

# Pathways to Criminal Accountability in Syria



# Table of Contents

<b>Executive Summary</b> .....	<b>2</b>
<b>1. Methodology</b> .....	<b>3</b>
<b>2. Introduction</b> .....	<b>4</b>
<b>3. An Introduction to Criminal Justice within Syria's Transitional Justice Framework</b> .....	<b>5</b>
- Criminal Justice in Syria's Transitional Justice Framework	5
- Guiding Principles and Legal Standards for Criminal Justice Mechanism	6
- The Interdependence of Transitional Justice Pillars: Building a Coherent and Transformative Justice System	7
<b>4. Types of Mechanism</b> .....	<b>8</b>
- An Overview of Criminal Justice Mechanism Options for Syria	8
- Viability of Internationalized Special Courts for Syria	11
- Integrating a Multi-Level or Layered Accountability Approach to Accountability in Syria	12
<b>5. Subject Matter Jurisdiction</b> .....	<b>14</b>
- Legal Basis and Definitions of International Crimes	14
- Core International Crimes in Syria	15
- Structural and Enabling Systems	16
<b>6. Temporal Jurisdiction</b> .....	<b>17</b>
- Crimes Committed Pre-2011	17
- Crimes Committed Post- 8 December 2024	18
<b>7. Personal Jurisdiction</b> .....	<b>18</b>
- Which parties to the conflict should be the focus of criminal accountability efforts?	19
- Levels of Responsibility	21
- Alternative Justice Pathways	22
- Remaining Gaps	23
<b>8. Prosecutorial Strategies</b> .....	<b>24</b>
- Option 1: Prosecutorial Strategies through Cluster of Crimes	24
- Option 2: Prosecutorial Strategies through Territorial Macro-Cases	24
- Option 3: Prosecutorial Strategies through Gravity and Feasibility Prioritization	25
<b>9. Transitional Justice Actors</b> .....	<b>25</b>
- Syria's Political Leadership	26
- Victim and Survivor Communities	26
- Syrian Civil Society	27
- International Community	28
- Remaining Gaps	30
<b>10. Syrian Domestic Law</b> .....	<b>30</b>
- Gaps in Syria's Existing Criminal Legislation	30
- Challenges to Effective Criminal Accountability in Syria's Transition	32
- Barriers to Women's Participation in Criminal Justice and the Path Toward Reform	35
- Towards Reform of the Domestic Legal Framework	37
<b>11. Conclusion and Recommendations</b> .....	<b>38</b>

## Endorsing Organisations

This report was coordinated and drafted by *Dr Yasmine Nahlawi* of Dar Justice, *Mouhanad Sharabati* of the Syrian Center for Media and Freedom of Expression (SCM), and *Veronica Bellintani* of the Syrian Legal Development Programme (SLDP). It was developed with the substantive contributions and collective endorsement of 27 Syrian civil society organizations:

1. Adalaty;
2. Caesar Families Association;
3. Dar Justice;
4. Dawlaty;
5. Do Not Suffocate the Truth Campaign;
6. Families for Freedom;
7. Families for Truth and Justice;
8. Huquqiyat;
9. Lailoon Victims Association;
10. Lawyers and Doctors for Human Rights;
11. Mnemonic;
12. Seen for Civil Peace;
13. Synergy Association for Victims;
14. Syrian Forum;
15. Syrian Network for Human Rights;
16. Syrians for Truth and Justice;
17. Ta'afi Initiative;
18. The Association for the Victims of Chemical Weapons;
19. The Day After;
20. The Syria Campaign;
21. The Syrian Center for Media and Freedom of Expression;
22. The Syrian Legal Development Programme (SLDP);
23. Transformative Pathways;
24. Truth Guardians;
25. Truth Tent Jaramana;
26. Truth Tent Salamiye;
27. Women Now for Development.



## Executive Summary

After more than five decades of authoritarian rule and fourteen years of devastating conflict, Syria faces the monumental task of confronting a legacy of mass atrocities and entrenched impunity. As the country embarks on a desperately needed transitional justice process, criminal accountability stands as a central pillar of that journey—essential not only for addressing past crimes but for deterring future abuses, rebuilding trust in institutions, and restoring the rule of law.

Signed by 27 Syrian civil society organizations, Pathways to Criminal Accountability in Syria offers a practical roadmap for establishing a credible and inclusive criminal justice mechanism within the broader framework of national recovery. It draws on an eight-month multi-phase consultation process involving Syrian and international legal experts, civil society organizations, victim and survivor associations, and representatives of the National Commission for Transitional Justice and the National Commission for Missing Persons.

This report does not seek to recommend a particular vision for a criminal justice framework. Instead, it presents a range of options that may be considered while building this framework, with an assessment of the advantages and disadvantages of each option. It signals a desire and willingness to engage with the National Commission for Transitional Justice as partners on the long road to criminal accountability, one that is rooted in fundamental principles of judicial independence and impartiality, respect for human rights and fair trial guarantees, victim-centered justice, non-discrimination, transparency and oversight, institutional capacity-building, and inclusive participation of victims, families, and civil society.

The report begins with an examination of potential models for a criminal justice mechanism. Each option is assessed for its legal feasibility, institutional requirements, and alignment with Syria's social and political realities, with special consideration for the establishment of a special domestic court and the relevant issues to be considered in that regard.

The report then explores the various options for defining the subject matter, temporal, and personal jurisdictions within the criminal justice mandate. It breaks down the advantages and disadvantages of each option, in light of the Syrian context and the existing political realities. With these potential mandates in mind, the report considers various prosecutorial strategies that could be employed, with consideration of the factors which will affect the prioritization of prosecutions.

Bearing in mind the dire need for support, the report further considers the role that external actors can have as partners or supporters in the transitional justice process. The report evaluates the potential roles that can be held by governmental bodies, victim and survivor communities, civil society organizations, and international actors. The involvement and participation of these actors can ensure that the criminal justice process is inclusive, participatory, and nationally owned, supported, but not driven, by international partners.

Understanding that the criminal justice process can be leveraged to achieve wider impact, the report considers constitutional, legal, and institutional reforms that can advance in tandem. It acknowledges the need for an interdependent and integrated design of transitional justice pillars that extends beyond criminal accountability. It then identifies major legal and structural gaps in Syria's justice system—such as the absence of frameworks for international crimes, weak judicial independence, and gender-based barriers to women's participation—and proposes reforms to address them.

Through this roadmap, the report lays out a pathway for designing a Syrian-led criminal justice process that is grounded in human rights principles, reflects the needs and desires of the Syrian people, and paves the way for wider institutional reform.

# 1- Methodology

This report was coordinated and drafted by *Dr Yasmine Nahlawi* of Dar Justice, *Mouhanad Sharabati* of the Syrian Center for Media and Freedom of Expression (SCM), and *Veronica Bellintani* of the Syrian Legal Development Programme (SLDP) and was developed with the substantive contributions and collective endorsement of 27 Syrian civil society organizations: Adalaty; the Association for the Victims of Chemical Weapons; Caesar Families Association; Dar Justice; Dawlaty; Do Not Suffocate the Truth Campaign; Families for Truth and Justice; Families for Freedom; Huquqiyat; Lailoon Victims Association; Lawyers and Doctors for Human Rights; Transformative Pathways; Mnemonic; the Syrian Center for Media and Freedom of Expression; Seen for Civil Peace; the Syrian Legal Development Programme (SLDP); Syrian Network for Human Rights; Syrians for Truth and Justice; Synergy Association for Victims; Syrian Forum; Ta'afi Initiative; The Day After; The Syria Campaign; Truth Guardians; Truth Tent Jaramana; Truth Tent Salamiye; and Women Now for Development.

This report offers an overview of potential criminal accountability pathways that could be adopted in the context of Syria's transitional justice journey. Signed by 27 Syrian civil society organizations, it is based on high-level expert discussions from Syrian and international stakeholders on Syrian laws, judicial practices, and transitional justice mechanisms. It draws on publicly available materials, relevant international legal frameworks, and the lived experience of actors engaged in accountability efforts across different levels.

The pathways presented in the report are informed by a multi-phase process conducted over an eight-month period. In the first phase, written contributions were solicited from Syrian and international legal experts on specific issues pertaining to criminal justice within the Syrian transitional justice context.

The second phase consisted of a series of five online convenings, structured around core thematic areas of the report:

- 1) type of criminal justice mechanism that should be implemented;
- 2) types of crimes that should be prosecuted;
- 3) which perpetrators should be brought to trial;
- 4) capacity of the Syrian state to implement criminal justice mechanisms;
- 5) reforms required for Syrian domestic law.

Participants included representatives of diverse Syrian civil society organizations, legal practitioners, victim and survivor associations, and international accountability experts. A representative from the National Commission for Transitional Justice joined the fourth convening to share updates on the Commission's work.

The outcomes of these convenings served as the basis for drafting the first version of this report, which was shared with participants to obtain their direct feedback and to shape the subsequent convening in Damascus.

In the third phase, participants attended a two-day in-person workshop in Damascus, Syria, to discuss remaining gaps in the report. Representatives from the National Commission for Transitional Justice and the National Commission for Missing Persons joined the second day of this workshop, which facilitated open discussions between members of the Commissions, civil society representatives, Syrian legal experts and practitioners, and victim and survivor associations. The outcomes of this workshop led to the revision and drafting of the second version of this report, which was again shared with participants for final comments and sign-on.

This report is intended as a practical tool for Syrian authorities, civil society, legal practitioners, and international actors seeking to establish or support a credible, victim-centered criminal accountability process in Syria, aligned with international standards and rooted in Syrian realities.

## 2- Introduction

The Syrian conflict is one of the most devastating and documented crises of the modern era, shaped by a legacy of authoritarianism, systematic human rights violations, and over a decade of armed conflict. After the Assad family came to power in 1970, Syria experienced over 54 years of authoritarian governance. This long-standing repression produced multiple “layers” of violations: newer atrocities committed during the war were stacked upon a foundation of decades-long abuses, leaving survivors and affected communities with a vast and complex burden of harm.

Fourteen years of conflict deepened this legacy. The Syrian conflict involved some of the worst human rights violations. All parties, with primary responsibility lying on the Assad regime, have committed core international crimes, whether war crimes, crimes against humanity, or acts that may amount to genocide (in relation to ISIS acts). Uniquely, the Syrian context is also marked by an extraordinary volume of documentation—much of it digital—providing unprecedented evidentiary grounds for justice and accountability efforts.

With the fall of the Assad regime, Syria stands at a crossroads. The political transition presents both a critical opportunity and a daunting set of challenges. Chief among them is how to address the legacy of past abuses in a way that upholds the rights of victims, fosters public trust, and prevents future cycles of violence and repression, especially in light of recent cases of widespread abuses in the Coast and Sweida. In this context, transitional justice is not merely a legal or technical process; it is a political, social, and moral imperative and a transformational tool.

Transitional justice refers to the set of judicial and non-judicial measures a society undertakes to reckon with a legacy of mass human rights violations. It is grounded in international legal obligations upon states to investigate the commission of international crimes, hold perpetrators accountable, provide remedies to victims, and guarantee non-recurrence. It encompasses far more than prosecutions; it includes uncovering the truth about what happened, ensuring the fate of the disappeared is known, providing victims with reparations, guaranteeing non-repetition, reforming institutions, and enabling communities to commemorate, remember, and rebuild. At its core, transitional justice is about restoring dignity to victims and building the foundations of a new social contract based on accountability, inclusion, and the rule of law.

This report focuses on one essential pillar of transitional justice: criminal accountability. While prosecutions are not the only avenue for justice, they often remain the most visible and most demanded measure by victims and survivors. Criminal accountability is necessary not only to punish perpetrators, but to restore dignity to victims, deter future violations, demonstrate a clear societal rejection of impunity, and foster conditions for social and community peace. Indeed, in many ways, criminal accountability is linked to non-judicial aspects of transitional justice.

The report does not seek to assert a single, definitive vision for criminal accountability in Syria. Rather, it presents a range of possible models, assesses their advantages and risks, and offers a framework for decision-making that prioritizes victims, respects international legal obligations, and is grounded in the Syrian context. It was developed through close collaboration with Syrian civil society and international experts and is intended as a practical contribution to the design of a credible, inclusive, and victim-centered criminal accountability mechanism for Syria’s transition.

### 3- An Introduction to Criminal Justice within Syria's Transitional Justice Framework

#### A. Criminal Justice in Syria's Transitional Justice Framework

Criminal justice refers to the formal mechanisms for investigating, prosecuting, and adjudicating crimes in accordance with established legal standards. In the context of transitional justice, criminal justice plays a dual role: it not only serves to hold perpetrators accountable but also affirms the rights of victims and re-establishes public trust in the rule of law.

Efforts to establish criminal accountability in Syria face significant structural, political, and social obstacles. Chief among them is the absence of an independent and capable judiciary as well as a robust legal framework to prosecute crimes committed throughout the conflict.

Indeed, despite the fall of the Assad regime, there remains broad skepticism among Syrian observers regarding the independence, integrity, and capacity of Syria's judiciary, as inherited by the regime but also in light of current provisions within Syria's Constitutional Declaration. Its potential continued co-optation by the executive branch, absent genuine reform and a demonstrable commitment to the rule of law, may preclude the realization of meaningful justice under the existing institutional framework. Some of the specific challenges include:

- Structural lack of independence of the judiciary from the executive authority, as entrenched in the Constitutional Declaration and in existing legislation (such as the Judicial Authority Law);
- Lack of experience of judges and prosecutors with complex criminal cases, including no experience with war crimes or crimes against humanity;
- Lack of investigative capacity among Syrian police, including resources and knowledge necessary to conduct complex investigations involving forensic evidence, taking statements from traumatized victims, collecting and analyzing OSINT, and respecting the rights of witnesses and accused persons;
- Shortcomings in the legal framework to prosecute war crimes and crimes against humanity;
- Damaged/inadequate physical infrastructure, including courtrooms and detention facilities that meet international standards;
- Lack of witness protection and support mechanisms and capacity;
- Lack of Mental Health and Psychosocial Support (MHPSS) provisions in Syrian law and practice;
- Lack of defense counsel capacity to provide robust defense for the accused in atrocity crime cases;
- Lack of staff capacity to protect accused persons' rights in custody;
- Lack of capacity and resources for sufficient court and archival management;
- Lack of outreach and public communications capacity and mechanisms in the Syrian judiciary.

Another major challenge lies in the continued presence of perpetrators in public offices or within the same communities as their victims, which creates ongoing risks and erodes confidence in judicial processes. Many senior perpetrators have also fled the country, requiring international cooperation and cross-border mechanisms to ensure they can be located, arrested, and ultimately held accountable. This process will depend heavily on political will and cooperation between the Syrian government and other states.

Yet another challenge is that prior misconceptions have led many victims to equate transitional justice solely with criminal justice. Survivors often experience isolation and confusion over their rights and may even believe that they must choose between criminal justice or other justice pathways such as reparations. Yet, it is important to emphasize that under international law, including the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation, victims are entitled to both justice (through judicial or quasi-judicial remedies) and reparations. These are complementary obligations, not competing choices.

One of the most pressing challenges is time. On the one hand, justice must be implemented in a timely manner, as victim communities are growing increasingly frustrated by what they perceive as a slow pace of progress. As long as there is no accountability, violations will continue, and impunity will become further entrenched. On the other hand, however, rushing criminal accountability measures can impact their legal integrity and may hinder the full and inclusive consultation of Syrian civil society, victims, survivors, and families. These challenges require high degrees of transparency to manage victim expectations.

## **B. Guiding Principles and Legal Standards for Criminal Justice Mechanism**

Any credible and legitimate criminal justice model must be grounded in a set of legal standards and guiding principles. Mechanisms not in compliance with such principles risk losing international support and local legitimacy.

### **Fair Trial and Right to Defense:**

Any criminal justice mechanism must uphold the right of the accused to a fair trial as guaranteed under international law, including under the International Covenant on Civil and Political Rights (ICCPR). This encompasses the presumption of innocence, the right to adequate time and facilities to prepare a defense, the right to defense and access to legal counsel of one's choosing, and the ability to examine witnesses and present evidence. Safeguarding these rights ensures both the legitimacy of proceedings and compliance with international standards.

### **Judicial independence and impartiality:**

Judicial independence and impartiality are customary norms of international law, which form the bedrock of the right to a fair trial. Judicial bodies must be both structurally and operationally independent, free from political interference or external pressures. The appointment of judges should be based on transparent, merit-based criteria—such as independence, integrity, legal competence, and non-partisanship—and supported by robust vetting processes. There should also be independent oversight of judges and prosecutors. Independence of criminal justice efforts should also be ensured through reliable, depoliticized funding sources.

### **Non-Discrimination:**

Non-discrimination includes the duty to investigate and prosecute serious international crimes, and to do so impartially, irrespective of the identity or affiliation of perpetrators or victims.

### **Victim-Centered Approach:**

The design and implementation of any justice mechanism must center the rights and needs of victims in a manner that is trauma informed. This includes the right to be consulted on the priorities and processes, to access justice, to participate in proceedings, to receive protection from harm or retaliation, and to obtain reparations and psychosocial support.

### **Oversight, Accountability, and Transparency:**

Effective oversight mechanisms—which may entail the involvement of an independent monitoring commission, civil society, and/or public reporting—are essential to guard against politicization or misuse of judicial processes. Local dialogues further demonstrate a desire for public trials, which can be secured through partnerships with media to broadcast prosecutions and confessions. Absent such safeguards, courts risk devolving into instruments of political or factional agendas, thereby undermining both justice and stability.

### **Forward-Looking Focus and Reform:**

Criminal justice models confer greater long-term benefits when they maintain a forward-looking approach. Designing criminal justice mechanisms with a capacity-building element contributes to wider institutional reform and more sustainable deterrence and prosecutorial expertise.

### **Participation and Inclusion:**

Civil society, including victim and family groups, should be central to the design and implementation of any criminal justice model. There must be inclusive and sustained consultations with diverse actors—including women-led actors; diaspora communities; and experts on conflict-related sexual violence, torture, and crimes against children—with their further engagement in the form of independent monitoring commissions, consultative councils, legal observer status, amicus curiae interventions, or regular public reporting to enhance transparency and accountability. Gender mainstreaming and inclusive representation should also be integral to all stages of the process.

## **C. The Interdependence of Transitional Justice Pillars: Building a Coherent and Transformative Justice System**

Criminal justice, while central to accountability, cannot operate in isolation. In societies emerging from conflict and systemic repression such as Syria, justice must be conceived as a multidimensional and interlinked process, one in which criminal prosecutions, truth-telling, reparations, memorialization, and institutional reform form an integrated architecture rather than parallel or competing tracks. Each mechanism addresses distinct dimensions of harm and legitimacy, but only together can they restore the social and legal fabric ruptured by years of violence and oppression and further exacerbated by ongoing abuses.

Criminal justice addresses individual criminal accountability, but not the collective truth about how and why violations occurred, nor the structural injustices that allowed them to persist. Truth commissions and other truth-seeking initiatives therefore constitute a vital complement, providing an inclusive forum for public acknowledgment of crimes, clarification of facts, and recognition of victims. They can address categories of harm that may remain beyond the reach of courts—whether because perpetrators are deceased, evidence is insufficient, or legal proceedings are unfeasible—and can document systemic violations that often elude criminal qualification.

Reparations programs further expand the meaning of justice by offering tangible redress to victims, namely, through compensation, rehabilitation, restitution, or symbolic gestures such as official apologies and memorials. Where prosecutions are delayed or impossible, reparations can uphold victims' dignity and affirm their right to recognition. They must be coordinated with judicial findings and truth commission determinations to ensure consistency and fairness. Similarly, memorialization initiatives—whether through public memorials, educational programs, or national remembrance days—anchor truth and justice in collective memory, reinforcing the moral consensus that crimes of the past will not be tolerated in the future.

Finally, institutional reform—especially judicial and legal reform, but also within police, intelligence, and military—remains essential to the integrity, sustainability, and transformative nature of the broader justice effort. Vetting processes, reforms, and the rebuilding of professional ethics within public institutions are therefore indispensable complements to prosecutions and truth processes. This is even more significant at this specific historical stage in Syria in which the fall of the Syrian regime has nevertheless been accompanied by a crescendo of violence and abuses by state forces.

In this interdependent design, each pillar sustains the others. Fragmentation among these elements would reduce justice to a series of isolated gestures, symbolically important yet normatively weak. If integrated within a unified transitional justice strategy, they can instead form a coherent system of accountability capable of rebuilding not only institutions, but also the social contract between the Syrian state and its people.

## 4- Types of Mechanism

There is no single, universally applicable criminal justice mechanism. Therefore, rather than replicating or copy-pasting past tribunals or processes, criminal justice efforts in Syria should integrate relevant components from multiple models. This section outlines a range of accountability models assessing their suitability to the Syrian context and international obligations. The objective is to identify adaptable components from various mechanisms that may inform future efforts.

### A- An Overview of Criminal Justice Mechanism Options for Syria

This section presents an overview of the various criminal justice mechanisms that could be considered for addressing serious violations of international law committed in Syria. It considers potential advantages and disadvantages, with an emphasis on legal feasibility, political realism, and alignment with victims' rights and international standards.

#### ● Local (Tribal) Accountability Mechanisms

*Syrian-led local (including traditional) forms of accountability processes*

Local—including customary and tribal—processes have historically existed in Syria and have contributed to social acknowledgement and community-level dispute resolutions. However, they cannot be a substitute for the formal criminal adjudication of core international crimes.

In a transitional justice context, the direct use of local accountability mechanisms raises serious concerns regarding due process and equality before the law, the limited or inconsistent protection of victims and adherence to their rights, the lack of a gender-sensitive approach to the crimes committed in the country, and the absence of institutional safeguards necessary to meet fair trial standards under International Human Rights Law. In many cases, outcomes may rely on negotiated settlements that may privilege community harmony over individual rights, or that rest on gender-discriminatory norms.

For these reasons, local or tribal mechanisms should not be viewed as a replacement for formal judicial processes. Instead, their values lie elsewhere, in carefully designed roles within complementary transitional justice tools, such as truth-telling, acknowledgment of harm, reconciliation or community-led memorialization, and the facilitation of reparative measures.

## ● Ordinary Domestic Courts

*Syrian-led ordinary domestic courts, with no international components*

Ordinary domestic courts present the most visible locus of national ownership. Properly reformed, they can promote domestic legitimacy and stakeholder buy-in. If accompanied by the willingness of the state, it could offer an opportunity to build national capacity on international criminal justice standards and serve as an entry point for gradual reform and institutional development (outlined in section 10), aligning domestic law, due process, and the overall judicial system with international legal standards. With effective coordination between Syrian authorities and international partners, investments in the development of the justice sector and in addressing the specific needs of proceedings for grave crimes could be mutually reinforcing.

At present, however, reliance on ordinary courts is inseparable from the need for far-reaching legal institutional reform. Acute concerns still exist regarding the independence and integrity of the existing judiciary, both before and after the fall of the regime. Proceeding prematurely through ordinary courts would jeopardize victims' rights to an effective remedy and could entrench impunity. Any domestic-only pathway must therefore be conditioned on verifiable benchmarks such as statutory incorporation of relevant international crimes, a reconstituted and reformed judicial council and prosecutorial service, witness protection, and detention systems that are compliant with international standards, in addition to further reforms outlined in section 10.

## ● Internationalized Special Domestic Court

Another option is a special court dedicated to international crimes, operating within the state justice system but applying international law, adhering to international law standards, and with the inclusion of specific forms of international involvement and oversight. While a fully hybrid tribunal could integrate both national and international elements (including judges, legal frameworks, procedures, and funding), hybrid mechanisms are usually a step further from the domestic justice system and can incorporate different forms of international elements, beyond traditional hybrid courts.

Hybrid or internationalized tribunals present a particularly appropriate accountability model for contexts such as Syria, where domestic judicial institutions lack independence, technical capacity, and public confidence, and where fully hybrid or international options remain politically or practically inaccessible.

Such a mechanism would offer the opportunity to bridge the gap between international legitimacy and domestic relevance—while mitigating the structural deficiencies that currently afflict Syria's national judiciary and the need for international involvement and oversight—which would be structurally integrated within the tribunal's procedures at its design stage.

A hybrid accountability mechanism carries several inherent advantages over exclusively domestic or international models. Critically, hybrid mechanisms could offer enhanced transparency and oversight supported by international auditing and oversight structures. Past experiences demonstrate that the success of transitional accountability mechanisms hinges not solely on their legal design, but on their institutional safeguards to fair trial guarantees. Such mechanisms are often absent in pure domestic processes and are crucial to safeguarding the integrity of judicial proceedings against risks of politicization, mismanagement, or corruption.

A hybrid tribunal could also manage to partially meet the aspirations of many Syrian advocates on the establishment of fully international mechanisms, such as an ad-hoc international tribunal or the activation of the International Criminal Court (ICC). However, the establishment of a fully hybrid model would still face substantial political and legal hurdles. It would require a resolution from the UN Security Council or the UN General Assembly, a multilateral treaty framework such as Ukraine’s Special Tribunal for the Crime of Aggression, or an agreement between Syria and the UN (likely following a Security Council or General Assembly resolution).

## ● International Court

This could take the form of the ICC or an ad-hoc international tribunal established specifically for Syria. These courts would operate entirely outside the Syrian domestic system and may include few, if any, Syrian judges or staff.

The ICC represents an independent and internationally recognized and supported body, with international legitimacy, proven legal and procedural frameworks, and alignment with international standards. Its status as a court of last resort in the fight against impunity could especially reinforce accountability against senior perpetrators who fled Syria, while within Syrian territory it could encounter enforcement and cooperation challenges, particularly in cases involving individuals currently serving within official institutions. While remaining a key inspiration for Syrian legal practitioners and the broader public, the activation of the jurisdiction of the ICC over Syria remains challenging: any acceptance of jurisdiction would necessarily extend to all actors involved in the conflict, thereby requiring a balanced and impartial process that does not exempt any side from scrutiny. Without Syria’s own declaration or ratification of the Rome Statute, a UN Security Council referral also remains improbable. At the moment, the only recourse to the ICC lies in Syrian civil society-led advocacy efforts that seek to use the crime of deportation as an entry point to trigger the Court’s jurisdiction over Syria for a narrow proportion of the crimes committed. Even under the best of circumstances, ICC resources are limited and would only ever lead to a handful of prosecutions. Thus, with or without ICC involvement, other justice tracks are necessary.

An ad-hoc international tribunal could represent an independent and recognized international body with internationally stipulated legal and procedural frameworks. By being fully international, it could reinforce accountability and oversight. Nevertheless, Syrian authorities are unlikely to agree to the establishment of a full international tribunal, since it will likely risk leading to low visibility, lack of Syrian ownership, and in limited—if not minimal—engagement and participation of Syrian victims compared to in-country mechanisms. Any lack of cooperation by Syrian authorities would result in the Court facing serious enforcement challenges on Syrian territory, since most ad-hoc international tribunals are located outside the country. Furthermore, after years of undertaking criminal justice efforts outside of Syria, Syrian victims, civil society, and the broader Syrian public desire to see justice being implemented inside the country, rendering an international tribunal less appealing.

## B- Viability of Internationalized Special Courts for Syria

The above overview highlighted the range of possible justice mechanisms available for addressing crimes in Syria. While acknowledging the importance and value of international pathways, there is no way around the role of Syrian national courts in achieving criminal justice. The scale of violations, the vast number of victims, and the imperative for justice to be accessible and visible to affected communities demand a domestic dimension. It is worth noting, however, that the legitimacy of a Syrian domestic approach to accountability rests on the principle of equality of all perpetrators before the law. This requires that all victims be recognized as such under any form of accountability mechanism, and that all perpetrators—regardless of their affiliation—be subject to prosecution within those mechanisms.

Yet the Syrian judiciary, long structurally weakened and politicized under the Syrian regime and still affected by structural subordination, cannot alone bear the weight of credible prosecutions for crimes under international law. Therefore, a viable justice model for Syria must strike a careful balance between international safeguards and domestic ownership.

Comparative experience demonstrates that criminal justice mechanisms increasingly take internationalized forms, combining elements of both domestic and international law, personnel, and institutional design. The distinction between hybrid courts is often fluid: some models, such as those in Bosnia, Cambodia, or Central African Republic, are embedded within national systems but incorporate international law (and in some cases judges); others, like the Special Court for Sierra Leone, operate outside of domestic structures. These examples illustrate that hybridity exists along a spectrum, and that courts may be internationalized in different ways (e.g. creation, applicable law, relationship to national judiciary, or staffing). For Syria, this suggests that an effective criminal justice mechanism should not replicate any single precedent, but rather, create its own form of hybrid model, one that is legally rigorous, grounded in international law standards and obligations, yet adapted to the domestic context.

In this report, we refer to an internationalized special domestic court, as formally operating within Syria's national judicial system but designed specifically to adjudicate serious violations of international law and benefiting from specific internationalized components. It fits within previous precedents within international criminal justice, such as the internationalized special courts established in Bosnia, Cambodia, or the Central African Republic, but also specific domestic courts such as the Special Jurisdiction for Peace in Colombia.

Such a mechanism would be Syrian-led in structure and composition, while fully adhering to international standards of due process, impartiality, and judicial independence. It would also meet Syrians' aspirations, as most Syrians prefer local justice mechanisms over international or fully hybrid ones, despite the limitations. While it has been widely discussed that domestic courts must remain central to any sustainable accountability process in Syria, Syrian and international experts have agreed that Syria's political and legal circumstances require a model that remains Syrian-led yet incorporates an internationalized component of criminal justice. Such an approach is necessary to safeguard the principles of fair trial, ensure the independence and impartiality of the judiciary, and guarantee the effective implementation of the standards outlined in the previous section. In this case, a special court could serve two distinct but interdependent purposes: to deliver impartial adjudication of core international crimes in accordance with international standards as well as to act as a transformative nucleus for the reform of Syria's justice system.

The Special Jurisdiction for Peace (JEP) in Colombia offers instructive comparative insights in this regard, despite contextual differences. This mechanism preserved national ownership by being fully integrated within the state justice system as a specialized court, while simultaneously embedding international law and legal standards, ensuring robust victim participation and allowing for procedural rigor tailored to the adjudication of international crimes.

The internationalized character of the special court could be designed along several distinct, though not mutually exclusive, modalities:

**Firstly**, the court could be established through an international agreement. Its legal foundation should rest on a founding law adopted by the Syrian legislature, but it could be coupled by an international cooperation agreement with the United Nations or a group of partner states to formalize relevant internationalized components. This dual basis could guarantee both domestic legality and external assurances of international law standards within the court.

**Secondly**, internationalization may be achieved through an international component within a domestic structure, whether in the composition of the bench and structure, or in the vetting and appointment structures, or through other modalities. While foreign technical assistance may be necessary, it should be structured to reinforce—not replace—Syrian leadership. The case of the Democratic Republic of Congo—in which international experts are embedded within national prosecutorial teams in the national Prosecution Support Cells—provides an example where external advisers can transfer expertise while enhancing Syrian-led leadership and capacity.

**Additionally**, it could be subject to international oversight mechanisms, whether in the form of supervisory bodies, external monitoring to safeguard compliance with fair trial guarantees, or insulation of proceedings from political interference. This could be comprised of Syrian civil society members tasked with monitoring compliance with fair trial guarantees and judicial standards.

**Finally**, a special court could also serve as both a central adjudicative body and a coordinating hub within a broader system of specialized justice efforts on Syria. Proceedings against Syrian nationals are ongoing in third-country jurisdictions under the principle of universal jurisdiction, requiring harmonization across criminal justice efforts as well as judicial cooperation where necessary. This could require the creation of a specific international element within the structure of the court aimed at guaranteeing a multi-layered approach to criminal accountability.

## **C- Integrating a Multi-Level or Layered Accountability Approach to Accountability in Syria**

A multi-layered model has been successfully employed in other transitional contexts. In Bosnia and Herzegovina, three levels of accountability functioned simultaneously: the International Criminal Tribunal for the former Yugoslavia operated at the international level; a hybrid State Court addressed serious violations nationally; and local municipal courts handled low-level war crimes cases referred to local prosecutors by the federal prosecutor's office. Similarly, in the Central African Republic, the ICC is responsible for high-level prosecutions, the internationalized Special Criminal Court—which is part of the national justice system but includes foreign judges and staff—focuses on mid-level perpetrators, and regular national courts address ordinary crimes, which may include simple war crimes cases. These experiences demonstrate that a stratified justice system with elements of differentiated strengths—including capacity and perceived local legitimacy—can function effectively, provided that it is supported by a coherent legal architecture that clearly delineates jurisdiction, avoids duplication, and fosters procedural harmonization.

Most importantly, internationalization must be reflected in the applicable legal framework, with international criminal law and international human rights law serving either as the primary legal regime or as directly incorporated into domestic law to ensure accountability for crimes under international law. Importantly, the Syrian Constitutional Declaration recognizes the binding nature of ratified international treaties, thereby creating a legal foundation for integrating international legal instruments into domestic judicial proceedings. However, significant legislative reform is still required to address existing legal and procedural gaps, and to ensure full alignment with international law standards.

Taken together, these models illustrate the spectrum of internationalization available, each of which contributes in different ways to securing the credibility, independence, and effectiveness of justice mechanisms in Syria. Overall, the extent to which internationalized elements could be integrated within the statute of a special court should result from extensive consultations with Syrian civil society and victim and survivor communities, and from an audit assessment of the judiciary system as outlined below. This will allow for internationalized aspects of the Court to fill the necessary technical gaps identified by the audit and to address structural concerns of relevant stakeholders with the Syrian justice system.

Given the fragmented nature of Syria's justice sector—in which disparate legal systems have operated across governorates during the conflict period—a special court could serve a critical function in ensuring coherence and uniformity. Without such a centralized body, criminal justice efforts through ordinary national courts risk remaining inconsistent, with verdicts and legal doctrine possibly diverging significantly across courts, including as a result of political or regional affiliation and bias. By operating within the domestic system, a special court could also act as a catalyst for broader institutional reform, setting benchmarks for prosecutorial and judicial practice across the justice system. This potential ripple effect could contribute to institutional capacity-building through international oversight of adherence to international law standards as well as through precedent-setting jurisprudence.

Nevertheless, this model carries inherent risks. Most notably, it may inherit the systemic deficiencies of Syria's broader judiciary, particularly if operating in the absence of meaningful structural reform or amid ongoing political constraints. To mitigate such risk, the special court must be underpinned by a comprehensive legal framework that clearly defines the court's mandate and jurisdiction; procedures for the selection, vetting, and appointment of judges and prosecutors; rules of evidence and procedure that reflect international due process guarantees; in addition to being supported by oversight mechanisms to ensure accountability and transparency. This will require a comprehensive technical audit of Syria's justice infrastructure as a prerequisite for any meaningful accountability mechanism. In addition to assessing Syria's legal framework for the prosecution of international crimes, it should assess the capacity, gaps, and legal compliance of institutions across the entire judicial chain, including courts, information and evidence management systems, detention facilities, forensic services, and defense systems. Such audits should be mandated by the Syrian authorities and supported by independent bodies such as UN-mandated bodies and/or civil society, and can represent one of the many ways in which the internationalized character of the court could take shape.

Without meaningful international involvement and oversight, the court's compliance with international standards would remain uncertain. Absent such legal and institutional foundations, the Court could fall short of international standards for the fair, impartial, and independent administration of justice. The risks extend beyond institutional capacity to encompass potential political manipulation, including the selective exclusion of certain categories of perpetrators or the shielding of politically sensitive cases from judicial scrutiny. Overall, international legal cooperation cannot be dismissed nor treated as an afterthought, as it includes mutual legal assistance, extradition agreements, and legal cooperation across jurisdictions. This will be especially critical given that members of the Syrian diaspora include victims, witnesses, alleged perpetrators, and experts.

## 5- Subject Matter Jurisdiction

The Syrian conflict has witnessed the commission of virtually all core international crimes, encompassing genocide, crimes against humanity, and war crimes. These crimes were not isolated or episodic, but the result of organizational and state policy directed against the civilian population. They often occurred in an interconnected and cumulative manner in which individuals and communities were subjected to multiple, intersecting forms of abuses, including at the hands of different perpetrators over successive phases of the conflict.

### A. Legal Basis and Definitions of International Crimes

A coherent and authoritative criminal justice effort in relation to Syria must be grounded in established definitions of international crimes under international law. These include genocide, crimes against humanity, and war crimes, as codified in the ICC's Rome Statute and developed through customary international law and international jurisprudence. They entail individual criminal responsibility irrespective of official position and require all states to prevent, prosecute, or extradite those responsible.

They include:

Genocide, meaning—pursuant to Article 2 of the 1948 Convention and Article 6 of the Rome Statute—any of a series of prohibited acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group;

Crimes against humanity, meaning—pursuant to Article 7 of the Rome Statute—specific acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack;

War crimes, meaning—pursuant to Article 8 of the Rome Statute—grave breaches of International Humanitarian Law (IHL) applicable in international and non-international armed conflicts.

Defining crimes according to this internationally recognized legal framework ensures legal certainty, consistency with international jurisprudence, and legitimacy of proceedings in the eyes of victims, the broader Syrian society, and the international community. It also enables the classification of acts as international crimes based on their contextual elements, which ensures that prosecution of such acts reflects their full criminal weight and social impact. This ensures that the gravity of conduct is recognized within the framework of international criminal law, avoiding dilution of responsibility or severity of harm through lesser legal categorizations.

For example, prosecuting enforced disappearance as such rather than as ordinary kidnapping is vital, as it better acknowledges the deliberate concealment of information as a criminal act, the continuous nature of the crime, and the broader social terror it inflicts. Likewise, adjudicating certain violations as crimes against humanity acknowledges their systematic and widespread character, thereby exposing the scale of the criminal enterprise involved rather than treating them as ordinary offences. In the event that international crimes are not criminalized in Syrian domestic law or in the transitional justice legal framework, they can be prosecuted under customary international law.

At the same time, Syrian domestic law constitutes a crucial part of this broader legal mosaic, operating in parallel and in complement to international frameworks, ensuring that the full range of harms suffered by Syrians can be legally addressed. Indeed, while not all violations will meet the threshold of war crimes or crimes against humanity, many still constitute serious offenses under Syrian domestic law. For example, certain housing, land, and property rights violations may not qualify as international crimes per se, but their prosecution under Syrian law will be essential for addressing the full impact and intent of structural dispossession. The use of international legal categories must not lead to the erasure or invisibilization of such abuses.

## **B. Core International Crimes in Syria**

Detention-related crimes have been among the most emblematic and widespread crimes committed throughout the Syrian conflict. These encompass torture and other cruel, inhuman, or degrading treatment and punishment, arbitrary arrest and detention, enforced disappearance, sexual and gender-based violence, and extrajudicial or summary executions. Such acts were perpetrated on a large scale and pursuant to state policy by Syrian security and intelligence agencies, amounting to crimes against humanity under customary international law and the Rome Statute framework. The systematic concealment of the fate and whereabouts of detainees—including the deliberate failure to account for those executed or deceased in custody—and the absence of identified burial sites represent a continuation of the crime of enforced disappearance and a form of other inhumane acts under Article 7(1)(k) of the Rome Statute. The denial of burial, the concealment of remains, and the obstruction of families' right to truth inflict severe and ongoing suffering on relatives, constituting a continuing violation of international law and an assault on the dignity of victims and their communities. In subsequent phases of the conflict, similar patterns of detention-related abuses were replicated by non-state armed groups, often mirroring the methods and objectives of the state apparatus, and in some cases, driven by discriminatory intent, amounting to war crimes and, in some cases, to crimes against humanity.

The pervasive nature and enduring impact of these violations have profoundly shaped Syrian victims' and society's collective memory and have been at the cornerstone of international accountability efforts. Within this broader pattern, a particularly grave manifestation concerns the forcible removal, concealment, and identity suppression of children separated from their detained or disappeared parents.

Sexual and gender-based violence (SGBV) committed outside detention settings formed a pervasive and deliberate aspect of the broader attack against the civilian population. Women, men, and children were subjected to rape and other forms of sexual violence—including sexual slavery—by the Syrian regime forces, but also pro-regime militias and other non-state armed groups. Such acts were often used to punish perceived political affiliation, instill fear, or humiliate communities collectively.

Further atrocities stemmed from deliberate, widespread, and systematic attacks directed against the civilian population. These included the indiscriminate bombardment of civilian areas and infrastructure such as hospitals, schools, and protected sites, acts which constitute serious violations of IHL and war crimes and—when committed as part of an organizational policy—amount to crimes against humanity. The use of prohibited weapons, including chemical weapons, represented one of the most egregious violations of international law. The repeated deployment of such weapons, their devastating impact on civilians, and the persistent denial and dissemination of misinformation by the responsible actors not only aggravated the suffering of victims and survivors but also impeded truth-seeking and accountability efforts.

The Syrian conflict was also marked by the use of siege and starvation as methods of warfare, whereby entire civilian populations were encircled and deliberately deprived of food, medical care, and other essentials indispensable to survival. Such tactics, employed most notably in areas such as Eastern Ghouta, Madaya, and East Aleppo aimed to compel the surrender through inhuman suffering and constitute grave breaches of IHL. The deliberate obstruction, restriction, and politicization of humanitarian access further entrenched civilian vulnerability and magnified the humanitarian catastrophe.

Other grave violations targeted the demographic composition of Syrian society through the use of forced displacement as a deliberate tool of demographic re-engineering and, in certain contexts, ethnic cleansing. These campaigns occurred across multiple regions of the country, including Eastern Ghouta, Darayya, Fua'a and Kufraya, Zabadani, Homs, Aleppo, Ras al-Ain, and Afrin. The displacement was frequently accompanied by a range of associated violations both before and after the act of expulsion, including arbitrary detention, prolonged sieges, confiscation of properties, and denial of return. The deliberate destruction and expropriation of housing, land, and property (HLP) rights, often through coerced sales, falsified documentation, or the application of discriminatory legislation and decrees served to consolidate demographic change and prevent displaced populations from reclaiming their homes. Such measures collectively amount to unlawful forcible transfer under International Criminal Law and may, in their scope and intent, constitute crimes against humanity.

## C. Structural and Enabling Systems

While prioritizing core international crimes provides a legally established framework, Syrian justice efforts must go beyond that to encompass the structural enablers of atrocity. Prosecutions should not only punish perpetrators but also dismantle the systems of violence, corruption, and impunity that enable them.

### ● Crimes against the Fair Administration of Justice

Crimes against the administration of justice also form a critical dimension of the violations committed in the Syrian context. These encompass the deliberate manipulation and weaponization of judicial institutions, laws, and procedures to legitimize repression and to consolidate impunity through legal means. Judicial bodies were instrumentalized to provide a veneer of legality to state violence, dispossession, and persecution, transforming the justice system from a guarantor of rights into an instrument of oppression.

In practice, this manifested through extrajudicial executions, prolonged arbitrary detention, and the use of sham trials or trials before unlawfully constituted courts such as field military or counter-terrorism courts. Such acts not only amount to grave human rights violations, but also constituted crimes against the administration of justice, as they perverted the very function of judicial processes by converting them into mechanisms of persecution and control.

Looking forward, it will be essential for any future accountability and transitional justice framework to explicitly safeguard against similar abuses. Justice mechanisms are likely to confront obstruction, interference, and non-cooperation by individuals or entities implicated in past crimes. Therefore, any new prosecutorial or hybrid justice mechanism should include a clear legal mandate to investigate and prosecute acts that obstruct, intimidate, or corrupt its proceedings, consistent with the standards reflected in Article 70 of the Rome Statute and customary international law. Ensuring accountability for crimes against the administration of justice is indispensable to protecting the integrity, independence, and credibility of future judicial processes.

## ● Economic Crimes, Corruption and Corporate Complicity

Atrocity crimes did not occur in a vacuum but were enabled and sustained by a broader architecture of abuse. This was the case of involvement of business actors that were key to sustaining the regime's war efforts, such as aiding and abetting crimes as well as financing international crimes. These actors were not passive beneficiaries but often served as accomplices or integral agents of the criminal apparatus. Their conduct constituted criminal complicity and economic entrenchment of state-led repression.

Furthermore, human rights violations were exacerbated by structural, systemic, and politically instrumentalized corruption. Practices such as the diversion of humanitarian aid, the manipulation of the war economy, and the deliberate obstruction of access to relief further intensified the suffering of besieged communities. These were not incidental, but rather systematic features of the broader strategy of control and punishment. In this context, corruption was the core mechanism through which repression was financed and perpetuated.

While addressing core international crimes may present a more straightforward legal pathway due to existing international jurisprudence and precedents, there is also value to prosecuting non-violent and structural crimes, especially from a transformative justice perspective. Specifically, the prosecution of corruption and abuse of judicial institutions can help dismantle the systemic foundations of repression and prevent future misuse of law and economic systems to entrench impunity and authoritarianism.

## 6- Temporal Jurisdiction

The Syrian conflict lasted between March 2011 and 8 December 2024, although Syrians have suffered from violations that may amount to international crimes both before and after this period. There is a question of whether criminal justice efforts within the transitional justice system should also address these violations.

### A. Crimes Committed Pre-2011

Crimes committed between 1970 and 2011 remain some of the most defining and unaddressed in Syria's collective memory. State-led atrocities such as the Hama massacre and the Tadmor prison massacre continue to have lasting impacts on victims and their families, with intergenerational consequences and no avenue for redress for over four decades. Incorporating these violations into a criminal justice mandate would acknowledge long-standing harms and provide long-overdue justice. From an international law perspective, retroactive prosecution is not barred for acts that were already criminalized under customary international law at the time that they occurred.

Nevertheless, challenges of broadening the transitional justice mandate to include pre-2011 violations include difficulty in collecting reliable evidence decades later, as well as diluting the focus of the transitional justice commission. For this reason, it may be more effective to address such crimes through complementary approaches—such as memorialization initiatives and truth-seeking processes—alongside, or in place of, criminal accountability mechanisms.

## **B. Crimes Committed Post- 8 December 2024**

Violations committed after 8 December 2024 in the Syrian coast, Sweida, and in other areas—including extrajudicial executions, torture, and other abuses—continue to tear at the fabric of Syrian society and undermine prospects for lasting civil peace, particularly due to the sectarian rhetoric accompanying some of these violations. Violations committed by members of the armed forces in particular have had the additional effect of eroding public trust in the government and its security institutions. If left unaddressed, this will continue to impact civil peace as well as Syrian national security: a sustainable and dependable security sector depends on a disciplined military and security force that follows lawful orders and adheres to legal standards, not individuals using state authority as a platform to pursue personal vendettas.

Extending the transitional justice mandate to include post-8 December violations could be justified on the basis that such abuses are a continuation of the legacy of violations inherited from the Assad regime. On this view, they could fall within the scope of crimes “caused by the Assad regime” as defined in Decree No. 20/2025. Their inclusion could further strengthen civil peace by signaling to affected communities that their grievances are recognized within the state-building process. It would demonstrate the government’s commitment to inclusivity, equal citizenship, and human rights.

On the other hand, however, broadening temporal jurisdiction to encompass post-8 December violations could result in an extended and undefined temporal mandate. Ongoing violations are fluid and are committed within the context of a rapidly changing environment, and a criminal justice mechanism within a transitional justice framework may not be best suited to respond to events that are still unfolding. Doing so could divert limited resources away from addressing entrenched and systemic violations of the Assad era, which many communities have endured for decades. This imbalance could foster resentment and deepen divisions, undermining the very civil peace such mechanisms aim to protect. Other mechanisms within the transitional justice framework may be better suited to address ongoing violations, such as guarantees of non-recurrence, as their mandates are inherently transformative and forward-looking.

Post-8 December violations could further be dealt with from a criminal justice angle by domestic national courts. This approach would ensure accountability, reinforce the legitimacy of new institutions, and avoid tension with communities still awaiting justice for Assad-era crimes. However, it would require substantial legal reform—particularly to incorporate provisions on war crimes, crimes against humanity, and command responsibility. Ideally, such prosecutions would operate in parallel with the transitional justice-related criminal prosecutions of pre-8 December violations, ensuring that all victim and survivor communities see their grievances addressed without one set of victims appearing to be prioritized over another.

## **7- Personal Jurisdiction**

The Syrian Network for Human Rights (SNHR) has documented the names of approximately 16,200 individuals implicated in serious crimes throughout the Syrian conflict. Among them are 6,724 members of state military and security forces as well as 9,476 affiliated with allied militias. These figures represent only the verifiable cases; the actual number of perpetrators is almost certainly much higher. Moreover, this data is restricted to the Assad regime and affiliated forces. It does not include perpetrators from other parties to the conflict—such as Russia, Iran, Hezbollah, opposition groups, ISIS, Syrian Democratic Forces (SDF), or the international coalition forces—about whom significantly less reliable information is available.

As with other historical transitional justice contexts, it will be impossible to pursue criminal accountability for all perpetrators in Syria. A primary reason for this is the scale of violations; most Syrians were direct victims of crimes, including arbitrary detention, torture, forced displacement, aerial bombardment, and the use of chemical weapons. Furthermore, post-conflict Syria faces serious financial, operational, and logistical constraints which limit its capacity to investigate, bring charges against, and prosecute perpetrators on a large scale, whereas criminal trials are costly and lengthy.

As such, the criminal accountability mandate in Syria must define which perpetrators will be prioritized for criminal prosecution (for example, on the basis of their level of responsibility), and which ones will be dealt with through other transitional justice mechanisms such as truth-telling, reconciliation, and reparations. Equally important is the need to communicate these criteria transparently to the Syrian people to manage expectations and promote confidence in the process.

This section of the report seeks to answer three foundational questions regarding who should be prioritized for prosecution under a criminal justice mandate:

- Which parties to the conflict should be the focus of criminal accountability efforts?
- What level of individual criminal responsibility should serve as the threshold for prosecution?
- What are some of the alternative justice pathways that can be pursued against perpetrators who are not encompassed under the criminal justice mandate?

## ● Which parties to the conflict should be the focus of criminal accountability efforts?

Transitional justice efforts in Syria face an extraordinary challenge due to the wide range of state and non-state actors implicated in the commission of crimes throughout the conflict. While there is broad consensus that the Assad regime and its affiliated militias are responsible for the overwhelming majority of violations, other actors also bear significant responsibility. Foreign actors—including Russia, Iran, and Hezbollah—intervened militarily in support of the Assad regime and have been linked to the perpetration of mass atrocity crimes. At the same time, various non-state armed groups—including opposition rebel factions, SDF forces, and ISIS—have also committed serious violations of international law. A third dimension of the conflict involves the international coalition against ISIS—led by the United States—which has also been implicated in breaches of international humanitarian law.

In light of this complex landscape, any credible criminal accountability process must be anchored in clear and transparent criteria regarding which actors fall within its scope. Without such delineation, efforts at justice risk being perceived as selective, politically motivated, or incomplete. This section explores the primary options for identifying which parties to the Syrian conflict should fall within the scope of criminal accountability efforts.

### Option 1: Focusing on Regime Actors

The first option for delineating which parties should fall within the scope of criminal justice initiatives—an approach seemingly adopted by Syria's Decree No. 20—is to restrict prosecutions to perpetrators affiliated with the former Assad regime. This option is grounded in the widely acknowledged reality that the Assad regime was responsible for the vast majority of as well as the most egregious crimes committed during the conflict targeting civilian populations. It further reflects ongoing and urgent security concerns, given that armed groups and militias loyal to the former regime continue to pose a serious threat to the country's stability during this fragile transitional period.

However, several concerns arise from a regime-only accountability framework. Significantly, while this approach may gain support from some states that want to avoid scrutiny of their own actions or those of allies, it is unlikely to garner broad international support. Global best practices and international standards for transitional justice emphasize impartiality, requiring that crimes committed by all sides be evaluated through the same legal and moral lens. Limiting prosecutions to regime actors could therefore be perceived as selective justice or victor's justice and lead international actors to withhold support from this process.

Additionally, this approach risks alienating victim and survivor communities who suffered abuses at the hands of other parties to the conflict. It may inadvertently create a 'hierarchy of victims,' undermining the legitimacy of the justice process and eroding public trust. This perceived politicization of accountability could foster resentment, deepen social divisions, and in some cases, provoke vigilante responses or cycles of retaliatory violence, ultimately threatening long-term peace, reconciliation, and social cohesion.

## Option 2: Focusing on All Parties to the Conflict

A second option for defining the scope of a criminal justice mandate is to include all parties to the Syrian conflict—state and non-state actors alike—who may have committed conflict-related crimes. This approach does not imply that prosecutions would be evenly distributed across all groups, but rather, that the legal framework would apply uniformly to all actors, with all alleged perpetrators subject to the same standard of legal scrutiny, regardless of affiliation.

This inclusive approach strengthens the legitimacy and credibility of the justice process by avoiding the perception of 'victor's justice.' It signals a commitment to impartiality and fairness and is more likely to foster public trust in the transitional process, which could translate to broader public trust in the overall post-Assad justice system in Syria. Crucially, this approach engages more fully with victim and survivor communities by acknowledging the harms they suffered, regardless of the perpetrator. When all communities feel that justice is accessible and impartial, the risk of retaliatory violence diminishes, and the prospects for long-term reconciliation and social cohesion are enhanced. Furthermore, a balanced and inclusive justice process is more likely to attract broad international support—both in terms of political backing and financial or technical assistance—on which Syria may heavily depend during its transitional justice journey.

This approach, however, also presents significant political and practical challenges. Pursuing accountability for individuals from countries such as the United States, other European members of the international coalition against ISIS, or Türkiye—which are now considered allies—could come at a high diplomatic cost. Similarly, Syria has initiated steps toward normalization with Russia, despite its well-documented involvement in widespread atrocities during the conflict. Moreover, obtaining custody or legal jurisdiction over non-Syrian nationals—including nationals of Russia, Iran, and members of Hezbollah—is likely to be extremely difficult, if not impossible, given geopolitical realities.

## Option 3: Focusing on Syrian Actors

As a middle-ground approach, Syria's criminal justice pathway could establish jurisdiction over all Syrian nationals implicated in crimes, regardless of their affiliation during the conflict. This model avoids the perception of 'victor's justice' by applying the law impartially across all parties to the conflict, thereby fostering greater buy-in from victim and survivor communities. It also acknowledges the jurisdictional and political limitations of prosecuting foreign nationals.

However, this option is not without its drawbacks. Victim and survivor communities who were harmed by foreign actors—such as Russian forces, Iranian or Hezbollah militias, or members of the international coalition—may feel excluded from the justice process. This exclusion could lead to feelings of marginalization or resentment, even if it is less likely to result in retaliatory violence, given the assumption that the associated perpetrators are no longer present in the country.

To address these concerns, Syria’s Transitional Justice Commission could implement complementary measures aimed at acknowledging the suffering of these communities. This could include official recognition and apology, symbolic gestures, or reparations. Additionally, Syria could collaborate with international partners to pursue acknowledgment and/or prosecution of crimes committed by foreign actors through other forums—such as international investigations, universal jurisdiction cases, fact-finding missions, truth commissions, or the ICC should it ratify the Rome Statute.

## ● Levels of Responsibility

In addition to determining which parties to the conflict will fall within the scope of a criminal justice mandate, another key consideration is whether to limit prosecutions based on the level of individual criminal responsibility. Responsibility can generally be categorized along a spectrum:

### **High-level perpetrators**

These are individuals in positions of authority who either ordered the commission of crimes or knew or should have known that such crimes occurred under their command without taking steps to prevent or punish them. This category includes senior military commanders, heads of intelligence or security agencies, senior political figures involved in operational decisions, and militia leaders or warlords with effective control over armed groups.

### **Mid-level perpetrators:**

These individuals may have directly participated in, facilitated, or instigated crimes. They include co-perpetrators, field officers, or others involved in the planning, coordination, or execution of unlawful acts.

### **Lower-level perpetrators:**

These individuals played a subordinate or secondary role in the commission of crimes, for example, serving as informants or carrying out orders from superiors. In some cases, their actions were shaped by coercion, fear, or limited decision-making power.

In transitional justice contexts, prosecutorial efforts are largely focused on those who bear the greatest levels of responsibility for serious crimes, while channeling other perpetrators toward alternative transitional justice mechanisms such as symbolic or monetary reparations, formal acknowledgment and apologies, and truth-telling initiatives.

This option strikes a balance between the imperative for accountability and the financial, logistical, and political constraints that make prosecuting every perpetrator unfeasible. It sets more realistic expectations for what can be achieved through criminal justice while providing complementary pathways for victims to seek justice and recognition from other perpetrators.

The most natural starting point is to prioritize high-level perpetrators, those who bear the greatest moral and legal responsibility for orchestrating and enabling systematic abuses over prolonged periods and across wide segments of the population. Some victim and family groups consulted for this report stressed that ‘those who bear the greatest moral and legal responsibility’ should be defined to include perpetrators who caused the greatest harm to communities, even if their positions were not high-level, as sometimes, it was mid- and lower-level perpetrators who caused the greatest harms to communities. They argued that litigation should be strategic, considering both the number of victims and the scale of crimes. Prosecuting perpetrators who bear the greatest moral and legal responsibility would send a strong deterrent signal against future atrocities. However, a key legal hurdle is that Syrian law currently does not recognize command responsibility as a mode of liability, meaning prosecutions of senior commanders, political leaders, and militia heads will require significant legal reform.

With expanded capacity within the criminal justice framework, prosecutions could then extend to mid-level perpetrators—those directly involved in committing crimes against civilians. Syrian law is generally better equipped to address this category. Lower-level perpetrators would be the lowest priority for prosecution under this model.

Despite the strengths of this approach for prioritizing perpetrators for criminal prosecutions, it risks disappointing many victims and survivors, particularly those who suffered at the hands of mid- and lower-level perpetrators—such as jailers, interrogators, and informants—who may not face criminal trials. To mitigate this, the Transitional Justice Commission should consult with affected communities when defining the prosecutorial strategy and should maintain a high degree of transparency about the criteria guiding its decisions. Robust communication efforts are essential to manage public expectations and prevent perceptions that some perpetrators are receiving a “get out of jail free” card. Educational campaigns explaining why prosecuting all perpetrators is neither feasible nor conducive to long-term peace—and highlighting the important roles of alternative justice mechanisms—will be critical. Civil society organizations can play a vital role in supporting this outreach.

Another important way to mitigate disappointment from victim and survivor communities is to retain an individual right to file criminal complaints against perpetrators who caused personal harm. This represents a fundamental right under international law for victims of international crimes to an effective remedy, and denying it could risk opening the door to revenge killings. In this manner, although it is impossible to bring all perpetrators to justice, the rights of all victims are better recognized and upheld.

## ● **Alternative Justice Pathways**

International law prohibits blanket amnesties from being given to perpetrators of international crimes, and therefore, mid- and lower-level perpetrators must be routed to alternative justice pathways rather than receive a blanket amnesty. This serves to uphold the rights of victims and their families, safeguard civil peace, and serve as a deterrent for the commission of future crimes.

Avoiding prosecution should therefore be contingent upon certain conditions. These can include:

- Make public confessions and admissions of guilt, acknowledging the harm they caused—ideally before a truth commission and through widely accessible channels;
- Issue formal public apologies for their role in the commission of crimes;
- Offer evidence pertaining to higher-level perpetrators (which will aid in their prosecutions), to the modalities of how crimes were committed, as well as to the fate of the missing and disappeared;
- Offer monetary and/or symbolic reparations to victims, coordinated by the transitional justice body responsible for reparations;
- Be politically marginalized, with clear prohibitions against holding political office, to prevent a repeat of post-conflict scenarios such as Lebanon, where former war criminals assumed political power.

High-level perpetrators should be excluded from alternative justice pathways altogether. Given the severity and scale of their crimes, anything short of prosecution would risk undermining public trust in the rule of law and generating significant resentment among victims and survivors.

Of course, as mentioned in Section 7D, none of the above should preclude the rights of individuals to file criminal complaints against perpetrators who caused them harm, in accordance with their rights under international law to an effective remedy.

## ● Remaining Gaps

Before a definitive mandate can be adopted for criminal prosecutions, Syria's Transitional Justice Commission may require additional information to support evidence-based decision-making. For example, while existing documentation—such as that provided by SNHR—offers valuable estimates of regime-affiliated perpetrators, it lacks disaggregated data regarding the levels of responsibility held by those individuals. Even less is known about perpetrators from other parties to the conflict, including their numbers, ranks, and organizational roles. These information gaps pose a significant challenge to crafting a targeted and credible prosecutorial strategy.

Efforts to hold perpetrators accountable are further complicated by the fact that many—including those most responsible for serious crimes—have fled Syria, and their current whereabouts remain unknown. This raises the question of whether domestic justice processes should be paired with international cooperation mechanisms—such as extradition requests, asset tracing, and mutual legal assistance agreements—in order to facilitate effective accountability. Cooperation with war crimes units and civil society organizations can also pursue criminal accountability for some of these perpetrators through universal jurisdiction.

Prioritization of prosecutions furthermore requires consultations with victim communities. While transitional justice contexts in recent decades have prioritized perpetrators bearing the greatest levels of responsibility, community engagement can help to shape the precise mandate so that the criminal justice process reflects the grievances and harms suffered by Syrian communities.

Finally, this section focused on individual criminal liability, assuming that only natural people would be subject to prosecution. As discussed in Section 5Cb, consideration could also be given to whether legal accountability might extend to non-natural persons—such as businesses, corporations, or other entities—that played a role in, or profited from, the commission of human rights violations during the conflict.

## 8- Prosecutorial Strategies

In light of the complex criminal landscape provided above, and the multitude of harms committed against the Syrian people, criminal justice efforts will need to adopt ad-hoc prosecutorial strategies to address the extent of crimes and violations that occurred.

### Option 1: Prosecutorial Strategies through Cluster of Crimes

Prosecutorial strategies could be effectively shaped by clustering crimes into distinct but inter-related categories. A cluster of crimes strategy could focus on prosecuting patterns of specific violations regardless of the geographic area or the identity of the actors involved. This thematic approach could be advantageous in several ways, including establishing consistent legal precedents across multiple cases involving the same state policy, as well as making the systemic nature of abuses more evident and therefore facilitating the investigation and prosecution of crimes against humanity (which by definition must be widespread or systematic). It would also enable societal recognition of crimes by all perpetrators, without creating hierarchy between victims of the same harm. This type of prosecutorial strategy could be effective in addressing clusters of crimes such as detention-related crimes. Special units could even be established to adjudicate specific crimes, with relevant complaints routed to these units. This will allow for relevant precedents to be built on key patterns of crimes and key legal issues associated so that cases do not need to be built from scratch each time. This approach will require a mapping of the crimes that were committed throughout the conflict, broken down by the crimes that were the most widespread and/or which had the most adverse impacts.

On the other hand, however, there is a risk with this approach that certain crime categories are presented in isolation from the overall pattern of crimes, which risks adverse outcomes, particularly in cases of SGBV, where there is a higher tendency to view crimes as isolated and unconnected to overarching crime patterns. This in turn has consequences regarding linkage to senior officials. This does not preclude, however, that helpful structural work cannot be done on thematic issues/specific crime patterns to feed into individual case files.

### Option 2: Prosecutorial Strategies through Territorial Macro-Cases

A macro-territorial approach centers prosecutions on specific geographic zones where a concentration of crimes occurred under identifiable command structures. This strategy recognizes that the commission of international crimes is often not random but part of a coordinated, regional policy involving military, security, and other actors. This could enable a more comprehensive understanding of criminality and abuse against specific areas (for example, Eastern Ghouta). By focusing on a specific area rather than on the nature of the crimes or the perpetrators' identity, it could also allow victims to acknowledge each other's experiences and foster reconciliation. The JEP in Colombia has employed forms of territorial prosecution.

A possible challenge to the implementation of Options 1 and 2 arises from the fact that the crimes in question cannot be considered siloed; in practice, many perpetrators operated across multiple violations and locations, and abuses often sustained or enabled one another, in addition to being replicated across the country in a widespread manner. Additionally, another challenge could originate from the perception that prosecutorial strategies may lead to the formalization of selective or exclusionary justice, as all victims must see themselves being reflected in the process. Prosecutorial discretion must be exercised to address the range, scale, and interconnectivity of crimes, without creating implicit hierarchies of victims or suggesting that some harms are more legally or morally deserving than others.

### Option 3: Prosecutorial Strategies through Gravity & Feasibility Prioritization

Prioritization, when undertaken, must be grounded in objective and legally sound criteria, such as gravity (assessed in terms of norm violation, scale, societal impact, and symbolic weight of harm) or feasibility (based on the availability of evidence, witnesses, access to suspects, and prosecutorial capacity). However, feasibility must not be used as a justification to avoid investigating violations for which evidence is not yet accessible, especially where the gravity and pattern of violations clearly warrant accountability. Other criteria for prioritization of crimes could look beyond gravity and feasibility and be guided not solely by the legal classification of the act, but also by whether a crime, if left unaddressed, is likely to perpetuate harm or deepen societal fragmentation.

In case of prosecutorial strategies undertaking a prioritization framework, it is essential to distinguish between strategic prosecution (through dedicated mechanisms and specific prosecutorial strategies) and the individual right to justice, whereby every victim retains the legal right to file a criminal complaint in Syrian domestic courts and seek prosecution for violations committed against them, irrespective of prosecutorial strategic priorities. The universal right of access to justice and the state's obligation to investigate and prosecute must be preserved, irrespective of strategic or institutional limitations.

## 9- Transitional Justice Actors

The success of Syria's criminal justice efforts necessitates several foundational elements. First, it requires robust legal and judicial institutions capable of navigating the complexities of transitional justice while upholding the principles of fairness, impartiality, and effectiveness. Second, it must be supported by adequate resources to enable the swift, fair, and effective delivery of justice. Third, the process must be led by qualified professionals with expertise in evidence collection, victim and survivor engagement, and the application of relevant domestic and international legal standards. Finally, the process must earn the trust and engagement of affected communities, especially victims and survivors, whose perceptions of justice will ultimately determine the process's legitimacy and effectiveness.

These foundational elements remain significantly underdeveloped in Syria. Years of violence and instability have severely undermined institutional capacity, depleted resources, driven experts into exile, and eroded public confidence in formal structures of justice. Nonetheless, the Syrian context presents unique advantages, namely, that there is already a strong foundational basis for criminal accountability, whereas such accountability efforts typically commence after political transitions in other post-conflict situations. Accountability efforts thus far have yielded a significant body of evidence, case files have been developed with a view toward future prosecutions, and Syrian professionals have cultivated substantial expertise in legal, investigative, and documentation work. This existing groundwork offers a valuable head start, reducing the time, cost, and effort required to initiate and secure meaningful accountability measures.

Leveraging this foundation will require the coordinated support and active participation of four key actors: (1) political leadership within Syria; (2) victim and survivor communities; (3) Syrian civil society organizations; and (4) the international community. Each brings distinct capabilities, resources, and forms of legitimacy that are essential to the design and implementation of an effective criminal justice process. This section examines the role each of these actors can play in supporting justice and accountability in Syria and identifies the key considerations for engaging them meaningfully and sustainably.

## **A. Syria's Political Leadership**

The commitment of Syria's political leadership will be a decisive factor in shaping the success of the criminal justice process. Demonstrating genuine political will entails not only rhetorical support but also the concrete allocation of resources, the appointment of qualified and credible individuals to leadership roles, and the creation of an enabling environment in which justice mechanisms can operate with independence and integrity.

In this regard, the Syrian government has already taken several noteworthy steps. The establishment of a National Commission for Transitional Justice and a National Commission for Missing Persons signals an institutional recognition of the need for justice and accountability. Moreover, the appointment of leadership to these bodies—along with autonomy granted to the heads of each mechanism to select their own staff and shape internal mandates and priorities—represents a positive indication of intent. Public statements by government officials further affirm that transitional justice is being treated as a national priority.

In parallel, deeper institutional and legal reforms will be required to support the broader criminal justice process. Strengthening the legal framework and judicial institutions will be essential to ensuring that Syria has the structural capacity to implement a fair, transparent, and rights-based transitional justice process. These reforms should aim to align national laws with international standards, address existing gaps or inconsistencies, and build durable institutions capable of upholding the rule of law in the post-conflict period.

## **B. Victim and Survivor Communities**

The involvement of victim and survivor communities is central to the criminal justice process. They are not only its intended beneficiaries, but also its most credible agents of legitimacy. Victim and survivor communities can help define and shape priorities for the criminal justice pathway through participation in structured, representative, and regular consultations with the National Commission for Transitional Justice. Their perspectives can ensure that justice initiatives genuinely serve those most affected and can secure buy-in from the Syrian population. Such consultations would also allow the Commission to transparently set expectations—explaining legal constraints, resource limitations, and the relative merits of different justice pathways—which will allow victim and survivor communities to understand constraints and limitations which may bar the effective prosecution of all perpetrators, and to simultaneously present their needs and priorities within the context of these existing constraints. This will secure greater buy-in from these communities and thus contribute to a more legitimate and effective process. Moreover, victim and survivor groups can serve as key partners in gathering evidence and building case files. Collaborating with these groups can dramatically accelerate investigatory processes and reduce duplication of effort.

## C. Syrian Civil Society

Syrian civil society can serve as a crucial partner in advancing criminal justice as part of the wider transitional justice process. Syrian civil society organizations have accumulated expertise over more than a decade in the following areas:

- **Documenting violations:** Syrian legal and human rights organizations have documented and archived evidence of tens of thousands of violations committed throughout the Syrian conflict.
- **Conducting open-source investigations:** Syrian legal and human rights organizations have developed expertise in sourcing and analyzing digital evidence for investigative purposes, including videos, photos, social media posts, and satellite imagery.
- **Taking testimonies from victims** and witnesses through victim-centered and trauma-informed approaches.
- **Establishing chains of command** and organizational structures of security and military agencies.
- **Preparing case files:** Syrian legal and human rights organizations have developed expertise in filing cases under universal jurisdiction, which is based on prosecuting perpetrators of war crimes and crimes against humanity, two core crimes which are not found in Syrian law. They have filed cases against perpetrators in Germany, France, the Netherlands, Norway, Sweden, the US, and Belgium, often in coordination with international partners as well as national war crimes units.
- **Uncovering the fate of missing persons**, drawing on sources such as the Caesar photos.
- **Working with international institutions** such as the International, Impartial and Independent Mechanism on Syria (IIIM), Independent Institution on Missing Persons in the Syrian Arab Republic (IIMP), Independent International Commission of Inquiry on Syria (CoI), and UN Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL UNITAD, among other international non-governmental organizations including the International Center for Transitional Justice, Amnesty International, International Commission on Missing Persons, and others. Syrian civil society organizations even held instrumental roles in establishing some of these bodies—including the IIIM as well as the IIMP—through lobbying at the international level.

As a result, Syrian civil society has significant expertise in working with these bodies and holds a deep understanding of their mandates, capacities, and potential avenues for collaboration.

With this context, Syrian civil society can contribute to criminal justice efforts in several key ways. First, it can provide invaluable evidence and databases compiled over more than a decade, including witness testimony and analysis of photo, video, social media, and satellite sources. This amassed evidence is sufficient to prosecute major perpetrators and offers a critical foundation for national prosecutors. The state—via the National Commission for Transitional Justice—can consolidate evidence for both prosecutions and public truth-telling. Centralizing this material would make it a national asset rather than having it dispersed among individual organizations. However, the National Commission for Transitional Justice should note that civil society groups may be cautious about transferring sensitive evidence without guarantees pertaining to fair trial standards, human rights protections, and witness security to ensure that confidentiality and duty of care are upheld.

Second, civil society can share specialized tools and resources that it developed or utilized through accountability efforts—such as digital archiving platforms, perpetrator-mapping systems, and media verification tools and methodologies. Sharing this infrastructure with the National Commission for Transitional Justice would significantly reduce duplication and enhance efficiency in case file construction.

Third, Syrian civil society can engage in a transfer of knowledge to national judicial actors. This can occur through capacity building and training of national judicial actors, including on processes (e.g. case file building, interviewing techniques, and legal analysis), legal standards (e.g. human rights standards as well as legal frameworks pertaining to war crimes and crimes against humanity), as well as tools (e.g. software, digital tools, and cybersecurity). Syrian civil society expertise can thus be harnessed to strengthen professional competencies within national institutions involved in the delivery of criminal justice.

Fourth, civil society organizations can serve as independent monitors and advisors. In this role, they can offer expertise and oversight on adherence to human rights norms, evidentiary integrity, and procedural fairness, supporting the credibility and transparency of transitional justice processes.

Fifth, civil society can play an essential role in shaping societal expectations. Recognizing that prosecuting every perpetrator is impossible, these groups can help manage disappointment and disillusionment by communicating realistic expectations and raising awareness regarding alternative transitional justice pathways, emphasizing that justice extends beyond courtrooms.

Finally, civil society can sustain accountability work beyond Syria's borders, specifically directed against perpetrators who fled the country. For high-level perpetrators who fall within Syria's domestic criminal justice mandate, civil society organizations can support efforts to seek arrest warrants and to extradite these individuals to Syria, where they can stand trial. For mid- and lower-level perpetrators not encompassed by Syria's domestic criminal justice mandate, civil society can lead universal jurisdiction litigation abroad. In all cases, coordination and evidence-sharing are crucial to ensure coherence in accountability strategies.

## **D. International Community**

The international community can serve as another source of support for Syria's criminal justice process, with roles ranging from advisory input to participation in hybrid judicial or investigatory mechanisms, as agreed between the respective parties. Over recent years, states and international institutions have played active roles in Syrian accountability efforts. A number of states, in particular European countries, have pursued alleged war criminals under universal jurisdiction. UN bodies including the IIIM, IIMP, and CoI have been mandated to gather and preserve evidence as well as build case files. This foundation of global engagement can be strategically leveraged to strengthen Syria's emerging transitional justice framework as well as to bolster trust in the national processes given that this trust has eroded over the past decades.

The international community can support Syrian criminal justice efforts in several ways. First, states can provide targeted funding for tangible transitional justice initiatives, such as rebuilding infrastructure, preserving evidence, protecting witnesses, and advancing truth-seeking projects.

A more ambitious strategy would be to allocate a portion of foreign investment in Syria to accountability mechanisms and reparations programs. Assistance for prosecuting international crimes should be closely coordinated with broader justice sector support, ensuring a mutually reinforcing approach.

The second modality, also related to financial assistance, is through asset recovery. This includes the recovery of Syrian state assets—which could be used to support the broad transitional justice framework—as well as assets of individuals who were implicated in international crimes, which could be funneled to a victims fund and thus serve as a source of reparations.

The third modality is through the sharing of expertise. States and international organizations alike can support capacity building in Syria by offering technical consultation, legal advice, and training. For example, the IIIM has tools, processes, and practices—many of them developed in consultation with affected civil society organizations—that could provide a helpful foundation for thinking about transitional justice processes in Syria. These include experience building a central repository of evidence to feed diverse justice processes; evidence management systems and protocols; experience integrating digital approaches into case-related work; a well-developed victim/survivor-centered approach; well-developed inclusive justice strategies tailored to the Syrian context (gender, children/youth, broader justice objectives); and an agile framework for promoting coordinated action among different actors within the accountability ecosystem for Syria.

The fourth is through the sharing of information. For example, the IIIM holds vast evidence repositories documenting serious international crimes in Syria as well as analytical products/case files. This material can be shared with the National Commission for Transitional Justice to support criminal investigations. Similarly, the IIMP's methods and organizational structure—in handling cases of missing persons—can offer a model for developing the policies and practices of Syria's National Commission for Missing Persons (although, it should be noted with regards to the IIMP that, because its work thus far has been confined to developing its structure and policies, its mandate requires consideration and clarification).

The fifth is through support in pursuing alleged perpetrators who are outside Syria. This includes the continued use of universal jurisdiction to prosecute alleged perpetrators within domestic courts, a strategy that has been employed in European courts in particular (including France, Germany, Sweden, and the Netherlands). It further includes extraditing alleged perpetrators to Syria upon request so that they can face trial through domestic proceedings.

The sixth is through conducting work on the ground. International institutions are keen to work inside Syria to gather evidence, take testimonies of witnesses and survivors, and conduct forensic testing. With the appropriate agreements—for example, which guarantee sole or joint ownership of uncovered evidence for the Syrian state—outsourcing these processes to international bodies can reduce pressure on Syrian transitional justice processes.

Within this framework, it should be stressed that while international support is invaluable, caution should be exercised to avoid a colonialist approach. Any framework of international cooperation should be premised upon mutual respect as well as Syrian ownership.

Rather than accepting blanket offers for support, it is preferable that the National Commission for Transitional Justice conduct a needs assessment on what support is required, after which international assistance can be allocated along these parameters. With that said, Syria should also bear in mind that international involvement is likely to be conditional. First, international support has historically manifested for neutral and impartial mandates, meaning that it may not be as forthcoming if the transitional justice mandate is narrowly defined to encompass only perpetrators from the Assad regime (See Section 7A). Second, international support is likely to require adherence to certain human rights guarantees, including the rights of the accused, rights to fair trial, and others. It is furthermore widely known that a number of key international actors, including the UN and the EU, do not support processes in which the death penalty can be implemented, as is the case in Syria. In order to avoid a relationship of dependency, the National Commission for Transitional Justice should seek clarification and clear and objective criteria as to how these parameters will be gauged, so that they are not used as a political card to withhold evidence or cooperation from the Commission. Ultimately, however, if Syria is interested in enlisting international support, it will have to undertake certain requisite institutional and legal reforms.

## E. Remaining Gaps

Delivering robust, legitimate, and effective Syrian criminal justice processes will require strong state institutions, capable and trained staff and experts, financial backing, and buy-in from affected communities. As a nation emerging from prolonged conflict and systematic state repression at the hands of the fallen Assad regime, Syria faces substantial challenges in meeting these critical requirements.

With that said, Syria benefits from a wealth of existing resources and expertise. Victim and survivor groups, Syrian civil society actors, and international actors have already invested years of effort into evidence collection and accountability measures. These actors offer a consolidated foundation—rich in evidence, methodological sophistication, and operational know-how—that the Syrian state can draw upon to support emerging criminal justice initiatives. Each actor brings a distinct set of contributions, including evidence, expert advice, analytical tools, digital platforms, and potential funding. Partnerships should be premised upon Syrian ownership, although they are also likely to be contingent upon Syria's guarantees relating to human rights, due process, witness protection, and impartiality.

Given the complexity of aligning internal and external stakeholders, the National Commission for Transitional Justice should undertake a strategic needs assessment: mapping required areas of support, clarifying entry points for collaboration, and crafting tailored engagement plans. By clearly identifying where it needs assistance, whether in technical training, database integration, or capacity-building, it can strategically leverage available resources while safeguarding ownership and accountability.

## 10- Syrian Domestic Law

Meaningful criminal accountability cannot be achieved without fundamental reform of the domestic legal system. In many post-conflict contexts, pre-existing legal frameworks have proven inadequate for addressing past crimes, holding perpetrators accountable, and ensuring the rights of victims. Syria is no exception. The current legal framework is ill-equipped to address international crimes such as war crimes, crimes against humanity, and genocide. In some instances, Syrian laws have even enabled or legitimized violations, making legal reform not only necessary, but urgent.

### A. Gaps in Syria's Existing Criminal Legislation

#### ● Lack of Legal Framework for International Crimes

The existing Syrian criminal legal framework is fundamentally unequipped to address the scale and nature of the grave violations committed during the conflict. It does not define or criminalize core international crimes such as war crimes, crimes against humanity, or genocide. While certain acts like murder or rape are covered under the Syrian Penal Code, they lack the contextual elements needed to prosecute them as international crimes, denying victims proper recognition. These gaps are especially significant given the range of violations that have occurred in Syria over the past decade (as discussed in Section 5A above). Many of these acts qualify as international crimes under customary international law and treaties to which Syria is bound. Yet, they cannot be prosecuted as such under current Syrian law and prosecuting them as ordinary crimes means they remain subject to statutes of limitations, which may further undermine accountability.

It is also important to note that some Syrian legal practitioners argue that existing laws on kidnapping (Decree No. 20/2013) and torture (Law No. 16/2022) provide sufficient grounds to address torture and enforced disappearance as international crimes. However, these laws do not reflect the full scope of these crimes under international law.

Enforced disappearance is not criminalized in line with international law, which treats it as a continuous crime against the disappeared person and their family members until the fate and whereabouts of the victim are known. Likewise, the anti-torture law fails to criminalize ill-treatment, applies lighter penalties to state officials than non-state actors, and fails to acknowledge the systematic and widespread nature of torture and ill-treatment in Syria. In addition to these substantive gaps, there are also procedural shortcomings concerning how torture and ill-treatment are investigated and proven, as current practices do not comply with the Istanbul Protocol (the international standard for the effective investigation and documentation of torture and ill-treatment). Together, these gaps prevent accountability and obscure the recognition of such violations as crimes against humanity.

To address these shortcomings, Syria must undertake comprehensive criminal law reform, including:

- Adopting a specific law on international crimes or incorporating such crimes into the Penal Code. This could either be pursued as a standalone legislative effort or as part of a broader Transitional Justice Law developing the mandate of the Commission for Transitional Justice. In either case, the law must define core international crimes in line with international law and include precise *actus reus*, *mens rea*, and contextual elements;
- Embedding criminal law reforms within a broader transitional justice framework to ensure coherence between criminal accountability, truth-seeking, and victim-centered justice measures;
- Ratifying key international instruments, such as the Rome Statute of the International Criminal Court and the International Convention for the Protection of All Persons from Enforced Disappearance;
- Ensuring that investigations into torture and ill-treatment comply with the Istanbul Protocol by establishing independent medical, forensic, and judicial mechanisms capable of conducting and supervising such investigations in accordance with international standards.

## ● **Absence of Command Responsibility**

Syrian legislation does not recognize the doctrine of command or superior responsibility as established in international criminal law. Under international standards, military commanders and civilian superiors can be held criminally responsible when they knew, or should have known, about crimes committed by their subordinates and failed to prevent or punish them. The absence of such provisions in Syrian law is likely to shield higher-ranking military and security officials as well as political leaders from accountability. As part of criminal law reform, Syria must incorporate modes of liability recognized under international criminal law—including command responsibility—to ensure accountability reaches higher political, military, and security leaders.

## ● **Evidentiary Challenges and the Need for Witness Protection Frameworks**

The Syrian legal framework is not equipped to handle evidence relevant to international crimes such as digital material, open-source intelligence (OSINT), and civil society-collected documentation, nor does it adequately regulate the chain of custody to ensure the integrity of evidence. It also lacks recognition (guidance, precedent, or procedure) of contextual evidence, such as command structures or patterns of abuse, which are crucial to demonstrating the systematic or widespread nature of violations. At the same time, there is no adequate framework to protect and support victims and witnesses, particularly women, children, survivors of sexual and gender-based violence, persons with disabilities, persons from minority ethnic or sectarian groups, and insider witnesses—leaving them exposed to serious risks. These gaps undermine the fairness, credibility, and effectiveness of future justice processes.

To fill these gaps, Syria should introduce provisions on evidence and witness protection, including:

- Rules on the handling and assessment of digital, open-source, and civil society–collected evidence;
- Rules regulating the chain of custody to ensure the integrity and reliability of evidence;
- Rules regulating contextual evidence, including command structures and patterns of conduct, to demonstrate the systematic or widespread nature of violations;
- Safeguards for vulnerable groups such as women, children, survivors of sexual and gender-based violence, persons with disabilities, persons from minority ethnic or sectarian groups, refugees and internally displaced, and insider witnesses;
- Mechanisms to assess the individual support and protection needs of each witness;
- Provision of protection measures, including psychological, legal, and physical support; confidentiality; and relocation when necessary;
- Privacy and data protection laws to safeguard sensitive personal information in line with human rights standards.

## **B. Challenges to Effective Criminal Accountability in Syria’s Transition**

Several structural and institutional features of the Syrian judicial and legal system may significantly hinder the pursuit of meaningful criminal accountability in the context of transitional justice.

### **● Weak Judicial Infrastructure and Lack of Independence**

A core obstacle to criminal accountability in Syria is the judiciary’s weakness, both in terms of its institutional capacity and its lack of independence. Courts are ill-equipped to adjudicate complex international crimes, lacking specialized units, investigative protocols, and training aligned with international standards.

Judges and prosecutors have no experience with complex criminal cases—particularly war crimes and crimes against humanity—while Syrian police lack the resources and expertise to conduct investigations involving forensic evidence, OSINT, or interviews with traumatized victims. These institutional deficiencies are compounded by damaged or inadequate infrastructure (including courtrooms and detention facilities); the absence of witness protection and mental health and psychosocial support provisions; weak defense counsel capacity; and limited mechanisms for outreach, public communication, and archival management. These shortcomings are compounded by the absence of a functioning rule of law and the deep entrenchment of executive influence over the judiciary.

The Constitutional Declaration of March 2025 fails to establish genuine separation of powers, while the Judicial Authority Law (Decree 98 of 1961 and its amendments) continues to subordinate the judiciary to the executive. Of its seven members, four represent the executive branch: the President of the Republic (represented by the Minister of Justice), the Deputy Minister of Justice, the Public Prosecutor, and the Head of the Judicial Inspection Department. The latter three report directly to the Minister of Justice. The Constitutional Declaration further compounds these issues by providing for a new constitutional court composed entirely of members appointed by the President, without safeguards for independence. With the court not yet formed and the previous one inactive and formerly executive-controlled under Assad, there are serious concerns that no credible mechanism will exist during the transitional period to review laws or check executive overreach. As a result, existing legal protections for fair trial remain weak, inconsistently applied, and often ignored, heightening the risk that criminal trials will be undermined by arbitrary detention, coerced confessions, and political interference.

These structural flaws highlight the urgent need for constitutional and judicial reforms to strengthen the rule of law, judicial independence, and fair trial guarantees. The National Commission for Transitional Justice, while maintaining its independence, should guide and advocate reforms which ensure that justice mechanisms align with international standards and uphold victims' rights. Key recommendations include:

- Recommending amendments to the Constitutional Declaration to clearly guarantee the separation of powers and establish an independent judiciary free from executive interference;
- Recommending amendments to the Constitutional Declaration to ensure the genuine independence of the future Constitutional Court by introducing transparent appointment procedures that limit executive influence and include safeguards against political interference;
- Recommending amendments to the Constitutional Declaration to explicitly state that transitional justice processes shall address violations committed by all actors, not only those committed by the former Assad regime, to ensure inclusivity, impartiality, and a rights-based approach;
- Supporting the amendment of the Judicial Authority Law to strengthen the independence of the High Judicial Council from executive control and reinforce the independence of the judiciary.

## ● Continued Use of the Death Penalty

The continued existence of the death penalty across Syrian criminal legislation, including the General Penal Code, Military Penal Code and Procedures, the Anti-Torture Law, and the Law on Kidnapping, poses serious obstacles to accountability and justice. Many alleged perpetrators have fled the country, and the existence of the death penalty in Syrian law complicates efforts to secure their extradition. Several states and international mechanisms are prohibited from cooperating with jurisdictions where the death penalty is still in use. Moreover, in a transitional context like Syria's, the death penalty may also be politicized or applied selectively, further undermining the credibility and fairness of justice processes. At the same time, the issue remains highly sensitive in Syrian society, where it intersects with complex moral, religious, and social considerations that require careful, inclusive discussion.

To remove obstacles to extradition and strengthen the fairness and credibility of justice processes, the following measures regarding the death penalty should be considered:

- Ideally, abolishing the death penalty and ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights;
- Suspending the application of the death penalty for all crimes during the transitional period, not just for transitional justice cases;
- Launching a national dialogue on the long-term abolition of the death penalty, grounded in human rights principles.

## ● Concerns over Selective Criminal Accountability

There are growing concerns that Syria's transitional justice processes, particularly in relation to criminal accountability, are likely to be selective and politically driven. Article 49 of the Constitutional Declaration explicitly mentions the establishment of a transitional justice committee, claiming it would be consultative and take victims' perspectives into account. However, it frames justice and accountability exclusively around violations committed by the former Assad regime, without acknowledging crimes perpetrated by other actors throughout the conflict. This selective framing is reinforced by Decree No. 20, which established the National Commission on Transitional Justice but narrowly mandated it to investigate only violations caused by the former Assad regime.

To ensure inclusivity, impartiality, and credibility, it is suggested that:

- Decree No. 20 should be amended to expand the mandate of the National Commission for Transitional Justice to explicitly include violations committed by all actors to the conflict, to enable it to review and reform laws in line with international standards, to introduce international crimes into domestic legislation, and to promote victim participation and civil society engagement;
- The Constitutional Declaration should be amended to explicitly guarantee that transitional justice processes will address violations committed by all actors, not only those of the Assad regime.

## ● **Concerns Over the Politicization of Amnesty and Reconciliation Measures**

There are growing concerns that amnesty, reconciliation, and accountability measures may be politicized and lack credibility. Without clear legal standards, judicial oversight, or transparency, amnesty risks enabling impunity for those responsible for grave violations. The case of Fadi Sakr, a former militia commander accused of serious crimes but now active in local “peace committees,” illustrates how perpetrators could be reintegrated into public life without accountability.

At the same time, transitional authorities have announced arrests of former officials accused of grave crimes, yet without disclosing charges, legal bases, or trials. This lack of transparency undermines trust and raises fears that justice may be selective, symbolic, or politically motivated. These concerns are compounded by the fact that Syrian law itself, as previously mentioned, is inadequate to address international crimes, further casting doubt on the credibility of such prosecutions.

To address these concerns, amnesties and reconciliation measures should be strictly regulated by law, subject to judicial oversight, and implemented transparently. They should be contingent upon genuine cooperation, acknowledgment of responsibility, and a public apology, while ensuring that victims’ rights to truth, justice, and reparations remain central, so that reconciliation and amnesties do not come at the expense of accountability. In this sense, it is also important to underscore that it is widely recognized by international human rights bodies and courts that blanket amnesties for genocide, crimes against humanity, and serious war crimes are inconsistent with *jus cogens* norms.

## ● **Legal Immunities as a Barrier to Accountability**

Some provisions in Syrian legislation currently in force provide immunity to members of the security and intelligence services, hindering efforts to ensure criminal accountability. For example, under the Military Penal Code and Procedure, Legislative Decree No. 61 of 1950, military and military intelligence personnel cannot be prosecuted without prior approval from their superiors. If permitted, they are tried before military courts. It should also be noted that Articles (16) and (30) of Legislative Decree No. 14 dated 25 January 1969, Legislative Decree No. 55 of 2011 amending Article (17) of the Code of Criminal Procedure, as well as Legislative Decree No. 64 of 2008, require that the prosecution of police officers be subject to a prosecution order issued by the General Command of the Army and Armed Forces. Likewise, under Legislative Decree No. 1 of 2012, members of the Internal Security Force, including the Political Security Division, Criminal Security, and Prison Administration, can only be prosecuted before criminal courts if the Police Disciplinary Court agrees to refer the case, with exceptions limited to *flagrante delicto* and economic crimes. These immunity provisions entrench impunity and block independent judicial oversight.

As such, it is vital for effective criminal accountability that these laws be repealed and replaced with new legislation regulating the police, security, and armed forces, clearly defining their roles, powers, and limits in line with democratic governance and human rights principles, while explicitly excluding any form of immunity.

There are growing concerns that amnesty, reconciliation, and accountability measures may be politicized and lack credibility. Without clear legal standards, judicial oversight, or transparency, amnesty risks enabling impunity for those responsible for grave violations. The case of Fadi Sakr, a former militia commander accused of serious crimes but now active in local “peace committees,” illustrates how perpetrators could be reintegrated into public life without accountability.

At the same time, transitional authorities have announced arrests of former officials accused of grave crimes, yet without disclosing charges, legal bases, or trials. This lack of transparency undermines trust and raises fears that justice may be selective, symbolic, or politically motivated. These concerns are compounded by the fact that Syrian law itself, as previously mentioned, is inadequate to address international crimes, further casting doubt on the credibility of such prosecutions.

To address these concerns, amnesties and reconciliation measures should be strictly regulated by law, subject to judicial oversight, and implemented transparently. They should be contingent upon genuine cooperation, acknowledgment of responsibility, and a public apology, while ensuring that victims’ rights to truth, justice, and reparations remain central, so that reconciliation and amnesties do not come at the expense of accountability. In this sense, it is also important to underscore that it is widely recognized by international human rights bodies and courts that blanket amnesties for genocide, crimes against humanity, and serious war crimes are inconsistent with *jus cogens* norms.

## **C. Barriers to Women’s Participation in Criminal Justice and the Path Toward Reform**

Women in Syria face distinct legal, social, and cultural barriers that undermine their meaningful participation in criminal accountability processes. These barriers are often compounded for women from minority groups, displaced women, and survivors of sexual violence. Addressing these obstacles through inclusive legal reform is essential to ensure their effective involvement in shaping and accessing justice.

### **● Constitutional Contradictions and Gender Inequality**

The current constitutional declaration reflects the same contradictions found in previous Syrian constitutions regarding women’s rights. While women are formally recognized as equal in public life, they are denied equality in the private sphere, limiting their effective participation in public and political life. Article 10 of the Constitutional Declaration guarantees equality for all citizens regardless of race, religion, or gender, and Article 12 incorporates international human rights treaties as part of the declaration. However, these guarantees are undermined by vague and inconsistent language on their implementation, especially concerning women. Article 21, for example, claims to safeguard women’s dignity and role within the family but fails to establish a legal basis or enforcement mechanisms. At the same time, Article 3 identifies Islamic jurisprudence as the main source of legislation. This provision likely enables the continuation of multiple personal status laws, introduced under previous constitutions and the Assad regime, which are based on religious affiliation. These laws place women under male authority in matters such as marriage, divorce, inheritance, and child custody. As a result, women remain legally subordinated in the private sphere, even while they are nominally permitted to participate in public life.

This contradiction must, first and foremost, be addressed through constitutional reform by explicitly guaranteeing equality between women and men in political, social, and economic life, and by removing provisions that allow discriminatory personal status laws, following examples where constitutional equality clauses have been used to strike down discriminatory family and inheritance rules.

## ● **Inadequate Legal Framework and Women’s Legal Invisibility**

Syrian criminal law continues to lack gender-sensitive provisions. For example, the penal code does not define rape in line with international law standards, and discriminatory provisions in nationality and personal status laws remain in force. At the same time, victims of sexual and gender-based violence (including men), face numerous practical barriers that obstruct their access to justice, especially in cases involving detention, disappearance, or family status. Many lack basic civil documentation, such as marriage, divorce, or death certificates, hindering their ability to register children, claim inheritance, or access services. Wives of detainees or forcibly disappeared persons are often unable to report the loss of their spouses, as this role is typically assumed by male relatives. With low levels of property ownership and most homes registered under the husband’s name, women are left vulnerable to homelessness or forced to remain in abusive environments. Together, these gaps reinforce women’s marginalization, further limit their access to justice, and deny them effective participation in accountability processes.

Addressing these shortcomings requires comprehensive legal reform, not only at the constitutional level but also through amendments to the penal legislation to incorporate international crimes—including sexual violence—in line with international standards. Such reforms are essential to enable the effective prosecution of these crimes within accountability processes and to improve women’s access to justice. Likewise, the Nationality Law, Personal Status Laws, and other discriminatory laws and provisions must be reviewed and amended to remove barriers that continue to prevent women from accessing justice.

- Adopt a comprehensive gender strategy and implementation plan for the transitional justice process—particularly for criminal accountability—from the outset, including:
- Concrete measures to facilitate women’s access to justice (such as removing documentation barriers, ensuring protection in court, and applying gender-sensitive procedures);
- Guarantees for women’s meaningful participation in transitional justice bodies and government institutions, with a minimum quota of 30%;
- Ensure that the voices of those disadvantaged by gender discrimination are effectively heard throughout justice processes;
- Integrate gender analysis as a core component of all justice work, ensuring that the gendered impact and drivers of harm are reflected in legal strategies and cases.

## ● **Practical Barriers and Legal Invisibility**

Syrian women, particularly survivors of sexual and gender-based violence, as well as the wives and relatives of detainees and the forcibly disappeared, face overlapping legal, social, and practical barriers that severely limit their participation in criminal justice processes. Social stigma remains among the most pervasive obstacles; survivors of sexual violence often refrain from reporting crimes due to fear of shame, rejection, or retaliation from their families and communities. This is especially true in cases of conflict-related sexual violence, which was widely used as a weapon of war. Cultural norms, reinforced by inadequate legal protections and lack of specialized medical and psychological support, foster a climate of silence that shields perpetrators and is likely to deprive women survivors of participation in criminal accountability processes.

Legal reform should ensure women survivors and witnesses are protected in court through measures like closed sessions, pseudonyms, and bans on disclosing identity or prior sexual history, while adopting gender-sensitive procedures and safeguards against retaliation to enable their meaningful participation in criminal accountability processes.

## D. Towards Reform of the Domestic Legal Framework

It is important that Syria's path toward justice and accountability be anchored in a deliberate and structured process of legal reform, drawing on lessons from other transitional contexts. A key starting point is constitutional reform. While a constitutional declaration has already been introduced in Syria, it requires significant revision to guarantee the separation of powers, judicial independence, and clearer mandates for transitional authorities. Experiences elsewhere have shown that embedding equality and the rule of law in constitutional frameworks provides the foundation for subsequent reforms, including those needed to secure rights and establish a credible system of criminal accountability.

Equally important is the role that the National Commission for Transitional Justice can play in this process. In many transitional settings, such bodies have been mandated to review and recommend reforms to penal and procedural laws, including provisions on witness protection and fair trial guarantees. They have also been tasked with addressing discriminatory laws, proposing necessary amendments, and recommending the adoption of new legislation. Their recommendations are usually transmitted to an elected parliament or other legislative bodies for consideration. While in most contexts these recommendations are not legally binding, governments or parliaments are often under a formal duty to respond. The National Commission for Transitional Justice could assume a similar role, ensuring that proposed reforms are coherent, inclusive, and consistent with international standards, while also establishing structured mechanisms for parliamentary engagement and accountability.

At the same time, legal reform must go hand in hand with institutional change. Comparative experiences show that restructuring the judiciary, limiting military jurisdiction, and placing security agencies under transparent civilian oversight are critical steps toward ensuring effective criminal accountability and dismantling entrenched impunity. This will not only require reforming the judiciary, prosecution units, and security sector, but also strengthening the capacity of judges, prosecutors, defense lawyers, and law enforcement through sustained training and capacity-building.

Legal reforms should also be inclusive and participatory. Experiences from other transitions highlight that consulting other stakeholders—such as victims, civil society, women, and marginalized groups—makes reforms more legitimate, locally owned, and responsive to people's needs. Broad consultation with diverse stakeholders in shaping priorities will be essential not only to rebuild trust between institutions and society but also to advance meaningful reforms that strengthen legal and criminal accountability mechanisms.

Finally, the international community and the UN have an important role to play by providing technical expertise, comparative guidance, and resources to support comprehensive legal reforms. At the same time, the process should remain nationally owned, drawing on the considerable experience Syrian civil society and victims' groups have developed over the years in documentation, advocacy, accountability, legal reform, and engagement with international mechanisms. International support should therefore complement, rather than substitute, Syrian-led efforts, ensuring that reforms are both credible and locally grounded.

## 11- Conclusion and Recommendations

Criminal accountability is a cornerstone of Syria's broader transitional justice process, even if it cannot redress every atrocity committed over more than five decades of authoritarian rule under the Assad family. This report provides a practical blueprint to guide the National Commission for Transitional Justice in designing and implementing a credible criminal justice mechanism during the transitional period. It emphasizes that any such mechanism must rest on essential principles: judicial independence and impartiality; respect for human rights and fair trial guarantees; a victim-centered approach; non-discrimination; transparency and public oversight; long-term institutional capacity building; and the meaningful participation of victims, families, and civil society.

These principles should guide every stage of the criminal justice process—from determining the appropriate institutional model and defining its jurisdiction to establishing cooperation frameworks among state authorities, victims and survivors, civil society organizations, and international partners. They must also inform the broader agenda of legal and institutional reform necessary to ensure that justice is both credible and sustainable.

Accordingly, this report puts forward the following key recommendations:

### ● For the National Commission for Transitional Justice:

- Recommend amendments to the Constitutional Declaration and/or to Decree No. 20 to clearly guarantee the separation of powers; establishment of an independent judiciary free from executive interference; and the broadening of the transitional justice mandate to address violations committed by all actors, not only those committed by the former Assad regime;
- Undertake a comprehensive mapping of violations and perpetrators;
- Undertake a comprehensive mapping of available evidence from international institutions, states, and civil society organizations;
- Undertake a needs assessment which can form the basis for cooperation with Syrian civil society organizations, states, and international organizations;
- Undertake a mapping of civil society organizations, categorized by specialty and expertise, to strengthen coordination and engagement across thematic areas and geographic outreach, and avoid duplication of efforts;
- Provide regular briefings and official statements to the public and to civil society to provide updates on the Commission's work and strengthen transparency;
- Formalize partnerships such as Memorandums of Understanding (MoUs) with civil society organizations, to ensure structured and reliable collaboration, while noting that these MoUs should not serve as a prerequisite or condition for collaboration, engagement, and access;
- Host virtual and in-person consultations with Syrian civil society to discuss specific issues. This should be done by each Committee;
- Share draft laws, strategies, and policies—including the draft transitional justice law—with Syrian civil society for the purpose of consultation and receiving input;
- Adopt and implement comprehensive security, data-protection, and confidentiality guidelines and mechanisms to ensure the secure collection, storage, and handling of sensitive testimonies and records, and to facilitate safe information sharing by organizations;
- Establish clear frameworks and guarantees in compliance with international human rights law (IHRL) standards, fair trial guarantees, and witness protection measures, which will allow organizations to safely engage and share their data and evidence.

## ● For Syrian Civil Society Organizations:

- Support with the mapping of Syrian civil society organizations disaggregated by their areas of focus;
- Take initiative on providing support and initiating consultations with the Transitional Justice Commission to ensure two-way cooperation and joint ownership;
- Offer data and evidence—including on perpetrators and crimes committed—that may be legally shared in line with established policies;
- Offer expertise and support—including by sharing policies, procedures, tools, and training—to support the work of the National Commission for Transitional Justice and ensure two-way cooperation and joint ownership;
- Continue to pursue universal jurisdiction cases;
- Serve as independent monitors of the transitional justice process and offer regular and constructive feedback to the National Commission for Transitional Justice.

## ● For States and International Organizations:

- Provide funding for transitional justice initiatives such as rebuilding infrastructure, preserving evidence, protecting witnesses, and advancing truth-seeking projects;
- Trace, freeze, and recover misappropriated Syrian assets, ensuring that all recovered resources are returned to the Syrian people—channeled through transitional justice mechanisms for state assets and through a victims’ reparations fund for individual assets;
- Undertake a review of policies, procedures, and strategies in light of the changed situation in Syria, with focus on the need for Syrian ownership;
- Communicate clear guidelines for engagement with the Syrian Transitional Justice Commission—including on handover of information, evidence, and support—so that engagement assessment is objective and not politically motivated;
- As permitted by the above, share evidence repositories documenting serious international crimes in Syria as well as analytical products/case files;
- Support capacity building by offering technical consultation, legal advice, and training as requested by and agreed with the Transitional Justice Commission, including on tools, processes, and strategies;
- Continue to pursue alleged perpetrators under universal jurisdiction;
- Extradite alleged perpetrators to Syria upon request.

# Pathways to Criminal Accountability in Syria

**Signed by 27 Syrian civil society organisations, this report presents a practical roadmap for advancing criminal accountability in Syria.**

Adalaty; Caesar Families Association; Dar Justice; Dawlaty; Do Not Suffocate the Truth Campaign; Families for Freedom; Families for Truth and Justice; Huquqiyat; Lailoon Victims Association; Lawyers and Doctors for Human Rights; Mnemonic; Seen for Civil Peace; Synergy Association for Victims; Syrian Forum; Syrian Network for Human Rights; Syrians for Truth and Justice; Ta'afi Initiative; The Association for the Victims of Chemical Weapons; The Day After; The Syria Campaign; The Syrian Center for Media and Freedom of Expression; The Syrian Legal Development Programme (SLDP); Transformative Pathways; Truth Guardians; Truth Tent Jaramana; Truth Tent Salamiye; Women Now for Development.