

**Analysis of the Constitutional Declaration of the Syrian Arab Republic Issued by the
Presidency on March 13, 2025**

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Introduction:

Based on the decision of the military factions at the Victory Conference to appoint Mr. Ahmad Al-Sharaa as the head of state during the transitional phase and the mandate granted to him at this conference, and in accordance with the outcomes of the Syrian National Dialogue Conference held on February 25, 2025, President Al-Sharaa issued a decision on March 2, 2025, to form a committee of experts tasked with drafting the constitutional declaration that will govern the transitional period in the Syrian Arab Republic. This declaration was issued on March 13, 2025.

The Day After (TDA) team presents this analytical paper to examine the contents and provisions of the constitutional declaration, in alignment with TDA's objectives of supporting democratic transition, human rights, and national consensus in Syria.

The arrangements for the transitional period aim to overcome the effects of conflict and authoritarian rule, address pressing political, economic, and social challenges, and regulate the exercise of public authorities during the transition, defining their powers and competencies to ultimately restore power to the people through elected authorities, in accordance with the new constitution. This process seeks to achieve a national democratic transition from an individual ruler to a system where sovereignty and authority belong to the people.

Accordingly, the constitutional declaration comes within the context of post-conflict or post-authoritarian rule, responding to the requirements of political transition, namely:

- Defining the legal framework for exercising public authority and establishing and defining institutions during the transitional phase, ensuring that this exercise does not lead to restrictions on rights and freedoms.
- Ensuring national consensus and civil peace.
- Addressing the legacy of authoritarianism and conflict, implementing essential institutional reforms to guarantee democratic transformation.
- Establishing a timeline for the transition from the temporary phase to stability and the formation of elected authorities.

A constitutional declaration may be brief or extensive, but to meet the requirements of democratic transition, it must set clear rules and principles for organizing the relationship between the three branches of government and defining their powers and competencies to ensure separation and balance among them.

Analysis of the Constitutional Declaration's Provisions:

The constitutional declaration consists of a preamble and fifty-three articles. Its structure resembles previous constitutions but is more concise due to its temporary function. After reviewing the preamble and articles of the declaration, the following observations can be made:

1. The Preamble:

The preamble outlines the historical context of the Assad regime's authoritarian practices and the suffering of the Syrian people over decades under Ba'athist rule. It details the severe violations committed during the years of revolution and references the outcomes of the National Dialogue Conference. Only four out of eighteen points in its final statement are presented as representing national consensus on major issues. The preamble states that the declaration is rooted in the principles of Syria's previous constitutions, particularly the 1950 Independence Constitution, and that it enacts the provisions of the Syrian Revolution Victory Declaration issued on December 29, 2025, considering it a solid foundation for this declaration.

The preamble is commendable for:

- Identifying the root causes of the revolution in Ba'ath Party oppression, its totalitarian rule, power monopolization, suppression of rights, and the transformation of the constitution into a tool of repression.
- Highlighting the crimes against humanity, war crimes, and genocide suffered by Syrians.
- Attributing the revolution's victory to the sacrifices of Syrians.
- Emphasizing the historical responsibility of Syrians to prevent future tyranny and protect future generations from authoritarianism.

However, three key criticisms can be made:

1. The declaration is tied to the Victory Conference rather than the National Dialogue Conference, contradicting the decision that formed the committee responsible for drafting the constitutional declaration. This has significant political implications, as the Victory Conference represented revolutionary military factions, whereas the communique of the National Dialogue Conference is supposed to reflect a consensus between the presidency and the participants in the National Dialogue Conference who represent a diversity of the Syrian groups.
2. The omission of the agreement signed on March 10, 2025, between the President and the Syrian Democratic Forces (SDF) commander, despite its importance in advancing dialogue and national consensus, which should have been incorporated into the constitutional declaration.

3. Considering the current situation in the country, it was necessary for the preamble to emphasize the unification of the country, the building of national consensus, and civil peace as essential elements of the historical responsibility of Syrians, as indicates in it.
4. The absence of a commitment to reclaiming the occupied Syrian Golan, through all possible means in accordance with international legitimacy and UN resolutions, as a national obligation.

2. General Provisions:

These are outlined in eleven articles, affirming the unity of the Syrian Arab Republic, separation of powers, the religion of the head of state, the source of legislation, the official language and capital, and the national flag. The provisions also highlight state commitments to unity, coexistence, civil peace, cultural diversity, countering violent extremism, reconstruction, and the return of displaced persons. The military is defined as a national institution whose mission is to protect the country, with a stipulation that weapons remain solely under state control. Additionally, all citizens are declared equal before the law, and economic provisions emphasize social justice, economic development, free-market competition, and investment promotion.

A positive evaluation of this section highlights:

- The inclusion of provisions absent from previous constitutions, such as state commitments to coexistence, civil peace, preventing sectarian strife, and prohibiting incitement to violence.
- Recognition of Syria's cultural diversity and linguistic rights for all citizens.
- Commitment to reconstruction and displaced return.
- State commitment to counter violent extremism.
- The subordination of the military to the rule of law and human rights principles.

However, criticisms include:

1. Failure to acknowledge Syria's ethnic, religious, intellectual, and political diversity, which could lead to feelings of exclusion among various Syrian communities. The declaration only references cultural and linguistic diversity.
2. Similar to following the 1950 constitution when addressing the religion of the head of the state, the position of Islam in legislation, preserving freedom of opinion, and the respect of state to all religions, this declaration should have followed the same constitution and emphasized explicit commitment to building foundations for a parliamentary democratic republican system affirming that sovereignty belongs to the people and cannot be claimed

by an individual or group. Additionally, while the declaration addresses the separation of powers, it does not emphasize their balance or the principle of peaceful power transfer.

3. Narrow framing of countering extremism, as Article 8, paragraph 3, limits the state's duty to address violent extremism, whereas it should also tackle non-violent forms of extremism and incitement.

3. Rights and Freedoms:

This section, covering Articles 12 to 23, state safeguards a range of civil and political rights. Notable positive aspects include:

- **Article 12**, which integrates all human rights and freedoms included in conventions and covenants ratified by Syria into this constitutional declaration. This integration means that these rights and freedoms should be integral parts of the constitutional and legal system. They are binding and cannot be violated by any authority or law.
- **Article 17**, which prohibits legal provisions that shield administrative actions and decisions from judicial review, addressing past abuses under the Assad regimes.
- **Article 18**, which states that torture crimes do not expire with time.

However, concerns include:

1. Lack of a specified timeframe for reviewing existing laws, to align them with Article 12's human rights commitments.
2. Article 14 prohibits formation of political parties until a new law is issued, without specifying a deadline, which contradicts the declaration's broader emphasis on rights. Prompt legislation is crucial for fostering political life and guarantees popular participation.
3. The failure to affirm the role of associations and unions and the freedom of formation, in contributing to societal development and advocating for their members, unlike the 2012 Constitution, which recognized their role.
4. No specific mention of the right to peaceful protest, which, although implied in international treaties referenced in Article 12, would have reassured citizens by being explicitly included.
5. Absence of provisions on nationality rights, including addressing gender discrimination in nationality laws and issues surrounding naturalization under the regime.
6. Article 21, paragraph 2, should have explicitly ensured women's right to participate in politics and public life.

7. No mention of protections for persons with disabilities, despite addressing family, women, and children's rights.
8. Article 23, which includes a general and ambiguous formulation of the exercise of freedoms in the article, contains several vague and uncontrolled phrases, including the following: "Measures necessary for security, public safety, the protection of public order and the prevention of crime, the protection of public health and morals, or the integrity of the national territory." It becomes possible for executive and judicial authorities to impose restrictions on exercising these fundamental freedoms, given the absence of clear and specific definitions for each phrase.

4. Chapter Three the System of Governance in the Transitional Phase

This chapter, spanning Articles 24 to 47, addresses the three branches of government and their interrelations. Although Article 2 of this declaration stipulates that the political system is based on the principle of separation of powers, this separation was not fully upheld when detailing the three branches. Instead, the president's powers significantly exceed those granted under previous constitutions.

Upon reviewing the provisions of this chapter, it appears that while the president's authority has seemingly been reduced in two areas—namely, the absence of a provision granting the president the right to dissolve parliament and the removal of legislative powers from the president—he still retains the authority to appoint members of the People's Assembly for a term shorter than his own. As a result, these powers were not practically curtailed.

Key criticisms of this chapter include the following:

4.1. The Legislative Authority

A. The constitutional declaration, based on the resolutions of the Victory Conference, grants the president full authority to select the members of the People's Assembly. This selection occurs in two stages: first, the president appoints a higher committee responsible for selecting two-thirds of the members, who will then elect two-thirds of the Assembly. The remaining third is directly appointed by the president. In practical terms, this means the president controls the entire selection process. Since the president chooses the higher committee members, and this committee selects the electoral body, he effectively determines who becomes a member of the Assembly. The declaration should have specified the criteria and qualifications for the selection committee, such as ensuring fair representation across provinces, integrity, competence, and credibility. These same standards should have also applied to the members of the People's Assembly, yet the declaration is silent on this matter.

B. Article 25 discusses parliamentary immunity. Since the term can have different legal interpretations across political systems worldwide, it was necessary to clarify its scope and limitations within the declaration.

C. Article 26 states that the People's Assembly's term is thirty months and is renewable. However, it does not specify how this renewal is carried out—whether the entire assembly is renewed or if the president has the discretion to renew the term for some members while excluding others. This ambiguity significantly affects the independence of assembly members. Additionally, the declaration does not specify how vacant seats should be filled.

D. Regarding the powers of the People's Assembly, it has no role in overseeing the executive branch or holding it accountable. Unlike previous constitutions, the declaration does not grant the assembly the authority to initiate proceedings against the president or to withdraw confidence from ministers. The executive branch is not even required to present its policy agenda to the assembly. Instead, its authority is limited to holding listening sessions with ministers, meaning there is no real parliamentary oversight over the executive. Consequently, the People's Assembly cannot ensure that the executive branch abides by the laws it enacts.

4.2. The Executive Authority

A. The constitutional declaration adopts a presidential system, eliminating the position of prime minister and granting all executive powers to the president. This centralization of power in the president's hands, without any oversight, raises concerns about the inclination of the political system towards monopoly of absolute powers without any accountability. It also places a heavy burden on the president in a critical phase that requires the distribution of responsibilities across different branches of government.

B. The declaration does not establish clear eligibility criteria for the presidency, such as age or nationality, except for the requirement in Article 3 that the president must be Muslim. While this declaration was designed with the assumption that a legitimate president had already been chosen and mandated by the Victory Conference, the lack of defined criteria extends to the president's deputies, whom he has the authority to appoint.

C. Constitutional traditions typically emphasize that the most important part of the presidential oath is the commitment to upholding the constitution. However, the oath outlined in the declaration makes no mention of respecting the constitutional declaration itself.

D. Although the declaration does not grant the president direct legislative powers, it allows him to obstruct the enactment of laws by requiring a two-thirds majority in the People's Assembly to override his veto, rather than a simple majority.

E. The declaration grants the president the authority to declare general mobilization and war without consulting the People's Assembly, as required in the previous constitution. Instead, he only needs approval from the National Security Council, whose members he appoints entirely.

F. The president is also given the power to declare a state of emergency, requiring only the approval of the National Security Council, whose members he appoints. The People's Assembly has no authority to suspend this measure and can only intervene after three months when an extension would require its approval. Under the previous constitution, the state of emergency had to be presented to the People's Assembly in its first session.

G. Regarding the Constitutional Court, the declaration upholds previous constitutional practices in which the president unilaterally appoints all its members. The declaration does not introduce a new approach to ensuring the court's independence and impartiality. A more effective and balanced approach would have been to allow all three branches of government to participate in nominating court members, rather than granting exclusive authority to the president.

4.3. The Judiciary

The provisions concerning judiciary were brief. The key positive aspects of this section include:

- Prohibiting the establishment of exceptional courts, a provision that was present in the 1950 Constitution but absent in later constitutions.
- Supervision of both civil and military courts by the Supreme Judicial Council.

However, this section also contains several criticisms, including:

- While the declaration mentions judicial independence, it does not define what this independence entails, or outline guarantees for it. Additionally, it does not mandate the adoption of new Judicial Authority Law, leaving the structure of the Supreme Judicial Council unchanged. This has been a point of criticism, as the executive branch continues to have control over it. Under the current Judicial Authority Law, the President heads the Supreme Judicial Council, with the Minister of Justice acting as his deputy. The Council also includes the Deputy Minister of Justice, the Attorney General, and the Head of the Judicial Inspection Department, all of whom are appointed by the executive authority, in addition to the President of the Court of Cassation and its two most senior deputies. It is worth noting that the current Minister of Justice recently dismissed the President of the Court of Cassation in violation of legal requirements.
- While it is a positive step that military courts are now subject to the Supreme Judicial Council's supervision, the declaration does not explicitly prohibit the trial of civilians in military courts.
- There is no provision guaranteeing judicial immunity for judges.
- Regarding the Supreme Constitutional Court, its powers and functions were left to be determined by law. This is a serious issue, as this court is responsible for ensuring that authorities do not overstep their mandates. Furthermore, the President has the exclusive power to appoint all its members.

Additionally, the declaration completely ignores the issue of local governance, failing to specify how local councils are elected, their relationship with the central government, or how they will

operate during the transitional phase. Moreover, the declaration does not set a timeline for enacting laws for presidential, parliamentary, or local elections, which could prolong the transitional period unnecessarily.

Overall, the declaration centralizes power in the executive branch, specifically in the hands of the President. Meanwhile, the legislative and judicial branches are derived from and subordinated to the executive, lacking any real oversight or accountability mechanisms.

5. Final Provisions

The final provisions are found in Articles 48 to 53 of the constitutional declaration. Unlike most transitional constitutions, which contain extensive articles regulating the political transition, this declaration includes only a limited number of provisions, leaving out many critical aspects.

These articles address transitional justice measures, amendments to the constitutional declaration, the fate of existing laws, and the duration of the transitional period. A particularly positive element is the dedication of two articles to transitional justice, outlining several key principles, including:

- Abolishing all exceptional laws, including the Counterterrorism Court and its legal consequences.
- Eliminating security-related restrictions on civil and property records.
- Establishing a Transitional Justice Commission that will use participatory mechanisms centered on victims to determine accountability measures, the right to truth, victim reparations, and honoring martyrs.
- Setting the duration of the transitional period at five years, which is a reasonable timeframe. However, several shortcomings can be noted in this section:
 - The declaration ignores the fragmented governance structures in Syria, failing to address how to integrate them into a unified state system or deal with the legal and administrative decisions made during the conflict, including rights acquired in this period.
 - While the declaration calls for the repeal of all exceptional laws, it does not specify who will determine which laws are considered exceptional, nor does it assign this task to Parliament or the Supreme Constitutional Court. Additionally, no timeline is provided for this process.
 - The text invalidates the rulings of the Counterterrorism Court but fails to mention other exceptional courts, such as the Field Military Court, whose verdicts were never annulled despite its formal abolition under Assad.
 - The declaration mandates the creation of a Transitional Justice Commission, but it does not specify how it will be formed, nor does it outline the role of civil society or the broader public in its work. Furthermore, no timeframe is provided for its establishment.
 - The text exempts war crimes from the principle of non-retroactivity of laws, but only for crimes committed by the former regime. This violates the principle of impartial

transitional justice, which should ensure justice for all victims of human rights violations in Syria, regardless of the perpetrator.

- The declaration criminalizes glorification of the Assad regime, which is understandable given the atrocities committed under its rule. However, it also criminalizes downplaying the regime's crimes, a provision that lacks clear legal safeguards, creating the potential for abuse.
- The declaration allows existing laws to remain in force until amended or repealed but does not specify what happens to laws that contradict the declaration or set a timeframe for their revision.
- Article 50 allows for amendments to the constitutional declaration with a two-thirds majority in Parliament based on a proposal from the President. The problem here is that no restrictions are placed on amendments, which means the declaration itself could be completely rewritten. It would have been more appropriate to limit amendments, such as allowing only a one-time extension of the transitional period for up to two years with parliamentary approval.

Conclusion

This paper sought to analyze the articles of the constitutional declaration, identifying its strengths and weaknesses.

Overall, the declaration includes several positive elements, particularly regarding human rights, freedoms, adherence to international conventions and covenants, and laying the legal foundation for transitional justice. However, it fails to answer crucial questions about the transition to democracy, including:

- How will the transition to democratic system be implemented?
- What are the mechanisms and timelines for each step?
- Which institutions will oversee the process?
- Who will be responsible for drafting the permanent constitution?
- Which body will ensure free and fair elections?
- What timeframe will be set for enacting laws to guarantee political pluralism, including the formation and operation of political parties?

Additionally, it remains unclear how the judiciary will act as a guardian of rights and freedoms during the transitional period.

The most significant flaw in this declaration is the absence of recognition of Syria's diverse society and the lack of a clear commitment to democratic transformation. Furthermore, the executive branch, led by the President, is granted excessive powers, while the legislative and judicial branches are effectively subordinated to it and unable to hold it accountable, preventing any meaningful checks and balances. This contradicts the principle of separation of powers and fails to establish a truly democratic foundation for the post-conflict transition.