

## EXECUTIVE SUMMARY

Hundreds of thousands<sup>1</sup> of children living in opposition-held areas in Northwest Syria (NWS) are denied access to their right to a nationality and legal identity.<sup>2</sup> This fundamental violation of a child's right to a nationality - guaranteed under numerous international and regional instruments ratified by Syria - results in children of NWS experiencing a slew of deprivations of their basic rights and entitlements, including not being able to access healthcare, humanitarian aid, education, and travel outside the area, even to reunite with their family. Already highly vulnerable after over a decade of war's displacement and violence, and now the catastrophic February 2023 earthquakes, undocumented children in NWS are suffering alarming protection issues and are often forced to adopt harmful coping mechanisms as means of overcoming the impacts of being undocumented. Unless and until there is a systematic approach by relevant governments and stakeholders to address the core barriers to accessing nationality and legal documentation—including Syria's gender discriminatory nationality law and its onerous civil registration requirements—children in NWS collectively will continue to not only face severe protection gaps but risk becoming a new generation of stateless people in the region.<sup>3</sup>

Children in NWS are often referred to as being 'trapped,' 'stuck in limbo,' 'becoming a lost generation,' and the issue of nationality access in Syria a 'ticking time-bomb.'<sup>4</sup> Yet to date, there has been only limited focus on their plight, especially as it pertains to their nationality rights.<sup>5</sup> This 65-page Report examines the governing legal framework, documents the barriers that children in NWS face in accessing their right to nationality and legal identity as well as the profound impacts of such deprivations on their lives, and provides recommendations on how to address these fundamental children's rights violations.

Prior to February's tragic earthquakes, NWS was largely framed in terms of geopolitical and security related concerns—lost had been the plight of the children and their families who were on the edge of survival after twelve years of war. NWS, a region bordering Turkey, has been host to much of the confrontations between the Government of Syria (GoS) forces and multiple armed groups, channeled and influenced by several regional and international powers, and is considered to be the last major opposition-held territory.<sup>6</sup> NWS is home to nearly three million internally displaced persons (IDPs), i.e., nearly half of all IDPs in Syria, the vast majority of whom live in camps, with widowed mothers heading many households.<sup>7</sup> Of the more than 1.7 million children in NWS, approximately one million are internally displaced.<sup>8</sup> Impoverished and stuck between a border wall which Turkey resurrected to prevent them from fleeing and "a hostile government that could attack at any moment," children and their families struggled to meet their most basic needs even prior to the devastating earthquakes, considered the worst natural disaster in a century in that area.<sup>9</sup> Although the violence has decreased in intensity since the March 2020 Idlib ceasefire, localized hostilities continue, and the plummeting economy, in addition to the devastating earthquakes, has made the humanitarian situation bleak.<sup>10</sup>

Compounding these challenges, children and their families in NWS face major and often insurmountable obstacles to securing civil documentation. Despite high reported rates of birth registration in Syria prior to the conflict, today, it is likely that over a quarter of children in NWS do not have birth registration documents, national identity cards, and passports, nor are identified in family booklets. Key informants stress that most children in NWS born after 2017 are not registered with the GoS.<sup>11</sup> Birth registration and legal identity documents are not only critical for children to establish relationship of children to parents, enroll in school, and access other basic rights, but also for safeguarding their nationality claims. Lack of legal identity in the context of conflict and displacement can result in children in the longer term moving from being at risk of statelessness to becoming legally stateless.

Efforts by families to obtain valid civil documents for their children from GoS-controlled areas involve life-threatening risks. Key Informant Interviews (KIIs) highlighted how security concerns at check points and travel to GoS areas are among the most significant barriers to accessing GoS civil documentation. Such risks include arbitrary detention, paying bribes to be released after detention, being forcefully conscripted into the Syrian army, torture and other ill-treatment, sexual assault, enforced disappearance, and death in custody. Moreover, even for those who would attempt to travel, since March 2020 nearly all crossings between NWS and GoS-controlled areas were closed due to the COVID-19 pandemic and have, in general, remained closed.

Beyond security risks, there are many administrative and practical barriers which stand in the way of children being registered. Before registering a child's birth, parents have to first secure a civil registration of their marriage, an insurmountable barrier for many. While some barriers to securing marriage certificates pre-date the Syrian conflict, many are the result of or have been exacerbated by the war and particularly the isolation of living in NWS. Among the relevant issues are: (i) lost, destroyed or confiscated marriage registration documentation, or underlying documentation needed to effectuate the marriage, (ii) customary (*urfi*) marriages unrecognized by the GoS, (iii) out of wedlock births (hence no marriage to register), (iv) lack of GoS-recognition of NWS's *Shari'a* court processes formalizing marriage, (v) death, disappearance, or separation from the father, and (vi) fear or unwillingness of the father to approach the authorities. The marriage registration prerequisite results in high numbers of children never being registered and thus being deprived of their right to birth registration. Another major barrier is that a significant percentage of people in NWS do not have many of the underlying documentations required to complete their child's birth registration, with many IDPs having lost their documents, had them destroyed and/or confiscated in the process of their displacements, continuing encampments, and the recent earthquake. The associated costs with registration in the form of fees, fines, transportation, legal assistance or intermediaries is also a major hurdle, considering most families' desperate economic situation.

Though local *de facto* authorities in NWS, including the *Hay'at Tahrir al-Sham*-affiliated Syrian Salvation Government (SSG), have issued their own civil documentation to a significant extent based also on the Syrian domestic laws and templates, this documentation is not internationally recognized nor recognized by the GoS; and in fact such documentation is largely perceived by GoS

as evidence of being traitors and/or affiliated with the opposition. Since December 2022, the local authorities in NWS began to link their own ID cards to access to basic services, including obtaining salaries, applying for school exams, and transferring ownership of a car. While obtaining particular *de facto* authorities' documentation may allow for children and their families to access services within areas under that specific *de facto* authority's control, having such documentation can also present grave security risks if found by GoS, or even other government and *de facto* authorities. Based on these and other barriers highlighted in the Report, one key informant noted that people living in NWS often conclude: "What's the point [of getting *de facto* authorities documentation]? I've already got 1,000,001 problems in my life, why do I need to go through this process?"

In addition to barriers to accessing recognized legal identity documents, as a threshold matter, thousands of children in NWS are denied their right to a nationality based solely on Syria's gender discriminatory nationality law—in particular, Article 3(A) of the Syrian Nationality Law (Legislative Decree No. 276 of 1969)—which prevents Syrian women from passing on citizenship to their children except in certain limited circumstances, rarely implemented in practice. Syria's gender discriminatory nationality law not only implicates children in NWS who are born to foreign or stateless fathers, but also children whose fathers have died, disappeared, are absent, are fearful of cooperating in the civil registration process, or lack the means to prove their nationality (or even their marriage), leaving countless children in NWS with limited to no possibility of accessing citizenship. Multiple KIIs underscored that a reform of Syria's nationality law would have a profound impact on the ability of children in NWS to access their right to nationality.

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While the risk of statelessness is not limited to NWS and statelessness has been present in Syria for decades,<sup>12</sup> KIIs stressed that child populations in NWS were at heightened risk of statelessness and being undocumented. The Report details how children in NWS with the following profiles are particularly vulnerable: children born to undocumented parents; children born to stateless fathers, namely, stateless Kurds; children born to foreign fathers; children born to parents with unregistered marriages; children born to deceased, imprisoned, and/or missing fathers; and unaccompanied and separated children (UASC).

The Report shows that failures to secure civil documentation for children "who are, in principle, nationals of a country can result in untold deprivations, including some of the very same deprivations associated with full-on statelessness."<sup>13</sup> Informants emphasized that children in NWS lacking access to civil documentation and nationality are already suffering severe violations of their basic rights and child protection gaps.

Among the consequences, undocumented children experience hampered access to humanitarian aid, on which the vast majority of families in NWS is dependent. Parents and caregivers of children are often required to present documentation to access shelter, provision of food baskets, and even baby formula to prove that their child is below a certain age. Despite many humanitarian organizations' policy of providing aid based on need alone, one survey found that approximately twenty percent of IDPs are not able to access aid because they do not have civil documentation.

Without documentation, children are also often prevented from accessing even the limited health care which exists in NWS, including vaccines, mental health services, physical rehabilitation, and disability services. The general lack of health services in NWS also poses health risks to undocumented children who require special care, in the sense that as an alternative, undocumented children are not being referred to Turkey to obtain these special services because they need documentation in order to cross the border. If their parent or guardian lacks documentation, this also means that they may have issues establishing parental consent for medical services, or cannot travel with their child to Turkey.



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Lack of civil documentation also significantly impacts children's right to education. Although financial circumstances of families are often cited as the main barrier, children's lack of civil documentation prevents them from enrolling in school, enrolling too late, or dropping out. Out of 1.7 million school-age children in NWS, an estimated one million are not enrolled in school, whereas prior to the conflict Syria had school enrollment rates of over 97 percent. While education in NWS is largely supported by donors and NGOs, etc., there are still schools that require documentation. A 2021 household survey in NWS found that 57 percent of households reported a lack of access to schooling because of civil documentation issues. Even if a school in NWS accepts a child without documentation, in some cases a certificate of completion will not be issued, leaving the child without proof of ever having attended school. One survey conducted in NWS found that for nearly a third of students, lacking official residency documentation was a reason for dropping out of school.

Lack of documentation severely constrains the right to freedom of movement for children and their families/caregivers in NWS. Children and their families and caregivers living in NWS are

essentially prohibited from traveling outside of the region without documentation. Similarly, a lack of civil documentation has tremendous repercussions on children being able to realize their right to family unity, restricting as well those displaced children from returning home to their community of origin, or to overseas reunification. Mothers who are not able to document their children or prove that they are the children's parent are also not able to travel with their children for fear that they may be separated, including by way of kidnapping, human trafficking, and/or sexual violence. Lack of documentation may be both a cause of family separation and the consequence of it. As many children lost or were separated from their immediate family due to the earthquake, NWS is said to have extremely high numbers of unaccompanied children.

In addition, lack of civil documentation and nationality impacts children's employment opportunities and their rights to housing, land, and property, especially in the longer term. Among the most debilitating effects of lacking civil documentation is chronic economic instability. Children's lack of documentation, for example, contributes to their inability to access education, while a parent's lack of documentation makes the parents ineligible for formal work, or pursuing economic opportunities outside NWS. Both situations can lead to children engaging in child labor as a means to support the family. Lack of documentation also means that children have limited prospects in the long-term for accessing the formal labor market, and are vulnerable to exploitative working conditions well beyond their childhood years. This is in part why the issue of lack of legal status for children is framed as a "ticking time-bomb." Even if the child does not experience the repercussions immediately, with time, the impacts of being undocumented become increasingly grave.

With such limited prospects, one key informant described the situation for youth in NWS as akin to "living in a prison." He said that he understood why some sought to be smuggled to Europe, while noting that "they have no ID recognized by anyone in the world." Given the circumstances, children and their families/caregivers have resorted to a range of harmful coping mechanisms to access GoS civil documentation and/or to mitigate the effects of being undocumented. As one informant stressed, in order to overcome being undocumented, children and their families "are putting their lives at risk."

Some in NWS put themselves in tremendous danger by travelling cross-line into GoS-controlled areas to procure official GoS documentation, despite GoS likely to regard them as sympathetic or supportive of *de facto* authorities or even 'terrorists' merely because they are coming from NWS. Due to the risks involved, informants note that crossing such lines is not commonly pursued. Another coping mechanism is for parents to procure forged or fraudulent documentation, including registering children under the names of different adults who had the relevant documents necessary, for example, a registered marriage. Among the ensuing risks is that in times of displacement or resettlement, children risk being separated from their parents. Forging documents or using IDs of relatives or others to register children can also risk imprisonment, impact the parent's legal custody of their child, and put the child's claim to nationality at risk, since nationality acquired through fraudulent means is generally revocable under Syrian law.

A common practice is also to pay large amounts of money to people outside NWS to secure GoS documentation or to overcome the barriers associated with not having documentation, including the use of illicit channels to smuggle children to GoS-held areas, or across the border to Turkey. This creates a situation where children are either passed along to smugglers or sent unaccompanied, placing children into extremely vulnerable positions where their protection is jeopardized.

Other harmful practices affecting especially undocumented children—related in part to difficulties in proving their age—include child labor, military recruitment, and child marriage. Unregistered children are especially vulnerable to child labor, which has become increasingly common in NWS, within the context of an overall dire economic situation and lack of access to schooling. In one 2020 survey, 82 percent of interviewees reported that children in NWS are “engaged in child labor, preventing them from attending school.” Child labor among undocumented children is connected to problems accessing education and restricted freedom of movement (both for them and their family), as well as issues with regards to establishing a child’s age or family relationships.

Children being recruited into military and armed operations is reportedly becoming increasingly common in NWS. According to UNICEF, seven out of ten children recorded as having been recruited and used in the conflict were in NWS, with verified reports from NWS numbering in the hundreds. Lack of documentation and the obstacles that it poses on accessing education, family unity, and formal work for them and their family members reportedly drives children to join armed groups. Boys whose mothers reside in widows’ camps were noted as particularly vulnerable for recruitment since the community considers boys past the age of 15 (and sometimes as young as 11) as male adults and they are not permitted to stay in the camps.

Child marriage can be the result of being undocumented and can also lead to children born of the marriage being undocumented. Being undocumented increases risks of early marriage for many reasons, including because it becomes more challenging to prove a person’s age or family relationships, lack of access to schooling and some families believe that early marriage is a pathway to securing legal status of their daughters. Unregistered girls as young as 12 - 14 years old are being married, with the parents sometimes indicating that their children, especially girls, are older.<sup>14</sup> Given that the conflict is now in its twelfth year, it is likely the girls marrying early are not themselves registered. Early marriage is particularly problematic for children lacking documentation because the children born of these marriages will not be registered, thus potentially perpetuating an intergenerational issue of family statelessness.

As further detailed in the Report, lack of access to *recognized* nationality and legal identity documentation results in profound and immediate deprivations of children’s basic rights and entitlements, and perhaps even more so with respect to the longer-term when children become closer to adult-age, including creating a catastrophic problem of statelessness.

Notwithstanding the fact that the GoS lacks effective control in NWS, under international law, the GoS's obligations to protect the rights of children persist, and *de facto* authorities also must respect and protect the human rights of individuals and groups in NWS. GoS's laws, policies, and practices violate core dimensions of its numerous international and regional obligations to safeguard a child's right to a nationality and legal identity. Reforming Syria's nationality law to allow for Syrian mothers to pass their nationality to their children is critical for addressing these fundamental violations.

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Another necessary reform is to simplify and facilitate access to Syria's civil registration system, including, for example, by: eliminating the marriage registration prerequisite for birth registration; and ensuring that possession of non-GoS documents not be conflated with affiliation or endorsement of Non-State Armed Group (NSAG), allowing instead such documentation to be used as *prima facie* evidence of the occurrence of vital events. While there have been recent legal reforms to civil status law and administrative practices instituted by the GoS, the scope and scale of violations of children in NWS's rights require more than a tinkering with the laws and practices in place; the situation necessitates a comprehensive, systematic approach by the GoS and relevant stakeholders. Without such concerted action, a key informant asked what future for the children in NWS but try and escape by sea, for 'papers and a life'?



Woman and child in Northwest Syria, photo by NRC

## RECOMMENDATIONS

### A. To the Government of Syria

- Remove any distinction in the laws and regulations on nationality based on gender, ensuring a higher level of protection in accordance with international and regional law obligations. This includes adopting the draft amendment to Article 3 of the Syrian Nationality Law allowing women to transmit nationality to their children on an equal basis with men.
- Review legislation to implement gender-equitable measures regarding civil documentation allowing women to be the legal guardians of their children.
- Ensure the implementation of statutory safeguards found in the Nationality Law to protect against child statelessness, including through the consistent implementation of Articles 3(B), 3(C) and 3(D). Additionally, ensure that naturalization becomes a viable, transparent and functioning pathway to citizenship for children and their families in Syria who meet the requirements, and that the process itself is uniform and not discretionary, nor discriminatory.
- Simplify the birth registration process by removing the marriage certificate requirement, which currently acts as a major barrier. Pending the removal of the marriage certificate



requirement, enable widows and mothers whose husbands are absent to provide a wide array of evidence of their marriage, for the purpose of conferring nationality onto their children.

- Strengthen efforts to build the capacity of civil registries, taking into account the difficulties faced by families currently or previously living in areas controlled by non-State actors in gaining access to official documentation.
- Facilitate the late registration of children in cases of those living in NWS, including by waiving fees and any fines for late birth (and marriage) registration, and consider recognizing documents issued locally by *mukhtars* or *sheikhs* to facilitate the issuance of birth certificates.
- Ensure that there is an established process for displaced Syrians to replace false or forged documents with official documents and to amend incorrect information on such documents, subject to verification, and without punitive action or fines.
- Amend the Personal Status Code to ensure that children born to unmarried parents, children born from situations of sexual violence, children of Muslim mothers and non-Muslim fathers, are recognized, registered and have access to birth registration documents.

## **B. To Non-State Armed Groups and *De Facto* Authorities**

- Ensure that individuals, including children and their caregivers, traveling to and from GoS areas to obtain GoS documentation, are not harmed, arbitrarily detained, nor delayed upon return to NWS and suspected of trying to ‘reconcile.’
- Ensure that any Syrian possessing GoS or other non-SSG documentation is not penalized and that mere possession of such documents is not conflated with affiliation or endorsement of other parties.
- Allow for greater flexibility with regard to engaging with humanitarian organizations, ensuring that they have sufficient scope to carry out humanitarian service delivery to individuals lacking documentation.

## **C. To UN Agencies and Humanitarian Actors**

- Continue to advocate for reform of Nationality Law to allow mothers to confer their nationality to their children on an equal basis as men. In particular, UNHCR, UNICEF, and UN WOMEN should lead in this effort.
- Advocate for the GoS’s implementation of the existing statutory safeguards in the Syrian Nationality Law protecting children in Syria against statelessness.
- Advocate for the GoS to recognize documentation issued by *de facto* authorities, stressing that non-GoS documents can be used as *prima facie* evidence of the occurrence of vital events and possession of non-GoS documents should not be conflated with affiliation or endorsement of NSAG.
- Ensure that the protection challenges related to civil documentation and its consequences are included in any ongoing discussions at the international level to inform a broader post-conflict settlement.
- Ensure that any future civil documentation programs, at a minimum, include full protection assessments of both short- and long-term risks prior to implementation, with clear mitigation strategies in place to address potential risks and unintended consequences. Humanitarian civil documentation programs should focus on reinforcing the message as to

the importance of preservation of existing documents (including due to earthquakes, flooding, etc.), as well as accessing safe and available documents, including medical notifications of births and deaths, to enable access to services.

- Support medical staff in providing birth and death notifications, as these will support future applications for birth registration, registration of children in family booklets and proving death for purposes of inheritance. These documents should be considered solely as medical documents and should not contain any language or logo which may undermine their neutrality.
- Develop innovative approaches to addressing the consequences and negative coping mechanisms associated with children lacking civil documentation, including education access and child labor, for example, by combining education and financial support, and reviewing education certification requirements.
- Ensure that the provision of services and assistance to individuals is on the basis of need alone, in accordance with humanitarian principles. Humanitarian actors should prioritize non-discrimination and maintain flexibility in the delivery of services. All humanitarian actors should refrain from denying services to individuals who lack documentation, particularly to vulnerable groups including children, IDPs and female headed households; and other forms of documentation or evidence should be considered acceptable as a means of proving the identity of humanitarian aid recipients (e.g., witness statements or *Mukhtar* declarations).
- Implement legal training programs for humanitarian staff and service providers in general and health sector workers specifically focusing on the importance of civil status documents.
- Support training of *mukhtars* concerning mechanisms for issuing certificates and documents, building their capacity, and providing them with legal support.
- Advocate for humanitarian aid workers' access to NWS's widow camps to ensure the women and children's humanitarian needs are being met, that they are protected from harm, and receive civil documentation support.
- Pursue further research to understand the circumstances and protection risk profiles of Kurdish children and families in Syria with regard to accessing civil documentation and nationality and UNHCR, in particular, should further support and register Kurdish families as they come under their mandate.
- UNHCR should assess approaches to recognize statelessness within the Refugee Status Determination (RSD) process that considers the consequences of this identification, namely discrimination or stigmatization, and operational constraints.
- UNHCR should review the gap between Stateless Status Determinations Procedure (SDP) and RSD processes to recognize the stateless of Syrian refugees during RSD.

## **D. To Donor Governments**

- Expand support for legal service programming related to civil registration, allowing more children and their families/caregivers in NWS to find solutions to their lack of access to civil documentation.
- Review and assess any limitations or restrictions on humanitarian organizations with regard to legal assistance in NWS, in line with humanitarian principles and right to legal identity.

- Provide financial support to cover costs associated with transportation and related expenses to enable broader access to civil documentation, particularly for vulnerable populations, including female-headed households.
- Adopt a more flexible approach to the validation of identification documents when devising rules and regulations for the programming donors support, e.g., cash distribution initiatives.
- Support health care providers' development of a standardized format for birth notifications issued by health facilities and requiring such facilities to provide mothers with birth notices and reports after having given birth in the facility.
- Support the registration of unaccompanied or separated children (UASC) among kinship carers and foster carers.
- Ensure adequate funding for civil documentation in the earthquake response, particularly the inclusion of legal assistance, in the Syrian Humanitarian Response Plan, Flash Appeal and International Donors' Conference.
- Ensure that any funding and scaling up of humanitarian aid dedicated to the earthquake is additional funding and not re-direction of existing financial support from the Syria Humanitarian Response Plan.

## **E. To Asylum and Refugee-Hosting Countries**

- Ensure that those in possession of non-GoS documentation be protected, and possession of non-GoS document, including SSG documentation, should not be conflated with affiliation or endorsement of Non-State Armed Groups (NSAG), and allow such documents to be used as *prima facie* evidence of the occurrence of vital events by those children and their families seeking asylum and family reunification.

## **F. To All Parties to the Conflict**

- Support the continuation of unfettered access to humanitarian organizations and UN agencies to allow for delivery of impartial humanitarian assistance to civilians in need in NWS, including through cross-border and cross-line operations.
- Cease grave violations against children immediately and comply with UN Security Resolutions 2139 and 2165 concerning respect for international humanitarian law and human rights.