

In Syria, an Amnesty Decree Without Justice?

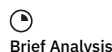
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ABOUT THE AUTHORS

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Brief Analysis

The debates sparked by Decree No. 39 raise questions about how the country will bridge the troubling gaps between official government discourse and victims' rights.

Many Syrians believed that the fall of Bashar al-Assad's regime would end the practice of general amnesty decrees—one part of an opaque and arbitrary judicial system in which citizens were routinely “disappeared” and their loved ones left wondering about their fate. Yet on February 18, President Ahmed al-Sharaa issued General Amnesty Decree No. 39, which grants “a general amnesty for crimes committed before February 18, 2026,” according to [the text \(https://sana.sy/en/presidency/2297630/\)](https://sana.sy/en/presidency/2297630/) published by the Syrian Arab News Agency. The decree includes [broad categories \(https://sfuturem.org/en/2026/02/presidential-amnesty-decree-no-39-of-2026/\)](https://sfuturem.org/en/2026/02/presidential-amnesty-decree-no-39-of-2026/) of crimes within its scope, and it applies to prisoners and convicted persons from both the Assad era and the current period. In certain cases, it requires that defendants or convicted persons meet specific conditions, such as surrendering weapons, turning themselves in within a certain timeframe, or resolving their legal status within the next several months.

The government's decision to use the general amnesty framework is puzzling. Assad's amnesty decrees were largely cosmetic: the Syrian Network for Human Rights (SNHR) has documented that the number of prisoners actually released under these decrees never exceeded a small percentage of detainees and forcibly disappeared persons, and that prisoners of conscience and torture victims were systematically excluded. The specter of Assad's forced disappearances raises the question of why the new government would choose to resurrect this particular aspect of the old regime's approach to justice. Moreover, the lack of clarity as to how this amnesty is being implemented, along with broader structural issues with the Syrian judiciary, have led to this decree becoming a point of debate in Syrian society rather than the signal of reform that the government characterized it as.

The decree also fails to address major questions still plaguing many Syrians—especially those whose friends and family remain missing—around the past role of the judicial system in the country's mass disappearances. Who was detained by the state? Why? Who gave the orders? Who carried them out? And who in this new period will be held accountable?

An Attempt at Reform Amid Broader Turmoil

Official government statements and Syrian media have presented the decree as part of “reforming the judicial system and strengthening civil peace and national reconciliation.” In this framing, the decree is both a legal measure and a humanitarian one intended to alleviate the suffering of prisoners and their families. Justice Minister Mazhar al-Wais [stated in official remarks \(https://sana.sy/en/syria/2298263/#:~:text=22%20\(SANA\)%20Minister%20of%20Justice,state%E2%80%9D%20or%20fabricated%20terrorism%20labels.\)](https://sana.sy/en/syria/2298263/#:~:text=22%20(SANA)%20Minister%20of%20Justice,state%E2%80%9D%20or%20fabricated%20terrorism%20labels.) that the judiciary has already begun “implementing the decree by reviewing prisoner files across various governorates,” and that the goal is “to reduce prison overcrowding, correct certain judicial grievances, and strengthen citizens' confidence in justice.”

At the time of writing, reports indicate that the judiciary and relevant government ministries have begun implementing the decree via implementation guidelines that incorporate the conditions set forth by the decree. However, no detailed reports have yet emerged on the number of people who have benefited.

The decree also comes amid broader turmoil in Syria's judicial system. Since the Assad regime fell, the status of the judiciary has been marked by confusion: judges have been dismissed and new appointments made without a transparent process for the restructuring. A number of lawyers and judges have repeatedly denounced violations they claim to have observed within the system during this period, including the appointment of judges without university degrees and restrictions on women practicing law. With these structural problems unresolved, the judiciary's ability to implement the decree's procedural requirements in a fair and consistent manner is in question.

Limits (or Lack) of Executive Power in the New Syria

Whatever its declared intentions, the decree's significance for Syrian governance ultimately lies in what it reveals about the limits of executive authority—or lack thereof—during the transitional period. Since the decree was issued, the debate among Syrians has moved beyond the question of who will be released from prison toward the deeper issues of who in the new system holds the right to issue a general amnesty during a transitional period, and what the limits of this amnesty should be.

Syrian human rights groups and legal experts have several significant concerns with the current approach. According to the text of the provisional constitutional declaration governing the transitional period—a document Sharaa himself approved—the president holds the authority to issue “special

pardons,” that is, to reduce or waive a sentence in specific cases involving specific individuals. By contrast, a general amnesty is supposed to be up to a parliamentary vote because it affects the state’s criminal justice policy as a whole.

SNHR addressed this apparent unconstitutionality in a [statement \(https://snhr.org/blog/2026/02/21/constitutional-issues-in-the-general-amnesty-decree-no-39-of-2026-and-the-importance-of-adhering-to-constitutional-and-legal-frameworks/\)](https://snhr.org/blog/2026/02/21/constitutional-issues-in-the-general-amnesty-decree-no-39-of-2026-and-the-importance-of-adhering-to-constitutional-and-legal-frameworks/) on “Constitutional Issues in General Amnesty Decree No. 39 of 2026.” It argued that in the absence of a genuinely elected parliament, a general amnesty issued by unilateral presidential decree is a dangerous expansion of executive authority at the expense of the constitutional principle of separation of powers, and reproduces the Assad-era system of “laws above the constitution” that Syrians lived under for decades. During that period, legal texts were wielded as a political instrument rather than a binding framework applicable to all, making the importance of fidelity to legal texts all the more imperative today.

Prominent Syrian lawyer and human rights activist Anwar al-Bunni concurs that the constitutional declaration issued by Sharaa does not grant him this type of authority. Bunni categorizes the concept of a general amnesty as a violation of the rule of law, which official discourse has repeatedly invoked as a marker of its legitimacy. In remarks on his personal Facebook account, Bunni noted: “General amnesty is an invention of dictatorial and monarchical systems; it is a gift granted by a king or a leader. There is no such thing as a general amnesty in any civilized system.”

Addressing Inclusion and Exclusion in the Amnesty Decree

The most conspicuous problem, however, is the opaque manner in which certain types of crimes have been excluded in the amnesty. Topping the list of excluded categories are “grave violations against the Syrian people”; crimes considered to be serious terrorism offenses; certain crimes related to intentional homicide; drug trafficking; and specific crimes under military and security laws. Syrian human rights defenders and legal experts [note \(https://www.scjrrcy.org/%D8%A8%D9%8A%D8%A7%D9%86-%D8%AD%D9%82%D9%88%D9%82%D9%8A-%D9%88%D9%82%D8%A7%D9%86%D9%88%D9%86%D9%8A-%D8%AD%D9%88%D9%84-%D8%A7%D9%84%D9%85%D8%B1%D8%B3%D9%88%D9%85-39-%D9%84%D8%B9%D8%A7%D9%85-2026/?lang=en\)](https://www.scjrrcy.org/%D8%A8%D9%8A%D8%A7%D9%86-%D8%AD%D9%82%D9%88%D9%82%D9%8A-%D9%88%D9%82%D8%A7%D9%86%D9%88%D9%86%D9%8A-%D8%AD%D9%88%D9%84-%D8%A7%D9%84%D9%85%D8%B1%D8%B3%D9%88%D9%85-39-%D9%84%D8%B9%D8%A7%D9%85-2026/?lang=en) that the formulation of these exclusions in the text of the decree—particularly the language of “grave violations against the Syrian people”—failed to draw on clear classifications from international human rights law or criminal law. Without standardized definitions of what “grave violations” entail, the decree leaves the door open for authorities in Damascus to define what is “grave” and what is not based on political or situational considerations. Many human rights advocates argue that this ambiguity serves the authorities more than it protects the rights of Syrian victims of actual crimes.

A second procedural problem, SNHR notes, is the decree’s mechanism for involved parties to provide input in the amnesty process. In certain cases, the decree requires that the convicted party seeking to benefit from the amnesty submit a request to judicial authorities within a specified timeframe. According to SNHR, this waiver requirement applies specifically to crimes with both a public law dimension and a civil or personal one, such as murder or kidnapping. In these cases, the victim or victim’s family must likewise waive the right to pursue claims within a short period. This means that the amnesty is not automatic, but is rather tied to potential beneficiaries navigating the Syrian administrative and judicial apparatus, which still suffers from a lack of independence, alleged corruption, and security pressures. Reliance on this body transforms the “right” to amnesty into a privilege available only to those with the immediate capacity to access or negotiate Syria’s judicial system. Many affected families are in states of shock, displacement, or poverty and lack the capacity to retain lawyers or appear before courts within the specified deadline.

SNHR also identifies ways in which the victims of true crimes may lose out on justice; there is a risk that some victims will face pressure, intimidation, or inducements to waive their rights quickly, particularly in areas where armed groups and militias remain active. Individuals implicated in financial crimes, smuggling offenses, or unpunished communal violence who happen to enjoy the protection of influential networks stand to benefit from the decree alongside prisoners of conscience and individuals detained arbitrarily. Asking a victim to waive a personal right presupposes a degree of trust in both the judiciary and the state, which many victims do not have given doubts about judicial independence and the safety of approaching courts and security services.

Between the State and Public Discourse

The way the decree has been presented by officials also suggests that Syrian authorities, more than a year after assuming power, have yet to grasp that the country’s citizens have changed over fourteen years. Public discourse has moved from silence under an authoritarian regime toward public argument about every detail, every law, and every government decree enacted by Damascus. The popular debate around Decree 39 has been no different.

Many Syrians, including some who hoped the amnesty would include people known to them, received the decree with cautious optimism and hoped it would prove more serious than similar decrees from the Assad regime. Others have reacted with bitter irony, viewing as incomplete an amnesty that fails to reveal the fate of the Syrians disappeared for political opposition or to acknowledge the injustice suffered by political detainees.

The public debate over these issues is taking place primarily through articles and commentary by lawyers and judges published on Syrian news websites and social media, as well as discussions by Syrian journalists in articles and on Facebook. The division in opinion broadly tracks institutional position and proximity to harm: legal professionals and human rights organizations tend toward skepticism or outright criticism on constitutional and procedural grounds, while families of detainees—at least initially—expressed hope, tempered by uncertainty, that the decree’s scope would reach their loved ones.

This is why the gap appears so wide between the language of “legal reform” used by the authorities and the language of “rights, justice, and memory” used by victims and the human rights organizations representing them. In the new Syria, even those who are currently hopeful will likely be disappointed by an amnesty that does not prioritize transparency and accountability. Unless more clarity is provided and clear limits established, Decree No. 39 is likely to be viewed as a limited administrative step that does not equate to the transitional justice process Syrians need—namely, a process that helps them find a sense of closure on the issue of forced disappearances without erasing crimes or equating torturers with victims by homogenizing prisoners into a single category. The real test of Decree 39 will lie not only in the number of people released, but also in whether Syrians feel that justice has moved one step closer or retreated one step further. ❖

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