and logistical support for these efforts. At the same time, it does not rule out the possibility of confronting the current authorities and other actors, particularly in the more complex areas of accountability and legal prosecution which the new government is likely to resist or engage in only minimally. These efforts can build on the progress already achieved at the international level in recent years.

The proposed adaptation approach starts from the understanding that transitional justice is not a single component or a uniform process, nor is it a rigid formula that replicates institutions. It is more akin to a map or a network of pathways that guide a society toward its destination: a more peaceful, just, and inclusive society that has reckoned with its violent past and delivered justice to victims. There is no single route to follow, as 'different societies take different routes, depending on the nature of the atrocities that occurred and the particularities of that society, including its culture, history, legal and political structures, and capacity, as well its ethnic, religious, and socioeconomic makeup.'<sup>44</sup> Transitional justice, in this sense, is 'an adaptation of justice to fit the needs of societies undergoing transformation after periods marked by widespread human rights violations.'<sup>45</sup>

The adaptation approach, grounded in the current efforts of civil society organisations and victims' associations, assumes the possibility of engaging in two key pathways of transitional justice: reparations and institutional reform. These pathways offer entry points for addressing a broad spectrum of past harms. Within this context, I propose the concept of 'tailoring,' the core principle of the adaptation approach. Tailoring involves engaging directly with local Syrian

communities and victims to identify their priorities in the areas of reparation and institutional reform. This process enables a better understanding of what forms of redress are meaningful and satisfying to communities and victims, and how these expectations can be reflected in a national mechanism for reparation and reform. Continuous documentation and coordination between human rights organisations and victims' groups are essential to supporting both pathways effectively. Tailoring also strengthens a local sense of participation in justice, rather than making it feel externally imposed. It fosters deeper, more informed public understanding of the meaning and importance of transitional justice. As a practical approach, it helps prevent disengagement and reduces the challenges facing justice processes during political transition. Crucially, the establishment of a mechanism for reparation and institutional reform must not be imposed from above, but rather emerge from broad-based dialogue that reflects the demands and needs of the people.<sup>46</sup>

Adjusting transitional justice mechanisms to fit local contexts is not a new concept; many international experiences affirm this. Following the end of apartheid in South Africa, for instance, the focus was on promoting national unity and reconciliation through the establishment of the Truth and Reconciliation Commission (TRC). Similarly, Morocco addressed the abuses committed during the reign of King Hassan II by forming the Equity and Reconciliation Commission (ERC). In Germany, after the fall of the Berlin Wall in 1989, the approach relied on limited prosecutions alongside truth-telling and reparations. In contrast, Spain chose not to confront the violent legacy of Francisco Franco's rule, fearing that doing so might destabilise the democratic transition. Instead, it moved forward with institutional reforms to prevent the recurrence of violations in the future.<sup>47</sup>

These experiences did not follow a single, uniform model, not even in the cases of South Africa and Morocco. Each charted its own course based on two key principles: the need for justice and the feasibility of implementation. These cases also highlighted the central role of civil society in developing, safeguarding, and monitoring transitional justice mechanisms. At the heart of the adaptation approach is the understanding that reconstruction, the return of the displaced, the restoration of rights, rehabilitation, acknowledgment, guarantees of non-repetition, and the reform of law enforcement institutions must all be seen as integral parts of transitional justice, not separate from it. This integration allows for the strategic use of available financial and human resources in support of justice. It is equally important to avoid focusing on individual financial compensation, which could spark fierce competition between legitimate claimants and others who may exploit Syria's fragile administrative system to obtain benefits they do not deserve.

This engagement does not conflict with the imperative to pursue all avenues of accountability and legal prosecution for those accused of serious violations, including senior figures from all sides of the conflict, whether from the former regime, the current authorities, or other armed groups. It is also essential to continue leveraging universal jurisdiction in ongoing trials and to resist any efforts to transfer these cases to Syrian courts, which currently lack the capacity to conduct fair trials due to the government's ongoing interference in the judiciary.<sup>48</sup> At the same time, efforts to initiate new legal proceedings must continue. Equally important is the sustained

coordination with the International, Impartial and Independent Mechanism (IIIM) and Independent Institution on Missing Persons (IIMP). There is also a pressing need to reassess the evolving political landscape and renew efforts to refer the Syria file to the International Criminal Court or to establish special tribunals by a UN Security Council (UNSC) resolution. The previous Russian-Chinese veto blocking such a referral can no longer be justified, particularly in light of shifting alliances after 7 October and the election of US President Trump. This was reflected in the joint statement on Syria submitted by the Russian and American delegations to the Security Council, an unprecedented development that signals a potential shift in the political climate. It is imperative to meet this moment with action, and the possibility of a new position from the UNSC on justice in Syria should be tested.<sup>49</sup>

When it comes to accountability and legal prosecution, engagement with the current authorities and other armed groups must not stem from motives of revenge or score-settling, nor should it aim to undermine political transition or governance. Rather, calls for accountability must take into account the local sensitivities of Syrian communities and aim to achieve inclusive justice for all Syrians. This is essential for laying the foundation of civil peace and enabling citizens to take part in building a new state that breaks decisively with authoritarianism.

## **Conclusion**

It appears that the current authorities will not be able to bypass transitional justice in Syria. The scale of past violations and sustained pressure from Syrian society have both served to keep the issue alive. Still, the authorities are likely to attempt to reduce justice to a few symbolic gestures. In addition to their own involvement in abuses, they have reportedly pledged not to target certain individuals, a pattern reflected in settlements and in repeated statements by the interim president, consistently prioritising other issues over justice. The deep divisions among Syrians caused by the war make it essential for any pathway to justice to place at its core the development of a national narrative that acknowledges violations committed against all Syrians, regardless of the perpetrating side. This calls for an exploration of alternative avenues to advance the justice process, despite the complex external dynamics surrounding Syria and the depth of its internal crisis. The Syrian authorities have made their position on justice clear through their statements and actions from day one, effectively placing the responsibility on Syrian human rights actors to find a way forward that keeps justice alive.

The new reality in Syria reveals the difficulty of a transitional justice process and underscores the need to develop a Syrian model tailored to the country's internal political and security conditions, as well as the regional environment. For such a model to be implementable, it must strike a balance between flexibility and confrontation. At its core, the adaptation approach to justice aligns with many international experiences in which justice programmes were designed to fit local contexts following political transitions. Some of these experiences led to successful transitions, while others fell short. What is clear, however, is that completely disregarding justice would be the most dangerous path. That said, the adaptation approach is bound to fail if victims

and local communities do not feel a sense of ownership or satisfaction. This risk increases if justice pathways are imposed without thorough local consultation, or if essential components - such as criminal accountability - are excluded. In this context, the adaptation approach calls for a Syrian national conference on justice, complemented by local meetings across the governorates, with a realistic timeline that allows organisers to gather the views of communities throughout the country.

Achieving sustainable peace in Syria requires serious efforts to navigate the current situation while advancing a Syrian-led justice approach tailored to the country's complex realities. This responsibility falls to civil society, which holds the necessary expertise in matters of justice and enjoys both substantial human resources and credibility at the local and international levels.

## About the Author

*Jalal Alhamad* is a Syrian lawyer, researcher, and human rights activist.

*This article is originally written in Arabic for Rowaq Arabi.*

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