

## Is Syria's Constitutional Order Being Undermined?



Since the fall of the former Syrian regime on December 8, 2024, the rhetoric of the new Syrian leadership has been dominated by the need to transition from a revolutionary mindset to one focused on state-building and the rule of law.

Interim President Ahmad al-Sharaa has repeatedly emphasized the necessity of establishing a state grounded in law and institutions to ensure long-term stability.

Al-Sharaa has underscored the importance of shifting from revolutionary action to the foundations of governance and justice, asserting that “Syria is a state of law. The law will prevail over everyone.” His statement came in the wake of violent clashes in Syria's coastal region in March between Ministry of Defense forces and remnants of the previous regime.

These affirmations preceded the official Constitutional Declaration, which Al-Sharaa ratified on March 13. Yet, the document has already seen numerous violations that raise serious questions about the government's commitment to its provisions.

The Constitutional Declaration, composed of 53 articles, outlines a five-year transitional period and was hailed by Al-Sharaa as “a new chapter in Syria's history.” However, it has been heavily criticized by rights organizations for granting sweeping powers to the presidency, centralizing authority in the executive branch, and potentially undermining judicial independence.

This report by Noon Post explores the most prominent violations of the Constitutional Declaration, analyzing their legal and political ramifications and presenting expert opinions on their implications for the rule of law and public confidence in Syria's political process.

## Two Presidential Decrees Stir Controversy

On July 9, 2025, President Al-Sharaa issued two decrees. Decree No. 113 established a sovereign wealth fund with legal personality and administrative and financial independence. Decree No. 114 amended Investment Law No. 18 of 2021.

Legal experts criticized both decrees as violations of the Constitutional Declaration, which prohibits the president from enacting laws or legislation.

Commenting on the investment law amendment, attorney Michel Shammass stated that the decree directly contravenes the Declaration, rendering it “absolutely null and void.”

Legal scholar and human rights advocate Mohammad Sabra described the move as not merely a legal error but a blatant disregard for the principle of the rule of law—the very standard the Constitutional Declaration was meant to uphold.

Regardless of the decree's content, Sabra emphasized that the president is not authorized to legislate or amend laws, a restriction clearly enshrined in the Declaration.

Sabra warned that this is not the first violation of the Declaration, describing it as a dangerous indicator for Syria's transitional phase, which demands urgent respect for the very laws the executive authority itself introduced.

Economist Dr. Karam Shaar argued that the sovereign fund decree allows the presidency to manage public assets and investments independently of ministries or the legislative authority. He criticized the lack of oversight, noting that reports from the fund are submitted solely to the presidency—something he deemed both opaque and unfair to Syrians.

Article 26 of the Constitutional Declaration stipulates that the People's Assembly holds legislative authority until a permanent constitution is adopted and new legislative elections are held accordingly.

Article 30 assigns the following responsibilities to the People's Assembly:

Proposing and passing laws

Amending or repealing existing legislation

Ratifying international treaties

Approving the national budget

Granting general amnesties

Accepting or rejecting resignations of its members and lifting parliamentary immunity

Holding hearings for ministers

Decisions are to be made by majority vote.

Article 31 states that the president and ministers exercise executive power within the limits defined by the Declaration. Article 36 permits the president to issue only executive, regulatory, disciplinary, and administrative decisions—based strictly on existing laws.

No Legal Basis for New National Branding

The July 3, 2025 launch of Syria's new visual identity drew criticism over its legality, with opponents arguing it violates Article 5 of the Constitutional Declaration. The article states: "Damascus is the capital of the Syrian Arab Republic. The state's emblem and national anthem shall be determined by law."

The identity was unveiled at the People's Palace in Damascus with the president, ministers, and officials in attendance. Al-Sharaa described it as an expression of unity and the rebuilding of Syrian identity.

However, Dr. Ahmad Qorbi, a public law expert and member of the committee that drafted the Constitutional Declaration, criticized the launch as an overreach by the executive into the legislative domain. He urged postponing the identity's formal adoption until it could be approved by the next legislative body.

Attorney Michel Shammass echoed the concern, noting that only a democratically elected legislature can define state symbols, and any move by the transitional government to do so violates the Declaration.

"Unconstitutional" Decrees and Decisions

Dr. Qorbi told Noon Post that any law or decision that contradicts a superior legal text is considered unconstitutional. In Syria's case, any presidential decree conflicting with the Constitutional Declaration is invalid and subject to annulment.

In the absence of a Constitutional Court, Qorbi said such matters should fall under the jurisdiction of the State Council or the Court of Cassation. Since the visual identity decree is administrative in nature, the State Council should handle its legality and can declare it null for exceeding the presidency's authority.

According to Qorbi, the presidency's insistence on launching the new visual

identity reflects a broader issue: a lack of commitment to the rule of law. That principle demands decisions be made through institutions and legal frameworks—not personal whims or arbitrary orders.

Whether such a violation occurs once or multiple times is irrelevant, Qorbi argued. The mere knowledge that an action contravenes the Declaration should be enough to justify reversing it and deferring the matter to the legislature.

### Shielding Decisions from Judicial Review

Legal experts have also objected to the Supreme Electoral Commission's decision not to allow appeals against the appointment of sub-committee members responsible for overseeing legislative elections. This effectively insulates the Commission's decisions from legal scrutiny—contrary to Article 17 of the Constitutional Declaration.

Article 17 consists of three clauses:

Penalties are personal; there is no crime or punishment without legal basis

The right to litigation, defense, and appeals is guaranteed

No law may shield any administrative action or decision from judicial oversight

The accused is presumed innocent until proven guilty by final court ruling

Formed by presidential decree on June 13, 2025, the Supreme Electoral Commission is tasked with issuing two key decisions per governorate:

Appointing sub-committees to select the electoral body based on predefined criteria

Proposing candidates to the Minister of Justice for provincial appeals committees

Legal expert Aref Al-Shaal stated on Facebook that the Commission's failure to open appeals against its sub-committee appointments effectively shields its decisions from both direct and indirect oversight.

He stressed that selecting sub-committee members is even more sensitive than choosing the electoral body, given their potential influence and discretion in determining eligibility—often without clear or objective standards.

Citing Article 17, Al-Shaal insisted that no administrative action should be exempt from judicial review. He urged the Commission to request the formation of a high-level judicial committee within the Ministry of Justice to handle such appeals, thereby aligning with the Declaration.

Noon Post contacted Dr. Nawar Najmeh, spokesperson for the Supreme Electoral Commission, to request comment on these criticisms. No response was received by the time of publication.

## Amnesty and Safe Passage for War Crime Suspects

On June 10, 2025, statements made by Hassan Soufan, a member of the Supreme Committee for National Reconciliation, sparked public outrage after he revealed that Fadi Saqr—accused of war crimes against civilians—had been granted safe passage by Syria's leadership.

Soufan claimed that transitional justice “does not mean prosecuting everyone who served the previous regime” and that accountability is reserved for high-level perpetrators of grave violations. He also stressed that these measures are not a substitute for transitional justice, which falls under the jurisdiction of the National Commission for Transitional Justice.

However, Soufan's remarks had no legal grounding in the committee's mandate, which, according to a March 9, 2025 decree, includes: engaging with communities in coastal areas, providing necessary support for their security, and promoting national unity.

The Bar Association branch in Homs condemned Soufan's comments as a blatant violation of Article 49 of the Constitutional Declaration, which emphasizes victims' rights to justice. The Association asserted that victims and their families must determine their own interests and that this right cannot be taken from them.

It further noted that victim participation is central to the transitional justice process and that the release of military officers accused of crimes encroaches upon the jurisdiction of the National Commission and contradicts fundamental legal principles. Guilt or innocence should be determined solely by the judiciary.

Article 49 establishes a body for transitional justice tasked with implementing consultative mechanisms centered on victims, including accountability measures, truth-seeking, and honoring the fallen.

### Negative Political and Legal Signals

Dr. Ahmad Qorbi warned that breaches of the Constitutional Declaration send troubling messages—first, a lack of respect for the rule of law, and second, a dangerous overreach by the presidency into the legislature's domain.

He stressed the importance of respecting the principles of the rule of law and the separation of powers—principles often violated under the rule of Bashar al-Assad and the Baath Party. Moving past this legacy requires strict adherence to the very values the previous regime ignored.

Political analyst Abdul Karim Al-Omar offered a more tempered perspective, arguing that such violations are not politically disastrous given the transitional nature of the current phase. Missteps, he said, are to be expected in a country

emerging from 14 years of revolution and war.

While acknowledging that these incidents deserve criticism, Al-Omar insisted they do not erode public trust in the state or its leadership. Rather, they serve as a prompt for correction, ensuring the process remains on track.

The Constitutional Declaration was a vital first step toward Syria's political transition. Yet, repeated violations in its implementation raise serious doubts about the new leadership's commitment to the rule of law and institutional integrity.

These infractions are troubling not only in substance but in their symbolic and political implications—hinting at a return to centralized governance practices that once fueled the 2011 uprising.

In this critical juncture in Syria's history, genuine respect for constitutional norms—and the willingness to reverse violations—is essential to rebuild public trust. A state governed by law cannot be built on rhetoric alone. If the revolution ended one-man rule, then ignoring the Declaration paves the way for its return through the back door.