

# Legal Identity and Housing, Land and Property Rights of Syrian Refugees from a Durable Solutions Perspective



Challenges and Opportunities



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The Norwegian Refugee Council ([www.nrc.no](http://www.nrc.no)) is an independent, international, humanitarian non-governmental organisation which provides assistance, protection and contributes to durable solutions for refugees and internally displaced people worldwide.

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# Executive summary

**Access to legal identity and civil documentation – such as the documentation of births, marriages, and deaths – is a basic human right and a prerequisite to the realisation and enjoyment of a number of other civil, political, economic, social and cultural rights, including health and education. Moreover, possessing documentation is critical to reducing protection risks, ensuring access to income-generating opportunities and securing housing, land and property (HLP) assets. In the context of displacement, the rights to legal identity and HLP are essential to achieving durable solutions and providing a foundation on which Syrians can sustainably rebuild their lives.**

This report explores the key challenges that Syrian refugees in Jordan, Lebanon, and the Kurdistan Region of Iraq (KRI) face to access civil documentation and HLP rights from a durable solutions perspective, including in the context of returns to Syria. Specifically, it focuses on issues related to death registration, civil registration for families with missing relatives, and the link between a lack of civil documentation and the enjoyment of HLP rights, which are particularly significant issues during conflict and displacement. Based on in-depth legal analysis and quantitative and qualitative research, including over 30 focus group discussions and interviews with some 170 key stakeholders,<sup>1</sup> the report gives an overview of the on-the-ground reality and highlights how gaps in these areas could be addressed. With regards to Syria, the study considers the rights and legal framework as promulgated by the Government of Syria. Although not the focus of the report, Palestine refugees from Syria are likely to face many of the same challenges related to civil documentation and HLP rights as Syrian nationals.

In Syria, Iraq,<sup>2</sup> Jordan and Lebanon, laws of civil and/or personal status<sup>3</sup> govern matters of legal identity and civil documentation. Since the start of the conflict, Syria and the host countries have adopted laws and policies to facilitate access to civil registration for displaced Syrians. While these efforts have significantly improved the situation for some, Syrian refugees continue to face a number of challenges that impede their access to civil documentation. Many refugees are unable to obtain, replace, or update documentation, and as a result, they remain undocumented or under-documented. A lack of civil documentation has serious protection implications for Syrian refugees including restrictions on freedom of movement, an increased risk of statelessness and the inability to enjoy HLP rights amongst others.<sup>4</sup>

HLP rights violations have occurred throughout the conflict including inter alia, seizure and confiscation of property, forced evictions, looting and preventing civilians from returning to their property.<sup>5</sup> A lack of adequate housing and concerns over their property and housing are among the main factors influencing refugees' return intentions.<sup>6</sup> This is exacerbated by high levels of destruction.<sup>7</sup> Women are particularly affected and face additional challenges in claiming their property<sup>8</sup> and inheritance rights such as administrative and practical constraints as well as customary norms and practice, threats of violence, exploitation and rejection from their families and communities.<sup>9</sup> In the longer-term, if unaddressed, these issues will make it more difficult for refugees to access durable solutions and negatively affect future recovery efforts.

There are concrete opportunities for stakeholders to take steps that will increase Syrian refugees' access to legal identity and civil documentation and ensure their HLP rights are better protected. Continued and broadened support that responds to the key challenges faced by Syrian refugees is essential to improve the protection environment and access to durable solutions.

<sup>1</sup> Annex 2 provides an overview of the data collection methods that were used in the qualitative and quantitative research.

<sup>2</sup> It should be noted that the Kurdistan Region of Iraq (KRI) is recognised as an autonomous region by the Iraqi Constitution. Under the Constitution, the Kurdish Regional Government (KRG) has considerable legislative and judicial powers outside the federal legislative and judicial system, which means that separate laws often apply in both parts of Iraq.

<sup>3</sup> See Annex 1 for a list of key national laws relevant to legal identity and civil documentation.

<sup>4</sup> UNOCHA, 2021, Syria Humanitarian Needs Overview (HNO), p. 57; World Bank, 2019, The Mobility of Displaced Syrians: An Economic and Social Analysis, p. 12; UNHCR, 2018, A Longing to Go Home, in Safety and Dignity – Intentions and Perceptions of Syrian Refugees in Lebanon About Their Future, p. 17; UNHCR, March 2021, Sixth Regional Survey on Syrian Refugees' Perceptions and Intentions on Return to Syria, <https://reporting.unhcr.org/sites/default/files/MENA%20regional%20survey.pdf>

<sup>5</sup> World Bank, 2019, The Mobility of Displaced Syrians: An Economic and Social Analysis. Key Informant Interview (KII) for joint UNHCR/NRC regional research, 2020.

<sup>6</sup> UNHCR, March 2021, Sixth Regional Survey on Syrian Refugees' Perceptions and Intentions on Return to Syria, p. 17.

<sup>7</sup> World Bank, 2019, The Mobility of Displaced Syrians: An Economic and Social Analysis, p. 12.

<sup>8</sup> HLP documents are much less likely to include women's names. NRC & UNHCR, 2020, Reclaiming Home - HLP rights of Syrian refugees from Dar'a Governorate living in Jordan.

<sup>9</sup> World Bank, 2019, The Mobility of Displaced Syrians: An Economic and Social Analysis.

## Section 1

# Introduction

Access to legal identity and civil documentation – such as the documentation of births, marriages, and deaths – is a basic human right and a prerequisite to the realisation and enjoyment of a number of other civil, political, economic, social and cultural rights, including health and education. Moreover, possessing documentation is critical to reducing protection risks, ensuring access to income-generating opportunities and securing HLP assets. In the context of displacement, the rights to legal identity and HLP are essential to achieving durable solutions and providing a foundation on which Syrians can sustainably rebuild their lives.

Proving legal identity can be a major challenge for many Syrian refugees who, after years of displacement, have been unable to obtain, replace, or update civil documentation. Access to civil documentation is inextricably linked to HLP rights, which are contingent on a person's ability to prove their identity and family lineage. A lack of civil documentation can thus severely limit opportunities, and further compound the challenges that Syrian refugees face to exercise their HLP rights.<sup>10</sup> Both of these issues can have significant protection implications during displacement, and in the longer term, can make durable solutions harder to achieve and negatively affect future recovery efforts.

Given the scale of these challenges in the Syria context, during 2020, UNHCR and NRC undertook research focused on key civil documentation and HLP challenges faced by Syrian refugees in Jordan, Lebanon and the Kurdistan Region of Iraq from a durable solutions perspective.<sup>11</sup> The issues of death registration, civil registration for families with missing relatives, and the link between a lack of civil documentation and the enjoyment of HLP rights were identified as warranting more in-depth research. The HLP rights of women and other marginalised groups also formed a central focus of the research and analysis presented below. Although not the focus of the report, Palestine refugees from Syria are likely to face many of the same challenges related to civil documentation and HLP rights as Syrian nationals.

This report starts with an examination of the relevant legal frameworks and then presents an overview of the challenges faced by Syrian refugees related to realising their rights to legal identity and HLP in displacement. The report concludes with a series of practical recommendations addressed to the Syrian and host governments, humanitarian actors and donors regarding how to support and improve access to legal identity and HLP rights in the context of durable solutions. With regards to Syria, the study considers the rights and legal framework promulgated by the Government of Syria.

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<sup>10</sup> UNOCHA, 2021, Syria Humanitarian Needs Overview (HNO), p. 57; World Bank, 2019, The Mobility of Displaced Syrians: An Economic and Social Analysis, p. 12; UNHCR, 2018, A Longing to Go Home, in Safety and Dignity – Intentions and Perceptions of Syrian Refugees in Lebanon About Their Future, p. 17; UNHCR, March 2021, Sixth Regional Survey on Syrian Refugees' Perceptions and Intentions on Return to Syria.

<sup>11</sup> Research included in-depth legal analysis, a desk review of existing literature, lessons learned from NRC and UNHCR's programming and quantitative and qualitative research carried out in Jordan, Lebanon, and KRI. Annex 2 provides an overview of the data collection methods that were used in the qualitative and quantitative research.

## Section 2

# Legal Analysis

### 2.1 International legal frameworks on the rights to legal identity and HLP

The right to a legal identity is enshrined in international law; the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) set out the right to recognition before the law. The ICCPR and the International Convention on the Rights of the Child (CRC) stipulate the right to birth registration, and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) provides for the equal and non-discriminatory right to recognition before the law. These treaties have been ratified by Syria, Lebanon, Jordan, and Iraq.<sup>12</sup> Regionally, the Arab Charter on Human Rights promotes the right of all persons to legal identity,<sup>13</sup> and the Sharjah Principles on Protecting Refugee Children in the Middle East and North Africa specify that all refugee children should be registered and documented at birth.<sup>14</sup>

Civil registration establishes the existence of a person under the law and is the fundamental means of confirming legal identity, which safeguards a multitude of rights.<sup>15</sup> Birth registration is the most clearly articulated civil registration procedure under international human rights law.<sup>16</sup> Marriage registration has been referenced by the CEDAW Committee.<sup>17</sup> There is no explicit reference to the right to death registration under any international or regional human rights treaty. However, death registration is commonly connected to economic and social rights, such as the right to inheritance.<sup>18</sup>

HLP rights are a compound set of rights with their origins in the main international human rights treaties,

all of which have been ratified by Syria, Lebanon, Jordan, and Iraq.<sup>19</sup> The two most relevant aspects for Syrian refugees, due to their displacement, are the right to adequate housing and the right to reparation for HLP losses and violations experienced as a result of conflict. The right to adequate housing is set out in the International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>20</sup> and defined as “the right to live somewhere in security, peace and dignity”.<sup>21</sup>

Under international law, displaced Syrians have the right to receive reparation for the HLP rights of which they were arbitrarily or unlawfully deprived during the conflict.<sup>22</sup> The right to reparation is set out in article 2 of the ICCPR and further elaborated in the 2005 Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (Basic Principles).<sup>23</sup> The right to reparation is a distinct right held by refugees, regardless of whether they choose to return to Syria or not.<sup>24</sup>

<sup>12</sup> The International Covenant on Civil and Political Rights (ICCPR) was ratified by Syria in 1969, by Iraq in 1971, by Jordan in 1975, and by Lebanon in 1972. The Convention on the Rights of the Child (CRC) was ratified by Syria in 1993, by Iraq in 1994, by Jordan in 1991, and by Lebanon in 1991. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was ratified by Syria in 2003, by Iraq in 1986, by Jordan in 1992, and by Lebanon in 1997. For an overview of the countries' status of ratification, see: <https://www.ohchr.org/EN/Countries/MENARegion/Pages/MENARegionIndex.aspx> (accessed 28 October 2021).

<sup>13</sup> The Arab Charter on Human Rights was ratified by Syria in 2007, by Iraq in 2012, by Jordan in 2004 and by Lebanon in 2011.

<sup>14</sup> See: <https://www.unhcr.org/protection/conferences/543fdff96/sharjah-principles.html> (accessed 28 October 2021).

<sup>15</sup> 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 (15/03/2012), par. 4. Civil registration is described by the United Nations as “the continuous, permanent, compulsory and universal recording of the occurrence and characteristics of vital events”. United Nations (2001), Principles and recommendations for a vital statistics system, Revision 2, p. 4.

<sup>16</sup> See UN Human Rights Council, 2012, Birth registration and the right of everyone to recognition everywhere as a person before the law, A/HRC/RES/19/9 (15/03/2012); UN General Assembly, Resolution adopted by the General Assembly on 19 December 2011; 66/141. Rights of the Child, A/RES/66/141 (04/04/2012), par. 43(f).

<sup>17</sup> The CEDAW Committee has noted that “[r]egistration of marriage protects the rights of spouses with regard to property issues upon dissolution by death or divorce” (UN Committee on the Elimination of Discrimination against Women (CEDAW), 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), 30 October 2013, CEDAW/C/GC/29, CEDAW, par. 25).

<sup>18</sup> See, for example, the 2014 UN Principles and Recommendations for a Vital Statistics System available at <https://unstats.un.org/unsd/demographic/standmeth/principles/m19rev3en.pdf>, and the Sustainable Development Goal Indicator no. 17.19.2 G 17 indicator: Proportion of countries that (a) have conducted at least one population and housing census in the last 10 years; and (b) have achieved 100 per cent birth registration and 80 per cent death registration.

<sup>19</sup> For an overview of the countries' status of ratification, see: <https://www.ohchr.org/EN/Countries/MENARegion/Pages/MENARegionIndex.aspx> (accessed 29 October 2021).

<sup>20</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR), UN Doc. A/6316 (1966). Article 11 (1) of the ICESCR requires states parties to the Convention to “recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions”.

<sup>21</sup> UN CESCR, General Comment 4 (1991), par. 7.

<sup>22</sup> UN General Assembly, Basic Principles on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, UN Doc. A/Res/60/147 (2005), Principle VII.b and Principle IX.18.

<sup>23</sup> UN General Assembly, Basic Principles on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, UN Doc. A/Res/60/147 (2005), Principle VII.b and Principle IX.18.

<sup>24</sup> UN General Assembly, Basic Principles on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, UN Doc. A/Res/60/147 (2005), Principle VII.b and Principle IX.18.

## 2.2 National legal frameworks on the right to legal identity

Matters of legal identity and civil documentation in Syria, Iraq,<sup>26</sup> Jordan and Lebanon are governed by laws of civil and/or personal status. These laws<sup>27</sup> outline the conditions, procedures, and costs for registering vital events and issuing certificates. Given that birth registration can have implications regarding nationality, the Syrian nationality law is also relevant.<sup>28</sup>

According to the Syrian Civil Status Law,<sup>29</sup> all vital events, such as births, marriages, divorces and deaths that take place in Syria must be registered with the Civil Status Department within three months.<sup>30</sup> Events that take place abroad must be registered within nine months<sup>31</sup> either at the diplomatic mission in the place of residence or the place where the event occurred, or directly<sup>32</sup> at any Civil Registry Centre in Syria.<sup>33</sup> For vital events that occurred abroad to be considered valid for registration in Syria, they must first be registered following the laws of the country in which they occurred, and must not conflict with Syrian laws.<sup>34</sup>

In **Jordan**, vital events must be registered with the Civil Status Department, following strict procedures and deadlines.<sup>35</sup>

**Lebanon's** civil registry procedures consist of several steps with short deadlines involving agencies at local and governorate levels.<sup>36</sup>

In **Iraq**, vital events of Syrian refugees are recorded with the Directorate of Birth and Death (under the Ministry of Health) and local mukhtars.<sup>37</sup>

In **Syria** and all host countries, registration processes require supporting documents and the payment of fees. The late registration of vital events or complex cases often entails lengthy, costly, and complex judicial procedures, and can incur fines.<sup>38</sup>

For example, in Jordan, proof of birth or death must be obtained through a lawsuit if more than one year has elapsed since the event.<sup>39</sup> In Syria, a lawsuit is required for death registration in cases where family members or heirs do not, or cannot, follow regular procedures to register a death due to a lack of evidence or in the case of a missing person.<sup>40</sup>

### Box 1: HLP<sup>25</sup>

*HLP rights concern having a home/ property free from the fear of forced eviction and a place that offers shelter, safety, and the ability to secure a livelihood. HLP rights are held by owners, tenants, housing association members, informal sector dwellers, and customary land tenure owners and users. HLP rights include rights held according to statutory or customary law, they include:*

- *The right to adequate housing, encompassing the right to security of tenure and protection from forced eviction;*
- *The right to access natural resources, such as land and water;*
- *The right to non-discrimination in accessing HLP rights, which entails special protection for the most vulnerable and marginalised persons.*

<sup>25</sup> Based on UN CESCR, General Comment 4 (1991). See also UNHCR Handbook for Emergencies, 4th Edition (2015), <https://emergency.unhcr.org/entry/214524/housing-land-and-property-hlp>

<sup>26</sup> It should be noted that the Kurdistan Region of Iraq is recognised as an autonomous region by the Iraqi Constitution. Under the Constitution, the Kurdish Regional Government (KRG) has considerable legislative and judicial powers outside the federal legislative and judicial system, which means that separate laws often apply in both parts of Iraq.

<sup>27</sup> See Annex 1 for a list of key national laws relevant to legal identity and civil documentation.

<sup>28</sup> Syrian Nationality Law - Legislative Decree No. 276 (1969).

<sup>29</sup> Syrian Civil Status Law, Law No. 13/2021.

<sup>30</sup> Syrian Civil Status Law, Law No. 13/2021, art. 14a.

<sup>31</sup> Syrian Civil Status Law, Law No. 13/2021, art. 14a

<sup>32</sup> The required validation and ratification steps are often subject to fees as well as fines if the registration deadline has passed. Fees at the Syrian Embassy are not the same in the three host countries, based on data published on the respective embassy websites.

<sup>33</sup> Syrian Civil Status Law, Law No. 13/2021, art. 17. Syrians who are unable to approach a Syrian diplomatic mission can register a vital event that occurred abroad directly in any Civil Registry Centre in Syria. An authorised relative or legal representative with power of attorney can submit the original documents or a certified copy, issued by the competent authorities in the host country, which proves the vital event to any Civil Registry to be recorded.

<sup>34</sup> Syrian Civil Status Law, Law No. 13/2021, art. 17, in addition to Executive Regulations of Law 13/2021 issued under Ministry of Interior's decision number 1/M/N 2021. The article describes the process and requirements for the registration of vital events of Syrians that take place abroad. According to the Syrian Ministry of Interior website <http://mofaex.gov.sy> (accessed 12 July 2021), the original foreign civil document must be ratified by the Ministry of Foreign Affairs of the host country.

<sup>35</sup> According to the Jordanian Civil Status Law, Law No. 9/2000, birth registration must occur within 30 days when a child is born inside Jordan (art. 13(a)) or 90 days when birth occurs outside Jordan (art. 13(b)). For late registration, a 10 JOD fine is due (art. 13(a)). The registration deadline for marriage and divorce is 30 days (art. 23(a)). Death

registration needs to occur within a week of the death (art. 26(a)).

<sup>36</sup> According to the Lebanese Personal Status Registration Law, marriages and births have to be registered within one month (art. 22 and art. 11 respectively). Delayed birth registration is subject to fines and registration of children older than one year can only be done through a lawsuit (art. 12). Deaths have to be registered within 45 days. Late registrations (after 45 days of the death) are subject to a fine amounting to 100,000 LBP (art. 33).

<sup>37</sup> However, if a Syrian woman is married to an Iraqi national, she will be recorded in the Civil Registries; KII for joint UNHCR/NRC regional research, 2020.

<sup>38</sup> Syrian Arab Republic/Ministry of Interior/ Civil Affairs Directorate & UNHCR, 2019, Civil Documentation and Registration in the Syrian Arab Republic (English version; second edition), p. 19.

<sup>39</sup> Jordanian Civil Status Law, Law No. 9/2001, arts. 34–35.

<sup>40</sup> The procedures to report a missing person and obtain a declaration of death in absentia are summarised in Box 2.

### 2.2.1 Legislative and policy changes improving access to civil registration for Syrians

Since the start of the conflict, Syria, Jordan, Iraq and Lebanon have adopted laws and policies to facilitate access to civil registration for displaced Syrians. In Syria, amendments to the Civil Status Law in 2017 expanded the range of family members and public departments eligible to obtain copies of civil documents for Syrians unable to access the civil registry<sup>41</sup> and also allowed spouses and legal custodians to obtain replacement family booklets.<sup>42</sup> In March 2021, the new Civil Status Law introduced additional provisions that may further increase access to civil registration. These include a threefold extension of the period in which Syrian nationals can register vital events<sup>43</sup> and provides that the registration of these events and obtaining of civil documents can occur at any civil registry centre in the country.<sup>44</sup> The law also offers clarity and further expands the list of persons eligible to register and obtain birth and death certificates and family booklets. The fees, fines, and penalties related to civil registration have increased under the new law. A legislative decree introduced in April 2021,<sup>45</sup> however, exempted Syrian citizens and persons of equivalent status for six months from fines imposed by the 2021 Civil Status Law for registering vital events or obtaining ID cards after the legal time limits. This exemption was granted in Syria and at Syrian embassies.<sup>46</sup> A previous legislative decree, issued in July 2019, provided a more limited, yearlong exemption from fees as well as fines for the delayed registration of vital events for certain categories of Syrians.<sup>47</sup>

In **Jordan**, between 2016 and 2019, the government, in coordination with UNHCR, facilitated the Urban Verification Exercise (UVE) to regularise the legal status of all Syrian nationals in non-camp settings. As part of the exercise, over 20,000 UNHCR asylum-seeker certificates were issued to Syrian refugees.<sup>48</sup> Registration as a refugee increases the ability to access the Jordanian justice system, which is necessary to register vital events through legal proceedings.<sup>49</sup> The exercise also facilitated the return of Syrian refugees' identity and civil documents that had been retained at the border by Jordanian authorities at the time of entry to Jordan.<sup>50</sup>

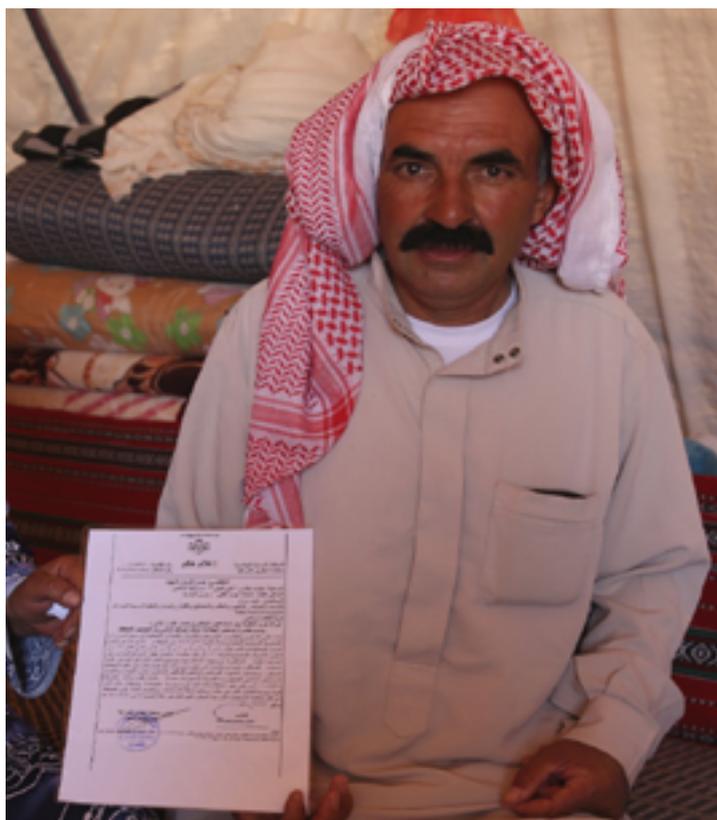


Photo: NRC

<sup>41</sup> Syrian Civil Status Law, Legislative Decree No.26/2007 art. 22, as amended by Law No. 4/2017. The Syrian civil registration system is known as the Nofous.

<sup>42</sup> Syrian Civil Status Law, Legislative Decree No.26/2007 art. 64, as amended by Law No. 4/2017.

<sup>43</sup> Syrian Civil Status Law, Law No. 13/2021, art. 14(a). The period that has been given by the 2021 Civil Status Law to register vital events that take place in Syria with the Civil Status Department has been extended from one month to three months. The period for the registration of vital events that take place abroad has been extended from three months to nine months.

<sup>44</sup> Previously, Syrians have had to return to the registry office in their place of origin to register vital life events or obtain ID cards and family booklets.

<sup>45</sup> Syrian Legislative Decree No. 7/2021.

<sup>46</sup> As announced on the Government of Syria website <http://sana.sy/?p=1357264>

<sup>47</sup> Legislative Decree No. 11/2019. The waiver was in place from 21 July 2019 to 20 July 2020 and applied to Syrians who could prove that they were 'resident in terrorism-affected areas' or that they had been displaced inside or outside of Syria as a result of 'terrorism'. The Decree did not make a legal provision for Syrian diplomatic missions to waive their fees and fines.

<sup>48</sup> UNHCR Jordan Factsheet, March 2019, <https://reliefweb.int/report/jordan/unhcr-jordan-factsheet-march-2019> (accessed 29 July 2021).

<sup>49</sup> Clutterbuck, M. et al., 2018, Establishing Legal Identity for Displaced Syrians, Forced Migration Review No. 57, Syrians in Displacement, February 2018.

<sup>50</sup> In total, around 219,000 documents were retained up to 2014, when the practice ended. The process of returning documents was then included in the UVE. See, NRC, 2016, Securing Status: Syrian refugees and the documentation of legal status, identity, and family relationships in Jordan, p. 14, <https://www.nrc.no/globalassets/pdf/reports/securing-status.pdf>

In **KRI**, the Kurdish authorities are reported to take a flexible approach towards the residency and registration processes for Syrian refugees, including stateless Kurds from Syria.<sup>51</sup> Once refugees obtain a residency permit, they can travel freely within KRI – though not to Federal Iraq<sup>52</sup> – and have access to civil registration mechanisms.<sup>53</sup> In addition, a Personal Status Court located in Summel (Duhok) applies Syrian law if both parties are Syrian.<sup>54</sup>

In **Lebanon**, the government has, since the start of the crisis, taken steps to increase access to birth registration for the children of Syrian refugees born in Lebanon. This has included amending the requirements for marriage registration in September 2017, such that only one spouse requires legal residency,<sup>55</sup> removing the requirement for a parent to have legal residency to complete the birth registration process<sup>56</sup> and a simplification of procedures for delayed birth registration.<sup>57</sup> In addition, in March 2019, the list of documents accepted as proof of marriage for birth registration and divorce was expanded.<sup>58</sup> Legal residency is not required by law for death registration.<sup>59</sup> Fines for late registration were suspended in October 2019, and the suspension period was extended in January 2021.<sup>60</sup>

## Box 2:

### National Laws related to missing persons<sup>61</sup>

*Across the region, a person is considered missing (al-mafqud)<sup>62</sup> when their whereabouts are unknown and it is not known if he/she is alive or dead.<sup>63</sup> The procedures for reporting someone missing and conducting a search for a missing person are different across the four countries. In general, a person has to be reported missing to the police and/or criminal public prosecutor who is then responsible for leading an investigation into the circumstances of the disappearance. If the missing person cannot be found and is believed to be dead, the family can initiate court proceedings to obtain a declaration of presumed death, either in the country where the person went missing or in the country of origin, depending on the available evidence/documentation. A missing person can be declared presumed dead by a competent court after the time set by national law has passed. The death should, subsequently, be recorded in the civil registry, or court records of the country where the person has been declared dead in absentia and in the country of origin.*

<sup>51</sup> For example, residency permits are granted to Syrian refugees that provide freedom of movement within KRI. Refugees have the right to education free of charge in public schools (on par with Iraqi nationals), the right to work in the private sector, and have access to health services in KRI. See: Durable Solutions Platform, 2019, Far from Home: Future Prospects for Syrian Refugees in Iraq, <https://dsp-syria.org/far-home-future-prospects-syrian-refugees-iraq>

<sup>52</sup> Refugees and asylum seekers holding a valid residency permit for KRI are free to move within the governorates of KRI only. The resident permit for KRI is not valid for travel to the central and southern governorates of Iraq. Attempting to travel outside KRI without proper clearance may subject refugees and asylum seekers to risks of arrest, detention, or deportation. See: <https://help.unhcr.org/iraq/en/rights-and-obligations/civil-documentation-and-residency/> (accessed 25 August 2021).

<sup>53</sup> UNHCR Iraq, see: <https://help.unhcr.org/iraq/en/rights-and-obligations/civil-documentation-and-residency/> (accessed 25 August 2021).

<sup>54</sup> Communication with NRC ICLA Iraq/KRI, August 2021.

<sup>55</sup> Government of Lebanon & UN RC/HC Lebanon, Lebanon Crisis 2017–2020 (2020 Update), p. 14, <https://data2.unhcr.org/en/documents/details/74641>.

<sup>56</sup> UNHCR, December 2019, Global Compact on Refugees: Lebanon's Good Practices; UNHCR, July 2020, Q&A on birth registration for Syrian refugees in Lebanon, [http://www.refugees-lebanon.org/uploads/poster/poster\\_152777827470.pdf](http://www.refugees-lebanon.org/uploads/poster/poster_152777827470.pdf).

<sup>57</sup> See Section 3.1.1 Country-specific challenges for full details on birth registration procedures and related waivers in Lebanon.

<sup>58</sup> The Circular no. 34/2019, issued by the PSD on 13 March 2019, detailed that when executing a birth, divorce or marriage annulment (in case the marriage was executed in Lebanon), a certified copy of the marriage certificate and a marriage attestation issued by the Syrian Embassy can be provided instead of the family booklet or family extract, which had previously been required.

<sup>59</sup> The practice of requesting the residency permit of the deceased to complete death registration - which according to NRC Lebanon ICLA staff occurred at some Nofous offices throughout Lebanon - ended in 2016. NRC Lebanon, 2019, Briefing Note: Death registration and burial: Challenges for Syrian Refugees in Lebanon; Communication with NRC ICLA Lebanon August 2021.

<sup>60</sup> All legal, judicial and contractual deadlines, including the civil registration deadlines, were suspended for the period 18 October 2019 – 31 December 2020 (Law No. 160/2020 and Law No. 185/2020), and extended again as of 14 January 2021, for as long as the COVID-19-related lockdown lasts as part of the general mobilisation period (Law No. 212/2021). Based on Law 212/2021, the Personal Status Department issued a memo extending the suspension of deadlines until 31/3/2021.

<sup>61</sup> The issue of missing persons is covered in international humanitarian law, including the 1949 Geneva Conventions I-IV and the 1977 Additional Protocols I-II, as well as international human rights law, including – but not limited to – the 1966 International Covenant on Civil and Political Rights, the 1989 Convention on the Rights of the Child, and the 2006 International Convention for the Protection of All Persons from Enforced Disappearance.

<sup>62</sup> In Syria, Iraq, Jordan and Lebanon, missing persons' issues are regulated by the laws of personal status (and/or similar related laws), civil (procedural) laws and criminal procedural laws. Lebanon is the only country with a special law on missing and forcibly disappeared persons, namely the Law on Missing and Forcibly Disappeared Persons, Law 105/2018, promulgated in November 2018, <http://pcm.gov.lb/archive/j2018/j52/wfn/n105.htm>. This law was drafted following the advocacy work of families of persons who went missing during the civil war (1975-1990). On 18 June 2020, the Lebanese government appointed the members of the National Commission for the Missing and Forcibly Disappeared (established in 2018 by Law 105/2018).

<sup>63</sup> In Jordan, certain individuals (e.g., a wife) can file a case in relation to maintenance or divorce before a Shari'a court when a person is absent (gha'ib). In these proceedings, the court can appoint a curator and/or issue a divorce ruling based on absence of the husband. NRC Jordan, June 2020, Briefing Note: Legal Pathways for Death Registration. Analysis of legal pathways to register death in Jordan (Internal document).

## 2.3 Syrian HLP legal framework

HLP rights are set out in the 2012 Constitution of the Syrian Arab Republic, as the right to own property and the right to fair compensation for human rights violations. The Constitution and the Civil Code both guarantee that no one may be deprived of his/her property except in accordance with the law.<sup>64</sup>

The Syrian Constitution also guarantees equality before the law and equality of opportunity for all its citizens.<sup>65</sup>

Since 2011, over 35 new laws and regulations that directly and indirectly relate to HLP have been adopted, representing roughly one-third of the overall legislation on HLP.<sup>66</sup> In particular, amendments have been made to land registration, tenancy, zoning and planning laws and regulations. According to the World Bank, these changes to the legislative and regulatory framework have had the overall effect of weakening the security of tenure throughout Syria, particularly affecting displaced persons. This is likely to further complicate the situation for refugees and returnees seeking to access their property.<sup>67</sup>

In addition to a statutory framework for land governance, there are many different customary land usage rights in each locality, based on historical practices; the underlying tenure system is governed by a range of statutory, customary, and Islamic systems. While land registries existed in all 14 governorates prior to the crisis, these only captured property transactions that occurred within the statutory system. Many transactions and subdivisions of land were never recorded in registries to avoid paying taxes, and land passed on through inheritance was not always registered in the name of heirs.<sup>68</sup>

Government data indicates that up to 50 per cent of the land in Syria was not formally registered before the conflict.<sup>69</sup>

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<sup>64</sup> Syrian Constitution 2012, art. 15; Syrian Civil Code, art. 77.

<sup>65</sup> Syrian Constitution 2012, art. 33.

<sup>66</sup> UNHCR & NRC, 2019, *Uncertain Futures – Legal and Civil documentation, Housing, Land and Property (HLP) and Challenges to Return for Syrian Refugees*.

<sup>67</sup> World Bank, 2019, *The Mobility of Displaced Syrians: An Economic and Social Analysis*, p. 12; and UNHCR, 2018, *A Longing to Go Home, in Safety and Dignity – Intentions and Perceptions of Syrian Refugees in Lebanon About Their Future*, p. 17, <https://data2.unhcr.org/en/documents/details/63310>

<sup>68</sup> World Bank, 2016, *Will forcibly displaced Syrians get their land back?* <https://blogs.worldbank.org/arabvoices/will-forcibly-displaced-syrians-get-their-land-back>

<sup>69</sup> World Bank, 2016, *Will forcibly displaced Syrians get their land back?* <https://blogs.worldbank.org/arabvoices/will-forcibly-displaced-syrians-get-their-land-back>



Photo: UNHCR / Lilly Carlisle

**Box 3:**  
**Syrian women's HLP rights under Syrian statutory law**

*The Syrian Constitution and the Civil Code guarantee women's rights to own property, to equality before the law, and to be free from discrimination.<sup>70</sup>*

*Syrian women have the right to inherit HLP either through kinship (natal inheritance) or marriage, according to the Personal Status Law (PSL).<sup>71</sup> According to this law, Muslim women inherit half the share that men within the same inheritance group receive. When it comes to marital inheritance, if the deceased has any children, the wife will receive an eighth share of the inheritance from her husband. If the deceased does not have children, the wife will receive a quarter share of the inheritance.<sup>72</sup> This applies to all types of land and property, except amiri (state-owned) land, which is inherited by women and men in equal shares. Following an amendment to the PSL in 2019,<sup>73</sup> female and male siblings can inherit directly from their paternal or maternal grandparents if the parent died before the grandparent (previously inheritance in such cases was only through the paternal line); according to the principle whereby women inherit half of the shares of men.*

*In Syrian law and Islamic family law there are no provisions for common marital property, so the default rule of separate property is assumed. In practice, this is hugely problematic as the absence of women's names in property documents often means that they can lose access to the family home after divorce or widowhood, or when their claim is contested, because they are unable to provide legal evidence of their right to their home.*



Photo: NRC

<sup>70</sup> For instance, articles 33 and 35 of the 2012 Syrian Constitution and articles 768, 770, 771 and 780 of the 1949 Civil Code.

<sup>71</sup> Syria's Personal Status Law was promulgated on 17 September 1953 as Law No. 59, and amended by Law No. 34/1975, Law No. 19/2000, Law No. 18/2003, Decree No. 76/2010, Law No. 4/2019, and Law No. 20/2019. The Druze, Jewish and various Christian communities are exempted from certain specified provisions. Instead, they are allowed to follow their own laws in matters of personal status, most importantly marriage, divorce, and inheritance.

<sup>72</sup> Syrian Civil Status Law No. 59/1953, art. 268.

<sup>73</sup> Syrian Personal Status Law No. 20/2019, art. 257.

## Section 3

# Reality on the Ground

### 3.1 Obtaining civil documents in host countries

Syrian refugees' ability to access legal identity and obtain civil documentation has not been static throughout the conflict. Access has been dependent on an individual's location and has been affected by the introduction of new policies and laws. Although improvements have been made across the region,<sup>74</sup> many Syrian refugees in KRI, Jordan, and Lebanon remain without documentation and reported common challenges to access the civil documentation they need.

In many cases, a lack of access to civil documentation can be attributed to a number of challenges, rather than a single factor. Refugees may encounter difficulties due to a lack of awareness of the requirements and processes to obtain legal and civil documentation in host countries, including strict time limits for registration<sup>75</sup> – this is particularly relevant for death registration.<sup>76</sup> Prohibitive costs also present a challenge, especially in cases of late registration. This is, for example, evident in Lebanon where 69 per cent of Syrian children born in the country are not fully registered and documented (i.e., at the level of the Foreigners' Registry),<sup>77</sup> reportedly primarily due to the combined challenges of a lack of awareness of registration procedures and the prohibitive cost of fees and transportation.<sup>78</sup>



Photo: UNHCR / Mohammad Hawari

<sup>74</sup> For instance, the number of Syrian refugee children born in 3RP (Regional Refugee & Resilience Plan) countries with an official birth certificate has increased to approximately 80 per cent. See: League of Arab States & UNHCR, May 2021, *I am Here: Belonging and Legal Identity in the Arab Region: Ensuring that every child, woman and man belongs and has a legal identity*, <https://data2.unhcr.org/en/documents/details/86737>

<sup>75</sup> KII for joint UNHCR/NRC regional research, 2020; NRC & IHRC, 2015, *Registering Rights: Syrian Refugees and the Documentation of Births, Marriages, and Deaths in Jordan*, <https://www.nrc.no/resources/reports/registering-rights/>; NRC & IHRC, 2016, *Securing Status: Syrian refugees and the documentation of legal status, identity, and family relationships in Jordan*.

<sup>76</sup> In Iraq and Jordan, deaths have to be registered within seven days (Iraqi Birth and Death Registration Law, Law 148/1971, art. 18; Jordanian Civil Status Law, Law 9/2001, art. 26(a)). In Jordan, if more than one year has elapsed since the death, proof of death must be obtained through a lawsuit (Jordanian Civil Status Law, arts. 34–35). In Lebanon, deaths have to be registered within 45 days; if a death is registered after this deadline, a fine is usually imposed (Lebanese Personal Status Registration Law, 1951, art. 30).

<sup>77</sup> 2021 Preliminary Results of the Vulnerability Assessment of Syrian Refugees (VASyR Lebanon), 2021, <https://data2.unhcr.org/en/documents/details/88960>. The Foreigners' Registry is a separate department of the Personal Status Department at governorate level; in addition to registration with the local PSD, refugees need to register their life events with the Foreigners' Registry.

<sup>78</sup> In 2020, birth registration at the level of the Foreigners' Registry was 28% compared to 30% in 2019. See: 2020 Vulnerability Assessment of Syrian Refugees in Lebanon (VASyR Lebanon), p. 33–35; see also, 2019 Vulnerability Assessment of Syrian Refugees in Lebanon (VASyR Lebanon), <https://data2.unhcr.org/en/documents/details/73118>. Similar findings were found by NRC, NRC Lebanon, February 2019, Briefing Note: Late Birth Registration for Syrian refugees in Lebanon.

Another prominent barrier is a lack of supporting documentation required to complete civil registration, in particular birth registration. Many refugees do not have their documents, which may have been damaged, lost, or confiscated by authorities or other actors, or may never have been obtained (particularly for stateless individuals).<sup>79</sup>

Parents who cannot present proof of their marriage, and in particular those who married informally,<sup>80</sup> often face great difficulties registering the births of their children.<sup>81</sup> In all host countries, it is possible to obtain court-issued proof of certain vital events that have occurred in Syria, such as ratification of an informal marriage and confirmation of kinship.<sup>82</sup> However, these ratification proceedings, which could support registration for undocumented children, can be lengthy, costly, and complex and may require legal assistance.<sup>83</sup> The need for legal aid to navigate civil registration procedures was mentioned by the stakeholders consulted as part of this research. Many refugees, including those interviewed during this research, are reluctant or unwilling to approach the Syrian authorities, including diplomatic missions, citing concerns related to compulsory military conscription, detention, and the perception of being affiliated with an opposition group.<sup>84</sup> As a result, while the majority of refugees interviewed as part of this research undertook all required steps to register vital events that have occurred in host countries, a significant number of Syrian refugees reported not registering their vital events at the embassy level.<sup>85</sup>

<sup>79</sup> UNHCR & NRC, 2019, *Uncertain Futures – Legal and Civil documentation, Housing, Land and Property (HLP) and Challenges to Return for Syrian Refugees*, p. 2; UNHCR, November 2017, *Good Practices Paper – Action 7: Ensuring birth registration for the prevention of statelessness*, <https://www.refworld.org/docid/5a0ac8f94.html>

<sup>80</sup> Proof of a legally valid marriage is required for birth registration. Informal (so-called sheikh, 'urfi or katb al-kitab) marriages are generally contracted without the involvement of state institutions (e.g., a Shari'a Court or authorised Sheikh). Generally, these marriages can only be recognised as a legally valid marriage after ratification before a personal status court. See UNHCR & NRC Jordan, March 2020, *Legal Safety for Return Preparedness. Legal and civil documentation challenges for Syrian refugees in Jordan in view of return*; UNHCR Lebanon, 2020, *Q&A on marriage registration for Syrian refugees who marry in Lebanon* (updated in February 2020), <http://www.refugees-lebanon.org/en/d/205>

<sup>81</sup> UNHCR & NRC Jordan, March 2020, *Legal Safety for Return Preparedness. Legal and civil documentation challenges for Syrian refugees in Jordan in view of return*; NRC & IHRC, 2015, *Registering Rights: Syrian Refugees and the Documentation of Births, Marriages, and Deaths in Jordan*, p. 15; 2020 *Vulnerability Assessment of Syrian Refugees in Lebanon (VASyR Lebanon)*, 2020, p. 35.

<sup>82</sup> Such court issued ratifications are valid in host countries, although Syria retains exclusive jurisdiction for the issuance of documents confirming vital events occurring in Syria.

<sup>83</sup> UNHCR & NRC Jordan, March 2020, *Legal Safety for Return Preparedness. Legal and civil documentation challenges for Syrian refugees in Jordan in view of return*; NRC & IHRC, 2015, *Registering Rights: Syrian Refugees and the Documentation of Births, Marriages, and Deaths in Jordan*, p. 18–23; NRC & IHRC (2016), at p. 19, 24–26; *Communication with NRC ICLA Iraq/KRI*, January 2021.

<sup>84</sup> Clutterbuck, M. et.al., 2018, *Establishing Legal Identity for Displaced Syrians*, *Forced Migration Review No. 57*, *Syrians in Displacement*, February 2018; KII interviews for joint UNHCR/NRC regional research, 2020.

<sup>85</sup> KII for joint UNHCR/NRC regional research, 2020.

“ I feel like it might be helpful to obtain a death certificate [for my husband]. I asked relatives in Syria if it's possible, but they said that it's difficult, because we don't have the body or any document to prove that he's actually dead. I don't feel like there is anyone I can even ask about this stuff, but the document might help in my children's future to prove that [their father] is dead and they have a right to their father's share of the inheritance. ”

Syrian refugee in Jordan

Refugee women who married informally face considerable challenges. Proof of a legally valid marriage is required to register a divorce, and if a husband has died, or is missing and presumed dead, a wife must present proof of death to complete death registration which may be difficult to obtain.<sup>86</sup> In these cases, documentation gaps can limit women's ability to claim dower, maintenance, and inheritance.<sup>87</sup>

**“ There are many procedures for death registration. The hospitals create many problems: they demand high [medical] fees and confiscate people's IDs until they pay the hospital bills. All of this causes delays and then people face the risk of having to pay fines due to late registration. ”**

Syrian refugee in Lebanon

Refugee families with missing or deceased relatives are confronted with challenges for death registration, for instance when they lack proof of death of the deceased person and are unable to complete the procedures. Some refugees resort to registering these deaths in Syria using intermediaries or brokers, at the risk of obtaining fraudulent documentation. In Lebanon, high burial and hospital costs can impair access to death registration for refugees, particularly when medical facilities refuse to issue a death notification or release a body until the hospital bill is paid.<sup>88</sup> In addition, death registration is not always a priority for refugees in host countries, especially as inheritance proceedings in Syria are considered to be inaccessible, and family property in Syria has often been destroyed or cannot be accessed.

<sup>86</sup> NRC & IHRC, 2015, Registering Rights: Syrian Refugees and the Documentation of Births, Marriages, and Deaths in Jordan, p. 23; KII for joint UNHCR/NRC regional research, 2020.

<sup>87</sup> In Jordan, it is possible to obtain a court-issued proof of death for a person who died in Syria, but the procedures can be complex and are dependent on the available evidence; KII for joint UNHCR/NRC regional research, 2020.

<sup>88</sup> KII for joint UNHCR/NRC regional research, 2020. Communication with NRC ICCLA Lebanon, August 2021.



Photo: UNHCR / Mohammad Hawari

### 3.1.1 Country-specific challenges

In KRI, Syrian refugees need valid residency to obtain civil documentation and initiate Personal Status Court proceedings, such as proof of birth, marriage, or death.<sup>89</sup> Although the majority of Syrian refugees in KRI have legal residency, it was reported that residency renewals declined in 2020 due to COVID-19-related measures and the deteriorating economic situation. As a result, some refugees have not been able to obtain, update, or replace civil documentation. Syrian refugees who arrived in October 2019 because of conflict in north-east Syria, faced a lengthy process to secure residency due to delays with security clearance procedures.<sup>90</sup> Stateless Kurds from Syria (maktumin and ajanib)<sup>91</sup> residing in KRI are a particularly vulnerable group. Their lack of citizenship continues to impact their lives during displacement in KRI. For example, the lack of Syrian civil documentation can be an insurmountable obstacle to register vital events of maktumin. Their status also restricts their ability to enjoy HLP rights, in particular claiming inheritance and other marital rights. Syrians in KRI cannot travel from KRI to the Syrian Embassy in Baghdad without residency or travel authorisation in Federal Iraq and, due to COVID-19 travel restrictions, there has been no diplomatic visit from Embassy staff to KRI since March 2020.

In Jordan, Syrian refugees who lack marriage documentation face difficulties in registering their children. Couples who were informally married in Syria first need to obtain a marriage ratification from a Jordanian Shari'a Court, followed by ratification of parentage. The process can take up to 12 months, and incur significant financial costs especially in cases where the husband/father is absent.<sup>92</sup> Informal marriages conducted by an unauthorised Sheikh are illegal in Jordan and can be subject to fines and criminal charges. A judicial decision to legalise such marriages can take three to six months.<sup>93</sup>

<sup>89</sup> KII for joint UNHCR/NRC regional research, 2020. The research findings were inconclusive about whether a valid residency permit is required by all Iraqi judges to start a judicial procedure. There seem to be divergent legal practices in the different regions of Iraq or even within KRI – for example, Duhok court practices are reportedly different from those of courts located in Erbil.

<sup>90</sup> Communication with NRC ICLA Iraq/KRI, January 2021.

<sup>91</sup> Prior to the recent crisis, Syria had a substantial population of stateless Kurds. A special census held in the majority-Kurdish Al Hasakeh province in 1962 left thousands of Kurds stateless, with about 120,000 Kurds losing their Syrian citizenship overnight. In March 2011, an estimated 300,000 stateless Kurds lived in Syria, holding the status of ajanib (those registered as foreign in the census) and maktumin (those who were not registered at all). Both ajanib and maktumin status are passed to succeeding generations. On 7 April 2011, the Syrian government issued Presidential Decree No. 49, which allowed ajanib Kurds to apply for Syrian nationality. Reportedly, several thousand ajanib Kurds have acquired Syrian nationality since. Maktumin are not mentioned by Decree No. 49 and are thus ineligible to apply for nationality. Applications for citizenship have to be made in person inside Syria (specifically in Hasakeh), presenting an obstacle particularly to those displaced from Syria. UNHCR, International Protection Considerations with regard to people fleeing the Syrian Arab Republic, Update VI, March 2021, [www.refworld.org/docid/606427d97.html](http://www.refworld.org/docid/606427d97.html), p. 153; UNHCR, 2016, In Search of Solutions: Addressing Statelessness in the Middle East and North Africa, p. 11, <https://www.refworld.org/docid/57dbdaba4.html>

<sup>92</sup> In the Shari'a Court, the marriage ratification and ratification of parentage can be addressed as a single case. The length of the case is dependent on a number of factors, including (i) if there is an attorney or not; (ii) the caseload at the court; (iii) the timeline between court sessions; and (iv) the capacity of the parties/attorney to bring a witness and any other supporting documents.

<sup>93</sup> The Pardon Law adopted on 5 February 2019 allows for immunity for all informal marriages which occurred prior to 12 December 2018. Article (2/b) of the Pardon Law states that the Law also covers all judicial fees and fines that are related to the crimes included in the law. UNHCR & NRC Jordan, March 2020, Legal Safety for Return Preparedness. Legal and civil documentation challenges for Syrian refugees in Jordan in view of return.



Photo: UNHCR / Mohammad Hawari

In Lebanon, refugees are required to register vital events with the local Personal Status Department at the district level and then with the Foreigners' Registry at the governorate level. Birth registration is dependent on proof of marriage, which is an obstacle for refugees who do not have documents or are reluctant to approach the Syrian Embassy in Beirut to issue or validate documents.<sup>94</sup> A lack of legal residency can also impede access to civil registration. In 2021, only 16 per cent of Syrian refugees over 15 years of age had legal residency.<sup>95</sup> While some residency requirements for registration of vital events have been lifted,<sup>96</sup> at least one spouse requires legal residency for marriage registration, which in turn impacts birth registration. In cases where a child has not been registered within a year of their birth, one parent requires legal residency to initiate a court process to complete the registration.<sup>97</sup> All court proceedings involving foreigners require an investigation by the General Security Office, which is a significant deterrent for Syrians without legal residency.<sup>98</sup>

Furthermore, the vast majority of Syrian refugees in Lebanon are unable to complete civil registration processes due to limitations on their freedom of movement, a reluctance to approach authorities, and/or a lack of required documents.<sup>99</sup> The current economic crisis and currency devaluation, together with the implications of COVID-19 and the fallout of the Beirut Port explosion, have taken a heavy toll on the refugee population. In 2021, 88 per cent of refugee households were reported to be living in extreme poverty, below the Survival Minimum Expenditure Basket.<sup>100</sup> This has further affected access to documentation for refugees who have limited financial means and need to prioritise basic needs over the costs of obtaining civil documentation.<sup>101</sup> An increase in confiscation and retention of refugees' civil documentation by authorities, hospitals, landlords, and others (e.g., grocery stores) on account of debt has also been reported.<sup>102</sup>

<sup>94</sup> Proof of marriage can include a family booklet, family civil status statement (not older than 1 year) or a Syrian marriage certificate stamped by the MFAs in Syria and Lebanon. Syrian diplomatic missions do not issue family booklets; however, the latter two documents can be obtained from the Syrian Embassy. An additional option for couples who were married in Lebanon is to present a marriage certificate executed in Lebanon and registered at the Syrian Embassy.

<sup>95</sup> 2021 Preliminary Results of the Vulnerability Assessment of Syrian Refugees (VASyR Lebanon), 2021, <https://data2.unhcr.org/en/documents/details/88960>. In the 2020 Vulnerability Assessment of Syrian Refugees (VASyR Lebanon), the most commonly reported reason for not having legal residency was rejection by GSO, including inconsistent practices, (33 per cent); followed by the inability to obtain a sponsor or pay residency fees (26 per cent).

<sup>96</sup> The requirement for residency for birth and marriage registration ended in 2017, Government of Lebanon & UN RC/HC Lebanon, Lebanon Crisis 2017–2020 (2020 Update); UNHCR, December 2019, Global Compact on Refugees: Lebanon's Good Practices.

<sup>97</sup> NRC Lebanon, February 2019, Briefing Note: Late Birth Registration for Syrian refugees in Lebanon. Note: Current waivers and suspensions of deadlines mean most cases of delayed birth registration can be completed through an administrative process not via a court process. Births that occurred between 1 January 2011 and 8 February 2019 are not bound by any registration deadline; these births can be registered administratively at the PSD and do not require a court case – Memos No. 93 and 96 issued by the PSD. Births that occurred between 8 February 2019

and 31 March 2021 can be registered administratively at the PSD within one year, taking into consideration the period from 17 October 2019 until 31 March 2021 during which the legal, administrative, and contractual deadlines were suspended. Laws No. 160, No. 185, and No. 212 on the Suspension of Legal, Administrative and Contractual Deadlines, and the PSD circulars Nos. 14 and 15. Births that occurred after 31 March 2021 shall be registered within one year.

<sup>98</sup> Communication with NRC ICLA Lebanon, January 2021.

<sup>99</sup> 2020 Vulnerability Assessment of Syrian Refugees in Lebanon (VASyR Lebanon), 2020.

<sup>100</sup> UNHCR, 2021 Preliminary Results of the Vulnerability Assessment of Syrian Refugees (VASyR Lebanon), 2021, <https://data2.unhcr.org/en/documents/details/88960>. See also: UNHCR Lebanon, 'Nine out of ten Syrian refugee families in Lebanon are now living in extreme poverty, UN study says' <https://www.unhcr.org/lb/14025-nine-out-of-ten-syrian-refugee-families-in-lebanon-are-now-living-in-extreme-poverty-un-study-says.html> (accessed 27 August 2021).

<sup>101</sup> Communication with NRC ICLA Lebanon, January 2021.

<sup>102</sup> NRC Lebanon, May 2020, Briefing Note: Documentation and access to health care for refugees in Lebanon; KII for joint UNHCR/NRC regional research, 2020.

**Box 4:**  
**Challenges related to missing persons**

*Refugee families with missing relatives face increased legal protection challenges, attributed to several factors, including: a reluctance to approach Syrian authorities to report or even ask about the missing, a fear of being arrested during the process, a lack of awareness of the reporting mechanisms, a lack of required identity documents and evidence to prove someone is missing, and the risk of financial extortion by intermediaries. The status of missing persons and/or the lack of proof of death affects the legal and social safety of the family, in particular of wives who are unable to remarry, obtain child custody, and enjoy their inheritance rights, and of children who are unable to demonstrate their legal connection with their fathers, resulting in a heightened risk of statelessness.*



Photo: NRC

### 3.1.2 Coping mechanisms & risks

“ I wanted to get a birth certificate for my child, but here in Jordan you cannot get a birth certificate for a newborn unless you have a marriage contract... that’s why I had to get a falsified marriage contract. ”

Syrian refugee in Jordan

When unable to access the civil documentation they need, refugees may resort to coping mechanisms that can put them at further risk, such as engaging intermediaries, or travelling to Syria to access or obtain documents. Acting, or making decisions based on misinformation can also contribute to increased risks for refugees. The use of fraudulent Syrian and host country documents has emerged as both a coping strategy and an unwanted consequence for some refugees. Refugees unable to issue, replace, or update documents through adequate legal and administrative procedures may resort to obtaining or using fraudulent documents. Refugees can also inadvertently end up with fraudulent documents by ‘acting outside’ of the prescribed processes to obtain or update documentation. It is often unclear whether a document obtained through an intermediary has been validly issued by authorities or not.

The type and level of documentation that refugees possess and particular gender issues were identified as driving factors for refugees who obtained or used fraudulent documents.<sup>103</sup> In the context of child marriages, spouses may also resort to the use of false documentation to register their children. Refugees who possess and use fraudulent documents face significant short- and long-term consequences that can complicate their legal status, risk criminal penalties for themselves and family members and, as such, present barriers to accessing durable solutions.<sup>104</sup> Losing money and original documents, imprisonment, fines, and, in extreme cases, deportation were reported. Refugees who are unaware their documents are fraudulent are at risk of legal prosecution when presenting these documents to an authority.

<sup>103</sup> KII for joint UNHCR/NRC regional research, 2020. Syrian stateless Kurds, refugee children born in host countries who have a fraudulent birth certificate or have been falsely registered under the name of different parents and Palestinian refugees from Syria were identified as being particularly vulnerable and potentially reliant on fraudulent documents. For male refugees, the fear of compulsory military conscription or the perception of being affiliated with an opposition group were key driving factors behind obtaining fraudulent documentation. Female refugees were commonly motivated to use fraudulent documents to meet an important need like accessing healthcare during pregnancy and childbirth or claiming guardianship.

<sup>104</sup> Forgery and falsification of documents are considered a crime under Syrian, Iraqi, Jordanian, and Lebanese laws. The laws make a common and critical distinction between the use of a forged document and the act of forgery. The forgery of official documents, including civil documents (e.g., birth certificates) and judicial/ administrative documents, is considered a felony, whereas the issuance of false certified documents (e.g., birth notifications) by qualified persons, including health workers, lawyers, mukhtars, religious figures and judicial police, is classified as a misdemeanour.

## 3.2 HLP reality on the ground

HLP rights violations have occurred throughout the conflict and have contributed to forced displacement. These include inter alia, seizure and confiscation of property, forced evictions, looting, preventing civilians from returning to their properties and property transactions made under duress or without the knowledge of the rightful owners.<sup>105</sup> Many transactions have not been recorded in statutory systems, particularly in areas outside the control of the government. The extent of HLP rights violations is reflected in the response from communities surveyed for the 2021 Syrian Humanitarian Needs Overview, with over half reporting HLP concerns.<sup>106</sup>

Refugees interviewed as part of UNHCR's perceptions and intentions surveys emphasised that the lack of adequate housing and concerns over their property and housing are among the main factors influencing their return intentions.<sup>107</sup> In view of the high levels of destruction of property inside Syria and HLP violations, future return of refugees and IDPs is likely to cause a high number of competing claims over the use and occupancy of land and property by original owners, secondary occupants, and illegal occupants.<sup>108</sup> This will be exacerbated by the limited access to fair and efficient judicial procedures to resolve claims. Refugee returnees are likely to face many challenges in accessing their HLP as well as dispute resolution mechanisms when they lack the required documentation, including civil documentation.<sup>109</sup>

### 3.2.1 Key HLP challenges

This section covers some of the issues that are of most immediate relevance for refugees regarding the protection of HLP rights in Syria, in particular for female-headed households.

#### Level of destruction

Over the past years, the magnitude of the destruction in Syria has been vast.<sup>110</sup> The World Bank in 2017 estimated that a third of the housing stock has been destroyed in Aleppo, Hama, and Idlib.<sup>111</sup> In 2019, forty-one per cent of refugees in Jordan consulted about their property in Syria described the current status of their property as damaged beyond repair; 26 per cent as damaged but repairable; and only 17 per cent as intact.<sup>112</sup> Hostilities have also caused widespread damage to the basic infrastructure, including land registries and civil registries, affecting land governance and the recording/updating of vital events, respectively.<sup>113</sup> Severe damage and destruction have been particularly prevalent in informal settlements.<sup>114</sup>

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<sup>105</sup> World Bank, 2019, The Mobility of Displaced Syrians: An Economic and Social Analysis. KII for joint UNHCR/NRC regional research, 2020.

<sup>106</sup> UNOCHA, 2021, Syria Humanitarian Needs Overview (HNO), p. 57.

<sup>107</sup> UNHCR, March 2021, Sixth Regional Survey on Syrian Refugees' Perceptions and Intentions on Return to Syria, p. 17.

<sup>108</sup> KII and FGD (focus group discussion) for joint UNHCR/NRC regional research, 2020; Clutterbuck, M., 2018, Property Restitution in post-conflict Syria, Forced Migration Review No. 57, Syrians in Displacement, February 2018, <https://www.fmreview.org/syria2018/clutterbuck>

<sup>109</sup> World Bank, 2019, The Mobility of Displaced Syrians: An Economic and Social Analysis, p. 12; UNHCR, 2018, A Longing to Go Home, in Safety and Dignity – Intentions and Perceptions of Syrian Refugees in Lebanon About Their Future.

<sup>110</sup> World Bank, 2019, The Mobility of Displaced Syrians: An Economic and Social Analysis, p. 12.

<sup>111</sup> World Bank, 2017, Syria Damage Assessment of Selected Cities Aleppo, Hama, Idlib.

<sup>112</sup> UNHCR & NRC, 2019, Uncertain Futures – Legal and Civil documentation, Housing, Land and Property (HLP) and Challenges to Return for Syrian Refugees, p. 6. Note that 17 per cent of survey respondents stated that they were unaware of the condition of their previous residence.

<sup>113</sup> UNOCHA, 2021, Syria Humanitarian Needs Overview (HNO), p. 7; UNHCR, 2018, A Longing to Go Home, in Safety and Dignity – Intentions and Perceptions of Syrian Refugees in Lebanon About Their Future, p. 17; UNHCR, March 2021, Sixth Regional Survey on Syrian Refugees' Perceptions and Intentions on Return to Syria.

<sup>114</sup> World Bank, 2017, Syria Damage Assessment of Selected Cities Aleppo, Hama, Idlib; KII for joint UNHCR/NRC regional research, 2020.

### Informal settlements

According to the World Bank, prior to the conflict, one-third of Syria's urban population lived in informal settlements – these are largely not recorded in any land registries.<sup>115</sup> In these informal settlements, which were built primarily on private land but also on public and Awqaf land, alternative papers such as sales contracts, notarised documents, and even utilities documents were used to demonstrate ownership in the absence of a title deed (tabou). If such evidence is no longer available because it has been lost or destroyed, it is difficult to assert claims. The number of informal settlements has increased during the crisis<sup>116</sup> and the pervasiveness of informal practices has complicated HLP governance.<sup>117</sup>

### Missing or destroyed HLP documents

Access to documentation is critical to ensuring refugees can assert their HLP rights and prove ownership of their assets.<sup>118</sup> In Syria, physical records were often the only form of evidence issued; they were not supported by an electronic land registry. According to a 2020 UNHCR/NRC study with Syrian refugees in Jordan originating from Dar'a Governorate, over half of those interviewed did not have their HLP documentation due to loss or destruction during the conflict.<sup>119</sup> In a 2019 UNHCR/NRC survey with Syrian refugees in Jordan, only one in five of the survey's respondents stated that they were still in possession of their property documentation while in displacement, with even lower proportions for those originating from some governorates (e.g., only 9 per cent in Aleppo and 11 per cent in Hama).<sup>120</sup> Female-headed households have been particularly affected, reporting documentation levels that are 10 per cent lower than the average for men.<sup>121</sup> Reissuing documents<sup>122</sup> would require that original records were complete, accurate and are still available, accessible and updated. Damage to land registries and court and notary records will likely complicate and draw out reissuing processes<sup>123</sup> and present additional challenges for potential future reparations.

<sup>115</sup> World Bank, 2019, *The Mobility of Displaced Syrians: An Economic and Social Analysis*, p. 12; Samir AITA and the Cercle des Economistes Arabes, 2020, *Urban Recovery Framework for Post-Conflict Housing in Syria*; Samir Aita et.al., *Urban Housing and The Question of Property Rights in Syria*, October 2017, p. 25.

<sup>116</sup> World Bank, 2019, *The Mobility of Displaced Syrians: An Economic and Social Analysis*.

<sup>117</sup> UNHCR, 2018, *A Longing to Go Home, in Safety and Dignity – Intentions and Perceptions of Syrian Refugees in Lebanon About Their Future*, p. 17 <https://reliefweb.int/report/lebanon/longing-go-home-safety-and-dignity-intentions-and-perceptions-syrian-refugees-lebanon>

<sup>118</sup> NRC Jordan, 2021, *The Journey Home – Challenges and Barriers for Syrian Refugees in Jordan Returning to Syria*.

<sup>119</sup> NRC & UNHCR, 2020, *Reclaiming Home – HLP rights of Syrian refugees from Dar'a Governorate living in Jordan*.

<sup>120</sup> UNHCR & NRC, 2019, *Uncertain Futures – Legal and Civil Documentation, Housing, Land and Property (HLP) and Challenges to Return for Syrian Refugees*, p. 5. Possession of HLP documentation was highest (28 per cent) in Damascus, followed by 23 per cent in Homs, 21 per cent in both Dar'a and Rural Damascus, but only 11 and 9 per cent in Aleppo and Hama, respectively.

<sup>121</sup> NRC & UNHCR, 2020, *Reclaiming Home – HLP rights of Syrian refugees from Dar'a Governorate living in Jordan*.

<sup>122</sup> If land registry archives have been preserved, Tabous and court decisions could be re-issued. However, the document might not be updated.

<sup>123</sup> NRC Jordan, 2021, *The Journey Home – Challenges and Barriers for Syrian Refugees in Jordan Returning to Syria*; KII for joint UNHCR/NRC regional research, 2020.



Photo: UNHCR / Lilly Carlisle

**Box 5:  
Challenges for women**

**“ In my opinion, the main issues that Syrian women refugees might face concerning HLP documentation are inheritance, lack of information concerning the legal procedures, lack of financial means to hire lawyers, and that most of the property deeds are registered under the husband’s name, not the wife’s. If the property deed included my name, it would be much easier to access my rights, since it is clear. ”**  
Syrian refugee in Lebanon

*The Syrian conflict has exacerbated pre-existing discrimination against women in the public and private spheres, creating a landscape of violence that surfaces within women’s own families.<sup>124</sup> While the Syrian legal framework provides for women’s HLP rights overall, the biggest challenge is customary norms and practices that undermine women’s inheritance rights. Women refugees reported a fear of retribution from their families if they step forward to protect and claim their HLP rights. Gender-based violence continues to be a significant risk for Syrian women and girls, particularly affecting those without male support, including widows and*

*divorced/separated girls and women.<sup>125</sup> NRC’s research found a correlation between women claiming inheritance and their perceived risk of violence.<sup>126</sup> Claiming rights to land and property from male family members can expose women to psychological and physical threats or violence, and can lead to ostracism and rejection by their families. The majority of respondents voiced concerns about exploitation by family members, such as seizure and control of deceased husbands’ property.*

**“ Women and girls endure violence more than anyone else. The spread of poverty, war and displacement and COVID have made things much worse this year, and women and girls became more subjected to violence by the husband, the father or the brother. ”**  
Syrian refugee from Idlib<sup>127</sup>

*While many Syrians have lost access to property documents,<sup>128</sup> women face additional obstacles because HLP documents are less likely to include their names in the first place.<sup>129</sup> Previous research with Syrian refugees in Iraq, Lebanon, and Jordan has been consistent in finding that the vast majority of HLP assets are in the name of male family members.<sup>130</sup>*

<sup>124</sup> KII and FGD for joint UNHCR/NRC regional research, 2020. World Bank, 2016, Will forcibly displaced Syrians get their land back? <https://blogs.worldbank.org/arabvoices/will-forcibly-displaced-syrians-get-their-land-back>

<sup>125</sup> Syria Protection Cluster, UNFPA, 2018, Voices from Syria 2018 – Assessment Findings of the Humanitarian Needs Overview.

<sup>126</sup> KII and FGD for joint UNHCR/NRC regional research 2020.

<sup>127</sup> Cited in United Nations, 9 December 2020, Joint Statement by Muhannad Hadi, Regional Humanitarian Coordinator for the Syria Crisis and Luay Shabaneh, UNFPA Regional Director on 16 Days of Activism against Gender-based Violence, [https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/final\\_rhc\\_joint\\_statement\\_16\\_days\\_of\\_activism\\_-\\_9\\_december\\_final.pdf](https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/final_rhc_joint_statement_16_days_of_activism_-_9_december_final.pdf)

<sup>128</sup> UNHCR & NRC, 2019, Uncertain Future – Legal and Civil documentation, Housing, Land and Property (HLP) and Challenges to Return for Syrian Refugees, p. 39; NRC, 2017, Briefing Note: Reflections on Future Challenges to Housing, Land and Property Restitution for Syrian Refugees; KII for joint UNHCR/NRC regional research, 2020.

<sup>129</sup> NRC & UNHCR, 2020, Reclaiming Home – HLP rights of Syrian refugees from Dar’a Governorate living in Jordan.

<sup>130</sup> NRC & UNHCR, 2020, Reclaiming Home – HLP rights of Syrian refugees from Dar’a Governorate living in Jordan; NRC, 2017, Briefing Note: Reflections on Future Challenges to Housing, Land and Property Restitution for Syrian Refugees; Clutterbuck, M, 2018, Property restitution in post-conflict Syria, Forced Migration Review No. 57, Syrians in Displacement, February 2018.

## Section 4

# Conclusions and Recommendations

The right to legal identity, including access to legal and civil documentation, and HLP rights are critical to the protection environment and to achieving durable solutions. They provide a foundation on which Syrians can sustainably rebuild their lives.<sup>131</sup>

Despite the efforts that the Syrian and host governments have made since the start of the conflict to improve and increase access to civil documentation, many Syrian refugees remain unable to obtain, replace, or update documentation. A lack of documentation can have long-lasting and far-reaching implications; during displacement, protection risks are increased, and in the longer term, refugees may face difficulties when seeking a durable solution. Death registration is of critical importance, as it directly affects matters of inheritance, as well as guardianship, parentage, and nationality of children. Families without documentation for deceased or missing relatives are left in a state of limbo, unable to claim custody and inheritance. Women who married informally face particular challenges related to claiming custody and inheritance. In some cases, refugees are adopting inherently risky coping mechanisms in an attempt to address their documentation needs, including obtaining fraudulent documents.

A lack of civil documentation also affects refugees' access to income-generating opportunities and HLP rights.<sup>132</sup> Violations of HLP rights and the lack of fair and effective mechanisms for HLP compensation or restitution remain obstacles for return.<sup>133</sup> Women will likely continue to face particular challenges in claiming their property and inheritance rights ranging from administrative and practical constraints to threats of violence, exploitation and rejection from their families.<sup>134</sup>

If the challenges related to accessing civil documentation and HLP rights, including property restitution and compensation in line with international law, are not addressed for Syrian refugees, durable solutions will be harder to achieve in the longer term and future recovery efforts in Syria will be negatively affected. Concrete steps can and should continue to be taken to tackle the grave challenges that Syrian refugees face in claiming their rights to legal identity and HLP. A set of recommendations for the attention of governments, humanitarian and development actors and donors is provided below.



Photo: UNHCR / Lilly Carlisle

<sup>131</sup> UNHCR, 2018, Comprehensive Protection and Solutions Strategy: Protection Thresholds and Parameters for Refugee Return to Syria, <https://data2.unhcr.org/en/documents/details/63223>

<sup>132</sup> UNHCR, March 2021, Sixth Regional Survey on Syrian Refugees' Perceptions and Intentions on Return to Syria, <https://reporting.unhcr.org/sites/default/files/MENA%20regional%20survey.pdf>

<sup>133</sup> UNHCR, 2018, Comprehensive Protection and Solutions Strategy: Protection Thresholds and Parameters for Refugee Return to Syria, <https://data2.unhcr.org/en/documents/details/63223>

<sup>134</sup> World Bank, 2019, The Mobility of Displaced Syrians: An Economic and Social Analysis.

## Recommendations on legal identity and civil documentation

The **Government of Syria and host country governments** should continue to broaden efforts to actively facilitate and ease access to civil documentation. They should:

1. Waive or reduce fees associated with the registration of vital events to ensure that the financial implications of registration do not pose an undue burden and barrier for displaced Syrians to obtain civil documentation. Fines related to delayed registration of vital events should be waived or suspended, and the requirements to initiate lawsuits for late marriage, birth and death registration should be removed. In cases where exceptions (e.g. amnesties) are put in place, they should be valid for a minimum of 24 months.<sup>135</sup> Governments should issue accurate and timely information regarding the introduction of new policies, and ensure the information is accessible.
2. Simplify procedures and evidentiary requirements for civil documentation, especially in complex cases such as death registration and those in which family members are missing or where proof of events is not easily available (e.g., by accepting a minimum burden of proof in terms of documentation or witness evidence in support of the occurrence of vital events).
3. Facilitate the correction of incorrect information on civil documents (such as place or date of birth) and allow persons to obtain a correctly issued document to replace wrongly issued or fraudulently issued documents without fear of penalty.

**In addition, the Government of Syria should:**

4. Consider more accessible means for improving access to legal and civil documentation, such as strengthening e-service portal services to allow online applications (for replacement and first-time documents) and the establishment of mobile registration units to allow people with limited freedom of movement or those unable to use e-services to register. This would build upon the concept of the Single Syrian Registry, which is the foundation of the new Syrian Civil Status Law.<sup>136</sup> Any platform should meet data protection standards and establish a sufficiently secure means to verify identity and, allow Syrians to collect documents from easily accessible locations.

5. Permit all legal actors – national and international – to provide legal services in Syria, to ensure that the legal aid system will be commensurate with the needs on the ground, including those of returnees.

6. Expand access to documentation by allowing Syrians abroad to issue and update family booklets and issue national identity cards at diplomatic missions in host countries, building upon the expansion of services.

**Humanitarian & Development actors should:**

7. Adopt a durable solutions lens to programming and scale up legal assistance services to increase the protection environment on legal identity issues. Programming should be sensitive to the specific needs and vulnerabilities of women, children and undocumented and stateless individuals, and address key civil documentation issues, including those related to death registration, missing persons and fraudulent documents.

**Donors should:**

8. Continue to fund legal assistance programmes that increase the protection environment and in preparation of refugees' access to durable solutions. This would include addressing key existing and emerging issues related to civil documentation identified through research and data, including those related to death registration, missing persons and fraudulent documents.

9. Commit financial and technical support to strengthen Syria's Civil Registration and Vital Statistics (CRVS) system, as well as host country governments' judiciary and public administration to ensure that procedures for registration of vital events and issuance of documents are quick and accessible, especially in complicated cases such as death registration and those in which family members are missing or where proof of events is not easily available.

10. Advocate for expanding the number of actors allowed to provide legal aid in Syria and strengthen support to legal service providers in Syria - recognising that a plurality of specialised legal assistance providers would result in increased capacity to address legal needs of displaced populations.

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<sup>135</sup> For example, Syrian Legislative decree No. 7 of 2021 exempted Syrian citizens and persons of equivalent status from fines imposed by the CSL 2021 for delays in registering vital events or obtaining ID cards beyond the legal time limits. This exemption was in place in Syria and at Syrian embassies for only six months from mid-April 2021.

<sup>136</sup> Syrian Civil Status Law, Law no. 13/2021, art. 1. Article 1 defines the Single Syrian Registry as: "The database which contains all the data of the State's citizens, where all events of citizens are recorded wherever they may occur, where a citizen would be represented by a single reference number known as the citizen's National Number, and where events of non-Syrians which occur on the territories of the State are also recorded."

## Recommendations on housing, land and property rights

### The Government of Syria should:

1. Protect HLP rights in accordance with national and international law by re-issuing destroyed or lost property documents and recognising alternative forms of proof, such as verified photocopies. Syrian refugees must be allowed to manage their property from abroad, in order to complete transfer of ownership and inheritance procedures. This can be done by streamlining the process for issuance and verification of powers of attorney for persons outside Syria and reducing the associated fees.

2. Protect the right to security of tenure for all Syrians, including those who previously lived in informal settlements and female-headed households, by increasing access to social housing, recognising different types of tenure to prevent evictions; and engaging with community and religious leaders on customary norms and practices used to resolve HLP disputes.

3. Ensure that the property rights of women, including female heads of household, are respected and recognised considering cultural and legal barriers faced by women in accessing their rights.

4. Establish efficient, accessible and affordable mechanisms to address HLP issues, and to provide for property restitution and compensation in line with international law.<sup>137</sup> For those who are unable to return to their previous homes, provide support packages to allow people to access, purchase or rent housing, including specific economic livelihoods programmes for vulnerable women and other disadvantaged groups.

### Humanitarian & Development actors should:

5. Reinforce the importance of refugees' preservation of existing HLP documents and evidence for future claims through legal programming across the region, and facilitate access to lost HLP documentation where possible.

6. Consider scaling up HLP programming with a focus on practical and effective means for persons to claim their HLP rights (such as mediation and negotiation of disputes), with specific assistance to vulnerable groups, including households with missing family members. Invest in legal services, awareness-raising and capacity-building among communities regarding their HLP rights and address social norms preventing women from accessing inheritance.

### Donors should:

7. Stress the importance of HLP rights vis-à-vis the Government of Syria, including tenure security, as well as restitution and compensation as an essential element of achieving durable solutions.

8. Invest in HLP programmes in host countries and in Syria to build refugees' capacity to access and control HLP assets with specific focus on women.

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<sup>137</sup> UNHCR, 2018, Comprehensive Protection and Solutions Strategy: Protection Thresholds and Parameters for Refugee Return to Syria, p. 8.



Photo: NRC

## Annex 1

# Laws on legal identity

	Civil and Personal Status laws
Syria	<ul style="list-style-type: none"> <li>• Civil Status Law, Law 13/2021 and its amendments<sup>138</sup></li> <li>• Personal Status Law, Law 59/1953 and its amendments<sup>139</sup></li> </ul>
Iraq	<ul style="list-style-type: none"> <li>• Birth and Death Registration Law, Law 148/1971<sup>140</sup></li> <li>• Personal Status Law, Law 188/1959 and its amendments in Iraq and KRI<sup>141</sup></li> <li>• Minors' Care Law No. 78 of 1980 Chapter II, arts. 85 - 98.</li> <li>• Iraqi Civil Code No. 40 of 1951. Arts 43 /1 and 36/ 1 and 2.</li> </ul>
Jordan	<ul style="list-style-type: none"> <li>• Civil Status Law, Law 9/2001 and its amendments<sup>142</sup></li> <li>• Personal Status Law, Law 15/2019<sup>143</sup></li> </ul>
Lebanon	<ul style="list-style-type: none"> <li>• Law on Personal Status Registration (7 December 1951) and its amendments<sup>144</sup></li> <li>• Personal Status Laws: in Lebanon, there are eighteen recognized religious groups (i.e. twelve Christian, four Muslim, the Druze, and the Jewish community); each is governed by its own (codified and uncodified) religious law.<sup>145</sup></li> </ul>

## Annex 2

# Methodology

Information for this report was gathered through a combination of a desk review of existing literature and the NRC ICLA programmes' experience with these issues, complemented by qualitative and quantitative (for Iraq only) research. The report builds on previous UNHCR and NRC research on civil documentation issues in Syria and host countries, in particular on joint UNHCR/NRC regional research carried out during 2020 in Jordan, Lebanon and Iraq which focused on selected civil documentation and HLP issues. For this regional effort, research was conducted throughout Jordan, Lebanon and the Kurdish Region of Iraq (KRI) between May and November 2020. The qualitative fieldwork included 34 focus group discussions (FGD) with male and female refugee community members and 170 key stakeholder interviews (KII) with more than 200 duty bearers and other stakeholders.<sup>146</sup> Examples of relevant duty-bearers and other stakeholders included, inter alia, UNHCR protection staff, UNHCR MENA staff, other UN agencies staff (i.e. OHCHR, UN-Habitat, IOM and UNDP), lawyers (Sharia law and civil/criminal law), mukhtars and community members, civil registry staff and urban planners. Enumerators recorded data generated during the KII and FGD on detailed data collection sheets used for the analysis. FGDs were limited due to COVID-19 restrictions that applied in all the countries to various degrees during the research period. In addition, NRC collected a number of case studies to gain an in-depth understanding of the issues and how they affect refugees. All names of individuals have been withheld to respect respondents' privacy. Where this

study refers to information collected during the research, it is important to understand that this is how the speaker perceived the situation, and it is, therefore possible that there were conflicting accounts from different people. The research team relied on the triangulation of all the findings across multiple data sources, in particular the comparison of the qualitative findings with ICLA programmes' experiences as well as cross-checking the data with previous assessments and research carried out by NRC in Syria and host countries.

<sup>138</sup> The Syrian Civil Status Law was promulgated on 1 March 2021 as Law No. 13.

<sup>139</sup> The Syrian Personal Status Law was promulgated on 17 September 1953 as Law No. 59, and amended in 1975, 2000, 2003, 2010 and 2019.

<sup>140</sup> The Iraqi Birth and Death Registration Law was promulgated on 23 November 1971 as Law No. 148, and amended by Law 110/1982.

<sup>141</sup> The Iraqi Personal Status Law was promulgated on 30 December 1959 as Law 188, and amended several times including by Law 11/1963 and Law 21/1978, Law of implementing Personal Status Law No. 15 of 2008 in the Kurdistan Region of Iraq, Law No. 177 of 1983, amended, on the right of a divorced wife to housing, Law No. 78 of 1931 on Personal Status for Foreigners, as amended. In Iraq, there are 17 officially recognised non-Islamic religious communities, each of which (theoretically) has its own personal status law (Harith Al-Dabbagh (2019), 'Iraq' in: N. Yassari et al. (eds.), *Filiation and the Protection of Parentless Children. Towards a Social Definition of the Family in Muslim Jurisdictions*, The Hague: Asser Press & Springer, 103-13, at 107 n. 16).

<sup>142</sup> Jordan's Civil Status Law was promulgated on 18 March 2001; amended in 2011 and 2015.

<sup>143</sup> Jordan's Personal Status Law (applicable to Muslims) was promulgated on 2 June 2019. Christians in Jordan are governed by their own personal status laws.

<sup>144</sup> The Lebanese Law on Personal Status Registration was promulgated on 7 December 1951, and amended several times in 1956, in 1964 by Law 15738/1964, in 1971 by Law 70/1971, in 1993 by Law 203/1993, and in 1997 by Law 665/1997.

<sup>145</sup> Substantive Muslim, including Sunni and Shi'a, personal status law remains largely uncodified, whereas all Muslims follow one procedural law concerning matters of personal status.

<sup>146</sup> In some KII, more than one informant participated in the interview.

