



Statelessness in Syria

Country Position Paper
August 2019



European
Network on
Statelessness



Institute on
Statelessness and
Inclusion



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Cover photo: Despite significant bureaucratic challenges in acquiring his temporary residency card in Damascus, this stateless (maktum) Kurd from Syria discovers it has little recognition outside his country of birth. Photograph taken by Raman Ibrahim



This document provides information on the profiles of stateless individuals and persons who may be at risk of statelessness due to nationality or civil documentation problems in Syria. It should not be taken to be comprehensive, and there may be other situations in which statelessness arises in the country, or other specificities that differ from the information given here. The analysis presented here is based on a desk review of relevant sources, conducted between January and August 2019. The research was informed by and draws from the previous work of the Institute on Statelessness and Inclusion in collaborating with partners (academics, community members and human right activists) to monitor developments relating to statelessness in Syria. A full bibliography of the resources used can be found at the end of this document.



1. SUMMARY OF MAIN ISSUES

- Syria has historically been home to large stateless populations, particularly members of the Kurdish minority population, who were stripped of citizenship in 1962 following a deeply flawed and arbitrary census in northern Syria. Although the Syrian government introduced a decree aimed at resolving statelessness in 2011, many Kurds, and their children, remain stateless and unable to apply for nationality. Prior to the outbreak of the civil war, over half a million Palestinians also lived in Syria, without access to naturalisation.
- Syria's nationality law contains various gaps and flaws that lead to statelessness, including discrimination against Syrian women in transferring their nationality to their children. In the present context of mass forced displacement, the gender discriminatory nature of Syria's nationality law is of serious concern. It can leave children stateless if they have a Syrian mother and, for instance, an unknown or stateless father, or if their parents were unable to legalise their marriage.
- The Syrian civil war has seriously constrained and continues to prevent access to civil registries within Syria, as many have been damaged or destroyed. These registration challenges have been further compounded by non-state actors in territories outside government control using different civil documentation systems. Children are at risk of statelessness if their parents' marriage has not been registered, if the marriage documents have been lost, or if their father is unknown, deceased, disappeared or separated from the family.
- There are no specific procedures, laws or protection mechanisms in Syria tailored to the protection of the rights of stateless individuals, other than for Palestinian refugees from Syria. Due to their lack of documentation, stateless individuals face many obstacles in the enjoyment of basic rights, such as education, property rights and the right to travel, among others. There are a wide range of protection risks associated with being stateless from Syria both inside and outside the country.
- While there have been recent reforms to increase access to consular assistance for Syrian nationals abroad, challenges remain in accessing civil documentation, leading to difficulties in establishing legal identity. In addition, Syrian refugees and asylum seekers cannot be expected to contact a Syrian embassy or consular services abroad as it could put them at risk of persecution and/or undermine their refugee status or asylum claim.
- The ongoing discrimination in the Syrian Nationality Law, coupled with one of world's biggest humanitarian crises, has significantly increased the risk of statelessness within and outside of Syria.



2. RELEVANT POPULATION DATA

Official Language:	Arabic
Estimated Population:	18.5 million ¹
Estimated number of stateless persons:	160,000 ²
Estimated number of stateless persons before 2011:	300,000 ³
Estimated number of Palestinian refugees from Syria:	438,000 ⁴
Estimated number of internally displaced persons (IDPs):	6,202,702 ⁵
Estimated number of refugees hosted by Syria (non-Palestinian):	45,418 ⁶
Estimated number of Syrian refugees abroad:	6.3 million ⁷
Number of countries where Syrians have sought asylum:	125 ⁸
Countries with largest population of Syrian refugees:	Turkey (3,630,767); Lebanon (944,613); Jordan (660,393); Iraq (253,672); Egypt (132,165) ⁹

¹ United Nations Population Fund, *World Population Dashboard – Syrian Arab Republic*, 2019, available at: <https://www.unfpa.org/data/world-population/SY>

² UNHCR, *Global Trends: Forced Displacement in 2018*, at 67, available at: <https://www.unhcr.org/5d08d7ee7.pdf>. It is important to note that UNHCR has not changed its estimate of stateless persons in Syria for a number of years, as “[c]ollecting data on statelessness globally remains a challenge... [b]ecause the majority of countries do not report any data on statelessness...” (see page 23). It is hoped this is improved in future with the announcement in mid-2018 of a joint UNHCR / World Bank data centre, which will “...work on data on statelessness”, see: UNHCR, *Global Report 2017*, at 11, available at:

http://reporting.unhcr.org/sites/default/files/gr2017/pdf/GR2017_English_Full_lowres.pdf

³ UNHCR, *Submission by UNHCR to the Office of the High Commissioner for Human Rights’ Compilation Report Universal Periodic Review*, May 2011, at 3, available at: <https://www.refworld.org/pdfid/4dcb716f2.pdf>. Also see: UNHCR, *Global Trends 2009, 15 June 2010*, at 26, available at: <https://www.unhcr.org/4c11f0be9.pdf>

⁴ UNRWA, *Syria Regional Crisis - Emergency Appeal*, 2018, at 1, available at:

https://www.unrwa.org/sites/default/files/content/resources/2018_syria_ea_final_web_0.pdf. Note that this figure of Palestinian refugees only includes those registered with UNRWA. There are no reliable figures on the number of Palestinian refugees from Syria, who remain unregistered with UNRWA – see 5.2 for further discussion.

⁵ UNHCR, *Global Trends: Forced Displacement in 2018*, at 67, available at: <https://www.unhcr.org/5d08d7ee7.pdf>.

⁶ UNHCR, *Syria Factsheet*, January 2019, available at:

<http://reporting.unhcr.org/sites/default/files/UNHCR%20Syria%20Fact%20Sheet%20-%20January%202019.pdf>

⁷ UNHCR, *Global Trends: Forced Displacement in 2017*, 25 June 2018, at 14, available at: <https://www.unhcr.org/5b27be547.pdf>

⁸ UNHCR, *Global Trends: Forced Displacement in 2017*, 25 June 2018, at 14, available at: <https://www.unhcr.org/5b27be547.pdf>

⁹ UNHCR, *Operational Portal: Refugee Situations – Syria Regional Refugee Response*, 9 April 2019, available at: <https://data2.unhcr.org/en/situations/syria>



During the crisis, many civil registries and cadastral services have been partially or totally destroyed in addition to the fact that official civil registration services have not functioned for years in areas outside Government control areas. This year [2018], as people returned to their areas of origin, it was evident more than ever that the need for registration of civil documentation was immense.

Children born without medical birth notifications or from sexual and gender-based violence, leaving them unregistered and at risk of potential statelessness. The lack of certificates of death and divorce endanger widowed or divorced women by limiting their ability to inherit property, legally remarry or register children born. Housing, land and property rights are more difficult to enforce in the absence of identity documentation. Furthermore, the lack of national ID cards limits freedom of movement."¹⁰

3. SYRIA'S NATIONALITY LAW

Syria passed the Nationality Act on 24 November 1969 through Legislative Decree 27 (hereinafter referred to as 'the Nationality Law').¹¹ The Nationality Law prescribed the acquisition and withdrawal of citizenship and remains current today, despite attempts to amend it to remove gender discrimination.¹²

Syria has not acceded to the 1954 Convention Relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness, nor has it pledged to do so.¹³ Syria has however acceded to and ratified various other international instruments, which are contravened by the Nationality Law. This includes the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),¹⁴ acceded to on 28 March 2003; the Convention on the Rights of the Child (CRC), ratified on 15 July 1993; and the International Covenant on Civil and Political Rights (ICCPR), acceded to on 21 April 1963. The Nationality Law further conflicts with the Constitution of the Syrian Arab Republic, including, but not limited to, Article 33(3): "Citizens shall be equal in rights and duties without discrimination among them on grounds of sex, origin, language, religion or creed."¹⁵

The Nationality Law was introduced at a time of pan-Arab nationalism and in the context of a contentious census in Northern Syria in 1962 (see 5.1 below), whereby many Kurds were stripped of their Syrian citizenship overnight.¹⁶ The Law does contain safeguards against statelessness for a

¹⁰ UNHCR, *End of Year Report - 2018*, 17 February 2019, at 6, available at:

<https://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR%20Syria%27s%20End%20of%20Year%20report%202018.pdf>

¹¹ Legislative Decree 276 - Nationality Law [Syrian Arab Republic], *Legislative Decree 276*, 24 November 1969, available at:

<https://www.refworld.org/docid/4d81e7b12.html>

¹² See further discussion at 2.4.

¹³ Institute on Statelessness and Inclusion, *Civil Society Submission on the right of every child to acquire a nationality under Article 7 CRC*, The Committee on the Rights of the Child, 1 March 2018, at p.2, available at:

¹⁴ Syria acceded to CEDAW subject to reservations to Article 2; Article 9(2), concerning the grant of a woman's nationality to her children; Article 15(4), concerning freedom of movement and of residence and domicile; Article 16(1)(c), (d), (f) and (g), concerning equal rights and responsibilities during marriage and at its dissolution with regard to guardianship, the right to choose a family name, maintenance and adoption; Article 16(2), concerning the legal effect of the betrothal and the marriage of a child, inasmuch as this provision is incompatible with the provisions of the Islamic Shariah; and Article 29(1), concerning arbitration between States in the event of a dispute.

¹⁵ Article 33(3) of the Syrian Constitution states, "Citizens shall be equal in rights and duties without discrimination among them on grounds of sex, origin, language, religion or creed." Constitution of the Syrian Arab Republic, 2012, Article 33(3), available at:

<https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/91436/106031/F-931434246/constitution2.pdf>.

¹⁶ Institute on Statelessness and Inclusion / European Network on Statelessness, *From Syria to Europe: Experiences of Stateless Kurds and Palestinian Refugees from Syria Seeking Protection in Europe*, January 2019, at 9, available at:

http://www.institutesi.org/from_Syria_to_Europe.pdf



child who is born on Syrian territory who would otherwise be stateless; however, its application in practice is inadequate, including in the case of Syrian Kurds. It contains a number of problematic clauses that have directly increased the risk of statelessness for individuals within Syria, refugees who have fled Syria, and particularly for children born to unknown or stateless fathers.

The following sections outline examples of why the Syrian Nationality Law is problematic and which clauses can directly lead to, or increase the risk of, statelessness.

3.1 Gender Discrimination

Syria's Nationality Law is primarily based on paternal *jus sanguinis*,¹⁷ thereby discriminating against women. The law states that a person is Syrian if they are born to a Syrian father. Article 3(a) states that Syrian nationality is acquired at birth by, "*anyone born inside or outside the country to a Syrian Arab father.*"

There is no equivalent provision for Syrian mothers. Rather, Article 3(b) states that where the "*legal family relationship*" to a child's father has "*not been established*" and the child is born *inside* Syria to a Syrian mother, that child is considered a Syrian citizen. While on first reading this article appears to be beneficial to children born to unknown fathers and Syrian mothers, in fact it only applies to children born *inside* Syria and to those whose fathers are unknown, not those whose fathers are stateless.¹⁸

In addition, there remain social repercussions for registering a child born out of wedlock. For example, Article 48 of the Syrian Personal Status Code states that Muslim women are not allowed to marry non-Muslim men.¹⁹ Therefore, if a woman has a child as a result of such a relationship, this discriminatory provision of the Nationality Law would mean that the child would not automatically inherit their mother's nationality. Further, Article 3(b) of the Nationality Law clearly does not apply to the children of refugees from Syria who are born in host countries, further limiting the ability of children to acquire a nationality at birth.²⁰

Prior to the outbreak of conflict in Syria, civil organisations had been advocating for reforms to the Nationality Law, with a particular focus on removing the discriminatory provisions. For example, in 2004, a bill was presented to Parliament by the Syrian Women's League, which Parliament voted against in 2008 on the basis that it was incompatible with Sharia Law.²¹ In 2011, the Syrian Women's League again introduced a bill to make amendments to remove discrimination in the Nationality Law, which currently remains under review by the Syrian Government.²²

¹⁷ Meaning "right of blood", rather than *jus soli* meaning "right of the soil", often referred to as "birthright citizenship."

¹⁸ For example, when the mother is a Syrian national and the father is maktum, the children would become maktumeen also.

¹⁹ Realistically, such a marriage could only be possible if Syria were to introduce civil marriage. While amendments were made to a significant number of articles of the Syrian Personal Status Code in March 2019 (Law No. 4 of 2019), Article 48 remains in place and there was no introduction of civil marriage.

²⁰ For more information on the impact of this discrimination see, Institute on Statelessness and Inclusion and the Global Campaign for Equal Nationality Rights, *Submission to the Human Rights Council at its 26th Session of the Universal Periodic Review of Syria*, 2016, available at: <http://www.institutesi.org/SyriaUPR2016.pdf>

²¹ Legal Agenda, *Syrian Women's Right to Pass Citizenship To Children: An Appraisal*, 2016, available at: <http://english.legalagenda.com/article.php?id=742&folder=articles&lang=en>

²² Institute on Statelessness and Inclusion, *Civil Society Submission on the right of every child to acquire a nationality under Article 7 CRC*, The Committee on the Rights of the Child, 1 March 2018, at p.5, available at: http://www.institutesi.org/CRC_Syria_2018.pdf



In late 2017, Syria responded to criticisms of the discriminatory Nationality Law by stating, *“There are no stateless children in the Syrian Arab Republic.”*²³ It also stated that *“...Granting nationality to children of Syrian mothers married to non-Syrians, Article 3 of the Nationality Act is currently being reviewed and great efforts are being made to ensure that children of Syrian mothers may obtain nationality. The General Women’s Federation²⁴ has drafted a bill for the amendment of that article under which women would pass on their nationality to their offspring. The bill is currently being examined.”*²⁵ In a subsequent statement, Syria stated, *“...the crisis affecting the Syrian Arab Republic has delayed discussion on the subject and the enactment of a relevant law.”*²⁶

Despite these attempts to remove the discriminatory provisions, the law, as it was originally drafted in 1969, remains in place today. In concluding remarks about the fifth periodic report of Syria, the Committee on the Rights of the Child stated that it *“is very concerned about... Syrian women still not being able to transfer their nationality to their children, which due to the armed conflict may exponentially increase the number of stateless children.”*²⁷ The Committee urged Syria to *“consider ratifying”* the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.²⁸ It also urged Syria to *“review its legislation to implement gender-equitable measures regarding civil documentation allowing women to be the legal guardians of their children and promptly adopt the draft amendment to Article 3 of the Nationality Law allowing Syrian women to transmit nationality to their children on an equal basis with Syrian men.”*²⁹ In Syria, attempts to reform the Nationality Law by removing gender discriminatory provisions have also been rejected on the basis that they are incompatible with Sharia Law.³⁰

3.2 Failure to Prevent Childhood Statelessness

Syria’s Nationality Law does contain some safeguards against statelessness at birth. According to the law, nationality is conferred to a child born in Syria of unknown parents (including foundlings), parents of unknown nationality or stateless parents (Article 3(c)), as well as a child who acquires no other nationality (Article 3(d)). However, these safeguards are not systematically implemented. UNHCR stated in March 2019, *“Syria has a safeguard in place to prevent statelessness among children born in the territory but it is not clear that this is implemented in practice.”*³¹

²³ Committee on the Rights of the Child, *Fifth periodic report submitted by the Syrian Arab Republic*, 1 November 2017, at 63, available at: <https://undocs.org/pdf/symbol=en/CRC/C/SYR/5>

²⁴ The General Women’s Federation and the General Women’s Union are used interchangeably.

²⁵ Committee on the Rights of the Child, *Fifth periodic report submitted by the Syrian Arab Republic*, 1 November 2017, at 67, available at: <https://undocs.org/pdf/symbol=en/CRC/C/SYR/5>

²⁶ Committee on the Rights of the Child, *List of issues in relation to the fifth periodic report of the Syrian Arab Republic – Addendum - Replies of the Syrian Arab Republic to the list of issues*, 9 November 2018, at 3, available at:

https://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1226&Lang=en

²⁷ Committee on the Rights of the Child, *Concluding observations on the fifth periodic report of the Syrian Arab Republic*, CRC/C/SYR/CO/5, 6 March 2019, at 6, available at: <https://undocs.org/CRC/C/SYR/CO/5>.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Open Democracy, *Why are so many Syrian children being left stateless?*, 1 July 2015, available at:

<https://www.opendemocracy.net/en/5050/why-are-so-many-syrian-children-being-left-stateless/>, where it was stated, *“...Parliament voted against this amendment in 2008, arguing that such an amendment would be contrary to Sharia law, based on the interpretation that a child’s identity originates from the father’s name and nationality.”* Also see: Institute on Statelessness and Inclusion and The Global Campaign for Equal Nationality Rights, *Submission to the Human Rights Council at the 26th Session of the Universal Periodic Review – Syrian Arab Republic*, March 2016, at 14, available at: <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=3077&file=EnglishTranslation>.

³¹ UNHCR, *Background Note on Gender Equality, Nationality Laws and Statelessness 2019*, 8 March 2019, at 7, available at: <https://www.refworld.org/docid/5c8120847.html>



3.3 Deprivation of Nationality

Article 21 of the Nationality Law lists seven grounds upon which Syrians can be deprived of their nationality, without regard to whether it would render the person stateless. For example, nationality can be deprived if a Syrian joins the military service of another State or resides in a State that is at war with Syria.³² The Nationality Law gives considerable discretion to the Syrian authorities to deprive a Syrian of their nationality, including where it would be “*in the interests of security and safety of the country*”³³ or where a Syrian national has been outside the country for a period of three years and does not respond to requests to return to Syria within three months.³⁴

The President also has considerable power to deprive Syrians of their nationality. For example, political dissidents who were seen to be opposed to the Ba’ath regime in the 1960s and 1970s were arbitrarily deprived of their nationality by way of a Presidential Decree on the recommendation of the Interior Minister. An estimated 27,000 people were de-nationalised in this period and may still be stateless.³⁵ If male, their children were also locked out of Syrian nationality due to the paternal *jus sanguinis* system as described above, creating intergenerational statelessness.

4. CIVIL DOCUMENTATION

4.1 Lack of Access and Barriers to Obtaining Civil Documentation

A substantial number of Syrians lack registration of vital civil status events,³⁶ such as marriages and births, while others had identity documentation that has been lost or destroyed.³⁷ There are also many people who possess documents that are no longer valid or recognised. According to the 2019 Humanitarian Needs Overview for Syria, civil documentation problems were reported in 59% of the assessed communities.³⁸

Even though there were attempts to digitise civil documentation in Syria prior to the outbreak of the civil war,³⁹ all records remain in hard copy only and there have been no recent moves to digitise the system.⁴⁰ This has resulted in “*the only record of the existence of Syrian nationals – particularly the*

³² Legislative Decree 276 - Nationality Law [Syrian Arab Republic], *Legislative Decree 276*, 24 November 1969, Articles 21B and E, available at: <https://www.refworld.org/docid/4d81e7b12.html>

³³ Legislative Decree 276 - Nationality Law [Syrian Arab Republic], *Legislative Decree 276*, 24 November 1969, Article 21F, available at: <https://www.refworld.org/docid/4d81e7b12.html>. Note this Article only applies to persons granted nationality pursuant to Article 6, which states, “Nationality may be granted by decree, upon recommendation by the Minister, without abiding by the nationality provisions of Article 4 for the following persons: (a) An expatriate citizen who applies for nationality; (b) A person who has rendered noble services to the country or the Arab nation; (c) A person who originally belongs to an Arab country, and who applies for nationality on his own request, at the Minister’s sole discretion.”

³⁴ Legislative Decree 276 - Nationality Law [Syrian Arab Republic], *Legislative Decree 276*, 24 November 1969, Article 21G, available at: <https://www.refworld.org/docid/4d81e7b12.html>. Note, it is not clear whether these provisions are enforced in practice

³⁵ Institute on Statelessness and Inclusion / Norwegian Refugee Council, *Syriannationality.org – Stateless Populations in Syria*, 2016, available at: <http://www.syriannationality.org/index.php?id=19>.

³⁶ See 6 for a list of common documentation held by Syrian nationals, stateless Kurds and Palestinian Refugees from Syria.

³⁷ The Australian Department of Foreign Affairs and Trade assessed that it is, “...likely that an individual from Syria would not have been able to obtain accurate civil documentation, or have the ability to verify and obtain copies of lost civil documentation”, see: Australian Department of Foreign Affairs and Trade, *Thematic Report on Conditions in Syria*, 23 October 2017, at 3.5, available at: <https://dfat.gov.au/about-us/publications/Documents/country-information-report-syria.pdf>

³⁸ Strategic Steering Group (SSG) and humanitarian partners working under the Whole of Syria (WoS) framework, 2019 Humanitarian Needs Overview (HNO), March 2019, at 28, available at: https://reliefweb.int/sites/reliefweb.int/files/resources/2019_Syr_HNO_Full.pdf

³⁹ A project to complete digitalisation of all Syrian records was initiated as a joint initiative between the Government and the United Nations Population Fund (UNFPA), but was never completed.

⁴⁰ Institute on Statelessness and Inclusion / Norwegian Refugee Council, *Understanding statelessness in the Syria refugee context*, 2016, at 19, available at: <https://www.refworld.org/docid/584021494.html>



*registration of vital events such as births, and their link to Syria... [being] lost” in cases where these hard copy records have been lost or destroyed in the conflict.*⁴¹

A survey conducted by the IRC of 2,917 households in Idlib and Aleppo in 2015-2016 estimated that 34% of families were missing birth certificates for their children and 27% of households had no identity documents at all.⁴² This is due to a multitude of reasons, including lack of civil registry offices, difficulty accessing offices, security concerns or the lack of recognition of documents.⁴³ Based on a survey of 600 IDP households in north-western Syria, UNHCR and the Norwegian Refugee Council found that *“only six per cent of respondents reported having current access to government-issued civil documentation.”*⁴⁴

Many people in Syria have resided in areas that are, or were for some time, outside of the control of the Syrian Government.⁴⁵ In such areas, there are challenges to accessing civil registration, as many civil registries have been *“partially or totally destroyed”*⁴⁶ and documents issued by non-state actors may not be recognised, may not be genuine, or may contain different formatting and stamps. The Syrian Government stated in November 2018 that *“an integrated service centre has been set up in Damascus to provide civil status services to citizens from all governorates.”*⁴⁷ However, this centre is not accessible for IDPs who are unable to travel to Damascus, stateless Kurds with restrictions on their freedom of movement throughout Syria, or those ‘wanted’ by the Syrian Government, which would likely include large numbers of people evacuated from opposition-controlled territories under recent reconciliation deals

4.1.1 Marriage Registration

If a marriage is not registered, any child born to that partnership may not be able to establish their Syrian nationality as they will face difficulties obtaining birth registration. According to a study conducted by the Norwegian Refugee Council among Syrian refugee households in Lebanon, Jordan and Iraq, *“more than half (52 percent) of the married Syrian refugees interviewed said that they did not have any type of document to prove their marriage (marriage contract, marriage certificate or family booklet)”* – either because the marriage was contracted in Syria or in the country of exile but never registered, or the marriage documents were lost during flight.⁴⁸

⁴¹ Institute on Statelessness and Inclusion / Norwegian Refugee Council, *Understanding statelessness in the Syria refugee context*, 2016, at 19, available at: <https://www.refworld.org/docid/584021494.html>

⁴² International Rescue Committee, *Identity Me: The Documentation Crisis in Northern Syria*, July 2016, at 2 and 8, available at: <https://www.rescue-uk.org/report/identify-me-documentation-crisis-northern-syria>

⁴³ International Rescue Committee, *Identity Me: The Documentation Crisis in Northern Syria*, July 2016, available at: <https://www.rescue-uk.org/report/identify-me-documentation-crisis-northern-syria>

⁴⁴ UNHCR and NRC, *Displacement, housing, land and property and access to civil documentation in the north west of the Syrian Arab Republic*, July 2017, at 4, available at: https://reliefweb.int/sites/reliefweb.int/files/resources/final_nrc_displacement_hlp_civil_doc_nw_syria_23_07_2017_en.pdf

⁴⁵ UNHCR, *Mid-Year Trends 2018*, 30 June 2018, at 35, available at: <https://www.unhcr.org/statistics/unhcrstats/5c52ea084/mid-year-trends-2018.html>

⁴⁶ UNHCR, *End of Year Report – 2018*, 17 February 2019, at 6, available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR%20Syria%27s%20End%20of%20Year%20report%202018.pdf>

⁴⁷ Committee on the Rights of the Child, *List of issues in relation to the fifth periodic report of the Syrian Arab Republic – Addendum - Replies of the Syrian Arab Republic to the list of issues*, 9 November 2018, at 3, available at: https://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1226&Lang=en. Please see this document for further amendments to civil status laws to access to civil status registry offices within Syria.

⁴⁸ Norwegian Refugee Council, *Syrian refugees’ right to legal identity: implications for return*, January 2017 <https://www.nrc.no/globalassets/pdf/briefing-notes/icla/final-syrian-refugees-civil-documentation-briefing-note-21-12-2016.pdf>



According to UNHCR and the Syrian Ministry of Interior, *“Marriages of Syrian citizens (or Syrian Palestinians⁴⁹) to non-Arab foreigners requires prior approval from the Syrian Minister of Interior or the person authorised by him (as per Legislative Decree 26 of 2007). Without such approval, a marriage to a foreigner cannot be registered in the civil registry, notwithstanding a court ruling.”⁵⁰* The joint report also states, if an applicant for a marriage certificate is a *“... maktum or stateless he/she must also attach an identification certificate issued by his/her mokhtar containing his/her personal data and religion. The identification certificate requires the presence of two witnesses, and it must be attested by the municipality.”⁵¹*

4.1.2 Birth Registration

In Syria, a birth certificate is proof of legal identity enabling freedom of movement, access to services and entry into school. As noted below, birth registration provides important evidence of a child’s family links and links to Syria. In Syria, there are distinctions between Birth Registrations, Birth Attestations and Birth Notifications. Birth Notifications are issued by the administering hospital, doctor or licensed midwife. Birth Attestations are endorsed by the local Mokhtar, either in the area where the birth took place or the area where the parents’ civil registry records are kept. Both documents, together with a Family Booklet, are required in order for Birth Registration to be completed. Once a child is registered, they are issued a Birth Certificate.⁵²

Before the conflict, Syria had developed a comprehensive system of civil registration and was achieving nearly 100% birth registration. The conflict has had a significant impact on this civil registration coverage and access to documents for the Syrian population.⁵³ People who have been through one or more stages of displacement may not be in possession of their documents, which could have been left behind, lost, damaged or stolen. As noted by UNHCR and the Syrian Ministry of Interior, *“Without a completed birth registration, a child may not be able to prove its Syrian Nationality”* or access public services, such as education and health care.⁵⁴ Children born to refugee parents may face difficulties in accessing civil documentation from consular services abroad, as they cannot prove a legal link to Syria, and may fear persecution from the State.⁵⁵

In addition, under Syrian law, the mother and father must have a registered marriage in order to register the birth of their child, regardless of whether the birth occurs inside or outside Syria. If a Syrian father has a child with a non-Syrian mother, and the marriage is not registered, *“a court decision should be issued to establish the lineage of the child to his father in order to register the child.”⁵⁶*

⁴⁹ Referred to in the report as, “[a] person duly registered with the governmental Agency for Palestinian Refugees in Syria.”

⁵⁰ UNHCR and Syrian Arab Republic Ministry for Interior (Civil Affairs Directorate), *Civil Documentation and Registration in the Syrian Arab Republic*, at 18, available at: <https://www.unhcr.org/sy/wp-content/uploads/sites/3/2018/09/Personal-Documentation-En-Jul-2018.pdf>

⁵¹ UNHCR and Syrian Arab Republic Ministry for Interior (Civil Affairs Directorate), *Civil Documentation and Registration in the Syrian Arab Republic*, at 19, available at: <https://www.unhcr.org/sy/wp-content/uploads/sites/3/2018/09/Personal-Documentation-En-Jul-2018.pdf>

⁵² UNHCR and Syrian Arab Republic Ministry for Interior (Civil Affairs Directorate), *Civil Documentation and Registration in the Syrian Arab Republic*, at 21, available at: <https://bit.ly/2ZfDMAN>

⁵³ UNHCR, *End of Year Report – 2018*, 17 February 2019, at 6, available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR%20Syria%27s%20End%20of%20Year%20report%202018.pdf>

⁵⁴ UNHCR and Syrian Arab Republic Ministry for Interior (Civil Affairs Directorate), *Civil Documentation and Registration in the Syrian Arab Republic*, at 20, available at: <https://www.unhcr.org/sy/wp-content/uploads/sites/3/2018/09/Personal-Documentation-En-Jul-2018.pdf>

⁵⁵ For example, UNHCR stated in 2015, “over 60,000 Syrian children have been born in Lebanon to refugees registered with UNHCR since the beginning of the crisis, but nearly 70 percent of them do not have a registered birth certificate with the competent Lebanese authorities.” See: UNHCR and Government of Lebanon, *Lebanon Crisis Response Plan 2015-16*, 15 December 2015, at 91-92, available at: <https://data2.unhcr.org/en/documents/download/44367>

⁵⁶ UNHCR and Syrian Arab Republic Ministry for Interior (Civil Affairs Directorate), *Civil Documentation and Registration*



If a Syrian mother has a child to an unknown father in Syria, she is required to submit a case before a religious court to register the birth of her child. A customary or religious marriage is not enough to register the birth of a child; the marriage must be formally registered through a court ruling.

4.2 Accessing Consular Services Abroad

In 2017, the Syrian Government made amendments to civil status laws to enable increased access to registration of civil status events for Syrians abroad. According to Act No. 4 of 2017 (amending Legislative Decree No. 26 of 2007) civil status events are able to be “...registered in the place they occurred, the place of residence, Syrian embassies or consulates, or in the embassy or consulate charged with protecting the interests of Syrians.”⁵⁷ If a person is unable to access an embassy or consulate, pursuant to Article 17(a) of the Syrian Civil Affairs Law (No. 4 of 2017), “...the Syrian citizen should obtain a certificate of the event or a certified copy from the competent authorities in the place of the event and submit it to the directorate of civil affairs in Syria, responsible for the concerned person’s record.”⁵⁸

Despite these reforms, challenges remain for Syrian nationals in accessing consular services abroad, as the consulates may be physically inaccessible. In addition, children at risk of statelessness may have difficulty accessing civil documentation from consular services abroad, as they cannot prove a legal link to Syria.⁵⁹ Syrian refugees may fear persecution if they access consular services abroad, particularly if they have been opposed to the Syrian authorities or are perceived to be.

4.3 Children at Increased Risk of Statelessness Due to Civil Documentation Issues

The following profiles of children are potentially at risk of statelessness in Syria on the basis of facing barriers to obtaining or verifying civil documentation:⁶⁰

- Children without a birth certificate;⁶¹
- Children born to survivors of sexual violence;⁶²

in the Syrian Arab Republic, at 22, available at: <https://www.unhcr.org/sy/wp-content/uploads/sites/3/2018/09/Personal-Documentation-En-Jul-2018.pdf>

⁵⁷ Committee on the Rights of the Child, *List of issues in relation to the fifth periodic report of the Syrian Arab Republic – Addendum - Replies of the Syrian Arab Republic to the list of issues*, 9 November 2018, at 3, available at: <https://undocs.org/CRC/C/SYR/Q/5/ADD.1>

⁵⁸ UNHCR and Syrian Arab Republic Ministry for Interior (Civil Affairs Directorate), *Civil Documentation and Registration in the Syrian Arab Republic*, at 19, available at: <https://www.unhcr.org/sy/wp-content/uploads/sites/3/2018/09/Personal-Documentation-En-Jul-2018.pdf>. Also see, Committee on the Rights of the Child, *List of issues in relation to the fifth periodic report of the Syrian Arab Republic – Addendum - Replies of the Syrian Arab Republic to the list of issues*, 9 November 2018, at 3-4, available at: <https://undocs.org/CRC/C/SYR/Q/5/ADD.1>

⁵⁹ For example, UNHCR stated in 2015, “over 60,000 Syrian children have been born in Lebanon to refugees registered with UNHCR since the beginning of the crisis, but nearly 70 percent of them do not have a registered birth certificate with the competent Lebanese authorities.” See: UNHCR and Government of Lebanon, *Lebanon Crisis Response Plan 2015-16*, 15 December 2015, at 91-92, available at: <https://data2.unhcr.org/en/documents/download/44367>

⁶⁰ Please note, this is not an exhaustive list of persons at risk of statelessness due to civil documentation issues in Syria. For a further discussion on statelessness and civil documentation for Syrian refugees outside Syria, please see: Institute on Statelessness and Inclusion / European Network on Statelessness, *From Syria to Europe: Experiences of Stateless Kurds and Palestinian Refugees from Syria Seeking Protection in Europe*, January 2019, available at: http://www.institutesi.org/from_Syria_to_Europe.pdf

⁶¹ UNHCR, *End of Year Report – 2018*, 17 February 2019, at 6, available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR%20Syria%27s%20End%20of%20Year%20report%202018.pdf>. However, as noted above, UNHCR also states, “On its own, lack of birth registration does not usually mean that a person is stateless or even at risk of statelessness. However, possession of a birth certificate helps to establish entitlement to nationality and is often a prerequisite for obtaining documentation that proves nationality”, see: UNHCR, *Good Practices Paper - Action 7: Ensuring birth registration for the prevention of statelessness*, November 2017, at 3, available at: <https://www.refworld.org/docid/5a0ac8f94.html>

⁶² UNHCR, *End of Year Report – 2018*, 17 February 2019, at 6, available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR%20Syria%27s%20End%20of%20Year%20report%202018.pdf>



- Children born to an unknown father;
- Children born to a mother and father without a registered marriage and
- Children born to a single mother, who has no record of a registered marriage.⁶³

The last three points above relate to children born to parents with: no marriage; an unregistered marriage or where a mother has no record of a registered marriage. These civil status events can often become pre-requisites for confirming nationality, because the Syrian system requires marriage registration for birth registration, and birth registration to confirm nationality. It is important to note that while Article 3(a) of the Nationality Law states that anyone born inside or outside Syria to a Syrian Arab father is considered a national of Syria, this may be complicated if the child is born within an unregistered marriage. The Nationality Law does not address the requirement of a registered marriage in order for children to obtain nationality. However, Syria's civil status laws, under Legislative Decree No. 26 of 2007, clearly state that unless a child is born within a registered marriage, the child may not be able to access birth registration, which in turn may expose the child to the risk of statelessness even though the Nationality Law appears to grant citizenship in such circumstances, since the legal bond to the state may not be recognised in practice.

In Syria, the fundamental structure of the civil registration system requires individuals to know their family's *khana* or *qayd* (family number). A family number applies to all members of the same extended family and includes the name of a village or city district and a number. The paper copy of one's registration file must be physically inserted into the filing entry of their *khana*, and once that individual is associated with that *khana* number's registry track, they are deemed a citizen. The individual can then be added to the Family Book, issued a passport, and a civil ID card once they turn 14. Individuals who do not have this family number will not be recognised in the civil registration system and will not be deemed citizens.⁶⁴

Aside from reducing the risk of statelessness, ensuring greater access to civil documentation safeguards against marginalisation and ensures the realisation and enjoyment of fundamental human rights. For example, birth registrations "*help facilitate child tracing and reunification*", "*deter[s] child trafficking and illegal adoption*" and "*help[s] prevent the denial of healthcare and education*."⁶⁵ In addition, marriage registration and certificates "*...support family unity and women's rights in cases of divorce, separation or the death of the husband to, inter alia, child custody, property, and inheritance*."⁶⁶

5. POPULATIONS AFFECTED BY STATELESSNESS IN SYRIA

As noted above, UNHCR estimates the total number of stateless persons in Syria to be 160,000 as of June 2018. However, this figure is unreliable, particularly given that UNHCR has consistently reported

⁶³ Note that this list only relates to the increased risk of statelessness relating to civil status registration issues. It is not an exhaustive list.

⁶⁴ Norwegian Country of Origin Information Centre, Land info, *Syria: Marriage Legislation and Traditions*, 22 August 2018, at 10, available at: <https://landinfo.no/wp-content/uploads/2018/10/Report-Syria-Marriage-legislation-and-traditions-22082018.pdf>

⁶⁵ UNHCR, *Submission for the OHCHR Compilation Report – Syrian Arab Republic*, 2nd Cycle / 26th Session, March 2016, at 6, available at: <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=3231&file=EnglishTranslation>

⁶⁶ UNHCR, *Submission for the OHCHR Compilation Report – Syrian Arab Republic*, 2nd Cycle / 26th Session, March 2016, at 6, available at: <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=3231&file=EnglishTranslation>



the total number of stateless persons to be 160,000 since 2013.⁶⁷ Assessing the statelessness situation in Syria is incredibly difficult for both the Syrian authorities and UNHCR, due to access limitations to parts of the country, as well as regular population movements. It is also important to note that the figure of 160,000 does not include the estimated 438,000 Palestinian refugees from Syria.

In the context of the Syrian conflict, it is important to recognise that statelessness can complicate the experience of refugees from Syria, who are a subset of the much larger number of people displaced. Statelessness may have various implications for protection as refugees and therefore must be identified. If not, key procedures, including Refugee Status Determination, birth registration for children born in exile and family reunification may be affected.⁶⁸ Statelessness is also a relevant factor in considering and facilitating durable solutions: even if refugees become able to theoretically return to Syria in dignity and safety, statelessness could create significant barriers to their return.⁶⁹ For refugees from Syria who are affected by statelessness, these barriers are relevant even beyond cessation of refugee status given that their statelessness would endure.

The information below lists populations affected by statelessness in Syria (both stateless and at risk of statelessness). However, this is not an exhaustive list of people affected and should not be understood as such. For further information on populations affected by statelessness in Syria, please refer to the references quoted below and in the bibliography.

5.1 Stateless Kurds

In 1962 the Syrian Government conducted a census under Decree No. 93 in the predominantly Kurdish region of al-Hassaka Governate, in North East Syria, which the Government used to strip an “estimated 120,000 people or about 20 percent of Syrian Kurds” of their citizenship.⁷⁰ The census was conducted in the “context of pan-Arab nationalism,”⁷¹ “in the midst of political instability”⁷² and “on the pretext that many non-Syrian Kurds had crossed illegally from Turkey.”⁷³

⁶⁷ UNHCR, *Global Report 2013 – Syrian Arab Republic*, June 2014, at 2, available at:

<https://www.unhcr.org/publications/fundraising/539809f90/unhcr-global-report-2013-syrian-arab-republic.html>; UNHCR, *Time Series*, available at: http://popstats.unhcr.org/en/time_series

⁶⁸ See further Institute on Statelessness and Inclusion / European Network on Statelessness, *From Syria to Europe: Experiences of Stateless Kurds and Palestinian Refugees from Syria Seeking Protection in Europe*, January 2019, available at:

http://www.institutesi.org/from_Syria_to_Europe.pdf and Thomas McGee, *Statelessness Displaced: Update on Syria's Stateless Kurds*, *Statelessness Working Paper Series No. 2016/02*, June 2016, available at: http://www.institutesi.org/WP2016_02.pdf

⁶⁹ See more generally on the challenges faced by displaced populations as a result of the lack or loss of documentation, World Bank, *Identification in the Context of Forced Displacement - Identification for Development (ID4D)*, June 2016, at 9, available at:

<http://documents.worldbank.org/curated/en/375811469772770030/pdf/107276-WP-P156810-PUBLIC.pdf>

⁷⁰ Refugees International, *Buried Alive: Stateless Kurds in Syria*, January 2006, at 1, available at:

<https://www.refworld.org/docid/47a6eba80.html/>. Also see: Zahra Albarazi, *Regional Report on Citizenship The Middle East and North Africa (MENA)*, Global Citizenship Observatory (GLOBALCIT) Robert Schuman Centre for Advanced Studies, November 2017, at 6, available at:

http://cadmus.eui.eu/bitstream/handle/1814/50046/RSCAS_GLOBALCIT_Comp_2017_03.pdf?sequence=1. See also, Australian

Department of Foreign Affairs and Trade, *Thematic Report on Conditions in Syria*, 23 October 2017, at 3.5, available at:

<https://dfat.gov.au/about-us/publications/Documents/country-information-report-syria.pdf>

⁷¹ Institute on Statelessness and Inclusion / European Network on Statelessness, *From Syria to Europe: Experiences of Stateless Kurds and Palestinian Refugees from Syria Seeking Protection in Europe*, January 2019, at 9, available at:

http://www.institutesi.org/from_Syria_to_Europe.pdf

⁷² Syrians for Truth and Justice, *Syrian Citizenship Disappeared: How the 1962 Census destroyed stateless Kurds' lives and identities*, 15 September 2018, at 7, available at: <https://www.stj-sy.com/en/view/745>. This report gives a detailed background to the political situation in Syria prior to the census taking place in 1962.

⁷³ Human Rights Watch, *Group Denial: Repression of Kurdish Political and Cultural Rights in Syria*, 26 November 2009, available at:

<https://www.hrw.org/report/2009/11/26/group-denial/repression-kurdish-political-and-cultural-rights-syria>



The census has been described as “strongly flawed” and “arbitrary.”⁷⁴ It has been criticised for being too short in length (one day) and for not giving sufficient notice to residents of al-Hassaka in order to prepare their documents.⁷⁵ Given the hasty and arbitrary manner in which the census was conducted, members of the same family were granted different statuses:

“Brothers from the same family, born in the same Syrian village, were classified differently. Fathers became foreigners while their sons remained citizens. Kurds who had served in the Syrian army lost citizenship while families who bribed officials kept theirs.”⁷⁶

Other issues with the census included requiring the residents of al-Hassaka to have a “stringent list of documents on the day,” thereby leaving many unprepared or unable to obtain the relevant material within the short timeframe.⁷⁷

Despite the concerns with the census, it proceeded and ultimately created two sub-groups of Kurds who became stateless as a consequence:

AJANIB KURDS

“Foreigner” in Arabic [*ajnabiya* = female; *ajanabi* = male; *ajanib* = plural]

Ajanib are stateless Kurds *included* in the official registries. They attended the 1962 census but failed to establish to the authorities that they had been resident in Syria prior to 1945 and were therefore recorded as Ajanib. They face restricted access to public services and have limited rights of ownership and inheritance.⁷⁸

MAKTUMEEN KURDS

“Concealed” in Arabic [*maktuma* = female; *maktum* = male; *maktumeen* = plural]

Maktumeen are stateless Kurds *not included* in the official registries. They did not participate in the 1962 census at all or are individuals whose birth was not registered for different reasons.⁷⁹ They enjoy even fewer rights than the Ajanib. For example, Maktumeen are unable to legally travel in the rest of Syria without a special security permission.⁸⁰

⁷⁴ Zahra Albarazi, *Regional Report on Citizenship The Middle East and North Africa (MENA)*, Global Citizenship Observatory (GLOBALCIT) Robert Schuman Centre for Advanced Studies, November 2017, at 6, available at:

http://cadmus.eui.eu/bitstream/handle/1814/50046/RSCAS_GLOBALCIT_Comp_2017_03.pdf?sequence=1

⁷⁵ Human Rights Watch, *Group Denial: Repression of Kurdish Political and Cultural Rights in Syria*, 26 November 2009, available at:

<https://www.hrw.org/report/2009/11/26/group-denial/repression-kurdish-political-and-cultural-rights-syria>

⁷⁶ Human Rights Watch, *Syria: The Silenced Kurds*, 1 October 1996, E804, available at: <https://www.refworld.org/docid/3ae6a8260.html>

⁷⁷ Zahra Albarazi, *The Stateless Syrians: Report of the Middle East and North Africa Nationality and Statelessness Research Project*, Tilburg Law School Legal Studies Research Paper Series, No. 011/2013, 24 May 2013, at 15, available at:

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2269700. This report includes an extensive critique of the 1962 census, see from pages 14 to 17.

⁷⁸ Institute on Statelessness and Inclusion / European Network on Statelessness, *From Syria to Europe: Experiences of Stateless Kurds and Palestinian Refugees from Syria Seeking Protection in Europe*, January 2019, at 9, available at:

http://www.institutesi.org/from_Syria_to_Europe.pdf

⁷⁹ UNHCR, Submission by UNHCR to the Office of the High Commissioner for Human Rights' Compilation Report Universal Periodic Review, May 2011, at 3, available at: <https://www.refworld.org/pdfid/4dcb716f2.pdf>

⁸⁰ Institute on Statelessness and Inclusion / European Network on Statelessness, *From Syria to Europe: Experiences of Stateless Kurds and Palestinian Refugees from Syria Seeking Protection in Europe*, January 2019, at 9, available at:

http://www.institutesi.org/from_Syria_to_Europe.pdf



Both statuses are inherited in a gender discriminatory manner, so children born into these families continue to be born stateless even if the mother is a Syrian national. If the father is a Syrian national and the mother is Ajanib or Maktumeen, the child may be considered a Syrian citizen, provided there are no issues with registering the birth. On the other hand, if the mother is a Syrian national but the father is Ajanib or Maktumeen, the child would be considered Ajanib or Maktumeen.⁸¹

There are no official figures on the number of Ajanib or Maktumeen in Syria but estimates from before the Syrian civil war placed their combined population at approximately 300,000. While this figure has been widely reproduced by international actors including UNHCR,⁸² the primary source or basis for this estimate is unclear. Some other sources suggest that the number of stateless Kurds in Syria before 2011 was 500,000.⁸³ Nevertheless, the figure has likely changed significantly following legal reforms in 2011 (discussed further in 5.1.3 below). The most recent figure for stateless persons in Syria is 160,000. However, as discussed above, this figure is unreliable and should be treated with caution.

5.1.1 Status and Documentation

The Ajanib were issued a Bitaqā Ajnabi ('Red Card') identity document, which records the individual as a 'foreigner.' It is not valid for travel outside Syria and is issued by the Civil Registrar (Ministry of Interior). In addition, Ajanib Kurds were issued a Family Civil Extract (the equivalent of a Family Booklet for Syrian citizens).⁸⁴

The Maktumeen, however, could not obtain official government documents and often have only a note from their local mayor (referred to as a *Mokhtar*) to establish their identity. This document, referred to as a *Shahadat Taaref*, cannot be used for formal identification, as it contains no validation from higher authorities. Even those documents which are stamped by higher authorities are not included in the records in Damascus, so they are still essentially useless. Further, there is no one standardised version of this document; there are multiple different types in circulation. The Mokhtar may also issue a residency notification, which again is an informal identification only, with no rights attached to the document.⁸⁵

⁸¹ Syrians for Truth and Justice, *Syrian Citizenship Disappeared: How the 1962 Census destroyed stateless Kurds' lives and identities*, 15 September 2018, at 7, available at: <https://www.stj-sy.com/en/view/745>

⁸² UNHCR, *Submission by UNHCR to the Office of the High Commissioner for Human Rights' Compilation Report Universal Periodic Review*, May 2011, at 3, available at: <https://www.refworld.org/pdfid/4dcb716f2.pdf>

⁸³ Syrians for Truth and Justice, *Syrian Citizenship Disappeared: How the 1962 Census destroyed stateless Kurds' lives and identities*, 15 September 2018, at 7, available at: <https://www.stj-sy.com/en/view/745>

⁸⁴ Institute on Statelessness and Inclusion / Norwegian Refugee Council, *Understanding statelessness in the Syria refugee context*, 2016, at 9, available at: <https://www.refworld.org/docid/584021494.html>. For further information on documentation in Syria, see: Institute on Statelessness and Inclusion / Norwegian Refugee Council, *Syriannationality.org – Syrian Documents*, 2016, available at: <http://www.syriannationality.org/index.php?id=21>

⁸⁵ Institute on Statelessness and Inclusion / Norwegian Refugee Council, *Understanding statelessness in the Syria refugee context*, 2016, at 9, available at: <https://www.refworld.org/docid/584021494.html>. For further information on documentation in Syria, see: Institute on Statelessness and Inclusion / Norwegian Refugee Council, *Syriannationality.org – Syrian Documents*, 2016, available at: <http://www.syriannationality.org/index.php?id=21>



5.1.2 The Human Rights Situation for Stateless Kurds in Syria

Following the 1962 census, the situation for Kurds in Syria deteriorated further throughout the 1970s, as President Hafiz al-Assad created a belt of Syrian Arabs living along the Syria-Turkey Border.⁸⁶

The human rights situation for Ajanib and Maktumeen has long been precarious, with limited or irregular access to “education, health care, livelihoods, travel, property ownership, judicial and political systems, and registration of businesses, marriages, and children.”⁸⁷ This limited access to education is likely to have resulted in substantially lower education levels.⁸⁸ There have been reports that Maktumeen are unable to attend school beyond grade nine.⁸⁹ Stateless Kurds do not enjoy the same rights as Syrian citizens, such as the right to vote, run for public office, the right to own property and the right to have marriages registered.⁹⁰

“Syrian-born Kurds with “foreigner” identity cards face tremendous difficulties in their everyday lives. They are not permitted to own land, housing or businesses. They cannot be employed at government agencies and state-owned enterprises and cannot practice as doctors or engineers. They are not eligible for food subsidies or admission to public hospitals. They may not legally marry Syrian citizens; if they do, the marriages are not legally recognised for either the citizen or the “foreigner”, and both spouses are described as unmarried on their identity cards. Kurds with “foreigner” status do not have the right to vote in elections or referenda or run for public office. They are not issued passports or other travel documents, and thus may not legally leave or return to Syria.”⁹¹

At the time of writing, people from Al-Hassaka were governed by the Kurdish-led Self-Administration who have formed various committees and institutions including schools, courts and a police force.⁹² This Administration does not distinguish between Kurds who are citizens, Ajanib or Maktumeen in their day-to-day treatment and stateless Kurds are among those employed in the Administration. However, this does not change their status under the national level framework. Maktumeen (and non-naturalised Ajanib) remain in a precarious position, without citizenship. Although they have access to these various services, they do still face serious obstacles due to their stateless status, especially those who have been displaced into Syrian Government-controlled territory or abroad.⁹³

Despite not having citizenship, stateless Kurds (like citizens) are required to serve in the military of the Kurdish-led Self Administration, mandated in the Self-Defence Duty Law in North and East Syria

⁸⁶ Human Rights Watch (2009) Group denial: Repression of Kurdish Political and Cultural Rights in Syria [online] available at: <https://www.hrw.org/report/2009/11/26/group-denial/repression-kurdish-political-and-cultural-rights-syria>

⁸⁷ Refugees International, *Buried Alive: Stateless Kurds in Syria*, January 2006, at 2, available at: <https://www.refworld.org/docid/47a6eba80.html>

⁸⁸ Institute on Statelessness and Inclusion / Norwegian Refugee Council, *Syriannationality.org – Stateless Populations in Syria*, 2016, available at: <http://www.syriannationality.org/index.php?id=19>

⁸⁹ Human Rights Watch, *Syria: The Silenced Kurds*, 1 October 1996, E804, available at: <https://www.refworld.org/docid/3ae6a8260.html>

⁹⁰ See Refugees International, *Buried Alive: Stateless Kurds in Syria*, January 2006, at 2, available at: <https://www.refworld.org/docid/47a6eba80.html> and Human Rights Watch, *Syria: The Silenced Kurds*, 1 October 1996, E804, available at: <https://www.refworld.org/docid/3ae6a8260.html>.

⁹¹ Human Rights Watch, *Syria: The Silenced Kurds*, 1 October 1996, E804, available at: <https://www.refworld.org/docid/3ae6a8260.html>

⁹² Information accurate as of August 2019.

⁹³ Ibrahim, M and Edelman, A (2018) ‘Shadow of a human’: Syria’s stateless Kurds navigate shifting authorities decades after losing citizenship [online] available at: <https://syriadirect.org/news/shadow-of-a-human-syria-s-stateless-kurds-navigate-shifting-authorities-decades-after-losing-citizenship/>



(ratified in June 2019).⁹⁴ This military service does not equate to recognition as a citizen by the Syrian Government, and, as such, internally displaced stateless Kurds, or stateless Kurdish refugees, must not be assumed to hold citizenship by virtue of having served in the military for the Kurdish-led Self-Administration.

5.1.3 Developments: Access to Nationality for Stateless Kurds under Decree No. 49 of 2011

On 7 April 2011, President Bashar al-Assad ordered that Ajanib of al-Hassaka could reacquire citizenship through Decree No. 49⁹⁵ However, in practice it was not possible for all to access this. Maktumeen were not mentioned and were therefore effectively excluded.

Decree No. 49 of 2011

Applied to:

Ajanib (if: inside Syria; able to access a specific district; and have all of their family members present)

Excluded:

Maktumeen; Ajanib unable to meet eligibility requirements; stateless persons in third countries (including Ajanib)

The exact figure of how many stateless persons acquired citizenship is difficult to estimate, as numbers have not been released in recent years.⁹⁶ UNHCR reported in mid-2013 that 104,000 individual Kurds had acquired citizenship.⁹⁷ In September 2016, Syria stated, *“the number of persons concerned by that measure [Decree No. 49 of 2011] was 124,949; the number of applicants was 115,450, who obtained citizenship, together with their families.”*⁹⁸

As mentioned above, not all Ajanib were able to benefit from this process due to difficulties relating to stringent document requirements, the obligation to register in a specific district and the need to process the request with all family members present. In addition, these developments exclusively applied to the Ajanib sub-section of the stateless Kurds, and therefore Maktumeen had no opportunity to reacquire Syrian citizenship. In practice, this also meant that many Kurds who had fled Syria during the civil war were unable to reacquire Syrian citizenship, as they remained outside Syria. Most recent estimates suggest there are 253,672 Syrian refugees in Iraq, mostly in the Kurdistan Region of Iraq (KRI).⁹⁹ There are known to be a significant number of stateless Kurds from al-Hassaka in Syria who are or were displaced in the KRI (even though they are incorrectly recorded

⁹⁴ The 2019 Law of Self Defence in Northern and Eastern Syria, Article 1(d)

⁹⁵ Australian Department of Foreign Affairs and Trade, *Thematic Report on Conditions in Syria*, 23 October 2017, at 3.5, available at: <https://dfat.gov.au/about-us/publications/Documents/country-information-report-syria.pdf>

⁹⁶ Institute on Statelessness and Inclusion / European Network on Statelessness, *From Syria to Europe: Experiences of Stateless Kurds and Palestinian Refugees from Syria Seeking Protection in Europe*, January 2019, at 9, available at: http://www.institutesi.org/from_Syria_to_Europe.pdf

⁹⁷ UNHCR, *Global Report 2012 – Syrian Arab Republic*, 19 June 2013, available at: <http://www.unhcr.org/51b1d63cb.html>

⁹⁸ UN Human Rights Council, *Working Group on the Universal Periodic Review – National Report of the Syrian Arab Republic*, 28 September 2016, at 40, available at: <https://undocs.org/en/A/HRC/WG.6/26/SYR/1>

⁹⁹ UNHCR, *Fact Sheet – Iraq*, April 2019, available at: <http://reporting.unhcr.org/sites/default/files/UNHCR%20Iraq%20Factsheet%20-%20April%202019.pdf>. This figure relates to Syrian refugees registered with UNHCR as of 31 March 2019. Figures on the amount of unregistered Syrian refugees in Iraq are not available. Also see 3RP, *Operations Portal – Refugee Situations – Syria Regional Refugee Response – Iraq*, 30 April 2019, available at: <https://data2.unhcr.org/en/situations/syria/location/5>, which quotes the figure as 253,371.



as “Syrian” by UNHCR).¹⁰⁰ Many have been there for years (from 2012/13) and have been unable to reacquire Syrian nationality even if they are Ajanib.¹⁰¹ Indeed, *“the 2011 Decree No. 49 aims at granting nationality to the stateless, but [there is no mention of] any procedure that the Syrian Kurds... could refer to in their countries of asylum, in case they wished to resolve their legal status.”*¹⁰²

5.2 Palestinian Refugees from Syria

Palestinians are widely considered to be one of the largest stateless populations in the world. However, the question of the statelessness of Palestinians is inextricably linked to that of Palestinian statehood and nationality policy, which is complex. The recognition of, and the self-identification of Palestinians as ‘stateless’ varies. A relatively small subset have acquired another nationality, but the majority have not, and as per the definition of a stateless person under international law, can be considered as stateless.¹⁰³

According to the United Nations Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA), which was established specifically to provide assistance to ‘Palestine Refugees’, there were 560,000 Palestinian refugees from Syria registered with UNRWA prior to the outbreak of the Syrian civil war.¹⁰⁴ UNRWA estimates that 160,000 registered Palestinian refugees from Syria fled Syria following the outbreak of the civil war, while 438,000 remained in Syria.¹⁰⁵

The actual number of Palestinian refugees from Syria is likely to be far higher than this figure, as many were not registered or eligible for registration with UNRWA (known as ‘non-ID Palestinians’¹⁰⁶). There are currently no reliable figures on the number of ‘non-ID Palestinians’ from Syria inside or outside the country. However, in Syria’s 2016 State report for the UN Human Rights Council Working Group on the Universal Periodic Review, the Government stated that there are *“40,000 Palestinian refugees...not registered [with UNRWA], according to the records of the [Syrian] General Authority for Palestine Arab Refugees (GAPAR).”*¹⁰⁷

5.2.1 Displacement, Status and Documentation

Palestinians across the Arab world have experienced many levels of displacement. For example, this may include initial displacement from Palestine, which in itself may have included several stages across decades, followed by displacement from their initial country of refuge because of another

¹⁰⁰ Thomas McGee, *Statelessness Displaced: Update on Syria's Stateless Kurds*, Statelessness Working Paper Series No. 2016/02, June 2016, available at: http://www.institutesi.org/WP2016_02.pdf.

¹⁰¹ Thomas McGee, *Statelessness Displaced: Update on Syria's Stateless Kurds*, Statelessness Working Paper Series No. 2016/02, June 2016, available at: http://www.institutesi.org/WP2016_02.pdf.

¹⁰² Syrians for Truth and Justice, *Syrian Citizenship Disappeared: How the 1962 Census destroyed stateless Kurds' lives and identities*, 15 September 2018, at 22, available at: <https://www.stj-sy.com/en/view/745>

¹⁰³ Institute on Statelessness and Inclusion, *The World's Stateless*, 2014 (Chapter VIII) [online] available at: <https://files.institutesi.org/worldsstateless.pdf> (for more information on Palestinians under UNRWA’s mandate and UNHCR’s refugee and statelessness mandates). Please note that UNHCR has not issued a position with regard to the nationality status of Palestinians.

¹⁰⁴ UNRWA, *Syria Regional Crisis - Emergency Appeal*, 2018, at 1, available at: https://www.unrwa.org/sites/default/files/content/resources/2018_syria_ea_final_web_0.pdf. However, other sources suggest that this figure was 526,744. See for example: Australian Department of Foreign Affairs and Trade, *Thematic Report on Conditions in Syria*, 23 October 2017, at 3.9, available at: <https://dfat.gov.au/about-us/publications/Documents/country-information-report-syria.pdf>

¹⁰⁵ UNRWA, *Syria Regional Crisis - Emergency Appeal*, 2018, at 1, available at: https://www.unrwa.org/sites/default/files/content/resources/2018_syria_ea_final_web_0.pdf

¹⁰⁶ “Non-ID Palestinian” is the term commonly used to refer to a Palestinian who is not registered with UNRWA, UNHCR or the authorities of the country in which they reside. See further HYPERLINK “<http://www.syrianationality.org/pdf/nationality-documentation-statelessness-syria.pdf>” www.syrianationality.org/pdf/nationality-documentation-statelessness-syria.pdf

¹⁰⁷ UN Human Rights Council, *Working Group on the Universal Periodic Review – National Report of the Syrian Arab Republic*, 28 September 2016, at 15, available at: <https://undocs.org/en/A/HRC/WG.6/26/SYR/1>



conflict. As a result, the types of documentation an individual or family possess may have significantly changed over time. There is also a high chance of documentation having been lost without the option to obtain new documents.¹⁰⁸

Depending on their date of arrival in Syria, some Palestinian refugees were issued a travel document and a temporary residency card. The travel document is only available to those registered with the General Authority for Palestinian and Arab Refugees (GAPAR), meaning those who entered Syria in 1948 or before 1956. Similarly, the Temporary Residency Card, a formal proof of identity used for official purposes and everyday use, is also only available to those registered with GAPAR. Both documents are issued by the Ministry of Interior, Palestinian Registrar.¹⁰⁹

In most of the Arab world, Palestinians are excluded from obtaining nationality. This is a result of the interpretation of the League of Arab States Protocol for the Treatment of Palestinians in Arab States (The Casablanca Protocol), adopted on 11 September 1965. The protocol sets out rights to be enjoyed by Palestinian refugees in host countries but indicates that this treatment should be provided to Palestinians “*whilst retaining their Palestinian nationality.*”¹¹⁰ This has resulted in a policy of non-naturalisation of Palestinians in countries across the Middle East and North Africa and has left generations of Palestinians with no nationality.¹¹¹ Prior to the conflict in Syria, over half a million Palestinians resided there without access to naturalisation. Their status has made their situation inside Syria, and the situation for those now displaced outside Syria, particularly vulnerable.

Children born to Palestinian refugees from Syria who are displaced may fall through the gaps in different registration systems, as it may not be possible to be added to the UNRWA Damascus family records. In order to add a child to their UNRWA records, a Palestinian refugee from Syria must go through the office in Syria where the parents were initially recorded. This can be a complicated procedure and is often impossible when a family is displaced in a neighbouring country.¹¹²

5.2.2 The Human Rights Situation for Palestinian Refugees from Syria

The rights enjoyed by Palestinian refugees from Syria are different depending on their date of arrival in Syria. According to the Australian Department of Foreign Affairs and Trade (DFAT), Palestinians who arrived in Syria prior to 1956 enjoyed more rights than those who arrived afterwards.¹¹³ Despite this, they were still excluded from accessing Syrian nationality.

¹⁰⁸ Institute on Statelessness and Inclusion and The Norwegian Refugee Council (2016) ‘Understanding Statelessness in the Syria Refugee Context: Research Report’ [online] available at: <http://www.syrianationality.org/pdf/report.pdf>

¹⁰⁹ Institute on Statelessness and Inclusion / Norwegian Refugee Council, *Understanding statelessness in the Syria refugee context*, 2016, at 9, available at: <https://www.refworld.org/docid/584021494.html>. For further information on documentation in Syria, see: Institute on Statelessness and Inclusion / Norwegian Refugee Council, *Syriannationality.org – Syrian Documents*, 2016, available at: <http://www.syrianationality.org/index.php?id=21>.

¹¹⁰ League of Arab States, *Protocol for the Treatment of Palestinians in Arab States, 1965* [online] available at: <https://www.refworld.org/docid/460a2b252.html>

¹¹¹ L. Van Waas, *A Comparative Analysis of Nationality Laws in the MENA region*, 2014 [online] available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2493718

¹¹² Institute on Statelessness and Inclusion / European Network on Statelessness, *From Syria to Europe: Experiences of Stateless Kurds and Palestinian Refugees from Syria Seeking Protection in Europe*, January 2019, at 47, available at: <http://www.institutesi.org/from-Syria-to-Europe.pdf>.

¹¹³ Australian Department of Foreign Affairs and Trade, *Thematic Report on Conditions in Syria*, 23 October 2017, at 3.8, available at: <https://dfat.gov.au/about-us/publications/Documents/country-information-report-syria.pdf>



There are 12 camps for Palestinian refugees in Syria, among which are Yarmouk and Dera'a.¹¹⁴ Yarmouk is located on the outskirts of Damascus and was home to approximately 160,000 Palestinian refugees prior to the Syrian civil war.¹¹⁵ In mid-2018, it was reported that there were only 1,000 Palestinian refugees remaining in Yarmouk refugee camp.¹¹⁶ The camp has seen intense fighting, a typhoid outbreak, and occupation by Daesh.¹¹⁷ Dera'a refugee camp is located in the south of Syria and was home to approximately 10,000 Palestinian refugees prior to the Syrian civil war.¹¹⁸ UNRWA reported in December 2018 that approximately 400 families have slowly begun to return to Dera'a camp after the Syrian Government regained control of the camp in July 2018.¹¹⁹

According to the US Department of State, *“both government and opposition forces reportedly besieged, shelled, and otherwise made inaccessible some Palestinian refugee camps, neighbourhoods and sites which resulted in severe malnutrition, lack of access to medical care and humanitarian assistance and civilian deaths.”*¹²⁰ UNRWA stated in December 2018 that in both Dera'a and Yarmouk Camps, the *“vast majority of houses have been affected and all basic infrastructure has been destroyed,”* and almost all UNRWA facilities have been severely damaged or destroyed, including health clinics, distribution centres and schools.¹²¹

As a result of the intense fighting in both Dera'a and Yarmouk, an overwhelming majority of Palestinians from Syria were displaced within Syria or fled the country. For example, Jordan *“hosts around 17,000 Palestine refugees from Syria (PRS), 47 per cent of whom are children.”*¹²² Many faced difficulties in displacement, such as being refused entry into neighbouring countries; being delayed in their journey in a third country (e.g. Greece); or being mistakenly registered as having “unknown” nationality or being registered by third countries as “Syrian”.¹²³

5.3 Other People at Risk of Statelessness in Syria

As mentioned above, the Syrian Nationality Law provides for several circumstances in which Syrians may be stripped of their citizenship, and which may be invoked even if they result in statelessness. As such, there may be other situations in which Syrian citizens are put at risk of statelessness (see 3.3). There are also an unknown number of individuals who are stateless in Syria because they were

¹¹⁴ UNRWA, *Where we work* <https://www.unrwa.org/where-we-work/syria>

¹¹⁵ UNRWA, *The Crisis in Yarmouk*, undated, available at: <https://www.unrwa.org/crisis-in-yarmouk>

¹¹⁶ See Rollins, Tom, *Civilians trapped in Yarmouk face “unimaginable” end to siege*, 23 April 2018, available at:

IRIN: <https://www.irinnews.org/news/2018/04/23/civilians-trapped-yarmouk-face-unimaginable-end-siege>

¹¹⁷ UNRWA, *The Crisis in Yarmouk*, undated, available at: <https://www.unrwa.org/crisis-in-yarmouk>

¹¹⁸ UNRWA, *Almost all UNRWA Installations in Yarmouk and Dera'a Camp in Syria Severely Damaged or Destroyed*, 1 December 2018, available at: <https://www.unrwa.org/newsroom/press-releases/almost-all-unrwa-installations-yarmouk-and-dera%E2%80%99-camp-syria-severely-damaged>

¹¹⁹ UNRWA, *Almost all UNRWA Installations in Yarmouk and Dera'a Camp in Syria Severely Damaged or Destroyed*, 1 December 2018, available at: <https://www.unrwa.org/newsroom/press-releases/almost-all-unrwa-installations-yarmouk-and-dera%E2%80%99-camp-syria-severely-damaged>

¹²⁰ US Department of State, *Country Reports on Human Rights Practices - Syria*, 2018, at 47, available at:

<https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/syria/>

¹²¹ UNRWA, *Almost all UNRWA Installations in Yarmouk and Dera'a Camp in Syria Severely Damaged or Destroyed*, 1 December 2018, available at: <https://www.unrwa.org/newsroom/press-releases/almost-all-unrwa-installations-yarmouk-and-dera%E2%80%99-camp-syria-severely-damaged>

¹²² UNRWA, *Protection in Jordan*, March 2018, available at: <https://www.unrwa.org/activity/protection-jordan>

¹²³ For further information, see: Institute on Statelessness and Inclusion / European Network on Statelessness, *From Syria to Europe: Experiences of Stateless Kurds and Palestinian Refugees from Syria Seeking Protection in Europe*, January 2019, available at: <http://www.institutesi.org/from-Syria-to-Europe.pdf>.



unable to acquire Syrian nationality due to gender discriminatory laws or who lost their nationality at some point because of political activism.¹²⁴

¹²⁴ Institute on Statelessness and Inclusion / Norwegian Refugee Council, *Understanding statelessness in the Syria refugee context*, 2016, at 7, available at: <https://www.refworld.org/docid/584021494.html>



6. DOCUMENTATION IN SYRIA

Note the table below lists some Syrian documents, but it is not an exhaustive list.¹²⁵ Due to the conflict and displacement, documents may have been lost or destroyed, leaving some people without any documentation.

DOCUMENT	Colour	Description
FAMILY BOOKLET ("Daftar Ayli")	Citizens	Family booklet that records all members of a family in one document: mother, father and all children. When two people get married, they move from their parents' booklet into their own.
NATIONAL ID CARD ("Hawiya")	Citizens	The ID card that every Syrian national should obtain once over the age of 14. Used for official purposes and everyday use as proof of nationality. One of the documents establishing right to vote when reaching the age of 18. Issued by the civil registrar (Ministry of Interior).
Bitaqā Ajnabi ("RED CARD")	Ajanib	The identification document for Ajanib Kurds. Records the individual as a registered foreigner. Not valid for travel outside Syria. Issued by the civil registrar (Ministry of Interior).
FAMILY CIVIL EXTRACT	Ajanib	Equivalent to Family Booklet for registered "foreigners". Issued by the civil registrar (Ministry of Interior).
IDENTITY NOTIFICATION ("Shahadat Taaref")	Maktumeen	Document issued by the local Mokhtar which states the identity of the holder. It is often produced when an individual is not a citizen of Syria and needs informal identification. It cannot be used for formal identification, as it contains no validation from higher authorities. However, it is sometimes stamped by officials at the governate level.
RESIDENCY NOTIFICATION	Maktumeen	Informal identification only. No rights attached to document and holder cannot use it to travel outside Syria. Provided by the local Mokhtar and can only be obtained and updated in Syria.
TRAVEL DOCUMENT	Palestinians	Used by Palestinians to travel abroad. Only available for Palestinian refugees registered with the General Authority for Palestinian Arab Refugees (i.e. those who entered in 1948 and/or before 1956). Issued by the Ministry of Interior, Palestinian Registrar.
TEMPORARY RESIDENCY CARD	Palestinians	Official proof of identity (used for official purposes and everyday use). Confirms identity as a Palestinian refugee. Only available for Palestinian refugees registered with the General Authority for Palestinian Arab Refugees (i.e. those who entered in 1948 and/or before 1956). Issued by the Ministry of Interior, Palestinian Registrar.

¹²⁵ Documents obtained from: Institute on Statelessness and Inclusion / Norwegian Refugee Council, Understanding statelessness in the Syria refugee context, 2016, at 9, available at: <https://www.refworld.org/docid/584021494.html>. For further information on documentation in Syria, see: Institute on Statelessness and Inclusion / Norwegian Refugee Council, Syriannationality.org – Syrian Documents, 2016, available at: <http://www.syriannationality.org/index.php?id=21>. The Syrian Ministry of Interior (Civil Affairs Directorate) and the UNHCR produced a joint paper in July 2018, which provides a useful overview of civil documentation in Syria, see: UNHCR and Syrian Arab Republic, Civil Documentation and Registration in the Syrian Arab Republic, July 2018, available at: <https://www.unhcr.org/sy/wp-content/uploads/sites/3/2018/09/Personal-Documentation-En-Jul-2018.pdf>



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Statelessness is often overlooked in asylum and migration debates. It is a hidden but very real issue affecting many refugees and migrants in Europe.

#StatelessJourneys is a joint project between the European Network on Statelessness and the Institute on Statelessness and Inclusion. It was designed to expose gaps, identify solutions and deliver evidence-based advocacy to secure the protection of stateless refugees and migrants, and to prevent new cases of statelessness arising in Europe.

For more information about the issue and the project please visit <https://statelessjourneys.org>



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We would like to acknowledge the support of Open Society Foundations.

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