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Guarantees of Non-Recurrence on Ethnic and Religious Minorities:

An analysis of the measures adopted by the Syrian Transitional Government

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Abstract:

The current post-war period in Syria presents an outstanding opportunity to prevent future gross violations of human rights. This dissertation investigates the effects of the measures adopted by the transitional government in this regard on the country's main ethnic and religious minorities, namely the Alawite, Druze, Christian, and Kurdish communities. This research also seeks to understand the role of historical changes in the status of these groups in current provisions of non-recurrence and to study the alignment of the measures adopted by the new authorities with the specific recommendations on non-recurrence advanced by United Nations Special Rapporteur for the promotion of justice, truth, reparation, and guarantees of non-recurrence. Following a desk-based research methodology and drawing on primary and secondary sources, including constitutional texts, academic contributions, UN and civil society reports and journalistic pieces, this dissertation is divided into three main chapters: the first focuses on understanding the history and current applications of Guarantees of Non-Recurrence; the second provides a report on the situation of minority groups in Syria since before the war until the present; and the third examines the measures the transitional authorities have introduced in the areas of symbolic declarations of commitment to human rights and reduction of institutional abuse by the security forces and the legal and judicial system. It concludes that the measures adopted by the transitional government to advance non-recurrence have had a mainly negative effect on ethnic and religious minorities, as they continue to be threatened by the reproduction of the historical conditions for the commission of GVHRs against them and the inclusion of renewed limitations on the accountability of perpetrators.

Keywords:

Guarantees of Non-Recurrence; Ethnic and Religious Minorities; Syrian Transitional Government; Human Rights Commitments; Prevention of Institutional Abuse

To my parents.

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1. Chapter One: Introduction

Following nearly fourteen years of devastating civil war between the al-Assad regime and a wide range of opposition groups, the declaration of the end of the conflict on 8 December 2024 marked the beginning of a new era in Syria. Yet the formal end of hostilities has not resolved the country's underlying instability, as it continues to face a severe economic crisis, extensive infrastructural destruction and ongoing security risks linked to armed groups, terrorist activity, and foreign intervention.¹ At the same time, the transitional government must address the long-term consequences of one of the largest displacement crises, precisely generated by this war.² Beyond these challenges, post-conflict Syria must also confront a legacy of gross violations of human rights (GVHRs) committed before, during and after the conflict.³ Ensuring accountability, providing justice for victims, uncovering the truth about past abuses, and fostering reconciliation have, therefore, emerged as a central priority for the transitional government.

The Syrian Civil War was not only marked by GVHRs but also by a deliberate sectarianization of violence. This means that various actors, including both the al-Assad regime and segments of the opposition, mobilized narratives against certain ethnic and religious groups to sustain the conflict.⁴ This resulted in armed groups linked to Syria's main ethnic and religious minorities becoming involved in the hostilities and implicated in GVHRs as both victims and perpetrators. Considering that any credible strategy to prevent future violations must engage directly with the grievances, concerns and aspirations of these communities, this dissertation analyzes the effects that the measures adopted by the transitional government in Syria to prevent the recurrence of GVHRs have had on the country's main ethnic and religious minorities to date.

My interest in this question stems from two personal experiences. Between July and December 2024, I completed an internship at the Office of the Senior Human Rights Advisor to the United Nations Resident Coordinator in Bosnia and Herzegovina, where

¹ Bilal Mahli, 'Syria's Post-Conflict Recovery: Challenges and Prospects for Reconstruction and Stability' (*Policy Center for the New South*, 11 April 2025) <<https://www.policycenter.ma/sites/default/files/2025-04/PB-22-25%20%28Bilal%20Mahli%29.pdf>> accessed 30 May 2026.

² 'Syria Refugee Crisis Explained' (*United Nations High Commissioner for Refugees*, 1 December 2025) <<https://www.unrefugees.org/news/syria-refugee-crisis-explained/>> accessed 30 May 2026

³ Thamen al-Kheetan, 'Human rights update on Syria' (*Office of the High Commissioner for Human Rights OHCHR*, 28 April 2026) <<https://www.ohchr.org/en/press-briefing-notes/2026/04/human-rights-update-syria>> accessed 2 July 2026

⁴ Sami Hadaya, 'Sectarianisation in Syria: the disintegration of a popular struggle' (2020) 29(5) CS&D 607, 611-616.

combatting discrimination against ethnic and religious minorities is a central pillar of the office's work. This experience gave me an insight into the reality of post-conflict governance and made me realize the lasting consequences that the Dayton Peace Agreement had for minority groups. It convinced me that transitional periods—those moments where authoritarianism and conflict give way to the possibility of peace—represent a genuine opportunity to advance the political, legal, social, economic, and cultural status of minorities, placing their members on an equal footing with the rest of the population.

Following this internship, I returned to northern Spain, where I volunteered with the Red Cross as a Spanish teacher to facilitate the integration of refugees and asylum-seeking persons. Through my work, I spoke with men and women my age who had come to Spain fleeing armed conflicts in the Middle East. Through these conversations, I became interested in the current situation in Syria and began to wonder how the peacebuilding process in this country is ensuring that the GVHRs that have plagued its recent history will not be repeated in the future. This opened the door for me to research the potential of Guarantees of Non-Recurrence (GNRs), also known as Guarantees of Non-Repetition,⁵ to ensure that no one is left behind in the Syrian transitional process.

Beyond personal motivation, this dissertation also responds to two significant gaps in existing literature. First, GNRs have consistently been identified as the least studied and most underdeveloped pillar of the transitional justice framework, lagging behind the considerable scholarly attention given to truth, justice and reparations.⁶ This is particularly striking given Syria's emergence as a key case study for transitional justice more broadly,⁷ as no substantial research to date focuses specifically on GNRs in the Syrian context. Second, while scholars have extensively examined the situation of Syrian minorities since the Ottoman period and their shifting alliances with and against state

⁵ According to Mayer-Rieckh, relevant United Nations documents use both terms interchangeably, without difference in meaning. See: Alexander Mayer-Rieckh, 'Guarantees of Non-Recurrence: An Approximation' (2017) 39 HRQ 416, 418.

⁶ *ibid* 417; Jeremy Julian Sarkin, 'Towards a Greater Understanding of Guarantees of Non-Repetition of Human Rights Violations' (2021) 57 SJIL 191, 192.

⁷ See for example: Alex Schank, 'Sectarianism and Transitional Justice in Syria: Resisting International Trials' (2015) 45 GJIL 557; Faten Ghosn and Joanna Jandali, 'The Price of Prosecution: The Reality of Syrian Transitional Justice' (2020) 8(1) PENN. ST. J.L. & INT'L AFF 2; Bassam Alahmad, 'Transitional Justice in Syria: Between Optimism and Realism – sliding toward 'Victor's Justice'?' (2025) 19(3) IJTJ 578.

power,⁸ far less attention has been paid to how these historical dynamics continue to shape the relations between these minority communities and the transitional authorities today. This dissertation addresses the first gap by examining how measures taken by Syria's transitional government for the prevention of the recurrence of GVHRs have impacted ethnic and religious minorities, and the second gap by attempting to understand the influence of the history of minorities in Syria on the current post-conflict prospects for durable prevention of GVHRs.

The dissertation also makes a methodological contribution. The recommendations of the UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence (the “Special Rapporteur”) focusing precisely on this last pillar are sometimes cited in transitional justice scholarship, including in the limited literature specifically addressing GNRs, but they have not previously been used to construct an a.⁹ This dissertation builds and applies such framework, assessing the measures taken by the transitional authorities in Syria against the recommendations offered by the Special Rapporteur.

This dissertation thus aims to contribute to the growing body of research on guarantees of non-recurrence by examining their impact on minority groups in Syria. While the research possibilities on the topic are vast, the scope of this present text is limited. It analyzes exclusively the situation of the four main ethnic or religious minorities—the Alawite, Druze, Christian, and Kurdish communities—thus setting aside smaller religious denominations or ethnic groups in the country, such as the Yazidis, the Ismailis or the Jews. Although the effect of the measures adopted by the transitional government on these groups also merits careful consideration, space constraints and the lack of relevant literature have led to the decision not to include them in this study. Similarly, this dissertation provides a relatively superficial overview of the status of the four main minorities during the 20th and 21st centuries, without delving into a more distant past or exploring their living conditions in more depth.

Taking all of this into account, the main research question that this dissertation attempts to answer is: What are the effects of the measures adopted by Syria's transitional

⁸ See for example: Oded Haklai, ‘A Minority Rule over a Hostile Majority: The Case of Syria’ (2000) 6(3) NEP 19; M. Zuhdi Jasser, ‘Sectarian Conflict in Syria’ (2014) 4 PRISM 58; Ayse Tekdal Fildis, ‘Roots of Alawite-Sunni Rivalry in Syria’ (2012) 19(2) MEP 148

⁹ Padraig McAuliffe, ‘Two Logics of Non-Recurrence after Civil Conflict’ (2022) 11 IHRLR 153, 162-170.

government to prevent the recurrence of GVHRs on ethnic and religious minorities to date? In addressing this question, two related sub-questions guide the analysis. The first asks how studying the history of ethnic and religious minorities in Syria provides a better understanding of current prospects for the prevention of GVHRs, offering the historical context necessary to interpret the measures adopted by the transitional government. The second, based on the methodological contribution outlined above, asks to what extent the measures adopted by the new authorities to prevent GVHRs align with the Special Rapporteur's specific recommendations in this regard. To answer these questions, this dissertation relies on desk-based research to explore the existing literature relevant to the topics covered in each of its three main chapters.

Following this introduction, Chapter Two focuses on the exploration of the historical evolution and current practical implementation of GNRs, combining peer-reviewed academic literature with primary legal and institutional sources. Through contributions from scholars such as Mayer-Rieckh, Davidovic, Roht-Arriaza, Shala, and Krivenkova, alongside UN soft-law instruments, it first examines the definitional debates concerning GNRs and the broader historical evolution of these phenomena. It then turns to the relationship between GNRs, minority protection and transitional justice, engaging with the research of academics like Wippman and grounding the discussion through primary sources such as the International Covenant on Civil and Political Rights and the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. The chapter closes by analyzing the measures recommended in reports of the Special Rapporteur, categorizing them as facilitators of three distinct objectives that together allow for strong prevention of GVHRs.

Chapter Three, relying on a combination of academic scholarship, reports from international organizations and journalistic sources, traces the historical evolution of the status of ethnic and religious minorities in Syria during the 20th century to assess their influence on recent conflict dynamics and post-war prospects. The first section covers the period from the Ottoman rule through the French Mandate and the consolidation of the al-Assad regime, drawing on historians and political scientists such as Rabinovich and Teitelbaum, as well as critical perspectives from Abdel-Samad and Drysdale. The second section, focusing on the Syrian Civil War and its ensuing GVHRs committed against and by minority groups, analyzes the instrumentalization of sectarian dynamics during the conflict through academic sources and reports from organizations specializing in conflict

analysis. Finally, since many of the developments on the post-war period involving minorities have not yet been addressed in academic literature, the last section draws extensively on alternative sources, namely reports from United Nations (UN) inquiry bodies, civil society organizations and non-governmental organizations such as Amnesty International, as well as on news coverage of events between late 2024 and 2026.

Chapter Four analyzes the measures taken by the Syrian transitional authorities to ensure the non-recurrence of GVHRs, with particular attention to their impact on ethnic and religious minorities. Using the framework developed in Chapter Two, it assesses how government action aligns with the Special Rapporteur's recommendations and with the broader academic literature, focusing on symbolic commitments to human rights and the transformation of state institutions to prevent future abuse. Alongside UN and international organization reports, the chapter draws on primary sources including the 2025 Constitutional Declaration, as well as journalistic pieces and reports from Syrian civil society organizations, given the recency of the analyzed events. Finally, Chapter Five offers some tentative conclusions and identifies avenues for future research.

2. Chapter Two: Understanding Guarantees of Non-Recurrence

2.1. Introduction

GNRs have come to play an increasingly important role in the field of human rights in recent years. As the name suggests, this concept refers to proposals intended to ensure that a particular event does not occur again in the future. Today, armed conflicts around the world are particularly characterized by the commission of GVHRs against both civilian and military populations.¹⁰ Such episodes of extreme violence may in turn generate resentment and mistrust between the different parties to the conflict, leading thus to episodes of renewed violence.¹¹ For this reason, following the end of these turbulent periods, successive governments in many states have sought to ensure that conflict does not recur, often turning to GNRs to achieve this.

While noble, this expectation is unrealistic. Mayer-Rieckh concedes that the use of the term *guarantees* is deceptive, since no measure taken by any government can truly ensure non-recurrence, but tempers this pessimism by framing them as an obligation of

¹⁰ Geneva Academy of International Humanitarian Law and Human Rights, *WarWatch: IHL in Focus Report, 1 July 2024–31 December 2025* (Geneva Academy 2026) <<https://geneva-academy.ch/wp-content/uploads/2026/01/WarWATCH-IHL-in-Focus-Report-2024-25.pdf>> accessed 13 May 2026.

¹¹ Sarkin (n 6) 193-196.

results rather than means.¹² This implies that states are not expected to effectively eradicate future outbreaks of violence, but rather to take concrete steps to try to prevent conflict. Similarly, GNRs have been viewed as measures aimed at preserving peace, rather than eliminating violence altogether.¹³ GNRs are, thus, conceived as attempts to reduce the likelihood of violence.

Many definitions of GNRs agree that the objective of these measures is then to reduce the probability of conflict re-erupting in the future, but not to erase it completely. Davidovic, for example, defined GNRs as “concrete interventions that oblige institutions of the state and jointly contribute to diminishing the likelihood of repeated violence”.¹⁴ In this definition, the state is constructed as the main duty bearer that, through specific measures, must help to prevent the recurrence of violence. A similar definition was proposed by Sarkin, that specified that GNRs are constituted by “a variety of laws, processes, statements and deeds that are taken up (mostly) by the state to resolve past democracy and human rights problems that have difficulty, so as to preclude future conflict and violence”.¹⁵ This definition not only considers a broad range of possible actions, but also highlights the prevalent role of the state in fulfilling this international obligation while still giving space to other stakeholders to act.

Sarkin’s definition also identifies GNRs as a bridge linking past events with future expectations. He is not the only scholar to highlight their simultaneous focus on the past and the future.¹⁶ Other authors, however, prefer to highlight the forward-looking nature of these measures in the context of post-war situations.¹⁷ As such, by contributing to improve present conditions for a more peaceful future, GNRs stand in contrast to more retrospective measures that focus on investigating, prosecuting and providing redress for violations committed in the past.¹⁸ For some academics, GNRs are notable for their preventive rather than punitive nature when it comes to future outbreaks of violence.¹⁹

¹² Mayer-Rieckh (n 5) 432.

¹³ Sarkin (n 6) 200.

¹⁴ Maja Davidovic, ‘The Law of “Never Again”: Transitional Justice and the Transformation of the Norm of Non-Recurrence’ (2021) 15 IJTJ 386, 400.

¹⁵ Sarkin (n 6) 197.

¹⁶ Mayer-Rieckh (n 5) 433.

¹⁷ Davidovic (n 14) 387.

¹⁸ Isaac Bayor, ‘How Can Local Transitional Justice Mechanisms Work Towards Measures of Non-Recurrence?’ (PhD thesis, University of Toronto 2021) 59.

¹⁹ Naomi Roht-Arriaza, ‘Measures of Non-Repetition in Transitional Justice: The Missing Link?’ in Simon Robins and Paul Gready (eds), *From Transitional to Transformative Justice* (Cambridge University Press 2019) 105, 124.

The academic debate over which temporal relationship takes precedence in GNRs—whether they serve as a bridge between the past and the future, or whether they are, instead, an instrument focused exclusively on the future—remains open.

Following this brief overview of definitions and ongoing debates regarding GNRs, this chapter seeks to understand this phenomenon in all its complexity. To this end, it first reviews the history of this phenomenon, tracking its evolution from a method to resolve diplomatic disputes to an essential element in International Human Rights Law (IHRL). From there, the chapter moves on to explore the similarities between GNRs and the current mechanisms for the protection of minority rights. The following section discusses the prevalence of non-recurrence aims within transitional justice and how the different elements of this field can contribute to this aim. It also includes a non-exhaustive review of the ongoing debate on the applicability of transitional justice measures to post-conflict circumstances. Finally, before drawing some preliminary conclusions, the recommendations regarding GNRs contained in two specific reports by the Special Rapporteur are analyzed to identify their objectives.

2.2. From Diplomacy to Human Rights: The Evolution of the Concept

Although in the previous section, GNRs were specifically highlighted as a mechanism for preventing the recurrence of violence in post-war contexts or other situations involving GVHRs, the truth is that this concept has a much more complex and profound history. To this end, this section explores how GNRs have evolved over the centuries. In the early days of the international system, for example, they constituted mechanisms to foster trust between states in contexts of diplomatic conflict. Nowadays, however, they are mainly featured in the field of IHRL as a right of victims to access reparation. This historical overview is important because, by considering the various historical meanings of GNRs, we can better understand the potential of their current use.

As mentioned, GNRs first appeared in the modern era in the context of diplomatic negotiations emerging from the state responsibility for injuries to foreigners.²⁰ International custom recognized that, following the commission of an internationally wrongful act, a state could be required to offer assurances and guarantees of non-recurrence. Notably, these internationally wrongful acts often referred to “intolerable

²⁰ Nita Shala, *Guarantees of Non-Repetition in International Human Rights Law and Transitional Justice: Building Peace after Conflict* (Routledge 2024) 22.

accidents” such as cases of ill-treatment or attacks against diplomatic personnel residing in the host country.²¹ This situation of violence would then trigger the state of nationality of the affected individuals to demand further commitments from the host state to ensure the future non-repetition of said actions.²² The general consensus at the time, however, was that there were no specific measures that could be demanded, but that the accused state had the discretion to adopt the measures it deemed appropriate.²³

Notably, rather than guarantees, it was more common to demand assurances of non-repetition. These are promises—usually oral or written—that such harmful actions will not be repeated in the future.²⁴ GNRs, therefore, remained a vague and underutilized element of international customary law. Furthermore, Krivenkova contends that both assurances and guarantees of non-recurrence were precisely needed in contexts when there was no trust in the intentions of the offender state.²⁵ In those circumstances, the affected state required additional confirmation that the wrongful act would not happen again. Thus, although seldom used, the existence of GNRs in that early context demonstrates that, for centuries, a lack of trust in a state’s future intentions has led to calls for the establishment of preventive measures. This continues to be reflected in current practice.

These customary rules governing conduct between states involved in an internationally wrongful act were eventually codified by the International Law Commission (ILC).²⁶ Thus, GNRs became instruments for the application of Public International Law, a branch of law that focuses on regulating relations between states. In 1961, for example, GNRs appeared in a draft set of articles on the International Responsibility of States, created by the ILC. Article 27 of this text recognized that injured states had the right to demand “measures to prevent the repetition of the injurious act”.²⁷ These measures were then understood to function as a method of reparation for the injured state.²⁸ In the early days within the realm of Public International Law, thus, offering GNRs

²¹ *ibid* 23.

²² Bayor (n 18) 47–48; Davidovic (n 14) 389.

²³ Bayor (n 18) 47.

²⁴ Roht-Arriaza (n 19) 110.

²⁵ Olga Krivenkova, ‘Assurances and Guarantees of Non-Repetition as a Form of International Responsibility’ (2017) RQUID 1341, 1346.

²⁶ This institution was founded by the United Nations General Assembly in 1947 with the aim of facilitating the progressive development of international law to adapt it to the changing times.

²⁷ Bayor (n 18) 49.

²⁸ Davidovic (n 14) 389.

was not an independent obligation of the injuring state, but merely a reparative method benefiting the injured state.

At the beginning of the 21st century, the ILC revised its approach by effectively linking GNRs to the cessation of acts contrary to international law, rather than treating them merely as a separate form of reparation. Accordingly, Article 30 of the 2001 *Articles on the Responsibility of States for Internationally Wrongful Acts* specifies the obligation of states to, in addition to immediately stop the actions causing the violation of the international norm, “offer appropriate assurances and guarantees of non-repetition, if circumstances so require”.²⁹ According to Shala, the requirement to offer GNRs depends on elements such as the extent of the damage suffered by the demanding state, the existence of a concrete demand and the probability of recurrence of the specific violations by the state.³⁰ Moreover, once this requirement is confirmed, the appropriateness of the selected measures can be determined by different stakeholders, including the states concerned or independent third parties.³¹ If these concrete circumstances are met, offering GNRs becomes thus an international obligation. As such, states that commit internationally wrongful acts may be required, not only to cease the actions occasioning a breach of international law, but also to offer appropriate GNRs.

Notably, the original link between GNRs and the provision of reparations crafted by the ILC in the 1960s—and later rejected in 2001—has persisted over time, particularly through the incorporation of provisions linking these two concepts in the field of IHRL. This branch of law focuses on the obligations of States towards the rights of individuals and communities. In this regard, states have a threefold obligation: they must respect, protect, and fulfil human rights.³² Commonly, the non-realization of these obligations is often labelled as a human rights violation. Although the resulting harm is typically suffered by nationals of the injuring state and not by other states, GVHRs can also constitute breaches of Public International Law. This happens because every state has the obligation, towards the rest of the international community, to respect and uphold fundamental values and principles, such as human rights standards.³³ Therefore, any state

²⁹ UNGA Res 56/83, ‘Articles on Responsibility of States for Internationally Wrongful Acts’ (12 December 2001) UN Doc A/56/83, annex (‘ARSIWA’) art 30.

³⁰ Shala (n 20) 30.

³¹ *ibid.*

³² ‘International Human Rights Law’ (OHCHR) <<https://www.ohchr.org/en/instruments-and-mechanisms/international-human-rights-law>> accessed 13 May 2026.

³³ Shala (n 20) 47.

is entitled to claim GNRs in the face of human rights violations committed by other states.³⁴

In IHRL, then, the right to receive GNRs is derived from original provisions regarding the right to “effective remedy”. This notion was present in relevant UN documents such as the non-binding Universal Declaration of Human Rights and other binding international human rights instruments, since the end of World War II.³⁵ Injuring states can therefore offer GNRs as a method to fulfil the right to reparation for victims of GVHRs. Beyond this initial development, scholars have found that the ILC discussions on the international responsibility of states contributed, along with other sources, to the continuous development of human rights standards regarding GNRs.³⁶ After years of deadlock regarding renewed discussions on human rights issues, the end of the Cold War allowed for an unprecedented doctrinal expansion on human rights standards by different UN mechanisms.³⁷ Notably, this period was marked by an increasing number of reports about conflict-related GVHRs, often targeting minority groups as evidenced by the cases of the Western Balkans or Rwanda.³⁸ Thus, under the premise of advancing all human rights for all, UN mechanisms started paying specific attention to particularly vulnerable groups, such as minorities.³⁹

This interest was demonstrated through the recommendations presented by UN expert bodies in charge of revising the implementation of international treaties, such as the Committee on Elimination of Racial Discrimination or the Committee Against Torture.⁴⁰ But the normative development of human rights standards was further entrenched through the creation of relevant soft law documents within the UN system. In this context, “starting in the 1990s, the then-U.N. Sub-commission on Protection of Minorities commissioned a number of studies concerned with international standards applicable in the aftermath of massive or systematic rights violations”.⁴¹ These investigations led to the development of two separate, but interlinked, sets of soft law

³⁴ *ibid.*

³⁵ *ibid.* 74.

³⁶ Mayer-Rieckh (n 5) 420; Davidovic (n 14) 391.

³⁷ Jean Philippe Thérien and Philippe Joly, “‘All Human Rights for All’: The United Nations and Human Rights in the Post-Cold War Era” (2014) 36(2) HRQ 373, 378.

³⁸ Ekpotuatin Charles Ariye, ‘A Bystander to Genocide: Revisiting UN Failure in the Balkans and Rwanda’ (2015) 11(11) ESJ 325, 327–329.

³⁹ Thérien and Joly (n 37) 384.

⁴⁰ Shala (n 20) 80–86.

⁴¹ Roht-Arriaza (n 19) 117.

principles and guidelines: 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 on Reparation) and the *Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity* (Updated Principles to Combat Impunity). Both documents not only share a parallel history, from their origin in the mid-1990s to their integration as solid soft law mechanisms starting in 2005 but also form the core of the application of GNRs in the field of IHRL.

On the one hand, the Basic Principles and Guidelines on Reparation, that were adopted by the UN General Assembly in 2005, included GNRs as a method to fulfil the right to reparation,⁴² echoing the ILC's original understanding of this relationship from the 1960s. These principles were the first official UN document to highlight specific methods that contributed to ensuring that GVHRs would not be repeated in the future.⁴³ As such, the document identified areas such as civilian control of the armed forces, the independence of the judiciary, and the promotion of human rights education, codes of conduct, and mechanisms for social conflict monitoring in line with international standards as key for preventing the recurrence of GVHRs.⁴⁴ These Basic Principles and Guidelines on Reparation, thus, identified GNRs as a means of realizing the right to reparation, and to that end included a comprehensive set of measures.

On the other hand, in the 2005 draft of the Updated Principles to Combat Impunity, GNRs appeared again grouped together with the concept of reparations.⁴⁵ Previous drafts of this document had singled out specific measures to facilitate non-recurrence, such as demobilization and disarmament of paramilitary groups, vetting of human rights violators from public institutions, and the repeal of emergency legislation that could freeze human rights protections.⁴⁶ The final document added new measures including state promotion of the rule of law and the reintegration of child soldiers.⁴⁷ Remarkably, this last set of

⁴² UNGA Res 60/147, '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' (16 December 2005) UN Doc A/RES/60/147, annex, arts 22–23.

⁴³ Davidovic (n 14) 392.

⁴⁴ UNGA Res 60/147 (n 42) art 23.

⁴⁵ Davidovic (n 14) 393.

⁴⁶ *ibid.*

⁴⁷ United Nations Commission on Human Rights (UNCHR), 'Report of the Independent Expert to Update the Set of Principles to Combat Impunity, Diane Orentlicher: Addendum – Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity' (8 February 2005) UN Doc E/CN.4/2005/102/Add.1 18–19.

recommendations highlighted that adequate participation of minority groups in public institutions contributed to the prevention of recurrence.⁴⁸ The Updated Principles to Combat Impunity, although once again linking GNRs to the right to reparation, greatly expanded the list of proposed measures to prevent the recurrence of human rights violations, as part of a broader strategy to combat impunity.

As noted, both UN sets of principles are similar in scope and objectives. On the one hand, they are both considered soft-law instruments, as their provisions do not entail obligations *per se* but are understood as recommended guidelines for state action. This applies especially to the measures proposed in both documents, which “largely do not constitute legal obligations, but rather concrete measures or categories of measures that have proven to effectively contribute to preventing recurrence in certain contexts”.⁴⁹ The influence of non-binding international resolutions on state practice, however, should not be underestimated, since soft-law instruments primarily exert moral and political pressure that shapes state behavior and expectations.⁵⁰ On the other hand, both documents reaffirm the traditional notion of GNRs as a method that helps to ensure the right to reparation for victims of GVHRs. The measures included in both documents aim to inform governments over how to regain the trust of victims of state-led human rights violations.

A review of the history of GNRs offers important lessons. First, it demonstrates that the possibility of requiring specific commitments that would limit the future capacity of states to act has been present in international practice for centuries. Second, historical developments prove that this original potential demand became an established right for injured states through the codification of this international custom into Public International Law. Over time, the liability of states that commit internationally wrongful acts spilled over into the field of IHRL, thereby granting other states and the own victims of human rights violations the right to claim these types of guarantees. Under international law, thus, GNRs became a right, not only of states, but also of victimized populations. Third, UN mechanisms have maintained a relevant role in the doctrinal development of human rights standards regarding GNRs. This has resulted in a shared understanding of GNRs as an element to fulfil the right to reparation and the identification of specific measures for its achievement. Fourth, this renewed interest in GNRs within the UN

⁴⁸ *ibid* 17.

⁴⁹ Mayer-Rieckh (n 5) 419.

⁵⁰ Michèle Olivier, ‘The Relevance of “Soft Law” as a Source of International Human Rights’ (2002) 35(3) CILJSA 289, 296-298.

system took place in a time where minority groups were increasingly becoming targets of violent attacks during armed conflicts, therefore establishing an important link between GNRs and the specific protection of human rights of minority groups. The following section, precisely, attempts to provide a better understanding of this relationship.

2.3. Connections between Non-Recurrence and Minority Rights

The UN has also fostered extensive discussions and theoretical developments regarding minority rights since the end of the Cold War. This section begins by reflecting on the fact that there is currently no specific, internationally accepted definition of the term “minority.” After providing a brief overview of the historical models for the protection of rights of individuals belonging to minority groups, it focuses on the main instrument currently in place for the global protection of these rights, drawing parallels between this mechanism and GNRs.

Indeed, scholars have acknowledged that no human rights instrument contains a specific definition of “minorities” that satisfies all parties.⁵¹ This is often attributed to the fear of signatory states that they might be compelled to alter their domestic public policies in favor of traditionally vulnerable and often marginalized sectors of society.⁵² Although in the context of developing international standards for the protection of minority rights, certain UN bodies have attempted to offer a specific definition, these have never received the necessary unanimous support.⁵³ Liebich, moreover, argues that, in reality, there is no need to provide a specific definition, since other terms also lacking concrete definitions—such as “people” or “person”—have managed to be recognized as categories deserving international protection.⁵⁴ Furthermore, Wippman notes that the existence of a minority group often comes down to a matter of subjective perception, one that is shared both by the persons who identify as such and by external actors.⁵⁵ Ultimately, the absence of a universally accepted definition of “minorities” has not prevented their recognition under international law, as minority status is understood to depend largely on subjective identification rather than rigid legal criteria.

⁵¹ OHCHR and Equal Rights Trust, *Protecting Minority Rights: A Practical Guide to Developing Comprehensive Anti-Discrimination Legislation* (United Nations 2023) 127.

⁵² Andre Liebich, ‘Minority as Inferiority: Minority Rights in Historical Perspective’ (2008) 34(2) RIS 243, 247.

⁵³ *ibid* 245.

⁵⁴ *ibid*.

⁵⁵ David Wippman, ‘The Evolution and Implementation of Minority Rights’ (1997) 66 FLR 597.

The global interest in protecting minority groups largely arises from the need to stabilize states and prevent internal conflict.⁵⁶ The history of international agreements for the protection of minorities is generally traced to the post–First World War peace treaties and the creation of the League of Nations, which required states to guarantee equality before the law and the protection of diverse cultural, linguistic, and religious traditions.⁵⁷ However, as evidenced by the atrocities and abuses against minority groups on European soil during the 1930s and 1940s, the system of the League of Nations did not work. Its failure is often attributed to its lack of universality—as it imposed obligations mainly on new states in Central and Eastern Europe while exempting Western powers⁵⁸—and to the resistance from both governments and minority groups, who often undermined its implementation for political reasons.⁵⁹

In light of this situation, after the Second World War, an emerging approach was established through the new organization of the UN, focusing on universal human rights rather than specific minority protections.⁶⁰ Early instruments like the 1948 Universal Declaration of Human Rights did not mention minorities, assuming equal protection for all. Later, however, specific provisions were introduced. Notably, Article 27 of the 1966 International Covenant on Civil and Political Rights, protects the rights of persons belonging to ethnic, religious or linguistic minorities “to enjoy their own culture, to profess and practice their own religion, or to use their own language”.⁶¹ The ICCPR constitutes the first binding universal human rights instrument protecting the rights of all persons belonging to particular categories of minority groups.

Following the end of the Cold War, these legal developments, along with the perception of a resurgence of ethnic conflicts, as seen in the Western Balkans and Rwanda, led to a renewed interest in protecting the rights of minority groups as a means to prevent the recurrence of such conflicts around the world.⁶² This awareness culminated in the 1992 adoption of the Declaration on the Rights of Persons Belonging to National

⁵⁶ *ibid* 599.

⁵⁷ *ibid* 600.

⁵⁸ Heiner Bielefeldt and Michael Wiener, ‘Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities’ (*United Nations Audiovisual Library of International Law*, February 2021) <https://legal.un.org/avl/ha/ga_36-55/ga_36-55.html> accessed 17 June 2026.

⁵⁹ Wippman (n 55) 602.

⁶⁰ *ibid*.

⁶¹ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (‘ICCPR’) art 27.

⁶² Wippman (n 55) 604.

or Ethnic, Religious and Linguistic Minorities by the UN General Assembly.⁶³ This instrument builds on earlier rights in the ICCPR, adding provisions like participation in public and political life and imposing positive obligations on states to protect diversity, promote inclusion and ensure equal access to economic benefits.⁶⁴ Despite its non-binding character, the Declaration has become central to minority protection, widely referenced and reinforced by UN mechanisms such as the Special Rapporteur on Minority Issues.⁶⁵ Moreover, its gaps have been progressively addressed through subsequent soft law developments,⁶⁶ confirming the key role of the UN in shaping the modern framework of minority rights.

In short, GNRs and minority rights instruments are closely interconnected, sharing both the context of the historical development and some normative objectives. In both cases, the end of the Cold War marked a turning point, as the global resurgence of ethnic conflicts underscored the need for stronger frameworks to protect vulnerable populations and prevent GVHRs. As a result, both GNRs and minority rights protections have been conceived as preventive tools aimed at reducing the risk of future conflicts and abuses. They also reflect a common understanding of how such prevention should be achieved. Both frameworks emphasize key principles such as equality before the law and meaningful public participation in decision-making processes, while assigning the state as the primary duty bearer responsible for the implementation of these protections. In this sense, the prevention of violence and violations depends on concrete measures and sustained state engagement.

Moreover, both GNRs and minority rights have largely evolved through non-binding soft law instruments, illustrating the political sensitivity surrounding limitations on state sovereignty. Despite their non-binding nature, these mechanisms have played a significant role in shaping state practice regarding the protection and promotion of human rights protections. The relationship between GNRs and minority rights becomes even more evident within the framework of transitional justice, which is often applied in post-conflict settings where minority protections become crucial. To this end, the following

⁶³ UNGA Res 47/135, 'Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities' (18 December 1992) UN Doc. A/RES/47/135.

⁶⁴ *ibid* arts 2–4.

⁶⁵ 'Special Rapporteur on Minority Issues: About the Mandate' (*OHCHR*) <<https://www.ohchr.org/en/special-procedures/sr-minority-issues/about-mandate>> accessed 19 May 2026.

⁶⁶ Bielefeldt and Wiener (n 58) 5–6.

section examines the preventive role of the broader transitional justice apparatus in avoiding recurrence.

2.4. Non-Recurrence Aims within Transitional Justice

One of the most widely accepted definitions of transitional justice was developed by Kofi Annan, the former Secretary-General of the UN, in 2004. He described it as:

the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof.⁶⁷

Beyond establishing the main objectives of transitional justice, this definition further highlights some of the main methods that can be used to achieve them. Justice, for example, can be brought forward through individual prosecutions. Other measures that are emphasized include mechanisms to uncover then factual details of past events, such as truth commissions, or reparation schemes. However, at the end of the definition, three distinct and less known measures also appear: institutional reform, vetting and dismissals. Historically, these three methods have been understood as advancing the objective of non-recurrence.⁶⁸ Their inclusion in this definition demonstrates that preventing the recurrence of GVHRs, or *large-scale past abuses*, was a key concern for the UN, at least since 2004.

Within the academic field of transitional justice, however, the goal of preventing recurrence has been present since its very first discussions in the 1980s that sought to address the concerns of emerging democracies in the South Cone of Latin America over how to deal with a legacy of human rights abuses exercised by previous dictatorial regimes, whilst simultaneously engaging in a smooth transition towards democracy.⁶⁹ Notably, the Report of the Argentinian National Commission on Disappeared Persons was titled *Nunca más*, which literally translates from Spanish as *Never again*.⁷⁰ This

⁶⁷ Report of the Secretary-General, 'The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies' (2004) UN Doc S/2004/616 para 8.

⁶⁸ Shala (n 20) 155.

⁶⁹ Paige Arthur, 'How "Transitions" Reshaped Human Rights: A Conceptual History of Transitional Justice' (2009) 31(2) HRQ 321, 322–323.

⁷⁰ Davidovic (n 14) 395.

preventive approach, however, was not solely limited to choosing memorable titles for reports but also resulted in the promotion of specific measures. In this sense, the 1993 report of the Chilean National Commission on Truth and Reconciliation recommended the application of measures such as “making changes in the legal order in constitutional, criminal and procedural matters to better protect human rights”.⁷¹ These measures are consistent with subsequent recommendations on the prevention of recurrence formulated by UN bodies and demonstrate a clear preventive intention from the outset of the field.

Since then, four main pillars —truth, justice, reparation and guarantees of non-recurrence— have structured the application of transitional justice. However, Colombian scholar Pablo de Greiff has noted that the prevention of the future recurrence of atrocities is not just one more element of this framework, but actually a key function of it.⁷² It is, therefore, to be achieved through initiatives associated to the rest of pillars, including via:

criminal justice mainly through deterrence; truth commissions through disclosure, clarification and the formulation of recommendations with a preventive intent; and reparations by strengthening the hand of victims to claim redress for the past and future violations and to enforce their rights more assertively.⁷³

In this way, De Greiff reinforces the notion that the prevention of the repetition of GVHRs must be sustained by all elements of a comprehensive transitional justice framework. Notably, the subsequent emergence of memorialization as a fifth component of the UN transitional justice framework has not rendered de Greiff’s argument obsolete but has in fact vindicated it. As “memory processes help to promote commitment to a democratic society, encourage debates on the representation of the past and allow the problems of the present to be addressed in a relevant manner”,⁷⁴ they effectively serve the same overarching preventive objective that underlies the whole framework. Setting aside for now a fuller examination of memorialization, the following analysis focuses on the three components at the core of De Greiff’s framework—justice, truth and reparations—and how each contributes to this preventive function.

⁷¹ *ibid* 397.

⁷² OHCHR, ‘Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence, Pablo de Greiff’ (2015) UN Doc A/HRC/30/42 para 23.

⁷³ *ibid* para 24.

⁷⁴ OHCHR, ‘Memorialization processes in the context of serious violations of human rights and international humanitarian law: the fifth pillar of transitional justice’ (2020) UN Doc A/HRC/45/45 para 22.

Starting with justice, this component is usually upheld through the establishment of specialized courts or by ensuring that those accused of human rights violations are brought to trial.⁷⁵ It reduces the likelihood of renewed violent outbreaks by drawing attention to the consequences of such acts. In this way, potential offenders will think twice before committing violations in the future, knowing the penalties that they will face. Mechanisms associated with the provision of justice and the fight against impunity become, thus, key means to prevent the recurrence of GVHRs.

Truth commissions, meanwhile, are aimed at establishing the facts surrounding the violations committed and providing recommendations to remedy the effects of such abuses. They contribute to prevent recurrence by "blocking future denial of human rights crimes, combating impunity, providing a new national narrative or a shared collective memory for a society refashioning itself, or contributing to political reconciliation".⁷⁶ Furthermore, truth commissions have historically recommended legal changes aligned with non-recurrence measures, as exemplified by the case of Chile. Nevertheless, their work is often constrained by budgetary and time constraints, as they are short-term mechanisms with a specific mandate to investigate certain crimes that occurred within a defined period of time.⁷⁷ In the longer term, however, their findings can have a greater impact through the establishment of reparations schemes.

As already noted, attempts to guarantee non-recurrence have historically been understood as a way to provide reparations to victims of GVHRs. Victims are entitled to this right to help them cope with the effects of the abuses they suffered. Beyond GNRs, whose inclusion as a method of reparation is a matter of debate, there are other measures that governments use to achieve this aim. Restitution, for example, strengthens the capacities of victims by restoring their property rights—regarding assets unlawfully acquired in the context of the violations—or other rights.⁷⁸ Compensation, meanwhile, provides victims with resources, primarily in financial terms, through pensions and other payments. This may take the form of a one-off payment, following the confirmation of

⁷⁵ Hakeem O Yusuf, 'Prosecutions for Abuses and Gross Violations of Human Rights' in Hakeem O Yusuf and Hugo van der Merwe (eds), *Transitional Justice: Theories, Mechanisms and Debates* (Routledge 2022) 76, 77.

⁷⁶ Margaret Urban Walker, 'Nunca Más: Truth Commissions, Prevention, and Human Rights Culture' in Larry May and Elizabeth Edenberg (eds), *Jus Post Bellum and Transitional Justice* (Cambridge University Press 2013) 262, 284.

⁷⁷ Bayor (n 18) 41.

⁷⁸ Luke Moffett, 'Transitional Justice and Reparations: Remediating the Past?' in Cheryl Lawther, Luke Moffett and Dov Jacobs (eds), *Research Handbook on Transitional Justice* (Edward Elgar 2017) 377, 380.

victim status, or a regular award.⁷⁹ Rehabilitation, for its part, upholds victims' rights by providing them with access to certain necessary public services, such as medical care, mental health support or job-seeking assistance.⁸⁰ Finally, satisfaction helps to heal the wound through the government's performance of certain symbolic acts, acknowledging the suffering of these victims.⁸¹ This can take various forms, ranging from official apologies to the erection of monuments to preserve the memory of the atrocities or the recontextualization of public spaces that previously honored the perpetrators.⁸²

Reparations, as examples of the state's recognition of the suffering and dignity of the victims of previous violations, allow to restore public faith and trust in state institutions.⁸³ In Moffett's words, the aim to provide reparations "is much about remedying victims' harms as it is about reaffirming the legal order and awakening public consciousness about such victimization to prevent its reoccurrence".⁸⁴ Reparations thus help to reduce the likelihood of recurrence in two main ways. On the one hand, they redress the status of victims in relation to the rest of society, enabling them to break free from a constant cycle of marginalization. On the other hand, they reduce the grounds for grievance among these individuals, as the state acknowledges their concerns and actively attempts to address them.

The prevention of repetition of GVHRs has, thus, been traditionally upheld through the combined efforts of measures associated to the pillars of justice, truth and reparations. Nevertheless, governments have often resorted to institutional reform as a concrete mechanism to achieve non-recurrence. This concept refers to the restructuring of state institutions—such as the judiciary, law enforcement agencies, or the general administration—that were in some way involved in GVHRs committed by the previous regime.⁸⁵ It typically involves the investigation and removal of selected public officials.⁸⁶ At the same time, institutional reform has been recognized as enabling the functioning of the rest of transitional justice pillars. For example, reformed state security forces will

⁷⁹ Pablo de Greiff, 'Repairing the Past: Compensation for Victims of Human Rights Violations' in Pablo de Greiff (ed), *The Handbook of Reparations* (Oxford University Press 2006) 1, 4–5.

⁸⁰ Moffett (n 78) 380.

⁸¹ Alessandro Chechi, 'The Return of Cultural Objects Displaced during Colonialism: What Role for Restorative Justice, Transitional Justice and Alternative Dispute Resolution?' (2023) 6(1) *TIJRJ* 95, 103.

⁸² Joanna Burch-Brown, 'Should Slavery's Statues Be Preserved? On Transitional Justice and Contested Heritage' (2022) 39(5) *JAP* 807.

⁸³ Moffett (n 78) 381.

⁸⁴ *ibid* 379.

⁸⁵ Roht-Arriaza (n 19) 109.

⁸⁶ *ibid* 108.

investigate past abuses with greater speed and diligence for their use in criminal prosecutions, and a restructured judiciary will be more receptive to the recommendations of truth commissions.⁸⁷

The preventive effectiveness of institutional reform alone depends on whether human rights violations have been, in fact, committed by individuals within state institutions. This type of situation was common in the cases that led to the development of transitional justice, such as the military dictatorships in Latin America's South Cone. In authoritarian regimes, there is usually an organized system of state repression targeting specific groups, such as political opponents, carried out primarily through violations of their freedom or physical integrity.⁸⁸ In such contexts, institutional reform helps to prevent recurrence by removing offenders from the positions of power that enabled them to commit crimes with impunity. Nowadays, however, these measures, that were originally designed for post-authoritarian contexts, are increasingly applied without major modification to the very different post-conflict conditions.

This shift in the scope of the application of transitional justice measures has been criticized on the grounds that the same methods cannot resolve fundamentally different situations.⁸⁹ This difference lies primarily in the nature of the violations themselves. Unlike the organized state repression typical of authoritarian regimes, GVHRs in armed conflict may be committed by all parties, not just state actors, and frequently infringe upon the rights of entire communities rather than specific individuals.⁹⁰ Armed conflict is, moreover, further governed by International Humanitarian Law (IHL), meaning that such violations may also constitute breaches of IHL, amounting even to war crimes in particularly serious cases.⁹¹ Accordingly, scholars have argued that the traditional emphasis of non-recurrence measures "on reforming state institutions and the security sectors ignores the reality that non-state actors are often not under the control of state institutions and state-centric measures would not be the most appropriate way to hold them accountable".⁹² In short, the classical measures devised to guarantee the non-recurrence of GVHRs carried out by state institutions under authoritarian regimes do not

⁸⁷ Mayer-Rieckh (n 5) 431.

⁸⁸ Pablo de Greiff, 'The Future of the Past: Reflections on the Present State and Prospects of Transitional Justice' (2020) 14(2) IJTJ 251, 254.

⁸⁹ See for example: Bayor (n 18); OHCHR (n 72); Moffett (n 78).

⁹⁰ Moffett (n 78) 20.

⁹¹ OHCHR, *International Legal Protection of Human Rights in Armed Conflict* (United Nations 2011) 12.

⁹² Bayor (n 18) 65.

achieve the expected results under the different conditions that surround post-conflict states. The current context, therefore, requires a new approach to achieve non-recurrence.

As can be seen, GNRs have carved out a special niche within transitional justice. Notably, preventing the recurrence of violence is not merely another pillar but constitutes an overarching function of the entire transitional justice approach.⁹³ Therefore, the pillars of justice, truth, and reparations—and more recently, memorialization—must contribute to this end, while GNRs must engage in measures such as institutional reform to facilitate their work.⁹⁴ Furthermore, the mismatch between the traditional state-centric context for the application of GNRs and their current use regarding GVHRs in armed conflict has spurred a renewed debate on the need to adapt and expand the catalogue of non-recurrence measures. Pablo de Greiff, the former Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, has been a leading voice in this effort, using his mandate precisely to propose and develop an expanded set of measures aimed at improving the prevention of recurrence in post-conflict situations, which the following section examines in depth.

2.5. Non-Recurrence in the Reports of the Special Rapporteur

After establishing its mandate in 2011, the Human Rights Council tasked the Special Rapporteur with the responsibility to support states in the implementation of transitional justice policies across its four pillars.⁹⁵ During his mandate, de Greiff identified that GNRs had been comparatively underdeveloped in both scholarship and practice and that they were often treated as a mere method of reparation rather than as an independent pillar and overarching objective of transitional justice.⁹⁶ Therefore, his 2015 report, which focused on the practical application of GNRs, marked a turning point by helping to fill a significant conceptual gap in UN and academic approaches.

The significance of De Greiff's report lies in the fact that it was the first official UN document to expand the scope of GNRs beyond institutional, legal, and political reforms to include more informal areas such as education, culture, and psychological care. The document, recognizing the changing circumstances surrounding the implementation

⁹³ OHCHR (n 72) para 23.

⁹⁴ Mayer-Rieckh (n 5) 431.

⁹⁵ Shala (n 20) 91.

⁹⁶ Pablo de Greiff, 'Statement by Pablo de Greiff, Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence' (OHCHR, 2015) <<https://www.ohchr.org/en/statements-and-speeches/2015/09/statement-pablo-de-greiff-special-rapporteur-promotion-truth>> accessed 13 May 2026.

of transitional justice measures, strengthened the prevention of recurrence by drawing attention to areas that had received considerably little public recognition such as social interventions and actions at the cultural and individual levels. The final section of this chapter on the historical and present conditions of non-recurrence, therefore, turns to address the possibilities offered by this relevant report for the current practical application of GNRs. The analysis of his recommendations allows to understand the specific intended objectives behind these proposed measures.

Before delving into this analysis, it is important to explain the structure of the document itself. This 30-page report, following a brief overview of the Special Rapporteur's recent activities, focuses on exploring the hitherto underdeveloped field of GNRs. After a conceptual and contextual explanation of their relevance, the report is divided into three areas of state intervention to ensure non-recurrence. Firstly, the report recommends certain institutional interventions. After exploring the basic preconditions for non-recurrence, the text advocates the ratification of international human rights treaties, the implementation of legal and judicial reforms, and the adoption of a constitutional model that guarantees human rights.⁹⁷ Secondly, the report focuses on societal interventions such as the cessation of attacks and threats against members and organizations of the civil society, their subsequent legal empowerment, and the creation of enabling environments for public participation.⁹⁸ Finally, with regard to interventions at the cultural and individual levels, the report proposes educational reforms, specific artistic and cultural initiatives, and the promotion of psychosocial support for society at large.⁹⁹ Undoubtedly, the report is comprehensive in the number of measures proposed, although it warns of the importance of adapting them to the specific circumstances of each case.¹⁰⁰

An in-depth analysis of the report allows us to draw certain conclusions. Although not explicitly stated in the document, it can be argued that the various proposals put forward by De Greiff have three primary objectives. First, some measures aim to symbolically signal the state's renewed human rights commitments. This intention can be achieved in various ways. On the one hand, the state authorities can ratify international human rights treaties and subsequently incorporate their provisions into domestic law. On

⁹⁷ OHCHR (n 72) paras 38–76.

⁹⁸ *ibid* paras 77–91.

⁹⁹ *ibid* paras 92–102.

¹⁰⁰ *ibid* paras 30–33.

the other hand, governments transitioning away from authoritarianism or contexts of armed conflict can demonstrate their support for human rights by reforming particular areas of the constitution. In the view of the Special Rapporteur, the transformation of this fundamental document should entail specific changes such as the elimination of discriminatory provisions and the introduction of a bill of rights and mechanisms to promote inclusion. The new or reformed constitution must also reinforce the separation of powers and particularly establish an independent and effective Constitutional Court.¹⁰¹ Finally, the Greiff recommends authorities to criminalize specific offences of particular significance, such as genocide or crimes against humanity, without statute of limitations.¹⁰² This would allow victims to report these crimes regardless of the passage of time. All of this helps transitional governments to demonstrate, through symbolic actions, their commitment to international human rights standards.

A second specific objective that can be identified through an analysis of the measures proposed in the Special Rapporteur's report on GNRs is the prevention of future institutional abuse. The implementation of measures aiming for this objective is particularly relevant in the cases where individual officials or state bodies have been the main perpetrators of GVHRs in the past. Understanding that transitional governments will try to prevent the recurrence of these past practices, the Special Rapporteur recommends legal changes such as the repeal of anti-terrorism or emergency legislation that is incompatible with international human rights standards "so that it does not incentivize violations of rights".¹⁰³ Similarly, he recommends the state to implement certain changes in the judiciary to prevent future abuses. These range from the vetting of judicial personnel linked to human rights violations to the strengthening of judicial independence and improvement of their capacities to deal with cases with major preventive impact.¹⁰⁴ Therefore, De Greiff's recommendations in this area have a clear preventive aim: to reform particular state institutions, such as the judiciary, so that it becomes increasingly difficult for public officials to commit GVHRs.

De Greiff's interest in the prevention of future institutional abuse led him to produce a second report focusing exclusively on the preventive potential of reforms regarding the state's security forces. This report extensively focuses on the investigation

¹⁰¹ *ibid* paras 42–44 and 62–76.

¹⁰² *ibid* paras 48–50.

¹⁰³ *ibid* paras 51.

¹⁰⁴ *ibid* paras 52–60.

and dismissal of officers involved in past violations but also recommends other measures, such as the rationalization of the security sector, the definition of the roles of security forces in the constitutional text and the strengthening of civilian oversight over security bodies.¹⁰⁵ Furthermore, De Greiff recommends state authorities to prevent future abuse through the elimination of military prerogatives and the limitation of the jurisdiction of military courts to disciplinary offences only.¹⁰⁶ Thus, according to De Greiff, the prevention of institutional abuse requires sustained government action across various areas, including reforming the judicial and security spheres.

The last, unstated objective of the measures proposed by the Special Rapporteur can be defined as the strengthening of the capacities of victims—both direct and indirect—of past violations. This third objective differs from the previous two in that it does not require specific state action but rather seeks only for the state to allow other entities to act freely. In this regard, the Special Rapporteur emphasizes the importance of removing barriers and threats posed by state bodies that are effectively preventing certain groups from exercising their rights, including their participation in politics. In the same vein, the report also highlights the legal empowerment of women and other historically discriminated groups as key to improve their participation in the public sphere, including in the fields of politics and justice.¹⁰⁷ The report also focuses on more informal areas for victims' capacity-building. For example, it highlights the essential role of the education system and the arts and cultural sectors in sparking debates on past events, while emphasizing the importance of listening to the victims.¹⁰⁸ Finally, the report states the importance of facilitating access to psychosocial support and trauma counselling for these individuals.¹⁰⁹ In this way, by reducing its repressive nature, the state can help to ensure that victims of past violations participate in political and socio-cultural life on an equal footing with the rest of society.

In conclusion, an analysis of the recommendation included in De Greiff's report, as well as those in his subsequent report focusing on state security institutions, reveals that GNRs can serve three different purposes: demonstrate the renewed state commitment to human rights, prevent the commission of future human rights violations by institutional

¹⁰⁵ Note by the Secretary-General, 'Promotion of truth, justice, reparation and guarantees of non-recurrence' (2015) UN Doc A/70/438 paras 46–50 and 52–53.

¹⁰⁶ *ibid* paras 51 and 54–55.

¹⁰⁷ OHCHR (n 72) paras 83–84.

¹⁰⁸ *ibid* paras 93–95.

¹⁰⁹ *ibid* paras 98–102.

bodies and rebuild the capacities of victims. Certain measures, such as the ratification of international human rights treaties or the reform of the pillars that enabled the previous regime's repression or the armed conflicts such as the constitution and other pieces of legislation or the judicial and security institutions—require the active and virtually exclusive involvement of the transitional authorities. In contrast, other measures aimed at improving the situation of victims of authoritarian repression or armed conflict can be achieved if the state facilitates the participation of other actors, such as civil society or healthcare professionals.

2.6. Conclusions

This chapter explores the history and current use of the concept of “guarantees of non-recurrence”, identifying them as state-led measures taken following internationally wrongful acts to reduce the likelihood of their repetition. Originating in contexts of diplomatic negotiations, GNRs were gradually codified within Public International Law, before being incorporated into IHRL as a component of the right to reparation for victims of GVHRs. Minority groups, that are often disproportionately affected by armed conflicts and GVHRs, benefit from an international protection framework that closely mirrors the logic of GNRs: both aim to prevent the recurrence of abuses against vulnerable groups, both identify the state as the duty-bearer required to implement specific preventive measures and both have developed primarily through soft-law mechanisms in the UN system since the end of the Cold War. Scholars on transitional justice have expanded the potential of non-recurrence by treating as an overarching function that must be supported by the spheres of justice, truth, reparations and memorialization.

An analysis of the reports of the Special Rapporteur shows that GNRs have become an essential element of transitions to democracy and peace following authoritarian regimes or armed conflicts with three interrelated objectives: to signal the state's renewed human rights commitments, to prevent future institutional abuses and to strengthen the capacities of victims of past violations. Against this background, the case of Syria is particularly paradigmatic, given that historical tensions between minority groups, state authorities and the majority of the population escalated into a large-scale armed conflict characterized by GVHRs. The following chapter, therefore, examines these dynamics from the Ottoman period to the present to shed light on the historical grievances and tensions that risk reigniting conflict and GVHRs.

3. Chapter Three: Reporting the Situation of Minorities in Syria

3.1. Introduction

The concept of “minorities” is a relatively modern construct, closely associated with the emergence of the nation-state and the development of international legal frameworks in the early twentieth century.¹¹⁰ In regions such as the Middle East, diverse ethnic and religious communities had coexisted for centuries, but it was the process of state formation, coupled with the rise of nationalism after the First World War, that led to the official categorization of its populations into majorities and minorities.¹¹¹ Furthermore, although minorities have historically been associated with non-dominant positions in the political and social hierarchy of a state,¹¹² this has not always been the case, as precisely happened in Syria. This country provides a very interesting example of a state in which different minority groups have played a key role in shaping major political developments for decades.

In Syria, a Sunni Arab Muslim majority has historically coexisted with several ethnic and religious minorities in a primarily peaceful manner.¹¹³ Among the former, Alawites and Druze stand out as heterodox Muslim communities often associated with Shiite Islam. The Alawites, who constitute approximately 10 to 15% of the population, are primarily concentrated in the coastal regions, especially in Latakia and Tartus, as well as in the cities of Hama and Homs.¹¹⁴ The Druze, representing around 3% of the population, are mainly located in the southern governorate of Suwayda.¹¹⁵ In addition, Syria hosts a historically significant Christian population—estimated at around 10% prior to the civil war—largely concentrated in urban centers such as Damascus, Aleppo, and Homs.¹¹⁶ From an ethnic perspective, the Kurds constitute the largest minority group, accounting for roughly 10% of the population and primarily inhabiting north-eastern

¹¹⁰ Benjamin White, ‘The Nation-State Form and the Emergence of “Minorities” in Syria’ (2007) 7(1) SEN 64, 65.

¹¹¹ *ibid* 65–66.

¹¹² Francesco Capotorti, ‘Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities’ (1979) UN Doc E/CN.4/Sub.2/384/Rev.1 para 568.

¹¹³ János Besenyő and Roland Gömöri, ‘Christians in Syria and the Civil War’ in Peter Bátor and Róbert Ondrejcsák (eds), *Panorama of Global Security Environment 2014* (Centre for European and North Atlantic Affairs 2014) 219, 220.

¹¹⁴ Anita Sylwia Adameczyk and Fuad Jomma, ‘Religious Minorities in the Ideology and Politics of Syria’ (2022) 29 IJMGR 298, 305–306.

¹¹⁵ Mounah Abdel-Samad, ‘ISIS as an Existential Threat to the Druze: The Struggle for Survival’ (2016) 39(10) SCT 900, 901.

¹¹⁶ Besenyő and Gömöri (n 113) 223.

regions.¹¹⁷ Syria is thus a particularly diverse country in terms of ethnicity and religion. While this diversity brings in great richness, it has also historically given rise to certain conflicts.

To understand them, this chapter traces the historical evolution of the relations between Syria's minority communities, the majority of the population and the state authorities, from the Ottoman period to the present. The first section focuses largely on the diverse political regimes that governed Syria during the 20th century, examining how the position of minority communities was successively shaped by the millet system, French colonial rule, the rise of Arab nationalism after independence and the sectarian dynamics that emerged under Ba'athist rule. The following section examines the Syrian Civil War, exploring how long-standing grievances were instrumentalized by all parties to the conflict, turning minorities into both victims and perpetrators of GVHRs. The last section addresses developments since the end of the war, analyzing the policies of the transitional government for the reform of the al-Assad state and the promotion of transitional justice and national unity. It also explores the new grievances shared among minority communities that, in several cases, have sparked renewed episodes of violence. Finally, the chapter draws some preliminary conclusions on the implications of this history for the prospects of non-recurrence in post-war Syria.

3.2. Minorities from the Ottoman Period to the al-Assad Regime

For centuries, today's Syria was part of the Ottoman Empire. As such, it lacked concrete and definitive borders and was instead constituted by a series of Ottoman *vilayets*.¹¹⁸ The region had been inhabited since ancient times by Christian and Jewish communities, who were joined by numerous Islamic denominations from the 7th century onwards.¹¹⁹ The majority of the population were Sunni Muslims and, as such, identified with the faith from which the political, religious and legal authority of the Ottoman Sultan in Istanbul, as well as that of the empire as a whole, derived.¹²⁰ However, in order to secure the support of the rest of the population and thus prevent revolts against the Ottoman administration, an alternative method of engaging with non-Muslim groups was devised: the Millet system. This mechanism allowed certain specific communities, particularly

¹¹⁷ Hetav Rojan, *Syria in Transition: Mapping the Local and Transnational Actors Shaping Politics in Syria* (Danish Institute for International Studies 2025) 37.

¹¹⁸ Krzysztof Kościelniak, 'Futile Efforts to Create an Arab Kingdom of Syria: From the Idea of Greater Syria to Syria Partitioned under the French Mandate (1915–1922)' (2020) 26(2) FHC 195, 196.

¹¹⁹ Adamczyk and Jomma (n 114) 305–308.

¹²⁰ White (n 110) 66–67.

Christian and Jewish groups, to attain a high degree of self-government and legal independence.¹²¹ Since religion was then the primary marker of identity, non-Sunni Muslim groups, such as Shiite communities, were never part of the millet system, as they were not considered to be following a creed other than the empire's main religion, Islam.¹²²

Although not recognized as independent groups, non-Sunni communities such as the Druze and the Alawites managed to maintain a high degree of independence thanks to being compact groups living in remote, mountainous regions where the empire was unable to assert its authority.¹²³ Precisely due to that independence, Rabinovich argues that the Ottoman Empire maintained hostile relations with these Shiite groups within its borders.¹²⁴ However, the empire's swift abolition following World War I allowed these communities to maintain their autonomy well into the 20th century.

The Allied victory in World War I was achieved in part through the Great Arab Revolt (1916–1918), which had strengthened Arab nationalist sentiment among traditional elites and fueled aspirations for an independent state uniting all territories with an Arab majority.¹²⁵ Through the Sykes-Picot Agreement, however, Britain and France divided the former Ottoman territories into spheres of influence, with the League of Nations granting the latter a Class A Mandate over present-day Syria and Lebanon.¹²⁶ After two years of conflict with Arab interim authorities, France took effective control of these territories in 1920,¹²⁷ immediately implementing a series of reforms to consolidate its power and curb Arab nationalist sentiment.

After ceding a part of its territory to the newly founded Turkey and formally separating it from Lebanon, where the Christian majority resided, what remained of Syria was established as a federation of small autonomous statelets.¹²⁸ Two of these were based in the major cities, Aleppo and Damascus, whilst the other two were established in territories with Alawite and Druze majorities, respectively.¹²⁹ The French state's

¹²¹ *ibid* 68.

¹²² *ibid* 69–74.

¹²³ *ibid*.

¹²⁴ Itamar Rabinovich, 'The Compact Minorities and the Syrian State, 1918–45' (1979) 14(4) JCH 693, 694.

¹²⁵ Kościelniak (n 118) 200–211.

¹²⁶ *ibid* 227.

¹²⁷ *ibid* 228–229.

¹²⁸ *ibid* 231–232.

¹²⁹ Rabinovich (n 124) 695.

relationship with these groups was fluid. In Druze territory, for example, in the mid-1920s there was a major uprising against French authority, underpinned by an alliance with Arab nationalist groups. The revolt was quelled and the territory remained under tight French control until 1936.¹³⁰ The Alawite minority, instead, recognizing the potential of the changing circumstances, decided to cooperate with the new French authorities. Their living conditions improved as they went from being an excluded and marginalized minority during the Ottoman era to a key group in supporting French rule.¹³¹ In return, they were granted preferential access to security-related institutions, such as the Special Forces in the Levant, the police or intelligence services.¹³²

Furthermore, the French government adopted the rhetoric of minority protection as a means of justifying its presence in the country. For example, under French rule, certain seats in the Syrian parliament were reserved for minority groups.¹³³ This terminology was embraced by the Christian population, who were generally in favor of the mandate.¹³⁴ The Druze and Alawites, meanwhile, were more reluctant to identify themselves as a minority, as some considered themselves part of the Syrian Arab majority and others recognized themselves as the largest in their respective statelets.¹³⁵ The Kurdish people, an ethnic rather than religious minority, although also requested the recognition of their autonomy, were never granted it, as the French authorities only considered religious communities to be minorities.¹³⁶

In general, the Sunni Arab majority viewed minority aspirations for autonomy with suspicion, seeing them as an obstacle to the national unity that Arab nationalism demanded. During the French Mandate, this movement, originally secular in character, increasingly sought to assimilate religious minorities.¹³⁷ Notably, as Rabinovich explained, “for minority communities which constituted a sizeable power in Syria, the prospect of becoming negligible minorities in a large Arab entity was discouraging”.¹³⁸ The question of how minorities would fit within an independent Arab nationalist

¹³⁰ *ibid* 701–702.

¹³¹ *ibid* 704.

¹³² Daniel Pipes, ‘The Alawi Capture of Power in Syria’ (1989) 25(4) MES 429, 438.

¹³³ White (n 110) 70–71.

¹³⁴ Kościelniak (n 118) 237.

¹³⁵ White (n 110) 74–75.

¹³⁶ *ibid* 73.

¹³⁷ Rabinovich (n 124) 699.

¹³⁸ *ibid*.

framework, thus, remained unresolved, generating a tension that would resurface with considerable force after the consolidation of the independent Syrian state.

Following independence, this tension did not immediately translate into overt persecution, as minorities were not particularly mistreated in the new state.¹³⁹ In fact, certain features of French colonial rule persisted, notably the over-representation of Alawites in the army.¹⁴⁰ Though the new state was established as a multi-party democratic system, power was mainly disputed between pro-Western parties composed by members of the traditional Arab elite with Western cultural interests and educational backgrounds.¹⁴¹ Yet, following a series of military defeats against neighboring Israel, ideologically driven opposition forces began to gain strength.¹⁴²

Among these, the Ba'ath Party and the Syrian Muslim Brotherhood warrant particular attention given their impact on minority groups. The former linked pan-Arabism with socialism and often supported coups d'état through its close ties with the Alawite-filled armed forces, eventually championing the union of Syria and Egypt under the United Arab Republic (UAR) between 1958 and 1961.¹⁴³ The Syrian Muslim Brotherhood, meanwhile, sought to promote a return to traditional Islamic values whilst officially emphasizing the non-sectarian nature of its proposals.¹⁴⁴ As Teitelbaum explains “the Brotherhood in Syria characterized Islam as a kind of universal supra-religion, above all others but not arrayed against them”.¹⁴⁵ A further significant development during the UAR was the institutionalization of discrimination against the Kurdish people. In this period, the government saw Kurdish political parties as incompatible with pan-Arabist objectives, therefore banning publications in Kurdish language and torturing advocates of Kurdish independence.¹⁴⁶ In 1962, once Syria had regained its independence, a special census carried out in the Jazira province stripped 100,000 Kurdish residents of their Syrian citizenship.¹⁴⁷

¹³⁹ White (n 110) 81.

¹⁴⁰ Rabinovich (n 124) 709.

¹⁴¹ Nabil M Kaylani, ‘The Rise of the Syrian Ba‘th, 1940–1958: Political Success, Party Failure’ (1972) 3(1) *IJMES* 3, 10.

¹⁴² *ibid*; Joshua Teitelbaum, ‘The Muslim Brotherhood in Syria, 1945–1958: Founding, Social Origins, Ideology’ (2011) 65(2) *MES* 213, 219.

¹⁴³ Kaylani (n 141) 6, 12–16 and 19–21.

¹⁴⁴ Teitelbaum (n 142) 224.

¹⁴⁵ *ibid* 222.

¹⁴⁶ Jordi Tejel, ‘The Kurdish Question in Syria, 1946–2019’ in Hamit Bozarslan, Cengiz Gunes and Veli Yadirgi (eds), *The Cambridge History of the Kurds* (Cambridge University Press 2021) 436, 440.

¹⁴⁷ *ibid* 441.

In 1970, after a series of coups that marked the previous decade as a period of political instability, the then Minister of Defense and member of the Alawite minority, Hafez al-Assad, orchestrated a new coup.¹⁴⁸ Al-Assad's rise to power was the confirmation of the growing implication of the army in Syrian politics, which led to members of minority groups—particularly Alawites, due to their preeminence within this institution since the French Mandate—assuming numerous positions of power.¹⁴⁹ As such, despite accounting for only 15% of the population, Alawites, Druze and other heterodox Muslim minorities held almost half of the posts in the all-powerful Regional Command of the Arab Socialist Ba'ath Party.¹⁵⁰ Furthermore, members of these minority groups championed pan-Arabist ideology with the aim of establishing a secular state that would protect their communities from state interference.¹⁵¹

Both factors—the growing power of minority groups and the promotion of the secularization of the state—gave rise to a perception of being discriminated against among the Sunni majority, which opposition groups such as the Muslim Brotherhood exploited in an anti-Alawite campaign.¹⁵² In 1979, the growing sectarian tensions resulted a massacre of 83 young Alawite cadets organized by the Brotherhood, marking “the beginning of full-scale [*sic*] urban warfare against the Alawis”.¹⁵³ The conflict culminated in 1982, when more than 70 Ba'athists were killed in Hama. The regime responded with overwhelming force, deploying the army and killing tens of thousands of individuals, most of them civilians, over three weeks.¹⁵⁴ As a result of his decisive intervention, the Alawite minority began to view al-Assad as a protector against violent Sunni extremism.¹⁵⁵ Both the uprisings against Alawite rule and the ensuing state repression left a lasting mark on the collective consciousness of both Sunnis and Alawites, generating a high degree of mutual mistrust.

¹⁴⁸ *ibid* 443.

¹⁴⁹ Rabinovich (n 124) 710.

¹⁵⁰ Alasdair Drysdale, ‘The Syrian Political Elite, 1966–1976: A Spatial and Social Analysis’ (1981) 17(1) *MES* 3, 13.

¹⁵¹ Adameczyk and Jomma (n 114) 304.

¹⁵² Teitelbaum (n 142) 232.

¹⁵³ Nina Wiedl, ‘The Hama Massacre – Reasons, Supporters of the Rebellion, Consequences: With a Special Emphasis on the Triangle between Asad, the Muslim Brotherhood and West Germany’ (MA Paper, Ben-Gurion University of the Negev 2006) 8.

¹⁵⁴ *ibid* 9.

¹⁵⁵ Leon T Goldsmith, ‘Structure, Perception and Agency in the Syrian Security Dilemma’ (Wars and Wars’ Ending Conference, Byblos, November 2015) 5.

Against this backdrop, al-Assad developed a strategy to secure the support of ethnic and religious minority groups as a counterbalance to Sunni opposition.¹⁵⁶ His relationship with the Kurds was ambivalent: after years of Arabization policies, he reintegrated Kurds into state administration and offered them positions within the military and religious organs.¹⁵⁷ This made Syria the only country in the region that avoided military conflict with Kurdish independentist militias for decades.¹⁵⁸ Moreover, the al-Assad regime has traditionally been understood as broadly accommodating for religious minorities, since the 1973 Constitution accepted religious diversity as long as it did not undermine the primacy of the national Arab identity.¹⁵⁹ However, recent scholarship has challenged this narrative. Abdel-Samad, for example, notes that the regime not only neglected the economic development of areas with Druze majority, but also actively expelled Druze members from the Ba'ath Party and the army on the grounds that they were “over-represented”.¹⁶⁰ This is consistent with the views of Drysdale, who argued that al-Assad redistributed positions of power in favor of the Sunni majority at the expense of other minorities, and not at the expense of the actually highly over-represented Alawite minority.¹⁶¹ Moreover, Jewish communities were further marginalized for their perceived sympathies towards the enemy state of Israel.¹⁶²

The situation of these minority groups, as well as that of the Sunni majority, remained relatively stable under the governments of both Hafez al-Assad and, following his death in 2000, his son's, Bashar al-Assad. To maintain their power, both relied on authoritarian governance and application of numerous emergency laws that curtailed the civil and political rights and freedoms enshrined in the Constitution.¹⁶³ Furthermore, they also promoted a model of state secularism that, while protecting minorities from sectarian attacks, suppressed the recognition of their distinct identities.¹⁶⁴ The combination of political repression, routine curtailment of rights and “the failure to acknowledge the

¹⁵⁶ Adamczyk and Jomma (n 74) 314.

¹⁵⁷ Tejel (n 146) 443.

¹⁵⁸ *ibid* 443–447.

¹⁵⁹ Constitution of the Syrian Arab Republic 1973, arts 1 and 35.

¹⁶⁰ Abdel-Samad (n 115) 906.

¹⁶¹ Drysdale (n 150) 13.

¹⁶² Adamczyk and Jomma (n 74) 314.

¹⁶³ *ibid* 309–311.

¹⁶⁴ *ibid* 299.

existence of minorities and respect their rights”¹⁶⁵ left deep grievances unresolved that would resurface with considerable force once armed hostilities began.

The successive political regimes that have governed Syria during the 20th century have stood out for their use of various means to resolve the tensions arising from the presence of numerous ethnic and religious minorities in the country. Through the millet system, the Ottoman sultans officially granted autonomy to the Christian and Jewish religious minorities, while other minority groups attained a degree of self-government due to their complex geographical situation rather than out of genuine political will. During the French Mandate, the colonial authorities facilitated the legal and practical autonomy of regions with Alawite and Druze majorities to counter Arab nationalism, favoring the inclusion of members of the former group in state security institutions, but flatly rejecting similar protections for the Kurds on the grounds that they were an ethnic rather than a religious minority. After independence, the measures adopted by Arab nationalist authorities discriminated even more blatantly against the Kurdish population while maintaining the overrepresentation of Alawites in the military. The subsequent emergence of ideologically based political parties endowed Alawite military officers with political power but also generated growing Sunni Muslim opposition to this minority. The al-Assad regime increased the share of power held by the Alawite minority in a period marked by early episodes of sectarian violence between the Sunni Muslim majority and this minority as well as by attempts of the regime to win the support of other groups through gestures of support whose sincerity is now a subject of academic debate. The subsequent involvement of ethnic and religious minorities in the Syrian Civil War demonstrates that none of these models resolved the root causes of the grievances and tensions between these minorities and the rest of the population.

3.3. Minorities during the Syrian Civil War

The Syrian Civil War (2011–2024) started in response to the Bashar al-Assad regime’s crackdown on popular protests demanding socio-political and economic reform that arose in the wider context of the Arab Spring.¹⁶⁶ The conflict soon took on an international dimension, with numerous regional and international actors supporting one side or the other. Thus, the regime was bolstered by Russia, Iran, and Shiite militias from Lebanon,¹⁶⁷

¹⁶⁵ *ibid.*

¹⁶⁶ Besenyő and Gömöri (n 113) 220–221.

¹⁶⁷ Lucas Swinnen, ‘Syria at War: Reshuffling the Cards’ (2025) IFF Working Paper Online 52, 8 <<https://folia.unifr.ch/unifr/documents/332664>> accessed 18 June 2026.

while the main Sunni Islamist opposition received support from regional groups seeking to establish a caliphate, such as Al-Qaeda or the Islamic State.¹⁶⁸ Turkey and the United States became particularly involved in power struggles in north-eastern Syria.¹⁶⁹

Following the repression of the initial of protests in March 2011, the increased militarization of the opposition to the regime allowed it to gain control of vast territories, including most of the province of Idlib and major cities such as Aleppo, which the regime only recaptured in 2016 after a four-year battle.¹⁷⁰ During the following period of relative stabilization, the regime controlled most of the territory west of the Euphrates, with the exceptions of the governorate of Idlib, ruled by the Islamist group Hayat Tahrir al-Sham (HTS)—a splinter group of the Islamic State and Al-Qaeda—, and areas in the north and south occupied by Turkey and Israel, respectively.¹⁷¹ East of the Euphrates, an autonomous region with a Kurdish majority was established.¹⁷² In November 2024, HTS launched an offensive against the regime from Idlib, rapidly conquering major cities and ultimately the capital.¹⁷³ Throughout these events, ethnic and religious minorities played key roles that merit careful consideration.

Their behavior was shaped by pressures from both the al-Assad regime and the main opposition forces. On the one hand, the regime sought to sectarianize the conflict to win the support of ethnic and religious minorities.¹⁷⁴ To this end, it first falsely attributed the original protests to the Muslim Brotherhood,¹⁷⁵ released radical prisoners to reinforce the Islamist character of the opposition,¹⁷⁶ and returned citizenship status to those Kurds that were stripped of it in 1962.¹⁷⁷ Notably, al-Assad also formalized the creation of militias composed mainly members of minority groups to support the regime's army.¹⁷⁸

¹⁶⁸ Besenyő and Gömöri (n 113) 221.

¹⁶⁹ Rojan (n 117) 46–47.

¹⁷⁰ Swinnen (n 167) 6; Raymond Hinnebusch, 'Syria: From "Authoritarian Upgrading" to Revolution?' (2012) 88(1) *IA* 95, 106.

¹⁷¹ Swinnen (n 167) 7.

¹⁷² Tejel (n 146) 451.

¹⁷³ Swinnen (n 167) 7–8.

¹⁷⁴ Goldsmith (n 155) 4.

¹⁷⁵ Raphaël Lefèvre, 'The Syrian Muslim Brotherhood's Alawi Conundrum' in Michael Kerr and Craig Larkin (eds), *The Alawis of Syria: War, Faith and Politics in the Levant* (Oxford University Press 2015) 126.

¹⁷⁶ Carsten Wieland, 'Alawis in the Syrian Opposition' in Michael Kerr and Craig Larkin (eds), *The Alawis of Syria: War, Faith and Politics in the Levant* (Oxford University Press 2015) 226.

¹⁷⁷ Tejel (n 146) 446.

¹⁷⁸ Goldsmith (n 155) 6.

Despite these efforts, the regime failed to garner sustained minority support, only managing to persuade them not to join the outright opposition to the regime.

On the other hand, the minority reluctance to join the opposition was also driven by deep concerns over its growing Islamization. Groups such as the Islamic State or Al-Qaeda promoted an extremist interpretation of Islam that threatened both non-Muslims and non-Sunni communities alike.¹⁷⁹ Their conduct in neighboring Iraq, where they had committed GVHRs against minorities, further fueled these fears.¹⁸⁰ Faced with this threat, members of minority groups increasingly perceived the need to strengthen their security in order to protect their rights.

This calculus played out differently across each community. Alawites, for example, came to view the maintenance of the al-Assad regime's secular system as a factor contributing to their security and the protection of their rights. This minority, despite their early participation in the protests against the regime, grew fearful of the Islamist-dominated opposition.¹⁸¹ Notably, al-Assad's administration also took steps to silence pro-opposition Alawite voices.¹⁸² Moreover, many retreated to the Latakia region, where they formed a majority,¹⁸³ whilst working-class Alawite men were recruited into the pro-regime *Shabiha* militia, which committed GVHRs against civilian population.¹⁸⁴ Notably, the Alawites were likewise victims of abuses at the hands of Islamist groups.¹⁸⁵

Unlike the Alawite minority, the Druze adopted an even more cautious stance. Not having participated actively in the early protests against the regime, they were characterized for their refusal to side openly with either the regime or the opposition, despite pressures from both.¹⁸⁶ Subjected to massacres by Islamist organizations even when they had been promised for protection,¹⁸⁷ Druzes similarly retreated to the Suwayda region, where they constituted the majority of the population.¹⁸⁸ During the conflict, the

¹⁷⁹ Abdel-Samad (n 115) 903.

¹⁸⁰ *ibid* 901.

¹⁸¹ Goldsmith (n 155) 3.

¹⁸² *ibid* 13.

¹⁸³ *ibid* 9.

¹⁸⁴ Aron Lund, 'Chasing Ghosts: The Shabiha Phenomenon' in Michael Kerr and Craig Larkin (eds), *The Alawis of Syria: War, Faith and Politics in the Levant* (Oxford University Press 2015) 212.

¹⁸⁵ Frederic C Hof and Alex Simon, 'Sectarian Violence in Syria's Civil War: Causes, Consequences, and Recommendations for Mitigation' (2013), *Center for the Prevention of Genocide* 24 <<https://www.ushmm.org/m/pdfs/20130325-syria-report.pdf>> accessed 18 June 2026.

¹⁸⁶ Abdel-Samad (n 115) 902.

¹⁸⁷ *ibid* 903.

¹⁸⁸ *ibid* 901–907.

Druze minority embraced its distinct religious identity and prioritized group survival over broader political commitments.

Christians were more divided: some defended minority enclaves alongside the regime, while others took leading roles in the early opposition.¹⁸⁹ Notably, in areas under Islamist control, local authorities confiscated property and businesses belonging to Christian owners.¹⁹⁰ Since, unlike Alawites and Druzes, Christians held no majority territory to retreat to, most of them ultimately decided to leave the country.¹⁹¹ As a result, Christians made up a comparatively high proportion of the refugees leaving conflict areas in Syria.¹⁹²

The Kurdish ethnic minority followed a distinct path, driven by their long-standing desire for autonomy. Taking advantage of the power vacuum left by the regime when it withdrew the army from Kurdish-majority regions, independentist political groups established an autonomous administration in north-eastern Syria.¹⁹³ The new regional authorities—composed of various ethnic groups including Kurds and Arabs—adopted a constitutional text that sought to build “a society free from authoritarianism, militarism, centralism, and the intervention of religious authority in public affairs”.¹⁹⁴ This anti-centralist and anti-clerical stance, brought them into conflict with both the regime and Islamist forces, but also earned them the support of the United States, which supported the formation of the pluralistic Syrian Democratic Forces (SDF).¹⁹⁵ These autonomous and secular armed forces often clashed with neighboring Turkey and its backed Syrian National Army (SNA), composed from remnants of the secular opposition forces and Islamist groups.¹⁹⁶ The SNA fought against Kurdish autonomy in Syria, as it was seen as a threat to Turkey’s authority and territorial integrity. To further limit this possibility, Turkey occupied border regions in 2019, creating a buffer zone between the

¹⁸⁹ Besenyő and Gömöri (n 113) 223.

¹⁹⁰ Swinnen (n 167) 12.

¹⁹¹ *ibid* 224–225.

¹⁹² ‘Country Policy and Information Note: Religious Minorities (excluding Alawites), Syria, February 2026’ (UK Government, 14 April 2026) <<https://www.gov.uk/government/publications/syria-country-policy-and-information-notes/country-policy-and-information-note-religious-minorities-excluding-alawites-syria-february-2026-accessible>> accessed 19 April 2026.

¹⁹³ Tejel (n 146) 447.

¹⁹⁴ Charter of the Social Contract 2014, Preamble.

¹⁹⁵ Rojan (n 117) 43.

¹⁹⁶ Human Rights Watch, “‘Everything Is by the Power of the Weapon’: Abuses and Impunity in Turkish-Occupied Northern Syria’ (Human Rights Watch, 2024) 20.

two states.¹⁹⁷ The region where most Kurds live thus became a major battleground during the civil war.

These confrontations generated widespread commissions of GVHRs by all sides. The SNA carried out arbitrary arrests, torture, enforced disappearances and sexual abuse against Kurdish civilians, often on the grounds of their alleged links to the SDF.¹⁹⁸ Furthermore, there were numerous violations of property rights, particularly after the carrying out of military operations that produced large internal displacements.¹⁹⁹ The SDF and other Kurdish paramilitary groups, meanwhile, were accused of large-scale violations of the rights of the more than 50,000 detainees—militants from Islamist forces and their families—who have been held in prison camps since 2019.²⁰⁰ Abuses spanned acts from torture to ill-treatment, including severe beating, electric shocks and gender-based violence.²⁰¹ Furthermore, there have also been allegations of child recruitment and violent repression against opponents.²⁰² All these actions have led to, and continue to generate, a high degree of mistrust among the various stakeholders in the region.

Furthermore, across the broader conflict, numerous Islamist groups used sexual violence as a weapon of war, carried out summary executions, and subjected religious minorities to detention, torture and forced conversion.²⁰³ Furthermore, they destroyed monuments of recognized historical and cultural importance on the grounds of their alleged idolatry.²⁰⁴ HTS, specifically, repressed and tortured critics and militants from other Islamist organizations, used sexual violence against women and imprisoned activists, and forcibly converted and massacred members of religious minorities such as Druze and Alawites.²⁰⁵ The al-Assad government, for its part, killed hundreds of thousands of civilians and employed torture, sexual violence and enforced disappearances against activists, members of the opposition and rebel forces.²⁰⁶ Furthermore, the government-supported militia *Shabiha* was accused of carrying out massacres against

¹⁹⁷ Tejel (n 146) 437.

¹⁹⁸ Human Rights Watch (n 196) 28.

¹⁹⁹ *ibid* 46.

²⁰⁰ Amnesty International, *Syria: Mass Death, Torture and Other Violations Against People Detained in Aftermath of Islamic State Defeat – New Report* (Amnesty International, 2024) 7.

²⁰¹ *ibid*.

²⁰² Swinnen (n 167) 14; Tejel (n 146) 449.

²⁰³ Iffat Idris, 'International Humanitarian Law and Human Rights Violations in Syria' (K4D Helpdesk Report 127, Institute of Development Studies 2017) 6–7.

²⁰⁴ *ibid* 8.

²⁰⁵ Swinnen (n 167) 11–12.

²⁰⁶ Syrian Network for Human Rights, 'SNHR's Vision for Transitional Justice in Syria' (17 April 2025) <<https://snhr.org/wp-content/uploads/2025/04/R250303E-2.pdf>> accessed on 18 June 2026.

civilian populations.²⁰⁷ As such, all ethnic and religious minorities in Syria played a significant role during the civil war, both as victims and perpetrators of numerous GVHRs.

The war's conclusion in late 2024 came with remarkably little bloodshed, owing to a stark imbalance of forces. The al-Assad regime was at a disadvantage for two main reasons. First, the international support provided by Russia, Iran, and the Lebanese Shiite militias of Hezbollah throughout most of the war had waned in the last two years due to the outbreak of armed conflicts in Ukraine and Lebanon, which diverted the attention of these allies.²⁰⁸ Second, in the years leading up to the final offensive that would bring about its downfall, the al-Assad regime had disregarded the need to win popular support. For example, the regime's army was highly demoralized and neglected, suffering from a wave of desertions.²⁰⁹ Notably, despite this institution's long-standing ties with specific minority groups, soldiers refused to join it regardless of their ethnic or religious identity. For example, some sources estimate that 30,000 Alawites actively avoided conscription in the period leading up to the regime's collapse.²¹⁰ Furthermore, the government's incompetence to address a deepening economic crisis eroded what remained of its popular support, particularly among members of minority groups.²¹¹ All of these factors left the regime in a position of weakness in the face of threats from the opposition.

In contrast, in the governorate of Idlib, the opposition group HTS had appointed a "salvation government" to provide basic social services and security to the population, gaining support from civil society.²¹² While it is true that this Islamist group committed violations of fundamental rights that raised concerns, these were acknowledged by its leader, who also announced reforms and accountability mechanisms.²¹³ Moreover, its army was disciplined and well-supplied, with offensive capabilities supported by locally produced weapons.²¹⁴ All of this contributed to the decision to launch Operation

²⁰⁷ Lund (n 184) 212.

²⁰⁸ Muhammad Idrees Ahmad, 'Syria After Assad' (2025) 72(2) *Dissent* 92, 95.

²⁰⁹ Swinnen (n 167) 8.

²¹⁰ Kamal Shahin, 'The Disintegration of Assad's Army' *New Lines Magazine* (6 March 2025) <<https://newlinesmag.com/reportage/the-disintegration-of-assads-army/>> accessed 20 May 2026.

²¹¹ Lina Sinjab, 'Syria: Protests over Growing Economic Hardship Spread in South' *BBC News* (24 August 2023) <<https://www.bbc.co.uk/news/world-middle-east-66607118>> accessed 20 May 2026.

²¹² Ahmad (n 208) 94.

²¹³ *ibid* 95.

²¹⁴ *ibid*.

Deterrence of Aggression, with the explicit aim of resettling internally displaced persons by destroying the al-Assad regime's threatening capacities.²¹⁵

After capturing small towns and military bases south of Idlib, HTS rebels managed to capture the country's second-largest city, Aleppo, in a matter of days.²¹⁶ The precedent set by the capture of this city and other major urban centers in the country led HTS forces to attempt to conquer the capital, Damascus, which they did just as quickly. In that context, the country's then-president, Bashar al-Assad, fled by plane to Russia along with his family.²¹⁷ The Syrian civil, thus, came to an end after more than twelve years of conflict.

3.4. Minorities in Post-Conflict Syria

During the post-conflict period covered by this text—from late 2024 to spring 2026—the situation of minority groups in Syria has drawn significant international attention.²¹⁸ Following the fall of the al-Assad regime, the new transitional authorities in the country have emerged from the main armed opposition groups. These groups, led by HTS, not only identify with the Sunni Muslim Arab majority of Syria's population, but also share an Islamist ideology.²¹⁹ Combined with their past links to organizations such as Al-Qaeda and the Islamic State, some concerns have been raised regarding the treatment ethnic and religious minorities may receive under this new government.²²⁰ Overall, the situation of these minority groups in post-conflict Syria has been affected both by political developments and episodes of violence.

On the political front, it is worth noting that after the capture of Damascus, the armed opposition groups that defeated the al-Assad regime formed an interim government modelled on the Salvation Government of the Idlib governorate.²²¹ In January 2025, HTS

²¹⁵ Swinnen (n 167) 7.

²¹⁶ *ibid* 8–9.

²¹⁷ *ibid*.

²¹⁸ See for example: 'The Fate of Minorities in Post-Assad Syria' *The Economist* (London, 2 January 2025) <<https://www.economist.com/middle-east-and-africa/2025/01/02/the-fate-of-minorities-in-post-assad-syria>> accessed 12 June 2026; Adam Fefer, 'Regime Change and Minority Risks: Syrian Alawites After Assad' (*Carnegie Endowment for International Peace*, 21 July 2025) <<https://carnegieendowment.org/research/2025/07/syria-alawites-minority-postwar-post-assad>> accessed 12 June 2026.

²¹⁹ Jerome Drevon and Patrick Haenni, 'The End of Jihadi Salafism? The Religious Governance of HTS, the Post-Jihadi Rebel Ruler in Northern Syria' (2025) 31(2) MP 403

²²⁰ Fefer (n 218).

²²¹ 'What to Know about Syria's New Caretaker Government' *Al Jazeera* (15 December 2024) <<https://www.aljazeera.com/news/2024/12/15/what-to-know-about-syrias-new-caretaker-government>> accessed 12 June 2026.

leader, Ahmed al-Sharaa, was appointed president of the transitional government and tasked with leading the country until democratic elections could be organized.²²² His stated priorities—the reform of institutions inherited from the al-Assad regime, the promotion of transitional justice and the consolidation of national unity²²³—have each directly affected minority groups.

Leaders of minority groups have criticized some of the measures implemented to transform the foundational elements of the Syrian state. In response to the dissolution and restructuring of the Syrian Armed Forces, these leaders cited irreconcilable ideological differences to oppose the integration of their militias under the unified command of the new government.²²⁴ After the transitional government replaced the 2012 Constitution with a provisional Constitutional Declaration, they criticized it for failing to recognize Syria's ethnic and religious diversity and provide concrete protections for the rights of minority groups.²²⁵ Similarly, although the new cabinet includes four ministers from minority communities—a Druze, an Alawite, a Kurd, and a Christian woman²²⁶—representatives of minority groups have complained about the tokenism involved in these ministerial appointments.²²⁷

The transitional justice strategy of the new government has received similar criticism. In May 2025, Decrees 19 and 20 respectively established a National Authority for Missing Persons and a National Authority for Transitional Justice.²²⁸ While the formation of these two bodies has been globally welcomed,²²⁹ the latter has been

²²² David Gritten, 'Ahmed al-Sharaa Named Syria's Transitional President' *BBC News* (31 January 2025) <<https://www.bbc.co.uk/news/articles/c8d9r0vg6v7o>> accessed 12 June 2026.

²²³ Aymenn Jawad Al-Tamimi, 'Ahmad al-Sharaa's Address to the Syrian Nation: A Translation and Overview' (*Middle East Forum*, 30 January 2025) <<https://www.meforum.org/mef-online/ahmad-al-sharaas-address-to-the-syrian-nation>> accessed 12 June 2026.

²²⁴ Francesco Salesio Schiavi, 'Forging a united front: The challenges of building Syria's new army' *The New Arab* (3 February 2025) <<https://www.newarab.com/analysis/united-front-challenges-building-syrias-new-army>> accessed 21 June 2026.

²²⁵ Agence France-Presse, 'Syria's New Constitution Gives Sweeping Powers, Ignores Minority Rights' *France 24* (14 March 2025) <<https://www.france24.com/en/live-news/20250314-syria-s-new-constitution-gives-sweeping-powers-ignores-minority-rights>> accessed 12 June 2026.

²²⁶ 'Syrian President al-Sharaa Unveils Transitional Government' *Al Jazeera* (30 March 2025) <<https://www.aljazeera.com/news/2025/3/30/syrian-president-unveils-transitional-government>> accessed 12 June 2026.

²²⁷ Sirwan Kajjo, 'Tokenism Is a Feature of Al-Sharaa's Rule in Syria' (*Middle East Forum*, 19 November 2025) <<https://www.meforum.org/mef-observer/tokenism-is-a-feature-of-al-sharaas-rule-in-syria>> accessed 12 June 2026.

²²⁸ Roger Lu Phillips, 'Syria Embarks on a Transitional Justice Project' (*International Centre for Counter-Terrorism*, 1 September 2025) <<https://icct.nl/publication/syria-embarks-transitional-justice-project>> accessed 12 June 2026.

²²⁹ 'ICTJ Welcomes Establishment of Syria's New National Commissions for Transitional Justice and the Missing' (*International Center for Transitional Justice*, 22 May 2025) <<https://www.ictj.org/latest>>

criticized for focusing exclusively on uncovering “the truth about the serious violations committed by the previous regime”.²³⁰ In a country emerging from a civil war in which all parties committed GVHRs, civil society organizations have condemned the apparent exclusion of the numerous victims of non-state actors—including those who know rule the country²³¹—, many of whom were members of the country's ethnic and religious minorities.

On the topic of national unity, the February 2025 National Dialogue Conference, intended to bring together representatives from across Syria to agree on common principles for territorial unity and national reconciliation,²³² was rejected by minority groups, particularly Kurds, for its symbolic representation of minorities and the specific exclusion of non-Syrian nationalist political forces.²³³ Taken together, these political developments have generated a pattern of minority exclusion that has fueled some post-conflict violent incidents.

The post-war period has been marked by the participation of minority groups, both as victims and perpetrators, in renewed episodes of extreme violence. The first case occurred in March 2025 in the Alawite-majority regions of the Syrian coast. Following al-Assad’s flight, numerous high-ranking Alawite army officers abandoned their posts and returned to their home communities.²³⁴ There, leveraging contacts with foreign powers and hidden arsenals of weapons from the war, they organized a revolt against the new authorities.²³⁵ Whether motivated by a desire to preserve self-rule in the face of growing centralization or by hopes of restoring Alawite political dominance, these rebels

[news/ictj-welcomes-establishment-syria%E2%80%99s-new-national-commissions-transitional-justice-and>](#) accessed 12 June 2026.

²³⁰ ‘Presidency of the Republic: Presidential Decree No (20) Establishing the National Transitional Justice Authority’ (*Syrian Arab News Agency*, 17 May 2025) <<https://archive.sana.sy/en/?p=355958>> accessed 12 June 2026.

²³¹ Syrians for Truth and Justice, ‘Joint Statement on Decree No 20 Stipulating the Establishment of a National Commission for Transitional Justice’ (23 May 2025) <<https://stj-sy.org/en/joint-statement-on-decree-no-20-stipulating-the-establishment-of-a-national-commission-for-transitional-justice/>> accessed 12 June 2026.

²³² Justin Salhani, ‘Key takeaways from Syria’s National Dialogue conference’ *Al Jazeera* (26 February 2025) <<https://www.aljazeera.com/news/2025/2/26/key-takeaways-from-syrias-national-dialogue-conference>> accessed 12 June 2026.

²³³ Zana Omer, ‘Syrian Kurds denounce exclusion from National Dialogue Conference’ *Voice of America* (26 February 2025) <<https://www.voanews.com/a/voa-kurdish-syrian-kurds-denounce-exclusion-from-national-dialogue-conference/7988330.html>> accessed 12 June 2026.

²³⁴ Wolf-Christian Paes and others, ‘From Fragmentation to Integration: Prospects for Security Sector Reform in Post-Assad Syria’ (2025) International Institute for Strategic Studies, 8 <https://www.iiss.org/globalassets/global-content---content-migration/research-reports/2025/10/syria-report/pub25_114-csdp_nsags-in-syria_v7.pdf> accessed 18 June 2026.

²³⁵ *ibid.*

killed more than 200 members of the state security forces.²³⁶ This first major threat to the new regime was met with a large-scale response, as segments of the Sunni majority—taking advantage of the resulting chaos and the easy access to weapons stemming from the post-war situation—formed paramilitary groups to retaliate against the Alawite minority.²³⁷ The result was an exponential surge in violence that the central authorities failed to contain, though al-Sharaa eventually condemned the killing of civilians and promised accountability.²³⁸ Although state authorities have regained control of the region, violence has not completely ceased.

Several organizations documented the scale of the violence. A UN commission of inquiry reported that around 1400 people, predominantly civilians, were killed in the massacres.²³⁹ Furthermore, Amnesty International documented the abduction and kidnapping of Alawite women and girls between February and July 2025, denouncing the inability of the transitional government to hold perpetrators to account.²⁴⁰ Ultimately, the interim government launched an independent investigative commission on all of these crimes, leading to some arrests.²⁴¹ The widespread perception of inadequate accountability for GVHRs against the Alawite minority risks entrenching the cycle of grievance and mistrust that has historically characterized the relationship between this community and the Sunni majority.

Only a few months later, in June 2025, a suicide attack directed against a church in Damascus killed 25 people and injured 63, making it the largest attack against Christians in the country since the 1860s.²⁴² The attack was attributed to a small terrorist organization linked to the Islamic State, prompting the authorities to condemn it and

²³⁶ *ibid* 9.

²³⁷ Independent International Commission of Inquiry on the Syrian Arab Republic, ‘Violations against civilians in the coastal and western-central regions of the Syrian Arab Republic (January–March 2025)’ (11 August 2025) UN Doc A/HRC/59/CRP.4 paras 60–61.

²³⁸ *ibid* para 67.

²³⁹ ‘UN Syria Commission finds March coastal violence was widespread and systematic: outlines urgent steps to prevent future violations and restore public confidence’ (*OHCHR*, 14 August 2025) <<https://www.ohchr.org/en/press-releases/2025/08/un-syria-commission-finds-march-coastal-violence-was-widespread-and>> accessed 12 June 2026.

²⁴⁰ Amnesty International, ‘Syria: Authorities must investigate abductions of Alawite women and girls’ (Amnesty International, 28 July 2025) <<https://www.amnesty.org/en/latest/news/2025/07/syria-authorities-must-investigate-abductions-of-alawite-women-and-girls/>> accessed 12 June 2026.

²⁴¹ ‘Syria’s al-Sharaa launches probe into deadly clashes, vows accountability’ *Al Jazeera* (9 March 2025) <<https://www.aljazeera.com/news/2025/3/9/syria-forms-committee-to-investigate-coastal-violence-outbreak>> accessed 12 June 2026.

²⁴² Philip Loft, ‘Syria One Year after Assad: Religious Minorities’ (House of Commons Library Research Briefing No CBP-10429, 11 December 2025).

announce arrests.²⁴³ Whilst this episode differed in nature from other instances of sectarian conflict in recent months, it demonstrates the continued vulnerability of religious minorities in the post-war environment.

On July 11, sectarian violence erupted in the Druze-majority governorate of Suwayda. Small-scale clashes between Druze militias and Bedouin tribes escalated rapidly into an internal armed conflict after the new Syrian Armed Forces intervened in support of the Bedouins.²⁴⁴ All three sides committed large-scale abuses, amounting to GVHRs and war crimes.²⁴⁵ A fragile truce was reached on July 19, though violence continued sporadically.²⁴⁶ UN mechanisms documented deaths of more than 1700 people, over half of whom were Druze civilians, and the displacement of more than 200,000 people.²⁴⁷ Additionally, these entities also denounced “the reported abduction of at least 105 Druze women and girls by armed groups affiliated with the Syrian interim authorities” and the widespread use of sexual violence against the victims.²⁴⁸ The transitional government responded more substantively than in the case of the violence in the Syrian Coast, welcoming the UN findings and establishing its own investigative committee.²⁴⁹ Recently, this body released its report and announced that “23 security and military personnel involved in violations were detained and are now being publicly tried”.²⁵⁰ Critics, however, noted that the report failed to recognize the systematic nature of the violations, treating them instead as isolated incidents rather than as part of a broader pattern of minority persecution.²⁵¹

²⁴³ ‘Syria announces arrests over Damascus church attack’ *France 24* (23 June 2025) <<https://www.france24.com/en/live-news/20250623-syria-president-vows-those-involved-in-church-attack-will-face-justice-1>> accessed 12 June 2026.

²⁴⁴ Paes and others (n 234) 10.

²⁴⁵ Independent International Commission of Inquiry on the Syrian Arab Republic, ‘International Human Rights Law and International Humanitarian Law violations committed during the July 2025 violence in Suwayda, Syria’ (27 March 2026) UN Doc A/HRC/61/CRP.7 para 1.

²⁴⁶ ‘Suweida truce under threat as Druze gunmen attack Syrian troops’ *The New Arab* (3 August 2025) <<https://www.newarab.com/news/suweida-truce-under-threat-druze-gunmen-attack-syrian-troops>> accessed 12 June 2026.

²⁴⁷ Independent International Commission of Inquiry on the Syrian Arab Republic (n 245) para 48.

²⁴⁸ ‘Syria: UN experts alarmed by attacks on Druze communities, including sexual violence against women and girls’ (OHCHR, 21 August 2025) <<https://www.ohchr.org/en/press-releases/2025/08/syria-un-experts-alarmed-attacks-druze-communities-including-sexual-violence>> accessed 12 June 2026.

²⁴⁹ ‘Syria welcomes UN report on Sweida, reaffirms commitment to accountability’ *Syrian Arab News Agency* (28 March 2026) <<https://sana.sy/en/syria/2305796/>> accessed 12 June 2026.

²⁵⁰ ‘Syrian national committee submits final report on Suwayda events, outlines key findings’ *Enab Baladi* (18 March 2026) <<https://english.enabbaladi.net/archives/2026/03/national-committee/>> accessed 12 June 2026.

²⁵¹ Adnan Ali, ‘Syria’s investigation into “Suweida events” falls short of justice, say critics’ *The New Arab* (19 March 2026) <<https://www.newarab.com/news/syrias-investigation-suweida-events-falls-short-justice>> accessed 12 June 2026.

The situation of the Kurdish ethnic minority in the post-war period has followed a somewhat different trajectory. Initially, Kurdish authorities governing north-eastern Syria resisted integration within the institutions of the transitional government, given their relatively strong autonomous position.²⁵² However, the U.S. government's decision to withdraw most of its troops from the region—which had served as a buffer against Turkish aggression—prompted them to sign a framework agreement to integrate their civilian and military institutions into the Syrian government.²⁵³ The implementation of this agreement, however, has been hampered by various factors.

First, in the broader context of the reform of the Armed Forces, the transitional authorities have increasingly relied on the conscription of soldiers from the numerous armed groups that composed the main opposition to the al-Assad regime. After having suffered attacks at the hands of both SDA soldiers and Islamist organizations during the war, the prospect of joining these two groups in the renewed Syrian Armed Forces might have been a matter of concern for Kurdish forces. Furthermore, the inability or unwillingness of the transitional government to control the attacks against other minority groups in the post-war setting and to ensure accountability may also have contributed to growing mistrust among Kurds.²⁵⁴ Second, between August 2025 and January 2026, direct clashes took place between the SDF and the Syrian Armed Forces.²⁵⁵ Ultimately, a series of presidential decrees and peace agreements between the parties have helped to stabilize the situation. Among other provisions, these documents include the integration of institutions formerly under Kurdish autonomous control into state structures, the recognition of unprecedented civil and cultural rights for this ethnic minority and the inclusion of SDF-associated soldiers into the Syrian Armed Forces.²⁵⁶

In short, the post-war period has confirmed that the fall of the al-Assad regime has not broken the cycles of violence and exclusion that have long defined the relationship between Syria's ethnic and religious minorities, the Arab Sunni majority and the central

²⁵² Paes and others (n 234) 24.

²⁵³ William Christou, 'Syrian government reaches deal with Kurdish-led SDF to integrate north-east region' *The Guardian* (10 March 2025) <<https://www.theguardian.com/world/2025/mar/10/syrian-government-reaches-deal-with-kurdish-led-sdf-to-integrate-north-east-region>> accessed 12 June 2026.

²⁵⁴ Samia Nakhoul and Timour Azhari, 'Sectarian violence risks dividing Syria despite Sharaa's diplomacy' *Reuters* (15 September 2025) <<https://www.reuters.com/world/middle-east/sectarian-violence-risks-dividing-syria-despite-sharaas-diplomacy-2025-09-15/>> accessed 12 June 2026.

²⁵⁵ Charles Lister, 'Integration or conflict in northeastern Syria? Ten key points to consider' (*Middle East Institute*, 29 January 2026) <<https://mei.edu/publication/integration-or-conflict-in-northeastern-syria-ten-key-points-to-consider/>> accessed 12 June 2026.

²⁵⁶ *ibid.*

authorities. Political developments under the transitional government have raised the concerns of minorities, who have found their rights inadequately protected and their voices insufficiently represented. In several cases, these grievances have escalated into armed confrontation. Alawite, Druze and Kurdish groups have clashed with the transitional authorities and their allies, with GVHRs committed and suffered by all sides. Notably, the response of the transitional authorities to this violence has included commitments to investigate and ensure accountability, but implementation has been inconsistent. Whether this pattern represents a temporary instability inherent to any post-conflict transition, or a deeper unwillingness to break with the exclusionary dynamics of the past, remains to be seen. What is clear is that the prospects for lasting peace in Syria will depend in large part on how the transitional authorities choose to engage with the country's minority communities in the months and years ahead.

3.5. Conclusions

The analysis of the history of minorities in Syria shows that the status of diverse ethnic and religious identities has been closely shaped by changes in political authority and intercommunal conflict dynamics. Each successive political order—from the Ottoman millet system and the French Mandate's selective minority protections to the Arab nationalist assimilationism of the post-independence period and the Alawite-dominated authoritarianism of the al-Assad regime—has only redefined the underlying tensions between minority communities, the majority of the population and the state authorities. These accumulated grievances deepened during the civil war, as the instrumentalization of ethnic and religious identities pitted minorities against both the al-Assad government and the Islamist opposition, making them both victims and perpetrators of GVHRs. Ultimately, the rise to power of the Islamist opposition following the end of the war has allowed these complex interactions to continue, as minority groups have criticized the transitional government's approach to institutional reform, transitional justice and territorial cohesion, resulting in military confrontations with the new authorities and renewed episodes of GVHRs.

The Syrian case illustrates how contemporary conflict cannot be fully understood without considering the historical evolution of the relations between the state and the minority groups living within it, as unresolved grievances persist over time and re-emerge under conditions of instability. Now, after the official end of the armed conflict, there is renewed interest in preventing the recurrence of these cycles of violence and GVHRs.

Any efficient preventive measure must consider the complex relational dynamics that surround Syria's ethnic and religious minorities, requiring the credible accountability, inclusive institutional reform and meaningful minority participation highlighted in the previous chapter. The following chapter thus assesses the coherence of the non-recurrence framework carried out by the transitional government against the normative standards for GNRs identified in chapter two.

4. Chapter Four: Assessing the Measures of the Transitional Government

4.1. Introduction

Since international obligations bind the state rather than individual governments, interim authorities after an armed conflict or an authoritarian regime must not only align their actions with international expectations, including those derived from soft-law mechanisms, but also inherit existing state human rights commitments.²⁵⁷ Scholars have further noted that, when non-state actors rise to power, the violations committed by them in the past become the direct responsibility of the state.²⁵⁸ In the case of Syria, the new authorities face, beyond the general obligation to respect, protect, and fulfill human rights, a broader responsibility to protect the rights of minority groups and to pursue a comprehensive transitional justice strategy that uncovers the truth, prosecutes perpetrators, provides reparations to victims and prevents the recurrence of GVHRs.

This chapter seeks to assess the coherence of the general non-recurrence strategy of the transitional authorities regarding the areas of symbolic commitment to human rights and prevention of future institutional abuse. To analyze its strengths and shortcomings, particularly regarding minority groups, this chapter draws on the Special Rapporteur's reports as an authoritative source on the recommended normative framework. Government action is examined through various official sources, including the 2025 Constitutional Declaration and reports from civil society organizations. The analysis is complemented through secondary sources, both academic and journalistic, with the latter being especially relevant since existing academic literature has not yet addressed many of these recent developments.

Notably, given that this dissertation focuses exclusively on directly observable government action—and not on outcomes that depend on the involvement of third-party actors—, the strengthening of the capacities of victims of past violations has been excluded from this analysis. Therefore, following this introduction, the chapter is divided into two sections named after the areas of government action identified in the analysis of the reports of the Special Rapporteur. In each section, the measures adopted by the

²⁵⁷ See for example: Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331 (VCLT) art 26; Olivier (n 50) 296-298.

²⁵⁸ Luke Moffett, 'Violence and Repair: The Practice and Challenges of Non-State Armed Groups Engaging in Reparations' (2020) 102(915) *IRRC* 1057, 1061.

transitional authorities are assessed against the recommendations advanced by the Special Rapporteur. Finally, the chapter concludes by drawing some conclusions regarding the extent to which Syria's ongoing transition effectively incorporates GNRs.

4.2. Symbolic Signaling of their Commitment to Human Rights

Transitional authorities can demonstrate their commitment to preventing the recurrence of GVHRs through certain formal acts. An analysis of the content of the Special Rapporteur's reports revealed three areas of particular importance: the accession to international human rights treaties; the reform of specific constitutional provisions; and the criminalization without statute of limitations of offences of particular significance, such as genocide or crimes against humanity.²⁵⁹ The measures taken for the advancement of these goals are relevant for several reasons.

First, these are often processes that attract significant international attention. By engaging in these efforts, transitional governments not only demonstrate a commitment to human rights for their citizens but also signal to the international community their abandonment of the abusive practices that characterized the past. Second, by their very nature, all these measures explicitly limit the future conduct of state institutions. By subjecting themselves to public scrutiny, both domestically and internationally, governments demonstrate their commitment to break through the veil of secrecy that often surrounds the past abusive practices of public institutions or groups involved in the armed conflict. Finally, the adoption of these legal commitments typically serves as a declaration of the state's recognition of the rights and freedoms of citizens and as an acknowledgement of the notion that their absence created circumstances that led to GVHRs. Thus, these documents—international treaties, constitutions and criminal codes—become the new moral compass governing the conduct of authorities towards the citizenry.

Regarding the accession to international human rights treaties, the Syrian transitional authorities in the year and a half they have been in power have taken no steps. It should be noted, however, that Syria was already a party to most of the international human rights instruments of the UN system prior to the formation of the new

²⁵⁹ OHCHR (n 72) arts 42-50 and 63-76.

government.²⁶⁰ However, the previous al-Assad regime never ratified the Convention for the Protection of All Persons from Enforced Disappearance, or the respective Optional Protocol to the Convention Against Torture (which provides for independent visits to places of detention) and the Optional Protocol to the ICCPR, which abolishes the death penalty.²⁶¹ The new authorities should ratify these instruments and incorporate their provisions into domestic law. Two developments offer cause for optimism in this regard. First, even though the transitional authorities have not yet ratified the Rome Statute—that would allow the International Criminal Court (ICC) to investigate and prosecute the commission on Syrian territory of international crimes such as genocide, crimes against humanity, war crimes, and crimes of aggression²⁶²—the new authorities have shown willingness to cooperate with this international accountability mechanism. In January 2025, an ICC delegation visited Damascus on the petition of the transitional government to explore avenues for cooperation in the investigation and prosecution of crimes committed during the conflict.²⁶³ This cooperation, however, remains consultative rather than binding: unlike ratification of the Rome Statute, which would subject the authorities themselves to the ICC's jurisdiction, engagement of this kind allows the government to signal openness to accountability without yet accepting the constraint that full accession would entail.

Second, the new Syrian constitutional text specifies that “all rights and freedoms stipulated in international human rights treaties, charters, and agreements ratified by the Syrian Arab Republic are considered an integral part of this Constitutional Declaration”.²⁶⁴ This provision demonstrates the commitment of the transitional authorities to uphold human rights protections in the areas covered by the international agreements ratified to date. However, when compared with the Special Rapporteur's recommendations on constitutional matters, this same text gives rise to a different interpretation regarding the commitment to human rights of the transitional authorities.

²⁶⁰ ‘Syrian Arab Republic Country Page’ (*United Nations Human Rights Treaty Bodies*) <https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=170&Lang=EN> accessed 30 May 2026.

²⁶¹ *ibid.*

²⁶² Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 90, art 5.

²⁶³ ‘ICC Chief Prosecutor Karim Khan Meets Syria's New Leader in Damascus’ *France 24* (17 January 2025) <<https://www.france24.com/en/middle-east/20250118-icc-chief-prosecutor-karim-khan-meets-with-syrian-leader-in-damascus>> accessed 30 May 2026.

²⁶⁴ Constitutional Declaration of the Syrian Arab Republic 2025, art 12.

According to the Special Rapporteur, a new or amended constitution only furthers the prevention of GVHRs if it eliminates discriminatory provisions found in previous constitutions, introduces a bill of rights and mechanisms to promote inclusion, and reinforces the separation of powers through institutions such as the Constitutional Court.²⁶⁵ The application of these recommendations can be of particular importance in Syria, where a review of its history reveals that the absence of a framework guaranteeing equal rights and freedoms for all citizens and the authoritarian leadership of various branches of government resulted in GVHRs.

In March 2025, the new Syrian authorities adopted the Constitutional Declaration of the Syrian Arab Republic, intended to govern the functioning of the state until a definitive constitution is drafted and approved in the coming years.²⁶⁶ Given its transitional nature, the Declaration is limited in scope and depth, spanning only 53 articles—a notable reduction from the 157 articles of the 2012 Syrian Arab Republic’s Constitution, which remained in force until January 2025.²⁶⁷ Beyond its limited length, the Declaration has also faced criticism, both for the circumstances of its drafting and for its content. Regarding the former, the text was drafted by an exclusive seven-member committee directly appointed by President al-Sharaa. Representatives of minority groups, such as Kurdish leaders from SDF, have condemned the lack of public consultation.²⁶⁸ As for its content, criticism has focused on the excessive concentration of power in the presidency and the insufficient inclusion of Syria’s ethnic and religious diversity.²⁶⁹ For all these reasons, analyzing this text against the recommendations of the Special Rapporteur is a highly illuminating exercise, not only to gauge the level of commitment of the new Syrian authorities to human rights, but also to understand their relationship with the minorities in the country.

²⁶⁵ OHCHR (n 72) art 110.

²⁶⁶ David Gritten, ‘Syria Leader Signs Temporary Constitution for Five-Year Transition’ *BBC News* (14 March 2025) <<https://www.bbc.co.uk/news/articles/c70ely2p6e4o>> accessed 30 May 2026.

²⁶⁷ *ibid.*

²⁶⁸ Jana Choukeir and Emma Farge, ‘Kurdish-Led Syrian Group Rejects Islamist Authorities’ New Constitution Framework’ *Reuters* (14 March 2025) <<https://www.reuters.com/world/middle-east/kurdish-led-syrian-group-rejects-islamist-authorities-new-constitution-framework-2025-03-14/>> accessed 21 June 2026.

²⁶⁹ Ceasefire Centre for Civilian Rights and Syrians for Truth and Justice, ‘The Constitutional Declaration in Syria: Exceptional Powers for the Transitional President and the Risks of Entrenching Authoritarian Rule Hindering the Transition to Democracy’ (9 July 2025) <<https://stj-sy.org/en/the-constitutional-declaration-in-syria-exceptional-powers-for-the-transitional-president-and-the-risks-of-entrenching-authoritarian-rule-hindering-the-transition-to-democracy/>> accessed 30 May 2026

Regarding the recommendation to eliminate discriminatory provisions contained in previous fundamental texts, a review of the Constitutional Declaration reveals a mixed approach, as it removes certain discriminatory provisions, retains others and introduces new ones affecting ethnic and religious minorities. This evolution in constitutional language reflects the shortcomings of this instrument in protecting the identity of minorities, as demanded by the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.²⁷⁰ More broadly, it exposes a pattern of selective compliance with the Special Rapporteur's first recommendation.

The Declaration introduces certain improvements. Its preamble acknowledges the role of Syria's diversity and cultural heritage in shaping the constitutional framework and the text formally prohibits discrimination on grounds of "race, religion, gender, or lineage".²⁷¹ Notably, it also abandons the use of Arab nationalist language, which had led to the inclusion in the 2012 Constitution of the notion that "the people of Syria are part of the Arab nation".²⁷² In addition, discriminatory provisions concerning the presidency are amended by eliminating previous requirements such as that the President must be descended from two people born in Syria and "not be married to a non-Syrian wife".²⁷³

In contrast, the Declaration continues to uphold the controversial prerequisite from the 2012 Constitution that the President of Syria must be Muslim.²⁷⁴ This restriction constitutes a clear violation of the right to political participation without discrimination, as protected under Article 25 of the ICCPR.²⁷⁵ The Declaration further refrains from recognizing ethnic minorities or their collective identities and maintains a unitary conception of the state, without providing for decentralized or federal forms of governance.²⁷⁶ This omission is particularly significant for groups such as the Kurds, many of whom viewed self-government as a means of securing greater political and cultural rights during the armed conflict.²⁷⁷

²⁷⁰ UNGA Res 47/135 (n 63) art 1.

²⁷¹ Constitutional Declaration of the Syrian Arab Republic (n 264) art 10.

²⁷² Constitution of the Syrian Arab Republic 2012 arts 1 and 33.

²⁷³ *ibid*, art 84.

²⁷⁴ Constitutional Declaration of the Syrian Arab Republic (n 264) art 3.

²⁷⁵ ICCPR (n 61) art 25.

²⁷⁶ Constitutional Declaration of the Syrian Arab Republic (n 264) arts 1 and 7.

²⁷⁷ Ghadi Sary, 'Kurdish Self-Governance in Syria: Survival and Ambition' (2018) Middle East and North Africa Programme, Chatham House, 15
<https://www.chathamhouse.org/sites/default/files/publications/research/2016-09-15-kurdish-self-governance-syria-sary-embargoed.pdf> accessed 30 May 2026.

In some instances, the Constitutional Declaration modifies the language of the previous constitution in ways that effectively introduce new discriminatory provisions. For example, it declares that “Islamic Jurisprudence is the principal source of legislation”,²⁷⁸ thereby slightly altering the wording from the previous Constitution, which recognized Islam as a “major” source of law.²⁷⁹ Similarly, while maintaining the protection of religious freedom, it restricts the state’s recognition to “divine” religions.²⁸⁰ This term is reminiscent of mid-20th century constitutional provisions that exclusively protected “Abrahamic” religions and that had been abandoned in later constitutional texts, including that of 2012.²⁸¹ This regression to earlier constitutional terminology signals a narrowing, rather than an expansion, of the state’s conception of religious plurality.

Beyond this selective compliance with the elimination of discriminatory language, the constitutional provisions regarding the Special Rapporteur’s second recommendation—the introduction of a bill of rights and mechanisms of inclusion—demonstrate a similarly limited commitment to minority protection in these two areas. Regarding the former, the Declaration does not radically expand the rights and freedoms found in the 2012 Constitution, still failing to recognize collective or third-generation rights, which are most relevant for minority groups.²⁸² Moreover, unlike the previous constitutional text, which limited them “in accordance with the law”,²⁸³ the Constitutional Declaration recognizes general restrictions on rights and freedoms for reasons of “national security, territorial integrity, public safety, protection of public order and crime prevention, or protection of public health or morals”.²⁸⁴ While such general reservations are common in constitutional design,²⁸⁵ their open-ended character risks disproportionately impacting minorities, whose practices, beliefs or demands for self-government may be framed as threats to public morals or territorial integrity. As for mechanisms of inclusion, while the Declaration does introduce protections for women

²⁷⁸ Constitutional Declaration of the Syrian Arab Republic (n 264) art 3.

²⁷⁹ Constitution of the Syrian Arab Republic (n 272) art 3.

²⁸⁰ Constitutional Declaration of the Syrian Arab Republic (n 264) art 3.

²⁸¹ Ibrahim Draji and Rim Turkmani, ‘The Question of Religion in Syria’s Constitutions: A Comparative and Historical Study’ (2020) Legitimacy and Citizenship in the Arab World Working Papers Series, LSE Conflict Research Programme, 20 <
https://researchonline.lse.ac.uk/id/eprint/103660/5/The_question_of_religion_in_the_Syrian_Constitutions_English.pdf> accessed 21 June 2026.

²⁸² See for example: Miodrag A. Jovanović, ‘Recognizing Minority Identities Through Collective Rights’ (2005) 27(2) HRQ 625.

²⁸³ Constitution of the Syrian Arab Republic (n 272) arts 42 and 43.

²⁸⁴ Constitutional Declaration of the Syrian Arab Republic (n 264) art 23.

²⁸⁵ See for example: Albrecht Weber, ‘Limitation and Derogation of Fundamental Rights’ in Wolfgang Babeck and Albrecht Weber (eds) *Writing Constitutions* (Springer 2024).

and children that were absent or weaker in the 2012 Constitution,²⁸⁶ it remains remarkably silent regarding the inclusion of ethnic and religious minorities. Therefore, the substantive provisions of the Declaration are doubly deficient for ethnic and religious minorities, as they offer neither collective rights nor inclusion mechanisms, while their broad limitation clauses leave these groups further exposed to potential restrictions.

Furthermore, the Declaration poorly implements the Special Rapporteur's third recommendation—strengthening the separation of powers and establishing an independent Constitutional Court—, arguably reinforcing the institutional weaknesses that allowed past violations to occur. The text not only fails to provide institutional checks and balances, but it also grants broad powers to the President, such as the authority to declare a three-month state of emergency without parliamentary approval and the ability to appoint all members of the Constitutional Court.²⁸⁷ The maintenance of this tight control of the executive over the other branches of government echoes authoritarian structures of the al-Assad era,²⁸⁸ raising concerns about the independence of the judiciary and its potential inability to provide minorities with a forum to challenge discriminatory legislation. Notably, as state institutions capable of checking executive overreach are key to translate constitutional protections into practice, the absence of such safeguards threatens to further restrict the already limited state commitment to the rights and freedoms of ethnic and religious minorities in Syria.

In short, both in its language and substantive content, the Declaration establishes a constitutional framework that poses a threat to minority groups. Although it officially enshrines the prohibition against discrimination and values diversity, this text reinforces a religious hierarchy that discriminates against individuals of certain minority faiths or with no religious affiliation, lacks specific recognition and protections for ethnic and religious minorities and establishes a weak institutional system of checks and balances. In a country where there is a high degree of mistrust between government authorities and minority groups, following a long history of GVHRs committed and suffered by both

²⁸⁶ Constitutional Declaration of the Syrian Arab Republic (n 264) arts 21-22, cf. Constitution of the Syrian Arab Republic (n 272) art 23.

²⁸⁷ Constitutional Declaration of the Syrian Arab Republic (n 264) arts 41 and 47.

²⁸⁸ Constitution of the Syrian Arab Republic (n 272) arts 100 and 114; Syrians for Truth and Justice, '*The Supreme Constitutional Court in Syria: A Formal Independent Tool in the Hands of the President*' (15 August 2022) 5 <<https://stj-sy.org/wp-content/uploads/2022/08/The-Supreme-Constitutional-Court-in-Syria-.pdf>> accessed 30 May 2026.

sides, the absence of such constitutional mechanisms to guarantee human rights protections effectively serves to further diminish the prospects of non-recurrence.

Finally, the Syrian transitional authorities have only partially complied with the recommendation to criminalize serious international crimes without statute of limitations. The Constitutional Declaration explicitly prohibits enforced disappearances, establishes the non-prescription of torture, and provides that war crimes, crimes against humanity, genocide, and other international crimes committed by the former regime are exempt from the principle of non-retroactivity.²⁸⁹ These provisions facilitate accountability efforts, but since they only bind past conduct that has already ended, they do not place a real burden on the new authorities themselves. The government should now take the harder step of criminalizing these offences prospectively in the Penal Code, which still lacks concrete definitions of offences such as crimes against humanity, war crimes, genocide and enforced disappearances.²⁹⁰ It should engage in the reform of anti-torture legislation, whose current definition of torture falls below international standards.²⁹¹ These significant legislative shortcomings effectively limit the practical implementation of the guarantees enshrined in the Constitutional Declaration.

In conclusion, a review of the actions of the transitional government regarding accession to international human rights treaties, reform of constitutional provisions and criminalization of specific offences without statute of limitations allows for two main conclusions. First, it reveals a consistent pattern in which the transitional authorities readily implement measures that explicitly reject practices from the al-Assad regime, as shown by their particular engagement with the ICC, their abandonment of Arab nationalist constitutional language and their exemption of the international crimes committed by the former regime from the principle of non-retroactivity. However, by failing to accede to several international human rights treaties, to strengthen the separation of powers constitutionally or to define international crimes prospectively, the new authorities also demonstrate reluctance to impose similar constraints on their own conduct. Second, the cost of this absence of structural limitations falls disproportionately on the ethnic and religious minorities of the country. Without renewed the protection of

²⁸⁹ Constitutional Declaration of the Syrian Arab Republic (n 264) art 18 and 49

²⁹⁰ Syrian Network for Human Rights, 'Criminal Accountability in Syria: A Legal Analysis of the Litigation Procedures and the Indictment Decision against the Accused Atef Najib' (21 May 2026) <<https://snhr.org/blog/2026/05/21/criminal-accountability-in-syria-a-legal-analysis-of-the-litigation-procedures-and-the-indictment-decision-against-the-accused-atef-najib/>> accessed 11 June 2026.

²⁹¹ *ibid.*

additionally ratified treaties, collective rights, mechanisms of inclusion or independent judicial bodies before which to raise concerns against executive authority, minorities are left with few avenues to challenge legislation or practices that particularly affect them.

Therefore, while the new authorities have taken meaningful symbolic steps to distance themselves from the al-Assad regime, they have not yet established the legal and institutional constraints on their own power that credible GNRs require, particularly for minority groups. As established in Chapter Two, even where GNRs serve to symbolize the state's commitment to human rights, these measures are not meant merely to register a renunciation of its abusive past, but they are also expected to demonstrate a renewed commitment with elevated standards of practice that effectively limit the likelihood of GVHRs from recurring in the future. As representatives of the main duty-bearer for the implementation of GNRs, transitional authorities should engage in reforms that genuinely transform the institutions directly implicated, under past regimes or during armed conflict, in the commission of GVHRs.

4.3. Prevention of Future Institutional Abuse

One of the main methods used to prevent institutional abuse requires regulating the access of individuals associated with the former regime or the armed conflict to public positions. This challenge stems from the fact that, under such circumstances, appointment and promotion are frequently governed by loyalty rather than merit, meaning that the personnel inherited by a new government may have participated in the very abuses that the transition seeks to redress.²⁹² To this end, transitional states engage in various forms of personnel reform and other less known alternative methods that reform the state institutions to advance the goals of strengthening the rule of law, constructing peace, and rebuilding trust in the state.

Among the institutions to which these methods apply, academic discussion has identified the security apparatus and the judiciary as requiring particularly urgent attention in transitional contexts. Both occupy a distinct place because they are simultaneously the sectors most implicated in authoritarian repression and those whose continued malfunction pose the greatest risk to the transitioning state. Where security

²⁹² Roman David and Cynthia M. Horne, 'Lustration and the Personnel Reform of the State' in Hakeem O. Yusuf and Hugo van der Merwe (eds), *Transitional Justice: Theories, Mechanisms and Debates* (Routledge 2021) 122, 123.

forces typically supply the direct means of repression, the judiciary is often complicit by acquiescence, providing the legal cover under which such repression is carried out.²⁹³ Reforming both sectors is thus not only about correcting past abuse but also a precondition for the credibility of the wider transitional justice project, since institutions that retain the personnel or mechanisms of the former regime risk undermining the other measures built around them.

In the case of Syria, both the armed forces and the judiciary played a key role in the repression of the civilian population and opposition groups during the al-Assad regime and the civil war.²⁹⁴ This section, thus, aims to examine the strategy of the transitional authorities in Syria to transform the nature of these two state institutions. It analyzes not only the strengths and shortcomings of the personnel reform processes carried out in both areas, but also the extent of the transitional government's engagement with the legal and structural reforms that, alongside personnel change, are necessary to prevent the recurrence of GVHRs.

4.3.1. Reform of the Security Sector

Scholars have noted that the reform in the security sector can contribute to advancing GNRs due to the role of the military, both under war efforts and during authoritarian regimes, in the repression and commission of GVHRs.²⁹⁵ An analysis of the reports of the Special Rapporteur reveals four types measures of particular relevance for an effective and preventive security sector reform, namely the vetting of personnel, the rationalization of the security sector, the constitutional definition of military roles and strengthening of civilian oversight, and the restriction of military jurisdiction.²⁹⁶

The application of these recommendations is of particular relevance in Syria, where a review of its recent history reveals that the security apparatus—through its various branches, including the army and several non-state armed militias—was directly responsible for the systematic repression of the civilian population and political

²⁹³ Mayer-Rieckh (n 5) 431; Hakeem O Yusuf, 'The case for judicial accountability in transitional societies' in Hakeem O. Yusuf and Hugo van der Merwe (eds), *Transitional Justice: Theories, Mechanisms and Debates* (Routledge 2021) 186, 186-187; Note by the Secretary-General (n 105) paras 20–23.

²⁹⁴ 'Syrian Revolution 13 years on' (*Syrian Observatory for Human Rights*, 15 March 2024) <<https://www.syriahr.com/en/328044/>> accessed 12 June 2026.

²⁹⁵ McAuliffe (n 9) 164.

²⁹⁶ Note by the Secretary-General (n 105) paras 46-55.

opposition throughout the al-Assad regime and the subsequent civil war. In the post-conflict context, the reform of the Syrian security forces, alongside recent political developments such as the adoption of the Constitutional Declaration, presented an important opportunity for the transitional authorities to advance these recommendations. This potential, however, has not been fully realized, with its shortfalls disproportionately affecting ethnic and religious minorities.

Regarding the vetting of security personnel, the literature first distinguishes it from related forms of personnel reform. Unlike purges, which are extralegal, indiscriminate and largely insensitive to individual culpability, vetting is forward-looking and rests on pre-established and objective criteria to assess the suitability of an individual for continued public employment.²⁹⁷ UN sources highlight that, beyond its individual focus, vetting is valued as an "enabling condition" for other transitional justice measures and for its capacity to dismantle networks of criminality embedded within public institutions, thereby preventing the future involvement of these in GVHRs.²⁹⁸ Considering the political opposition these processes typically face, the Special Rapporteur recommended that States adopt flexible and targeted approaches—including indirect forms of vetting that create incentives for abusive officials to vacate their positions—rather than engaging in indiscriminate purges.²⁹⁹ Scholars have similarly emphasized that, given the practical difficulty of vetting every member of a security institution, successful vetting requires strategic prioritization of personnel, alongside the respect of the rights of those being screened through due process, transparency and proportionality.³⁰⁰ Measured against these standards, the approach taken by the transitional authorities in Syria to reform the armed forces has significantly departed from this normative model, especially when considering the disparity in the treatment of the two streams of personnel they have had to manage.

With respect to demobilizing former al-Assad era soldiers, no systematic vetting process has been conducted to assess their individual involvement in GVHRs. Instead, the new authorities announced a general amnesty allowing conscripted soldiers not

²⁹⁷ David and Horne (n 292) 124-127.

²⁹⁸ Note by the Secretary-General (n 105) paras 19-23.

²⁹⁹ *ibid* para 43.

³⁰⁰ Laura Davis, 'Transitional Justice and Security System Reform' (2009) IFP Security Cluster, 13-15 <<https://www.ictj.org/sites/default/files/ICTJ-Global-Security-Reform-2009-English.pdf>> accessed 21 June 2026.

implicated in war crimes or GVHRs to hand over their weapons in exchange for protection against persecution and civil documentation to facilitate their reintegration.³⁰¹ Notably, protection does not amount to immunity, as the new government has pledged to prosecute all former army officers responsible for GVHRs during the armed conflict.³⁰² This amnesty can be understood as indirect vetting insofar as it provides an incentive for low-level personnel to leave the security apparatus rather than impose their expulsion following a formal screening. Although in the Syrian context, it is understandable that the new authorities would resort to such a method—as it is quicker and cheaper—it has failed to meet the basic standard of targeting those individuals who pose the greatest threat to the institution’s stability under the new government, such as former commanders.³⁰³ Instead, it has targeted exclusively conscripted soldiers.

The amnesty and the imprisonment of those responsible for GVHRs led to a depletion of the armed forces,³⁰⁴ which have since been replenished through the integration into the Syrian Armed Forces of members of the numerous armed groups that composed the opposition to the al-Assad regime.³⁰⁵ For this second flow of personnel, the departure from the normative model is even more pronounced. Since the transitional justice strategy of the new authorities focuses exclusively on the crimes committed by government forces during the war,³⁰⁶ this recruitment has proceeded without the individualized screening an effective vetting process requires. There is also no evidence of the implementation of a modest incentive-based system to encourage soldiers from opposition groups to leave the armed forces, comparable to the one implemented for soldiers conscripted by al-Assad.

This absence of screening regarding the newly integrated factions has had a direct effect on minority groups. As some of these new recruits were involved in episodes of

³⁰¹ ‘(Former) members of Assad’s armed forces and pro-Assad armed groups’ (*European Union Agency for Asylum*, December 2025) <<https://www.euaa.europa.eu/country-guidance-syria/411-former-members-assads-armed-forces-and-pro-assad-armed-groups>> accessed 12 June 2026.

³⁰² Amnesty International, ‘Syria’ (*Amnesty International*, 2025) <<https://www.amnesty.org/en/location/middle-east-and-north-africa/middle-east/syria/report-syria/>> accessed 12 June 2026.

³⁰³ Note by the Secretary-General (n 105) para 43.

³⁰⁴ ‘Syrian authorities arrest 10 Assad-era operatives in latest crackdown on regime remnants’ *The New Arab* (18 June 2026) <<https://www.arabnews.com/node/2647631/middle-east>> accessed 21 June 2026.

³⁰⁵ Paes and others (n 234) 16.

³⁰⁶ Syrian Network for Human Rights, ‘Reintegrating and Reforming Armed Groups in Transitional Phase in Syria: Pathways to Sustainable Stability’ (14 May 2026) <<https://snhr.org/blog/2026/05/14/reintegrating-and-reforming-armed-groups-in-transitional-phase-in-syria-pathways-to-sustainable-stability/>> accessed 12 June 2026.

sectarian violence against religious minorities between March and July 2025, minority militias have refused to serve alongside these groups accused of committing GVHRs against their own communities.³⁰⁷ To address this gap, the transitional authorities have sought to professionalize the army through reinstating the active status of thousands of soldiers from the former Syrian Armed Forces who had deserted at the start of the civil war.³⁰⁸

The integration of more than 100 former opposition factions under the unified command of the renewed Syrian Armed Forces remains the main initiative advanced by the transitional authorities to rationalize the security sector,³⁰⁹ addressing the historical proliferation of overlapping security bodies and crossing lines of command that the Special Rapporteur identified as a structural risk factor.³¹⁰ Notably, while the integrated factions are officially under a single chain of command, the resistance from ethnic and religious minorities indicates that several of these factions continue to act with significant operational autonomy, undermining the very monopoly on violence that this measure was meant to secure. In addition, the continued presence of several non-state armed groups across the country continues to pose a threat to the state.³¹¹ Despite these shortcomings and the lack of rigor against the standards set by existing security sector reform literature, the efforts to prosecute those responsible for GVHRs, professionalize the military and rationalize the security sector represent meaningful, yet imperfect, progress towards the achievement of some of the Special Rapporteur's recommendations, while the rest remain largely unimplemented.

There have been further recommendations on the constitutional establishment of provisions limiting the power of the armed forces, including though civilian oversight by

³⁰⁷ Wladimir van Wilgenburg, 'The SDF's Approach to Integration Talks in Syria and the Risk of Expanded Conflict' (*The Washington Institute*, 15 January 2026) <<https://www.washingtoninstitute.org/policy-analysis/sdfs-approach-integration-talks-syria-and-risk-expanded-conflict>> accessed 12 June 2026.

³⁰⁸ 'Syria restores defected Assad-era officers amid army rebuild' *The New Arab* (6 November 2025) <<https://www.newarab.com/news/syria-restores-defected-assad-era-officers-amid-army-rebuild>> accessed 12 June 2026.

³⁰⁹ 'General Abu Qasra: We will establish an army with national military doctrine to protect the Syrian people' Syrian Arab News Agency (26 May 2025) <<https://sana.sy/en/syria/357118/>> accessed 12 June 2026.

³¹⁰ Note by the Secretary-General (n 105) paras 48 and 49.

³¹¹ William Christou, 'Islamic State emerges from rubble of north-east Syria to exploit discontent with al-Sharaa' *The Guardian* (28 February 2026) <<https://www.theguardian.com/world/2026/feb/28/islamic-state-north-east-syria-ahmed-al-sharaa>> accessed 12 June 2026.

the Ministry of Defense, the parliament and civil society.³¹² The Constitutional Declaration, while banning paramilitary groups, only defines the army in broad terms as a “professional institution” safeguarding security and territorial integrity “in accordance with the rule of law and [...] human rights”.³¹³ The text does not specify the functions and limitations of the armed forces and makes no reference to other security bodies such as the police or intelligence agencies. By vesting the President, as Supreme Commander of the Army and Security Forces, with the responsibility to build security institutions that strengthen internal security and stability, the Declaration places oversight of the army with the head of the executive branch, rather than with the legislature.³¹⁴ Notably, it contains no provision granting parliament any role in defense policy, budget or appointments, leaving unaddressed the legislative oversight identified as essential by the Special Rapporteur.³¹⁵ Moreover, the Ministry of Defense is not even civilian, as it is currently led by a General of the Armed Forces heavily involved in the past armed conflict as part of the opposition to the regime.³¹⁶ Together, the absence of defined constitutional limits and the restricted civilian oversight grant the security sector wide discretion to determine its own boundaries, leaving both civil society and minorities, who are already distrustful of these institutions, without any benchmark against which to assess or challenge the constitutionality of the conduct of these forces.

Finally, the restriction of military jurisdiction to soldiers accused of military crimes has not figured prominently on the transitional government's agenda. This might be partly explained by the fact that the al-Assad government itself abolished the Field Military Courts a few months before its dissolution.³¹⁷ These instruments had been widely used for over five decades to repress political opponents, employing torture to extract confessions, violating due process to expedite convictions and often handing down death sentences.³¹⁸ Building on this prior reform, the transitional authorities have only noted,

³¹² Note by the Secretary-General (n 105) paras 46 and 52-53; Davidovic (n 14) 393

³¹³ Constitutional Declaration of the Syrian Arab Republic (n 264) art 9.

³¹⁴ *ibid*, arts 32 and 42.

³¹⁵ Note by the Secretary-General (n 105) para 53.

³¹⁶ ‘Syria’s new rulers name defence, foreign ministers as interim cabinet takes shape’ *France 24* (22 December 2024) <<https://www.france24.com/en/middle-east/20241222-syria-s-new-rulers-name-defence-foreign-ministers-as-interim-cabinet-takes-shape>> accessed 12 June 2026.

³¹⁷ ‘Syria Today: Assad abolishes military field courts; Deir ez-Zor clashes intensify’ *The Syrian Observer* (4 September 2023) <<https://syrianobserver.com/foreign-actors/syria-today-assad-abolishes-military-field-courts-deir-ez-zor-clashes-intensify.html>> accessed 12 June 2026.

³¹⁸ Syrians for Truth and Justice, ‘Military Field Courts in Syria: 55 Years of Arbitrary Decisions’ (13 October 2023) <<https://stj-sy.org/en/military-field-courts-in-syria-55-years-of-arbitrary-decisions/>> accessed 12 June 2026

in the Constitutional Declaration, that military justice remains under the supervision of the Supreme Judicial Council, without further specifying the scope of military jurisdiction or its relationship to ordinary courts.³¹⁹ This silence falls short of the Special Rapporteur's specific standard, which requires that military courts be confined to trying military personnel for military offences only, with ordinary courts retaining primacy over the investigation and prosecution of human rights violations regardless of the perpetrator's status.³²⁰ Without this provision, nothing prevents the military justice system from being used, as the Field Military Courts once were, to try civilians or to shield military personnel accused of rights violations from ordinary judicial scrutiny.

In short, a review of the strategy pursued by the transitional authorities to reform Syria's security apparatus allows for two main observations. First, prosecutorial commitments, the restructuring of the armed forces and the promotion of the integration of numerous opposition factions into a unified state security institution have contributed to rationalizing the security sector after the collapse of the al-Assad regime. As such, these efforts constitute the most concrete steps towards the realization of recommendations of the Special Rapporteur. Second, the misdirected application of indirect vetting to demobilizing soldiers—targeting low-level conscripts rather than commanders who pose the greatest risk to institutional stability—alongside the complete absence of any vetting standard for personnel integrated from opposition factions and the limited civilian oversight, vague constitutional provisions regarding the limits of the security forces and incomplete reform of military justice, raise concerns about the risk of future abuses by this state institution. These findings indicate that the transitional authorities have prioritized the consolidation of state security institutions over addressing the grievances of ethnic and religious minorities regarding the need of public oversight and institutional control over the security forces. This trade-off particularly leaves these groups exposed to renewed abuses, limiting the capacity of these reforms to effectively guarantee the non-recurrence of GVHRs.

4.3.2. Reform of the Legal and Judicial Order

The Special Rapporteur identified the reform of the judiciary as a second critical component for the prevention of GVHRs, given the historical complicity of courts—

³¹⁹ Constitutional Declaration of the Syrian Arab Republic (n 264) art 45.

³²⁰ Note by the Secretary-General (n 105) para 51.

whether through active participation or mere acquiescence—in legitimizing authoritarian repression. An analysis of his reports and the broader literature reveals four areas of particular relevance to reduce the likelihood of the judiciary being involved in future abuses. Legal reform—particularly bringing emergency and anti-terrorism legislation in line with human rights standards—is understood to be a low-cost but essential step, since such legislation is routinely misused by the judiciary under authoritarian rule to justify abuses.³²¹ As for the screening of judicial personnel, the Special Rapporteur draws on the same distinction between vetting and purges applied to the security sector, while noting that “some judiciaries are so tainted with complicity that it is virtually impossible for them to gain trust without a major vetting or screening of their personnel”.³²² Regarding independence, the literature disaggregates the concept into an individual and an institutional dimension. The former is based on security of tenure, merit-based recruitment and transparent disciplinary processes that reduce the fear of judges to be negatively affected, while the latter depends on constitutional elements such as separation of powers or budgetary and administrative autonomy for the judiciary.³²³ Finally, given that structure crimes such as genocide and crimes against humanity require investigative and adjudicative techniques distinct from those used for ordinary crime, judicial workers require specific training in IHRL and humanitarian law to develop these necessary competences.³²⁴

The implementation of these recommendations is particularly relevant in Syria, where the transformation of the judiciary “from a fair adjudication authority into a tool for the regime's survival” has led citizens to refuse to turn to this formal system to resolve disputes.³²⁵ Since it has been established that factors such as the absence of a legal system or the poor functioning of bodies of law undermine the sense of security of minorities,³²⁶ progress towards establishing the rule of law in Syria becomes even more important. Similarly to the reform of the state security institutions, the strategy of the transitional

³²¹ OHCHR (n 72) *ibid* para 47.

³²² *ibid* para 54.

³²³ *ibid* para 58-60.

³²⁴ *ibid* para 61.

³²⁵ Fadel Abdulghany, ‘The Arab Network for the Independence of the Judiciary: A Necessary Pillar in Syria’s Political Transition’ (*Syrian Network of Human Rights*, 30 July 2025) <[The Arab Network for the Independence of the Judiciary: A Necessary Pillar in Syria’s Political Transition | Syrian Network for Human Rights](#)> accessed 23 June 2026.

³²⁶ International Crisis Group, ‘Afghanistan: Judicial Reform and Transitional Justice’ (ICG Asia Report No 45, 28 January 2003)

authorities to transform the legal and judicial framework with the aim of preventing conditions that facilitate the judiciary's involvement in future GVHRs is inconsistent with the Special Rapporteur's recommendations and the broader literature on judicial reform.

The transitional authorities in Syria have made legal progress through the rejection of certain features of the al-Assad era legislation that were incompatible with global standards for the protection of human rights. The Constitutional Declaration explicitly prohibits the establishment of exceptional courts, cancels exceptional laws inconsistent with international human rights standards and annuls the convictions resulting from unfair trials by the Anti-Terrorism Court.³²⁷ By directly targeting these historical tools for state repression, the new authorities effectively satisfy this recommendation.

Regarding screening, the interim authorities have dissolved the former Counter-Terrorism Courts, referring 87 of their judges for investigation, and have dismissed several judges associated with the Ba'ath Party or the former People's Assembly.³²⁸ These measures depart severely from the standard in a different way than the security sector's failure. While there is screening, it seems to be implemented on a political basis rather than through a transparent and pre-established framework, which could constitute a violation of due process and an example of discriminatory treatment.³²⁹ Notably, reports indicate that judges continue to suffer political pressure in cases involving security actors or individuals linked to the transitional authorities, with accusations of sympathy for the former regime functioning as an indirect form of intimidation.³³⁰ At the same time, the authorities have sought to reintegrate judges who defected during the al-Assad era, requiring investigations and pledges of political neutrality before reinstatement.³³¹ These two contradictory dynamics—an ad hoc process applied to some judges and a more structured reintegration vetting applied to others—illustrate the absence of a single

³²⁷ Constitutional Declaration of the Syrian Arab Republic (n 264) arts 44 and 48.

³²⁸ Walid Al Nofal, 'Shaking hands: Will the Counter-Terrorism Court's Ammar Bilal escape accountability?' Syria Direct (14 April 2025) <<https://syriadirect.org/will-the-counter-terrorism-courts-ammam-bilal-escape-accountability/>> accessed 12 June 2026; Syrians for Truth and Justice, 'Syria: The Minister of Justice Powers in Transitional Government: Reform Imperatives and Legal Constraints' (13 March 2025) <<https://stj-sy.org/en/syria-the-minister-of-justice-powers-in-transitional-government-reform-imperatives-and-legal-constraints/>> accessed 12 June 2026.

³²⁹ David and Horne (n 292) 136.

³³⁰ Yousef Wehbe, 'Judicial Reform in Syria in the Context of Transitional Justice' (*Justice for Life*, December 2025) 13.

³³¹ 'Syria's dissident judges at the heart of judicial restoration' *The Syrian Observer* (15 April 2025) <https://syrianobserver.com/syrian-actors/syrias-dissident-judges-at-the-heart-of-judicial-restoration.html> accessed 12 June 2026.

coherent screening framework capable of balancing accountability for past abuses with the preservation of judicial capacity.

Although judicial independence is formally recognized in the Constitutional Declaration,³³² the provisions of this document fail to satisfy the standard of both institutional and individual independence. On the one hand, this document grants the President broad authority to select the members of the Supreme Constitutional Court and does not mention the budgetary or administrative autonomy of the judiciary,³³³ thus weakening the separation of powers. On the other hand, the political pressures on public employees and the absence of clear safeguards regarding appointments, dismissals and tenure in the constitutional text leaves individual judges exposed to the very fears of dismissal, transfer or non-promotion that were identified as problematic in the literature review. Notably, due to its lack of provisions that would make judicial independence effective, the Declaration has been described as a “legal mandate for continued executive interference”.³³⁴

Finally, regarding competence, experts have reported that the judiciary suffers not only from a shortage of personnel, due to the departure of judges during the conflict and the historical purge of independent-minded judges under the al-Assad regime, but also from insufficient expertise in IHRL, transitional justice mechanisms and democratic judicial practices.³³⁵ These shortcomings cast doubt about the ability of the current judiciary to contribute to governmental proposals such as the creation of a Special Tribunal to prosecute crimes committed under the al-Assad regime, that would even consider the conduct of judges who participated in the former Counter-Terrorism Courts.³³⁶

Overall, the legal and judicial reforms undertaken by the transitional authorities reveal a continuing tendency to implement measures that are simplest from a legal standpoint, while refusing to address those posing greater structural. The abolition of exceptional courts, the repeal of legislation incompatible with human rights, the

³³² Constitutional Declaration of the Syrian Arab Republic (n 264) art 43.

³³³ *ibid* art 47.

³³⁴ Abdulghany (n 324).

³³⁵ *ibid*.

³³⁶ Haneen Ghali, ‘Syria’s pursuit of justice: navigating accountability amidst ongoing turmoil’ (*ODI Global*, 14 March 2025) <[Syria's pursuit of justice: navigating accountability amidst ongoing turmoil | ODI: Think change](#)> accessed 12 June 2026.

annulment of unjust convictions, the dissolution of the Counter-Terrorism Courts or the creation of a Special Tribunal are all measures that require either dismantling discredited instruments of the previous regime or allocating resources to prosecute exclusively the actions of the former institutions. Notably, efforts to prevent the Syrian judiciary from participating in future GVHRs remain limited, as personnel screening is conducted on a case-by-case basis rather than through a transparent framework; the independence of this institution is recognized officially but not supported in reality; and there is a shortage of trained personnel with the capacity to handle the systemic and network-based nature of GVHRs.

4.4. Conclusions

The analysis conducted throughout this chapter suggests that the Syrian transitional authorities have incorporated GNRs into their political agenda inconsistently, favoring the least politically costly measures over those with greater potential to reduce the risk of future GVHRs. This pattern persists across symbolic commitments to human rights and the reform of both the security sector and the legal and judicial order, suggesting a coherent strategy in which visible breaks with the al-Assad regime are pursued readily while more radical transformations are avoided.

This tendency is visible in the kinds of measures that the authorities have been willing to adopt. Cooperating with the ICC, rejecting exceptional courts and emergency laws, annulling unfair convictions, dissolving the Counter-Terrorism Courts and proposing a Special Tribunal all share a common feature: each repudiates practices from the former regime without requiring the new authorities to submit themselves to comparable constraints. The same is true of the restructuring of the armed forces and the integration of diverse factions, which has consolidated state authority more than it has distributed it. None of this is to suggest that the measures so far adopted are not necessary, as they represent a real departure from the al-Assad era, with some even aligning with scholarly and UN expectations for the prevention of GVHRs.

This chapter has also identified several shortcomings regarding these expectations, particularly considering the absence of comprehensive vetting systems in the security and judicial sectors, the concentration of constitutional power in the presidency, the weak civilian and parliamentary oversight over the army and the continued political pressure on judges. These measures not yet adopted are precisely those

that would impose bigger constraints on the discretion of the transitional authorities themselves. Taken together, the two sections of this chapter point to the same underlying tension between the consolidation of governmental authority and its limitation.

In each domain, the cost of prioritizing consolidation over constraint has fallen disproportionately on the same ethnic and religious minorities that were already highly victimized under the former regime and during the civil war. As such, there is a concern that the legal and constitutional framework and the state institutions that are currently being built under the transitional government may in fact reproduce, in a new configuration, the same absence of restriction on state power that made the prior abuses possible. As a result, Syria's current approach to GNRs remains fragile and not yet fully credible. While important foundations have been laid for the promotion of human rights and the reform of state institutions, the long-term effectiveness of these measures depends on whether the authorities are willing to pursue deeper reforms that promote the inclusion of the diverse ethnic and religious communities while further strengthening accountability, judicial independence and civilian oversight over key state institutions. Only through these reforms can Syria move towards a future in which GVHRs are merely a memory of the past, rather than a present reality or a future threat.

5. Chapter Five: Conclusions

With the aim of providing the necessary context to answer the main research question about what have been the effects of the measures adopted by Syria's transitional government to prevent the recurrence of GVHRs on ethnic and religious minorities to date, the various chapters of this dissertation have addressed a wide range of topics that may initially appear unrelated. Chapter Two focused on understanding the relatively unexplored model of recurrence prevention known as GNRs, seeking to offer a definition of this phenomenon, investigating its history, and studying its links to mechanisms for the protection of minority groups and to the field of transitional justice. Chapter three delved into the history of Syria's four main ethnic or religious minorities, namely the Alawite, Druze, Christian, and Kurdish communities, reviewing the changes in their status resulting from the transition between various regimes throughout the 20th century, from the Ottoman Empire to the al-Assad dictatorship. In addition, the chapter also examined the involvement of these groups in the recent civil war that ravaged the country between 2011 and 2024 and their situation in the brief postwar period that followed. Taking this context as a starting point, Chapter Four applied the framework proposed at the end of Chapter Two regarding the Special Rapporteur's recommendations on GNRs to examine the actions taken by the Syrian transitional government in relation to renewed commitments to human rights and measures to prevent future institutional abuse, specifically assessing their impact on the status of minority groups and, ultimately, on the broader prospects for effective prevention of GVHRs. Notably, the findings and conclusions from each of these sections have shed considerable light on the main research question, as well as on the two sub-questions that guided the analysis.

Chapter Two defined GNRs as measures taken primarily by state authorities following the commission of internationally wrongful acts that reduce the likelihood of their future recurrence, further noting that they constitute an obligation arising from the wrongful act itself that other states may demand in accordance with public international law. In the context of IHRL, the analysis clarified that GNRs become a right of the victims of the violations themselves. Since minorities have been particularly subjected to GVHRs during armed conflicts since the end of the Cold War, the implementation of GNRs can have a significant impact on these groups. This chapter established that both GNRs and international protections for minority rights follow the same logic, not only because they have developed through soft-law mechanisms within the UN but also because of their

emphasis on the responsibility of state authorities to improve the conditions of vulnerable groups.

This chapter also reaffirmed the notion proposed by the Special Rapporteur that the prevention of recurrence is not merely another pillar of transitional justice but rather a fundamental function of this approach, providing examples of how the various pillars—justice, truth, reparations, and even memorialization—help to reduce the likelihood of recurrence. Having examined the measures proposed by the Special Rapporteur to specifically contribute to this function, the chapter categorized these recommendations as facilitators of three distinct objectives: signaling the state’s renewed human rights commitments, preventing future institutional abuses, and strengthening victims’ capacities. Chapter Two thus serves as a kind of theoretical framework, advancing an understanding of the effectiveness of GNRs in preventing the recurrence of GVHRs from different angles and helping to construct a framework for addressing the sub-question of to what extent the measures adopted by the new authorities to prevent GVHRs align with the Special Rapporteur’s specific recommendations.

Conversely, the findings and conclusions of Chapter Three, in addition to providing the historical and current context necessary to understand the choice of Syria as a case study, also helped answer the first of the sub-questions, which asked how studying the history of ethnic and religious minorities in this country provides a better understanding of current prospects for the prevention of GVHRs. This chapter argued that the various ways in which successive political regimes in Syria throughout the 20th century—from the Ottoman Empire to the al-Assad regime, including the French Mandate and the post-independence Arab nationalism—favored, or discriminated against, specific minority groups only reconfigured underlying tensions between these groups, the majority of the population and state authorities. These resulted in accumulated grievances that were deliberately instrumentalized by both the regime and the opposition groups during the civil war, contributing to minorities getting involved in the conflict and turning them into both victims and perpetrators of GVHRs. The chapter demonstrated that the formal end of hostilities failed to terminate these dynamics, as minorities continue to claim discrimination and clash militarily with the new transitional authorities, being involved in renewed examples of GVHRs.

An examination of the situation of the main ethnic and religious minorities in Syria—before, during and after the war—reveals decades of intense tension between

these groups, the Arab Sunni majority and the state authorities, thereby contributing to state fragility that has resulted in the widespread commission of GVHRs. Understanding this history is therefore not a matter of background context alone, but a necessary interpretive lens for assessing whether the transitional government's measures are likely to durably prevent future violations or merely to postpone their recurrence. Notably, the chapter reminded that credible accountability, inclusive institutional reform and meaningful minority participation are required to resolve the grievances that have dominated outbreaks of violence in recent Syrian history, since without these elements, existing prospects for the prevention of GVHRs remain fragile.

Chapter Four finds a consistent pattern of selective engagement where the transitional authorities readily undertake measures that officially repudiate the authoritarian and violent practices of the former regime while avoiding the adoption of comparable democratic constraints over their own powers. Examples of the former include the limited cooperation with the ICC, the rejection of exceptional courts, unfair convictions and Counter-Terrorism Courts, the proposal to establish a Special Tribunal to prosecute perpetrators of GVHRs during the previous regime and the integration of numerous armed factions into state institutions. As for the latter, the absence of vetting mechanisms from the security and judicial sectors, the constitutional concentration of power in the presidency, the limited civilian and parliamentary oversight over the army, and the persistence of political pressure on the judiciary become clear examples of these practices. In short, an analysis of the measures adopted by the Syrian transitional authorities shows that they have prioritized consolidating their own power over distributing it democratically, thus revealing a partial and uneven alignment between the transitional government's conduct and the standards it is supposed to meet according to the recommendations of the Special Rapporteur.

All these findings help to answer the main research question of this dissertation. To date, the measures adopted by the Syrian transitional government to prevent the recurrence of GVHRs have had a primarily negative effect on the country's main ethnic and religious minorities. While these groups, along with the rest of the population, benefit from measures that break with past abusive practices that facilitated the commission of GVHRs, ethnic and religious minorities continue to be threatened by the possibility of future abuses. The transitional government has failed to transform the conditions allowing for the historical discrimination against minorities in Syria, which have been instead

reproduced under a new light. This is demonstrated by the current limited reach of international human rights protection mechanisms on the country, the inclusion of discriminatory provisions at the constitutional level, the absence of checks and balances against the power of the executive branch and the lack of measures that limit the power of state institutions such as the military or the judiciary. If the context that assisted in the commission of GVHRs against minority groups continues to exist unchanged, there is no reason to believe that the measures adopted by the transitional government to prevent these abuses will be particularly effective. Notably, ethnic and religious minorities are further exposed to the recurrence of GVHRs due to the inclusion of new specific measures adopted by the transitional authorities. The commitment of the government to exclusively investigate the abuses committed by the al-Assad regime during the war, without acknowledging the GVHRs suffered by minorities and other sectors of the population at the hands of the then-opposition groups that now populate the state institutions is particularly relevant, as is the absence of vetting mechanisms in the process of recruitment for the new armed forces.

These findings contribute to a better understanding of the impact of GNRs on minority groups, particularly where they have been involved in episodes of violence and GVHRs due to long-standing grievances over extended periods. This dissertation has further identified the extent to which the measures adopted by the Syrian authorities to prevent GVHRs align with the Special Rapporteur's normative recommendations, while also offering a novel understanding of the objectives pursued by these various proposals. Despite the interest that all these conclusions may generate, the limitations of this analysis must be stated.

First, due to the recency of the studied events, the situation of minorities and the measures adopted by the transitional government have continued to evolve and change as this dissertation was researched and written. Although an effort has been made to update the text as events unfolded to highlight interesting developments, the period covered in this dissertation ends in late spring 2026 and therefore does not include subsequent updates. Similarly, due to the absence of notable amounts of peer-reviewed academic literature engaging with these events, much of the material consulted in Chapters Three and Four derives from reports of UN institutions, civil society organizations and journalistic sources. While every effort has been made to cross-reference these sources and to treat them with appropriate caution, their presence still reduces the strength of the

overall research, analysis and conclusions. Notably, the desk-based research methodology adopted throughout this dissertation due to university regulations has not allowed for direct engagement with members of the minority communities under discussion. Their perspectives have therefore been mediated through secondary reporting rather than gathered first-hand, which may understate the internal diversity of opinions within each community regarding the conduct of the transitional government.

Second, although the analysis of the Special Rapporteur's recommendations identified capacity-building for victims as a third key dimension for advancing GNRs, this dissertation has not addressed this issue. This has been justified on the grounds that this objective depends on actors other than state authorities, whose actions were the focus of this study, as well as due to space constraints and a lack of reliable sources to develop a comprehensive argument. However, the absence of this analysis means that conclusions regarding the prospects for effective prevention of GVHRs remain, without a doubt, limited, since they do not assess the role of civil society or of education and medical professionals in reducing grievances and improving the situation of discrimination faced by various social groups.

Each of these limitations, however, opens the door to further research avenues. Regarding the methodological limitations of the current dissertation, subsequent research could revisit the conclusions reached in this dissertation with renewed sources and broader temporal distance as the Syrian transitional process matures and generates a more substantial body of academic literature. It would be important to assess whether patterns identified here, such as the selective engagement of the transitional authorities with measures that repudiate practices from the former regime while avoiding comparable constraints over their own powers or the particular impact that this trade-off retains over ethnic and religious minorities, persist or are instead reversed over time. Furthermore, future research that employs interviews with representatives or individuals belonging to Alawite, Druze, Christian and Kurdish communities could substantially enrich the understanding of how these groups themselves perceive the measures adopted by the transitional government, offering a more human understanding of the impact of political decisions on the grievances and motivations for violence at the individual and collective levels. Ultimately, the framework resulting from the analysis of the Special Rapporteur's recommendations developed at the end of Chapter Two could be applied comparatively to other contemporary transitional contexts, assessing whether the tension between power

consolidation and constraint is a distinctive feature of the Syrian transition or a common element in post-conflict societies.

As for the consideration of victims' capacity-building, future research could examine how various initiatives, such as programs for the legal empowerment of vulnerable populations, efforts to reduce legal barriers that prevent the political participation of minorities, educational and cultural interventions that promote critical thinking and the visibility of all victims, and proposals that improve access to psychosocial support and trauma counselling, are being implemented in the Syrian case. A dedicated future study, conducted once more evidence becomes available, could assess this capacity-building dimension of non-recurrence with the same analytical rigor applied here to symbolic commitments and institutional reform, thereby completing the picture that remains only partially addressed in this dissertation.

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