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PREVENTING STATELESSNESS AMONG MIGRANTS AND REFUGEE CHILDREN IN NORTH AFRICA: THE CASE OF EGYPT

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The Center for Migration and Refugee Studies (CMRS)

The Center for Migration and Refugee Studies (CMRS) is an interdisciplinary center of the American University in Cairo (AUC). Situated at the heart of the Middle East and North Africa, it aims at furthering the scientific knowledge of the large, long-standing and more recent, refugee and migration movements witnessed in this region. It is also concerned with questions of refugees and migration in the international system as a whole, both at the theoretical and practical levels. CMRS functions include education, research, training and outreach. It offers a Master of Arts and a graduate diploma in migration and refugee studies working with other AUC departments to offer diversified courses to its students. Its research bears on issues of interest to the region and beyond. In carrying it out, it collaborates with reputable regional and international academic institutions. The training activities CMRS organizes are attended by researchers, policy makers, bureaucrats and civil society activists from a great number of countries. It also provides tailor-made training programs on demand. CMRS outreach involves working with its environment, disseminating knowledge and sensitization on refugee and migration issues. It also provides services to the refugee community in Cairo and transfers its expertise in this respect to other international institutions.

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Preface

Egypt hosts a considerable number of refugees and asylum seekers fleeing conflict and instability in countries including Sudan, South Sudan, Ethiopia, Eritrea, Iraq, Syria, Somalia, and Yemen. At present, the largest community in Egypt is the Syrian. In addition to refugees and asylum seekers, some migrants come to Egypt to search for work opportunities or to use it as a transit to Europe. There is evidence that the West African community in Egypt is growing.

Irregular migrants and asylum seekers in Egypt may lack identification papers for a number of reasons. Some may have lost their documents in the course of the conflicts in their home countries. Others may have had their documents destroyed by smugglers/traffickers during their journey to Egypt. The consequences for lacking identification papers can be severe and may include the risk of statelessness. Children of migrants also face the risk of statelessness since their parents' identification documents are a prerequisite for the issuance of their birth certificates.

In an attempt to participate in preventing statelessness in the Middle East and North Africa (MENA), CMRS saw the need to investigate the consequences of the lack of identification documents on the lives of refugees and migrants in Egypt. With not enough research done on the difficulties facing migrants in issuing identification documents in host countries and the consequences of the lack of such documents, this research endeavor becomes both a timely and much-needed contribution to the global effort to reduce statelessness.

CMRS partnered with the Middle East Centre of the London School of Economics (LSE) and the Association Macrocaïne de' Eludes & de Recherches sur la Migration (AMERM) to carry out the research upon which this report is based. The research focused on on access to birth registration and consular assistance for migrants and refugees in Egypt and Morocco. The methodology was harmonized in the two countries and the fieldwork was conducted according to a shared research template.

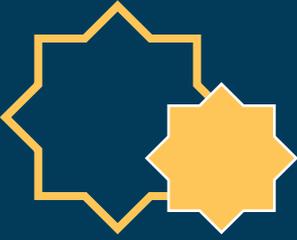
This report covers the five largest refugee communities in Egypt: Syrian, Sudanese, South Sudanese, Ethiopian, and Eritrean communities as well as the Nigerian community as an example of West African migrant groups in Egypt.



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Abstract

Migrants and asylum seekers in Egypt may lack identification papers for a number of reasons. Some have their documents lost or destroyed in the course of the conflict in their home countries, or by smugglers/traffickers during their journey to Egypt. The consequences for lacking identification can be severe and may include the risk of statelessness. Children of migrants also face the risk of statelessness as their parents' identification documents are a prerequisite for the issuance of their birth certificates.

This report is based on the findings of a research project that investigated the identification needs of migrants in Egypt, chiefly focusing on birth registration of children born outside their parents' country of nationality. The specific objective of the research was to understand the barriers that prevent recognition of, and respect for, the rights of children and adults to documents that officially confirm their identity and nationality.

The research was based on focus group discussions (FGDs) and in-depth interviews conducted with members of the following six migrant/refugee communities in Egypt: Syrian, Sudanese, South Sudanese, Ethiopian, Eritrean, and Nigerian communities. FGDs were conducted with a total of 148 participants, and in-depth interviews with a total of 50 participants. Government officials as well as staff from international and local civil society organizations were also interviewed.

Discussions with research participants highlighted that the main challenges facing them in registering the births of their children in Egypt include the required submission of a valid marriage certificate, having to provide a valid residence permit at the time of registration, and having to register the birth within the 15-day time limit. The categories of participants who find it most difficult to register the births of their children or obtain alternative officially recognized identity documentation are: single mothers, those caring for abandoned children/foundlings, parents of children born outside Egypt who arrived without registering the birth in the country of origin, children of parents who have no documents, and finally, children born of rape.

Participants also cited a number of challenges relating to birth registration and the issuance and/or renewal of identification documents at consular authorities. Some of the common challenges mentioned by participants across all communities were the high fees required for the issuance/renewal of documents, that these required documents cannot be issued in Egypt in the first place, and the limited accessibility of embassies and consulates. Refugees and asylum seekers sometimes cannot, or are afraid to, approach their respective consulates. Some migrants with irregular status worry that approaching their consulates may jeopardize their status in Egypt. These barriers either prevent the registration of births with the relevant consulates or render the process more difficult.



1. Introduction

Over the past decades, recurring wars and regular bouts of political instability in Africa and the Middle East have been driving persons out of their countries, and forcing them to seek refuge elsewhere. It is in this context that nationals of Sudan, South Sudan, Ethiopia, Eritrea, Iraq, Syria, Somalia, and Yemen have been escaping instability in their home countries by fleeing to neighboring countries, including to Egypt.

As they arrive in Egypt, many do not carry identification documents, having fled their countries of origin without securing these forms of identification, or having had their documents stolen or lost during their journey to Egypt. To further complicate matters, many children are born in displacement. With their parents lacking identification papers, recognizing the right of these children to a nationality and establishing it becomes more difficult.

While asylum seekers and refugees make up the majority of foreigners in Egypt, the latter category also comprises labor migrants. Very few labor migrants arrive to Egypt through formal recruitment arrangements. They may arrive with work permits of temporary status, albeit some of them will end up staying beyond their permitted time. Other migrants use the asylum channel to reach Egypt with the hope of eventually resettling elsewhere. Those with rejected asylum applications often continue to live in Egypt without valid residence permits or other forms of documentation. As they continue to live in the country irregularly, they struggle to issue the identification documents, including birth and marriage certificates, essential to establish their identity, nationality, and/or enable their access to basic services in Egypt.

Against this backdrop, and as a center specialized in migration and refugee studies, CMRS saw the need to investigate the consequences of the lack of identification documents on the lives of migrants in Egypt, with our main aim being the future prevention of 'statelessness'. With not enough research done on the difficulties facing migrants in issuing identification documents in host countries, this research endeavor becomes both a timely and much-needed contribution to the global effort to reduce statelessness.

As such, CMRS partnered with the Middle East Centre of the London School of Economics (LSE) and the Association Macrocaïne de' Eludes & de Recherches sur la Migration (AMERM) to conduct research on access to birth registration and consular assistance for migrants and refugees in Egypt and Morocco. The methodology was harmonized in the two countries and the fieldwork was conducted according to a shared research template.

This Egypt country report covers the five largest refugee communities in Egypt: the Syrian, Sudanese, South Sudanese, Ethiopian, and Eritrean communities. Moreover, given the increased awareness of the growing West African community in Egypt, this report also includes the Nigerian community as an example of this West African migrant group.

The report is divided into five sections. The first section provides background information on the immigration and asylum context in Egypt, and each of the six



communities understudy. The second section lays out the research methodology. The third section provides the legal structure, covering both the international and national legal frameworks. The fourth section outlines the research findings. The fifth and final section concludes the report and gives detailed recommendations.

2. Background

2.1 Immigration and asylum context in Egypt

Egypt is principally a migrant sending country. The number of regular immigrants with residencies and/or valid work permits in Egypt is very small (Francois De Bel-Air, 2016). The Egyptian Ministry of Manpower and Immigration allows business establishments to hire foreign workers within a 10% quota system. Employers must demonstrate that foreigners hired within the 10% quota have skills and qualifications that cannot be provided by the national labor force. Moreover, employers must cover the fees required to sponsor foreign employees to acquire needed work permits. These restrictions explain the low number of regular migrant workers in Egypt. Given these restrictions, most foreigners with formal work contracts in Egypt are either professionals or high skilled workers. Low skilled foreign workers are mostly hired informally (Jacobsen, Ayoub, & Johnson, 2012).

With regard to Egypt's refugees and asylum seekers, the number of persons of concerns to the United Nations High Commissioner for Refugees (UNHCR) as of November 2020 is 258,882 persons (UNHCR Egypt Fact Sheet, November 2020). This figure, however, is not indicative of the actual number of asylum seekers and refugees in the country. This is because some asylum seekers do not approach UNHCR for registration when they arrive in Egypt. Reasons behind this could include lack of awareness of UNHCR's mandate, or the fear and stigma around the term 'refugee.' In addition, many asylum seekers continue to live in Egypt even after their files are closed, rendering their number much larger than official UNHCR figures (Ayoub & Khallaf, 2014). Moreover, nationals of some African countries often come to Egypt with the aim of finding work or using Egypt as a transit to Europe (Interview with a migrant in Egypt).¹

This report is concerned with the consequences of lack of documentation for all groups of migrants in Egypt. As such, and to capture the different realities of persons arriving to Egypt, this report will use the word 'migrant' to refer to all persons struggling due to lack of documentation, whether they be asylum seekers and refugees registered with UNHCR, rejected asylum seekers, or irregular migrants.

According to UNHCR's latest figures, out of 258,882 registered asylum seekers and refugees, 130,187 are from Syria. This makes the Syrian community the largest in the country, followed by the Sudanese and South Sudanese communities, respectively. Table 1 below is based on a November 2020 factsheet by UNHCR Egypt, the latest available at the time of writing the report. The table highlights the numbers of registered asylum seekers and refugees per countries of origin.

¹ The identity of the migrant is not revealed to ensure his or her protection

Nationality	Number of Registered Asylum Seekers and Refugees
Syrians	130,187
Sudanese	49,264
South Sudanese	19,813
Eritreans	18,995
Ethiopians	16,115
Yemenis	9,278
Iraqis	6,812
Somalis	6,753
Others	1,665

TABLE 1: NUMBER OF REGISTERED REFUGEES AND ASYLUM SEEKERS PER NATIONALITY (UNHCR EGYPT FACT SHEET, 2020)

Egypt has no encampment policy. All refugees and asylum seekers in the country are self-settled refugees who mostly live in urban areas. The vast majority among them settle in Greater Cairo (Cairo, Giza, and in two cities in Qalyubia governorate) and a number of other governorates as indicated in the below table. Table (2) below indicates the number of registered asylum seekers and refugees per governorate.

Governorate	Number of Asylum Seekers and Refugees
Greater Cairo	205,490
Alexandria	23,999
Sharkia	10,658
Damietta	8,785
Dakahliya	3,609
Monofiya	2,386

TABLE 2: NUMBER OF REGISTERED REFUGEES AND ASYLUM SEEKERS PER EACH EGYPTIAN GOVERNORATE (UNHCR EGYPT FACT SHEET, 2020)

With regard to asylum laws, which we will return to in the legal framework section, Egypt is a signatory to the 1951 Geneva Convention and its 1967 protocol. However, Egypt has no local asylum legislation and has delegated to UNHCR the registration and assessment of asylum applications. This delegation is based on a Memorandum of Understanding (MoU) signed between the Egyptian government and UNHCR in 1954. The MoU specifies repatriation and resettlement as the only two durable solutions for refugees in Egypt. Consequently, local integration of refugees is not formally recognized in Egypt. However, given the protracted nature of most of the conflicts in the region and the fact that neither UNHCR nor the Egyptian government have control over resettlement and repatriation' decisions, most refugee and asylum seekers end up staying in Egypt for long periods of time. (Jacobsen, Ayoub, & Johnson, 2012).

While asylum seekers and refugees are not barred from accessing the labor market, they are considered foreigners and therefore have to attain individual work permits to be qualified for legal employment in the country. As explained above, securing formal employment requires finding an employer who is willing to cover the cost of issuing a work permit. For this reason, almost all asylum seekers and refugees end up working in the informal sector. While many Egyptians work in the informal sector, refugees and asylum seekers, particularly those who lack documentation, are often at greater risk of being underpaid, unpaid, or laid off. Refugees and asylum seekers in Egypt mostly work as maids, street cleaners, and vendors. Many resort to low-skilled jobs because of their inability to work in the formal sector and make use of their skills and qualifications (Ibid).

As above-mentioned, UNHCR figures do not represent the real number of asylum seekers and refugees in Egypt because many do not register with UNHCR in the first place. Moreover, many rejected asylum seekers continue to live in Egypt after their

2.2 Background on the studied communities

As explained earlier, this research focuses on the largest refugee communities in Egypt, which include the Syrian, Sudanese, South Sudanese, Eritrean, and Ethiopian. The Nigerian community is also included because research on West African communities in Egypt remains limited despite the evident growth of this group. There are no official estimates for the number of West African migrants in Egypt, but the Nigerian community is arguably the largest West African community in Egypt (Interview with a member of one of the migrant communities).

Apart from a few studies about the Palestinian community in Egypt,¹ there is a dearth of research on the topic of statelessness in the country. Yet, the issue of statelessness has emerged in the findings of a 2017 CMRS research report on the situation of rejected asylum seekers. This research found that asylum seekers who are denied asylum are unable to obtain birth certificates for their children (Abdel Aziz, 2017). With no birth certificates establishing their identity and nationality, these migrant children become stateless, a disturbing finding that encouraged CMRS to initiate this research effort.

2.2.1 Syrians

As earlier mentioned, Syrians currently constitute the largest refugee community in Egypt. The influx of Syrians seeking asylum in Egypt began as early as 2012. At the beginning, few registered with UNHCR. This was due to many reasons including the fact that most of the early comers joined families living in Egypt, the belief at the time being that the political unrest in Syria was temporary and that Syrians would soon be able to return home. Another reason is that prior to June 2013, Syrians did not need a visa to enter Egypt and could purchase their visa upon arrival (Ayoub & Khallef, 2014).

Refugee status was, and indeed continues to be, stigmatized, particularly among the Syrian community. This explains why financially secure Syrians arriving in Egypt at the beginning of the civil war preferred to stay in Egypt with approved residence permits instead of applying for refugee status. Many also worried that the Syrian regime would find out if they sought asylum. For fear this would jeopardize their eventual return to Syria or put the lives of family members back in Syria at risk, they refrained from registering with UNHCR (Ibid).

However, with the introduction of the visa requirement for Syrians in June 2013 and the unfolding of anti-Syrian rhetoric which coincided with social and political unrest in Egypt, UNHCR registrations witnessed a significant spike. Following the Muslim Brotherhood's (MB) ouster from power in 2013, some media outlets alleged that Syrian refugees in Egypt supported the 2013 MB protests and made up the majority of pro-MB protests in Cairo's Rabaa and El-Nahda Squares. This in turn resulted in a significant attitude change towards the Syrian community who were now seen as the source of unrest and instability in the country. This change in attitude, however, was short-lived as the anti-Syrian rhetoric waned after a while. Still, these changes translated into a growing fear amongst the Syrian community who felt they were being scapegoated for the political unrest in Egypt. Fearing potential obstacles with entry into, and living in, Egypt, many Syrians began registering with UNHCR to claim asylum in Egypt (Ibid).

¹ See for example the study by Oroub El Abed "Palestinian Livelihoods in Egypt" published by CMRS in 2003, <https://documents.aucegypt.edu/Docs/GAPP/EnglishReport.pdf>



Given the large number of incoming Syrians, Refugee Status Determination (RSD) became unfeasible. Accordingly, the legal status of Syrians registered with UNHCR became that of ‘asylum seeker.’ Upon their registration at UNHCR, Syrian asylum seekers receive a card stamped with their residence permit. In case a Syrian in Egypt is offered the opportunity for resettlement, he/she must undergo RSD to determine his/her eligibility for refugee status according to the 1951 Geneva Convention (Ibid).

The majority of Syrians in Egypt reside in the Greater Cairo area, particularly the areas of Rehab City, Obour City, and 6th of October City. Syrians also live across Egypt’s governorates, including in Alexandria, El Sharkqia, and Damietta, albeit in smaller numbers compared to Greater Cairo (Ibid).

2.2.2 Sudanese

Egypt has for long hosted a large Sudanese migrant community due to the historical relations between Egypt and Sudan. The Second Sudanese Civil War (1983-2005) resulted in an influx of Sudanese refugees, with mass movements recorded to neighboring countries in the south such as Uganda, Kenya, and Tanzania. Refugees escaping the Sudan war and settling in Egypt joined an already existing Sudanese migrant community in the country (Jacobsen, Ayoub & Johnson, 2012).

For these incoming refugees, Egypt was an attractive destination compared to countries like Uganda, Kenya, and Tanzania, especially for those who had prior knowledge of Arabic, and also because, unlike Kenya and Tanzania, Egypt has no encampment policy and refugees can choose where to live inside the country. Newcomers who proceeded to apply for refugee status upon their arrival thought of Egypt as a transit country. As such, they hoped to resettle, once they received refugee status, to either North America, Europe, or Australia, as each hosts a Sudanese diaspora that could assist refugees escaping war, insecurity, and oppressive political regimes (Ibid).

In 2004, Egypt and Sudan signed the Four Freedoms Agreement. This agreement allowed free movement between Egypt and Sudan and gave citizens of the two countries the right of residence, work and ownership of property in the other country. The Four Freedoms Agreement was expected to be of substantive benefit to the Sudanese community in Egypt. However, interviews with Sudanese in Egypt revealed that this was not the case (Ibid).

On January 9, 2005, a ceasefire agreement was reached between the Sudanese government and the Sudan People’s Liberation Movement (SPLM). Following that, UNHCR Egypt decided to suspend RSD for South Sudanese asylum seekers. The decision was based on the rationale that South Sudanese asylum seekers might not be eligible for refugee status given the peaceful transition resulting from the ceasefire agreement. Suspending RSD would, as such, prevent them from possible rejection and deportation (Ibid).

Since resettlement is only available to recognized refugees, South Sudanese asylum seekers feared that the suspension of RSD would affect their chances of resettlement. Consequently, they started a sit-in near the UNHCR Cairo office on September 29, 2005 to protest the suspension. Other Sudanese refugees and asylum seekers joined the sit-in which became known as the Moustafa Mahmoud protest. On December 30, 2005, the Egyptian police forces forcibly dispersed the protestors. The evacuation



resulted in the death of 27 Sudanese nationals (Azzam, 2006).

While UNHCR ultimately resumed RSD for South Sudanese asylum seekers, resettlement slots remain limited to a very small number of recognized refugees in Egypt. This explains why Sudanese refugees, as well as other African refugees, often stay many years in Egypt despite their initial aim to resettle elsewhere. Moreover, and as explained earlier, many of those denied refugee status – sometimes referred to as ‘closed files’ – continue to live in Egypt without legal documents. They are often unable to return to their countries of origin because the conditions leading to their flight remain the same. Closed files constitute the most marginalized group among refugees in Egypt (Grabska, 2005).

Sudanese migrants, refugees, asylum seekers, and closed files tend to live together in specific Cairo neighborhoods. Today, there are significant Sudanese communities in Ard al-Lewa as well as in the Masaken Othman buildings in 6th of October city.

2.2.3 South Sudanese

On January 9, 2011, the people of South Sudan voted in a referendum for the separation of South Sudan from Sudan. The result of the referendum overwhelmingly supported the separation with 98.83% voting in favor of it (United Nations Mission in the Sudan). As explained above, many of the Sudanese asylum seekers and refugees in Egypt are from South Sudan. As such, following the referendum’s results, a repatriation process of Southern Sudanese persons from Egypt to the newly established Southern Sudanese state began (Daily News Egypt, 2010).

In December 2013, violence re-erupted in South Sudan following an accusation by President Salva Kiir that his Vice President, Riek Machar, was planning a coup. Since then, the situation in South Sudan has been unstable and the country continues to be prone to regular outbreaks of violence, as well as to the risk of famine. According to the UN Office for the Coordination of Humanitarian Affairs, an estimated seven million people in South Sudan were in need of humanitarian assistance as of 2018. The figure remained the same in 2019 (UN Office for the Coordination of Humanitarian Affairs). It is estimated that one in every three people have been displaced since the conflict re-erupted in South Sudan. To put it differently, more than four million South Sudanese have been forced to flee their homes (Ibid). Over 2.4 million displaced persons have fled to nearby countries. Correspondingly, the past two years witnessed a steady increase in the number of new asylum seekers arriving in Egypt from South Sudan (UNHCR Egypt fact Sheets, February 2019 & November 2020).

2.2.4 Ethiopians

Most of the Ethiopian refugees and migrants in Egypt belong to the Oromo and Amhara ethnic groups (Thomas, 2006). The Oromo community constitutes the largest such ethnic group in Ethiopia, with some estimates suggesting it makes up between 25 and 40 per cent of the total population (Refworld, January 2018). Despite their large number, Oromos suffered a long history of exclusion and forced assimilation by the Ethiopian government. As for the Amharas, they are the second largest ethnic population in Ethiopia and also face discrimination. Amharas claim that their ancestral lands were forcibly taken by the current Ethiopian government. In 2016, it was reported that both the Amharas and Oromos were subjected to human rights violations in what was until recently a highly restricted political environment. Moreover, Ethiopia



has compulsory military service. Despite the minimum conscription age of 18, reports indicate that the government continues to recruit underage children to offer a range of military services (Minority Rights Group, 2016).

2.2.5 Eritreans

Since the 1960s, Eritrea has witnessed a series of wars and armed conflicts with Ethiopia. These wars caused massive displacement of the population and resulted in over one million refugees by the end of the 1980s. In 1993, Eritrean independence was established following a referendum. Independence was expected to enable the return of refugees to Eritrea and halt further movement out of the country. However, the outbreak of a new war in 1998 between Eritrea and Ethiopia, coupled with the authoritarian rule of Eritrean president Isaias Afewerki, not only hampered the return of previously displaced refugees to Eritrea, but also caused further mass displacement (Thiollet, 2007).

Both a rigorous military conscription and religious/ethnic persecution have prompted Eritreans to seek asylum in Egypt and around the world. Eritrea maintains a policy of military conscription for young men and women. Though officially time-limited, a 2009 Human Rights Watch Report revealed that the duration of conscription can be unlimited in practice. The 1957 Ethiopian penal code, adopted by Eritrea at independence, details various penalties for desertion from, and evasion of, military service. The penalties range from fines and short-term imprisonment to indefinite imprisonment where detainees can experience mental and physical torture. As such, many men and women reportedly fled Eritrea before completing their compulsory military service or during the course of their service. (Human Rights Watch, 2009).

Eritrean refugees have been fleeing to Egypt since the outbreak of violence in the 1960s and they still continue to arrive today. Eritrea is one of the top sending countries of unaccompanied and separated children to Egypt (UNHCR Fact Sheet, February 2019). Same as Ethiopians, one of the major challenges faced by Eritreans in Egypt is the language barrier, since most do not understand or speak Arabic.

2.2.6 Nigerians

Very little research has been done on the Nigerian community in Egypt. More attention is being given to refugee groups from Syria, Sudan, and the Horn of Africa due to their long-standing presence in Egypt as well as their relatively larger numbers. It is possible to estimate the size of these communities based on UNHCR's registration. Nigerians in Egypt, however, do not seek asylum and thus UNHCR records cannot offer an estimate. Moreover, apart from entry records, there is no official government data that can provide an estimate for the number of migrants from Nigeria or from West Africa more generally. Many Nigerians come to Egypt as economic migrants or students. The number of Nigerian students in Egypt is estimated to be 10,000 (Ojeme, 2017).

In the greater Cairo area, a large Nigerian community resides in the 10th Settlement area in Nasr City as well as in New Cairo. Most Nigerians arrive to Egypt with valid visas. Those who are able to apply for renewal of their residence permits do so regularly to ensure that their stay in Egypt is regularized. However, it is believed that a significant number overstay their tourist or student visas and remain in Egypt to search for employment opportunities (Interview with a Nigerian community leader, Cairo, November 2018).

3. Methodology

This project combined desk and field research. The desk research phase involved documenting the legal rules governing the recognition of nationality, birth registration, and identification in Egypt. This phase particularly focused on seeking out the subsidiary legislation and administrative instructions that provide officials with guidance on the implementation of the legal framework. This analysis is presented under the legal framework section of this report. Desk research also involved finding existing information about the topics covered by this research, including civil registration, as well as information about the migrant and refugee communities under study.

Desk research also allowed us to prepare for the fieldwork phase. We identified the target groups for the study, interviewed key stakeholders for their views on the content of this research, and finalized the templates for our interviews and focus group discussions (FGDs) with migrants and refugees, which were then discussed and shared with our partners in Morocco.

The fieldwork was conducted in Cairo in 2018 and covered four main categories: migrants and their representatives from the above-indicated countries of origin; organizations and experts with knowledge of the general situation of migrants; officials in Egypt; and officials in the consulates of countries from which the migrants are originating. The information was collected through both one-on-one interviews and focus group discussions (FGDs) with migrants and refugees. Balancing between both methods depended on a number of factors, including the ease of reaching target populations. We were able to conduct FGDs with migrants and refugees claiming Sudanese, South Sudanese, Ethiopian, Eritrean, and Syrian nationalities. A total of 16 FGDs were carried out with Sudanese, South Sudanese, Ethiopians, Eritreans, and Syrians; with a total of four FGDs carried per community. We faced difficulty in reaching members of the Nigerian community and were not able to conduct FGDs with any of them but instead resorted to conducting in-depth interviews, holding a total of 10 interviews with Nigerian participants and community leaders.

To ensure efficient data collection during the FGDs, we recruited two field researchers from each of the above mentioned communities. The selected researchers had previously worked with CMRS and also received training on conducting FGDs based on our research templates. These researchers facilitated our access to the different communities and arranged to hold the FGDs and in-depth interviews in community centers where the target population(s) would be more comfortable and more able to participate.

To complement our interviews with the migrant and refugee communities, we also interviewed representatives of organizations as well as experts working in the field. Among the organizations interviewed were UNHCR, IOM, UNICEF, Plan International, Save the Children, Catholic Relief Services, Tadamon, and the Egyptian Foundation for Refugee Rights.

Besides the above-mentioned difficulty of conducting FGDs with the Nigerian community, we also could not meet with consular authorities of the countries under study, with the exception of the Ethiopian embassy, despite multiple attempts to reach them over a period of several months. We also hoped to conduct more interviews with Egyptian government officials but were only able to meet with officials from the Department for Migration, Refugees, and Trafficking in Persons in Egypt's Ministry of Foreign Affairs.

4. Legal Framework

4.1 International and regional legal framework

4.1.1 The right to acquire a nationality

The right to acquire a nationality is a basic human right guaranteed by international law. Article 15 of the Universal Declaration of Human Rights (UDHR) states that:

- “1. Everyone has the right to a nationality.
 2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality”
- (Universal Declaration of Human Rights, 1948).

In order to acquire a nationality, a child has to be registered at birth. Birth registration is the first official recognition of the existence of a person and lays the most basic foundation for safeguarding a child’s rights to nationality. It validates the facts (location of birth and identity of parents) that prove a child’s connection to a reference country for the purpose of determining nationality and therefore accessing other rights (United Nations, Department of Economic and Social Affairs, 2014).

The obligation on states to register all births is also well-established in international law. A number of United Nations (UN) treaties highlight the right of children to registration and confirm the right of every child to acquire a nationality (of either parent or of the state of birth). Article 24 of the International Covenant on Civil and Political Rights (ICCPR) states the following:

- “1. Every child shall have, without any discrimination as to race, color, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
 2. Every child shall be registered immediately after birth and shall have a name.
 3. Every child has the right to acquire a nationality”
- (International Covenant on Civil and Political Rights, 1966).

Article 7 of the Convention on the Rights of the Child (CRC) stipulates:

- “1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and be cared for by his or her parents.
 2. States Parties shall ensure the implementation of these rights 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”
- (Convention on the Rights of the Child, 1989).

The Convention on the Protection of All Migrant Workers and Members of their Families (CMW) established the right of migrants’ children to a nationality and the right to registration upon birth. Article 29 of CMW indicates that “Each child of a migrant worker shall have the right to a name, to registration of birth and to a nationality” (Convention on the Protection of All Migrant Workers and Members, 1990).

Egypt, the focus country of this report, ratified the International Covenant on Civil and



Political Rights (ICCPR) in 1982, the Convention on the Rights of the Child (CRC) in 1990, and the Convention on the Protection of All Migrant Workers and Members of their Families in 1993 (United Nations Treaty Collection).

According to the above, birth registration is considered a universal right that should be free, accessible and take place immediately after the birth of a child. To ensure that the international standards put forward by UN treaties are met, the UN established a number of committees to monitor the implementation of these treaties by state authorities (Equality and Human Rights Commission website).

For their part, these committees adopted a number of measures including ones that oblige states to make efforts to guarantee registering the births of children in hard-to-reach groups. For example, in 2017, the committee on the Rights of the Child adopted a General Comment on children in street situations (UN Committee on the Rights of the Child, Comment no.21). Similarly, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families stated the following regarding the rights of children born to irregular migrants:

Legal identity is often a prerequisite for access to a number of fundamental rights. Children of migrants in an irregular situation, particularly those born in a host State that does not recognize their existence, are vulnerable throughout their lives. States parties are obliged to ensure that children of migrant workers are registered soon after birth, irrespective of the migration status of their parents, and provided with birth certificates and other identity documents (art. 29). States parties shall not require migrant workers to present a residence permit in order to register a child, as this would effectively deprive migrant children in an irregular situation of their right to birth registration, which can also deny them access to education, health services, employment and other rights. Non-compliance by migrant workers with the obligation to register their children following birth should never justify their exclusion from education. (Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, paragraph 79, General comment No. 2).

These obligations are also established in regional human rights systems which are applicable to Egypt. The African Charter on the Rights and Welfare of the Child (ACRWC) provides for a child's right to a name, birth registration, nationality, and that a child's country of birth should give him/her the right to a nationality if the child would otherwise be stateless (African Charter on the Rights and Welfare of the Child, 1990). The Arab Charter on Human Rights adopted in 1994 and updated in 2004 does not contain a provision on birth registration, but it confirms the right to maintain one's own nationality and the right to acquire another nationality (Arab Charter on Human Rights, 1994). The Organization of Islamic Cooperation adopted a Covenant on the Rights of the Child in Islam in 2005. Article 7 of the Covenant stipulates "a child shall, from birth, have right to a good name, to be registered with authorities concerned, to have his nationality determined and to know his/her parents, all his/her relatives and foster mother" (Covenant on the Rights of the Child in Islam, 2005).

4.1.2 The right to seek asylum

The main international legal framework governing asylum is the 1951 Convention Relating to the Status of Refugees (Refugee Convention) and its 1967 Protocol.



Article 1 of the 1951 Convention Relating to the Status of Refugees 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 (Geneva Convention, 1951).

As it is clear from the definition, the right to seek asylum according to the 1951 convention is based on the ability to prove individual persecution. Recognizing the wars and civil conflicts in the African continent, the Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU) acknowledges the refugee definition of the 1951 Refugee convention but extends it by defining a refugee as a person who:

Owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality (OAU Convention, 1969).

Egypt signed both the 1951 convention and its protocol as well as the OAU convention. However, Egypt has placed reservations on five articles of the 1951 Refugee Convention: Article 12 (1) on personal status, Article (20) on rationing, Article 22 (1) on public education, Article (23) on public relief, and Article (24) on labor legislation and social security (Convention Relating to the Status of Refugees, 1951).

With regard to Article 12 (1), the following are the stated reasons for the reservations:

Egypt formulated a reservation to article 12 (1) because it is in contradiction with the internal laws of Egypt. This article provides that the personal status of a refugee shall be governed by the law of the country of his domicile or, failing this, of his residence. This formula contradicts article 25 of the Egyptian civil code, which reads as follows: “The judge declares the applicable law in the case of persons without nationality or with more than one nationality at the same time. In the case of persons where there is proof, in accordance with Egypt, of Egyptian nationality, and at the same time in accordance with one or more foreign countries, of nationality of that country, the Egyptian law must be applied.” The competent Egyptian authorities are not in a position to amend this article (25) of the civil code (Convention Relating to the Status of Refugees, 1951).

With regard to Articles 20, 22 (1), 23 and 24, the following are the stated reasons for the reservations:

“Concerning articles 20, 22 (paragraph 1), 23 and 24 of the Convention of 1951, the competent Egyptian authorities had reservations because these articles consider the refugee as equal to the national. We made



this general reservation to avoid any obstacle which might affect the discretionary authority of Egypt in granting privileges to refugees on a case-by-case basis” (Convention Relating to the Status of Refugees, July, 1951).

With regard to education, the reservation is in accordance with the Egyptian constitution which restricts the right of free public education to Egyptian citizens only. Decree no. 284 of 2014 prohibits non-nationals from accessing public schools but allows them access to private schools. The decree, however, permits certain nationalities, including Sudanese and Libyans, to access public primary and secondary schools, though for a higher fee than nationals. In addition, a 2018 administrative order from the Ministry of Education gave Syrians and Yemenis access to primary and secondary public education under the same conditions as Egyptian students (Hetaba, McNally, & Habesrky, 2020).

As such, Syrians and Yemenis are the only communities who benefit from access to public education. However, actual access for these communities remains debatable. For example, Syrian students, our interviews have revealed, often struggle with the Egyptian dialect. They also struggle due to the differences between the national curricula of both countries, and the overwhelmed education facilities in Egypt, manifest in the large number of students per classroom. In addition, the hard-to-fulfill administrative requirements for enrolment at these schools, including, for example, having to provide a valid residence permit, make actual access difficult in practice. Together, these factors often lead Syrian students to depend on their own community schools rather than on Egyptian public ones. Other nationalities, including those who can attend public schools for a fee, or those who can only enroll at private schools and must therefore pay full tuition fees, as revealed by our interviews, often struggle to provide the needed fees and as such end up either enrolling their children in community schools or not taking them to school.

With regard to access to health, the Egyptian constitution forbids denying any form of medical treatment to any person in an emergency. Moreover, as per the Egyptian constitution, all children are given access to compulsory vaccination regardless of citizenship or legal status. Furthermore, the Egyptian Child Law gives all children access to health care regardless of nationality. As such, in theory, all refugees and asylum seekers have access to emergency health care facilities and all migrant children have access to primary health care (Hetaba, McNally, & Habesrky, 2020). Moreover, in 2016, the Egyptian Minister of Health and the UN High Commissioner for Refugees signed a memorandum of understanding (MoU) allowing UNHCR to improve the provision of primary care and emergency services to registered refugees and Egyptian citizens, especially mothers and newborn infants, with the aim of reducing the fatality rate among them (State Information Service, October 2016). Despite these initiatives, the interviews conducted within the framework of this research highlighted difficulty in accessing public health care. For example, most Syrians interviewed reported that they heavily rely on Syrian doctors among their communities who operate informally in Egypt. Other studies have attributed the difficulty in actual access to reasons like the existence of contradictory laws and regulations and/or lack of awareness on the part of the administrators of these laws and regulations (Hetaba, McNally, & Habesrky, 2020).

4.1.3 Reforms to reduce statelessness

It is worth noting that even if universal birth registration is achieved, some children will still be left stateless. Those at risk of statelessness will include children of unknown



or stateless parents, and children who cannot acquire the nationality of (one of) their parents due to, for example, restrictions on transmission of nationality to those born outside their state(s) of origin.

To prevent statelessness resulting from the above referenced circumstances, international law provides certain basic protections. One of the longest-standing principles relating to nationality and statelessness in international law was established by the Hague Convention of 1930 and states that children of unknown parents found in a country should be presumed to have been born there and to parents holding the nationality of that state. Furthermore, the 1961 Convention on the Reduction of Statelessness provides that a child who would otherwise be stateless shall acquire the nationality of the state where he or she is born. Egypt signed the Hague Convention but has not ratified it. Similarly, Egypt is not a party to the 1961 Convention on the Reduction of Statelessness. However, Egypt is a party to the African Charter on the Rights and Welfare of the Child, mentioned earlier, which includes the above-mentioned protection (Convention on Certain Questions Relating to the Conflict of Nationality Law, 1930 & Convention on the Reduction of Statelessness, 1961).

The preservation of a child's right to nationality of the parents' country of origin is particularly complicated in the case of children of asylum seekers and refugees. According to Article 1(C)(1) of the Refugee Convention, the convention will cease to apply if the refugee/asylum seeker voluntarily re-avails himself/herself to the protection of his/her country of origin. This explains why they would be hesitant to approach the authorities of their country of origin to issue a birth certificate or obtain any documentation (Convention relating to the Status of Refugees, 1951). Similarly, migrants staying in a country in an irregular manner are usually reluctant to approach their own authorities together with host state authorities. To put it differently, children of asylum seekers, refugees and irregular migrants may in practice not be able to obtain any official recognition of what in theory is an automatically acquired nationality—especially but not only in the absence of official documentation of their status in the host country, including birth registration. Therefore, there is a need to separate procedures related to civil registration and documentation from those related to migration status. One of the primary objectives of this research is to understand the measures needed to ensure this desired outcome.

4.1.4 The right to hold identity documents

Article 6 of the Universal Declaration of Human Rights acknowledges the right of every person to be recognized as a person before the law regardless of documentation (Universal Declaration of Human Rights, 1948). Yet, there are no international treaty provisions or guidance on identification documents for adults similar to those for birth registration, and no international consensus on documentation requirements more generally. However, the 2014 UNHCR campaign to end statelessness has both birth registration and the issue of documentation for those entitled to nationality listed within its ten-point action plan (UNHCR Statelessness Campaign). Furthermore, the two “Global Compacts” adopted in 2018 on refugees and migration include commitments to facilitate the access of migrants, refugees and asylum seekers to registration, documentation, and legal identity (Global Compact for Refugees, Global Compact for Safe, & Orderly and Regular Migration).

4.2 National legal framework

The first part of this section will review Egyptian local legislation concerning nationality and residence of foreigners as well as local legislation concerning birth registration. The second part of the section will explain the procedure framework for seeking asylum in Egypt as well as the procedure framework for issuing marriage and birth certificates in Egypt

4.2.1 Legislation

4.2.1.1 Nationality

Law No. 26 of 1975 is the national law concerning Egyptian nationality. It was amended by law No. 154 of 2004 which allowed Egyptian mothers to pass on their nationality to their children.

Article (2) of the current law stipulates:

“The following shall be Egyptian:

1. Whoever is born of an Egyptian father or an Egyptian mother.
2. Whoever is born in Egypt of two unknown parents. A foundling in Egypt shall be considered born in it unless otherwise established” (Egyptian Nationality Law no. 154, 2004).

Article (3) of the current law also stipulates that:

“A person born to an Egyptian mother and a non-Egyptian father before the effective date of the present law may announce to the minister of interior his wish to enjoy the Egyptian nationality. Such person shall be considered Egyptian by virtue of a decree to be issued by the minister, or with the lapse of one year from the date of such announcement without the issue of a substantiated refusal decree from the minister” (Egyptian Nationality Law no. 154, 2004).

Article (4) of Law No. 26 of 1975 states that the Egyptian nationality may be granted by a decree from the Ministry of Interior in various situations. For the purpose of this study, the following situations are relevant:

“any foreigner born in Egypt of a foreign father who was also born in Egypt, if such a foreigner belongs to the majority of inhabitants in a country whose language is Arabic, or religion is Islam, if he applies for the Egyptian nationality within one year from the date, he attains full age” (Egyptian Nationality Law no. 26, 1975).

“to each foreigner born in Egypt and his ordinary residence has been in it on attaining full age, if he applies within one year from attaining full age, provided that he fulfills the following conditions:

1. That he shall be mentally sane and suffering from no disability rendering him a burden on society;
2. That he should be of a good conduct and reputation, and that no criminal penalty or penalty restricting his freedom should

- have been passed against him in a crime against honor, unless he has been rehabilitated;
3. That he should be acquainted with the Arabic language;
 4. That he should have a legal means of earning his living”
- (Law # 26, Article 4, 1975).

According to Article 7 Law No. 26 of 1975, “a foreign woman who gets married to an Egyptian does not acquire his nationality through marriage unless she notifies her wish to acquire his nationality to the Ministry of Interior, and the marriage has not been terminated before the lapse of two years from the date she announces her wish, by another reason than his decease” (Egyptian Nationality Law no. 26, 1975).

In practice, Egyptian nationality is difficult to acquire (Interviews with lawyers). Egypt’s Ministry of Interior rarely approves the granting of Egyptian nationality even in cases where the above-referenced legal requirements are met. While there is no official proof of this, interviews with various lawyers have confirmed the difficulties in acquiring the Egyptian nationality in practice. Interviews with migrants also echoed such difficulty. For example, a Sudanese who has been in Egypt for 25 years indicated that despite having lived in Egypt for over two decades and being Muslim and an Arabic speaker, he did not apply for citizenship since there is no previous record of individuals in similar situations who were able to acquire the Egyptian citizenship.¹ Consequently, few if any migrants or refugees apply for naturalization.

In 2018, the Egyptian House of Representatives approved Law 173/2018 which amended both Law No. 89 of 1960 on Entry, Residence, and Exit of Foreigners explained below as well as the above-explained nationality law. As per this new law, foreigners can acquire a five-year residency by depositing seven million Egyptian pounds, or the equivalent in other currencies (approximately 448,775 USD). Following the conclusion of the five years, foreigners can apply for citizenship. Such application is subject to the Egyptian Ministry of Interior’s approval (Egyptian Law no.173, 2018). The new amendment provides an additional way to obtain Egyptian citizenship. However, naturalization remains out of reach for the migrants and refugees who are the subject of this study (Farid, 2018).

4.2.1.2 Residence

Entry into and residence in Egypt is regulated by Law No. 89 of 1960, on Entry, Residence, and Exit of Foreigners which was amended by Law 88 of 2005. Article 2 of the law stipulates that only those with valid passports, or other documents approved by the Egyptian authorities, are allowed to enter and exit Egypt. Moreover, article 4 of the same law stipulates that entry into Egypt should only happen through officially recognized entry points specified by the Minister of Interior and with valid visas stamped on official identification documents (i.e. passport) (Egyptian Law no 89 on Entry, Residence, and Exit of Foreigners, 1960).

The law recognizes three types of residence permits: special residence, ordinary residence, and temporary residence. In brief, special residence is granted to foreigners born in Egypt prior to 1952, or those who have lived in the country for twenty years. Members of this category are authorized to stay in Egypt for ten years and their residency is renewable upon request. This kind of residence can also be granted to

¹ Interview with Sudanese migrants, Cairo, September 2018.



foreigners who are perceived as doing useful work for Egypt's economy or performing scientific, cultural or artistic services to the country provided they spent more than five years in Egypt (Ibid).

Ordinary residence, on the other hand, is granted to foreigners who have lived in Egypt for fifteen consecutive years prior to 1952. Members of this category are authorized to apply for a five-year residency. Finally, temporary residence is granted to individuals who do not fall under the previously mentioned categories. A temporary residence lasts from one to five years. A one-year residency or less is subject to the approval of the Director of the Passports, Immigration, and Citizenship Department. Residence period can be extended to five years only with the approval and endorsement of the Minister of Interior (Ibid).

According to Decree No. 8180 of 1996 by the Minister of Interior, refugees registered with UNHCR and Palestinians holding passports issued by Egyptian authorities should be granted residence permits for a period of three years renewable (Abdel Hadi, Badawy, & Khalil, 2005). In practice, however, refugees and asylum seekers usually receive a six-month residence permit (UNHCR, 2013).

Chapter IV of Law 89/1960 on Entry, Residence, and Exit of Foreigners, which was amended by Law 88/2005, also regulates the deportation of aliens. Deportation orders are issued by the Minister of Interior, except if the deportation is for a foreign national holding a special residence, in which case the order is issued by a Deportation Committee. Article 29 of Law 89/1960 outlines the structure of the Committee and mentions that it is led by the First Assistant Minister of Interior for Security, as president. Law 89/1960 gives the Egyptian authorities the right to detain an alien who received a deportation order until the deportation order is carried out. Deported aliens cannot return to Egypt unless their return is approved by the Minister of Interior (Egyptian Law no. 89 on Entry, Residence, and Exit of Foreigners, 1960).

For those with special residence Article 26 says:

“An alien with special residence may not be deported unless his presence represents a threat to the State and country security and safety internally or abroad, or it its national economy, public health, public morals, or public tranquility, or he is a burden to the State, after referring his case to the Committee prescribed in Article 29, and getting its approval” (Ibid).

Deportation orders are difficult to implement since deportees are requested to cover the financial cost of their own deportation. Failure to do so usually results in their detainment for a long time, which burdens the state's detention centers. As such, detained deportees, with the exception of a few, are eventually released (Badawy, 2008).

4.2.1.3 Birth registration

In contemporary Egypt, registration of births and deaths in rural and urban areas started as early as 1839 and was made obligatory towards the end of the 19th century. Egypt was the first country in the Middle East and North Africa (MENA) region to introduce civil registration records. Civil registration and vital statistics systems are used in Egypt to record information and statistics for births, deaths, marriages, and divorces (United Nations, 2008).



The laws currently regulating birth registration in Egypt are the Child Law No. 12 of 1996, which was amended in 2008 and the Civil Status Law, No.143 of 1994, which was amended in 2016. Both laws include the same provisions regarding birth registration. According to Article 6 of the Child Law, every child has the right to have a nationality in accordance with the provisions set forth in the Egyptian nationality law. Article 3(b) of the Child Law guarantees that children shall be protected from any kind of discrimination including discrimination due to place of birth, parents, gender, religion, race, disability, or other status. It also provides for equality between children in the exercise of all rights (Egyptian Child Law no. 12, 1996)

Article 14 of the Child Law and Article 19 of the Civil Status Law both state the time limit for notifying the health office of a new birth as 15 days. Article 15 of the Child Law stipulates who should report the birth, in this order: father, mother in case she has proof of her marriage relationship with the child's father, hospital managers and probation institutions, Sheikhs and Omdas,² and second-degree relatives. The executive regulation on the application of the child law specifies that this order must be followed when reporting a birth (Egyptian Child Law no. 12, 1996).

As per the above, the father is the primary informant, and, in most cases, he should be present to report the birth. However, in his absence, the mother can report the birth. The last paragraph of article 15 reads:

Without prejudice to the provisions of Articles 4, 21, and 22 of the present Law, the mother shall have the right to report the birth of her new-born, register him at the birth registry, and apply for a birth certificate in which her name as mother is recorded. This birth certificate is to be used only as a proof of the birth and for no other purposes (Egyptian Child Law no. 12, 1996).

Article 23 of Ministerial Decree No. 2075 indicates that reporting a birth by the mother can be accepted if she submits an official document ("Mostanad Rasmy") proving her marital status as well as an attestation signed by her confirming that the child was born out of this marriage. The same article dictates that if the official marriage certificate is not available, the mother can still report the birth upon submitting the attestation confirming the child is hers. In this case, the birth is registered and the mother's name shall appear on the birth certificate, and the child is given a father name chosen by the health officer in charge. The certificate shall be attached to an administrative police report issued by the person who registered the birth. In some specific cases, this procedure may require the assistance of a lawyer (Ministerial Decree no.2075).

Article 16 of the Child Law outlines the required information for notifying a birth. The notification shall include the date of birth, gender and name of child, name of parents, their nationality, religion, residence address, occupation, and any other requirements requested by the Ministry of Interior in consultation with the Ministry of Health.

According to article 22 of the Child Law, the registration office shall not include the name of the father, mother, or both, on the birth certificate in the following cases:

1. If the parents are forbidden to marry under Islamic Law, their names shall not be recorded.
2. If the mother is married and the newborn child is born to a father other

² Sheikh (village headman) and Omda (village mayor) are executive authority officials, appointed in villages where no police unit is stationed (law 58/1978).

than her husband, her name shall not be recorded.

3. With regard to non-Muslims, if the father is married, and the child is born to a mother other than his legitimate wife, his name shall not be recorded, unless the child was born either before marriage or after annulling the marriage, except for those persons whose religion permits polygamy” (Egyptian Child Law no. 12, 1996).

4.2.2 Procedures

4.2.2.1 The procedures framework for seeking asylum in Egypt

Individuals crossing the border into Egypt to seek asylum should approach UNHCR offices in Cairo or Alexandria for registration. Upon registration, they are either given a white certificate (a sheet of paper) or a yellow card (a laminated cardboard) signifying that they are asylum seekers in Egypt. Individuals carrying no identification documents recognized by Egypt’s Ministry of Foreign Affairs are given a white certificate, while those who provide recognized identification documents from their country of origin receive a yellow card. While both documents indicate that their carrier is an asylum seeker registered with UNHCR, there are differences in the privileges enjoyed: those carrying the white certificate cannot apply for a residence permit while yellow-card holders can apply for a six-month residence permit from Egypt’s Ministry of Interior. Another disadvantage is that the white certificate is renewed every six months by UNHCR while the yellow card is renewed every 18 months. White certificate holders thus enjoy less privileges and have less access to services compared to yellow card holders; however, white certificate holders are still considered asylum seekers and fall under UNHCR’s mandate (UNHCR, 2019).

Once UNHCR conducts the RSD, asylum seekers recognized as refugees receive a blue card indicating that they are officially recognized refugees by UNHCR Egypt. They must renew this card every 36 months and also apply for residency with the Ministry of Interior – which, however, is only granted for six months at a time. For asylum seekers who are unsuccessful in seeking refugee status, their yellow card or white certificate is withdrawn on rejection by the RSD. They have 30 days to appeal the decision and, after this period or after the appeals process is concluded, their files are closed by UNHCR. Those who remain in Egypt after their files are closed are automatically considered irregular migrants unless they have other forms of permission to remain. Unfortunately, as will be explained below, individuals who seek asylum rarely receive further assistance from their embassies. Their passports are not renewed as a result and without a valid passport they cannot apply for residency to regularize their stay (Ibid).

The table below summarizes this information:

Category	Document/ Duration	Residency Status	UNHCR Mandate
Asylum seeker without identification papers	White Certificate/ 6 Months	No Residency	Under UNHCR's Mandate
Asylum seeker with identification papers	Yellow Card/ 18 Months	6 Months	Under UNHCR's Mandate
Refugee	Blue Card/ 36 Months	6 Months	Under UNHCR's Mandate
Rejected asylum seeker (has 30 days to appeal)	No Document	No Residency	Under UNHCR's Mandate
Closed file (appeals process concluded)	No Document	No Residency	No longer under UNHCR's Mandate

TABLE 3: DOCUMENTS, RESIDENCY STATUS, AND PROTECTION STATUS OF DIFFERENT CATEGORIES OF ASYLUM SEEKERS AND REFUGEES IN EGYPT.

4.2.2.2 The procedural framework for marriage certification in Egypt

To register their marriage, foreign couples are required to get a letter of attestation from their relevant embassy comprising their biographical data and religion before heading to one of the Egyptian Ministry of Foreign Affairs authentication offices to obtain certification of their marriage. Once they receive the certificate, they should visit the Real State Publicity and Documentation Department at the Ministry of Justice to register their marriage.

Required documents for the issuance of marriage certificate:

- Passports of the two parties, i.e. husband and wife, two photocopies of the passport data page with the Egyptian entry visa and residency stamped on it.
- Original and two copies of the Egyptian ID (passport or National ID) if one of the parties is Egyptian
- Letter from their embassy
- Five personal photos for each party.
- Two male witnesses with valid identification documents (passport or National ID) must be present to sign the marriage documents. Parties can bring their own witnesses, such as friends or neighbors.
- Proof of termination of marriage is required, if either party was married before. In this case, an original or certified copy, and if applicable a translation, of the last final divorce decree or death certificate (including the name of the late spouse) must be authenticated and submitted.
- A pre-marriage medical examination at a public hospital is required for both parties. Medical examination certificates must then be submitted to the marriage office.

4.2.2.3 The procedural framework for birth certification in Egypt

Local health offices are tasked with the registration of births and deaths across Egypt's governorates. Birth and deaths forms produced by local health offices are then reviewed by the health districts in each governorate before the information is forwarded to the Civil Registry under Egypt's Ministry of Interior (United Nations, 2008).

Birth registration in Egypt has almost reached universal coverage. The 2014 Demographic and Health Survey (DHS) recorded that 99 percent of all births were registered (DHS Survey, 2014). However, further statistical research is needed to verify the numbers of registered births among refugees, migrants and other at-risk groups as interviews conducted throughout the course of this research suggest that this is not an accurate percentage when it comes to the registration of the births of children of migrants and refugees.

The process of issuing a birth certificate for a migrant-born child is straightforward if the parents are legally married and carry valid documents and/or residence permits. According to national terminology, a child born to parents who are legally married is considered a "legitimate" child. The situation becomes more complex when this criterion of "legality" is absent, and the parents or mother cannot submit a marriage certificate, in which case, the child is considered an "illegitimate" child.

The section below discusses each of the two situations thoroughly, beginning with



the issuance of birth certificates for children whose parents are married and have valid documents, followed by the issuance of birth certificates for children born out of wedlock. Other factors impact each of the aforementioned situations, thus leading to divergent processes.

There are three prerequisites for issuing birth certificates in Egypt. First and according to Law No. 143 of 1994 and the standard international understandings of civil registration, the Egyptian government shall only accept notifications of births that took place inside Egypt. Second, a new birth should be registered within 15 days. Lastly, non-Arabic speakers should be accompanied by an Arabic speaker when registering the birth to facilitate communication with officials in the health office. This person should have valid identification documents.

The information outlined below is based on information published and made available by the Egyptian Foundation for Refugee Rights (EFRR).¹

Procedure for issuing birth certificate to children born in wedlock

With their marriage registered, the couple can register their children upon birth. However, registration procedures differ according to the situation of birth, date of reporting the birth, as well as other criteria, as will be discussed in the following section:

Birth registration within 15 days of birth:

For birth registration within the first 15 days of a child's birth, required documents should be submitted to the health office of the area where the birth took place. The documents should be submitted by the father. In case the father is absent, the procedure can be undertaken by the mother as long as she provides an official marriage certificate that is approved and verified by the civil registry. In cases where the father is deceased, the mother should provide his death certificate along with the marriage certificate. The child must accompany the parent to the health office for medical examination and to take required vaccinations.

There are three required documents for issuing a certificate for a birth reported within 15 days of a child's birth: 1) The original birth notification letter ("Ikhtar al-Wilada") issued by the hospital or clinic where the birth took place. 2) Migrants must submit a valid passport with a valid residence permit, while refugee parents should submit the original and copy of their UNHCR cards which should have valid residence permits. 3) The original and copy of the marriage certificate. If all documents are submitted within 15 days of birth, the expected duration of the process is one to three days.

In cases where the birth took place outside a hospital or a registered medical center or clinic, the applicant must head to the health office nearest to the place where the birth occurred to report the birth. He will then be accompanied by a doctor or an official from the health office to the location of birth. The doctor will medically examine the mother and child to verify the birth. This official will write a certificate comprising the name of the mother, location and date of birth, as well as the gender of the child. This certificate will substitute for the birth notification letter ("Ikhtar al-Wilada").

¹ The Egyptian Foundation for Refugee Rights (EFRR) is one of the local NGOs working primarily on legal assistance for refugees in Egypt. They have conducted substantial research on the procedures for issuing birth certificates for refugees in Egypt. They have drafted brochures and manuals to support refugees who are facing difficulties in obtaining birth certificates in Arabic and English.



Birth registration after 15 days of birth:

Registering births after the 15-day time limit set by law can be more difficult. The child is now considered a “Saqit Qaid,” or unregistered. The procedure for registering a birth after the 15-day cap differs depending on whether a whole year has passed since the birth or not.

Birth registration after 15 days but within one year of birth

To register a birth after the 15-day time limit and before one year has passed, the applicant must head to any health office, civil registry, or post office and fill out an application form for a Saqit Qaid child (Sample No. 26). The form must be accompanied by the following documents: birth notification (“Ikhtar al-Wilada”), migrant parents’ passports (original and copy), UNHCR cards of parents in case they are refugees (original and copy), and the marriage certificate (original and copy).

Following that, the parents should visit the relevant civil status department to declare the birth on their computerized records and add the notification number to the Saqit Qaid form. Next, they should head to the police station in the area where the child was born to submit the aforementioned documents and ask for a Saqit Qaid (unregistered) police report. In some instances, the police station might refuse to issue the police report, in which case the applicant must head to the health office and ask for a letter addressed to the police station requesting a police report.

Upon receiving the police report, the applicant must head back to the health office and submit the complete application to the medical committee. The child must be present for the committee to estimate the age. A doctor will write the child’s age on the application form and stamp it with the official government’s stamp. The applicant must then go to the Civil Registry Office (“Maktab Sijil Madani”) covering the area where the health office is located. The official will complete any missing data and issue the declaration of paternity before asking the applicant to sign it. Once signed, the application will be viewed by the Civil Status Committee. The applicant should follow up after 10 days, after which he/she should be able to collect the birth certificate from the health office.

Birth registration after 15 days of birth and after one year has passed

The same procedure is undertaken in the case of registering a birth after a whole year has passed. However, in this case, in addition to the Saqit Qaid (unregistered) police report, an administrative investigative process will be undertaken by a police officer. An administrative investigative process is a process of gathering information from the local community and adding it to the Saqit Qaid report. After that, the age of the child is estimated in the local health office. After completing the process, the documents should not be submitted to the Civil Registry Office in any area but rather to the main Civil Registry Office of the governorate. In Egypt, each governorate has one main Civil Registry Office that is responsible for all the Civil Registry branches in that governorate. The documents should be presented to the Saqit Qaid Committee which will evaluate all the documents and decide whether or not to issue a birth certificate.

Procedure for issuing birth certificate for children born out of wedlock

This procedure is followed in cases where the mother was raped (in Egypt or abroad) and gave birth in Egypt, or where there is no valid marriage certificate and the father denies that the child is his. In these cases, the registration process can be exceptionally long, and applicants face various challenges.

If the child is born out of wedlock, the mother should go to the police station in the area where the birth has occurred to ask for a “Status Approval Report of a birth that occurred in Egypt” after submitting the birth notification issued by the health facility of the area where the birth took place. As mentioned earlier, in cases where the birth took place at home or anywhere that is not a registered health facility, the health office should be notified and an official from the office should examine the mother and child and write a certificate which can substitute for the birth notification. It is worth noting that a pregnant woman can apply for the issuance of a Status Approval Report while pregnant, provided the pregnancy is physically visible.

In case the pregnancy was the result of a rape incident in Egypt and if this incident was reported to the police, the police rape report can replace the required Status Approval Report. If the police station refuses to issue the police report, the mother should submit a letter explaining the situation to the Chief Prosecutor’s Office which exercises authority over the police station mentioning the police station’s refusal to issue the report. The letter should be accompanied by the application, a valid passport with valid residency for migrants or the UNHCR card with valid residency for refugees, as well as the birth notification. The chief prosecutor will sign a request, with an official stamp, and refer it back to the police station for legal action. The applicant must keep a copy of this request in case the police station refuses to issue the report a second time, upon which the applicant should go back to the Chief Prosecutor’s Office with the signed and stamped request. One week after the report is issued, the applicant must go to the Chief Prosecutor’s Office and show the police report number to obtain the “al Gadwal al Edary,” i.e. the prosecution schedule division, to make sure that the public prosecution has received the police report. The applicant should then submit a letter to the Chief Prosecutor, requesting the issuance of an official copy of the police report. The applicant should then approach their embassy for a support letter if they are a migrant, or UNHCR for a letter confirming registration if they are a refugee.

After receiving the two above mentioned documents, the applicant must write a request for the issuance of a birth certificate and submit it to the legal affairs unit in the Civil Status Department in Abbasiya area. In case the birth took place outside Cairo, the applicant can submit the written request at the Civil Status Department of the governorate where the birth took place. The following documents should be attached to the request: valid passport with valid residence permit or the original and copy of the UNHCR card with valid residence permit, birth notification, supporting letter from the embassy or UNHCR, in addition to the police report. Once the documents are submitted to the legal affairs unit, a staff member will be assigned to the case. The application will be referred to the Criminal Investigation Department (CID), which is located in the same building as the Civil Registry. The CID will write a report confirming or refuting the validity of the information and documents submitted by the applicant.

Once the CID confirms the validity of documents, the legal affairs unit will draft a note outlining their opinion on issuing the birth certificate. The note is then submitted for review by the chief of department. Once approved, the application will be referred to



the appropriate civil status department located in the same area where the birth took place. The applicant will receive the tracking number of the application for follow-up. The applicant will then be asked to go to the health office with a letter addressed to the health office from the civil status department and requesting the former to estimate the child's age and choose a random name for the child's father.

Next, the applicant should purchase a Saqit Qaid application form and attach to it the documents mentioned in the previous sub-section, before submitting them to the health office. The health office will register the birth by choosing the father's name and estimating the child's age. The applicant should then return to the civil status department and check computerized records to verify that the child's name is available and not already used by another person. The result of this check will be attached to the application form and submitted to the civil registry department. A civil status committee will review the full application and if approved, the applicant will be instructed to go to any civil registry office to receive the electronic birth certificate.

Procedure for foundlings

According to Law 26 of 1975 which regulates the procedures of citizenship acquisition, loss, and withdrawal, a foundling is automatically granted Egyptian citizenship (Egyptian Nationality Law, 1975). Once a foundling is identified, he/she is medically examined by a health inspector. The police office covering the area where the child was found is responsible for conducting an investigation and holding interviews with community members living in the same area, to verify that the child is in fact a foundling. Until then, the child is placed in a hospital in case he/she needs medical attention. Otherwise, he/she is just placed in a shelter home operating under the Ministry of Social Solidarity.

5. Field Work Findings

5.1 Challenges faced for each type of identification document

Research done with migrants and refugees for the purpose of this project indicated that they face many challenges in obtaining identification documents which puts them at risk of, and often leads to, their statelessness. The findings cut across all communities. This section will first outline the challenges in the issuance of three types of identification documents: birth certificates, marriage certificates, and residency requirements, and will then explain the challenges faced by certain categories of migrants, like single mothers and those subjected to rape. The third section will highlight the obstacles refugee groups face when dealing with their consulates and the final section will explain the consequences of the lack of identification documents as well as the lack of awareness of the available legal services in Egypt.

5.1.1 Marriage certificates

The first and most pressing challenge preventing parents from issuing birth certificates for their children in Egypt is the marriage certificate requirement. Of the migrants and refugees who get married in Egypt, a very few are aware of the requirements for, and process of, getting a marriage certificate, and even if they are, they may not have the required documents, such as valid identification documents and residence permits, to apply for a marriage certificate.

As explained earlier, in order to apply for a marriage certificate, the foreign couple need to get a letter/statement from their relevant embassy and submit it to one of the Egyptian Ministry of Foreign Affairs authentication offices. This requirement is challenging for asylum seekers, refugees, and irregular migrants. Members of the first two groups— asylum seekers and refugees— who fled their country and are seeking asylum in Egypt, would be hesitant to approach their embassies. As for irregular migrants as well as those rejected by UNHCR, they too would be hesitant to approach their embassies as well as government offices because of the irregular nature of their stay in Egypt.

Given such restriction, lawyers usually advise refugees and asylum seekers to initiate a lawsuit at the Egyptian family court, which accept UNHCR cards, requesting the registering of their marriage. Initiating this kind of law suits is usually the strategy used by women whose husbands deny their unofficial marriage. As such, migrant couples initiating such kind of law suits are in practice pretending that the wife is initiating a lawsuit against the husband to register the marriage. Once the court issues a verdict in favor of the wife, the marriage becomes officially recognized in Egypt. The problem with this process is that not all judges accept it as it is clearly a way to navigate the law concerning the registering of foreign marriages in Egypt. Moreover, apart from those registered with UNHCR, registering marriages remains a big problem for rejected asylum seekers and irregular migrants.

Another challenge is that some countries do not require civil registration of marriages. For example, marriage in Sudan and South Sudan is sometimes customary and



conducted by sultans¹ from the community, without the issuance of official papers. As such, some Sudanese/South Sudanese migrants/refugees leave without asking the marriage sultan for a marriage contract.

Case: A Sudanese couple in Cairo (a 28-year-old female, and a 34-year-old male)

Mother: I have a five-year-old son who does not have a birth certificate. He cannot go to a public school here. We registered him in a community school, but I want to make sure that his future is secured. Eventually he will need a birth certificate.

Father: We were married in Sudan by a marriage sultan, but we did not think we would need a certificate proving our marriage when we came to Egypt six years ago. We talked to a lawyer and he told us we could register our daughter once she is born. He said that even if we do not have a marriage certificate, the fact that the father is the one who must go to the health office can make the process a little easier.

Mother: But what about my son? I asked the lawyer and he said registering him will be more difficult because he is already five years old. Even if we try to get a marriage certificate, we will not be able to use a new certificate to register a five-year-old child. We do not have a birth notification. Nothing to prove that he was born in Egypt. We were smuggled into Egypt through the border so there is no proof that we delivered him here.

It is worth noting that according to Egyptian law, in the absence of a marriage certificate, the health office should use any proof of the relationship between the parents to issue a birth certificate for the child. Unfortunately, there is no uniform implementation of this law, and not all health offices register births without marriage certificates.² The only way to implement this law would be for the mother to approach a legal aid unit for support. Once a lawyer is on board, he/she can work on pressuring the relevant authority to issue a birth certificate for the child. As such, the process explained earlier regarding the issuance of a birth certificate for a child born out of a wedlock should be undertaken through a lawyer.

5.1.2 Residency requirement

Another significant challenge to registering a birth is the requirement that parents show a valid residence permit. Identification documents do not suffice, and the residency must be valid and stamped in a valid passport for migrants; or on valid UN cards for asylum seekers and refugees. Residencies for migrants and UN yellow and blue card holders expire after six months and it takes around two extra months to receive a new one. As such and to avoid having no residency, UN card holders usually re-apply for residency every four months. Without a valid residence permit, a parent cannot register the birth of their child.

According to FGD participants, the process of applying for residency can be very long and daunting. One participant stated that he usually goes to the Mugamaa, the government building where residence permits are issued, the night before in order to secure a place in the queue. Yet, many migrants and refugees fail to renew their residency at the first attempt, and must keep going back to the Mugamaa, which

¹ Sultans are traditional tribal leaders in South Sudan, who serve as judges in customary courts

² Interview with Mohamed Farahat, a lawyer from the Egyptian Foundation for Refugee Rights (EFRR)



affects their presence at their workplace, potentially creating problems with their employers.

As mentioned above, white certificate holders (those with no identity documents from their countries of origin) cannot apply for residency, which also means they cannot apply for a birth certificate for their children. This challenge was mainly mentioned by Ethiopian and Eritrean participants, since many of them are white certificate holders.

5.1.3 Birth certificate

The requirement to register a child's birth within 15 days is very challenging for migrants because, as this research has revealed, migrants are not always familiar with the documents required for birth registration. In fact, migrants often only find out about the required documents upon approaching the health office to register the birth of their children. Once they are aware of the requirement, they find it very difficult to obtain the required documents within the 15 days' time-limit, with the need to authenticate a marriage certificate, obtain valid documentation from the relevant embassy, get a residence permit, or find a solution for a father's absence, taking much longer than that.

Oftentimes, a mother who will have just given birth will be in poor health, and therefore unable to register the birth within the 15-day registration time limit, as indicated by several FGD participants. This can become especially challenging if the registration process requires making more visits to other institutions and/or organizations.

5.2 Challenges faced by each category of migrants

5.2.1 Single mothers

Single mothers are extremely vulnerable when it comes to issuing identification documents for their children. As explained earlier, the father is expected to be the main applicant for a birth registration. In case the father is deceased, a death certificate must be attached to the marriage certificate when applying for a birth certificate. The situation becomes more complicated if the father disappears, if he refuses to recognize the child, if he has remained in his country of origin, or has returned there prior to the registration, thus putting the mother in a vulnerable position. One way of responding to this challenge would be to register the child under the name of the mother's father or brother. However, this is only possible if the mother carries a valid marriage certificate, valid identification documents, and a valid residency, which is not often the case. In cases where the requirements are met and the child is actually registered, the child becomes, on paper, the sibling or nephew/niece, of his actual mother.

During the FGDs, we came across multiple cases from all communities under study where the father's whereabouts were unknown. There were also instances where the father was deceased, but his family could not issue a death certificate from the relevant embassy for the same reasons mentioned with regards to issuing marriage certificates.

The following is a statement by a 29-year-old Syrian female participant living in Cairo:

I left for Egypt very early on. I did not know I was pregnant [at the time]. My husband told me he would join me after he settles his business back in Syria. I found out I was pregnant once I arrived to Egypt. I told him and he was very excited. We kept in touch for six months but then I did not hear from him. I asked family and friends back in Syria to look for him, but they could not reach him as well. I do not know where he is. It has been six years. I cannot register my child to this day. I do not know what to do or who to approach. My family says he might have left for Turkey instead and wanted to start a new life there. I do not think so. I feel that he will return one day, but until this day comes, I need to register my child.

5.2.2 Abandoned children/foundlings

Another category of persons at risk are abandoned children/foundlings. There are many cases of guardians taking care of abandoned children who are not related to them. In some cases, the child will have been abandoned by their parents. In other cases, one parent will have abandoned the family and the other will have died before applying for the child's birth certificate. Individuals who take care of abandoned children/foundlings are often from the same community as those children. They fear being accused of kidnapping those children, and therefore decide not to approach the government for assistance, nor do they seek the help of civil society organizations.

In cases where those guardians are refugees, they often approach UNHCR and manage to add the child to their UNHCR Card. However, this alone is not sufficient to issue a birth certificate for the child, nor to provide any officially recognized



guardianship. Moreover, adding a foundling/abandoned child to a guardian's UNHCR Card can create a problem for the guardian when trying to renew their residency, because if the child is on the guardian's UNHCR Card, their birth certificate must be submitted along with the guardian's residency application.

Generally, there is a lack of awareness of the law stating that any foundlings in Egypt are considered Egyptian unless there is substantial evidence to suggest otherwise. As mentioned above, there is a procedure for registering foundlings and abandoned children but very few migrants and refugees know about it and it takes a significant amount of time to be completed.

Sudanese female participant in Cairo, 52:

I am taking care of my neighbor's child. His mother was resettled to Canada, but she decided to leave him here because he was not registered and did not have a birth certificate. She feared UNHCR would delay her resettlement process if they found out that her son did not have a birth certificate. She promised to send me money to help take care of his expenses. She has not sent me anything yet. I am not complaining. But I am old and need support for myself and my family. I treat him like my own child, but I cannot go asking organizations for assistance because there is no proof of any relationship between me and him. The age difference is too big for them to believe that he is my child.

I will not try to approach the government to register him. They will take him away from me. I am not his mother. I cannot have her send anything to prove that I have not kidnapped him. She just packed her bags and left. What am I supposed to do? I do not know.

5.2.3 Unaccompanied and separated children

Most unaccompanied minors in Egypt are from Ethiopia and Eritrea. Unlike foundlings and abandoned children, these children often arrive in Egypt without any family members. Sometimes, they are unable to convince the relevant authorities that they are Ethiopian or Eritrean. They are usually unfamiliar with the process of applying for a birth certificate or other identification documents. Moreover, they often refuse to approach their consular representatives in Egypt out of fear of being deported back to their countries.¹

5.2.4 Children of foreigners born outside of Egypt

Egypt cannot register births that happen outside the country. This being the case because the international system of civil registration is concerned with the registration of civil status events taking place in the country of registration only. As such, parents who are unable to acquire birth certificates in their countries of origin for their children born there often find it impossible to register these births once they arrive in Egypt. This is also the case for children born in a transit country on their way to Egypt. There was a case of an Ethiopian mother of three children, two born in Ethiopia and one in Egypt, who was able to acquire a birth certificate for her child born in Egypt but could not get birth certificates for her two older children. According to the mother's testimony, "I went to the health office when registering the birth of my third child and

¹ We have not interviewed participants under 18 years of age. We heard their perspective through their community members and leaders. Further research is needed in this regard.



asked if I can register the two older children, but the officer told me I cannot do so because they were not born here.” Without a birth certificate, there is no alternative way of recognizing the relationship between the parent and child now resident in Egypt.

5.2.5 Children of parents who have no documents

It is very common for parent-refugees, particularly those from Sudan, South Sudan, Ethiopia, and Eritrea, to arrive in Egypt without identification documents. They often experience considerable difficulties in obtaining these documents from their relevant consular representatives in Egypt. Those who do not claim asylum are left with no identity documents of any kind. The Government of Egypt does not issue any identification documents for irregular migrants or refugees other than those with UNHCR ID cards. The required identification documents for parents must be present for the government to issue birth certificates. As such, parents who are unable to acquire the required identification documents (especially due to the unwillingness of the relevant consular authorities) are left with no way to acquire identification documents for themselves or their children. It is worth noting that during the FGDs, we came across cases of irregular migrants who have been living in Egypt for over 30 years and still do not have any identification documents.

Sudanese male participant in Cairo, 57

I first came to Egypt 30 years ago. I came to seek asylum, but I was rejected. I even tried going back to Sudan and also went to Jordan, but eventually returned back to Egypt. I was here during the Mostafa Mahmoud protests. I tried to seek asylum with UNHCR again, but I was unsuccessful. When I returned to Sudan, I was able to renew my passport. It was hard and I had to pay many bribes, but I did it. But when I came back to Egypt and tried to seek asylum and was unsuccessful, I thought I could go to the embassy to renew my documents, but I couldn't. They treated me very badly. Almost as if they knew I was seeking asylum.

I have four children. Only one is registered. The other three are not. I did not have any documents at the time and the process did not seem to end. Every time I went to a government institution, they told me go here or there. It was a never-ending process. I gave up.

5.2.6 Rape

Handling registration for children born of rape, particularly in cases where the rape occurred prior to the mother's arrival in Egypt, can be very sensitive. In theory, the process explained above still applies to registering a child born of rape. In practice, and this also applies to Egyptians, registering the birth of a child born in these circumstances is difficult.² This is primarily due to two factors: 1) the absence of the father who according to the law should be the one registering the birth and 2) having to submit proof showing whether the rape incident took place in Egypt or abroad. This is a particularly common problem for migrants and refugees coming from Eritrea, Ethiopia, and also through Sudan.³

² See also Mohamed Farahat, “Children of rape of refugee women, and statelessness, in Egypt,” *Forced Migration Review* 55 (June 2017), <https://www.fmreview.org/sites/fmr/files/FMRdownloads/en/shelter/farahat.pdf>.

³ Interview with Sudanese community leaders.



Testimony of a lawyer working on access to birth registration for victims of rape:

One of my clients was a refugee coming from a West African country. She was raped on the way and delivered her child when she arrived to Egypt. She went to UNHCR to register herself. After giving birth, she approached UNHCR and they added her child on her card. When she tried to initiate the process of issuing a birth certificate for her child, she was asked by the authorities to have residency. When she tried to apply for residency, the officer requested a birth certificate since the child's name was on her UNHCR Card. She explained that she needs the residency to register her child and get the birth certificate. These types of procedural obstacles can have severe consequences for mothers who are unable to approach legal aid agencies for any reason. It is almost impossible for a mother to undertake the process alone. She must be supported by a professional.

5.3 Obstacles in dealing with consulates

There is consular representation for the Governments of Syria, Nigeria, Sudan, South Sudan, Ethiopia, and Eritrea in Egypt. The consulates are located in Cairo; as is the case with the majority of other countries who also have their main embassies and consulates in Cairo. There are a few secondary consulates in Alexandria, Egypt's second largest city. Consular representatives support their nationals by issuing identification documents and by representing them when dealing with the Government of Egypt. However, with regards to the communities covered by this research, the vast majority, with the exception of a very few, are either asylum seekers/refugees who fled their countries or irregular migrants. The former group would be hesitant to approach the consulate of the country they fled, and the latter would also be hesitant given the irregular nature of their stay.

The challenges are discussed, based on interviews with migrants, in the subsequent sections for each community separately and then as cross cutting issues faced by all communities.

5.3.1 Specific obstacles faced by each community

5.3.1.1 Syria

The Syrian nationality law was enacted in 1969 through Legislative Decree 276. It limits the transmission of the Syrian nationality through the mother and holds that the nationality can only be transmitted to the children through the father (Syrian Nationality Law, Legislative Decree 276, 1969). Although the law provides for the transmission of nationality from the mother in case the father is unknown, this is only applicable for children born in Syria.

Syrian consular authorities are authorized to document civil status events occurring outside Syria (Zahra Albarazi, & Laura van Waas, 2016). Unlike the consular representatives of countries included in this study, the Syrian embassy in Cairo has a well-developed website for accessing the required information on how to register a birth for Syrian children as well as issuing or renewing identify documents. This section will outline the procedures of and challenges for 1) issuing/ renewing a passport; 2) acquiring approval for a marriage; 3) registering a marriage; and finally 4) registering a birth in the Syrian embassy.

Issuing/renewing passports

To issue or renew a passport valid for two years, the embassy does not require approval from the Migration Department in Syria, but in case the applicant wishes to apply for a passport valid for six years, the Migration Department must be notified and approval obtained.¹ The applicant must submit their previous passport, identity card, or a family identification card for those who do not have passports or an identification document. Males must also submit a military service certificate if they are older than 17 and not older than 42 years of age. An employment statement is also required.

The majority of Syrian participants in this research agreed that the high fee for issuing

¹ The procedures presented in the remaining section is derived from the Syrian Embassy in Cairo website. <http://syrianembassyeg.com>.



a new passport is a major deterrent to renewing their identity documents. It costs 300 USD to renew a two-year passport and 800 USD for an expedited passport. It costs 200 USD to renew a passport if it has been lost or destroyed and 25 USD to file a lost or damaged passport report. It is also worth noting, as will be explained below, that to undertake any procedures with the embassy and/or the Egyptian government, passports of all family members must be valid, particularly the mother and father. As such, the cost usually goes beyond 300 USD.

Another major limitation mentioned by this project's participants is the required submission of a military service certificate for males between 17 and 42 years of age. As indicated by the participants, some of them have escaped military service in Syria, some left Syria without having had enough time to acquire official documentation for their completion of, or exemption from, military service, and others arrived in Egypt before reaching the military conscription age. When asked about the possible consequences for lacking required documents, one participant said that he could not return to Syria because he did not perform his military service (despite having been called for service) which would have allowed him to renew his passport. Another female participant explained that she was unable to approach the embassy to renew her and her family's documents out of fear for her husband's life, because he escaped military service in Syria. She asserted that her husband would not be able to provide a certificate indicating completion of, or exemption from, military service and that the embassy would find out his status upon submitting a request for any service. Without these documents, parents cannot carry out any official tasks, including birth and marriage registration, whether with Egyptian authorities or with the Syrian embassy.

Marriage approval and registration

Another significant procedure examined in this study is the process of certifying a marriage with the Syrian embassy which consists of two parts, first, acquiring the embassy's approval for marriage, and secondly, registering the marriage. This approval is crucial because it is required by Egypt's Ministry of Foreign Affairs to issue the certificate as well as Egypt's Ministry of Justice to register the marriage in Egypt. Acquiring marriage approval from the Syrian embassy requires the following documents: a) valid passports of the man and woman wanting to get married, b) valid passport of the woman's legal guardian (father, brother, or paternal uncle) unless she is widowed or divorced, c) a family identification card for both families issued within the last three months from the Syrian Civil Registry and validated by the Syrian Ministry of Foreign Affairs which should include the religion and marital status, d) a 25 USD fee for the approval process (this payment excludes fees needed to acquire above-mentioned documents). The embassy's approval is a prerequisite for registering an official marriage with the Egyptian authorities.

Upon having their marriage certified by the Egyptian authorities, a couple must return to the embassy to register their marriage. They must also submit their valid passports, the marriage certificate stamped by Egypt's Ministry of Foreign Affairs, and a family identification card for both families issued within the last three months from the Syrian Civil Registry and validated by the Syrian Ministry of Foreign Affairs. The fee for registering the marriage is 50 USD. A fine of 50 USD is paid in case the marriage was not reported within one month and less than one year from its occurrence. If the marriage goes unreported for a year or more, the fine goes up to 100 USD.



Syrian female participant in Cairo, 27 years old:

The Ministry of Justice in Egypt requests that we submit a letter from the embassy stating that they do not object to our marriage. To do so, the embassy requires that my husband and I submit our own birth certificates. I do not have mine. I left it in Syria. The embassy will extract it for me, but I will have to pay a lot of money. The major problem however is with my husband. My husband escaped military service. If they look him up, they will know.

As discussed in the previous section, a marriage certificate is an essential requirement for facilitating the registration of a child's birth in Egypt. Without it, it is very difficult to acquire a birth certificate. The biggest challenge that frequently came up in the FGDs and interviews was the required presence of the woman's legal guardian, who can be the father, brother, or paternal uncle, to acquire a marriage certificate. One participant explained that what stopped her from registering her marriage in Egypt was the absence of her father who did not come to Egypt with the rest of the family. She had no brother or paternal uncle to help her with the process. Another participant said that her son's marriage was not validated because his wife's father disappeared. They could not locate him, and her brother could not be physically present in Egypt to provide the embassy with the required documents. No account is taken of the fact that Syria has been in the grip of a vicious civil war which has led to mass displacement, family separation, and perhaps more importantly, loss of identification documents.

Another challenge expressed by participants is that some of the required documents cannot be issued outside Syria. This applies to the requirement that a man and woman wishing to get married submit a recent family identification card for both their families which must not be older than three months. This issue was brought up in one of the FGDs, with participants asserting that by the time these documents arrive from Syria to Egypt, three months will have passed. As such, by the time applicants receive these documents, the latter will have expired and be no longer valid.

It is also the case that some individuals may apply to get approval for marriage after trying to register the birth of their child in Egypt and finding out that this cannot be done without having the marriage validated by the Egyptian government first. In this case, the approval from the embassy and validation by the Egyptian government will take longer than the 15-day period set by Egyptian national law for registering a child. By the time the marriage certificate is validated, the process for issuing a birth certificate becomes more challenging for the parents. Without the right support and/or information, they are unable to start the process of acquiring a birth certificate for their child.

Registering a birth

In order to register the birth of a child with the Syrian embassy, a number of requirements must be fulfilled. First, the child's parents must submit valid passports to the embassy. Second, the parents must also submit the original and copy of the child's birth certificate obtained from the Egyptian Civil Registry and stamped by Egypt's Ministry of Foreign Affairs. The embassy also requires a valid marriage certificate validated by Egypt's Ministry of Foreign Affairs, a marriage notification from the Syrian embassy, or a marriage certificate issued in Syria but validated by Syria's Ministry of Foreign Affairs. The cost of this procedure is 50 USD to validate the original birth certificate issued in



Egypt. A fine of 50 USD is added in case the parents fail to register the child within one month of their birth and less than one year after it happens. If the birth occurred more than a year prior to registration, the fine goes up to 100 USD. Finally, under no circumstances will the embassy register a birth if it occurred more than 18 years prior to registration.

Based on the above, it is clear that Syrians face an array of challenges when registering a birth with the Syrian embassy. It is also clear that the documents required for registering the birth of a Syrian child are difficult to obtain. Firstly, it is difficult for both parents to have valid passports at the time of registration. As explained above, the cost and procedure for renewing passports creates a barrier for low-income Syrians who are unable to provide the sum (300 USD) required for renewing only one passport for a two-year period. Another challenge is that the embassy will only register a birth once the child's parents submit an original birth certificate issued by the Egyptian authorities. However, as explained in the previous section, there are many challenges to birth registration of foreign children in Egypt. It is also difficult to acquire a marriage certificate, especially in the Syrian context, as was explained above.

Lastly, the 50 USD fee for registering a birth is very high. Parents usually also pay an extra fine of 50 USD if they fail to register the birth within one month of its occurrence. This means that a Syrian couple struggling to provide Egyptian authorities with one or more of the requested documents will automatically pay the fine due to the expected prolongation of the process.

5.3.1.2 Sudan

Of all the communities under study, only Sudan has a formal requirement for consular registration of births listed in its laws. Sudanese laws discriminate on the basis of gender in the transmission of the Sudanese nationality whether the child is born in or outside Sudan (Sudanese Nationality Act, 1994). The child of a Sudanese father is automatically granted Sudanese nationality whereas the child of a Sudanese mother must apply for recognition of nationality. For births occurring outside the country, the father must be the one registering the birth with the consular authorities. To register a child's birth with the Sudanese embassy, parents must first register the birth with the authorities of the host country. The birth must be registered with the embassy within 30 days of registering the birth with the national authorities of the host state. In case the birth is not registered within 30 days, approval from Khartoum is required to permit late registration (Sudan Civil Registry, Act 2011, section 11).

The situation of migrants from Sudan and South Sudan became more complex following the secession of South Sudan in 2011 (A.M. Assel, 2011). According to interviews conducted during our FGDs, the secession left individuals unable to avail themselves to the protection of either Sudan or South Sudan. One participant in our FGD mentioned the case of a South Sudanese father who approached the Sudanese embassy in Cairo to register the birth of his newly born child. The embassy directed him to the South Sudanese embassy. For its part, the South Sudanese embassy also refused to provide support and redirected the father back to the Sudanese embassy.

On November 25, 2015, all (old) Sudanese passports were nullified. Only machine-readable passports were now accepted by Sudanese authorities at home and abroad. A new set of requirements were put in place for this transition. Sudanese nationals willing to renew their passports were asked to provide valid documentation proving



their Sudanese citizenship. This included the required submission of a nationality certificate. The process of obtaining a nationality certificate requires that the applicant provide their birth certificate and that two witnesses (the father, brother, uncle, mother, sister, aunt or grandparents) submit valid proof of their Sudanese citizenship. In case the applicant is a child, they must be accompanied by their parents. If the child is of a Sudanese mother and a foreign father, a valid marriage certificate must be presented to the authorities (Sudan Tribune, 2015).

5.3.1.3 South Sudan

According to the South Sudan Nationality Act of 2011, Article 8,

A person born before or after this Act has entered into force shall be considered a South Sudanese national (by birth) if such person meets any of the following requirements:

- (a) Any parents, grandparents or great-grandparents of such a person, or the male or female line, were born in South Sudan; or
- (b) Such person belongs to one of the indigenous ethnic communities of South Sudan.

In addition, there are rights granted based on the ability of tracing residence in South Sudan back to 1956. For those born after the act came into force, nationality is transmitted without discrimination through either the father or mother (South Sudan Nationality Act, 2011).

In practice, recognition of someone's right to the South Sudanese nationality is decided based on their membership of an ethnic community considered to be "from" South Sudan and is also based on the testimony of relevant witnesses (Forcier Consulting, 2017).

As stipulated in the South Sudan Passport Regulations of 2011, an applicant seeking to renew or issue a new passport from the South Sudanese embassy must provide a copy of a nationality certificate issued under the Nationality Act of 2011. The applicant must also provide a copy of his or her birth certificate or an assessment of age certificate issued by the relevant authority as well as recommendations from witnesses who must be a next of kin (Ibid).

In accordance with the South Sudanese Nationality Regulations of 2011, the Nationality Certificate can be obtained upon submission of the administrative documents, birth certificate or assessment of age certificate, copies or details of previous identity documents, and in the presence of witnesses who have first-hand knowledge of the applicant. Witnesses must be South Sudanese and in possession of a nationality certificate and should also be from the same tribe as the applicant, or a relative of theirs (Ibid).

Such requirements are difficult to meet in the context of migrants and refugees from South Sudan. Without obtaining a nationality certificate, an applicant cannot register with the embassy, neither can they obtain a passport or any other documents.

5.3.1.4 Ethiopia

Since 2003, Ethiopian law has provided for gender equality in transmission of nationality



to children born in or outside Ethiopia. The law on civil registration and identification adopted in 2012 provides that Ethiopian embassies and consulates shall function as civil registration offices (Proclamation No. 378/2003 on Ethiopian Nationality). As is the case with other nationalities, to apply for an Ethiopian passport, a number of supporting documents proving Ethiopian origin must be presented to the consular authorities and authenticated by the Ministry of Foreign Affairs.

Previous passports, including expired or damaged passports, must be submitted if available. The birth certificate, “kebele” ID card (issued in Ethiopia by the kebele, or local authority where the person is from) authenticated by the Ministry of Foreign Affairs in Ethiopia, as well as the marriage certificate, must also be submitted as supporting documents. Copies of the parents’ Ethiopian passports or Ethiopian Kebele ID cards should also be presented. A court order showing Ethiopian origin and authenticated by the Ethiopian Ministry of Foreign Affairs, or copies of relatives’ (brother or sister) Ethiopian passports, Kebele ID, or testimonies of three Ethiopians, must also be submitted in support of the application for Ethiopian documents (Proclamation No. 378/2003 on Ethiopian Nationality).

As iterated above, obtaining such documents, especially in the migration context, is particularly difficult. The overwhelming majority of Ethiopians arrive in Egypt without any documents including passports, birth certificates, etc. It is also rare for Ethiopians to migrate from Ethiopia to Egypt as a family. Most movements occur individually due to the high cost of smugglers who facilitate the travel (Interview with an Ethiopian community leader in Cairo). There are many cases of unaccompanied and separated children who did not have identification documents back home. The requirement of witnesses is also challenging due to the fact that the Ethiopian community in Egypt is primarily a refugee community. Refugees are usually not willing to approach the embassy and will not have the valid Ethiopian passports required to provide the testimonies needed for establishing the Ethiopian origin of an individual who has no Ethiopian documents. Among all the communities interviewed for this project, the Ethiopian community, whether Oromo or Amhara, was the most resistant when discussing approaching the consular authorities for birth registration or issuance of identity documents. Even if an individual did not seek refugee status in Egypt, they still feared to approach the embassy.

The situation of migrants and refugees from Eritrea and Ethiopia is particularly complex due to the separation of Eritrea from Ethiopia in 1992. The secession has left persons who were believed to be of Eritrean origin and were living in Ethiopia with serious challenges in obtaining recognition of nationality from either country.

5.3.1.5 Eritrea

According to the Eritrean Constitution of 1997, “any person born of an Eritrean father or mother is Eritrean by birth” (Eritrean Constitution, 1997). The Eritrean Nationality Proclamation No. 21/1992 asserts that “any person born to a father or a mother of Eritrean origin in Eritrea or abroad is an Eritrean national by birth.” A person is of Eritrean origin if he or she can trace ancestors residing in Eritrea back to 1933 (Eritrean Nationality Proclamation No. 21/1992).

The Eritrean national ID card and birth certificates can be obtained from the Eritrean embassy. However, the applicant must be registered with the embassy and be paying a monthly tax of two percent of income from 1992 to present. There is a special form



for military service deserters and objectors that serves as a confession “admitting to treason and failing to fulfill one’s national duty” (Human Rights Watch, 2009). Both these requirements constitute severe obstacles for Eritreans trying to obtain any sort of documentation from the embassy.

A 2009 Human Rights Watch Report indicated that “the [Eritrean] government uses the two percent tax to consolidate its control over the diaspora population by denying politically suspect individuals essential documents such as passports” (Human Rights Watch, 2009: 38). The report indicated the case of an Eritrean refugee in Rome whose passport renewal was refused for not paying the income tax and thus not fulfilling his national obligations. Similar incidents have taken place in Cairo, where the overwhelming majority of Eritrean migrants and refugees are employed irregularly in the informal market and receive low and inconsistent income (Interviews with Eritrean community leaders in Cairo).

According to previous research conducted on Eritrean consular authorities and the issuance of identity documents, it is very difficult to obtain an ID card if the applicant cannot prove their nationality due to lack of required documentation (Migrants Rights, 2011). The embassy requires the submission of an old national identity card, parents’ Eritrean IDs, birth certificates, along with other documents confirming ethnicity, place and date of birth, and personal background (work, education, property, field of experience, etc.). The information and required documents are only collected by the embassy and then sent to the Immigration Department in Eritrea for processing. Research participants cited severe challenges in providing these documents. This is the case because a large number of Eritrean migrants and refugees arrive in Cairo without any documents. They either leave their documents back home or have their documents confiscated by smugglers and traffickers en route to Egypt. Others will not have had these documents from the start (Interviews with Eritrean community leaders in Cairo).

In all FGDs, participants asserted that they had no documents because the Eritrean government put the issuance of identification cards on hold while they were still in Eritrea, and they consequently left Eritrea without them (Migrants Rights, 2011). It is often difficult to submit the required parents’ identification cards, as there are many cases of migrants and refugees – whether adults or children – migrating without their parents and without the means of providing their parents’ identification documents. It is worth noting that the Eritrean community is the only community that mentioned lack of documents as the reason behind their departure from Eritrea and their seeking asylum elsewhere.

To help Eritrean nationals who have no identification documents, it is reported that the embassy allows those applying for documents to acquire them if they present three witnesses from the Eritrean community provided the latter are registered with the embassy and have fulfilled their national duty in terms of military service and the two percent income tax (Immigration and Refugee Board of Canada, September 16, 2013). However, locating three witnesses who fulfill the aforementioned requirements remains a big challenge.

According to the majority of participants in our FGDs, one main reason Eritreans do not approach the Eritrean embassy, even in cases where they have not applied for asylum, is that they will have left Eritrea irregularly and believe that the embassy will deny them help on these grounds. It is difficult to confirm if this is truly the case.

5.3.1.6 Nigeria

As is the case with Ethiopian law, Nigerian law stipulates that the consulate shall function as a civil registration office for Nigerians abroad. According to the 1999 Constitution of Nigeria, “The following persons are citizens of Nigeria by birth, namely [...] every person born outside Nigeria either of whose parents is a citizen of Nigeria” (Constitution of Nigeria 1999, Chapter III on Citizenship, Article 25 (1)). The Constitution contains no obligation relating to registration of births of children born outside Nigeria for transmission of nationality, and there is no nationality law providing further details on transmission. According to the law on the reporting of births, where births occur outside Nigeria, “the Registrar-General shall, for statistical purposes, keep a record of all births, deaths, and marriages reported to him (Act No. 69, 1992).

Unlike other nationalities, Nigerians usually come to Egypt as migrants and not as refugees. The size of the Nigerian community in Egypt is the smallest in comparison with above-mentioned nationalities. As such, the Nigerian embassy does not receive as many applications as its Syrian and Sudanese counterparts for example.

When asked if they were comfortable approaching the Nigerian embassy for support, most participants interviewed did not oppose the idea but said they were not confident that the Nigerian authorities would provide support in birth registration since Nigerian authorities have no influence over birth registration requirements set by Egyptian authorities. There were cases where the embassy successfully handled cases by referring them to international organizations which subsequently linked the migrant with a legal aid organization. In other cases, the process was not as straightforward.

A Nigerian community leader interviewed on access to birth registration in Egypt mentioned the case of a pregnant Nigerian woman who came to Egypt without her husband. Her husband was not able to join her due to visa issues. She delivered in Egypt and, because the father was not present, she registered the child under a different Nigerian man living in Egypt. The man was deported back to Nigeria and the mother died shortly after. The Nigerian community is currently looking after the child who is now five years old and they are adamant about sending him back to Nigeria to join his biological father. However, they are unable to do so because the birth certificate does not include the name of the real father.

5.3.2 Common challenges across several communities

5.3.2.1 Accessibility

When it comes to registering a birth with the consular authorities, the competent embassy is often inaccessible. This is the case for Syrian, Sudanese, South Sudanese, Ethiopian, and Eritrean communities in Egypt. Participants in FGDs from the aforementioned communities repeatedly mentioned being unable to approach their embassies. The reasons they cited varied. Some participants said they were registered with UNCHR and did not want to risk their refugee status by approaching their embassies. Other participants were rejected by UNHCR and approached their embassies which refused to support them. Participants also argued that their embassies keep records of those who sought asylum and punish asylum-seekers by denying



them any services.² Other participants, particularly from Ethiopia and Eritrea, refused to approach their embassies because they left their countries without permission and consequently fear retaliation from their governments. Representatives of the Nigerian community, however, testified that their embassy is cooperative and supportive. Yet, it must be noted that we did not conduct FGDs with Nigerians to be able to confirm this.

Among the consular representatives covered in this study, only the Syrian embassy has a functioning website for the Syrian community in Egypt. All embassy appointments are taken online. FGD participants indicated problems using the website, and said they were rarely able to secure an appointment online due to high demand. It is also difficult to secure appointments for all family members on the same day and time. As such, a family of four would normally have to take appointments on four different days rather than going together on the same day. Participants reported there being a service provider that supports them in securing appointments in exchange for a 100 EGP fee (6.41 USD). However, participants who resorted to this service claimed it turned out to be a scam. On their appointment day, they were either told by embassy staff that they had no appointments or that the embassy could not provide them with support at this time.

With regard to the other embassies, other than the Syrian embassy, the only viable way to approach them is by calling or by physically going to the embassy. Both solutions are usually unfeasible and are of limited success. Embassies sometimes fail to take calls and do not always respond to the needs of those queuing outside their parameters. According to members of the Sudanese community, the large number of Sudanese migrants and refugees in Egypt means that the embassy cannot attend to those seeking help in a timely manner.

5.3.2.2 Fees

Another challenge is the high service fees requested by embassies or consulates. Consular representatives request that the fees be paid in US dollars which, when converted to Egyptian pounds, often amount to a significant sum. For example, renewing a Syrian passport valid for only two years costs 300 USD, and 800 USD for an expedited process. A family of two must therefore pay at least 600 USD every two years to renew their passports, which can be a huge sum for the average Syrian refugee in Egypt. For the Sudanese and South Sudanese communities, the fee for renewing a passport valid for five years is 100 USD. While the cost of passport renewal is relatively lower and secures a longer validity period, compared to that for Syrians, the Sudanese and South Sudanese communities still find this fee high compared to their monthly income. Eritreans, Ethiopians, and Nigerians pay a similar amount to renew their passports.

For Syrians, acquiring a certificate of marriage approval from the embassy costs 25 USD. Registering the marriage with the embassy following its registration with Egypt's Ministry of Justice costs 50 USD provided the application is submitted within one year of marriage. If one year passes, a sum of 100 USD must be paid. It is worth noting that applicants end up paying a larger sum to acquire the documents required to approve the marriage and later on to register it. This applies to applicants with expired passports who must renew their passport before applying for marriage approval. Previously married applicants must present proof of termination of marriage or the

² This is purely the perspective of the individuals interviewed with no evidence to prove that UNHCR or the Egyptian government shares the names of asylum seekers with their embassies in Egypt.



death certificate of their spouse which costs 50 USD for each document.

5.3.3.3 Unrealistic procedures

Another challenge mentioned by the communities understudy is the unrealistic procedures set forth by consular representatives. This is particularly the case for consulates that require the presence of witnesses to attest that the applicant is a national of their country. For witnesses to be present, they must satisfy certain requirements. For example, to be eligible as a witness for the Eritrean embassy, you must be registered with the consular section and be paying a 2% income tax monthly. It is exceptionally difficult to find witnesses that fulfill these criteria as they are required to submit documents they do not have and will not be able to get in Egypt.

5.4 Consequences of the lack of identification documents

This section discusses the consequences of lack of birth registration and identification documents on access to certain services. Some of these consequences are immediate while others can be experienced on the long term. Both short and long-term consequences are discussed at length to give a comprehensive picture of the situation of stateless individuals or individuals at risk of being stateless in Egypt.

5.4.1 Education

With the exception of Syrians, Yemenis, and Sudanese, and as explained earlier in this report, public schools are not accessible to most migrants and refugees in Egypt. Moreover, as a general rule, to be enrolled in a public school in Egypt, a child must have a birth certificate and have a valid residency in the country. As such, those allowed access to public schools must have birth certificates and residence permits to be able to enroll in these schools.

This explains why most migrants and refugees send their children to privately run schools that are managed by the community and commonly referred to as community schools. Two main curricula are taught in these schools, a Syrian curriculum for Syrians and a Sudanese curriculum for the Sudanese, South Sudanese, Ethiopian, and Eritrean communities. These community schools enroll refugee/migrant children without requiring their birth certificates. For their part, Ethiopians and Eritreans study the Sudanese curriculum because they have no other alternative. The Sudanese government is the only such government providing educational assistance to migrants and refugees in Egypt. It sends an educational committee from Sudan led by the Cultural Counselor of the Sudanese embassy in Cairo to monitor the examination process (Interview).¹

However, children enrolled in these schools face two major challenges. Firstly, and despite being enrolled without identification documents, the child must carry any sort of identification document, not necessarily a birth certificate, to be able to take exams for certain certificates, including secondary and high school certificates. Those with UNHCR cards, as such, can enroll their children, while those who lack any sort of documentation cannot enroll their children, not even in community schools. School fees are also a challenge. Fees for community schools range from 3,000 EGP (190 USD) to 8,000 EGP (508 USD) per year. In the case of asylum seekers and refugees, UNHCR can cover the fees of their children. However, those who do not fall under UNHCR's mandate receive limited financial assistance, which leaves many parents struggling to cover school fees.

Various organizations provide English courses for adults which are not often accessible by asylum seekers and refugees. Courses that are open for all migrants usually conflict with their working hours. Organizations such as Tadamon, an organization working with migrants and refugees across all nationalities in Egypt, offer educational services to irregular migrants and children who have no documents. They do so for a fee of 1,500 EGP (95 USD) per year, a much cheaper option compared to other community schools. However, these organizations can only accept a limited number of students, and therefore resort to choosing the most vulnerable applicants.

¹ Interview with Mohamed Mennallah, manager in Tadamon, an Egyptian NGO.



Students who attend schools that do not require identification documents cannot sit for the high school certificate exams. Their parents insist on putting them in these schools in the hope that they can establish their documents later on and have them sit for these exams. Children who finish their studies without taking these exams do not receive a certificate confirming completion of studies, which prevents them from seeking higher education.

5.4.2 Health

As mentioned earlier, in 2014 and 2016, Egypt's Ministry of Health and UNHCR Egypt signed a Memorandum of Understanding (MoU) to enhance access of persons of concern to UNHCR to public primary health care and referral to curative care services.² The agreement covers public primary, referral, and emergency maternal and neonatal care services to any UNHCR card or certificate holders. As such, children without birth certificates and adults without valid documents and who are not under the mandate of UNHCR cannot receive treatment in public hospitals and must go to private hospitals which are far more expensive. As mentioned earlier in this report, in theory everyone should receive basic and emergency health care. In practice, however, and as indicated by the interviews in this study, access to public hospitals for individuals without identification documents is very limited. Hospitals also charge foreigners a different rate than Egyptians. While it is possible to seek treatment in privately-run hospitals and clinics, costs deter medical care seekers from going there.

Another health-related challenge concerns the vaccination of children. Starting 2018, all compulsory vaccinations were to be taken in the health office following the submission of the child's birth certificate. The health office gives the vaccinations free of charge, and vaccinations taken are recorded on the child's birth certificate. Previous research on the pre-2018 vaccination system did not indicate any problems, especially in the presence of a national government-led campaign to vaccinate all children regardless of legal status. Today, the situation is no longer the same and the new vaccination system has reportedly introduced new problems. According to the new system, the public health office will not vaccinate children without a birth certificate. Whether these children can receive vaccination in privately run clinics or hospitals remains unclear. In one interview with a pediatrician in Egypt, he mentioned that vaccinations can still be taken but for an expensive fee. Vaccinations taken in private clinics/hospitals can potentially create problems for parents if they are eventually able to acquire a birth certificate for their children, since health offices cannot add these vaccinations to the birth certificate (Interview).³

5.4.3 Housing

Difficulty locating housing is due to the fact that landlords often require that refugees/migrants show them any kind of identification document in order to draft rent contracts. However, there are cases of landlords willing to rent their apartment to refugees/migrants without identification documents, but without issuing a contract in return, which puts the rights of tenants at stake. For example, tenants without a contract can be evicted without prior notice and without enough time to collect their

2 Memorandum of Understanding between the Ministry of Health of the Arab Republic of Egypt and the Office of the United Nations High Commissioner for Refugees on Enhancing Access of Persons of Concern to Public Health Care and Referral Curative Case Services. Signed on September 4, 2014 and January 4, 2016.

3 Interview with Dr. Mohamed Noaman, pediatrician.



belongings. Tenants without identification documents will be reluctant to approach the police to report the eviction. Landlords can therefore evict them for no valid reason as well as consistently increase rent (Abdel Aziz, 2017).

5.4.4 Employment

As discussed earlier, the overwhelming majority of irregular migrants, refugees and asylum seekers in Egypt work in the informal sector. Working in the informal sector, as opposed to the formal one, places all workers in a vulnerable position. Individuals without identification documents perceive their working conditions to be much worse than those with valid documentation papers. Employers are more likely to violate the rights of migrant-workers who have no documents, as the latter would not be able to approach the police. These violations often include the withholding of salaries as well as physical, mental, and sexual abuse (Abdel Aziz, 2017)

5.4.5 Voluntary repatriation

Lack of documents, such as birth certificates for children, also adds a significant burden on individuals willing to voluntarily repatriate back home, which requires that they collect valid identification documents from the embassy. As adults, they must possess documents proving where they are from. In case the parents have identification documents but their child does not have a birth certificate, the parents will not be able to return with their child unless they have a document that proves that this child is biologically theirs.

Lack of documents not only hinders the actual process of return, but also creates further obstacles for children returning to countries which they have no official links to in terms of documentation. While these long-term consequences were not mentioned by participants during the FGDs, they remain significant challenges to consider. This is particularly relevant in the cases of children who are registered under different parents because their original parents did not have the requirements necessary to issue birth certificates. The cases we came across during this research were all registered under members of their community which is a less challenging case because these members can eventually acquire identification documents from their country of origin. However, the consequences of registering children under individuals who are not their biological parents are not yet known. This act, which is considered fraud, can have severe future consequences for these children.

5.4.6 Resettlement

Resettlement is one of the durable solutions put forward by the 1951 Refugee Convention. It basically means the transfer of refugees from countries of first asylum, like Egypt, to another country that is willing to offer them permanent settlement and potentially citizenship. Resettlement countries are usually Northern countries. The largest resettlement country is the United States, followed by Canada, Australia, and countries of the EU (UNHCR, 2018). Resettlement is an opportunity which refugees in countries of first asylum always look forward to. That said, the lack of documentation can have a devastating impact on families that are offered a resettlement opportunity. For example, and as mentioned earlier, a participant in our FGDs mentioned that her Sudanese neighbor was resettled to Canada by UNHCR and had to leave her son in Egypt because she had no birth certificate for the child and could not prove that he was hers. She chose not to approach UNHCR to issue a birth certificate for her son in fear it would jeopardize her chances of being resettled, because the process of



acquiring a birth certificate takes a long time, during which UNHCR could decide to resettle someone else instead.

5.4.7 Travel

Without documents or birth certificates for children, traveling, even within Egypt, is restricted. There are police and sometimes military checkpoints monitoring movement between governorates by checking the identification documents of all passengers, especially foreigners. One participant reported traveling from Cairo to a different governorate and being stopped by police. She had valid documents, but her child did not have a birth certificate which worried the police officer checking her papers. But since she had a birth notification and the child was a newborn, the officer eventually let her go. She expressed her fear that this would not likely be the case in the future.

Syrian female participant in Cairo, 31

Once I was traveling to another governorate in Egypt, I was stopped by the police and the police officer asked me for proof that this is my child. I was very scared because I did not have a birth certificate. I gave him the birth notification, but it will not work for long. Especially after my child is older.

5.4.8 Arrest and detention

Arrest is also a major consequence for not having valid identification documents. As reported by several participants in this study, members of their communities who had no documents and were arrested over street fights for example, faced the possibility of detention. However, none of the participants reported cases of deportation due to lack of documents.

5.4.9 Burial, inheritance, and other services in the country of origin

Without valid documents, migrants and refugees have no access to inheritance from family members back home. It is equally difficult to bury a deceased member of the community in their home country unless the community provides the embassy with documents proving that the deceased is a citizen.

5.4.10 SIM cards and bank accounts

Participants have also expressed discontent with their inability to obtain SIM cards and open bank accounts without valid documents. Telecommunication companies in Egypt require valid documents to provide any customer with a SIM card. Banks are restricted by the regulations set forth by the Central Bank of Egypt for opening bank accounts for non-Egyptians. A valid passport is the only document accepted for opening a bank account. A UNHCR card is not accepted. Without bank accounts, migrants and refugees are unable to seek the financial support of family and friends who live elsewhere. Restriction of remittances is thus a major challenge.

5.5 Lack of awareness of legal assistance opportunities

The International Organization for Migration (IOM) and UNHCR both have partnerships with organizations like the Egyptian Foundation for Refugee Rights (EFRR), and United Lawyers. Through these partnerships, EFRR and United Lawyers assist migrants and refugees referred to them by IOM and UNHCR with the acquirement of birth certificates. UNHCR works to ensure that the soon-to-be-born child would not face difficulty in acquiring a birth certificate. Doctors report pregnancy cases to UNHCR office who in turn work with the mother to ensure she has all the requirements needed to issue a birth certificate prior to delivery. Should any obstacles arise, legal aid partners intervene and try to find solutions. This strategy gives legal aid partners more time to prepare required documents, instead of having to abide by the earlier mentioned 15-day limit.

However, access to legal assistance for resolution of matters regarding birth registration and the acquirement of other identity documents is limited. Our research revealed that very few migrants are aware that IOM offers legal services. Refugees, too, are not aware that UNHCR can be of help on this matter.

UNHCR Egypt have introduced and implemented new guidelines on the prevention of statelessness in early 2018 (Interview with UNHCR staff).¹ In an interview conducted with UNCHR officials in Egypt, they stated that the number of Syrians approaching UNHCR for support with birth registration is quite low. The results of our FGDs indicate that none of the Syrians interviewed for our project knew that UNHCR could provide legal support to help them access birth certificates in Egypt. Some participants in the FGDs urged UNHCR to look for solutions to facilitate the access of asylum seekers and refugees to birth registration.

The FGDs and interviews with community leaders also revealed that members of refugee and migrant communities not under the protection of UNCHR faced difficulties in acquiring birth certificates for their children. They also did not know that IOM could provide them with legal assistance through their legal partners. The FGDs also revealed that irregular migrants have limited access to international organizations and their local partners in comparison to refugees and asylum seekers. Irregular migrants are unaware that they have access to legal aid units working on supporting migrants and refugees in Egypt.

As such, an awareness raising campaign is needed to inform the migrants of ways of reaching out for legal assistance. The problems and obstacles facing migrants and refugees in Egypt with regards to the issuance of birth certificates, and identification documents more generally, should also be highlighted to all organizations working in the field as this research indicated that not all of them are familiar with such challenges.

¹ Interview with Rasha El Shehawey in UNHCR Cairo Zamalek Office on November 4, 2018.

6. Conclusion

Children of migrants and refugees who are born in a country of transit or destination to parents who have no identification documents face multiple challenges in establishing the elements of their legal identity. As a consequence, they are at much greater risk of statelessness. Lack of identity documents, including both birth certificates issued by the country of birth or through consular registration with the state of nationality of the parents, means that such children may struggle to establish their nationality in any state. The procedures to obtain birth certificates and other identity documents for children are especially inaccessible to a parent who does not herself or himself hold an identity document. Women seeking to register the birth of children without the father and who do not have a marriage certificate face additional difficulties. While adult migrants may be able to convince authorities of their home country of their right to nationality, even in the absence of documents, their children often lack sufficient knowledge of their home country to be able to do so, especially if they were separated from their parents and were born in Egypt or a transit country.

The above review has revealed that the most impending challenge in registering a birth with Egypt's national authorities is the difficulty in acquiring the documents required from parents. Many of the migrants and refugees from the six communities addressed in this study do not hold valid identification documents (i.e. passports for migrants and UNHCR Cards for refugees), residence permits, or valid marriage certificates. Another observation we came across during interviews conducted with migrants and refugees as well as organizations working on this issue is the apparent information gap among the migrant and refugee communities (whether parents or legal guardians) who want to issue birth certificates for their children but do not know how. There are also cases of migrants and refugees having wrong perceptions regarding how the process works, often leading them to avoid acquiring a birth certificate instead of trying to find a way to maneuver the challenges facing them.

The process can be even more difficult for those seeking to register births or issue/renew identification documents with consular authorities. The challenges are common across all nationalities covered in this study, and include high fees, difficulty of acquiring certain required documents in Egypt, and inaccessibility of embassies. The experiences of migrants and refugees interviewed in this study revealed how they are often reluctant to approach their embassies for support even if no other alternatives exist.

7. Recommendations

Many of the challenges encountered by Egypt's migrant and refugee population could be eased through the right kind of support. Below are recommendations for different stakeholders, be they international organizations, civil society organizations, or government institutions, on how to effectively tackle the challenges presented in this report:

7.1 Recommendations to the government of Egypt

7.1.1 Facilitate access to birth registration for migrants and refugees

- Adopt regulations providing for the registration of births by refugees and migrants who cannot approach their embassies, in particular by:
 - Removing the requirement for a marriage certificate to be provided in order to register a birth, especially in the case of foreigners;
 - Providing for alternative means by which the marriage of foreigners can be authenticated to enable the late registration of a birth where a marriage certificate from a country of origin is not obtainable;
 - Simplifying procedures for registration of marriages that take place in Egypt;
 - Providing exceptions to allow birth registration in cases where the father's whereabouts are unknown;
 - Removing the requirement for presentation of a valid residence permit in order for a birth to be registered;
 - Providing for refugee cards issued by UNHCR or for expired identity documents from countries of origin to be accepted as sufficient proof of identity for registration of a birth;
 - Considering alternative forms of authentication of the identity of the parents where no documents are available, including the testimony of persons known to the parents;
 - Extend the deadline for registration of a birth beyond 15 days in case of the children of foreigners.
- Provide information brochures in different languages directed to migrants and refugees from different countries of origin on how to register births and other life events in Egypt.
- Provide training to civil registration officials and others on the difficulties faced by migrants and refugees, and on the importance of directing migrants to register the births of their children with the relevant consular authorities.

7.1.2 Simplify residence permit procedures

- Reduce the waiting time for processing residence permits and making them valid for one year instead of six months.
- Reform the procedures in Mugamaa (government building where residence permits, and other documents are issued) to ensure that migrants and refugees are treated with dignity and that their rights are

respected.

- Consider drawing on the example of Morocco to conduct campaigns for the regularization of irregular migrants in Egypt.

7.1.3 Strengthen child protection systems

- Strengthen the protection systems for children who are unaccompanied or separated from their parents, and have no documentary proof of that link, or whose parents are unknown, in particular by:
 - Facilitating late registration of births;
 - Providing routes to legalize and facilitate the role of carers for those children, for example by adapting the existing system of kafala guardianship under Islamic law;
 - Ensuring that the foundling provision in Egyptian nationality law is implemented in practice and that children found in Egypt of unknown parents are confirmed as Egyptian citizens;
 - Providing alternative routes to obtain identity documents which record what facts are known about their identity, and provide them with a legal residence status in Egypt, if no connection to a country of origin is likely to be established.
- Collect and publish data on the number of migrants in Egypt, with nationality breakdown, so far as this is known.
- Make efforts to improve the collection of data on rates of birth registration of migrants and refugees through the Demographic and Health Surveys to ensure that statistics for coverage of birth registration include data for non-Egyptians.

7.2 Recommendations to Consular Authorities

- Improve access to official identity documents by nationals who are migrants (whether regular or irregular) in Egypt, in particular by:
 - Creating systems to authenticate marriages in a format that will be accepted by the Egyptian civil registration authorities;
 - Facilitating the issue of duplicate birth certificates from the country of origin, and creating procedures for late registration of births, where that did not take place, including by accepting alternative forms of authentication of the identity of the parents and place of birth where no documents are available;
 - Removing many of the requirements that are difficult to fulfil for issuing/renewing identification documents (i.e. The presence of a male legal guardian to register a marriage in the Syrian Embassy, the presence of witnesses for Eritreans, Ethiopians, South Sudanese, and Nigerians);

- Reduce the fees associated with provision of consular services, or provide a sliding scale based on ability to pay;
- Providing public assurances that there will be no consequences for migrants who are in Egypt with irregular status.
- Provide legal assistance for parents who are unable to register the births of their children born in Egypt, or to assist them in obtaining late registration of birth in the country of origin.
- Refer parents to existing legal and other support from civil society and international organizations in obtaining birth certificates and other identity documents.

7.3 Recommendations to the League of Arab States and African Union

- Call on member states to take initiatives to facilitate the access of their nationals to their consular services in countries of destination.
- Call on states to respect their obligations under the Convention on the Rights of the Child, the Charter on the Rights of the Arab Child, and the African Charter on the Rights and Welfare of the Child to ensure that all children are registered immediately after birth and have the right to acquire a nationality.
- Call on states that have not ratified the UN Conventions relating to the Status of Stateless Persons and on the Reduction of Statelessness to do so.
- Adopt the simplification and facilitation of access to consular assistance in the provision of birth registration and other identity documents as a priority agenda item within the relevant bodies of the organization, and in particular within discussions of child protection.

7.4 Recommendations to Local and International Organizations

- Ensure adequate dissemination of information regarding UNHCR's support on birth registration.
- Advocate for improving the access to services available for refugees especially those with children without birth certificates.
- Call for marriages codified on UNHCR cards to serve as a substitute for a marriage certificate when registering a birth.
- Call for marriages codified on UNHCR cards to serve as a substitute for the letter requested from the embassy for registering the marriage in Egypt.

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- Implement a major awareness campaign in community centers to inform the refugee communities of the type of assistance available regarding birth registration.
 - Advocate for the inclusion of unregistered children in public or community schools since children without birth certificate cannot enroll in schools.
 - Implement activities particularly targeting children without birth certificates since services particularly tailored for children without birth certificates are limited;
 - Fund the publication of instructions on how to register births in Egypt in the languages of the major migrant and refugee communities in the country to provide the target group with ways to overcome the challenge of acquiring identity documents.
 - Partner with community centers to access cases of unregistered children and adults with no documents to limit the number of stateless individuals in Egypt.
 - Provide services specifically tailored for the population under study since the number of local organizations working on statelessness is very limited.

7.5 Recommendations to community leaders and community schools

- Provide information to international organizations and UN agencies regarding members of their community who cannot access documents and birth certificates to give them assistance.
- Encourage community members to approach organizations that can support members of the community with the acquirement of documents.
- Play a role in disseminating information and raising awareness among community regarding the legal assistance services provided by UN agencies through their local partners, since there is a knowledge gap regarding the services available among the refugee and migrant communities.

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