

Lebanon

Lack of Birth Registration Leading to Statelessness

- 1- Ruwad alHoukoug FR is a Lebanese NGO established in 2014 by a group of human rights defenders active since 1999 in the defense of marginalized groups in Lebanon, particularly stateless persons, refugees, and migrants. Ruwad alHoukoug FR's mission is to promote legal protection of vulnerable population, and to advocate for law reforms and rule of law., . Ruwad alHoukoug FR is a member of several international networks specialized in combating statelessness and protecting refugees.
- 2- SALAM for Democracy and Human Rights (SALAM DHR) is an NGO established in 2013 and registered in Sweden, Switzerland, and UK. It endeavours to preserve universal principles of dignity and respect by shielding democracy and human rights. In the pursuit of this vision, SALAM DHR aims to influence British, European and UN representatives to improve the situation in the Middle East, and foster awareness of human rights and democracy. To accomplish these goals, SALAM DHR conducts monitoring and analysis, produces reports, develops recommendations on policy and legislation, organises advocacy campaigns, conducts trainings, and builds effective coalitions. SALAM DHR is actively involved in international cooperation for human rights and democracy, including the production of alternative reports on key human rights topics, coordinating coalitions, lobbying for reform of flawed institutions, and articulating NGO positions at the UN Human Rights Council, the

European Parliament, and various domestic bodies.

- 3- This submission focuses on the flaws of Lebanese birth registration system in Lebanon and its correlation with the presence of stateless children.
- 4- There is no official data of the number of stateless population in Lebanon. They are estimated at around 50 to 60.000 individuals excluding Palestinian stateless refugees born in Lebanon who are estimated at 400.000 and children of undocumented migrant workers as well as of Syrian refugees born in Lebanon whose births were not registered, estimated to exceed 100000.
- 5- There is no register for stateless persons in Lebanon, except those known as *Qayd Dars* (under study) who have a special register at the General Security, and Palestinians who have special records at the Directorate of Refugee Affairs.
- 6- Frontiers conducted a field study in 2012 (unpublished), on profiles and sizes of stateless persons in Lebanon. The study divided the stateless population in Lebanon into 2 main categories: those who are "historically" stateless, i.e. born to stateless ancestors (58%) and those born to parents who have a nationality - Lebanese or foreign - who failed to register the births of their children (42%).

The Universal Periodic Review of Lebanon under the First and Second Cycles

- 7- In the first cycle, there were no recommendations related to birth registration in Lebanon.
- 8- In the second cycle, that coincided after the Syrian crisis started, there were 4 recommendations related to birth registration in Lebanon, related to all children and mainly refugees:

1. Turkey recommended taking further improve its birth registration system and ensure that this system is accessible to all children born in Lebanon.
2. Mexico recommended making the necessary legislative amendments to allow all children born in Lebanon to be entitled to the legal recognition through their birth registration.
3. Germany recommended improving the situation of refugees by facilitating their registration and by renewing residency permits, by setting up an effective mechanism for birth registration to avoid statelessness of newborn children, and by allowing refugees, including Palestinian refugees, access to segments of the official labour market.
4. Austria recommended taking legal and administrative steps to ensure that every refugee child born in Lebanon is properly registered by the authorities and issued with the documents to prove it, without prejudice to the question of permanent residency or acquisition of citizenship.

Lebanon's International Obligations

- 9- Lebanon is party to the International Covenant on Civil and Political Rights that guarantees in its Article 24 every child's right to be registered immediately at birth and to a nationality. Lebanon made no reservation on these provisions.
- 10- Lebanon is also party to the Convention on the Rights of the Child, that states in its Article 7 that every child should be registered at birth and has the right to acquire a nationality. Lebanon made no reservations on the Convention.
- 11- Lebanon is not a party neither to the 1954 Convention on the Status of Stateless Persons nor to the 1961 Convention on the Reduction of Statelessness.

Legislative and Institutional Developments

- 12- There is no systemic development related to birth registration since 2015.
- 13- In 2015, Ruwad Association presented to the relevant authorities a modern model of universal birth registration system that would facilitate the registration procedures and ensure immediate notification of new birth from the hospitals to the Personal Status Directorate. , This proposal was not followed up by the relevant Lebanese authorities.
- 14- Since 12/9/2017, the Personal Status Directorate issued circulars to facilitate the registration of birth of exclusively the Syrian children born in Lebanon, in terms of lifting the residency condition for parents, accepting alternative documents if not all the initially requested documents are available. On 8/2/2018, the Council of Ministers issued Decision 93 that granted a grace period for administrative registration of birth of Syrian children born in Lebanon between 1/1/2011 and 8/2/2018. On 17/9/2019, the Personal Status General Director issued Circular 112 that extended the dates of birth until 9/2/2019. There was no extension of the grace period after that date. Those born after 9/2/2019 have to be registered via judicial proceedings if their birth was not declared within the first year.

Lebanon's National Legal Framework

- 15- Article 1 of the Lebanese nationality law (Decision 15 dated 19/1/1925) states 3 categories to be Lebanese: ¹ a person born to a Lebanese father; a person born in Lebanon and it is proven that he did not acquire a nationality by filiation at birth; a person born in Lebanon to unknown parents or parents of unknown nationality.
- 16- Article 2 of the same law provides that the a child born out of wedlock whose filiation has been established during his minority shall have the Lebanese nationality if one of his parents in respect of whom affiliation is first established is Lebanese. If the proof of affiliation regarding both the father and the mother results from a single contract or judgment, the child shall acquire the nationality of the

¹ Unofficial translation available at <https://www.refworld.org/docid/44a24c6c4.html>

father should the latter be Lebanese.

- 17- However, the acquisition of nationality in all cases is not automatic. The birth of the child should be registered with the Personal Status Civil authorities to acquire the Lebanese nationality.
- 18- The registration of birth is regularized by the Law on "Documenting Personal Status", dated 12 July 1951.²
- 19- Article 11 of the Law of 1951 states that the birth must be declared at the Personal Status Officer within 30 days of the date of birth without a fine and one year with a minimal penalty
- 20- Article 15 of the law 1951 states that s for the birth registration of children born out of wedlock the birth certificate is drafted by the caretaker or the doctor or midwife who assisted the birth. The father's name is not mentioned, except in the event of his recognition or if he delegates a personal representative to undertake the recognition; if this does not occur, the child would be registered under the names chosen by the child's caretaker.. The statement of recognition of an illegitimate child shall be recorded in the registers and dated on that day, referenced in the birth certificates registers, and drafted in the presence of two witnesses.
- 21- Article 16 of 1951 is related to foundlings. The Article states that any person finding a newborn child shall deliver it to the *mukhtar* of the village or locality with anything found on the child, such as clothes and other things and indicate the place, time, and conditions under which the child was found. The *mukhtar* shall thus draft a report indicating the apparent age of the child and any special marks on it. The mukhtar delivers then the child, along with the report, to one of the institutions designated by the Ministry of Health and General Emergency [currently the Ministry of Social Affairs]; the institution shall draft a birth certificate and send it to the Personal Status Department to be recorded in its registries.

Birth Registration Process

² Unofficial translation available at <https://www.refworld.org/docid/5e57c9d84.htm>

- 22- The birth registration process relies fully on the parents. The process is not computerized. The process is complicated and multi-steps.
- 23- The birth declaration and registration is a tedious process and relies fully on the parents. Parents or guardian should obtain birth notification from the doctor or midwife who attended the birth, fill and sign with two witnesses a birth certificate to be endorsed by the mukhtar (local elected representative); then, submit the birth certificate to the Personal Civil Status authorities.
- 24-
- 25- The State has no system to ensure that all births were registered. It has no statistics on all births taking place in the country. While the Ministry of Public Health (MoPH) collects vital statistics, including births, from all hospitals, according to Article 6 of the Regulations of MoPH,³ it has no monitoring and control system to ensure that all births are recorded on the statistics it receives from hospitals. Further, the statistics of the Ministry include only the births that take place at hospitals and do not include those taking place at midwives clinics, non-authorized medical centers (such as International NGOs operated medical centers and Palestinian medical centers) or without medical assistance. The statistics of registered births are shared with the Ministry of Public Health by the Personal Status departments in the various districts, via the local offices of the MoPH. According to the Ministry's statistics department, local offices are not systematically sharing the statistics on time.

Reasons for non-Registration of Birth: non-Registration of Parents Marriage

- 26- In order for a birth that takes place within wedlock to be registered, the marriage of the parents should be registered. Many couples do not register their marriages.

³ Decree 2879, dated 16/12/1959, available (in Arabic) at <http://legallaw.ul.edu.lb/LawView.aspx?opt=view&LawID=203817>

- 27- Reasons of non-registration of marriage vary. The duality of the legislative and legal systems governing marriage and all personal status matters is one of the main reasons: religious laws regulate the validity of the marriage, its registration is regulated by the laws on documenting personal status.
- 28- Many people believe that religious marriages are enough and do not register them with the civil authorities. A number of related legal complications obstruct the registration of the marriage. Examples include: 1) a woman who is still listed as married in her personal status records although she is divorced before the religious authorities, as such she may remarry from the religious perspective but cannot register the marriage as long as her divorce from the previous marriage is not registered. 2) A man who belongs to a religious group that does not allow polygamy (Christian or Druze), converts to Islam before the religious authorities only and contracts a second marriage, this second marriage cannot be registered with the civil authorities. 3) A Druze man who marries a non-Druze woman before a non-Druze religious cleric. The Druze court would not authenticate the marriage and it could not be registered. In all these cases, the birth of the children born out of these marriages could not be registered.
- 29- Another main reason behind non-registration of marriages and consequently of births is the statelessness of the wife of both spouses.
- 30- If the husband is Lebanese and the wife is stateless, the current practice is not to register the marriage administratively and to refer it to the courts to obtain a judicial decision to register the marriage. Many Lebanese men do not go to courts to register their marriages. They could not register their children as a result.
- 31- If both husbands are stateless, and due to the lack of legal status and records for stateless persons, they cannot register neither the marriage nor the birth of the children, perpetuating statelessness between generations.

32- A third main reason for non-registration of marriage and consequently of children births is the procedure for marriage between Lebanese men and foreign women. As per Council of Ministers circular No. 51/S dated 18 January 1993 "General Security Approval of Foreign Women to Lebanese", the marriage between Muslim or Druze men and foreign women need the prior approval of the General Security. Such prior approval must take place before concluding the marriage at the religious court level. This prior approval is granted only if the foreign woman is legally resident in Lebanon. Many Muslim and Druze men marry foreign women who are irregular in the country without obtaining the prior approval before from a religious clerck and without confirming the marriage with the religious courts. As such, they Lebanese men in this circumstance cannot register their marriages until their wives regularize their status. Many do not perform the regularization, their marriages remain unregistered and their children remain unregistered as well.

Reasons for non-Registration of Birth: Lack of Birth Documentation

33- The birth registration process starts with the drafting and signature of the birth certificate by the parents. The birth certificate is usually based on a birth notification issued by the birth attendant.

34- Birth notifications are regulated by Article 7 para 8 of the Amended Medical Ethics Law (Law 240 dated 22/10/2012) provides that a doctor should write and sign a notification of every birth he attends, within 3 days of the delivery. The original law on Medical Ethics of 1994 provided that doctors should inform the relevant authorities of any birth they attend, within 3 days of the birth. The decision regulating the tasks of midwives profession (Decision 211/1 dated 9/6/1992) mentions birth notification (actes de naissance) as part of the tasks of midwives.

- 35- However, birth attendants do not issue birth notifications systematically. They tend to withhold the birth notification if the parents fail to settle all the delivery fees. Not having the birth notification makes drafting a birth certificate more difficult.
- 36- In addition, many births take place without medical assistance, especially in rural areas or in marginalized communities, due to the high cost of deliveries at hospitals. Such births increased with the Syrian crisis. In these cases, there would be no birth notification. Also, a number of births take place with the assistance of foreign doctors or midwives who are not authorized to work in Lebanon and as such cannot sign valid birth notifications.
- 37- Births that are not documented may be registered as long as a local mayor authenticates the birth certificate, after an administrative investigation to establish the birth circumstances. However, many parents do not know that this is possible and they do not draft the birth certificate. In addition, many mukhtars do not know that they have the right to authenticate the birth certificate if the birth took place without medical assistance, or refuse to do so to avoid their convocation convoked for the administrative investigation.
- 38- In the recent years, the Personal Status Directorate adopted a new practice concerning the births that take place with the assistance of midwives only. The Order of midwives should authenticate the signature of the midwife on the birth certificate. This was the result of many births taking place with the assistance of non-authorized midwives. In case the midwife was not registered at the Order, the latter would not authenticate the certificate and the birth will not be registered.
- 39- In addition, and due to the cost of deliveries, many women present to hospitals IDs of relatives who have medical coverage by the Social Security Fund, MoPH or private insurance, especially stateless women who cannot obtain any of these. In these cases, the information on the birth notification would be wrong. The parents would not complete the birth registration procedures as a result. The children remain unregistered.

- 40- As per the law, both the father and the mother have the same right to draft and sign the birth certificate. However, not all mothers are aware of this right. In case the father is absent for any reason, such as being a fugitive or imprisoned or in travel, many mothers do not draft and sign the birth certificates. In addition, many mukhtars do not know that the mother has this right, or refuse to authenticate the birth certificate when the mother is signing it in the absence of the father.
- 41- In addition, according to the law, guardian may draft and sign the birth certificate in the absence of the parents. Many do also not know this, and children whose parents passed away before registering their births may end up unregistered.
- 42- The mukhtar who is competent to authenticate the birth certificate is the mukhtar of the location where the birth took place. Many parents and even mukhtars do not know this condition and resort to the mukhtar of the location where the parents originate from or where they reside. This may lead to delays in the birth registration in order to correct / replace the birth certificate.
- 43- Birth certificates are handwritten. They may include many mistakes in names, gender, and dates, which correction delays the birth registration process. However, the certificate declaration is recorded at the first time it is presented to the authorities even if it contains mistakes.

Reasons for non-Registration of Birth: Birth Declaration

- 44- After the drafting and authentication of the birth certificate, parents should declare the birth to the relevant Personal Status Registrar. As per Article 11 of the law on Documenting Personal Status, this step should be done within one year of the birth. Many people are not aware of this time limit, and as such they fail to declare the birth within the legal deadline. As a result, the birth would not be registered administratively.
- 45- If the birth is declared within one year, the next steps for registration may be performed administratively without any time limit.

Although this declaration in itself is not a full registration and does not confer the nationality, it may prevent statelessness since the birth registration may be completed at any time when all the conditions are met.

- 46- The birth may be declared even if the marriage of the parents is not yet registered, or if the grandfather is Lebanese and the father himself is not yet registered. Many people are not aware of these rules and they fail to declare the birth in these cases, leading to non-registration of the birth.
- 47- The law does not specify who has the right to declare the birth. In practice, as long as the birth certificate is signed by the authorized persons, any one may declare the birth, usually mukhtars or relatives. Many do not know this, and believe that only the father may declare the birth. If the father is absent for any reason, the birth may end up undeclared.

Reasons for non-Registration of Birth: Birth out of Wedlock

- 48- The birth of a child born out of wedlock may be registered administratively within one year since birth. This happens if a Lebanese parent (father or mother) recognizes the filiation by a statement before a mukhtar or a public notary, and if this parent signs a birth certificate including his/her name as parent, according to Articles 15 & 11 of the law on Documenting Personal Status. The registration takes place on the records of the parent who recognizes the filiation.
- 49- Many people are unaware of the possibility to register a child born out of wedlock. They do not complete the procedures to perform the birth registration, leading to the statelessness of the child. In addition, many people are reluctant to acknowledge a birth out of wedlock since they are afraid of their families finding out about the birth out of wedlock or of the society's perception and the "scandal" that would result from acknowledging a newborn out of wedlock.

50- As per the law, birth registration of a child born out of wedlock follow the same procedures as the registration of children born within wedlock. However, in practice, the procedures related to the registration of a child born out of wedlock to a Lebanese mother who acknowledges his filiation is more complicated than the registration of a child born within a marriage. Investigations and interrogations are conducted to ensure that the parents are not trying to conceal a marriage, and news of the birth out of wedlock spreads in the woman's environment and reaches her neighbors and the mukhtar. In addition, the process takes a long period of time and requires the mother's presence in different relevant departments more than once. The application circulates between various offices includes the Civil Status Officer, the chief of the Civil Status Department and the Director General of Civil Status who shall have the final decision on whether to register the child or not. This complexity is a result of fear of any kind of manipulation or an attempt to grant the nationality to children born to foreign fathers under the cover of illegitimate children born to Lebanese mothers, as this is the only possible way for her to transfer her nationality to her children. In addition, this complexity leads to the failure of many mothers to register their children who are born out of wedlock, in case the fathers refuse to acknowledge the children. Procedures become even more rigorous and tight when the father is known, imposing a condition that is unstated by the Law which is the father being unknown. However, it should be noted that the birth declaration is noted in the relevant register upon its declaration before the Civil Status Officer and prior to the investigations and the rest of the procedures, which prevents judicial recourse regardless of the duration taken by the registration process.

Reasons for non-Registration of Birth: Children Born to Unknown Parents

- 51- A child born to unknown parents is considered Lebanese as per Art. 1 para 3 of the Nationality law. The law on Documenting Personal Status states in Article 16 specific procedures to register such births. This law stipulates that the child should be a newborn. The administrative and judicial interpretation of this provision is that the child should be less than 30 days of age when found, otherwise, the administrative registration would not be possible. The conditions of Article 16 are cumulative, and any violation leads to non-registration.
- 52- Many are not aware of the geographic competence of the mukhtar who should draft the report of finding the child and authenticate the birth certificate, nor of the time limit to register the birth administratively.
- 53- Article 16 provides that the institution that receives the child should sign the birth certificate and declare the birth to the competent department. Many institutions are not aware of the procedures to do so or neglect performing the procedures to register the children placed under their care.
- 54- In practice, in addition to the mukhtar report, the Police should carry out an investigation to establish that the child is of unknown parents, upon which the public prosecutor and juvenile judge issue a "Protection Order" placing the child at an institution.
- 55- The investigations that are conducted are not deep and miss many material facts that may be important to establish the birth circumstances.
- 56- Further, the dossiers of the children at the institutions lack copies of investigation minutes and reports, and sometimes lack a copy of the judicial decision to place the child at the institution.
- 57- All these issues make the birth registration of foundlings administratively more complicated.

Reasons for non-Registration of Birth: Children Born to Foreign Nationals

- 58- The birth of children born in Lebanon to foreign nationals should be registered in the Lebanese register for foreigners' vital events.
- 59- Art. 13 of the Regulation of the Ministry of Interior and Municipalities states that the Department of Foreigners Vital Events in Beirut checks and records the events of foreigners "legally residing in Beirut Governorate".⁴ Although this provision is limited to Beirut department and there is no similar provision for other departments, in practice the regularity of stay is considered as a condition for registering all vital events related to foreigners in Lebanon.
- 60- Many foreigners reside in the country in an irregular way, especially because of the cost and difficulties to ensure a constant regular stay. They marry and give birth to children, but cannot register neither their marriages nor the births of their children. The case is the same whether both spouses are foreigners or one of them is Lebanese.
- 61- Since 2017, the General Directorate for Personal Status made exceptions on this rule exclusively for the Syrians after the 2011 crisis. The regularity of stay is no longer required from both Syrian spouses to register the marriage, only one spouse should be regularly staying in the country. As for registration of children births, regular stay of the parent is no longer required. No similar exceptions exist for other foreigners.
- 62- Since 2018, the births of children of Syrian refugees in Lebanon may be registered administratively regardless of the one-year delay, as long as the birth took place between 1 January 2011 and 9 February 2019, as per the Council of Ministers circular dated 8/2/2018. This measure is exclusively limited to Syrians.

Judicial Registration of Birth

⁴ Decree 4082 dated 14/10/2000, available (in Arabic) at <http://legallaw.ul.edu.lb/LawView.aspx?opt=view&LawID=244764>

- 63- Article 12 of the law on Documenting Personal Status states that after one year of the date of birth, the registration of a newborn would only be possible through a court ruling. If the birth is not declared within the one year following the birth and the child is not registered, they do not acquire the nationality, until a late birth registration lawsuit is filed before the competent court of law. This lawsuit is a non-contentious one and may be filed without legal representation.
- 64- Article 1 of the nationality law does not distinguish between birth to a Lebanese father of birth in Lebanon to foreign parents who are unable to pass the nationality or to unknown parents or parents of unidentified nationality. However, the current practice is to register the births to Lebanese fathers judicially after the first year of birth as per Article 12 mentioned above, and to refer to courts, from the first day of birth, the other cases that fall under Article 1 of the Nationality law. (i.e. those born in Lebanon who would prove they did not acquire a foreign nationality by filiation at birth and those born to parents of unknown nationality). The latter two cases require a contentious confirmation of nationality lawsuit filed against the State. While the law does not require legal representation by an advocate in such cases, courts impose it.
- 65- As for those born out of wedlock who were not registered within the legal delay, the parent who recognizes the birth has to file a late birth registration lawsuit to register the birth.
- 66- For those born to unknown parents, whenever the apparent age of the child when found is more than 30 days, there is a need for a contentious lawsuit to register the birth.
- 67- People who resort to courts to register births or confirm nationality face many difficulties. Starting with the lack of documentation that is common with the administrative process outlines above, in addition to other documents that courts may require and that may be not available. Lack of information on the procedures and of legal counseling is another main obstacle. The fees and overall cost of the judicial process - especially the cost of DNA

tests that are becoming quasi systematic in birth registration lawsuits – coupled with the lack of a State funded legal aid is also a major problem facing people looking to put an end to their statelessness through access to justice.

Recommendations

- 68- Lebanon should adopt a modern, computerized, universal birth registration system that does not rely on the parents' initiative, and applies on all children born in Lebanon regardless of the nationality and legal status of the parents.
- 69- Lebanon should enact a law granting a grace period to register births administratively, to alleviate the burden of courts.
- 70- Lebanon should amend the law on Documenting Personal Status to remove the age limit or at least increase the age limit for administrative birth registration, and adopt simplified procedures after the elapse of this deadline, such as administrative investigation. Such measures would alleviate the burden of courts and facilitate the access of individuals to procedures.
- 71- Lebanon should conduct a nationwide awareness raising campaign to inform of their right to register and access civil documents for themselves and their children, so that all marriages and children are registered regardless of whether the mother is an irregular migrant or stateless.