

Registering rights

Syrian refugees and the documentation of births, marriages, and deaths in Jordan

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In appreciation

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All photos in this report are credited to Hussein Amri from the Norwegian Refugee Council, and were taken in northern Jordan in October 2015.

Cover photo:

A three-year-old Syrian refugee child holds his Jordanian birth certificate.

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Executive summary

More than four million people have fled the armed conflict in Syria and sought refuge in neighbouring countries. As of September 2015, Jordan accommodates nearly 630,000 registered Syrian refugees.¹ Since their arrival in Jordan, a large number of refugees have experienced life events that require documentation, such as births, marriages, and deaths. This report examines the processes, challenges, and significance of “civil documentation” – in this context, birth, marriage, and death registration² – for Syrian refugees in Jordan. The report focuses on the experiences of the vast majority of Syrian refugees (83 per cent as of September 2015) who live outside of formal refugee camps.³

Civil documentation plays a crucial role in securing legal identity within a society, helping to prevent statelessness, and protecting a range of human rights. As the Syrian refugee crisis stretches on, civil documentation has presented ongoing problems in Jordan as well as in other countries across the region.⁴ Important accommodations have already been made by Jordanian authorities; however, many Syrian refugees still struggle to complete civil documentation procedures. The Government of Jordan should be supported by the international community to continue to review and improve procedures so that all Syrian refugees are able to register life events in Jordan.

Since NRC Jordan began providing information and counselling services to beneficiaries in October 2013 as part of its integrated urban shelter programme, NRC staff have received a large number of requests for information and counselling on civil documentation from refugees residing in NRC’s areas of operation. More broadly, in the first five months of 2015, UNHCR partners provided

more than 50,000 Syrians and Jordanians in affected communities with legal information, counselling and/or representation on a range of issues.⁵ Recognising that the civil documentation challenges faced by Syrian refugees in Jordan and the consequences that flow from non-registration have not previously been mapped out in a systematic way, NRC joined with the International Human Rights Clinic at Harvard Law School to produce this report.

Fifty-six Syrian refugee families living in host communities in the north of Jordan were interviewed for this report in March 2015. Although every case was different and the circumstances each family encountered were the result of unique permutations, this report outlines common themes. Interviews identified four main challenges that affected families’ ability to register births, marriages, and deaths. First, many refugees lack awareness or information about civil documentation in Jordan; secondly, refugees are often unable to produce official documents, such as identity documents, that are required to complete a registration process; thirdly, inconsistency in official practices means refugees cannot always accurately predict how a case might be treated; and fourthly, there are onerous costs associated with a civil documentation process.

A number of problems Syrian refugees encounter in civil documentation processes stem from the fact that these processes are designed for the births, marriages, and deaths of Jordanian citizens and not the exceptional circumstances Syrian refugees find themselves in. For example, many refugees interviewed for this report did not possess documents that would have allowed them to register a child’s birth within the time limits

set in Jordanian law. Additionally, civil documentation processes are interlinked: most importantly, to register a birth, the child’s parents must produce proof of marriage in the form of state-issued documentation, such as a marriage certificate. Consequently, if a couple’s marriage is unregistered – or they no longer retain official documents proving marriage – they cannot register the births of their children in Jordan. In some cases, problems in one civil documentation process can “spiral” into never registering any vital life events within a family.

Lack of civil documentation has consequences for refugee families. In interviews for this report, most families whose children did not have birth certificates said they experienced or feared negative consequences, such as restricted access to services, particularly healthcare. A large number of families were also concerned that unregistered children would be unable to return to Syria without a birth certificate, putting family unity at risk. In the longer term, children without birth certificates are at increased risk of statelessness and other adverse consequences. To overcome registration challenges, some families have resorted to risky coping strategies, such as borrowing identity documents, or returning to Syria to retrieve documents.

Jordan’s civil documentation policies and practices implicate a range of universal human rights: most directly, the right to be registered immediately after birth, the right to be recognised as a person before the law, and the right to a nationality. Less directly, civil documentation affects a variety of other rights, such as the rights to health and educa-

tion. These are all human rights enumerated in international treaties that are binding on Jordan and apply to every person within the Jordanian state, including Syrian refugees. The report outlines key recommendations to better protect Syrian refugees’ rights by addressing civil documentation challenges and the consequences refugees face from non-registration.

In broad terms, the report recommends:

- Acknowledging existing flexibility in the civil documentation system and calling for increasing that flexibility.
- Eliminating the most onerous elements of civil documentation processes, particularly fines and time limits.
- Protecting unregistered children by working towards closing all gaps in the current framework that prevent birth registration and impede recognition of Syrian children’s nationality.
- Raising awareness in the Syrian refugee community on the importance of civil documentation, providing information on civil documentation processes, and increasing outreach through coordinated action by the Government of Jordan, UNHCR, and partners.

In putting forward these recommendations, this report seeks to contribute to ongoing discussions to make civil documentation more accessible to Syrian refugees in Jordan.

Methodology

NRC collaborated with the International Human Rights Clinic at Harvard Law School to carry out research on civil documentation for Syrian refugees in Jordan. The project began with a literature review of best practices and international law around civil documentation. The review also encompassed information about civil documentation processes for Syrian refugees in Jordan and existing research and assessments on this issue.

In March 2015, researchers interviewed 56 families living in 45 households in the north of Jordan.⁶ NRC selected households that had previously discussed civil documentation in Jordan with NRC staff. Almost all families interviewed were from Dar'a Governorate in Syria and arrived in Jordan between mid-2012 and early 2014, with the majority arriving before March 2013. All of the households lived outside camps, the majority in urban areas. The aim of the interviews was to gain an understanding of the spectrum of refugees' experiences with civil documentation, identify common challenges around civil documentation processes, and explore the consequences of non-registration. While researchers worked from a common list of core questions, they did not conduct a survey. The interviewing process was not designed to produce quantitative results.

In July 2015, NRC staff reviewed their database of cases and identified families with whom they had discussed civil documentation matters, but who had not been interviewed in March. Examples from these case summaries were incorporated into this report where they illustrated challenges or consequences not otherwise identified through interviews.⁷



The front door of a Syrian refugee family's home in Irbid.

I. International and domestic civil documentation law

International rights and obligations

Civil documentation is described by the United Nations as “the continuous, permanent, compulsory and universal recording of the occurrence and characteristics of events, including vital events, pertaining to the population.”⁸ Treaties to which Jordan is a party establish rights and duties related to civil documentation, and UN bodies and committees that monitor the implementation of human rights treaties bodies have articulated its importance.⁹

Every child has the right to be registered immediately after birth.¹⁰ The UN Human Rights Council has stressed “the importance of birth registration, including late birth registration, as a means for providing an official record of the existence of a person and the recognition of that individual as a person before the law.”¹¹ In the refugee context, the Convention on the Rights of the Child (CRC) requires that states ensure that refugee children “receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the [CRC],” which include the right to birth registration and the right to a nationality.¹²

In addition to being a right itself, birth registration is particularly important to protecting and promoting a child’s other rights. Every child has the right to acquire a nationality, but Syrian children whose births are not registered in Jordan risk becoming stateless.¹³ Although lack of birth registration does not always lead to this situation, the Office of the United Nations High Commissioner for Human Rights (OHCHR) has explained that “birth registration is fundamental to the prevention of statelessness” and “essential to ensure the right of every child to acquire nationality.”¹⁴ In addition, the inability to register the births of Syrian children in Jordan implicates the rights to the highest attainable standard of healthcare and to

education because it interferes with access to services.¹⁵

Birth registration also plays a role in preventing illegal actions such as human trafficking. As OHCHR has observed, “Children who have not been registered are particularly vulnerable to child traffickers” because “the legal invisibility of unregistered children makes it more likely that their disappearance and exploitation will go unnoticed by authorities.”¹⁶ Under international law, Jordan, as a state party, must put in place “comprehensive policies, programmes and other measures... [t]o prevent and combat trafficking in persons.”¹⁷ The CRC also requires that state parties take measures “to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.”¹⁸

International treaties require Jordan to have marriage registration processes in place.¹⁹ Like birth registration, marriage registration plays a role in protecting rights and preventing illegal actions. The committee that monitors implementation of the Convention on the Elimination of All Forms of Discrimination against Woman (CEDAW Committee) has noted that “marriage registration protects the rights of spouses with regard to property issues upon dissolution by death or divorce.”²⁰ Additionally, the registration of births and marriages is a “means to facilitate monitoring of the age of marriage and to support the effective implementation and enforcement of laws on the minimum age of marriage.”²¹

Marriage registration also helps reduce the risk of human trafficking, for example, by ensuring that the identities of spouses are known. Jordan is obliged to “take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.”²²

Death registration, meanwhile, may be required for an individual to inherit property or legally remarry. Death registration also allows for the monitoring of trends in causes and ages of death among specific groups. In the refugee context, the UNHCR Executive Committee Conclusion on Civil Registration calls upon states to “support the recording of medically certified cause of death” and consider free death registration.²³

Civil documentation institutions and applicable laws in Jordan

Ordinarily, a foreigner living in Jordan would be required to seek documentation and assistance from his or her embassy to be able to complete civil documentation processes in Jordan. However, armed conflict produces complications for procedures that rely on regular diplomatic processes; as an important accommodation, the Government of Jordan does not require Syrian refugees to visit their embassy to complete civil documentation processes in Jordan. For Syrians and Jordanians alike, the main institutions involved in civil documentation in Jordan are the Civil Status Department, which is part of the Jordanian Ministry of the Interior (Mol), and two branches of the Jordanian court system: the civil courts and the religious courts.

Under the Civil Status Law, primary responsibility for birth and death registration lies with the Civil Status Department, which has 74 offices across Jordan.²⁴ If families have not registered a birth or death more than one year after it occurred, they must obtain a positive judgment from the Magistrates courts – which are civil courts – before they can register that birth or death with the Civil Status Department. According to Jordan’s constitution,

civil courts “have jurisdiction over all persons in all matters, civil and criminal ... except those matters in respect of which jurisdiction is vested in Religious or Special Courts.”²⁵

Marriage registration is a matter for the religious courts. Shari’a courts apply Shari’a law and have jurisdiction over “matters of personal status of Muslims,” including marriage, divorce, and inheritance.²⁶ They apply the Personal Status Law, which outlines the process and conditions for Muslim marriage in Jordan.²⁷ There are 61 Shari’a courts located throughout Jordan. The Mol is also involved in marriage registration for Syrian couples: the Shari’a courts must request and receive the Mol’s approval to conduct each marriage involving non-Jordanians. In addition to Shari’a courts, religious courts include the tribunals of other religious communities, such as Christians, but their operations are not discussed in this report.

II. Situation of Syrian refugees in Jordan

Demographics

As of September 2015, there were nearly 630,000 Syrian refugees registered with UNHCR in Jordan, and most live outside of formal refugee camps in urban areas.²⁸ The majority of refugees are young: as of September 2015, nearly 52 per cent were aged 17 or under and less than four per cent, over 60.²⁹ Most (slightly under 80 per cent) arrived in Jordan in 2012 and 2013.³⁰ Just under 45 per cent of registered refugees came from Dar'a Governorate, followed by 16 per cent from Homs.³¹ The total population comprises roughly equal numbers of each sex³² and women are the heads of around a third of households.³³

As the conflict has worn on, the situation for Syrian refugees in Jordan has become increasingly difficult. In 2015, an inter-agency assessment found that 86 per cent of Syrian refugees outside of camps were living below the Jordanian absolute poverty line - JOD 68 (USD 96) per person per month.³⁴ The deteriorating economic circumstances have been compounded by significant reductions in humanitarian assistance, most notably cuts in World Food Programme (WFP) food assistance, and restrictions on refugees' access to legal income opportunities.³⁵ Many refugees are adopting negative coping strategies, including taking on additional debt, reducing food intake, and taking children out of school.³⁶

A large number of Syrian refugees have married or had children since arriving in Jordan. Data analysed by UNICEF indicates that in 2013, nearly 3,000 marriages between Syrians in Jordan were registered in the Jordanian Shari'a courts; for the first quarter of 2014, the figure was just over 1,600 marriages.³⁷ In December 2014, it was estimated that more than

27,000 Syrian children had been born in Jordan since March 2011.³⁸ As of May 2015, nearly 153,000 Syrian refugee women were estimated to be of reproductive age and over 11,000 were pregnant.³⁹

Although the exact number of unregistered children is not known, many Syrian children in Jordan lack birth certificates: in 2014, UNHCR estimated that as many as 30 per cent of Syrian refugee children in Jordan did not have birth certificates.⁴⁰ Likewise, the number of unregistered marriages among the Syrian refugee population is unknown, but likely to be substantial given that many young Syrian women and men are reaching marriageable age in Jordan every year. The number of Syrians who have died in Jordan since the crisis began and whose deaths remain unregistered is also unknown.

Legal status

Depending on a variety of factors, Syrian refugees in Jordan may possess several documents issued by the Government of Jordan or UNHCR that relate to their legal status in some way. The processes and requirements to obtain or amend these documents are sometimes interlinked and have changed across time. Most importantly, the Government of Jordan requires that all Syrian refugees register with the MoI and receive an MoI Service Card.⁴¹ This crucial piece of documentation is required to access subsidised public healthcare and government-run education services. An MoI Service Card is only valid if a refugee remains living in the area where the card was registered: if refugees move from their initial place of registration, they must re-register with the police in their new location.⁴²

In addition to MoI registration, Syrian refugees




A Syrian refugee family in their house in Irbid. The mother and father have struggled to register their marriage and children's births in Jordan.

can register with UNHCR. UNHCR issues refugees living in camps with a "Proof of Registration" document that they hold while they remain in the camps. For Syrian refugees who live outside of formal camps, UNHCR provides a document called an Asylum Seeker Certificate (ASC), which states that those listed on the certificate (usually one family) are "persons of concern" to UNHCR. Refugees must have an ASC to be able to access services and assistance provided by UNHCR and humanitarian agencies, such as cash, food, and subsidised healthcare.⁴³

While refugees are legally required to register with the MoI, in 2014 it became increasingly

difficult for Syrian refugees living outside of camps to obtain or renew MoI Service Cards.⁴⁴ In July 2014, the MoI announced that MoI Service Cards would no longer be issued to refugees who were unable to prove they left the camps through the formal camp "bailout" process.⁴⁵ Officially, all Syrian refugees are sent to camps on arrival to Jordan; to leave a camp through the bailout process, a refugee must meet a number of requirements, including having a Jordanian sponsor over the age of 35 years who is a direct relative. Some refugees who have gone through the bailout process photocopy an official document attesting to their bailout status that they are meant to hand over when they leave the camp. However, ob-

A photograph of a man in a maroon shirt and dark pants carrying a large, patterned rug into the doorway of a two-story house. The house is built with light-colored concrete blocks and has a satellite dish mounted on the wall. A grey cloth is draped over a low wall in the foreground. The scene is set in a sunny, outdoor environment.

A man enters a house whose construction was completed through NRC's Integrated Urban Shelter Programme. The Programme supports Jordanian landlords to bring new units onto the rental market. In return, vulnerable Syrian refugee families identified by NRC are provided with a period of rent free accommodation.

taining or possessing this document is not a formal requirement as the Mol maintains a database of individuals who have been bailed out of the camps. NRC estimates that up to 45 per cent of Syrian refugees in host communities left the camps without going through the bailout process and UNHCR has noted that 160,000 Syrian refugees have left Za'atari camp alone without going through the bailout process.⁴⁶ In January 2015, the bailout process was unofficially suspended in all camps, and as of September 2015, has not yet resumed.

In 2014, it also became more challenging for some refugees to update their registration status with UNHCR. In July 2014, Jordanian authorities announced that UNHCR would no longer be permitted to issue new ASCs to Syrian refugees who left the camps outside of the bailout system.⁴⁷ Consequently, Syrian refugees in host commu-

nities whose first visit to UNHCR outside the camps occurred after 14 July 2014 cannot update their UNHCR registration details or receive an ASC unless they have been through the bailout process. In addition to being unable to access assistance from UNHCR and its partner organisations, without an ASC refugees cannot update their registration with the Mol and receive a new Mol Service Card.

Many Syrian refugees no longer have Syrian identity documents and other important documents because these were retained by the Jordanian border authorities when the refugees arrived in Jordan. At the beginning of the Syrian crisis, border authorities typically took only identity documents, such as passports, but in 2013, at the height of the crisis, they were retaining a broader range of documents, including marriage certificates and family books (a govern-

ment-issued document a couple receives when they register their marriage; the names of children born to the marriage are added to the document when they are registered).⁴⁸ In total, around 219,000 documents were retained up to early 2014, when the practice ended.⁴⁹ UNHCR and the Government of Jordan have since sorted and classified these documents to facilitate their return to refugees, and by the end of 2014, some 81,000 documents had been given back to families residing in the camps.⁵⁰

In early 2015, the Jordanian Government began the "urban verification exercise," an effort to re-register (or "verify") all Syrian nationals in Jordan.⁵¹ Regardless of whether they are registered with UNHCR or not, all Syrian nationals in host communities in Jordan are required to present themselves to local police stations to obtain a new biometric Mol Service Card and confirm their place of residence.⁵² To receive the new Mol Service Cards, all Syrians above 12

years of age must pay for and obtain a health certificate from the Ministry of Health which they must take to their nearest police station, along with a lease agreement and copy of their landlord's identity document. By the end of August 2015, more than 183,000 new Mol Service Cards had been issued through this process.⁵³ As part of the verification exercise, Jordanian authorities, with UNHCR's assistance, also undertook to return retained documents. As of May 2015, refugees had submitted more than 27,000 requests for returned documents through the urban verification exercise.⁵⁴ In late August, the document return process began in some northern governorates.⁵⁵ The verification exercise should also allow refugees who left the camps outside the bailout system and who have an ASC to regularise their status and receive a new Mol Service Card.

III. Birth registration

Birth registration process

After a woman gives birth in Jordan, the hospital or midwife will give the parents a birth notification, a standard form that includes information such as the names of the parents, the child's sex, and date and place of birth. Within one year of the birth, a member of the family must take the birth notification to the Jordanian Civil Status Department to apply for a birth certificate.⁵⁶ The Civil Status Department will require the person registering the birth to present a valid identity document (usually, the new Mol Service Card) and proof of the parents' marriage, such as a marriage certificate, a marriage ratification certificate,⁵⁷ or a family book. Unlike other foreigners, Syrian refugees who wish to use a Syrian marriage certificate or family book as proof of marriage are not required to have their documents certified at the Syrian embassy.

If the parents present the necessary documents within 30 days, they will receive a birth certificate for JOD 1 (USD 1.40). If the parents register after 30 days, the Civil Status Department will charge them a JOD 10 (USD 14) fine.⁵⁸ If the child is older than one year, the parents must instead go to the Magistrates courts to file a lawsuit.⁵⁹ The court fees range from JOD 5 to 20 (USD 7 to 28). Parents are not typically represented by lawyers. Once a judgment is issued in their favour, they must take that judgment to the Civil Status Department to obtain a birth certificate. If they receive a negative judgment, they may appeal to the Courts of Appeal.

Profile of cases

Birth registration for Syrian children born in Jordan was discussed with 37 families, covering the births of 45 children.

Birth registration steps in Jordan:

1. The child's parents receive a birth notification from the hospital or licensed midwife.
2. A family member (usually the father or head of household) takes the birth notification to the Civil Status Department.
3. The Civil Status Department asks for:
 - a. Proof that the parents are lawfully married; and
 - b. An identity document of the person registering the child.
4. If the documents are in order, the Civil Status Department retains the birth notification and issues a birth certificate, subject to payment of a fee (and possible fine).
 - a. If the birth is registered within 30 days, the fee is JOD 1 (USD 1.40).
 - b. Between 30 days and one year, a fine of JOD 10 (USD 14) must be paid in addition to the JOD 1 fee.

If more than one year has passed since the birth, the parents cannot register the child at the Civil Status Department until they file a lawsuit in the Magistrates courts and receive a positive judgment.

- In all but one case, the child was born in a hospital and the parents received a birth notification.⁶⁰
- Twenty children had a birth certificate issued by the Jordanian Civil Status Department.
- The remaining 25 children did not have birth certificates.

For 23 of the 25 unregistered children, family members – often the child's father or the head of household – had gone to the Civil Status

Department with the birth notification in an attempt to register the child.⁶¹

- The Civil Status Department refused to register 19 of these births because the parents (16 couples) lacked proof of marriage.
- In two cases, the Civil Status Department would not register the birth because the child was older than one year.
- In another case, registration was denied because the child's birth date was less than six months after the date of marriage.⁶²
 - One family described their birth registration application as pending.

The oldest unregistered child was born in September 2012 and the youngest, in February 2015.

- As of March 2015, 16 unregistered children were more than one year old. The families of at least six of these children had started, or were thinking about starting, lawsuits to register the children.

Lack of awareness

The activities of UNHCR and other protection actors to help refugees register children born in Jordan have increased awareness in the Syrian refugee community around the steps to register births in Jordan.⁶³ However, awareness challenges remain. In particular, there are differences between Jordanian and Syrian birth registration practices that complicate refugees' understanding of processes in Jordan.

In Syria, although a birth notification is issued when a child is born, whether in a hospital or at

home with a licensed midwife, the Syrian Civil Status Department does not issue birth certificates, per se. Rather, families said that parents bring (or the hospital sends) the birth notification to the Civil Status Department, where the family presents the family book to have the children stamped into it. Moreover, refugees explained that unlike in Jordan, if registration time limits exist in Syrian law, they are not enforced. As a result, Syrian women who give birth in Jordan – especially those who are new to the country – may be unfamiliar with the Jordanian registration process or they may follow incorrect advice. In three cases, mothers stated that they had not registered their children because hospital workers told them the birth notification was all they required in Jordan and their experience of birth registration in Syria meant they had no reason to doubt this advice.

Lack of required documents

Parents' lack of civil documentation proving marriage poses one of the most important barriers to completing the birth registration process. Couples with unregistered informal marriages⁶⁴ cannot register the births of their children because they lack proof of marriage in the form of a marriage certificate, marriage ratification certificate, or family book. However, although they cannot register a birth without proof of marriage, none of the refugee couples interviewed for this report were asked for proof of marriage prior to receiving a birth notification from the hospital. One woman, whose husband divorced her before their child was born and refused to start the process to ratify their sheikh marriage (that is, to legalise a marriage that took place outside the formal system), described her experience at the Civil Status Department when she went to register her child's birth:

“When I went to the Civil Status Department I asked to see the manager and gave him the birth notification and my identification. He said, ‘This is impossible, we need proof of marriage, we won’t register the child unless there’s proof of marriage.’ I told him I didn’t have a marriage ratification certificate or family book. He said that in Jordan things are very different from Syria.”

After that experience, the woman said she “basically gave up” and “even thought of contacting people in Syria to see if they could help.”

Even couples who registered their marriages in Syria may struggle to provide proof of marriage. Five families were unable to produce proof of marriage at the Civil Status Department because Jordanian authorities retained their family books on arrival in the country. A 22-year-old husband reported that he travelled to Za’atari camp to retrieve his documents “more than ten

times . . . but the Jordanian police always told me to come next time.” By the time his documents were returned to him, his daughter was more than a year old. He was, however, able to register his second child, born in 2015, using his returned family book as proof of marriage.

One woman who gave birth at home in Jordan without a midwife was interviewed. She was unable to register the birth of her child because she had neither a birth notification nor proof of marriage. The woman came to Jordan in January 2013, when she was six months’ pregnant, with members of her husband’s family, while her husband remained in Syria. Their identity documents, including the family book, were retained by Jordanian authorities, and they left Za’atari camp without going through the bailout process. A charity told the woman it would pay her hospital costs, but when she went to the hospital, she was denied admittance. She observed that she “left Syria just to find a doctor,

to give birth,” but in the end, she gave birth at home with only her mother-in-law’s help. She had given birth to her four daughters born in Syria in a health clinic and was worried because in previous pregnancies she received injections for Rh incompatibility, a potentially life-threatening condition.

On the advice of UNHCR, she obtained a stamped certification of the birth from a mukhtar (a local leader) and took this document to the Civil Status Department, but they refused to accept it and told her she needed proof of marriage. When researchers visited, the child was two years old. The mother expressed frustration with the process, stating, “They took our documents in Za’atari so it’s out of my hands. How can I give them a birth notification? I entered Jordan informally; I came from a war.”

Lack of identity documents or an Mol Service Card can also present difficulties for families wishing to register a child. Since the urban verification exercise began, in at least one case reported to NRC staff, the Civil Status Department asked for the new Mol Service Card as identification for the person registering the child, which that person could not provide.

UNHCR-issued Asylum Seeker Certificates. One husband went to the Civil Status Department three times and managed to register the couple’s first child by showing that he and his wife were both on the same ASC. When researchers visited, the couple was in the process of ratifying their informal marriage: the wife was pregnant and the couple was worried about whether they could obtain a birth certificate for their future child without a marriage ratification certificate.

Unregistered children born in Syria

There are particular civil documentation challenges relating to children who were born in Syria but whose families fled to Jordan before registering their births. Families cannot obtain birth certificates from Jordanian authorities for children born in Syria; their only legal recourse in Jordan is to attempt to register the child’s birth at the Syrian Embassy in Amman.⁶⁵ Because visiting the Syrian embassy is not a viable option for many Syrian refugees, some families have used alternative ways to register births, such as through relatives who are still in Syria. At least 11 of the families interviewed had an unregistered child born in Syria.

One father described how his wife gave birth to their son in Homs’ main hospital in 2013 as it was being bombed. The family fled the hospital immediately after the birth without receiving a birth notification. Regardless, the husband said that it would have been too dangerous for him to go the Syrian Civil Status Department to register the child. After the family arrived in Jordan, the mother attempted to register their son at the Jordanian Civil Status Department, but officials accused her of trying to commit fraud and threatened to arrest her. The child, who has asthma, cannot access subsidised public healthcare in Jordan and the parents have resorted to taking him to a pharmacy for medical care. The family has attempted to locate the Syrian doctor who delivered the child to obtain the birth notification, but they do not know where he is or whether he is alive.

In another case, a couple received a birth notification from the midwife who delivered their child at home, but left the notification in Syria after their house was bombed. The child’s grandfather observed, “In this situation, you’re not able to think about bringing a birth notification – you just run.” While children born in Syria cannot obtain birth certificates in Jordan, those who are listed on the family’s Asylum Seeker Certificate should be able to obtain a new Mol Service Card through the urban verification process.

Inconsistency in Civil Status Department practices

Refugees described inconsistency across Civil Status Department offices regarding the documents a family must produce to receive a birth certificate. Refugees reported that in some cases the Civil Status Department asked for original documents, but in others, accepted copies.⁶⁶ In February 2015, the Irbid Civil Status Department office told a husband that they could not register his daughter’s birth with a copy of the family’s retained family book serving as proof of marriage, so the family went to a different Civil Status Department office, in Mafraq governorate, which accepted the family book copy and issued a birth certificate. In another case, the Civil Status Department refused to accept an original birth notification because the family had laminated it.

While in most cases family books or marriage certificates were required as proof of marriage, in five cases the Civil Status Department accepted



A four-year-old Syrian refugee girl displays her birth certificate.

IV. Marriage registration

Marriage registration processes

Like a Jordanian couple, a Muslim Syrian couple who wish to marry in Jordan must apply for a marriage certificate from the Jordanian Shari'a courts.⁶⁷ The couple must provide the court with identity documents (generally, the new Mol Service Card) and a health certificate issued by the Jordanian Ministry of Health verifying that they are not carriers of thalassemia, a genetic disease.⁶⁸ The bride must be unmarried and the groom may not already have four wives. Except in special circumstances, both parties must be aged over 18 lunar years.⁶⁹ The court may also ask the couple to provide proof or make a declaration attesting to the fact that they are eligible to marry.

Importantly, the court cannot marry non-Jordanian couples without the permission of the Mol, so will issue a request for an approval letter from the Mol. The Syrian couple must take this request to the Mol in Amman and receive an approval letter to proceed with the marriage. Once all the requirements have been met, in the presence of two witnesses and the bride's guardian (usually her father), who has given consent to the marriage, the couple will sign a marriage contract and the judge will issue them with a marriage certificate.⁷⁰ The court fees for

a marriage range from JOD 25 (USD 35) to JOD 110 (USD 155).⁷¹ There are no fees associated with Mol approval or obtaining a health certificate.

Marriages concluded in Jordan outside this process ("informal" marriages) are illegal.⁷² However, a couple who married informally in either Jordan or Syria – typically, through a marriage officiated by a sheikh (a "sheikh marriage") – can legalise and register their marriage by obtaining a marriage ratification certificate.⁷³

To obtain a marriage ratification certificate, the couple has a choice to file either an application or a lawsuit in the Jordanian Shari'a courts.⁷⁴ The requirements for a marriage ratification certificate are the same as for a marriage certificate. However, the court may impose additional conditions, such as requiring witnesses who were present at the sheikh marriage ceremony and sometimes the sheikh who officiated. A JOD 1,000 (USD 1,410) fine must also be paid (formally the fine is split among the wife, husband, witnesses, and sheikh who married the couple).⁷⁵ If the requirements are met, the judge will issue the couple with a marriage ratification certificate.

In 2013 the Chief of the Supreme Shari'a Court of Jordan issued a ruling that the JOD 1,000

fine should not be applied to couples who had concluded informal marriages outside Jordan and sought to register them in Jordan. Additionally, in an important accommodation, the Jordanian cabinet has twice established time-limited exemptions (31 October to 31 December 2014; 13 May to 13 July 2015) to penalties for informal marriages, allowing couples who married informally in Jordan to receive marriage ratification certificates without paying the fine.

Additional requirements for a marriage ratification certificate:

- Payment of a JOD 1,000 (USD 1,410) fine (waived in some circumstances);
- At the court's discretion:
 - More than two witnesses; and/or
 - Witnesses who were present at the informal marriage ceremony; and/or
 - The sheikh who officiated the informal marriage ceremony.

During the 2014 exemption period, 1,947 refugee couples registered informal marriages.⁷⁶

Profile of cases

In the course of interviews in Jordan, 51 marriages were discussed with 49 families (in two cases, a man had two living wives), and in almost all cases, both spouses were Syrian. Among that group:

- 24 couples had married informally in Syria or Jordan.
 - Only five of these couples had received marriage ratification certificates, all but one during the first exemption period announced by Jordanian authorities.
 - Of the remaining 19 unregistered informal marriages, ten were conducted in Jordan and nine in Syria.

Documents required to receive a marriage certificate from the Jordanian Shari'a courts:

- Proof of identity for the bride and groom;
- Proof of identity for the bride's guardian and the two witnesses;
- Health certificate issued by Jordanian Ministry of Health verifying that the bride and groom are not carriers of thalassemia, a genetic disease;
- Petition for a marriage contract addressed to the court; and
- Approval letter obtained from the Jordanian Mol in Amman (a requirement that applies only when one or both members of the couple are foreigners).



A 36-year-old father sits with his family in their house in Irbid. His four children are unregistered.

- 19 other couples had married in Syria and possessed a Syrian court marriage certificate or Syrian family book.
- Seven couples had married in the Jordanian courts.
- One couple was engaged and planned to have a court marriage in Jordan, but had been stalled at the Mol approval stage.

Twelve of the couples with only unregistered informal marriages had started the process to obtain a marriage ratification certificate:

- Five of these processes were stalled because the couple could not obtain Mol approval.
- Four were in limbo primarily because one of the parties was absent.
- The remainder had procedural problems.⁷⁷

Five other couples with unregistered informal marriages said they wanted to start the marriage ratification process, but obstacles had prevented them from taking any steps; for example, because they left the camps outside the bailout system they did not think that they would receive Mol approval and feared approaching authorities. In two additional cases, the courts had lawfully denied the couple a marriage ratification certificate.⁷⁸

Lack of awareness

Although campaigns conducted by UNHCR, the Government of Jordan, and partners have helped to build awareness about the importance of civil documentation and provided information on processes in Jordan, there are continuing awareness challenges. Reflecting the lack of awareness about Jordanian marriage registration processes in the Syrian refugee community, seven couples with informal marriages stated that they began the marriage ratification process only because an NRC staff member informed them about it.

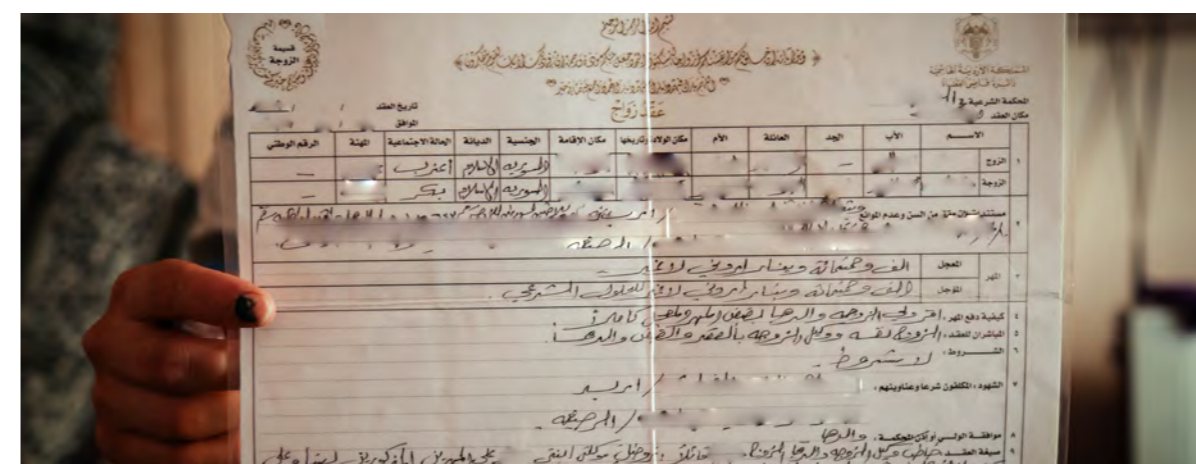
Syrian refugees frequently marry in ways that are not in accordance with Jordanian law

because Syrian practices are different. Sheikh marriages are illegal in Jordan and uncommon among Jordanians, but in Syria sheikh marriages are accepted and common (although not universal):⁷⁹ one man said that it showed “mistrust” and “dishonour” to conduct a marriage in a court.⁸⁰ Additionally, families in Syria may wait years before registering a marriage with the state, if they ever do so. Families explained that it is not unusual to register a marriage in Syria only after children are born or start going to school. Refugees also reported that corruption was common in Syria which meant they would sometimes bypass official processes: as one 26-year-old woman observed, “If you pay the right amount of money you can get anything issued in Syria [...] Bribes are the only law.”

Lack of required documents

In a number of cases, the inability to produce required documents prevented Syrian refugees interviewed for this report from registering marriages. In particular, refugees who had not been formally bailed out of the camps encountered significant obstacles to marriage registration. Although the official criteria for obtaining Mol approval are not public, in all but one case, refugees who went to the Mol in Amman to seek approval reported being asked to prove their bailout status, primarily by producing a photocopy of the document issued by camp authorities attesting to the fact they had been bailed out through the official procedures. Those who could not produce this document, reported that they were denied approval. In effect, this meant that a Syrian couple could not get married or register an informal marriage if they left the camps outside the bailout process, a situation that applies to many Syrian refugees in host communities.

Lack of bailout status was more than a mere administrative problem for many families interviewed: if the couple – or the witnesses or wife’s guardian – did not possess a bailout document they were often afraid to travel for fear of being picked up by the police, even if they had an Mol Service Card. One man who left the camps outside the bailout system stated, “I’m afraid of being captured by police, and if they take me into custody, they will force me to



A 22-year-old Syrian refugee holds his recently issued marriage certificate.

return to Syria so I would have to take my family to a warzone – this is a nightmare for me.” The man stated that his brother, who also left the camps outside the bailout system, had been taken into custody by the police the previous day. Another young man without bailout feared that if he went to the court to seek a marriage ratification certificate he would be arrested and deported.⁸¹

Lack of other documentation can also present problems. In one case, a witness lost his Mol Service Card and was afraid to travel to the court, given the number of police checkpoints on the highway. Since the urban verification exercise began, in at least one case reported to NRC staff a couple were unable to proceed with a marriage ratification certificate application because the court required the couple to present the new Mol Service Cards, which they did not have, as well as their original Syrian identity documents. More broadly, the connection between refugees’ legal status and the marriage registration process means that refugees whose legal status is uncertain or whose documents contain inconsistencies may be unable or unwilling to register a marriage.

Inconsistencies in court practices

In every legal system judges are entitled to exercise a measure of discretion in deciding cases on their merits; at the same time, they must respect the principle that like cases should be treated alike. In interviews for this report, refugees were often unsure about how their case might be treated because they had heard about

different rules being applied to similar cases. For example, Shari’a courts applied guardian and witness requirements inconsistently in the cases encountered during interviews. A 27-year-old man and his 20-year-old wife were unable to obtain a marriage ratification certificate during the 2014 exemption period because the wife’s father was trapped in Syria and could not travel to the court in Jordan to act as her guardian. Although her father authorised a male relative on his wife’s side in Jordan to act as his daughter’s guardian, the court said that the authorisation would only be valid if the father personally submitted the proper paperwork to the Jordanian Embassy in Damascus, which he was unable to do. By contrast, in 2013, a 26-year-old woman whose father was not in Jordan was able to obtain a marriage certificate by giving the judge a copy of her father’s signed authorisation, which he had faxed to her.

In some marriage ratification cases, courts required the appearance of witnesses who were present at the sheikh marriage ceremony. One couple stated that witnesses to their December 2013 sheikh marriage in Za’atari camp had to travel from Kuwait, where they were now living, to act as witnesses in their October 2014 marriage ratification case. In other cases, courts asked only for witnesses who could attest to the fact that the community considered the couple to be married. In instances of the latter, the number of witnesses required varied: one family was asked to produce five witnesses, but in another case, the judge asked only that the couple produce one witness from each spouse’s family.

Early marriage

Early marriage is widespread in Syria and many Syrian girls in Jordan continue to be married before the age of 18, in violation of their rights under international human rights law.⁸² In Jordan, girls need a judge's approval to marry between the ages of 15 and 18 lunar years (the judge must also obtain the consent of the Chief Justice to the marriage).⁸³ If a girl marries informally between 15 and 18, the couple may face difficulties obtaining a marriage ratification certificate, depending on how the judge views their case. Jordanian law does not permit marriages before the age of 15 in any circumstances; as such, purported marriages involving children below the age of 15 cannot be registered. Consequently, because proof of marriage is a requirement for birth registration, the children of early marriages are often unregistered. In 13 cases (out of the 51 marriages discussed) the wife had married before the age of 18. In six of those cases, the wife was 15 or younger when she married – in two cases, she was 13.

One Syrian mother arranged the marriage of her 13-year-old daughter to a 24-year-old man, but is now trying to obtain a divorce for her. The family arrived in Jordan in December 2013, after the mother and daughter had been injured in the bombing of their town. The mother stated that shortly after they arrived, she fled Za'atari camp to escape her abusive husband, taking her daughter with her. Alone and unwell, the mother decided she needed to find a husband for her daughter. She said, "I wanted someone to give her a sense of security – to protect her because her father didn't. I couldn't protect her because of my health." Her daughter was married by a sheikh in January 2014 and gave birth to a child nine months later. She has been unable to register the child's birth because she lacks proof of marriage. The mother regrets marrying her daughter at 13, describing her actions as "naïve." While she acknowledges that the Government of Jordan has a right to not approve early marriages, she believes they should "have some compassion" and "consider people's situations."

There were also inconsistencies on the question of whether a couple was required to provide proof or make a declaration that they were eligible to marry. In one case, the court followed a process that applies to foreigners generally, but from which the Government of Jordan has exempted Syrians: the judge asked a couple to obtain a document from the Syrian Ministry of the Exterior proving that neither husband nor wife had been married in Syria. However, the couple went back to the court during the exemption period and were asked only to make a declaration that they had not been married before. The couple obtained a marriage ratification certificate. Overall, there is a perception that some courts and judges are more lenient than others: one couple travelled to another town to try to ratify their marriage because they heard there was a judge there who was "going easy with the procedures."

Additionally, although the Chief of the Shari'a Supreme Court ruled that informal marriages conducted outside Jordan should not attract the JOD 1,000 fine, it is unclear if judges are consistently applying this ruling. Two couples who had sheikh marriages conducted in Syria obtained marriage ratification certificates without paying the JOD 1,000 fine, but in those cases, the fine could have been waived for reasons other than the ruling: in one case, the couple received the certificate during the 2014 exemption period; in the other, the couple received the certificate after the 2014 exemption period (and before the 2015 exemption period), but said they believed that the fine was waived only because they started the process prior to the 2014 exemption period.

Onerous costs

The marriage registration process entails significant costs in money and time. Most notably, the travel costs involved in the marriage registration process can be onerous. The bride's legal place of residence in Jordan – typically the location listed on her Mol Service Card – is supposed to determine the court that has jurisdiction to conduct or ratify the marriage. NRC estimates that by May

2015 40 per cent of Syrian refugees registering for assistance moved at least three times in the previous year.⁸⁴ Therefore, in many instances, the couple, wife's guardian, and witnesses may be required to make multiple trips to a court located in a different part of Jordan. One household estimated their marriage-related travel costs at around JOD 200 (USD 280), based on two couples, four witnesses, and one guardian travelling to a court about 70 km away. Another couple attempted to marry in a local court: they were turned away and told to travel to a city 35 km away where the wife's Mol Service Card was registered. Even in cases where the wife's Mol Service Card is registered locally, a member of the family, usually the husband, must travel to Amman to obtain an Mol approval letter. Often more than one family member will travel to Amman. In one case during the 2014 exemption period, two brothers went to Amman three times, at a cost of JOD 10 (USD 14) per trip, in the hopes of obtaining Mol approval, but were unsuccessful.

While court fees in Jordan are comparatively low, even small fees may constitute a hurdle to marriage registration in a context where more than eight in ten Syrian refugees are estimated to be living on less than JOD 68 (USD 96) per month.⁸⁵ Refugees said they paid between JOD 20 (USD 28) and JOD 32 (USD 45) in court fees. One couple stated that a judge approved their marriage ratification during the 2014 exemption period, but they failed to obtain the certificate as they could not afford the JOD 20 (USD 28) marriage certification fee and the additional fee of JOD 70 (USD 99) payable because it was the husband's second marriage.⁸⁶

A major possible expense is the JOD 1,000 court-imposed fine for informal marriages, although the two exemption periods have allowed couples to register marriages without incurring this expense.⁸⁷ Twelve couples stated that to avoid the fine, they attempted to ratify their informal marriage during the 2014 exemption period. Only four were successful; the rest encountered problems at the Mol approval stage or were unable to satisfy court requirements, such as producing witnesses. One couple who began the process before the 2014 exemption period start-

Divorce

This report does not examine in detail the challenges or consequences related to divorce. Nonetheless, divorce was discussed in interviews with five families. These interviews drew out some aspects of the relationship between divorce and birth and marriage registration.

In three cases a woman was seeking a divorce from a husband who was obstructing the process. In each of those cases, a couple with an informal marriage had had a child in Jordan, and the wife was trying to legalise the marriage so that she could register the child and then obtain an official divorce. For example, a young informally married and divorced mother was unable to register her child born in Jordan because she did not have a proof of marriage: she had had a sheikh marriage in Syria and the divorce was oral. Her husband lived in Syria and was not responding to her requests to formalise their marriage and divorce.

She wanted legal proof that she was her daughter's mother because she feared her husband would take the child from her. She said, "I need to show that that's my daughter. I don't want people to doubt me . . . My daughter is my life; if I lose my daughter, I lose my life."

ed managed to register their marriage after that period ended. A father, whose son benefited from the 2014 exemption, described it as "blessed."

Time is also a factor. The duration of the marriage ratification process families reported ranged from several weeks to seven months. Additionally, every process involved several sessions: even a straightforward marriage ratification application during the 2014 exemption period entailed "four or five" trips to court over a five-week period. Not every family could attend all of these sessions. The parents of a 15-year-old wife wanted to initiate a lawsuit to make her early marriage legal because, as her mother stated, "when you legalise it in court you preserve the daughter's rights." However, the husband worked in the United Arab Emirates and could not come to the court multiple times. Instead, the family used contacts in Syria to obtain a Syrian marriage certificate.

V. Death registration

When a person dies in Jordan, the hospital provides the family with a death notification. A member of the deceased's family must then bring the death notification to the Civil Status Department to apply for a death certificate at a cost of JOD 1 (USD 1.40). The family member must provide an identity document for the deceased as well as his or her own identity document. If the family registers the death more than seven days after it occurred, they must pay a JOD 10 (USD 14) fine.⁸⁸ If the family does not register within one year, they must file a lawsuit in the Magistrates courts. Syrian refugees cannot use the Jordanian process to register deaths that occurred in Syria.⁸⁹

Death registration in Jordan was discussed with five families:

- Two families had gone through the registration process and received death certificates.
- Three had not obtained death certificates for deaths that occurred more than a year prior.

In one case, the family did not have a death notification. After his father died at home in 2013, a 39-year-old son took the body to the hospital, where it was stored in the morgue before burial. The hospital gave the son a morgue storage fee receipt, but no death notification. More than a year later, the son found out about the Jordanian death registration process, but when researchers visited, he had not taken any steps because he left the camps outside of the bailout process and feared approaching the authorities. Nevertheless, he said that acquiring a death certificate was important for him so that he could inherit his father's land in Syria. As nearly two years had elapsed since his father's death, he estimated that he would have to pay a JOD 700 or 800 (USD 990 or 1,130) fine to register the death, but he had not discussed the issue with a lawyer.

In another case, a woman's husband, who was injured fighting in the war in Syria, was brought to Jordan for medical treatment in early 2013 and died shortly afterwards. Several weeks after her husband died, the woman fled to Jordan while heavily pregnant. She thought that the Jordanian authorities "don't give burial permits for fighters" and she had not been aware of the Jordanian death registration process at the time, although she did have a death notification. When she attempted to register her child's birth, the Civil Status Department told her she needed proof of marriage, which she could not obtain as the couple had an unregistered sheikh marriage and she did not have a death certificate to prove her husband died.

“ I would go to Mars to get the documents we need ”

Syrian refugee mother of four

One family's birth, marriage, and death registration problems demonstrate the interlinked nature of different civil documentation issues and the possibility that problems spiral into a family never registering any vital events.

The family – a man and his two wives – came to Jordan in early 2013. Shortly after arriving in Jordan, the first wife, who suffered from heart problems, died suddenly at home. The family received a death notification from the hospital, but did not realise they needed to take it to the Civil Status Department to complete the registration process. Since arriving in Jordan, the second wife has given birth to four children. The couple were married by a sheikh in Syria and they sought to ratify their marriage in Jordan to obtain birth certificates for their children. They started the ratification process at the local Shari'a court, but heard from a relative that they would not receive Mol approval because they left the camps outside of the bailout process. The couple was afraid to travel; the wife told researchers, "You will see police cars on the highways, checking IDs – they will send you back to the camps if you don't have a bailout document." Consequently, they have been unable to advance the marriage ratification process. Three of their unregistered children have already reached the age of one, which means that the couple must initiate a lawsuit to register these children's births.

Registration matters to the family primarily because they hope to be resettled in another country to give their children a better life. The family said that the International Organization for Migration has repeatedly told them they must all be listed on the same Asylum Seeker Certificate to be eligible for resettlement, but the first wife's name still appears on the husband's certificate; the second wife and her children have a different certificate. The family has been told they need a death certificate to remove the first wife's name from the husband's Asylum Seeker Certificate. Because more than a year has passed since the death, the family must initiate a lawsuit: they expect to face a fine of between JOD 100 and 150 (USD 140 and 210), which is beyond their means.

When researchers visited, the wife was caring for her four young children as well as her five-year-old niece. Because her husband is illiterate, she has shouldered most of the burden of dealing with their civil documentation issues. She expressed a strong desire to resolve these issues, stating, "If they asked me to go to Mars, I would go to Mars to get the documents we need." She said: "I constantly think about this. It's not just about the problems of money. There's so much pressure on us, especially me, with five children. It's very hard for me. I live far from the city and I can't do anything. [...] I know the whole process, and I am willing to do anything, but I can't"

VI. Consequences of non-registration

Refugees interviewed for this report considered civil documentation to be important to their lives, both now and for the future. Unregistered births, marriages, and deaths produced concrete and perceived consequences for families. For example, many families experienced or feared denial of healthcare or education for their unregistered children. In the future, if Syrian children remain unregistered, there is a risk that they will become stateless. A large number of families worried about being unable to take an unregistered child back to Syria because they could not prove the child's identity, nationality, or relationship to the family. Unregistered marriages and deaths have also had consequences. For the majority of couples, the most important consequence of being unable to register a marriage was that they were also unable to register their children's births. Additionally, if marriages and deaths remain unregistered, inheritance, property, and other rights may be affected. Some families had resorted to risky strategies, such as borrowing others' identity documents, purchasing or using fraudulent documents, or travelling back to Syria to obtain documents, in an attempt to register vital life events.⁹⁰

Restricted access to services for children

Birth registration helps to secure children's rights to health and education. Twenty families talked about the link between birth registration and access to services in Jordan. Ten families described problems they had already experienced accessing subsidised public healthcare for unregistered children; the other ten families were worried about healthcare in the event their unregistered child fell ill. At the beginning of the

Syrian crisis, some families were able to obtain Mol Service Cards for unregistered children; however, the vast majority of unregistered children discussed during interviews did not have Mol Service Cards. The father of one newborn baby, who could not be registered because the parents lacked proof of marriage, said, "We know we can't get essential services because he will not be able to get an Mol Service Card." Another father believed it was important to "have documents here in Jordan, like ID and an Mol Service Card [...as] Jordan will not provide any health services if [the child's] not registered."

As a coping mechanism, several families said that they went to pharmacies, rather than hospitals, for medical treatment or paid for treatment because their child was unregistered. One mother who bought her son's medication from a pharmacy said, "We can't go to hospital because he doesn't have an Mol Service Card," and in future, "I will act as the doctor myself, or go to a pharmacist." In another case, when an unregistered child became ill the family resorted to borrowing the Mol Service Card of another baby to obtain medical treatment at a health centre. A health centre employee realised the Mol Service Card did not belong to the baby and threatened to call the police. Since that incident, the family has sought treatment only from a pharmacist. A father, whose daughter had medical problems, said, "We think that even if we took her to the hospital, she wouldn't be admitted, because she doesn't have an Mol Service Card. So the only place we're taking her right now is the pharmacy [because] no ID is required at the pharmacy." In another case, a mother described her daughter's health problems and the financial burden they placed on the family: "She has to take medication, but because she doesn't have a birth certificate, she doesn't have an Mol Service Card, so

no hospital or clinic could give me [subsidised] medication – I have to pay for it from my own money."

In addition to describing healthcare concerns, 13 families were also worried that an unregistered child would be unable to access education in the years to come. An 18-year-old mother believed her unregistered daughter had "no future" if she did not receive an education. Another mother said that she felt "very upset" when the Civil Status Department refused to register her child "because to me a birth certificate means a child can have an Mol card and so can access services such as health and education in the future." A father whose child was registered said that registration was important to him because "[my son] has rights to education and to health and he can't acquire these rights without a birth certificate."

Other significant risks to children's rights

A variety of other rights are at risk when children remain unregistered. One of the most significant is the right to a nationality. Under Syrian and Jordanian law, nationality is passed through the father; if a Syrian woman gives birth in Jordan but the couple cannot prove that they are lawfully married and so cannot obtain a birth certificate, the child may, in effect, become stateless.⁹¹ The same is true for children born in Syria whose births were not registered there. Refugees interviewed for this report expressed concern about this issue. One mother whose daughter lacked a birth certificate described her as "like a stateless person." A man wanted a birth certificate for his granddaughter because "she needs to be identified as Syrian."



A 53 year-old Syrian grandfather living in Irbid has struggled to register births and marriages for his family of 18 in Jordan.

International human rights linked to birth registration include the right to legal identity and the right to recognition as a person before the law. Reflecting on birth registration, one man observed, “It’s important for each person to be registered – for every human”; another mother asserted, “It’s [my daughter’s] right to be registered, just like her sisters and brothers.” International experience suggests that in the long term, unregistered children are at greater risk of early or forced marriage, becoming victims of human trafficking, and working unlawfully under dangerous conditions, which highlights the importance of establishing a child’s legal identity at the earliest possible opportunity.⁹²

Lack of a birth certificate could also affect a family’s ability to travel together, imperiling family unity, a right protected under international law and an important principle of refugee protection.⁹³ Families may encounter problems taking unregistered children to Syria (or a third country) when circumstances permit their travel

because they cannot prove their unregistered child’s identity, nationality, or relationship to the family. Twenty-four families expressed the view that families needed birth certificates – and the prerequisite legal proof of marriage – to be able to take their children back to Syria with them. One mother said that her greatest fear was that “if I go back to Syria, I can’t take [my daughter] with me because she has no ID.”

A number of families described the importance of having proof of the child’s relationship to the parents and other family members. One young mother feared, “When we go back to Syria, they will say, ‘This is not your daughter; there isn’t any proof.’” Another father stated, “We need proof to go back to Syria [...] Jordanians will not let us go back to Syria, and Syrians will not let us come back [with the child]. They will ask us, ‘Where is this child from?’” One family was concerned that they would be accused of human trafficking if they tried to leave Jordan for Syria with their unregistered child. For at least three families, these concerns meant they were worried about having more children while they were living in Jordan.

Consequences of unregistered marriages and deaths

While birth registration was the primary motivating factor behind most families’ desire to register marriages, families described additional consequences that stem from non-registration, including protection of the woman’s rights. For example, families articulated a desire to protect the wife’s rights set out in the marriage contract. The mother of a girl who married in court at age 16 said that having a legal marriage was important “in order to have proof of marriage to protect her – to preserve her rights in case they disagree later, [but also] to be able to move together and live together.” Another mother, whose daughter had a marriage certificate, said that “here in Jordan it’s much better than in Syria because when you legalise [the marriage] in court, you preserve the daughter’s rights.” Furthermore, several families stated that a legal marriage was important to prove relationships to authorities: one husband worried, “If police stop and ask me, ‘What is your relationship with this woman?’ I can’t prove she is my wife [without a marriage certificate].”

Unregistered deaths also have consequences, primarily in terms of inheritance and remarriage. A widow who lacks proof of her husband’s death cannot legally remarry, for example. Additionally, for families who buried their loved ones without first obtaining a death certificate, there may be legal consequences, such as criminal prosecution. Deaths that occurred in Syria and were not registered there are particularly problematic.

In a case reported to NRC staff, a woman’s husband died in Syria and she remarried through a sheikh in Jordan. She has no proof her first husband died except for a few photos of his corpse. She and her new husband applied for a marriage ratification certificate in Jordan, but the judge required a death certificate to prove she was no longer married to her first husband. The couple tried to find a way to register the death in Syria, without success. Complicating matters, refugees have also told NRC staff that an opposition-affiliated group, the Syrian Agency for Documentation, is issuing unofficial death certificates for opposition fighters killed in Syria.

Resort to risky registration strategies

Obstacles that refugees encounter in registering births, marriages, and deaths have led some families to resort to risky strategies to register life events. For example, after the 2014 informal marriage fine exemption period ended (and before the 2015 exemption was announced), some informally married couples engaged in illegal tactics to avoid the fine: one young couple who were married by a sheikh in Jordan decided to pretend they were not already married and obtained a marriage certificate – instead of a marriage ratification certificate – on this basis. The couple has been unable to register their child born in Jordan because of complications due to the fraud. The wife described feeling “helpless,” because, even if their lawsuit to try to remedy the situation was ultimately successful, they still could not pay the JOD 1,000 fine for their informal marriage.

Some couples who left the camps outside the bailout system have tried to work around the Mol approval process for marriage. One family

reported losing JOD 450 (USD 635) to a scam when they tried to obtain bailout documents so that they could receive an Mol approval letter. Another family said that some refugees living in host communities have gone to Za’atari camp to obtain a “leave request” for three or four days, during which time they could travel to the Mol to seek approval, while giving the appearance that they were living in the camp. In a case in which the husband had left the camps outside the bailout system, the family sent an elderly member of the family to Amman to seek Mol approval because they thought, “He is a very old man; they wouldn’t possibly send him back to Za’atari.” In that case, the couple obtained Mol approval.

In some cases, refugees have borrowed others’ identity documents or Mol Service Cards during registration processes. A 22-year-old man who left the camps outside the bailout system and did not have an Mol Service Card said he used his brother’s identity to get married. In another case, reported to NRC staff, a woman who was not registered with UNHCR produced her aunt’s Asylum Seeker Certificate when she entered hospital to give birth in order to avoid paying high fees. As a result, the birth notification incorrectly listed the aunt as the child’s mother.⁹⁴

Other families have sought documentation from Syria. In one case reported to NRC staff, a couple left their original marriage certificate in Syria; the husband returned to Syria in order to retrieve the marriage certificate, but was refused reentry to Jordan by Jordanian officials. His wife has since given birth to a child, but has been unable to register the birth because she lacks proof of marriage. In other cases, relatives or friends in Syria have helped families obtain necessary documents at substantial risk. In at least one case, a family used contacts in Syria to obtain a Syrian marriage certificate for a marriage conducted in Jordan. One family left a child’s birth notification in Syria and told researchers that the child’s grandfather, who remains in Syria, planned to go to the local Civil Status Department office to try to have the child stamped into the family book, but ongoing bombing had prevented him from doing so.



A 36-year-old father worries about his son’s future, as he does not have a birth certificate.

VII. Addressing challenges

The Government of Jordan, UNHCR, and other protection actors have already done much to promote civil documentation and make processes accessible to refugees. For example, the two time-bound exemptions from the penalties for informal marriages have given refugees the opportunity to legalise marriages without incurring significant fines. Additionally, a joint birth registration campaign by UNHCR, UNICEF, and the Jordanian Government's Syrian Refugee Affairs Directorate as well as advocacy from protection actors around birth registration have facilitated birth registrations for many Syrian refugees.⁹⁵ Nonetheless, the Jordanian civil documentation system should further adapt to better deal with complexities arising from displacement. Addressing challenges requires a concerted effort by Jordanian authorities and international partners to ensure rights are upheld to the fullest extent possible. In particular, the registration of all Syrian births in Jordan should be a central goal, in light of the host of rights that are implicated if births remain unregistered and the consequences of non-registration, including the risk of statelessness and the increased risk of trafficking and abuse.

Many challenges can be addressed by drawing on guidance produced by UNHCR, UN human rights bodies, and civil society actors. This guidance highlights a number of best practices around civil documentation, such as educating communities about civil documentation and its importance and ensuring that registration is free, simple, accessible, and user-friendly.⁹⁶ Adhering to these best practices will help ensure refugees' rights are promoted and protected. A robust civil registration system for Syrian refugees is also in Jordan's interest. Birth registration, for example, facilitates access to

services that keep children healthy, safe, and away from the informal sector. It also supports the Jordanian authorities to maintain accurate information on the number of refugees in Jordan so that they can plan for refugees' needs and seek appropriate international assistance.

Four areas require particular attention to ensure better protection of rights and prevent short and long term consequences stemming from the lack of registration: acknowledging and expanding flexibility in civil documentation processes; eliminating the most onerous elements of civil documentation processes; protecting unregistered children; and raising awareness and increasing outreach.

The Government of Jordan and actors working with Syrian refugees in Jordan cannot shoulder the responsibility for addressing challenges alone. The international community has a role to play in promoting the recommendations outlined in this report and providing assistance to enable their implementation.

1. Acknowledging and expanding flexibility in civil documentation processes

The Civil Status Department, Shari'a courts, and Magistrates courts each play a role in civil documentation processes in Jordan. The influx of Syrian refugees has meant these institutions have had to cope with an increased workload and larger number of cases in which individuals struggle to meet formal requirements.⁹⁷ Requirements that are straightforward for most Jordanians to meet, such as providing proof of marriage to register a birth, often present barriers for Syrian refugees. Important adjust-



A mother with her children. The woman and her husband were recently able to obtain a marriage ratification certificate.

ments have already been made: the exemption periods, for example, have provided valuable opportunities for many couples to register their informal marriages. In addition, the Civil Status Department has reduced some of the documentary requirements to facilitate the registration of Syrian children born in Jordan. However, practices have been inconsistent and in a number of cases encountered in the research for this paper it appeared that some officials had exercised discretion in a manner that did not support access to civil documentation.

Civil documentation institutions need to further adapt to meet the challenge of providing accessible civil documentation to Syrian refugees. A balance must be struck between maintaining flexibility to deal with a variety of scenarios and ensuring consistency to enable refugees and officials to predict with accuracy how a situation might be treated. The Committee on the Rights of the Child – the official body that monitors implementation of the Convention on the Rights of the Child – notes that “an effective system must be flexible and responsive to the circumstances of families.”⁹⁸ The UN Human

Rights Council has called on states to have in place “universal, accessible, simple, expeditious and effective registration procedures,” as well as “to ensure adequate training for registration officers, to allocate sufficient and adequate human, technical and financial resources to fulfil their mandate, and to increase, as needed, the number of birth registration facilities, paying attention to the local community level.”⁹⁹

Flexibility on the documents that are required to complete a process is particularly important. As OHCHR has noted, “[T]he displacement of the population within and across State boundaries [as a result of armed conflict and other emergency situations] can cause difficulties not only for registration but also for the retrieval of documents.”¹⁰⁰ Because “obtaining these documents can be exceedingly difficult or impossible,”¹⁰¹ OHCHR states that “excessive documentation requirements [are an] obstacle to registration” and, “as a result, flexible rules of proof are required.”¹⁰² For example, the CEDAW Committee has recommended that states should “provide for establishing proof of marriage by means other than registration where circum-

stances warrant.”¹⁰³ Additionally, as a matter of best practice, states should assist refugees to obtain documentation that is normally provided by their home country, but cannot be obtained due to circumstances in that country.¹⁰⁴

It is advised that the Government of Jordan should:

- Be supported by donors and partners to continue to return retained documents in an expeditious manner to help refugees complete of civil documentation processes;
- Facilitate registration procedures with national authorities and UNHCR to support refugees’ access to civil documentation;
- Encourage Civil Status Department and Shari’a court officials to appropriately exercise discretion in granting birth, death, marriage and marriage ratification certificates and modify procedural aspects that pose an undue or disproportionate burden on Syrian refugees including by accepting alternative evidence of marriage for birth registration (such as UNHCR Asylum Seeker Certificates) and waiving in-person guardian and witness requirements for marriage ratification cases;
- Explore the possibility of waivers of court fees for marriage registration;
- Formalise procedures to allow Syrian refugees to present copies of identity documents or family books at Civil Status Department offices and Shari’a courts work towards developing alternative processes for proving identity when refugees cannot produce originals or copies of official documents.

It is advised that humanitarian and development partners should:

- Continue trainings with Shari’a court judges to increase knowledge of international law and the importance of facilitating Syrian refugees’ access to civil documentation;
- Continue to convene roundtables with

judges, lawyers, and practitioners on international refugee law and best practices around civil documentation;

- Continue strengthening effective coordination between agencies that provide legal services related to civil documentation for Syrian refugees.
- Provide financial, technical, and other assistance to the Government of Jordan and its partners to facilitate access to civil documentation for Syrian refugees.
- Continue to ensure a flexible approach regarding proof of birth, marriage, and death in order to facilitate amendments to Asylum Seeker Certificates.

2. Eliminating the most onerous elements of civil documentation processes

Jordanian civil documentation processes have been primarily designed for Jordanian families, who on the whole conduct marriages in court and obtain birth and death certificates within time limits. Jordanians usually encounter the most burdensome elements of the civil documentation system only in exceptional cases. Many Syrian refugees, however, encounter these elements, such as the need to file a lawsuit once a child is older than one year, much more frequently. As foreigners, refugees also have to receive Mol approval for marriage, a requirement that Jordanians do not have to meet. This can result in complex legal issues that the Jordanian courts are not accustomed to resolving.

Eliminating the most onerous elements, particularly around fines and time limits, is a key step to improving refugees’ access to civil documentation in Jordan and easing the burden on courts to deal with cases that could be resolved administratively. The UNHCR Executive Committee Conclusion on Civil Registration urges states to “undertake any necessary legal and practical measures to overcome the difficulties in conducting civil registration”¹⁰⁵ and encourages states

to “adop[t] simplified administrative procedures.”¹⁰⁶ The Conclusion specifically encourages states to “facilitat[e] late registration and... waiv[e]... late registration fees and penalties.”¹⁰⁷ The UN Human Rights Council also urges states “to facilitate late registration of births.”¹⁰⁸ The CEDAW Committee recommends that in circumstances “where lack of education and infrastructure makes registration difficult,” couples should not be penalised for failing to register their marriage.¹⁰⁹

It is advised that the Government of Jordan should:

- Continue to approve time-bound periods in which the penalties for the late registration of marriages conducted in Jordan or in Syria are waived and explore the possibility of establishing periods in which the fine for late birth registration of children born in Jordan is waived;
- Consider eliminating for Syrian refugees the requirement that families must initiate a lawsuit to register a birth or death that occurred in Jordan more than one year previously.
- Explore alternatives to the requirement for approval from the Mol for Syrian refugees to register their marriages;
- Enable marriage registration for Syrian refugees to take place at the most convenient local court, regardless of the geographic designation on either spouse’s documentation.

It is advised that humanitarian and development partners should:

- Support and engage in dialogue with the Government of Jordan to explore ways to eliminate elements of civil documentation processes that are especially onerous for Syrian refugees.

3. Protecting unregistered children

The number of unregistered Syrian children in Jordan is unknown, but is likely to

be significant. One population at particular risk is unregistered children born in Syria, who under the current framework, cannot be registered in Jordan. Similarly, in some circumstances, Syrian families may find it difficult to register children born in Jordan. Even in scenarios where a legal route to registration exists, children may remain unregistered for a variety of reasons, such as their parents encountering problems registering an informal marriage.

The situation of unregistered children requires specific attention. Every Syrian child in Jordan should have a legal route to registration and unregistered children should enjoy the same access to services, such as health and education, as registered children. Closing these gaps will help better protect Syrian children’s human rights. The Committee on the Rights of the Child has emphasised that it is important to “[ensure] that children who have not been registered have equal access to healthcare, protection, education and other social services.”¹¹⁰

It is advised that the Government of Jordan should:

- Work towards closing all gaps in the current framework that prevent birth registration and impede recognition of Syrian children’s nationality, including developing alternatives for the registration of children living in Jordan who were born in Syria but who were not registered in Syria and a process for the registration of children born to underage Syrian refugee mothers;
- Consider allowing UNHCR to issue Asylum Seeker Certificates outside of camps for all Syrian children born in Jordan regardless of their parents’ legal status;
- Ensure the consistent application of the existing practice that new Mol Service Cards should be issued to children born in Syria who are listed on the family’s UNHCR Asylum Seeker Certificate.

It is advised that humanitarian and development partners should:

- Support and engage in dialogue with the Government of Jordan on civil documentation processes and the protection of unregistered children.

4. Raising awareness and increasing outreach

Awareness-raising and outreach activities about civil documentation are a crucial means to improve understanding among refugees about the processes as well as the importance of registration of life events for individuals and families. The UNHCR Executive Committee Conclusion on Civil Registration, guidance from the UN Human Rights Council, and commentary from OHCHR recommend that states conduct regular awareness-raising campaigns and community outreach activities about civil documentation processes.¹¹¹ Similarly, OHCHR has called on states to “mobilize communities, in collaboration with other stakeholders, to raise awareness of the importance of birth registration, particularly among marginalized groups.”¹¹² Awareness-raising and outreach activities should not be narrowly targeted at the couple wishing to marry or the parents wishing to register a birth, but should recognise that in Syrian families civil documentation is often a household exercise.

While many families interviewed for this report knew about Jordanian civil documentation processes, their experience was that processes were more formal and more complicated in Jordan than in Syria. Refugees were often confused about particular steps in a process or unsure where their own cases stood. Additionally, while families frequently described civil documentation problems as a source of worry, civil documentation was only one of many issues each family was facing. During interviews, families often turned the conversation to concerns about meeting immediate needs and their fears for the future. In this context, it is sometimes hard for households to prioritise starting or continuing civil documentation processes that can be confusing, complex,

and entail multiple stages across a lengthy period of time. Awareness-raising activities must take account of these challenges.

It is advised that the Government of Jordan should:

- Support and supplement the efforts of partners in conducting ongoing community outreach campaigns for Syrian refugees on civil documentation, in coordination with UNHCR and other international and national actors;
- Support national authorities to provide appropriate advice and support to Syrian refugees on civil documentation.

It is advised that humanitarian and development partners should:

- Support the Government of Jordan in increasing awareness of the procedures for obtaining and the importance of civil documentation among Syrian refugees and host communities, including through coordination with all relevant stakeholders and specifically through working with national and local health authorities;
- Support the Government of Jordan in collecting and analysing data related to Syrian refugees’ access to civil documentation in order to design evidence-based policies and procedures;
- Support individual households and families to access civil documentation through expanded information, counselling and legal assistance programmes.

The family of this Syrian refugee child left his birth certificate behind when they fled to Jordan.



VIII. References

1. In Jordan, the term "Syrian refugee" is widely used, including by the Government of Jordan, to describe people of Syrian nationality who have entered Jordan since the start of the conflict. Formally, UNHCR registers all persons of concern in Jordan claiming to be in need of international protection as asylum seekers, pending evaluation of their asylum claim in accordance with the Statute of UNHCR and a Memorandum of Understanding between UNHCR and the Government of Jordan. In this report, the term Syrian refugee is used to describe people of Syrian nationality who have registered with UNHCR, as well as Syrians who have not registered with UNHCR but are seeking international protection in Jordan. The report does not cover Palestinian refugees from Syria who are currently residing in Jordan. The number cited refers to the total number of persons of concern to UNHCR. UNHCR, "Registered Syrians in Jordan," 15 September 2015. All publications relating to Syrian refugees in Jordan referenced in this report can be found at UNHCR's Inter-Agency Sharing Portal on Syrian refugees: <https://data.unhcr.org/syrianrefugees/>.
2. The report is therefore focused on a subset of civil documentation and not, for example, identity documents or passports.
3. UNHCR, "Registered Syrians in Jordan," 15 September 2015.
4. See NRC Lebanon, *Birth Registration Update: The Challenges of Birth Registration in Lebanon for Refugees from Syria* (January 2015), p 7: "[M]ajor obstacles make it very challenging for refugees [in Lebanon] to acquire adequate documentation for their children, limiting these children's right to a legal identity, increasing the risks of statelessness, and creating serious protection issues for refugee families from Syria"; and Refugees International, *Birth Registration in Turkey: Protecting the Future for Syrian Children* (April 2015).
5. UNHCR refugee partner reporting January to May 2015.
6. For the purposes of this report a family comprises a husband, wife (or wives), and their children. On some occasions, the interview was with only one member of a married couple. On almost all occasions, interviews were not conducted solely with the couple, but also with other members of the household. On some occasions (usually when the couple was very young), the couple was not present during the interview and researchers spoke to close relatives, typically the head of household. Researchers did not record refugees' names, and any information that could lead to a family's identification has been omitted from this report.
7. The phrase "reported to NRC staff" is used in the report to identify these cases and distinguish them from families interviewed in March 2015.
8. United Nations, *Principles and recommendations for a vital statistics system, Revision 2* (2001), p 4.
9. Jordan also has obligations under international refugee law, even though Jordan is not a party to the Convention Relating to the Status of Refugees (commonly known as the 1951 Refugee Convention). For example, the principle of non-refoulement is a norm of customary international law that Jordan is obliged to respect. In practical terms, respect for the principle of non-refoulement requires that asylum seekers be protected against return to a place where their life or freedom might be threatened until it has been reliably ascertained that such threats do not exist and that, therefore, they can return. The Office of the High Commissioner for Refugees (UNHCR) and the Government of Jordan concluded a Memorandum of Understanding (MoU) in 1998. Article 5 of that MoU states, "[a]sylum should be humanitarian and peaceful and therefore the two parties have agreed that asylum seekers and refugees should receive a treatment as per the international accepted standards." The MoU was amended in 2014, but has not been made public. Article 5 is not thought to have changed.
10. Convention on the Rights of the Child, Article 7; International Covenant on Civil and Political Rights, Article 24; Convention on the Rights of Persons with Disabilities, Article 18(2). Unless otherwise noted, Jordan is a party to all treaties referenced in this report.
11. United Nations Human Rights Council, "Birth registration and the right of everyone to recognition everywhere as a person before the law," A/HRC/19/L.24 (2012).
12. Article 22. See, Article 7 (birth registration and nationality).
13. International Covenant on Civil and Political Rights, Article 24; Convention on the Rights of the Child, Article 7; Convention on the Rights of Persons with Disabilities, Article 18(2). See NRC, *Statelessness and Displacement: scoping paper* (May 2015). A stateless person is a person who is "not considered as a national by any state under the operation of its law." Convention relating to the Status of Stateless Persons, Article 1. Although Jordan is not a party to this treaty, the definition is customary international law and therefore part of Jordan's international obligations. See International Law Commission, *Articles on Diplomatic Protection with commentaries* (2006), p 49.
14. Office of the UN High Commissioner for Human Rights (OHCHR), *Birth registration and the right of everyone to recognition everywhere as a person before the law*, A/HRC/27/22 (2014), paras 23 and 24.
15. Convention on the Rights of the Child, Articles 28 (education) and 24 (health); International Covenant on Economic, Social and Cultural Rights, Articles 13 (education) and 12 (health).
16. OHCHR, *Birth registration and the right of everyone to recognition everywhere as a person before the law*, para 31.
17. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime, Article 9(1)(a); see also Convention on the Elimination of All Forms of Discrimination Against Women, Article 6.
18. Convention on the Rights of the Child, Article 3.
19. Article 3 of the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages states that all marriages must "be registered in an appropriate official register by the competent authority." Article 16(2) of the Convention on the Elimination of All Forms of Discrimination Against Women also requires that states take "all necessary action, including legislation, ... to make the registration of marriages in an official registry compulsory."
20. Committee on the Elimination of Discrimination against Women (CEDAW Committee), *General recommendation on article 16 of the Convention on the Elimination of All Forms of Discrimination against Women, Economic consequences of marriage, family relations and their dissolution*, CEDAW/C/GC/29 (2013), para 25.
21. OHCHR, *Preventing and eliminating child, early and forced marriage*, A/HRC/26/22 (2014), para 15. See OHCHR, *Birth registration and the right of everyone to recognition everywhere as a person before the law*, para 29.
22. Convention on the Elimination of All Forms of Discrimination Against Women, Article 6. See also Article 1 of the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery: states must "take all practicable and necessary legislative and other measures" to abolish "any institution or practice whereby ... a woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person or group."
23. UNHCR Executive Committee Conclusion on Civil Registration (2013), clause (d)(iv),(v).
24. Civil Status Law (No 9 of 2001). It should be noted that registering a birth in Jordan does not confer Jordanian citizenship on a child: under Jordanian law, only children born to Jordanian fathers are automatically Jordanian citizens. Nationality Law (No 6 of 1954), Article 3.
25. The Constitution of The Hashemite Kingdom of Jordan, Article 102.
26. *Ibid*, Articles 104-106. Matters of personal status are not the only issues over which the Shari'a courts have jurisdiction.
27. Personal Status Law (No 36 of 2010).
28. UNHCR, "Registered Syrians in Jordan," 15 September 2015. UNHCR and the Government of Jordan administer the refugee camps in Jordan, and, as of July 2015, the largest camp, Za'atari camp, accommodated more than 81,000 Syrian refugees. UNHCR, "Total Persons of Concern: Za'atari refugee camp."
29. UNHCR, "Registered Syrians in Jordan," 5 September 2015.
30. *Ibid*.
31. *Ibid*.
32. *Ibid*.
33. UNHCR, *Woman Alone: The fight for survival by Syria's refugee women* (2014).
34. UNHCR, *Jordan Refugee Response: Vulnerability Assessment Framework* (May 2015), p 14.
35. See Svein Erik Stave and Solveig Hillesund, *Impact of Syrian refugees on the Jordanian labour market* (International Labour Organization Regional Office for the Arab States and Fafo, May 2015), p 6. The authors estimate that around 10 per cent of Syrian refugees in Jordan have obtained work permits.
36. UNHCR, *Jordan Refugee Response: Vulnerability Assessment Framework*, p 7.
37. UNICEF, *A Study on Early Marriage in Jordan 2014* (2014), pp 22-23.
38. It is unclear if this number covers all Syrian children in Jordan, or only the children of Syrians who arrived since the beginning of the crisis. "27,103 Syrian children born in Jordan since March 2011 UNICEF," Jordan Times, 8 December 2014. In 2014, there were 18,590 births among refugees of all nationalities registered with UNHCR in Jordan, including 3,546 live births in Za'atari camp. As Syrian refugees make up nearly 93 per cent of the refugee population registered with UNHCR in Jordan, the vast majority of these births were likely within the Syrian community. UNHCR, *2014 Year in Review: UNHCR Jordan* (2014), pp 7 and 10. UNHCR reported that in March 2015, the Jordanian Civil Status Department, with UNHCR's help, "issued 2,367 birth certificates to refugee and asylum-seeker children ... (Syrian, Iraqi, Somali, Sudanese)." UNHCR, "Jordan: Operational Update, March 2015."
39. United Nations Population Fund, *Regional Situation Report for Syria Crisis*, 1-31 May 2015, Issue No 33, p 3.
40. UNHCR, *Jordan Response Plan, Refugee Pillar Needs Assessment* (October 2014).
41. UNHCR, *Jordan Refugee Response: Vulnerability Assessment Framework*, p 22. See also UNHCR, *Living in the Shadows – Jordan Home Visits Report 2014* (January 2015).
42. UNHCR, *Jordan Refugee Response: Vulnerability Assessment Framework*, p 22.
43. *Ibid*.
44. UNHCR, "Jordan RRP6 Monthly Update - August 2014 Protection," 29 September 2014.
45. UNHCR, "Information on the new bail out policy," mass communication pamphlet (available in Arabic and English), 13 August 2014.
46. NRC Jordan, *In Search of Home – Access to Adequate Housing in Jordan* (June 2015). See also Syria Needs Analysis Project (SNAP), "Regional Analysis, Syria, Q3 2014," 13 October 2014. UNHCR, "Zaatari Camp Fact Sheet," August 2015.
47. UNHCR, "Information on the new bail out policy."
48. UNHCR, "UNHCR in massive sorting effort to return ID papers to Syrian refugees," press release, 17 October 2013. Jordanian authorities gave out pink receipts for retained documents: in some cases authorities issued only one receipt for a family's documents, while in other cases, they issued separate receipts for each document retained.
49. UNHCR, *2014 Year in Review: UNHCR Jordan* (2014), p 10.
50. *Ibid*.

51. See Jordan Inter-Sector Working Group, "March 2015 Update" and "Syrian Refugees: Inter-Agency Regional Update (10-25 May 2015)".

52. SNAP, "Regional Analysis, Syria, Part B. Host Countries Q4 2014," January 2015.

53. UNHCR, "Jordan Operational Update," August 2015.

54. UNHCR, "Syrian Refugees: Inter-agency regional update, 10-25 May 2015." The 2015 urban verification exercise was in its very initial stages in the areas researchers visited in March 2015; consequently, few families had experience of the process. However, at least 14 families were waiting for retained Syrian identity documents to be returned.

55. UNHCR, "Jordan Operational Update," August 2015.

56. Civil Status Law, Article 13(a).

57. A certificate issued to couples who married outside the prescribed procedures and subsequently legalised their marriages. Marriage documentation is discussed below in "Marriage Registration for Syrian Refugees in Jordan."

58. Civil Status Law, Article 13(c).

59. Ibid, Article 35. For Jordanian citizens, the Civil Status Department and the Military are the defendants in the case; for Syrians, the Civil Status Department is the defendant.

60. The exception was a woman who gave birth at home with only her mother-in-law assisting (discussed below).

61. In the other two cases, one child did not have a birth notification (discussed below) and one family did not take the notification to the Civil Status Department (they found out about the birth registration process after the child was older than a year).

62. In cases where a child is born less than six months after the date of marriage, the parents must file a Paternal Ratification lawsuit or application in the Shari'a courts and obtain a positive judgment before they can register the child. A Paternal Ratification suit is also used in cases where there are problems with the birth notification, such as the father's name being omitted.

63. See Jordan Inter-Sector Working Group, "May 2015 Update."

64. Typically, an informal marriage is a marriage conducted outside the formal system that is officiated by a sheikh. This and other terms relating to marriage are described in the section on "Marriage Registration for Syrian Refugees in Jordan" below.

65. Jordanian law does not allow the Civil Status Department to register the births of foreigners born outside Jordan. See Civil Status Law, Article 3(b).

66. In a number of interviews in which families stated they had successfully registered children, families said that they had been asked for and provided original documents. In five cases a child could not be registered because family books or marriage certificates had been retained by Jordanian authorities, but researchers did not consistently ask whether the family had tried to present copies.

67. Personal Status Law, Chapter 2, Articles 5-13, "Conditions of Marriage". All the families interviewed were Muslim and so came under the jurisdiction of the state Shari'a courts. This does not examine marriage registration processes for non-Muslim Syrian refugees living in Jordan.

68. If a couple tests positive, they are not prohibited from marrying, but if they proceed with the marriage, they must sign an undertaking that states that they understand the risks and accept that the Government of Jordan will not pay for treatment costs.

69. See Personal Status Law, Articles 5 and 10(b). There is a special procedure to allow girls between the age of 15 and 18 lunar years to marry. See "Special Instructions to Grant Marriage

Permission for Those Who Are Below 18 Years of Age" (issued by the Chief Justice under Article 10 of the Personal Status Law), available in English translation in UNICEF, *A Study on Early Marriage in Jordan 2014*, p 45.

70. If it is not the bride's first marriage, a male guardian's consent is not required.

71. A new regulation has recently increased the fee for a marriage certificate or marriage ratification certificate from JOD 15 to 25 (USD 21 to 35). Court Fees Regulation (No 61 for 2015), Article 23. The fee for a second marriage – that is, a man who marries for a second time while his first wife is still living – increased from JOD 60 to 80 (USD 85 to 113) under the new regulation. In some cases, a couple must also pay a JOD 5 (USD 7) fee for an "absence of impediments" certificate. In March 2015, when interviews for this report took place, the previous fee regulation was in force.

72. Article 36(c) of the Personal Status Law states that the wife, husband, witnesses, and the sheikh who conducted an informal marriage may incur in a fine of JOD 200 (USD 280) per person and the penalty prescribed by the Jordanian penal code may be imposed. Article 279 of the Penal Code (No 16 of 1960) provides for a term of imprisonment of between one and six months for performing or assisting in performing an illegal marriage. In practice, imprisonment is very rare.

73. Another type of informal marriage is a traditional marriage, in which a couple marries before witnesses without a sheikh, but such marriages are not common.

74. A couple whose Syrian marriage certificate or family book was lost, destroyed, or left in Syria can also apply for a marriage ratification certificate.

75. Personal Status Law, Article 36(c).

76. UNHCR, "Jordan Operational Update," May 2015.

77. In one case, a problem with a guardian who was overseas; in another, with a witness who had lost an identity document; and in the third, the couple were unable to prove when their marriage took place.

78. Once because of fraud and in the other case, because the wife was underage.

79. The authors of a UNICEF study on early marriage in Jordan note, "Although registration of marriage is a legal requirement under Syrian law, in practice the penalties for failing to do so are not enforced, and questions of inheritance, divorce, etc. (governed by shari'a law) are not affected." UNICEF, *A Study on Early Marriage in Jordan 2014*, p 13. NRC's report on birth registration in Lebanon also notes, "Refugees participating in focus group discussions explained that it is common practice to be married by any religious Sheikh, regardless of whether the Sheikh is authorised by the relevant religious court to conduct marriages. Refugees further explained that such marriages are often conducted verbally." NRC Lebanon, *Birth Registration Update: The Challenges of Birth Registration in Lebanon for Refugees from Syria*, p 21.

80. In two interviews, however, refugees stated that court marriages were normal in Syria.

81. In that case he also feared incurring a fine because his wife was aged 13 when they married.

82. See UNICEF, *A Study on Early Marriage in Jordan 2014*, pp 22-23; International Rescue Committee, *Are We Listening? Acting on Our Commitments to Women and Girls Affected by the Syrian Conflict* (September 2014). In the Committee on the Rights of the Child's most recent concluding observations on Jordan (2014), the Committee "urge[d] the State party to take active measures to put an end to the practice of early and forced marriage" and "reiterate[d] its recommendation that the State party conduct awareness-raising campaigns concerning the many negative consequences resulting from early marriages." The Committee also "urge[d] the State party to take all appropriate measures and

implement specific programmes to improve the living conditions of Syrian refugee children, ... protecting them from various forms of labour exploitation, violence and, with regard to young girls, forced or early marriage practices." Committee on the Rights of the Child, *Concluding observations on the combined fourth and fifth periodic reports of Jordan*, CRC/C/JOR/CO/4-5 (2014), paras 34 and 56.

83. Personal Status Law, Article 10(b). See "Special Instructions to Grant Marriage Permission for Those Who Are Below 18 Years of Age" (issued by the Chief Justice under Article 10 of the Personal Status Law). The authors of *A Study on Early Marriage in Jordan* (UNICEF, 2014) note at p 11, "The definition of 18 as the legal age for marriage in Jordan is undermined by an acceptance that special permission – very dependent on the interpretation/discretion of individual judges and reportedly not difficult to obtain – may be given for children as young as 15 to marry."

84. NRC Jordan, *In Search of a Home – Access to Adequate Housing in Jordan*, p 13.

85. UNHCR, *Jordan Refugee Response: Vulnerability Assessment Framework*.

86. Another refugee stated he paid JOD 43 (USD 61) to register his second marriage.

87. In two instances refugees stated that Shari'a court officials told them the fine was JOD 1,500 (USD 2,120)

88. Civil Status Law, Article 26(c).

89. See Civil Status Law, Article 3(b).

90. Refugees making short-term visits to Syria from neighbouring countries can encounter difficulties reentering those countries. NRC and IRC, *No Escape: Civilians in Syria Struggle to Find Safety Across Borders* (November 2014), pp 12-13.

91. UNHCR, *Born in Exile* (<http://unhcr.org/FutureOfSyria/born-in-exile.html>). Although Jordan is a party to the Convention on the Elimination of All Forms of Discrimination Against Women, it has entered a reservation in relation to Article 9(2). Article 9(2) requires states to "grant women equal rights with men with respect to the nationality of their children." Consequently, children born to Jordanian mothers and Syrian fathers with unregistered marriages also face this risk.

92. See OHCHR, *Birth registration and the right of everyone to recognition everywhere as a person before the law*.

93. See Kate Jastram and Kathleen Newland, "Family Unity in Refugee Protection" in *Refugee Protection in International Law: UNHCR's Global Consultations on International Protection* (edited by Erika Feller, Volker Türk and Frances Nicholson, Cambridge University Press, 2003). International Covenant on Civil and Political Rights, Article 23(1): "The family is the natural and fundamental group unit of society and is entitled to protection by society and the State."

94. The family were eventually able to obtain a new birth notification under the mother's real name and the child now has a birth certificate that lists the correct parents.

95. Jordan Inter-Sector Working Group, "May 2015 Update."

96. Although Jordan is not a party to the 1951 Refugee Convention, much guidance derives from the principles it contains.

97. Ministry of Justice (MoJ) Statistics, June 2015. The number of civil and criminal cases in which one or more of the parties was a Syrian living in Jordan rose from 3,648 in 2011 to 13,674 by 2014. As of June 2015, the MoJ has registered 6,960 cases involving at least one Syrian party in 2015.

98. Committee on the Rights of the Child, *General Comment No. 7, Implementing child rights in early childhood*, CRC/C/GC/7/Rev.1 (2006), para 25.

99. UN Human Rights Council, "Resolution on birth registration

and the right of everyone to recognition everywhere as a person before the law," A/HRC/RES/22/7 (2013), clauses 3, 5, and 6.

100. OHCHR, *Birth registration and the right of everyone to recognition everywhere as a person before the law*, para 71.

101. Ibid, para 60.

102. Ibid.

103. CEDAW Committee, *General recommendation on article 16*, para 26.

104. Convention relating to the Status of Refugees, Article 25.

105. UNHCR Executive Committee Conclusion on Civil Registration, clauses (a) and (b). It should be noted that members of the UNHCR Executive Committee are not required to be parties to the 1951 Refugee Convention. The committee comprises states "with a demonstrated interest in, and devotion to, the solution of the refugee problem." UN General Assembly Resolution 1166 (XII), "International assistance to refugees within the mandate of the United Nations High Commissioner for Refugees" (1957).

106. UNHCR Executive Committee Conclusion on Civil Registration, clause (d)(iii).

107. Ibid, clause (d)(iv).

108. UN Human Rights Council, *Resolution on rights of the child*, A/HRC/RES/19/37 (2012), clause 30.

109. CEDAW Committee, *General recommendation on article 16*, para 25.

110. Committee on the Rights of the Child, *General Comment No. 7*, para 25.

111. See UNHCR Executive Committee Conclusion on Civil Registration, clause (d)(ii); OHCHR, *Birth registration and the right of everyone to recognition everywhere as a person before the law*, paras 54-55; UN Human Rights Council, "Resolution on birth registration and the right of everyone to recognition everywhere as a person before the law," A/HRC/RES/22/7 (2013), clause 6: "[The Council] calls upon States to continuously raise awareness at the national, regional and local levels of birth registration, including by engagement in collaboration with all relevant actors in public campaigns that raise awareness of the importance of birth registration for effective access to services and the enjoyment of human rights."

112. OHCHR, *Birth registration and the right of everyone to recognition everywhere as a person before the law*, para 85(i).

Norwegian Refugee Council (Jordan)

The Norwegian Refugee Council (NRC) is an independent, humanitarian, non-profit, non-governmental organisation which provides assistance, protection, and durable solutions to refugees and internally displaced persons worldwide. In Jordan, NRC has directly assisted more than 400,000 Syrian refugees in both camps and host communities. NRC currently works across the shelter, basic needs, education, and protection sectors. NRC Jordan is a key partner of UNHCR and UNICEF and works closely with the Ministry of Planning and International Cooperation, Jordanian line ministries, local municipalities, and authorities. NRC focuses on the provision of assistance and essential services to Syrian refugees and mitigating the impact of the refugee crisis on vulnerable Jordanian host communities.

International Human Rights

Clinic at Harvard Law School

The International Human Rights Clinic (IHRC) at Harvard Law School seeks to protect and promote human rights and international humanitarian law through documentation; legal, factual, and strategic analysis; litigation before national, regional, and international bodies; treaty negotiations; and policy and advocacy initiatives.

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