

# The Judicial Situation in Syria

Field study - March 2018



Free Syrian Lawyers Association  
رابطة المحامين السوريين الأحرار

INTRODUCTION.....	0
Executive Summary.....	1
Key Findings .....	2
Recommendations .....	3
Methodology of the study .....	4
Objectives.....	4
Data sources.....	4
Scope of study .....	5
Sampling method .....	5
Limitations.....	5
Analysis of legal status .....	5
I. Central region.....	5
The judicial system and the structure of the judicial courts .....	6
1. First Degree Courts (primitive - reconciliation) .....	6
2. Second Degree Courts (Appeal).....	6
The structure of courts: .....	7
Qualitative and spatial competence .....	7
Laws and Reference of judgements .....	8
Judgments .....	10
Judges of Sharia Courts .....	11
Arbitration Centers .....	11
II. Southern region .....	13
The development of the judiciary in the Houran area .....	13
Courts of the House of Justice in Houran: .....	14
Spatial competence.....	16
The law applied in the courts of the House of Justice:.....	16
Judgments: .....	17
Appeal the judgments .....	18
Judges of the House of Justice.....	18
Arbitration Centers .....	19
III. Northern region .....	20
Judiciary in Idlib Governorate .....	20

Structure of the Islamic Judicial Authority .....	21
1- First Degree Courts .....	21
Spatial Jurisdiction .....	22
2. Court of Cassation (second degree court) .....	23
Laws Adopted.....	23
Trial proceedings.....	24
Means of Notification .....	24
The Stages of The Trial.....	25
Judgments issued by the Courts of the Islamic Judicial Authority .....	26
Execution of Judgments .....	27
Judges of Sharia Courts .....	27
Dissolution of the Islamic Judicial Authority .....	27
Case Procedures in the Judicial Centers .....	28
Arbitration Centers .....	29
The judiciary in the province of Aleppo .....	30
1 - Western countryside of Aleppo .....	30
Litigation proceedings.....	31
Judgments .....	32
Court judges .....	33
2 - Aleppo north-eastern countryside .....	33
The structure of courts .....	34
Applicable law in courts .....	35
Litigation proceedings.....	35
Executive force of the courts .....	36
Judges and their qualifications .....	36
Arbitration Centers .....	37
Judiciary in the governorate of Hama .....	37
Judges of the Sharia Committee Courtrooms.....	38
Spatial jurisdiction of the court.....	38
Applicable Law .....	39
judgments of the Sharia Committee .....	39
Ending the work of the Shariah Committee .....	39
Problems of the judiciary in the liberated areas .....	40

Security Courts .....	40
The subordination of revolutionary courts to military factions .....	40
Absence of the women role .....	40



## INTRODUCTION

The legislative authorities in all countries of the world, including Syria, issue legal rules governing the lives of individuals and their daily issues, and publish these laws so that citizens get to know them and know their rights and duties, while the judiciary is represented by the official courts of the state practice the rule to apply these laws, and solve disputes that may arise between individuals. Knowing that the proceedings before these courts are predetermined through special laws on civil and criminal proceedings.

In order to preserve the rights and freedoms of citizens and to ensure equality between the parties of the conflict to be represented before the courts, the Syrian law grants both parties of the case the right to appoint a lawyer for representation, defense and legal assistance and to present evidence on behalf of his client before the court. Also, the convict is granted the right to appeal to the judgment which was issued for him, so that the case is reviewed before the Second-degree courts to reach maximum certainty.

The Syrian revolution which started in 2011 and the regime loss of control over large areas led to the cessation of the regime's courts activity in the liberated areas. Hence, it was necessary to find judicial authorities that would act instead of these courts and enforce law and establish security and stability in the region and judge the law suits raised before it in order to protect the rights of individuals and their property. Several courts have already been established in most of the liberated areas, but these courts have not adopted Syrian law as an applicable law.

Accordingly, the Free Lawyers Association (FSLA) conducted this study to determine the status of the revolutionary courts operating in the liberated areas, to identify their supervisors and their qualifications to serve as judges, in addition to determining the laws that are applied and the procedures in those courts, and the parties knowledge of these laws and about their ability to appoint a representative for them in the trial sessions.



## Executive Summary

The desire to establish a society based on justice and the rule of law was one of the most important factors that contributed to raising the Syrian revolution in 2011, with the increasing military strength of the armed factions and the liberation of many areas throughout Syria, the Syrian regime ceased working in various government departments, such as courts and judicial authorities, causing widespread chaos and stopped the people's daily transactions in those areas.

And because of the revolutionary forces desire to provide security and resolve disputes between citizens and manage their affairs, they formed alternative judicial bodies instead of the regime courts, and these judicial bodies initially appeared in the form of legislative committees to raise the cases before them in accordance with the provisions of Islamic Sharia, but people who were supervisors for these committees did not have experience in judicial work, and these committees did not have a clear work strategy, and therefore were unable to meet the needs of the society. This led most of civil and military authorities to form official courts that deal with all cases and settle disputes that may arise in between Individuals.

Despite the evolution of these courts and their adoption of a more organized structure, they have different courtrooms (civil - penal - personal affairs), each dealing with specific types of cases, in addition to adopting the principle of two - levels litigation in most courts, but these courts being under the authority of the military factions in financial, administrative and executive aspects, prevented the existence of a unified judicial authority that includes all the courts operating in each region. This resulted in different laws applied in each court and the litigation proceedings before it, finally resulting in destabilizing the judicial work.

In order to understand the work of the judicial bodies in the liberated areas, this study was conducted to identify the most prominent cases before these courts and the laws applied therein, the extent of the people's knowledge of these laws and the procedures of litigation and their satisfaction with the judgments issued and their ability to appeal them.

The study included the governorates of Idlib, Aleppo, Hama, Dara'a, Quneitra and the northern Homs rural region, and this study was conducted by targeting a random sample of 950 people both males and females, and collecting data using a special questionnaire with closed and open-ended questions. In-depth interviews were conducted with a number of experienced court judges and lawyers, using a directory of open-ended questions.

The study concluded a list of results, and showed that the absence of clear and specific laws to be adopted when considering the cases in question, especially the courts that adopt the rules of Islamic jurisprudence, in that case, judgements varies according to the each judge's understanding of those rules, in addition to the lack of previous knowledge of the majority of people about the law applied in these courts, and their inability to access written and codified versions of those laws, and they do not know the names of the judges in charge of their cases.

Accordingly, several recommendations were made, including the need to work on codifying the legal rules adopted by the judicial bodies. We also recommend that the legal rules stipulated in the Syrian law, whether related to the subject or contained in the Civil and Penal suits laws, should be adopted, knowing that these laws do not conflict with the values, objectives and principles of the Syrian revolution, and do not conflict with the provisions of Islamic law.

## Key Findings

1. The absence of a unified judicial reference to govern the work of the courts established in the liberated areas.
2. Courts are formed by the military factions who are controlling the areas.
3. These courts are financially and administratively under the authority of the military factions that have established them, causing the military factions to dominate the revolutionary courts and the absence of the principle of judicial independence.
4. The lack of a specific financial credit for the revolutionary courts.
5. The absence of a unified and clear law adopted by these courts when issuing their judgments. Each judicial authority applies different legal rules than those adopted by other courts, with a clear absence of application of Syrian law.
6. Two-thirds of the people who resort to the judicial courts have no prior knowledge of the law applicable in those courts.
7. Half of the people who went to these courts pointed out that the law that was applied in their cases is the Unified Arab Law, and one-third referred to the adoption of Islamic law, while the rest did not know what the law was applied in their cases.
8. Almost all people have not seen a written copy of the law that has been applied in their cases.
9. The absence of a specific law clarifying the procedures of litigation.
10. More than two-thirds of people who went to judicial courts have no knowledge about the period of litigation.
11. Defendants have the right to appoint lawyers to represent them before the court, as indicated by most people, but only less than a third of them have appointed a lawyer.
12. The majority of judges working in revolutionary courts do not have legal qualifications or previous experience in judicial work but are graduates of colleges and institutes of Sharia.
13. There is a complete absence of the role of women and their work as a judge in the courts, although there are many academic women who are specialized in law and these courts can benefit from their experience in the judicial work.
14. More than half of the people referred that judges used their titles instead of their real names.
15. Nearly two-thirds of the people who went to these courts indicated their inability to review or appeal the judgment issued by the judicial authorities.
16. Approximately three-quarters of the people who resorted to these judicial bodies operating in the liberated areas expressed their satisfaction with the judgement of their judicial review.

17. The detention centers and prisons of the courts are not properly prepared due to the weak financial resources of the courts.
18. The arbitration centers are alternative and optional way to resolve the issues and disputes that arise between the parties and have been widely accepted by the citizens and the demand for them increased significantly.
19. The military factions operating in the administrative area of the court shall be considered the executive authority of the court in case the court's judicial police fails to enforce the judgment.
20. The judgments issued by the courts shall be executed by the execution department in the court. If the sentence is not executed voluntarily by the convict, the court shall resort to the judicial police, which get help from the military factions.

## Recommendations

1. The necessity of rehabilitating the judges and lawyers who are dissident from the Assad regime and appointing them within the courts in the liberated areas.
2. Work on the rehabilitation of academics who has a law education degree through training courses based on the assessment of their needs to take over the judiciary.
3. Establish fair and transparent criteria for the selection of judges without distinction or interference from any civilian or military authority.
4. Determine objective and appropriate criteria for all judicial appointments including training and qualifications in law, integrity, high competence and experience.
5. Forming specialized committees to monitor the courts and the judiciary to ensure the adoption and application of proper judicial systems and ensure compliance with international standards.
6. Seeking to activate the role of women in judicial work and appointing them as judges.
7. Act on the codification of the regulations applied in the revolutionary courts and provide written copies which can be accessed by the cases parties.
8. Provide independent financial support for the courts operating in liberated areas, and work to disengage them from military factions to maintain the judiciary independence.
9. Implement a project for training members of the Free Police to serve as the executive force of the courts.
10. Communicate with concerned authorities and stakeholders to work to re-activate Syrian law as applicable law in courts.
11. Work on applying the laws of the civil and penal trial proceedings of Syria in relation to the litigation proceedings.
12. Ensure the right of every citizen to get a fair trial, regardless of the case raised against him.
13. Guaranteeing the right of the convict to challenge the judges in case of serious professional mistake or complicity with the other party of the case.
14. Implementing projects focusing on the rehabilitation of prisons and detention centers.
15. Increasing the number of arbitration centers operating in liberated areas.

16. Conduct more studies and legal researches to find a greater knowledge of the work of the courts in the liberated areas and the legal gaps that they suffer, the difficulties they face and the training needs of the judges.
17. Conduct a research study on the legal violations and violations of human rights that occur in the courts, prisons and detention centers and offer appropriate solutions to prevent them.
18. Launch awareness campaigns to inform citizens about arbitration and its importance.

## **Methodology of the study**

### **Objectives**

The study aims to provide a detailed description of the types of law suits in the courts in the liberated areas in Syria, in addition to clarifying the adopted judicial systems through:

1. Identify the judicial authorities operating in the study areas.
2. Knowing the authorities who formed courts in different areas of study.
3. Determine the administrative and financial subordination of the courts.
4. Determine the laws applicable to cases before the courts.
5. Determining the procedures for litigation and the conduct of judicial proceedings.
6. The extent to which the litigants are aware of the laws adopted.
7. Determine the qualifications of judges working within the courts.
8. The ability of the parties to challenge and appeal judgments of courts operating in liberated areas.
9. Studying the role of lawyers before the courts and whether the parties to the dispute have the right to appoint representatives for them before the judicial authorities.

### **Data sources**

- a) The clients of the judicial bodies of the plaintiffs and the defendants. The data were gathered from them to ascertain the extent of their knowledge and to inform them about the laws adopted by the judicial bodies, the procedures followed during the stages of the proceedings, the periods of time and means of notification, their ability to appoint lawyers to represent them before the judicial authorities, and their satisfaction with the judgments issued as a result of their review before the judicial authorities and their ability to challenge and appeal the judgements.
- b) Experts and consultants: lawyers working in the revolutionary courts and directors of those courts in order to obtain accurate information about the work of the revolutionary courts and the proceedings before them and the laws adopted in the

issuance of judgements and degrees of litigation and how to implement the judgements.

- c) Secondary data, including research, studies and articles on judicial work in liberated areas.

## Scope of study

The study was conducted in the first three months of 2018. It covered the governorates of Idlib, Aleppo, Hama, Dara'a and Quneitra, as well as the liberated areas of Homs countryside.

## Sampling method

A random sample of Syrians residing in the surveyed areas was chosen, the plan was to interview 950 male and female members and distribute a questionnaire that included closed and open-ended questions. Most of them were interviewed within the courts in the liberated areas of all kinds, also, many people were interviewed out of these courts. In addition to interviewing the directors of some courts and lawyers in the courts using an in-depth interview questionnaire.

## Limitations

The study faced some difficulties, which are:

1. Many individuals refused to participate in the data collection process because of the security constraints in many areas.
2. The difficulty of access some areas of study, especially during military operations and bombing.
3. The difficulty of obtaining information about the work of some courts, especially those belonging to stringent groups.
4. The inability to know the geographical location of many courts for security reasons.

## Analysis of legal status

### I. Central region

The conducted legal survey includes liberated areas in the northern Homs countryside.

Since its liberation, the civil institutions and revolutionary forces in the northern Homs countryside have been working on forming judicial bodies to fill the void caused by the ceasing of the regime's courts to function in the region. In 2012, establishing courts was started with the financial support of the local councils only, without getting any external support. Three courts were formed (Al-Rastan Court - Al-Houla Court - Talbisa Court). Then, Sharia Court was formed and began its work in early 2013. However, the weakness of its executive force at the time and the non-response of all military factions, and the conflicts raised against its work strategy has led to closing it and prevented it from following up on its work. This led to the declining of the legal and security situation and the absence of judicial reference to the courts operating in the region. This led the Homs Scholars Association (a

gathering of prominent religion representatives and sheikhs in Homs governorate), supported by the Islamic Committee to form the Supreme Islamic Court, which started its work in October 2014, which independent of the civil and military authorities, and includes a number of religion representatives and sheikhs from the city of Homs and its countryside in addition to the existence of members and jurists of the military factions operating in the region, and then, a number of Islamic courts was formed in different areas of Northern Homs countryside, which helped to create an integrated judicial system.

### The judicial system and the structure of the judicial courts

The judicial system in the northern Homs, controlled by the opposition, has two degrees of litigation (first degree courts - second degree court). It is noted that this division is based on the need to Re-publication of the case before more than one court in order to obtain the highest degree of certainty in the judgment regardless of the type or value of the case. All cases are subject to appeal.

#### 1. First Degree Courts (primitive - reconciliation)

These courts are competent in accordance with the jurisdiction of the civil and criminal penal cases and personal affairs, and its decisions are subject to appeal, and the first-degree courts are divided into two types:

**A - The Primitive Courts :** It has comprehensive jurisdiction over all types of cases (except for the exclusive jurisdiction of the second degree courts as will be shown later). In comparison with the official judicial system in Syria, it can be said that these are courts dealing with primitive and conciliation proceedings without distinguishing between them.

The First Degree Courts are located as follows:

- a) The Sharia Court in Rastan.
- b) The Sharia Court in Talbessa.
- c) The Sharia Court in Al-Houla.

**B – Reconciliation Courts:** which are competent of reconciliation cases. It should be noted that there is no regulating law that distinguishes between the primitive cases and the conciliation cases, the final decision in this regard remains to the ability of the court to adjudicate the case shown before it and the ability of its executive force to execute the judgment.

The Reconciliation Courts are located as follows:

- a) The Sharia Court in Al-Ghantu.
- b) The Sharia Court in Tirma'leh.
- c) The Sharia Court in Al-Za'farana.
- d) The Sharia court in Teldo.
- e) The Sharia Court in Tal-Thahab.

#### 2. Second Degree Courts (Appeal)

In the northern Homs countryside, there are two second degree courts, which are:

(A) The Supreme Sharia Court of Homs: Its location is Al-Rastan City.

(B) The Central Court in Al-Houla: Its center is the Al-Houla area.

Second degree courts are competent to consider two types of cases:

I. All cases that are brought before it as primitive cases, including cases that are exclusively within its jurisdiction (murder - disputes between the armed factions – intelligence and communication with the Assad regime).

II. Cases in which the judgments of the first-degree courts are challenged or appealed, as the second degree courts are appellate courts for decisions of first degree courts.

#### The structure of courts:

The structure of the Primitive and Reconciliation Courts is like that of the Second-degree courts, both kinds consists of:

**1. The courtroom:** The court consists of a single courtroom includes three judges, who are often specialists in Islamic Sharia, in addition to people specialized with law and rights, specifically lawyers, because of the lack of judges in the liberated areas.

**2. Public Prosecution:** In each district there is a department for the Public Prosecution, but its role is limited to receiving complaints from citizens and registering the case in the competent court registry, so the courts schedule a date for discussing the case.

**3 - Registry of the Court:** In each of the courts mentioned in the General Registry to organize the dates of the court sessions and prepare the documents and procedures necessary for the proper functioning of the process of litigation and proper control and then archiving the case papers and judgments of the Court.

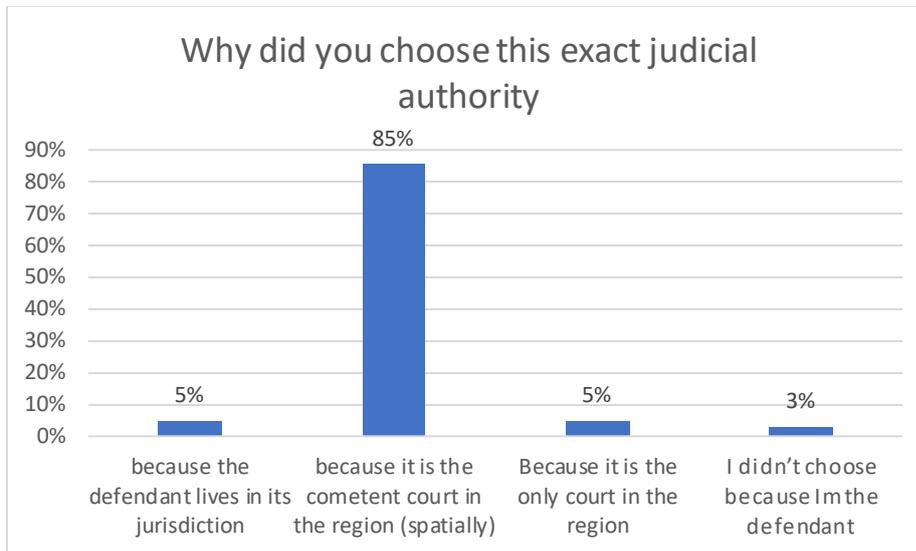
In each court there is a detention room where prisoners and detainees are placed to be presented to the court. These places are qualified to accommodate limited numbers as temporary places of detention according to the abilities of each court. also, In the work area of each court, there is a prison in which people who have been sentenced to imprisonment spend their imprisonment periods. The most important condition that should be met when selecting the place of prison is to ensure the maximum possible protection against air force attacks or by means of the ground, such as artillery or mortars. These places are headed by a dissident officer who is the prison commander. These prisons include a registry office to make the necessary records for the work, such as organizing a record includes necessary information about the detainees and necessary procedures to maintain the health of the prisoner and his food and personal hygiene and other information.

#### Qualitative and spatial competence

##### 1. Spatial jurisdiction:

The spatial jurisdiction of courts of various types and degrees is known and clear both for citizens and those working in the judicial field, because of the clarity of the basis on which it was built, which is the administrative boundaries of the areas and villages approved in the local administration law of the Syrian Arab Republic. What assures the people's knowledge

of the spatial jurisdiction are the answers they provided when asked about the reason for choosing the judicial authority, where the majority indicated that they chose it because it is the competent judicial authority in the region.



The geographic scope regarding the scope of jurisdiction of each court has been determined by adopting the administrative boundaries of each region, as follows:

- The Supreme Court: It is based in Al-Rastan, and its area of spatial jurisdiction includes all areas in the liberated northern Homs countryside (controlled by the opposition) except for the jurisdiction of the central court of Al-Houla.
- Al-Houla Central Court: based in Al-Houla and the scope of its spatial jurisdiction includes Al-Houla area as defined by the law of the local administration of Syria.
- Subsidiary Courts: These courts (primitive and reconciliation courts mentioned previously) are located in the northern Homs countryside areas, and the scope of its spatial jurisdiction includes the administrative boundaries of the area in which the court exists. For example, the Al-Rastan Court operates in the geographical boundaries of Al-Rastan area and Talbisa Court operates in the geographical boundaries of Talbisa area.

## 2. Qualitative competence:

Work is not divided between the various courts operating in the northern Homs countryside based on the specialty jurisdiction. All the courts operating in the northern Homs countryside have a comprehensive jurisdiction to consider all kinds of cases, and they judge all types of lawsuits brought before them, except for the cases under the jurisdiction of the second-degree courts, for example: (murder - disputes between armed factions - intelligence and communication with the Assad regime in Syria).

### Laws and Reference of judgements

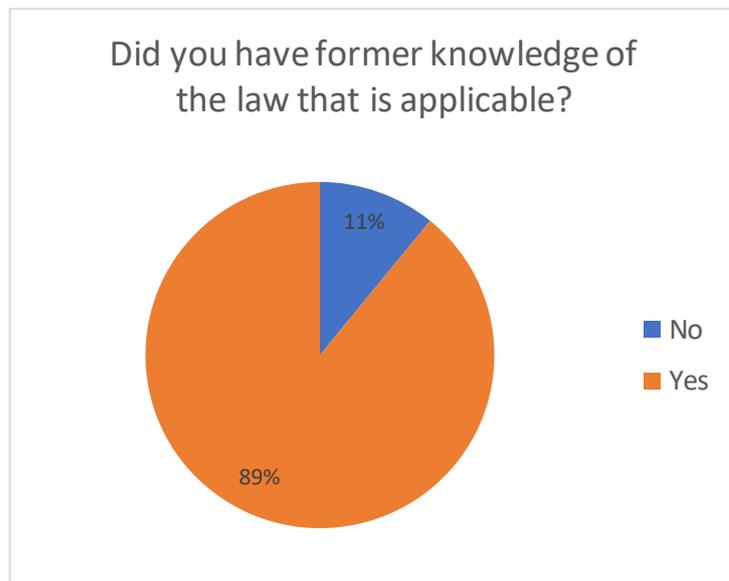
#### 1- Laws of the subject:

The Sharia courts operating in the northern Homs countryside of all types and degrees are based on the Islamic Sharia and Sunna in issuing their judgments. These courts have

adopted the Hanafi doctrine of Islamic jurisprudence as the main reference for judgments and adjudication in disputes, with ability to resort to other doctrines in case the judgement is not found in the Hanafi doctrine.

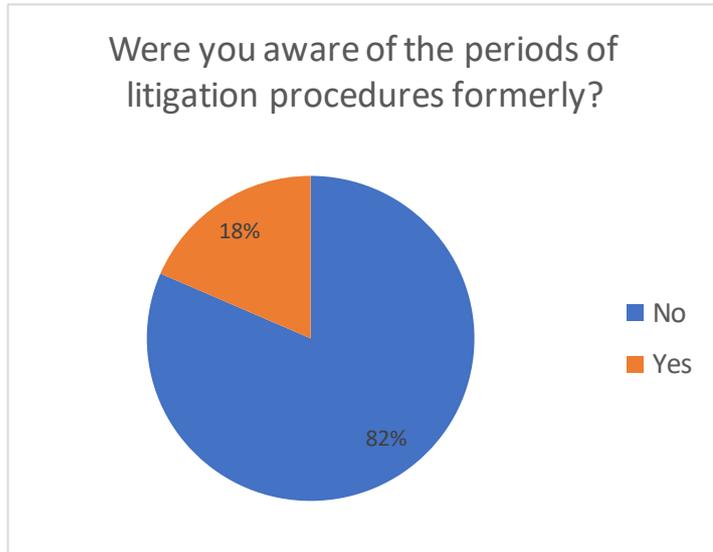
And therefore, there is no written law adopted by the courts when issuing judgments, but it is up to the personal understanding of each judge for the Hanafi doctrine jurisprudence in particular and Islamic jurisprudence in general, and to his general experience in resolving disputes between the parties.

The second source of the legal rules that the courts adopts to issue judgments are custom provided they do not conflict with the provisions of the Islamic Sharia. The courts have also worked to harmonize the judgments issued so these new judgments do not conflict with the previous judgments that were issued in previous similar cases, the thing that allowed previous cases to be considered as a reference for sentencing.



In general, the courts in the northern Homs countryside of all degrees are not based on written laws in any field of litigation. 95% of the participants in the study indicated that they were unable to access written copies of the laws that were applied during the trial, 5% of them have access to the general rules of jurisprudence and written previous cases. Although there are no written laws, however, considering that all residents of the northern Homs countryside are Muslims, most of them are familiar with the provisions of Islamic Sharia that are applied.

**2. Procedures and Evidence Laws:** There is no written law in the Sharia courts operating in the northern Homs countryside that regulates the procedures of litigation, the majority of the participants in the study indicate that they filed the case in the competent court, which in turn notified the litigants to attend the trial sessions, these sessions numbers, procedures and work mechanism is only determined according to the personal experience of the judges and the employees of the court in accordance with Islamic Sharia and the rules of justice, knowing that 82% of litigants had no prior knowledge of the litigation periods, while 18% indicated that the court had informed them of those periods before the hearings began.



The judicial system in the northern Homs countryside has witnessed a remarkable development regarding litigation procedures, thanks to the important role played by lawyers and their success in resolving many of the problematic cases and running administrative procedures within the Sharia courts to reach judgments due to their previous experience in the courts and the judiciary. This has led the Sharia Courts to provide facilities for lawyers' work, especially since this does not conflict with the provisions of Islamic law, since their role is to plead before the court and provide evidence on behalf of their client.

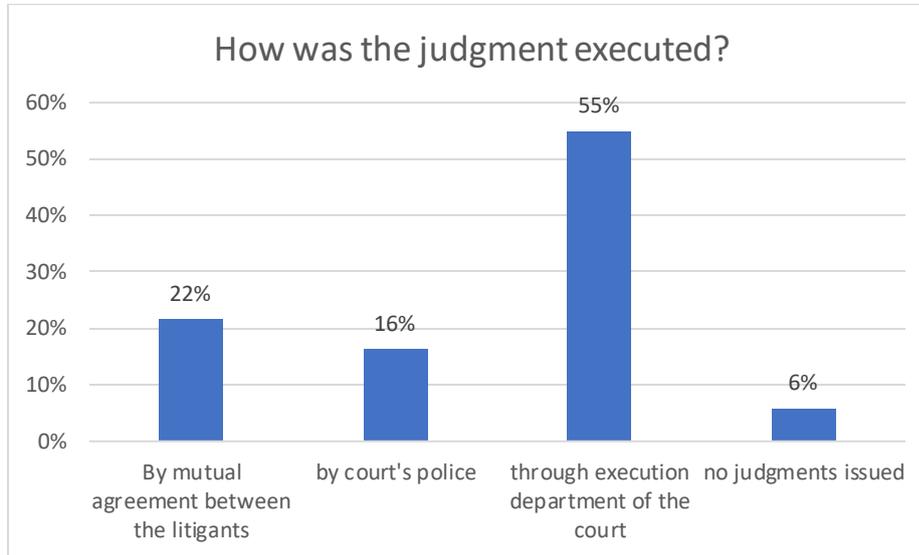
### Judgments

The Sharia courts operating in the northern Homs countryside consider all kinds of civil and penal disputes, personal affairs cases and commercial transactions, knowing that the majority of the litigants indicated that the reason for the litigation was civil suit, at 61%, followed by personal affairs cases at 14%, and the penal cases at 11%.

And the judgments issued by the courts vary according to the details of the raised case, in a way guarantees the rights of litigants, although the courts adopts the provisions of the Islamic Shariah when issuing its judgments, however, they do not apply Sharia's heavy penalties execution except in cases of intentional homicide, in which the judgment is either execution or paying blood money, while the rest of the penalties are replaced by the discretionary punishments such as prison until the end of war in the country and the judicial system become stabilized.

Judgment shall be issued by a majority, the judgment shall be written, signed by the Director of the Court and two members of the Court. The methods of execution of the judgments vary, where they may be executed by mutual agreement between the litigants, if not, the prosecutor can review the execution department in the court that issued the judgment to be executed by the court's police, which is the predominant form, as indicated by the study participants, knowing that the court can request help from the military factions operating in the area to support the police of the court when carrying out some tasks that

require force and potentials that are larger than that owned by the court police. This is done through a letter from the head of the court to the faction's leaders to provide a group of armed soldiers from the specific faction when needed. Therefore, we can also say that the military factions are considered the executive branches of the courts within their geographical area, knowing that there is no structural or institutional link between these courts and the security forces of the revolutionary factions.



As for the appeal of judgments, more than one-third of the participants in the study indicated that the judgments of the first degree courts could not be appealed, while 63% said that they were appealable to the Supreme Court or the Central Court of Al-Houla, even if this is referred to in the sentence decision, and there is no specific period of appeal and the final statement is for the second degree judges in terms of accepting or rejecting the appeal, knowing that the vast majority of the litigants in the judicial authorities in the northern Homs countryside are satisfied with the outcome of their judicial review and see that the judgments issued fulfil justice..

### Judges of Sharia Courts

The judges of the Sharia courts and the Supreme Court are appointed by "Homs Scholars' Association", their appointment is conditioned that they be judges of good reputation and good morals, knowing that the majority of judges are those who are licensed in the Islamic Sharia, in addition to some judges who are lawyers licensed to practice law, Courts operating in the northern Homs countryside suffer from a lack of professional cadres of people who are licensed to practice law (judges-lawyers).

The judges use their explicit names during the trial sessions, as indicated by 57% of the participants in the study, while 43% of them said that the judges do not use their explicit names, but their titles. However, the judgments issued by the courts in the northern Homs countryside does not include the names of the judges, but only the signature of the judge.

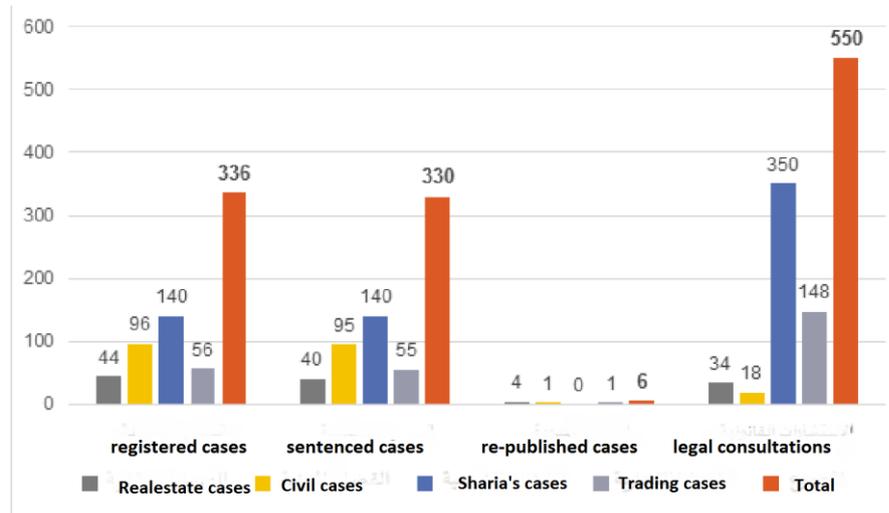
### Arbitration Centers

The lawyers in the northern Homs countryside formed the Association of Syrian Free Lawyers in 2013. The Association is one of the most active civil rights activities in the

northern Homs countryside. Since its formation, it has worked on documenting contracts, sales, marriage, divorce and registering births and deaths free of charge in association with the local councils to facilitate citizens' legal and social affairs. In addition to the role played by the Association in the courts operating in the northern Homs countryside to facilitate the cases in order to guarantee rights and help judges to achieve justice.

The Syrian Free Lawyers Association launched its project to establish arbitration centers in several areas inside Syria in 2015, it has been done through a consultative process with the local people through their representatives in civil administrations, local councils, civil police forces, civil society organizations and law applying representatives such as lawyers and judges, in addition to the dignitaries and academic religion sheikhs. In view of the great success achieved by the project, the second phase was launched on 15/3/2016 until 14/1/2017.

### Types of lawsuits raised in arbitration centers

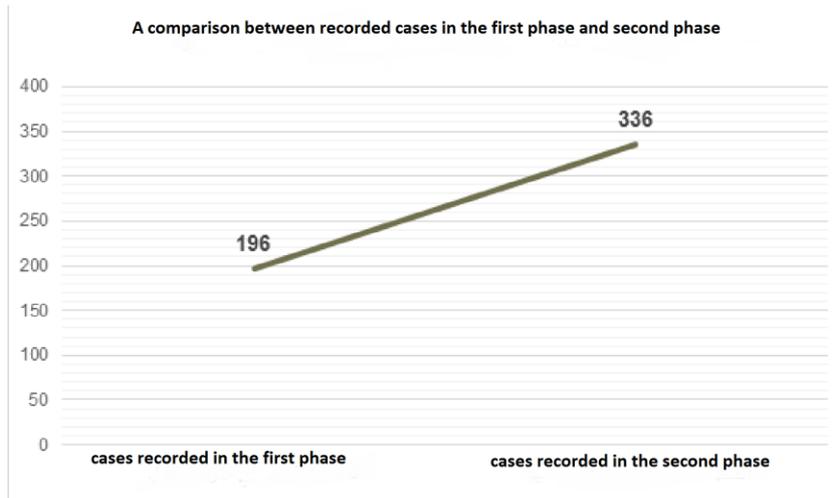


Through this project, the Association has sought to strengthen the rule of law and limit the judicial gap in the liberated areas, which is filled by the Sharia courts and some factions courts, which lack legal expertise and lack of unified reference, in addition to the lack of clarity of the law applicable in these courts in both aspects of subject or proceedings, which was mostly limited to judges' personal decisions.

The Syrian Free Lawyers Association in the northern Homs countryside established an arbitration center in the city of Al-Rastan, which received the litigant's cases of civil, real estate and trading disputes in order to work on resolving their disputes amicably. The center also provided several legal consultations. Knowing that all the services and legal consultations are free of charge for the people, in addition to that, the members of the Arbitration Center formed committees working to solve the disputes of citizens in the areas surrounding the city of Rastan such as: Al-Zafarana, Al-Houla, Talbisa and AlSa'an, and other villages.

The arbitration center was able to gain the trust of citizens and civil institutions in the region due to the efficiency of its academic cadres and its contracting with a group of experienced arbitrators, this is clearly seen through the increase in the number of cases recorded in the

second phase compared to those recorded in the first phase of the project, whereas the increase was at 71.5%, and the number of cases registered in the first phase was 196 cases, while in the second stage 336 cases, in addition to that, the Center provided a large number of different legal consultations, which reached 550 consultations, most of which were in the legal and inheritance cases.



## II. Southern region

The legal survey carried out includes the areas of Dara'a and Quneitra.

### The development of the judiciary in the Houran area

With the start of the Syrian revolution and when the southern regions (Daraa and Quneitra) in Daraa were out of control of the Syrian regime, and due to the judicial absence created by the regime ceasing of the work of its courts in the liberated areas, there were attempts aiming to find alternative judicial institutions to resolve the disputes arising among the citizens. The courts were initially in the form of mini-legal committees in villages, cities and sectors acting individually without coordination among them, each with its own system, law and scope of work, in addition, these courts were influenced by military factions that control the areas in which they operate and provide support to these committees, which led to the spread of chaos and the issuance of many contradictory judicial judgments due to lack of coordination between the courts and because they did not adopt unified law and reference, and the judicial bodies operating in Houran were:

1. The Sharia committee in the Central Sector.
2. Al-Taiba Court.
3. Court of Giza and Mseifra.

These courts have worked until the military factions operating in the region formed their own courts where finally, there were only three courts:

1. Court of Gharz of the Free Army.
2. The Cobra Court of the Al-Nusra Front.
3. Gelleen Court of the Muthanna Islamic Movement.

These courts formed the House of Justice on 10<sup>th</sup> of November 2014, with the merger of Gharz Court, Cobra Court and Gelleen Court. These three courts handed over all their files and detainees to the House of Justice, which became the sole judicial body in Daraa and Quneitra and it was managed and operated by a group of jurists and independent administrators who are independent of any internal or external entity, but the situation of work in the House of Justice in Houran was affected by the change of events in the southern region, the classification of the Muthanna Islamic Movement as a terrorist organization has led to separate it from the courts of the House of Justice, Al-Nusra Front represented by the Cobra Court also decided to withdraw from the House of Justice in the June 2015, after the House of Justice adopted the Unified Arab Law in issuing its judgments. Al-Nusra Front refused this law and justified their refusal by saying that this law is a violation of what was agreed when the House of Justice was established, which is adopting Quran and Sunna as a main reference for issuing judgments. Al-Nusra front considered that the Unified Arab Law is contrary to the Sharia in some of its provisions and laws and has withdrawn its judges and its soldiers from the House of Justice, and it has formed its own Islamic court in areas under its control: (Tal al-Jabiya, Cobra, Jubbatha Al-Khashab and breiqa) and this court issued judgments according to Islamic Sharia.

It is worthy to be mentioned that there are several Sharia courts in the province of Daraa, one in Jassem city and the other in the city of Bosra al-Sham, these courts considers all the cases that are raised before it, and depends on the provisions of Islamic Sharia and the prevailing custom, in addition to a non-judicial body called the Reform committee, which work on resolving disputes between people through the elders and dignitaries and Sheikhs of religion who have no experience in the judicial work and do not have the legal qualification, but they rely on their knowledge of the custom and traditions of the region and they have the confidence of residents of those areas.

In spite of the multiplicity of judicial bodies in the southern region, the House of Justice court remains the most influential and comprehensive judicial authority, which can be considered the sole judicial authority in the region, this is due to the support of civil and community activities and financial and executive support by the Free Army factions which liberated most of Daraa governorate, in addition to many areas in the province of Quneitra.

#### Courts of the House of Justice in Houran:

The House of Justice in Houran consists of three courts:

1. Central Gharz Court.
2. Nawa Court (a subsidiary of the Central Gharz Court).
3. Quneitra Court (a subsidiary of the Central Gharz Court).

**1. The Central Gharz Court:** which is the main court, and the rest of the courts of the House of Justice are under its authority. The court is located in the southern region, east from the province of Daraa. It was a central prison called Gharz Prison. After liberation, the place was adopted as the main court for the liberated areas. Gharz Court consists of many courtrooms, each courtroom has its jurisdiction according to the following:



- (A) The Judicial and Counselor Council: It consists of the President of the Court and counselor judges appointed by consensus of the factions who founded the court, these judges should be of expertise and legal competence, their task is to conduct and supervise the work of the court and to appoint judges and staff.
- (B) The Public Prosecution: It consists of the Attorney-General and the courtrooms of the investigating and referral judges. This courtroom's task is to investigate, release or refer the detainees to the competent court. The Attorney-General and the investigation judges shall be appointed by the Judicial and Counselor Council of the House of Justice, from the judges and military dissidents who are dissident from the regime.
- (C) Personal Affairs Courtroom: It consists of a judge and a clerk and is concerned with issues of personal affairs: (marriage, divorce, inheritance, allowance).
- (D) The Civil Affairs Courtroom: It consists of a judge and a clerk, and considers the cases of (real estate - cars - money - and bonds)
- (E) The Criminal Cases Courtroom: It consists of the head of a courtroom and two counselors with expertise and legal competence, appointed by the president of the court and the counselor council in addition to the clerk. It examines all criminal cases referred to it by the public prosecutor (murder, robbery, rape, spying) and issues judgments in the name of House of Justice in Houran - Criminal Court - and signed by the legitimate judges and their explicit names.
- (F) Appeals Courtroom: It consists of a president and two counselors of experience and competent and dissident judges appointed by the President of the Court and Counselor Council, and as an appellate reference, they review the judgments of the First-Degree Courts in the civil and legal cases during the appeal period fifteen days from the date of judgment notification.
- (G) The Court of Cassation: It consists of the experienced and competent President of the Courtroom and counselors appointed by the President of the House of Justice and the Counselor Council of the Court, and they are judges who dissociated of the regime. This courtroom considers the cassation against the judgments issued by the Criminal Court, submitted during the period of cassation, which is 30 days from the date of judgment notification.
- (H) The Executive Office: The House of Justice has an executive office overseen by a lawyer appointed by the President of the House of Justice and the Counselor Council, the office executes the judgments and memoranda issued by the House of Justice. However, it does not have an independent executive force, but it executes memoranda and judgments using the help of the military factions which founded the court, each faction provides help within the area of its control.
- (I) The Registry office: consists of administrative staff, its task is to register complaints, refer to the competent department, issue circulars and decisions issued by the court, publish them and keep the court archives.
- (J) Prison: The court has an independent prison which is Gharz prison (a former regime prison). The prisoners are detained in it, and it is divided into several sections according to the type of sentence (criminal - civilian). All the necessary food, clothing

and medicine are provided to the prisoners, prisoners also be rehabilitated by subjecting them to Sharia and educational courses supervised by specialists.

**2 - The Court of Al-Asbah (Quneitra):** consists of a president and three Sharia judges appointed by the Judicial Council of the House of Justice with experience and Sharia education degree. The scope of work of this court includes the liberated areas in the province of Quneitra and include the following courtrooms:

- (A) The personal affairs courtroom: It consists of a judge and a clerk, and it is concerned with issues of personal affairs (marriage, divorce, inheritance).
- (B) The Civil Affairs Courtroom: It consists of a judge and a clerk, and it is specialized in civil cases (real estate, cars, money).
- (C) The Registry office and the Complaints Room: it is where the complaints are registered and forwarded to the competent courtroom.

Al-Asbah Court does not consider crimes and felonies, but refers them to the main court of the House of Justice, the judicial memoranda of notification and arrest are executed by the factions operating within its areas of control, because there is no executive arm of its own, and its judgments are issued under the name of the House of justice in Houran and signed by the competent judge.

It should be noted that each court of the House of Justice courts has its own prison guarded by the court's force, and has a special section for women, which is supervised by female court personnel who takes care of female prisoners and guard the prison.

### Spatial competence

The judicial system in Horan is based on dividing liberated areas into several sectors so that each of the courts of the House of justice is assigned to a specific sector as follows:

1. Gharz Court: its spatial jurisdiction includes the eastern region of Daraa City and the eastern part of Houran.
2. Nawa Court: its spatial jurisdiction includes the western region of Houran and the Jaidour.
3. Quneitra Court: Its spatial jurisdiction includes the liberated areas of Quneitra governorate.

In spite of adopting the above-mentioned division, the spatial jurisdiction of the courts of House of Justice remains completely unclear. The reason for this is that the law of procedure that defines the jurisdiction of each court is only a mixture of unified Arab law and the prevailing custom and traditions in the region, in addition to what the lawyers have experienced of the Syrian courts system before the revolution, the opponents resort to the closest court to their place of residence even if it is not the court with spatial jurisdiction of that area.

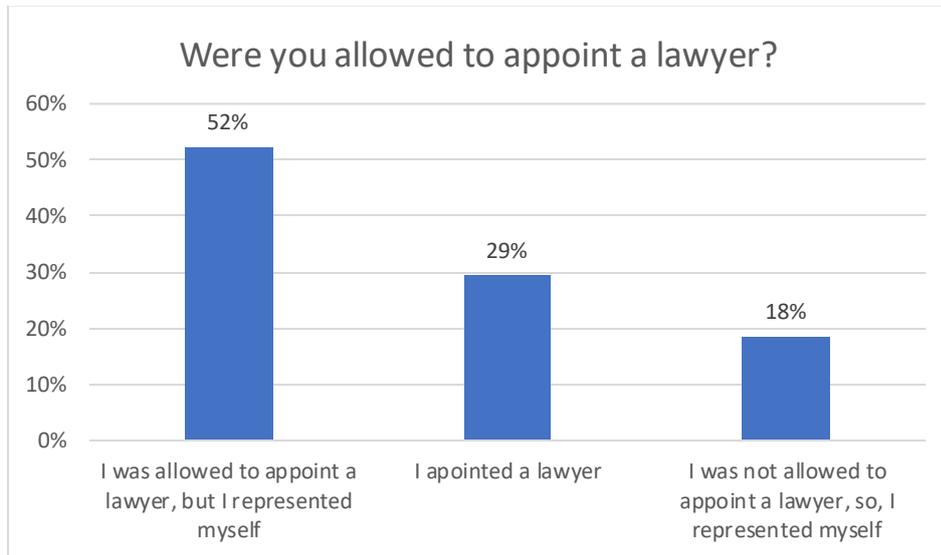
### The law applied in the courts of the House of Justice:

At the early beginning of the House of Justice, the provisions of Islamic Sharia and jurisprudence were adopted to settle the disputes brought before it. this situation continued until the Unified Arab Law was adopted as the sole reference to the subject of the

case and its procedures. The Unified Arab Law derives most of its provisions from Islamic Sharia, and in spite of being a codified law, vast majority of the litigants do not have sufficient knowledge of its articles and the provisions it contains because it is applied for the first time in the Syrian courts, which is referred to by 88% of the litigants of the courts of the House of Justice and participated in the study.

The proceedings are initiated by submitting a complaint or allegation to the court, where it is presented to the prosecution judge to determine the subject of the case, the case is then referred to the competent court where the judge examines it, hears the parties of the dispute and witnesses and hears all the evidence for the case presented before him, and based on that, he issues his sentence.

A memorandum of understanding was signed between the President of the Court of Justice and the Free Syrian Lawyers Association, whereby the parties of the dispute were allowed to appoint lawyers to plead before the courts.



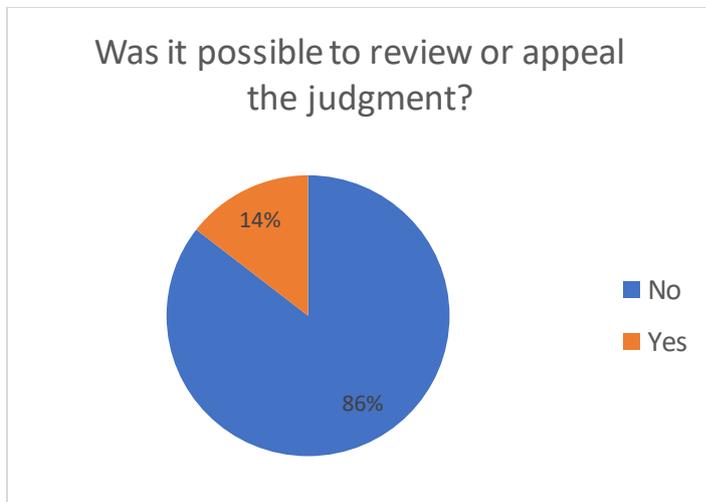
### Judgments:

The courts of the House of Justice consider various criminal, civil, reconciliation and personal affairs cases, and the judgments it issues are ranging from financial fines to compensation or prison sentences and even to death sentences in some criminal cases as prescribed by law.

The House of Justice has an executive office overseen by a lawyer appointed by the President of the House of Justice and the Counselor Council. The Executive Office executes the judgments and memoranda issued by the House of Justice. However, it does not have an independent executive force. In the event that the sentenced person did not accept the sentence to be executed voluntarily, it is done with help from military factions who founded the House of Justice, each faction within its area of control.

## Appeal the judgments

The judicial system in the courts of the House of Justice has two levels of litigation, whereas the issued judgments can be appealed by cassation for sentences issued in criminal cases or by appeal for the rest of the sentences, that is done when the law provides that judgments can be appealed.



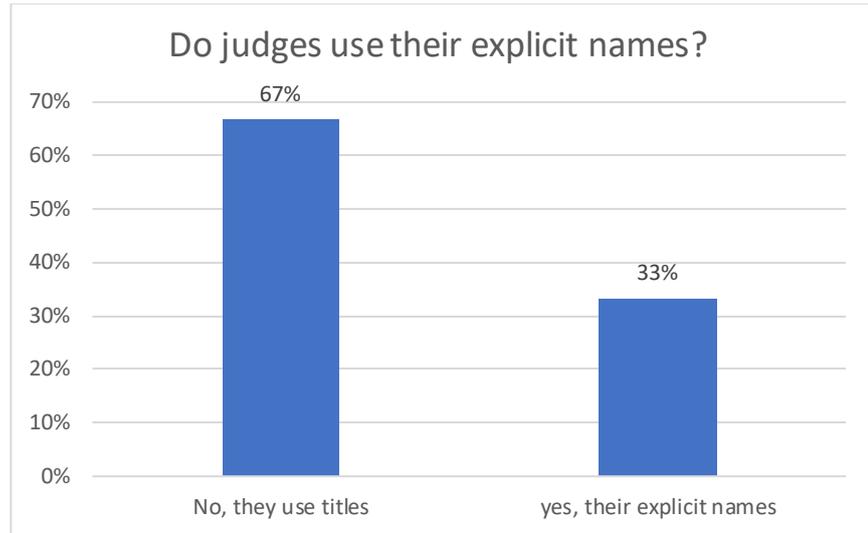
Each court of the courts of the House of Justice in Houran contains a cassation courtroom, which works on reviewing the judgments issued by the rest of the courtrooms. The Courtroom of Cassation also competent of appeals because there are no appeals courts until now except Gharz Central Court, which includes an appeals courtroom and a cassation courtroom. The person who wants to appeal a judgment must comply with the legal time limits of 15 days for appeal and 30 days for cassation, from the date of the judgment issuance in case it was a judgment in presence of the litigants, or from the date of the notification of the judgment.

It should be noted that the majority of the people who had cases in the House of Justice said that they could not appeal the judgments, and if the judges were biased in their judgments to one of the parties of the dispute, the other party can submit a complaint to the High Judicial Council in the province, which in turn consider and investigate that complaint.

It should be noted that there are several Sharia courts in the governorate of Daraa, one in Jassem and the other in the city of Busra al-Sham. These courts are related to the House of Justice, and it deals with all types of courts, but it adopts provisions of Islamic Sharia and the prevailing custom to decide its judgments. and litigation before it is only one degree, so there is no court of appeal or cassation.

## Judges of the House of Justice

A group of judges appointed by the Judicial and Counselor Council, headed by the President of the House of Justice, are appointed to deal with the cases before the Courts of House of justice. Several judges who have been appointed are dissident judges from the Assad regime, in addition to appointing several lawyers who have more than ten-years' experience. Also, some judges, especially those who consider personal affairs cases are academics who have a license in Islamic Sharia.



Some of the judges currently use their explicit names while others use titles and nicknames. All of them used titles in the early stages of the establishment of the House of Justice. The judges are completely unbiased towards all opponents. There is no bias for one of the parties. And in case there was bias for one party, the other can file a complaint to the Presidency of the Supreme Judicial Council and the complaint is considered through forming a special committee.

### Arbitration Centers

As part of its project to promote the rule of law, promote the principles of justice and equity and enable citizens to obtain their rights peacefully, and for believing in the importance of arbitration as a method of resolving disputes amicably, away from the complexities of judicial proceedings in official courts, the Free Syrian Lawyers Association founded many arbitration and legal centers in the South of Syria and supported these centers financially. These centers include lawyers with legal expertise, as well as a group of arbitrators, which includes a variety of people with expertise, competence, dignitaries and Islamic sheikhs. These centers adopt the Syrian Arbitration Law No. 4 of 2008, these centers have assisted in providing legal advice and adjudication in various types of civil, commercial, real estate and Sharia cases.

The most prominent of these centers are:

#### A - Arbitration Center in Tafas City:

The Syrian Free Lawyers Association established the arbitration center in the city of Tafas by signing a memorandum of understanding with the Union of Local Councils in Daraa governorate which includes more than 13 local councils in Houran.

The Center received all civil, commercial and real estate cases, and solved disputes arising among citizens, in addition to providing a large number of legal advices. It has also dealt with a number of cases that did not reach the stage of arbitration and was resolved amicably, and has been able through these activities to gain the confidence of citizens and

the number of people who resorted to it increased by 25 cases per month, The center has a total of 149 cases, and also provided different types of legal consultations of total 207 consultations, Knowing that this center offers all legal services free of charge.

#### **B - Arbitration Center in the Eastern Horan Region:**

The Center provides all legal services, such as adjudicating disputes of all kinds and providing legal advice to people. The number of registered cases reached 180 cases, in addition to 169 legal consultations.

#### **C - Arbitration Center in Quneitra:**

It provides the same legal services provided by the arbitration centers located in Daraa Governorate. The number of registered cases in all types of commercial, civil, real estate and Sharia cases reached 213 cases, it also provided 185 legal consultation.

An arbitration center has recently been opened in Al-Hrak City, in addition to the legal centers located in Tafas and Nawa south of Daraa Governorate.

### **III. Northern region**

The legal survey carried out includes the governorates of Idlib, Aleppo and Hama.

#### **Judiciary in Idlib Governorate**

Since the liberation, the revolutionary forces in Idlib have established judicial bodies as an alternative of the courts of the regime to settle disputes that arise in the region and manage affairs of citizens such as documenting contracts, registering marriage, divorce, births, deaths and other daily legal matters of interest to citizens. These efforts led to establishing several reconciliation and conflict resolving committees in the last quarter of 2011. These committees included the Dispute Settlement Committee in Gerjanaz, the Dispute Settlement Committee in Khan Al-Subol and the Dispute Settlement Committee in Mount Al-Zawieh.

These committees did not have their own headquarters, but they were mobile committees, and they did not receive any financial support. These committees' task was to adjudicate misdemeanors, violations and inheritance cases, noting that these committees do not follow specific procedures when considering disputes, also, executing judgments is done amicably between the case parties.

Judicial work remained the same until the formation of the Sharia Judicial Council in 2013, where judicial work was more organized by establishing several courts in different areas of Idlib governorate to consider the legal, criminal and civil cases.

Some of these courts are:

Gerjanaz Court: which used a section of the secondary school in Gerjanaz as a headquarter.

- A. The Court of Suran.
- B. Khan al-Subol Court.

### C. The Court of Ma'arat al-Nu'man.

#### D. Court of Mount Al-Zawieh.

The proceedings are initiated in these courts by submitting an official claim in the court's registry office, the case will then be referred to the competent courtroom.

Each courtroom shall consist of a Sharia judge who has a license in Sharia or a certificate from the Syrian Sharia institutes or a graduate of Al-Azhar University in Egypt, and all of these judges are Syrians without exception. Each courtroom also has a lawyer who has a license in law. The judgments are issued according to the provisions of Islamic Sharia, and the sentences are executed by the security personnel of the Free Army factions, especially Suqoor Al-Sham and the Syrian Revolutionary Front.

It should be noted that the litigation in these courts was of one degree until a court of appeal was established in Khan al-Subol. Also, the State Property Court was established in the city of Ma'arat al-Nu'man to prevent infringements on public property, and it was a result of a study submitted by the Free Syrian Lawyers Association.

The work of the Sharia Judicial Council has ended with the declaration of the military factions affiliated with the Islamic Front (Ahrar Al Sham, Al-Sham legion, Al-Haq faction, and the Army of Islam in the north) to establish the Islamic Judicial Authority in 2014 with Sheikh Jaber Ali Pasha as a president. By that, courts adopted a more organized structure, and increased in number in order to cover all the liberated areas in Idlib governorate, noting that there is no specific financial credit allocated to these courts, but funds are received from the factions that established the Authority and some of them are from the fees imposed on the registration of the cases, appeals and execution. The authority resident issued a circular order to the courts under its' leadership to not to accept any amounts of money either from the military factions or civilians or legal entities without obtaining the approval of the Presidency of the Authority.

### Structure of the Islamic Judicial Authority

The Islamic Judicial Authority consists of the Presidency of the Authority, the Judicial Inspection Office, the Follow-up Office, the Public Prosecutor's Office and the registry offices of the Sub-Courts and the Courts. The judicial system of the Islamic Judicial Authority is based on two degrees of litigation, so, there is eleven first degree courts located in all areas of Idlib countryside, also, there is one Criminal Court and one Court of Cassation, both based in Bennech city.

#### 1- First Degree Courts

The First-Degree Courts of the Islamic Judicial Authority are eleven courts covering all liberated areas in the countryside of Idlib. These courts are: (Bennech Court – Maarat Misreen Court – Saraqib Court – Abu Duhour Court – Mount Al-Zawieh Court – KafrNubbul Court – Armanaz Court – Tirmala Court – Ma'arat Al-Nu'man – Al-Dana Court – Atmeh Court)

These courts consider all types of cases: civil, commercial, criminal and personal affairs cases, except for cases related to disputes, in which a final judgment by the courts of the regime was issued before the date of 15/3/2011.

Each of these courts consists of registry office, a prosecution judge, investigations courtroom and an execution courtroom which is often run by a counselor lawyer who executes judgments, and also includes a number of courtrooms each of which is competent of a particular type of cases as follows:

- A. The personal affairs room: It deals with cases of marriage, divorce, inheritance, custody, guardianship and all matters related to personal affairs cases.
- B. Courtrooms of transactions: It deals with lawsuits relating to personal property and real-estate rights and damages resulting from them, and cases related to disputes over movable funds and disputes over contracts between ordinary people or legal persons and their effects, and cases related to the liquidation of estates and cases of ownership and possession.
- C. Penal Courtroom: It includes within its special jurisdiction: misdemeanors and violations such as theft in all its forms, fighting, remissness, traffic accidents and defamation, and also within its jurisdiction all crimes not related to the Criminal Court.

It should be mentioned that the courtroom in charge of the case should mention special jurisdiction point with its' free will, and to abandon the case if it was not of its' jurisdiction and forward it to the President of the Court to determine the competent court of the case.

There is a sole criminal court based in the city of Bennech, which is competent to consider the following cases based on its' special jurisdiction:

- (A) Adultery, homosexuality and banditry.
- (B) Offenses which cause death, whether deliberate, semi-intentional or by mistake.
- (C) Offenses which cause physical harm, if any of the following actions is perpetrated:
  - a. cutting limbs or what is considered as such, this section includes, cutting a hand, finger, nail, nose, penis, breasts, ear, lip, eye popping, breaking teeth, shaving or force removing hair of the head, beard, eyebrow and mustache.
  - b. II. causing loss of function of limbs and senses without cutting its organs, like hearing, sight, smell, taste, speech, intercourse, etc.
- (D) The crimes of spying and dealing with the regime and ISIS, and other organizations considered as enemies of Syrian revolution.
- (E) The crimes of drug addiction, promotion and trafficking.

### Spatial Jurisdiction

The Islamic Authority has been working since the beginning of the May 2016 on issuing a circular to determine what villages are under the jurisdiction of each of its courts, considering the geographical distribution and administrative boundaries of each area and point of proximity and distance from the court. Knowing that this process should consider rules of spatial jurisdiction decided by the Presidency of the Authority which are:



1. Cases of transactions, personal affairs and penal proceedings relating to a non-flagrant crime shall be filed in the court with jurisdiction in the last residence of the defendant if he is in the liberated areas.
2. Cases of transactions, personal affairs and penal proceedings relating to a non-flagrant crime shall be filed in the court with jurisdiction in the original residence of the defendant if his domicile is within the liberated areas and the defendant was in the areas of the regime or traveled out of Syria.
3. Cases of transactions, personal affairs and penal proceedings relating to a non-flagrant crime shall be filed in any court chosen by the plaintiff if the domicile of the defendant is within the regime areas, and the defendant is a resident there or outside Syria.
4. Cases relating to the various real estate issues shall be filed in the court with jurisdiction in defendant's home or in the court with jurisdiction in the property's location.
5. If there is multiple defendants or multiple properties in the case, it should be filed in a court with jurisdiction in the home area of one of the defendants or in a court with jurisdiction in the location of one of the properties mentioned in the case.
6. Penal cases shall be heard by the court with jurisdiction in the location where the offense was committed if the offense is flagrant.

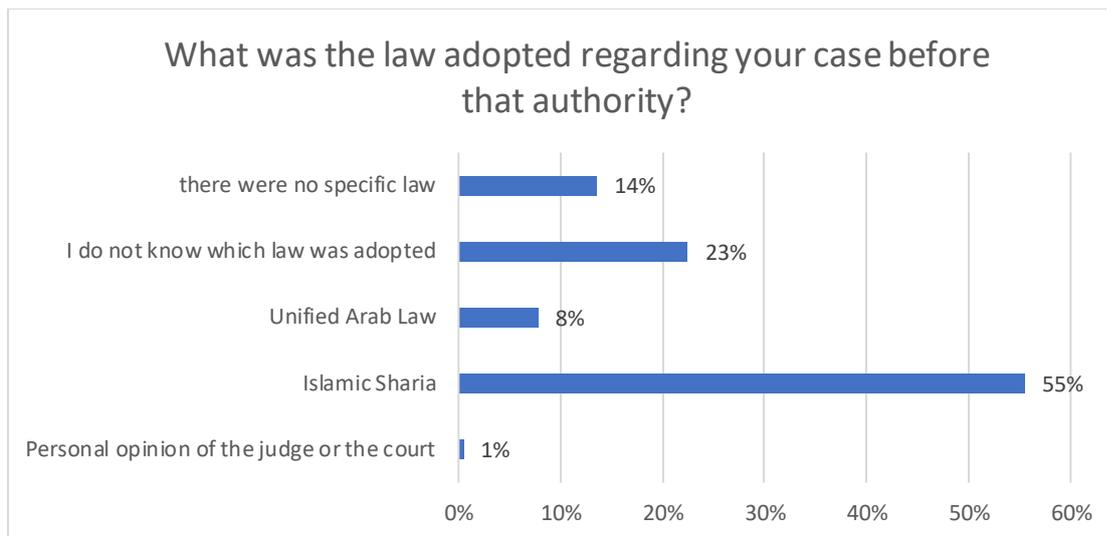
## 2. Court of Cassation (second degree court)

There is a sole Court of Cassation based in the city of Bennech, which is competent to hear appeals submitted against judgments of the First-Degree Courts in civil, criminal, personal affairs and criminal cases. According to the circulars issued by the Presidency of the Authority, the Court of Cassation is a subject matter court and a second degree of litigation, whereas cases are brought before it to issue a judgment which approves the judgment of the First-Degree Courts or revoke it in whole or in part.

### Laws Adopted

The Islamic Judicial Authority judgments are primarily based on the rules of Islamic Sharia contained in the holy Qur'an and Sunna and the rules of Islamic jurisprudence. It also relies on the legal rules contained in the Code of Legal Judgments. Unified Arab law is used in regard of civil cases and transactions provided that such laws do not conflict with provisions of Islamic Sharia.

The Presidency of the Islamic Judicial Authority has issued several circulars aimed at regulating the proceedings from the moment the claim or complaint is filed until the verdict is issued, knowing that the Presidency of the Islamic Judicial Authority has obliged its judges to read the book (Issuing Judicial Verdicts) by Sheikh Abdullah Mohammad Sa'd Al-Khanein, and the book of (General Prosecution and its Provisions in Jurisprudence and Order) of Dr. Talha Mohammed Abdul Rahman Ghouth, and rely on these books in the work of judges provided that it does not contradict with the circulars issued by the Presidency of the Authority.



Based on the above-mentioned article, it can be said that there is no specific and clear law to be adopted by the courts of the Islamic Judicial Authority. It is based on a mixture of legal rules derived from different sources, which explains the answers obtained from people who had cases in the courts of Islamic Judicial Authority when asked about the law which have been applied, where they mentioned applying several laws, knowing that nearly 44% of respondents had prior knowledge of these laws.

Finally, it should be mentioned that the Islamic Judicial Authority has adopted the Unified Arab Law as a sole reference for issuing judgments and obliged all courts of the Authority to adopt it in August 2017.

### Trial proceedings

The proceedings of the litigation shall be initiated by the person concerned or his / her representative to bring the case before the court, where it shall be registered in the registry office to give it a number and classify it as a civil or criminal case or personal affairs case.

The head of registry office shall collect the fees specified for each procedure that should be completed to prepare all the papers of the case brought before him such as real estate documents or personal documents or an inventory of inheritance, an official letter is sent to the concerned government departments to obtain the required documents, and then, the defendant is notified of the case, and the head of the registry office refers the case to the Attorney General to forward it to the competent courtroom,

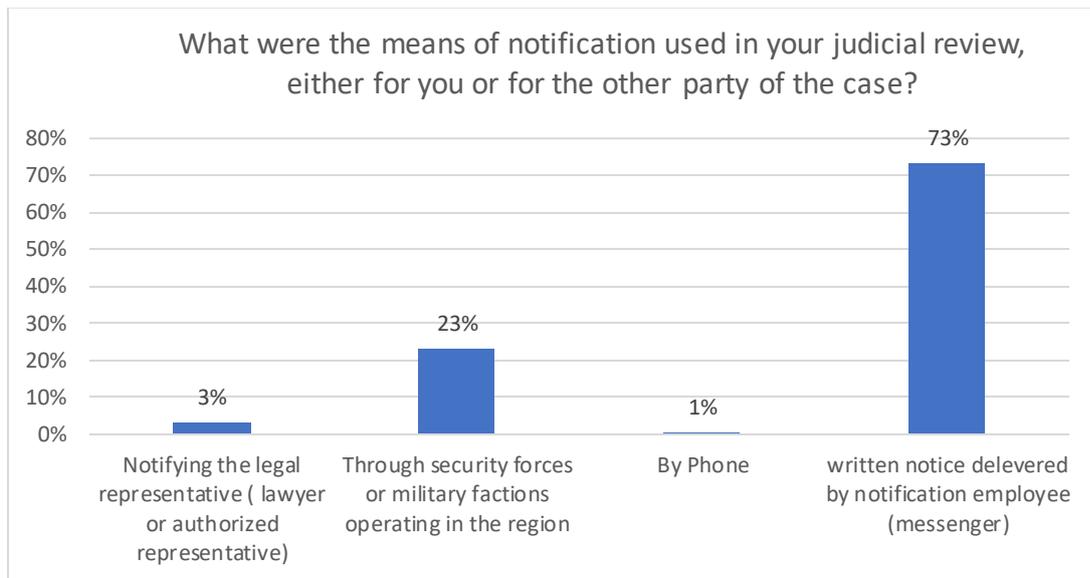
The largest percentage of cases filed in the province of Idlib are civil and real estate lawsuits at 29% each, followed by personal affairs cases at 22%, while the percentage of penal cases was at 20%.

### Means of Notification

The defendant is notified by a notice sent with the court's messenger to the defendant in person, (which is the predominant form as indicated by the participants in the study), if it is impossible to notify the defendant in person, then the notice is handed to a mediator in order to be conveyed to the defendant, then, an invitation memorandum is sent to the

defendant, and in case he did not respond, defendant may be arrested by the security force of the court, in this case, he may be detained for 24 hours, but this happens rarely.

If the defendant was outside Syria or his residence was unknown, the notices will be published on the official website of the Islamic Authority, and published on the announcement board in the court, and the court starts the trial sessions as it would be in presence of the defendant.



### The Stages of The Trial

The courts of the Islamic Judicial Authority adopt the system of hearings sessions in its work. After the case is submitted to the judge, he orders that it be recorded in the base record, then, then plaintiff and the defendant are notified and the date of the first trial session is determined, which may last for several sessions according to the opinion of the judge. The period between sessions ranges between 10 to 30 days maximum, knowing that three-quarters of the participants in the study indicated that they did not know the length of the litigation periods in advance, and in the absence of the plaintiff for two consecutive sessions, the case is cancelled if it was a civil case. After the parties to submit their statements, the case shall be revised by the legal counselor to review the formal and procedural matters in the case, and then, the case is referred to the judge to issue the last judgment.

As for the role of lawyers before the courts of the Islamic Authority, we find that it is somewhat limited. At the beginning of these courts work, it was not acceptable to appoint lawyers to represent the parties of the dispute before it, after that, the parties were granted the right to appoint lawyers or any other person to represent them in court hearings as an authorized representative for the case, under a mandate prepared by the notary approved by the Islamic Judicial Authority, but that depends on the approval of the court, lawyers cannot be appointed in all types of cases, some circulars issued by the Islamic

Judicial Authority has excluded some of the crimes that the work of the lawyer is not suitable for it such as theft, adultery, homosexuality, dealing with the army of the regime and its security services or ISIS and banditry because these crimes are awful and heinous. In spite of this, 45% of the people interviewed indicated that they were allowed to appoint a lawyer, but they represented themselves before the courts, while 50% indicated that they had appointed a lawyer.

Recently, legal authorizations have been allowed to be obtained via WhatsApp because of the Syrian situation and to facilitate legal procedures for citizens residing outside Syria, especially in cases of displacement and refugees, where the concerned person sends a video clip in which he identifies himself and authorizes another person to represent him in the court for a certain case, and then shows an ID or passport at the end of the video clip to prove his identity, and the video clip is presented to the court to verify it and register the legal authorizations in the presence of two witnesses.

### [Judgments issued by the Courts of the Islamic Judicial Authority](#)

The courtrooms of the Islamic Authority adjudicate various civil, commercial, penal, personal affairs and criminal cases, each courtroom according to their specific special and spatial jurisdiction. All kinds of judgment are issued in these courts, such as registering contracts and transactions, obligations and compensations according to the requests contained in the list of the prosecution. In penal cases, Sharia's penalties is not applied, but replaced with penalties of imprisonment and discretionary punishment, except in the crime of murder, in which death penalty is considered a formal judgment.

The party who loses the case is obliged to pay all the costs of the lawsuit.

And all judgments issued by the First-Degree Courts are subject to appeal, unless the judgment statement mentions that it is a final and non-appealable judgment. Appeals are submitted to the President of the court that issued the verdict within the stipulated deadlines, which are:

1. Fifteen days from the date of the notification of the judgment if it is a judgment in presence or considered as such.
2. Fifteen days from the date of the notification of the judgment after the expiry of the period specified for the objection to the in-absence judgment if not executed.

Judgments appeals should be filed through a written request submitted by the appellant, explaining the reasons for the appeal and the requests of the appellant, to be registered in the appeals record with a serial number and date and be added the case file, which will be sent to the court of cassation to consider the appeal before inviting the parties and deciding to reject or accept it. In case of acceptance, the appellant shall pay the appeal fee.

It should be mentioned that the circulars issued by the Presidency of the Islamic Authority have obliged the Public Prosecution to appeal in favor of the public right in the judgments issued by the penal courtrooms and the criminal court, even if no party of the case has appealed it, in this case, the Public Prosecution is exempted from the appeal fees.

The Authority also listed some verdict in which the appeal is considered to be obligatory and the execution is suspended until it is adjudicated by the Court of Cassation, these verdicts are:

- 1 - The judgments of murder or body organs harm crimes, in these cases, the judgment of the Cassation Court issued needs to be ratified by the president of the authority.
2. Judgments issued in absence of the defendant in which the period specified for the objection and appeal has ended without being appealed.

The case shall be heard by the Court of Cassation by at least three legal judges, provided that it has not been considered by one of them in the First-Degree Court, and the President of the Court of Cassation shall replace him in this case. The Court of Cassation shall issue its decision either by approving or revoking the judgment of the Court of First Degree in whole or in part if the court found that it contradicts the opinion adopted by the Authority in the judged case and issues a judgment according to the adopted opinion.

The judgments issued by the Court of Cassation is considered peremptory and cannot be appealed in any form of appeal.

#### Execution of Judgments

After the judgment acquires the peremptory degree, the prevailing party can execute the judgment through the execution courtroom of the court that issued the judgment, this courtroom is often headed by a lawyer who starts the execution procedures of the judgment after paying the fees and registering it with a formal receipt in the registry office.

Judgments shall be executed by an sending an execution notice to the convict. If he refuses to comply, he shall be coerced by imprisonment, and shall remain imprisoned until the judgment is executed. When executing judgments, the court shall use the court's police, which is independent of any faction and is directly affiliated with the court. The court can ask military factions operating in the area for help when the court's police are unable to execute judgments.

#### Judges of Sharia Courts

Each of the courtrooms of the Islamic Judicial Authority includes a Sharia judge (sheikh) who is the head of a courtroom, a lawyer as legal counselor who has license in law and a clerk.

The counselor lawyer carries out most of the procedural matters, while judgments are issued by the Sharia judge, or with consultation with the counselor lawyer. In certain cases, the counselor is entitled to sentencing, but he remains in need of ratification by the head of the Courtroom.

The majority of the judges of the Islamic Authority courts use their explicit names, except for the immigrants who used their titles. Knowing that in the last year, only the Syrian judges remained in the courts of the Islamic Authority.

#### Dissolution of the Islamic Judicial Authority

The Islamic Judicial Authority continued to work until Al-Sham liberation organization dissolved it on 15/9/ 2017 (after the fighting between them and the of Ahrar Al-Sham

faction), after that, Al-Sham liberation organization announced the formation of the Supreme Judicial Council which is affiliated with it and considered as an extension of the judicial centers established by Al-Nusra Front in different parts of the province of Idlib since 2014, the first judicial center was established in the city of Khan Sheikhun, but the fighting with the Free Army factions at that time forced Al-Nusra Front to move the judicial center to Mount Al-Zawieh, and later to Ma'arat al-Nu'man and used the Judicial Palace in the city as a headquarter.

And later, they established new judicial centers in Sarmada and Selqeen cities, these centers are administratively, organizationally and financially affiliated to the Al-Nusra Front.

Judicial centers consider all types of cases such as personal affairs (marriage - divorce - inheritance provisions) in addition to criminal and financial cases of all types, in addition to the spoils cases.

Each judicial center consists of:

1. A courtroom for the judge of Islamic prescribed penalties and discretionary penalties, and this courtroom there is a judge with one or two clerks.
2. A courtroom for the reconciliation judge, in which there is a judge and a clerk.
3. A courtroom for the financial cases judge, in which there is a clerk in addition to the judge.
4. The courtroom of the personal affairs, in which there is a judge and a clerk.
5. Courtroom of the of the execution judge: the judge who executes judgments.

#### Case Procedures in the Judicial Centers

The complaint shall be submitted to the registry office to register and give it a number for the file, and then forward the case to the competent judge according to its' type. After the judge reviews the case, he will inquire about the case and confirm the claim and ask the plaintiff about his residence and the residence of the defendant to be able to send them notices and schedule a date for hearing session.

Litigants themselves attend the hearings and submit arguments and pleadings. However, after attending before the judge, each party can assign a person accepted by the judge to follow up the case.

After completing the pleadings, the judge will adjudicate the case and issue the final judgment, which were final and not appealable since it is issued in accordance with the provisions of the Islamic Shariah, and is executed through the Hesba (the executive force of each court), and if the Hesba could not execute the judgment, the court ask Al-Nusra Front for help. it should be known that most Judges of the judicial centers do not use their explicit names during the trial sessions, but they use titles instead, and there is no accurate information about their legal or Sharia qualifications.

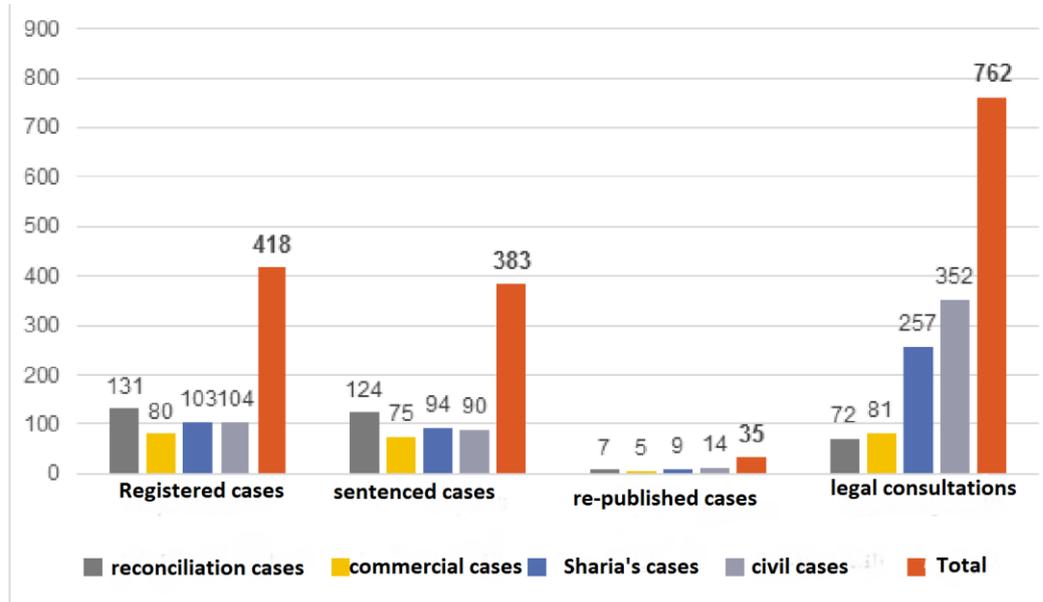
The judicial centers' work ended with the end of Islamic Judicial Authority's work as a result of the fighting between the Ahrar Al-Sham Islamic faction and the Liberation of the Sham organization (formerly known as Al-Nusra) which formed the Supreme Judicial Council in 2017, and on 16/10/2017 the Court of Appeal was established by the Judicial Council in

Idlib, containing civil, personal affairs and penal courtrooms, and in each room there is a Sharia Judge who is the head of the courtroom, and lawyer or legal counselor and a clerk, knowing that the judgments issued by the former Islamic Authority are not executed before the Judicial Council only after its ratification by the Court of Appeal, and there has been a circular issued in this regard, the Judicial Council also issued a circular on 10/10/2017 whereby lawyers and non-lawyers are allowed to plead before the courts of the Judicial Council.

### Arbitration Centers

The Free Syrian Lawyers Association established an arbitration center in Idlib governorate, located in the city of Ma'arat al-Nu'man during the first stage of the project of the Arbitration Centers, which was launched in 2015. In view of the success achieved by the center and the increasing demand by the citizens to present their various cases, 218 cases were presented to the center, so, the center's activity was extended during the second phase where the number of cases registered during the second phase was 418 cases, an increase of 92% of the number of cases registered in the first phase, and the center has also provided a large number of various legal consultations which reached 762, most of them were about Sharia and civil cases.

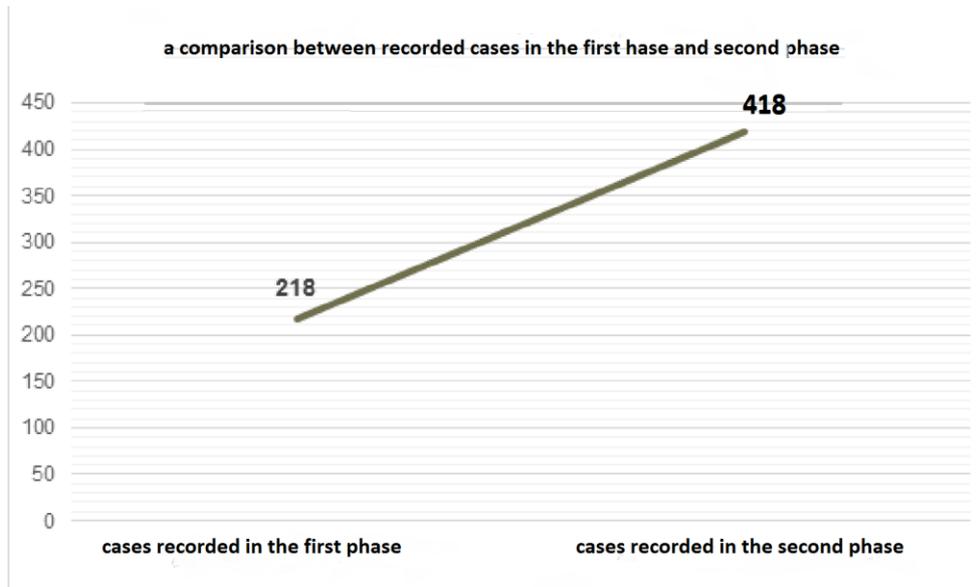
Types of lawsuits received at arbitration centers



The Center has several experienced legal specialists and coordinated efforts with arbitrators who are competent to resolve disputes and anointed them as arbitrators within the center.

The Center has been distinguished by its ability to resolve many disputes that have not been resolved in the courts and judicial bodies operating in the region. It also solved some of the

problems which occurred between people and legal entities or disputes among these entities because of the increased confidence in the center and its supervisors.



### The judiciary in the province of Aleppo

The number of judicial bodies operating in the province of Aleppo, because of the presence of several military forces impose control over various areas of the countryside of Aleppo, and each military force of these forces established their own courts and provided it financial, administrative and operational support.

This study has covered western and north-eastern Aleppo countryside.

#### 1 - Western countryside of Aleppo

There are several courts in western countryside of Aleppo, which work on adjudicating disputes and cases presented to them, and these courts are financially, administratively and organizationally affiliated to the Free Army factions or Al-Sham Liberation organization and these courts are:

- A. The Qasimiya Court in Khan al-Asal: It is affiliated to Al- Sham Liberation Organization. It uses a former government building as a headquarter. It consists of eight courtrooms with a judge and several lawyers who serve as judges in the court.
- B. The Qadisiya Court in Beshqatin: It is affiliated to the Noor El-Dein Zanki movement. It consists of three courtrooms, in which there is a judge and two lawyers, and this court is especially concerned with military cases.
- C. Al-Atareb Central Court: Its headquarter is located in the city of Al-Atareb, with 6 courtrooms. The court staff is composed of sheikhs, lawyers and one judge.
- D. The reconciliation court in Al-Atareb: It is affiliated to the Sham Liberation Organization and managed by a group of Sharia judges.
- E. Central court of the organization in Kafr Kermin: It is affiliated to the Sham Liberation organization, which is also managed by a group of Sharia judges and consists of 5 courtrooms and used a school building as a headquarter.

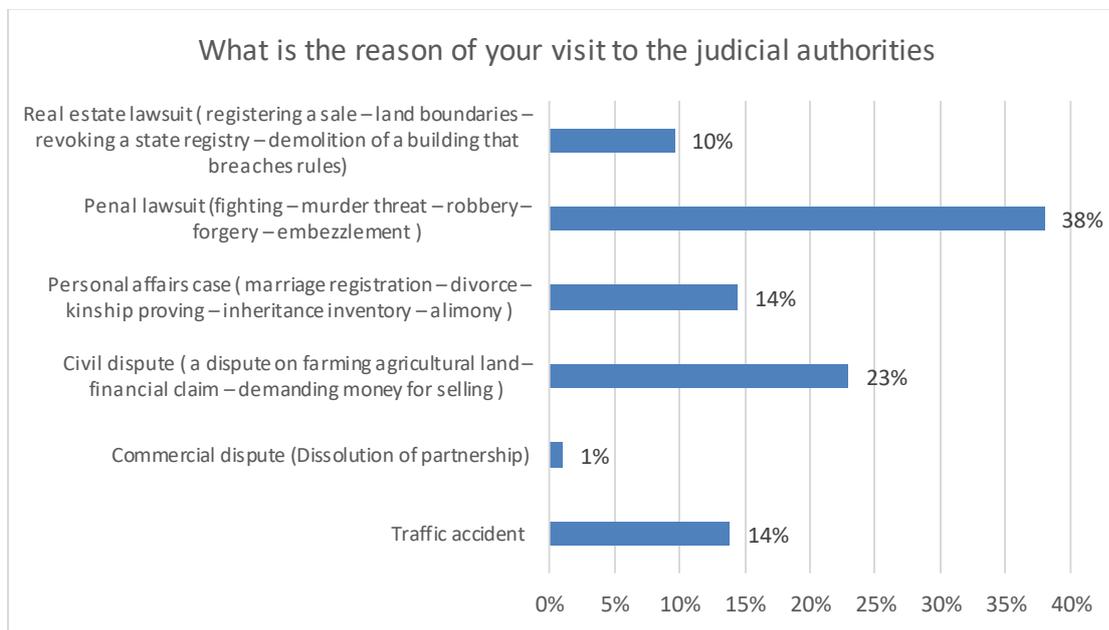
- F. Central Court in Daret Azza: It is also affiliated to the Sham Liberation and includes 8 courtrooms.
- G. Qubtan Al-Jabal Court: It is affiliated to Nour Al-Dein Zanki movement and has 4 courtrooms.
- H. Anjara court: It is affiliated to movement of Nour Al-Dein Zanki and has 4 courtrooms and it is managed by a group of Sharia judges.

In each of the former courts there are prisons and detention centers, but they are not designed to be prisons because of incomplete construction works and lack of all the needs of such as limited ventilation and lack of sun illumination.

It should be known that each of the above-mentioned courts examines all the cases presented to them, whether civil or criminal or personal affairs cases, so, these courts are of a comprehensive jurisdiction.

The majority of lawsuits in Aleppo are penal cases, followed by civil cases and personal affairs cases as shown in the following diagram:

As for the spatial jurisdiction of each court, it is specific and clear, and it is inferred from the geographical location of the court, where each court is competent to hear cases that are within the administrative boundaries of its area of work, however, there are some breaches by Al-Sham Liberation Organization's courts, whereas they arrest some people in areas outside its control zone without coordination with the competent court in the area.



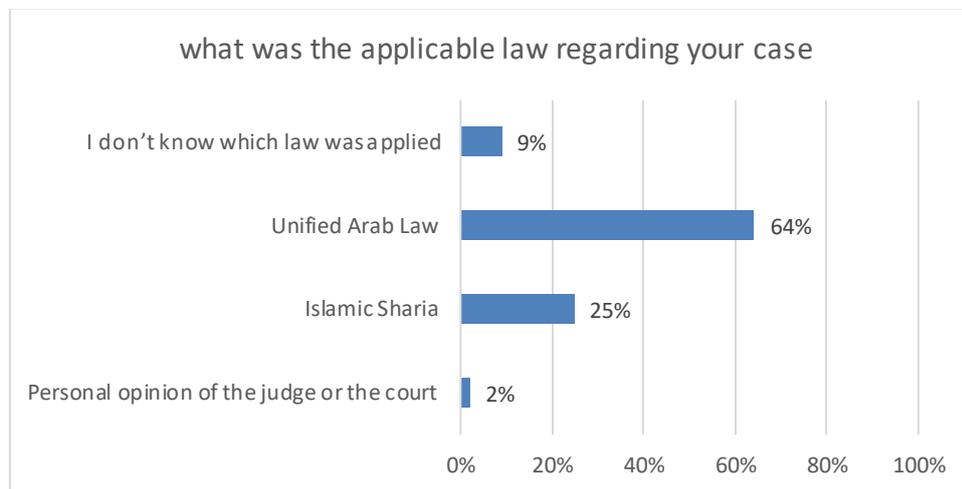
### Litigation proceedings

The litigation proceedings begin with the plaintiff filing a complaint to the court, stating the defendant's name and place of residence so the court then determines the date of the first hearing session and informs both the plaintiff and the defendant through a court employee (messenger), which the most prevailing method according to 78% of the study participants. If the defendant did not attend the session after being notified, a summons order will be issued against him, so he be brought to the court by the Free Police or the Islamic Police.

The complaint may be lodged to one of the police stations operating in the area, so the police write a report of the plaintiff's complaint and issue a summons order against the defendant, then, they form an interrogation committee to write a report of the defendant's statements and refer the case to the competent court.

The parties of the dispute shall submit their statements and pleadings during the trial sessions themselves, they may also appoint a lawyer to represent them by organizing an authorization by the notary. The court shall also summon the witnesses if there are any, and after the end of submitting statements and pleadings, the court issues the verdict.

As for the laws applied in these courts, they are different according to each court. The courts of the Al-Sham Liberation Organization implement the Islamic Sharia and Islamic jurisprudence, whereas the courts of the Free Army factions adopt the unified Arab law, noting that about three quarters of the litigants indicated that they did not have former knowledge of the applicable, and 77% of them did not have access to written copies of it.



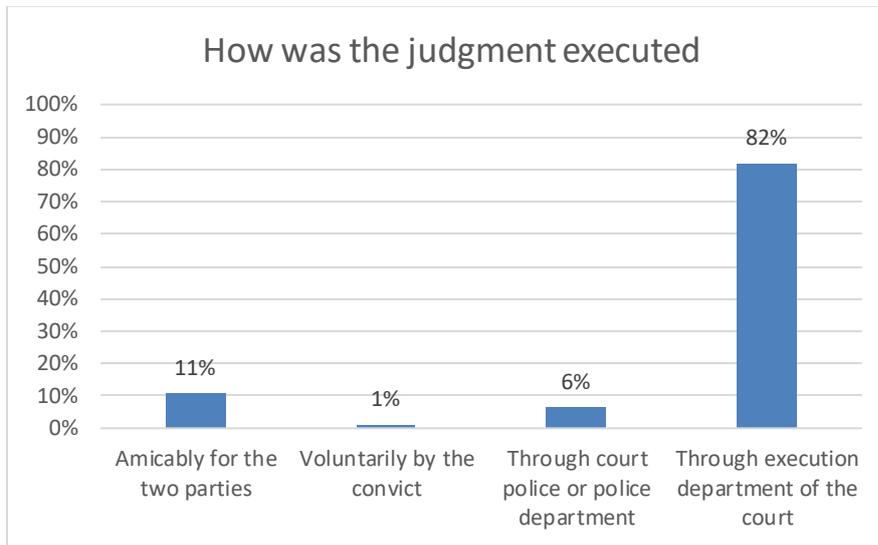
### Judgments

Courts in the of Aleppo Western countryside examine all types of cases presented before it such as penal, civil, commercial and Sharia cases, they also issue various judgments such as registering marriage, divorce, alimony, registering commercial transactions, sales or penalties, such as imprisonment, fines or seizure of property and also death penalty, in some courts affiliated to Al-Sham Liberation organization applied some Islamic prescribed penalties such as stoning and cutting hands, but in rare cases.

As for the appeal of the verdicts, this can be done by means of appeal in some courts such as Al-Atareb court, Al-Qadisiyya court, Al-Atareb reconciliation court and Daret Azza court. However, the Court of Appeal is managed by the same judges of the Court of First Degree.

According to the participants in the study, sentences are often executed through the execution department of the court that issued the decision, which orders the convict to execute the sentence, and if he refuses to comply, it shall be executed by the security force of the court.

The Free Police of the Free Army is considered as the executive force of the Free Army courts, while the Islamic police are the executive force of the courts affiliated with Al-Sham Liberation organization.



### Court judges

Most of the judges of the courts operating in the regions of Aleppo are Sharia judges, in addition to a limited number of lawyers and academic law specialists.

These judges are appointed by the military factions and those who influence them.

It is not necessary for the Sharia judges to have a specific level of education, some of them might even have a preparatory or secondary education certificate only, and they are subject to Sharia education courses that enable them to become Sharia judges who issue judgments for the cases presented before them.

Most of these judges use aliases and titles, especially in the courts of Al-Sham Liberation Organization.

### 2 - Aleppo north-eastern countryside

As in the western Aleppo countryside, the judicial authorities operating in Aleppo north-eastern countryside have varied due to the multiplicity of the military forces controlling the various areas of Aleppo north-eastern countryside, and the procedures and entities which provide administrative, financial and operational support also have changed as a result of the change of the area's situation during the period between 2015 and 2017, in 2015 the judicial authorities operating in the northern and eastern countrysides of Aleppo were:

- A. The Judicial center in Huraitan.
- B. The Sharia committees in each of Azzaz and Mara' and Tal Refa'at.
- C. Ifreen Court and the People's Court Authority for Western Kurdistan in Ifreen and Sharan.

While the courts in the region in 2016 are:

- A. The Judicial center in Huraitan city.

- B. The Central court in Azzaz and Mara'
- C. Martial court in Azzaz.
- D. Ifreen Court and the People's Court Authority in Ifreen and Sharan.

These courts, except for the Ifreen Court and the People's Courts Authority in Ifreen and Sharan, have been established by more than one authority, such as the Supreme Judicial Council, Religious Sheikhs and Free Lawyers, and have relied on the financial support provided by the Free Army factions in the region and some charities such as Marj Dabiq society, while the courts of the People's Authority in Ifreen and Sharan were established by the Kurdish parties that were in control of the region at the time and these courts were receiving financial support from these parties.

In 2017, following the launch of the Euphrates Shield operation, which enabled the Free Army to control large areas of Aleppo north-eastern countryside and expel the terrorist organizations, a judicial authority was established and courts were established in Azzaz, Mara', Soran, Akhtren, Al-Bab, Jarablus and Al-Ra'ie, these courts get their financing from the financial support provided by the Turkish Government, each of which has clear and specific spatial jurisdiction based on the jurisdiction of each court in the lawsuits within its administrative and geographical boundaries.

In the Kurdish control areas, there is a court of law in the city of Ifreen, as well as the people's Courts Authorities' in Ifreen, Sharan, Manbaj and Ein Al-Arab (Kubani), which rely on financial support from the Kurdish parties controlling the area.

#### The structure of courts

The revolutionary courts operating in the north-eastern countryside of Aleppo in 2015 and 2016 included several departments, each court includes: cases registration offices - judicial courtrooms competent to examine (penal, civil, commercial and personal affairs) cases - safe deposit room - meetings room – Police department – Interrogation room.

The structure of the judicial system was developed after the Olive Branch operation was launched in 2017, whereas the Judicial Authority was formed in the city of Jarablus with the support of the Turkish Government, and consisted of dissident judges and jurists, and includes several courtrooms, such as the Court of Appeal and Criminal court and civil, penal and Sharia judges, in addition to the interrogation department and the department of Public Prosecutions.

While the central court in the city of Azzaz consists of:

- A. The Public Prosecution.
- B. Interrogation judges.
- C. Civil and penal courts of first degree.
- D. The Criminal Court, which is competent to hear criminal cases.
- E. Court of Appeal in both its civil and penal courtrooms, competent to appeal the judgments of the first-degree courts.
- F. The Courtroom of Cassation, which shall deal with the appeals of decisions of lower degree courts and some administrative and union bodies.

In addition to several subsidiary courts affiliated with it, which were established in Mara', Soran and Akhtreen, all of these courts are considered as a unified judicial body, where the first degree courts are committed to the decisions of the courts of appeal and cassation, in addition to the centralization of the administrative system of these courts in terms of administrative and financial dependence.

These courts examines all types of civil and penal cases (misdemeanors) and military cases arising from disputes among factions, personal affairs cases, administrative issues such as disputes between government departments, and issue various judgments, knowing that there has been no death penalty execution applied because courts were waiting families of the victims to waiver their personal right and accept the blood money.

### Applicable law in courts

The laws adopted by the Free Army courts during 2015 and 2016 were not clear and specific, they were a mixture of legal rules derived from the provisions of Islamic Sharia, in addition to some rules derived from the Unified Arab Law, Syrian law and public custom, provided that they do not conflict with the provisions of the Islamic Sharia, knowing that these legal rules were not codified, so citizens were unable to know them or see written copies of them.

In 2017, the courts in the Euphrates shield areas generally adopted Syrian law as a reference in issuing verdicts and litigation procedures, which is a codified and written law that citizens can access, while courts established in the areas controlled by Kurdish forces adopt Syrian law except for the Personal Affairs Law, which is derived of the law of the Kurdistan Province of Iraq, which is also a codified law.

### Litigation proceedings

The procedures during 2015 and 2016 were not clear due to the absence of an approved law to be adopted. The case began with a claim by the plaintiff in the court's registry office indicating the basis of his lawsuit, then the head of the registry office refers it to the Public Prosecution, which in turn reviews it and forward it to the competent judge to schedule the first hearing session, and the parties are notified of the date.

During the trial sessions, which may continue for more than one hearing, the litigants submit their arguments and leadings, knowing that the parties to the dispute have the right to appoint lawyers to plead and submit the evidence and arguments on their behalf.

After the end of hearings sessions, and after parties submit their pleadings, the case files shall be submitted for review and sentencing.

In 2017, the Syrian Code of Civil and Penal Procedures has been adopted and the proceedings are carried out accordingly.

It should be noted that the verdicts issued by the courts and authorities operating in Aleppo countryside before the launching of the Euphrates Shield operation can be challenged by means of appeal, whereas the convict may visit the court that issued the verdict and file an appeal within one month of being notified, the court in turn forward the case to the Court of Appeal, which issues its decision either to ratify or rescind the judgment and return the

case to the Court of First Degree. The Court of Appeal may also re-open the case if it deems it necessary.

In 2017, the appeal proceedings were done according to the provisions of Syrian law, also, the convict can litigate judges in the event of a corruption or a professional mistake. The decision of the Second-Degree Courts is a final decision and is not subject to appeal and the prevailing party can pursue the execution procedures.

### Executive force of the courts

As for the courts, the Sharia Authorities and the judicial centers in 2015 and 2016, the executive force of each court is the so-called Sharia Police, which is formed of a group of members affiliated with the supporting factions of the court, however, it operates under the administration and authority of the court as its executive force, but its members are affiliated to their factions organizationally, and receive their salaries from these factions.

In addition to the Free Police stations and departments which have been established in 2016 in Azzaz area, which contributed to the work of the judicial police and arresting criminals and wanted persons and handing them over to the courts after the necessary procedures within their work system, such as writing reports.

After the Euphrates Shield operation, the executive force of the courts became the national public security department, which was formed as an integrated institution under the direct supervision of the Turkish Government, which includes the following departments:

- A. The police, which was formed instead of the Free Police, and was further expanded by increasing the number of police personnel, training them and training courses for officers and personnel under the direct supervision and financial support of the Turkish government.
- B. Criminal Department.
- C. The commando, part of the National Security Department Forces, operates under its authority and is in the service of the judiciary. It conducts special operations against terrorists and dangerous criminals wanted for the judiciary and operates under the direct supervision of the Turkish government.

The executive force of the courts operating in areas controlled by Kurdish parties is al-Ashais forces.

### Judges and their qualifications

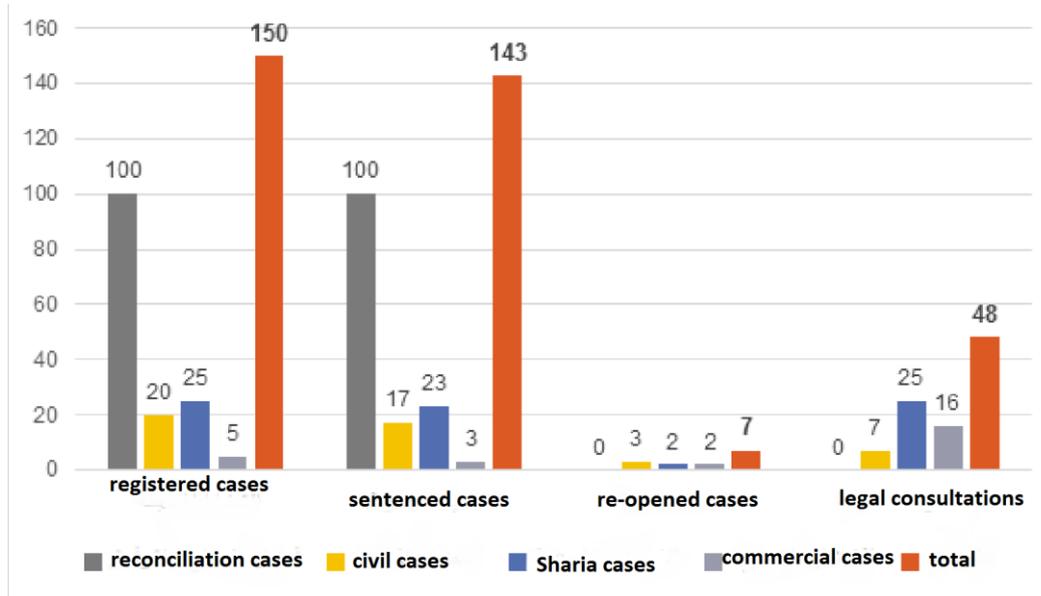
Judges in the revolutionary courts operating in the eastern countryside of Aleppo are appointed by the Office of Human Resources and the Supreme Judicial Council. Judges must meet several conditions, including having a university degree in Sharia or law and the priority is for those with former judicial work experience, the judge must be of revolutionary pertinence and be of good character and conduct. judges use their explicit names, except judges of the judicial centers, they often use the titles. While in 2017, after the Olive Branch operation, efforts started to rehabilitate judges and lawyers' dissident from the Assad regime, only those with university degree in law, and they were obliged to use their explicit names.

### Arbitration Centers

The Free Syrian Lawyers Association has established arbitration centers in the province of Aleppo during the first phase of its project which started in 2015. The center was established in the Al-Atareb city because of its important geographical location which is located on the commercial road linking Bab al-Hawa border crossing point and the Syrian interior, and because of the large population in the area.

The Free Syrian Lawyers Association signed a memorandum of understanding with the local council in Al-Atareb city about the work of the center, which began to receive the citizens' various cases such as commercial, civil, real estate, Sharia and resolving disputes and issues.

Types of lawsuits received at arbitration centers



The Center offers all legal services free of charge. It has provided many legal consultations and considered many cases that have been resolved amicably between the parties. The demand has increased significantly due to its distinguished staff of specialized academics and many experienced arbitrators.

Work was suspended at the center of Al-Atareb because of the damage caused by targeting it by the warplanes of the regime and its Russian allies. The center was moved to Azzaz city in Aleppo northern countryside until the center is re-equipped, and people began to go to the center in Azzaz to register and follow up their cases.

The two centers operated alternately throughout the period of implementation of the project (Phase I and II), due to the deterioration of the security situation and the repeated bombardments that took place in Al-Atareb city. Despite these difficult conditions and poor possibilities compared to the military factions' courts in the two regions, the cadre managed to keep receiving cases and the demand for these centers increased.

### Judiciary in the governorate of Hama

Judicial work started in the liberated areas of Hama governorate in 2013, when a number of the local people of the region who are graduates of colleges and institutes of Sharia and

independent revolutionary activists and not affiliated with any political parties or factions formed the Shariah Committee in an attempt to fill the legal absence caused by the cession of the work of the regime courts and police. The Committee has received the direct support of the military factions operating in the region, which participated in its establishment.

Since its establishment, the Committee has worked to follow up on all the cases presented to it and sought to regulate the legal actions of the residents of the region through organizing contracts and documenting financial transactions and registering births, deaths, marriages and divorces, however, the work of the Committee was not sufficiently organized.

The Committee continued its work until it was able to establish the first court in the province of Hama in 2014, specifically in the city of Kafzita, located in the northern countryside of Hama, and used the agriculture education school as a headquarter for the court, and the Court consists of a number of courtrooms each of its special competence, and these courtrooms are:

- A. The Prosecution Courtroom.
- B. The Interrogation Courtroom.
- C. The Civil Courtroom.
- D. Reconciliation Courtroom.
- E. Personal Affairs Courtroom.
- F. Execution courtroom.
- G. The General registry office of the Court, since there is no special registry office for each courtroom.

The building of the court includes a prison in which detainees are placed until the verdicts are issued against them, or people who are sentenced to civil or conciliatory cases.

The prison is guarded by the security force of the court, while the dangerous detainees and the criminal offenders are placed in a prison belonging to the military faction (Al-Izza Army) which is one of the controlling factions in the region.

### Judges of the Sharia Committee Courtrooms

Each of the courtrooms of the Sharia Committee includes a Sharia judge, who is often has a license in Islamic Sharia or a certificate of a Sharia institute, in addition to a legal counselor who is a lawyer who have a certificate in law, and his opinion has a great role in resolving cases before the courtroom, he also handles all types of work during the trial sessions such as hearing the arguments of the litigants, the witness testimony, the oath, writing the notifications and writing judgment decision due to his previous experience in the courts and the committee, and in each room there is a clerk to record the work events.

### Spatial jurisdiction of the court

There is no precise definition of the jurisdiction of the Shariah Committee, because it works within the area within which it can execute judgments and notify the litigants, whereas the head of the registration office ask the plaintiff or the complainant about his residence and

the residence of the defendant to ease reporting and judgments execution, since the court is not limited to a certain spatial jurisdiction.

### Applicable Law

There is no specific written law adopted by the judges of the Sharia Committee Court in issuing their judgments, but they rely on books of jurisprudence on financial and Sharia transactions, personal affairs and business, in some cases, the custom is adopted, provided that it does not conflict with the provisions of Islamic Sharia, accordingly, judgments are issued according to the Sharia judge's understanding of provisions listed in the books of jurisprudence.

Also, there is no clear or written law specifying the formalities to be followed. However, there has been some efforts to submit the complaint or claim directly to the court's registry office, or the complaint or prosecution is referred to it by the internal judiciary of one of the factions located in the countryside of Hama where the head of the registry office shall refer the file to the Attorney General, who in turn shall refer the case file to one of the Courtrooms according to the jurisdiction, if the crime is penal, it shall be referred to the interrogation judge, who shall then refer it to the Penal Courtroom so the litigants are later notified to attend sessions and submit their evidence and arguments and hear the witnesses testimony, which might last for several sessions which are scheduled by the judge until issuing the final judgment. It should be noted that the parties to the dispute can appoint a lawyer at any stage of the litigation to plead on their behalf, but he is not appointed as a lawyer, but as an authorized person, and often his authorization and appointment is free of charge.

### judgments of the Sharia Committee

The Sharia Committee does not issue judgments of death penalty, nor apply the Islamic prescribed penalties, but it issues its judgments of paying financial dues or compensation, imprisonment or fine. The litigation is of two degrees, whereas verdicts can be appealed if the verdict declares that it is appealable. Otherwise, in case it was a final verdict, it can not be appealed, and the prevailing party can pursue judgment execution procedures through the court's execution courtroom, which uses the court's security force, and in cases of necessity, it may order help of the free army factions operating in the area.

### Ending the work of the Shariah Committee

The Sharia Board continued its work and organization, in which it started since its establishment until it was effectively terminated in May 2017, after Al-Aqsa soldiers faction assassinated Sheikh Qusay Qusoum, head of the Shariah Committee, by blowing up his car in front of his house in Khan Sheikhoun. Then, the head of the committee position was trusted to Sheikh Abdul Kafi Al Saleh from the village of Bwidha, Hama province, but work was completely stopped after the control of al-Aqsa soldiers faction over the region and the assassination of some members of the security force of the committee and accusing the sheikhs and counselors of apostasy, they also arrested some of the police and killed them, as a result for that, financial support has stopped, which was provided by the factions operating in the villages of Hama for the court. Despite the cession of the Sharia Committee, all the files and the records relating to its work are still being preserved.

## Problems of the judiciary in the liberated areas

The judicial system in the liberated areas faces many problems which are:

### Security Courts

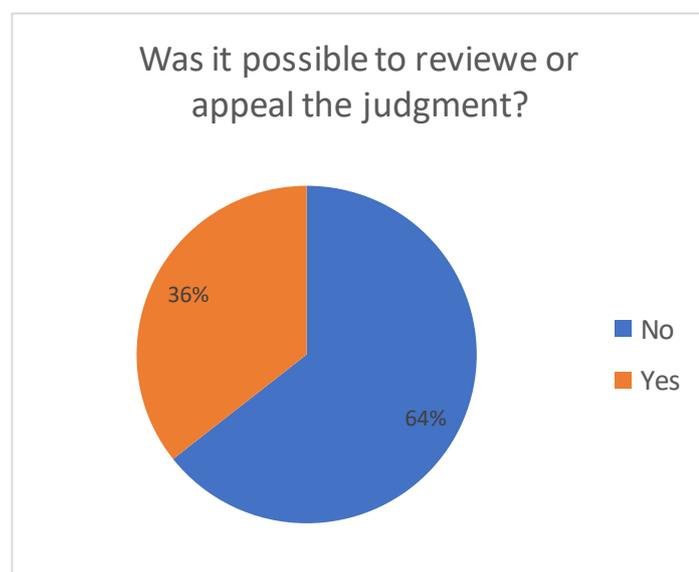
In addition to the previously mentioned revolutionary courts, the majority of the military factions in each region have established their own security courts, which are notorious courts, since they do not guarantee citizens the right to a fair trial, and the detention of suspects is arbitrary and without resorting to a competent judicial authority to obtain an arrest warrant. Accused people are also subjected to torture during the investigation and are not allowed to appoint somebody to plead for them. These courts issue their judgments without the convict being able to appeal or challenge them before a higher judicial authority or second-degree court.

### The subordination of revolutionary courts to military factions

The courts operating in the liberated areas have been associated with the military factions that contributed to its establishment. The relationship between these courts and the factions appears to be based on the principle of judicial independence and cooperation in order to achieve justice. However, the situation is very different, military factions are not often subject to judicial orders for arresting its own soldiers and presenting them to justice in case they commit mistakes, and also these factions try to dominate the judiciary bodies through appointing judges who are affiliated to them, regardless of their qualifications or experience in judicial work.

### The inability to review judgments

Although the judicial system in most of the areas covered by the study is based on the principle of litigation in two degrees, but nearly two thirds of the participants indicated that they cannot review the judgments of the First Degree Courts, and the laws and procedures applied in most areas do not allow convicted people to challenge judges in the event of serious professional error or collusion with the prevailing party, which may in one way or another affect the integrity of the judgments issued by those courts.



### Absence of the women role.

There is no role for women in judicial work, since judges of the courts operating in the liberated areas are men, knowing that there are many women academics, lawyers and judges who are competent and can be employed and their experience might be of benefit in judicial work.





Free Syrian Lawyers Association  
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