

Decades of Statelessness and the Absence of Basic Rights

Decree No.49 of 2011
naturalized some Syrians
while neglecting others as
the Syrian conflict
exacerbates the challenges
of statelessness.



Decades of Statelessness & the Absence of Basic Rights

Decree No.49 of 2011 naturalized some Syrians while neglecting others as the Syrian conflict exacerbates the challenges of statelessness.

Syrians for Truth and Justice, through the support of the Canadian Government and the Canada Fund for Local Initiatives, conducted over 120 interviews with Syrians who were attempting to file cases before Syrian courts. Working with a network of field researchers in Damascus, Southern Syria, Northeastern Syria, and Northwestern Syria, we interviewed Syrians about the legal struggles they faced to better understand the challenges of the Syrian legal system and the hurdles average Syrians must overcome to achieve justice.

Global legal experts analyzed and commented on the challenges Syrians raised in their testimonies and their analyses, along with testimonials, are published in a series of five reports covering the subjects of:

- 1.Statelessness and the deprivation of citizenship
- 2.Violations to housing, land, and property rights
- 3.Violence against women
4. The issuance of death certificates for people missing or killed during the conflict
5. Family rights over neglected or orphaned children

We hope these reports will shed light on the challenges Syrians face daily to achieve fundamental human rights like housing, safety, and dignity, and that the recommendations included within will inspire Syrian and global communities to work together to create a justice system accessible and accountable to every Syrian.

Executive Summary

It has been 59 years since an unjust special census was carried out in Syria's Kurdish-majority province of al-Hasakah, which resulted in thousands of Syrians being stripped of or denied Syrian citizenships overnight¹. Census victims not only lost their citizenships, but were subsequently deprived of all civil, political, cultural, and economic rights stipulated in international charters and conventions. Khodor Mano, 62, is one of the victims of this census. As a boy, Khodor was the only one of his siblings who was not registered officially in Syrian government databases, leaving him stateless. Khodor's repeated attempts to become a citizen in the country where he was born have all failed, even after the issuance of Legislative Decree No. 49 of 2011.²

Field researchers with Syrians for Truth and Justice (STJ) met Khodor in the Washo Kani/al-Twaineh makeshift camp, where he and his family now live after they were displaced from their home Ras al-Ayn/Serê Kaniyê when Turkey invaded in October 2019. Khodor is blind, and he invites researchers to sit inside the flimsy tent he now calls home. His voice shakes when he tells STJ why becoming a citizen is so important to him, the fate of his children and grandchildren.

"Obtaining citizenship cannot compensate me for the oppression and deprivation I have been suffering for decades. I am a blind old man who does not have many years left," Khodor tells STJ. "All that matters to me now is that my children and grandchildren do not suffer the same fate as me. I am afraid that they will curse me after my death since I helplessly passed down my statelessness to them."

An inside source in the Civil Affairs Directorate of al-Hasakah told STJ that Khodor is only one of more than 46,000 Syrian *maktumeen*³ living in Syria today. The number does not include the thousands who died stateless or are now residing outside Syria. Like Khodor, many Syrians' struggle with statelessness began in 1962 with a Special Census in al-Hasakah, which set out to confirm the citizenship of tens of thousands of residents in the Syrian province of al-Hasakah in a single day. Overnight, Syrians, especially Kurds, in al-Hasakah found themselves belonging in one of three categories:

1. Syrians enjoying the Syrian nationality;
2. *Ajanib*, in Arabic meaning "foreigners", are individuals living in Syria who are not recognized by the Syrian government as citizens despite being born and having lived their entire lives in Syria, instead, they are registered as stateless residents;

¹ "Syrian Citizenship Disappeared-How the 1962 Census destroyed stateless Kurds' lives and identities", 15 September 2018, <https://stj-sy.org/en/746/>, (last accessed: 4 March 2021).

² Legislative Decree No. 49 of 2011 - Granting Syrian Arab citizenship to those registered as *ajanib* in the records al-Hasakah, the Syrian Parliament's website, 7 April 2011, <https://parliament.gov.sy/arabic/eindex.php?node=5570&cat=4451&nid=4451&print=1&p=1> (last accessed: 4 March 2021)

³ Sing. maktum/maktumah, i.e., unregistered stateless people.

3. *Maktumeen*, in Arabic meaning “the voiceless or the muted”, are individuals living in Syria who are not formally registered or recognized by the Syrian government.

However, the 1962 census is not the only cause of statelessness in Syria. Some Syrian communities, like Arab nomads and some Kurdish groups, do not know they should, or do not know how to, register their births officially with the Syrian government to become citizens. Additionally, Palestinian Syrian refugees were deprived of the Syrian nationality under the Casablanca Protocol to preserve their right of return.⁴ Moreover, some Syrians became stateless as a result of their parents' illegal marriage (ex: inter-religious marriage).⁵

The risk of becoming stateless increased in Syria after the onset of the war, especially among displaced Syrians. The war made it difficult, and sometimes impossible, to register births in displacement camps or in regions outside of Syrian government control. Civil registries were only active in areas under Syrian government control – often far out of reach for many civilians.⁶ Additionally, children born in exile⁷ and children born from parents unable to register their marriages in government courts also become stateless.⁸

In order to investigate the challenges stateless Syrians face today, **STJ conducted 17 interviews, between 15 November 2020 and late February 2021, mostly with stateless Kurds who tried to apply for citizenships in northern Syria after the withdrawal of the Islamic State (IS).** STJ analyzed the witnesses' statements, examined the documents they filed for acquiring the citizenship, and monitored the government's handling of the application processes.⁹ We found that Legislative Decree No. 49 of 2011 has not been applied uniformly to all *ajanib*. The Decree's application differed from one Civil Registry to another, with some *ajanib* receiving citizenship and others arbitrarily not. Additionally, STJ determined that many Syrian Kurds likely experienced

⁴ “Understanding statelessness in the Syria refugee context”, NRC, <http://syrianationality.org/en/nationality-documentation-and-statelessness-in-syria/stateless-populations-in-syria> (last accessed: 4 March 2021).

⁵ Article 48 of the Personal Status Law promulgated by Decree No. 59 of 1953 states: “The marriage of a Muslim woman to a non-Muslim is void.”

⁶ For more see paragraphs (62, 63, 64 and 65) of the Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, which was issued at the forty-sixth session of the Human Rights Council (22 February – 19 March 2021). Pages 16 and 17, <https://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/ReportoftheCommissionofInquirySyria.aspx> (last accessed: 4 March 2021).

⁷ “Born in exile, Syrian children face threat of statelessness”, UNHCR, <https://www.unhcr.org/news/latest/2014/11/54589fb16/born-exile-syrian-children-face-threat-statelessness.html> (last accessed: 4 March 2021).

⁸ Article 28 of the Syrian Civil Code promulgated by Decree No. 26 of 2007, and its amendments states: “If the parents' marriage is not registered and they have a child the civil registrar must not register this birth until after the parents' marriage has been duly registered.”, Syrian Ministry of Interior website, <http://www.syriamoi.gov.sy/portal/site/arabic/index.php?node=55333&cat=1831&> (last accessed: 4 March 2021).

⁹ STJ was provided with these documents exclusively by stateless people who tried to resolve their legal status at the personal status departments.

discrimination from the Ministry of Interior in Damascus, resulting in thousands of their applications being stalled or denied.

As the process of applying for citizenship, or even hiring an attorney for that purpose, requires a permission of the security services (namely the Political Security Service), STJ also discovered that several stateless Syrians refrained from applying for citizenship, fearing arrest or investigation by security forces when filing for the required security permission. Other stateless Syrians refrained from submitting because they mistrust Syrian government institutions, which are known for rife corruption. The government failures in uniformly applying Legislative Decree No. 49 of 2011, and stateless Syrians' mistrust of the Syrian government, has allowed nearly 20,000 *ajnabi* to remain stateless.

Recommendations

Stateless Syrians, many who are deprived of Syrian nationality and barred from obtaining citizenship, lack the basic human rights entitled to all people by international law. In other words, deprivation of nationality and statelessness result in deprivation of legal personality as well as the set of rights and freedoms that protect human dignity, such as the right to life, equality, fair trial, freedom of movement inside and outside the country, access to education, health, work, property and participation in public life. Therefore, in order to address the crisis of statelessness in Syria, STJ recommends:

1. To issue an inclusive legislation granting citizenship to all stateless Syrians, especially the *maktumeen*, who were deprived anew of their right to citizenship by Legislative Decree No. 49 of 2011. The law granting citizenship to all stateless Syrians must be applied instantly, smoothly, and uniformly.
2. To include in any new Syrian constitution– written by the UN's Constitutional Committee or other entity – that all Syrians have the right to the Syrian nationality and shall not be stripped of it except on clear and specific grounds established by the same constitution. Denationalization must be carried out under a reasoned court judgement against them individually and should not affect their relatives nor future generations.
3. To enshrine in the constitution the supremacy of international instruments and conventions over domestic law, especially those conventions related to human rights.
4. To restrict the access and interference of security forces in the affairs of the judicial authority and the work of the Bar Association, as today applying for nationality and hiring a lawyer requires permission from Syrian security services.
5. To amend the current Syrian Nationality Law to allow women to pass on their nationality to their children, and thus promote equal opportunities for women and men in all Syrian communities to pass their nationality on to their children.

Introduction

On the tenth anniversary of Legislative Decree No. 49 of 2011, which grants Syrian Arab Nationalities to those registered as *ajanib* in al-Hasakah, but ignores the *maktumeen*, there is a local belief that the problem of statelessness in Syria has been fundamentally resolved. To discover if that was true, STJ's field researchers spoke to stateless Syrians in northern Syria to determine whether the 2011 Legislative Decree had solved their challenges with statelessness, and if not, why.

Methodology

This paper cites 17 interviews with stateless Syrians – whose names have been anonymized for security reasons – who tried and failed to rectify their legal status and become Syrian citizens. STJ interviewed:

1. Seven families who were rendered stateless (*maktumeen*) by the 1962 census.
2. Three families, among them Kurds and nomadic Arabs, from the provinces of Raqqqa and al-Hasakah, who became stateless due to their ignorance of the procedures of registering births.
3. Three children, among them Arabs and Kurds, who became stateless because of the inability of their parents to register their marriages due to the conflict.
4. A family whose members were deprived of nationality by the 1962 census, though the father had served in the Syrian Army for four years, between 1967 and 1970¹⁰.
5. A family whose father could not register his children (*ajanib*) due to inability to prove parenthood, despite the fact that he acquired the Syrian nationality under Decree No. 49 in 2011.
6. Stateless (*maktumeen*) orphaned children whose deceased parents could not officially register their marriage under the Syrian law because of their different religions – a Durzi father and a Muslim mother – thus their births were not registered.
7. A Yazidi couple who could not register their marriage, and thus their children, because their marriage was considered inter-religious, due to the woman being registered as Muslim in the civil records – due to the absence of a Personal Status Law for the Yazidi religion – while the man is registered as Yazidi.

Additionally, STJ analyzed the Syrian laws, decrees and instructions related to nationality and compared them with related international instruments and conventions. We also monitored these legislations' practical application in courts and governmental institutions. Our legal experts verified the witnesses' testimonies and documents. **Based on witnesses' experiences in light of the**

¹⁰ Military service is mandatory for male Syrian citizens over the age of 18.

domestic laws and relevant international legal paradigms, we developed a set of recommendations and created a road map to address the crisis of statelessness in Syria.

How Syrians Became Stateless

Al-Hasakah was the only Syrian province in which the census was exceptionally conducted, in application of Decree No. 93 of 23 August 1962, passed by the so-called 'Separatist Government' that ruled Syria immediately after the end the union between Syria and Egypt,¹¹ based on Decree No. 1 of 30 April 1962 and the ministerial decision, No. 106 of 23 August 1962. The now known 'al-Hasakah 1962 Census' decree states in its Article 1: "A general census is to be carried out in al-Hasakah province in one single day. The exact date will be more closely determined by an order from the Ministry of Planning, at the recommendation of the Interior Minister."

The census had disastrous consequences for tens of thousands of Syrian Kurds,¹² whose names were dropped from the census for various reasons. Census takers did not register names accidentally or through negligence. Sometimes, the decision not to register names was intentional, as the census was carried out for political reasons. Additionally, one day was not enough to count all of al-Hasakah's citizens,¹³ with some citizens hearing about the census days after it ended.

As a result of the census, those who were registered by census takers were included in Civil Registries and became citizens. However, those who were not registered or were rejected became stateless, falling into two categories:

- a. **Ajanib (al-Hasakah):** *Ajanib, in Arabic meaning "foreigners", are individuals living in Syria who are not recognized by the Syrian government as citizens despite being born and having lived their entire lives in Syria, instead, they are registered as stateless residents; in other words, ajanib are foreigners in their own country.* Many Syrians became *ajanib* after the government failed to register them during the one-day 1962 Special Census in al-Hasakah, and subsequently turned into stateless after they were stripped of their Syrian citizenships and the rights afforded to citizens. The Syrian government provided *ajanib* with a single form of identification - a red registration card, which does not confer upon them any rights associated with citizenship except sometimes allowing *ajanib* to apply for drivers' and marriage licenses despite being stateless. *Ajanib* parents passed on their plight to their

¹¹ For more on the union between Syria and Egypt, as well as this moment in Syria's history, read about the [United Arab Republic](#).

¹² STJ had access to inside information from official sources in the Personal Status Department of al-Hasakah, revealing that the number of the registered *ajanib*/red card holders, reached 346,242, while the number of *maktumeen*, has reached more than 171,300 as of 2011.

¹³ Decree No. 93 states in its article 1:

"A general census is to be carried out in al-Hasakah province in one single day. The exact date will be more closely determined by an order from the Ministry of Planning, at the recommendation of the Interior Minister"

children, leading generations to become non-citizen foreigners in the country of their birth.

- b. **Maktumeen:** Maktumeen, in Arabic meaning “the voiceless or the muted”, are individuals living in Syria who are not formally registered or recognized by the Syrian government; in other words, maktumeen do not exist in official records and are therefore both invisible and stateless in their own country. Many Syrians became *maktumeen* because the government failed to register them during the one-day 1962 Special Census in al-Hasakah, often because they belonged to rural communities who did not know they needed to register themselves in official databases in 1962. The only form of identification afforded to *maktumeen* are unofficial identification certificates issued by neighborhood leaders (in Arabic, *Makhateer*), which only locally recognize the existence of the individual and do not afford them any rights, including the right to travel within Syria and abroad, seek healthcare, enroll in school, or apply for drivers’ and marriage licenses. *Maktum* parents passed on their plight to their children, leading many children to be born in Syria unregistered in official government databases, leaving generations both stateless and invisible in the country of their birth.



Image 1- Items of the *maktumeen* identification certificate



Image 2- Items of the *ajanib* red identification cards

Inconsistency and Indifference

Witnesses testified to discrimination and inequality in the application of the 1962, Decree 93. The Decree was not applied uniformly to all citizens – not even to members of the same family.

In November 2020, we met Ahmed Auso, a witness born in 1965 in Abu Rasin (Zarkan) in al-Hasakah. He recounted:

“My father was in the province of Deir ez-Zor on the day the census was carried out. However, while my grandfather gave the census taker my father’s name, my father was inexplicably not registered and became stateless.”

Ironically, Ahmed’s grandfather and uncles are citizens while his father is stateless. He added:

“My mother is a citizen but she could not pass on her nationality to me, since the Syrian law does not allow this. In 2011, I went to the Civil Registry in Ad Darbasiyah to resolve

my legal status and obtain nationality. I had all the papers required like a police report, a confirmation of my marriage from the Syariah Court, and a paper from the age assessment committee. However, my attempt failed.”

Civil Registry employees informed Ahmed that his and his brother's applications were rejected, but did not explain why.

Registered but Still Stateless

While some Syrians lost their citizenship status when they were not registered in the census, others were stripped of their nationality despite being registered by census takers.

Khodor Ibrahim Mano was born in 1959 in the town of Suluk of Raqqa province. Khodor's family had moved to the city of Ad Darbasiyah in al-Hasakah since 1958; four years before the special census was carried out. All of Khodor's family members were registered in the census except him. He explained:

“My father, mother, brothers and sisters all have records in the Civil Registry on the entry no. 11/166 Kintry/Suluk. I am the only one who became stateless after the 1962 census, though my father assured me that the census taker had registered my name.”

Khodor, and previously his father, made several attempts to resolve his legal status but to no avail.

Military Veterans Made Stateless

Many stateless Syrians even served in the Syrian Army – compulsory for Syrian citizens – despite being denied Syrian nationality.

R. Suleiman, from the town of Amuda in Qamishli/al-Hasakah, told STJ that his grandparents had been Syrian citizens. However, his father became stateless after the 1962 census, which led to his and his brothers' deprivation of nationality. Suleiman recounted:

“My uncles managed to obtain citizenship under Decree No. 49 of 2011, since they were *ajanib*. However, the Syrian authorities refused to grant us nationality, although we had all the required documents. The Civil Registry we submitted to, sent our files to Damascus but they returned with rejection.”

Ironically, the Syrian government forced Sulieman's father to serve in the Syrian Army – which is mandatory only for Syrian citizens – for four years (between 1967 and 1970). Despite his service, Sulieman's family remain stateless.

Unregistered Marriages Lead to Stateless Children

Although the Kurds compose the bulk of the statelessness cases in Syria, there are other groups suffering the same problem. However, there remain little accurate statistics about these cases, many of which occur when marriages are not formally registered with the Syrian government.

For example, Safa'a Hameedo, 24, from Abu Rasin (Zarkan) Ras al-Ayn/SerêKaniyê, and her husband were unable to officially confirm their marriage in civil departments after they married in 2013, nor register their child who was born soon after. Safa'a and her husband belong to the Civil Registry in al-Qantari, rural Raqqa – a registry which was closed during the IS rule over Raqqa in 2014. The Registry's proceedings were moved to Hama; however, the small family could not afford to travel there due to Safa'a's husband's job as a day laborer.

In other marriage cases, couples cannot officially register their marriages because their marriages are interreligious and therefore illegal. For example, STJ met three brothers from a Durzi father and a Muslim Sunni mother. The parents' different religions precluded the registration of their marriage. Thus, they could not register their children officially with the Syrian government, leading their children, and subsequently their grandchildren, to become stateless.¹⁴

The Consequences of Statelessness

Depriving someone of citizenship and nationality denies them their legal existence and makes them vulnerable to the deprivation of other basic human rights.

Stateless individuals are denied the civil and political rights of citizens, such as the rights to vote, to run for office, to participate in the management of the country's public affairs, and to hold public office. Consequently, their right to freedom of expression is ignored; the stateless individual is officially voiceless because they do not officially exist. Similarly, the individual's right to non-discrimination is violated because their stateless status makes them unequal to other Syrians who enjoy nationality or who obtained it under Legislative Decree No. 49.

Stateless people are also denied economic, social, and cultural rights, such as the right to work, the right to form and join trade unions, the right to social security, the right to health care, the right to property, the right to move freely, and other related basic human rights, including the right to education. Stateless people are not entitled to university or institution certifications even if they complete their years of study.

Even the most essential transaction – like the purchase of a home to live in – is made impossible by statelessness. Stateless people cannot register their property in their names; consequently, many attempt to register their belongings under the names of relatives. However, Syrian security services, specifically the Political Security, usually reject such transactions. This was the case of a witness we met in December 2020, when the Political Security in the city of Ras al-Ayn/Serê

¹⁴ In this case the husband must convert to Islam to be able to register the marriage.

Kaniyê refused to grant him consent to register a real estate he had purchased in the name of his cousin.

Furthermore, *maktumeen* have no right to travel between provinces or to stay in hotels unless they obtain permissions from the security services and the local Hotels Management Department. Such permissions are usually obtained through bribes.

The many rights denied to stateless Syrians are only exacerbated by the Syrian legal system, which makes the process of filing a complaint against Syrian citizens and/or the government an arduous and discriminatory process for stateless Syrians. Stateless Syrians do not have the right to hire lawyers unless they receive permission from Political Security, and therefore are rarely afforded the right to a fair trial.

Legal Analysis

The denial of rights which result from statelessness violate both Syrian and international laws. Stripping Syrians, especially the Kurds, of their nationality and depriving them of basic rights entails inequality and discrimination among the Syrian people. The denial of the right to a nationality clearly contravenes the [Syrian Constitution of 2012](#) (essentially a copy of the 1973 Constitution),¹⁵ which stipulates:

Article 17: “The right of inheritance shall be maintained in accordance with the law.”

Losing their citizenship means that these people will not be able to legally register, transfer or access any inheritance or title, which under Syrian laws could only be passed to an heir who is a Syrian citizen.

Article 19: “Society in the Syrian Arab Republic shall be based on the basis of solidarity, symbiosis and respect for the principles of social justice, freedom, equality and maintenance of human dignity of every individual.”

Article 22:

- (1) “The state shall guarantee every citizen and his family in cases of emergency, sickness, disability, orphan-hood and old age;
- (2) The state shall protect the health of citizens and provide them with the means of prevention, treatment and medication.”

¹⁵ The legal characterization of the situation is based on the 2012 Constitution, as well as the 1973 Constitution. The successive temporary and permanent constitutions resemble each other regarding the outlined rights and freedoms. The census was conducted under the 1950 Constitution after it was approved by the Separatist Movement in 1961, with some minor amendments relating to the powers of the President of the Republic. “Successive constitutions in Syria—analysis and comparison,” *Idrak* website, 1 August 2017, <https://idraksy.net/constitutions-in-syria/> (last accessed: 5 March 2021).

Article 33 (1): "Citizens shall be equal in rights and duties without discrimination among them on grounds of sex, origin, language, religion or creed."

Such equality is impossible to achieve after arbitrarily stripping a specific segment of the society of their citizenship and subsequently depriving them of the aforementioned rights.

Stateless people are also deprived of the right to education and the right to work, specifically in government institutions. Such a deprivation contradicts what is stipulated in the 2012 Constitution:

Article 26 (2): "Citizens shall be equal in assuming the functions of public service, and the law shall determine the conditions of assuming such functions and the rights and duties assigned to them."

Article 29 (1): "Education shall be a right guaranteed by the state [...]"

Article 40 (1): "Work shall be a right and a duty for every citizen, and the state shall endeavor to provide for all citizens, and the law shall organize work, its conditions and the workers' rights."

Moreover, stateless Syrians are prevented from participating in public life, including participation in elections and referendums. They lack legal status, a legal personality, and their names are not included in electoral lists. Being denied public participation due to statelessness violates various articles in the Constitution:

Article 34: "Every citizen shall have the right to participate in the political, economic, social and cultural life and the law shall regulate this."

Article 49: "Election and referendum are the right and duty of the citizens and the law shall regulate their exercise."

Here, we recall the Syrian Nationality Law¹⁶, passed under Legislative Decree No. 276 of 1969, which remains largely unenforced:

Article 3:¹⁷ "The following shall be considered as Syrian Arabs ipso facto:

- A. Anyone born inside or outside the country to a Syrian Arab father;
- B. Anyone born in the country to a Syrian Arab mother and whose legal family relationship to his father has not been established.

¹⁶ "Legislative Decree 276," *Official Gazette*, Issue 55, Part 1, 24 November 1969, <https://www.refworld.org/pdfid/4d81e7b12.pdf> (last accessed: 10 June 2021).

¹⁷ All Syrians were classified as Arabs, and other groups such as Kurds, Syriacs, Circassians, Assyrians, and others were not recognized.

- C. Anyone born in the country to unknown parents or to parents of unknown nationality or without one. A foundling in the country shall be considered born in it, at the place in which he is found unless proved otherwise.”

Assuming that people stripped of the Syrian nationality under the 1962 census should not have been, clause C of Article 3 grants the children (male and female) of stateless Syrians their right to nationality. Despite that, all of the witnesses’ attempts to obtain nationality for their children failed. It is worth mentioning that Syrian law does not give mothers the right to pass on nationality to their children. The inability of mothers to pass on citizenship explains why many witnesses could not obtain Syrian citizenship even though their mother was a citizen. Such a deprivation is considered a violation of women’s rights and discriminatory on the basis of sex. Further, it is contrary to what has been stipulated in Article 33 of the Syrian Constitution of 2012:

Article 33 (3): “Citizens shall be equal in rights and duties without discrimination among them on grounds of sex, origin, language, religion or creed.”

Civil Status Law, promulgated under Legislative Decree No. 26 of 2007, defines the *maktoum* as: someone “whose father or parents are registered in Syrian civil records but he has not been registered within the period specified for registration of the newly born”¹⁸. This definition does not apply to the *maktumeen* we met since their parents have no records in Syrian Civil Registries. Furthermore, in Decree No. 26 we note that there is no mention of the *ajanib* category at all.

Depriving a person of nationality contradicts what is stated in Article 15 of the Universal Declaration of Human Rights of 1948¹⁹ which states that “everyone has the right to a nationality. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.” Additionally, depriving a person of nationality contradicts:

Article 16 of the [International Covenant on Civil and Political Rights of 1966 \(ICCPR\)](#): “Everyone shall have the right to recognition everywhere as a person before the law.”

Article 24 of the ICCPR (3):²⁰ “Every child has the right to acquire a nationality.”

Article 7 of the [Convention on the Rights of the Child of 1989 \(1\)](#): “The child shall be registered immediately after birth and shall have the right from birth to a name, the right

¹⁸ Legislative Decree No.26 of 2007, issued and signed by the President of the Republic, <http://www.syriamoi.gov.sy/portal/site/arabic/index.php?node=55333&cat=1831&>

¹⁹ The United Nations. 1948. *Universal Declaration of Human Rights*, <https://www.un.org/sites/un2.un.org/files/udhr.pdf>

²⁰ Syria has signed the aforementioned Covenant without reservation to any of the above-mentioned articles, so it is legally bound by the provisions of these articles. For more info: see the following source: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&clang=en#EndDec

to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.”

Besides, depriving mothers of the right to pass on citizenship to their children, it contradicts:

Article 9 of the [Convention on the Elimination of All Forms of Discrimination Against Women of 1979 \(2\)](#): “States Parties shall grant women equal rights with men with respect to the nationality of their children.”²¹

It is also worth noting that there are two international conventions specifically concerned with the world’s statelessness: [The 1961 Convention on the Reduction of Statelessness](#)²², and the [1954 Convention Relating to the Status of Stateless Persons](#). The conventions protect the rights of stateless persons including the right to administrative assistance (Article 25), the right to identity papers and travel documents (Articles 27 and 28), and the right to naturalization (Article 32)²³.

Although Syria has not signed these two conventions, it should draw upon the experience of the states that drafted and signed them. Syria must provide redress to the victims of injustice and ensure the restoration of the rights that have been violated. Further, the Syrian government should engage in constitutional and legal drafting to prevent the recurrence of such practices in the future.

The Challenges of Applying for Citizenship

By 2011, the struggle of statelessness spanned multiple generations. A source in The Personal Status Department of al-Hasakah informed STJ that the number of stateless Syrians since 1962 had become 517,000²⁴. However, after peaceful protests began in Syria in March 2011, the Syrian government, seeking to gain support amongst Kurds or at least temper dissidence, finally addressed the crisis. The government passed Legislative Decree No.49 on 7 April 2011, granting the Syrian nationality to those registered as *ajanib* in al-Hasakah civil records, overseen by the Minister of Interior.

Legislative Decree No. 49 of 2011 allegedly created a path to citizenship for Syrians who have been stateless since 1962. Many took it. Out of 346,242 registered *ajanib* before 2011, the most recent numbers suggest 326,489 succeeded in obtaining Syrian citizenships. However, 19,753 *ajanib* did not. Additionally, notably missing from the Decree were the *maktumeen*, who were denied the same opportunity. With over 40,000 Syrians still stateless as of 2021, STJ set out to

²¹ It should be noted here that Syria has signed this Convention, but with reservations on several articles, including Article 9, regarding the right of women to be equal with men in giving their children the right to acquire their own nationality. For more info: see the following source:

https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=en#EndDec

²² Convention on the Reduction of Statelessness of 1961.

²³ Convention relating to the Status of Stateless Persons of 1954.

²⁴ “Syrian Citizenship Disappeared.” Syrians for Truth and Justice, 15 September 2018, <https://stj-sy.org/en/745/>, Last Accessed 16 June 2021.

see how practically viable the path for obtaining citizenship Legislative Decree No.49 created was for stateless Syrians.

STJ monitored the legal proceedings of citizenship applications of 17 stateless Syrian families, from the initial decision to apply, to the verdict. Our legal experts analyzed the papers they were expected to file and compared the on-the-ground process of obtaining citizenship in governmental institutions and courts with what was stipulated in the Syrian Constitutions and related international instruments and conventions.

Our experts found significant flaws in the implementation of Decree No. 49, including civil servants' insufficient knowledge of laws and regulations which led to mistakes, delays, and failures. We describe these challenges in the following sections.

Difficulties Initiating Citizenship Proceedings

Many of the Syrian families we spoke to feared initiating citizenship proceeding because they were afraid of asking the permissions required to initiate citizenship-acquiring proceedings from Syrian security service branches. Others decided not to initiate proceedings despite Decree No.49 of 2011 because they did not believe the Syrian government would take the crisis of statelessness seriously, due to the absence of international pressure, and therefore the legal proceedings would needlessly waste time and money and conclude with the same result: statelessness. In some cases, stateless Syrians did not question their legal status because they were ignorant of the law, and therefore did not initiate citizenship proceedings.

The witnesses who did decide to initiate citizenship proceedings recounted some of the challenges they faced while pursuing procedures to resolve their legal statuses in al-Hasakah province. Many Syrians struggled to initiate or move proceedings forward due to security tension resulting from the military engagements which sometimes occurred in northeast Syria between the Autonomous Administration forces and the Syrian Army or the National Defense Forces allied to the Syrian government. Insecurity often made travel to registries and daily activities unsafe, leading to delays.

Furthermore, the restriction of movement imposed by the Autonomous Administration on the security zones in al-Qamishli and al-Hasakah, which still retain most Syrian government institutions, including civil registries, for more than two weeks during January and February 2021, slowed attempts to initiate proceedings or move them forward. The restriction was a response to the embargo imposed by the Syrian government on the Shahbaa area north of Aleppo, which houses tens of thousands of internally displaced people (IDPs) from Afrin, as well as on Aleppo's Kurdish-majority neighborhoods of Sheikh Maqsoud and Ashrafiyye. The embargo prohibited courts and civil registry staff from attending work. These restrictions were subsequently followed by periodic lockdowns imposed on the area due to the Covid-19 pandemic.

Recourse to the Judiciary Requires Security Approval

When witnesses finally initiated legal proceedings, they were faced with the first hurdle: recourse to the judiciary requires security approval. Several *maktumeen* from al-Hasakah confirmed that the Bar Association agent in al-Hasakah asked them to obtain permission from the Political Security branch to be allowed to hire lawyers who would help them to follow their citizenship acquirement proceedings. The request to obtain permission contravenes Syrian law which does not prevent the *maktum* from hiring a lawyer as long as he/she holds an identification certificate issued by his/her mukhtar containing his/her personal data. Notably, a *maktum* witness was able to hire a lawyer in Qamishli without obtaining permission from the Political Security branch. The witness confirmed that this was done under the supervision of the Bar Association agent who considered it a violation of the procedure.²⁵

Moreover, the security services issuing permissions to the *maktumeen* were discriminatory and followed no criteria. A *maktum* witness confirmed that he applied for permission from security services to be allowed to hire a lawyer, but his application was rejected without any explanation. The same witness applied again after a few days and bribed a security services employee, but his application was still rejected. The bribed employee said that he presented a report to his boss with the application but, despite that, the *maktum's* application was rejected for no clear reason. Another witness told STJ that he managed to hire a lawyer without obtaining permission. These different experiences demonstrate that the process of issuing permissions is haphazard and likely subject to the mood of the on-duty employee, and instead of being legally fair, humiliates and makes the initiator vulnerable to bribery and blackmail.

Furthermore, requiring such a permission can be considered interference by the Syrian security in the affairs of the judicial authority. Barring a citizen from hiring a lawyer amounts to a denial of justice and gives security forces the authority to close to the doors of the judiciary to citizens. These practices intervene in the work of the Bar Association, which is supposed to be an independent entity. Law for Practicing the Legal Profession No. 39 of 1981 states in Article 1: "The law as a profession is a free, intellectual, scientific profession whose task is to cooperate with the judicial authorities in bringing about justice and in defending the rights of the clients in accordance with the provisions of the present law."

Insufficient Knowledge Among Civil Servants

In addition to the challenge of obtaining arbitrary security approval for their citizenship proceedings, multiple witnesses were often confronted with civil servants who were insufficiently trained to accurately support citizenship proceedings. STJ noted, after monitoring transactions by witnesses to obtain nationality, that employees at civil registries and police stations do not have

²⁵ The same thing happened with details with Mr. Mamdouh Sheikho.

full knowledge of laws pertaining to citizenship even though it has been years since they were issued.

In one case, a lawyer told STJ that he attempted to obtain a police report for a client, 63. The police officers told the client to bring two witnesses who are eighteen years older than him, meaning, born in 1940 and over the age of 81. Article 18 of Decree 26 of 2007, as amended by Decree No. 20 of 2011, states that: "The age of the witness must have been more than eighteen when the civil incident he/she wishes to testify for occurred. In the event that there are no witnesses who fulfill this condition, the testimony of witnesses over the age of sixty shall be accepted." Because it was difficult for the client to bring two witnesses who were eighteen years older than him, the police officer refused to issue the report—a clear violation of the law.

Employees' Disregard for People's Rights

While many civil servants were ignorant of important laws, still others arbitrarily delayed proceedings, slowing and complicating the process for witnesses attempting to amend their legal status.

For example, government institutions sometimes postpone proceedings due to the absence of an employee from work, for any reason. A witness recounted that he went with his family to the Civil Registry to appear before the age assessment committee on an appointment. The committee was supposed to assess his and his family members' age to file a claim to establish their lineage. However, despite the presence of doctors from the committee and a witness with his family, and the fact that the witness was arriving during an agreed-upon appointment time, the procedure was not completed because the civil register was absent, participating in an event by the Arab Socialist Ba'ath Party. The civil register's absence meant that the procedure had to be postponed.

In the same vein, STJ examined documents of a witness who tried to apply for a family booklet for the family of his dead son after they lost theirs after being displaced from Ras al-Ayn/Serê Kaniyê during the Turkish invasion in October 2019. The witness wanted to register his two orphaned grandchildren whom he is raising after the death of their parents. The witness' lawyer went to the Civil Registry to initiate the application for the family booklet. The employee at the Registry rejected the lawyer's application and told him to go to the Shariah Judge in the area to obtain proof that his client (the witness) is the legal guardian for his minor grandchildren. Here, we notice that the employee contravened Article 170 of the Syrian Law of Personal Status that states: "The father and then the paternal grandfather have the same guardianship over the minor and his assets. Guardianship of the person shall include the exercise of disciplinary authority, the provision of medical treatment, education, career guidance, marriage consent and all matters involved in the care of a minor." This means that the witness has the right to a new family booklet for his grandchildren without the need to obtain guardianship proof from the Shariah Judge. However, rather than taking the effort to check the law, the civil servant sent the case to a Shariah judge, unnecessarily delaying and complicating proceedings.

Citizenship Remains Out of Reach

Out of the 17 families STJ followed in their path toward citizenship, only five successfully obtained it. In all the cases, families confronted numerous hurdles – from struggles obtaining and paying for lawyers, troubles receiving security permissions, to unhelpful and often negligent civil servants who unlawfully delayed or denied applications. Throughout the process, many families found their papers denied, either by the government or security services, without any explanation despite paying bribes. In other words, for tens of thousands of Syrians still stateless in the only country they have ever called home, the path towards citizenship remains lengthy, untransparent, and often untenable despite Legislative Decree No. 49 of 2011.

Comparisons and Lessons from History

The practices which deny tens of thousands of Syrians citizenship, the majority of them Syrian Kurds, are not unprecedented in history. In fact, simple historical comparisons show us that the successive Syrian governments' illegal and immoral practices do not differ in nature from those committed by other authoritarian and racist governments in recent history like the Nazi regime in Germany and the "Apartheid" system of racial segregation in South Africa. Both regimes began their series of oppressive and racist practices with the enactment of laws related to nationality.

The Syrian authorities' practice of depriving certain groups (the Kurds) of nationality is very similar to the racist policies pursued by both the governments of Nazi Germany and South Africa. The suggestions provided by Mohammed Talib Hilal in his booklet entitled *A Study of the Jazira Province from National, Social and Political Aspects* and the subsequent arbitrary legislation and procedures adopted by the Syrian government since 1950 against the Kurds are evidence of racist practice²⁶.

On September 15, 1935, at the request of Nazi leader Adolf Hitler at a Nazi Party rally in Nuremberg, the Reichstag, the parliament of Nazi Germany, also known as the Third Reich, enacted what is known as "Nuremberg Race Laws", which included two laws that specifically targeted Jews as well as other ethnic minorities in Germany²⁷. The first law, the "Law for the Protection of German Blood and German Honor", banned marriage between Jews and non-Jewish

²⁶ For more information on the racially motivated discriminatory treatment and repression of the Kurds in Syria see: Mohamad Hasan, 'Kurdish Political and Civil Movements in Syria and the Question of Representation', research at LSE Legitimacy and Citizenship in the Arab World and Conflict Research Programme (December 2020) <http://eprints.lse.ac.uk/108501/1/Kurdish_representation_and_civil_movements_in_syria_english.pdf> accessed on 6 March 2021.

²⁷ Saul Friedländer, *'Nazi Germany and the Jews, 1933–1945'* (New York: HarperCollins, 2009) p. 45; Richard J. Evans, *'The Third Reich in Power'*, (New York: Penguin, 2005) p. 543.

Germans. It also criminalized sexual relations between them. These relationships were labeled as “race defilement”²⁸.

The second law, the “Reich Citizenship Law”,²⁹ stated that a Reich citizen is a subject of the state who is of German or related blood, classifying the rest of the population as subjects of the state, who are under its authority but have no citizenship rights.³⁰ Indeed, this law was an effective means of achieving the Nazi regime's goal of stripping Jews and other ethnic, or even political, and undesirable groups of their citizenship and legal rights.³¹

In South Africa, the National Party government had followed the policy of “Apartheid” since 1948.³² This policy involved an authoritarian political culture that established the domination of citizens of one racial element – the white population – over the country and all aspects of life in it politically, socially, and economically³³. The South African authorities followed a pattern of exceptional laws and racist measures very similar to those of the Nazis in Germany.

At the end of the first half of the last century, in 1949, these authorities imposed a law prohibiting and criminalizing marriage between members of different ethnic groups, known as “Prohibition of Mixed Marriages Act no. 55”.³⁴ This was followed in 1950 by the issuance of the “Population Registration Act no. 30”. The act required people to be identified and registered from birth as belonging to one of four distinct racial groups. When the law was implemented, citizens were issued identity documents, and race was reflected by the individual's Identity Number.³⁵

The Syrian government still pursues racist practices when all other countries have renounced, condemned, and criminalized such acts. Moreover, the Syrian government has made no serious attempt to dismantle and extinguish the historical injustice against the victims of these practices, with complete disregard for the lessons provided by the history of humanity.

²⁸ United States Holocaust Memorial Museum, ‘Nuremberg Race Laws’, Holocaust Encyclopedia <<https://encyclopedia.ushmm.org/content/en/article/nuremberg-laws>> accessed on 6 March 2021.

²⁹ Ibid.

³⁰ United States Holocaust Memorial Museum, ‘Nuremberg Race Laws’, Holocaust Encyclopedia <<https://encyclopedia.ushmm.org/content/en/article/nuremberg-laws>> accessed on 6 March 2021.

³¹ Stephanie Wolfe, ‘*The Politics of Reparations and Apologies*’, (New York: Springer, 2014) p. 94.

³² Marina Ottoway, ‘*South Africa: The Struggle for a New Order*’, (Washington: Brookings Institution Press, 1993) pp. 23–26.

³³ Alan Mayne, ‘*From Politics Past to Politics Future: An Integrated Analysis of Current and Emergent Paradigms*’, (Connecticut: Praeger, 1999) p. 52.

³⁴ Angela Thompsell, ‘The Prohibition of Mixed Marriages Act: How the Apartheid Law Affected South Africa’, ThoughtCo. (5 August 2019) <<https://www.thoughtco.com/prohibition-of-mixed-marriages-act-43464>> accessed on 6 March 2021.

³⁵ Alistair Boddy-Evans, ‘South Africa's Apartheid Era Population Registration Act’, ThoughtCo. (3 August 2019) <<https://www.thoughtco.com/population-registration-act-43473>> accessed on 6 March 2021.

Conclusion

Despite popular belief since 2011, statelessness remains a crisis in Syria. Tens of thousands of Syrians, the majority of them Kurds, are denied the right to healthcare, education, and identification in the country of their birth. The consequences of statelessness are only exacerbated by the current conflict in Syria, making it harder than ever for stateless Syrians to travel inside and outside the country, and to access the daily, basic services they need to live dignified lives. These racist practices have historical precedents, and despite the alleged promise of Legislative Decree No.49 of 2011, the Syrian government has failed to correct them.

In order to address the crisis of statelessness in Syria, STJ recommends:

1. To issue an inclusive legislation granting citizenship to all stateless Syrians, especially the *maktumeen*, who were deprived anew of their right to citizenship by Legislative Decree No. 49 of 2011. The law granting citizenship to all stateless Syrians must be applied instantly, smoothly, and uniformly.
2. To include in any new Syrian constitution– written by the UN’s Constitutional Committee or other entity – that all Syrians have the right to the Syrian nationality and shall not be stripped of it except on clear and specific grounds established by the same constitution. Denationalization must be carried out under a reasoned court judgement against them individually and should not affect their relatives nor future generations.
3. To enshrine in the constitution the supremacy of international instruments and conventions over domestic law, especially those conventions related to human rights.
4. To restrict the access and interference of security forces in the affairs of the judicial authority and the work of the Bar Association, as today applying for nationality and hiring a lawyer requires permission from Syrian security services.
5. To amend the current Syrian Nationality Law to allow women to pass on their nationality to their children, and thus promote equal opportunities for women and men in all Syrian communities to pass their nationality on to their children.



Our team of researchers and volunteers at Syrians for Truth and Justice are dedicated to uncovering human rights violations in Syria. Believing that diversity has historically defined and benefitted the country, we work everyday to promote inclusivity and justice to ensure that all Syrians are represented, and their human rights secured.