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Syrian refugees' right to legal identity: implications for return

NRC interviewed 580 households representing over 3,000 Syrian refugees in Lebanon, Jordan and Iraq and found that thousands of children lack basic identity and civil documents, impacting their ability to claim a range of rights and protections and endangering their access to education and other services if they choose to return to Syria.

This NRC Briefing Note outlines the main findings, in particular for thousands of refugee children who are without basic documentation, and offers guidance on potential steps to mitigate and address these challenges before they prevent durable solutions.

Legal identity: The right to have rights

The right to be recognised as a person before the law is one of the most basic human rights. Having a legal identity enables someone to hold other rights under law; to have a nationality and to access basic services such as health and education. For Syrian refugees, it also enables access to humanitarian assistance and allows them to move freely within the country of exile. The ability to prove legal identity and the possession of identity and civil documentation may also support eventual voluntary repatriation or resettlement efforts. Birth registration and marriage registration are two important components of legal identity.

Seventy percent of respondents lack basic identity documents

Identity documents, such as national ID cards and family booklets, are essential for refugees' access to services and to apply for residency. National ID cards are an official proof of identity and nationality inside the Syrian Arab Republic (Syria) and one of the documents

needed to establish the right to vote after the age of 18. National ID Cards must be obtained from the age of 14 from Civil Registries, part of the Syrian Ministry of Interior¹. NRC found that on average, less than a third (30 percent) of Syrian refugees aged over 14 included in the study possessed their national ID card. **The majority of Syrian refugees – 70 per cent – do not have their national ID card.** The worst-affected are Syrian refugees in Lebanon where only 23 percent of over-14s included in the data collection have this document. The lack of identity documents also has a negative knock-on effect for acquiring legal residency documents in refugees' host countries.

A high proportion of all respondents – on average 24 percent – are not included in their family booklet. The family booklet is a document issued by the Government of Syria that records all the members of a family and is evidence of both parental identity and marital status for displaced families. When there are changes to the

¹ Article 51, Syrian Civil Status Code adopted by the Legislative Decree No. 26 (2007) and amended by the Law No. 20 (2011).

family, such as a child being born, the family booklet is updated. The family booklet becomes even more important as an identity document because of the high proportion of refugees without national ID cards.

According to those interviewed, their documentation has been lost, destroyed or confiscated. The absence of these documents prevents the registration of subsequent vital events such as marriage, divorce, birth and death and creates a huge barrier for obtaining legal residency in the country of exile. In addition, where replacement of this documentation is impossible, for example due to the destruction of civil registries inside Syria, refugees might be at risk of becoming stateless.

Because identity documents are essential for daily life – for access to services such as education and the ability to travel and to legally stay in a country – some refugees have resorted to coping mechanisms such as obtaining false documents. **Seventeen percent of households admitted that they have had to obtain false documentation.** The highest proportion, almost 20 per cent, are in Lebanon. These coping mechanisms expose refugees to new protection risks, including the risk of arrest, detention and exploitation.

A quarter of under-fives do not have a birth notification

It is estimated that there are over 700,000 Syrian refugee children under the age of four in the region; 300,000 of these children have been born in exile as refugees.² Although civil documentation procedures have become more accessible in all the hosting countries, NRC found that in families interviewed, **on average, over twenty percent of under-fives still lack a medical birth notification.**³ This document is issued by a hospital or midwife when a child is born. Parents need it to apply for a birth certificate at the local civil registry. The exception is in Lebanon, where NRC's legal assistance programme (ICLA) assists parents with civil documentation procedures for refugee babies. Among this group, the lack of birth notification is less than five percent, which may be a result of improved procedures and support to parents.

² UNHCR "Addressing Statelessness in the Middle East and North Africa" p. 10, UNHCR September 2016.

³ This survey recorded higher levels of a lack of birth notification among out of camp refugees in Jordan. This is a different finding to more recent assessments and may be attributable to the fact that this study included all under-fives who may have had greater difficulty in obtaining birth notification than children born more recently, since procedures in host countries have improved.

According to Syrian Civil Status law⁴, parents of children born outside Syria need to register the birth within 90 days from the day after the date of birth with the Syrian Civil Registries through the Syrian Consulate/Embassy in the country of birth. If this does not happen, the late registration of the child is subject to a fine.

When they do not have birth notification, children are invisible to the authorities. Even when children do have a birth notification, the complex procedures for birth registration in hosting countries can pose a real challenge. **In Lebanon, NRC found that 92 percent of refugees were unable to complete all the legal and administrative steps to register the birth of their children.**⁵

During interviews, refugees stated that the birth registration process in Syria is different from what they have experienced as refugees. In Syria, when a child is born, the authorities add the child's name to the parents' family book, but the parents do not receive a separate birth certificate.

It follows that the family booklet, as opposed to the birth notification or certificate, is therefore considered by respondents to be the most important document for securing legal identity and accessing services in Syria. This can mean that parents are unaware of the need for birth registration in their country of exile, as the following example shows:

In Jordan, when a Syrian family received a birth notification they did not know they needed to take the birth notification to the Jordanian Civil Status Department to register the child's birth. Because they failed to register the child's birth within a year, Jordanian law requires the parents to initiate a lawsuit in the Jordanian Magistrates courts to register the child. The child's mother explained, "The police informed us that we needed a birth certificate to get the [new Mol card]. We went to the Civil Status Department. They told us we need to go to court because the baby is three years old." At the time of the interview, the family had started a court case, but the mother was worried about her son not having the new Mol card as she considered it "essential for accessing services."⁶

⁴ Article 14, Legislative Decree No. 26 (2007), amended by the Law No. 20 (2011).

⁵ NRC, The Challenges of Birth Registration in Lebanon for Refugees from Syria, p. 6, NRC Lebanon 2015.

⁶ NRC and IHRC, Securing Status, p.19, NRC Jordan 2016, available at <https://www.nrc.no/globalassets/pdf/reports/securing-status.pdf>

In countries of exile, the use of birth notification for birth registration and obtaining birth certificates takes on a great significance. This is particularly the case for out-of-camp and urban refugee populations who have to interact to a much greater extent with local authorities. For example, in Jordan, Syrian children who do not have birth registration face severe challenges in getting residency permits (Ministry of Interior cards).

Syrian families are concerned that children without a birth certificate will be unable to return to Syria, putting family unity at risk. In the longer term, these children are also at increased risk of statelessness and other adverse consequences. **To overcome birth registration challenges, some families have resorted to borrowing identity documents, or returning to Syria to retrieve documents even though it is unsafe to do so.**

The majority of under-fives are not included in family booklet

Within the families interviewed in Lebanon, over 80 percent of under fives are not included in the family booklet. The average for the region is 60 percent – see above. Respondents explained that it is not possible to add children born in Lebanon, Jordan and Iraq because in order to do so they would need to first authenticate the birth certificate with the Ministry of Foreign Affairs of the country of exile and then approach the Syrian Embassy.

The vast majority of respondents – 91 percent – said that the family booklet or a family extract are needed to enrol their children in school in Syria. **⁷ The lack of a complete family booklet may, therefore, also endanger access to education inside Syria if families choose to return in the future.**

Birth registration

- All children have the right to be registered at birth and to acquire a nationality (art.7.1 International Convention on the Rights of the Child).
- Birth registration is the first legal acknowledgement of a child's existence: without proof of identity a child is invisible to the authorities.
- Birth registration can help identify unaccompanied children and show their relationship with their parents. It also facilitates the acquisition of nationality and can therefore prevent statelessness.
- The combined absence of families and lack of civil registration can often result in children becoming involved in sexual exploitation, trafficking, recruitment into armed groups and hazardous work.

⁷ A family extract contains the name, last name and place and date of birth of all the members of the family.

Over half of married Syrians do not have marriage documentation

More than half (52 percent) of the married Syrian refugees interviewed said that they did not have any type of document to prove their marriage (marriage contract, marriage certificate or family booklet). Refugees without proof of marriage can fall into one of several categories: (a) they did not register their marriage in Syria; (b) they registered their marriage but lost their documents when fleeing Syria; or (c) they married in the hosting country and did not register their marriage. According to Syrian Civil Status Law a marriage that takes place outside Syria needs to be registered with the Syrian Civil Registries through the Syrian Consulate/Embassy within 90 days from the day after the date of the marriage.⁸ Refugees from Syria who marry in Lebanon should get their marriage certificate certified at the Lebanese Ministry of Foreign Affairs and then at the Embassy of Syria in Lebanon. The Embassy finally sends it to the Syrian Civil Registry to register the marriage in Syria.⁹ **Between February 2015 and February 2016 out of the 1,702 refugees that obtained a marriage contract in Lebanon only 15 were able to finalize the marriage registration at the Foreigners' Register.¹⁰**

The lack of marriage documentation can become a barrier to birth registration. If a couple's marriage is unregistered or was only undertaken informally (known as "urfi" marriages)– or the spouses no longer retain formal documents proving marriage– the registration of the birth of their children will become much more complex as it will require, for example, ratification and legalisation of the marriage as a precondition. In Jordan, parents wishing to register their child's birth with the Civil Status Department have to prove that they are lawfully married, by showing a state-issued marriage certificate together with identity documents.

There are other far-reaching consequences: For example, many women who have either lost or been separated from their husbands may not be able to claim marital property without a marriage certificate to prove their relationship.

This shows the linkages between civil documents. Lack of civil documentation can result in negative cascading consequences for families, as one documentation issue becomes a barrier to obtaining another.

⁸ Article 14, Syrian Civil Status Code (2007).

⁹ Article 17, Syrian Civil Status Code (2007).

¹⁰ NRC, Update at Marriage Registration for Refugees from Syria, p.11, NRC Lebanon 2016, available at <https://www.nrc.no/resources/reports/update-on-marriage-registration-for-refugees-from-syria-july-2016/>

Conclusion and Recommendations

The circumstances described above pose formidable barriers to proving the identity, parentage and nationality of Syrian refugee children. Although progress has been made in host countries, a lot of work is still required to ensure that all Syrian refugees have adequate access to identity and civil documentation. The long-term risk is that missing, expired or incomplete documentation could become a significant obstacle to return and other durable solutions.

For example, children without birth certificates or registration in their family booklets may be denied their inheritance, which has implications for their return to Syria.

When return does take place, there will be a need to recognise and harmonise all the different documents that returning refugees will bring with them.

- Streamlined procedures will have to be put in place in Syria for the transfer of these records into the Syrian system as well as the issuance, renewal and replacement of documentation lost during the conflict.
- Administrative requirements to apply for documentation should be kept to a minimum and time limits on registering vital events that took place during the conflict should be reasonable.
- Alternative and simple identity determination procedures (including for example those with a low evidentiary threshold) should be introduced in recognition of the above mentioned challenges faced by displaced Syrians in accessing civil documentation in the place of displacement.
- Temporary documents should be replaced with permanent documentation as soon as the conditions allow.
- Bodies responsible for issuing documentation should be clearly identified and provided with the resources necessary for the completion of these tasks, including reinforcing their capacity in terms of number of staff and training.

Methodology

The information described here comes from a survey conducted with 580 Syrian refugee heads of household residing in Jordan, Northern Lebanon, and Northern Iraq between October 2015 and May 2016. NRC used two separate methods for selecting households for inclusion in the exercise. In Lebanon and Jordan, NRC proportionally selected approximately two hundred respondents stratified by geographic location and the household size from NRC's Information, Counselling, and Legal Assistance (ICLA) program beneficiary list in each country. As a result, the sample is as representative as possible of ICLA beneficiaries in Northern Lebanon and Jordan. In Iraq, NRC proportionally selected approximately two hundred households stratified by geographic location and the household size from the list of beneficiaries of NRC's Water, Sanitation, and Hygiene (WASH) program in Dohuk. In Iraq, the sample represents WASH beneficiaries in Dohuk.

The data is divided into two datasets. The dataset includes information on the civil documentation of each member of the 580 respondent households.¹¹ Respondents provided information on 3,201 individuals, including 1693 women and girls and 1508 men and boys.

A goal of the sampling procedure was to include a representative proportion of information provided by women. Given interview schedules and the demographic profile of refugee populations, enumerators surveyed 309 men and 271 women, or 47% of the sample. In most cases, male respondents identified themselves as the head of the household while women identified themselves as the most important female in the household at the time of the interview. Sixty percent of respondents identified themselves as Arab and thirty-eight percent as Kurdish.

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- NRC, The Challenges of Birth Registration in Lebanon for Refugees from Syria, NRC Lebanon 2015 available at <https://www.nrc.no/globalassets/pdf/reports/the-challenges-of-birth-registration-in-lebanon-for-refugees-from-syria.pdf>
- NRC and IHRC, Securing Status, NRC Jordan 2016, available at <https://www.nrc.no/globalassets/pdf/reports/securing-status.pdf>

Contact: info.syriaresponse@nrc.no