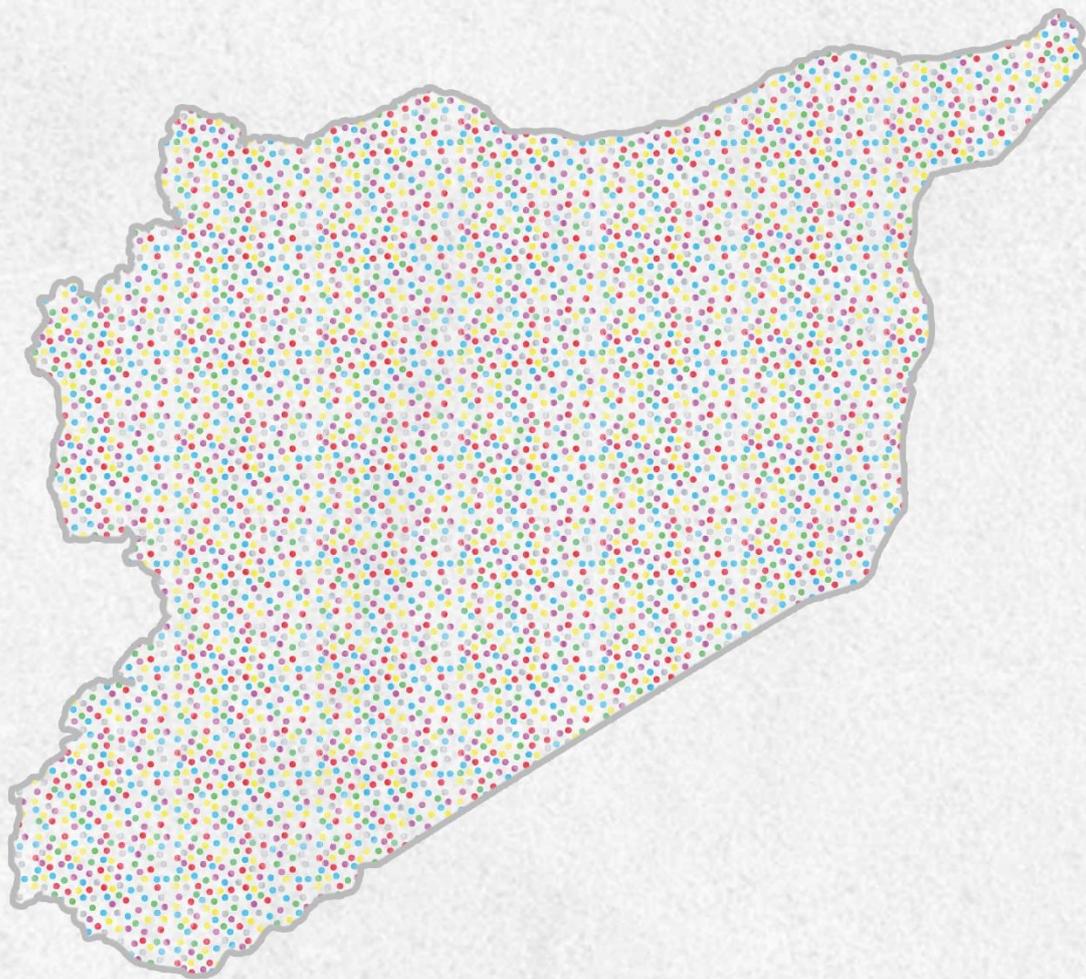


# Syria: A Brief Guide to Protecting the Rights of Religious Minorities

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This guide explains the human rights-based approach to the issues of religious minorities in Syria, which aims at protecting diversity and establishing an equal citizenship status

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November 2022

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## Introduction

In a research paper titled “Governance of Diversity in Syria” (2012), the late Syrian thinker Hassan Abbas notes that “like other societies in the Middle East, Syrian society is an astonishing mixture of religious and national elements that made the country a real mosaic.”<sup>1</sup>

He attributes this characteristic to the historical nature of “the eastern Mediterranean region, a major part of which is the area known as the Greater Syria region,” which “has always attracted and served as a passageway for different peoples and civilizations. According to historians, more than thirty-eight different civilizations have passed through it at different times, some of which were mere passersby while others settled down, formed a national minority, and left their imprint on the local culture. Not only was the region a refuge for people fleeing the ravages of history; as the birthplace of the three monotheistic religions, it was the arena of major civil and intra-religious warfare.”

While conflicts persist, despite their different modern nature due their combination of religious and ethnic tensions, Abbas argues that “diversity itself” is not the underlying cause of the widening chasm between societal components in Syria. Instead, he locates the reason in “rather the bad management of this diversity, which has exerted its security pressure in order to keep a bright outer image of coexistence, regardless of the hatred and repulsions that this approach may create.”

Based on the argument of “the mismanagement of diversity” that Abbas proposes, this Guide seeks to examine the tools the Syrian State has used to undermine Syrian diversity and oppress minorities, including religious ones. Additionally, the Guide elaborates on how these tools transformed minorities into vulnerable communities, liable to a wide range of human rights violations, old and recent, predating the conflict or caused by it.

In pursuit of its goal—providing means of protection for religious minorities, the Guide frames its proposals with a set of international treaties and covenants on human rights, most of which deal with minority rights as an obligatory factor for humans to enjoy their basic rights. The Guide supports international frameworks with local approaches, existing in national laws that establish minority rights.

In addition to these sources, the authors of the Guide, a team of researchers with Syrians for Truth and Justice (STJ), include observations and feedback from local minority rights organizations and activists, collected through their comments upon reviewing drafts of the guide.

**Notably, the concepts of “minority” and “majority” are relatively recent in international law, although distinctions among communities have obviously existed throughout history.<sup>2</sup>**

While the concept of “minorities” is a persistent challenge because it still lacks a consensus definition at the international level, STJ— for the purposes of this Guide—will apply to the

<sup>1</sup> Abbas, Hassan. “Governance of Diversity in Syria”. *Arab Reform Initiative*, 2012. <https://www.arab-reform.net/publication/governance-of-diversity-in-syria/>

<sup>2</sup> UN Office of the High Commissioner for Human Rights (OHCHR), *Promoting and Protecting Minority Rights: A Guide for Advocates*, 2013, HR/PUB/12/7, (Last visited: 13 November 2022). <https://www.refworld.org/docid/5289ce5b4.html>

Syrian context the concept promoted by the United Nations Special Rapporteur on minority issues in the [report](#) he presented to the UN General Assembly in October 2019.<sup>3</sup> That is:

“An ethnic, religious, or linguistic minority is any group of persons which constitutes less than half of the population in the entire territory of a State whose members share common characteristics of culture, religion or language, or a combination of any of these. A person can freely belong to an ethnic, religious, or linguistic minority without any requirement of citizenship, residence, official recognition, or any other status.”

Notably, this Guide complements continued international efforts invested in the field of minority rights protection, whereby the first significant attempt to identify internationally recognized minority rights was through a number of “minority treaties” adopted under the auspices of the [League of Nations](#). The League was established in 1919, after World War I, under the Treaty of Versailles “to promote international cooperation and to achieve peace and security.

With the creation of the [UN](#) in 1946, attention initially shifted to universal human rights and decolonization. However, the UN has since developed a number of norms, procedures, and mechanisms concerned with minority issues.

Most international legal-political concerns during the nineteenth century, however, were directed towards justifying the unification of linguistic “nations” based on the principle of self-determination, rather than the protection of minority groups as such. As the lure of nationalism grew, people who did not share the ethnic, linguistic, or religious identity of the majority within their country were increasingly under threat.

The consolidation of States along linguistic lines, the expansion of trade, and the increasing need for literate populations who could work successfully in the context of the industrial revolution, placed pressures on smaller or less powerful communities to conform to dominant linguistic and cultural norms. By the time of the outbreak of the First World War in 1914, national or minority concerns were at the forefront of international politics, especially in Europe.<sup>4</sup>

Building from existing literature and historical context, STJ hopes this Guide will provide organizations, activists, and defenders of minority rights, as well as Syrian legal professionals with a procedural document that can help them see the factors needed to achieve coexistence in Syria, and thus safeguard protection for minorities, especially religious ones.

<sup>3</sup> UN General Assembly, *Effective promotion of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, note by the Secretary-General, A/73/205, 20 July 2018 (Last visited: 13 November 2022). Para. 53. P. 18. <https://www.refworld.org/docid/618e62884.html>

<sup>4</sup> To obtain feedback from minorities themselves, STJ sent a draft guide to a group of activists concerned with minority issues. One activist sent STJ a note, highlighting the importance of distinguishing between “minorities” and “indigenous peoples” in Syria and the region, and cited [UN-related definitions](#), which mark their distinctive characteristics, including their traditional lifestyles. Additionally, the activist stressed that the Guide must address the legitimacy of humanitarian intervention to protect religious minorities, as well as the importance of ensuring the non-recurrence of Arabization and Turkification processes and avoiding political exploitation of minorities. The activist also highlighted the importance of inscribing official recognition of the massacres perpetrated against minorities into the Guide, in addition to emphasizing that guaranteeing the rights of all minorities contributes significantly to strengthening peace and stability in Syria, the region, and the world.

## Diversity in Syria

Notably, in his approach to diversity in Syria, Abbas aggregates the components of Syrian society nationally and **religiously**.<sup>5</sup> The national component further branches out into:

1. Syria's Indigenous National Elements: the national groups with deep roots in the region, which makes it difficult to determine exactly when they first settled in the area. The Arabs belong to this category, along with the Assyrian, Syriac, and Kurdish minorities.
2. Migrant National Elements: the national groups who migrated en masse and chose to settle in Syria, including the Armenians, Circassians, Turkmens, Daghistanis, Aranaouts, Albanians, Chechens, Kazakhs and Bosnians.

Under the religious components, Abbas has three categories:

- a. The Islamic component, including Sunnis, Alawites, Druze, Ismailis, and Al-Murshidiyoun.
- b. The Christian Component, which has an astonishing variety of Syrian Christian sects and churches today. There are 11 different Christian denominations in Syria, some of which go back to the First Century BC (the Orthodox Church) and others to the nineteenth Century (the Protestant Armenians). From the point of view of size, the largest Christian denomination is the Greek Orthodox Church, with around half a million followers, and the smallest is the Chaldean Catholic Church.
- c. Syria's Jewish Population, which amounts to only a few dozen practitioners, who reside mostly in Damascus and Aleppo.

It is important to mention that despite his comprehensive approach, Abbas is often criticized for neglecting to mention the Yazidi component in his societal structure, even though the Yazidi communities have been living in Syria for decades and are a major component of its religious fabric.

Throughout his research paper, Abbas cites contested figures as to the real numbers of each of the components and elements in Syria, pointing out frequent and wide variations between figures collected by the official government census and others documented by bodies representing the groups listed.

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<sup>5</sup> Abbas, Hassan. "Governance of Diversity in Syria". *Arab Reform Initiative*, 2012. <https://www.arab-reform.net/publication/governance-of-diversity-in-syria/>

These statistical discrepancies arise from the fact that, in Syria, the government rarely carries out accurate demographic or sectarian scans. The government conducts the census with aims beyond documenting in numbers the population of the country. Most importantly, the government collects demographic, economic, and social data and information on housing and housing conditions of the various ethnic and religious communities in the country. However, the results of the census have never been accurate. This is because the census is subject to political considerations that directly affect the outcome and keep them consistent with the interests of the ruling powers. Therefore, the declared census statistics tend to be less or more than the actual numbers recorded. This dynamic calls into question the credibility and accuracy of these statistics, and thus their legitimacy. This also influences the manner in which these statistics are brought into current dialogues on human rights in the country.

The government opts for such demographic discrepancies because actual figures would reveal the extent of diversity in Syria and would present a useful tool to identify the size and type of needs for each ethnic group independently, including some group's needs to have official documents and road signs in their languages in their areas of residence. Instead of using the census to understand minority needs, the ruling powers in Syria have used the census as a tool of oppression.

In 1962, for instance, the Syrian government (SG) conducted a special census in al-Hasakah province. The Kurds had to present authorities with documents proving their identities and confirm their presence in Syria before 1945.<sup>6</sup> Afterwards, the authorities stripped everyone who did not submit the required documents of their Syrian citizenships. Importantly, the authorities failed to notify Kurds living in remote suburbs about the census. These groups had no information about the objectives or consequences of the census, and therefore did not submit their documents.

In the aftermath of the census, the SG deprived about 120,000 to 150,000 Kurds of Syrian citizenship.<sup>7</sup> Those who were rendered stateless constituted approximately 20% of the Kurdish population at the time. Notably, statelessness poses several repercussions to the individuals affected, who are denied State services and all their civil rights, including access to healthcare, education, subsidies vouchers, property ownership registration or transfer, legal registration of marriages, passports, employment within public departments, starting their own businesses, and the right to vote.

Because the adverse impacts of the manipulated census can affect several generations, Syrian researchers, human rights advocates, and legal professionals must approach the historical demographic census—especially scans carried out during sensitive political periods, under occupation, or in the presence of colonialist powers, critically before applying census findings to analyses relating to minority rights and policies.

Caution is a necessary measure because few Syrians trust the authenticity of the available census data and the policies which hinge upon it. There are plenty of examples of the politicization of the census, including the falsification and manipulation of its statistics. C

<sup>6</sup> "Syria: 10 facts about the 1962 special Census of al-Hasakah", STJ, 4 October 2019 (Last visited: 10 November 2022). <https://stj-sy.org/en/syria-10-facts-about-the-1962-special-census-of-al-hasakah/>

<sup>7</sup> "Syria: The Silenced Kurds", HRW, October 1996, Vol. 8, No. 4(E). <https://www.hrw.org/reports/1996/Syria.htm>

Considering this, researchers should also investigate the parties that publish census reports and attempt to understand the true motivations underlying the reports to keep abridged of political goals or biases which may impact census data.

Given the inherent risks of manipulated censuses, it is also important to raise awareness about the necessity to carry out accurate and authentic demographic censuses, particularly in compound societies, which include various ethnicities. This necessity arises from the vital role genuine censuses play in demonstrating the status of each minority group and the independent political and humanitarian needs of each of their communities. Additionally, within the Syrian context, valid censuses are a reminder that Syria was and is still an inclusive homeland for diverse ethnicities, religions, and cultures.

Minority censuses must not seek, in any way, to exhibit the members of minority groups as inferior to the members of the majority group and its dominant identity. Therefore, regardless of the percentage that a group constitutes of a country's total population, whether that percentage is 6 or 60, the group's members must be entitled to the same rights made available to the rest of the population. Applied to Syria, this entails that whether a Syrian citizen is a member of the majority or a minority group, whether ethnic or religious, he/she must have access to an identical set of rights, including the rights to education, healthcare, civil participation, and security.

Notably, the actual count of each minority group in Syria continues to be the subject of controversy. However, the emphasis today must be placed on meeting the needs of Syrians, regardless of their affiliations, as well as on acknowledging that it is the obligation of the ruling powers in Syria and the international community to look into these needs and address them, as long as they remain unmet.

Therefore, with this Guide, STJ seeks to delve into the major struggles of minorities and briefly examine the status of their rights and the obligations that bound the Syrian State to these communities. For its core purpose, the Guide will offer general lines along which readers and users can expand further on the issues discussed. Notably, because it is beyond the scope of the Guide to attend to all minority groups in Syria or their nuanced struggles, the Guide will limit its thematic concerns to religious minorities and thus will not address the rights of other minority groups, including ethnic, linguistic, and cultural communities.<sup>8</sup>

<sup>8</sup> STJ sent a developed draft of the Guide to several Syrian bodies working on minority issues and/or their local representatives, including the Assyrian Democratic Organization and the Syriac Union Party.

In its insightful feedback, the Assyrian Democratic Organization commented that it is important to avoid reductionist approaches to minorities in Syria, by limiting the concept to "religious minorities only", pointing out that there are ethnic and linguistic minorities among others, while there exist minorities that simultaneously combine the aspects of religion, ethnicity, and language, such as the Syriac Assyrians.

Beyond definitions, the organization highlighted the violations the Islamic State (IS) perpetrated against the Syriac Assyrians in their villages, located around the al-Khabour River in 2015. IS kidnapped hundreds of women, children, and elderly and executed a number of them. Additionally, IS destroyed several Syriac Assyrian churches.

In the context of violations, the organization stressed the inadequacy of the international covenants purportedly set up to protect the rights and existence of minorities. Some of these covenants lack the force to oblige the Signatory States to observe their provisions, depending mainly on the signatories' moral sense of duty, which unfortunately cannot be relied upon in countries ruled by authoritarian regimes.

Based on this, the organization proposed inscribing several recommendations into the Guide, including a recommendation that clearly demands constitutional recognition of the existence and rights of minorities, and integrates the recognition into the legal matrix of the State.

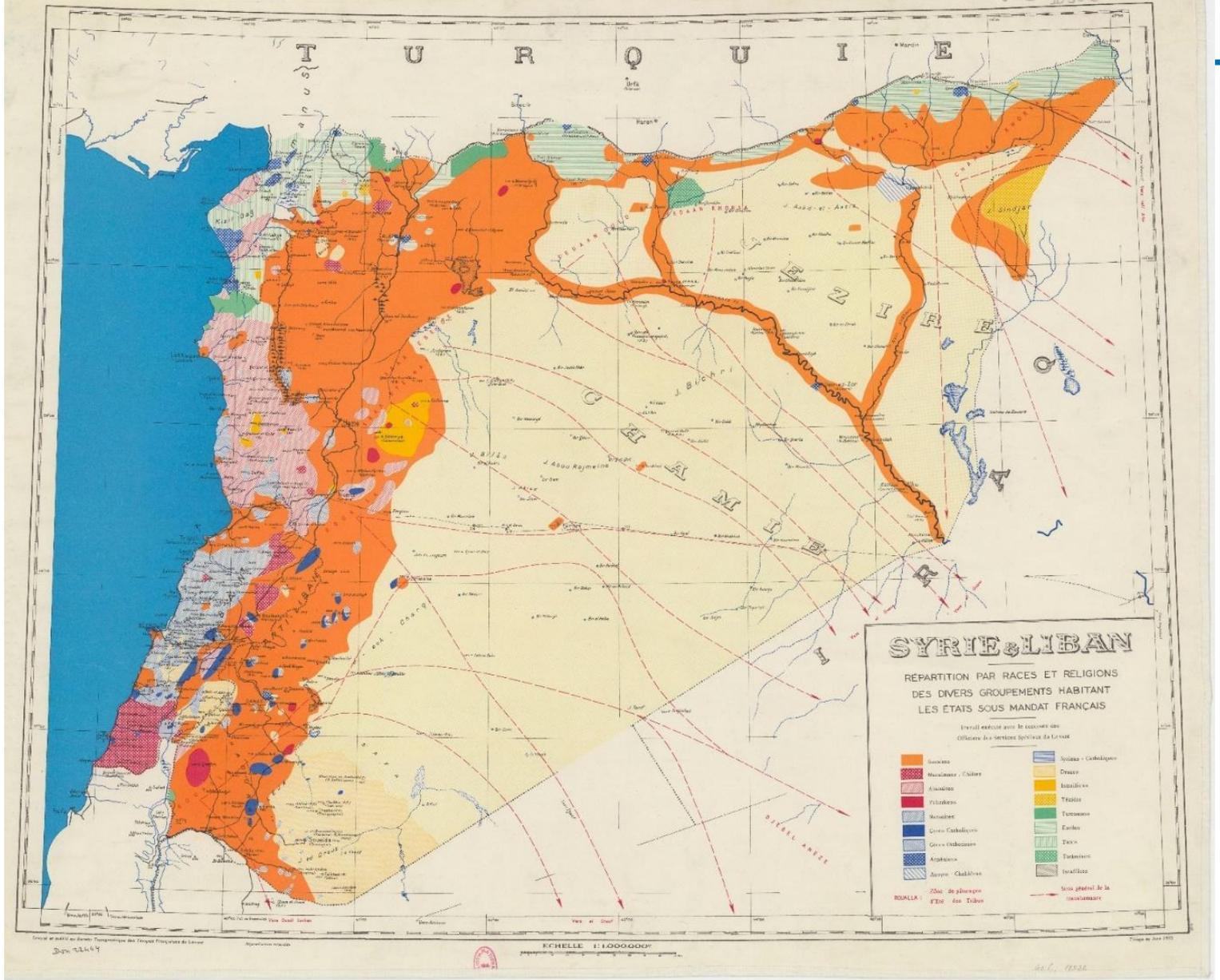


Image (1)- A map showing ethnic and religious divisions in Syria and Lebanon in 1936, prepared by the Topographic Office of French Army in the East. The map is one of [several visual](#) references the Guide cites, along with Ottoman and modern Syrian maps, which demonstrate a relatively different demographic distribution.

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Additionally, the organization proposed recommending the application of the principle of positive discrimination to minorities, depleted by demographic and existential conflicts, such as the Yazidis and the Syriac Assyrians, to help them recuperate and restore their balance, and to guarantee their rights and participation in public affairs.

For a third recommendation, the organization suggested identifying the Syrian State as a secular one, adding that this would guarantee an objective stand towards all ethnicities and religions in the country. The organization added that this definition would be consistent with the international covenants and conventions and promote the ideal of equal citizenship.

In its commentary, the Syriac Union Party sent similar highlights and reservations, with only a few phrasing distinctions, and proposed relatively identical recommendations, which STJ has inscribed into the Guide.

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## Recommendations

Religion or belief is an essential part of individuals' perspectives on life, as well as philosophical approaches to their surrounding environments, influencing the way they interact with people who embrace different religions and beliefs. The effect of these elements often passes from the realm of the individual into the public realm, affecting the dynamics between the diverse components within a single society and the outcomes of these interactions. In societies where religion-based perceptions hinge on mutual respect, members of society tend to have healthy relations and struggle with lesser patterns of marginalization or alienation. However, in societies where religious intolerance is rampant, interaction outcomes tend to be catastrophic, especially if one or more of these societies' components possess different elements of strength, including numbers, weapons, and power. Of the many repercussions that such societies might suffer is the use of warfare and murder as a means of expressing the non-acceptance of the other.

In the Syrian context, the second scenario has been looming large, affecting all its components. For nearly eleven years, powers on the ground often adopted discriminatory approaches to rule the populace in their areas of control. These approaches were founded on several grounds, including religion and belief.

In response to this reality, the current Syrian government and upcoming ones must find means to liberate Syrian society from these diseases, establish a culture of tolerance, eliminate discrimination on all bases, and enhance equality among all.

On the path towards social recuperation, current and upcoming governments must also facilitate the creation of an environment that is capable of fostering coexistence among all the religious components in Syria. To this end, the Guide lists a few procedural recommendations for the government, which are sufficient to lay the groundwork for coexistence:

1. The government must instill the values of freedom of religion and belief in Syrian society by conducting community awareness campaigns by holding meetings, media initiatives, and intensive workshops. These campaigns must establish the need for respecting others who are religiously different and stress equality among all citizens regardless of their religions and sects. Additionally, the government must build educational curricula on this basis.

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In its commentary, the Syriac Union Party sent similar highlights and reservations, with only a few phrasing distinctions, and proposed relatively identical recommendations, which STJ has inscribed into the Guide.

2. The government must repeal texts that perpetuate discrimination on any basis, including religion and belief, such as the text that stipulates the religion of the Head of State to be Islam. Additionally, the government must establish the principle of separation of religion from the State and emphasize the neutrality of the State towards all religions, favoring none over the other.
3. The government must pass legal provisions to criminalize discrimination based on religion, creating the appropriate legislative environment to ensure equality among all Syrians, regardless of their religion, race, or any other basis. The passed legislation must align with relevant international instruments.
4. The government must take necessary and immediate measures to make legislative and executive amendments to ensure that there is no discrimination against any of the religious components present in Syria, especially the Yazidis, in law and practice. Additionally, the government must provide constitutional recognition to all religions and ethnicities in Syria.

## Difference Does not Warrant Derogation from Rights and Duties

The rights a group is entitled to does not change regardless of their minority status, their characteristics, or where they live. The same rights afforded to the majority must be afforded to the minority, even in Syria; international instruments have guaranteed that minorities should have equal access to human rights.

The presence of a framework dedicated to minority rights, including legal texts that protect specific rights or human groups, does not privilege these groups with the purpose of violating the rights of other groups. Instead, such a framework seeks to ensure that:

- ✓ Their presence as minorities is protected.
- ✓ They are not subjected to discrimination.
- ✓ They can enjoy their culture, religion, and language.
- ✓ They participate in public life operatively.
- ✓ They participate in decision-making effectively.
- ✓ They manage and maintain their own associations.
- ✓ They can maintain peaceful contacts across frontiers and form relationships with other members of their minority group.<sup>10</sup>

## Approaches to Religious Minority Issues: Where to Begin?

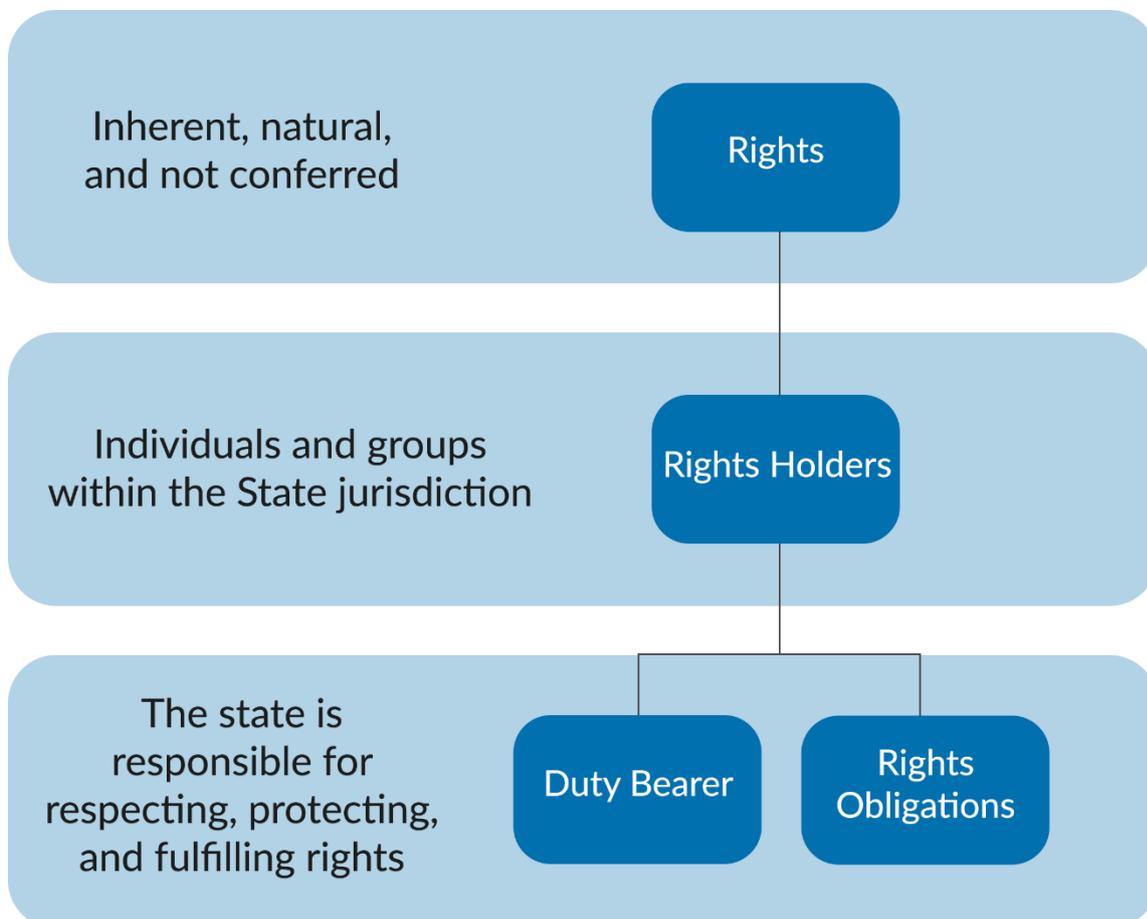
To protect the human rights of minorities, actors concerned with human rights affairs in general, and those involved in the issues of religious minorities in particular, have to frame their actions with the following equation—**al-Haq wa-Sahib al-Haq (the right and the right**

<sup>10</sup> For further information, see: "Final text of the Commentary to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities". [file:///C:/Users/Jian/Downloads/E\\_CN.4\\_Sub.2\\_AC.5\\_2001\\_2-EN.pdf](file:///C:/Users/Jian/Downloads/E_CN.4_Sub.2_AC.5_2001_2-EN.pdf)

**holder).** The equation defines rights-related obligations and the party responsible for fulfilling these obligations. The chart below describes the elements of the equation, including the nature of the rights involved, who is entitled to be a holder of the rights, and the State’s responsibilities towards these rights.

Violations are at the heart of the human rights struggles of religious minorities and are often the trigger that spurs interest in these struggles. However, limiting responses to addressing violations leads to a failure in monitoring the positive obligations of the State—namely, what it must do to protect and realize human rights.

One example of a violation is when the civil registry department refuses to recognize and register the religion of a newborn child of parents belonging to a religious minority. If the department registers him/her under a different religion or the majority religion, this constitutes a violation of the State's negative obligation, which is not to deprive individuals of their right to choose their religion. However, the violation expands beyond the scope of breaching this right, as it also implies another violation on the part of the State —the failure to meet its positive obligations. These obligations include setting up national measures that enable all individuals to exercise their rights, even if they are a member of a minority group. In the context of registration, the State attends to its positive obligations by providing laws and procedures that allow parents from minority groups to freely register the religion of their newborn and prevent any practices that would deny them this right.



## The Rights of Religious Minorities: International Frameworks

Persons belonging to religious minorities are entitled to the same rights as all other individuals under the jurisdiction of the State. These rights are enshrined in the many international instruments that make up international human rights law (IHRL), most importantly:

1. [International Covenant on Civil and Political Rights](#)
2. [International Covenant on Economic, Social and Cultural Rights](#)
3. [International Convention on the Elimination of All Forms of Racial Discrimination](#)
4. [Convention on the Rights of the Child](#)
5. [Convention on the Elimination of All Forms of Discrimination against Women](#)
6. [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#)
7. [International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families](#)
8. [Convention on the Rights of Persons with Disabilities](#)
9. [International Convention for the Protection of All Persons from Enforced Disappearance](#)

Notably, while none of these international instruments is dedicated to religious minorities, together they present a set of provisions that either directly address the rights of minority groups or indirectly establish the necessity to protect their rights.

In addition to these instruments, the [Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities](#) of 1992 (UN Minorities Declaration)—even though it is not an international treaty, remains one of the key documents to comprehensively approach the rights of minority groups.<sup>11</sup>

Even though these frameworks are pre se rich references, entities concerned with rights and obligations in general, and those relating to religious minorities in particular, should not bind their approaches to their exact texts. There is a plethora of international instruments which, even though they are not binding on States, are indispensable in interpreting, supplementing, and building on the above-listed texts. These instruments are identified as the “soft law” and include resolutions of the UN General Assembly and the Human Rights Council (HRC), declarations and principles issued by various UN bodies, as well as reports and comments made by treaty committees and special procedures.

<sup>11</sup> For additional information, see: The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities of 1992. <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-rights-persons-belonging-national-or-ethnic>

## The Rights of Religious Minorities: Scope of Protection

### a. Existence and Survival

Lack of respect and protection, as well as denial of the rights of religious minorities remain among the major factors in the displacement and likely the demise of their communities. Thus, as the former Secretary-General of the United Nations, Kofi Annan, once [said](#): “We must protect especially the rights of minorities, since they are genocide’s most frequent targets.”

Notably, in 2016, the European Parliament [classified](#) the attacks of the Islamic State (IS),<sup>12</sup> locally known as Daesh, on Yazidi and Christian communities as violations amounting to "war crimes", "crimes against humanity", and "genocide" according to the Rome Statute of the International Criminal Court.

The religious and cultural heritage of these communities, which a rich component of their identity and daily life, must be respected, protected, and promoted, to preserve the existence and survival of these communities and their ways of life.

### b. Identity Protection and Promotion

While cultural, religious, and linguistic diversity is part and parcel of the world's nonmaterial wealth and its legacy, the "forced assimilation" of this diversity into majority communities diminishes this legacy. Therefore, demonstrating "tolerance" towards the identities of religious minorities alone is not a sufficient course of action. States must protect and respect minority identities to protect diversity without using discriminatory policies or practices. Additionally, statements or theoretical legislation will be deficient if States fail to use them alongside positive actions that guarantee minority communities' protection and respect.

### c. Equality and Non-Discrimination

The principle of non-discrimination prohibits any distinction, exclusion, restriction, or preference whose purpose or effect is to impair or nullify the recognition, enjoyment, or exercise of all rights and freedoms by all persons, on an equal footing.

Within the context of discrimination, indirect discrimination remains the most serious and difficult to identify. It occurs when a practice, rule, or requirement is ostensibly neutral but has a disproportionate effect on certain groups.

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<sup>12</sup> For additional information, see: “UN Commission of Inquiry on Syria: ISIS is committing genocide against the Yazidis”, OHCHR, 16 June 2016 (Last visited: 11 October 2022).

<https://www.ohchr.org/en/press-releases/2016/06/un-commission-inquiry-syria-isis-committing-genocide-against-yazidis>

Direct and indirect discrimination can be traced in the subtle details of the following legal instances:

There is not necessarily direct discrimination when a country's personal status law requires that a person belonging to one of a number of sects listed in the law be subject to the legislation specific to those sects. However, the requirement contains indirect discrimination because it affects members belonging to the sects the law does not signal out. Dropping out certain sects deprives their members of access to the same rights available to specified sects.

For instance, Article 364 of the Syrian Personal Status Law imposes restrictions on inheritance in inter-faith marriages. That is, if a husband is Muslim and a wife is Christian, neither can inherit from the other.

The ban on inheritance is reiterated in Article 178 of the 2006 Personal Status Law No. 31 For Catholic denominations.

On the other hand, it is the duty of the State to practice "positive discrimination" against certain groups, either to remedy their past, to address the community's ongoing suffering from "negative discrimination", or to protect their unique cultural and religious contributions to the diversity of the country, without violating the rights of other groups.

In that sense, the aim of "positive discrimination" is to help communities which have been historically marginalized become equal to other majority communities so that they can be afforded the same rights and respects as their neighbors. The goal, in the end, is equality, and to prevent cases of "negative discrimination" in which certain people are treated less favorably because they belong or are perceived as belonging to a maligned group.

Therefore, the term "positive discrimination" refers to "positive measures" or "special measures" that aim to promote greater equality by supporting groups of people who experience or have experienced entrenched discrimination so that they can have similar opportunities as others in society.

In the 1989 "CCPR General Comment No. 18: Non-Discrimination"<sup>13</sup> the HRC points out that "the principle of equality sometimes requires States parties to take affirmative action in order to diminish or eliminate conditions which cause or help to perpetuate discrimination prohibited by the Covenant."

The HRC elaborates that "Such action may involve granting for a time to the part of the population concerned certain preferential treatment in specific matters as compared with the rest of the population . . . as long as such action is needed to correct discrimination in fact."

<sup>13</sup> UN Human Rights Committee (HRC), *CCPR General Comment No. 18: Non-discrimination*, 10 November 1989, (Last visited: 13 November 2022). <https://www.refworld.org/docid/453883fa8.html>

Notably, the special measures to protect the existence and identity of minorities and encourage conditions for the promotion of that identity are to be distinguished from temporary special measures. Special measures to protect minorities can be permanent.<sup>14</sup>

The open-ended engagement of a State to ensure minority communities' effective participation in the political process by adopting special procedures can result in the creation of institutions through which minority communities can make decisions, exercise legislative and administrative powers, and develop their culture. This constitutes the best approach to preventing conflicts between the majority and minorities.<sup>15</sup>

#### d. Effective and Meaningful Participation

The State must ensure the participation of persons belonging to religious minorities in all matters of political, economic, social, and cultural public life. This is a prerequisite for preserving their identity and protecting them from social exclusion.

To achieve this level of engagement, the State must develop effective mechanisms that reflect societal diversity, including the mechanisms of political and civil service representation. Most importantly, the State must ensure that members of religious minorities are genuinely consulted and that their opinions or voting preferences are considered in decisions that affect them or the areas where they live.

## The Rights of Religious Minorities: Primary Sources

### a. Article 27 of the International Covenant on Civil and Political Rights

Article 27 is the first and most important legal text to ascribe an obligatory character to minority rights. It provides that:

In those States in which ethnic, religious, or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

The Article's critical achievement is the fact that it severed the correlation between access to rights and official recognition. It established that the rights of any minority group under the jurisdiction of a State are not conditional on official recognition by that State of that minority.

<sup>14</sup> UN Office of the High Commissioner for Human Rights (OHCHR), *Minority Rights: International Standards and Guidance for Implementation*, 2010, HR/PUB/10/3, (Last visited: 13 November 2022). <https://www.refworld.org/docid/4db80ca52.html>

<sup>15</sup> Ibid.

Building on this in the “CCPR General Comment No. 23: Article 27 (Rights of Minorities)”,<sup>16</sup> the HRC stressed that the right inscribed into the article automatically confers recognition on the groups constituting minorities. This, consequently, entails that official recognition from the State is not the only factor that ensures the protection of the identity and rights of the concerned minority, but that the State must also make positive measures to guarantee protection.

Notably, Article 27 inspired the 1992 UN Minorities Declaration, which provides a detailed list of minority rights and States' duties towards them.

## b. The 1992 UN Minorities Declaration

In 1992, the UN General Assembly adopted the UN Minorities Declaration by Resolution 47/135. The Declaration remains the primary reference for minority rights. It guarantees persons belonging to religious minorities, the following:

- ✓ The right to State protection of their existence and religious identity.
- ✓ The right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public.
- ✓ The right to participate effectively in cultural, religious, social, economic, and public life.
- ✓ The right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live.
- ✓ The right to establish and maintain their own associations.
- ✓ The right to establish and maintain contacts with other members of their group and with persons belonging to other minorities inside and outside their countries.
- ✓ The right to exercise their rights individually as well as in community with other members of their group, without any discrimination.

Simultaneously, the Declaration assigns the State the duty of taking effective measures to protect and promote these rights, whereby:

- ✓ The State shall take measures to ensure that persons belonging to religious minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.
- ✓ The State shall take measures to create favorable conditions to enable religious minorities to express their characteristics and to develop their culture, language, religion, traditions, and customs.
- ✓ The State shall take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue.
- ✓ The State shall take measures in the field of education, in order to encourage knowledge of the history, traditions, language, and culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole.
- ✓ The State shall consider appropriate measures so that persons belonging to minorities may participate fully in the economic progress and development of the country.

<sup>16</sup> UN Human Rights Committee (HRC), *CCPR General Comment No. 23: Article 27 (Rights of Minorities)*, 8 April 1994, CCPR/C/21/Rev.1/Add.5, (Last visited: 13 November 2022). <https://www.refworld.org/docid/453883fc0.html>

- ✓ The State shall ensure that national policies and programs be planned and implemented with due regard for the legitimate interests of persons belonging to minorities, including programs of cooperation and assistance among States.
- ✓ The State shall cooperate with other States on questions relating to persons belonging to minorities, inter alia, exchanging information and experiences, in order to promote mutual understanding and confidence.
- ✓ States shall cooperate in order to promote respect for the rights set forth in the present Declaration.
- ✓ The State shall fulfill in good faith the obligations and commitments they have assumed under minorities-related international treaties and agreements to which they are parties.

## Promoting the Rights of Religious Minorities: Other State Obligations

### a. The Right to Freedom of Thought, Conscience, and Religion

*According to Article 18 (1) of the International Covenant on Civil and Political Rights, this right entails freedom of expression and thus enables individuals to indulge in a broad range of actions and measures that are an integral part of religious conduct and tightly connected to basic life affairs,<sup>17</sup> including personal status legal and procedural measures.*

Viewed in the light of established State obligations to respect and implement this right, the Syrian State's course of action clearly indicates its failure to fulfill its legal duties toward the members of religious minorities subject to its jurisdiction. The Syrian State is involved in the drafting and passing of legislation that may establish or lead to the non-recognition of religious minorities' religions, facilitate the non-legislation of laws for their personal status, and provide for the non-creation of administrative and judicial bodies concerned with their religious life affairs. Moreover, the Syrian State is depriving members of minorities of registration in official departments and exposing them to the consequences of non-registration, which hampers their access to other rights.

### b. The Right to Immunity from Coercion

Through Article 18(2) of the International Covenant on Civil and Political Rights, international law calls attention to the risks posed by coercion, which impair an individual's freedom to have or to adopt a religion or belief of his/her choice. Coercion includes the use of threat of physical force or penal sanctions, as well as policies or practices having the same

<sup>17</sup> UN Office of the High Commissioner for Human Rights, *General Comment No. 22: The right to freedom of thoughts, conscience and religion (Art. 18)*: 30/07/93, CCPR/C/21/Rev.1/Add.4, § 4.

intention or effect to compel individuals or groups to recant their religion or belief or to convert.<sup>18</sup>

### c. The Right to Religious Education

Article 18(4) of the International Covenant on Civil and Political Rights guarantees the “liberty of parents to ensure the religious and moral education of their children in conformity with their own convictions.” Therefore, the State—as part of its duty to protect the existence and the identity of religious minorities – must ensure that public education which includes the teaching of a particular religion or belief should provide for non-discriminatory exceptions or exemptions that would accommodate parental alternatives for religious minorities. This right is reinforced in Article 13 of the International Covenant on Economic, Social and Cultural Rights.

### d. The Right of Children to Enjoy Their Culture

In its Article 30, the Convention on the Rights of the Child establishes the right of children belonging to religious minorities to enjoy their culture, to profess and practice their own religion, or to use their own language. With this, the article further establishes the duty of the State to protect and strengthen the presence of religious minorities, which necessitates that it takes needed measures to ensure that children enjoy this right.

### e. The Right to Decide Their Own Values

In Article 5(1) of the 1978 [Declaration on Race and Racial Prejudice](#), the United Nations Educational, Scientific and Cultural Organization (UNESCO) establishes “the right of all groups to their own cultural identity and the development of their distinctive cultural life within the national and international contexts”.

In the same article, UNESCO stresses that “It rests with each group to decide in complete freedom on the maintenance, and, if appropriate, the adaptation or enrichment of the values which it regards as essential to its identity.”

Consequently, the State bears the responsibility to gear educational resources towards combating racism, especially with a focus on human unity and diversity, and to ensure that these resources do not include any insidious distinctions made between any groups.

Additionally, the State is obliged to take appropriate measures to address the shortcomings suffered by some groups, including religious minorities.

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<sup>18</sup> UN Office of the High Commissioner for Human Rights, *General Comment No. 22: The right to freedom of thoughts, conscience and religion (Art. 18)*: 30/07/93, CCPR/C/21/Rev.1/Add.4, § 5.

## f. The Right to Protection from Genocide

The 1948 [Convention on the Prevention and Punishment of the Crime of Genocide](#) remains one of the key international instruments that have allocated to minorities special protection for their existence and survival by encompassing them—including religious ones, under State duties not to expose them to acts that amount to genocide.

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial, or religious group, by:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

The Rome Statute of the International Criminal Court establishes genocide as a crime and, simultaneously, identifies several acts perpetrated against minorities as crimes against humanity. Such acts include forcible displacement of persons belonging to minorities from the areas in which they live.

The crime of genocide still looms large on religious minorities, including Yazidi communities. In 2021, the UN [classified](#) the atrocities the Islamic State of Iraq and the Levant (ISIL) continues to perpetrate against Yazidis in Iraq's Sinjar a genocide.

Also related to crimes against Yazidis, in November 2021, the Higher Regional Court in Frankfurt, Germany, [convicted](#) an IS militant for genocide and crimes against humanity.

## g. The Right to Work

In [the Discrimination Convention No. 111](#) of 1958, the International Labour Organization (ILO) obliges States to undertake and pursue a national policy designed to promote equality of opportunity and treatment in respect of employment and occupation. The policies should be led with a view to eliminate any direct and indirect discrimination on the grounds of race, color, sex, religion, political opinion, national origin, or social origin.

The right to work is established primarily in all legal provisions prohibiting discrimination, including Article 2(2) of the ILO's Convention and in Articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights.

## h. The Right to Protect Cultural Heritage

In its [2003 Convention](#), UNESCO guarantees the protection of and respect for intangible cultural heritage, which it defines as “the practices, representations, expressions, knowledge, skills – as well as the instruments, objects, artefacts and cultural spaces associated therewith – that communities, groups and, in some cases, individuals recognize as part of their cultural heritage.”

## The Rights of Religious Minorities: The Perspective of Syrian Legislation

### a. Rights in the Operative Constitution

The 2012 Syrian Constitution dedicates several provisions to the rights of different religious communities in Syria. However, each of its articles poses inherent challenges that prejudice proposed rights, including those related to basic daily affairs and participation in the country’s politics.

In Article 3, the Constitution places great emphasis on the protection of all religions existing in Syria and establishes the rights of members belonging to these religions to practice their religious rites freely, as long as their observance does not disturb “public order”. The Article provides that: **“The State shall respect all religions and ensure the freedom to perform all the rituals that do not prejudice public order; The personal status of religious communities shall be protected and respected.”**

This freedom is cemented by Article 49, which stipulates that: **“Freedom of belief shall be protected in accordance with the law.”**

However, this freedom is contingent on maintaining the stability of public order. The case is so because a standard definition of the term “public order” remains lacking in Syrian legislation, rendering the term a relative idea, soft and open to multiple interpretations, not to mention that interpretation is often subjective. Therefore, public order poses a challenge as a non-fixed term, which changes according to time and space, and sometimes according to alterations in authorities and their personnel.

Additionally, the Constitution does not neglect to address the issue of discrimination. In its Article 9, the Constitution prohibits discrimination between one societal component and another on any basis, including on the grounds of gender, origin, language, religion, and creed, stressing as well that citizens are equal in rights and duties. The article provides that:

**“The Constitution shall guarantee the protection of the cultural diversity of Syrian society with all its components and the multiplicity of its tributaries.”**

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

Despite the broad margins of equality and respect they provide, these articles remain effective only in theory. In practice, these texts continue to be undermined by other constitutional provisions, which condone discrimination among Syrians based on religion and creed.

For instance, in the same [Article 3](#), the Constitution stipulates that: **“The religion of the President of the Republic is Islam”**. This prerequisite denies members of non-Muslim communities, including all Christian sects and Yazidi communities, the opportunity to run in presidential elections.

Notably, fostering discrimination is not unique to the current Constitution, but it builds on similar trends within the 1970 Constitution, which is the prototype of the 2012 version. Both texts overlook the effects of entrenched discrimination on members of non-Muslim communities in Syria, which include exclusion and marginalization, and consequently, feelings of inferiority, and deprivation of the full rights guaranteed by the citizenship matrix.<sup>19</sup>

## b. Rights in the Penal Code

Countries, including Syria, use "Penal Codes" to determine the human acts that are considered crimes (felonies - misdemeanors - infractions) and punishment appropriate to acts defined as such. In relation to the rights of religious components, the criminalized acts include the offenses of insulting or showing disregard for the religious rituals of others.

The Syrian Penal Code No. 148 of 1949 and its amendments criminalize these offenses, which they call Tahqir al-Sha'aer (disparagement of the rituals of others) or Tashwish (disturbing the performance of religious rituals). Article 462 of the Code stipulates that:

**“Whoever, in one of the ways stipulated in Article 208,<sup>20</sup> degrades the religious rites that are practiced in public, or incites contempt for one of those rites, shall be punished by imprisonment from two months to two years.”**

<sup>19</sup> During the presidential elections of 2014 and 2021, several unknown Syrian figures stepped forward to be presidential candidates. However, the Supreme Constitutional Court rejected the vast majority of applications and retained only two in both electoral cycles, in addition to the Syrian president Bashar al-Assad. The court retained two candidates only to insulate itself from criticism and accusations directed at the Syrian regime, whether of Bashar the son or Hafez the father, of keeping a monopoly over the position. However, the two candidates are kept with various obstacles ahead of them, which ensure they will not pass, including the wide range of prerequisites surrounding the position in the Syrian Elections Law No. 5 of 2014, the at least 35 votes of members of the People's Assembly that every candidate must obtain, and the voting method followed. All these factors and other controversial demands nullify the chances of these candidates in their race against Bashar al-Assad.

<sup>20</sup> Article 208 calls “as ways of public display, the following: Actions and movements if they take place in a public space, or a space open to the public, or exposed to the public eye, or actions and movements witnessed by someone who is not actually involved due to a mistake on the part of the person involved in these actions; talking or screaming, whether spoken aloud or transmitted by mechanical means, so that in both cases it is heard by someone who is not actually involved; writing, drawings, etchings and photos, as well as films, badges and pictures of all kinds if they are displayed in a public space or a space open to the public or exposed to the public eye, or sold, offered for sale, or distributed to one or more persons.”

Additionally, Article 463 prescribes **“Imprisonment from one month to one year against whoever disrupts the performance of a ritual, ceremonial, or religious ceremony related to those rites, or obstructs it by acts of force or threat; Whoever demolishes, destroys, disfigures, desecrates or defiles a designated building for worship, a symbol, or any other object honored by members of a religion or a group of people.”**

Notably, the texts maintain a general tone, with no specific religious referent. Therefore, they apply to both Islam and other religions in Syria, under the legal rule: “The unconditional status shall apply unless otherwise a restriction is stated.”

The Syrian legislation’s stress on these two particular offences— which are classified under freedom of opinion and expression in other countries – is the result of the sensitivities surrounding religious diversity. Insulting or disregarding the religious rituals of groups in a diverse country like Syria might deepen the feelings of resentment between religious communities, potentially inciting hostilities, including violence and counter-violence, on the basis of religious or sectarian affiliation.

Several legal professionals agree that the criminalization of these acts is pursuant with the provisions of Article 20(2) of the International Covenant on Civil and Political Rights. The Article states that: **“Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.”** Moreover, this prohibition correlates to the right to protection from genocide and is considered the groundwork of this protection.

Notably, this article must not be misinterpreted as attempting to subject the right to freedom of opinion and expression to absolute restriction and censorship. By contrast, it facilitates civilized dialogue and exchange regarding all religions and beliefs, with the freedom that emerges from the enjoyment of all parties of all their rights.

Therefore, the State should not only enact laws that criminalize assaults against religions and incitement to violence, but rather should legislate and protect a safe environment for freedom of opinion, expression, and cultural exchange that guarantees and respects diversity, while, simultaneously, protecting everyone and their rights.

### c. Rights in Personal Status Laws

To regulate the personal status affairs of Syrians belonging to different religions and sects, legislators established several personal status laws, which govern matters including marriage, divorce, inheritance, and wills, including:

1. The [Syrian Personal Status Law No. 59](#) of 1953 and its amendments, which is the lead law governing personal status issues of Muslims of all sects.
2. The Personal Status Law for the Druze Community of 1948.
3. The Greek Orthodox Personal Status Law No. 23 of 2004.
4. The Syriac Orthodox Law No. 10 of 2004.

5. The Armenian Orthodox Personal Status Law.
6. The Personal Status Law No. 31 for the Catholic Denominations in Syria of 2006.
7. The Personal Status of the Mousavis (Jews).
8. Law No. 2 of 2017, regulating the inheritance and will of the Evangelical Community in Syria.
9. Law No. 4 of 2012, regulating the will and inheritance of the Armenian Orthodox Community.<sup>21</sup>

While there are as many as nine laws dedicated to various religions and denominations, the Syrian government does not allocate the Yazidi community an independent law.

On 14 February 2021, the Syrian Minister of Justice, Judge Ahmad al-Sayyed, issued circular No. 7. The circular provides that the personal status affairs of the al-Azdahiyah (Yazidi community) will remain subject to the Syrian Personal Status Law No. 59 of 1953 and that Sharia courts looking into Muslim cases will be competent to hear Yazidi cases.

For a justification, the circular cites Article 306 of the aforementioned law—derived primarily from Islamic Sharia. The article provides that the law applies to all Syrians, except for the provisions enlisted in articles 307 and 308, which pertain to the Druze, Christian, and Jewish communities, highlighting their specific religious rulings.<sup>22</sup>

Notably, the lack of a personal status law specific to the Yazidi community violates Article 3(4) of the 2012 Constitution. The article stresses that **“The personal status of religious communities shall be protected and respected.”**

The article is comprehensive in its address and does not rule out any religion or sect, including the Yazidi religion. Therefore, it ensures the right of the Yazidi community to their own personal status law.

This gap demonstrates one example of how several of the texts of the Syrian constitutions are either neglected or breached by government-issued laws, decrees, and circulars, including Circular No. 7, which denies the Yazidi community of its constitutional right to an independent personal status frame.

## Manifestations of Exclusion Perpetrated Against Religious Minorities in Syria

As the above sections demonstrate, patterns of marginalization and exclusion continue to affect all non-Muslim religious components in Syria, especially in the political domains of life and due to constitutional exclusivism, which stipulates that the Head of State be a Muslim.

However, the manifestations of exclusion and marginalization tend to be blatantly severe when perpetrated against Yazidi communities, including discrimination in the legal designation. Unlike other sects and religions, the Syrian State denies the Yazidi community an

<sup>21</sup> “Discrimination in Personal Status Laws (comparative research)” (In Arabic), *Syrian Women's League*, 30 November 2018 (14 November 2022).p. 141. <https://afakneswiah.org/%D8%A7%D9%84%D8%A8%D8%AD%D8%AB-%D8%A7%D9%84%D9%85%D9%82%D8%A7%D8%B1%D9%86-%D8%A7%D9%84%D8%AA%D9%85%D9%8A%D9%8A%D8%B2-%D9%81%D9%8A-%D9%82%D9%88%D8%A7%D9%86%D9%8A%D9%86-%D8%A7%D9%84%D8%A3%D8%AD%D9%88/>

<sup>22</sup> For further information, see: “Yazidis in Syria: Decades of Denial of Existence and Discrimination,” STJ, 5 September 2022 (Last visited: 14 November 2022). <https://stj-sy.org/en/yazidis-in-syria-decades-of-denial-of-existence-and-discrimination/>

independent personal status law and governs their related affairs, as Circular No. 7 provides, by the Personal Status Law No. 59 of Muslims.

With this, the State ignores the distinctive identity of the Yazidi religion, and thus its different teachings and laws, especially those pertaining to matters of personal status. Circular No. 7 states that:

**“According to the foregoing, it is evident that the Syrian citizens of the Yazidi sect are subject, with regard to their legal affairs—including marriage—to the Personal Status Law, which does not subject them to special legislation similar to the rest of the sects referred to above.”**

Notably, forcing Yazidis under the same Personal Status Law as Muslims constitutes a clear violation of Article 18 of the Universal Declaration of Human Rights. The article provides that: **“Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”**

In addition to the coercive uniformity imposed on Yazidis, the Circular also divides Yazidis into two categories: Syrian Yazidis and non-Syrian Yazidis, assigning a different court to each group to preside over their personal status matters. In this regard, the circular adds:

**“The Personal Status Law promulgated by Legislative Decree No. 59 of 1953 and its amendments is applicable in matters of personal status for Syrian citizens who are members of the Yazidi community. The Sharia Court is the court with the jurisdiction to see to the legal issues of those Syrian citizens who are members of the Yazidi community.”**

As for the group the Circular calls non-Syrian Yazidis, the jurisdiction is for civil courts—that is, they are not subject to the Sharia judiciary specialized in personal status cases. The circular uses the category “non-Syrians” to refer to Yazidi Kurds who the State stripped of citizenship under the 1962 Special Census of al-Hasakah. This group is divided into *ajanib* (foreigners, who are registered stateless), and *maktumeen* (unregistered stateless) persons.<sup>23</sup>

In view of this blatant discrimination against the Yazidi community and the systematic legal assault on their existential religious right, the Guide will devote the following section to the violations members of the community have suffered in Syria over the past decades.

<sup>23</sup> For further information, see: “Syria: 10 facts about the 1962 special Census of al-Hasakah”, STJ, 4 October 2019 (Last visited: 14 November 2022). <https://stj-sy.org/en/syria-10-facts-about-the-1962-special-census-of-al-hasakah/>

## Religious-Based Violations against Yazidis

The lack of an autonomous personal status law has made severe and lasting repercussions on the Yazidi community. Legal dependence has deprived Yazidis of several rights, foremost of which is the right to nationality and, consequently, the other human rights which are associated with legal existence.

For example, some Yazidis are registered as Muslims in the Nufous (the civil registry), while others are registered as Yazidis. This discrepancy poses various challenges for potential spouses. In the event of a marriage between a man who is registered as a Yazidi and a woman who is registered as a Muslim, or vice versa, it is legally impossible for the couple to register their marriage. Registration challenges arise from the fact that the marriage of a Muslim woman to a non-Muslim man is invalid under the Syrian Personal Status Law.

These difficulties are passed down to future generations because parents of such interfaith marriages cannot register the birth of their children since their marriage was never formally registered. As a result, many Yazidi children are facing statelessness, and more are likely to face the same struggle in the future.

Denying children citizenship is a violation of several international covenants and treaties that establish access to nationality as a basic human right.

To avoid the catastrophic consequences of nonregistration, spouses registered as Yazidis are forced to declare their conversion to Islam before the Sharia courts because the spouse registered as a Muslim cannot change his/her religion to Yazidism, which is legally prohibited because this renders him/her a murtadd (an apostate). Spouses resort to this measure to be able to register the births of their children and protect them from statelessness.

Notably, forcing Yazidis to convert to Islam, even if formally, with the aim of obtaining vital identity documents is a flagrant violation of international conventions and treaties that ground the human right to freedom of belief.

In addition to coercive conversion for legal purposes, there are several cases in which Yazidis were registered Muslims against their will. In Syria, many documented stories narrate how, within the same family, some members were registered as Yazidis while the rest were registered as Muslims because the registration of births is largely dependent on the mood and personal preferences of the employee overseeing the registration.

Beyond citizenship, violations against Yazidis are carried out against the community in the other daily spheres of life, including education. Several Yazidis narrate that religious instructors, especially in middle and high schools, ordered Yazidi students to leave their classes because they were non-Muslims. Notably, religious education is part of compulsory schooling and students are obliged to pass their assigned exams. Therefore, Yazidi students had to pass exams even though they were not allowed to attend classes. In-class violations also include some religious teachers' tendency to refer to Yazidi and, sometimes, Christian students as Kufar (infidels).

Under such patterns of exclusion, Yazidis are prone to feel alienated and, consequently, are driven to lose any sense of belonging to society, and even to the State, due to the government's measures and its deliberate estrangement of this segment of its population.

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Importantly, Religious-based discrimination foments rifts within society – a fact which violent parties have taken advantage of over the course of the conflict in Syria. Armed groups have committed various atrocities with sectarian undertones, including the killing or arrest of people due to their religious affiliations and the destruction of various religious objects, including mosques, churches, and shrines.

In Syria, violations against Yazidis began after the sweeping 2011 protests which, after a few months, devolved into armed conflict.<sup>24</sup> The Yazidi communities, concentrated in the areas of Afrin and Ras al-Ayn/Serê Kaniyê, witnessed the first attacks. In late October 2012, [Qestel Cindo](#), whose residents embrace Yazidism, was attacked after the forces of the opposition's Free Syrian Army (FSA) took control over the neighboring Azaz city. The attack was launched on the pretext that Yazidis had "embraced a religion other than Islam."<sup>25</sup>

In Ras al-Ayn/Serê Kaniyê, extremist Islamist armed groups began attacking the area and committing large-scale violations against its population, including Yazidis, in November 2012.

At dawn on 16 August 2013, Qaeda-linked jihadist factions attacked al-Asadiya village, located 10 km south of Ras al-Ayn/Serê Kaniyê. The village's population consisted mostly of Yazidis and was home to over 20 Yazidi families. A Yazidi civilian, Murad Sa'ado, was killed in the attack after he was injured fighting the attacking factions. The factions arrested him and left him to bleed to death. The factions also executed his brother, Ali Sa'ado, by firing squad.<sup>26</sup>

When IS came to being, they also began targeting Yazidi communities. IS considered the Kurdish Yazidi community to be made of Kufar (infidels) and their religious rituals as tahrif (distortion) of true religious teachings. On 29 May 2014, IS attacked al-Tlailiya in al-Hasakah's countryside. The village was home to a Kurdish Yazidi community, in addition to a group of internally displaced persons (IDPs), mostly women and children, who had settled there after they fled al-Safira, in Aleppo. During the attack, IS militants – mainly foreign fighters who did not speak Arabic – mistook the IDPs they killed for Yazidis because they did not understand what they were saying. The executions stopped only when an Iraqi fighter arrived in the village, did some translation, and informed the militants that these civilians were "Sunni Arabs".<sup>27</sup>

Violations perpetrated against Yazidis have taken different forms and patterns following the Turkish military operations in northern Syria, which has displaced tens of thousands of the indigenous population of northern Syria, including the Yazidis.

<sup>24</sup> The International Committee of the Red Cross (ICRC) described the combat in Syria as a non-international armed conflict in mid-2012. However, the International, Impartial and Independent Mechanism (IIIM), established by the General Assembly, stated that the internal armed conflict in Syria actually began in late 2011.

<sup>25</sup> "Yazidis in Afrin: A burdened memory and fear of the unknown" (in Arabic), *DW*, 13 March 2015 (last visited: 1 August 2022). <https://www.dw.com/ar/%D8%A7%D9%84%D8%A5%D9%8A%D8%B2%D9%8A%D8%AF%D9%8A%D9%88%D9%86-%D9%81%D9%8A-%D8%B9%D9%81%D8%B1%D9%8A%D9%86-%D8%B0%D8%A7%D9%83%D8%B1%D8%A9-%D9%85%D8%AB%D9%82%D9%84%D8%A9-%D9%88%D8%AE%D9%88%D9%81%D9%8C-%D9%85%D9%86-%D8%A7%D9%84%D9%85%D8%AC%D9%87%D9%88%D9%84/a-18289607>

<sup>26</sup> Ras al-Ayen: The Conflict over the "Gate to Syrian Jazira" on its Seventh Anniversary, *STJ*, 7 November 2019 (last visited: 14 November 2022). <https://stj-sy.org/en/ras-al-ayen-the-conflict-over-the-gate-to-syrian-jazira-on-its-seventh-anniversary/>

<sup>27</sup> "Rule of Terror: Living under ISIS in Syria", the Independent International Commission of Inquiry on the Syrian Arab Republic, 14 November 2014 (last visited: 14 November 2022). [file:///C:/Users/Jian/Downloads/HRC\\_CRP\\_ISIS\\_14Nov2014.pdf](file:///C:/Users/Jian/Downloads/HRC_CRP_ISIS_14Nov2014.pdf)

## Violations Perpetrated on Religious and/or Sectarian Grounds

Several Syrian and international human rights organizations, as well as local and international media outlets, have issued reports documenting hundreds of violations in Syria. In many of the corroborated cases, the perpetrators subjected the victims to violations because of their religious affiliations or simply because they belonged to certain ethnic groups or sects.

The Islamic State (IS) was the key culprit in countless religion-based violations. In 2013, IS attacked the Greek Catholic Church of Our Lady of the Annunciation in Raqqa and set fire to its premises. In a second similar attack, IS destroyed the statues in the Church of Martyrs and later transformed the church's building into an Islamic missionary office.

Outraged by the assaults, locals took to the streets in different areas across Raqqa, renouncing the IS attacks on the two churches. In response, IS shattered crosses in the churches, threatened the protestors, and called them *kufar murtaddin* (apostate infidels).<sup>28</sup>

Assaults against Christian religious objects were not limited to Raqqa province. Similar hostilities were recorded in Deir ez-Zor after IS took over the entirety of the province. In addition to sabotaging Christian places of worship, IS forced Christian locals choose between "converting to Islam", "paying them taxes", or leaving their homes under pain of death. Consequently, many Christians fled their villages.

The pre-conflict census of the population in Deir ez-Zor— IS' last stronghold in Syria, show that nearly 4,000 Christians resided in the province, which had a total population of 500,000 people. In Raqqa, the self-proclaimed capital of IS Caliphate (State), figures indicate that the province was home to over 1,500 Christian families. These families constituted 1% of the province's total population of 300,000.<sup>29</sup>

Reports covering religion-based violations in Homs province revealed that in 2015 IS kidnapped several members of the province's Christian community. The reports recorded that families lost contact with over 230 locals and people displaced to the town of al-Quaryatayn, including dozens of Christians, who IS abducted from Saint Elian Monastery near the town.<sup>30</sup>

Also in 2015, IS launched a brutal attack on the Christian villages in the Khabur Valley. According to witnesses, this attack caused entire families, all Syriac and Assyrian Christians, to escape the area.<sup>31</sup>

In Idlib province, the Christian community experienced atrocities, as brutal as those IS perpetrated against Christian locals in Raqqa and Deir ez-Zor; however, at the hands of Hay'at Tahrir al-Sham (HTS, also the former Jabhat al-Nusra/al-Nusra Front, which is al-Qaeda's branch in Syria). After it took control of the province, HTS confiscated the properties of

<sup>28</sup> "Places of Worship between the Fire of al-Assad's and the Rulings of IS: Over 1,400 Mosques and Churches Destroyed in the Syrian Conflict" (in Arabic), *Enab Baladi*, 6 July 2014 (last visited: 16 November 2022). <https://www.enabbaladi.net/archives/17957>

<sup>29</sup> "How is Silencing the Churches' Bells in Syria?" (in Arabic), *Enab Baladi*, 31 December 2017 (last visited: 16 November 2022). <https://english.enabbaladi.net/archives/2018/01/silencing-churches-bells-syria/>

<sup>30</sup> "IS kidnaped Dozens of Christians from Homs" (in Arabic), *Enab Baladi*, 7 August 2015 (last visited: 16 November 2022). <https://www.enabbaladi.net/archives/40678>

<sup>31</sup> "The recent history of the Christians of the Khabur Valley is a nightmare in a loop. They are descendants of those who fled Anatolia during the 1915 genocide. Iraq was a first stop for many, but life there was far from easy either. After a massacre in northern Iraq in 1933, many crossed to French-controlled Syria, where they settled along the Khabur River. Once a thriving community of 15,000 individuals in the Khabur Valley, local NGOs say there are a "few hundred" left in the area following the IS offensive in 2015."

For further information, see: "Syrian Christians on the brink", *DW*, 22 January 2020 (Last visited: 16 November 2022). <https://www.dw.com/en/war-in-syria-drives-out-christian-community/a-52021147>

Christian owners and withheld the rents they were paid, showing no regard to the powers of attorney owners had assigned to agents in the province.<sup>32</sup>

In this context, STJ documented that HTS seized at least [550 houses](#) belonging to Christians in Idlib city between late 2018 and mid-October 2019.

Additionally, STJ corroborated the confiscation of [750 homes](#) owned by Christian families in the villages spreading across Jisr al-Shughour countryside since the beginning of 2018 and up to late December of the same year. These property seizures were perpetrated by HTS, the Guardians of Religion Organization, and fighters of the Turkistan Islamic Party, under the pretext of the absence of their owners.

According to local eye witnesses that STJ met, the factions deliberately rented out these properties for their own benefit and settled the families of their fighters in several of the houses they seized.

In 2018, Yazidi shrines were among the first religious structures to be “demolished and their contents exhumed” by the factions of the opposition’s Syrian National Army (SNA). The factions committed the assaults after they helped Turkey invade and take control over Afrin city and its suburbs, located in northwest Aleppo province, on 18 March that year.<sup>33</sup>

Notably, the violations that took place on religious/sectarian grounds in Syria were not limited to minorities. In a September 2013 report, Human Rights Watch (HRW) documented that SG forces carried out mass executions in al-Bayda and Banyas towns.<sup>34</sup>

By working with survivors and local activists, HRW was able to compile the names of 167 victims executed in al-Bayda town on 2 May 2013. HRW revealed that the overwhelming majority of the victims were killed summarily after military confrontations between SG forces and the opposition in the town ended.

The killings in al-Bayda are among the bloodiest mass executions in the Syrian conflict and escalated sectarian tensions because the town hosts a Sunni Muslim majority and a small Christian minority.

In addition to a few neighborhoods in Baniyas, primarily Ras al-Naba`, al-Bayda constitutes a Sunni anti-SG enclave in the heart of the mostly pro-SG Tartous province. Tartous is home to a large Alawite population.

Several months after the mass killings in al-Bayda and Baniyas, particularly on 4 August 2013, armed Syrian opposition factions launched a large-scale military attack on dozens of villages in the countryside of Latakia, which is home to the Alawite sect. According to HRW, the factions committed massive human rights violations during their attack. IS and Liwa al-Muhajireen wal-Ansar (Brigade of Emigrants and Supporters, also known as Jaish al-Muhajireen wal-Ansar) kidnapped over 200 civilians, mostly women and children.<sup>35</sup>

<sup>32</sup> “Absent Christian: Confiscation of real property of Idlib’s Christians” (in Arabic), *Enab Baladi*, 8 July 2020 (Last visited: 16 November 2022).

<https://english.enabbaladi.net/archives/2020/07/absent-christian-confiscation-of-real-property-of-idlibs-christians/>

<sup>33</sup> “Yazidis of Afrin: Violations and religious restrictions threaten their existence”, *Enab Baladi*, 31 July 2021 (last visited: 16 November 2022).

<https://english.enabbaladi.net/archives/2021/08/yazidis-of-afrin-violations-and-religious-restrictions-threaten-their-existence/>

<sup>34</sup> “No One’s Left’: Summary Executions by Syrian Forces in al-Bayda and Baniyas”, HRW, 13 September 2013 (last visited: 16 November 2022).

<https://www.hrw.org/report/2013/09/13/no-ones-left/summary-executions-syrian-forces-al-bayda-and-baniyas>

<sup>35</sup> “You Can Still See Their Blood’: Executions, Indiscriminate Shootings, and Hostage Taking by Opposition Forces in Latakia Countryside”, HRW, 10 October 2013 (last visited: 16 November 2022). <https://www.hrw.org/report/2013/10/10/you-can-still-see-their-blood/executions-indiscriminate-shootings-and-hostage>

## Promoting Religious Minorities Rights: Advocacy and Awareness Campaigns

### Internationally

The High Commissioner for Human Rights is primarily responsible for the implementation of the UN human rights program within the UN system. Therefore, the High Commissioner plays a key role in promoting and protecting human rights through public statements, initiating dialogue with governments, and liaising with UN-affiliated and other bodies, as well as ensuring that human rights, including minority rights, remain an integral part of the UN's work.

The High Commissioner can raise the voice of minorities who suffer from discrimination. The Office of the United Nations High Commissioner for Human Rights ([OHCHR](#)) provides services to the main UN bodies and mechanisms concerned with human rights and ensures that minority issues are systematically included in the international human rights agenda. Minority rights advocates who have concerns regarding the protection of these rights can contact OHCHR directly.

The OHCHR addresses minority issues through its thematic work globally and its field presence in more than 50 locations. It addresses these issues through the designated [Indigenous Peoples](#) and [Minorities](#) Department, based in Geneva.

OHCHR fieldwork entities allow minorities to have direct contact with UN staff, and to participate in relevant programs, training, and monitoring activities. OHCHR is increasingly including minority issues in its regular communications, including with the UN [HRC](#) and its [special procedures](#), human rights [treaty bodies](#), and the Universal Periodic Review ([UPR](#)).

### The Forum on Minority Issues

The [Forum](#) was established pursuant to the HRC resolution 6/15 of 28 September 2007, renewed by resolution 19/23 of 23 March 2012. It offers a platform for promoting dialogue and cooperation on issues pertaining to national or ethnic, religious, and linguistic minorities, as well as thematic contributions and expertise to the work of the Special Rapporteur on minority issues.

The Forum meets annually for two working days allocated to thematic discussions. The Special Rapporteur on minority issues guides the work of the Forum, prepares its annual meetings and reports on the thematic recommendations of the Forum to the HRC.

The President of the HRC appoints a Forum chairperson for each session. The chairperson is chosen from experts on minority issues.

The Forum identifies and analyzes best practices, challenges, opportunities, and initiatives for the further implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. It seeks to provide practical and tangible results in the form of thematic recommendations of practical value to all concerned parties.

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Over its first four sessions, the Forum addressed the issues of education, effective political participation, effective participation in economic life, and the guarantee of the rights of minority women and girls. The Forum's recommendations, developed by an independent expert on the basis of the discussions held at the session, are submitted to the HRC and posted on the website of the Forum, as is a summary of the discussions. Forum sessions, which take place at the UN Office in Geneva, include official statements from invited experts and oral interventions from other participants. All participants have an opportunity to speak – whether they are representatives of governments, NGOs, minority advocates, or individual experts. Interventions during the annual sessions may address different aspects of the topic under discussion and may describe specific relevant cases, provide examples of good practice, or provide scientific analysis.

As the only annual UN meeting devoted to minority issues, the Forum provides a unique opportunity for engagement and dialogue with a wide range of stakeholders, including representatives of Member States, UN specialized agencies, human rights treaty bodies, intergovernmental and regional organizations, non-governmental organizations, national human rights institutions, minority representatives, academics, experts, and civil society representatives. The Forum is open to the active participation of all stakeholders and seeks to find avenues for cooperation and creative participation. To participate in Forum sessions, pre-registration with the Commission secretariat is required, with only a few prerequisites, while NGOs do not have to hold consultative status with the UN Economic and Social Council.

To ensure that minority issues remain on the HRC's agenda, the Forum also provides minority advocates, experts, and States the opportunity to exchange experiences and views informally.

Interested entities and individuals can submit proposals on annual topics or experts on panel discussions or other related issues to the Independent Expert on Minority Issues and/or OHCHR staff supporting this mandate through this email address: [minorityforum@ohchr.org](mailto:minorityforum@ohchr.org)

## HRC Complaint Procedure

The HRC complaint procedure addresses “consistent patterns of gross and reliably attested violations of all human rights and all fundamental freedoms occurring in any part of the world and under any circumstances.”

The CRH complaint procedure is the only universal such procedure that covers all human rights and fundamental freedoms in all UN Member States. Notably, communications submitted under this procedure are not dependent on the concerned State's acceptance of treaty obligations or on the existence of a special procedures mandate. However, the procedure does not provide a remedy for individual violations, nor does it provide compensation.

Only one requirement governs communication under the complaints procedure. The submissions must report a “consistent pattern of gross and reliably attested violations of human rights”, not a single individual case, except in cases where a communication alone or in combination with other communications appears to reveal a consistent pattern of gross violations supported by reliable evidence of human rights and fundamental freedoms violations.

## Complaint Submission Criteria

To be admissible, the communication related to a violation of human rights and fundamental freedoms:

- ✓ Must include the name of the applicant, whether an individual, a group of individuals, an organization, or a group of organizations, and when requested it shall remain anonymous. However, anonymous submissions would not be accepted;
- ✓ Must give a factual description of the alleged violations, including the rights which are alleged to be violated; date and location of the alleged violation; the names of victims, and other related evidence;
- ✓ Must report the objectives of the complaint;
- ✓ Must explain how the case reported reveals a consistent pattern of gross and reliably attested violations of human rights, and not an individual case;
- ✓ Must elaborate on how the applicants exhausted local remedies, or explain why they consider such remedies ineffective or unreasonably prolonged;
- ✓ Must not contain abusive language;
- ✓ Must not refer to a case that appears to reveal a consistent pattern of gross and reliably attested violations of human rights already being dealt with by a special procedure, a treaty body or other United Nations or similar regional complaints procedure in the field of human rights;
- ✓ Must not be manifestly politically motivated. Instead, its object must be consistent with the Charter of the United Nations, the Universal Declaration of Human Rights and other applicable instruments in the field of human rights law.

## Locally

This Guide attempts to provide a tool to civil society activists, working in the field defending and advocating for the rights of minorities and the diverse religious communities present in Syria.

The Guide aspires to empower these activists with the tools to influence policies that may affect the existence of these communities and their rights, which are protected in international covenants and treaties, and to help activists to mobilize the support needed to create actual social change.

Therefore, in this section, the Guide will outline potential mobilization and advocacy plans that activists can adopt to bring about change.

Since successful and effective advocacy depends primarily on flexible partnerships, in which individuals are partners in decision-making and implementation, the advocacy plan must seek to engage the largest possible number of active and influential social institutions and personalities. These include governmental institutions, media outlets, and influencers, as well as a large segment of the public. To achieve needed levels of engagement, activists should hold panel discussions and workshops, and conduct focused opinion polls, which also aim to identify the key obstacles that may hinder intended mobilization and advocacy activities.

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Notably, activists' efforts must be largely invested in legal mobilization and advocacy campaigns, so as to highlight the above-discussed international and domestic instruments and legislation. The campaigns thus shall introduce these frames to raise the target audience's awareness about legal issues and establish a legal culture. Most importantly, these efforts must press towards adopting the positive texts that preserve the rights of religious minorities, as well as amending or canceling discriminatory texts in Syrian legislation, so that these texts become a positive and influential factor to end or limit the negative discourse directed by some religious components against various other components.

All of the aforementioned require good preparation and planning. This can be realized through establishing a specialized and enthusiastic team, capable of optimal use of social media, and audio-visual and print media. The team must be capable of defining the purpose of the campaign's publications, ensuring that its content remains positive, and developing non-confrontational dialogue strategies, especially with the de facto authorities in the region in which these campaigns will take place.

It is important to coordinate and cooperate with active partner organizations in the region to implement the required campaigns and to prepare and publish research studies on the rights of religious components that are prepared by a specialized team familiar with the current situation in Syria.

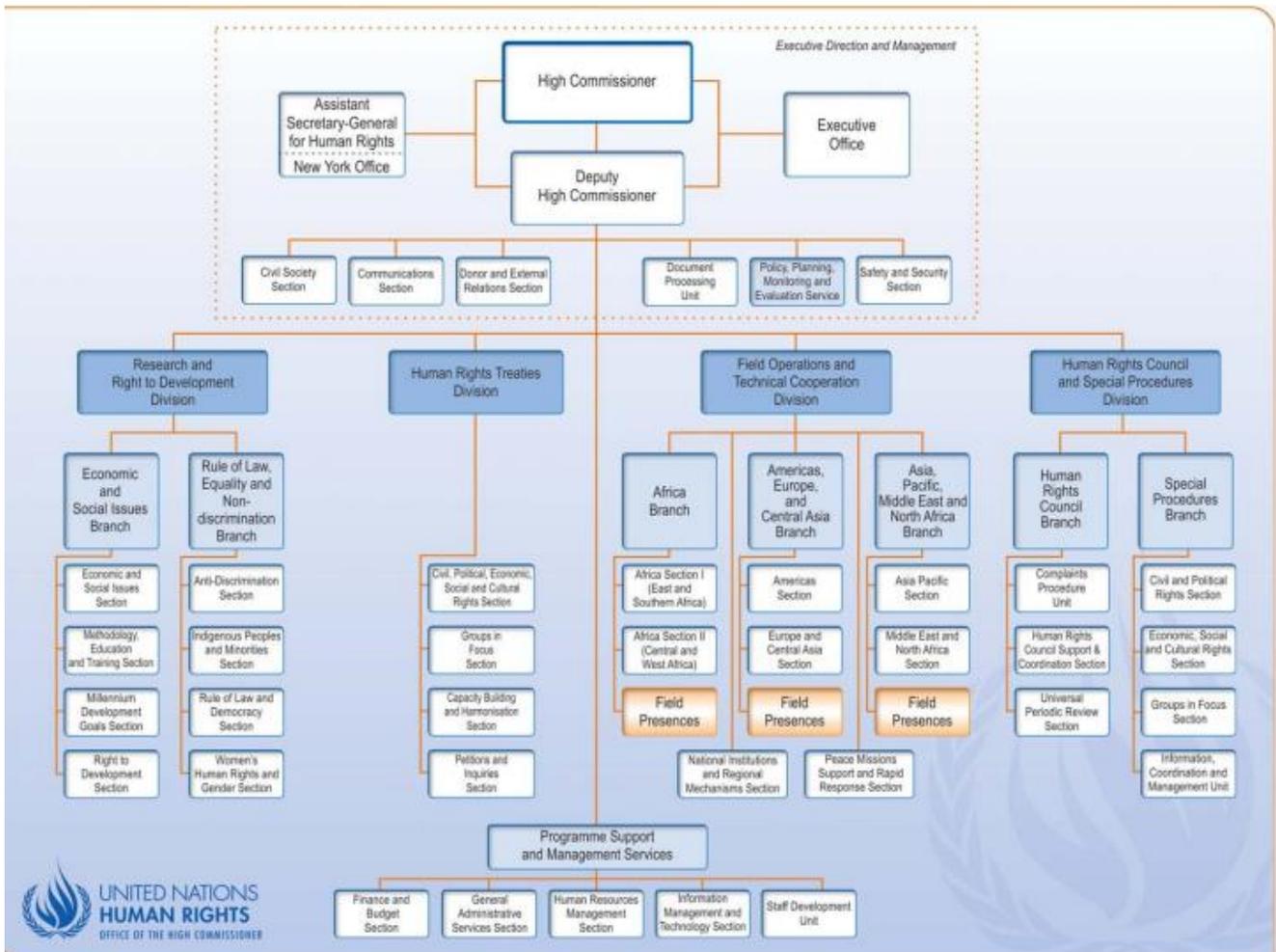


Image (2) Organizational chart the OHCHR



## About “Syrians for Truth and Justice”

Syrians for Truth and Justice: The idea of establishing “Syrians for Truth and Justice-STJ” was born to one of its founders, while participating in the LDF Fellowship Program by the American Middle East Partnership Initiative (MEPI), motivated by his desire to Contribute to building the future of his country, Syria.

The project started with modest possibilities, as it was limited to publishing stories of Syrians who were subjected to enforced disappearance and torture, and later grew into a well-established organization committed to revealing all human rights violations in Syria.

Based on the conviction of Syrians for Truth and Justice that the diversity and diversity that characterized Syria throughout history is a blessing for the country, our team of researchers and volunteers works diligently to uncover human rights violations committed in Syria, regardless of the party responsible for these violations or the category they were subjected to. With the aim of strengthening the principle of inclusiveness, ensuring the organization's representation of all groups of the Syrian people, and ensuring that everyone enjoys their full rights.



This publication has been produced with the assistance of Norad and Minority Rights Group International. The contents of this publication are the sole responsibility of "Syrians for Truth and Justice" and can in no way be taken to reflect the views of Norad and Minority Rights Group International.