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ACCESS TO LEGAL IDENTITY

AND CIVIL DOCUMENTATION
AMONG THE MUHAMAHSHEEN
IN YEMEN

MARCH 2024

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Front cover photo: Camp life with ID (Photo:NRC)

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Executive Summary

Despite constituting over 10% of the Yemeni population, the *Muhamasheen* are a historically marginalized community who suffer discrimination on a daily basis and lack basic legal identity and civil documentation, including proof of their Yemeni nationality. As such, many of them are considered stateless. Without civil documentation, they are denied access to basic services including health, education, government assistance and humanitarian aid. They face challenges in moving freely past checkpoints and cannot exercise other basic civil rights including registering their businesses, buying, selling and renting property and accessing the financial and hawala systems. Lack of documents severely limits their livelihood opportunities, resulting in protection risks including child labour as well as a lack of legal protection.

The socio-economic situation of the *Muhamasheen* and their marginalized treatment within Yemeni society is well-documented.¹ Previous research has noted the difficulties for the *Muhamasheen* in accessing health, care, education, livelihoods, and shelter.² The current report builds on earlier information and draws from a recent field assessment conducted by the Norwegian Refugee Council (NRC) in the southern governorates of Yemen focusing on the barriers and challenges for the *Muhamasheen* in accessing proof of legal identity. The assessment is based on a survey of 385 *Muhamasheen* community members in Aden, Lahj and Abyan governorates, as well as interviews with key stakeholders and community leaders and a series of focus groups discussions.

1 See for example Al Waraq, *The Historic and Systematic Marginalisation of Yemen's Muhamasheen Community*, June 2019, Sana'a Centre for Strategic Studies; Al Sarari, *The Muhamasheen in Yemen: Alienation at the Bottom of the Heap*; Al-Mafali, *Anti-Black Racism in Yemen: Manifestations and Responses*; UNHCR *Muhamasheen Community Profile*; UNHCR, *Yemen's 'marginalised ones' endure hunger, displacement*; *Yemen's 'marginalised ones' endure hunger, displacement*.
2 See for example UNHCR *Muhamasheen Community Profile*.



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Ticket to opportunities (Photo: NRC)

Key findings are as follows:

- Access to proof of legal identity is very low among the *Muhamasheen* in Yemen with 78% (299 individuals) surveyed lacking a national ID card; the main identity document in Yemen.
- Disenfranchisement is inter-generational. Forty-two percent (42%) of those surveyed did not know if their parents had possessed a national ID card.
- Many *Muhamasheen* youth also lack access to legal identity with 80% of head of households reporting that their children aged over 16 do not have a national ID card.
- Access to birth certificates among *Muhamasheen* children is higher than access to national ID cards among adults, with 58% of heads of households reporting that their children under 16 years of age have access to birth certificates.
- 93% of respondents believe that lack of access to legal identity and civil documentation affects access to basic services by the *Muhamasheen*.
- The main challenges faced by the *Muhamasheen* in obtaining legal identity and civil documentation are high costs (transportation, photos, and fees - 40%), lack of information on where and how to apply for documentation (29%), and discrimination against *Muhamasheen* (10%).



NRC data collectors meeting the *Muhamasheen* community in Lahj (Photo: Hend Saleh/NRC)

Despite the low rate of access to legal identity documents, the assessment also highlighted a number of practical and tangible steps that could be taken to significantly increase access to civil documents for the *Muhamasheen* community. These include a combination of awareness raising and social cohesion measures, legal and financial assistance and better resourcing and capacity building of Civil Registration Authorities (CRA). Through improved access to health, education, employment opportunities and freedom of movement, such measures could have a significant positive impact on daily life for the *Muhamasheen*, as well as enhancing their inclusion, equality and dignity. Whilst entrenched attitudes take time to change, access to legal identity, proof of nationality and access to civil rights is a critical first step towards equal treatment.



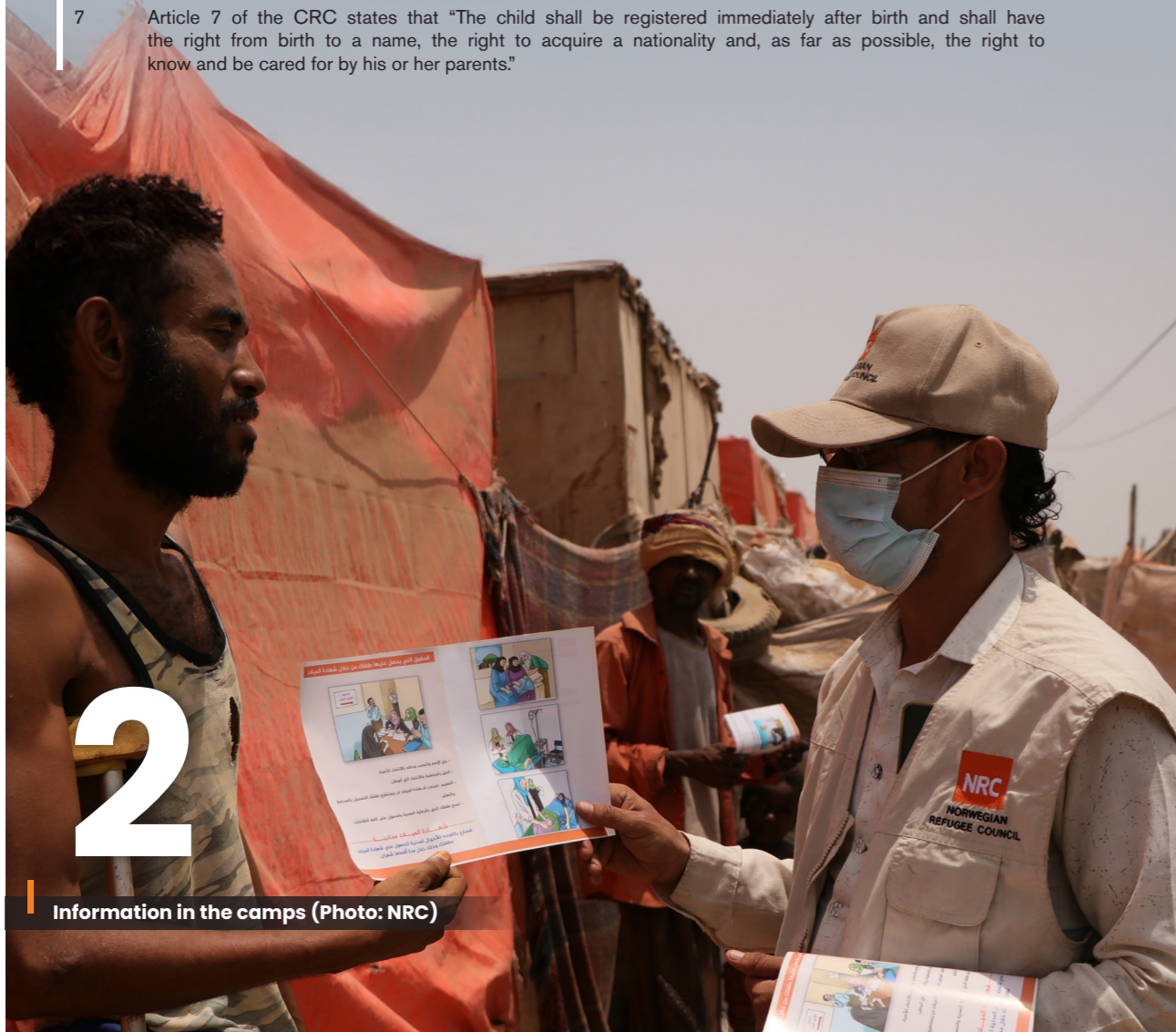
Background

Access to legal identity and civil documentation is one of the most basic of human rights, as enshrined in different international legal instruments. **Legal identity** refers to the recognition of a person before the law, and to confirmation of their nationality.³ Official proof of a person's legal identity is demonstrated through issuance by national authorities of an official document, such as an ID card or passport, capturing essential personal information. Such documents allow persons to access basic services, travel freely and claim all the rights of a national of the country. **Civil documentation** refers to any official document capturing personal information and proving the civil status of a person, such as birth and marriage certificates. The two terms are typically used interchangeably, and the common term 'civil documentation' can refer to both. The right to legal identity and civil documentation is reflected in different international human rights instruments, including the Universal Declaration of Human Rights (UDHR)⁴, International Covenant on Civil and Political Rights (ICCPR)⁵, Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)⁶ and International Convention on the Rights of the Child (CRC).⁷

- 3 There may be different interpretations of the terms 'nationality' and 'citizenship' in some contexts including in US and UK law. This report draws no distinctions between the two terms and uses them interchangeably. For commentary on the two terms, see ICLA Guide on Legal Identity (NRC:2015).
- 4 Article 6 of the UDHR notes that "Everyone has the right to recognition everywhere as a person before the law."
- 5 Article 16 of the ICCPR similarly confirms that "Everyone shall have the right to recognition every where as a person before the law." Article 24 confirms that "Every child has the right to acquire a nationality."
- 6 Article 15 of the CEDAW states that "States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals".
- 7 Article 7 of the CRC states that "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."

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Information in the camps (Photo: NRC)



Without proof of legal identity, nationality and confirmation of life events, such as birth or marriage, residents are excluded from services and benefits, may be subject to arrest, detention and movement restrictions, and are denied rights as citizens. They may not be able to prove family relationships and may face challenges in enrolling children in school, accessing health care or finding employment. More significantly, they may be considered as stateless, i.e having no recognized nationality. For example, birth certificates are required for school enrolment. This has been waived for internally displaced children, but NRC's education programming has found evidence of schools using the requirement of birth certificates to deny enrolment of children, including *Muhamasheen* children. A birth certificate is also a requirement for sitting the national exam at the end of Grade 9. Proof of legal identity, such as a birth certificate, marriage certificate or national ID, are necessary for some health services, such as maternal health services or surgery. Security officials at checkpoints sometimes require individuals to present ID documents.

The most common forms of legal identity and civil documents in Yemen include the national ID card, birth and marriage certificates and family books. Family books are booklets which contain a record of the persons in the immediate family, namely parents, spouses and children, thus providing proof of marriage and family relationships, including details of dependent children. A smaller percentage of persons also possess passports.

Access to civil documentation is low among internally displaced persons in Yemen. However, the *Muhamasheen* community suffer specific challenges.⁸ Socially marginalized and economically poor, the community faces major barriers in everyday daily life including discrimination and poor treatment. They are referred to as "*akhdam*" (the Arabic term for 'servants') and are considered to be the lowest social class in the country. Some persons believe they are descended from African slaves or Ethiopian soldiers as far back as the sixth century. There are no official records on the size of this group, however, the United Nations has estimated there to be about 3.5 million *Muhamasheen* presently in Yemen.⁹ Historical marginalization of the *Muhamasheen* has resulted in a lack of access to services and an inability to claim basic rights. Their lack of civil documentation directly impacts their educational and health services and exposes them to different protection risks, including a lack of legal protection when abused or victimized.



Individual Counseling (Photo: NRC)

The marginalization of the *Muhamasheen* takes place against a legal framework which protects the right to civil documentation. Law No 6 of 1990 on Yemeni Nationality defines who is considered a Yemeni and prescribes how a person can obtain Yemeni nationality whilst the Law of Civil Registration sets out the requirements for registration of all life events, including birth, marriage, divorce and death. The *Muhamasheen* meet the criteria for Yemeni nationality under the law and are entitled to proof of legal identity and civil documentation.¹⁰ In practice they sometimes face challenges obtaining these documents. They are implicitly denied Yemeni nationality.

- 8 The word '*Muhamasheen*' is the literal Arabic translation of 'marginalized'. The group is marginalized in different ways and generally looked down upon by other Yemenis.
- 9 *Muhamasheen* Community Profile (2022).
- 10 Article 2 of the Law of Yemeni Nationality reads, "Yemenis are those who have naturally resided in the country at least for 50 years at the time of passing this law. The residence of the ascendants complements the residence of the descendants and wife should they have the intention of naturalization". As per this article, *Muhamasheen* are considered Yemenis on account of their long-term historical residence in the country for centuries.



Methodology

NRC's assessment of the situation of the *Muhamasheen* was carried out through a household survey, Key Informant Interviews (KII), and Focus Group Discussions (FGDs) in three governorates in the Internationally Recognized Government (IRG) controlled area of Yemen, namely Aden, Lahj and Abyan governorates. In total, 492 people participated in the assessment.

The overall purpose of the assessment was to identify the level of access to legal identity and civil documentation among the *Muhamasheen*, the challenges faced by them in this regard, and possible solutions to address these challenges.

Between 19-25 September 2023, NRC surveyed 385 people (242=63% women) from the *Muhamasheen* community across the three governorates, including 205 (113=55% women) in Aden, 99 (72= 73% women) in Lahj, and 81 (57= 70% women) in Abyan. The surveys were conducted with 326 heads of household (85%) and 59 single persons (15%).

All surveys were carried out in person, and NRC data collectors received training on the data collection tools prior to the assessment. NRC also conducted 13 KIIs in the three governorates, including 6 with community leaders and 7 with staff from different Civil Registry Authorities (CRA) in the targeted governorates. In total, 8 FGDs were conducted in Aden and Lahj governorates, covering 94 people (36= 38% women). Participants in the FGDs were a mixture of the *Muhamasheen* community members and the host community leaders.



Information session (Photo: Martin Clutterbuck/NRC)



Empowering women (Photo: NRC)



Detailed Findings

4.1 Access to a national ID card

Survey data indicated that the majority of the *Muhamasheen* community do not have access to a Yemeni national ID. 78% (299 of 385) respondents said that they did not possess a Yemeni national ID. The majority indicated that the main reason for not having an ID was the high cost, including transportation and ID fees (40%). The lack of information about the process and how to apply for the card was the second most commonly cited reason (29%). Some said they had applied for an ID, but their application was rejected, without a justification, while others said they cannot obtain an ID since they belong to the *Muhamasheen* community (10%).

Some persons answered that they did not need an ID. Whilst men in Yemen often have access to more opportunities than women, including access to civil documentation, the data shows that men and women among the *Muhamasheen* community suffer an almost equal lack of access to proof of legal identity, with 79% of women surveyed not having access to an ID card against 75% of men.

The same group of people (385) were asked if their spouses and children above the age of 16years old had national ID cards.¹¹ The response, however, was different, with 60% (232 individuals) reporting that their spouses did not have an ID, while 80% of them reported that their children above 16 did not have an ID card. The high percentage of juveniles without an ID card suggests a generation of youth without access to education, livelihood opportunities, and healthcare services amongst a community already marginalized and discriminated against.

¹¹ As per the Civil Registration Authority (CRA) Law, children can only apply for an ID once they complete the age of 16.

The assessment also revealed that a large percentage of respondents did not know whether their parents ever held a national ID.

Despite having lived in Yemen for generations, 42% (160) out of 385 people surveyed reported that they did not know if any of their parents ever had Yemeni national ID. This finding is indicative of historical, inter-generational discrimination and disadvantage.

Low rates of access to national IDs prevent access to some services, including importantly to WFP General Food Assistance, which in 2023, reached 13 million vulnerable people in Yemen.¹²

WFP announced a pause in food assistance in areas controlled by the de-facto authorities (DFA) in November 2023, and in March 2024, while assistance was still paused, stated that temporary ID cards, issued since 2018 by the CRA, would no longer be accepted¹³ This highlights the importance of access to the national ID card

4.2 Access to birth certificates

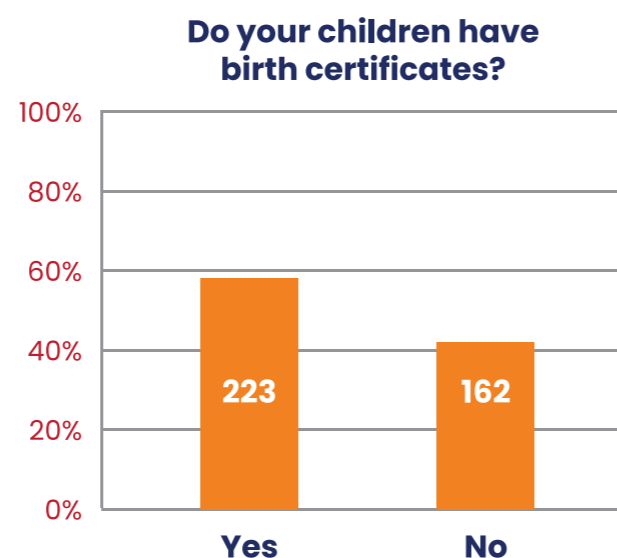
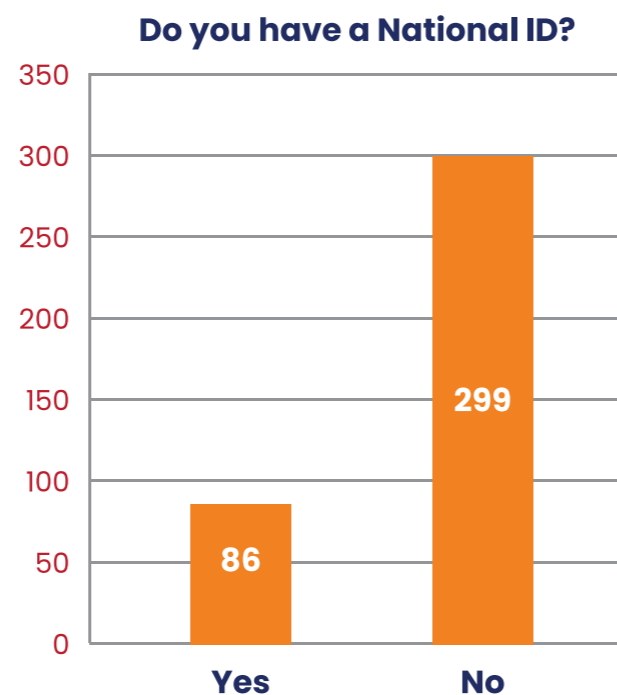
The assessment covered access to birth certificates among *Muhamasheen* children. Of 385 people surveyed, 223 (58%) reported that their children under the age of 16 have access to birth certificates; a significantly higher percentage than adults with access to the national ID card.

Seventy per cent (70%) of respondents indicated that lack of a birth certificate affected their children's right to access schooling. Whilst 58% of respondents reported having birth certificates for their children, 42% of children do not have birth certificates and are presumably unable to access education.

Interestingly, more children in the *Muhamasheen* community seem to have birth certificates compared to their parents. While only 25% of adults reported having birth certificates (reported under section 4.3), 58% reported having birth certificate for their children.

This trend could suggest a positive shift towards prioritizing the documentation of children within the community, potentially driven by increased awareness of the importance of birth certificates for accessing services and opportunities, including education.

It could also indicate efforts by humanitarian agencies and local authorities to facilitate birth registration for children.



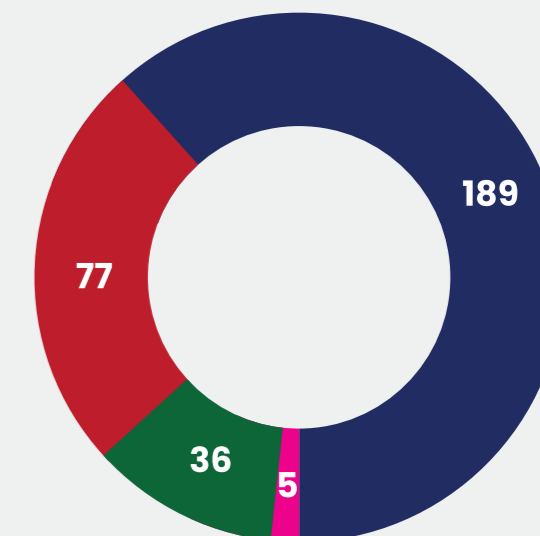
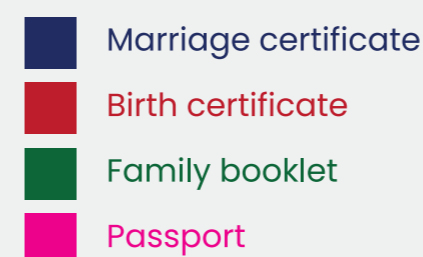
¹² Under WFP assistance, 5 types of IDs are accepted (National ID, Election ID, NGO ID (issued by the NGO), Family Card, Passport – Temporary ID cards.

¹³ Since September 2018, the CRA has issued Temporary Identification Cards for all persons who lack civil documents. While the temporary IDs do not substitute the national ID Card, they can be used as a replacement until a new registration system is installed by the Ministry of Interior and the issuance of national ID Cards is resumed.

4.3 Access to other types of civil documentation

While access to national ID cards is low among the *Muhamasheen*, the assessment indicated that a reasonable percentage of persons have access to other types of civil documentation. Eighty percent (80%) (307 individuals) out of 385 people surveyed had different forms of civil documents; 62% of these (189 individuals) had marriage certificates, 25% (77 individuals) had birth certificates and 12% (36 individuals) had family booklets, and 5 people reported having passports. Given that marriage certificates can refer to both formal marriage certificates issued by the court and informal marriage certificates drafted by a *sheikh* or *imam*, the percentage of persons with official documents is not clear. Given that only 86 out of 385 (22%) people have a national ID card, it is very unlikely that 189 people have obtained formal marriage certificates, since one of the pre-requisites for this is to have an ID. Whilst an informal marriage certificate is not as widely accepted as the formal certificate, it can help families obtain access to some services, and be used as supporting documentation, for example for WFP General Food Assistance.

Do you have any civil documentations other than ID?



4.4 Challenges faced by the *Muhamasheen* in obtaining civil documentation

The *Muhamasheen* face different challenges accessing legal identity and civil documentation. The high costs associated with civil documentation, including transportation to the CRA, photos, blood tests¹⁴ and ID fees¹⁵ were raised as the main challenge by most of those surveyed (40%) as well as by all KII and FGD participants. Findings from FGDs indicated that female headed households face particular struggles to cover such high costs. Lack of knowledge on how and where to apply for an ID and other civil documentation was given as the second major challenge by 86 of 299 persons (29%). A related issue raised by participants in FGDs was the lack of knowledge of the importance or relevance of civil documentation.

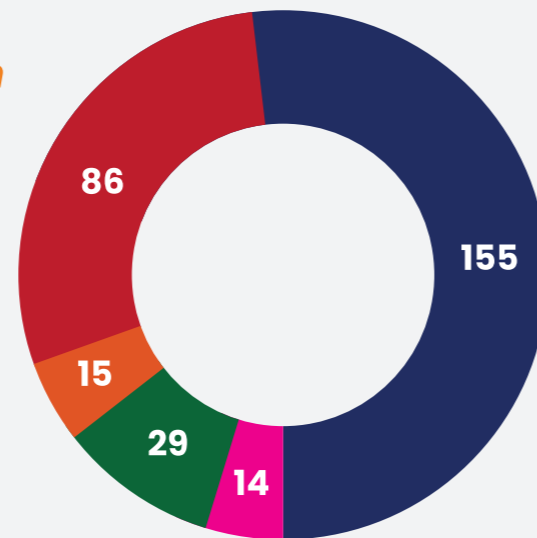
Discrimination was the third biggest challenge with 10% (29 of 299 persons) stating that they cannot obtain national IDs and civil documentation because of their status as *Muhamasheen*. Some reported having applied for ID but said that their applications were refused due to their *Muhamasheen* status. Participants in almost all 8 FGDs stated that *Muhamasheen* are discriminated against both within the community and by authorities. Some, however, linked the discrimination to their displacement status and origin (for *Muhamasheen* IDPs from the areas now under control of the De Facto Authorities), whilst others linked it to their *Muhamasheen* status and social class. Participants in one FGD in Lahj governorate claimed that the *Muhamasheen* coming from areas under DFA-control cannot obtain national ID cards, while other displaced people from the same area are able to. This caused them to believe they are denied documentation on account of their *Muhamasheen* status. However, all 13 participants in KIIs said they believe that the *Muhamasheen* have the right to obtain civil documentation.

¹⁴ For the Yemeni National ID, a blood test needs to be taken first at the CRA.

¹⁵ The total cost for an ID is YR 10,000 and for a birth certificate is YR 5,000.

Challenges faced by *Muhamasheen* obtaining civil documentation

- Unaffordability of costs
- Lack of information in procedures
- Lengthy process
- Discrimination
- Other



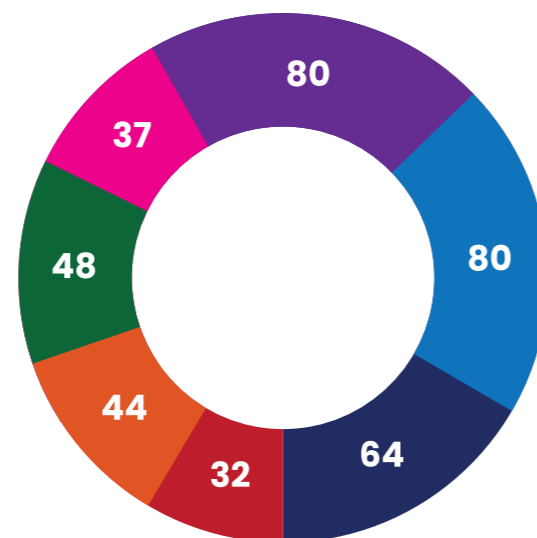
The lengthy process for obtaining the national ID was noted by a small percentage (5% or 15 of 299 persons) as another obstacle. Many *Muhamasheen* are working to survive as daily labourers. Their long working hours make it a challenge for them to repeatedly visit the CRA to obtain a document. Some participants also expressed their concern about paying more than the official fees whilst others claimed misconduct by staff of the CRA.

4.5 Access to public services

Ninety-four percent (94%) of respondents (357 out of 385 persons surveyed) reported that their access to public services and to other civil rights and freedoms is limited due to lack of access to civil documentation. All participants in KIIs shared this view. Public services include access to education and health services, in addition to access to humanitarian services such as WFP General Food Assistance. Other civil rights include the right to hawala services, the right to rent accommodation, to buy and sell property and to register businesses.

Which services or rights can you not attain when lacking national ID?

- Hawala (Money transfer services)
- Employment
- Renting a house (Entering contract)
- Education
- Setting up small business
- Freedom of movement
- Healthcare



In many cases, children without birth certificates are unable to enrol in school. Combined with low levels of education and high levels of poverty amongst the *Muhamasheen*, this can lead to increased levels of child labour. Many families feel compelled to send their children to work on the street and in other unsafe jobs with very low income. For girls, however, the lack of access to education combined with a lack of family access to public services and civil rights as well as low family income can lead to higher rates of child marriage.

Participants in different FGDs noted the disproportionate impact of the lack of access to health services on women in particular. Many *Muhamasheen* women are refused admittance to the hospital to give birth due to their lack of documentation. The consequence is increased rates of home births with local midwives. This can sometimes lead to the loss of life or to serious health issues. In case of the need for surgery, for urgent medical issues or even treatment for injuries suffered in street or work accidents, the *Muhamasheen* are unable to obtain hospital treatment due to their lack of an identity document.

Registration for humanitarian services requires proof of identity and participants in FGDs noted that some *Muhamasheen* use negative coping mechanisms to bypass their lack of civil documentation. This can include asking a relative or friend with a national ID to register for services, with an agreement to share the services with them. The lack of documentation also excludes many vulnerable *Muhamasheen* from access to cash which cannot be collected from the banks and hawalas without identity documentation.

Other problems include lack of vocational training opportunities, restrictions on movement and limited employment opportunities. In one FGD, the participants reported that in their village in Aden some women could not enrol in vocational trainings supported by an NGO, on account of their lack of an ID document. The *Muhamasheen* without an ID also face problems travelling between governorates, even sometimes within the same governorate. They are stopped and questioned about their identity and are sometimes unable to pass check points. Without proper documentation, opportunities for decent work are low. The *Muhamasheen* are locked into a poverty cycle of daily labour, menial jobs with low incomes and difficult and sometimes dangerous working conditions.



It's never too late (Photo: NRC)



Solutions suggested by KIIs and FGDs

To help increase issuance of civil documentation to *Muhamasheen*, respondents were asked what I/NGOs could do. Key asks were (1) increased legal and financial assistance, (2) awareness raising amongst communities and (3) capacity building of the CRA as well as local leaders, including *sheikhs*. It was suggested that this package of services would address the needs at different levels.

By helping the *Muhamasheen* through the process and covering the associated costs, civil registration would become much more accessible and affordable.

By building the capacity of the CRA and local leaders, barriers and obstacles for the *Muhamasheen* could be identified and addressed. Further, if the *Muhamasheen* were able to see legal identity documents being issued to other community members, confidence in the process would increase leading to higher demand.

In turn, those *Muhamasheen* in receipt of legal identity and civil documents would benefit from an increase in access to public services and civil rights, reducing the impact of discrimination and fostering a greater sense of equality and inclusion in Yemeni society.

Solutions suggested by KIIs and FGDs

5

At the Civil Registration Authority (Photo: Martin Clutterbuck/NRC)



6

Civil Registration Authority (Photo: Martin Clutterbuck/NRC)



Conclusion and Recommendations

Conclusion and Recommendations

6.1 Conclusion

As the Yemeni legal framework recognizes the right to legal identity and civil documentation for all Yemenis, including the *Muhamasheen*, the key challenge is realization of that right in practice. According to NRC surveys, the rate of possession of national ID documentation by the *Muhamasheen* could be as low as 22 per cent (22%).

Forty-two per cent (42%) of *Muhamasheen* children are estimated to lack birth certificates, depriving them of access to school and health services and resulting in protection risks such as increased child labour and child marriage. Without such documents, life for the *Muhamasheen* in Yemen is much harder than necessary. Their ability to access humanitarian assistance, register businesses and even rent property is limited, affecting their life opportunities.

The barriers identified by the *Muhamasheen* include the cost and complexity of the process and a strong sense of discriminatory treatment, both within the community and by authorities, leading to a reluctance to apply for documents. A further evidentiary barrier is the fact that parents of the *Muhamasheen* also lack national ID documents. Such documents, or alternative proof of Yemeni origin, are necessary for authorities to confirm legal identity.


Yemeni authorities are aware of the challenges but lack resources and capacity to address these issues. Historically entrenched discriminatory attitudes within the community must also be overcome.

A targeted and integrated approach to dealing with some of these issues through a campaign of awareness, practical support and capacity building would be a positive first step. The direct and tangible impact for the *Muhamasheen*, in term of access to services, reduced discrimination and increased dignity, could be significant.

6.2 Recommendations

Based on the findings of this assessment, the following approaches are recommended:

- Implement social cohesion programs to promote increased co-existence and co-acceptance amongst the *Muhamasheen* and other communities. Through such programs Yemenis will be encouraged to treat the *Muhamasheen* community equally and respect their rights and human dignity.
- Conduct awareness-raising among the *Muhamasheen* on the importance of legal identity and civil documentation and the procedures of obtaining it.
- Support the *Muhamasheen* financially to obtain ID and civil documentation, including helping them with transportation costs, fees for issuance of documents and other document-related expenses
- Build the capacity of local authorities, including CRA on the rights of the *Muhamasheen* to legal identity and civil documentation.



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Rights to an identity (Photo Martin Clutterbuck/NRC)

Annex: Documents Required to Issuance

The process for issuance of national ID cards and civil documentation documents in Yemen is straightforward but can be complex for persons without pre-requisite documents, such a Yemeni birth certificate, parental marriage certificate and proof of parent's Yemeni nationality.



National ID



The necessary documents for an individual seeking to issue a national ID for the first time include:

- The father's ID (alternatively, this can be replaced with the grandfather's or uncle's ID),
- The original birth certificate,
- Residence confirmation,
- Blood type test,
- Filling out a card application form,
- School certificate, if available.

The cost is approximately YR 8000 although it is important to note that this cost can vary from one area to another.



A

Taking fingerprints for ID card (Photo: NRC)

Annex: Documents Required to Issuance

Birth certificate



The necessary documents include:

- | Parents' marriage contract.
- | Parents' ID card (Father's ID is compulsory).
- | Birth notification from the hospital or a birth confirmation from the neighborhood leader.

The cost is approximately YR 500, although it is important to note that this cost can vary from one area to another.

Marriage certificate



The necessary documents include:

- | Authenticated copy of the marriage contract from the authentication office or marriage registration from the competent court.
- | Family card or personal identification card for the spouses or their passports.
- | National ID or passport of the marriage registrar (*madhun*).



Window to my rights (Photo: NRC)



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