

# KURDWATCH●Report 5

## Stateless Kurds in Syria

Illegal invaders or victims of  
a nationalistic policy?



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# Stateless Kurds in Syria

## Illegal invaders or victims of a nationalistic policy?

With Decree No. 93 on August 23, 1962, the Syrian government ordered a special census for al-Hasakah province, which was carried out on October 5, 1962. As a result, approximately 120,000 Kurds lost their Syrian citizenship and with it, their basic civil rights. Since the descendants of these people registered as stateless (*ajanib*, sing. *ajnabi/ajnabiyah*, literally »foreigners«) are likewise stateless, the number of those affected has continued to rise over the last decades.

The political assessment of this denaturalization has remained controversial to the present day. Was it simply a technical or regulatory measure, as the Syrian government still contends? Or is the census of 1962 to be understood in the context of other Arabization measures—in particular Muhammad Talab Hilal's »Twelve-Point Plan« of 1966 or the implementation of an »Arab Belt« along the Syrian-Turkish and Syrian-Iraqi borders between 1973 and 1976? Who exploited the special census and to what political aim? Who were the beneficiaries? In answering these questions, the following text attempts a historical classification of the denaturalizations. In this context, we analyze the relevant passages of the original decree and consider the circumstances surrounding the implementation of the census.

Secondly, we analyze the restrictions currently imposed on stateless Kurds, with particular emphasis on bureaucratic procedures (such as marriage registration). Here, we also discuss the living conditions of a second group of stateless Kurds, the so-called *maktumin*

(sing. *maktum/maktumah*, i.e., unregistered stateless people), and their connection to the 1962 census.

Finally, we explore how the issue of stateless Kurds has been discussed in the context of Syrian domestic and foreign policy in the almost ten years since Bashar al-Assad came to power.

### Historical classification

The decision to conduct a special census in al-Hasakah province was taken in the transition period from the collapse of the Egyptian-Syrian union in the United Arab Republic (UAR) on September 28, 1961 and the first Ba‘th-Party coup on March 8, 1963.

During the period of the United Arab Republic, political institutions in Syria were effectively dismantled<sup>1</sup> and far-reaching socio-economic reforms undertaken. 1958 saw the passing of laws on agricultural relations and land reform. The former regulated relationships between landlords, tenants and workers for the first time; it limited the number of work hours per week, arranged for the introduction of minimum wages, banned lifelong tenancy and controlled the distribution of the harvest between landowner and tenant. The land-reform law set an upper limit to landownership (120 hectares of irrigated land or 460 hectares of non-irrigated land) and determined that property exceeding this limit be nationalized and redistributed. This led to a total of approximately 1.3 million hectares for redistribution—almost half of which were confiscated by the state by 1961, but no more than 60,000 hectares distributed to 4,500 farming families.<sup>2</sup> The labor law passed in April 1959 prohibited trade-union activity including strikes, while the social-security law initiated the introduction of insurance in the case of death, disability or work-related accidents, as well as pension funds. Trade between Syria and Egypt increased and state instruments to promote private enterprise were expanded, boosting in particular the Syrian middle class. However, due to insufficient support from the private sector for state development plans, the flight of private capital abroad and considerations of political power, banks, insurances and large industrial con-

**1** All Syrian parties were banned, the Syrian army was placed under Egyptian command, and the Egyptian bureaucracy and police-state system were adopted.

**2** Perthes 1990: 55.

cerns were nationalized in July 1961—measures that displeased a middle-class clientele. The nationalization measures described above are seen as a decisive reason for the coup by the »separatist movement«, which was carried out by a handful of conservative officers on September 28, 1961. The coup re-established Syria's independence and placed a transitional government from the right wing of the middle class in charge of civil government business.

In the ensuing year and a half, a total of five short-lived governments succeeded one another. As a result of various coups and attempted coups, and the constant military intervention in political decision-making processes—including in the formation of the respective government—their power remained limited. The goal of the »separatist movement« was the re-establishment of the status quo prior to the formation of the United Arab Republic. It sought in particular the reversal of nationalization and the land reform. In fact, decisions made between September 1961 and March 1963 were often contradictory. Thus, for example, the limits imposed by the land-reform law on ownership were extended substantially at first and the nationalization of industrial companies was reversed. However, changes to the land-reform law were withdrawn shortly afterwards and the largest private companies renationalized. Although the nationalization of Syrian banks was reversed, non-Arab banks remained nationalized and the operations of non-Syrian Arab banks were bound by specific restrictions.

The passing of Decree No. 93 on August 23, 1962 by Syrian president al-Qudsi occurred during the final weeks of Prime Minister Bashir al-ʿAzmah's tenure. His cabinet had agreed to the decree on the previous day—one of the last official acts of a weakened government that barely functioned and resigned shortly after. Bashir al-ʿAzmah was succeeded on September 17, 1962 by Khalid al-ʿAzam under whose rule Decree No. 93 was implemented on October 5, 1962. The driving force behind the census decree was Saʿid as-Sayyid, the governor of al-Hasakah province. As-Sayyid had been urging the government to carry out a census in al-Hasakah for quite some time—and finally succeeded. In his mem-

oirs, he describes himself as a »staunch Arab nationalist«, whose sole life goal was »the unity of all Arabs«.<sup>3</sup> His justification for the denaturalization that followed the census was that the »illegal invasion of the Kurds into Syria« was a »conspiracy with the goal of establishing non-Arab ethnic groups within the Syrian crude-oil triangle«. The phrase »crude-oil triangle« refers to the fact that in 1962, mid-sized European and American oil companies began to compete for the extraction of oil found in al-Hasakah province. He further stated that »the migration of Turkish Kurds to Syria represents a great danger for the security of Arab Syria« and stressed that:

»[T]he distribution of land is not arbitrarily made to every greedy person who happens to come along, but follows very concrete, fixed principles. Only citizens may be considered. Foreigners have no claim on the land to be distributed.«<sup>4</sup>

In an attempt to stir up public opinion, the al-‘Azm government used similar language to discredit the beneficiaries of the law on agricultural reform, referring to them as suspicious »invaders« who had sneaked in to snatch at landownership, endangering the »security«, the »Arab character« and the »sovereignty« of Syria.<sup>5</sup>

However, as-Sayyid seems to have found even more allies for his project: large landowners located in al-Hasakah province. For this clientele, some of whom enjoyed considerable political influence, the census and the ensuing denaturalizations provided the opportunity to avoid or reverse the confiscation of their estates as envisaged by the land reform. If Kurdish small farmers were to be discredited as »invaders« and hence lose their claim to a share of the estates, this could work in favor of large landowners. It is not clear to what extent Kurdish or other large landowners endeavored to profit or did in fact profit from the denial of citizenship. In his article, Barut outlines the case of the Kurdish landowner, member of parliament and minister, ‘Abdulbaqi Nizam ad-Din, who temporarily succeeded in recovering his confiscated estate following the denunciation of small farmers as »invaders«. Ultimately, however, he was re-stripped of his estate and some members of his

**3** Barut 2009.

**4** Barut 2009. Barut refers to an article in the *al-Ayyam* newspaper on November 6, 1962.

**5** Barut 2009. Barut refers to a conversation on July 15, 2009 with Ahmad ‘Abdulkarim, Minister for Agricultural Reform in Bashir al-‘Azmah’s cabinet.

family lost their citizenship on the grounds that they were »Turkish foreigners«. <sup>6</sup>

That the census was concerned with other matters apart from an impartial correction of the register is evident from the text of the law itself.<sup>7</sup> Article 1 of the decree in question reads:

»A general census is to be carried out in al-Hasakah province in one single day.«

Paragraph A of Article 19 stipulates how proof of Syrian citizenship was to be shown in the context of this census. Specific documents had to be presented:

»Any citizen of the Syrian Arab Republic recorded in the register of births, marriages and deaths in al-Hasakah province must procure an extract of his record and the records of his family within a period of time set by a decision of the Interior Minister. These extracts must be presented to the proper authorities on the day of the census. In lieu of an extract, the family register and an identity card may serve as proof.«

Those who failed to comply with the obligation to produce proof were liable to prosecution pursuant to Article 23, Paragraph C:

»Anyone who makes false statements or knowingly provides false documents to the census committee or the proper authorities with intent to obtain or reject the citizenship of the Syrian Arab Republic for himself or others will be punished with imprisonment for between six months and two years, and a fine of between five hundred and two thousand Syrian liras, or with one of either of these two penalties. These penalties do not affect other more severe penalties stipulated in other laws.«

Additionally, census forms had to be filled out. The data provided in these forms was to be verified by the registration committees. Accordingly, Article 10 reads:

»Before entering a resident in the register of births, marriages and deaths, the registration committees must avail of the means and methods to verify and

<sup>6</sup> Barut 2009.

<sup>7</sup> The complete text of the law can be accessed in the original and in translation on the site <[www.kurdwatch.org](http://www.kurdwatch.org)> in the category »Documents«.

confirm the accuracy of the information entered on the census forms by the person concerned, in particular the correspondence between this information and earlier entries in the register of births, marriages and deaths. The results of this inspection are to be submitted to the central committee so that it can confirm or reject the entry.

Should checks and inquiries by the registration committee reveal that information is missing from forms or that the information on the forms is not consistent with reality, the committees may decide, either on their own initiative or by asking the person concerned, to supplement or correct the information.«

The final decision on whether or not a person was to be entered in the register of births, marriages and deaths was taken not by the registration committees or the central committee but rather by the so-called supreme committee (Article 7). This committee also had the final say on the legitimacy of complaints. Accordingly Article 14 reads:

»Within a period of three months starting with the date of the announcement of the end of registration, those concerned may submit a written petition to the chairman of the central committee in the province requesting the belated addition of instances that were neglected or the rectification of mistakes made during the census or registration. After making appropriate inquiries, the central committee will make a decision about the case. No penalty or fine may be imposed upon the petitioner. An appeal against the decision may be brought before the supreme committee.«

At the end of this period, entries into the register of births, marriages and deaths or corrections to completed entries were only possible through a decision of the appropriate court (Article 16). Regulations were also in place to cover those who may have been outside al-Hasakah province or living abroad on the day of the census. Pursuant to Article 20:

»[a]ny citizen of the Syrian Arab Republic who comes from al-Hasakah province but is outside of the prov-



ince on the day of the census must contact the registrar where they are staying within fifteen days of the census date in order to fill out the appropriate forms for himself and his family members. This is necessary regardless of whether or not the person concerned is entered in the current register of births, marriages and deaths in al-Hasakah province. [...]

Should the people concerned be abroad, they must contact the consulate of the Syrian Arab Republic in the country where they are staying within three months of the census date in order to fill out the aforementioned form.«

Individuals not entered in the register of Arab Syrians as a result of the census evaluation were registered as »foreigners« (*ajanib*).

The extremely short time frame for the census—one day—, the amount of time permitted for an appeal of the census results—three months—and, finally, the short deadlines for people outside the province on the census day to register themselves and their families are conspicuous. This rapidity must be emphasized in light of the fact that the population of al-Hasakah was rural, often illiterate, and rarely had contact with government authorities. The expectation that this section of the population would comply with the stipulated time periods can only be seen as unrealistic.

Demanding the production of a single or family extract from the register or, insofar as this had not been requested in time, an identity card and a family register as proof of identity can be similarly understood. In reality numerous Kurdish and Arab farming families in the 1960s were not entered in any register, regardless of when they arrived in Syria. Entries of this kind were not common. A decree that demanded documents within an unreasonably short period of time from families unable to produce them because they had none (as those responsible were fully aware) could hardly have had the intention of correcting the resident register.

In this context, the question arises of how the population was informed of the census and the attendant time frame. Overlooking for a moment the fact that the print media was hardly the right instrument with which to reach

the masses, there was almost no reference to the census in the newspapers during the period in question.<sup>8</sup>

Numerous irregularities occurred in the course of implementing the census, which can, on the one hand, be blamed on the narrow time allowance. On the other hand, these irregularities suggest more. According to eyewitness accounts, instead of census takers visiting the residents personally, they frequently asked village leaders to tell them who originally came from Syria and who had immigrated from neighboring countries. These village leaders, who now determined the fate of the residents, suddenly became powerful. In this context, they may well have acted in their own interests or settled old scores<sup>9</sup>—at least if they were aware of the implications of the census. The same is true of large landowners in the region. Like village leaders, they too may have been considered informants when it came to the origins of the village population. This gave them the opportunity to defame those living on their former estates as invaders. Another potential source of errors was the staff of the civil registers. In an article in the Arab newspaper *Sawt al-'Arab*, the author reports:

»In one of the civil register offices, my friend saw something with his own eyes. A Kurd had his family register in his hand, yet the official insisted: ›You are not registered here‹.«<sup>10</sup>

These wilful false statements—along with carelessness and lack of time—may explain why in some families one brother remained a citizen while the other was deprived of his citizenship or why parents kept their Syrian citizenship but their children lost it.

The Syrian governments in power since 1962 have pursued various strategies to justify the census of that year. Hence the arguments delivered under al-'Azm, i.e., that denaturalized Kurds were invaders, have persisted. As late as July 1996, the Syrian government explained:

»At the beginning of 1945, the Kurds began to infiltrate into Hasakeh governorate. They came singly and in groups from neighboring countries, especially Turkey, crossing illegally along the border from Ras al-Ain to al-Malikiyya. Gradually and illegally,

**8** There are a few exceptions in the form of several small articles in the newspapers *an-Nasr*, *al-Wahdah*, *al-'Arabiyah* and *al-Ayyam*. They quote excerpts from the decree, look for volunteer assistants or advise on the end of the census. We were unable to find a newspaper that had given advice in a prominent place—such as the first page—on the implementation of the census or called for participation.

**9** For more on this, see Human Rights Watch 1996: 14.

**10** Sarukh, »Kaifa tadaḥmu al-aḥbār!«, *Sawt al-'Arab*, November 16, 1962.

they settled down in the region along the border in major population centers such as Dirbasiyya, Amoudeh, Qamishli, Qahtaniyya, and Malikiyya, until they began to constitute the majority in some of these centers, as in Amoudeh and Malikiyya. Many of these Kurds were able to register themselves illegally in the Syrian civil registers. They were also able to obtain Syrian identity cards through a variety of means, with the help of their relatives and members of their tribes. They did so with the intention of settling down and acquiring property, especially after the issue of the agricultural reform law, so as to benefit from land redistribution.«<sup>11</sup>

The theory of »illegal infiltration« was supported by the unusually high population growth in al-Hasakah province between 1954 and 1961. Official statistics show that the population increased by 27 percent—from 240,000 to 305,000—during this period. According to a random sample by the Syrian government in June 1962, the actual population was even higher, at 340,000.<sup>12</sup>

This line of reasoning raises questions. Firstly, even at the time of the census itself there were doubts that massive migration of Kurds from Turkey to Syria was in fact taking place. In an article in the Arab newspaper *Sawt al-‘Arab*, the author contests these facts. He reports on a recent encounter with an old friend who worked as a farmer in the Jazirah.

»After the embrace I said to him: ›Oh, you invader!‹ He laughed hard and answered: ›Did you perhaps believe the great outcry about the invaders from Turkey into the Jazirah?‹ [...] My friend is an Arab, son of an Arab [...] and I am an Arab, son of an Arab [...] [I] don’t want to defend the Kurds. [But] [i]f I look at their early and recent history, since the time of the Ayyubids I find no stance against Arabism on their part ...

My friend told me things that I mention here in the hope that the government will read them. It’s not true that thousands have come to the Jazirah from Turkey.«<sup>13</sup>

Secondly, this takes for granted that only Kurds came to al-Hasakah province from Turkey and Iraq in search of better living conditions. The fact that the redistri-

**11** Human Rights Watch 1996: Appendix A.

**12** McDowall 1998: 22.

**13** Sarukh, »Kaifa tadaḥmu al-aḥbār!«, *Sawt al-‘Arab*, November 16, 1962.

bution of fertile land was pending there and particularly in the region known as Upper Jazirah could also have attracted Christians from Turkey (e.g., the Tur Abdin)<sup>14</sup>, Arabs and Kurds from other Syrian provinces, as well as Arabs from Iraq and Turkey.<sup>15</sup> Thus population growth at this time must also be ascribed to an influx of people from these groups. However, with few exceptions the Kurds were the only people in 1962 to be deprived of their Syrian citizenship.

Thirdly, the fact that no Syrian government since 1962 has made a serious attempt to repatriate denaturalized Kurds to Turkey or Iraq speaks against the claim that this group of people came primarily from those areas.

Finally, it is striking that there are no known cases of officials at the register of births, marriages and deaths having been called to account for the illegal registration of Kurds from Turkey or Iraq. If, however, as the Syrian government suggests, the majority of those stripped of their citizenship were illegally registered as citizens rather than simply unregistered,<sup>16</sup> then illegal registration must have been a mass phenomenon that would have been impossible without the systematic help of employees at the register for births, marriages and deaths. Why then were they not held responsible?

A second line of argument adopted by the Syrian government was to admit that (technical) errors had occurred in the course of the census, i.e., that some people were unintentionally deprived of citizenship, while others were able to keep their citizenship illegally. It was therefore possible to hand in the relevant documents belatedly in order to prove residency in Syrian territory prior to 1945 and regain Syrian citizenship. The documents considered appropriate were extracts from pre-1945 civil registers, registers of Christian denominations or the Assyrian minority up to 1950, proof that a person held a government job or was employed by the military in the ten years prior to the census, as well as tax documents from the time of the Ottoman Empire. According to data from the Syrian government, the number of people registered as foreigners dropped from 84,000 to 40,587 between 1966 and 1986, only to rise to 54,218 by August 1, 1985 and 67,465 by October 31, 1995 as a result of marriages and births.<sup>17</sup>

**14** The mechanization of agriculture in Turkey led to high unemployment and increased labor migration after 1950; see McDowall 1996: 401–402.

**15** A noteworthy Arab minority lives in the area around Mardin.

**16** For more on this, see the position of the embassy already mentioned above in Human Rights Watch 1996: Appendix A.

**17** Human Rights Watch 1996: Appendix A. There is an obvious contradiction here. If the number of *ajanib* in 1986 was 40,587, it cannot have risen to 54,218 by August 1, 1985.

According to contemporary witness accounts, however, despite presentation of proper documents, countless people were not renaturalized, at least not before they had paid large bribes. Conversely, good connections and the corresponding payments were sometimes sufficient to obtain renaturalization.<sup>18</sup> Numerous cases are known of individuals who were not renaturalized despite having presented Ottoman documents containing proof that their family had legally resided in »Syrian« territory since that time. Moreover, the archives containing tax documents relevant to renaturalization were sealed after a short period of time so that the population could no longer use them as evidence.<sup>19</sup>

Thus there can be no claim to an unbiased review of the denaturalizations. The 1962 census must rather be understood as the first of several Arabization measures implemented in the 1960s and 1970s.

### **Routine discrimination—the current living conditions of stateless Kurds**

By order of the Syrian government, the civil registry offices in al-Hasakah province undertook a census of *qjanib* at the end of 2008. The figures obtained were not made public. However, KurdWatch received data on the number of *qjanib* from the majority of the civil registry offices. Some of it is approximate; in other cases the figures are exact. According to this data the situation is as follows:

al-Jawadiyah:	14,800
al-Qahtaniyah:	7,651
al-Qamishli:	12,500
al-Hasakah:	20,000
al-Malikiyah:	48,200
‘Amudah:	28,000
al-Darbasiyah:	11,400
Ra’s al-‘Ayn:	10,000
Tall Tamir:	632
al-Ya‘rubiyah:	768
Tall Hamis:	385

This amounts to a total of at least 154,000 people in 2008. A comparison of this figure with the data provided by the Syrian government on October 31, 1995 (67,465) shows that the number of *qjanib* has more than dou-

**18** McDowall 1998: 39.

**19** Human Rights Watch 1996: 14–15.

bled in the last thirteen years. The explanation for this massive increase is simple: the descendants of *ajanib* are likewise *ajanib*.

Another group of Kurds without Syrian citizenship apart from registered stateless people (*ajanib*) is the so-called *maktumin* (unregistered stateless people). Information from the Syrian government states that the *maktumin* are people who entered al-Hasakah illegally after the 1962 census and settled there.<sup>20</sup> Consequently, this group of people has or could claim citizenship of a country other than Syria—for example Turkey or Iraq. According to this theory, the *maktumin* have nothing to do with the 1962 census. In his speech before the parliament following his re-election on July 17, 2007, President Bashar al-Assad explained that in the context of stateless Kurds, the issue of the 1962 census and that of the *maktumin* are two entirely different topics.<sup>21</sup>

Ultimately it is unclear whether or not the Syrian government's analysis reflects the facts. In view of the questionable line of argument regarding alleged illegal Kurdish immigration prior to 1962, it seems that caution is advised, since particularly in the case of the *maktumin* no attempt has been made to repatriate them to Turkey or Iraq. It is undisputed that the children of a *maktumin* union are themselves *maktumin*, as are the children of unions where one parent is unregistered regardless of the status of the other. The sole exception is when the father is a citizen and the mother a *maktumah*. In this case the children are citizens. Additionally, children of a relationship between (male) *ajanib* and female Syrian citizens are *maktumin*.<sup>22</sup>

Admittedly this says little about the origin of the *maktumin*. It is unlikely that this group, which according to data from the Syrian government was comprised of roughly 60,000 people in 1985, developed solely from the descendants of relationships between male *ajanib* and Syrian citizens. A possible explanation is that those not recorded in the 1962 census were also given *maktum* status.<sup>23</sup> The size of this group could certainly be relevant: due to limited »publicity« for the census, a section of the rural population may have been unaware of it. Others could have judged incorrectly the consequences of not registering. Non-registration may even have seemed ad-

**20** Human Rights Watch 1996: 20.

**21** See »'Aiy ʔarḥ ba'd ḥall mauḍu' al-iḥṣā' yu'tabar muḥāwala li-hazzi istiqrār al-waṭan.« An-naṣṣ al-kāmil li-kalimat ar-ra'īs Baššār al-'Asad fi maḡlis aš-ša'b ba'd 'adā' al-qasam ad-dustūrī«, July 18, 2007, accessed at <[http://www.amude.net/Nivisar\\_Munteda\\_deep.php?newsLanguage=Munteda&newsId=6181](http://www.amude.net/Nivisar_Munteda_deep.php?newsLanguage=Munteda&newsId=6181)>.

**22** Children of Syrian citizens and female *ajanib* are Syrian citizens—here Syrian law assumes that the status of the man is decisive and the status of the children must be determined accordingly.

**23** Interview with three attorneys from al-Hasakah province, January to March 2010. The Syrian-Catholic archbishop of al-Hasakah also supports this theory; interview with Archbishop Jacques Behnan Hindo, al-Hasakah, April 13, 2008.



vantageous, since those who were unregistered, for example, could not be drafted for military service.

According to estimates by the Syrian government, the *maktumin* group already numbered 75,000 in 1995<sup>24</sup>, an increase that can be accounted for by births, regardless of how the origin of the group is explained. If the increase in the number of *maktumin* over the past thirteen years is similar to that of the *ajanib*, then the figure for 2008 could be approximately 160,000. Taking *ajanib* and *maktumin* together would lead to a total of more than 300,000 stateless Kurds. Taking this into consideration it must be assumed that by now the overwhelming majority of *ajanib* and *maktumin* were born in Syria after 1962—in other words, after the census.

The following table gives an overview of the circumstances under which children born in Syria are classified as Syrian citizens, *ajanib* or *maktumin*. As already explained, this depends on the status of both parents. Additional data is given on the possibility of registering marriages involving *ajanib* or *maktumin* and thus improving the status of the children.<sup>25</sup>

Husband	Wife	Registration of the marriage	Status of the children
citizen	citizen	yes	citizens
<i>ajnabi</i>	<i>ajnabiyah</i>	yes	<i>ajanib</i>
<i>maktum</i>	<i>maktumah</i>	no	<i>maktumin</i>
citizen	<i>ajnabiyah</i>	with special permission	citizens
citizen	<i>maktumah</i>	with special permission	citizens
<i>ajnabi</i>	citizen	with special permission, the wife keeps her original register number and is still considered single	<i>maktumin</i> , if the marriage is registered <i>ajanib</i>
<i>ajnabi</i>	<i>maktumah</i>	no	<i>maktumin</i> , if entered in the father's family register <i>ajanib</i>
<i>maktum</i>	citizen	no	<i>maktumin</i>
<i>maktum</i>	<i>ajnabiyah</i>	no	<i>maktumin</i>

The table shows that up to the present day existing Syrian law has not been applied to *ajanib* and *maktumin*. The practice that children are born *ajanib* or *maktumin* violates Article 3 Paragraph C of the Syrian citizenship law. The relevant passage reads that a Syrian Arab is,

»anyone born in the state [Syria] as a child of parents who are unknown or of unknown citizenship or who

**24** Human Rights Watch 1996: Appendix A.

**25** The following information on the legal situation of the *ajanib* and the *maktumin* is based on substantial preliminary research by the authors and was additionally verified by the attorneys mentioned above.

are stateless. A child found in the state is considered, until proven otherwise, to have been born on the territory of the state and in the place it was found.«

According to this article, children born in Syria to *ajanib* and *maktumin* must be awarded Syrian citizenship. In reality, however, this is not the case.

The most interesting cases here are those in which special permission is needed to register a marriage and improve the status of the children. The first case of this kind concerns male citizens and female *ajanib*. Their marriage must first be confirmed by the Sharia court. The decision of the court and the individual registration extracts of both, husband and wife, must then be submitted to the appropriate registry office. This office sends the documents to the Directorate for Civil Affairs in al-Hasakah, where they are forwarded to the Directorate General for Civil Affairs in Damascus.<sup>26</sup> The documents are sent on to the Political Security Directorate and the State Security, which give their branch offices in al-Hasakah the order to enquire about the place of origin of those concerned. If both intelligence services approve registration of the marriage, the Directorate General for Civil Affairs issues a permit, which is sent through the official channels via al-Hasakah to the appropriate local registry office. This office registers the marriage and issues an extract of the family register. The wife retains her original register number; the children are given the register number of the father.

The second case concerns marriages between Syrian citizens and unregistered female foreigners (*maktumin*). The procedure to register such a marriage is similar to that of marriages between male citizens and female *ajanib*—with the sole difference that the unregistered wife does not have to submit extracts from the register, merely an identification certificate from the mukhtar. The wife is recorded in her husband's family-register extract but does not receive an extract of her own.

The children of relationships between male citizens and female *ajanib/maktumin* are automatically citizens, as long as the appropriate mukhtar issues a birth certificate and their parents' marriage was registered.

**26** The offices named are subordinate to the Interior Ministry.



The next exception concerns male registered foreigners (*ajanib*) who marry female citizens. If these couples want to register their marriage, the wife must file a petition against her husband in the Sharia court.<sup>27</sup> The petition requests »confirmation of the marriage« or, if the marriage has resulted in children, »confirmation of the marriage and the recognition of paternity for the children«. In the presence of witnesses, the judge declares the recognition of the marriage and/or the recognition of paternity of the children. A copy of the verdict is sent to the appropriate registry office. Should the relationship result in children, the children, their parents and two witnesses must appear in person before the police and submit the verdict as well as the birth certificate issued by the appropriate mukhtar. The witnesses must then confirm that the children are, in fact, the biological descendants of the petitioners. A report is drawn up and sent to the registry office, along with the other documents. Children over sixteen years of age must appear in person. The registry office sends the entire dossier to the Directorate for Civil Affairs in al-Hasakah. From there it is sent to the Directorate General for Civil Affairs in Damascus, which sends the documents to the Political Security Directorate. The Political Security Directorate orders its branch office in al-Hasakah to verify the documents. The branch office passes the order on to the appropriate intelligence department in the place of residence of those concerned. As soon as the results of the review are available they are sent back via the same official channels. If the results are positive, several months later the appropriate registry office receives permission to register the marriage or the marriage and the resulting children. The registry office registers the marriage and issues an extract from the family register specific to *ajanib*. The children, like their father, are *ajanib* and registered under his register number. The wife is listed in the extract from the family register, but only under her own register number.<sup>28</sup>

The next case concerns marriages between male *ajanib* and unregistered females (*maktumin*). These marriages can be recognized by the Sharia court. However, this does not guarantee registration of the marriage by

**27** According to another informant, the husband may also file a petition.

**28** According to another informant, a marriage between a male *ajanib* and a female citizen can only be registered if it results in children. Variations in the statements we received from our informants are apparently due to the different procedures applied by the institutions involved.

the registry office. Nevertheless, the children of such relationships can be entered in their father's family-register extract. This requires submission of a pertinent decision by the Sharia court to the registry office. The status of children who are *maktumin* by birth improves: they become *ajanib*. As the parents' marriage is not registered, their marital status is still listed as single. The wife is not entered in the husband's family-register extract.

Both *ajanib* and *maktumin* are subject to various restrictions in Syria. Since they do not have Syrian citizenship, they are forbidden to vote or to be elected. They possess neither identity cards nor passports. To prove their identity, *ajanib* have to present individual extracts issued by the registry office from the register of foreigners. These documents do not authorize travel abroad. If *ajanib* wish to do so, they can apply for the relevant travel document. Along with an extract from the registry office and three passport photographs, the application must be submitted to the Ministry of the Interior (Emigration and Passport Office) in Damascus. The documents are sent to the Political Security Directorate, where they are verified. If the Political Security Directorate approves, a travel document is issued. Valid for two years, it entitles the bearer to a single departure and re-entry. The document can be renewed but must be applied for separately, as in the case of a second departure.

*Maktumin* are merely awarded certificates from the appropriate mukhtar, so-called identity certificates. The mukhtar of the current place of residence of the person concerned is responsible for issuing these certificates. Once the identity of the applicant has been confirmed by two witnesses, the mukhtar then submits the identity certificate to the local administration, where his signature is attested. The document is then forwarded to the local branch of the Political Security Directorate, which must approve the issuing of the certificate. If approval is obtained, the certificate is sent to the provincial administration in al-Hasakah, where it is validated and returned to the town hall. It is then forwarded to the mukhtar or the owner.

The situation has been aggravated by Decree No. 7889-J, which was issued by the governor of al-Hasakah province on October 15, 1999. The decree

makes it illegal for the mukhtar and the local administration to issue documents of any kind to the *maktumin*.<sup>29</sup> Although not every mukhtar observes this decree, it causes immense difficulty for many of the *maktumin* when it comes to acquiring identification certificates. Some *maktumin* are obliged to obtain certificates outside their place of residence because the mukhtar in their own area is not prepared to do so. In addition, certificates are in part signed by the mukhtar only and contain no validation from the superior authorities concerned.

*Ajanib* and *maktumin* are not permitted to possess or acquire land, property or a business, which means they cannot officially register these goods in their name. They do not have the right to government employment or to inherit or bequest. They have no claim to state-subsidized food and cannot register a car or any other mechanical vehicle in their name. Unlike *maktumin*, *ajanib* are allowed to acquire a private driving license, albeit not for a taxi or bus.

If *ajanib* or *maktumin* leave al-Hasakah province, they can only stay in a hotel if they receive permission from the so-called hotel division (*far' al-fanadiq*) assigned to the Political Security Directorate.

For school enrollment the *maktumin* furthermore require an identification certificate issued specifically for the purpose of attending school. Applications undergo the same procedure as identification certificates. Once the relevant certificate has been obtained, *maktumin* are permitted to attend school until completion of senior secondary school, that is, until the end of the twelfth grade. They are also permitted to take the exams at the end of the ninth grade (completion of junior secondary school), as well as the school-leaving exams at the end of the twelfth grade. However, they are not awarded a certificate of any kind. Schools are forbidden to issue certificates to *maktumin* with a school stamp.<sup>30</sup> After an appropriate request, however, the education authorities in al-Hasakah will issue *maktumin* a certificate of the relevant achievements at the end of the ninth or twelfth grades.

*Maktumin* are not permitted to pursue a university education. In contrast, *ajanib* may study any subject

**29** Montgomery 2005: 80; Savelsberg & Hajo 2004: 17 (fn. 60); HRAS 2003: 8; confirmed by an attorney from al-Qamishli, communication dated August 27, 2005. The decree was allegedly not delivered to the mukhtars. Instead, members of the intelligence service are said to have communicated the text of the decree verbally to them; information from an attorney in al-Qamishli who asked several mukhtars about the issue in 2009.

**30** For more on this, see Circular Letter No. 4724/4623 from the Ministry of Education, Directorate of Education in al-Hasakah, dated September 17, 2008. The full text in the original and in translation can be accessed on the website <[www.kurdwatch.org](http://www.kurdwatch.org)>, category »Documents«.

but cannot practice all professions. Thus *ajanib* cannot become attorneys, since Syrian citizenship (for at least five years) is a prerequisite for practicing this profession—only Palestinians are equal to Syrian citizens. To become a doctor, *ajanib* need a—routinely issued—permit from the Ministry of Health. However, they may only practice in private practices or private hospitals, not in a public institution. Concerning membership of professional organizations (associations of attorneys, doctors, pharmacists or engineers), *ajanib* are not admitted to the association of attorneys. *Ajanib* are likewise denied full membership of the medical association. For the last two years, however, they have been admitted to the so-called community fund, which, among other things, provides members with health and social insurance. *Ajanib* are obliged in this case to pay higher membership fees than citizens. The association of engineers in al-Hasakah accepts *ajanib* as members.

Contrary to general claims, both *maktumin* and *ajanib* are treated in public hospitals.

In summary, it should be noted that *ajanib*, and especially *maktumin*, are subjected to heavy restrictions regarding their political rights, their property rights, and their right to education and a free choice of career. Moreover, simple administrative procedures such as the registration of marriages become complicated obstacle courses for stateless Kurds. The involvement in particular of the Political Security Directorate in many of these administrative procedures is a cause of great uncertainty for those concerned and involves the risk of abuse, especially in the form of intimidation and bribery.

### **Bashar al-Assad's policy toward the stateless**

Apart from the fact that the question of stateless Kurds has been discussed repeatedly in public, the policy towards *ajanib* and *maktumin* has changed little under Bashar al-Assad. In view of the impending war in Iraq, the naturalization of stateless Kurds was allegedly discussed within the Syrian government and in the Syrian parliament at the end of 2002. During a stay in al-Hasakah in the summer of that year, Bashar al-Assad himself is

said to have promised Kurdish personalities a solution to the problems that ensued from the census of 1962. Assad mentioned these talks in his inaugural speech on July 17, 2007, explaining that the overall political situation had prevented progress in this field thus far:

»Moreover the topic of the 1962 census remains. In Syria there is a prevailing lack of knowledge about what the census was about and everything that it brought up. I was in al-Hasakah province in August 2002 and met all of the groups active there. They came from the most diverse parts of society, and without exception they all broached this subject. I then agreed: ›All right, we'll address it!‹ At that time however, we found ourselves at the beginning of preparations by the United States for the invasion of Iraq. Then we were just in the crucial phase in the Security Council. So the topic of the census moved to the background. After all, it happened four decades ago. So we addressed it very slowly, but we addressed it. The Iraq War followed and the various circumstances afterward, which initially led to the suspension of the internal reform process, until ultimately in 2004 it came to the riots in al-Qamishli province. Initially the background of these riots was unclear, as some had attempted to use them for anti-nationalist political aims. Subsequently it became clear that the riots were entirely unpolitical and had nothing to do with anti-nationalist aspects, even if some had attempted to instrumentalize them to that effect. Nevertheless the resumption of this topic was again postponed in order to review it in-depth against the background of the riots. Last year we, as a state, again brought the topic to the agenda on our own initiative, because the riots are now over.«<sup>31</sup>

The problem of the stateless and the possible naturalization of a section of the stateless Kurds were, in fact, discussed again, particularly in the period leading up to the Ba'th-Party conference in June 2005.<sup>32</sup> In April 2005, surveys of *ajanib* were carried out by officials from the registry offices and members of the intelligence service in the cities of Ra's al-ʿAyn, Tall Tamir,

**31** See »›'Aiy ʿarḥ ba'd ḥall maudū' al-iḥṣā' yu'tabar muḥāwala li-hazzi istiqrār al-waṭan.‹ An-naṣṣ al-kāmil li-kalimat ar-ra'īs Baššār al-'Asad fī maḡlis aš-ša'b ba'd 'adā' al-qasam ad-dustūrī«, July 18, 2007, accessed at <[http://www.amude.net/Nivisar\\_Munteda\\_deep.php?newsLanguage=Munteda&newsId=6181](http://www.amude.net/Nivisar_Munteda_deep.php?newsLanguage=Munteda&newsId=6181)>

**32** This debate was also reflected in the press; see, for example, »After decades as nonpersons, Syrian Kurds may soon be recognized«, *New York Times*, April 28, 2005; »Syria's stateless Kurds hope for new rights«, *Reuters*, May 13, 2005; »Al-Assad meets Kurdish tribe reps; Syrian nationality offered to 100,000 Kurds?«, *Arabic News*, May 16, 2005; »Kurdish unrest over citizenship promise«, *AKI*, May 17, 2005.

and ‘Amudah.<sup>33</sup> It appears that the problem was also discussed at the Ba‘th-Party conference—at least this is what emerged in a newspaper interview with Prime Minister Muhammad Naji al-‘Utri on July 20, 2005. The interview reads:

»We have in essence the problem of the 1962 census. The tenth pan-Syrian party congress decided, among other things, to return to this topic. Thus Syrians of Kurdish descent who were born in Syria before the census will receive the right to naturalization, which is, of course, their main demand. [...] For us, however, the topic of the census is important. The number of those affected lies between 80,000 and 90,000, a large portion of these people have already migrated to the north of Iraq.«<sup>34</sup>

Initially the decisions of the Ba‘th-Party conference had no consequences. Only in the inaugural speech in July 2007 cited above did Bashar al-Assad mention once more the prospect of a solution to the problem. He referred to a law in the closing stages of its technical preparation that would solve the problem of those who were stateless. The obstacle to the final passing of the law was an amalgamation of different topics, specifically a combination of the *ajanib* question, on the one hand, and that of the *maktumin*, on the other. Thus:

»Two topics are often thrown together. On the one hand, there is the topic of the 1962 census. There the concern is the families, only some of whom received Syrian citizenship; the others did not, as would be their every right. But then there are also the so-called ›maktumin‹, who are supposedly also affected by this problem. The ›maktumin‹ are members of various nationalities who reside in Syria but are not listed in the register of births, marriages and deaths or in any other register. This is a very different matter, even if there are sometimes attempts to combine these two topics, the ›maktumin‹ and the 1962 census. Additionally, there are also members of various nations, most of them Kurds, who for utterly different reasons—including economics, politics, security—came to Syria from Turkey and Iraq. But this topic has no place here

**33** »After decades as nonpersons, Syrian Kurds may soon be recognized«, *New York Times*, April 28, 2005. Informants on-site confirmed that surveys did actually take place. However, the scope of these surveys is not clear. At the beginning of 2005, according to another source, the government requested the registers for all foreigners.

**34** See »Ra’is maġlis al-wuzarā’ as-sūrī Nāġī ‘Uṭrī: Laisa hunāka ‘azma li’l-‘akrād wa iḥṣā’ 1962 yasmaḥ bi-manḥ 90 ‘alf kurdī al-ġinsīya faqaṭ wa maġmu‘a min al-‘aḥzāb il-kurdīya madfu‘a min al-ḥāriġ« [interview with *al-Anba’*, July 20, 2005], July 22, 2005, accessed at <[http://www.amude.net/Hevpeyvîn\\_Munteda\\_deep.php?newsLanguage=Munteda&newsId=3235](http://www.amude.net/Hevpeyvîn_Munteda_deep.php?newsLanguage=Munteda&newsId=3235)>.



either.<sup>35</sup> This is solely about the census. The purely technical work on the law in this regard could be almost finished by now. ... Where were we? ... I just wanted to speak of this in order to avoid further instrumentalization, so that it is completely clear to all of the groups affected by this topic the only concern here is the 1962 census. We don't want to deviate from the topic of the 1962 census and now, suddenly, forty years later, introduce another problem, namely one called ›Census 2007‹, which alleges that people are being denied citizenship. I address this because clearly some sides are trying to instrumentalize this topic with respect to the European institutions, organizations and delegations that we meet and that confront us with this topic. However, we want to first pass a law when there is agreement that this law represents an ultimate national solution. Any objection that is first proffered after the problem of the census has been resolved is tantamount to an attempt to destabilize the country. This is how it is. The consultations continue, but the law quasi exists already. The whole issue is, namely, quite simple, and I believe that there is a national consensus that this problem must be resolved. I wanted to convey that to you.«<sup>36</sup>

Assad makes it clear here that there is no intention of changing the status of the *maktumin*.<sup>37</sup> Rather, the issue of the *ajanib* cannot be resolved as long as there is a demand in Syria for the problem of the *maktumin* to also be addressed—an appeal obviously directed at the Kurdish parties. At the same time, the problem of the *ajanib* is denied a political dimension. As with earlier governments, the only concession on this subject is that errors were made in the course of the census and must be corrected. However, these errors were merely technical. Similar appraisals are found in other places, e.g., in an interview with the president on the Turkish television station *Sky News* in December 2005, where the entire ›Kurdish question‹ was reduced to a technical hitch in connection with the census:

»For us in Syria it is evident that the Kurdish question is a purely technical problem related to the 1962

**35** It is not clear which group of Kurds the president is referring to here.

**36** See »›'Aiy tarḥ ba'd ḥall mauḍu' al-iḥṣā' yu'tabar muḥāwala li-hazzi istiqrār al-waṭan.‹ An-naṣṣ al-kāmil li-kalimat ar-ra'īs Baššār al-'Asad fī maǧlis aš-ša'b ba'd 'adā' al-qasam ad-dustūrī«, accessed at <[http://www.amude.net/Nivisar\\_Munteda\\_deep.php?newsLanguage=Munteda&newsId=6181](http://www.amude.net/Nivisar_Munteda_deep.php?newsLanguage=Munteda&newsId=6181)>

**37** Prime Minister Muhammad Najī al-'Utri made similar statements in his interview with the Kuwaiti newspaper *al-Anba'*, dated July 20, 2005. The passage reads: »Concerning the other Kurds [meaning the *maktumin*], who came from Turkey and Iraq, we will handle their problem as all countries of the world handle immigrant problems, because they are not Syrians but emigrated to Syria from neighboring countries. A number of parties are playing games and causing problems, as happened in the north of Syria [the reference here is to the riots in March 2004].«

census, which was technically inexact. However, there was no political problem. Had there been a problem of this kind in relation to the Kurdish question, there would have been no census. Thus we in Syria are trying to find a technical solution to this problem, since there is no political reason not to. We are of the opinion that this topic relates solely to questions of nationhood and Syrian history, none of which have changed since independence nor will they change in the future.«<sup>38</sup>

An interview with the Syrian-Catholic archbishop of al-Hasakah, Jacques Behnan Hindo, makes it clear that contrary to the president's explanation, the renaturalization of the *ajanib* is seen as highly political by supporters and especially opponents. He explained that the president and the government regularly listened to him and to the bishops of other Christian churches on the matter of the Kurdish question in Syria. They all spoke out against a renaturalization of stateless Kurds—the archbishop estimated that fifty percent of the Kurdish population in the northeast of Syria belonged to this group. Firstly, because all Kurds who were denaturalized in 1962 were either Turkish or Iraqi citizens. Secondly, because a naturalization of this group would tip the ethnic balance between Kurdish and Arab citizens in the northeast of Syria to the disadvantage of the latter. Thirdly, because the Kurdish population is allegedly not loyal to the Syrian state. In his opinion, the best solution to the problem would be to settle all stateless Kurds in Kurdish-administered North Iraq.<sup>39</sup> The interview shows that there are influential social groups in Syria who speak out strongly against the naturalization of stateless Kurds—as in 1962—for largely political or ideological reasons, i.e., the ethnic balance in the region and the alleged disloyalty of the Kurdish population.

Taking into account the political constellation described above, a solution to the problem of the stateless is not to be expected. Naturalization of a (large) portion of the *ajanib* seems entirely conceivable for Bashar al-Assad—under the prerequisite that this terminates all discussion on the *maktumin* or better still, on the situation of the Kurds in Syria. It is unlikely that

**38** See »Baššār al-'Asad: Al-mušmila al-kurdīya hiya muškila tiqnīya lahā 'alāqa bi-l-'iḥṣā' wa hiya laisat muškila siyāsīya!«, December 28, 2005, accessed at <[http://www.amude.net/Hevpeyvīn\\_Munteda\\_deep.php?newsLanguage=Munteda&newsId=4210](http://www.amude.net/Hevpeyvīn_Munteda_deep.php?newsLanguage=Munteda&newsId=4210)>.

**39** Interview with Archbishop Jacques Behnan Hindo, al-Hasakah, April 13, 2008.



representatives of Kurdish parties will become involved in such an agreement, especially since they would be unable to guarantee that non-partisan Kurds or political activists in exile would keep to this agreement. The president is well aware of this. At the same time, it seems there are powerful opponents of the naturalization of the *ajanib* or rather opponents of any concessions to the Kurds, not only in the relevant social groups (such as the Christian churches), but also in the government and the state apparatus. This explains that as of March 2010, no law has been passed nor indeed has any other approach been attempted to resolve the conflict surrounding the *ajanib*. This is especially true in light of the fact that there have been no major riots in Syria since 2005 and that since his inauguration in 2009, US President Barack Obama has explicitly endeavored to reincorporate Syria into the community of states. Thus external political circumstances can hardly be blamed with conviction this time for the suspension of the reform process.

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