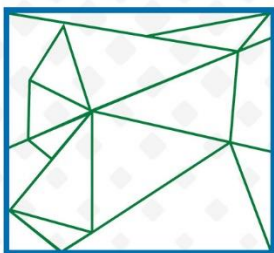


Syria: Vague and Discriminatory New Decree on Children of Unknown Parentage



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Decree No. 2 of 2023 imposes on children a specific religion and denies non-Muslims the right to be foster parents

The full scale of the destructive earthquake that struck Syria and Turkey on 6 February 2023 continues to unfold. According to recent statistics, this earthquake has left nearly [50,000](#) people dead, including more than 5,900 in Syria and thousands of Syrians residing in Turkey. Moreover, thousands are still missing, and the exact number is uncertain. According to the United Nations, the total number of people affected by the earthquake in Syria has reached around [9 million](#), including [2.5 million](#) children.

Perhaps one of the worst consequences of this disaster is the tragedy of the children who lost their families and became orphans. Syria, which suffers from 12 years of war, already has about [1.2 orphans](#) across regions, with overwhelmed care centers. As a result of the increased scale of homelessness, displacement and asylum seeking, the issue of identifying the parentage of young orphans and caring for them has become more challenging, especially after the earthquake that affected areas inhabited by the displaced.

[Syrian legislation does not allow the adoption](#). However, [Legislative Decree No. 2 of 2023](#) (which was issued in January to regulate the affairs and welfare of children of unknown parentage) allows for fostering children. According to Article 3, a child who loses his/her way and has no ability to identify his/her family because of his/her young age or mental weakness, or because he/she is deaf and mute, is considered a child of unknown parentage. **This includes children who lost their families in the earthquake and were unable to identify themselves or their lineage.**

This decree probably solves a part of the problem by offering children of unknown parentage the opportunity to find foster families. However, it leaves behind a large number of orphaned children of known parentage who need psychological and physical care, attention, and love, especially after the trauma, pain, and loss which they experienced in the aftermath of the destructive earthquake.

Therefore, new legislation must be adopted to protect Syrian children who lost their families and to provide them with the necessary care.

To address the issue of orphans and children of unknown parentage, Syrians for Truth and Justice (STJ) stresses the need to [enact a law that allows adoption](#), and to offer another alternative option for those who prefer to follow the sponsorship/fostering system.

1. Legislative Decree No. 2 of 2023

On 14 January 2023, Syrian President Bashar al-Assad issued [Legislative Decree No. 2](#), which regulates the affairs and welfare of children of unknown parentage. Notably, Article 1 of the decree defines *al-Tifl Majhul al-Nasab* (a child of unknown parentage) as “a foundling whose parents remain unidentified and his/her lineage unestablished.”

The decree consists of 54 articles divided into nine chapters. The articles define the terms therein, the objectives of the decree, and the scope of application. Additionally, the articles introduce the Independent Authority, concerned with regulating the affairs of children of unknown parentage, list the authority's tasks and powers, and highlight the terms of the relationship between the authority and the children.

Additionally, the decree dedicates articles to due measures to be followed upon finding a child, including medical examination and registration. Furthermore, it elaborates on the measures related to admitting children of unknown parentage into a care center or placing them in the care of foster families.

Legal researchers with Syrians for Truth and Justice (STJ) compared the new decree to previous related legal frames. They found out that the decree would have been almost a replica if it was not for the Independent Authority—which the government has warranted financial and administrative autonomy and called *Boyout Lahen Alhayat* (The Music of Life Houses).

In terms of content, legal researchers with STJ noted that Decree No. 2 is a collage of existing texts on the issue of children of unknown parentage. The decree incorporates materials from three sources:

- The [Legislative Decree No. 107 of 1970](#) on *Luqattaa* (Foundlings);
- The [Civil Status Law No. 26 of 2007](#), which in Article 29 lists the measures to be followed after a foundling is located, including the child's registration proceedings;
- [Legislative Decree No. 69 of 2012](#). The decree amends foundling-related articles in the Civil Status Law, allowing foster families to give their surnames to foundlings in their care when they are over 18 years old.

Furthermore, Decree No. 2 underscores the provisions in [Legislative Decree No. 70 of 2012](#), amending the Civil Status Law. Decree No. 70 mandates substituting the word *Laqitt* (foundling) with *Majhul al-Nasab* (Child of Unknown Parentage).

Notably, the decree comes at a time when the phenomenon of child abandonment is not only rife in Syria but also is only worsening. In a [2022 report](#), STJ documented at least 100 cases of child abandonment across the country between 2021 and 2022.

2. Fertile Ground for Violations

Several articles in the decree are either overtly discriminatory—overladen with religion-based and/or gender-based biases, or are restrictive—undermining the children's right to freedom of thought and religion by assimilating them into a specific religion while blocking their choices to join others.¹

Addressing faith, Article 22 of Decree No. 2 stipulates that a child of unknown parentage is a “**Muslim unless proven otherwise.**”² This article is problematic on two levels. First, it is absolute and unrestricted because it neglects to define the factors that would change the child's religion from Islam to another. Second, as it imposes on the child a specific religion, the article deprives her/him of the right to choose their religion at a later stage of their development. This religious limitation is unconstitutional, as it contradicts Article 42 of the [2012 Syrian Constitution](#), which protects the right of every Syrian to freedom of belief.

¹ Article 14 (1) of the [Convention on the Rights of the Child](#): “States Parties shall respect the right of the child to freedom of thought, conscience and religion.”

² Articles 20, 21, 22 of Decree No. 2 copy the exact text of Article 29 of [Law No.13 of 2021](#).

Additionally, Article 34 (b) of the Decree No. 2 stipulates that a foster family—if consisting of a husband and a wife, can only apply for fostering a child of unknown parentage “if the couple and the child share the same religion.”

In this case, the decree bars non-Muslim couples from becoming foster families to children of unknown parentage who are registered as Muslims by default. Therefore, the article is patently discriminatory against non-Muslim Syrians and is at odds with Article 33 of the 2012 Constitution. Article 33 (c) states: “Citizens shall be equal in rights and duties without discrimination among them on grounds of sex, origin, language, religion or creed.”

Besides the religious constraints, Article 34 (E) of Decree No. 2 imposes on the foster parents an age limit. If the family consists of a husband and a wife, both spouses shall not be younger than 30 or older than 55.

In the subsequent Article 35, the decree imposes similar age limits on foster families consisting of single women whereby the applicant shall not be less than 40 if unmarried and less than 30 if divorced or a widow with infertility issues.

Legal researchers with STJ point out that while the age-based distinction between spouses and single women on the one hand and between single unmarried women and divorced or widowed women on the other is uncalled for, Decree No. 2 has neglected an essential aspect. For all practical purposes, the decree should have focused on the foster family’s capacity to offer the child of unknown parentage needed care and financial support, regardless of the female applicant’s marital status.

The age limit has a second implication for female applicants. According to Articles 34 and 35, women qualify to foster children when they are no more than 50 years old and no less than 40 years if unmarried. In that sense, the decree hints that women can only efficiently take a child into their care within these ten years. By this, the decree uses age to restrict the decisions of women willing to foster children of unknown parentage, even though it drops the age condition in Article 37. The article addresses the situation when a spouse applies to keep the child after their spouse has died or after they were divorced or separated. In this context, the article states that the Independent Authority shall rule on the matter regardless of the spouse’s age.

Rife as it is with discrimination, the decree does not warrant a single man to take a child of unknown parentage into his care, regardless of his social and financial status. The exclusion of single men is another instance of unjustified discrimination, which runs against the principle of equality established in the Syrian constitution.

3. Ambiguities and Gaps

The majority of the decree’s articles are absolute and unrestricted, lacking clarity on matters essential to the child’s wellbeing. Nowhere in its text does the decree mentions a mechanism to monitor the commitment of the foster family to the guidelines of child welfare, which remain equally undefined. Similarly, the decree does not list measures to be taken against uncommitted foster families.

For instance, the decree does not provide clear guidelines on the financial matters of children in the care of foster families. Article 34 (g) enables the foster family to “financially provide for the child of unknown parentage.” However, it fails to list the conditions under which the family is considered financially capable and whether proof would be that the family has a monthly income or properties.

In addition to neglecting to elaborate on some provisions, the decree does not justify the very few criteria it includes. For instance, Article 32 states that only children under seven can be put in the care of a foster family, while children of seven and above are to be sent to care centers. The decree does not incorporate the reasons for setting the age of seven as the maximum limit for placing children with families, while the best interests of children lie in pushing the age limit to 18 years old.

Beyond the ambiguity dominating its articles, the decree leaves many essential issues unaddressed. For instance, Article 10 lists the duties of the Administrative Board of the Life of Music Houses. However, no provision obliges the board to work on matching children of unknown parentage with suitable foster families, which should have been a priority given that living with a family is in the child's best interest.

Additionally, Article 8 provides for a national database of information available on children of unknown parentage. However, the article does not present clear measures to protect the information and guarantee it remains confidential.

Similar gaps exist in Articles 11 and 29. Article 11 (a) lays out the administrative structure of the Music of Life Houses. In addition to the head of the board, who is a specialized, competent and experienced member of the houses, there are four other members: the Director of Social Policies in the Ministry of Social Affairs and Labour, a legal expert, a child development expert, and a representative from a child concerned non-government organization. However, the article does not necessitate including a child health specialist, who would ensure that the board's decisions guarantee the child's physical and mental well-being.

For its part, Article 29 addresses another aspect of the children's financial matters. The article denies children of unknown parentage access to inheritance while it should have granted children this right on the condition that they spend a defined period with the foster family.

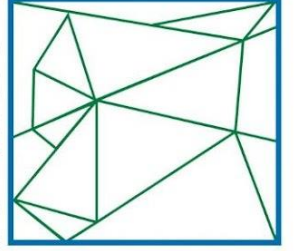
4. A Tool to Boost the Syrian Government's Profile

Given the decree's issuance time and gaps, STJ believes that the Syrian government passed the decree for political gain. The government issued the decree nearly two months after Syria was [elected](#) as Vice-President of the International Conference on Early Childhood Care and Education 2022 - held by the United Nations Educational, Scientific and Cultural Organization (UNESCO) in Uzbekistan (Tashkent), and only a day before a slated People's Assembly session.

Notably, the People's Assembly is the entity with the power to legislate laws, in relation to which the president's power to pass laws shall remain a reserve, exercised solely during times of necessity or when the Assembly is not on duty.

STJ backs the critics of the degree, who believe that the government has issued the decree only to circumvent international sanctions and unilateral coercive measures and to obtain foreign funding for the Independent Authority, which is the only new element the decree brings about.

Other critics advocate that the decree is a personal attempt by President Bashar al-Assad to polish his image before the international community and not in the slightest to respond to the worsening reality of children of unknown parentage. Al-Assad ignores the fact that large swathes of the country are outside the control of the government, which would hamper the application of the decree.



About Us:

Syrians for Truth and Justice (STJ) is a nonprofit, nongovernmental organization monitoring human rights violations in Syria. Founded in 2015, STJ has been based in France since 2019.

STJ is an impartial and independent Syrian human rights organization operating across Syria. Our network of field researchers monitor and report human rights violations occurring on the ground in Syria, while our international team of human rights experts, lawyers, and journalists gather evidence, examine emerging patterns of violations, and analyze how violations break domestic Syrian and international law.

We are committed to documenting violations of human rights committed by all parties in the Syrian conflict and elevating the voices of all Syrians victimized by human rights violations, regardless of their ethnicity, religion, political affiliation, class, and/or gender. Our commitment to human rights monitoring is founded on the idea that professional human rights documentation meeting international standards is the first step to uncovering the truth and achieving justice in Syria.



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