



Boston University School of Law

THE CAMPAIGN TO END STATELESSNESS IN JORDAN

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March 2021

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Support for this publication was provided
by the Open Society Foundations.

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I. INTRODUCTION

Jordan is party to a number of international and regional treaties and agreements that address aspects of statelessness, and in recent years has taken steps to mitigate some of the main barriers to accessing citizenship and nationality in the Kingdom. However, Jordanian law, policy, and administrative practices currently fail to ensure the right to a nationality for hundreds of thousands of refugees and other displaced populations that are stateless, as well as to Jordanians with unperfected citizenship. These gaps in laws and policies are creating and perpetuating inter-generational communities of stateless persons in Jordan. Because the enjoyment of many human rights so often depends on citizenship or residency status, statelessness leaves thousands living in Jordan without basic rights including to education, healthcare, and access to employment, that Jordan is obliged to provide under international and regional law and, to some degree, Jordanian domestic law. Jordanian activists, non-governmental organizations (NGOs), international non-governmental organizations (INGOs), and United Nations (UN) organizations have increasingly mobilized around the issue of statelessness and have called on Jordan to implement legislative and policy changes in line with its international and regional legal obligations. The most critical reforms needed include ensuring a child's right to nationality, gender-equal nationality laws, and legal status for refugee and migrant populations.¹

Since the UN Refugee Agency (UNHCR)² launched the #iBelong Campaign in 2014 to End Statelessness by 2024, it has mobilized States and civil society around the issue of statelessness.³

¹ "Gender-equal nationality" law refers to women and men having the same access to citizenship rights. *Preventing and Reducing Statelessness: Good Practices in Promoting and Adopting Gender Equality in Nationality Laws*, UNHCR 1, 1 (2014), <https://www.unhcr.org/protection/statelessness/531a001c9/preventing-reducing-statelessness-good-practices-promoting-adopting-gender.html> ("International human rights law guarantees that women are to enjoy equal nationality rights as men.").

² UNHCR is the UN agency in charge of registering refugees (other than Palestinians), with the aim of providing them humanitarian assistance and protection, and promoting permanent solutions for refugees, including resettlement to a third country. Susan M. Akram, *The Search for Protection for Stateless Refugees in the Middle East: Palestinians and Kurds in Lebanon and Jordan*, 30 INT'L J. REFUGEE L. 406, 409-10 n.6 (2018).

³ *Global Action Plan to End Statelessness: 2014-2024*, UNHCR 1, 2 (2014), <https://www.unhcr.org/54621bf49.html> (last visited Feb. 1, 2021). The #iBelong Campaign to End Statelessness by 2024 encourages States: (i) to ensure that no child is born stateless, (ii) to remove gender-discriminatory nationality laws, (iii) to grant protection to stateless migrants and facilitate their naturalization, (iv) to issue nationality documentation, (v) to comply with UN conventions relating to statelessness, and (vi) to improve data on stateless populations. *Id.* at 2-3.

In 2019, as part of the UNHCR Executive Committee’s High-Level Segment on Statelessness, more than a third of all States made 252 specific pledges to further the iBelong Campaign’s goals, including commitments to reform citizenship laws, change administrative policies, and introduce legislative amendments.⁴ Notably absent were stakeholders from the Middle East and North Africa (MENA) Region: Jordan, along with nearly every country and civil society organization in the MENA region, made no pledge to address statelessness.⁵

Indeed, MENA is the only region yet to establish a formal statelessness network despite the severity and protracted nature of the problem in the region and in Jordan, in particular.⁶ This Report focusing on Jordan is part of a region-wide project to support the development of a statelessness network in the MENA, and the second country report mapping issues of statelessness in the region. As the fieldwork and research conducted in Lebanon and Jordan illustrate, there are similarities in the issues and problems underlying statelessness across the region, but also significant differences reflecting unique circumstances in each country.

Based on research and fieldwork conducted over the course of a year and a half, this Report provides the domestic, international, and regional laws relevant to statelessness in Jordan. The research identifies gaps in the laws and in their implementation that are perpetuating statelessness, discusses the major consequences of statelessness, and highlights the work and strategies of various stakeholders and their achievements thus far in Jordan. The Report concludes with recommendations aimed at reducing barriers to legal status that would significantly mitigate statelessness in Jordan. The Report’s analysis seeks to contribute to deeper

⁴ *Results of the High-Level Segment on Statelessness*, UNHCR, <https://www.unhcr.org/ibelong/results-of-the-high-level-segment-on-statelessness/> (last visited Feb. 1, 2021). The only country from the MENA region to make any pledge was Mauritania. *Id.*

⁵ *Id.*

⁶ For information on the European Network on Statelessness (ENS), see EUROPEAN NETWORK ON STATELESSNESS, www.statelessness.eu (last visited Feb. 1, 2021). For information on the Statelessness Network Asia Pacific (SNAP), see <https://namati.org/network/organization/statelessness-network-asia-pacific/> (last visited Feb. 8, 2021). For the Americas Network on Nationality and Statelessness, *Red de las Américas sobre Nacionalidad y Apatridia*, (Red ANA), see THE AMERICAS NETWORK ON NATIONALITY AND STATELESSNESS, www.americasns.org (last visited Feb. 1, 2021). For the Citizenship Rights in Africa Initiative, see <http://citizenshiprightsafrika.org/> (last visited Apr. 16, 2020). Although there is no region-wide statelessness network operating in the MENA region, organizations and individuals working on statelessness in the region have recently come together in an effort to support the development of a MENA-wide network.

understanding of the issues faced in Jordan specifically, and to set out proposals for reform that also relate more broadly to statelessness across the region.

A. Problem Statement

Although Jordan is party to a number of important international treaties and regional agreements that guarantee rights related to nationality and citizenship, including the Convention on the Rights of the Child, the International Convention on Civil and Political Rights, and the Arab Charter on Human Rights, it is not a party to the international treaties governing stateless persons and refugees. Jordan is therefore not required to protect the rights that these international conventions would otherwise guarantee to persons falling in those categories. Jordan also lacks domestic legislation that ensures protections for stateless persons, persons at risk of statelessness, or refugees. Jordan's nationality legislation is inconsistent, however, with its obligations under international and regional law that would provide critical protections to populations vulnerable to statelessness. Jordan's lack of compliance with existing obligations, and failure to ratify relevant treaties contribute significantly to the main causes of statelessness in the country. These causes are Jordan's gender-discriminatory Nationality Law; barriers to access civil registration, particularly for refugees and migrant communities; and the lack of status determination processes for refugee and migrant populations.

The most vulnerable populations facing statelessness are: (1) Jordanian nationals with 'unperfected citizenship,' that is, persons whose parents could not complete the birth or marriage registration processes and remain officially un-registered with the Government; (2) children of Jordanian mothers and non-Jordanian, stateless, or unknown fathers; (3) Palestinian refugees or displaced Palestinians who hold varying types of documentation that do not confer citizenship status; (4) Syrian refugees, including those born in Jordan or Syria who were displaced and were not registered with the Syrian Government; (5) other refugee, displaced, or migrant populations, including Iraqis, Yemenis, Sudanese, and Somalis who lack effective citizenship in their home countries; and (6) certain Bedouin-related groups. Though the causes of statelessness for these six populations vary, they face common barriers to effective citizenship, including gender discrimination in Jordan's Nationality Law, inability to complete

birth registration, and lack of status determinations for displaced populations. Based on their lack of legal status, individuals in these categories are often deprived of basic human rights, including access to education, employment, and healthcare, as well as freedom of movement, and access to basic benefits or humanitarian assistance.

B. Methodology

The International Human Rights Clinic (IHRC) at Boston University School of Law, in partnership with the Arab Renaissance for Democracy and Development (ARDD), a Jordanian NGO, researched and wrote this Report. The Report relies on legal and factual research on the issue of statelessness in Jordan conducted over the course of a year and a half. The fieldwork and desk research included interviews in Jordan and extensive review of the relevant laws and policies, and reports and studies from NGOs, INGOs, intergovernmental organizations (IGOs), and academics.

Fieldwork interviews and a workshop were conducted in Amman, Jordan, in November 2019 with key NGOs, INGOS, and UN organizations, followed by online interviews.⁷ Interviews were conducted with organizations that provide legal aid to, and/or advocate for: stateless persons and refugees; Jordanians with unperfected citizenship; denationalized persons; gender equality in nationality laws; and humanitarian aid delivery to vulnerable populations in Jordan. The workshop, co-hosted by IHRC, ARDD and the Boston Consortium for Arab Region Studies (BCARS), brought together stakeholders for a day-long discussion addressing: (1) populations in Jordan that are stateless or at risk of statelessness; (2) gender discrimination in Jordan's Nationality Law; (3) the child's right to a nationality under international and regional law, and access to civil registration; and (4) next steps proposed by stakeholders to establish a statelessness network in the MENA.

⁷ The organizations the IHRC team interviewed included: Arab Renaissance for Democracy and Development, Arab Women Organization of Jordan, Caritas, Justice Center for Legal Aid, French Institute of the Near East, International Labor Organization, Islamic Relief Worldwide, Norwegian Refugee Council, and United Nations High Commissioner for Refugees. Some organizations requested the identities of their organizations or staff remain anonymous, which is indicated in the source citations.

Part II of the Report provides the relevant legal and historical context relating to statelessness in Jordan today. Part III outlines: (1) Jordan’s domestic laws concerning nationality, naturalization, and residency, and (2) Jordan’s international and regional legal obligations to protect against statelessness by guaranteeing (a) the child’s right to a nationality, (b) gender-equal nationality rights, and (c) protections for refugee, migrant, and displaced populations. Part IV analyzes the gaps in Jordanian law and gaps in implementation of the law, specifically regarding children’s access to a nationality and protections for adult refugees and migrants. Part V discusses the negative and positive consequences of gaps in the legal framework, specifically the lack of access to basic rights and services, and stakeholders’ achievements, including those by the Jordanian Government, NGOs, and UN organizations, to initiate reforms. Part VI concludes with recommendations to reduce and prevent further statelessness in the country.

II. LEGAL AND HISTORICAL CONTEXT OF STATELESSNESS

Under international law, a stateless person is one who is “not recognized as a national by any state under the operation of its law.”⁸ In Jordan, a stateless person would include not only refugees and certain vulnerable migrants, but also Jordanians who cannot perfect their citizenship due to gender-discriminatory nationality laws.⁹ There are also Jordanians who may not be considered stateless under the international law definition, but lack effective nationality because they lack the necessary documents to prove their Jordanian citizenship. They face similar struggles as other categories of stateless persons in accessing basic rights and services.

⁸ Convention relating to the Status of Stateless Persons art. 1, Sept. 28, 1954, 360 U.N.T.S. 117. This definition was set out in the 1954 Convention Relating to the Status of Stateless Persons, which is widely accepted as the customary international law definition of stateless persons. *Id.* All legal/specialized terms are defined in the glossary (*see infra* Annex I) and further explained in subsequent sections of the Report.

⁹ A migrant is any person “who is moving or has moved across an international border or within a State away from his/her habitual place of residence, regardless of (1) the person’s legal status; (2) whether the movement is voluntary or involuntary; (3) what the causes for the movement are; or (4) what the length of the stay is.” International Organization for Migration, *IOM Definition of “Migrant,”* <https://www.iom.int/who-is-a-migrant> (last visited Feb. 1, 2021). Migrant populations are often at risk of statelessness, and there are significant migrant populations in Jordan. The research for this Report focused primarily, however, on refugee populations in Jordan and Jordanian nationals lacking effective nationality; further research is necessary to examine the scope and vulnerabilities to statelessness among migrant populations in Jordan.

Despite a number of treaties that universalize and guarantee human rights regardless of nationality status, stateless persons today still face barriers in accessing basic human rights, such as education, healthcare, and employment.¹⁰ The two United Nations treaties concerning statelessness, the 1954 Convention relating to the Status of Stateless Persons (1954 Convention)¹¹ and the 1961 Convention on the Reduction of Statelessness (1961 Convention),¹² provide for the rights of stateless persons and set out rules to reduce statelessness, yet only 94 and 85 states, respectively, have ratified them.¹³ In states that have not ratified these instruments, stateless persons are not defined and categorized as such, and are particularly vulnerable to economic, political, and social marginalization. Jordan, like Lebanon and most other countries in the MENA, has not ratified either treaty on statelessness. Nor has either country ratified the 1951 Convention Relating to the Status of Refugees (1951 Convention), or the 1967 Optional Protocol Relating to the Status of Refugees, both of which guarantee rights to refugees who may also be stateless.¹⁴

Despite not offering refugees permanent integration through asylum, Jordan has historically allowed refugees and displaced persons to enter and remain on its territory.¹⁵ This has been true since shortly after its independence in 1946, and today, Jordan hosts the second highest share of

¹⁰ UNHCR, *Ending Statelessness*, <https://www.unhcr.org/en-us/ending-statelessness.html> (last visited Feb. 1, 2021).

¹¹ Convention relating to the Status of Stateless Persons, *supra* note 8.

¹² The 1961 Convention sets rules for the conferral and non-withdrawal of citizenship to prevent cases of statelessness from arising. The rules attempt to limit the occurrence of statelessness, and give effect to the international law norm that everyone has the right to a nationality. Convention on the Reduction of Statelessness, Aug. 30, 1961, 989 U.N.T.S. 175.

¹³ *Convention relating to the Status of Stateless Persons*, U.N. TREATY COLLECTION, https://treaties.un.org/Pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-3&chapter=5&Temp=mtdsg2&clang=_en (last visited Feb. 1, 2021); *Convention on the Reduction of Statelessness*, U.N. TREATY COLLECTION, https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=V-4&chapter=5 (last visited Feb. 1, 2021).

¹⁴ Convention relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137; Protocol Relating to the Status of Refugees, Jan. 31, 1967, 606 U.N.T.S. 267.

¹⁵ Dallal Stevens, *Legal Status, Labelling, and Protection: The Case of Iraqi 'Refugees' in Jordan*, 25 INT'L J. REFUGEE L. 3, 5-6 (2013).

refugees per capita in the world.¹⁶ Many refugees, migrants, and even Jordanians are stateless or at risk of statelessness for three critical reasons: Jordan’s Nationality Law discriminates between men and women on the transmission of nationality to children and spouses; law and policy place significant barriers to civil registration; and/or the lack of status determinations for migrants and refugees create serious gaps in protections.¹⁷ The following sections provide background on the origins of the Jordanian state, its demographics, and its Nationality Law; and the particular populations vulnerable to statelessness in Jordan, including Palestinian refugees, Syrian and other refugees, as well as certain “Bedouin”-related groups.

A. History and Demographics

Following the collapse of the Ottoman Empire in World War I, Transjordan was established in 1921 as a nation-state by the British, with Emir Abdullah bin Husain from the Hijaz as the ruler, whose family had fought with the British against the Ottomans.¹⁸ The territories that became Transjordan had comprised several provinces of the Ottoman Empire since the sixteenth century.¹⁹ Although Abdullah bin Husain became the ruler of Transjordan in 1923, it was not until 1946 that Transjordan gained formal independence from the British. In 1949, the Emir declared himself king and changed the country’s name to the Hashemite Kingdom of Jordan.²⁰

¹⁶ UNHCR JORDAN FACTSHEET, OCTOBER 2019, <https://reliefweb.int/report/jordan/unhcr-jordan-factsheet-october-2019> (last visited Feb. 1, 2021); *Global Trends: Forced Displacement in 2018*, UNHCR, <https://www.unhcr.org/dach/wp-content/uploads/sites/27/2019/06/2019-06-07-Global-Trends-2018.pdf> (2019).

¹⁷ LAW NO. 6 OF 1954 ON NATIONALITY Jan. 1, 1954 (Jordan).

¹⁸ JOSEPH MASSAD, COLONIAL EFFECTS: THE MAKING OF NATIONAL IDENTITY IN JORDAN 11 (2001). Based on the British-French Sykes-Picot Agreement to divide the Ottoman Empire, the British would administer Palestine and the French would administer Syria. Subsequent negotiations left the bordering territory, including Transjordan, remaining in British Palestine. In 1922, however, the British “formally detached” Transjordan from Mandatory Palestine. *Stateless Again: Palestinian-Origin Jordanians Deprived of their Nationality*, HUMAN RIGHTS WATCH 1 (2010), <https://www.hrw.org/report/2010/02/01/stateless-again/palestinian-origin-jordanians-deprived-their-nationality> [hereinafter *Stateless Again*].

¹⁹ DÖRTHE ENGELCKE, REFORMING FAMILY LAW: SOCIAL AND POLITICAL CHANGE IN JORDAN AND MOROCCO 29-31 (2019). Since 1516, the provinces constituting Transjordan were a part of the Ottoman Empire, though the Ottomans loosely administered the territory. In the mid-nineteenth century, Ottomans developed modern state structures in some parts of Transjordan, upon which the British mandate authorities and the monarchy could ‘build and expand.’ *Id.* at 31.

²⁰ MASSAD, *supra* note 18, at 12.

The country experienced important demographic changes in its early decades. The population of Transjordan was historically ethnically diverse, with tribal and family links that crossed the newly-demarcated national (post-Ottoman) boundaries to Palestine, Syria, Iraq, Egypt, Lebanon, the Hijaz, Armenia, and the Caucasus.²¹ At the beginning of the British Mandate period, Transjordan was sparsely populated with only 225,380 people, which did not include Ma'an and Aqaba districts. Of these, an estimated 122,430 people were settled in rural and urban areas, and 102,000 were nomadic Bedouins, comprising 46 percent of the population.²² However, by the 1940s, due to campaigns of 'sedentarianism,' as well as limitations on Bedouin mobility within the country and outside, only 36 percent of the 102,000 Bedouins were estimated as nomadic, comprising 23 percent of the population.²³ During these early years, Transjordan's population had not only become more urbanized, but had grown significantly, nearly doubling by independence in 1946.²⁴

Two years later, as a consequence of the creation of the state of Israel and the Arab-Israeli war of 1948, the country experienced another major demographic transformation: the first wave of Palestinian displacement that increased the population in Transjordan by approximately a third. This population of displaced Palestinians, added to the population of Palestinians in the West Bank under Jordan's administration and subsequent formal annexation in 1950, resulted in just a few years in tripling Jordan's population.²⁵ Jordan's Nationality Law of 1954 must be understood in this historic context, and, though it has been subject to amendment, continues to largely define Jordanian nationality until today.

²¹ *Id.* at 34; see also THE PEOPLE OF JORDAN, <http://www.kinghussein.gov.jo/people1.html> (last visited Feb. 1, 2021). While overwhelmingly Muslim, the population also included significant Arab Christian and Druze minorities. *Stateless Again*, *supra* note 18, at 1.

²² ENGELCKE, *supra* note 19, at 38.

²³ MASSAD, *supra* note 18, at 56 (noting "percentage of Bedouins in country maintaining a nomadic lifestyle had decreased by 1943 to 35.3 percent (120,000 people)," while observing that proportion of Bedouin in 1922 to the entire Transjordanian population would have been larger had the Ma'an to Aqaba area been included).

²⁴ *Stateless Again*, *supra* note 18, at 8-9, n.9 (noting differing estimates of the population in Transjordan in 1948, constituting 300,000-440,000 persons); compare MASSAD, *supra* note 18, at 56.

²⁵ MASSAD, *supra* note 18, at 12.

In Jordan, as with the MENA region at large, questions of nationality continue to be highly sensitive—in large part due to the long history of Palestinian displacement.²⁶ Jordan’s restrictive nationality, naturalization, and residency laws are based on considerations related to political and demographic concerns regarding the large population of Palestinian origin, recognition of the State of Palestine, and Palestinians’ right to return to Palestine under international law.²⁷ Jordan has often cited demographic concerns stemming from fears of an influx of Palestinians and other refugees in Jordan, and has used these concerns to defend nationality discrimination against women, Palestinians, and other migrants under its law.²⁸

Jordan, like many MENA states, has retained until today some of the British colonial legislation,²⁹ including a restrictive and gender-discriminatory provision in the Nationality Law that allows only men to pass Jordanian nationality to children and spouses.³⁰ As a consequence, Jordan has denied women equal nationality rights since its independence in 1946.³¹ The Jordanian Government’s justification is that the majority of Jordanian women married to foreign nationals are married to Palestinians; thus a gender-equal nationality law would potentially grant nationality to a large population of Palestinian men.³² The Jordanian Government argues that the gender discrimination in Jordan’s Nationality Law preserves Palestinian nationality and, by extension, Palestinian statehood.³³ In 2002, at the Arab Women’s

²⁶ Lamis Nasser, *Economic, Social, Political, and Psychological Implications on Jordanian Women Married to Non-Jordanians and their Families*, ARAB WOMEN ORGANIZATION OF JORDAN, 9 (2010).

²⁷ Tilburg University & Open Society Foundations, *Nationality and Cases of Statelessness in the Middle East and North Africa* 42-54 (Laura van Waas & Zahra Al Barazi eds., Legal Agenda, 2016).

²⁸ Nermeen Murad et al., *Reversing the Gender Bias Against Jordanian Women Married to Foreigners*, KING HUSSEIN FOUNDATION INFORMATION AND RESEARCH CENTER 10 (2011); see also Mohammad Al-Fadilat, *Civil rights granted to children of Jordanians and foreigners*, ALARABY (Nov. 9, 2014), <https://english.alaraby.co.uk/english/news/2014/11/11/civil-rights-granted-to-children-of-jordanians-and-foreigners> (last visited Feb. 5, 2021).

²⁹ See Zahra Al Barazi, *Regional Report on Citizenship: Middle East and North Africa (MENA)*, GLOBAL CITIZENSHIP OBSERVATORY 2 (2017); MASSAD, *supra* note 18, at 35-37; *Background Note On Gender Equality, Nationality Laws and Statelessness*, UNHCR 1, 6 (2018), <https://www.refworld.org/docid/5c8120847.html>.

³⁰ LAW NO. 6 OF 1954 ON NATIONALITY Jan. 1, 1954, art. 3(3) (Jordan). Jordanian women married to non-Jordanian men cannot pass Jordanian nationality to children or spouses. *Id.* at arts. 3, 8.

³¹ See Al Barazi, *supra* note 29, at 2.

³² See Murad et al., *supra* note 28, at 10; see also Al-Fadilat, *supra* note 28.

³³ See Murad et al., *supra* note 28, at 10; see also “I Just Want Him to Live Like Other Jordanians:” *Treatment of Non-Citizen Children of Jordanian Mothers*, HUMAN RIGHTS WATCH 2 (Apr. 2018) [hereinafter *Treatment of Non-Citizen Children*].

Summit in Amman, Queen Rania al Abdullah issued a decree permitting Jordanian women to pass nationality to their children. Shortly afterward, however, the Jordanian Cabinet amended the decree by providing that there would be “no automatic right of naturalization.” The amendment reserved for the government the right to assess each naturalization application “on a case-by-case basis on humanitarian considerations.”³⁴ Queen Rania’s decree and Cabinet reversal have left the *status quo ante* in terms of the country’s nationality legislation. Since most Palestinians lack effective citizenship elsewhere, the discriminatory law leaves them stateless as a matter of international law.³⁵ However, the Nationality Law has left other populations in addition to Palestinians, unable to obtain Jordanian citizenship. In addition to the restrictions of the Nationality Law, a complex civil registration process for obtaining identity documentation necessary to perfect citizenship contributes to statelessness, including among individuals entitled to Jordanian citizenship.

B. Populations at Risk

1. Displaced Palestinians

Palestinians were afforded nationality status in historic Palestine as a matter of international law through the Treaty of Lausanne in 1924.³⁶ Their nationality status was codified by British Mandate authorities in the Palestine Citizenship Order of 1925, which conferred Palestinian citizenship on Palestine nationals as defined in the Lausanne Treaty.³⁷ The creation of Israel and passage of Israel’s Citizenship/Nationality Law of 1952 that retroactively repealed Palestinian nationality, although making the majority of displaced Palestinians stateless, did not affect the international legal recognition of Palestinian nationality.³⁸ This is so because the Israeli law violated the terms of UN General Assembly Resolution 181, which Israel claimed authorized the

³⁴ *Jordan queen’s decree stirs tempest over citizenship rights*, CHRISTIAN SCIENCE MONITOR (Dec. 17, 2002), <https://www.csmonitor.com/2002/1217/p07s02-wome.html>.

³⁵ See Tilburg University & Open Society Foundations, *supra* note 27, at 52-54.

³⁶ Treaty of Lausanne, July 24, 1923, 28 L.N.T.S. 11.

³⁷ Palestinian Citizenship Order 1925, Legislation of Palestine 1918-1925 (Mandate Palestine).

³⁸ Under the international definition of stateless persons, Palestinian refugees are ‘not considered nationals by any state under the operation of its law.’ Susan Akram, *Palestinian Nationality and “Jewish” Nationality: From the Lausanne Treaty to Today*, in RETHINKING STATEHOOD 40 (Leila Farsakh ed., Univ. Calif. Press, forthcoming 2021) [hereinafter *Palestinian Nationality and “Jewish” Nationality*].

establishment of a Jewish state; it violated the terms of UN General Assembly Resolution 194, to which Israel agreed to comply as a condition of UN recognition; and it violated treaty and customary law binding on Israel.³⁹

Under international law, Palestinian refugees⁴⁰ who have not obtained another state's nationality are *de jure* stateless, as they are not recognized as a national by any state.⁴¹ Available figures indicate that by 2018, approximately 8.7 million of the 13.05 million Palestinians were forcibly displaced persons,⁴² such that there are well over five million persons of Palestinian origin worldwide who are stateless or who have an ambiguous nationality status.⁴³ Today, 2.2 million

³⁹See *Palestinian Nationality and "Jewish" Nationality*, *supra* note 38, at 13-17, 24-26.

⁴⁰ It is important to differentiate between the term "Palestinian refugee" and "Palestine refugee." *Palestinian refugees* "commonly comprises all persons of Arab origin who were displaced from the territory of the former British Mandate Palestine, but also from the Gaza Strip and the West Bank including East Jerusalem, which Israel occupied in 1967, as well as their descendants." THE DANISH IMMIGRATION SERVICE, *Palestinian Refugees – Access to Registration and UNRWA Services, Documents, and Entry to Jordan*, THE DANISH IMMIGRATION SERVICE 7 (June 2020). *Palestine refugees* are the largest category of displaced Palestinians registered with UNRWA, which defines them as "persons whose normal place of residence was Palestine during the period 1 June 1946 to 15 May 1948, and who lost both home and means of livelihood as a result of the 1948 conflict[, and] descendants of Palestine refugee males, including legally adopted children." *Consolidated Eligibility Registration Instructions*, UNRWA 1, 3 (2009), <https://www.unrwa.org/sites/default/files/2010011995652.pdf>. Whereas Palestinian refugees include approximately nine million persons worldwide, Palestine refugees who have registered with UNRWA amount to 5.34 million persons in all UNRWA's five field operations as of 2017. See Akram, *supra* note 2, at 421. Compare EU AND UN, EXPERT GROUP ON REFUGEE AND INTERNALLY DISPLACED PERSONS STATISTICS — INTERNATIONAL RECOMMENDATIONS ON REFUGEE STATISTICS 1, 22 (2018), https://unstats.un.org/unsd/demographic-social/Standards-and-Methods/files/Principles_and_Recommendations/International-Migration/2018_1746_EN_08-E.pdf.

⁴¹ See Akram, *supra* note 2, at 421; Convention relating to the Status of Stateless Persons, *supra* note 8, at art. 1.

⁴² For a more granular estimate on the Palestinian refugee populations, see *Survey of Palestinian Refugees and Internally Displaced Persons 2016-2018: Volume IV*, BADIL RESOURCE CENTER (2018) (noting that by the close of 2018, "roughly 8.7 million of 13.05 million Palestinians were forcibly displaced persons[--a]mong them are approximately 7.94 million Palestinian refugees and 760,000 IDPs").

⁴³ See Laura Van Waas, Amal De Chickera, & Zahra Al Barazi, *The World's Stateless*, INSTITUTE ON STATELESSNESS AND INCLUSION 10 (Dec. 2014), <https://files.institutesi.org/worldsstateless.pdf>. While noting that this number needs to be carefully reviewed upon "clarification of Palestinian nationality law and who falls within its scope," the *World's Stateless* report estimates there being *over* five million Palestinians who are stateless or with ambiguous nationality is based on available data on three categories of Palestinians: (i) Palestinians who fall under UNRWA mandate, (ii) Palestinians under UNHCR's refugee mandate and (iii) Palestinians potentially under UNHCR's statelessness protection mandate. *Id.* There is no single authoritative source for Palestinian refugees worldwide, in part due to inconsistent definitions by states, courts and UN agencies, as well an absence of a comprehensive registration process, and differences in registration systems among countries. In contrast to UNHCR, whose mandate allows it to register non-Palestinian refugees as refugees or stateless persons, UNRWA's mandate only includes registering Palestinians refugees for purposes of providing aid. For a detailed accounting of various categories, definitions, and estimates of Palestinian refugees, see: *Closing Protection Gaps: A Handbook on Protection of Palestinian Refugees in States Signatories to the 1951 Refugee Convention*, BADIL RESOURCE CENTER FOR PALESTINIAN RESIDENCY AND REFUGEE RIGHTS 7 n.35 (2015),

“Palestine refugees” reside in Jordan.⁴⁴ The estimated figure increases to approximately 3 million when referring to “Palestinian refugees.”⁴⁵ Most estimates indicate that at least half of Jordan’s population today is of Palestinian origin,⁴⁶ and former Prime Minister Ali Abu Ragheb even noted in 2002 that Jordanian citizens of Palestinian origin are 43 percent of Jordan’s total population.⁴⁷ Indeed, Jordan hosts the most Palestinian refugees, constituting the greatest proportion of the country’s population than any other Arab country.⁴⁸ While most Palestinian refugees in Jordan, with the exception of ‘ex-Gazans,’ have full Jordanian citizenship,⁴⁹ it is difficult to accurately account for the numbers of Palestinian refugees in Jordan who are stateless.⁵⁰ Jordan’s 2015 census indicates that there are 634,182 Palestinians in Jordan who do not have national ID numbers.⁵¹ There is no consensus among experts with respect to the

<http://www.badil.org/phocadownloadpap/badil-new/publications/Handbook-art1d/Art1D-2015Handbook.pdf> [hereinafter *Closing Protection Gaps*]; see also THE DANISH IMMIGRATION SERVICE, *supra* note 40, at 68.

⁴⁴ UNRWA, *UNRWA in Figures*,

https://www.unrwa.org/sites/default/files/content/resources/unrwa_in_figures_2020_eng_v2_final.pdf (last visited Feb. 1, 2021). For the definition of “Palestine refugee,” see *supra* note 40.

⁴⁵ MINORITY RIGHTS GROUP, *Palestinians – Jordan*, <https://minorityrights.org/minorities/palestinians-2/> (last visited Feb. 2, 2021) (noting “there are around 3 million Palestinians in Jordan”); compare *Survey of Palestinian Refugees and Internally Displaced Persons 2016–2018: Volume XIV*, BADIL RESOURCE CENTER (2018) (noting that there are over 2.6 million 1948 Palestinians in Jordan); *Stateless Again*, *supra* note 18, at 1 (noting that “more than half of the 6.3 million population of Jordan is of Palestinian origin”). For a definition of “Palestinian refugees,” see *supra* note 40.

⁴⁶ Most estimates note that more than half of Jordan’s population is of Palestinian origin. See, e.g., Jeremy Sharp, *Jordan: Background and U.S. Relations*, U.S. CONGRESSIONAL RESEARCH SERVICE 2 (JUNE 2020), <https://fas.org/sgp/crs/mideast/RL33546.pdf> (“Jordanians of Palestinian origin comprise an estimated 55% to 70% of the population”); MINORITY RIGHTS GROUP, *Palestinians – Jordan*, <https://minorityrights.org/minorities/palestinians-2/> (last visited Feb. 2, 2021) (“close to half of Jordanian nationals are thought to be of Palestinian origin” (emphasis added)); see *Stateless Again*, *supra* note 18, at 1 (noting that over half of the Jordanian population is of Palestinian origin); compare Oroub El-Abed, *The Invisible Citizens of Jordan*, in MINORITIES AND STATEBUILDING IN THE MIDDLE EAST: THE CASE OF JORDAN 111 n.1, (P. Maggiolini & I. Ouahes eds.) (forthcoming) [hereinafter *Invisible Citizens of Jordan*] (Jordanian Prime Minister Ali-Abu al-Ragheb reportedly noted in a 2002 press conference that 43% of Jordanian population had Palestinian origins, yet other policy reports claim over 60%).

⁴⁷ *Listening to Palestinian Refugees/Displaced Persons in Jordan: Perceptions Of Their Political And Socio-Economic Status*, AL QUDS CENTER FOR POLITICAL STUDIES 12 (2014) [hereinafter *Listening to Palestinian Refugees/Displaced Persons in Jordan*].

⁴⁸ *Id.* at 6.

⁴⁹ *Where We Work*, UNRWA, <https://www.unrwa.org/where-we-work/jordan> (last visited Feb. 2, 2021); see also *Stateless Again*, *supra* note 18, at 3.

⁵⁰ See Akram, *supra* note 2, at 421.

⁵¹ See Mohammad Ghazal, *Population stands at around 9.5 million, including 2.9 million guests*, JORDAN TIMES (Jan. 30, 2016), <http://www.jordantimes.com/news/local/population-stands-around-95-million-including-29-million-guests>. Compare E-mail from Oroub El-Abed, Postdoctoral Research Associate-Amman based Co-Principal Investigator, Centre for Lebanese Studies, Lebanese American University-Beirut, to Christine Bustany, Senior Lecturer, Fletcher School of Law and Diplomacy (Jan. 8, 2021) (on file with the author) (noting figure used

definition of stateless persons that would be applicable to Palestinian refugees in general and/or specifically in Jordan.⁵²

Jordan's reluctance to accept the international treaty definition of a stateless person can be traced to the creation of Israel in 1948, the displacement of Palestinians, and Jordan's stated objective of preserving Palestinian nationality.⁵³ Of the 700,000-800,000 Palestinians who fled or were expelled from Israel,⁵⁴ an estimated 100,000 Palestinians crossed from Palestine to Jordan in 1948 where they were housed in tents in four temporary camps, as well as towns and villages; approximately 230,000-350,000 fled to the West Bank.⁵⁵ In the aftermath of the 1948 Arab-Israeli war, UNRWA, the UN agency created to provide assistance to Palestine refugees, established operations in Jordan in 1950,⁵⁶ and replaced the tents with more durable buildings.⁵⁷ That same year, Jordan formally annexed the West Bank and granted all West Bank residents full Jordanian citizenship.⁵⁸ The Arab-Israeli war of 1967 and the ensuing Israeli occupation of the West Bank and Gaza Strip led to another wave of Palestinians displaced to Jordan, who were accommodated in six additional emergency camps. This included approximately 140,000 UNRWA registered persons in addition to 240,000 persons from the West Bank (referred to as "displaced persons" by UNRWA rather than refugees since Jordan administered the West Bank from 1948-1967).⁵⁹

in Jordan's 2015 census encompasses 140,000 ex-Gazans, based on UNRWA statistics, which have not changed in ten years, and the number of ex-Gazans in Jordan is closer to 240,000).

⁵² See Akram, *supra* note 2, at 420-21.

⁵³ *Id.* at 19; see Murad et al., *supra* note 28, at 10.

⁵⁴ THE DANISH IMMIGRATION SERVICE, *supra* note 40, at 11; *Compare Stateless Again*, *supra* note 18, at 8.

⁵⁵ *Stateless Again*, *supra* note 18, at 8.

⁵⁶ See Akram, *supra* note 2, at 421.

⁵⁷ Stevens, *supra* note 15, at 3.

⁵⁸ *Stateless Again*, *supra* note 18, at 7-9; *Closing Protection Gaps: A Handbook on Protection of Palestinian Refugees in States Signatories to the 1951 Refugee Convention*, BADIL RESOURCE CENTER FOR PALESTINIAN RESIDENCY AND REFUGEE RIGHTS 5 (2015), <http://www.badil.org/phocadownloadpap/badil-new/publications/Handbook-art1d/Art1D-2015Handbook.pdf> [hereinafter *Closing Protection Gaps*]; THE DANISH IMMIGRATION SERVICE, *supra* note 40, at 68. In 1949, following the Arab-Israeli war and Jordan's assumption of control of the West Bank, King Abdullah signed an addendum to the 1928 Law of Nationality, affirming that "all those who are habitual residents, at the time of the application of this law, of Transjordan or the Western Territory administered by the Hashemite Kingdom of Jordan, and who hold Palestinian nationality, are considered as having already acquired Jordanian nationality and to enjoy all the rights and obligations that Jordanians have." MASSAD, *supra* note 18, at 39, 40-42 (citation omitted).

⁵⁹ *Stateless Again*, *supra* note 18, at 9; Stevens, *supra* note 15, at 3; *Closing Protection Gaps*, *supra* note 58, at 6 n.32. Under international law, these persons are refugees. THE DANISH IMMIGRATION SERVICE, *supra* note 40, at 72 n.206. The population increased substantially again after the Gulf War in the early 1990s, when an estimated 250,000 – 300,000 Palestinian Jordanians who lived in Kuwait and the rest of the Gulf returned to Jordan and

Today, generations later, Jordan has by far the largest number of Palestinian refugees⁶⁰ falling under the mandate of UNRWA,⁶¹ with nearly a fifth of them living in one of the ten recognized refugee camps in the country.⁶²

Jordan was the only Arab state to provide full citizenship rights to Palestinian refugees displaced in 1948, including Palestinians in Jordan and Palestinians residing in the West Bank, including East Jerusalem.⁶³ Palestinians living in Jordan and in the West Bank received Jordanian passports connoting citizenship.⁶⁴ However, for most Palestinian refugees residing in the West Bank, their Jordanian citizenship was revoked in 1988 when King Hussein bin Talal renounced all Jordanian claims of sovereignty to the West Bank.⁶⁵ As a result, an estimated 1.5 million Palestinians living

thereby raised the proportion of Palestinians even further. See *Stateless Again*, *supra* note 18, at 36; Chatelard, *Jordan: A refugee haven*, MIGRATION POLICY INSTITUTE 8 (2010), <https://www.migrationpolicy.org/article/jordan-refugee-haven> (“A sudden influx of 300,000 forced ‘returnees’ increased the total Jordanian population by 10 percent.”).

⁶⁰ THE DANISH IMMIGRATION SERVICE, *supra* note 40, at 10. UNRWA has five field operations: whereas Jordan has more than 2 million UNRWA registered refugees, Lebanon has 475,000 registered refugees (but with only 180,000 estimated to be country residents); Syria has 550,000 registered refugees with an estimated 438,000 still in-country; the West Bank has 800,000 registered refugees; and Gaza has 1.4 million registered refugees. *Id.*

⁶¹ *Where We Work*, *supra* note 49; THE DANISH IMMIGRATION SERVICE, *supra* note 40, at 8-11. UNRWA’s mandate does not include finding durable solutions to Palestinian statelessness. G.A. Res. 302 (IV), art. 7 (Dec. 8, 1949). In accordance with the 1951 Convention relating to the Status of Refugees, Palestine refugees were placed in a special regime and considered to be conditionally excluded from the Convention and 1967 Protocol while they were being provided assistance from UNRWA. Convention relating to the Status of Refugees art. 1D, July 28, 1951, 189 U.N.T.S. 137. Thus, Palestinians were outside of UNHCR’s mandate, which encompasses refugees as defined in art. 1(A)(2) of the 1951 Convention, and stateless persons as defined in the 1954 Convention relating to the Status of Stateless Persons, *supra* note 8, at art. 1(A)(2).

⁶² *Where We Work*, *supra* note 49. In comparison, in Lebanon over half of registered Palestine refugees live in camps. THE DANISH IMMIGRATION SERVICE, *supra* note 40, at 12.

⁶³ Sarah Adamczyk, *Undocumented and Stateless: The Palestinian Population Registry and Access to Residency and Identity Documents in the Gaza Strip*, NORWEGIAN REFUGEE COUNCIL 1, 38 (2012), <https://www.nrc.no/globalassets/pdf/reports/undocumented-and-stateless.pdf> [hereinafter *Undocumented and Stateless*].

⁶⁴ E-mail from Oroub El-Abed, Postdoctoral Research Associate Amman-based Co-Principal Investigator, Centre for Lebanese Studies, Lebanese American University-Beirut, to Christine Bustany, Senior Lecturer, Fletcher School of Law and Diplomacy (Jan. 8, 2021) (on file with author).

⁶⁵ *Listening to Palestinian Refugees/Displaced Persons in Jordan*, *supra* note 47, at 6, 18-19. Jordan’s disengagement legally and administratively from the West Bank in 1988 and subsequent focus on “its political and socio-economic priorities [i]n Jordan, remains the main historic landmark shaping the lives of both citizen and non-citizen Palestinians in Jordan.” *Id.* at 18-19.

in the Israeli Occupied Territories lost their Jordanian citizenship and became stateless,⁶⁶ many for a second time.⁶⁷

Following the decision of 1988, persons of Palestinian origin in Jordan could be categorized into four groups: (1) Palestinians who came to Jordan from 1946 to 1954 (largely as a result of the 1948 conflict), (2) “West Bank displaced of 1967” who fled or were expelled from the West Bank in 1967 following the Arab-Israeli war of 1967, (3) “ex-Gazans” displaced from Gaza also in 1967, and (4) “West Bankers” who have sought residence in Jordan since July 1988.⁶⁸ Only the first two categories of persons and their descendants are officially regarded as Jordanian citizens.⁶⁹ Starting in the 1990s, national ID numbers were issued for Jordanian citizens; previously, it was the number of the passport and its color that would indicate whether the person was a citizen or a West Banker.⁷⁰ The first two categories have been given the National ID numbers to differentiate between those who are citizens and those who are not.⁷¹

⁶⁶ ARAB RENAISSANCE FOR DEMOCRACY AND DEVELOPMENT, MAPPING THE LEGAL OBSTACLES PALESTINIANS FACE IN JORDAN 3 (2015) [hereinafter MAPPING THE LEGAL OBSTACLES PALESTINIANS FACE IN JORDAN]; Hazem Jamjoum, *Palestinian Refugees in Jordan and the Revocation of Citizenship: An Interview with Anis F. Kassim*, Jadaliyya (Jan. 28, 2013). Compare E-mail from Oroub El-Abed, *supra* note 64 (according to Ali Abu Ragheb, the former Jordanian Prime Minister in 1994, the negotiations were to address the case of one million Palestinians from the West Bank who are holders of Jordanian nationality).

⁶⁷ Akram, *supra* note 2, at 417-21 (discussing Israeli nationality law and denationalization of Palestinians); see also *Stateless Again*, *supra* note 18, at 1-3.

⁶⁸ *Listening to Palestinian Refugees/Displaced Persons in Jordan*, *supra* note 47, at 6, 18-19. Jordan’s Nationality Law confers citizenship to “Any person who, not being Jewish, possessed Palestinian nationality before 15 May 1948 and was a regular resident in the Hashemite Kingdom of Jordan between 20 December 1949 and 16 February 1954.” LAW NO. 6 OF 1954 ON NATIONALITY Jan. 1, 1954, art. 3 (Jordan); Mohammad Khaled al-Aza’r, *Arab Protection for Palestinian Refugees Working Paper No. 8*, BADIL RESOURCE CENTER FOR PALESTINIAN RESIDENCY & REFUGEE RIGHTS (2004), https://www.badil.org/phocadownloadpap/Badil_docs/Working_Papers/wp-8%20khalid%20al-azare.pdf.

⁶⁹ *Listening to Palestinian Refugees/Displaced Persons in Jordan*, *supra* note 47, at 6; THE DANISH IMMIGRATION SERVICE *supra* note 40, at 69-70. In addition to the revocation of Jordanian nationality to those in the West Bank, since 1988, there have been thousands of cases of persons of Palestinian origin having their citizenship revoked without notice and in an arbitrary manner. *Stateless Again*, *supra* note 18, at 3; THE DANISH IMMIGRATION SERVICE, *supra* note 40, at 9, 23. Recently, following a lull for a number of years, there has been a marked increase in denationalization cases. *Id.*

⁷⁰ E-mail from Oroub El-Abed, *supra* note 64. See Danish National ID Centre, Jordan: Issuance of Jordanian documents to stateless Palestinians 1, 4 (2020), <https://nidc.dk/-/media/154D856D21204007BABA1F2595E965B8.pdf> (outlining system of colored crossing cards issued by Jordanian authorities and associated status).

⁷¹ E-mail from Oroub El-Abed, *supra* note 64.

Since the start of the Syria conflict in 2011, approximately 17,557 Palestine refugees from Syria (PRS) have arrived in Jordan.⁷² In 2013, the Government of Jordan implemented a ‘no admission’ policy for Palestinians, and at least since 2014-2015, PRS have been denied access into Jordan.⁷³ PRS are not registered with UNRWA, but are recorded as ‘Palestinian refugees-Syria.’ This is intended to allow Palestinians to be able to return to Syria without documenting their departure from the country, since Hafez Al-Assad declared that any Palestinians leaving Syria would not be allowed to return.⁷⁴ However, this means that PRS are not entitled to the full benefits UNRWA provides for non-Syrian Palestinian refugees, as UNRWA assistance funding is allocated according to the registered refugees in each country. Humanitarian agencies that contract with UNHCR are prohibited from providing assistance to Palestinians under Jordanian policy, so PRS face severe protection challenges because of their uncertain legal status. Their lack of formal status deprives them of livelihood opportunities and increases the difficulty of obtaining humanitarian assistance.⁷⁵ Furthermore, since many PRS have only UNRWA to rely on to meet their basic needs, they have become food-insecure in Jordan when many were thriving prior to the conflict in Syria. They are a highly vulnerable population, with the double disadvantage of being both stateless and Palestinian refugees without the benefits of UNRWA registration in the country where they now live.⁷⁶ Following the US decision to end all its funding in 2018, UNRWA faced massive shortfalls, and announced cutbacks in all its fields. In August 2019, UNRWA-Jordan announced a \$151 million shortfall, and that the 2 million Palestinian refugees in Jordan would face school closures and cutbacks in essential services including healthcare and relief assistance.⁷⁷

⁷² This number is current as of June 30, 2019. UNRWA, *Syria Regional Crisis Response Progress Report 1*, 7 (2019), https://www.unrwa.org/sites/default/files/content/resources/2019_syria_ea_progress_report_10_2019.pdf.

⁷³ THE DANISH IMMIGRATION SERVICE, *supra* note 40, at 34; *compare Closing Protection Gaps*, *supra* note 58, at 12. See also *Refugees from Syria Face Further Suffering if Jordan Closes Border*, AMNESTY INT’L (2013), <https://www.amnesty.org/en/news/refugees-from-syria-face-further-suffering-if-jordan-closes-border-2013-01-18>.

⁷⁴ BOSTON UNIVERSITY SCHOOL OF LAW INTERNATIONAL HUMAN RIGHTS CLINIC, *PROTECTING SYRIAN REFUGEES: LAWS, POLICIES, AND GLOBAL RESPONSIBILITY SHARING* 61 (2015) [hereinafter *PROTECTING SYRIAN REFUGEES*].

⁷⁵ *Id.*

⁷⁶ THE DANISH IMMIGRATION SERVICE, *supra* note 40, at 10; UNRWA, *Syria Regional Crisis Response Report*, *supra* note 72, at 7; see also, *Protecting Syrian Refugees*, *supra* note 74, at 60-70.

⁷⁷ *World Report 2020: Jordan Country Chapter*, HUMAN RIGHTS WATCH, <https://www.hrw.org/world-report/2020/country-chapters/jordan#331939> (last visited Feb. 2, 2021).

The socio-economic impacts of COVID-19 have been particularly difficult for Palestinian refugees, including ex-Gazans and PRS who are more likely to work as daily laborers and in the informal market. For example, more than 80 percent of ex-Gazans in the Jerash refugee camp work as day laborers and reportedly lost employment due to the COVID-19- related disruption of business and movement restrictions. Palestinian refugees without citizenship were not eligible for many types of permits to leave their house during lockdown, including for employment in agricultural, commercial and industrial sectors, and parental care.⁷⁸ In more recent months, however, ex-Gazans with identification documents were eligible to receive certain financial benefits and could use an online application form to receive support and other services.⁷⁹

2. Syrian and Other Refugees

Jordan is among the countries most affected by the Syrian refugee crisis. Nearly 90 percent of all non-Palestinian UN-registered refugees in Jordan are Syrian refugees. Other refugee populations in the country include Iraqis, Sudanese, Somalis, and Yemenis, totaling 90,000 registered refugees.⁸⁰ Since the conflict in Syria began in 2011, 6.6 million people have been internally displaced, and over 5.6 million displaced in surrounding regions.⁸¹ Approximately 656,000 Syrians are registered and seeking protection in Jordan.⁸² The Jordanian Government and others claim that there are actually well over 1 million refugees in Jordan if accounting for

⁷⁸ Arab Renaissance for Democracy and Development, *The Question of Palestine in the times of COVID-19: Position paper on the situation for Palestinian refugees in Jordan, Lebanon, occupied Palestine and Syria (No.2)* (June 3, 2020), <https://ardd-94d08.firebaseio.com/Publications/on-the-53rd-anniversary-of-the-naksa-day-the-plight> [hereinafter *The Question of Palestine in the times of COVID-19*].

⁷⁹ Correspondence with Arab Renaissance for Democracy and Development to Susan Akram, Clinical Professor and Director, Boston University Law School (Dec. 5, 2020) (on file with author).

⁸⁰ Jordan Operational Update, February 2020, UNHCR (Mar. 18, 2020), <https://reliefweb.int/report/jordan/jordan-unhcr-operational-update-february-2020> (last visited Feb. 2, 2021).

⁸¹ *Who We Are*, UNHCR, <https://www.unhcr.org/jo/who-we-are>, (last visited Feb. 5, 2021).

⁸² *UNHCR Continues to Support Refugees in Jordan Throughout 2019*, UNHCR (Dec. 31, 2019), <https://www.unhcr.org/jo/12449-unhcr-continues-to-support-refugees-in-jordan-throughout-2019.html> (last visited Feb. 2, 2021).

Syrians who have not registered with UNHCR.⁸³ Of the registered Syrian refugees, over half are children, many having left Syria without proper documentation.⁸⁴

As a consequence of the Syrian conflict, Jordan currently hosts the second highest share of refugees per capita in the world, with 1 in 14 people being a UNHCR registered refugee, and nearby Lebanon having the highest share, where 1 in 6 people is a refugee.⁸⁵ These figures only include the refugees under UNHCR's mandate—Jordan also hosts 2,242,600 (registered) Palestine refugees under UNRWA's mandate, the inclusion of which greatly increases the proportion of refugees.⁸⁶

Although Jordan has significantly benefited from the massive international aid that has been provided to support its hosting of refugees, as well as the displaced populations' contributions to the Jordanian economy itself,⁸⁷ the protracted presence in Jordan of such a high number of refugees per capita has been a significant drain on national resources, infrastructure, and the economy.⁸⁸ High unemployment rates in Jordan and stagnant economic growth present further challenges for the country.⁸⁹ While Jordan has been historically generous to refugees and

⁸³ Estimates range from there being over one million to 1.4 million Syrians in Jordan. See, e.g., Human Rights Watch, "We're Afraid for Their Future": Barriers to Education for Syrian Refugee Children in Jordan (Aug. 16, 2016), <https://www.hrw.org/report/2016/08/16/were-afraid-their-future/barriers-education-syrian-refugee-children-jordan> [hereinafter *We're Afraid for Their Future*] ("A Jordanian government census carried out in late November 2015 found a total population of 9.5 million people, including 6.6 million Jordanian citizens and 1.265 million Syrians."); Independent Evaluation Group, *Lebanon & Jordan: The Case of the Refugee Crisis*, THE WORLD BANK GROUP (2015), <https://ieg.worldbankgroup.org/sites/default/files/Data/reports/LebanonJordanRefugeeShock.pdf>. Compare Sarah A. Tobin, *Vernacular Politics, Sectarianism, and National Identity among Syrian Refugees in Jordan*, RELIGIONS (2018) (noting Jordanian Government states that there are over 400,000 unregistered Syrian refugees in Jordan).

⁸⁴ *We're Afraid for Their Future*, *supra* note 83.

⁸⁵ Jordan Factsheet, October 2019, UNHCR (Oct. 31, 2019), <https://reliefweb.int/report/jordan/unhcr-jordan-factsheet-october-2019>; UNHCR, Global Trends Forced Displacement in 2018, <https://www.unhcr.org/dach/wp-content/uploads/sites/27/2019/06/2019-06-07-Global-Trends-2018.pdf> (last visited Feb. 2, 2021).

⁸⁶ *Id.*

⁸⁷ Alexandra Francis, *Jordan's Refugee Crisis*, CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE 1, 5 (2015) https://carnegieendowment.org/files/CP_247_Francis_Jordan_final.pdf (noting that until recent years, "Jordan has historically viewed refugee influxes as opportunities to advance its national development"); G. Chatelard, *Jordan: A refugee haven*, MIGRATION POLICY INSTITUTE (Aug. 31, 2010), <https://www.migrationpolicy.org/article/jordan-refugee-haven> (last visited Feb. 2, 2021).

⁸⁸ *Jordan*, *Global Focus*, UNHCR, <http://reporting.unhcr.org/node/2549> (last visited Feb. 2, 2021); UNRWA, *Syria Regional Crisis Response Progress Report*, *supra* note 72.

⁸⁹ *Jordan*, *Global Focus*, UNHCR, <http://reporting.unhcr.org/node/2549> (last visited Feb. 2, 2021).

migrants in many respects, it has increasingly imposed more restrictive border policies.⁹⁰ In 2014, Jordan completely closed its border with Syria, and other than a few humanitarian and exceptional cases, newly-arriving refugees were barred entry. It was not until October 2018 that Jordan re-opened its border for refugees from Syria, other than PRS, who still cannot legally enter the Kingdom.⁹¹ However, refugees seeking access to Jordan have faced repeated border closings since 2018.⁹² In January 2019, the Jordanian Government halted UNHCR's refugee registration process for non-Syrians who had entered on visas for specific purposes such as to work, study, or for medical treatment. This left non-Syrians without access to asylum-seeker or refugee status under the MOU with UNHCR, depriving them of documentation and access to essential services.⁹³

One of the worst-affected of the displaced Syrian populations by the Jordanian border closures is the makeshift camp at Rukban, at the southeast border of Syria with Iraq and Jordan. For the last four years, up to 60,000 civilians have been trapped there, caught between the Syrian regime, the US military base next to the camp at Al-Tanf, and Jordanian border closures. The Syrian Government has blocked UN assistance, and Jordan has only intermittently permitted humanitarian aid into the camp. Civilians from Rukban can only enter Jordan if they obtain permits from the Jordanian Government, but those are only issued on a short-term basis for very urgent cases.⁹⁴ The death rate in the camp was already very high due to lack of food, water, and sanitation prior to the pandemic, but latest estimates are that there are just 10,000 people still alive and trapped in Rukban, facing increasing mortality risk due to COVID-19.⁹⁵

⁹⁰ *World Report 2020, Jordan Country Chapter*, HUMAN RIGHTS WATCH 318-22 (2020), <https://www.hrw.org/world-report/2020/country-chapters/jordan#331939>.

⁹¹ Josef Federman and Omar Akour, *Trapped in Jordan, Syrian refugees see no way home*, AP News (Sept. 11, 2019).

⁹² *World Report 2020, Jordan Country Chapter*, HUMAN RIGHTS WATCH 318-22 (2020), <https://www.hrw.org/world-report/2020/country-chapters/jordan#331939>.

⁹³ *Id.*

⁹⁴ Ellie Sennett, *Most Aid to Syria's Rukban camp has been Blocked for more than a Year. Here's why*, PBS WORLD (Mar. 14, 2020), <https://www.pbs.org/newshour/world/most-aid-to-syrias-rukban-camp-has-been-blocked-for-more-than-a-year-heres-why>.

⁹⁵ *Jordan: Authorities must allow urgent medical care for displaced Syrians in Rukban during COVID-19*, AMNESTY INTERNATIONAL (May 7, 2020), <https://www.amnesty.org/en/latest/news/2020/05/jordan-authorities-must-allow-urgent-medical-care-for-displaced-syrians-in-rukban-during-covid19/>.

Syrian refugees in Jordan either live in one of five refugee camps – for example, Azraq or Zaatari – or outside of the camps in urban areas. At present, 83.4 percent of refugees live outside of the camps, whereas 16.6 percent live in the refugee camps.⁹⁶ Before the onset of the covid-19 crisis, 79 percent of refugees in Jordan were living below the poverty line, with recent surveys indicating that the percentage is growing.⁹⁷

Whether living inside or outside the camps, refugees face barriers in obtaining civil documentation. Since Jordan does not offer refugees permanent integration in the country, many refugees face uncertainty as they await resettlement to a third country, or the opportunity to return to their State of origin when (and if) safe to do so.⁹⁸ Left in Jordan, the vast majority of Syrian as well as other refugees remain without legal status, and are, or are at risk of, statelessness.

3. The Bedouin and the “Bidoon” in Jordan

Though comprising half of the population of the territory of modern-day Jordan at the time of its inception in the 1920s, the Bedouin population in Jordan today constitute a small minority.⁹⁹ While the Jordanian Government claims that a majority of Jordanians have “Bedouin” origins, authoritative estimates of the Bedouin population in Jordan are unavailable,¹⁰⁰ in part reflecting the complex issues with defining “Bedouin,” their often marginalized yet also highly lauded status, and their history vis-à-vis the Jordanian (and other) nation-state(s).¹⁰¹ The Jordanian

⁹⁶ *Id.*

⁹⁷ *1 per cent of humanity displaced: UNHCR Global Trends report* UNHCR (June 18, 2020), <https://www.unhcr.org/jo/13317-1-per-cent-of-humanity-displaced-unhcr-global-trends-report.html>.

⁹⁸ Memorandum of Understanding Between the Government of Jordan and UNHCR (Apr. 5, 1998); *see infra* section III.B.3.

⁹⁹ MASSAD, *supra* note 18, at 56; *Jordan: Bedouins*, ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/place/Jordan/Settlement-patterns#ref896896> (last visited Feb. 2, 2021).

¹⁰⁰ E-mail from Dawn Chatty, Professor of Anthropology and Forced Migration, University of Oxford, to Susan Akram, Clinical Professor and Director, Boston University Law School (July 29, 2020) (on file with author). *Compare* THE PEOPLE OF JORDAN, *supra* note 21.

¹⁰¹ Talia Berman-Kishony, *Bedouin Urbanization Legal Policies in Israel and Jordan: Similar Goals, Contrasting Strategies*, 17 *TRANSNAT'L L. & CONTEMP. PROBS.* 393, 403-04 (2008); *see also* MASSAD, *supra* note 18, at 63-72. Some argue that the term “Bedouin” should not be used, as it distorts more than it defines or signifies a particular identity or group. *See* William C. Young, *The Bedouin: Discursive Identity or Sociological Category? A Case Study from Jordan*, 9 *J. MEDITERRANEAN STUD.* 275, 295 (1999) (“Bedouin” cannot be given “a precise, theoretically-grounded, and non-ideological definition ... [and] that terms such as ‘nomadic pastoralists’ and ‘migrant

Government does not include references to Bedouin as a specific category in its official census. Since the official census captures religious differences and Bedouin share the same religion as the vast majority of Jordanians, they cannot be readily counted through census data. Nor are there other demographic statistics that separately classify Bedouin.¹⁰² Over a decade ago, the Jordanian Department of Statistics registered 132,671 people as “Bedouin,” or 2.37 percent of the estimated number of inhabitants of Jordan but did not provide any indication as to how “Bedouin” was defined, and one expert noted that those numbers are highly questionable.¹⁰³ While another source estimates that “tent-dwelling” nomadic Bedouins are less than ten percent of the population in Jordan, others suggest the proportion to be much lower.¹⁰⁴ Nevertheless, “tent-dwelling” nomadic Bedouins fails to capture *other* Bedouin communities, among them Bedouins who were settled—often forcibly—and now live in urban and rural areas of Jordan.¹⁰⁵

The Bedouin (translated from Arabic as “desert-dwellers”) population(s) of Jordan are described by the Jordanian Government as nomadic as well as semi-nomadic peoples, most of whom live in the south and east of the country.¹⁰⁶ Particularly since the 1970s, the Government has attempted to incorporate aspects of Bedouin culture into the creation of a Jordanian national identity,¹⁰⁷ and often celebrates that “the majority of Jordan’s population [today] is of Bedouin

laborers” may serve [] better.”). *Compare* MIKKEL BILLE, BEING BEDOUIN AROUND PETRA: LIFE AT A WORLD HERITAGE SITE IN THE TWENTY-FIRST CENTURY (2019).

¹⁰² E-mail from Dawn Chatty, Professor of Anthropology and Forced Migration, University of Oxford, to Susan Akram, Clinical Professor and Director, Boston University Law School (July 29, 2020) (on file with author).

Compare THE PEOPLE OF JORDAN, *supra* note 21 (“It is difficult to count Bedouins, but it is generally known that the majority of Jordan’s population is of Bedouin origin.”).

¹⁰³ E-mail Correspondence from Mikkel Bille, Associate Professor, Roskilde University, to Christine Bustany, Senior Lecturer, Fletcher School of Global Affairs (Dec. 18, 2020) (on file with author).

¹⁰⁴ *See, e.g., Jordan: Bedouins*, ENCYCLOPEDIA BRITANNICA, *supra* note 99 (“The tent-dwelling nomads (Bedouin, or Badū), who make up less than one-tenth of the population”). “One study in 1976 estimated that 6 per cent of the Jordanian population was nomadic (i.e., 30,000 nomads).” Ruth Kark and Seth J. Frantzman, *Empire, State and the Bedouin of the Middle East, Past and Present: A Comparative Study of Land and Settlement Policies*, 48(4) MIDDLE EASTERN STUDIES 487, 499 (July 2012); *see also* Taylor Luck, *Amongst Bedouins, modern life blunts demand for ancient daggers*, CHRISTIAN SCIENCE MONITOR (2017) (“Fewer than five percent of Jordanians still live the Bedouin way of life.”).

¹⁰⁵ *See* MASSAD, *supra* note 18, at 56-63, 71-72. *Compare* Berman-Kishony, *supra* note 101, at 394, 405 (describing Jordanian Government’s Bedouin “urbanization” policy as “based almost entirely on positive means of persuasion”); *compare also* THE PEOPLE OF JORDAN, *supra* note 21.

¹⁰⁶ THE PEOPLE OF JORDAN, *supra* note 21.

¹⁰⁷ MASSAD, *supra* note 18, at 74.

origin.”¹⁰⁸ Without explicitly referring to the sedentarization campaigns (and repressive policies issued against the Bedouin) in the early decades of the state,¹⁰⁹ the Jordanian Government acknowledges in its official website that “in the past [the Government had] promoted the settling of the Bedouin,” while noting that today it “recognizes the unique value of their contribution to Jordan’s culture and heritage.”¹¹⁰ Most Jordanians of Bedouin heritage have by now been settled by the state and live in both urban and rural areas.¹¹¹ Some have become merchants, engineers, lawyers, politicians, and many have historically served and continue to hold important positions in the military, especially at higher command levels.¹¹² It is widely asserted that the “East Bankers” of tribal origins have long been seen as critical support for the monarchy and state.¹¹³

Jordan’s Nationality Law grants citizenship to “all members of Bedouin tribes of the north ... effectively living in territories annexed to the Kingdom in 1930”—such that today the overwhelming majority of Bedouins are Jordanian citizens; some claim that nearly all members of Jordanian Bedouin tribes have citizenship or could access it without issue.¹¹⁴ In addition,

¹⁰⁸ THE PEOPLE OF JORDAN, *supra* note 21.

¹⁰⁹ MASSAD, *supra* note 18, at 50-73; compare Berman-Kishony, *supra* note 101, at 393. While from 1923 through 1976, the state attempted to marginalize the Bedouin from the national body politic, a new period began thereafter where the state increasingly identified Bedouins as reflecting the true “Jordanian” culture, albeit based on the state’s conception and even redefining of Bedouin culture. MASSAD, *supra* note 18, at 50-73, 71. A pivotal turning point was the Government’s issuing of a law in 1976 canceling “all laws pertaining to the Bedouins that had remained in effect until then, including the Law of Supervising the Bedouins and the Tribal Courts Law.” *Id.* at 63. The purpose was to unify the “Jordanian” population by providing for equal treatment of Jordanians -- whether Bedouin men or non-Bedouin men, and/or whether Bedouin women or non-Bedouin women. *Id.* at 63.

¹¹⁰ THE PEOPLE OF JORDAN, *supra* note 21.

¹¹¹ MASSAD, *supra* note 18, at 78.

¹¹² See, e.g., MASSAD, *supra* note 18, at 12, 55, 57 (describing history of Bedouin and Jordanian military); Shaker Jarrar & Yazan Melhem, *Society Undermined: A Jordanian District’s Road to Poverty and Unemployment*, 7IBER (Apr. 10, 2019), <https://www.7iber.com/politics-economics/society-undermined-thibans-road-to-poverty-and-unemployment/>; David Kelly, *Keeping Order in a Serene, Severe Place; Camel-mounted desert police in Jordan -- Bedouins with ties to the land -- endure despite the loss of traditions*, L.A. TIMES (June 8, 2003); Nora Boustany, *Jordan’s Bedouins Torn by Gulf Crisis*, WASH. POST (Oct. 10, 1990), <https://www.washingtonpost.com/archive/politics/1990/10/09/jordans-bedouins-torn-by-gulf-crisis/0fddb5fd-7eeb-4d47-bbfb-2ea2fab214e9/>; Berman-Kishony, *supra* note 101, at 406.

¹¹³ See, e.g., Rod Nordland & Ranya Kadri, *Tribes at Center of Effort to Free Jordanian Pilot*, N.Y. TIMES (Jan. 29, 2015), <https://www.nytimes.com/2015/02/01/world/middleeast/tribes-at-center-of-effort-to-free-jordanian-pilot.html>.

¹¹⁴ Jordan’s Nationality Law grants nationality to “all members of the Bedouin tribes of the North mentioned in paragraph (j) of article 25 of the Provisional Election Law, No. 24 of 1960, who were effectively living in the territories annexed to the Kingdom in 1930.” LAW NO. 6 OF 1954 ON NATIONALITY Jan. 1, 1954, art. 3 (Jordan); Interview with Rami Quwader, Lawyer and Consultant of Legal Issues, Arab Renaissance for Democracy and

Jordanian electoral law prescribes a set number of seats for “Bedouin” representatives in the Parliament, one for each region.¹¹⁵

However, there are reportedly at least several thousand individuals who are stateless and Bedouin-related – whether self-identifying as “Bedouin,” having nomadic or semi-nomadic Arab origins, living nomadically or semi-nomadically, and/or being affiliated with recognized Jordanian Bedouin tribes.¹¹⁶ These highly marginalized individuals are sometimes referred to in Jordan as “bidoon,” which is short for “bidoon jinsiya” meaning “without nationality” in Arabic.¹¹⁷ The term should be distinguished from “Bedouin,” which refers to the much larger social-cultural category. However, there is some overlap between “bidoon” and Bedouin, as is the case focused on in this Report.¹¹⁸ The Bedouin-related “bidoon” of Jordan have an undetermined nationality and do not have legal status in the country, nor necessary documentation.¹¹⁹ To which country – Jordan, Syria, Iraq, Israel, Palestine, Yemen, or Egypt -- the “bidoons” living as Bedouin in Jordan “belong” is an unresolved question.¹²⁰ Indeed, whether this population should be referred to as “Bedouin” in Jordan is contested, with some noting that the “bidoon” with disparate origins needs to be clearly distinguished from the bloodline descendants of Jordanian Bedouin tribes and groups for whom citizenship is not an issue.¹²¹

Development, in Amman, Jordan (Nov. 18, 2019); Telephone Interview with Yusuf Mansur, Director, Arab Renaissance for Democracy and Development (Dec. 15, 2020).

¹¹⁵ Telephone Interview with Yusuf Mansur, *supra* note 114; Berman-Kishony, *supra* note 101, at 406.

¹¹⁶ *Bedoun: Before the establishment of the state yet do not carry its nationality*, JORDAN MEDIA INSTITUTE, HIBER (June 19, 2014), <https://www.7iber.com/2014/06/bedoun/>.

¹¹⁷ Bidoon is alternately spelled as Bedoon, Bedoun, Bidun and Bedun. *Kuwait - Bidoon*, MINORITY RIGHTS GROUP, <https://minorityrights.org/minorities/bidoon/> (last visited Feb. 2, 2021); Susan Kennedy, *The Stateless Bedoun in Kuwait Society 2* (Sept. 2016) (Ph.D. Dissertation, University of Adelaide), <https://digital.library.adelaide.edu.au/dspace/bitstream/2440/119698/2/02whole.pdf>.

¹¹⁸ *Kuwait - Bidoon*, MINORITY RIGHTS GROUP, <https://minorityrights.org/minorities/bidoon/> (last visited Feb. 2, 2021). Compare Kennedy, *supra* note 117, at 2 (arguing that the Bedoun in Kuwait are a sub-ethnic group of Kuwaiti Bedouins such that the two categories – ‘Bedouin’ and ‘Bedoun’ are critically connected).

¹¹⁹ Interview with Rami Quwader, *supra* note 114.

¹²⁰ *Id.*; E-mail from Dawn Chatty, Professor of Anthropology and Forced Migration, University of Oxford, to Susan Akram, Clinical Professor and Director, Boston University Law School (Dec. 24, 2020) (on file with author) (noting that some “bidoon” in Jordan who are also Bedouin may be from the Negev or the West Bank); see *7,000 People without Nationality in the Badia*, JFR NEWS (Jan. 26, 2020), <http://www.jfranews.com/jo/post.php?id=256309>; Dalal Salameh & Omar Faris, *Nomads bound to pillars: the life of telecom tower guards in Al-Ruwaished*, 7IBER (Apr. 19, 2019) <https://www.7iber.com/society/nomads-bound-to-pillars-the-life-of-telecom-tower-guards-in-al-ruwaished/>.

¹²¹ Telephone Interview with Yusuf Mansur, *supra* note 114.

While definitional issues abound, for purposes of this Report, “the Bedouin-related ‘bidoon’” in Jordan will refer to those individuals who are stateless, have nomadic or semi-nomadic Arab origins, and (i) self-identify as Bedouin, (ii) live nomadically or semi-nomadically, and/or (iii) are affiliated with certain recognized Jordanian Bedouin tribes and groups.¹²²

The population size of Bedouin-related “bidoon” in Jordan is also unknown. While one report noted that in the northern Badia region the “bidoon” numbered more than 7,000 people,¹²³ further research is required to estimate and understand the scope of statelessness and at risk populations associated with the Bedouin in Jordan.¹²⁴

Some Bedouin-related “bidoon” reported that they have not obtained Jordanian citizenship because their fathers and grandfathers were “nomads traveling in the desert in search of water and pasture, and nationality did not concern them,” and generations later they do not have any

¹²² See *Bedouin: Before the establishment of the state yet do not carry its nationality*, JORDAN MEDIA INSTITUTE, HIBER (June 19, 2014) <https://www.7iber.com/2014/06/bedoun/>. The Dom communities in Jordan, which are often semi-nomadic or nomadic, are considered distinct from Bedouin. E-mail from Dawn Chatty, Professor of Anthropology and Forced Migration, University of Oxford, to Susan Akram, Clinical Professor and Director, Boston University Law School (Dec. 24, 2020) (on file with author). Although a highly marginalized and discriminated against minority, the Dom communities appear to have citizenship in Jordan. See *A Qualitative Report on Children from Marginalized Jordanian Minority Groups: Girls and boys of the Dom minority group are amongst the most marginalized children in Jordan*, UNICEF 6 (2016), <https://www.unicef.org/jordan/media/1336/file/A%20Qualitative%20Report%20on%20Children%20from%20Marginalized%20Jordanian%20Minority%20Groups.pdf> [hereinafter *Girls and Boys of the Dom Minority Group in Jordan*]; Allen Williams, *The Current Situation of Dom in Jordan*, DOM RESEARCH CENTER (2003), <http://www.domresearchcenter.com/journal/18/jordan8.html>. Smaller Dom communities in Jordan which are more nomadic may face greater issues of access and have been noted as being not registered with the Government. *Id.* More recently, some Syrian Dom who fled the Syrian conflict have suffered discrimination in Jordan in accessing refugee-based aid due to their identity and the perception that they have Jordanian I.D. or passports. Kemal Vural Tarlan, *Encouraging Integration and Social Cohesion of Syrian Dom Immigrants*, KIRKAYAK KULTUR-CENTER FOR MIGRATION AND CULTURAL STUDIES 33, 42 (2018), <http://www.middleeastgypsies.com/wp-content/uploads/2017/06/DOM-RAPOR-EN.pdf>. There appears to be a lack of precise data on the Dom communities in Jordan, including with respect to their numbers (estimates ranging between 30,000 and 80,000), and further research would be required to assess their vulnerability to statelessness in Jordan. See *Girls and Boys of the Dom Minority Group in Jordan*, *supra* note 122.

¹²³ *Bedouin: Before the establishment of the state yet do not carry its nationality*, JORDAN MEDIA INSTITUTE, HIBER (June 19, 2014), <https://www.7iber.com/2014/06/bedoun/>.

¹²⁴ For example, ARDD noted that there are also “bidoon” living in the Petra region with origins different from those in East Amman and the Ghor. Correspondence from Arab Renaissance for Democracy and Development to Susan Akram, Clinical Professor and Director, Boston University Law School (Dec. 2020) (on file with author).

identification documents to prove their nationality.¹²⁵ ARDD has noted that this is the risk of nomadic identity, “nomadically—their children’s fate is now determined by this fact.”¹²⁶

There are a number of causes of statelessness among these “bidoon” populations in Jordan: (1) lack of ability to perfect citizenship due to civil registration and documentation requirements, (2) undetermined nationality, and (3) concern among some that citizenship would limit their mobility to migrate between countries.¹²⁷ This Report focuses more on the first and second categories, although the causes of statelessness often overlap. Notwithstanding the differences in causes, those without nationality have been subject to severe deprivations with regard to access to employment and other basic rights.¹²⁸

III. LEGAL FRAMEWORK ON STATELESSNESS

Jordan has legal obligations under international, regional, and domestic law to protect stateless persons, or persons at risk of becoming stateless. Although Jordan is not a party to the international treaties governing stateless persons and refugees, it does have other obligations under international and regional law to ensure the right to a nationality. Jordan’s domestic legislation governing legal status fails to fully incorporate these obligations, and its lack of compliance with its treaty commitments, as well as gaps in implementing domestic obligations have led to an increase in its stateless populations.

¹²⁵ *7,000 People without Nationality in the Badia*, *supra* note 120; see also Taylor Luck, *Why Jordanian mothers still can't give citizenship to their children*, CHRISTIAN SCIENCE MONITOR (Nov. 16, 2017), <https://www.csmonitor.com/World/Middle-East/2017/1116/Why-Jordanian-mothers-still-can-t-give-citizenship-to-their-children>.

¹²⁶ Interview with Samar Muhareb, Executive Director, Arab Renaissance for Democracy and Development, in Amman, Jordan (Nov. 18, 2019).

¹²⁷ There is currently a lack of information on the causes of statelessness for Bedouin populations in Jordan and further research on this topic is necessary. Interview with Rami Quwader, *supra* note 114.

¹²⁸ *Id.*

A. Domestic Law

The main domestic sources of Jordanian law on legal status are: The Constitution of the Hashemite Kingdom of Jordan (Constitution),¹²⁹ Law No. 6. of 1954 on Nationality (Nationality Law),¹³⁰ Law No. 24 of 1973 on Residency and Foreign Affairs (Residency and Foreign Affairs Law),¹³¹ and Law No. 9 of 2001 on Civil Status (Civil Status Law).¹³²

Jordan's Constitution leaves Jordanian nationality to be defined under its laws, and its Nationality Law governs the acquisition, transmission, and renunciation of citizenship.¹³³ The Nationality Law grants nationality to the following categories:

1. Any person who has acquired Jordanian nationality or a Jordanian passport under the Jordanian Nationality Law, 1928, as amended, Law No. 6 of 1954 or this Law;
2. Any person who, not being Jewish, possessed Palestinian nationality before 15 May 1948 and was a regular resident in the Hashemite Kingdom of Jordan between 20 December 1949 and 16 February 1954;
3. Any person whose father holds Jordanian nationality;
4. Any person born in the Hashemite Kingdom of Jordan of a mother holding Jordanian nationality and of a father of unknown nationality or of a Stateless father or whose filiation is not established;
5. Any person born in the Hashemite Kingdom of Jordan of unknown parents, as a foundling in the Kingdom shall be considered born in the Kingdom pending evidence to the contrary;
6. All members of the Bedouin tribes of the North mentioned in paragraph (j) of article 25 of the Provisional Election Law, No. 24 of 1960, who were effectively living in the territories annexed to the Kingdom in 1930.¹³⁴

The third provision allows fathers but not mothers to transmit citizenship to children, and is the main source of gender discrimination in the Nationality Law. Under Article 6 of Jordan's Constitution, Jordanians are equal under the law, and "discrimination between them as regards

¹²⁹ CONSTITUTION OF THE HASHEMITE KINGDOM OF JORDAN Jan. 1, 1952.

¹³⁰ LAW NO. 6 OF 1954 ON NATIONALITY Jan. 1, 1954 (Jordan).

¹³¹ LAW NO. 24 OF 1973 ON RESIDENCY AND FOREIGN AFFAIRS Jan. 1, 1973 (Jordan).

¹³² Law No. 6 of 2001 on Civil Status, 1952 (Jordan).

¹³³ CONSTITUTION OF THE HASHEMITE KINGDOM OF JORDAN Jan. 1, 1952, art. 5 ("Jordanian Nationality shall be defined by law.").

¹³⁴ LAW NO. 6 OF 1954 ON NATIONALITY Jan. 1, 1954, art. 3 (Jordan).

to their rights and duties on grounds of race, language or religion” is prohibited.¹³⁵ The provision does not prohibit discrimination on the basis of gender or nationality, however. Under the Nationality Law, a Jordanian woman who marries a foreign national cannot pass her nationality to her children, leaving those children stateless if they cannot obtain the father’s nationality. Under the fourth provision, a Jordanian woman can only pass her nationality to her children if she shows that the father is unknown or stateless. Similarly, under the fifth provision of the Nationality Law, children born to unknown parents (“foundlings”) receive Jordanian nationality. However, naturalization under either the fourth or fifth provisions is rare, according to experts on the issue.¹³⁶

Spousal naturalization in Jordan is also gender-discriminatory. While women cannot transmit nationality to their husbands, husbands can transmit nationality to non-Jordanian women—after three years of marriage if she is an “Arab,” or five years of marriage if she is not an Arab.¹³⁷ Jordan’s Nationality Law defines the term “Arab” as “any person whose father was of Arab origin and who is a national of a State Member of the League of Arab States.”¹³⁸

Jordan’s Nationality Law provides three pathways to naturalization other than through marriage. One provision permits naturalization of any non-Jordanian who has lived in Jordan for four years and meets certain requirements, including (i) intent to live in Jordan, (ii) no criminal conviction affecting honor and morals, (iii) knowledge of reading and writing the Arabic language, (iv) is of sound mind and does not suffer from a disability that makes him a burden on society, and (v) has a legitimate means of earning a living, taking into account which professions would not compete with Jordanians.¹³⁹ A second provision provides that an “Arab”

¹³⁵ CONSTITUTION OF THE HASHEMITE KINGDOM OF JORDAN Jan. 1, 1952, art. 6.

¹³⁶ Telephone Interview with Confidential Informant, Non-governmental Organization (Feb. 4, 2020).

¹³⁷ LAW NO. 6 OF 1954 ON NATIONALITY Jan. 1, 1954, art. 8(1) (Jordan).

¹³⁸ *Id.* at art. 2.

¹³⁹ *Id.* at art. 12 (Any person other than a Jordanian who is not incapable by law may apply to the Council of Ministers for grant of a certificate of Jordanian naturalization if: 1. He has been regularly resident in the Hashemite Kingdom of Jordan for a period of four years preceding the date of his application; 2. He should not be convicted of any crime affecting honor and morals. 3. He intends to reside in the Hashemite Kingdom of Jordan. 4. To know the Arabic language, reading and writing. 5. To be of good conduct and reputation. 6. He should be of sound mind and not suffer from a disability that makes him a burden on society. 7. He must have a legitimate means of earning a living, taking into account not to compete with Jordanians in the professions in which a

who has lived in Jordan *for at least fifteen years* is entitled to acquire Jordanian nationality if the individual also meets certain requirements, which are only slightly less onerous than the previous provision.¹⁴⁰ A third provision provides that Jordan's King may also grant nationality to any "emigrant," defined as "every Arab born in the Hashemite Kingdom of Jordan or in the occupied section of Palestine and immigrated from or emigrated from the country," who submits a written declaration.¹⁴¹ According to the Nationality Law, all three pathways appear to require the individual obtaining Jordanian citizenship to forfeit his previous nationality.¹⁴²

In addition, Jordan has a fourth pathway to citizenship for wealthy investors, initially established in the late 1990s specifically for Arab investors.¹⁴³ After the earlier program did not find much popularity, in 2018, the Jordanian Cabinet approved a new citizenship by investment program open to all nationalities in an effort to take advantage of Jordan's position of relative stability in the region.¹⁴⁴ The program provides that a foreigner can be eligible for citizenship by, for example, investing a minimum of \$750,000 in a small and medium sized enterprise in Jordan or depositing \$1 million at zero-interest for five years in the Central Bank of Jordan.¹⁴⁵ An investor

number of them are available.); *Id.* at art. 13(3) (A certificate of naturalization with Jordanian nationality is not granted to any person unless he forfeits by this naturalization the nationality to which he was a subject on this date of his naturalization.).

¹⁴⁰ *Id.* at art. 4 (Any Arab who has resided continuously in the Hashemite Kingdom of Jordan for not less than 15 years is entitled to acquire Jordanian nationality, by decision of the Council of Ministers taken on a proposal by the Minister of Internal Affairs, if he renounces his nationality of origin and the law of his country permits him to do so, provided that: (1)He is of good conduct and has never been convicted of an offence involving his honour or morals; (2)He has lawful means of livelihood; (3)He is of sound mind and does not suffer from any impairment that would make him a burden on society; (4)He takes an oath of allegiance and loyalty to his Majesty before a justice of the peace.).

¹⁴¹ *Id.* at art. 5.

¹⁴² *Id.* at arts. 4, 5, 12, 13(3).

¹⁴³ Mohammed Olwan, *The Legal Framework for International Migration in Jordan*, EUROPEAN UNIVERSITY INSTITUTE 22 (2006), <https://core.ac.uk/download/pdf/45676526.pdf>.

¹⁴⁴ European Bank for Reconstruction and Development (EBRD), *Transition Report: Country Assessment for Jordan* (2019), <http://www.ebrd.com/documents/occe/transition-report-201819-jordan.pdf> [hereinafter EBRD Jordan Country Assessment]; European Bank for Reconstruction and Development, *Jordan Support To The Jordan Investment Commission (JIC) Terms of Reference* (2019); Roufan Nahhas, *Jordan lures foreign investors with citizenship offer*, ARAB WEEKLY (Mar. 4, 2018), <https://the arabweekly.com/jordan-lures-foreign-investors-citizenship-offer>.

¹⁴⁵ *206 foreign investors granted Jordanian nationality since October 2*, JORDAN INVESTMENT COMMISSION(Dec 2020), <https://www.jic.gov.jo/en/206-foreign-investors-granted-jordanian-nationality-since-october-2/>. Investors can become eligible for Jordanian citizenship by (i) depositing \$1 million at the Central Bank of Jordan (CBJ); (ii) buy Treasury bonds valuing \$1 million, and for a period of at least six years; (iii) buy securities at a value of \$1 million; (iv) invest \$750,000 in small- and medium-sized enterprises for a period of at least three years; and (v)

who obtains Jordanian nationality through this pathway will have the right to obtain a similar status for his/her spouse, unmarried, widowed or divorced daughters, sons below 18 years old and for their dependent parents,¹⁴⁶ and it appears that the investor is not required to forfeit his/her previous nationality.¹⁴⁷ The number of applicants to the citizenship by investment program is limited to 500 cases per year.¹⁴⁸

The Civil Status Law governs the registration of births and deaths in Jordan. All births require the parents' identity documents and proof of marriage and must be registered within thirty days of the child's birth. Parents who fail to register a child within thirty days of birth incur a fine of 10 Jordanian dinars (JOD).¹⁴⁹ If more than one year passes after the child's birth, the parents must file a lawsuit in the Magistrate Courts to complete the birth registration.¹⁵⁰

Residency status for persons not deemed nationals under the Nationality Law is governed by the Residency and Foreign Affairs Law.¹⁵¹ Non-citizens must obtain a residence permit and leave the country when the permit expires, or incur overstay fees.¹⁵² The residence permit requirement also applies to non-citizen children of Jordanian women who are married to foreign nationals, once the children turn sixteen.¹⁵³ The permits are valid for one year and must be renewed.¹⁵⁴ However, the Minister of Internal Affairs may grant a five-year residence permit to a non-

making a \$1.5 million investment in any location in the country, or \$1 million, if the project is registered in any governorate other than Amman, provided certain requirements are met. *Id.* Conditions for each citizenship by investment route include a security clearance and financial adequacy check. Should they violate any conditions, the investor's citizenship would be revoked. Nahas, *supra* note 144.

¹⁴⁶ 'Amendments to citizenship by investment being mulled,' JORDAN TIMES (Sept. 19, 2019), <https://www.jordantimes.com/news/local/amendments-citizenship-investment-being-mulled>.

¹⁴⁷ *New CBI Program in Jordan*, BEST CITIZENSHIPS (Dec. 13, 2020), <https://best-citizenships.com/2020/12/13/new-cbi-program-in-jordan/> (noting "dual citizenship is not restricted").

¹⁴⁸ *Gov't sets conditions to grant nationality, permanent residency to investors*, JORDAN TIMES (Feb. 20, 2018), <https://www.jordantimes.com/news/local/gov-t-sets-conditions-grant-nationality-permanent-residency-investors>; *Localization of foreign investments in Jordan... Syrians are about to become naturalized*, ENAB BALADI (Jan. 2019), <https://english.enabbaladi.net/archives/2019/01/localization-of-foreign-investments-in-jordan-syrians-are-about-to-become-naturalized/>.

¹⁴⁹ LAW NO. 6 OF 2001 ON CIVIL STATUS, 1952, art. 13.

¹⁵⁰ *Id.* at art. 34.

¹⁵¹ LAW NO. 24 OF 1973 ON RESIDENCY AND FOREIGN AFFAIRS Jan. 1, 1973, art. 18 (Jordan).

¹⁵² LAW NO. 24 OF 1973 ON RESIDENCY AND FOREIGN AFFAIRS Jan. 1, 1973, art. 18 (Jordan).

¹⁵³ *Id.* at art. 25.

¹⁵⁴ *Id.* at art. 22(a).

Jordanian who has lived in Jordan legally (meaning, with residency status) for ten years.¹⁵⁵ This is not a pathway to naturalization, but simply a means to obtain a longer-term residence permit. The residence permit process is regulated by a cooperation agreement between the Jordanian Government and the individual's country of origin, and the documentation and costs required to renew the permit depends on the individual's nationality.¹⁵⁶

Jordan has not enacted legislation to address its refugee situation. The only relevant legal framework is the 1998 Memorandum of Understanding (MOU), which establishes the terms of cooperation between the Jordanian Government and UNHCR (discussed *infra* section III.B.3).¹⁵⁷ Although the Jordanian Constitution has a provision stating that “political refugees shall not be extradited on account of their political beliefs or for their defense of liberty,”¹⁵⁸ it is a non-extradition provision and not equivalent in scope to the Refugee Convention or Convention against Torture prohibition against *refoulement*. Jordanian law concerning refugees or asylum is almost entirely lacking. Among the few references to refugees or asylum seekers are provisions in the Residency and Foreign Affairs Law. This Law sets out the requirements for the entry and residence of foreign nationals in Jordan, allowing exemptions “on account of special consideration connected with international or humanitarian courtesy or the right to political asylum.”¹⁵⁹ It also provides that *laissez-passers* shall be issued to stateless persons and “refugees recognized as such.”¹⁶⁰ Exemptions under this Law, however, are few, and usually issued by the Prime Minister. No official announcements are available about exemptions made under the Law.¹⁶¹

¹⁵⁵ *Id.* at art. 22(b).

¹⁵⁶ Interview with Norwegian Refugee Council, in Amman, Jordan (Nov. 24, 2019).

¹⁵⁷ Memorandum of Understanding Between the Government of Jordan and UNHCR (Apr. 5, 1998); *see infra* III.B.3.

¹⁵⁸ CONSTITUTION OF THE HASHEMITE KINGDOM OF JORDAN Jan. 1, 1952, art. 21.

¹⁵⁹ LAW NO. 24 OF 1973 ON RESIDENCY AND FOREIGN AFFAIRS Jan. 1, 1973, art. 27 (Jordan).

¹⁶⁰ *Id.* at art. 4(c); *see also id.* at art. 6 (referencing asylum-seekers, stipulating that persons entering the country to seek political asylum shall report to the Directorate of Public Security/Division for Residence and Foreign Affairs).

¹⁶¹ Citizenship is only granted by decision of the Jordanian Cabinet, then final approval by the King. Telephone Interview with Yusuf Mansur, *supra* note 114; *see also* Stevens, *supra* note 15, at 7.

B. International and Regional Law

While Jordan's Constitution does not establish a hierarchy of laws,¹⁶² Article 24 of the Jordanian Civil Code provides that domestic laws do not apply if they are incompatible with international law.¹⁶³

Jordan is a party to several international and regional agreements that guarantee certain human rights to those in its territory. Among the most relevant of these are: (1) the child's right to a nationality; (2) gender equality in nationality; and (3) protections for refugees and migrant populations at risk of statelessness.

1. Child's Right to a Nationality

Jordan is party to several international agreements which guarantee the right of children to a nationality, particularly the International Covenant on Civil and Political Rights (ICCPR)¹⁶⁴ and the Convention on the Rights of the Child (CRC).¹⁶⁵ Additionally, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), ratified by Jordan in 1975, requires that the right to a nationality be guaranteed "without distinction as to race, colour, or national or ethnic origin."¹⁶⁶

These international treaties have additional requirements to ensure that children obtain a legal status.¹⁶⁷ Both the ICCPR and the CRC state that children must be registered immediately after

¹⁶² CONSTITUTION OF THE HASHEMITE KINGDOM OF JORDAN Jan. 1, 1952.

¹⁶³ In its submissions to the UN Human Rights Committee, the Government of Jordan has acknowledged the precedence of international law over conflicting domestic law and has asserted that this is demonstrated by the case law of the Court of Cassation of Jordan. Human Rights Committee, Replies of the Government of Jordan to the list of issues (CCPR/C/JOR/Q/4) to be taken up in connection with the consideration of the fourth periodic report of Jordan (CCPR/C/JOR/4), 100th sess., U.N. Doc CCPR/C/JOR/Q/4/Add.1 (Sept. 16, 2010) ("[A] number of legal precedents have been established under which international treaties were accorded precedence over domestic legislation") (citing Jordanian Court of Cassation decision no. 818/2003 of June 09, 2003; Jordanian Court of Cassation decision no. 1477/2005 of Sept. 07, 2005; Jordanian Court of Cassation decision no. 4309/2003 of Apr. 22, 2004; and Jordanian Court of Cassation decision no. 1824/2995 of Oct. 25, 2005).

¹⁶⁴ International Covenant on Civil and Political Rights art. 24(3), Dec. 16, 1966, 999 U.N.T.S. 171. ("Every child has the right to acquire a nationality.").

¹⁶⁵ Convention on the Rights of the Child art. 7(1), Nov. 20, 1989, 1577 U.N.T.S. 3. ("The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality, . . .").

¹⁶⁶ International Convention on the Elimination of All Forms of Racial Discrimination art. 5, Dec. 21, 1965, 660 U.N.T.S. 195.

¹⁶⁷ The Universal Declaration of Human Rights (UDHR) also guarantees the right to a nationality. While it is a nonbinding resolution, the rights set out in the UDHR are considered customary international law. Article 15 of

birth.¹⁶⁸ The CRC specifically references statelessness, providing that states must implement the rights of the child to a nationality and birth registration “in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.”¹⁶⁹ The CRC contemplates the state’s role in ensuring a child’s continued legal status, requiring states to respect the right of the child to preserve their identity, including nationality, without unlawful interference.¹⁷⁰ Further, “where a child is illegally deprived of some or all of the elements of his or her identity, [the State] shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.”¹⁷¹

Jordan is also bound by regional agreements that guarantee children the right to a nationality. The Covenant on the Rights of the Child in Islam (CRCI), which closely tracks the child’s right to a nationality under the CRC, guarantees the child’s right to a name, to be registered with the authorities, to have a nationality, and to know the child’s parents and all relatives.¹⁷² The CRCI also requires States Parties “to make every effort to resolve the issue of [child] statelessness,” to protect the enumerated rights in accordance with their domestic law, and to provide these rights to both the State Party’s citizen children and refugee children within its territory.¹⁷³ Jordan is also bound by the Arab Charter on Human Rights (Arab Charter),¹⁷⁴ adopted in 2005 by the League of Arab States (LAS), a regional organization of twenty-two Member States, including

the UDHR states that “[e]veryone has the right to a nationality” and that “[n]o one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.” Universal Declaration of Human Rights art. 15, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217(III) (Dec. 10, 1948).

¹⁶⁸ International Covenant on Civil and Political Rights, *supra* note 164, at art. 24(2); Convention on the Rights of the Child, *supra* note 165, at art. 7(1).

¹⁶⁹ Convention on the Rights of the Child, *supra* note 165, at art. 7(2).

¹⁷⁰ *Id.* at art. 8(1).

¹⁷¹ *Id.* at art. 8(2).

¹⁷² The CRCI was established by the Organisation of the Islamic Conference, an organization dedicated to protecting the interests of the Muslim world. Covenant on the Rights of the Child in Islam art. 7, June 2005, Organisation of the Islamic Conference; *History*, ORGANISATION OF THE ISLAMIC CONFERENCE, https://www.oic-oci.org/page/?p_id=52&p_ref=26&lan=en (last visited Feb. 3, 2021).

¹⁷³ *Id.* at art. 7, 21.

¹⁷⁴ Arab Charter on Human Rights art. 26(1), May 22, 2004, League of Arab States.

Jordan.¹⁷⁵ The Arab Charter requires States Parties to guarantee the right to a nationality¹⁷⁶ and to “take such measures, as they deem appropriate, in accordance with their domestic laws on nationality, to allow a child to acquire the mother’s nationality, having due regard, in all cases, to the best interests of the child.”¹⁷⁷

Although neither the CRCI nor the Arab Charter expressly require States Parties to grant nationality to all children born on their territories or to children with stateless or unknown parents,¹⁷⁸ the rights guaranteed in the CRC establish a standard for interpreting the “best interests of the child.” The standard set by the CRC is to ensure the child’s right to a nationality, especially when the child would otherwise be stateless.¹⁷⁹ The phrase “in accordance with their domestic laws” does not relieve States Parties of their obligations under regional and international law. The provision to ‘take measures within their domestic laws’ does not permit states to undermine their obligation to guarantee nationality to all children in their territories through inconsistent state measures. Jordan, as all States Parties to the CRC,¹⁸⁰ CRCI,¹⁸¹ Arab Charter,¹⁸² and CEDAW,¹⁸³ is obliged to guarantee that all children in Jordan have effective nationality.¹⁸⁴

¹⁷⁵ LAS has a stated mandate of seeking political, economic, and cultural cooperation among Arab states. *Member States*, LEAGUE OF ARAB STATES, <http://www.leagueofarabstates.net/ar/aboutlas/Pages/HistoricalOverView.aspx> (last visited Feb. 3, 2021); *see also Arab League*, ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/topic/Arab-League> (last visited Feb. 3, 2021).

¹⁷⁶ Arab Charter on Human Rights, *supra* note 174, at art. 29(1).

¹⁷⁷ *Id.* at art. 29(2).

¹⁷⁸ *See Akram, supra* note 2, at 434 (“Although article 7 extends the right to a nationality to refugee children in States parties, neither the Covenant nor the Arab Charter creates a clear and specific obligation on States to grant nationality to children born in their territories; to persons whose parents are non-citizens; or to children found on their territories whose citizenship status is unknown. All of these appear to be subject to the State’s domestic laws, and the obligation to resolve statelessness is no greater than that States are to ‘make every effort’ in that regard.”).

¹⁷⁹ Convention on the Rights of the Child, *supra* note 165, at art. 7.

¹⁸⁰ *Id.*

¹⁸¹ Covenant on the Rights of the Child in Islam, *supra* note 172, at art. 7.

¹⁸² Arab Charter on Human Rights, *supra* note 174, at art. 29(1).

¹⁸³ Convention on the Elimination of All Forms of Discrimination Against Women art. 9(2), Dec. 18, 1979, 1249 U.N.T.S. 13.

¹⁸⁴ As a matter of treaty law, States parties to successive treaties governing the same subject must comply with the provisions of each treaty and interpret them consistently. Thus, Jordan is obliged to implement the most rights-protective legal standard. *See Vienna Convention on the Law of Treaties (VCLT)* arts. 26, 27, 30, 1155 U.N.T.S. 331; *see also Vienna Convention on the Law of Treaties*, UNITED NATIONS TREATY COLLECTION, https://treaties.un.org/Pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXIII-1&chapter=23&Temp=mtdsg3&clang=_en (last visited Feb. 3, 2021). Although Jordan is not a party to the Vienna Convention on the Law of Treaties, the Treaty is a codification of customary international law. Karl

2. Gender-Discrimination

Jordan is a party to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which sets the international standard regarding gender-equality in the law, including with respect to nationality. CEDAW guarantees women equal rights with men to acquire, change, or retain their nationality.¹⁸⁵ CEDAW also specifies that States must ensure that neither marriage to a non-national, nor change of nationality by the husband during marriage, automatically changes the nationality of the wife, renders her stateless, or forces upon her the nationality of the husband.¹⁸⁶ Under Jordan's Nationality Law, a Jordanian woman may marry a non-Jordanian and retain her Jordanian nationality or choose to renounce it.¹⁸⁷ However, the Nationality Law does not address whether a Jordanian man, who has transmitted Jordanian nationality to his wife, may change his nationality without stripping his wife of Jordanian nationality.

CEDAW also requires that women be guaranteed equal rights with men with respect to the nationality of their children.¹⁸⁸ Jordan submitted a reservation to this provision, claiming that it did not consider itself bound to the requirement to grant women equal rights with men in respect to the nationality of their children.¹⁸⁹ Despite Jordan's reservation, it is required to comply with Article 9(2) because reservations to this provision are considered incompatible with the object and purpose of CEDAW. Because Jordan's Nationality Law is gender-discriminatory,¹⁹⁰ its reservation to Article 9(2) is viewed by the CEDAW Committee as incompatible with the object and purpose of the treaty. In its General Recommendation on Article 9 and the status of reservations to it, the CEDAW Committee discussed the Vienna

Zemanek, *Vienna Convention on the Law of Treaties*, UNITED NATIONS AUDIOVISUAL LIBRARY OF INTERNATIONAL LAW, <https://legal.un.org/avl/ha/vclt/vclt.html> (last visited Feb. 3, 2021).

¹⁸⁵ *Id.* at art. 9(1).

¹⁸⁶ *Id.*

¹⁸⁷ LAW NO. 6 OF 1954 ON NATIONALITY Jan. 1, 1954, art. 3 (Jordan).

¹⁸⁸ Convention on the Elimination of All Forms of Discrimination Against Women, *supra* note 183, at 9(2).

¹⁸⁹ This is Jordan's reservation to the entirety of Article 9(2). *Id.* at 9(2).

¹⁹⁰ CEDAW defines discrimination as "...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field." *Id.* at art. 1.

Convention on the Law of Treaties provision that States Parties cannot make reservations that are “incompatible with the object and purpose of the treaty,”¹⁹¹ and applied the rule for reservations to Article 9.¹⁹² The object and purpose of CEDAW is to eliminate discrimination against women in all forms, and for States Parties to fully implement equality between men and women in their domestic law.¹⁹³ According to the Committee and the many states that have objected to Jordan’s reservation, states cannot reserve from that principle and remain parties to the treaty. Jordan’s reservation is invalid, and Jordan remains obliged to implement Article 9(2).¹⁹⁴

3. Refugees

As noted above, Jordan is not a party to the main international agreements that provide for the rights of stateless persons and of refugees.¹⁹⁵ However, Jordan must comply with customary international law norms, in particular, the principle of non-refoulement – the obligation not to return any refugee to a country in which the refugee’s life or freedom would be in danger.¹⁹⁶ Jordan is also a party to the International Convention Against Torture and Other Cruel and Inhuman Treatment and Punishment, which specifically prohibits refoulement to torture or

¹⁹¹ *Vienna Convention on the Law of Treaties*, *supra* note 184, art. 19.

¹⁹² The CEDAW Committee issued a general recommendation explaining its view that reservations to Article 9 are incompatible with the object and purpose of the treaty. This was due to many states’ reservations to this particular provision. Rep. of the Comm. on the Elimination of Discrimination against Women, Rep. on the Work of Its Eighteenth and Nineteenth Sessions, U.N. Doc. A/53/38/Rev.1, at 47 (1998).

¹⁹³ *Convention on the Elimination of All Forms of Discrimination Against Women*, *supra* note 183, at 2.

¹⁹⁴ Marsha A. Freeman, *Reservations to CEDAW: An Analysis for UNICEF*, UNICEF 13 (2009).

¹⁹⁵ *Supra* II (noting Jordan is not a signatory to the 1954 Convention Relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, 1951 Convention Relating to the Status of Refugees, and the 1967 Optional Protocol Relating to the Status of Refugees). The rights guaranteed to stateless persons under the 1954 Convention include the right to gainful employment, housing and public education, and freedom of movement and identity documents. *Convention relating to the Status of Stateless Persons*, *supra* note 8, at arts. 17, 18, 19, 21, 22, 26, 27, 28. The 1954 Convention furthermore obliges States Parties to “as far as possible facilitate the assimilation and naturalization of stateless persons.” *Id.* at art. 32.

¹⁹⁶ *The principle of non-refoulement under international human rights law*, UNHCR <https://www.ohchr.org/Documents/Issues/Migration/GlobalCompactMigration/ThePrincipleNon-RefoulementUnderInternationalHumanRightsLaw.pdf> (last visited Feb. 3, 2021) [hereinafter *The principle of non-refoulement*].

cruel treatment in its Article 3(1).¹⁹⁷ This obligation applies whether an individual is recognized as a refugee, and regardless of Jordan’s domestic framework regarding refugees.¹⁹⁸

While Jordan is not a party to the Refugee or Stateless Conventions,¹⁹⁹ the 1998 Memorandum of Understanding (MOU) between Jordan and UNHCR include certain terms relating to the rights of refugees.²⁰⁰ The MOU provides the legal framework for UNHCR to recognize (non-Palestinian) refugees, and provides that asylum seekers are entitled to remain in Jordan for a maximum of one year after registering with UNHCR, during which time UNHCR must resettle them outside Jordan. The MOU applies the Refugee Convention ‘refugee’ definition²⁰¹ and Jordan has agreed to respect *non-refoulement*, non-discrimination, and various other rights once refugees are registered with UNHCR.²⁰² These individuals are considered to be refugees or, more precisely, ‘asylum-seekers’ for the purpose of resettlement, and must receive treatment in line with internationally accepted standards.²⁰³ However, Jordan does not offer a permanent solution for refugees, as it does not permit refugee resettlement within the country.²⁰⁴ The MOU states

¹⁹⁷ Convention Against Torture, UNITED NATIONS TREATY COLLECTION, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-9&chapter=4&lang=en, (last visited Feb. 3, 2021).

¹⁹⁸ *The principle of non-refoulement*, *supra* note 196.

¹⁹⁹ *Supra* note 14.

²⁰⁰ Memorandum of Understanding Between the Government of Jordan and UNHCR (Apr. 5, 1998). This agreement was amended in 2014. The amended version is not publicly available, but according to a news source the amended MOU includes two changes: first, UNHCR will now have 90 days to review an application; and also the validity of a refugee identification card has been extended from six months to one year. *Gov’t, UNHCR sign amendments to cooperation memo*, JORDAN TIMES, March 31, 2014.

²⁰¹ UNHCR employs the term “refugee” as “a term of convenience,” since there is no existing Jordanian domestic law or governing treaty that defines a ‘refugee.’ PROTECTING SYRIAN REFUGEES, *supra* note 74, at 60. (“The MOU provides that UNHCR can register ‘persons of concern’ including ‘refugees,’ who must then be resettled within six months. Successful applicants for status determination are legally considered “asylum-seekers” in Jordan and become “refugees” only upon securing a resettlement space to a third country. UNHCR conducts its interview and biometric scans, i.e., iris scans, first. They apply the same definition as the [Refugee Convention] without temporal or geographic restrictions, to refugees in Jordan.”).

²⁰² The 1951 Convention defines a refugee as a person who, “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.” Convention relating to the Status of Refugees, *supra* note 14, at art. 1(A)(2).

²⁰³ Memorandum of Understanding Between the Government of Jordan and UNHCR art. 5 (Apr. 5, 1998).

²⁰⁴ *Id.*

that UNHCR will try to find refugees a durable solution, whether that be voluntary repatriation to the country of origin or resettlement in another country.²⁰⁵

Jordan has also bound itself to two LAS regional agreements that provide protections to refugees and migrant populations: the Arab Charter and the Protocol for the Treatment of Palestinians in Arab States (“Casablanca Protocol”).²⁰⁶ While the Arab Charter provides certain protections to all refugees and migrants, the Casablanca Protocol is specific to Palestinians. As a State Party to the Arab Charter, Jordan must guarantee all individuals the right not to be expelled from or denied the right to return his country;²⁰⁷ the right to seek political asylum;²⁰⁸ the right to a nationality;²⁰⁹ the right not to be arbitrarily deprived of a nationality;²¹⁰ and the right to acquire another nationality.²¹¹

In addition to the Arab Charter, the Casablanca Protocol provides important protections for Palestinians. Adopted in 1965 by the LAS to regularize the status of Palestinians,²¹² the Casablanca Protocol requires Member States to afford Palestinians the same rights as nationals with regard to employment; the right to leave and return to the Member State; the right to freedom of movement among Member States; and to obtain and renew valid travel documents without delay.²¹³ In 1991, the LAS adopted the non-binding Resolution 5093, which recommended that Member States implement the Casablanca Protocol “in accordance with the laws and regulations of each state.”²¹⁴ Member States interpreted this to mean that they could implement the Casablanca Protocol to the extent consistent with their existing domestic laws, which would allow states to ignore its provisions altogether.²¹⁵ However, a resolution as a non-

²⁰⁵ *Id.*

²⁰⁶ Protocol for the Treatment of Palestinians in Arab States, LEAGUE OF ARAB STATES (Sept. 11, 1965), REFWORLD, <https://www.refworld.org/docid/460a2b252.html> (last visited Feb. 3, 2021) [hereinafter Casablanca Protocol].

²⁰⁷ Arab Charter on Human Rights, *supra* note 174, at art. 27.

²⁰⁸ *Id.* at art. 28.

²⁰⁹ *Id.* at art. 29(1).

²¹⁰ *Id.*

²¹¹ *Id.* at art. 29(3).

²¹² See Akram, *supra* note 2, at 433.

²¹³ Casablanca Protocol, *supra* note 206, at art. 1-5.

²¹⁴ League of Arab States Res. 5093 (Sept. 12, 1991).

²¹⁵ *Survey of Palestinian Refugees and Internally Displaced Persons 2016-2018*, *supra* note 42

binding instrument cannot revoke a treaty under VCLT rules,²¹⁶ and Jordan remains party to the Casablanca Protocol.²¹⁷ The LAS also adopted several earlier resolutions governing the treatment of Palestinian refugees in LAS member states: LAS Resolution 714 calls for the issuance of travel documents to Palestinian refugees;²¹⁸ LAS Resolution 8 calls on states to treat Palestinian bearers of travel documents on equal terms with citizens of the issuing state.²¹⁹ LAS Resolution 2600 provided that states should afford dual citizenship to Palestinians, formally recognizing Palestinian nationality as fully compatible with the citizenship of the host state.²²⁰ These were intended to be codified in the Casablanca Protocol, and illustrate the longstanding commitment of the Arab states to provide minimum standards of rights to all Palestinians in the Arab world.

IV. GAPS IN LEGAL FRAMEWORK AND JORDAN'S IMPLEMENTATION

Gaps and inconsistencies in Jordanian domestic law, policy, and administrative practices exacerbate the problem of statelessness.²²¹ Part IV analyzes these gaps, in particular, how they relate to Jordan's obligation to protect the child's right to a nationality under international and regional law and to provide certain protections to adult refugees.

²¹⁶ Although Jordan is not a party to the Vienna Convention on the Law of Treaties, the Treaty is considered a codification of customary international law. Vienna Convention on the Law of Treaties, *supra* note 184; Karl Zemanek, *supra* note 184.

²¹⁷ Vienna Convention on the Law of Treaties, *supra* note 184, at art. 54, 56-59 ("The termination of a treaty or the withdrawal of a party may take place: (a) In conformity with the provisions of the treaty; or (6) At any time by consent of all the parties after consultation with the other contracting States.").

²¹⁸ League of Arab States Res. 714 (Jan. 27, 1954) (reprinted in English), *cited in* Abbas Shibliak, *The League Of Arab States And Palestinian Refugees' Residency Rights* 17-18 (1998).

²¹⁹ Special Resolution on the Treatment of Palestinians in the Arab Countries, League of Arab States Res. 8 (Dec. 15, 1982).

²²⁰ League of Arab States Res. 2600 (Mar. 11, 1970); Resolutions are reprinted, respectively, in English translation in Shibliak, *supra* note 218, at 38-40, 43.

²²¹ To the extent that there are conflicts between Jordanian domestic law and its international legal obligations, Jordanian law provides that international law takes precedence. *See supra* Section V.B.

A. Gaps in Protecting Children’s Rights

Jordan’s policies are inconsistent with important aspects of its international and regional treaty obligations under the ICCPR, CRC, and the CRCI with regard to guaranteeing a child’s nationality.²²² Two primary barriers to citizenship contribute to Jordan’s failure to guarantee the child’s right to a nationality: gender discrimination in its Nationality Law, and lack of access to the civil registration processes. Gaps in the laws governing nationality, and deficiencies in their implementation, are discussed below.

1. Gender Discrimination

Jordan’s gender-discriminatory Nationality Law is a major contributing factor to child statelessness. While the Nationality Law allows Jordanian men married to non-Jordanian women to pass their nationality on to their children and spouses, it precludes Jordanian women from doing so.²²³ As a consequence, it has been estimated that approximately 355,000 children – many of whom were born in Jordan and have lived there their entire lives – cannot obtain Jordanian nationality at birth.²²⁴ These children cannot access basic rights, including education, healthcare, and equal employment opportunities.²²⁵ Adult non-citizen children of Jordanian mothers cannot open a bank account, buy a car or phone, donate blood, or even obtain a driver’s license.²²⁶ A 2010 study estimated that adult non-citizen children have a 39-48 percent possibility of obtaining any of the following: family book, identification, passport, residence, work permit, travel permit, visa, driver’s license, bank account, or university registration.²²⁷

²²² International Covenant on Civil and Political Rights, *supra* note 164, at art. 24(2); Convention on the Rights of the Child, *supra* note 165, at art. 7(1); Covenant on the Rights of the Child in Islam, *supra* note 172, at art. 7.

²²³ LAW NO. 6 OF 1954 ON NATIONALITY Jan. 1, 1954, arts. 3, 8(1) (Jordan).

²²⁴ This number has not been corroborated by the Jordanian Department of Statistics. In 2014, Interior Minister Hussein Majali reportedly placed this number at 355,000. *See* Al-Fadilat, *supra* note 28; *see also* Murad et al., *supra* note 28, at 10.

²²⁵ Interview with Layla Naffa, Director of Programmes, Arab Women Organization of Jordan, in Amman, Jordan (Nov. 24, 2019).

²²⁶ *Id.*; *see also* *Treatment of Non-Citizen Children*, *supra* note 33, at 6-7; Nasser, *supra* note 26, at 9.

²²⁷ *See* Nasser, *supra* note 26, at 9.

Jordan's Nationality law is clearly inconsistent with Jordan's commitment under the ICCPR, CRC, and the CRCI to guarantee every child the right to a nationality.²²⁸ As noted in Part III.B.2., Jordan is also bound by CEDAW to guarantee gender-equal nationality laws, despite its reservation to Article 9(2).²²⁹ While States may claim that the obligation to guarantee a child's right to a nationality and birth registration belongs to another State (in this case, the State of the non-Jordanian father), the obligation applies to the State "in particular where the child would otherwise be stateless" – that is almost always the country in which the child lives.²³⁰ Even though the Arab Charter does not expressly require gender-equal nationality rights, it does require Jordan to take steps to allow the child to acquire the mother's nationality.²³¹ International human rights bodies, including the Committee on the Rights of the Child (CRC Committee), the Committee on the Elimination of Discrimination Against Women (CEDAW Committee), and the Committee on Economic, Social, and Cultural Rights (ESCR Committee),²³² have increasingly called on Jordan to remove its reservation to Article 9 of CEDAW and to amend its law to allow all Jordanian mothers to pass their nationality to their children and spouses.²³³

While the Nationality Law provides that a Jordanian woman can pass her nationality if the status of the father is unknown or stateless, this rarely happens in practice.²³⁴ With respect to the Nationality Law's provision of citizenship to children born to unknown parents, this does happen in practice more frequently, but due to confidentiality issues numbers remain unknown.²³⁵ Children born to unknown parents receive a national ID number and are full citizens. Past practice gave children born to unknown parents with special numbers to further

²²⁸ International Covenant on Civil and Political Rights, *supra* note 164, at art. 24(2); Convention on the Rights of the Child, *supra* note 165, at art. 7(1); Covenant on the Rights of the Child in Islam, *supra* note 172, at art. 7.

²²⁹ Convention on the Elimination of All Forms of Discrimination Against Women, *supra* note 183, at art. 9(2).

²³⁰ Convention on the Rights of the Child, *supra* note 165, at art. 7(2); *see also* Susan M. Akram, *supra* note 2, at 442.

²³¹ Arab Charter on Human Rights, *supra* note 174, at art. 29(2).

²³² *See Treatment of Non-Citizen Children*, *supra* note 33, at 2.

²³³ *Id.* at 6; *see also* Comm. on the Elimination of Discrimination Against Women, U.N. Doc. CEDAW/C/JOR/CO/6 (Mar. 8, 2017).

²³⁴ Telephone Interview with Confidential Informant, *supra* note 136.

²³⁵ Telephone Interview with Yusuf Mansur, *supra* note 114.

identify or categorize them, but recent practice is to provide them with regular ID numbers, so that they are fully recognized as Jordanian citizens without any associated institutional stigma.²³⁶

For non-citizen children of Jordanian mothers, as well as others without legal status, naturalization under Jordanian law does not ensure a viable pathway to citizenship either. This is due to the Nationality law's lack of a non-discriminatory naturalization provision based on gender. While a Jordanian woman cannot transmit her nationality to her husband, a Jordanian man can transmit his nationality to his wife after three years if she is Arab, or after five years if she is not Arab.²³⁷ Consequently, non-Jordanian men, including non-citizen sons of Jordanian mothers, who marry Jordanian women have almost no access to Jordanian nationality.²³⁸

For the vast majority of non-Jordanian men and others without legal status, naturalization is not an option because the three separate pathways to naturalization outside of marriage, as provided in the Nationality Law—Article 4, Article 12, and Article 5—²³⁹ are not well-known and rarely implemented.²⁴⁰ For example, Article 4²⁴¹ (allowing acquisition of Jordanian nationality to those who are Arab and hold the nationality of another Arab country after fifteen years of residency and satisfying certain other criteria) and Article 12²⁴² (permitting any non-Jordanian to apply for naturalization after four years of residency and satisfying certain other criteria) are not being implemented. Since these would be the main mechanisms to obtain Jordanian citizenship other than through marriage, naturalization in Jordan is very rare.²⁴³ Indeed, although Article 5 allows the King to grant citizenship to emigrants from “every Arab born in the Jordan or in the occupied section of Palestine and immigrated from or emigrated from the country” after

²³⁶ *Id.*

²³⁷ LAW NO. 6 OF 1954 ON NATIONALITY Jan. 1, 1954, art. 8(1) (Jordan). Jordan's Nationality Law defines an Arab “as any person whose father was of Arab origin and who is a national of a State Member of the League of Arab States.” LAW NO. 6 OF 1954 ON NATIONALITY Jan. 1, 1954, art. 2 (Jordan).

²³⁸ A 2014 news article stated that there were 88,983 Jordanian women married to foreign men. *See* Al-Fadilat, *supra* note 28. This number has not been corroborated by the Department of Statistics. *See also* Murad et al., *supra* note 28, at 10.

²³⁹ LAW NO. 6 OF 1954 ON NATIONALITY Jan. 1, 1954, arts. 4, 5, 12 (Jordan).

²⁴⁰ Telephone Interview with Confidential Informant, *supra* note 136.

²⁴¹ LAW NO. 6 OF 1954 ON NATIONALITY Jan. 1, 1954, art. 4 (Jordan)

²⁴² *Id.* at art. 12.

²⁴³ Telephone Interview with Confidential Informant, *supra* note 136.

receiving a written declaration from the individual seeking naturalization,²⁴⁴ this is an entirely discretionary act of the King that has not often been exercised.²⁴⁵ Moreover, there is no established and transparent process in place, and few are aware of this option. Although some non-citizen fathers have acquired nationality under Article 5, children of these fathers have had trouble obtaining nationality.²⁴⁶ Consequently, naturalization under these provisions is uncommon in Jordan, even for those who are long-time residents.²⁴⁷

Additionally, the new citizenship by investment program launched by Jordan in 2018 provides a pathway to Jordanian nationality but only for wealthy individuals and their families. To date, since October 2019 to December 2020, Jordanian nationality has been granted to 206 investors, nationals of predominantly Arab countries, though the applicants themselves were reported to be from a diversity of countries.²⁴⁸ This program does not improve access to citizenship except for the wealthy, and some are concerned that the program will likely lead to tensions among certain groups living in Jordan.²⁴⁹

Individuals who do not have access to Jordanian nationality but may be entitled to it under the Residency and Foreign Affairs Law must purchase a yearly residence permit.²⁵⁰ The residence permit cost and process for any individual is regulated by a cooperation agreement between the Jordanian Government and the individual's country of origin.²⁵¹ The documentation required

²⁴⁴ LAW NO. 6 OF 1954 ON NATIONALITY Jan. 1, 1954, art. 5 (Jordan) (“His Majesty may, with the approval of the Council of Ministers, grant Jordanian nationality to any emigrant who submits a written declaration of option therefor, on condition that he relinquishes any other nationality possessed by him at the time of application.”).

²⁴⁵ Interview with Ehab Shuqair, Legal Consultant, Justice Center for Legal Aid in Amman, Jordan (Nov. 25, 2019).

²⁴⁶ *Id.*

²⁴⁷ Telephone Interview with Confidential Informant, *supra* note 136.

²⁴⁸ *Jordan grants citizenship to 206 investors*, ROYAL NEWS (Dec. 28, 2020),

<https://en.royanews.tv/news/24467/Jordan-grants-citizenship-to-206-investors>; JORDAN INVESTMENT COMMISSION, *supra* note 145 (noting that original nationalities of investors who received Jordanian citizenship are mainly Syrian, Iraqi, Palestinian, Finnish, Canadian, Lebanese, Yemeni, US, Pakistani, Indian and Saint Kitts and Nevis).

²⁴⁹ European Bank for Reconstruction and Development (EBRD), *supra* note 144, at 3; Jonathan Thrall, *Investment Citizenship is not Active Citizenship*, WANA INSTITUTE BLOG (Nov. 5, 2019), <http://wanainstitute.org/ar/blog/investment-citizenship-not-active-citizenship>.

²⁵⁰ LAW NO. 24 OF 1973 ON RESIDENCY AND FOREIGN AFFAIRS, Jan. 1, 1973 (Jordan).

²⁵¹ Interview with Norwegian Refugee Council, *supra* note 156.

to renew the permit depends on the individual's nationality.²⁵² If the individual's country of nationality has no cooperation agreement with Jordan, the individual cannot obtain a residence permit, leaving him or her without status entirely. If the individual has effectively lost his country of origin citizenship, he will not only be without a legal residence status in Jordan, but also stateless, and without a means to obtain Jordanian citizenship. These restrictions on naturalization increase the risk of statelessness, depending on the circumstances of each individual case. However, long-time residents, including children born in Jordan, who do not have effective citizenship in their country of origin, remain in Jordan in limbo due to these laws, with no pathway to citizenship.²⁵³

2. Civil Registration

Lack of civil documentation results in a number of human rights concerns for children, as well as other marginalized populations in Jordan, such as their inability to access healthcare, education, and employment opportunities. Jordan's complicated civil registration processes and problematic administrative practices profoundly affect the ability of both Jordanians and refugees to obtain civil status. Particularly problematic are marriage and birth registration. Both are essential to obtaining a nationality – and therefore to ensuring the child's right to a nationality and to protect against statelessness. This section outlines the process for birth and marriage registration, highlighting deficiencies in the law and in its implementation with respect to both. Finally, this section focuses on the problems of perfecting citizenship.

a) Birth Registration

As discussed above, Jordan is required to guarantee a child's right to a nationality and to registration with the government at birth,²⁵⁴ a process fundamental to preventing statelessness. While birth registration does not confer nationality - nationality is determined by the State's Nationality Law - it does provide a legal record of the child's existence, place of birth and

²⁵² *Id.*

²⁵³ UNHCR & OHCHR, *Regional Expert Meeting Report on the Human Rights of Stateless Persons in the Middle East and North Africa*, 2 (Feb. 18-19, 2010).

²⁵⁴ International Covenant on Civil and Political Rights, *supra* note 164, at art. 24(2); Convention on the Rights of the Child, *supra* note 165, at art. 7(1); Covenant on the Rights of the Child in Islam, *supra* note 172, at art. 7.

parentage, and thus protects against statelessness. Jordanian law provides for birth registration of non-citizens. However, a complex and costly birth registration process often leaves children stateless even when they are entitled to a nationality by law, simply because parents cannot obtain the necessary documents or pay the costs of registering the birth. Therefore, ensuring a streamlined birth registration process is essential to reducing statelessness.²⁵⁵

In Jordan, there are three different birth registration processes, depending on whether the child is born in Jordan within a year of registration, in Jordan over a year before registration, or born outside of Jordan.²⁵⁶ Each process is described in turn.

If a child is born in Jordan within a year of registration, the process of registration is relatively simple. When a child is born, the hospital or midwife provides the parents with a birth notification – simply a record of the birth with no formal legal significance.²⁵⁷ If a midwife attends the birth, the midwife must be registered with Jordan’s Midwives Association.²⁵⁸ If the midwife is not registered, the parents must obtain an exception to the requirement for a witness from the Ministry of Interior’s Civil Status Department. The exception must be obtained, since the midwife is not legally entitled to provide the required witness statement.²⁵⁹ The Civil Status Department has seventy-four offices across Jordan, and applies Jordan’s Civil Status Law to register births and deaths.²⁶⁰ To register the child and receive a birth certificate, the parents must present the following documents to a Civil Status Department office: (1) the birth notification, (2) identity documents - such as identification cards or passports - for both parents, and (3) proof of marriage - either a marriage certificate, a marriage ratification certificate, or a family

²⁵⁵ Telephone Interview with Aia Khadem Al-Jame, Information, Counselling and Legal Assistance Technical Legal Officer, Norwegian Refugee Council (Feb. 4, 2020).

²⁵⁶ *Id.*

²⁵⁷ *Id.*

²⁵⁸ *Id.*; see also Norwegian Refugee Council and Harvard Law School International Human Rights Clinic, *Securing Status: Syrian refugees and the documentation of legal status, identity, and family relationships in Jordan*, 22 (Nov. 2016) [hereinafter *Securing Status*].

²⁵⁹ Telephone Interview with Aia Khadem Al-Jame, *supra* note 255.

²⁶⁰ Norwegian Refugee Council and Harvard Law School International Human Rights Clinic, *Registering rights: Syrian refugees and the documentation of births, marriages, and deaths in Jordan*, 9 (Oct. 2015) [hereinafter *Registering Rights*].

book.²⁶¹ For Syrian refugees, a Ministry of Interior Service Card,²⁶² a Syrian passport, or a Syrian identification card suffice as identity documents.²⁶³ If the marriage is not registered, parents must go through their religious court to register the marriage.²⁶⁴ The birth certificate costs 1 JOD, if registered within thirty days.²⁶⁵ If registered after thirty days, parents must pay a fine of 10 JOD, in addition to the original 1 JOD.²⁶⁶

If over one year has passed since the child's birth, then there is a different process for registration. The parents must file a lawsuit with the Magistrate Court for Proof of Birth.²⁶⁷ This requires a birth notification and proof of marriage. If the parents lack a birth notification, then eye-witnesses to the birth are required. If no eye-witnesses are available, then the parents must present other witnesses to verify the child's existence, nationality, and family lineage. If they receive a positive decision from the Magistrate Court, the parents must take that decision to the Civil Status Department to obtain a birth certificate through the same process described above.²⁶⁸ If the parents receive a negative judgment, they may appeal the decision.²⁶⁹

The costs associated with filing the lawsuit are significant: 52 JOD to hire an attorney (Jordan's bar association passed an amendment in 2018 to increase this fee);²⁷⁰ 7 JOD to register the lawsuit; 4 JOD in court delivery fees; 2 JOD in lawsuit filing fees; 7 JOD to execute the court's decision;²⁷¹ a 10 JOD fine to register the birth after thirty days; and 1 JOD for the birth

²⁶¹ LAW NO. 6 OF 2001 ON CIVIL STATUS, 1952, art. 15 (Jordan); Telephone Interview with Aia Khadem Al-Jame, *supra* note 255.

²⁶² A Ministry of Interior Service Card is a card given to Syrian refugees after registering with UNHCR. It acts as an identity document and is necessary to receive services. *See infra* IV.B.2.(b).

²⁶³ Interview with Norwegian Refugee Council, *supra* note 156; *see also Securing Status*, *supra* note 258, at 22.

²⁶⁴ *See infra* IV.A.2.(b) Marriage Registration.

²⁶⁵ LAW NO. 6 OF 2001 ON CIVIL STATUS, 1952, art. 13 (Jordan); *see also* Telephone Interview with Aia Khadem Al-Jame, *supra* note 255.

²⁶⁶ LAW NO. 6 OF 2001 ON CIVIL STATUS, 1952, art. 13 (Jordan); *see also* Telephone Interview with Aia Khadem Al-Jame, *supra* note 255.

²⁶⁷ LAW NO. 6 OF 2001 ON CIVIL STATUS, 1952, art. 34 (Jordan); *see also* Telephone Interview with Aia Khadem Al-Jame, *supra* note 255.

²⁶⁸ Telephone Interview with Aia Khadem Al-Jame, *supra* note 255.

²⁶⁹ *See Registering Rights*, *supra* note 260, at 14.

²⁷⁰ It is possible to undergo this process without an attorney, but it is difficult. Non-governmental organizations providing legal aid are concerned that parents will not know the exact legal procedures that they must undergo. Telephone Interview with Aia Khadem Al-Jame, *supra* note 255.

²⁷¹ This process takes 1-3 months. *Id.*

certificate.²⁷² This does not include incidental costs, e.g., transportation to and from courts or Civil Status Department offices. For many refugees and Jordanians, these costs are prohibitive. For children born outside of Jordan, the birth registration process is even more complicated. Birth registration in these cases is not governed by the Civil Status Department because the Civil Status Department only registers life events (birth and death) occurring in Jordan.²⁷³ The parents (if Muslim) must have proof of registration that is sufficient in accordance with the “Sharia rules” and a sufficient birth notification.²⁷⁴ If they do not, they must file a parental ratification lawsuit in Sharia Court²⁷⁵ to obtain a court decision that will prove the birth, with the Sharia Court following the principle of “the best interest of the child,” regardless of the child’s birthplace.²⁷⁶ Christians are not required to go to Sharia Court; instead if they do not have sufficient proof of marriage and an adequate birth notification, they would pursue parental ratification through the ecclesiastical courts.²⁷⁷ Below provides a more detailed account of how the process for those born outside Jordan differs depending on the parents’ available documentation or proof:

- Where there is no valid proof of marriage (i.e., any document that has an official stamp), but there is a birth notification for a birth taking place outside Jordan, then Muslims are required to prove lineage before Sharia Courts, and Christians

²⁷² *Id.*

²⁷³ *Id.*

²⁷⁴ Correspondence with Arab Renaissance for Democracy and Development, to Christine Bustany, Senior Lecturer, Fletcher School of Global Affairs (Jan. 28, 2021) (on file with author). The overwhelming majority of both Jordanians and refugees in Jordan are Muslim. *See infra* note 293.

²⁷⁵ Sharia Courts are those applying Sharia (Islamic law) in family law matters, including marriage, divorce, child custody and inheritance. The most common form of Islamic law as enforced through countries’ respective national laws is in the area of family law. Kristen Stilt et al., *The Ambitions of Muslim Family Law Reform*, 41 HARV. J. L. & GENDER 302, 303-09 (2016). It should be noted that there is no one set code of Sharia, but rather varying and often contested interpretations, even within particular schools of jurisprudence. Any particular state’s personal status law may rely on varying interpretations of Sharia, incorporating reforms and innovations from within and outside the respective jurisdictions. MASSAD, *supra* note 18, at 80-88; Engelcke, *supra* note 19, at 66-67; *see* Jean Michiel Otto, *Introduction: Investigating the Role of Sharia in National Law*, in SHARIA INCORPORATED: A COMPARATIVE OVERVIEW OF THE LEGAL SYSTEMS OF TWELVE MUSLIM COUNTRIES IN PAST AND PRESENT, 17-50 (J. M. Otto ed., 2010). Jordanian family law is based on and draws from Ottoman law and Egyptian legislation, among others. MASSAD, *supra* note 18, at 80-88.

²⁷⁶ Telephone Interview with Aia Khadem Al-Jame, *supra* note 255. For Christians, the initial process for obtaining birth or death certificates is through the Christian clergy. Interview with Gaby Daw, Advocacy Officer, Caritas Jordan in Amman, Jordan (Nov. 25, 2019).

²⁷⁷ Correspondence with Arab Renaissance for Democracy and Development, to Christine Bustany, Senior Lecturer, Fletcher School of Global Affairs (Jan. 28, 2021) (on file with author). For further background on religious courts in Jordan, *see infra* IV.A.2.b.

are required to prove lineage before the Christian Courts. After that a birth certificate is issued for the child and proof of lineage for his parents.

- Where there is neither proof of marriage nor proof of birth, then it is necessary for the parents to resort to the respective religious courts to prove the marriage and the lineage in order to obtain a birth certificate for the child.
- Where there is a proof of marriage, but no birth notification, then it is possible to resort to the Sharia or Christian Courts to file a case of proof of the registration of a lost birth, after which the birth certificate for the child is issued from the Civil Status Department.²⁷⁸

The requirements for the Sharia Court and the Civil Status Department are the same, regardless of nationality of the children and their families, and whether the birth took place inside or outside Jordan.²⁷⁹

Until recently, parents had two court options for purposes of pursuing a parental ratification as part of the Sharia Court process: Documentation Court, which issues a paternal ratification document after both parents declare that the child is theirs, and Trial Court, which requires that the mother file a paternal ratification lawsuit, with witnesses, to prove her husband is the parent.²⁸⁰ Following the outbreak of the Syrian crisis, the Documentation Courts became overwhelmed with cases because they were a simpler and cheaper option than the Trial Court.²⁸¹ Due to case overload, and because the Trial Court process ensures greater accuracy, the Documentation Courts began referring cases to the Trial Courts in 2018.²⁸² The Documentation Court process is now rarely being used.²⁸³ Regardless, both the Documentation Courts and Trial Courts document, but do not register, the child's birth. Because parents cannot register the child's birth with the Civil Status Department, parents use the court decision as proof of the child's birth in place of a birth certificate. The court decision is not sufficient to register the child, but it is a necessary form of identification. For births that occur outside of Jordan, the cost of

²⁷⁸ *Id.*

²⁷⁹ *Id.*

²⁸⁰ Telephone Interview with Aia Khadem Al-Jame, *supra* note 255.

²⁸¹ *Id.*

²⁸² Telephone Interview with Aia Khadem Al-Jame, *supra* note 255.

²⁸³ The Documentation Courts still exist. However, most refer registration cases to the Trial Courts. One Documentation Court continues to accept cases. *Id.*

filing a lawsuit in the Trial Court is also high: 30 JOD to file the lawsuit; 12.20 JOD to hire an attorney; 2 JOD in court delivery fees; and 1 JOD to register the lawsuit.²⁸⁴

Parents, and especially refugee parents, delay registering or simply do not register their children's births for three main reasons: lack of awareness, lack of required documents, and lack of financial resources. These three barriers to achieving birth registration are often greater for refugees because their home country's process differs from Jordan's, they are more likely to lack the required documents, and they lack the means to pay for a costly process. For example, Syrian parents may not be aware that they must visit a Jordanian Civil Status Department office to obtain a birth certificate within thirty days of their child's birth or otherwise incur additional late fees.²⁸⁵ In Syria, the process is much simpler, as the Syrian Government's Civil Registry Office only adds the child's name to the parent's family book, and may or may not issue a birth certificate. The addition of the child to the family book is considered sufficient in Syria but cannot substitute for a birth certificate if the family is in Jordan.²⁸⁶

Syrian refugees often do not have the required identity documents or proof of marriage. Some may not have traveled with the requisite documents or may have lost them during travel; others may never have obtained them in the first place.²⁸⁷ Additionally, Jordanian authorities have confiscated these documents from many Syrians when they entered the country. Syrian refugees have been able to retrieve their confiscated documents only through a UNHCR program facilitating the return of many documents taken at the border - a program called the Urban Verification Exercise, detailed below.²⁸⁸ For Syrian refugees who have not registered with UNHCR and therefore lack a Ministry of Interior Service Card, birth registration is not possible unless they have a Syrian passport or identification card. It is also extremely common for Syrian refugees to lack proof of marriage.²⁸⁹ Inconsistent practices across Civil Status Department offices are also a problem. For example, while some offices have accepted copies of identity

²⁸⁴ *Id.*

²⁸⁵ *Id.*

²⁸⁶ See *Registering Rights*, *supra* note 260, at 15.

²⁸⁷ *Id.*

²⁸⁸ *Id.* at 16; see *infra* IV.B.2.(b).

²⁸⁹ See *infra* section IV.B.2.(b).

documents or proof of marriage,²⁹⁰ others have accepted only originals, when copies should generally suffice.²⁹¹

Because of these barriers, many parents—especially from vulnerable groups—will only be able to register their child’s birth more than one year after the birth, requiring them to pursue the more costly (and complex) process of filing a lawsuit. Often, this means that their children cannot secure citizenship and are at risk of statelessness.

b) Marriage Registration

A complicated and expensive marriage registration process also contributes to the inability to register births in Jordan. Because birth registration requires proof of marriage, marriage registration is fundamental to preventing statelessness under existing Jordanian law. Unlike birth registration, marriage registration is governed by the religious courts, which apply the Personal Status Law, specifically Law No. 36 of 2010 on Personal Status.²⁹² In addition to Sharia Courts which adjudicate family law matters for Muslims (representing between 93 percent to 97 percent of Jordan’s population),²⁹³ seven of the 11 recognized Christian groups in Jordan have their own religious courts for adjudicating personal status matters for their members.²⁹⁴ Although Christian Courts enjoy autonomy from the Jordanian Government in issuing decisions on their respective family laws, Sharia Courts do not have such latitude: the family law

²⁹⁰ See *Registering Rights*, *supra* note 260, at 17.

²⁹¹ Interview with Norwegian Refugee Council, *supra* note 156.

²⁹² LAW NO. 36 OF 2010 ON PERSONAL STATUS (Jordan).

²⁹³ Data concerning Jordan’s demographics is inexact. Jordan’s population, excluding refugees and migrants, is estimated to be approximately 97 percent Sunni Muslim and 2.2 percent Christian, though some estimates for Christians are as high as 6 percent (and decades prior it was estimated at 10 percent). The Syrian and Iraqi refugee populations are mostly Sunni Muslim. Shia Muslims and Christians account for less than one third of the Iraqi refugee population in Jordan. See U.S. DEPARTMENT OF STATE, 2018 REPORT ON INTERNATIONAL RELIGIOUS FREEDOM, JORDAN (2019), <https://www.state.gov/reports/2019-report-on-international-religious-freedom/jordan/> (last visited Feb. 5, 2021); Engelcke, *supra* note 19, at 39; *World Directory of Minorities and Indigenous Peoples, Jordan*, MINORITY RIGHTS GROUP, <https://minorityrights.org/country/jordan/> (last visited Feb. 5, 2021).

²⁹⁴ Engelcke, *supra* note 19, at 66-67. In accordance with Article 99 of the Jordanian Constitution, Jordan’s legal system includes three types of courts: religious, regular, and special courts. While the Constitution provides that civil and criminal matters fall under the jurisdiction of regular courts, family law is adjudicated by religious courts, either Sharia Courts or courts of other religious communities. Jordanian Sharia Courts have jurisdiction over all Muslims with respect to personal status matters. There are currently 11 Christian communities which have the right to establish courts in Jordan. These Christian Councils (or courts) have jurisdiction over their respective Christian community members in matters of personal status. *Id.* at 67; see also *Jordanian Legal System*, US EMBASSY IN JORDAN, <https://jo.usembassy.gov/u-s-citizen-services/local-resources-of-u-s-citizens/attorneys/jordanian-legal-system/> (last visited Feb. 5, 2021).

that Sharia Courts apply is determined by the Jordanian Government and approved by the Parliament.²⁹⁵

For a couple to register a Muslim marriage,²⁹⁶ the Sharia Court requires: (1) identity documents for the bride, groom, the bride's guardian, and two witnesses; (2) a health certificate from the Jordanian Ministry of Health; (3) a petition for a marriage contract; (4) and an approval letter from the Ministry of Interior, if one or both parties to the marriage are not Jordanian.²⁹⁷ The health certificate and Ministry of Interior approval have no cost, but Jordanian law requires that the bride and groom pay a court fee for issuing a marriage certificate.²⁹⁸ This fee ranges between 25 and 80 JOD.²⁹⁹

A couple that has married informally faces additional obstacles to registering a marriage. Under Jordanian law, an informal marriage is a marriage conducted outside of the state process, i.e., it has not been certified by a Sharia Court, by an authorized sheikh for Muslims, or by one of the recognized Christian Courts for Christians.³⁰⁰ Couples marrying informally must register the marriage by obtaining a marriage ratification certificate.³⁰¹ This includes couples married informally in Syria or in Jordan, and couples married in Syria but whose marriage certificate or family book was lost, destroyed, or left in Syria. The process to obtain a marriage ratification certificate is the same as used to obtain a marriage certificate, as described above. However, the religious court may impose additional requirements on the couple. For example, the court may call for additional witnesses, or for the same witnesses or sheikh who was present at the informal marriage to come to the court.³⁰² In other instances, judges have waived documentation

²⁹⁵ Engelcke, *supra* note 19, at 67-68.

²⁹⁶ Most marriages registered in Jordan are Muslim, given the population demographics of the country. *See supra* note 293.

²⁹⁷ *See also Securing Status, supra* note 258, at 25.

²⁹⁸ LAW NO. 36 OF 2010 ON PERSONAL STATUS (Jordan); *see also* Arab Renaissance for Democracy and Development, REFUGEE PROTECTION IN JORDAN: MAPPING THE LEGAL AND POLICY ENVIRONMENT FOR NON-PALESTINIAN REFUGEES (forthcoming).

²⁹⁹ LAW NO. 61 OF 2015 ON COURT FEES REGULATION, art. 23 (Jordan); *see* Arab Renaissance for Democracy and Development, *supra* note 298.

³⁰⁰ *See Registering Rights, supra* note 260, at 18. An authorized sheikh is one who has been certified by the Sharia Court. Telephone Interview with Aia Khadem Al-Jame, *supra* note 255.

³⁰¹ *See Securing Status, supra* note 258, at 25.

³⁰² *Id.*

requirements for refugees.³⁰³ This waiver is at the judge's discretion, which has resulted in significant inconsistencies between cases.³⁰⁴

Children of parents who could not register their marriage can subsequently also not be registered. Similar barriers to birth registration also prevent couples from registering marriages: lack of awareness, lack of required documents, and/or lack of financial resources.³⁰⁵ Lack of awareness and lack of required documents prevent many Syrian refugee couples from registering marriages because the process differs in Jordan and Syria. For example, while in Jordan informal marriages are illegal and couples can neither register such marriages nor their children born from them, in Syria, informal marriages are common and legal.³⁰⁶ Also, in Syria couples may wait years to register marriages.³⁰⁷ Consequently, many Syrians do not realize that they must register their marriages in Jordan, nor the critical consequences to their children of not registering their marriage.³⁰⁸

Syrian refugees often lack the required marriage registration documents.³⁰⁹ For example, when seeking approval from the Ministry of Interior to register their marriage, refugee couples are also asked for proof that they left a refugee camp through a formal bailout process.³¹⁰ Individuals who cannot produce proof of bailout (in the form of an attestation of bailout document provided by UNHCR) may be denied approval to register their marriages.³¹¹ Some Syrian refugees fear that if they approach the court or authorities without this bailout document, they will be arrested and deported.³¹²

³⁰³ Interview with Norwegian Refugee Council, *supra* note 156.

³⁰⁴ See *Registering Rights*, *supra* note 260, at 21-22.

³⁰⁵ Interview with Arab Renaissance for Democracy and Development in Amman, Jordan (Nov. 18, 2019).

³⁰⁶ See *Registering Rights*, *supra* note 260, at 21-22.

³⁰⁷ *Id.* at 20.

³⁰⁸ Interview with Arab Renaissance for Democracy and Development, *supra* note 305.

³⁰⁹ See *Registering Rights*, *supra* note 260, at 20.

³¹⁰ *Id.* at 20; see *infra* IV.B.2.(b).

³¹¹ See *Registering Rights*, *supra* note 260, at 20.

³¹² *Id.*

Additionally, the costs of marriage registration—whether incidental costs or fines for an informal marriage—can be prohibitive. For example, because Ministry of Interior Service Cards are only valid in the place registered, couples must incur burdensome travel expenses to register a marriage at a particular court location.³¹³ The travel costs are often excessive for refugees as well as for poorer Jordanian families.³¹⁴ If a couple has been married informally in Jordan, the couple will be criminally punished³¹⁵ and subject to a 1,000 JOD fine³¹⁶ - 200 JOD each for the two spouses, the sheikh, and the two witnesses. For a refugee family, a fine of 1,000 JOD is an immense obstacle.³¹⁷

In recent years, the Jordanian Government has acted to address the issue of fines for informal marriages. In 2013, the Supreme Sharia Court of Jordan held that this should not be applied to couples who conducted informal marriages outside of Jordan.³¹⁸ Consequently, two amnesty periods (October 31-December 31, 2014 and May 13-July 13, 2015) were established to allow couples to register their marriages, as well as births of their children, without paying the fine.³¹⁹ On February 5, 2019, the King signed another pardon law, excusing informal marriages from this fine if the informal marriages occurred before December 12, 2019.³²⁰

The issue of child marriage also contributes to statelessness. Because child marriages are unlikely to be registered in Jordan, children born to parents in a child marriage are also unlikely to be registered at birth.³²¹ Under international law, a “child” means a person under age eighteen.³²² Child marriage – defined as marriage when at least one party is under eighteen – is a human

³¹³ See *Securing Status*, *supra* note 258, at 23.

³¹⁴ Interview with Arab Renaissance for Democracy and Development, *supra* note 305.

³¹⁵ Under Jordan’s Penal Code, those who perform or assist in performing an informal marriage may be imprisoned for one to six months. LAW NO. 16 OF 1960 ON PENAL CODE art. 279 (Jordan).

³¹⁶ See *Securing Status*, *supra* note 258, at 25.

³¹⁷ Interview with Confidential Informant, Non-governmental Organization, in Amman, Jordan (Nov. 24, 2019).

³¹⁸ See Arab Renaissance for Democracy and Development, *supra* note 305; see also *Registering Rights*, *supra* note 260, at 18-19.

³¹⁹ Interview with Fawzia Istaiteyah, Associate Legal Officer, UNHCR, in Amman, Jordan (Nov. 20, 2019); see also *Registering Rights*, *supra* note 260, at 18-19.

³²⁰ Interview with Arab Renaissance for Democracy and Development, *supra* note 305.

³²¹ Institute on Statelessness and Inclusion and Norwegian Refugee Council, *Understanding statelessness in the Syrian refugee crisis*, <http://www.syrianationality.org/index.php?id=5> (last visited Feb. 5, 2021).

³²² Convention on the Rights of the Child, *supra* note 165, at art 1.

rights violation under international law.³²³ In Jordan, the minimum age for marriage is eighteen, but the law allows children as young as fifteen to marry with judicial consent.³²⁴ Unless the couple receives judicial consent, child marriages are informal marriages, such that children of the marriage cannot be registered. For Jordanians, a husband in a child marriage may be punished by the authorities if caught; consequently, child marriages are rarely registered. As a result, spouses in a child marriage often do not have the necessary proof of marriage to register the birth of a child.³²⁵

In Syria, however, the minimum marriage age with parental consent is thirteen for girls and fifteen for boys.³²⁶ For Syrian girl refugees, child marriage poses even more serious problems and has increased in recent years, with girls being forced into marriages to ensure economic security outside of refugee camps.³²⁷ Although child marriage predates the Syrian refugee crisis, the crisis exacerbated the issue of child marriage in refugee camps.³²⁸ Because so many Syrian refugees lack the required documents, their only option in order to register the marriage is to obtain false or fraudulent documentation regarding the age or identity of the parties to it. These might be obtained to show the individuals (usually the girl) to be older than they are to avoid the child marriage penalties.³²⁹ A similar situation faces other refugees and migrant girls: for those without

³²³ CEDAW also states that child marriages are not legal. The United Nations Office of the High Commissioner for Human Rights has stated that child marriage is a human rights violation. See *Child, early, and forced marriage, including in humanitarian settings*, UNHCR, <https://www.ohchr.org/en/issues/women/wrgs/pages/childmarriage.aspx> (last visited Feb. 5, 2021); see also Convention on the Elimination of All Forms of Discrimination Against Women, *supra* note 183, at art. 16(2) (“The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.”).

³²⁴ LAW NO. 36 OF 2010 ON PERSONAL STATUS, art. 10 (Jordan).

³²⁵ See Institute on Statelessness and Inclusion and Norwegian Refugee Council, *supra* note 321.

³²⁶ Legislative Decree No. 26 of the Syrian Registration of 2007.

³²⁷ Deborah Fry et al., *A Qualitative Study on the Underlying Social Norms and Economic Causes That Lead to Child Marriage in Jordan*, UNICEF 46-48 (2019).

³²⁸ Roald Hovring, *Child protection: What you need to know about child marriage*, Norwegian Refugee Council (Feb. 11, 2019); see also Ettie Bailey-King, *Child Marriage and the Syrian Conflict*, Girls Not Brides (Aug. 16, 2018); Åge A. Tiltnes, Huafeng Zhang and Jon Pedersen, *The living conditions of Syrian refugees in Jordan*, FAFO, (2019).

³²⁹ Interview with Arab Renaissance for Democracy and Development, *supra* note 305.

citizenship,³³⁰ marrying a Jordanian provides the girl with Jordanian nationality along with all its rights and benefits.³³¹

B. Gaps in Protections for Adult Refugees and Bedouin-related “Bidoon” in Jordan

In addition to being confronted with a burdensome civil registration process, refugees as well as the Bedouin-related “bidoon” in Jordan face distinct barriers to securing and maintaining legal status. A threshold issue is that Jordan has no legal framework for recognizing rights and protections for the status of persons as refugees and/or stateless persons under international law. This section will first discuss this core gap in Jordanian domestic law and policy, followed by a more focused discussion on particular barriers to maintaining legal status experienced by or relevant to specific populations in Jordan, including: (1) Palestinian refugees; (2) Syrian refugees; (3) other refugees (i.e., Iraqi, Yemeni, Sudanese and Somali refugees); and (4) Bedouin-related “bidoon” in Jordan. The issues with respect to each population underscores the problems with Jordan’s *ad-hoc* approach.

1. Gaps in Domestic Laws

As described above, Jordan is not a party to the core international agreements concerning statelessness and refugees, nor has Jordan adopted domestic laws to provide a legal framework for recognizing and protecting the status and rights of stateless persons and refugees. Apart from reference to Palestinian refugees, Jordanian domestic law concerning refugees is “virtually non-existent.”³³² Jordan avoids official recognition of refugees, and refers to Syrian as well as Iraqi refugees as ‘visitors’, ‘irregular guests’, ‘Arab brothers’ or simply ‘guests’, terms that do not have legal meaning under its domestic laws.³³³

³³⁰ See *infra* IV.B.2.

³³¹ See Fry et al., *supra* note 327, at 48.

³³² Stevens, *supra* note 15, at 2.

³³³ Mary Alecia Briggs, *Access to work for Syrian refugees in Jordan: A discussion paper on labour and refugee laws and policies*, INTERNATIONAL LABOUR ORGANISATION 12, 5 (2015), <https://www.business-humanrights.org/sites/default/files/documents/Report%2C%20Syria.pdf> (“Jordan defines refugees in a way that does not have any meaning under international or domestic laws and contradicts the MOU with UNHCR.”).

The MOU between the Jordanian Government and UNHCR is notably deficient as well. While it provides the parameters for cooperation between UNHCR and the Jordanian Government and certain significant protections for (non-Palestinian) refugees, it does not incorporate or bind Jordan to a status determination. According to the MOU of 1998, Jordan agrees to provide temporary residence to individuals meeting the Refugee Convention definition for up to six months, pending UNHCR obtaining resettlement for them elsewhere. The MOU was amended in 2014 so as to extend the validity of a refugee identification card to one year instead of six months.³³⁴ The MOU also commits Jordan to respect *non-refoulement*, with which Jordan does substantially comply. Of course, the majority of UNHCR-registered refugees in Jordan are not resettled within one year, so if their residence is not renewed by the Jordanian Government, they lose their legal status. The MOU commits Jordan to exempt refugees from overstay fines and departure fees.³³⁵ However, since Jordan will not *refoule* them as long as they risk life or freedom, they remain in limbo and out of status until they can either return home or find some way of leaving the Kingdom.

Despite Jordan's history as a refugee-receiving country, its lack of a coherent legal and policy framework to appropriately address the situation of refugees and stateless persons results in serious and profound gaps in protection.

2. Barriers to Legal Status for Particular Populations

a) Palestinian Refugees

While the majority of Palestinian refugees in Jordan have Jordanian citizenship,³³⁶ as of the 2015 census, 634,182 Palestinians in Jordan do not have national ID numbers, and hence are not citizens.³³⁷ In addition, Jordan has had varying and shifting policies for what constitutes Jordanian nationality in the past few decades. Not all Jordanian passports grant the same rights,

³³⁴ Memorandum of Understanding Between the Government of Jordan and UNHCR (Apr. 5, 1998). Compare *Gov't, UNHCR sign amendments to cooperation memo*, JORDAN TIMES, March 31, 2014.

³³⁵ Memorandum of Understanding Between the Government of Jordan and UNHCR, art. 11 (Apr. 5, 1998).

³³⁶ *Where We Work*, *supra* note 49; see also THE DANISH IMMIGRATION SERVICE, *supra* note 40, at 9.

³³⁷ See Mohammad Ghazal, *supra* note 51.

and some Palestinian refugees and/or Jordanians of Palestinian origin have been subject to denationalization by the Jordanian Government.

The Jordanian documentation currently afforded to a Palestinian refugee depends on when the individual arrived in Jordan and her place of prior residency.³³⁸ There are four such categories:

- *First* are “Jordanians of Palestinian origin,” who entered Jordan between 1946 to 1954. They hold a five-year passport with a corresponding national identity number.³³⁹ This includes the category of Palestinians identified in Jordan’s Nationality Law.³⁴⁰ They have full Jordanian citizenship.³⁴¹
- *Second* are the “West Bank displaced of 1967” who were Jordanian citizens but lived in the West Bank until the 1967 war, and fled the war for the East Bank. At the time, they numbered 354,248 Palestinians.³⁴² A segment of this category of persons have yellow border crossing cards which were introduced in the 1980s, allowing them to travel to the West Bank.³⁴³ This category of Palestinians also has full citizenship rights.³⁴⁴
- *Third* are “Ex-Gazans,” who left Gaza in 1967 due to the war. They hold two-year passports. This passport serves as a travel document, but does not give them citizenship.³⁴⁵ Figures of Palestinian refugees who fled Gaza in 1967 range from 15,000 - 80,000, and it is estimated that today they constitute 130,000 – 350,000 persons.³⁴⁶ The two-year passports they possess provide only limited

³³⁸ *Listening to Palestinian Refugees/Displaced Persons in Jordan*, *supra* note 47, at 20, 23.

³³⁹ See Akram, *supra* note 2, at 429-30; THE DANISH IMMIGRATION SERVICE, *supra* note 40, at 69.

³⁴⁰ *Id.* Jordan’s Nationality Law confers citizenship to “Any person who, not being Jewish, possessed Palestinian nationality before 15 May 1948 and was a regular resident in the Hashemite Kingdom of Jordan between 20 December 1949 and 16 February 1954.” LAW NO. 6 OF 1954 ON NATIONALITY Jan. 1, 1954, art. 3 (Jordan).

³⁴¹ THE DANISH IMMIGRATION SERVICE, *supra* note 40, at 69 (noting that these people are full-fledged-citizens and “have Jordanian national numbers and can enter Jordan on the same conditions as any other Jordanian citizen”).

³⁴² *Id.* at 69. (“According to official Jordanian figures from 1968, 354,248 Palestinians with Jordanian citizenship arrived to the area that comprises present-day Jordan as a consequence of the 1967 war.”).

³⁴³ *Id.* at 69-70; DANISH NATIONAL ID CENTRE, NOTE, JORDAN: ISSUANCE OF JORDANIAN DOCUMENTS TO STATELESS PALESTINIANS (2020), <https://nidc.dk/-/media/154D856D21204007BABA1F2595E965B8.pdf> (outlining system of colored crossing cards issued by Jordanian authorities and associated status).

³⁴⁴ THE DANISH IMMIGRATION SERVICE, *supra* note 40, at 69-70.

³⁴⁵ Interview with Dr. Jalal Al Hussein, Associate Researcher, Institut français du Proche-Orient, in Amman, Jordan (Nov. 19, 2019); *Undocumented and Stateless*, *supra* note 63, at 47.

³⁴⁶ THE DANISH IMMIGRATION SERVICE, *supra* note 40, at 70 (noting in 1967 there were 15,000-20,000 “ex-Gazans” whereas today there are approximately 250,000-350,000), *Invisible Citizens of Jordan*, *supra* note 46, at 116 (noting there were 15,000 arriving from Gaza Strip to Jordan and today 240,000), *compare Undocumented and Stateless*, *supra* note 63, at 38; MAPPING THE LEGAL OBSTACLES PALESTINIANS FACE IN JORDAN, *supra* note 66, at 7 (“There are an estimated 140,000 Gazans in Jordan. Importantly this figure does not include Gazans and their descendants who fled for the first time in 1967, as they fall outside the UNRWA mandate to provide assistance to ‘Palestine refugees’: those who fled in 1948.” (citations omitted)).

rights and access to services.³⁴⁷

- *Fourth* are “West Bankers” who reside in the West Bank and/or have sought residence in Jordan since 1988.³⁴⁸ They hold (i) two-year passports, not connoting citizenship (these were changed in 1996 to five-year passports), with no national identity number;³⁴⁹ and (ii) a green border crossing card.³⁵⁰

Palestinian refugees who do not have a national ID number, namely the latter two categories, are required to apply for a work permit to participate in Jordan’s formal labor market.³⁵¹ An unknown number of Palestinian refugees and/or Jordanians of Palestinian origin holding temporary travel documents have faced denationalization – a process by which the Jordanian Government has stripped them of Jordanian citizenship and designated them as Palestinians in official records.³⁵² Denationalization occurs when Jordanians of Palestinian origin return to renew their documents, for example, their ID and passports, or when they apply for initial documentation to which the law entitles them. Denationalization is based on the claim that the individual is not Jordanian, but Palestinian. The individual is re-recorded as Palestinian in the civil status record.³⁵³ Reported justifications by the Jordanian Government for denationalizing these individuals include the prohibition on dual Arab nationality provided in the 1988 League

³⁴⁷ MAPPING THE LEGAL OBSTACLES PALESTINIANS FACE IN JORDAN, *supra* note 66, at 7-8; *see also* THE DANISH IMMIGRATION SERVICE, *supra* note 40, at 69-70.

³⁴⁸ *Listening to Palestinian Refugees/Displaced Persons in Jordan*, *supra* note 47, at 6 (2014); *see also* Akram, *supra* note 2, at 430. Previously when Jordan administered the West Bank (which it had formally annexed in 1950), Palestinians living in the West Bank could obtain Jordanian citizenship in the same way that Palestinians living in the East Bank could. But in 1988, the Jordanian King “severed ties with the West Bank, and thus withdrew the citizenship from people living in the West Bank.” THE DANISH IMMIGRATION SERVICE, *supra* note 40, at 69.

³⁴⁹ Interview with Dr. Jalal Al Hussein, *supra* note 345; Mohammad Khaled al-Aza’r, *supra* note 68 (“Palestinians from the West Bank were not treated equally with naturalized persons. They were offered limited rights to employment, education and to purchase goods subsidized by the state. They were issued two-year, temporary but renewable passports and were not allowed to work in government offices or banks.”).

³⁵⁰ Interview with Dr. Jalal Al Hussein, *supra* note 345; *Undocumented and Stateless*, *supra* note 63, at 47; THE DANISH IMMIGRATION SERVICE *supra* note 40, at 70.

³⁵¹ *See* Ghazal, *supra* note 51; Interview with Dr. Jalal Al Hussein, *supra* note 345. “On 8 January 2019, the Legislative Council passed a motion to amend the Jordanian labour law to exempt ex-Gazans and Palestine refugees who have a Palestine refugee father and a Jordanian mother from having to apply for a work permit. However, the motion was rejected by the Senate and no further positive actions have been taken since.” *Syria Regional Crisis Response Progress Report*, UNRWA (2019), https://www.unrwa.org/sites/default/files/content/resources/2019_syria_ea_progress_report_10_2019.pdf.

³⁵² Interview with Ehab Shuqair, *supra* note 245.

³⁵³ *Id.*

of Arab States decision.³⁵⁴ However, LAS Resolution 2600 established the right to dual citizenship for Palestinians.³⁵⁵

There has been a recent increase in denationalization cases, notably among people of Jordanian origin living in Syria who upon arrival to Jordan find that their citizenship had been withdrawn. In most cases, the Jordanian Government has not provided any reason for the revocation.³⁵⁶ There appears to be no clear pattern for who is at risk of having Jordanian citizenship withdrawn.³⁵⁷ Some denationalization cases have been challenged on constitutional grounds.³⁵⁸ But many cases never make it to court, as high court fees prevent many from contesting these denationalization claims.³⁵⁹ Over 2,700 Jordanians of Palestinian origin lost their nationality between 2004 and 2008.³⁶⁰ Numbers of denationalization cases, however, are unclear as no official numbers have been released, and estimates range from hundreds to the tens of thousands.³⁶¹

b) Syrian Refugees

Many Syrian refugees residing in Jordan lack the documentation necessary to maintain status and gain access to critical assistance and services. The Government of Jordan requires Syrian refugees to register with the Ministry of the Interior (MOI) and carry an MOI Service Card. This card only remains valid if the Syrian refugee remains within the camp in which the card was registered—if a Syrian refugee moves, she must re-register the MOI Service Card with the police at the new location.³⁶² Not all refugees have an MOI Service Card, which is necessary to obtain UNHCR assistance and services, including healthcare, food, and cash benefits.

³⁵⁴ *Stateless Again*, *supra* note 18, at 19-20.

³⁵⁵ League of Arab States Res. 2600 (Mar. 11, 1970).

³⁵⁶ THE DANISH IMMIGRATION SERVICE, *supra* note 40, at 34.

³⁵⁷ *Id.* at 69.

³⁵⁸ *Listening to Palestinian Refugees/Displaced Persons in Jordan*, *supra* note 47, at 23.

³⁵⁹ *Stateless Again*, *supra* note 18.

³⁶⁰ *Id.* at 5.

³⁶¹ *The 1988 Disengagement Regulations and Their Effects on Identity and Participation in Jordan*, THE IDENTITY CENTRE 6 (2014) (citing *Stateless Again*, *supra* note 18, at 5; K. Malkawi, 'House Panel Backs Ministry Procedures on 'Citizenship Revocation,' JORDAN TIMES (July 17, 2009)).

³⁶² *Registering Rights*, *supra* note 260, at 13.

In July 2014, the MOI announced that Service Cards would not be issued to refugees who could not prove that they left a refugee camp through the formal “bailout” process. The bailout process was a way for Syrian refugees to leave the refugee camps and reside in urban areas in Jordan. To meet the requirements of the bailout process, Syrian refugees must have a Jordanian sponsor over the age of thirty-five who is not an immediate relative.³⁶³ The MOI maintains a database of refugees who have met the requirements of the bailout process.³⁶⁴ However, in January 2015, the bailout process was abolished by the Government due to abuse and ineffectiveness, and remains suspended.³⁶⁵ Currently, there is no legal way for Syrian refugees to leave the refugee camps and permanently settle in host communities, other than limited exceptions permitted by the Jordanian Government Humanitarian Committee that reviews such cases in the camps.³⁶⁶

The Government Humanitarian Committee was set up to address difficult cases raised by refugees in the camps that require government action.³⁶⁷ Representatives from the MOI, Jordanian General Intelligence Directorate, and UNHCR (as an observer) sit on the Committee.³⁶⁸ This Committee assesses issues related to a refugee’s legal status, including documentation issues and requests to leave the camps.³⁶⁹ NRC estimates that more than 96 percent of cases are resolved or rectified.³⁷⁰ The fear of deportation on national security or other grounds does prevent some refugees from approaching the Committee, though NGOs claim this deters very few people. The Committee considers a range of reasons for granting permission to leave the camp: a medical reason, primarily an illness for which there is inadequate medical care in the camp’s medical facilities; family reunification in extreme circumstances; and requests for work permits.³⁷¹

³⁶³ *Id.* at 11.

³⁶⁴ *Id.* at 12.

³⁶⁵ Interview with Fawzia Istaiteyah, *supra* note 319.

³⁶⁶ Jordan INGO Forum, *Syrian refugees in Jordan, A Protection Overview* 5-6 (2018).

³⁶⁷ “Difficult cases” include when an arrest warrant has been issued to a refugee, mixed family status issues—for example, a PRS married to a Syrian, military personnel, and people who have declared a false family composition or false identity. Interview with Fawzia Istaiteyah, *supra* note 319.

³⁶⁸ *Id.*

³⁶⁹ Interview with Paola Barsanti, Information, Counselling & Legal Assistance (ICLA) Specialist, Norwegian Refugee Council, in Amman, Jordan (Nov. 24, 2019).

³⁷⁰ *Id.*

³⁷¹ *Id.* Those with work permits must return to the camps every month to check in. *Id.*

Another obstacle to registration is that many Syrian refugees no longer possess important documents such as marriage certificates, identity documents, passports, and family books, because they were retained by Jordanian border authorities when the refugees arrived.³⁷² This practice by the border authorities ended in early 2014, but up until then approximately 219,000 documents were taken.³⁷³ To address this, in February 2015 the Jordanian Government established the Urban Verification Exercise for Syrians.³⁷⁴ The Urban Verification Exercise required Syrian nationals residing outside the camps to travel to local police stations to re-register themselves, obtain a new biometric MOI Service Card, and provide their current place of residence to authorities.³⁷⁵ The documentation requirements at the police station include a health certificate that costs 5 JOD and proof of residence.³⁷⁶ This process facilitated the return of many documents taken at the border, and granted amnesty for those refugees who fled the camps without a leave permit or permission through the bailout process.³⁷⁷ The process ran from 2015 until March 2019.³⁷⁸ Over 24,000 individuals had documents returned and their status rectified through this process.³⁷⁹ However, UNHCR assumes that not all refugees went through the process, and that some were not able to have their status rectified.³⁸⁰

c) Other Refugees

Other refugee populations, including Iraqi, Yemeni, Sudanese, and Somali, of whom 90,000 are registered with UNHCR, are governed by processes and status adjudications that are different from Syrian and Palestine refugee populations.³⁸¹ Although these populations may register with

³⁷² *Registering Rights*, *supra* note 260, at 18-19.

³⁷³ *Id.*

³⁷⁴ *Id.*

³⁷⁵ Jordan INGO Forum, *supra* note 366, at 5.

³⁷⁶ *Id.*; *Registering Rights*, *supra* note 260, at 18-19.

³⁷⁷ *Registering Rights*, *supra* note 260, at 18-19.

³⁷⁸ Interview with Fawzia Istaiteyah, *supra* note 319.

³⁷⁹ *Id.* Another source states that the number of refugees registered through the Urban Verification Process was 403,332 as of December 2017. See Jordan INGO Forum, *supra* note 366.

³⁸⁰ Interview with Fawzia Istaiteyah, *supra* note 319.

³⁸¹ As of February 2020, UNHCR has reported that there are 67,144 Iraqi refugees, 14,782 Yemeni refugees, 6,086 Sudanese refugees, and 745 Somali refugees, and 1,646 “other” refugees in Jordan. Jordan Operational Update, UNHCR (2020), <https://reliefweb.int/report/jordan/jordan-unhcr-operational-update-february-2020>. In addition, there are more than 70,000 migrant domestic workers and over 600,000 Egyptian guest workers in Jordan. Elizabeth Turnbull, *Domestic workers face poor working conditions in Jordan*, JORDAN TIMES (Aug. 4, 2019) <http://www.jordantimes.com/news/local/'domestic-workers-face-poor-working-conditions-jordan'>; *Jordan: Domestic Worker Protections Ineffective*, HUMAN RIGHTS WATCH (Sept. 27, 2011); Ghazal, *supra* note 51. Their

UNHCR as refugees or asylum-seekers, they are not eligible for most humanitarian assistance that is targeted to Syrians, and they struggle to receive adequate services.³⁸² For many, cash assistance, to the extent it is available through aid organizations, is their primary source of income due to their precarious status.³⁸³ Unlike Syrians, these groups have no access to work permits under the agreement Jordan entered into in 2015 with the United Kingdom, European Union, and the World Bank, referred to as the Jordan Compact, which, among other things, provided increased access to work permits for Syrian refugees to integrate them into the formal labor market in Jordan.³⁸⁴ Only 883 Iraqis, 380 Sudanese, and 2,943 Yemenis were granted work permits in 2015.³⁸⁵

To enter the country, Jordan requires that all Iraqis, Sudanese, Somalis and Yemeni males aged 18-49, have preapproved visas. Most Iraqis, Sudanese, Somalis and Yemenis cannot secure annual residency; as a result, they start accruing overstay fees as soon as their entry visa expires. If they do not pay these overstay fees before leaving Jordan, they are prohibited from re-entering the country for five years.³⁸⁶

Due to the *ad-hoc* nature of Jordanian policy in response to the ongoing influx of refugees and migrants, each population of refugees has distinct issues related to their status, although the

situation was not included in the research for this report, and further research would be necessary to assess their specific risk of statelessness.

³⁸² World Food Programme, *Jordan Annual Country Report 2019* (2019); *On the Basis of Nationality: Access to Assistance for Iraqi and Other Asylum-Seekers and Refugees in Jordan*, MENNONITE CENTRAL COMMITTEE 5 (2017) <https://reliefweb.int/report/jordan/basis-nationality-access-assistance-iraqi-and-other-asylum-seekers-and-refugees-jordan> [hereinafter *On the Basis of Nationality*].

³⁸³ World Food Programme, *supra* note 382.

³⁸⁴ *On the Basis of Nationality*, *supra* note 382, at 1; *Putting Needs Over Nationality: Meeting the Needs of Somali and Sudanese Refugees During the Syrian Crisis*, ARAB RENAISSANCE FOR DEMOCRACY AND DEVELOPMENT (2015) (http://ardd-jo.org/sites/default/files/resource-files/ardd-la_-_putting_needs_over_nationality.pdf) [hereinafter *Putting Needs Over Nationality*].

³⁸⁵ *On the Basis of Nationality*, *supra* note 382, at 16 (noting that many of those who were granted work permits were not necessarily being among the “populations of concern”).

³⁸⁶ Rochelle Johnston, Dina Baslan, & Anna Kvittingen, *Realizing the rights of asylum seekers and refugees in Jordan from countries other than Syria with a focus on Yemenis and Sudanese*, NORWEGIAN REFUGEE COUNCIL (April 2019), <https://reliefweb.int/sites/reliefweb.int/files/resources/71975.pdf> [hereinafter *Realizing the rights of asylum seekers and refugees in Jordan from countries other than Syria with a focus on Yemenis and Sudanese*].

main concerns related to statelessness are common for almost all of them. Below is a further snapshot of status-related issues of particular refugee populations:

Iraqi refugees

Displaced Iraqis have arrived in Jordan in multiple waves over the past three decades. At its height in 2008, Jordan hosted an estimated 450,000-500,000 Iraqis; today, there are an estimated 140,000 Iraqis, 67,225 of whom are registered.³⁸⁷ Iraqis may obtain residency in Jordan,³⁸⁸ but in order to gain full legal residency on the basis of a business or investment they are required to deposit 20,000 Jordanian dinars into a Jordanian bank.³⁸⁹ Unlike Syrian refugees, they cannot obtain work permits to participate in the formal economy.³⁹⁰ They are also required to pay for school fees and often lack access to education;³⁹¹ indeed, it is more difficult for Iraqi refugees to obtain an education, as they do not get the same opportunities to attend schools, with the majority of schools at capacity with Jordanian or Syrian children.³⁹² For entry into schools, especially private schools, they need special permission, and their families are required to pay a money deposit and show residency permits.³⁹³

Sudanese and Somali refugees

The majority of Sudanese came to Jordan as a result of the Darfur conflict, and Somalis came to Jordan due to the protracted civil war in Somalia, often after having fled first to another country. In the past two decades, Sudanese and Somalis refugees have increased, with the Sudanese

³⁸⁷ See Zachery Sheldon, *Nationality, Class and Iraqi Migrants*, AMERICAN CENTER OF ORIENTAL RESEARCH 1 (2018); compare Stevens, *supra* note 15, at 5-6 (noting debates surrounding estimates of Iraqis in Jordan in 2008 and that a more likely figure is between 100,000-200,000). Some Iraqis came to Jordan initially for work, but many have since not been able to return due to violence and have become “automatic refugees.” Interview with Gaby Daw, *supra* note 276.

³⁸⁸ Interview with Gaby Daw, *supra* note 276.

³⁸⁹ *Jordan: Availability of permanent residence for foreign investors and business owners, including rights for those individuals*, IMMIGRATION AND REFUGEE BOARD OF CANADA (2016), <https://www.refworld.org/docid/59c11a9e4.html>.

³⁹⁰ Interview with Gaby Daw, *supra* note 276.

³⁹¹ *Id.*; Evaluating the Effectiveness of Shelter, Health, and Education Programs for Iraqi and Syrian Refugees in Jordan U.S. DEP’T OF STATE 17 (2016), <https://www.state.gov/wp-content/uploads/2018/12/Evaluating-the-Effectiveness-of-Shelter-Health-and-Education-Programs-for-Iraqi-and-Syrian-Refugees-in-Jordan-.pdf> [hereinafter Evaluating the Effectiveness].

³⁹² Interview with Gaby Daw, *supra* note 276.

³⁹³ *Id.*

population nearly quadrupling between 2012 and 2014;³⁹⁴ in 2020, Sudanese and Somalis numbered 6,076 and 746 registered refugees, respectively.³⁹⁵ Among the refugee populations, Sudanese and Somalis have been found to be most prone to food insecurity or vulnerability to food insecurity.³⁹⁶ Advocates note that they are the most vulnerable of the refugee populations in Jordan and often experience “invisibility.”³⁹⁷ Racial discrimination has also been cited as impacting their status in Jordan.³⁹⁸ Sudanese and Somalis receive little assistance, and their access to work is limited. For those without status, unemployment is more common.³⁹⁹ Their children are also required to pay school fees.⁴⁰⁰ In 2015, Sudanese refugees and asylum-seekers staged a month-long sit-in outside the UNHCR office in Amman protesting perceived discrimination in provision of humanitarian assistance and resettlement services. In response, the Jordanian authorities broke up the protest encampment and arrested 800 people, forcibly deporting hundreds to Sudan where many were subject to harassment and intimidation upon arrival, including having their documents seized and facing imprisonment.⁴⁰¹ A majority of the deportees were from the Darfur region. This mass deportation was reported to be unprecedented in Jordan.⁴⁰²

Yemenis

Most Yemenis arrived earlier in Jordan largely as migrant workers, but due to the war in Yemen beginning in 2015 they became “automatically” refugees or “refugees to be” as they are unable

³⁹⁴ Rochelle Davis et al., *Sudanese and Somali Refugees in Jordan: Hierarchies of Aid in Protracted Displacement Crises*, MIDDLE EAST RESEARCH & INFORMATION PROJECT (2016), <https://merip.org/2016/09/sudanese-and-somali-refugees-in-jordan/>.

³⁹⁵ UNHCR, Jordan: Statistics for Registered Persons of Concern (as of 15 May 2020), (May 18, 2020), <https://data2.unhcr.org/en/documents/details/76375>.

³⁹⁶ More than two thirds of Sudanese and Somali households are food insecure or vulnerable to food insecurity. World Food Programme, *supra* note 382.

³⁹⁷ *Putting Needs Over Nationality*, *supra* note 384, at 2-4.

³⁹⁸ See, e.g., *On the Basis of Nationality*, *supra* note 382, at 6; Davis et al., *supra* note 394.

³⁹⁹ Interview with Gaby Daw, *supra* note 276.

⁴⁰⁰ Evaluating the Effectiveness, *supra* note 391, at 17.

⁴⁰¹ Davis, *supra* note 394. *Deporting Sudanese Asylum Seekers*, HUMAN RIGHTS WATCH (Dec. 16, 2015), <https://www.hrw.org/news/2015/12/16/jordan-deporting-sudanese-asylum-seekers>.

⁴⁰² Bethan Staton, *Sudanese refugees forcibly deported from Jordan fear arrest and torture*, THE GUARDIAN (Jan. 19, 2016), https://www.theguardian.com/world/2016/jan/19/sudanese-refugees-forcibly-deported-from-jordan-fear-arrest-and-torture?CMP=Share_iOSApp_Other. Davis, *supra* note 394.

to return to Yemen.⁴⁰³ They may register with UNHCR as asylum-seekers and may receive temporary protection for the short term;⁴⁰⁴ nearly 15,000 are registered refugees⁴⁰⁵ though Jordan's last census in 2015 reportedly found the Yemeni population in Jordan to be twice that figure.⁴⁰⁶ Yemenis most often struggle to obtain shelter and cash assistance,⁴⁰⁷ and most Yemenis are men of working age.⁴⁰⁸ Some observers note that since the Yemen conflict is the most recent war in the MENA region, access to resources for Yemeni refugees has been severely limited due to the focus of relief agencies and NGOs on Syrian refugees, along with a lack of donor commitment.⁴⁰⁹

A critical barrier to obtaining legal status for all these populations is the temporary halt on UNHCR registration of new non-Syrian refugees in Jordan. UNHCR stopped registering non-Syrian refugees on January 23, 2019, while it is negotiating a new mechanism for refugee registration with the Government of Jordan.⁴¹⁰ In contrast, Syrian refugees are still typically registered immediately.⁴¹¹

According to UNHCR, registration for non-Syrian refugees will resume once these negotiations have concluded. In the meantime, UNHCR is continuing to 'record' non-Syrian refugees because these individuals continue to come to UNHCR for assistance. But non-Syrian refugees who have not yet registered with UNHCR cannot do so for an indefinite period. Recording rather than registering refugees has significant consequences. Only registered refugees are

⁴⁰³ Interview with Gaby Daw, *supra* note 276.

⁴⁰⁴ Interview with Fawzia Istaiteyah, *supra* note 319.

⁴⁰⁵ UNHCR, Jordan Operational Update (Feb. 2020), <https://reliefweb.int/report/jordan/jordan-unhcr-operational-update-february-2020>.

⁴⁰⁶ Ghazal, *supra* note 51.

⁴⁰⁷ World Food Programme, *supra* note 382.

⁴⁰⁸ *Realizing the rights of asylum seekers and refugees in Jordan from countries other than Syria with a focus on Yemenis and Sudanese*, *supra* note 386, at i.

⁴⁰⁹ See, e.g., Rochelle Johnston, Dina Baslan, and Anna Kvittingen, *supra* note 386. Taylor Luck, *For Yemenis, Arab world's refugees-come-lately, Jordan offers little relief*, CHRISTIAN SCIENCE MONITOR (Mar. 29, 2018), <https://www.csmonitor.com/World/Middle-East/2018/0329/For-Yemenis-Arab-world-s-refugees-come-lately-Jordan-offers-little-relief>.

⁴¹⁰ Interview with Fawzia Istaiteyah, *supra* note 319. See also *2019 Country Reports on Human Rights Practices: Jordan*, U.S. DEP'T OF STATE (Mar. 11, 2020), <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/jordan/>.

⁴¹¹ Interview with Fawzia Istaiteyah, *supra* note 319.

considered ‘refugees’ or ‘asylum-seekers’ under Jordan’s MOU with UNHCR, eligible for resettlement, naturalization, or other humanitarian admission programs, and for the bulk of humanitarian assistance distributed through UNHCR and its partner organizations. Those refugees who are only ‘recorded’ are not eligible for resettlement or naturalization and are also ineligible for most available humanitarian aid.⁴¹²

d) The Bedouin-related “Bidoon” in Jordan

The Bedouin-related “bidoon” in Jordan are among the populations in the country with barriers to achieving legal status and susceptible to intergenerational statelessness.⁴¹³ As noted previously, there are a number of causes of statelessness among the Bedouin-related “bidoon” in Jordan: (1) lack of ability to perfect or effectuate citizenship due to civil registration and documentation requirements, (2) undetermined nationality, and (3) concern among some that citizenship would limit their mobility to migrate between countries.⁴¹⁴ Although the causes of statelessness often overlap, each will be discussed below. As a threshold matter, however, it is important to note the lack of detailed information currently available on these communities. More research and individual interviews with Bedouin-related “bidoon” are needed to determine more precisely the causes of statelessness for these populations, the particular communities, and the numbers involved.⁴¹⁵ Although initial research seems to suggest the numbers of Bedouin-related “bidoon” are in the thousands, accurate data is limited.⁴¹⁶

⁴¹² *Id.* Correspondence with Arab Renaissance for Democracy and Development, to Christine Bustany, Senior Lecturer, Fletcher School of Global Affairs (Jan. 28, 2021) (on file with author). Regarding naturalization, refugees that are registered with UNHCR are qualified for naturalization regardless of nationality and in accordance with the UNHCR regulations. *Id.* However, it should be noted that access to naturalization for “registered” refugees appears not to be available, especially given Jordan’s naturalization provisions. *See supra* Part IV.A.1.

⁴¹³ As previously noted, definitional issues abound and accurate data is difficult to ascertain for Bedouins. *See supra* section II.B.1, *supra* note 51. Jordan’s Nationality Law grants nationality to “all members of the Bedouin tribes of the North mentioned in paragraph (j) of article 25 of the Provisional Election Law, No. 24 of 1960, who were effectively living in the territories annexed to the Kingdom in 1930.” LAW NO. 6 OF 1954 ON NATIONALITY Jan. 1, 1954, art. 3 (Jordan); Interview with Rami Quwader, *supra* note 114.

⁴¹⁴ There is currently a lack of information on the causes of statelessness for Bedouin-related populations in Jordan and further research on this topic is necessary. Interview with Rami Quwader, *supra* note 114.

⁴¹⁵ *Id.*

⁴¹⁶ *Supra* Part II.B.3. *See also Bedouin: Before the establishment of the state yet do not carry its nationality*, JORDAN MEDIA INSTITUTE, HIBER, June 19, 2014, <https://www.7iber.com/2014/06/bedoun/>.

Some Bedouin-related “bidoon” who had undetermined legal status requested and have been granted Jordanian nationality in recent decades.⁴¹⁷ However, others have been unsuccessful in obtaining Jordanian nationality in part because they have been asked to provide proof of identity and documentation, which they lack and attribute to their historic identity as Bedouins.⁴¹⁸

MOI’s Civil Status Department established a Temporary Special Committee in 2011 specifically to review such cases.⁴¹⁹ Because Bedouins generally do not have any documents, their applications for Jordanian nationality require steps that are distinct, which, according to the Jordanian Government, are generally not difficult to complete. It has been reported that the Civil Status Department requires a certificate from an accredited sheikh/advisor in the clan, a non-conviction certificate, a certificate from a *mukhtar*⁴²⁰ proving permanent residence, and proof of residency in the region over the past five years, and any bonds or official documents proving the applicant’s presence in the region.⁴²¹ A member of the Committee further noted in a news report that what is required is evidence confirming the validity of a person’s residency in the region and on Jordanian land, whether official bills or educational certificates supported by a testimony from the clan Sheikh and the district’s *mukhtar* proving that the person is one of their community/group members.⁴²² There are approximately 1,500 “bidoon” in the northern Badia who applied for citizenship as of 2014; and the Committee requested that the authorities consider the requests of 470 which met the requirements. Through the work of the Committee, some Bedouin-related “bidoon” in Jordan have been able to access certain services, including temporary passports, but many have not been granted citizenship and the question of their

⁴¹⁷ *Bedouin: Before the establishment of the state yet do not carry its nationality*, *supra* note 416. It has been reported that in 1986, the late King Hussein ordered the granting of citizenship to the northern Badia tribes, and a committee was established to review people’s applications for citizenship. While some were able to gain nationality if they had identity papers to submit, others were denied. *Id.*

⁴¹⁸ Interview with Rami Quwader, *supra* note 114.

⁴¹⁹ *Id.*

⁴²⁰ A *mukhtar* has been defined as a village elder or “headman, of a small village [who] linked [] villagers with the state bureaucracy, especially if there were no village or municipal council. The mukhtar's duties include[s] the registering of births and deaths, notarizing official papers for villagers,” among other things. Helen Chapin Metz, ed, *A Country Study: Jordan*, FEDERAL RESEARCH DIVISION OF THE LIBRARY OF U.S. CONGRESS (1989), <http://countrystudies.us/jordan/33.htm>.

⁴²¹ *Bedouin: Before the establishment of the state yet do not carry its nationality*, *supra* note 416.

⁴²² *Id.*

nationality has not been resolved. These temporary passports do not confer nationality, as there is no ID number, but can be used for travel outside of Jordan.⁴²³

An estimated 5,000 to potentially more than 7,000 “bidoon” living in the northern Badia region have no right to education, employment, or ownership of assets.⁴²⁴ Because of their status, they are marginalized communities, live in extremely poor conditions, mostly in camps.⁴²⁵ It is often difficult for “bidoon” to attend school. However, if a father obtains an ID document under the process above (that does not confer nationality) for his children from the Government of Jordan, his children can go to school and have access to healthcare and other services.⁴²⁶

The Jordanian Interior Minister Salama Hammad has justified not granting nationality to this population of bidoon living in the northern Badia region, claiming that the Government knows who is Jordanian and that they “have other nationalities,” namely Syrian or Iraqi. Based on this position, the Interior Minister has claimed that the Jordanian Government is only being generous in helping the “bidoon” by providing them with residency permits.⁴²⁷

Notwithstanding whether these particular “bidoon” in the northern Badia region have or would be entitled to “other nationalities,” many were born and/or have lived for decades in Jordan and thus should be able to access Jordanian citizenship through naturalization.⁴²⁸ That naturalization in Jordan is rarely available represents a significant gap to addressing the protection and legal status issues for this population.⁴²⁹

⁴²³ *Id.*

⁴²⁴ *Id.*

⁴²⁵ Interview with Samar Muhareb, *supra* note 126.

⁴²⁶ Interview with Rami Quwader, *supra* note 114.

⁴²⁷ *7,000 People without Nationality in the Badia*, JFR NEWS (Jan. 26, 2020), <http://www.jfrnews.com.jo/post.php?id=256309>.

⁴²⁸ *Bedouin: Before the establishment of the state yet do not carry its nationality*, *supra* note 416.

⁴²⁹ *Supra* Part IV.A.1.

One view held by organizations working with Bedouin communities is that some Bedouin-related “bidoon” have purposefully not obtained or refused a nationality in order to facilitate their nomadic lifestyle of travelling between countries.⁴³⁰ The extent to which this was historically the case and remains to be an issue needs further research, along with the other issues identified earlier.⁴³¹ Clearly, whatever the causes may have been for not accessing citizenship, the children of “bidoon” have a right to a nationality according to Jordan’s international law obligations.⁴³² By not ensuring this right, Jordan fails to prevent intergenerational statelessness for this already marginalized population.⁴³³

V. MAJOR CONSEQUENCES

A. Disabilities Caused by Stateless Status

Gaps in the law and its implementation result in a large population of persons who face severe consequences because of their lack of status. Without citizenship, stateless people lack legal protection and have no right to vote. Additionally, among the major consequences include lack of access to (1) formal employment, (2) education, (3) social benefits, and (4) humanitarian aid. Additionally, stateless persons and their families may remain without status for generations.

1. Employment

The precarious legal status of stateless persons leads to a higher likelihood of exploitation and abuse for those working in the informal economy due to restrictions on participation in the formal economy.⁴³⁴ Vulnerability to exploitation is compounded by the overall economic situation in Jordan, where approximately fifteen percent of the population lives below the poverty line.⁴³⁵ Approximately nineteen percent are unemployed, and the rate is likely to rise

⁴³⁰ Interview with Rami Quwader, *supra* note 114.

⁴³¹ *Supra* Part II.B.3.

⁴³² *Supra* Part III.B.1.

⁴³³ *Bedouin: Before the establishment of the state yet do not carry its nationality*, *supra* note 416.

⁴³⁴ *Treatment of Non-Citizen Children*, *supra* note 33, at 33-38.

⁴³⁵ World Food Programme, *supra* note 382.

due to the pandemic.⁴³⁶ For young people aged 18-24, the unemployment rate is as high as thirty percent.⁴³⁷

Unemployment is highest for non-Jordanians, who are restricted in the fields of work that they can enter.⁴³⁸ Some sectors are entirely closed off to non-Jordanians, primarily at the technical and professional level.⁴³⁹ Other sectors have quotas set aside for Jordanians,⁴⁴⁰ which prevent employers from employing non-Jordanians, at least not legally.⁴⁴¹ In 2019, the Government issued a new list of professions closed to non-Jordanians, which effectively restricts access to most occupations.⁴⁴² In addition to restricting the fields of work available to non-Jordanians, the Government requires costly work permits, which must be paid for and renewed annually by the non-Jordanian employee.⁴⁴³

Under the Jordan Compact, the Government committed to issuing up to 200,000 work permits to Syrians in certain sectors, and waived the fees to apply for work permits only for Syrian refugees.⁴⁴⁴ To date, progress has been slow. While the Government has not met the targeted number of permits (issuing less than 20 percent), the number of work permits issued to Syrians increased from 5,000 work permits for Syrians in 2015 to 47,766 work permits in 2019.⁴⁴⁵ To

⁴³⁶ *Id.*; see also *1 per cent of humanity displaced: UNHCR Global Trends report*, UNHCR (June 18, 2020), <https://www.unhcr.org/jo/13317-1-per-cent-of-humanity-displaced-unhcr-global-trends-report.html>.

⁴³⁷ World Food Programme, *supra* note 382.

⁴³⁸ Interview with Patrick Daru, Senior Skills and Employability Specialist & Coordinator for Amman Decent Work Country Programme, International Labor Organization, in Amman, Jordan (Nov. 19, 2019); ILO, *DECENT WORK COUNTRY PROGRAMME: THE HASHEMITE KINGDOM OF JORDAN* (2018) https://www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/genericdocument/wcms_656566.pdf (“The Government has also introduced a sector-specific quota system and a maximum number of work permits per company in some sectors.”).

⁴³⁹ *Treatment of Non-Citizen Children*, *supra* note 33, at 37.

⁴⁴⁰ Interview with Patrick Daru, *supra* note 438.

⁴⁴¹ Interview with Confidential Informant, Non-governmental Organization in Amman, Jordan (Nov. 21, 2019).

⁴⁴² *Walk the Talk For the Jordan Compact*, ARAB RENAISSANCE FOR DEMOCRACY & DEVELOPMENT (June 2020) [hereinafter *Walk the Talk For the Jordan Compact*], <https://jordaningoforum.org/2020/06/28/walk-the-talk-june-2020/>; *Treatment of Non-Citizen Children*, *supra* note 33, at 34 (noting that closed professions included administrative and accounting jobs, printing and secretarial work, mechanical work, car repair, hair dressers, medical professions, engineering, teaching, professional drivers, and sales jobs).

⁴⁴³ *Treatment of Non-Citizen Children*, *supra* note 33, at 30.

⁴⁴⁴ Government of Jordan, *The Jordan Compact: A New Holistic Approach between the Hashemite Kingdom of Jordan and the International Community to deal with the Syrian Refugee Crisis* (2016).

⁴⁴⁵ *Walk the Talk For the Jordan Compact*, *supra* note 442; see also *Basis of Nationality*, *supra* note 382, at 16.

apply for a work permit, Syrians need to have an MOI card.⁴⁴⁶ In some sectors of employment, for a non-citizen to change from one sector to another, s/he must notify the Government for approval to take a new job.⁴⁴⁷

Many Syrian refugees, as well as other refugees who are not benefiting from the Jordan Compact, and Jordanians without perfected citizenship, participate in the informal economy. Non-citizen children of Jordanian women who have government-issued identification card are not exempt from having to obtain a work permit.⁴⁴⁸ This population, in particular, has experienced discrimination when applying for work permits because they only lack citizenship because it is their mother and not their father who is Jordanian. They have been particularly vocal about the preferential treatment given to Jordanian citizens for employment.⁴⁴⁹

Working puts those without status at risk of administrative detention, which can have severe ramifications even after release, including the authorities holding onto passports and/or requiring a guarantor in order to be released.⁴⁵⁰ It has been reported that if Iraqis and others are apprehended by the authorities for a work permit violation, they are subject to greater penalties than Syrians since Syrians can avoid repercussions by then applying for a work permit.⁴⁵¹

Individuals working in the informal economy have fewer guarantees regarding working conditions and are at increased risk of being exploited or abused. Legal uncertainties related to having to obtain an annual work permit can also limit professional mobility and threaten job stability.⁴⁵² Restricted access to employment opportunities particularly leaves refugees with little

⁴⁴⁶ Interview with Patrick Daru, *supra* note 438.

⁴⁴⁷ Interview with Confidential Informant, *supra* note 441.

⁴⁴⁸ *Treatment of Non-Citizen Children*, *supra* note 33, at 4.

⁴⁴⁹ *Id.*

⁴⁵⁰ *Putting Needs Over Nationality*, *supra* note 384, at 9.

⁴⁵¹ *On the Basis of Nationality*, *supra* note 382, at 16.

⁴⁵² *Treatment of Non-Citizen Children*, *supra* note 33, at 4.

resources and opportunity to better their financial situation. This often results in forced dependency on humanitarian aid.⁴⁵³

2. Education

Children without status are unable to benefit from Jordan’s subsidized primary and secondary education, and face significantly higher costs and competition for the limited university spaces available to non-nationals.⁴⁵⁴ After a number of reforms to the Education Act were instituted in 2006 and 2013, Jordanian public schools could enroll non-Jordanian Arab students so long as they have the required documentation—for example, temporary passports, residency permits, and fathers’ valid work permits—and the school has the capacity to admit them. Even if these requirements are met, the cost of schooling is considerably higher for non-Jordanian Arab students.⁴⁵⁵ It is important to note as well that non-Arab non-citizen students are only allowed to enroll in private schools. Palestinian students who come from the West Bank are allowed admission to public schools only if they are granted permission from the Ministry of Interior’s Follow-up and Inspection Department, while “ex-Gazans” students are often registered in UNRWA schools for Palestinian refugees.⁴⁵⁶

Although Palestinian refugee children have access to public school education, UNRWA provides basic schooling to nine in ten Palestinian refugees inside camps.⁴⁵⁷ UNRWA schools are severely under-resourced, operating with a double-shift system. One study found that students who attend UNRWA schools versus Jordanian public schools are significantly less likely to have completed basic schooling—29 percent versus 7 percent.⁴⁵⁸

⁴⁵³ See Elke Grawert, *Between aid dependence, neighborhood solidarity and the EU–Jordan Compact: Livelihood Analysis of Syrian Refugees in Greater Amman* 47 (Bonn International Center for Conversion, Working Paper 4/2019) https://www.bicc.de/uploads/tx_bicctools/wp_4_19_web.pdf (last visited Feb. 7, 2021).

⁴⁵⁴ *Palestinians - Jordan*, MINORITY RIGHTS GROUP, <https://minorityrights.org/minorities/palestinians-2/> (last visited Feb. 7, 2021).

⁴⁵⁵ *Treatment of Non-Citizen Children*, *supra* note 33, at 45.

⁴⁵⁶ *Id.* at 45-46.

⁴⁵⁷ *Decades of Resilience: Stateless Gazan Refugees in Jordan*, PALESTINE RETURN CENTRE (2018) <https://prc.org.uk/upload/library/files/DecadesOfResilience2018.pdf> [hereinafter *Decades of Resilience*].

⁴⁵⁸ Åge Tiltnes and Huafeng Zhang, *Progress, Challenges, Diversity Insights Into The Socio-Economic Conditions Of Palestinian Refugees In Jordan*, NORWAY: FAFO, 162 (Dec. 20, 2013), <https://www.unrwa.org/resources/reports/insights-socio-economic-conditions-palestinian-refugees-jordan>.

While Jordanian public schools have increased access to Syrian refugee children (supported by donor funding earmarked for such purpose), the proportion of Syrian students not enrolled in school remains alarming.⁴⁵⁹ As late as 2015, more than a third of 5-17 year old Syrian refugees did not receive a formal education.⁴⁶⁰ Recent figures of adolescents in schools is even more concerning: only 15 percent of 16-year-old Syrian children in Jordan are enrolled in school.⁴⁶¹ Only a “tiny fraction” of Syrian students complete their secondary schooling.⁴⁶²

Accessing university education is significantly more difficult than access to primary or secondary education, largely due to the high tuition fees for non-Jordanians, which makes university unaffordable. While there are exemptions offered for non-citizens, these are severely limited and attainable only to a select few. Additionally, there are obstacles to entry into certain schools due to the restrictions on professions in which non-Jordanian nationals may participate, e.g., law, engineering, and medicine.⁴⁶³

In recent years, there have been reforms to address some of these issues, discussed in detail below.⁴⁶⁴ Yet fundamental barriers remain, preventing children from accessing an education, thereby limiting their chances to escape poverty, gain employment, and actively participate in their society.

⁴⁵⁹ *We're Afraid for Their Future*, *supra* note 83, at 1-2.

⁴⁶⁰ *Id.* at 1.

⁴⁶¹ Age Tiltnes, Huafeng Zhang and Jon Pederson, *The living conditions of Syrian refugees in Jordan: Results from the 2017-2018 survey of Syrian refugees inside and outside camps*, FAFO AND JORDANIAN MINISTRY OF PLANNING AND INTERNATIONAL COOPERATION 80 (Jan. 2019), <https://reliefweb.int/sites/reliefweb.int/files/resources/67914.pdf>;
Human Rights Watch Letter to European Commission re: Access to Secondary Education for Syrian Refugee Children, HUMAN RIGHTS WATCH (May 18, 2020), https://www.hrw.org/news/2020/05/18/letter-european-commission-re-access-secondary-education-syrian-refugee-children#_ednref5.

⁴⁶² *Id.*

⁴⁶³ *Decades of Resilience*, *supra* note 457, at 32-34.

⁴⁶⁴ *Infra* V.B.1.

3. Healthcare

Persons who lack legal status are systematically deprived of social benefits in Jordan. This has severe consequences with regard to access to healthcare.

The healthcare system in Jordan consists of public, semipublic and private sector entities—and Jordan is often considered to be a destination in the region for providing quality care for those who can afford it.⁴⁶⁵ Yet most vulnerable populations in Jordan cannot afford the fees. More than 30 percent of Jordanians and 75 percent of non-Jordanians are uninsured.⁴⁶⁶

Jordan's public healthcare system is state-subsidized, but is severely under-resourced and provides only a baseline level of healthcare for those without private insurance.⁴⁶⁷ Most Jordanian citizens, e.g., Government employees and military veterans, are provided with a national health insurance program through the Ministry of Health (MOH) and the Royal Medical Service.⁴⁶⁸ Foreigners are not eligible for public insurance and must rely on expensive private insurance (unaffordable to most refugees), which even then does not cover certain procedures.⁴⁶⁹ "Medical exemptions" from the MOH, Office of the Prime Minister, or the Royal Court, often help Jordanian citizens with or without insurance faced with catastrophic health issues, but such exemptions are rarely available for foreigners.⁴⁷⁰

When accessing public healthcare services, non-nationals pay 35 to 60 percent higher fees than uninsured Jordanians.⁴⁷¹ With respect to at-risk populations, access to healthcare and associated costs is largely dependent on an individual's status and/or nationality.

⁴⁶⁵ Lama Nazar & Haitham Tuffaha, *Health Care and Pharmacy Practice in Jordan*, 70(2) CANADIAN J. HOSP. PHAR. 150 (2017), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5407425/>.

⁴⁶⁶ Dana Al Emam, '55% of Population, 68% of Jordanians Covered by Health Insurance', JORDAN TIMES (Feb. 22, 2016), <http://www.jordantimes.com/news/local/55-population-68-jordanians-covered-health-insurance%E2%80%99>.

⁴⁶⁷ *Treatment of Non-Citizen Children*, *supra* note 33, at 41.

⁴⁶⁸ Al Emam, *supra* note 466.

⁴⁶⁹ *On the Basis of Nationality*, *supra* note 382, at 5; *Treatment of Non-Citizen Children*, *supra* note 33, at 41-42.

⁴⁷⁰ *Treatment of Non-Citizen Children*, *supra* note 33, at 41.

⁴⁷¹ *Id.* at 42.

- *Jordanians with unperfected citizenship* pay the foreign rate for healthcare.⁴⁷²
- *Non-citizen children of Jordanian mothers* under 18 years of age have been provided greater access to subsidized healthcare due to Government reforms in 2015, in particular, the provision of a “non-citizen mother benefits card” (discussed *infra* V.B.1); but such measures do not appear to address access issues related to adult non-citizen children of Jordanian mothers, and coverage even for intended beneficiaries, i.e., those under 18 years of age, has been poorly implemented.⁴⁷³ Discrimination against, for example, ex-Gazans who hold this non-citizen mother benefits card persists, as reportedly some Government bodies and enterprises have not accepted the card as proof of identity.⁴⁷⁴
- *Palestinians without a national identification number* pay higher costs for healthcare— as discriminatory legislation prohibits access to government healthcare.⁴⁷⁵ Ex-Gazans pay the foreign rate for care in public hospitals and are limited with respect to insurance plans. They have access to the public healthcare system at a subsidized rate of 15-20 percent of the total fee, according to MOH.⁴⁷⁶ Ex-Gazans living in camps largely make use of the UNRWA healthcare services. These clinics are considered to offer very basic services that do not meet the plethora of different health needs residents of the camps have.⁴⁷⁷ Ex-Gazan children under the age of six have public health insurance and are treated free of charge at governmental health facilities.⁴⁷⁸
- *Syrians* are provided access to MOH services at highly subsidized rates—20 percent of the cost foreigners pay.⁴⁷⁹ For a period from 2011-2014, Syrians—holding the requisite documentation—received free healthcare at public facilities and were treated like insured Jordanians; but thereafter Jordan changed its policy such that Syrian refugees would be required to pay the rate that uninsured Jordanians pay to access MOH facilities. While more costly than the insured Jordanian rate, the

⁴⁷² E-mail from Oroub El-Abed, Postdoctoral Research Associate-Amman based Co-Principal Investigator, Centre for Lebanese Studies, Lebanese American University-Beirut, to Christine Bustany, Senior Lecturer, Fletcher School of Law and Diplomacy (Jan. 8, 2021) (on file with the author).

⁴⁷³ *Treatment of Non-Citizen Children*, *supra* note 33, at 42.

⁴⁷⁴ *Decades of Resilience*, *supra* note 457, at 16; *The Question of Palestine in the times of COVID-19*, *supra* note 78, at 2.

⁴⁷⁵ MAPPING THE LEGAL OBSTACLES PALESTINIANS FACE IN JORDAN, *supra* note 66, at 5.

⁴⁷⁶ *Decades of Resilience*, *supra* note 457, at 34 (citing JORDAN MINISTRY OF HEALTH, *Ministry of Health Strategy 2018 - 2022* (2018)).

⁴⁷⁷ *Id.* at 34.

⁴⁷⁸ *Id.* at 35.

⁴⁷⁹ *On the Basis of Nationality*, *supra* note 382, at 5.

uninsured Jordanian rate is still highly subsidized (in part financially supported by the World Bank).⁴⁸⁰ With UNHCR certificate and a MOI card, Syrians also have access to free emergency care at public hospitals. For those without requisite documentation, UNHCR currently provides primary and some secondary health care services.⁴⁸¹

- *Iraqis, Sudanese, Somalis, and Yemenis* are required to pay the foreigners' rate to access MOH services, a rate unaffordable to most (and five times that of Syrians). Although from 2007 to mid-2015, Iraqis were able to access MOH facilities at the uninsured Jordanian rate, the Government thereafter required Iraqis to pay the foreigners' rate. In 2017, the Government restored access to Iraqis with residency permits to primary care through MOH facilities at the uninsured Jordanian rate, but most Iraqis do not have residency permits.⁴⁸²

Although UNHCR attempts to fill the critical gaps experienced by Syrians without documentation, as well as Iraqis and other populations of concern, it does not have sufficient resources to do so, resulting in a severely limited access to healthcare, particularly, tertiary care and some emergency cases.⁴⁸³

4. Access to Humanitarian Aid

The lack of civil documentation can negatively affect a refugee's ability to access humanitarian aid and services, even aid and services provided by NGOs. Access to humanitarian aid frequently depends on whether the particular refugee has the necessary documentation.⁴⁸⁴ Several NGOs require some form of identification before providing a refugee with services.⁴⁸⁵ For most NGOs, this is satisfied by an MOI card, which is proof of a Syrian refugee's registration with UNHCR.⁴⁸⁶ However, as noted above with respect to provision of healthcare, refugees who are unregistered and do not have an MOI card have limited access to critically needed services and humanitarian aid.

⁴⁸⁰ *Id.* at 17-18.

⁴⁸¹ *Id.* at 19.

⁴⁸² *Id.* at 18.

⁴⁸³ *Id.* at 18-19.

⁴⁸⁴ Interview with Confidential Informant, *supra* note 441.

⁴⁸⁵ *Id.*

⁴⁸⁶ *Id.*

5. Inter-generational Statelessness

The weaknesses in the legal framework prevent refugees and their children, as well as Jordanians, from obtaining or rectifying their legal status, causing generations of families to remain without status. Stateless persons who cannot return to their state of origin or be resettled to a third country remain in Jordan for decades without status. This protracted displacement exposes new generations of children and adults to the risk of statelessness if they are not able to obtain a legal status in their host country.

For those who cannot access citizenship, the consequences of inter-generational statelessness are severe.⁴⁸⁷ Non-citizen spouses and children of Jordanian women will often rely on their wives or mothers, respectively, in all aspects of life - often registering cars, bank accounts, phones, homes in her name rather than their own.⁴⁸⁸ This places incredible stress on Jordanian women to be responsible for their spouses as well as their children, long after their children reach adulthood.⁴⁸⁹ For non-citizen girls who marry Jordanian nationals, this is less of an issue because husbands can transfer nationality to spouses.⁴⁹⁰ On the other hand, non-citizen boys will remain stateless and, if they later have families, produce potentially stateless children.⁴⁹¹

For refugees without status, communities of stateless non-Jordanians are not at all uncommon. UNHCR currently states that there are 90,000 refugees who are not Syrian or Palestinian in Jordan.⁴⁹² Because there is no separate determination of 'stateless' that applies to these refugee populations, it is impossible to obtain accurate numbers,⁴⁹³ but given the barriers to accessing legal status and the numbers of refugees who face them, it can be assumed that many thousands are stateless.⁴⁹⁴ As with Jordanians and non-Jordanians, refugees currently face a situation of

⁴⁸⁷ See Tilburg University & Open Society Foundations, *supra* note 25, at 204-207.

⁴⁸⁸ Interview with Layla Naffa, *supra* note 225.

⁴⁸⁹ *Id.*; see also Nasser, *supra* note 24, at 9.

⁴⁹⁰ Interview with Layla Naffa, *supra* note 225; see also See Tilburg University & Open Society Foundations, *supra* note 25, at 42-54.

⁴⁹¹ Interview with Layla Naffa, *supra* note 225.

⁴⁹² *Who We Are*, UNHCR, <https://www.unhcr.org/jo/who-we-are>, (last visited May 11, 2020).

⁴⁹³ Zahra Albarazi and Laura van Waas, *Statelessness and Displacement Scoping Paper*, NORWEGIAN REFUGEE COUNCIL 9-10 (April 2016), <https://www.nrc.no/globalassets/pdf/reports/statelessness-and-displacement.pdf>.

⁴⁹⁴ See *supra* IV.

high unemployment,⁴⁹⁵ housing and other resource scarcities in the country,⁴⁹⁶ and limited access to humanitarian aid.⁴⁹⁷

B. Stakeholders' Achievements

1. Governmental Efforts

In recent years, the Jordanian Government has been receptive to nationality reform. Government efforts have centered on ending gender-discrimination in Jordan's Nationality Law to allow women to transmit nationality to children and spouses and facilitating civil registration of Syrian refugees in partnership with UNHCR.

Although Jordan has not reformed its Nationality Law or removed its reservation to Article 9(2) of CEDAW, the Jordanian Government has taken steps to address the needs of children of Jordanian women married to non-Jordanians. In November 2014, the Cabinet of Jordan issued Decision 6415, which promised certain benefits to non-citizen children of Jordanian women.⁴⁹⁸ Parliamentarians have called Decision 6415 *tasheelat* (an easing of restrictions).⁴⁹⁹ It established a special identification card for these children, and increased access to rights in six key areas: public education, government healthcare, employment opportunities, property ownership, investment, and obtaining a driver's license.⁵⁰⁰ Decision 6415 was in large part the result of activism and advocacy of Jordanian mothers, local women's rights organizations, human rights

⁴⁹⁵ See *supra* II.B.3.; see also Nasser, *supra* note 24, at 9.

⁴⁹⁶ See Nasser, *supra* note 24, at 9.

⁴⁹⁷ See *supra* V.A.4; see also Jordan INGO Forum, *Issues Related to Registration and Legal Status for Syrian Refugees in Jordan*, 1-4 (Sept. 2015); Åge A. Tiltnes & Huafeng Zhang, *Progress, Challenges, Diversity: Insights into the Socio-economic Conditions of Palestinian Refugees in Jordan*, 7-10 UNRWA (2013) https://www.unrwa.org/sites/default/files/insights_into_the_socio-economic_conditions_of_palestinian_refugees_in_jordan.pdf.

⁴⁹⁸ The Jordanian Cabinet or Council of Ministers, headed by Jordan's prime minister, is charged with presenting the political program to the Parliament, which then votes on it. The prime minister organizes a cabinet of ministers to be appointed by the King, subsequent to which the prime minister and ministers must be approved by the lower house of Parliament. *Jordan Government: Executive Branch*, JORDAN GOVERNMENT, <http://www.kinghussein.gov.jo/government2.html> (last visited Feb. 7, 2021).

⁴⁹⁹ See *Treatment of Non-Citizen Children*, *supra* note 33, at 3.

⁵⁰⁰ *Id.* at 22.

groups, and the Jordanian National Commission for Women, who consider it a major achievement for Jordanian women and their children.⁵⁰¹ Their activism is discussed below.

While Decision 6415 was designed to ensure basic rights for non-citizen children, it does not eliminate the discrimination between children of Jordanian mothers and children of Jordanian fathers.⁵⁰² For example, the Decision has improved access to public education and government healthcare for these non-citizen children. Public schools and public hospitals are required to treat non-citizen children the same as citizen children, but non-citizen university students, including children of Jordanian mothers, pay more than university students who are Jordanian, including children of Jordanian fathers.⁵⁰³ Moreover, once non-citizen children are above eighteen they do not qualify for healthcare.⁵⁰⁴ In 2018, the Ministry of Health stipulated that access to public hospitals applies only to non-citizen children aged under eighteen whose Jordanian mothers are insured - essentially, non-citizen children receive coverage under their mother.⁵⁰⁵ Consequently, the Decision did not appear to constitute a reform, since private insurance already covered non-citizen children. Shortly thereafter, however, the MOH circulated a list of instructions to hospital directors and heads of health centers providing that non-citizen children of *uninsured* Jordanian mothers, regardless of age, would be permitted to pay the same fees as uninsured Jordanians so long as the mother can prove she was a Jordanian resident for at least five years. A subsequent letter from MOH to Human Rights Watch indicated that in fact this policy did not apply to adult non-citizen children: whether their mothers are insured or not, adult non-citizen children do not qualify for public healthcare.⁵⁰⁶

While Decision 6415 was a major accomplishment, in general, recipients have not experienced a significant improvement since obtaining an identification card.⁵⁰⁷ The primary issue regarding Decision 6415 is not the scope of the guaranteed rights - as the six key aforementioned areas

⁵⁰¹ Interview with Layla Naffa, *supra* note 225; see also *Treatment of Non-Citizen Children*, *supra* note 33, at 3.

⁵⁰² Telephone Interview with Confidential Informant, *supra* note 136.

⁵⁰³ Interview with Layla Naffa, *supra* note 225.

⁵⁰⁴ *Id.*

⁵⁰⁵ *Id.*

⁵⁰⁶ See *Treatment of Non-Citizen Children*, *supra* note 33, at 42.

⁵⁰⁷ See *id.*, at 58.

cover non-citizen children's most significant needs.⁵⁰⁸ The primary issue is that inadequate implementation makes it difficult to access those rights.⁵⁰⁹ Gaps in two areas have prevented non-citizen children from reaping the benefits of the Decision. First, authorities have not consistently recognized the identification cards in practice.⁵¹⁰ The Decision was not widely disseminated to authorities, so many authorities have not accepted the identification cards as valid identification.⁵¹¹ Second, the application for the card requires extensive paperwork. The Civil Status Department may require the mother's Jordanian passport or national identification card, the mother's marriage certificate, proof of the mother's permanent residence, two pictures of the son or daughter, the applicant's certified birth certificate, a valid passport, and a declaration of marital status.⁵¹² The Civil Status Department also requires children to present residency permits, if their nationality requires it under Jordanian law, or a work or study permit and a security clearance.⁵¹³ A security clearance from the General Intelligence Directorate and medical test is also required.⁵¹⁴ If the non-citizen child's mother is deceased, then a guardian may apply instead, but the mother's death certificate is required.⁵¹⁵ Even though the identification card only costs 3 JOD, gathering this paperwork is too expensive for many, and incredibly time consuming for those who do not have the documents readily available.⁵¹⁶ When the Government first issued the Decision, it also required the mothers of these children to have lived in Jordan for a minimum of five years before applying.⁵¹⁷ The card must also be renewed every five years.⁵¹⁸

⁵⁰⁸ It should be noted that while the Decision purported to include reforms with respect to property rights, those provisions had little effect, since non-citizen children of Jordanian women continue to be subject to the laws governing ownership and investment for non-nationals. For example, adult non-citizen children may purchase property, but with the important caveat that property must be registered under the name of a Jordanian citizen. See *Treatment of Non-Citizen Children*, *supra* note 33, at 42. In order for non-citizens to acquire property, they are required to obtain approval from the Minister of Finance, the Minister of Interior, the Land and Borders Director, or the General Intelligence Directorate. *Id.* at 49. The only way to transfer ownership of immovable property is through inheritance from their Jordanian mothers, but the process is onerous, making inheritance difficult to secure. *Id.* at 49-50.

⁵⁰⁹ Telephone Interview with Confidential Informant, *supra* note 136.

⁵¹⁰ Interview with Layla Naffa, *supra* note 225.

⁵¹¹ *Id.*

⁵¹² See *Treatment of Non-Citizen Children*, *supra* note 33, at 25-26.

⁵¹³ *Id.* at 26.

⁵¹⁴ *Id.* at 4.

⁵¹⁵ *Id.* at 26.

⁵¹⁶ *Id.* at 30.

⁵¹⁷ Telephone Interview with Confidential Informant, *supra* note 136.

⁵¹⁸ *Id.*

Upon issuing the Decision, Interior Minister Hussein Majali stated that the law would benefit 355,923 children of 88,983 mothers.⁵¹⁹ As of February 2018, the Jordanian Government has issued identification cards to just 72,000 - a small fraction of those entitled to one.⁵²⁰ In March 2017, the CEDAW Committee called on Jordan to fully implement and to publish Decision 6415 to address these issues.⁵²¹

In 2018, the Government of Jordan issued an amendment to Decision 6415, which was designed to improve access to the identification cards.⁵²² The Amended Decision removed the five-year residency requirement for mothers—in effect, Jordanian mothers no longer had to live in Jordan (or prove that they lived in Jordan) for five years prior to applying on behalf of their children.⁵²³ The Amended Decision also legitimized the use of identification cards as valid forms of identification, such that card-holders no longer need to carry a passport at all times. In addition, the Amended Decision also gave these children the right to employment opportunities previously reserved to Jordanian nationals and exempted them from work permit fees.⁵²⁴ Because the employment sector for non-Jordanians is highly restricted, this amendment opened up job opportunities and relieved this population from the financial burden of paying work permit fees,⁵²⁵ which generally range from 175 JOD to 500 JOD.⁵²⁶ While these changes constitute significant improvements, Jordanian non-citizen children still lack equal and adequate access to the basic rights covered by Decision 6415 (public education, government healthcare, employment opportunities, property ownership, investment, and obtaining a driver's license)

⁵¹⁹ See *Treatment of Non-Citizen Children*, *supra* note 33, at 58.

⁵²⁰ *Id.* at 4.

⁵²¹ Comm. on the Elimination of Discrimination Against Women, *supra* note 149.

⁵²² Telephone Interview with Confidential Informant, *supra* note 136.

⁵²³ Nadine, AlNamry, *Welcome To Abolish the “Residency” Requirement for Children of Jordanian Children*, ALGHAD (Oct. 8, 2018) (on file with the author).

⁵²⁴ Telephone Interview with Confidential Informant, *supra* note 136.

⁵²⁵ *Id.*

⁵²⁶ See *Treatment of Non-Citizen Children*, *supra* note 33, at 34-35. *But see*, *World Report 2020, Jordan Country Chapter*, HUMAN RIGHTS WATCH 318-22 (2020) <https://www.hrw.org/world-report/2020/country-chapters/jordan> (noting that as part of a reform of Jordan's labor law, non-citizen children of Jordanian women would not be subject to work permit requirements).

because the rights themselves and the process for securing them are not on par with those of citizens.⁵²⁷

In addition to Decision 6415, the Jordanian Government has made other efforts to improve civil registration for refugees.⁵²⁸ The Jordanian Government collaborated with UNHCR, UNICEF, UN Women, and several civil society organizations in 2014 to identify solutions to the problems associated with civil registration for refugees.⁵²⁹ The Jordanian Government has continued to work with UNHCR to improve birth registration for Syrian refugees.⁵³⁰ It established civil registration offices and Sharia Courts in UNHCR's refugee camps and adopted several measures to address obstacles to birth registration.⁵³¹ These include (1) increasing access to birth and marriage registration procedures and (2) increasing access to legal aid for those in the camps.⁵³² Today the Jordanian Government continues to work with UNHCR, UNRWA, and other key organizations to improve access to civil registration.

2. Civil Society and UN Efforts

NGOs, INGOs, and UN organizations have increasingly mobilized around the issue of statelessness and nationality rights. Organizations have focused their efforts in three main areas: reforming gender-discriminatory nationality laws; increasing access to civil registration; and promoting non-discriminatory distribution of humanitarian assistance.

a. Reforming Gender-Discriminatory Nationality Laws

Civil society in Jordan has mobilized around the issue of gender-discrimination in Jordan's Nationality Law. The equal-nationality rights movement in Jordan gained momentum in the early 2000s with individual activism - including over forty protests from 2006 to 2014 in front

⁵²⁷ Telephone Interview with Confidential Informant, *supra* note 136.

⁵²⁸ The Jordanian Government has instituted measures to address certain barriers to civil registration, yet often these measures are short-lived. *See supra* section VI.A.2.b (discussing amnesty period for fines associated with informal marriages); *supra* section VI.B.1 (discussing Urban Verification Exercise for Syrian nationals).

⁵²⁹ UNHCR, ENSURING BIRTH REGISTRATION FOR THE PREVENTION OF STATELESSNESS (2014), 17.

⁵³⁰ *Id.*

⁵³¹ *Id.*

⁵³² *Id.*

of the Ministry of Interior and the Prime Ministry by Jordanian women married to non-Jordanians, who collected and presented individual narratives reflecting their hardships.⁵³³ Decision 6415 was largely the result of activism by Jordanian mothers, Jordanian women's rights organizations, for example, the Arab Women Organization of Jordan, human rights groups, and the Jordanian National Commission for Women, a semi-governmental organization.⁵³⁴ Member of Parliament Mustafa Hamarneh and his 16 member legislative bloc decided to adopt and support the activists' position, leading to negotiating this issue with the Jordanian Government in 2013.⁵³⁵ While Decision 6415 was a major achievement for Jordanian women and their non-citizen children,⁵³⁶ it has been noted that negotiations only moved forward after equal citizenship rights for women was taken off the table in favor of focusing on children's civil rights.⁵³⁷

Jordanian organizations have also mobilized in an effort to pressure Jordan to legislate gender-equal nationality laws. In 2005, the Arab Women Organization established the Mosawa Network, a group of 86 women-registered NGOs that promote women's rights in conformity with CEDAW.⁵³⁸ The Mosawa Network advocates for legal reform, with full implementation of CEDAW and the removal of Jordan's reservations. More recently, representatives of the Arab Women Organization of Jordan have spoken before Parliament on a number of occasions to present testimonies of non-citizen children of Jordanian mothers, as well as Jordanian mothers themselves.⁵³⁹ They have been joined in Parliament by other activists and Equality Now, a global organization working to achieve gender equality in all areas and on all issues around the world.⁵⁴⁰ The Arab Women Organization has also collaborated with the Global Campaign for Equal Nationality Rights,⁵⁴¹ which mobilizes internationally to achieve gender equality in women's

⁵³³ Interview with Layla Naffa, *supra* note 225; see also *Treatment of Non-Citizen Children*, *supra* note 33, at 22.

⁵³⁴ Interview with Layla Naffa, *supra* note 225; see also *Treatment of Non-Citizen Children*, *supra* note 33, at 22.

⁵³⁵ *Treatment of Non-Citizen Children*, *supra* note 33, at 22.

⁵³⁶ Interview with Layla Naffa, *supra* note 225.

⁵³⁷ *Treatment of Non-Citizen Children*, *supra* note 33, at 22.

⁵³⁸ Mosawa Network, Arab Women Organization of Jordan, <https://www.awo.org.jo/mosawa-network/> (last visited Feb. 7, 2021).

⁵³⁹ Interview with Layla Naffa, *supra* note 225.

⁵⁴⁰ EQUALITY NOW, <https://www.equalitynow.org/> (last visited Feb. 7, 2021).

⁵⁴¹ Interview with Layla Naffa, *supra* note 225.

transmission of nationality to both children and spouses.⁵⁴² In addition to its political activism, the Arab Women Organization has conducted field studies and published reports on the gender-discriminatory Nationality Law, which have been invaluable in determining the full scope and impacts of the law.⁵⁴³

In addition, gender-equality advocates have recently noted that they will likely be pursuing litigation in order to test whether the Court of Cassation’s October 2020 ruling applied also in the context of Jordan’s Nationality Law. In the context of a Military Retirement Law, the Court of Cassation clarified that the word “children” in the Jordanian laws means both males and females.⁵⁴⁴ Activists welcomed the “historic” ruling, noting that it “could open the door” for Jordanian women married to non-Jordanians to file cases demanding the right to pass their citizenship to their children.⁵⁴⁵

b. Increasing Access to Civil Registration

The other core focus of NGOs, INGOs, and UNHCR’s efforts has been on increasing access to civil registration through raising awareness of the processes and importance of civil registration, and providing much needed legal consultations and legal aid. Organizations note that advocacy surrounding registration and legal documentation has been increasingly successful.⁵⁴⁶ Their work addresses the largest gaps in the civil registration processes: lack of awareness regarding the steps involved in registration, the need for legal aid, and the inability to afford the required lawsuits.⁵⁴⁷

⁵⁴² THE GLOBAL CAMPAIGN FOR EQUAL NATIONALITY RIGHTS, <https://equalnationalityrights.org/> (last visited Apr. 15, 2020).

⁵⁴³ See, e.g., Nasser, *supra* note 24, at 9.

⁵⁴⁴ Ghada AlSheikh, *A Judicial Precedent for granting Jordanian women their nationality to their children*, ALGHAD (Dec. 2020) (on file with the author)(citing Jordanian Court of Cassation decision no. 2799/2020 of Oct. 28, 2020).

⁵⁴⁵ Rana Hussein, *Court ruling in favour of Jordanian woman married to foreigner offers hope for activists*, THE JORDAN TIMES (Dec. 6, 2020).

⁵⁴⁶ Interview with Confidential Informant, *supra* note 317.

⁵⁴⁷ Interview with Arab Renaissance for Democracy and Development, in Amman, Jordan (Nov. 18, 2019); see *supra* Part IV.A.2.

NGOs, INGOs and UN organizations, including UNHCR, NRC, ARDD, JCLA, and UNICEF, have published reports detailing civil registration processes for lay audiences. Many also provide legal awareness training and outreach-information sessions.⁵⁴⁸ For example, Justice Center for Legal Aid (JCLA), Jordan's largest legal aid provider, held 10,737 legal awareness sessions reaching 207,783 people in 2017 alone.⁵⁴⁹ JCLA has cited lack of awareness of rights concepts, legal mechanisms, remedies, and legal institutions as one of the most common issues in its cases.⁵⁵⁰

UNHCR has played a large role in raising awareness of registration procedures, as refugees are the primary group affected by, but who lack awareness of, Jordan's civil registration processes.⁵⁵¹ To address this, UNHCR has implemented information campaigns, community-based outreach programs, broadcasts on national television and radio, distribution of brochures in a number of languages, and mass awareness campaigns with the relevant Ministries.⁵⁵² In recent years, however, there have also been strong efforts by UNHCR and religious courts to combat child marriage.⁵⁵³ UNHCR has sought to decrease child marriage in the camps by raising awareness of the issue and introducing new measures, with instructions issued to judges in Zaatari and Azraq camps to identify potential child marriages.⁵⁵⁴

NGOs are also providing legal consultations and legal aid to parents registering births and marriages in Jordan. ARDD, in particular, has worked on more than 3,500 birth registration cases of Syrian refugees and has represented more than 9,875 birth registration cases since the start of the crisis in 2011.⁵⁵⁵ ARDD also provides families with 100 JOD to cover the costs of the

⁵⁴⁸ Interview with Arab Renaissance for Democracy and Development, *supra* note 547.

⁵⁴⁹ AWARENESS PROGRAMS, JUSTICE CENTER FOR LEGAL AID, <http://www.jcla-org.com/en/category/awareness-programs> (last visited Apr. 15, 2020).

⁵⁵⁰ WHAT DO WE DO?, JUSTICE CENTER FOR LEGAL AID, <http://www.jcla-org.com/en/category/what-we-do%D8%9F> (last visited Apr. 15, 2020).

⁵⁵¹ UNHCR, *supra* note 529, at 8.

⁵⁵² *Id.*

⁵⁵³ Interview with Fawzia Istaiteyah, *supra* note 319.

⁵⁵⁴ *Id.*

⁵⁵⁵ ARDD issues legal paper on Birth registration statistics for Syrian Refugees in Jordan, ARAB RENAISSANCE FOR DEMOCRACY AND DEVELOPMENT (May 31, 2019), <https://ardd-jo.org/Publications/ardd-issues-a-legal-paper-on-birth-registration-statistics-for>.

birth registration process, to make it possible for families to pay the high court fees and costs of travel.⁵⁵⁶ JCLA has approximately 200 cases on its docket each month.⁵⁵⁷ In addition to providing legal consultations and legal representation in civil registration cases, JCLA is one of the only organizations in Jordan representing denationalized Jordanians.⁵⁵⁸ Most organizations have noted families' lack of awareness of civil registration processes and the organizations' insufficient resources as the two main obstacles to providing legal aid. INGOs, such as Norwegian Refugee Council (NRC), also provide legal assistance for civil registration to their refugee clients. Because refugees experience a unique set of difficulties in the registration process, they require specialized legal expertise, including representation before multiple courts and agencies to prove identity, birth, family lineage, and nationality.⁵⁵⁹

c) Promoting Non-Discriminatory Distribution of Humanitarian Assistance

NGOs have increasingly been working to mitigate status-related issues by adopting and promoting a non-discriminatory—“one-refugee”—approach to humanitarian assistance. Instead of prioritizing access to humanitarian aid and services based on refugees' nationality, as has been the governing framework with Syrians (and previously, Iraqis) in Jordan, CARE, NRC, Caritas and other NGOs have incorporated into their programming and are advocating more broadly for aid provision based on vulnerability.⁵⁶⁰ This includes providing assistance to those without documentation, Syrian and non-Syrian refugees, as well as host communities, and sensitizing donors (and other NGOs) about the associated negative impacts of the current

⁵⁵⁶ Interview with Arab Renaissance for Democracy and Development, *supra* note 547.

⁵⁵⁷ LEGAL AID IN JORDAN, JUSTICE CENTER FOR LEGAL AID, <http://www.jcla-org.com/en/legal-aid-jordan> (last visited Apr. 15, 2020).

⁵⁵⁸ Interview with Ehab Shuqair, *supra* note 245; *see also*, *Saving Mohammad* from Statelessness*, JUSTICE CENTER FOR LEGAL AID, <http://www.jcla-org.com/en/success-story/saving-mohammad-statelessness> (last visited Apr. 15, 2020).

⁵⁵⁹ *Information, Counselling and Legal Assistance*, NORWEGIAN REFUGEE COUNCIL <https://www.nrc.no/what-we-do/activities-in-the-field/icla/> (last visited Feb 7, 2021).

⁵⁶⁰ Interview with Gaby Daw, *supra* note 276. Interview of Erin Weir, Senior Syria Crisis Advocacy Coordinator (Sub-Regional), current Regional Humanitarian Policy and Campaign Adviser - MENA Region, CARE International in Amman, Jordan (Nov. 21, 2019); *see* Rochelle Johnston, Dina Baslan, and Anna Kvittingen, *supra* note 386.

humanitarian assistance regime in place and broader governing framework which privileges one refugee population over another.⁵⁶¹

Although donors often insist on earmarking funds for certain refugee populations, local and international NGOs are putting forward forceful critiques of this policy, including by producing qualitative and quantitative reports documenting the severe inequalities and social tensions which result.⁵⁶² The NGOs advocate for a non-discriminatory vulnerability-based approach for several reasons. First, they note that the current system is unable to effectively target the most vulnerable. While nearly all financial support for refugee response in Jordan has been directed to Syrians (and vulnerable Jordanians) through the Jordan Response Plan,⁵⁶³ studies indicate that Syrian refugees do not constitute a uniquely vulnerable population compared to Iraqis and other populations of concern.⁵⁶⁴ Second, NGOs note that although there were important reasons for directing aid to Syrians at the initial phase of the crisis, today, nearly ten years since the start of the conflict, there needs to be a shift from emergency response of the Syrian refugee crisis to examining longer-term support for durable solutions.⁵⁶⁵ The recent surveys of Syrian refugees, indicating that a large percentage of Syrians (like Iraqis and Palestinians before them) are unlikely to be returning, underscored for NGOs the need to develop sustainable solutions. Such solutions include shifting from a status-focused orientation to framing humanitarian assistance work to address wider economic issues in Jordan among refugees, populations of concern, and the host communities.⁵⁶⁶

⁵⁶¹ Interview of Erin Weir, *supra* note 560.

⁵⁶² See, e.g., *On the Basis of Nationality*, *supra* note 382. *Putting Needs Over Nationality: Meeting the Needs of Somali and Sudanese Refugees During the Syrian Crisis*, ARAB RENAISSANCE FOR DEMOCRACY AND DEVELOPMENT (Apr. 2015); Rochelle Johnston, Dina Baslan, and Anna Kvittingen, *supra* note 386.

⁵⁶³ Rochelle Johnston, Dina Baslan, and Anna Kvittingen, *supra* note 386, at i.

⁵⁶⁴ *On the Basis of Nationality*, *supra* note 382, at 33.

⁵⁶⁵ Interview of Erin Weir, *supra* note 560. According to a 2018 survey conducted by UNHCR, 26 percent of Syrians in Jordan planned to never return to Syria, and 41 percent of Syrians in the region stating they did not have an intention to return within the year. *Perceptions And Intentions On Return To Syria (RPIS)*, UNHRC (July 2018).

⁵⁶⁶ Interview of Erin Weir, *supra* note 560.

VI. CONCLUSIONS AND RECOMMENDATIONS

There has been increased attention recently by Arab governments in the MENA region on statelessness and refugees, focusing both on children's nationality rights and on gender discrimination in nationality laws. A series of initiatives on refugees and stateless persons has been led by the LAS, which has placed renewed emphasis on the relevant provisions in the Arab Charter that have been discussed in this Report. In 2017, the LAS convened a conference in Cairo on Good Practices to Strengthen Women's Nationality Rights, bringing both government and civil society representatives together. The conference resulted in a Declaration that re-affirmed principles in the Arab Charter, CRC and CEDAW, and called on all Arab states to "reform their nationality laws or to give a clear commitment to reform to grant equal nationality rights for women and men."⁵⁶⁷

In February 2018, the LAS and UNHCR co-hosted a Ministerial Conference on Belonging and Identity in Tunisia, culminating in a Declaration affirming 'the importance of strengthening women's nationality rights and gender equality in nationality according to Member States' national laws and international human rights treaties that Member States have ratified.'⁵⁶⁸ Similar to the 2017 Declaration, the Tunis Declaration underscored the Arab Charter, CEDAW, and CRC provisions, and called for a regional conference on displaced children, child refugees, and asylum-seekers to focus on identification documents, legal and civil status, nationality, and family unity. One major commitment was for the LAS to enact an Arab Consultative Law to ensure that displaced and refugee children secure nationality at birth. The Declaration also called for Member States to ensure that Palestinian refugees in their territories receive social and economic rights on par with citizens. These commitments are in line with all the Arab states' signing on to both the Global Compact on Refugees and the Global Compact on Migrants.

⁵⁶⁷ The First Arab Conference on Good Practices and Regional Opportunities to Strengthen Women's Nationality Rights, League of Arab States Secretariat General, 1-2 October 2017 Final Declaration, 2, available at: <http://equalnationalityrights.org/images/zdocs/Final-Declaration-of-the-Arab-Conference-on-Nationality-English.pdf>.

⁵⁶⁸ Arab Declaration on 'Belonging and Legal Identity' Under the Patronage of his Excellency President of the Republic of Tunisia (2018), available at <http://equalnationalityrights.org/images/zdocs/Final-Ministerial-Conference-Declaration-on-Belonging-and-Identity--English.pdf>.

As this Report has described in detail, Jordan has significant numbers of long-term residents, refugees, and other populations facing statelessness due to policies and gaps in its legal framework. As with Lebanon, with the huge numbers of refugees that have entered and remain in Jordan, particularly since the two Gulf Wars, the Syrian and Yemen conflicts, refugees facing statelessness may well number close to a million people. But the causes of statelessness do not only affect refugees in Jordan: the gender-discriminatory nationality and related laws on civil status affect Jordanian nationals as well who cannot perfect their citizenship. Civil society, non-governmental organizations and even government officials and entities have been taking steps to address the main barriers to perfecting citizenship and preventing statelessness. But much more is needed to combat this growing problem and the marginalization and desperation that it creates for adults and children alike. Based on research and interviews with stakeholders, the following recommendations should be urgently taken up to address the complex issues creating and prolonging statelessness, and to fully conform Jordan's laws with its international and domestic legal obligations and commitments.

A. Reforming Jordan's Nationality Law

Jordan's Nationality Law does not conform to its obligations under CEDAW, CRC, ICCPR, the CRCI, or the Arab Charter. First, Jordan must remove its reservation to Article 9(2) of CEDAW and legislate gender-equal nationality rights. CEDAW requires that State Parties guarantee complete gender equality in nationality laws. The Arab Charter guarantees the right to a nationality and calls for States Parties to allow women to pass nationality to their children, when it is in the best interests of the child and in accordance with domestic law. The CEDAW Committee has repeatedly called on Jordan to remove its reservation, and stakeholders working and advocating on gender equality agree that Jordan must conform to CEDAW and allow women to pass nationality to their children and spouses.

Although there are clearly political considerations that make amending Jordan's Nationality Law to be gender-equal difficult, particularly concerning Palestinians, these are not sufficient to

override Jordan's obligations to conform to its treaty commitments. Moreover, discrimination on the basis of gender in nationality or in any other sphere is prohibited in all the treaties to which Jordan is a State Party. Discrimination on the basis of Palestinian nationality can also no longer be justified in light of Jordan's ratification of the Casablanca Protocol, addressed below.

Second, the gender-discriminatory nationality law, gender-discriminatory naturalization law, and the civil registration process for marriages and births seriously impinge on Jordan's obligations to protect the rights of children born or permanently residing in Jordan. The Nationality Law and civil registration process fail to conform to the CRC, the Arab Charter, and the CRCI, that require Jordan to ensure that every child be immediately registered at birth with a name and nationality. The language of the provisions make clear that the obligation is on the state where the child is born to provide birth registration and *guarantee* the child Jordanian nationality if the child does not automatically have another nationality. This means that children of Bedouin-related "bidoon," for example, must be afforded Jordanian nationality. Jordan's Nationality Law is inadequate in its language, and coupled with the birth registration process, fails to guarantee nationality to all children born in Jordan who would otherwise be stateless.

B. Simplifying Civil Registration

Jordan's current civil registration processes lack consistency, accessibility, and adequate implementation, and require several reforms. First, a national campaign by the Jordanian Government to raise awareness about the current process would help parents who are unfamiliar with the birth registration process and whose unfamiliarity leads to missed deadlines, higher costs, or not registering a birth at all. The campaign should involve television advertisements, social network messages, widely-distributed brochures, and other media distribution to make parents aware of deadlines, costs and fines, the procedures of the three processes, changes in legislation, and available resources.

Second, Jordan should increase the one-year deadline for birth registration to three years without penalty so few parents would need to navigate the Magistrate Courts and pay extra costs.

It is clear that fines deter vulnerable groups, including refugees, from registration. Third, the birth registration process should be simplified so parents do not need legal assistance to register their child, and costs should be reduced or only a nominal fee required. For many parents, especially refugee parents, financial resources are extremely limited, and the costs associated with filing a lawsuit, even without an attorney, are prohibitive. Fourth, courts must regularize the steps for marriage registration by instituting a standard and transparent process, with limited judicial discretion in exceptional cases, and publicize all requirements. Fifth, for refugees and for Bedouin-related “bidoon” without all required documents, a range of alternative evidence and witness affidavits should be accepted in lieu of the basic documents. The process for Bedouin-related “bidoon” to register births and to perfect citizenship must also be clear, transparent, simple, and well-publicized. All Bedouin-related “bidoon” who seek Jordanian citizenship should be entitled to obtain it, regardless of the claim that they have access to citizenship in another country.

C. Fully Implementing Jordan’s Naturalization Law, and Creating a Non-Discriminatory Path from Residency to Citizenship

Jordan’s Nationality Law provides three ways for non-Jordanians to obtain citizenship other than through marriage. Two of these are specific to certain “Arabs” and one all-inclusive category for any non-Jordanian. Article 4 of the Law allows an Arab citizen of any Arab country to obtain Jordanian nationality after residing in Jordan for at least fifteen years upon renouncing his/her original citizenship. The process for naturalization involves a decision by the Minister of Internal Affairs and approval of the Council of Ministers. Article 12 allows any non-Jordanian to naturalize after residing in Jordan for four years and can prove the intent to remain among other conditions. This process also requires a decision by the Council of Ministers. Both Article 4 and Article 5 include a number of conditions aside from residency. The third provision under Article 5 provides for an entirely discretionary grant of Jordanian nationality by decision of the King to “any emigrant” – that is, “every Arab born in [Jordan] or in the occupied section of Palestine and immigrated from or emigrated from the country.” All three of these pathways appear to require the non-Jordanian to forfeit his/her previous nationality.

Finally, Jordan's new citizenship by investment program approved by the Cabinet in 2018 represents a fourth pathway to citizenship, yet it is inaccessible except to wealthy individuals and their families. It has been suggested that individuals obtaining citizenship through this program may not be required to give up their previous nationality, unlike the other pathways.

As noted, none of these paths appears to be readily accessible and, aside from the citizenship by investment program, none is being implemented, at least as far as publicly available information indicates. However, Article 4 and Article 12 provisions establish the legal avenues for a naturalization procedure that Jordan should implement and make widely accessible through a non-discriminatory application process. Providing viable access to citizenship through naturalization would be critical to addressing statelessness in Jordan, including for segments of the Bedouin-related "bidoon," population, for example, those with an undetermined nationality. For those Bedouin residing in Jordan who lack Jordanian nationality and may not wish to obtain it, they should be afforded documentation and legal status.

To the extent that there are varying requirements that could be discriminatory and/or run counter to Jordan's international law obligations, these provisions need to be reviewed and possibly set aside. This includes any differences in lengths of residency requirements for certain groups which may be overly burdensome: a 4-year residency requirement should be standardized for all applicants. In addition, the requirement that an applicant seeking Jordanian citizenship shows that he or she is of "sound mind and not suffer from a disability that makes [the person] a burden on society" (under both Articles 4 and 12) needs to be reviewed; the condition can be interpreted as being at odds with Jordan's obligations under Article 18 of the Convention on the Rights of Persons with Disabilities, which provides that persons with disabilities are to have on an equal basis with others the right to acquire and change a nationality.

The additional requirement of renunciation of citizenship provides a sufficiently onerous barrier that will likely deter a flood of applications. This requirement may in part explain why the naturalization provisions are rarely used, given an understandable reluctance of an individual to

give up his/her original nationality in case s/he also loses Jordanian citizenship for whatever reason. That said, the fact that an applicant must prove that his previous nationality has been forfeited in order to obtain a certificate of naturalization may present an insurmountable obstacle for stateless persons and merits special consideration (and highlights too the potential need for status determinations, discussed below). Although ultimately, states, in particular, all Arab states, should consider extending the option of dual citizenship among their nationals—for both citizens by birth and naturalized citizens—Jordan can take a significant step in reducing its stateless population by simply standardizing the period of residency required and implementing a simplified naturalization procedure for eligible Arab state nationals, without granting dual citizenship.

Directly related to an accessible, non-discriminatory application process for all non-Jordanians, is a simplified path from Jordan's current legal residency procedure to naturalization. Jordan should add a provision to the Residency and Foreign Affairs law that permits long-term residents of Jordan, including children born in Jordan who are not automatically considered Jordanian nationals, to easily apply for naturalization. Jordan should establish a procedure that allows individuals who have been long-term legal residents, paid taxes, remained in legal status for at least five years, and provided evidence of intent to remain in Jordan permanently to apply for naturalization. Due consideration should be made to ensure that preconditions to naturalization do not create a catch-22 situation (for example, requiring proof of tax payment for stateless persons who do not have access to legal employment). Jordan currently allows for five-year residence permits (with possible extension to ten years). Simply implementing a procedure that allows for a naturalization application at the end of the five-year period, will significantly improve the implementation of Jordan's existing law (both the Nationality and the Residency Laws), and be a major step in addressing statelessness in the Kingdom.

D. Recognizing the Status and Rights of Stateless Persons and Refugee Populations at Risk of Statelessness

Stateless persons and stateless refugees must be entitled to a status determination with guaranteed rights. This obligation is shared by the Government of Jordan and the United Nations agencies mandated to protect refugees, refugees who are also stateless, and non-refugee stateless persons. The Government of Jordan agreed to consider the establishment of a nationwide refugee status determination (RSD) process as part of its MOU with UNHCR in 1998.⁵⁶⁹ Jordan has demonstrated a commitment to codifying refugee law, and the MOI has indicated there has been serious consideration given to drafting refugee legislation. The Jordanian Government has taken initial steps to draft a refugee law, but efforts have been suspended due to fears that the timing is not right to pass such a law in the midst of the current ongoing Syrian crisis. Some within the MOI have expressed the need for greater expertise and education in the field before refugee legislation can be drafted.⁵⁷⁰ Rather than view the Syrian crisis as a reason to put this effort in abeyance, it is precisely this crisis that calls for enacting legislation to address refugees and stateless persons on an urgent basis.

Until Jordan establishes a legal framework that recognizes rights and protections for stateless persons and stateless refugees, UNHCR and UNRWA must coordinate efforts to specifically incorporate into their mandates a definition and status determination for stateless persons and stateless refugees (including stateless Palestinians) in Jordan.

First, UNHCR should specifically incorporate a stateless status determination process into its MOU with Jordan. This would allow both refugees and non-refugees who are stateless to have access to an internationally-recognized status that triggers the Agency's obligation to seek a durable solution for them, whether in Jordan or in other countries. It also would trigger the obligation of states to *provide* a durable solution under their own legal frameworks that recognize stateless persons as requiring temporary or permanent status. In Jordan, such a determination would trigger, at minimum, the obligations under the CRC, CRCI, and Arab Charter, to provide recognized stateless children with Jordanian nationality.

⁵⁶⁹ Memorandum of Understanding Between the Government of Jordan and UNHCR, art. 14 (Apr. 5, 1998).

⁵⁷⁰ Interview with Saleh Al-Kilani, head of the Refugee Affairs Coordination Office at the Jordanian Ministry of Interior, cited in PROTECTING SYRIAN REFUGEES, *supra* note 74.

Second, until it passes a comprehensive law on refugees, we urge Jordan to institute a formal temporary protection program for all refugees, including Syrians and Palestinians. Jordan should consider granting all Palestinian refugees who do not have Jordanian citizenship in the country temporary protection status, grounded in the rights Jordan has committed to under the Casablanca Protocol. In response to UNHCR's longstanding request that Jordan codify into domestic law a refugee framework, Jordan should codify its current *de facto* informal policy of temporary protection towards Syrians and expand it to all refugees in the Kingdom. The IHRC has elsewhere described the MENA regional temporary protection framework, and called on Jordan and all Arab host states to the Syrian crisis to institute a formal temporary protection program and criteria for asylum and resettlement based on Turkey's temporary protection law.⁵⁷¹ In the absence of a formal law on refugee and stateless status, Jordan should also consider implementing such a temporary protection program for its other longstanding refugee populations, particularly Iraqis, Sudanese, and Yemenis, who are unable to return due to ongoing civil conflict and widespread violations of human rights. There would be no need for a formal RSD registration for refugees to be eligible for temporary protection; recording of temporary protection status would be sufficient for access to MOI Service cards or other forms of documentation proving eligibility for basic benefits.

Third, in addition to the Jordan Compact, which only benefits Syrian refugees, the Government of Jordan should facilitate legal work opportunities for refugees by issuing work permits as provided for in article 8 of the MOU. Moreover, the Government should encourage refugees to continue to work in various labor fields in order to fill a void in the Jordanian economy, as many Jordanian nationals do not wish to fill these positions.⁵⁷² Jordan should lift the restrictions on the many fields of work currently open only to Jordanian nationals and allow all refugees under a temporary protection program to have greater work opportunities and reduce the livelihood

⁵⁷¹ PROTECTING SYRIAN REFUGEES, *supra* note 74, at 53, 74-75, 93-94, 116-17. See also Law on Foreigners and International Protection (LFIP), Republic of Turkey, English translation available at: <https://www.refworld.org/docid/5167fbb20.html>.

⁵⁷² This would help address the perceived fear that refugees are displacing employment opportunities of Jordanians.

barriers that face persons with no status suffering the economic consequences of statelessness. Many have claimed that Jordan is benefiting from the huge influx of humanitarian aid into its economy. Using the resources of the dozens of international organizations working with refugees in Jordan, the Government should be able to enhance development of the country for the benefit of both the refugee and Jordanian communities. Joint development projects will improve social relations between Jordanians and Syrian refugees, as well as enhance Jordan's economy and develop its infrastructure.

E. Ensuring Palestinian Rights as Stateless Nationals and Dual Citizens

The complex political and legal issues of Palestinians in Jordan are not insurmountable, and Jordan has committed itself to instruments that require it to improve the stateless status and particular vulnerabilities of Palestinian refugees. First, Jordan must fully implement the Casablanca Protocol to ensure basic rights for Palestinians who do not have Jordanian citizenship. The problem of Palestinian statelessness has proven highly contentious. Nevertheless, many stakeholders agree that the status of Palestinians as refugees and as stateless persons must be addressed, as an urgent matter, as it contributes to the acute and growing crisis of rights-deprivation for this population. Moreover, Jordan ratified the Casablanca Protocol with no reservations, and remains bound to provide the protections and benefits to Palestinians that it incorporates. The Casablanca Protocol requires Jordan to guarantee to Palestinians the same rights as nationals with regard to: employment; the right to leave and return to Jordan; freedom of movement between Jordan and any other LAS Member State; and the obligation to issue and renew valid travel documents without delay.⁵⁷³ Jordan's ban on entry to PRS or to Palestinians from any other LAS country contravenes Jordan's obligations under the Casablanca Protocol. Palestinian advocates in Jordan urgently need to launch a campaign to ensure that Jordan fulfills the obligations towards Palestinians that it committed to by ratifying the Protocol.

⁵⁷³ Casablanca Protocol, *supra* note 206, at arts. 1-5.

Second, UNHCR and UNRWA must also define their positions on the status of Palestinian refugees as *stateless nationals* of Palestine and cooperate to provide rights guaranteed by that status. Currently, Jordan's official position is that there are no Palestinian refugees, as Palestinians are either Jordanian nationals or foreigners.⁵⁷⁴ This position is, however, inconsistent with the presence of UNRWA and UNRWA's categories of Palestinian refugees, which Jordan recognizes and supports through its MOU with UNRWA. The fear that granting more Palestinians Jordanian citizenship would eviscerate their right to return to historic Palestine is, although a politically defensible position, not supported in law. From an international legal perspective, Palestinian nationality has remained intact since 1924, despite their stateless status: they are *stateless nationals* of Palestine. All Arab states where Palestinians reside should come to agreement about the implications of Palestinians as stateless nationals, in terms of implementing their rights as such.

Palestinians who are covered by the terms of the 1924 Lausanne Treaty are nationals of Palestine with unbroken connection to their territory. This perspective has been strengthened by the recognition of Palestine statehood by the UN General Assembly by overwhelming vote in 2012. Moreover, today the state of Palestine has bilateral diplomatic relations with 137 of the 193 member states of the UN.⁵⁷⁵ In light of this, Palestinians must resolve the tension between their own and the Arab states' objections to define them as stateless, and their status as stateless persons under customary international law. The PLO could issue a formal position that all Palestinians have a recognized nationality and can maintain that status while receiving temporary residence or citizenship in any other state, including the LAS member states. This is consistent with the PLO's current position that an individual Palestinian who secures resettlement does not relinquish the collective Palestinian refugee/national population's right to return.⁵⁷⁶

⁵⁷⁴ Interview with Omar Kilani and Gaby Daw, Caritas Jordan in Amman (Nov. 25, 2019).

⁵⁷⁵ G.A. Res. 67/19, Status of Palestine in the United Nations, U.N. Doc. A/RES/67/19 (Dec. 4, 2012).

⁵⁷⁶ See PROTECTING SYRIAN REFUGEES, *supra* note 74, at p. 69. Note that Israel recognizes dual nationality for Jews all over the world and at the same time has incorporated a Jewish 'right of return' to all Jews regardless of their citizenship to Israel. Palestinian dual citizenship/nationality that insists on right of return is a consistent position for Palestinians to take from a political perspective.

Jordan's obligations under the Casablanca Protocol include the recognition that Palestinians retain their Palestinian nationality while they reside in the Kingdom. Jordan can take the lead to advocate for this position with the other Arab host states. Palestinian nationality did not preclude the LAS states from codifying this provision in the Protocol. Following the entry into force of the Protocol, the LAS passed Resolution 2600, which underscored this position by resolving that all member states allow Palestinians to acquire dual citizenship, exempting them from Resolution 776, which prohibited LAS member states from granting dual citizenship to other Arab state citizens.⁵⁷⁷

F. Providing Non-Discriminatory Humanitarian Assistance to all Displaced and Vulnerable Populations to Reduce Consequences of Statelessness

Almost all the NGOs and INGOs in Jordan consulted for the Report noted their discomfort with the policies that require discriminatory distribution of humanitarian assistance, and the current priority given to Syrian refugees. Although all recognized the urgent and overwhelming needs of the massive displaced and stateless populations from Syria, they expressed concern that all forcibly displaced persons, refugees and others, have similar vulnerabilities, and that aid distribution should not depend on nationality or any other discriminatory basis. Only a few organizations, however, have the flexibility to provide aid without discrimination, with Islamic Relief a particularly good example of an agency refusing to consider national, residence, religious or other status as a basis of eligibility for aid. CARE-Jordan and NRC noted that they were in the process of trying to implement a 'one-refugee' approach, which would give them flexibility to provide assistance to all refugees on a non-discriminatory basis. However, since most humanitarian assistance organizations working with refugees and stateless persons in Jordan operate through implementing partner contracts with UNHCR, they are bound by the Government of Jordan's policies towards aid recipients.

⁵⁷⁷ See LAS Res 2600 (11 March 1970); LAS Res 776 (5 April 1954), reprinted, with English translation, in Shiblak, *The League of Arab States and Palestinian Refugees' Residency rights, The Palestinian Diaspora and Refugee Centre* (SHAML, Palestinian Diaspora and Refugee Centre 1998).

In line with the recommendations for Jordan to implement a temporary protection regime for all its major refugee populations, Jordan should also implement a non-discriminatory approach to distribution of humanitarian assistance. Whether or not Jordan does so, UNHCR should insist during the current negotiations on its MOU with Jordan to include provisions requiring international humanitarian assistance to be distributed based on need and vulnerability, and not on national origin or any other protected status. All INGOs receiving international aid and national NGOs implementing international contracts should urgently put a 'one-refugee' policy in place. Although this would not address statelessness per se, it would ameliorate much of the deep poverty and marginalization faced by stateless and at-risk adults and children in the Kingdom.

Finally, national and international NGOs should continue to address the issue of statelessness in Jordan generally by continuing to conduct 'know your rights' campaigns, both on the national and international level, to educate individuals about their rights regarding citizenship and to mobilize grassroots movements, with a view toward reaching a wider audience. Civil society mobilization should be geared towards ensuring that populations of concern have access to legal aid in order to successfully navigate the civil registration process. It is important to increase communication and engagement on the issue of statelessness, including between NGOs and UN organizations, the Jordanian Government and NGOs; the Jordanian Government and UN organizations; and among and between NGOs themselves.

VII. APPENDIX I: GLOSSARY

Asylum-seeker refers to an individual who: “is claiming or applying for protection as a refugee and who has not yet received a final decision on his or her claim”; or “has not yet submitted an application for refugee status recognition (has not yet formalised the administrative requirements in national law) but may nevertheless be in need of international protection.”⁵⁷⁸

Citizenship refers to the relationship between an individual and a state. It “entitles the individual to the protection of the state, and provides a legal basis for the exercise of many civil and political rights.”⁵⁷⁹ For the purposes of this report, citizenship is used to refer to having identity documents and recognition by a State as a citizen under its domestic laws.

Civil registration refers to the registration of life events, including birth, marriage, divorce, and death.⁵⁸⁰ Civil registration is required in Jordan to obtain identity documents proving citizenship. Jordan does not treat unregistered individuals as citizens of the State.⁵⁸¹

Civil society organizations are community-based organizations that operate independently of any government. Civil society organizations may include those that are registered as NGOs but do not include those registered as international NGOs.

Law No. 6. of 1954 on Nationality governs the acquisition, transmission, and renunciation of Jordanian citizenship, including the transmission of citizenship to children and spouses.⁵⁸²

⁵⁷⁸ EU AND UN, EXPERT GROUP ON REFUGEE AND INTERNALLY DISPLACED PERSONS STATISTICS — INTERNATIONAL RECOMMENDATIONS ON REFUGEE STATISTICS 22 (March 2018).

⁵⁷⁹ UNHCR, *The State of the World's Refugees*, at ch. 6 (1997).

⁵⁸⁰ *Id.*

⁵⁸¹ *Citizenship and Nationality*, INT'L JUSTICE RESOURCES CTR., <https://ijrcenter.org/thematic-research-guides/nationality-citizenship/> (last visited Mar. 30, 2020).

⁵⁸² LAW NO. 6 OF 1954 ON NATIONALITY Jan. 1, 1954 (Jordan).

Law No. 24 of 1973 on Residency and Foreign Affairs governs all aspects of residency in Jordan, including the registration of non-Jordanians and residence permits.⁵⁸³

Law No. 9 of 2001 on Civil Status governs the registration of life events, including birth and death.⁵⁸⁴

International non-governmental organizations (INGOs) are NGOs that carry out programming in multiple countries.

Migrant is any person “who is moving or has moved across an international border or within a State away from his/her habitual place of residence, regardless of (1) the person’s legal status; (2) whether the movement is voluntary or involuntary; (3) what the causes for the movement are; or (4) what the length of the stay is.”⁵⁸⁵

Nationality is defined under international law as “membership in a nation or sovereign state.”⁵⁸⁶ This definition is used in international and regional treaties and does not attach to a particular State’s domestic laws. Outside of international and regional treaties, nationality is alternatively defined as the overarching idea of connection between an individual and a territory.⁵⁸⁷

Non-governmental organizations (NGOs) are non-profit organizations, operating independently of any government.

Palestine refugees (as defined by UNRWA) are those “persons whose normal place of residence was Palestine during the period 1 June 1946 to 15 May 1948, and who lost both home and means

⁵⁸³ LAW NO. 24 OF 1973 ON RESIDENCY AND FOREIGN AFFAIRS Jan. 1, 1973 (Jordan).

⁵⁸⁴ LAW NO. 9 OF 2001 ON CIVIL STATUS (Jordan).

⁵⁸⁵ IOM Definition of “Migrant,” INTERNATIONAL ORGANIZATION FOR MIGRATION, <https://www.iom.int/who-is-a-migrant> (last visited June 20, 2020).

⁵⁸⁶ *Nationality: international law*, ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/topic/nationality-international-law> (last visited Mar. 30, 2020).

⁵⁸⁷ Int’l Justice Resources Ctr., *supra* note 415.

of livelihood as a result of the 1948 conflict[, and] descendants of Palestine refugee males, including legally adopted children.”⁵⁸⁸

Palestinian refugees “commonly comprises all persons of Arab origin who were displaced from the territory of the former British Mandate Palestine, but also from the Gaza Strip and the West Bank including East Jerusalem, which Israel occupied in 1967, as well as their descendants.”⁵⁸⁹

Perfecting citizenship is the term used in this Report to describe the process of acquiring identity documents for Jordanians who, for whatever reason, are unable to obtain identity documents to prove their Jordanian citizenship, and are therefore effectively denied citizenship status. This term is commonly used in conjunction with Jordan’s discriminatory system of civil registration, which leaves many Jordanian unable to register their citizenship.

Registered refugee refers to a refugee who is registered with either UNHCR’s registration system, or UNRWA’s registration system. Based on their respective mandates, UNRWA registers Palestine refugees, whereas UNHCR registers non-Palestine refugees.⁵⁹⁰

Right to return is the term used to describe Palestinians’ right to return to their homes in Palestine, as established by United Nations General Assembly Resolution 194.⁵⁹¹

Stateless persons, according to the 1954 Convention relating to the Status of Stateless Persons, are those who are “not considered as a national by any State under the operation of its law.”⁵⁹² Because Jordan is not a party to the 1954 Convention relating to the Status of Stateless Persons

⁵⁸⁸ *Consolidated Eligibility Registration Instructions*, UNRWA, 3 (2009), <https://www.unrwa.org/sites/default/files/2010011995652.pdf>

⁵⁸⁹ Ministry of Immigration and Integration, *Palestinian Refugees – Access to Registration and UNRWA Services, Documents, and Entry to Jordan*, THE DANISH IMMIGRATION SERVICE 7 (June 2020).

⁵⁹⁰ EU AND UN, EXPERT GROUP ON REFUGEE AND INTERNALLY DISPLACED PERSONS STATISTICS — INTERNATIONAL RECOMMENDATIONS ON REFUGEE STATISTICS 21-22 (Mar. 2018), <https://ec.europa.eu/eurostat/documents/3859598/9315869/KS-GQ-18-004-EN-N.pdf/>).

⁵⁹¹ G.A. Res. 194 (III), ¶ 11 (Dec. 11, 1948).

⁵⁹² Convention relating to the Status of Stateless Persons, *supra* note 8.

and does not have a statelessness determination in its domestic legislation, it does not apply this definition to persons within its jurisdiction.

VIII. APPENDIX II: STAKEHOLDERS

A. Government

The Ministry of the Interior is the government agency responsible for law enforcement in Jordan.⁵⁹³ It is composed of several sub-agencies, including the Civil Status and Passports Department. The current Minister of Interior is Sameer Mubaidin.⁵⁹⁴

B. Non-Governmental Organizations

Arab Renaissance for Democracy and Development (ARDD) is a Jordanian civil society organization, founded in 2008 to foster a democratic and just society in Jordan and the greater Arab world.⁵⁹⁵ ARDD supports marginalized individuals, including migrants and refugees, to enjoy social, political, and economic rights.⁵⁹⁶ ARDD also provides legal aid, psychosocial support, media and grassroots mobilization, and research and advocacy to spread awareness on the situations facing vulnerable populations in the Arab world.⁵⁹⁷

Arab Women Organization of Jordan (AWO) is a Jordan-based organization that advocates for gender equality, women's rights, and women empowerment.⁵⁹⁸ AWO works to end

⁵⁹³ *The Official Site of the Jordanian e-Government*, MINISTRY OF INTERIOR, <https://portal.jordan.gov.jo/wps/portal/Home/GovernmentEntities/Ministries/Ministry/Ministry%20of%20Interior?nameEntity=Ministry%20of%20Interior&entityType=ministry> (last visited Feb. 7, 2021).

⁵⁹⁴ *Id.*

⁵⁹⁵ *About Us*, ARAB RENAISSANCE FOR DEMOCRACY AND DEV., <https://ardd-jo.org/About-Us> (last visited Feb 7, 2021).

⁵⁹⁶ *Id.*

⁵⁹⁷ *Id.*

⁵⁹⁸ *Who We Are*, ARAB WOMEN ORG. OF JORDAN, <https://www.awo.org.jo/about-us/> (last visited Feb. 7, 2021).

discrimination and violence against women by disseminating knowledge that that calls for changing gender expectations in economics, politics, education, and culture.⁵⁹⁹

CARE (Cooperative for Assistance and Relief Everywhere) is an international humanitarian organization that provides life-saving emergency assistance as well as solutions to help people cope with the longer-term crisis.⁶⁰⁰ In Jordan, CARE provides case management through community centers in five urban areas and manages the community center in Azraq camp for Syrian refugees.⁶⁰¹ CARE provides emergency cash support, items to help during the winter, educational and vocational training, access to information, cash for education, and psychosocial and recreational support.⁶⁰²

Caritas is a Catholic based international humanitarian organization. It has 22 centers spread across Jordan that receive all humanitarian cases and provide health, education, humanitarian, awareness-raising and counseling services.⁶⁰³ Its main programs include Primary Health Care, Refugees and Migrant Workers Services, Humanitarian Assistance for Jordanians, Volunteers and Youth, and Emergency Response for Refugees.⁶⁰⁴

Danish Refugee Council is an INGO that assists refugees and internally displaced persons across the globe.⁶⁰⁵ It has been active in Jordan since 2003 and responds to the needs of displacement affected individuals and communities.⁶⁰⁶ Its programming in Jordan is focused on two sectors: protection and livelihood.⁶⁰⁷

⁵⁹⁹ *Id.*

⁶⁰⁰ *Vision and Mission*, CARE INT'L, <https://www.care-international.org/who-we-are-1/vision-and-mission> (last visited Feb. 7, 2021).

⁶⁰¹ *Where We Work: Jordan*, CARE INT'L, <https://www.care-international.org/where-we-work/jordan> (last visited Feb. 7, 2021).

⁶⁰² *Id.*

⁶⁰³ *Jordan*, CARITAS, <https://www.caritas.org/where-caritas-work/middle-east-and-north-africa/jordan/> (last visited Apr. 15, 2020).

⁶⁰⁴ *Id.*

⁶⁰⁵ *About Danish Refugee Council*, DANISH REFUGEE COUNCIL, <https://drc.ngo/about-drc> (last visited Feb. 7, 2021).

⁶⁰⁶ *Jordan*, DANISH REFUGEE COUNCIL, <https://drc.ngo/where-we-work/middle-east/jordan> (last visited Feb. 7, 2021).

⁶⁰⁷ *Id.*

Justice Center for Legal Aid is a Jordanian organization and the largest legal aid provider in Jordan, providing legal aid services at 21 clinics located across all 12 governorates. JCLA assists poor and vulnerable people in Jordan with access to legal aid services, including legal consultations, legal representations, and legal awareness sessions.

French Institute of the Near East or Institut français du Proche-Orient (IFP) is a French research center that conducts research in the field of social sciences, in connection with local academic institutions, in Jordan, Lebanon, Syria, as well as Iraq and the Palestine territories.⁶⁰⁸ It is organized into three scientific departments: Archaeology and History of Antiquity, Arabic Studies, and Contemporary Studies.⁶⁰⁹

Islamic Relief Worldwide is an international humanitarian aid organization. It supports both refugees and vulnerable host communities by providing food, health care, education and psychosocial support in Amman, Mafraq, Ramtha, Irbid, Baqa'a, Karak, and Ma'an.⁶¹⁰ It currently assists 1,800 orphans across Jordan by providing cash and psycho-social support, runs a mobile clinic providing primary health care for refugees and vulnerable Jordanians, provides food assistance, remedial education, and provides psycho-social support to women and children, particularly in refugee camps.⁶¹¹

Norwegian Refugee Council is an INGO working to protect the rights of displaced and vulnerable people during crises.⁶¹² NRC provides assistance to meet immediate humanitarian needs, prevent further displacement, and contribute to durable solutions in 31 countries.⁶¹³ It specializes in six areas of expertise, or "core competencies": shelter and settlements; livelihoods

⁶⁰⁸ *About*, INSTITUT FRANCAIS DU PROCHE-ORIENT, <https://www.ifporient.org/a-propos/> (last visited Feb. 7, 2021).

⁶⁰⁹ *Id.*

⁶¹⁰ *Jordan*, ISLAMIC RELIEF WORLDWIDE, <https://www.islamic-relief.org/category/where-we-work/jordan/> (last visited Feb. 7, 2021).

⁶¹¹ *Id.*

⁶¹² *About Us*, NORWEGIAN REFUGEE COUNCIL, <https://www.nrc.no/who-we-are/about-us/> (last visited Feb. 7, 2021).

⁶¹³ *Jordan*, NORWEGIAN REFUGEE COUNCIL, <https://www.nrc.no/countries/middle-east/jordan/> (last visited Feb. 7, 2021).

and food security; information, counselling and legal assistance (ICLA); education; camp management; and water, sanitation and hygiene promotion (WASH).⁶¹⁴

Oxfam is an INGO that provides humanitarian assistance to Syrian refugees and vulnerable Jordanians.⁶¹⁵ It emphasizes three key areas: (1) emergency water, sanitation and hygiene, and water governance, (2) economic justice, and (3) gender justice.⁶¹⁶

C. United Nations Organizations

United Nations High Commissioner for Refugees (UNHCR), also known as the UN Refugee Agency, is the organization in charge of registering non-Palestinian refugees, with the aim of providing humanitarian assistance and, where resettlement to a third country is viable, making a refugee status determination that enables such resettlement.⁶¹⁷ With three main offices in Amman, Irbid, and Mafraq, the UNHCR works with the Government of Jordan to aid and to protect refugees and persons seeking asylum.⁶¹⁸ A 1998 Memorandum of Understanding (MOU) between UNHCR and the Government of Jordan states that UNHCR will try to find refugees a durable solution in Jordan, whether that be voluntary repatriation to the country of origin or resettlement in another country.⁶¹⁹

United Nations Relief and Works Agency (UNRWA) was established in 1949 to carry out direct relief and work programs for Palestine refugees, including education, health care, relief and social services, camp infrastructure and improvement, and microfinance and emergency assistance.⁶²⁰ Jordan is the country that hosts the most Palestine refugees of all UNRWA fields,

⁶¹⁴ *Id.*

⁶¹⁵ *Jordan*, OXFAM, <https://www.oxfam.org/en/what-we-do/countries/jordan> (last visited Feb. 7, 2021).

⁶¹⁶ *Id.*

⁶¹⁷ *About Us*, UNHCR, <https://www.unhcr.org/en-us/about-us.html> (last visited Feb. 7, 2021); Convention relating to the Status of Refugees art. 1, July 28, 1951, 189 U.N.T.S. 137.

⁶¹⁸ *Who We Are*, UNHCR, <https://www.unhcr.org/jo/who-we-are> (last visited Feb. 7, 2021).

⁶¹⁹ This durable solution is usually resettlement to a third country, as Jordan does not consider itself to be a permanent solution for refugees. Memorandum of Understanding Between the Government of Jordan and United Nations Relief and Works Agency, art. 5 (Apr. 5, 1998).

⁶²⁰ *Who We Are*, UNRWA, *supra* note 617.

with ten recognized Palestine refugee camps accommodating nearly 370,000 Palestine refugees out of the over 2 million Palestine refugees residing in Jordan.⁶²¹ UNRWA has 171 schools, one Faculty of Science and Educational Arts, two vocational and technical training centers, 25 primary health centers, ten community-based rehabilitation centers, and 14 women's program centers in Jordan.⁶²²

International Labor Organization (ILO) is an organization that promotes labor standards, policies, and decent work.⁶²³ In Jordan, the ILO primarily addresses the issue of access to work for Syrian refugees.⁶²⁴ The ILO and the Government of Jordan have agreed on three priority areas for the ILO's work in Jordan: job creation for social cohesion, decent working conditions for all to support fair access to the labor market, and capacity building of social partners.⁶²⁵

⁶²¹ *Id.*

⁶²² *Id.*

⁶²³ *About the ILO*, INT'L LABOR ORG., <https://www.ilo.org/global/about-the-ilo/lang--en/index.htm> (last visited Feb. 7, 2021).

⁶²⁴ *The ILO in Jordan*, INT'L LABOR ORG., <https://www.ilo.org/beirut/countries/jordan/lang--en/index.htm> (last visited Feb. 7, 2021).

⁶²⁵ *Id.*