



Adoption in Syria

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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

One morning in 2015, Hamrin found a newborn girl at the door of her house in Raqqa city. She did not know that the little girl's mother left the baby there while escaping a fighter of the Islamic State (IS). Hamrin and her husband, who could not have children of their own, decided to secretly adopt the little girl, who today is six years old and sees them as her real parents.

After over 10 years of involuntary childlessness, Hamrin could not refuse "God's gift to her and her husband". They do not yet know the child's biological parents, nor did they dare tell the story at the time, fearing IS' retaliation. She recounted to Syrians for Truth and Justice (STJ) the details of the day:

"We woke up to her crying at dawn. Someone had put her in front of our house and left. Only a few days had passed since her birth. So, I brought her home and took care of her. The next day, while buying milk for her, my husband heard that IS fighters were looking for a woman, who ran away from them with her newborn child. We dared not tell the truth, decided to adopt the little girl, and told our acquaintances that she is our daughter. We did not leave the house for months so it would not seem strange."

Hamrin and her husband registered the child as their daughter in the Syrian Civil Registry, after naming her and claiming that they were her parents because, currently, Syrian law prohibits adoption based on the provisions of Islamic Sharia. Hamrin's is not the only case – several Syrian families have adopted children and claimed legal parentage the same way to overcome the same legal barriers.

Muslim Sharia jurists continue to rule *al-Tabani* (adoption) as *haram* (prohibited), citing a number of ancient *fatwas* (formal rulings) based on the following Quranic verse: "Call them by (the name of) their (real) fathers; It is more equitable in the sight of Allah. And if you do not know their fathers, then they are your brothers in faith and your friends. There is no sin on you in the mistake you make, but in that which you do with intention of your heart; and Allah is Most-Forgiving, Very-Merciful" (Al-Ahzab, 5). Furthermore, jurists-based prohibition on the anecdote that was the subject of another verse, "nor did he make your adopted sons your (real) sons" (Al-Ahzab, 4). This verse addressed Zayd ibn Harithah's story, who was Khadija's *Mawla* (a person who did not have tribal protection) before her marriage to Prophet Muhammad and whom she gave to the Prophet after their marriage. When given to Prophet Muhammad, Zayd was 30 years old, and he had a tight bond with the Prophet that he was called "Zayd ibn Muhammad" (Zayd the son of Muhammad). The relationship between Prophet Muhammad and Zayd is the origin of the word *Ad'iaa* (those who are called by the names of persons other than their real fathers and who establish their lineage accordingly). After lineage was thus established between Zayd and the Prophet, Zayd divorced his wife Zaynab bint Jahsh, who later married the Prophet.

In many Muslim countries, the *kafala* system (guardianship) is enforced instead of prohibited adoption. Under *kafala*, children live with a new family but are not called by the name of the foster father.

Upon learning to read and write, mostly between 6 and 8, children brought up under the *Kafala* system begin to inquire why the father's name on official documents, school records, and the birth certificate is different from the name of the father he/she lives with at home. Ultimately, foster parents find themselves obliged to reveal the truth despite the emotional and mental traumas the revelation might cause to children when they are told that they are of unknown parentage, were born to an "illegal relationship", or were abandoned by their parents.

Moreover, in the countries where the *kafala* system is enforced, children are denied inheritance from the foster family, including the parents' pension. As a result, foster kids remain without a source of income when foster parents die, regardless of how wealthy their parents were.

In Syria, the law adopts the Sharia rulings regarding the issue, thus, prohibiting adoption and the change of a child's lineage. For instance, *majhuli al-Nasab* (children of unknown parentage) are registered under a "separate category". These children exit the category when their parents decide to establish lineage and obtain necessary identification documents, or they remain legally recorded as *laqitt* or *majhul al-Nasab* (foundling) and are granted a name and surname different from their biological fathers'. As an exception, the Syrian law entitles only Catholics and Syriac Orthodox to adopt and under a specific set of conditions.

As a substitute for adoption, the Syrian law establishes Care Centers. In these centers, every child is assigned a personal file, containing details such as the location where he/she was found, his/her age, the name and surname the child is granted when their original names remain unknown, and adds them to the civil registry.

However, many people remain unconvinced of the Sharia rulings that prohibit adoption and the laws that make it illegal. To circumvent legal and religious barriers, many families are forced to resort to forgery. To adopt a child, STJ spoke with several families who obtained fake birth certificates with the support of midwives or doctors who testify that the delivery took place at the adopted parents' home. In these certificates, the names of foster parents are registered as real parents. Falsifying birth certificates is illegal and may lead to imprisonment, consequently parents and doctors do so under a thick veil of secrecy. However, parents take the risk because they believe it will protect their adopted children from stigma, ensure they are permanently protected under their new family name, and save them from years of suffering under laws the families consider unjust.

Currently, Tunisia is the only Arab state that legally allows adoption. Under the law, children are given the opportunity to live with their new families and to have the names of foster parents on their identification documents, while preserving the original birth certificate in case the child decides to search for his/her biological parents in the future. The Tunisian model legalizes both adoption and *kafala* for those who choose to abide by the Sharia rulings, offering a commendable example that other Islamic States can follow.

Introduction

Since the Syrian conflict began in 2011, militarization and social shifts in Syria have contributed to the growth of the numbers of orphans, children of unknown parentage, or children abandoned by their families. The numbers of such cases markedly increased across the country, and particularly in the areas outside the control of the Syrian government, mainly because several women in those areas married foreign fighters whose true identities were difficult to establish, or local fighters who were killed in combat. In both cases, numerous children were left unregistered for lack of needed documents because the parents either did not have any documents, failed to register their marriages because they lost their identification documents, or because both parents died and left the children no documents. In addition to complex marriage patterns, the number of unregistered children has also increased due to other conflict-related factors like forced displacement.

According to their latest statistics,¹ released on 28 December 2020, the Syrian Response Coordination Group (SRCG) revealed that there are approximately 198,000 orphans out of 1450,000 children in northwestern Syria, where the SRCG operates, including the armed opposition-held areas of Idlib province, Aleppo's western countryside, and Hama's western countryside.

For their part, the Orphan Care Alliance (OCA)—which held their first meeting in Istanbul on 25 May 2016, with the participation of 23 organizations concerned with Syrian orphan children—said there are 800,000 orphans inside and outside Syria, 90% remain without care outside the *kafala* system. The OCA highlighted that only 25,000 children are sponsored by concerned organizations, while over 112,000 continue to suffer without sponsorship.²

The United Nations (UN) classifies unaccompanied and separated children living with older or disabled caregivers as especially vulnerable and in most need, particularly because “children may face certain risks that are related to “age, gender, disability and social perceptions of childhood.”

Furthermore, in the 2019 Humanitarian Needs Overview (HNO) in Syria, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) stated that “children living in crowded spaces (collective centres, with host families) may be at greater risk of domestic violence”, adding that data collected from all 14 Syrian provinces indicated that 46% of the children inside Syria are unaccompanied, because their caregivers are either dead or missing, while child marriage and child recruitment remain among cited reasons for family separations.

¹ “The Demographics in Northwestern Syria,” the Syrian Response Coordination Group, 28 December 2020, (last accessed: 28 February 2022) <https://www.facebook.com/1967928126585232/posts/4114145781963445/>.

² “Orphans and Children Separated from Their Families due to the War in Syria,” Geiroon, 13 November 2017 <https://www.geiroon.net/archives/101477#go-to-content> (last accessed: 28 February 2022)

Seeking to shed a light on one of the darkest faces of the decade-long conflict in Syria, STJ composed this report to address the phenomena of increasing numbers of orphans and children of unknown parentage, who remain neglected and financially unsupported because the Syrian law prohibits adoption. STJ interviewed several families who adopted or provided guardianship through the *Kafala* system to unaccompanied children, particularly those of unknown parentage. Additionally, STJ explores available protection means under the Syrian laws and current social reality, as well as under relevant international laws and norms to arrive at potential solutions that would safeguard these children's access to care and human rights.

Methodology and Challenges

This report draws on a series of interviews carried out in person with individuals and families who secretly adopted children of unknown parentage or became their guardians because adoption is prohibited under Syrian law. Over the course of the interviews, STJ was cautious to maintain complete confidentiality because the subject matter of the report remains highly sensitive legally and socially. Consequently, STJ was keen on preserving the anonymity of the children and their foster parents and caregivers. Thus, real names were not cited to ensure that the interviewed caregivers would not be subjected to legal accountability or social harassment.

With the collected testimonies, STJ seeks to provide a genuine description of the situation on the ground and to bring under the spotlight a dilemma that many Syrians intentionally ignore and avoid discussing. In addition to describing the struggles the families involved face, our team has provided in-depth legal analysis of the relevant Syrian laws, how they have been enforced, and recommendations of how to ensure children are provided care and, in some cases, official documents.

While our researchers successfully interviewed several families, many others refused to speak to STJ about children they adopted, fearing societal scandal, legal accountability from the Syrian government, or the wrath of extremist military groups who are against adoption due to Sharia law. Consequently, our report provides only a small window into the widespread and sensitive issue of adoption in Syria.

Recommendations

The Syrian conflict, now spanning over ten years, has had extreme consequences on Syrian society. Hostilities have destroyed cities and displaced millions of Syrians, who have either been displaced within Syria or sought asylum in countries around the world. In addition to these highly visible and frequently discussed repercussions, the conflict has had a marked influence on Syrian society, severing social ties and breaking down social norms and values.

However, the greatest tragedy of the Syrian conflict remains the hundreds of thousands killed over the course of the conflict, and the many fathers and mothers who left young children behind. Due to the war, the numbers of orphans, children of unknown parentage, unaccompanied minors, and abandoned children have increased exponentially in Syria, particularly in areas outside the control

of the Syrian government where women married foreign fighters whose true identities were difficult to confirm, or local fighters who were killed in combat. In both cases, numerous children were left unregistered because they did not have the necessary legal documents, either because their parents could not register their marriage for a multitude of reasons, lost their children's document because of the conflict, or died without being able to pass on identifying documents to their children. In addition to the complex marriage patterns, the number of unregistered children also rose because of other conflict-related factors such as forced displacement.

Since the Syrian law does not permit adoption, it is necessary to search for proper legal alternative solutions to remedy this situation, which will have catastrophic effects in the future if it remains unaddressed. Therefore, STJ recommends that concerned parties focus on several practical measures, which we deem crucial for beginning to find a solution to adoption in Syria:

1. Civil society organizations (CSOs) should intensify their efforts to educate Syrian society and raise citizens' awareness that these children are victims of, not culprits in, the war and are therefore worthy of care. Accordingly, willing families must be encouraged to provide guardianship or adopt these victims and raise them in healthy family environments.
2. Legislation must be enacted that suits the current Syrian situation and addresses the issue of children of unknown parentage or those who have been abandoned, in conjunction with conducting comprehensive consultations for communities across the Syrian spectrum.
3. All dimensions of social stigma must be eliminated, especially the legal ones, by canceling all laws that contribute to rooting the stigma's negative manifestations, in addition to launching campaigns to raise awareness against shaming and negative labels used against the victims and/or their caregivers.
4. Assistance must be provided to caregivers to help them meet the needs of child victims and encourage people to adopt.
5. The Syrian Personal Status Law must be amended, or a new law written, that permits and legally recognizes adoption as a first step on the path to creating a framework through which this issue can be addressed, drawing on legal models from across the world, while preserving the *Kafala* system as an option for families who prefer it over adoption.
6. Concerned parties should express full commitment to the provisions of the [Convention on the Rights of the Child of 1989](#), amend local laws in their light, without exception, and repeal the reservations regarding the articles cited in this report and which the Syrian State has not complied with .

Children Deprived of Their Parents and Official Documents

The ongoing Syrian conflict has not only reaped lives and destroyed infrastructure, but adversely affected all legal aspects of Syrian people's lives, including their official documents and personal data. Across Syria, official government buildings, courts, civil and real estate registration departments, and municipal facilities were bombed, or burned down, along with all the physical

records they contained, which were rarely digitalized. In addition to the loss of physical documents, the total absence of active legal and administrative bodies in cities across Syria which fell under the control of various armed opposition groups meant court, civil status registries, and real estate records departments, and other government buildings were shut down. As a result, Syrians lost thousands of official documents or lost access to state mechanisms, meaning they later were unable to officially register their marriages, establish the paternity of their children, or secure ownership over their properties. The legal situation grows even more complex when the father and/or mother die without registering their children.

Furthermore, hostilities caused large-scale waves of displacement. According to a 2019 report by the United Nations High Commissioner for Refugees (UNHCR), approximately seven million Syrians are refugees, and seven million others are internally displaced (IDPs).³ These forced relocations deepened the people's already fragile legal and civil statuses, because the central Syrian government treats citizens residing in areas outside their control as outside their "patronage". The government, thus, refuses to recognize IDPs and refugees' rights, including their right to register civil status events and obtain related official documents.

Inaccessible registration is posing extreme challenges to all groups of Syrian citizens, particularly to children, and especially to those of unknown parentage. While orphans of established lineage face the dangers of lacking care, children of unknown parents' grapple with challenges of a dual nature. These children are deprived of identification documents on the one hand and are missing the warmth of family on the other, living in a society that ostracizes them, particularly when they are born of rape or outside legal wedlock, such as the children born to fighters of the Islamic State (IS) and other foreign militants who came into Syria to participate in combat.⁴

Legal Consequences of Lacking Official Documents

Depriving children of unknown parentage and those who have been abandoned from legal documents and family care deprives them of a number of human rights, , including:

1. Deprivation of living in a healthy family environment, as stipulated in the 1989 Convention on the Rights of the Child.
2. Deprivation of citizenship, especially if he/she is not adopted or offered guardianship by a family, and consequent deprivation of all other citizenship-related rights.
3. Deprivation of education, and, therefore, deprivation of the right to work in the future.
4. Deprivation of future participation in public life, such as losing the right to vote and run for president, as well as the right to hold public offices.

³ "Global Trends Report 2019," UNHCR, <https://www.unhcr.org/be/wp-content/uploads/sites/46/2020/07/Global-Trends-Report-2019.pdf> (Last accessed: 28 February 2022).

⁴ For further information refer to "Children of the unknown," AlJumhuriya, 5 September 2020 <https://www.aljumhuriya.net/en/content/children-unknown> (last accessed: 28 February 2022).

Notably, denying a child access to his/her legitimate rights is at odds with several provisions of the [Syrian Constitution of 2012](#) and confirms that these provisions are detached from reality because they have so far failed to protect the rights of Syrian citizens, and particularly of children, which are emphasized in several articles, including Article 19 that stresses “the maintenance of the human dignity of every individual” and Article 20 which affirms that “[the] family shall be the nucleus of society and the law shall maintain its existence and strengthen its ties; . . . The state shall also protect maternity and childhood”.

These legal and administrative challenges are particularly difficult for children to overcome because they are growing up without the safety net society is supposed to represent. Instead of security, these children are left to their own devices in communities that ostracize them, ignoring that this ostracism might eventually lead to violence.

Testimonies of Foster Parents and Guardians

Sarah celebrated her second birthday in the protection of a loving and affectionate family, who saved her from freezing to death on a dark night in early January 2019. That night, people praying at a mosque in the Jisr al-Shughour area heard crying and walked out to find a little girl abandoned in front of the mosque.

No one knew the little girl’s original birthplace or family – even her name was given to her by the orphanage in the town of Sarmada north of Idlib, which hosts dozens of orphans and children of unknown parentage from various regions across northern Syria.

Sarah spent only a few days in the orphanage before Ayham Ali adopted her. Ali is 44 years old, displaced from Homs, and resides in Sarmada IDPs camp. He was interviewed by STJ in January 2021 and narrated Sarah’s story and how she became a member of his family:

“I heard of the little girl’s story because I lived close to the orphanage. In my heart, I wished to raise her and take care of her. I could not tolerate the idea of leaving her to an unknown fate even though I have four children. My wife also accepted, even though our older son is 10 and the youngest is a year and a half. We visited the orphanage and filed an application, requesting to take care of the child.”

Ali and his wife could not officially adopt Sarah because Sarmada is controlled by the military faction Hayat Tahrir al-Sham (HTS), which governs the area according to the rulings of the Islamic Sharia. Thus, the family had to go by the *kafala* system. Ali reported to STJ the conditions he and his wife had to meet before they were permitted to take Sarah home:

“I signed a written pledge that I will refrain from registering the little girl under my *khaneh*—family number in the civil registry—or in my family booklet, and that I am ready to hand her over to the security departments should her parents be identified. However, the authorities’ key condition was that my wife should feed Sarah on her breast milk so that she stays with us in accordance with Sharia. At the time, my wife was breastfeeding our

youngest child, so we agreed on all their conditions. Eventually, the *kafala* documents were signed at court and in the presence of witnesses.”

Ali and his family treat Sarah as if she were their own daughter, and he insists that although he will tell her the truth of her origins someday, it will not change the fact that she is now their daughter:

“Today, Sarah celebrated her second birthday. When she is old enough, I will not hide the fact that she is not my real daughter. The truth might be devastating, but she deserves to know it and that she will remain our daughter no matter what.”

STJ also spoke with Mahmoud Suleiman, 47, and his wife, who adopted a baby boy in 2017. Suleiman hails from the city of Amuda, al-Hasakah province. He was interviewed by STJ in February 2021 and narrated how he became a father after over 20 years of childlessness:

"I got married in 1996, but we could not have children although we consulted numerous doctors in Qamishli, Latakia, and Damascus. Our attempts did not bear fruit, and we ultimately lost hope of having children. So, my wife and I decided to adopt a child who would add joy to our lives."

The witness learned that the Women’s Authority of the Autonomous Administration in northeastern Syria was receiving family applications to adopt abandoned children or those of unknown parentage. He told STJ:

"We referred to the authority and submitted an adoption application. Two weeks later, on 19 November 2017, we received a call from the authority. They asked us to visit the Autonomous Administration’s Social Care Center in the city of al-Malikiyah/Derek to see the children."

The couple adopted a child that was barely 40 days old after agreeing to the conditions enforced by the adoption laws of the Autonomous Administration. The witness outlined the legal prerequisites he and his wife had to meet:

"We visited the aforementioned center and found dozens of little children there. We chose the youngest. It was love at the first sight, so we chose to adopt him. We signed the adoption papers at the Autonomous Administration’s concerned department. The papers stipulated that the child be taken care of, loved, and cherished, as well as offered education as if he were our son. Additionally, we had to pledge to return him to his relatives if they were located or request to have him back before he reaches adulthood."

The couple decided to give their adopted child their family name, and they succeeded in registering him as their son in the family booklet, after claiming that he was born to them because the Syrian law forbids adoption. Suleiman narrated:

"A few days after we adopted the baby, we decided to register him legally, so that he has access to Syrian nationality and our lineage. I went to the Civil Affairs Directorate in the city of Qamishli/Qamishlo and told the employee that I wanted to register my son. This

was the only way to give him my lineage and my name. I succeeded in registering him in the family booklet.”

He added:

“Our son is now about 5 years old. We love him as if he is our real son, although we will tell him the truth when he is old enough. My wife is pregnant and will give him a brother or sister. We promised that we would never treat them differently because [our son] is also a piece of our soul and we can't live without him”.

Adoption in Islamic *Fiqh* (Jurisprudence)

Muslim Sharia jurists continue to rule *al-Tabani* (adoption) as *haram* (prohibited), citing a number of ancient *fatwas* (formal rulings) based on the following Quranic verse: “Call them by (the name of) their (real) fathers; It is more equitable in the sight of Allah. And if you do not know their fathers, then they are your brothers in faith and your friends. There is no sin on you in the mistake you make, but in that which you do with intention of your heart; and Allah is Most-Forgiving, Very-Merciful” (Al-Ahzab, 5).

Furthermore, jurists base prohibition on the anecdote that was the subject of another verse, “nor did he make your adopted sons your (real) sons” (Al-Ahzab, 4). This verse addresses Zayd ibn Harithah’s story, who was Khadija’s *Mawla* (a person who did not have tribal protection) before her marriage to Prophet Muhammad and whom she gave to the prophet after their marriage. When given to Prophet Muhammad, Zayd was 30 years old, and he had such a tight bond with the Prophet that he was called “Zayd ibn Muhammad” (Zayd the son of Muhammad). The relationship between Prophet Muhammad and Zayd is the origin of the word *Ad’iaa* (those who are called by the names of persons other than their real fathers and who establish their lineage accordingly). After lineage was thus established between Zayd and the Prophet, Zayd divorced his wife Zaynab bint Jahsh, who later married the prophet. This story is the core of the cited verse and the prohibition of the pattern of foster relations.

To put the jurisprudential prohibition of adoption into perspective, STJ reached out to Dr. Muhammad Habash, Professor of Islamic Jurisprudence at Abu Dhabi University. Dr. Habash elaborated on the prohibition and said that Islamic jurisprudence does not seek to obstruct the noble objectives of adoption. Instead, the ban is instituted against some forms of adoption that are based on lies and deception, to protect against the kidnapping of children from their parents, child trafficking, or other forms of harm. He stressed:

“Islam forbids the behavior that was prevalent at the time, which pertains to Zayd ibn Harithah’s story. However, I believe that prohibition based on analogy to this old case must also take its context into consideration. Accordingly, Islam forbids only the bad aspect of adoption, which is based in lying, deception, or theft.”

While Islamic jurisprudence encourages *kafala* (guardianship), it does not permit changing the lineage of the children. Commenting on *Kafala*, Dr. Habash stressed that this care system realizes all the noble meanings and goals of adoption, without lying to the adoptee. In other words, the adopted child is not tricked to believe that he/she is the real son/daughter of the foster family. Dr. Habash added:

“When the *kafala* system is governed by law, no rulings of Sharia then would deny the adoption-related systems prevailing across the world the position of being derivatives of the Sharia-advocated *Kafala*, provided that the adopted child is not lied to. That is, he is clearly told the truth. Additionally, [*kafala*] must be sought with the consent of both spouses.”

Furthermore, Habash urged families to either adopt or provide guardianship to children who are unaccompanied, abandoned by their parents, or born under the conditions of war, and highlighted that adoption is a noble act by all standards. Nonetheless, he warned against adopting or providing guardianship to a child abandoned by parents with the intention of providing their child with a better life. He stressed:

“It must be clear that legal guardianship or adoption is intended to address a social problem and is not intended to provide assistance or advantage to wrongdoers, who want to rid themselves of responsibility or the outcomes of their unadvised instinctual drives. These should be punished, not encouraged to give their children to other families.”

Adoption in the Syrian Law

The Syrian law concurs with Sharia’s ban on adoption and changing lineages. Article 128 of the Syrian Personal Status Law No. 59 of 1953, as amended by Article No. 4 of 2019, stipulates that lineage is established by marriage, confession, or evidence. The provisions of the cited article also stipulated that when there is a dispute between people other than the spouses over the lineage of a child, whether to prove it or deny it, a DNA test can be used.

In Syria, *majhuli al-Nasab* (children of unknown parentage) are registered under a “separate category”. These children exit the category when their parents decide to establish lineage and obtain necessary identification documents, or they remain legally recorded as *laqitt* or *majhul al-Nasab* (foundling) and are granted a name and surname different from their biological fathers’. As an exception, the Syrian law entitles only Catholics and Syriac Orthodox to adopt and under a specific set of conditions.

As a substitute for adoption, the Syrian law establishes Care Centers. In these centers, every child is assigned a personal file, containing details such as the location where he/she was found, his/her age, the name and surname the child is granted, when their lineage remains unknown, and adds them to the civil registry.

In 2016, a draft law was discussed to regulate the affairs of children of unknown parentage in Syria. The project proposed pressing misdemeanor charges and imposing financial penalties on every person who refrains from handing over children or concealing information about them that would prevent a parent or a first-degree relative from identifying the child. People found guilty of this misdemeanor are sentenced to imprisonment for three to six years and must pay a fine of up to 400,000 Syrian pounds.

The law, which was ratified by the [People's Assembly](#) in June 2018, permitted persons of unknown parentage to stay in government-run care centers until they are 18-year-old, after which they are expected to make their own living and take care of themselves. Additionally, the administration of the care center, after obtaining approval from their concerned directorate, may extend the residency period for a year subject to extension, provided that the extension period does not exceed seven years.

Under the same law, a person who finds a child of unknown parentage is obliged to inform the police and hand the child over with the possessions they had. This measure is enforced so that the police duly compose a report, inform the incident to the Public Prosecution, and assign a care house approved to duly host the child.

Furthermore, the law considers every child of unknown parentage an Arab, Syrian, and Muslim "unless otherwise proven." Later, the child is registered under his real lineage by the civil registrar should the father manage to establish his paternity through a final court ruling.

Since Syrian law prohibits adoption and places children of unknown parentage in the care of institutions and care centers affiliated with the Ministry of Social Affairs and Labor, Syrian legislation made a minor amendment to this rule by virtue of Decree No. 69 of 2012. By the decree, the Civil Status Law was amended to include the following paragraph: "It is permissible to grant a person of unknown parentage the surname of the foster family based on a written request from the head of the family and the approval of the person who is over eighteen years of age. The surname is accordingly corrected at the person's place of residence [care center]." The new Syrian Civil Status Law No. 13 of 2021 added this amendment to the text of Article 29.

Even though this amendment is considered an advance in the legal handling of registering persons of unknown parentage, it continues to condone the unchanging adoption system in Syrian law. The head of the family wishing to grant his paternity to a person of unknown parentage must submit a written request to the civil registry, along with a family status record and a document proving his custody of the concerned person issued by the competent care center. However, this privilege remains ineffective because the amended registration is limited to changing the lineage or the family name only, while the foster father is not permitted to add his name in the place of the paternal name the person is given at the care center. This measure is enforced so that the process of changing lineage is not considered adoption in accordance with the executive instructions of the law issued by the Ministry of Interior No. 579/m.n of 6 June 2007 because adoption, as we mentioned, is not permissible.

Syrian Catholics and Syriac Orthodox Allowed Adoption

In Syria, only Catholic and Syriac Orthodox communities are legally allowed to pursue adoption. Law No. 31 of 2006—the Personal Status Law of the Catholic community in Syria—provides Catholic-specific laws that address the adoption of children of unknown parentage or those who are legally called *Luqataa* (foundlings). However, even though the law permits members of Catholic communities to adopt children of unknown, as well as known, parentage, the process is not completely free of restrictions. Adoption is carried out within the community members only; both the foster family and the adopted child must be Catholic. Additionally, the law foregrounds the religious aspect of the process of adoption, stressing the role of the catholic religious authority that supervises and controls the process, as well as the role of the concerned court which includes judges who are appointed from the religious authority stipulated in the law. Even though the law provides an exception to the prohibition, the scope of the exception remains limited as it targets only a small segment of Syrians, thus, failing to provide a decisive solution to the dilemma which persists across the country.

Furthermore, it is true that Law No. 10 of 2004— which is the Syriac Orthodox Personal Status Law— allows Syriac Orthodox to adopt children of known and unknown parentage, with the approval of the Church, its privileges have restricted the right to adoption to men only, without referring to women in that regard.

Even though this legal breakthrough, called by the law a custody contract, provides a partial, not an overreaching solution, to the dilemma of children of unknown parentage, it remains a step on the long path of progress. . The exceptions are hailed as advantageous particularly because Syrian territories are currently not controlled by a single body of authority, but are instead administrated regionally by a different *de facto* authority, which enforces independent policies, agendas and affiliations, and most importantly ambitions that rarely reflect the Syrian people’s concerns or hopes.

Adoption in International Treaties

All human beings, without exception, are entitled to enjoy the basic rights and freedoms enshrined in numerous international and regional agreements that states and governments are obligated to respect. In addition to these basic rights, certain groups, such as children, are ensured access to further protection and some additional rights. Almost all legal frameworks, both international and local, consider children as among the most vulnerable groups in society that require extra protection and exceptional treatment. These frameworks also stress the need to prioritize safeguarding children’s interests when drafting legislation, as well as when a judicial or executive authority considers or decides a case, such as a divorce and custody.

For instance, the [Universal Declaration of Human Rights](#) of 1948 states that:

Article 1: “All human beings are born free and equal in dignity and rights.”

Article 6: “Everyone has the right to recognition everywhere as a person before the law.”

Article 18: “Everyone has the right to freedom of thought, conscience and religion.”

Article 25/2: “Motherhood and childhood are entitled to special care and assistance.”

These rights were also formulated as legal obligations that all signatories to [the International Covenant on Civil and Political Rights of 1966](#), including Syria, pledged to implement and respect. For instance, the covenant states:

Article 23/4: “States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.”

Article 24:

1. Every child shall have, without any discrimination . . . the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.”
2. Every child shall be registered immediately after birth and shall have a name.”
3. “Every child has the right to acquire a nationality.”

Furthermore, international law emphasizes the importance of the rights of the child by putting in place several international conventions and protocols that ensure children the maximum possible protection, such as the 1993 [Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption \(or Hague Adoption Convention\)](#), in addition to the [1989 Convention on the Rights of the Child](#) and the protocols thereto.

The Hague Adoption Convention is an international convention dealing with international adoption that seeks to facilitate cooperation, recognition, and interaction between signatories relating to adoption. The convention also aims to combat child trafficking and to protect victims from the corruption, abuses, and exploitation that sometimes accompany international adoption. This convention is of paramount importance because it provides a legal framework for the recognition of inter-country adoption to ensure that adoptions under the convention will generally be recognized and given effect in other party countries. Importantly, Syria is not a signatory to the convention.

As for the Convention on the Rights of the Child, the Convention remains one of the chief and widely embraced international agreements worldwide. It has so far been signed by 196 countries, including Syria.⁵ The Convention is critical because it is dedicated to emphasizing the civil, political,

⁵ For further information on signatory states, as well as the reservations made, if any, refer to the following link:

http://web.archive.org/web/20200908154226/https://treaties.un.org/Pages/ViewDetails.aspx?src=TRREATY&mtdsg_no=IV-11&chapter=4&lang=en

economic, social, health, and cultural rights of children, in addition to expanding the child protection framework through several special attached protocols that ensure more comprehensive protection for children relating to several aspects and in different contexts,⁶ such as preventing child slavery,⁷ trafficking, recruitment, and engagement in armed conflicts.⁸

Although Syria signed the 1989 Convention on the Rights of the Child, it had reservations on three articles, claiming they are incompatible with the Syrian domestic laws and conflict with the provisions of Islamic Sharia,⁹ refusing to abide by their provisions. The reservations relate to the child's right to freedom of religion and in relation to adoption, propagated by Law No. 8 of 1991 by which Syria ratified the convention. The articles subject to reservation are:

Article 2:

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic, or social origin, property, disability, birth, or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 14:

1. States Parties shall respect the right of the child to freedom of thought, conscience, and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

⁶ For instance, Article 7, states:

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, especially where the child would otherwise be stateless.

⁷ Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography:

<https://www.ohchr.org/en/professionalinterest/pages/opccrc.aspx>

⁸ Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: <https://www.ohchr.org/en/professionalinterest/pages/opaccrc.aspx>

⁹ Reservation: "The Syrian Arab Republic has reservations on the provisions of the Convention which are not in conformity with the legislation of the Syrian Arab Republic and with the principles of Islamic Shariah, in particular the content of article 14 related to the right of the child to freedom of religion, and articles 2 and 21 concerning adoption." - "RESERVATIONS, DECLARATIONS AND OBJECTIONS RELATING TO THE CONVENTION OF THE RIGHTS OF THE CHILD", Committee on the Rights of the Child, CRC/C/2/Rev.3 (11 July 1994) p. 27

<https://www.refworld.org/pdfid/3ae6aeda4.pdf>

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 21:

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

- a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;
- b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;
- c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;
- d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;
- e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavor, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Most countries around the world handle laws and legislations with a certain level of flexibility. It is natural to make an exception to the rule when a necessity arises or in favor of public interest in certain circumstances, especially if the aims of implementing the law are at odds with a more pressing interest, or when the implementation's anticipated benefit is not proportional to the harm expected to occur when the law is executed.

Unless established to guarantee protection for some fundamental rights, such as peremptory norms, which prohibit the crimes of genocide, torture, slavery, piracy, etc., it remains extremely difficult to provide a fixed and overall law to tackle problematic issues, such as those based on social norms or religious legislation without the potential need for reconsideration in light of social change and emergencies.

Accordingly, it is necessary to review and re-evaluate the laws relating to and regulating these problematic issues to keep pace with developments and changes.

Therefore, any Syrian legislative or judicial authority, when considering a problematic issue that has an ethical dimension, such as adoption, or reviewing the laws related to it, should take the following questions into account:

1. What is the desired benefit or overriding interest that is to be achieved or safeguarded through the prohibition of adoption?
2. In the attempt to realize that benefit, what is the potential harm?

3. Does that benefit justify the amount of harm that may be caused by that prohibition?
4. Does this benefit conflict with another better benefit?
5. Which of the two is necessary to protect first the interest of the child and second the general interest of society?

Today, catastrophic humanitarian conditions remain rampant in Syria. These conditions have devastating effects on Syrians everywhere, but particularly orphans and children of unknown parentage in IDP and refugee camps who often have access to minimal health care, nutrition, education, and a healthy social environment. Ignoring the issue of adoption and denying willing and able couples' effective legal paths to adoption not only threatens the most vulnerable children in Syrian society but threatens future Syrian society. Legally supervised adoption may be a viable solution to prevent the emergence of a "black market" for child trafficking, sexual exploitation, and recruitment into armed groups, and other human rights violations which not only exploit vulnerable children but destabilize society.

Therefore, it is not reasonable or logical to waste the future of one or several generations of vulnerable child victims in an impossible attempt to preserve their lineage. Protecting their human dignity, safeguarding their right to a dignified life with a caring family, and providing them with a secure future are more important than preserving their lineage, which may not bring them any real benefit considering the tragic conditions they are currently living in.



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.