

## Establishing legal identity for displaced Syrians

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**Seven years of conflict have had a serious detrimental effect on many Syrians' ability to prove their legal identity.**

Having a legal identity is a basic human right. It allows us to travel, work, go to school, get married, confirm parentage, receive health care, access government services, vote, inherit, buy and sell property – nearly everything. While many take the right to a legal identity for granted through the issuance of birth certificates, national identity cards, passports and other documents, this cannot be said for displaced Syrians. After nearly seven years of conflict, and with the destruction or closure of civil registries and complicated processes for issuing documents to refugees in host countries, proving who you are can be a major challenge.

The right to a legal identity is enshrined in international law. The International Covenant on Civil and Political Rights notes the right of all persons to have recognition before the law. The International Convention on the Rights of the Child confirms the right to birth registration and the Universal Declaration of Human Rights sets out the right to a nationality. However, the complex legal and political situation inside and outside Syria makes realisation of these rights a challenge for many.

Of the estimated 700,000 Syrian refugee children under the age of four in the region, 300,000 have been born in exile as refugees, many of whom do not have birth certificates. In recent surveys by the Norwegian Refugee Council, 70% of Syrian refugees did not have national identity cards, while over half of married couples did not have proof of their marriage.<sup>1</sup> Ninety-four per cent of Syrian refugees in Lebanon were unable to meet all the necessary administrative requirements to obtain a birth certificate for their children,<sup>2</sup> while UNHCR, the UN Refugee Agency, estimates that 30% of Syrian refugee children in Jordan do not have birth certificates. The lack of such vital documentation has a direct impact on the daily lives of displaced

persons. For example, fewer than a quarter of internally displaced women interviewed in southern Syria had their marriage certificate with them, yet a marriage certificate typically remains a pre-requisite for the issuance of a birth certificate. And without civil documentation, the two million school-age children among the IDP population in Syria will not be able to enrol in school.<sup>3</sup>

### Obtaining documents in Syria

The conflict in Syria has resulted in the closure and destruction of many civil registry offices. New births, marriages, divorces and deaths are often not entered into official records, leaving internally displaced persons (IDPs) without documents to prove these events took place. Since not all records are digitally preserved, loss or destruction of original documents can result in the permanent loss of this information.

The family booklet is the primary civil record in Syria, and the basis for obtaining all other civil documents. Around 40% of IDPs surveyed stated that they no longer have their family booklet with them. Those IDPs who do have their family booklet have not been able to add children's names to it if the children were born during the conflict in non-government controlled areas. In north-west Syria almost half of IDP children aged five and under were not included in their family booklet.

Children become eligible for national identity cards in Syria when they are 14, at which time their guardian is obliged to obtain an identity card for them. However, a quarter of IDPs aged 14 or over who were interviewed in north-west Syria do not have this document; the main reason given was the closure of civil registries.

Another issue of concern is the array of official and de facto actors engaged in providing documentation in place of the civil registries. In non-government controlled

areas it is almost impossible to obtain official Syrian civil documentation. Instead, IDPs said they obtain civil documents from the local sharia court, local councils, non-governmental/de facto authorities and armed actors. These documents may be all that are available to IDPs, yet questions as to their legal validity and recognition remain.

### Obtaining documents in host countries

Syrian law requires that children born outside Syria follow the personal status laws of the country in which they reside, meaning that parents are required to obtain a birth certificate from the national authorities of the country in which their child is born and then register its birth at the nearest Syrian embassy or consulate within 90 days of the date of birth. However, the ability of Syrian refugees to protect their legal identity is affected by many factors.

Lack of the documentation required to complete birth registration is a major problem, with many refugees having lost their documents or having had them destroyed or confiscated. (Marriage registration is particularly important since a marriage certificate is typically required for birth

registration in the host countries and to establish the identity of the child's legal father.) Refugees may also face difficulties due to their lack of familiarity with the civil registration process in host countries, including strict time limits for registration. In addition, most refugees do not wish to approach their own embassy due to fear of repercussions. Prohibitive costs and (in Turkey) language barriers may also create problems of access to civil registration procedures. Proof of legal stay in the host country is often necessary before birth and other documents can be issued. And, finally, in some countries, including Jordan, documents such as residency cards and asylum-seeker certificates may be confiscated from refugees returning to Syria, leaving them with no documents to help prove their identity once inside Syria.

To overcome these barriers, refugees often resort to coping mechanisms that can put them at further risk, such as returning to Syria to access documents or purchasing falsified documents. At a regional level, 17% of refugee households interviewed by NRC had been obliged to obtain false documentation. Such coping mechanisms expose refugees to new protection risks, including arrest, detention and exploitation.

Some positive measures have been put in place by host authorities and through UNHCR efforts. Syrian children in Jordan who were born in Syria but have no proof of their birth are now able to use their UNHCR Asylum Seeker Certificate to obtain a Jordanian residency permit. Lebanon has introduced limited concessions for Syrian refugees on the annual cost of extending legal stay. A marriage certificate is not necessary in order to obtain a birth certificate for Syrian children born in Turkey.<sup>4</sup> Nevertheless, more can be done by host countries to protect the right to an identity.

### Towards solutions

Solutions must start with recognition of the fundamental importance of the right to a legal identity, continue with an understanding as to why some refugees and displaced persons have been unable to obtain such



UNHCR/Christopher Herwig

Now a refugee in Za'atari camp, this baby's mother has spent more than ten months securing a birth certificate for her young son (their family documents having been destroyed in a rocket attack on their house in Syria) in order to ensure he has a legal identity.

documentation, and conclude with practical steps and measures to assist persons obtain such vital documentation in full compliance with international law protections.

Along the way it will be necessary to look at the laws and standards governing the issuance of civil documents in Syria and host countries, and the practical challenges for persons born outside government-controlled areas. There must be acceptance of the need to adapt existing procedures to facilitate the massive registration of potential returnees in a fair, expeditious and effective way, without prejudice to the reasons for which many displaced Syrians may have been unable to register in accordance with proper procedures.

UN agencies, primarily UNHCR, will play a significant role because of their global expertise on issuance of refugee registration documentation. National and international NGOs can also play a constructive role in advising displaced persons as to the formal registration procedures, assisting them to obtain documents and advising stakeholders of key obstacles, with policy recommendations for remedying gaps. Practical steps towards full realisation of the right to an identity would include the following:

- The restoration of national civil registration systems to facilitate the rapid and affordable issuance of legal identity documents to IDPs; these systems should take into account the reasons for which IDPs may have been unable to obtain such documents.
- An acknowledgement by parties to the conflict and the international community of the practical value to beneficiaries of documents issued in non-government controlled areas, coupled with a process for replacement of such documents with government documents subject to procedures for checking and verification of non-government documents.
- Establishment of systems for displaced Syrians to replace false or forged documents with official documents and to correct incorrect information in such

documents, subject to verification and without punitive action or fine.

- Measures to be put in place by host governments, supported by UN and humanitarian actors, to ensure that a) all refugees in host countries have appropriate legal identity documentation and that obstacles to obtaining such documents are removed and b) refugees crossing international borders are able to retain documents issued in host countries (including residency permits) which help them verify their identity, particularly when they have no other documents available.

The long-term risk is that missing, expired or incomplete documentation could become a significant obstacle to return and other durable solutions. A concerted and coordinated effort by all stakeholders would help facilitate the widespread confirmation of the legal identity of many thousands of displaced Syrians, allow them to access their basic rights and entitlements, and assist authorities (both Syrian and host) to increase levels of protection.

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1. NRC (2017) *Displacement, housing, land and property and access to civil documentation in the north west of the Syrian Arab Republic* <http://bit.ly/NRC-HCR-HLP-Syria-2017> and (2017) *Displacement, HLP and access to civil documentation in the south of the Syrian Arab Republic* <http://bit.ly/NRC-HCR-HLP-southSyria>
2. NRC (2017) *Syrian refugees' right to legal identity: implications for return* <http://bit.ly/NRC-Syrian-ID-2017briefing>
3. For more discussion about lack of documentation and risk of statelessness, see [www.fmreview.org/statelessness](http://www.fmreview.org/statelessness)
4. Refugees International (2015) *Birth Registration in Turkey: protecting the future for Syrian children* <http://bit.ly/RI-Turkey-birth-2015>