

Mandate of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence

Ref.: OL SYR 3/2026

(Please use this reference in your reply)

6 July 2026

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, pursuant to Human Rights Council resolution 54/8.

In this connection, I wish to share a number of comments, concerns, and recommendations concerning the draft Law on Transitional Justice currently under consideration. I understand that several versions of the draft have been prepared by different entities over recent months. The observations below relate to what I understand to be the most recent version of the text.

Before sharing my comments, I wish to acknowledge the effort of the authorities to conduct a transition into a modern Syrian State, which must be grounded in international human rights law, respectful of an inclusive, participatory and representative Syria. I most specifically welcome efforts to design a draft law that covers all five pillars of transitional justice processes, namely truth-seeking, criminal prosecutions, reparations, memorialization and guarantees of non-recurrence. These are essential elements of any credible transitional justice framework and are critical to addressing past abuses and building lasting peace and reconciliation.

I am fully aware of the protracted human rights concerns and challenges inherited from the former regime that will have to be addressed, and I share the below observations with a view to supporting efforts to strengthen human rights and the rule of law in Syria. My observations are by no means exhaustive but rather focus on critical issues, in the light of the well-established standards under international human rights law, which I highlighted in my previous communications ([AL SYR 1.2025](#) from 26 March 2025 and [AL SYR 4.2025](#) from 14 July 2025).

In this context, I encourage the Government, as well as members of Parliament, to pursue their engagement with international actors, including my own mandate, the Independent Institution on Missing Persons in the Syrian Arab Republic, the Independent International Commission of Inquiry on the Syrian Arab Republic, and the OHCHR, to ensure that the comments on the draft law they may have provided are duly considered and implemented.

As I share my comments on a text that will soon be reviewed by the Parliament, I respectfully ask you to please share my comments with the new members of Parliament.

As indicated, my observations focus on three key areas only, namely the personal and temporal scope of the law and the applicable sanctions, which, in my view,

merit careful consideration and review prior to the adoption of this very important legislation for the future of Syria:

Personal Scope of the draft law

Under international human rights law, States are under an obligation to ensure that persons whose rights or freedoms have been violated to have an effective remedy (article 2 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by the Syrian Arab Republic on 21 April 1969). Article 6 (1) of the ICCPR also guarantees the right of every individual to life and security and provides that these rights shall be protected by law and that no one shall be arbitrarily deprived of his or her life. In addition, article 7 guarantees the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Furthermore, article 24 (paragraphs 1, 2, 3, 4, 5 and 7) of the International Convention for the Protection of All Persons from Enforced Disappearance also enshrines the State's obligation to search for the disappeared, and to protect the rights of victims to truth and reparations. I recall that the Guiding Principles for the Search for the Disappeared (CED/C/7, 2019) of the Committee on Enforced Disappearances establish that the search for the disappeared should be undertaken with the assumption that the person is alive (principle 1); should respect the right to participation of the family of the disappeared (principle 5); and the search should be considered a continuing obligation (principle 7).

The above obligations apply without distinction of any kind, regardless of the identity of the perpetrator or that of the victim. Any limitation or exclusion in this regard would be inconsistent with the duty of the State to ensure accountability and the right to an effective remedy.

In this context, I share concerns that Article 2 and Article 19 of the draft law appear to limit the scope of the law to crimes of the former regime only. The draft law provides that the National Commission for Transitional Justice will be mandated to “uncover and document the truth regarding crimes of the former regime, identify patterns of violence, their root causes, and the practices of the institutions involved”. It is also stated that specialized judicial bodies composed of public prosecution offices, investigative and referral chambers, and courts within the provincial judicial structures, will be dedicated to adjudicating crimes of the former regime.

I wholeheartedly encourage the authorities to uncover, investigate, prosecute and punish the severe atrocities committed during the conflict, including the international crimes committed by the Assad regime. I stress that it is imperative to ensure accountability for all violations committed, irrespective of the victims or the perpetrators, and regardless of the place where the violation took place.

All gross human rights violations and serious violations of international humanitarian law must be promptly, thoroughly, independently and impartially investigated, and those responsible must be prosecuted and, if found guilty, sanctioned in a manner commensurate with the gravity of their acts. This basic principle of international law applies to all perpetrators, State and non-State actors alike, irrespective of their identity, status, or any other ground. All victims must also be provided with adequate, effective and prompt reparation for the harm suffered. I recall that, in its General Comment on the right to truth, the Working Group on Enforced

Disappearances highlighted the procedural safeguards for victims of enforced disappearances, namely, the State's obligation to investigate until the fate and the whereabouts of the person have been clarified; the obligation to have the results of these investigations communicated to the interested parties; the obligation to provide full access to archives; and the obligation to provide full protection to witnesses, relatives, judges and other participants in any investigation (A/HRC/16/48).

Temporal scope of the draft law

The draft law stipulates that the legislation shall apply with respect to grave violations committed between 16 November 1970 and 8 December 2024.

In this context, the period over which investigations may be conducted may exclude reported instances of serious human rights violations, including torture, enforced disappearances, and killings that occurred after the fall of the Assad regime. Limiting the temporal jurisdiction of the law risks excluding victims and undermining the principles of equality and non-discrimination, as well as the right to truth, justice and reparation. Further, to guarantee non-repetition, the law should also include violations whose roots go back to before 1970, to ensure the historical/root context of these violations is not overlooked.

I emphasize that all violations committed up to the adoption of this law should fall within its scope, not only for accountability purposes but also to ensure non-repetition. Limiting the scope of investigation only risks resulting in a selective and partial form of justice, which raises grave concerns about risks of repetitions of impunity, a distinct feature of the former regime. Recovering from a legacy of oppression that has affected all segments of the Syrian people will be long and challenging; it is thus essential to ensure that all victims and families of victims of crimes can obtain justice and reparations, and that the society can move forward together in a comprehensive truth and reconciliation process.

Sanctions and Impunity

Articles 32 and 33 stipulate that war crimes and crimes against humanity shall be punishable by a minimum term of 15 years' imprisonment and a fine of between 2 and 10 million Syrian pounds. Article 37 provides that these crimes may be subject to the death penalty in certain circumstances. Article 38 provides for the death penalty for those who committed the crime of genocide.

While the definitions of these crimes must be fully aligned with international law, I wish to emphasize that the imposition of the death penalty, as currently provided for in the draft law, is fundamentally incompatible with the rights to life and to freedom from torture and other cruel, inhuman, or degrading treatment or punishment. In effect, as your Excellency's Government is well aware, there is growing consensus for universal abolition of the death penalty.

I would like to emphasize that international human rights law, in particular the International Covenant on Civil and Political Rights, places strict limitations on the application of the death penalty and encourages its progressive abolition. The application of the capital punishment in the context of transitional justice processes

risks undermining reconciliation efforts and the transitional justice as a whole. I therefore encourage the removal of this provision and its replacement with penalties such as life imprisonment or long-term imprisonment, in line with international standards.

Additionally, Article 10 of the draft law refers to Non-Judicial Mechanisms within the National Authority for Transitional Justice, which provides for non-judicial mechanisms based on the perpetrator's commitment to: a) Voluntarily acknowledge full responsibility; b) Request forgiveness from the victim or their relatives; c) Provide financial compensation or undertake community service in accordance with the implementing regulations of this law, subject to the consent of victims or their relatives; d) Participate in community reconciliation sessions; and e) Cooperate with the Authority in a manner that advances the objectives of this law.

In the same vein, Article 45 provides for Conditional Judicial Mitigation in cases where "the accused provides a full, truthful, and documented confession regarding the crimes committed". Article 48 specifies that the crime of genocide, as well as "crimes involving torture leading to death and top-level leadership crimes", which are not further defined in the text, are excluded from mitigation.

I raise most serious concerns regarding the use of non-judicial justice approaches as a complement to punitive justice. According to the draft law, voluntary reconciliation programs, based on acknowledgement of responsibility, apology, reparations, and participation in community service, subject to the consent of victims or their relatives, will be made available to perpetrators of serious human rights violations.

I underscore that unduly offering broad procedural benefits in cases of serious human rights violations may lead to injustices and, in the end, impunity, in violation of international law. I urge reconsideration of Articles 10 and 45 of the draft law.

Participation

The inclusion of Chapter Eight, named "Dialogue and Civil Peace", is a significant step towards building truth and reconciliation. I certainly encourage the Government, members of the Parliament and the National Commission on Transitional Justice to hold regular, transparent, broad and formal national consultations with victims, including survivors of sexual and gender-based violence, and civil society, including gender experts. I wish to stress however that reconciliation should never be a means to avoid accountability. I further encourage the Government and the National Commission on Transitional Justice to regularly communicate publicly about the advancement of the transitional justice process. Inclusive and public engagement is essential to generate trust and build lasting peace.

Truth-seeking mechanisms are particularly important for the reconstruction of society. Truth commissions can and must give voice to victims and affirm their status as rights holders. The meaningful participation of victims, their families, and civil society organizations in the elaboration, implementation, follow up and monitoring of the law is essential. Such participation should be inclusive, transparent, and gender-sensitive, taking into account the specific experiences and needs of women and other

groups disproportionately affected by violations. As a result, I wholeheartedly encourage all relevant State authorities to ensure that the transitional justice commission includes consultations with a wide range of victims and representatives of victims from all parts of the society so that the process has joint ownership and can be used to build trust across and within communities. I also encourage the adoption of effective safeguards concerning victim and witness protection in their engagement with the transitional justice commission and in criminal proceedings.

Lastly, addressing and preventing gender-based abuses that have taken place over the years requires that due consideration be given to the complexity and intersectionality of the phenomena. Transitional justice must therefore go beyond individual accountability to address systemic and societal factors. This includes: gender-sensitive institutional reform; inclusive reparations; recognition of diverse victim experiences; and intersectional approaches. It also requires increased representation of women at all decision-making levels – not only within transitional justice processes and adjudicatory bodies but also as judges, adjudicators, investigators and other positions of authority – for the prevention, management, resolution of conflict and guarantees of non-recurrence (See A/75/174).

Concluding observations

I would like to welcome the steps taken by the Government to pursue a transitional justice process, “based on the constitutional principles that enshrine respect for human dignity, the sanctity of life, and the guarantee of rights” (part 3 of the preamble), which notably includes the establishment of a Reparations Fund to support individual and collective reparation, as well as the establishment of a National Day of Memory and Justice, a critical aspect of memorialization.

I also welcome the part of the introduction of the draft law that refers to the Constitutional Declaration and the “need to establish a new legal system based on justice, accountability, and transparency”. I note that the draft law draws on Islamic legal tradition, particularly the principle of reconciliation and reparation, and recall that it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms (Vienna Declaration and Program of Action, 1993, paragraph 5).

I once again encourage the relevant authorities to look into relevant [thematic reports](#) produced by my mandate that have outlined guidance on strategies, policies and measures to address gross human rights violations and serious violations of international humanitarian law, in particular:

- [A/HRC/48/60](#) Accountability: Prosecuting and punishing gross violations of human rights and serious violations of international humanitarian law in the context of transitional justice processes.
- [A/HRC/30/42](#) Guarantees on non-recurrence/ Annex: Set of general recommendations for truth commissions and archives.
- [A/69/518](#) Reparations for gross human rights violations and serious violations of international humanitarian law.

- [A/HRC/34/62](#) Participation of victims in transitional justice measures.
- [A/75/174](#) The gender perspective in transitional justice processes.
- [A/HRC/52/30](#) Good practices in national criminalization, investigation, prosecution and sentencing for offences of torture.
- [A/79/181](#) Investigating, prosecuting and preventing wartime sexual torture, and providing rehabilitation to victims and survivors.
- [A/80/175](#) Transitional justice and economic, social and cultural rights. It is indeed imperative that the transitional justice process be holistic and include not just civil and political rights but rather address the plethora of rights violations in the economic, social and cultural realm.

More specifically, with regard to reparations, I reiterate that the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (Basic Principles and Guidelines) establish the right of victims to receive adequate, effective and prompt reparation for the harm suffered. The draft law does not appear to include rehabilitation and satisfaction. In this context, I recall that reparations measures should aim at comprehensively addressing the multiple consequences and effects of the harm suffered by them, and include measures in the areas of restitution, compensation, rehabilitation and satisfaction.

Additionally, I underscore the importance of ensuring the independence, impartiality and effectiveness of truth commissions – as well as the Specialized Judicial Chambers and the Transitional Justice Public Prosecution in line with the 1990 United Nations Guidelines on the Role of Prosecutors. The composition, mandate and functioning of the Commission must guarantee freedom from political interference and inspire confidence among victims and society at large. I emphasize that in order to achieve their important stated objectives, truth commissions shall be independent of any Government entity, institution, agency or others. I also reiterate that once the law is passed, the commission shall have the authority to obtain all information necessary to the inquiry and shall conduct the inquiry as provided for under international human rights law.

In this context, I also encourage the authorities to ensure reparations and accountability remain within the remit of the transitional justice mechanisms, not be left out in separate procedures. Failing to do so may lead to the politicization of the entire process and reinforce impunity.

In conclusion, while recognizing the Government's efforts to develop this important legislation during the country's transitional period, I respectfully urge your Excellency's Government and members of Parliament to reconsider the provisions identified in this communication and to ensure that the draft law is brought fully into line with international human rights standards and obligations.

I further warmly encourage the Government, as well as members of Parliament, to hold further consultations with victim groups and civil society actors, as well as the international human rights bodies and mechanisms highlighted in the introduction of this letter.

As I emphasized in my previous communications to your Excellency's Government, I reiterate my availability and willingness to provide any technical assistance that the Government may require as it pursues its work for truth, justice, reparations and guarantees of non recurrence in Syria.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned analysis of the draft law.
2. Please provide your observations on the measures you intend to take to address the shortcomings identified in this letter and ensure that the legislation is consistent with Syria's obligations under international human rights law.
3. Please provide information on the necessary revisions to the draft law envisaged to ensure justice for all victims and to prevent impunity for perpetrators of international crimes.
4. Please provide information about the measures you intend to take to ensure the safe and effective consultation and participation of families of victims and organizations working on transitional justice issues in the establishment and implementation of transitional justice measures.
5. Please provide information about the measures adopted or foreseen to ensure the security and physical and psychological well-being of victims, witnesses and civil society representatives who participate in transitional justice process.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of my highest consideration.

Bernard Duhaime
Special Rapporteur on the promotion of truth, justice, reparation and guarantees of
non-recurrence