

# Statelessness in Syria: An Enduring Dilemma



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## Executive Summary

On the 60th anniversary of the 1962 [special Census](#) of al-Hasakah, Syrians for Truth and Justice (STJ) is delving into the [deprivation of nationality](#) (statelessness), which continues to cast a shadow over the lives of several groups within diverse Syrian communities, inside and outside the country.

In this report, STJ addresses the grave repercussions of the issue, highlighting the ongoing plight of thousands of Syrian Kurds, who remain deprived of citizenship and are called *maktumeen*.

In addition to raising the voices of *maktumeen*, whose suffering pre-dates the Syrian conflict, which now has been ongoing for over 11 years, STJ sheds light on emergent and conflict-induced patterns of statelessness, which threaten the fates of the children of many Syrian refugees.

### ➤ *Maktumeen*

In 1962, the Syrian government (SG) carried out a special census in al-Hasakah province, in northeastern Syria, which is home to a Kurdish majority.<sup>1</sup> In the aftermath of the one-day measure, a large number of Syrian Kurds were stripped of Syrian citizenship and divided into two categories:

- A. *Ajanib* al-Hasakah (foreigners), comprising the registered stateless individuals, who were granted red cards for identification.
- B. *Maktumeen*, the unregistered stateless individuals, who were allocated identification certificates (ICs).

While documenting this ongoing dilemma, STJ received access to exclusive information from official sources in the Personal Status Department of al-Hasakah in 2018. The information reveals that nearly **517,000** individuals grappled with statelessness between 1962—the year of the census, and 2011—the year the SG granted citizenship to a large number of Syrian Kurds under [Legislative Decree No. 49](#).<sup>2</sup> Among these were over **171,000** *maktumeen*, who were denied access to citizenship even under the decree, which applied to *ajanib* exclusively.

The rough numbers recorded in 1962 indicate that approximately **120,000** Kurdish men and women were immediately stripped of citizenship, while nearly **300,000** persons turned stateless over the decades following the census.<sup>3</sup>

Using the statistics collected in 2018, STJ learned that over **50,000** *maktumeen* have succeeded in “rectifying” their legal statuses. They succeeded in changing their category from *maktumeen* to *ajanib* and ultimately obtained Syrian citizenship.

<sup>1</sup> “Syrian Citizenship Disappeared”, STJ, 15 September 2018 (Last visited: 4 October 2022). <https://stj-sy.org/en/745/>

<sup>2</sup> The decree consisted of three articles:

Article 1: individuals who are registered as *ajanib* in the al-Hasakah province shall be granted Syrian nationality.

Article 2: the Minister of the Interior shall issue the decisions containing the executive instructions to this decree.

Article 3: This decree shall enter into force on the day of its publication in the Official Journal.

<sup>3</sup> “Group Denial: Repression of Kurdish Political and Cultural Rights in Syria”, HRW, 26 November 2006 (Last visited: 5 October 2022). <https://www.hrw.org/report/2009/11/26/group-denial/repression-kurdish-political-and-cultural-rights-syria>

Despite these successes, STJ's monitoring and documentation efforts indicate that an estimated 150,000 Kurds continue to be denied their right to citizenship when this report was composed in October 2022. This segment consists of about 20,000 *ajanib* and over 120,000 *maktumeen*.<sup>4</sup>

Notably, statelessness does not only deprive *maktumeen* of their civil, political, economic and cultural rights established in International covenants and instruments, but also jeopardizes their very being. *Maktumeen* struggle with invisibility because their existence as individuals is unacknowledged in Syria.<sup>5</sup>

In response to the issue of statelessness, the SG made a statement that: "In 2011, they were keen on addressing numerous cases in accordance with the Civil Status Law promulgated under Legislative Decree No. 26 of 2007 and its subsequent amendments, executive instructions, and their amendments," after it was amended by Law No. 20 issued on 23 October 2011.

As of 2017, the SG amended the law four times and its executive regulations nearly 10 times, the last of which was provided by decision No. 97/M.N. issued on 11 April 2017.

In a related context, a member of the Syrian People's Council posted a document by the Syrian Ministry of Justice on Facebook on 1 February 2021.<sup>6</sup> The document defines the steps governing the naturalization of *maktumeen*, saying that the proceedings go through six stages, the last of which is obtaining security approval.

Several human rights activists and lawyers who oversaw the files of their *maktumeen* clients report that the citizenship proceedings are quite complex and that the approval for granting citizenship to a *maktum* is a pure "security decision".

The document of the justice ministry also demonstrates that the decision to grant a *maktum* citizenship remains based on each case's merits, at odds with the provisions of the 2011 Legislative Decree No. 49, which put an end to the statelessness of *ajanib* in a collective manner.

### ➤ Refugee Children

Keeping tabs on the administrative challenges facing Syrian refugees in host countries, STJ documented several cases of children who remain unregistered with Syrian civil registration centers. Child refugees in Turkey, Egypt, Iraqi Kurdistan, and Lebanon are at risk of statelessness because they lack documents that corroborate their nationality. This, in turn, threatens to strip them of all their basic rights.

These children are out of the official records because their parents must register their marriages to be able to register births, a proceeding many asylum-seeking couples cannot carry out. The correlation between marriage and birth registration is established in article 28 of the

<sup>4</sup> Several months after the 2011 Legislative Decree No. 49 was passed, news was circulated that a ministerial decision is issued, which provides for treating *maktumeen* as *ajanib* in terms of access to citizenship. However, several *maktumeen* reported that when they visited civil registration centers, the centers did not deny the news and confirmed that the decision was indeed issued, but that they were not sure which official entity was exactly assigned the execution of its terms.

<sup>5</sup> "Decades of Statelessness & the Absence of Basic Rights", STJ, 6 July 2021 (Last visited: 4 October 2022). <https://stj-sy.org/en/decades-of-statelessness-the-absence-of-basic-rights/>

<sup>6</sup> Khalil, Abdulrahman (in Arabic). Decision by the Ministry of Justice about *Maktumeen*. Facebook, 1 February 2021. (last visited: 5 October 2022) <https://www.facebook.com/profile/100002324023373/search/?q=%D9%85%D9%83%D8%AA%D9%88%D9%85%D9%8A%20%D8%A7%D9%84%D9%82%D9%8A%D8%AF>

Civil Status Law No. 13 of 2021, which prescribes that: “It is prohibited to register a birth from an unregistered marriage until the marriage is duly registered.” The same provisions are echoed by the Civil Status Law No. 26 of 2007.<sup>7</sup>

Syrian couples fail to register their marriages and, as a result, the birth of their children for several reasons, primarily because they are either internally displaced or refugees. Additionally, the fear of persecution by the security services in the case parents decide to return to Syria and the exorbitant money they have to pay in bribes to set into motion the registration proceedings and obtain related documents are factors that hamper the administrative cycle. Related to the high costs, STJ documented several cases of birth registration after parents paid official departments lucrative bribes.

STJ also corroborated the registration of several children in countries of refuge, but who nonetheless remained unregistered with civil status departments in Syria at the time of reporting, in early October 2022.

Even though official statistics on Syrian child refugees, who are unregistered with local civil registration centers, remain contested regardless of the host countries where they are currently based, the available numbers are expected to increase due to the lingering conflict in Syria and the lack of a solution to the statelessness issue.

### ➤ *Other Victims of Statelessness*

While the patterns of statelessness in Syria can be roughly divided into two time-based categories, pre-2011 and post-2011, each of these categories covers various forms of statelessness, based on the affected group.<sup>8</sup>

Before 2011, statelessness was limited to Kurds stripped of citizenship during the 1962 census, children of unrecognized lineage, children of Syrian women married to non-Syrians, children of political opponents, and the members of a few nomadic tribes.

After 2011, statelessness became rife among other groups. According to several sources, including the Syrian Initiative to Combat Statelessness, statelessness is haunting the children of Syrian women married to foreign fighters—who backed either sides to the conflict or joined the ranks of jihadist armed groups, children whose parents are unknown—due to the death or detentions and disappearance of one or both parents, children born of rape in detention facilities or at security checkpoints, and children of parents who lost their identity documents when forced to flee their homes during hostilities, or while shifting their locations during displacement waves.<sup>9</sup>

<sup>7</sup> “The Civil Status Law No. 26 of 2007” (in Arabic), the Syrian Ministry of Interior (last visited: 5 October 2022). <http://www.syriamoi.gov.sy/portal/site/arabic/index.php?node=55333&cat=1831&>

<sup>8</sup> STJ will dedicate a separate and extensive report covering other patterns of statelessness inflicted upon diverse Syrian groups, especially the patterns which transpired after 2011.

<sup>9</sup> For further information, see: al-Tabshi, Rana. “Humans without Rights” (in Arabic), The Syrian Initiative to Combat Statelessness, 2021 (last visited: 5 October 2022). <https://lb.boell.org/sites/default/files/2021-11/%D8%A8%D8%B4%D8%B1%20%D8%A8%D9%84%D8%A7%20%D8%AD%D9%82%D9%88%D9%82.pdf>

## Methodology

This report is built upon 10 interviews, five of which were carried out with *maktumeen*, and five of which were carried out with refugees whose children are at risk of statelessness because they are unregistered with civil status departments in Syria. These interviews highlight the real and ongoing struggles of Syrians struggling with statelessness, and the injustices which deny thousands of people some of their most basic human rights.

The majority of the interviews were conducted between early 2021 and 25 September 2022 both online and in-person.

## Kurds Still Haunted by Statelessness

In this section, STJ relates the devastating accounts of stateless Syrian Kurds, particularly *maktumeen*, whose citizenship struggles and consequent deprivation of basic rights have been ongoing for nearly 60 years as a result of the 1962 special census of al-Hasakah.

### “Deprived of Everything”

Feisal Jamal is a stateless Kurd, who was born in Sanjaq Sa'dūn village, affiliated with Amuda city, in 1957. Jamal passed down his burden to his eight children, who now are all *maktumeen*.

“Before the census, my grandfather, father, and uncle were citizens of the Syrian State. However, the special census stripped them of their nationality, and rendered them all *maktumeen*. We, their children, also became *maktumeen*. Nearly two years after the census, my father visited the Civil Registration Department in al-Hasakah to renew his identity document (ID). They confiscated his ID when they discovered he still had it and refused to renew it. They told him that he was deprived of nationality because he did not register his name during the census . . . I am not sure whether this was an individual act or that the department was instructed to confiscate the documents of those deprived of nationality.”

He added:

“My brother and I applied for citizenship, for ourselves and our children, but all our attempts were to no avail. Once, I worked at a car maintenance shop, which repairs the vehicles of the Political Security Branch. One day, the branch director asked me why I did not have an ID or a driving license. I told him that I was a *maktum* (male singular for *maktumeen*). He asked for any document or paper that proves my father was a Syrian citizen to attempt to work on our IDs and assist us to get Syrian citizenship. I visited the cadaster and obtained a certified copy of a cadastral extract, which corroborates that my father owned a piece of land. The extract as an ownership document proves he was a citizen of the Syrian State. However, three days later, I was given the extract back, without any positive results.”

Along with citizenship, the members of the Jamal family continue to be robbed of their basic rights:

“During the embargo on Syria, citizens used to get SG-funded subsidy cards. They could buy rice, oil, and sugar for reduced prices, while we could not even buy a kilo of sugar. [My family could not]. Additionally, my eight children were denied education, and even those who managed to study and finish high school were not given diplomas or graduation certificates. Moreover, we were unable to register any property we owned in our names. However, when the Autonomous Administration took control of the area, we had a wider margin of liberty, but, in return, my sons were obliged to perform the duty of self-defense [one-year mandatory military service].”

Jamal recounted some of the administrative challenges he faced as a *maktum*, which adversely affected the quality of his life:

“My kitchen collapsed, and I wanted to do restoration work. A committee from the municipality assessed the structure. I was referred to the governor, so I traveled to al-Hasakah province three times until I was given permission to build the kitchen with clay, not concrete, bricks. I spent three years without a kitchen. When I used concrete for the kitchen’s groundwork, I had check-up visits from members of the Political Security branch, then the State Security branch, and also from the military security branch, not to mention the police. The security members did not ask for bribes, but the police officers did, and this was a common practice. A few members of the military security would even tell me to finish the construction work before other patrols are on the visits [and order the demolition of the constructed parts].”

Over a decade has passed since Legislative Decree No. 49 was passed, but Jamal’s status remains unaltered. He is still denied travel rights within the country and a driving license, which has caused numerous challenges:

“Before 2011, we had to go to the police station to obtain a travel clearance document, only after which we could buy two-way bus tickets. Additionally, hotels in other provinces would not take us in, until after we had visited the Hotel Department affiliated with the Political Security Branch. The branch would issue us a permit for a one-night stay at the hotel. During one trip, particularly in 1982, we were sent to the Hotel Department in Rukneddine area, [in Damascus province]. We waited for over two hours, but it was of no use. When we asked the department where we were supposed to spend the night, they told us to sleep in the street. Back then, we headed to one of the hotels, whose owner is a previous acquaintance of mine. We slept there for the night. Also, I used to work as a taxi driver but had no license. Due to this, the traffic police often stopped me in Qamishli/Qamishlo city.”

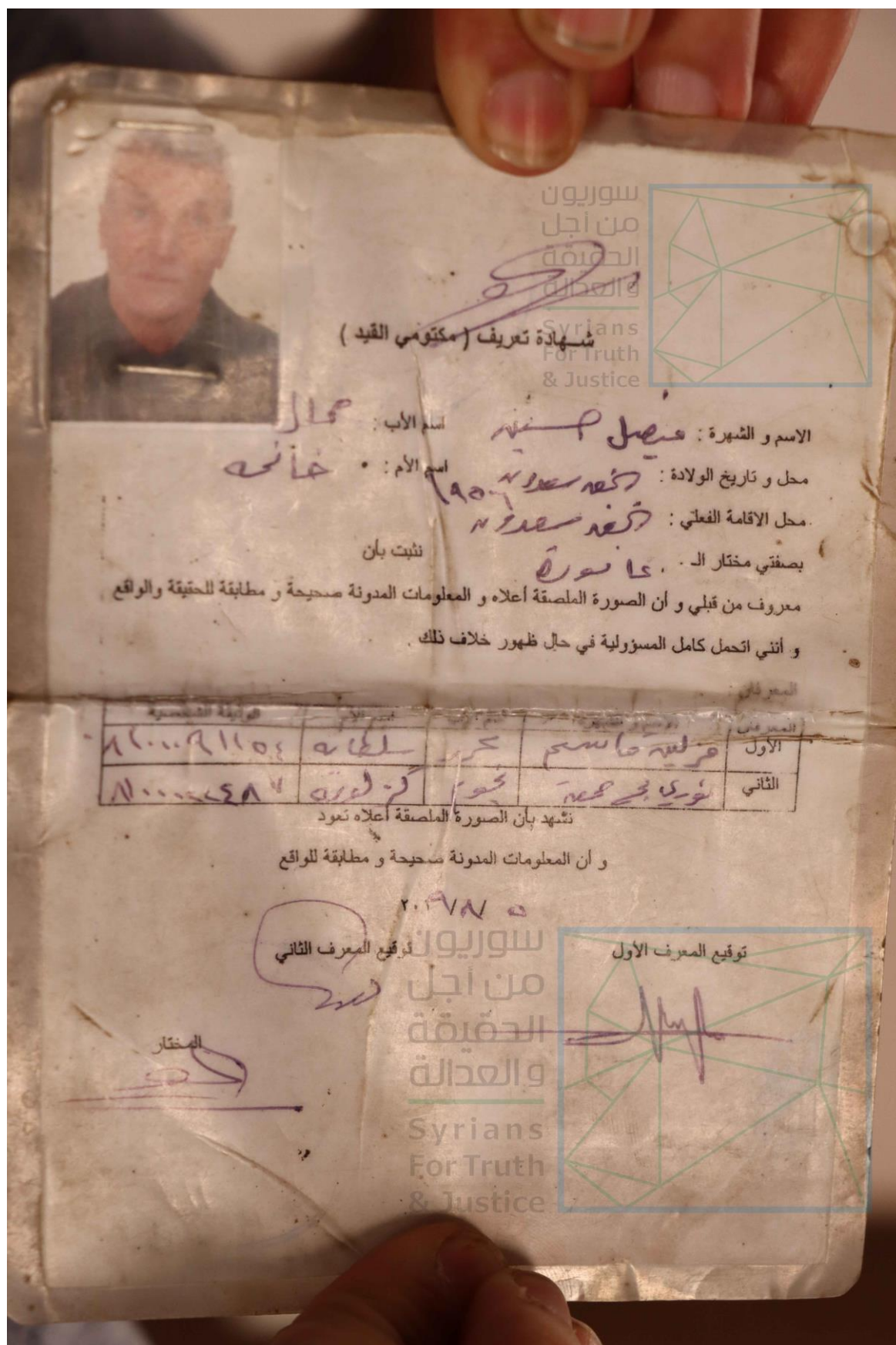


Image 1 - Exclusive photo of Feisal Jamal's IC.

## “The Simplest Living Details are Difficult”

Like Jamal, Dali Muhammad continues to struggle in the throes of statelessness, rendered a *maktum* by the 1962 census. Born in Ali Farou village, in Qamishli/Qamishlo city, in 1958, he recounted:

“When the census was carried out, I recall my uncle and mother saying that they did not register [the names of their family members], fearing the mandatory military service, which lasted for years at the time. However, my other uncle registered his name and was categorized as *ajnabi*, and later became a Syrian citizen. I have six children; they are all *maktumeen*. We applied for citizenship several times and hired a lawyer. We spent years working on the needed documents, but all was to no avail. I still remember this one incident, when I tried to register my granddaughter at school. The school requested approval from the Political Security branch in al-Hasakah. I asked the school to let her attend until we had the approval but they refused.”



Image 2- Exclusive photo of Dali Muhammad's IC.

Muhammad's suffering is multilayered, affecting the simplest details of his life, including access to daily necessities such as subsidized bread and fuel.

"Two months ago, I went to a bakery. They asked for my ID. When I presented them my IC, they refused it and did not give me bread, just because I am a *maktum*. This does not apply to bread only, but also to fuel. What we are experiencing is overwhelming, but we can do nothing about it. My children did not even complete their education. They finished elementary school only. Our neighbors finished high school but were given no diploma and were never employed. The Autonomous Administration could not do anything to change our status as well, and we remained *maktumeen*, even though we now could obtain a driving license. Under the administration also, we tried to get fuel several times, and we obtained the needed family extract signed by the commune/Komin [Local council], but still, we had none so far. Despite the fact that my family and I are among the founders of the Ali Farou village, we are *maktumeen*."

## "Where Are Our Rights?"

Azad Abdo 'Ajo is another *maktum*, born in al-Hasakah province in 1973. 'Ajo describes his life and the lives of the thousands like him, as detainees in a big prison, especially since they are denied their basic rights. Additionally, 'Ajo's children were denied citizenship even though their mother is a Syrian citizen because the Syrian Nationality Act No. 276 of 1969 does not allow the mother to pass her citizenship to her children, reserving this right exclusively to the father. This remains the situation in Syria, even though this restriction on the mother's entitlements is a blatant gender-based violation of Article 33 of the operative Syrian constitution of 2012. The article states that: "Citizens shall be equal in rights and duties without discrimination among them on grounds of sex, origin, language, religion or creed." Narrating his story, 'Ajo said:

"I have three children; they are all *maktumeen*, even though both my wife and mother are Syrian citizens. We suffered extensively, particularly with education. I, for instance, studied at the Institute of Islamic Sharia, but the institute did not grant me a graduation certificate for being a *maktum*. All my school years were wasted. Additionally, because we are denied employment at civil (private) and governmental companies, I started using the name of a citizen to work in the construction sector in Damascus city. Moreover, the birth date in my IC does not match my real birth date, thus, obscuring my real age. This confusion happens due to the fact that when a *maktum* obtains an IC, the mukhtar (governor of a neighborhood) or a coroner estimates his/her age and writes whatever number he personally feels convenient. This might not be an essential issue, but still, it makes you wonder, where are our rights?"



Image 3 - Exclusive photo of Azad 'Ajo's IC.

'Ajo noted that his status as a *maktum* did not change even when the Autonomous Administration started running northeastern Syria. The administration could not even address the implications of the *matktumeen* status on property rights because it does not have cadasters of its own. Therefore, *maktumeen* are still unable to register their homes and other properties in their names. The administration only helped *maktumeen* register cars in their names and legally drive them within its administrative borders, but not in other Syrian provinces. He narrated:

"All our efforts to obtain citizenship were useless, even after the 2011 decree which provided for granting citizenship to *ajanib*. We visited concerned departments twice, registered our names and submitted needed documents to the civil registry every time. Currently, I am preparing my documents to submit them and start proceedings with relative departments again; however, most of these proceedings stop upon reaching the Political Security branch and the interior ministry. So, I resort to paying bribes. For instance, every time I obtain a police report, I pay the police 125,000 Syrian Pounds (SYP). Sometimes, I am even forced to pay specific employees money to convince them to look into my papers and inform me of any lacking documents. I once paid an employee 10,000 SYP, just to bring him to have a look at my file."

## "Denied the Right to Healthcare"

Stripped of citizenship under the 1962 census, Nabila Hassan,<sup>10</sup> a Kurdish woman born in al-Hasakah province in 1975, remains unable to travel to Damascus to receive proper treatment. She narrated:

"All my family members were *maktumeen*, but were ultimately granted Syrian citizenship. Only I and two of my sisters remained *maktumeen*. The rest obtained citizenship after they worked on their documents, while the three of us could not afford the costs to extract the documents needed for the citizenship. I have been married for ten years, and my husband is struggling financially. We live in a rented house and have no children because I have infertility issues. I wanted to travel to Damascus or Aleppo to receive treatment, but I could not because I do not possess an ID, so I just abandoned the issue. I have been wishing to travel for 10 years to address the infertility problem and have babies."

Hassan's status as a *maktuma* (female singular for *maktumeen*) did not only rob her of her right to treatment but also affected her job opportunities because she can only work for the departments of the Autonomous Administration. She recounted:

"We registered our names with several organizations and associations, hoping they will handle the treatment costs. However, we received assistance neither from these organizations nor the institutions affiliated with the Autonomous Administration, not even the commune/Komin. My family also cannot help because the situation is difficult for all people."

<sup>10</sup> The witness preferred to use a pseudonym for personal reasons.

## “No Existence”

Born in al-Hasakah province in 1985 and a father of two, Raman Ramo insisted on continuing his education at the Faculty of Sciences in al-Hasakah city even though he knew he would not be granted a graduation certificate for being a *maktum*. Ramo narrated:

“I was studying chemistry in Deir ez-Zor city. In 2012, the city experienced security disturbances and ultimately there were security restrictions. I was forced to leave the university and returned to al-Hasakah city, driven by the harassment I suffered from the security checkpoints when I presented them my IC. I used to wonder, ‘why am I not like the rest of the university students? Why am I supposed to go through all this pain?’ For instance, every time I wanted to travel, I had to obtain a document from the security detachment established at the bus stations. The detachment would indicate, in writing, the bus I took, and the time I was onboard. I would submit this paper at the bus station in Deir ez-Zor, and the loop would continue. This later made me decide to continue my education in al-Hasakah city. I took the high school exams again and switched the field I was studying after I passed the exam. I decided to study sciences and had only four courses to graduate.”



Image 4 - Exclusive photo of Raman Ramo's IC.

Ramo had similar challenges throughout his education, and narrated to STJ the overwhelming experiences he went through at elementary and middle school:

“As a *maktum*, I am not entitled to any diplomas attesting that I graduated middle or high school, not even university. I attended the al-Wihdah al-Arabiya Elementary School, Safar Zahqi Middle School, and Abu Dharr al-Ghifari High School. The directors at these schools would send official letters to the Department of Exams and the Directorate of Education to inform them that this student studied at our school and there is not any fraud relating to his attendance or the exams he passed across every stage. Then, the letter would be transferred from the directorate to the Ministry of Education, for the deputy minister to certify it. This process took several days, which we spent in Damascus. After this, we were referred to the university to identify the faculties we were allowed to apply to based on our high school grades. All these documents would be exclusively sent by post; we had no right to process or receive them in person.”

For Ramo, a *maktum* is stripped of his/her existence because they remain unrecognized not only in Syria but also abroad. He adds:

“Like several other Syrians, I left for Turkey. I stayed there for three years and worked on the reunion measures to join my brother who is based in Norway. However, the Norwegian Embassy in Turkey kept asking for documents proving my identity. Every time I presented them with the IC, they would get baffled and ask me to leave. Unfortunately, they could not understand what being a *maktum* meant, despite all my attempts to explain the situation to them.”

## Child Refugees at Risk of Statelessness

In this section, STJ sheds light on the impact of the lack of official registration in Syria on the lives of the children of refugees who are threatened with statelessness. Refugee parents struggle with the issue because they are basically unable to register their marriages, which is the only means to register the births of their children, and then pass them their Syrian citizenship. Several reasons hamper registrations, mainly the parents' fear of persecution by security services in the case they returned to Syria. Notably, STJ is referring to the witnesses with pseudonyms for security reasons.

### “Seven Years a Refugee and Still Unable to Register Her Children”

Originally from Qamishli/Qamishlo city, Shirin M. (26) has been a refugee in Lebanon for seven years. She has five- and two-year-old sons, both remain unregistered with the civil registration centers in Syria.

Shirin obtained documents that corroborate her marriage and the birth of her two sons from the *mukhtar* in her neighborhood in Beirut. However, she could not certify these documents with the Syrian Consulate in Beirut, nor return to Syria with her family, fearing persecution by the security services. This threatens her children with statelessness. She narrated:

“In late 2021, my husband and I initiated a power of attorney at the notary in Beirut to hire a lawyer in Qamishli/Qamishlo city to help us register our marriage and the births

of my children. However, the Sharia Court in the city refused to register the marriage because my husband and I are abroad, and demanded the physical presence of one of us at least to carry out the proceeding.”

In addition to potential harassment by security services, Shirin refuses to return to Syria, fearing the ongoing hostilities in Syria. However, this decision threatens her children with statelessness, especially since they were not granted citizenship of the country where they are refugees now. Notably, the difficulty obtaining the citizenship of host countries, particularly those neighboring Syria, is a dilemma facing all refugees, not only those in Lebanon.

### “We Cannot Afford Bribes”

Jihan A. (26) had the same experience after she and her family sought refuge in the Domiz Camp in Duhok, in Iraqi Kurdistan in 2013, following the attacks of the Islamic State (IS) in al-Hasakah province.

A. hails from al-Hasakah province and is a mother of two, the eldest of whom is five years old. Like M., she could not register her marriage or the birth of her children in Syria. She recounted:

“We registered our marriage and the birth of our two daughters with the Iraqi authorities and the United Nations High Commissioner for Refugees in Iraqi Kurdistan. However, we could not register marriage or births in Syria because one of us must return to the country and pay bribes to do so. We cannot afford this; we are refugees here, and we go through hell to provide for our children.”

A. fears that their inability to register their daughters in Syria will threaten them with statelessness, and thus deprive them of their basic rights, especially since they were not granted Iraqi citizenship. The two little girls were only given temporary residence permits, which might not even be renewed.

All this mother can do is hope, like tens of thousands of Syrian refugees, that some solution might be set up to facilitate civil status-related proceedings in Syria, particularly in the shadow of the lingering conflict.

### “Other Children Facing Statelessness”

A third suffering parent, Abdulqader N. (38) is from Raqqa city and has been a refugee in Turkey since 2014. Like the previous witnesses, he has not been able to register his marriage and the birth of his three children in Syria. N. sought refuge in Turkey after IS attacked Raqqa and married a Syrian refugee in the city of Gaziantep. He and his wife were unable to register their marriage in Syria because all SG-affiliated departments in Raqqa were relocated to other places they could not access. He recounted:

“I got married in late 2014. Back then, IS had controlled Raqqa and all the SG departments and institutions were out of service. I faced challenges registering my marriage due to this. The SG had relocated the Raqqa Civil Registry Secretariat to Hama and Damascus, and I cannot travel to these cities, fearing security harassment. As a result, my children are born, but their births remain unregistered. I am at a loss of what to do to address the situation!”

In 2019, N. hired a lawyer and paid bribes to register his marriage and the birth of his children in Hama city, to which the Raqqa Civil Registry was transferred. However, his attempt failed. He narrated:

“The lawyer told me that one of us, either my wife or I, had to return to Syria to register the marriage, or else have our fathers carry out the proceedings. This was tricky because all my family members are refugees in Turkey and are scared of returning to Syria due to the active combat. I tried to overcome this difficulty through paying bribes, but this too did not work.”

### “No Registration in Syria, No Family Reunion”

Other threats loom over relationships where partners cannot register their marriage in Syria, including the fact that many are forced to remain apart, each in a separate country. Nisrin A. (25), from Qamishli/Qamishlo city, cannot join her husband, who is a refugee in Turkey, because she is unable to register their marriage in Syria.

In 2020, A. married her husband after he escaped the draft with the SG in 2016. Because her husband is not in Syria, A. cannot register her marriage or obtain a document corroborating they are married, which is a prerequisite for starting the family reunification proceedings in Turkey. She narrated:

“In September 2021, I hired a lawyer in Qamishli to process my marriage registration. He failed because my husband is not in Syria and therefore cannot hire a lawyer or delegate anyone with the proceedings. To have access to any of these options, he will have to obtain security approval from the security services. However, the lawyer told me that he will never be granted the approval because he is a draft evader. Additionally, none of his family members are here to function as his representatives, while I dare not illegally cross the border into Turkey, given the risks the trip poses.”

### “He Registered His Children, Only After Paying Bribes”

Muhanad M. (34) hails from Aleppo city and has been a refugee in Egypt since early 2012. Seeking to protect his children from statelessness, he bribed the Aleppo Directorate of Civil Affairs to be able to register them. He recounted:

“I already had the birth of my first daughter registered in Syria. My mother carried out the proceedings by bribing employees within the SG institutions. However, my mother failed to register the birth of my [second] child despite her repeated attempts in late 2021. The employees at the Aleppo Civil Registration Center told her that either my wife or I have to come there, blaming us for escaping the country while it went through these turbulent times. They called us traitors.”

However, in January 2022, M.’s mother managed to register the second child after she paid a massive bribe to an employee at the Aleppo Directorate of Civil Affairs. The employee registered the birth in the civil status records only to save the child from losing citizenship. Nevertheless, the child remains unregistered in the family card because, according to M., he and his wife are abroad.

## Syrian Legislation Suspended Until Further Notice

The reported cases again prove that there is a huge gap between text and practice within Syrian laws. According to the Syrian Nationality Act No. 276 of 1969, children born on Syrian grounds to a *maktumeen* parents, a *maktum* father, and a Syrian mother, or to *ajanib* parents must certainly be granted Syrian citizenship by the power of the law. Article 3 of the act prescribes that:

“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;
- C. Anyone born in the country to unknown parents or 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...”

Investigating the proceedings needed to provide a *maktum* the citizenship, STJ reached out to a source from the interior ministry. On the condition of his anonymity, for personal reasons, as well as for security concerns, the source said:

“The documents include a *maktum* extract from the Mukhtar of the district and a police report, demonstrating the reasons why this individual has been labeled as a *maktum*, demanded by the *maktum*’s father in the presence of two witnesses. Next, these papers are referred to the Committee for the Registration of *Maktumeen* at the Civil Registry of the province to which the *maktum* belongs. Then, the papers are sent to the competent security authority. [Following a security checkup], sometimes the result is non-approval and return of papers until a final court ruling is obtained and the lineage is established. Sometimes it is not possible to conduct a security checkup because the birth happened outside the country.”

The manner in which the applications are assessed indicates that it is likely that all citizenship applications for births that happened outside the country might be answered with non-approval. In addition to the devastating result, which denies children registration and consequently citizenship, STJ’s legal researchers believe that while the assessment holds unnecessary complexity, it attributes massive powers to the security services related to the issue of birth registration that is outside their competence.

Analyzing the non-*maktumeen*-related forms of statelessness presented in this report as haunting particularly child refugees, our legal researchers also discovered blatant discrepancies. Parents who fail to register the birth of their children because Syrian Sharia courts refuse to register their marriages, alleging that one or both parents have to attend the court, despite the fact that couples had duly hired lawyers to represent them, is a breach of Syrian laws. This is so because none of the Syrian laws mandates the presence of any of the spouses when a lawyer is delegated — or else what purpose would the lawyer serve?

Addressing the role of the lawyer in this context, Article 8 of the Syrian Personal Status Law No. 59 of 1953 and its amendments, says: “**It is permissible to assign a power of attorney in establishing marriage**”. Because this text does not set up any conditions, it falls under the rule that unconditional status shall apply unless otherwise a restriction is stated. Accordingly, the wife, the husband, or both can delegate a lawyer to establish their marriage before Sharia courts. Therefore, the court’s refusal to register the marriage on the claim that neither or both of the spouses are not attending court is a violation of Article 8, when the two spouses have legal agents and other conditions stipulated by the personal status law, including age, religion, and witnesses, are met.

## Deliberate Evasion of State Obligations

The right to nationality is such a key right that the U.S. Supreme Court has [described](#) it as the right to enjoy rights.

Possession of nationality is often the basic legal and/or practical condition for an individual to enjoy all other rights. Therefore, people without a nationality remain among the most vulnerable to human rights violations across the world.

Because international law supposes as one of its main principles that States implement their contractual obligations in good faith and in a manner that serves the purposes and content of international instruments, the right to a nationality should not be treated as either binding or non-binding legal provision and in isolation from the duty of States to fulfill the remaining human rights of all individuals within their jurisdiction.

Therefore, the fact that Syria has not acceded to the international instruments specifically related to statelessness, such as the [1954 Convention Relating to the Status of Stateless Persons](#) and the [1961 Convention on the Reduction of Statelessness](#), does not in any way mean that it is exempt or has the absolute right not to comply with its other contractual and customary obligations under international law relating to the right to a nationality and other relative rights.

The importance of the right to a nationality has been recognized across several treaties, starting with the [1948 Universal Declaration of Human Rights](#) in Article 15, which states: “Everyone has the right to a nationality; No one shall be arbitrarily deprived of his nationality.”

Because this right is essential, it has acquired a customary, non-derogable nature by States. Accordingly, it has been established in several legal provisions in international human rights instruments, which affirm it and the corresponding duties that the State must fulfill to ensure the enjoyment of it and the rest of the rights associated with it.

The right to nationality is inscribed into most of the international instruments to which Syria is a Party, such as [the International Covenant on Civil and Political Rights](#) (Article 24-3), [the International Convention on the Elimination of All Forms of Racial Discrimination](#) (Article 5), [the Convention on the Rights of the Child](#) (Articles 7 and 8), and [the Convention on the Rights of Persons with Disabilities](#) (Article 18).

The cases in the report the Syrian State insists on practicing arbitrarily is depriving people and their children of their nationality, is sufficient to keep this cycle ongoing for generations to come.

Commenting on the concept of arbitrariness in this context, the Secretary-General of the United Nations, in his report on human rights and arbitrary deprivation of nationality,<sup>11</sup> points out that the arbitrariness applies when the practice leading to deprivation is not compatible with the laws and procedures in force, and at the same time when it is logically and necessarily disproportionate to the desired goal logically.

Compared to the elements that render deprivation an arbitrary act, an analysis of the SG practices and measures in this report shows first the incompatibility of these practices with national laws, and second the absence of any underlying logic or necessity to collectively deprive these people of their nationality over successive generations.

Considering that nationality is the truth of social attachment—being a practical bond of existence, interests, and sentiments between an individual and the country —<sup>12</sup> the absence of this bond is the only reason that can explain why an individual might lose or be deprived of his/her nationality. Among the factors that break this bond are the voluntary acquisition of another nationality, fraud, acts seriously prejudicial to the vital interests of the State, rendering services to a foreign government or military, long absences, and serious criminal offenses.<sup>13</sup>

However, the right of States to deprive an individual of his/her nationality for any of these reasons must not in any case deprive the individual of enjoying other rights, which is often a consequence of statelessness. In other words, a State should not interpret the power it is granted under international law, based on the principle of State sovereignty, in isolation from its duty not to violate, but rather protect and enforce other human rights.

In the Syrian context, highlighted by the report, the Syrian State's ongoing systemic policy of depriving individuals of the right to nationality cannot be explained according to any of the above-listed factors, especially in the absence of any necessity or a logical and legitimate goal for the deprivations. This corroborates that deprivation by the State is a systemic and deliberate act of arbitrariness. Therefore, STJ's legal researchers believe that the only likely explanation for this policy is discrimination against certain groups in society, on both political and ethnic grounds, which is prohibited in international law.

<sup>11</sup> United Nations General Assembly, Human Rights Council, *Human rights and arbitrary deprivation of nationality*, A/HRC/25/28, 19 December 2013, § 6.

<sup>12</sup> International Court of Justice, *Nottebohm Case (Liechtenstein v. Guatemala)*, 6 April 1955.

<sup>13</sup> United Nations General Assembly, Human Rights Council, *Human rights and arbitrary deprivation of nationality*, A/HRC/25/28, 19 December 2013, §§ 8-21.

## Recommendations

The deprivation of nationality results in an individual's deprivation of his/her legal personality, and a set of rights that protect human existence and dignity, such as the right to move inside and outside the country, access to education, healthcare, work, property and participation in public life. To address these adverse implications, STJ recommends:

- Inscribing the supremacy of international treaties and agreements ratified by Syria into the new Syrian constitution, especially instruments related to human rights and fundamental freedoms, including the right to acquiring a nationality.
- Inscribing that citizenship is the right of every Syrian into the new constitution and that a Syrian may not be stripped of this right by birth for any reason. Additionally, inscribing into the constitution that only an independent judiciary has the power to strip an individual of nationality, when obtained by meeting conditions set up by the law, and through a final court ruling, while stressing that the penalty should remain individual, not targeting the children of the convict or his/her relative, and ensuring that the reasons for revoking citizenship are clearly defined in the law.
- Passing a law that addresses the issue of Syrian Kurds deprived of citizenship under the unfair census of 1962, especially *maktumeen*.
- Amending the existing Syrian Nationality Act in a manner that achieves gender equality with regard to nationality, and gives the Syrian mother the right to pass on her Syrian nationality to her children, just like the father.
- Putting pressure on the SG to facilitate registration procedures for Syrian children born during the Syrian conflict, especially displaced and refugee children. This requires a re-examination of the status of the Syrian security services, and the broad powers they are granted without any legal justification.
- Exerting pressure on the SG to recognize registration documents of Syrian marriages and births, issued by the institutions of the countries where these civil events occurred.



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.