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The New Child Rights Law in Syria will not protect children

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CC: Lens Young Dimashqi

In August 2021, the Syrian government formally issued a new law ([No. 21/2021](#)) expanding the rights and protections afforded to children. However, the reality on-the-ground shows that the new law is largely aspirational and there remains a huge chasm between the rights afforded by Syrian law and the practices of the Syrian government. The new law covers a variety of aspects including nationality, marriage, child exploitation, and protection against violence. While the new law has articles that appear to show human rights progress, the implementation of this law continues to fall short. The Syrian government has shown a disregard for child protection and rights over the last ten years from arrests, torture, and airstrikes. A marked change in the Government's treatment of children will be required in order to bring it into

conformance with international human rights law and basic human decency.

Background

Ten years into the conflict, Syria's children are often called "the lost generation," as their childhoods have been interrupted by displacement and conflict and their lives have been marked by human rights abuses and tragedies. The UN estimates that on average [one child has been killed every eight hours](#) since the start of the Syrian conflict. The Syrian government remains one of the prime violators of many of its new child rights law (No. 21).

Beyond being victims of the government's indiscriminate bombing of civilian areas, children have been specifically targeted by government forces to coerce and control the population. Schools have often been targeted by the government, such as [the al-Khansaa primary school](#) in Jarjanaz, where in 2018, six children were killed when a mortar landed next to their school compound during recess.

The government has also actively harmed children, especially those it detains at protests. There have been [numerous examples](#) recorded by the UN Commission of Inquiry (COI) of children as young as 11 being detained at intelligence facilities and checkpoints and subjected to torture and sexual violence by government officials. Many detained children are also deprived of food, water, and medical care, which has only become more important as [COVID-19 ravages the country](#).

Children suspected of, or with family members suspected of being part of the opposition are often the targets of rape and violence, which has

forced many families to send their children away, further increasing the millions of Syrians displaced by the conflict, many of whom are [women and children](#).

It is upon this backdrop that the Syrian Government passed the new law for the protection of children.

Nationality – Article 5

The new law contains several changes to Syrian law. Previously, a child could only acquire [nationality](#) through his or her father. This has led to statelessness for many children born to Syrian mothers and non-Syrian fathers. For example, there are thousands of children of mixed-parentage throughout Syria, such as those at [al Hol](#) and Yarmouk, who have been denied Syrian citizenship. Article 5 of the new law now guarantees that every child has the right to Syrian nationality. Although the law did not clarify or explicitly modify the possibility of a Syrian mother passing nationality to her child directly, SJAC's Legal and Human Rights Advisor found that this article has not been fully realized, and children of Syrian mothers are still denied citizenship. For the provision to take effect, a new application mechanism would need to be created for citizenship. This would require guarantees that mothers who apply for recognition of their child's citizenship would not face any obstacles or reprisals.

Child Abuse and Mistreatment – Articles 12, 31 & 51

Previously there were no specific provisions in Syrian law to protect children against abuse. For example, in a recent case against [a returned ISIS fighter](#), the Kosovo Supreme Court set aside a conviction for child abuse where the fighter had put an explosive vest on his 3-year-old child and gave him a gun to shoot which was captured in a video-recording.

The Kosovo Supreme Court was unable to identify any explicit text criminalizing family neglect in Syrian law and set aside the conviction. On remand to the trial court, and after consultations with SJAC which was able to identify some relevant provisions in Syrian law, the ISIS fighter pleaded guilty to a lesser charge. As such, Article 12 of the new law could help to fill some legal loopholes, but enforcement will be key. Article 31 also prohibits the use of children in advertising or media in a way that violates their privacy, as well as prohibiting the production and circulation of photographs or videos that may harm a child or encourage delinquent behavior. However, these articles remain vague and their full impact is unknown. For example, there is a concern that the laws could be used to punish journalists and civil society actors for documenting violations against children which would have the perverse effect of encouraging impunity for the victimization of children.

Finally, Article 51 prohibits all measures that involve any form of violence or cruel or degrading treatment of children. The Syrian government's current practices such as [detaining children in jails known for inhumane conditions](#) and torture on the basis of spurious offenses would violate this provision. [As part of testimony](#) in the Anwar Raslan trial, a witness described how he saw Syrian security forces killing a [15-year-old boy](#), ripping out his organs, and then arresting his three younger siblings. Numerous other examples at the trial, included [children as young as seven years old](#) being detained and dying; a gravedigger's testimony about seeing a female corpse [hugging her dead child](#); and a child interrogated and [tortured](#) at Branch 251. Children have regularly been arrested, detained, and faced mistreatment for things such as simply creating anti-government graffiti, although Article 6 of the new law claims to guarantee children's right to freedom of expression.

Thus, a significant change in government policy away from past crimes would need to be enacted to bring it into compliance with the new law.

Child Marriage – Article 19

The amended [Family Law](#) stipulates that the age of marriage is 18 years. But there are some exceptions that permit judges to authorize and register marriages starting from the age of fifteen if co-habitation and pregnancy or sexual relations have already taken place. In practice, judges liberally apply these exceptions which are often based upon false reports. Article 19 of the new law reiterates that both boys and girls must be 18 years-old at the time of marriage. Given the prior practice and the liberal use of exceptions, it is not clear that this will prevent under-aged or forced marriages of young girls.

Recruitment of Child Soldiers – Article 46

Article 46 of the new law also prohibits the use or recruitment of children in combat. [Numerous actors](#) in the Syrian conflict have a long history of using child soldiers in combat, including the [Syrian government and its affiliated militias](#) as well as the [SDF](#) and [Turkey](#). As the conflict drags on, the government and opposition have been forced to look toward recruitment of children, both boys and girls, to reinforce their depleted ranks. A [report by the COI](#) found that children as young as 15 have been used as fighters and guards at checkpoints, while those as young as six have reportedly been used as spies or message carriers. Children who are forcibly recruited as fighters are deprived of proper education which is essential for their rehabilitation after the conflict ends. Children used as fighters also experience severe PTSD and will be negatively impacted throughout their adult lives. The recruitment of children, even when voluntary, is not just illegal under international law, it also is forbidden under the new Syrian child law, but it is not clear

how the new law would change the situation on the ground or lead to enforcement actions.

Children with Disabilities – Article 45

Unrelenting government shelling and attacks have left numerous children maimed and disabled. These [attacks](#), often supported by Russia, continue to kill and render children disabled. Prior investigations by SJAC showed how the Syrian government used schools for military purposes, highlighting the widespread destruction it had wrought, specifically in the Idlib region. These actions would clearly fall afoul of Article 45 of the new law which stipulates that the state will protect children from disability and from work that would harm the child's development as well as Article 10 which guarantees the right to education.

Recommendations

- The Syrian government should uphold child protection laws in conformity with the UN Convention on the Rights of the Child (to which Syria is state party).
- The new law should not be misconstrued by European governments that child protection is now being implemented in Syria. The Syrian government continues to violate the protection and rights of Syrian children and Syria is not safe for return.
- National governments should prioritize and increase resources for the prosecution of government officials who take part in crimes against children in Syria.
- Documentation organizations, the COI and IIIM should document crimes against children for future accountability mechanisms, *only* where it is possible to protect against

retraumatizing the child, to provide psychosocial support and obtain informed consent.

- Humanitarian groups and governments should ensure psychosocial support is provided for children in refugee camps who were the victims of government violence and abuse, with particular focus on providing support for children who experienced SGBV.
- The UN should increase pressure on Syrian allies, such as Russia, to take a larger role in forcing compliance to national and international child protection standards and to ensure compliance with these standards in all military campaigns.

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