

# كسر القوالب Breaking the mold

#Breaking\_The\_Mold

## Arab Civil Society Actors and their Quest to Influence Policy-Making

Country: Syria

### Syrian Nationality Law: A Pending Struggle to This Day

| An author and journalist from Syria |

#### BACKGROUND OF THE ISSUE AND POLICY PROBLEM

The Syrian Nationality Law was promulgated in 1969, and its Article 3 stipulates that the blood relationship to grant nationality to children is primarily related to the father, the matrilineal descent is only granted if the kinship is not proven by a known father, on condition of birth on Syrian territory. A foreigner may be granted nationality if they fulfill a set of conditions, including a successive residency in Syria for no less than five years, free of all infirmities, illnesses and communicable diseases<sup>1</sup>. However, the regular method's naturalization is extremely difficult, and the documented cases are rare for the spouses or children of Syrian women or persons of other nationalities<sup>2</sup>.

The need to amend the law and give Syrian women the right to grant nationality to their children has arisen, not only in terms of gender equality stipulated in the Syrian Constitution and the agreements ratified by the Syrian government<sup>3</sup> but also to address the consequences of the law issued on children of Syrian women residing in Syria who are deprived of nationality and the negative effects. Whoever lives in Syria throughout their life, upon reaching puberty, discovers many obstacles and restrictions in the field of higher education, obtaining work and residence permits, owning real estate, marriage and freedom of movement, as some of them are forced to travel to the country of which the father holds its

nationality to work and learn, even if that is not their preferred option - in the case of parents' divorce, for example - but it is the one that Syrian laws dictate to them.

The number of children born from a Syrian mother, residing on Syrian territory and deprived of Syrian nationality, is still not precisely defined. In this context, figures issued by the Syrian Ministry of the Interior can be monitored, which estimated the number of Syrian women married to non-Syrians in 2006 at almost 1,450 women<sup>4</sup>, which means, according to the State Planning Commission's estimations that set the average number of Syrian family members to five, there are almost 4,500 non-stateless children, if we state this year as an example, except for marriages that are not registered in the civil records, which can be observed, particularly in some rural areas.

After 2011, the problem of discrimination in the nationality law worsened, and the number of children born from Syrian mothers increased due to the displacement of thousands outside the country, and the high rates of temporary or non-temporary marriages, particularly in neighboring countries, as well as internal and external displacement, loss of identity papers for families and a failure to register marriages and births in civil records, particularly in hot spots.

<sup>1</sup> The full text of the law is available on the Syrian People's Assembly website: [http://parliament.gov.sy/laws/Decree/1969/civil\\_01.htm](http://parliament.gov.sy/laws/Decree/1969/civil_01.htm)

<sup>2</sup> Rahadah Abdush, *Depriving Syrian Women Married to Non-Syrians of granting Their Nationality to Their Children and Husband*, 2008, <https://goo.gl/CuVHUF>

<sup>3</sup> These include the Convention on the Rights of the Child and the Universal Declaration of Human Rights. It is worth noting that Syria acceded to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 2002, but it had reservations on the articles stipulating that women are granted equal rights with men regarding the nationality of their children.

<sup>4</sup> Syrian Nationality and Male Blood, 2017, <https://goo.gl/CjJjKL>

## CIVIL SOCIETY'S ENGAGEMENT AND TRANSFORMATIONAL MOMENTS

The Nationality Law did not concern Syrian civil society organizations before the year 2000, as civil struggle related to women's issues was focused and limited to everything related to combating violence against women and the discrimination against them in the Personal Status Law and the Penal Code mainly. However, the Damascus Spring that began in 2000<sup>5</sup> and the relative openness that Syria witnessed during that period contributed to the involvement of more women in the societal and political movement and the openness to the experiences of civil society and other feminist organizations outside Syria, as well as the identification of concepts of gender and social discrimination and then awareness of the existence of a problem related to granting Syrian women married to non-Syrians nationality to their children, which was not present sufficiently and widely in previously<sup>6</sup>.

The actual struggle to amend the Nationality Law began in 2002 after Syria participated in a regional campaign launched in 1999 in Lebanon, Egypt, Morocco, Algeria, Jordan and Bahrain under the title "My nationality is a right for me my family"<sup>7</sup>. Syria participated in the campaign with a special version entitled "My nationality is my right and my children's right" led by the Syrian Women's League<sup>8</sup> and the participation of many women's organizations, civil society organizations, activists and human rights defenders. The campaign was based on human rights and social foundations to amend Article 3 of the Nationality Law to become Paragraph "A" of the article as follows: "Anyone born inside or outside the country to a Syrian Arab father or a Syrian mother shall be considered as Arab Syrian"<sup>9</sup>.

## ADOPTED STRATEGIES AND TACTICS

The campaign started with legal research on discrimination in the Nationality Law and social research to reveal the extent of the Syrian society phenomenon, which was difficult due to the lack of official statistics. During the research, it was found that "the phenomenon is more widespread than we had imagined, especially that Syria received over many years thousands of Arabs from many countries, most notably Palestine and Iraq, and many of them got married to Syrian women, and the most dangerous is the birth of children without the possibility of registering them in the civil records due to the loss of the parents' identity papers. On the other hand, obtaining an official number in Syria is an almost impossible mission, especially if the target is using it in a campaign"<sup>10</sup>.

5 The Damascus Spring is a period of intense political and social mobility that extended from the arrival of President Bashar al-Assad to power in Syria in mid-2000 until earlier of 2001. The period was marked by a strong movement of intellectuals and civil society activists who demanded political, legal, economic and social reforms, some of which were implemented before the movement was finally suppressed under the pretext of the priority of national unity and stability

6 An interview with a member of the secretariat of the Syrian Women's League on November 2018,<sup>7</sup>

7 To read more about the regional campaign, you can review the following link on the Lebanese Association, Collective for Research and Training on Development – Action, website <https://crttda.org.lb/ar/project/nationality>

8 A Syrian organization established in 1948 as a replacement for the Syrian Communist Party. After 1988, it turned into a feminist organization working to protect women and ensure their equality with men through a set of related programs and campaigns.

9 According to interviews with a number of those who were active in this campaign, and considering that it was the first campaign of its kind in Syria, it was chosen to focus on granting nationality to children only, without the husband, and also to keep the word «Arab» in the text of the law without removing it in consideration of the rest of the nationalities in Syria. This is based on the logic of going through the experience in the simplest way possible, and then working to emphasize the demands once the basic demands are fulfilled.

10 An interview with a member of the secretariat of the Syrian Women's League on November 2018,<sup>7</sup>



In the years following the launch of the campaign, and with evolution, the campaign turned into an organized local action that used many strategies to raise awareness about this issue, up to the main demand, which is the desired change in the Nationality Law. Among the tactics used are the following:

- Submitting the proposal to amend the law to the People's Assembly earlier in 2004, the proposal was submitted by 35 members to the Speaker and included in the Parliament's agenda during the May-June 2004 session<sup>11</sup>.
- Sending a petition signed by thousands of civil society activists to the President of the Republic to demand the amendment of the Nationality Law in May 2006<sup>12</sup>, and sending the paper by the President to the Ministry of Justice, which in turn stated that, after almost two months, that it was a good demand, and that the Nationality Law did not comply with the Constitution and must be amended.
- Demanding to lift the Syrian government's reservations about some articles of the "CEDAW" agreement related to the abolition of all forms of discrimination against women, which the Syrian government ratified in 2002 with reservations on some of its articles, most notably Paragraph 2 of Article 9 regarding the right of women to grant citizenship.
- Training a group of media professionals, in cooperation with the Syrian Commission for Family Affairs, on issues of gender and discrimination in the Nationality Law to raise awareness in the media about these issues, and then launch a media campaign with a clear contribution from the official media by publishing a group of articles and broadcasting televised programs tackling these issues, in addition to hosting a number of civil society actors, between 2004 and 2006. As well as training many workers in different ministries on the same concepts and issues to raise awareness about them.

11 According to Article 155 of the internal regulations of the Syrian Peoples Assembly, every ten councilors have the right to propose laws

12 The text of the paper is available on the Syrian Women website, via the link <https://goo.gl/TNFWBQ>

- Holding public sessions to hear victims of discrimination in the Nationality Law, during which many cases of discrimination were identified, thus the effects of the law on children who were not naturalized, and many cases that were not usually highlighted in the media were monitored<sup>13</sup>.
- An online survey on the "Syrian Women" website on the need to amend laws that discriminate against women<sup>14</sup>.

Among the efforts made to amend the Nationality Law after 2011, we mention:

- The Syrian Commission for Family Affairs reviewed discriminatory laws against women and proposed amendments or enacting new laws, and the General Women's Union submitted a memorandum to the People's Assembly to amend these laws. Subsequently, a committee was formed in July 2011, headed by the Assistant Minister of Interior for Civil Affairs, and with representatives from the Ministries of Foreign Affairs and Expatriates and Justice, to look into the draft law prepared by the Union. In 2012, a member of the Syrian Constitutional Drafting Committee indicated in press statements that "the Women's Union had previously submitted a bill to the government (about the nationality law) and we do not know where it is now"<sup>15</sup>, nevertheless, no explanations were made concerning the committee ceasing its work, which often due to the disorders in the country after 2011.
- A memorandum was reformulated in the name of the Syrian Women's League in 2012, in cooperation with the Ministries of Social Affairs and Labor, to re-demand to amend the Nationality Law, and meetings were held with many ministers in the Syrian government to mobilize the issue.

## POLICY OUTCOMES

The efforts as mentioned above succeeded in bringing attention to the issue, mobilizing advocacy for it, turning it into a public opinion issue for more than ten years, taking it to the spotlight and placing it on the discussion table after it was completely neglected, "which was not expected for us at that time, given the difficult and challenging reality in which we were working"<sup>16</sup>.

There have been some partial successes in providing facilities for the children of Syrian women in Syria. For example, a resolution was issued in 2009 granting non-Syrian children the right to apply to Syrian universities while enjoying the same privileges as Syrians and not as international students.

A report issued by the United Nations Committee to End Discrimination Against Women in 2007 stated, "The Syrian government expects to pass some new draft laws on women in 2008 until the completion of their discussion with the public opinion and the reasons for the proposed amendments by all the bodies as mentioned above" but without specifying the intended laws<sup>17</sup>.

However, the desired amendment to the Nationality Law has not been achieved as required by the date of writing this paper. The proposal to amend the law submitted to the People's Assembly remained merely papers in the Parliament's offices<sup>18</sup>, and the petition sent to the Presidency of the Republic and the Ministry of Justice did not succeed in achieving any progress. Moreover, demands to lift the reservation on some articles of the "CEDAW" agreement were completely rejected in 2008<sup>19</sup>. The reservation on Article 2 was lifted only by virtue of a presidential decree issued in 2017<sup>20</sup> while retaining the rest of the reservations.

## GOVERNMENT COUNTER ARGUMENTS

The Syrian government relied on many arguments to refrain from amending the Nationality Law, including:

- The amendment contradicted the prohibition of resettling Palestinians as Syria adheres to the Arab League Resolution issued in 1955, which prohibits the resettlement of Palestinians in any Arab country on the basis of preserving their identity, even though the right of return is guaranteed for everyone who was present on the Palestinian lands in 1948 and held another nationality according to Law No. 194 of the United Nations in 1948.
- The possibility of encouraging Syrian women to marry a foreigner temporarily usually happens for economic reasons or a desire for women to grant their children nationalities other than the Syrian nationality.
- National security and the reason for the woman's affection, as she may marry a foreigner who works against the Syrian national interest, and thus nationality is granted to the children of this foreigner, which threatens the country's national security.
- Failure to approve the granting of citizenship to Kurds who lost their nationality in the 1962 Census, which resulted in the registration of almost 120,000 Kurds residing in northeastern Syria as foreigners and not Syrians<sup>21</sup>. This case ended with issuing a presidential decree in April 2011 requiring Kurds' naturalization who were registered as foreigners in the Syrian registry<sup>22</sup>.
- The argument of the religious impediment and the proposed amendment contradicts Islamic law, which is refuted by several clerics' statements, including the Mufti of Syria and the General Director of Ifta at the Ministry of Endowments<sup>23</sup>.
- Some opponents have argued that Syrian laws prohibit dual nationality, while the Nationality Law actually stipulates in Article 10 that the loss of Syrian nationality occurs only if the person concerned requests to give up the Syrian nationality after obtaining a foreign nationality or the issuance of a special decree stripping them of it for reasons set forth in Article 21 of the same law is often related to the country's security or the violation of some laws.

18 In February 2009, members of the People's Assembly announced their intention to present a new draft law that includes the required amendments to the Syrian Nationality Law after neglecting the old proposal, but without any further development. You can review the following link on the Syrian Women website <https://goo.gl/5shhCe>

19 Statement on People's Assembly Decision to Keep Reservations on CEDAW, 2008, <https://goo.gl/crRggY>

20 The text of the decree on the Syrian Prime Ministers website <https://goo.gl/6eYDcF>

21 Those deprived of citizenship in Syria, illegal infiltrators or victims of national policies, 2010, [http://www.kurdwatch.org/pdf/kurdwatch\\_staatenlose\\_ar.pdf](http://www.kurdwatch.org/pdf/kurdwatch_staatenlose_ar.pdf)

22 The text of the decree can be found on the Syrian People's Assembly website <http://www.parliament.gov.sy/arabic/index.php?node=201&nid=4451&ref=tree>

23 Preventing a Syrian woman married to a non-Syrian from granting her nationality to her children and husband, was previously mentioned

13 Interview with a lawyer and women's rights activist, November 2018, 21

14 An archived version of the survey is available on: <https://goo.gl/ZS55Dv>

15 Official authorities are discreet concerning the results of the committee that studied granting citizenship to children of a Syrian mother from a non-Syrian husband, 2012, <https://goo.gl/LxM58B>

16 Interview with a member of the secretariat of the Syrian Women's League on December 2018, 26

17 The full report is available on: <http://www.un.org/womenwatch/daw/cedaw/cedaw38/responses/cedaw.c.syr.q.1.add.1.pdf>



- Refusal to grant citizenship to children born to a Syrian mother and a foreign father who fights in the ranks of the military groups opposed to the Syrian regime, which has spread widely in Syria after 2011 under the pretext of not accepting the naturalization of the children of terrorists.

In any case, these arguments did not convince the organizations working to change the Nationality Law. According to them, the Syrian authorities did not express clear reasons for not making the required amendment<sup>24</sup>.

In fact, "the draft of the amended law is still disregarded by the People's Assembly even today without ever seeing the light. Women's issues are not a priority for the Syrian authorities. Nevertheless, the barrier of silence on this issue has broken and turned into a public opinion issue that we will not allow it to be forgotten or ignored, especially with no convincing argument or reason for not amending the law, as well as the increase of the phenomenon and its clear effects"<sup>25</sup>.

## CONCLUSION

The failure of civil society in Syria and its inability to put pressure to pass a new nationality law is a part of the general politics prevailing in Syria since the Baath Party's arrival to power, following a policy of enticement, intimidation, controlling civil society and practicing repression.

In fact, the authorities refrain from abiding by the demands of civil society or involving it in setting up or influencing public policies, as they fear any real change and reform in the prevailing situation in the country, which may ultimately lead to a profound political or social transformation that does not serve their interests. Hence, the authorities hinted at the strict security control with which it applies to all state and society levels. At the same time, the authorities seek to satisfy civil society, at the minimum, by fulfilling some simple demands that do not have a real and deep effect, under the pretext of the non-priority for these issues, an argument that became stronger after the outbreak of the war and used it as an excuse not to make any radical legal amendments. Many civil society workers call this policy a "superficial policy", which means making simple changes that do not have a significant impact, but they seem to be superficial that cannot fix the deep gaps.

On the other hand, according to this policy, the authorities in Syria use any simple change as a way to show their apparent openness and acceptance of civil society pressures, which actually contributes to resetting the red lines within which civil society can play its role, instead of involving it in the democratic process and making it a part of it.

Despite the difficulty of civil work in Syria, its narrow margins, the legal and security obstacles it faces, and the divisions it suffers from, the Nationality Law has witnessed collective work at a good level among many organizations, activists and human rights defenders, as the actors in this issue allied and united their demands concerning the desired change and the mechanisms used to achieve the goal. The victims affected by the law also became involved in some phases of this struggle and contributed to highlighting the discrimination they suffer through the hearings over many years. Those affected expressed their testimonies.

In this situation, the only thing left for Syrian civil society is to continue working within the available margins of maneuver and to create an alternative method of participation in order to achieve the minimum possible demands for which it seeks, particularly in terms of the Nationality Law, in the hope of achieving the desired goals cumulatively over the years, especially as these margins change in the area, decrease and expand, according to the context, place and time, and it is imperative to tackle them with the greatest possible flexibility and adaptation.



24 In this regard, it is worth checking out these media reports: Nawal Al-Yazji, *Mothers Are Waiting, Which Paths The Nationality Law Amendment Bill Is Lost*, 2006, <https://goo.gl/7M6yVr>; Bassam Al-Qadi, *Nationality for the Children of Syrian Women, The Boring Repetition*, 2010, <https://goo.gl/uFNidd>; Maya Al-Andari, *The Right of Women to Grant Their Nationality to Their Children*, 2013, <https://goo.gl/PrDJ8o>; *The right of Syrian women to grant citizenship to their children and fears of consequences*, 2010, <https://goo.gl/mk8qty>; Rasha Faig, *Granting the nationality to the children of Syrian women, a right or a duty*, 2006, <https://goo.gl/iWcegc>

25 An interview with a member of the secretariat of the Syrian Women's League on November 2018,<sup>7</sup>

## BREAKING THE MOLD PROJECT

*In mid-2018, the "Civil Society Actors and Policymaking in the Arab World" program at IFI, with the support of Open Society Foundations, launched the second round of its extended research project "Arab Civil Society Actors and their Quest to Influence Policy-Making". This project mapped and analyzed the attempts of Arab civil society, in all its orientations, structures, and differences, to influence public policy across a variety of domains. This research produced 92 case studies outlining the role of civil society in impacting political, social, economic, gender, educational, health-related, and environmental policies in ten Arab countries: Lebanon, Syria, Palestine, Jordan, Egypt, Morocco, Tunisia, Yemen, and the Arab Gulf.*

*Over two dozen researchers and research groups from the above countries participated in this project, which was conducted over a year and a half. The results were reviewed by an advisory committee for methodology to ensure alignment with the project's goals, and were presented by the researchers in various themed sessions over the course of the two days.*

## THE CIVIL SOCIETY ACTORS AND POLICY-MAKING PROGRAM


*at the Issam Fares Institute for Public Policy and International Affairs at AUB, examines the role that civil society actors play in shaping and making policy. Specifically, the program focuses on the following aspects: how civil society actors organize themselves into advocacy coalitions; how policy networks are formed to influence policy processes and outcomes; and how policy research institutes contribute their research into policy. The program also explores the media's expanding role, which some claim has catalyzed the Uprisings throughout the region.*


## THE ISSAM FARES INSTITUTE FOR PUBLIC POLICY AND INTERNATIONAL AFFAIRS AT THE AMERICAN UNIVERSITY OF BEIRUT

*The Issam Fares Institute for Public Policy and International Affairs at the American University of Beirut (AUB Policy Institute) is an independent, research-based, policy-oriented institute. Inaugurated in 2006, the Institute aims to harness, develop, and initiate policy relevant research in the Arab region. We are committed to expanding and deepening policy-relevant knowledge production in and about the Arab region; and to creating a space for the interdisciplinary exchange of ideas among researchers, civil society and policy-makers.*


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