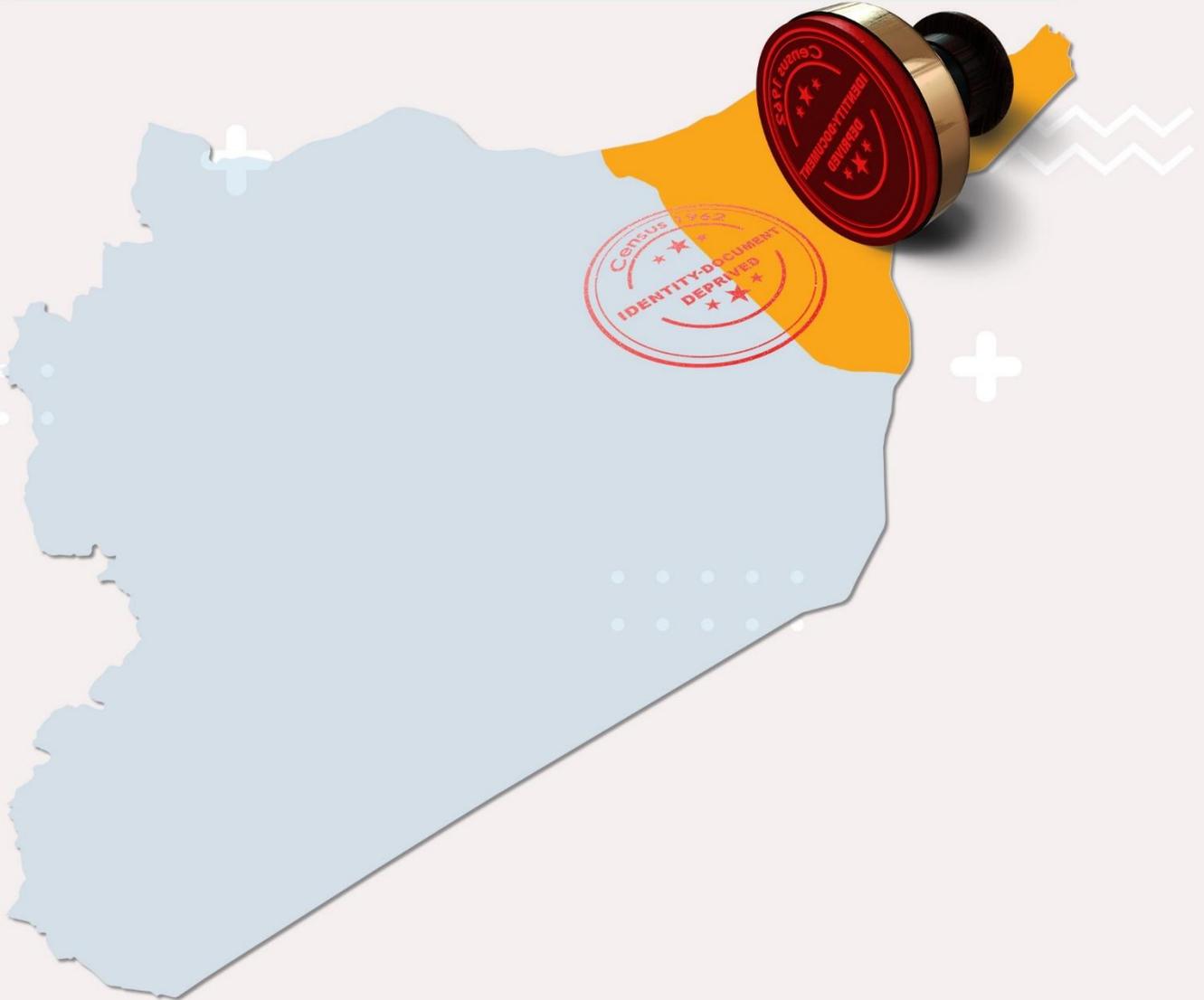


## Those Identity-Document Deprived and Stateless Persons: How the 1962 Census Turned Kurds into Foreigners in their Country



## **ASO Center for Consultancy and Strategic Studies**

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## Introduction:

The Syrian regime and the previous successive Syrian regimes in power in Syria, have worked to undermine the Kurdish presence in Syria and reduce its weight in the main regions, such as al-Hasaka, Kobani and Afrin. Therefore, one of the most significant means the Syrian government utilized, was the census issue, which essentially aims to convert the majority of the Kurdish population in al-Jazeera into an Arab majority. This was in order to stop any future Kurdish endeavor towards demanding self-rule or independence, and although al-Jazeera remained with a Kurdish majority, citizenship was not granted to a large percentage of the Syrian Kurds until recently, however, to a small percentage. Moreover, the Syrian regimes worked to integrate the Kurds into the predominantly Arab governorates, and did not grant them any administrative independence, consequently, creating an administrative dilemma within the demographics. Markada area was annexed to al-Hasaka governorate, Kobani and Afrin became part of Aleppo, and Tell Abyad a part of Raqqa, with the aim to transform the Kurds from a majority to a minority in the governorates of Raqqa and Aleppo, however, the Kurds remained a majority in al-Hasaka governorate despite all these attempts.

Anyways, neither the Syrian regime nor the Syrian constitution perceives the Kurds present in Syria, since the Syrian constitution restricts all Syrians to the Arabic citizenship and considers other nationalities as identities branching from the Arabic identity of the Syrian people. Also, concerning the personal identity, Kurds are Syrian Arab citizens.

After coming to power in Syria, the Syrian regime intended to enhance pressure on the Kurds, by preventing the Kurdish language, music, culture and heritage, banning Kurdish political and civil organizations and groups, not recognizing their rights, placing them in prisons, exiling them, and preventing them from their most basic civil rights. This was to an extent that the naturalized and non-naturalized Kurds had similar rights.

## Executive Summary:

Since the 1950s, successive governments in Syria have embraced Arab nationalism and accordingly pursued a policy of repressing Kurdish identity because they perceived it as a threat to the unity of an Arab Syria. In 1962 the government carried out a special census in al-Hasaka province in northeast Syria on the pretext that many non-Syrian Kurds had crossed illegally from Turkey. Kurds had to prove that they had lived in Syria since at least 1945 or lose their citizenship. The government conducted the census in one day, and failed to give the population sufficient notice or information about the process. As a result, the authorities revoked the citizenship of some 120,000 Kurds, leaving them stateless and facing difficulties of all sorts, from getting jobs to obtaining state services. The number of stateless Kurds in Syria has grown since then to reach an estimated 300,000 today, because the children of stateless men are themselves considered stateless.<sup>1</sup>

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<sup>1</sup> Group Denial: Repression of Kurdish Political and Cultural Rights in Syria

Although the Syrian regime has issued, since 2011, a special law that provides for the granting of Syrian Kurds, who are unregistered persons and are stateless, the Syrian nationality. However, many impediments still prevent its implementation. On the one hand not reimbursing the Syrian Kurds who have been deprived of their most basic civil rights and on the other hand that a large number of stateless and unregistered Syrian Kurds, have left Syria before 2011. As a result, there are hundreds of thousands who have sought refuge in Europe, Iraqi Kurdistan or Turkey and are still stripped from the Syrian nationality.

## Nationality in Syria

The 1923 treaty of Lausanne, creating new states, also established the citizenship regulations of the states it created, including Syria's. A set of three legislations govern the nationality. First, the treaty of Lausanne organized the new Syrian nationality on the basis of the place of habitation: it states in its article 30 that Turkish citizens living on the territory of a state created by the treaty become citizens of this state. Thus, anyone living on the territory of Syria obtained the Syrian citizenship. In 1924, the French high commissioner, in the *arrêté* 2825, elaborated on the transmission from the Ottoman to the Syrian nationality. To this end, the act distinguished between three types of nationalities.

First, it provided that “any person of Turkish origin and living in Syria on the 31 August 1924 is from now on considered to be Syrian and loses their Turkish citizenship”. Second, the *arrêté* provided that people of Turkish nationality, of Syrian origins and living abroad on the 31 August 1924 could request the Syrian citizenship. This provision aimed at including immigrants who had left Syria in the building of the new country. Thirdly, the *arrêté* provided that once the husband obtained the Syrian nationality, his wife and children automatically became Syrians alongside him.<sup>2</sup>

The first adopted citizenship Act no. 98, prepared by Syrian jurists, was issued on 21 May 1951. Meaning, several years after the French High Commissioner, General Weygand, issued Decree No. 2825, which stated proving the Syrian nationality by full right and with the force of law for everyone who lives on the Syrian territories according to the *JUS SOLI* rule of land right. The latter was published on August 30, 1924.

It was followed by a further act by Decree No. 21 of 24 February 1953, subsequently amended by Act No. 492 of 16 February 1957. The Syrian nationality was traditionally ruled by Arabic traditions, that it used to be granted by decent, taking into account the position of women in Islamic jurisprudence and some rules of the French legislature.<sup>3</sup>

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[https://www.hrw.org/ar/report/2009/11/26/256004#\\_ftnref8](https://www.hrw.org/ar/report/2009/11/26/256004#_ftnref8)

<sup>2</sup> “Syrian Citizenship Disappeared”: How the 1962 Census Destroyed Stateless Kurds’ Lives and Identities

<https://stj-sy.org/ar/746/>

<sup>3</sup> Ibid.

The outcome of the first interaction between two Arab Acts on nationality was the Act No. 82 promulgated on 22 July 1958, on the year of the establishment of the unity between Egypt and Syria, and was then prepared by Egyptian and Syrian jurists.

On February 22, 1958, the results of the referendum on the unity between Syria and Egypt were announced and the choice of a president for the united republic, which led to the establishment of the union between Syria and Egypt and the election of Gamal Abdel Nasser as president of the republic that was called the "United Arab Republic." On Wednesday, March 5, 1958, the interim constitution of the republic was announced and it stated; "Nationality in the united State is determined by law and it is enjoyed by everyone who holds Syrian or Egyptian nationality or is entitled any of them, according to the laws and provisions in force in Syria and Egypt at the commencement of this Constitution."

After the collapse of the United Arab Republic in 1961, the so-called "Separatist Movement" issued the Nationality Law by Legislative Decree No. 67, on 31 November 1961. Upon the Ba'th-party taking on power, the Legislative Decree No. 276, providing for the Nationality Law was promulgated on 24 November 1969 and is still in force today with some subsequent amendments.<sup>4</sup>

In the Naturalization Chapter, Decree No. 4, nationality may be granted to an alien by decree upon the recommendation of the Minister following an application from the alien concerned who should be:

- A. Of full civil rights.
- B. Resident in the country for at least five consecutive years prior to the submission of the application.
- C. Free of all communicable diseases, infirmities, or ailments that may prevent him from work.
- D. Of good conduct and reputation and with no record of criminal offence.
- E. Of a specialization or expertise and able to read and write Arabic.

Article 8 of the Law provides that Nationality shall be granted to the wife of a naturalized alien by a ministerial order. Article 16 provides that nationality may be awarded to nationals of Arab countries by decision of the Minister of Interior.

Since 25/2/1976, when the Decree No. 92 was issued, the Head of the Department of Immigration and Passports /Nationality Branch/ mandated the heads of branches of this department in the governorates to approve applications for naturalization, restitution, relinquishment, selection and revocation of Syrian Arab nationality, and all that is stipulated in Legislative Decree No. 276 of 24/11/1969, according to a receipt given to the concerned person.

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<sup>4</sup> Ibid.

The paragraph related to having a specialization or expertise has been amended to someone who has a legitimate means of earning a living or sufficient resource that relieve him/her from needing the others' help. Due to the spread of Syrians in many countries of the world, being forced to acquire another nationality in order to serve private interests, the Syrian legislator decided not to apply the fine or imprisonment penalty for those who naturalized another nationality without the approval of his/her government, which was in force until 1961.

Also, not applying such a penalty except when the interest is required, with a text permitting depriving him/her from the Syrian Arab nationality, by a decree based on the recommendation of the Minister of Interior. Legislative Decree No. 17 dated 13/2/1972 of Article 1, paragraph 2 that; "Any Syrian Arab who has acquired a foreign nationality based on his request before being permitted to abandon his nationality, shall retain it by all means and, in all situations, unless it was decided to deprive him from it in implementation of the provisions of paragraph (a) of article 21. He shall be punished by imprisonment from 1-3 months, in addition to a fine of 500-2000 Syrian Pounds, or either one of these two penalties.<sup>5</sup>

The legalization of marriage to foreigners for Syrians and Palestinians residing in Syria required the prior approval of the Minister of Interior (Legislative Decree No. 272 of 11/4/1969). This was explained by the national, social, moral, political and security implications of marrying foreigners. If we follow up the circumstances during which the two previous decrees were issued, we would find that allowing Syrians to acquire a foreign nationality came at the beginning of President al-Assad's rule and a policy of encouraging building bridges with immigrants in both Americas, as well as, the immigrants' employment of their capital in the country. As for facilitating citizenship for non-Palestinian Arabs and their entry into Syria without an entry visa, and facilitating work issues for them, the Ba'th Party has started it since the 1963 movement within its declared unitary ideology. It can be said that naturalization is a common phenomenon in cases of marriage, parentage, permanent residence, and the Baathist affiliation of non-Palestinian Arab citizens, which is much more difficult for non-Arab residents, with the exception of marriages and children. It is noted that great facilities are provided for countries with good political relations with Syria when requesting citizenship for the wife of a Syrian (countries of the Warsaw Pact before the fall of the Berlin Wall and the Soviet Union).<sup>6</sup>

Laws have regulated the rights and duties of people who have a nationality or who are deprived of it, primarily among them the right to vote and to stand for election at all levels of the relevant councils, locally or nationally (the election Law promulgated by Legislative Decree No. 26 dated 4/14/1973 and all that followed) and the rights of employment, work, trade and service (Basic Personnel Law No. 135 of 1945 and Law No. 393/5/1957). Likewise, all that is related to the insurance law and salaries of state civil servants (Legislative Decree No.

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<sup>5</sup> Stateless Persons in Syria (Non-Palestinian Refugees) <https://bit.ly/33x4ntx>

<sup>6</sup> Ibid.

19 of 11/26/1961) and the Ministry of Foreign Affairs and the terms of ownership for non-Syrians (Legislative Decree 189 of 4/1/1952 amended by Legislative Decree 123 of 10/6/1952).<sup>7</sup>

## Nonregistered Persons and the Denationalized

Republican Legislative Decree No. 93 was issued on August 23, 1962 in Syria, during the era of President Nazem al-Kudsi and the Prime Minister Bashir al-Azma, which included a political decision, of conducting the exceptional Census of the Kurdish population in al-Jazeera region, to determine the identity of the citizen, identify foreign Kurds coming from Turkey and Iraq and correct civil records.

The census was based on Decree No. 1 of 30 April 1962 and the Ministerial Decision, No. 106 of 23 August 1962. The now known as “al-Hasakah 1962 census” Decree, states in its article:

- A general census is to be carried out in al-Hasakah province in one single day. The exact date will be more closely determined by an order from the Ministry of Planning, at the recommendation of the Interior Minister.
- Upon the end of the population census, a Supreme Committee shall be formed by a Republican Decree based on the proposal of the Minister of Interior to study the results of the census, decide whether or not to confirm them in the new civil registrars, and prepare instructions for that.<sup>8</sup>

The census was conducted on October 5, 1962 and the following categories resulted of the 1962 census:

1. Kurds enjoying the Syrian nationality.
2. Kurds deprived of citizenship, registered in the official records as foreigners.
3. Kurds deprived of citizenship, unregistered in the civil status official records and referred to as Maktoum al-Qayd.

Maktoum al-Qayd, is a Syrian administrative term, indicating the absence of the concerned person in the official records. The Maktoum includes, in addition to the previous category: those born to a foreign father and a citizen mother, those born to a foreign father and a Maktoum al-Qayd mother and those born to a Maktoum al-Qayd parents.<sup>9</sup>

Among the well-known Syrian Kurdish figures stripped of their nationality were Tawfiq Nizam Eddin, a former Syrian Army Commander, and his brother Abdel Baky Nizam Eddin, who held several Ministerial positions between 1949 and 1957. Nizam Eddin family owned most of Qamishlo city in Al-hasaka governorate and until now, families living in Qamishlo have not been able to transfer home ownership to their name, except with a waiver from Nizam Eddin family.<sup>10</sup>

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<sup>7</sup> Ibid

<sup>8</sup> Ibid.

<sup>9</sup> Ibid

<sup>10</sup> Maktoum al-Qayd: Syrian Kurds as Foreigners in Their Country <https://daraj.com/10523/>

The Syrian regime government's argument in stripping the Syrian Kurds of their nationality was that they were of Turkish origin, and they migrated to Syria as a result of the Kurdish wars and revolutions in Turkey at the time. However, this was not true, and the issue was part of the policies of demographic change and systematic persecution against the Kurds in Syria, since many relatives of the Unregistered Persons (Maktoum al-Qayd) and those deprived of nationality, possessed Syrian nationality and lived in Syria hundreds of years before the date specified in the Law.

The tenth Syria's ruling Baath Party regional conference, held in 2005, mentioned the census issue and recommended the offset of its consequences and re-mentioned this subject more than once under the rule of Bashar al-Assad. In an interview to the Turkish Sky News T.V. Station, he stated: "The Kurdish problem in Syria is a technical one and it is related to the 1962 census in Syria. This census was not accurate from the technical point of view. There was not, in essence, a political problem towards the Kurdish question. We, in Syria, try to solve this problem technically. But everything relating to this question must be based on a national basis and on the history of Syria which did not change since independence and will not change in the future."<sup>11</sup>

## Loss of Civil Rights

The Syrian government's argument is based on the premise that Maktoum al-Qayd is a foreigner. Therefore, in all countries of the world, foreigners do not perform compulsory "military" service and are not entitled to confirmation in a public sector job, even if they are permitted to work in it. They do not benefit from land reform laws. The following is the official response of the Syrian government to the most important points raised, above, in a document presented to Human Rights Watch, the paragraph related to "how to deal with those registered in the records of foreigners in Al-hasaka:"

- 1- Identification and Recording Civil Incidents: They are given personal or family identification documents of their own, and all their happenings: birth, death, marriage, divorce ... are registered in their records.
- 2- Education: their children are accepted in all stages of education, in public and private schools.
- 3- Work: They are allowed to work in public, joint and private sector institutions. Also, people with university degrees in medicine, pharmacy, law and engineering are allowed to open their own professional offices.
- 4- Ownership: they are not allowed to own real estate or register any vehicle, except that they actually practice this under normal contracts in their names, or through their relatives or friends who are Syrian citizens.

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<sup>11</sup> The Stripped and Deprived of Syrian Nationality since 1962 Census <https://bit.ly/33u2gh5>

- 5- Ration: they are not given Ration cards at the official price. Rather, they are allowed to obtain what they need from controlled materials from centers designated for them at a free price, based on their personal and family identification documents.
- 6- Travel: they are allowed to move within the country, according to the special identification documents they carry, and they are also allowed to travel outside the country in some special cases; for medical treatment or study, according to a one-time exit document and with the approval of the Minister of Interior.
- 7- Marriage: Females are allowed to marry Syrian citizens and acquire their nationality. As for males, Syrian women are not allowed to marry them, in order to preserve their Syrian nationalities.
- 8- Staying overnight in hotels: They are allowed to do so, after showing them the special identification documents they hold, and the Hotels Division has made sure of their validity and their holders.<sup>12</sup>

## 2011 Naturalization Law:

Following the onset of peaceful protests in Syria, which demanded sweeping reforms in the country, the Syrian President Bashar Assad issued Decree No. 49 on 7 April 2011, under the title "Granting Syrian Arab Nationality to those registered as *Ajanib* in al-Hasakah". The Decree consists of 3 Articles that state:

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

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

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

On 13 July 2011, the official Syrian media outlet published statements of the Assistant Minister of Interior for Civil Affairs, Brigadier General Hasan Jalali. According to him, the Civil Registry Offices had received 37 904 applications to date, each application covering the entire family of the applicants. He added that 21 993 identity cards had been delivered, and noted that the Civil Registry Offices in Qamishli, al-Malikiyah/Derek and Ad Darbasiyah were all overcrowded with people applying for citizenship. Jalali described the new facilitations and services initiated as a result of the completion of the automation of the *civil registration and records project*, one of the biggest and most important IT projects in Syria that aims at storing civil registers of all Syrian citizens, listed in the civil records since the 1922 statistics.<sup>13</sup>

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<sup>12</sup> Stateless Persons in Syria (Non-Palestinian Refugees) <https://bit.ly/33x4ntx>

<sup>13</sup> "Syrian Citizenship Disappeared": How the 1962 Census Destroyed Stateless Kurds' Lives and Identities <https://stj-sy.org/ar/746/>

After granting a large percentage of the Syrian Kurds citizenship, who were stripped of it, the Syrian regime distinguished their personal identities, which they obtained, with special codes. Where the number 8 was placed after the registration number, to become as follows: xx/8.

Approximately 50,400 Syrian Kurds obtained citizenship after correcting their legal status. From Maktoum al-Qayd category to the category of Al-hasakah foreigners, then to the Syrian citizens category. However, there are about 41,000 people, who were unable to correct their legal status, due to problems encountered the directorate's work during the entry of their files within the records of the foreigners' category in Al-hasaka. There are still less than 50,000 people who did not come to the civil affairs departments to correct their legal status, according to a report prepared by the "Syrians for Truth and Justice" organization entitled "Syrian Citizenship Disappeared: How the 1962 Census destroyed stateless Kurds' lives and identities."

The number of Kurds stripped of Syrian nationality, in Al-hasaka governorate, from 1962 until the beginning of 2011, was more than 517000 Kurds. This census does not include births and deaths after 2011, nor the Kurds who immigrated to European countries or Turkey between 1962-2011. Thousands of Syrian Kurds sought refuge in European countries after being stripped of their legal and personal rights, and lived there. Their children were not registered in the state records in Al-hasaka governorate, and their numbers cannot be predicted since there is no accurate or approximate census for them.

Until the beginning of 2011, the number of Kurdish Maktoum al-Qayd in Al-hasaka reached more than 171,300 Kurds, according to statistics issued by Syrian non-governmental organizations. These people were registered by the "Mukhtars" in the neighborhoods of towns and cities of the governorate and were given documents proving their belonging to the Maktoum al-Qayd category, and thus they were given an identification certificate.

## Recommendations and Proposals:

Based on the previous data, the circumstances of the Syrian Kurds who were stripped of their Syrian nationality and their civil rights in Syria, and the impact of that deprivation on their lives and their rights to education, health, property and travel; it is the responsibility of the international community, the relevant international organizations, and Syrian political and human rights parties to work on the following:

- Full recognition of the rights of Syrian Kurds, who are deprived and stripped of their Syrian nationality, and acknowledge their compensation financially and morally.
- Take immediate action to implement the laws and decisions related to granting all *Ajanib* stateless and Maktoum al-Qayd Syrian Kurds who were deprived of their nationality, the Syrian nationality and provide the necessary facilities for refugees and expatriates to obtain the Syrian nationality.

- Engage in a comprehensive study and research on the conditions of the Syrian Kurds, who are stripped of their nationality and Maktoum al-Qayd, with the aim of documenting all their circumstances and conditions, and approving legal compensation accordingly.
- Consider the issue of the deprived of nationality and Maktoum al-Qayd among the files that must be worked on in the transitional process.
- Pass laws that allow the Maktoum al-Qayd and stripped of their nationality Syrian Kurds, to restore their lands and properties in Al-hasakah governorate, especially those who have been deprived of their lands after being stripped of their nationality.

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