



**The right to freedom of association**

# **Old Constraints in the New Syria**

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**Policy Paper**

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# The right to freedom of association Old Constraints in the New Syria

"Policy Paper: "Towards a Democratic Practice of the Right to freedom of association

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# Introductory Note:

1. The Syrian Republic is undergoing a historic transition from an era of authoritarian despotism to a phase of democratic transformation, initiated with the new administration assuming governance in January 2025. This administration bears the responsibility of addressing the substantial legacy of severe human rights violations, establishing the foundations of the state in accordance with human rights principles and the rule of law, and promoting national reconciliation and sound democratic practices that ensure the participation of all Syrians, regardless of their political and social backgrounds, in strengthening the pillars of democratic transition.
2. In this context, the right to freedom of association guarantees all Syrians the freedom to establish associations and civil institutions on a democratic basis, granting the association or civil institution legal personality upon notification. It prohibits administrative authorities from intervening in their affairs, dissolving them, or dissolving their boards of directors or trustees, except by judicial ruling. It also prohibits the establishment or continuation of associations or institutions whose activities are secretive or of a military or quasi-military nature.
3. International covenants have emphasized the right of individuals—individually or collectively—to form associations. This is evident in Article 20 of the Universal Declaration of Human Rights, approved and proclaimed by the United Nations General Assembly on December 10, 1948, and the International Covenant on Civil and Political Rights, which, in paragraph 2 of Article 22, prohibits imposing restrictions on the exercise of this right except those prescribed by law and necessary in a democratic society for the protection of national security, public safety, public order, public health, morals, or the rights and freedoms of others. Comparative constitutions have also enshrined this right in their documents, as seen in the First Amendment to the United States Constitution on December 15, 1791, which established the right to assemble, and explicitly in the constitutions of Germany, Jordan, Turkey, Lebanon, Tunisia, Morocco, Kuwait, Yemen, Syria, Bahrain, Algeria, and Egypt, all guaranteeing the right to form associations.
4. All constitutions in democratic countries impose on the legislative and executive authorities the obligation to develop and enhance the understanding of rights and freedoms through continuous efforts to establish their international concepts among civilized nations. This is a fundamental requirement to affirm their social value and recognize their role in satisfying the vital interests associated with them. This pursuit has been accompanied and reinforced by the emergence of civil society and its organizations—political parties, civil associations, professional and labor unions—in the realm of societal work.
5. The right to form associations is closely linked to strengthening the role of civil society organizations as intermediaries between the individual and the state. They are essential for the development of the individual's personality, considered the fundamental base in building society, through raising awareness and disseminating general knowledge and culture. Consequently, they educate citizens on the culture of democracy and consensus within a framework of free and constructive dialogue, mobilize individual and collective efforts to achieve further social and economic development, work by all legitimate means to ensure transparency, reinforce the value of public funds' sanctity, influence public policies, deepen the concept of social solidarity, assist the government through dedicated expertise and voluntary projects in providing better public services, and encourage the proper distribution and direction of resources and the rationalization of public spending.
6. While the right to form associations is linked to the independence of civil society organizations' work, the citizens' right to establish civil associations is a branch of the freedom of assembly. This right must be a voluntary and free act, independent of administrative authorities. Therefore, this freedom becomes a primary rule ensuring that every concerned individual has the right to join the association they believe best represents their interests and goals, and to choose one or more of these associations—if multiple exist—to be a member of, whether inside or outside the country. This right is an integral part of their personal freedom.
7. The right to form associations—whether for political, economic, cultural, social, or other purposes—is essentially a voluntary act aimed at creating a framework through peaceful means to express their positions and orientations. Thus, the right to assemble intersects with the freedom of expression, forming one of the elements of personal freedom that should not be restricted except by following the substantive and procedural means required by constitutional and legal rules. This is necessary even if not explicitly stated in the constitution, ensuring the rights it enumerates, achieving their effectiveness, preceding the existence of constitutions themselves, associated with civility in its various stages of development, inherent in human nature, and called upon by its instinct. Moreover, the freedom of expression loses its value if the legislator denies those who rely on it the right to organized assembly, thereby hindering the exchange of opinions in a broader circle, preventing their interaction and mutual correction, disrupting the flow of opinions related to decision-making, and obstructing the formation of the human personality, which can only be developed in some form of assembly. Similarly, undermining the freedom of assembly undermines the foundations upon which a governance system based on popular will



8. The freedom to form associations lies at the intersection of civil and political rights. As a civil right, it provides protection from arbitrary interference by the state or its private agents when someone wishes, for any reason, to form an association with others or has already done so. As a political right, it is an indispensable element for the establishment and proper functioning of democracy, as political interests can only be effectively defended within a collective framework with others.

9. The right to freedom of assembly and to join or form associations is the right to join an official or unofficial group to engage in collective action. This right includes the right to form or join a group. Conversely, it also includes the right not to be coerced into joining associations. “Assembly” may encompass associations, civil society organizations, clubs, cooperatives, non-governmental organizations, religious associations, political parties, labour unions, institutions, or even internet networks. There is no requirement for an association to be registered to enjoy the right to freedom of assembly. States should not restrict this right for certain groups based on race, colour, gender, language, religion, political or other opinions, national or social origin, wealth, birth, or any other status or circumstance. The only exception is for members of the armed forces and police, whose rights to assembly may be restricted under international law. States are obligated to take positive measures to create and maintain an enabling environment for assembly. They must also refrain from unjustified obstacles to the exercise of the right to freedom of association and respect the privacy of associations. The right to freedom of association also includes the right of groups to obtain funding and resources.

10. This paper addresses the reality of the right to form associations in light of the issuance of the constitutional declaration and administrative decisions by the Ministry of Social Affairs and Labor regarding the regularization of civil institutions in Syria.

## From the Declaration of the Syrian Revolution’s Victory to the Constitutional Declaration

11. On January 29, 2025, the Declaration of the Syrian Revolution’s Victory was issued, bringing an end to decades of political authoritarianism against the Syrian people, who suffered hundreds of thousands of casualties — martyrs, injured, and detainees — in addition to millions who were displaced internally and externally. For many long years, the Syrian people of all political, social, and ethnic backgrounds were victims of all forms of human rights violations — political, civil, social, economic, and cultural.

12. Article Two of the declaration affirmed the commitment of the “Military Operations Administration” to annul the 2012 Constitution and suspend the enforcement of all exceptional laws. The declaration also ordered the dissolution of all organizations and institutions affiliated with the Arab Socialist Ba’ath Party. This clause expressed the aspirations of the revolutionary forces, considering the 2012 Constitution as a tool that enabled the previous regime to maintain authoritarian rule for decades. However, the declaration failed to include any explicit clause guaranteeing practical and realistic safeguards for other civil society organizations, which played a significant role in the revolutionary movement and contributed to the success of the revolution and the fall of the regime.

13. To address the problem of political and constitutional vacuum, the declaration assigned the head of the Military Operations Administration as the transitional head of state. He would assume the functions of the President of the Syrian Arab Republic and represent it internationally, while also being entrusted with forming a temporary legislative council to function until a permanent constitution is adopted.

14. On March 2, 2025, the acting President formed a committee to draft the constitutional declaration, composed of seven legal experts. The draft was submitted on March 12, 2025.

15. On March 13, 2025, the President signed the constitutional declaration, defining the duration of the transitional phase as five years. The preamble referenced the revolutionary movement and the hardships endured by the Syrian people under the former regime, and considered the outcomes of the national dialogue as the foundation for drafting the declaration. It reaffirmed the goals of “building a state based on citizenship, freedom, dignity, and the rule of law.”

16. The constitutional declaration included a set of key principles, most notably:

- The political system must guarantee citizens' freedom and dignity, with equality before the law in rights and duties.
- The state shall establish a political system based on the principle of separation of powers and guarantee freedom and dignity for the citizen.
- The state is committed to combatting all forms of violent extremism while respecting rights and freedoms.
- The state shall protect human rights and fundamental freedoms and guarantee citizens' rights and liberties.
- All rights and freedoms set out in international human rights treaties and conventions ratified by the Syrian Arab Republic shall be considered integral parts of this constitutional declaration.
- The state shall guarantee freedom of opinion and expression, media, publication, and journalism.
- The state shall protect the right to political participation and the formation of political parties on national foundations, in accordance with a new law.
- The state shall ensure the operation of associations and unions.
- The right to litigation, legal defense, and appeal shall be protected by law, and it shall be prohibited to enact any legal provision that immunizes any administrative act or decision from judicial review.
- The state shall safeguard the rights and freedoms enshrined in this chapter and regulate their exercise in accordance with the law. These may be subject to restrictions that constitute necessary measures for national security, territorial integrity, public safety, public order, crime prevention, or the protection of public health or morals.

17. This paper analyzes the constitutional declaration's treatment of the right to form associations, as outlined in Article (14), which states in general terms: "The state shall guarantee the operation of associations and unions." This phrasing was disappointing in a state that is supposedly rebuilding for the future and redressing the miseries of a painful past. This reflects the general trend in the drafting committee's language throughout Chapter Two: "Rights and Freedoms." All clauses begin with vague verbs like "protect," "guarantee," "ensure," or "establish," without introducing any actual mechanisms or commitments for implementing those rights.

18. The problematic drafting is further illustrated in Article (23), which grants the authorities the power to restrict or suspend the exercise of rights based on unspecified "measures" and "regulations," under the pretext of national security, public safety, public order, health, or morals. Unfortunately, this is a classical formulation commonly used by states that seek to strip constitutional protections of their essence — a practice already abandoned by the constitutional legislators of democratic nations.

19. These provisions contradict Article (12) of the same constitutional declaration, which affirms the state's commitment to international human rights treaties it has ratified and considers them an integral part of the declaration. Those treaties prohibit restrictions on the enjoyment of human rights except in officially declared emergencies, governed by law, limited in duration, and not in contradiction with the state's international legal obligations.

20. Syria ratified the International Covenants on Civil and Political Rights and on Economic, Social, and Cultural Rights in 1969. That same year, it also ratified the International Convention on the Elimination of All Forms of Racial Discrimination. Syria is also a party to the Convention on the Elimination of All Forms of Discrimination against Women (ratified in 2003), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2004), and the Convention on the Rights of the Child (1993). Additionally, Syria has ratified a number of other treaties and protocols related to international human rights protections.

21. In principle, administrative decisions—being part of legal rules and embodying regulatory instructions—should serve to protect those subject to these rules and respond to community needs, including those of associations and civil society institutions. Therefore, such rules must aim to protect associations as a vulnerable sector against the power of administrative authorities, represented by the Ministry of Social Affairs and Labor. Alternatively, they should at least aim to protect the political and social gains achieved after the fall of the previous regime and the onset of democratic transition.

22. There is no doubt that legitimate legal systems should derive their existence from society's need to regulate a particular issue. Social regulation and the organization of freedoms and interests through legal rules are the very definition of "law." The ultimate purpose of legal organization must be to regulate societal activities and resolve conflicts within human behavior. In a more mature sense, law only exists where society genuinely needs it. Legal provisions lose value when they do not meet real societal needs or when they overstep those needs, shifting from their intended protective function to excessive control or manipulation.

23. Administrative Decision No. (5201), issued by the Minister of Social Affairs and Labor on December 29, 2024, and amended by Circular No. (7) dated January 15, 2025, was directed to the Directorates of Social Affairs and Labor across the provinces. This decision marked the beginning of administrative restrictions on the right to form associations in Syria following the fall of the regime. It was a major shock to those who had hoped Syria was moving toward enhancing public rights and freedoms, especially the cornerstone right to form associations.

24. The decision limited the legal forms of non-governmental organizations to three categories: "association," "foundation," or "team." In doing so, it excluded other forms such as "unions" or "alliances," which are often used by groups of organizations working collectively toward specific goals. Such formats are frequently adopted by networks of associations working together in a coordinated manner.

- The exclusion of local NGOs from international cooperation
- The shift from notification-based to permit-based association formation
- International standards and Special Rapporteurs' positions

## The Administrative Decision Deliberately Excludes Local NGOs from Cooperation with International Counterparts

25. The administrative decision failed to address the institutional right of local civil society organizations to engage in partnerships with regional or international associations. This contradicts modern developments in NGO work, which fundamentally rely on regional and international cooperation. In practice, substantial collaboration exists between local institutions and their international counterparts, which in many cases has led to advancements in international human rights mechanisms. For example, cooperation between African organizations and international entities resulted in the drafting of the Convention Against Torture in the past century. Similar cooperation has shaped international standards on child protection and freedom of expression. Additionally, evolving jurisprudence and international perspectives on the death penalty have been driven primarily by the collaboration between local, regional, and global organizations.

### The Administrative Decision Imposes Licensing Requirements in Violation of International Standards Supporting Notification-Based Formation

26. The aforementioned decision outlines twelve procedures for the establishment of NGOs, reflecting the underlying philosophy of the issuing authority—namely, the Ministry of Social Affairs and Labor—which prioritized restrictions and administrative hurdles over its original regulatory role. Meanwhile, most modern legal systems tend to adopt a “notification” or “declaration” model.

27. The Special Rapporteur on the situation of human rights defenders stated in her 2009 report (dated August 4):

“There are basically two types of systems applied to civil society organizations seeking legal personality: the ‘notification’ system and the ‘registration’ system.

In more liberal jurisdictions—commonly referred to as operating under the ‘notification’ or ‘declaration’ model—NGOs are granted legal personality automatically upon the receipt by authorities of a notification from the founders stating their intent to establish an organization.

Other countries require formal registration for NGOs to operate as legal entities. Although the requirement of registration does not itself constitute a violation of the right to freedom of association, the Special Rapporteur concurs with the view that registration should not be mandatory and that NGOs must be allowed to exist and operate collectively without registration if they so choose.

Conversely, NGOs have the right to register as legal entities and to access related benefits.”

28. The Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, emphasized that:

“The notification procedure better complies with international human rights law than the prior authorization model, which requires the approval of authorities to form an association as a legal entity.

Under the notification model, associations acquire legal personality immediately once the founders notify the authorities of its establishment. In most countries, this notification is submitted as a written statement including clearly defined legal information. However, this notification should not be a precondition for the existence of the association. Instead, it is simply a mechanism by which the administration records the association’s formation. This procedure is applied in countries like Uruguay, Portugal, Djibouti, Senegal, Switzerland, Côte d’Ivoire, and Morocco.”

29. The Special Rapporteur believes that the formation of branches of associations, foreign associations, unions, or networks of associations—including those operating internationally—should also follow the notification model.

30. Regardless of whether notification or prior authorization is used, registration authorities must act promptly, and laws should specify short timeframes for responding to notifications and applications

31. The Special Rapporteur cites a decision by the European Court of Human Rights stating that:

“Significant delays in registration caused by the Ministry of Justice constitute interference with the right of association. During the registration process, associations should be presumed lawful unless proven otherwise (as is the case in Uruguay).

Failure to respond within a clearly defined short period should be interpreted as approval of the association’s legal operation (as applied in Austria).”



32. In a surprising and condemnable development, the Directorate of Social Affairs and Labor in Damascus issued Circular No. (28) dated February 2, 2025, addressed to associations and institutions. The circular includes the following:

1. Prohibition on contacting international organizations, UN agencies, international partners, or Arab federations.
2. Prohibition on communicating with them or contacting the Ministry of Foreign Affairs and Expatriates, or exchanging project documents, proposals, and cooperation plans—except through the Directorate of Planning and International Cooperation. No letter may be sent to these entities directly, and in case of any correspondence or communication from them, the relevant association must notify the Directorate of Planning and International Cooperation.

33. The issuing authority overlooked the fact that the right to form associations overlaps with the right to freedom of expression, forming a core component of personal liberty. This right cannot be restricted except through objective and procedural safeguards guaranteed by the constitution or by law. It must be upheld even in the absence of explicit constitutional provisions, as it protects the rights it enumerates, ensures their effectiveness, predates the existence of constitutions themselves, is rooted in civil evolution, and arises from human nature and instinct. Above all, it is a right that must not be marginalized or suppressed.

34. Whether the right to assembly is considered inherent or derived from freedom of expression—being one of its key channels—it is most closely tied to the exchange and presentation of ideas. When individuals who share a position or vision form an association, they use it to channel their expertise, articulate their hopes, address their challenges, and engage in dialogue on pressing issues. Such organized assembly becomes a window into their inner concerns and a tangible manifestation of collective thought. The right to form associations, whether for economic, cultural, or social purposes, is fundamentally a voluntary act aimed at forming a peaceful platform to express stances and directions.

35. Administrative courts have upheld the right to association in their rulings. In fact, freedom of expression itself loses its value if legislators deny those who invoke it the right to organize and meet. Without this, the exchange of ideas is stifled, their evolution hindered, and the flow of decision-making inputs disrupted—obstructing the development of human character, which thrives through forms of assembly. Undermining the freedom to assemble thus erodes the foundations of any governance system that claims to derive legitimacy from popular will. Accordingly, and based on established judicial precedent, it is impermissible to restrict freedom of assembly except in accordance with the law and within the bounds tolerated by democratic systems and values. Legislators may only impose restrictions when justified by compelling public interests, supported by necessity and proportionality.

### **The Circular Mandates the Presence of a ‘Monitor’ or ‘Informant’ in International Meetings**

36. The administrative circular continues its troubling pattern of unjustified restrictions. It states:

“A coordinator from the Directorate of Planning and International Cooperation must be present at any meeting with the aforementioned entities, to ensure proper coordination and to carry out their technical role as assigned.”

This clause might have been understandable under the former regime. But for such language to reappear in the post-revolution era, when Syrians aspire to join the ranks of free nations, is shocking. It is deeply disturbing that informant and surveillance culture continues to plague Syrians even after they sacrificed their lives to overthrow the regime.

38. FFHR affirms that the administrative decisions issued by the Ministry of Social Affairs and Labor, regulating the work of civil society organizations, collectively represent a systematic assault on the right to form associations. The administrative authority appears to remain stuck in its pre-revolutionary mindset. Rectifying this imbalance requires a new spirit from the Ministry—one that sheds the sins and legacies of a past against which Syrians revolted for decades. The right to form associations must be seen as part of a comprehensive and interrelated rights package within the realm of civil and political rights, including:

- The right to peaceful assembly;
- The right to freedom of opinion and expression;
- The right to personal liberty and security;
- The right to political participation;
- The right to access information;
- The right to effective remedy and accountability for human rights violations;
- The right to equality and non-discrimination.

### Best Practices for Promoting the Right to Association

38. The Foundation recalls international best practices for the promotion of the right to form associations, which include:

- a) The state must recognize the critical role that the right to freedom of association plays in the emergence and sustainability of effective democratic systems, as it provides a platform for dialogue, pluralism, tolerance, openness, and respect for minority views and beliefs.
- b) The state must ensure that no individual is criminalized, threatened, subjected to violence, harassment, persecution, intimidation, or reprisals for exercising their right to association.
- c) The state must ensure that any restrictions on the right to association are prescribed by law, are necessary in a democratic society, proportionate to the intended objective, and do not undermine the principles of pluralism, tolerance, and openness. Such restrictions must be subject to independent, impartial, and prompt judicial review.
- d) The state must protect those exercising their right to association through their right to freedom of opinion and expression.
- e) The state must provide adequate training to administrative officials and law enforcement personnel on respecting the right to association.
- f) The state must ensure that law enforcement authorities who violate the right to association are held fully and personally accountable through an independent democratic oversight body and legal courts.

1. Repeal Administrative Decision No. (5201) dated December 29, 2024, and its amendment Circular No. (7) dated January 15, 2025.
2. Repeal Administrative Circular No. (28) dated February 2, 2025, issued by the Directorate of Social Affairs and Labor in Damascus.
3. Suspend the enforcement of Law No. (93) of 1958 on Associations and Private Institutions.
4. Establish an advisory body composed of credible and competent members from recognized NGOs to provide consultation to provincial Directorates of Social Affairs and Labor regarding administrative decisions and circulars, and to offer proposals to facilitate the work of associations.
5. Launch a national dialogue involving all components of civil society—in its broad definition—to draft a proposed law regulating the work of associations and civil institutions, to be submitted for legislative consideration. The new law should:
  - Incorporate best practices for the right to association;
  - Draw from leading international and regional experiences in the drafting of association laws;
  - Respect international and regional standards regarding the right to form associations;
  - Invite the UN Special Rapporteurs on freedom of peaceful assembly and association, freedom of opinion and expression, and the situation of human rights defenders to visit Syria for consultation and knowledge exchange during the drafting process;
  - Guarantee all Syrian citizens—individually or collectively—the right to form associations through notification. Associations should have the right to receive funding from natural or legal persons, domestically or internationally, to carry out their activities and fulfill their objectives, subject to accounting and transparency rules;
  - Restrict the administrative authority's ability to deny registration or restrict the operation of associations. The burden of proof for any limitation must lie with the administration, and any restriction must comply with international human rights treaties;
  - Guarantee the right of associations to join, partner with, or form alliances with regional and international organizations;
  - Ensure that all administrative or oversight decisions regarding associations are subject to judicial review, and that legal remedies are accessible within a reasonable timeframe;
  - Require that all administrative decisions regarding the registration, denial, or dissolution of associations be subject to judicial oversight;
  - Regulate the central or decentralized administrative authority responsible for overseeing associations;
  - Define clear and comprehensive mechanisms regarding the powers of general assembly members in relation to those of the board of directors or advisory boards, especially with regard to requests for dissolution.



Fraternity  
Foundation for Human Rights (FFHR)

The right to freedom of peaceful assembly  
الحق في حرية التجمع السلمي وتكوين الجمعيات

Mafê Komcivîna aştyane û Azadî ya avakirina Komeleyan

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