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Bangladesh: Muslim marriage registration and issuance of Muslim marriage contracts

Introduction

The following note describes the Muslim marriage registration procedure and issuance of Muslim marriage contracts (*Nikahnama*) in Bangladesh. This description will be accompanied by an outline of the Bangladeshi administrative structure as well as the legislative framework related to the Muslim marriage process.

The note also contains information about the layout of the *Nikahnama* as well as a description of the stamps applied to the *Nikahnama* in connection with the marriage registration. As almost 90 percent of the Bangladeshi population adheres to the Muslim faith, this note will focus exclusively on the process of Muslim marriage registration.¹

The note is based on interviews conducted in Dhaka, Bangladesh, in December 2018 and on open sources.

Terminology

Bangladeshi *Nikah* registrars are Muslim marriage registrars appointed by the Bangladeshi government. They are often referred to as *Kazis* or *Qazis*. However, this is not a legal term in Bangladesh, and they will therefore be referred to as *Nikah* registrars throughout the rest of the note.²

In connection with the Muslim marriage registration procedure, the *Nikah* registrar may issue two separate documents to the involved parties. The first document is the *Nikahnama*, which is often referred to as the »*marriage certificate*«, but could more accurately be described as the »*marriage contract*«. This document is the official legal document issued by the Bangladeshi government.³

¹ CIA, N/A.

² Canada: Immigration and Refugee Board of Canada, 17 April 2000, p. 3; *Nikah* registrar A, Dhaka, November 2018; *Nikah* registrars B, Dhaka, November 2018.

³ Australia: Migration Review Tribunal, 7 January 2009, p. 4; The Muslim Family Laws Ordinance, 1961; *Nikah* registrar A, Dhaka, November 2018; *Nikah* registrars B, Dhaka, November 2018.

In addition to the Nikahnama, Nikah registrars may also issue a document containing an English translation of the Nikahnama that is referred to as the »*marriage certificate*«. This document is issued as a service, and although issued by the Nikah register, it has no legal value as it is not an official document. The layout of this document varies depending on which Nikah registrar has issued it.⁴

The term »*marriage certificate*« is often used interchangeably for both the Nikahnama and the translation of the Nikahnama provided by the Nikah registrar. This note will only use the term Nikahnama, when referring to the officially issued document regarding the marriage and its registration to avoid confusion.

The administrative structure and legislative framework in Bangladesh

After achieving independence from Pakistan in 1971, the People's Republic of Bangladesh became an independent parliamentary republic with a unicameral parliament. Administratively, Bangladesh is divided into eight administrative divisions and according to the Commonwealth Local Government Forum (CLGF), these divisions are organised into 64 administrative districts, which are further classified into a tiered system of local government consisting of rural councils and urban municipalities.⁵

Rural local government has three tiers and consists of 64 district (*Zila*) parishads, 492 sub-district (*upazila*) parishads, and 4,573 union parishads, while urban local governments are single tiered, and comprised of 11 city corporations and 329 municipal councils. Marriage registrars are typically found within each district and ward.⁶

In Bangladesh the process of marriage is regulated according to family law and differs slightly, depending on which religious denomination the future husband and wife adhere to. Muslim marriages are regulated according to the Muslim Marriages and Divorces (Registration Act), 1974, and marriages between members of the Christian denomination are regulated according to the Christian Marriage Act, 1872. Marriages between followers of no specific religion and followers of the traditional Dharmic religions from the Indian subcontinent are regulated according to the Special Marriage Act, 1872.⁷

The Muslim marriage tradition and wedding ceremonies in Bangladesh

Islamic marriages in Bangladesh are often referred to as contracts agreed upon by representatives from the families of the persons involved.⁸ In the same vein, the

⁴ Australia: Migration Review Tribunal, 7 January 2009, p. 4; Nikah registrar A, Dhaka, November 2018; Nikah registrars B, Dhaka, November 2018.

⁵ CIA, N/A; CLGF, N/A, p. 20.

⁶ CIA, N/A; CLGF, N/A, p. 20; District Registrar of Dhaka, November 2018; Nikah registrars B, Dhaka, November 2018.

⁷ Australia: Migration Review Tribunal, 7 January 2009, p. 1; Australia: Refugee Review Tribunal, 25 October 2005, p. 2; CIA, N/A; Canada: Immigration and Refugee Board of Canada, 17 April 2000, op. 3; Lifos, 7 May 2018, p. 5; Nikah registrar A, Dhaka, November 2018; Nikah registrars B, Dhaka, November 2018.

⁸ Australia: Migration Review Tribunal, 7 January 2009, p. 2; Canada: Immigration and Refugee Board of Canada, 17 April 2000, p. 3.

Nikah registrars in Dhaka define marriages as family matters. Marriages are often arranged by the families of the bride and groom and the families meet prior to the ceremony before contacting the Nikah registrar to agree on the amount of the dowry (*mahr*) paid to the bride by the groom. There are no restrictions concerning the location of the marriage ceremony – the marriage ceremony can take place at the office of the Nikah registrar or at a private residence.⁹ During interviews conducted by the Danish National ID Centre (NIDC), several Nikah registrars confirmed that the marriage ceremony could take place at any location, but told that the key issue was the mutual consent to the marriage by both parties involved.¹⁰

Apart from the proposal of marriage, acceptance thereof, and the dowry agreement, no further religious ceremony is required to finalise a legal Muslim marriage. Any aspect of a Muslim marriage can be conducted by the family of the parties involved, a local *mullah*, or by the Nikah registrar.¹¹

All the sources interviewed by the NIDC in November 2018 confirmed that any religious aspect of a Muslim marriage ceremony can be performed by a family member or an *Imam*. They also informed that the registration is often conducted at the same time of the marriage solemnisation, and that both the solemnisation and registration were presided over by the Nikah registrar.¹²

The Muslim Marriages and Divorces (Registration) Act, 1974

According to section three of the Muslim Marriages and Divorces (Registration) Act, 1974, all marriages solemnised under Islamic law must be registered in accordance with the provisions of this act no later than 30 days from the date of solemnisation.¹³

While several of the consulted sources agreed that Muslim marriages must be registered within a 30 day time frame from the date of solemnisation, the Nikah registrars of the Savar District provided conflicting information concerning the time frame for the registration of Muslim marriages.¹⁴ The Nikah registrars of the Savar District explained that marriages are generally registered in connection with the solemnisation of the marriage, but that in rare cases, the marriage can be registered three or four months after the marriage has been solemnised.¹⁵ The NIDC has not been able to confirm this statement in any of the consulted sources.

Registration of Muslim marriages is mandatory, according to the Muslim Marriages and Divorces (Registration) Act, 1974. Failure to comply with this is a punishable offence and perpetrators are liable to serve up to two years

⁹ Australia: Migration Review Tribunal, 7 January 2009, p. 2; Canada: Immigration and Refugee Board of Canada, 17 April 2000, p. 3; Nikah registrar A, Dhaka, November 2018.

¹⁰ France: OFPRA, April 2011, p.163; Nikah registrar A, Dhaka, November 2018; Nikah registrars B, Dhaka, November 2018.

¹¹ Canada: Immigration and Refugee Board of Canada, 17 April 2000, pp. 4-6.

¹² Nikah registrar A, Dhaka, November 2018; Nikah registrars B, Dhaka, November 2018.

¹³ Ministry of Law, Justice and Parliamentary Affairs, 24 July 1974.

¹⁴ France: OFPRA, April 2011, p.163; Nikah registrar A, Dhaka, November 2018; Nikah registrars B, Dhaka, November 2018.

¹⁵ Nikah registrars B, Dhaka, November 2018.

imprisonment, or face a nominal fine of up to 3000 BDT (approximately 35 USD), or both.¹⁶

While the Office Français de Protection des Réfugiés et Apatrides (OFPRA) confirms the information found in the Muslim Marriages and Divorces (Registration) Act, 1974 that marriage registration is mandatory, the two sources provide conflicting information on the legal ramifications for failing to register a Muslim marriage. According to the OFPRA, the penalty for failing to register a Muslim marriage is considerably less, and can consist of a prison term for up to three months, a fine of 500 BDT (approximately 6 USD), or both.¹⁷

Although failure to register a marriage may result in legal consequences, it does not invalidate the marriage.¹⁸

Muslim marriage registration

According to the consulted sources and the interviews conducted by the NIDC in Bangladesh, the bride and groom must contact the Nikah registrar to have their marriage registered. Then, depending on the couple's wishes, the couple can either have their marriage registered at the office of the Nikah registrar, or the Nikah registrar can bring the registry book (*Balam*) to another location, such as a private home, to perform the registration.¹⁹

All the interviewed Nikah registrars confirmed that each page in the registry book contains the details of a single registered marriage, and that this page must be signed by the involved parties as well as a number of witnesses. However, the interviewed Nikah registrars provided conflicting information concerning the number of witnesses required to register a marriage.²⁰

The Nikah registrar of Ward 29 of the Dhaka North City Corporation stated that the signatures of the bride and groom in the registry book must be accompanied by the signatures of between two to four witnesses, whereas the interviewed Nikah registrars of the Savar District maintained that the marriage registration must be witnessed by three witnesses.²¹

The NIDC was unable to corroborate the conflicting statements concerning the exact number of witnesses required to register a Muslim marriage during the course of the mission in November 2018.

The ages of the bride and groom are verified prior to their marriage registration in accordance with the Muslim Marriages and Divorces (Registration) Act, 1974, which stipulates that the minimum age for legal marriage is 21 for men and 18 for

¹⁶ Ministry of Law, Justice and Parliamentary Affairs, 24 July 1974.

¹⁷ Ministry of Law, Justice and Parliamentary Affairs, 24 July 1974; France: OFPRA, April 2011, p. 163.

¹⁸ France: OFPRA, April 2011, pp. 163.

¹⁹ Canada: Immigration and Refugee Board of Canada, 17 April 2000, p. 4; Nikah registrar A, Dhaka, November 2018; Nikah registrars B, Dhaka, November 2018.

²⁰ Nikah registrar A, Dhaka, November 2018; Nikah registrars B, Dhaka, November 2018.

²¹ Nikah registrar A, Dhaka, November 2018; Nikah registrars, Savar District, November 2018.

women. The minimum legal age of marriage for both men and women is also confirmed by the consulted literature on marriage in Bangladesh.²²

Most of the interviewed sources agreed on the minimum legal age of marriage, however, the District Registrar of Dhaka maintained that the minimum age of marriage was 18 for both men and women.²³

The Nikah registrars requires the bride and groom to present their national identity card and birth certificate in connection with their marriage registration to verify their ages. The Nikah registrar of Ward 29 of the Dhaka North City Corporate stated that they may also require the bride and groom to submit their passports for the same purpose. Once the Nikah registrars have verified the bride and groom's age, the marriage will be registered.²⁴

The Nikah registrars of the Savar District stated that divorced women must submit a divorce certificate prior to the registration of a second marriage. This is not the case for men who may have up to four wives according to the principles of Islamic jurisprudence.²⁵

The price of marriage registration varies depending on the size of the dowry. In Ward 29 of the Dhaka North City Corporation, the price of marriage registration is fixed at 1250 BDT (approximately 15 USD) for dowries of up to 400,000 BDT (approximately 4,772 USD). If the dowry was worth more than 400,000 BDT, the price of marriage registration would be calculated upon the amount of the dowry.²⁶

In the Savar District of Dhaka, the price of marriage registration also varies depending on the size of the dowry. However, in this district, the price of marriage registration was set at 1250 BDT per 100,000 BDT (approximately 1,200 USD) for dowries up to 400,000 BDT. If the dowry was worth more than 400,000 BDT, the price of marriage registration would increase by 100 BDT (approximately 1.1 USD) for each additional 100,000 BDT.²⁷

When the process of marriage registration is complete, the Nikah registrar will issue both of the involved parties with a copy of the Nikahnama. How long the issuance takes depends on the ward and district. In the Dhaka North City Corporation, the copies are issued to the couple immediately after the registration of their marriage while in the Savar District it may take up to four months to receive a copy of the Nikahnama.²⁸

²² Australia: Migration Review Tribunal, 7 January 2009, p. 4; Ministry of Law, Justice and Parliamentary Affairs, 24 July 1974; France: OFPRA, April 2011, pp.163; Nikah registrar A, Dhaka, November 2018; Nikah registrars B, Dhaka, November 2018.

²³ District Registrar of Dhaka, November 2018.

²⁴ Nikah registrar A, Dhaka, November 2018; Nikah registrars B, Dhaka, November 2018.

²⁵ Nikah registrars B, Dhaka, November 2018.

²⁶ Nikah registrar A, Dhaka, November 2018.

²⁷ Nikah registrars B, Dhaka, November 2018.

²⁸ Ministry of Law, Justice and Parliamentary Affairs, 24 July 1974, p. 4; Nikah registrar A, Dhaka, November 2018.

Marriage by proxy

Whether the presence of both parties involved is required to legally register a marriage is not described explicitly in the Muslim Marriages and Divorces (Registration) Act, 1974, and the consulted sources provide conflicting information on the matter.

According to the Nikah registrar of Ward 29 of the Dhaka North City Corporation, both the bride and groom are generally present for both the solemnisation and the registration of their marriage. On rare occasions, marriages are registered and solemnised without the presence of the groom, but this is usually limited to occasions where the groom is abroad. In these cases, the groom's consent to the marriage is given using Skype or telephone. To solemnise and register a marriage the bride must be present.²⁹

The registry book will not contain the groom's signature, if he was not present for the marriage registration. However, upon returning to Bangladesh, the groom will sign the issued Nikahnama. Thus, it is not possible to determine whether both of the involved parties were present at the solemnisation and registration of the marriage based on the information stated on the Nikahnama. This will instead appear in the registry book.³⁰

The Nikah registrars of the Savar District provided divergent information concerning marriage by proxy. Here, marriage by proxy is possible if one of the involved parties is not present for the solemnisation or registration of the marriage. The bride does not have to be present during the marriage registration.³¹

If one of the involved parties is absent, a guardian may sign the issued Nikahnama instead of the absent party. However, the absent party's signature will not be found on the page containing the details of the wedding in the Nikah registrar's registry book. The guardian will often be the father of the absent party.³² In opposition to this, the Australian Migration Review Tribunal claims that the bride must sign the Nikahnama in front of the Kazi, and a representative cannot be appointed to provide consent on her behalf. However, these sources further stated that this was not strictly enforced in rural areas, and that sometimes marriages were authorised with only the verbal consent of the bride, and sometimes without any consent.³³

Foreign citizens and Muslim marriage registration

The Nikah registrar of Ward 29 of the Dhaka North City Corporation explained that foreign citizens must belong to the Muslim faith and supply an attested certificate of no objection, to have their marriage registered by the Nikah registrar. He further elaborated that marriages contracted between other

²⁹ Nikah registrar A, Dhaka, November 2018.

³⁰ Nikah registrar A, Dhaka, November 2018.

³¹ Nikah registrars B, Dhaka, November 2018.

³² Nikah registrars B, Dhaka, November 2018.

³³ Australia: Migration Review Tribunal, 7 January 2009, p. 4.

religious denominations would be registered under other forms of personal law, and must be registered by the appropriate registrar.³⁴

The Nikah registrars of the Savar District explained that there were no special requirements to register the marriages of foreign citizens, other than that both of the involved parties must profess to the Muslim faith. According to them, it was not possible for Muslims to marry members of any other religious faith. To register a Muslim marriage between a Muslim and a member of another religious faith, it would be necessary for the non-Muslim to convert to Islam. In cases where this is relevant, the Nikah registrars of the Savar District would require that the converted party submit an attested affidavit of conversion.³⁵

The Nikahnama

According to the consulted literature and the interviewed Nikah registrars, the Nikahnama is the official government document for marriage, and it contains details concerning the date of marriage solemnisation and registration as well as the details regarding the dowry paid.³⁶ The official Bangladeshi Nikahnama is a blue sheet of paper that is slightly longer than an ordinary sheet of A4 paper. The format of the Nikahnama is the same in all wards and districts in Bangladesh.³⁷

The personal details of the involved parties are handwritten, along with the personal details of the witnesses, date of marriage and date of registration. The Nikah registrar authorizes the Nikahnama by signing the front side of the document, and attests the document by applying a number of ink stamps. The shape and motive of the stamps vary depending on the issuing ward. Nikahnamas will often also contain a red certification stamp issued by a public notary. The signatures of the bride, groom and witnesses can be found on the backside of the document.³⁸

³⁴ Nikah registrar A, Dhaka, November 2018.

³⁵ Nikah registrars B, Dhaka, November 2018.

³⁶ Australia: Migration Review Tribunal, 7 January 2009, p. 4; Nikah registrar A, Dhaka, November 2018; Nikah registrars B, Dhaka, November 2018.

³⁷ Nikah registrar A, Dhaka, November 2018; Nikah registrars B, Dhaka, November 2018.

³⁸ Nikah registrar A, Dhaka, November 2018; Nikah registrars B, Dhaka, November 2018.

নিকাহনামা

বিধি ২৭(১) (ক) দ্রষ্টব্য।

মুন্সীম বিবাহ ও তালাক (নিবন্ধন) বিধিমালা, ২০০৯ এর বিধি ২৮(১) (ক) অনুযায়ী বিবাহ ফরম

- ১। প্রার্থ, পহন, ইউনিফর্ম, অফিসিয়াল, থানা ও জেলার নাম যেকোনো বিবাহ কার্য সম্পন্ন হইয়াছে ?
- ২। নিজ নিজ বাসস্থানের বয় ও তাহার পিতা এবং মাতার নাম :
- ৩। বরের বয়স :
- ৪। নিজ নিজ বাসস্থানের কন্যা ও তাহার পিতা এবং মাতার নাম :
- ৫। কন্যা কুমারী, বিধবা অথবা তালাকপ্রাপ্ত নারী কি না ?
- ৬। কন্যার বয়স :
- ৭। কন্যা কর্তৃক উকিল নিযুক্ত হইলে ঐ উকিলের নাম এবং তাহার পিতা ও মাতার নামসহ বাসস্থানের ঠিকানা :
- ৮। পিতার নাম, বাসস্থান ও কন্যার স্বহস্ত সম্পর্কের কনিষ্ঠ কন্যার উকিল নিয়োগের ব্যাপারে সাক্ষীদের নাম :
(১)
(২)
- ৯। বর কর্তৃক উকিল নিযুক্ত হইলে ঐ উকিলের নাম এবং তাহার পিতা ও মাতার নামসহ বাসস্থানের ঠিকানা :
- ১০। পিতা এবং মাতার নাম ও বাসস্থানের বরের উকিল নিয়োগের ব্যাপারে সাক্ষীদের নাম :
(১)
(২)
- ১১। বিবাহের সাক্ষীদের নাম, তাহাদের পিতা এবং মাতার নাম ও বাসস্থানের ঠিকানা :
(১)
(২)
- ১২। যে তারিখে বিবাহের কথাবার্তা গ্রিক হইয়াছিল সেই তারিখ :
- ১৩। সেনমোহরের পরিমাণ :
- ১৪। সেনমোহরের কি পরিমাণ মুদ্রাকাল এবং কি পরিমাণ মু'অজল :
- ১৫। বিবাহের সময় সেনমোহরের কোন অংশ পরিশোধ করা হইয়াছে কি না ? যদি হইয়া থাকে, তবে উহার পরিমাণ কত ?

Image 1: Specimen of Nikahnama, front. (NIDC reference material)

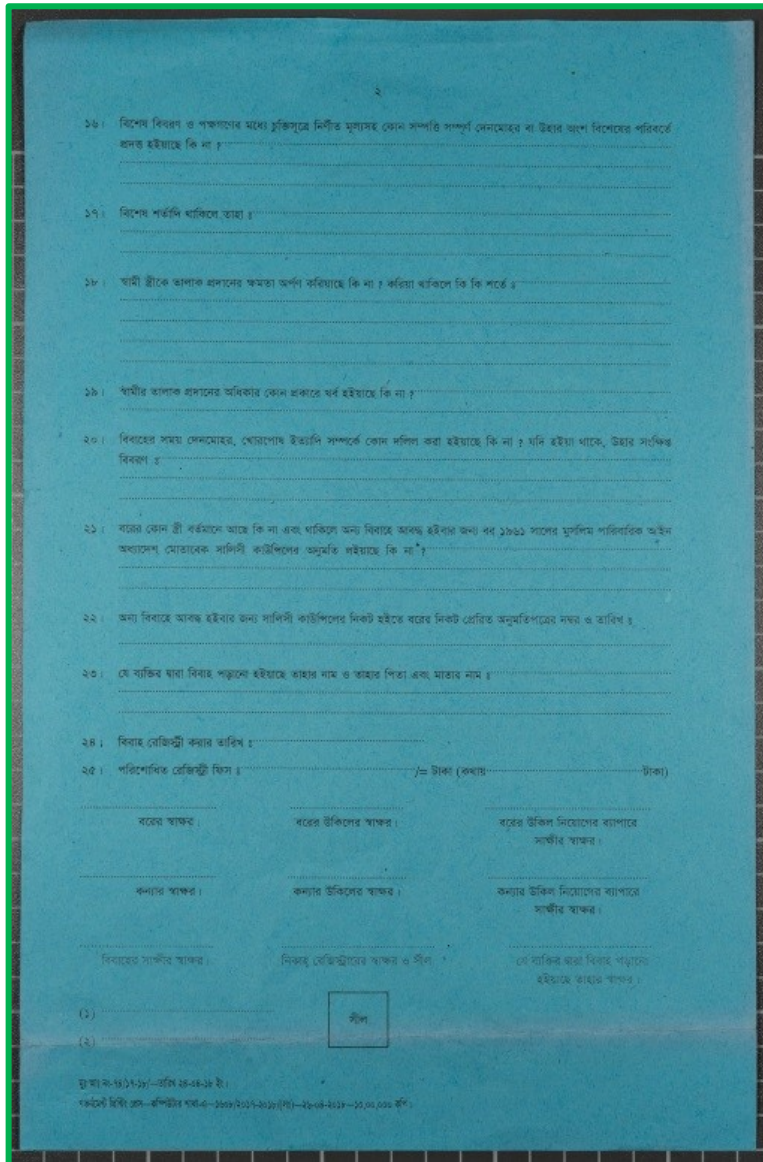


Image 2: Specimen of Nikahnama, back. (NIDC reference material)

Archives and registration routines

Each Nikah registrar maintains a decentralised registry containing the records of the marriages and divorces registered within their jurisdiction. The records of the registered marriages are kept in hard copy form at the respective Nikah registrar's office and there is no national centralised archive or database.³⁹

The Nikah registrars are overseen by the Office of the District Registrar and the records of the marriage registrations performed by the individual Nikah registrar are audited annually. The District Registrar is the only authority able to audit the registrations performed by the Nikah registrars, and verified marriage registrations are endorsed with the District Registrar's signature and stamp.⁴⁰

³⁹ Lifos, 2 February 2019, p. 7; Nikah registrar A, Dhaka, November 2018; Nikah registrars B, Dhaka, November 2018.

⁴⁰ Nikah registrar A, Dhaka, November 2018; Nikah registrars B, Dhaka, November 2018.

Corruption in Bangladesh

According to Transparency International's Corruption Perception Index (CPI) from 2017, Bangladesh is ranked as the second most corrupt country in Southern Asia. The only country in Southern Asia with a lower score and ranking on the CPI than Bangladesh is Afghanistan.⁴¹

The general consensus of several highly credible international sources is that the high level of corruption has caused an extensive production and trade of counterfeit and forged documents, as well as genuine documents issued by legitimate government authorities containing false information.⁴²

According to the Immigration and Refugee board of Canada, Landinfo and Lifos, counterfeit, forged and illegitimate documents are very common in Bangladesh and it is easy to obtain any form of fraudulent documentation. This includes central identity- and travel documents, such as passports, as well as important breeder documents, such as birth certificates and marriage certificates.⁴³

Moreover, genuine documents containing false information are widespread in Bangladesh. The lack of a functioning central archive or database for the registration of vital statistics makes it impossible to verify the personal information in Bangladeshi documents.⁴⁴

Based on the information provided by several credible and independent expert sources, the NIDC assesses that the credibility of Bangladeshi documents is generally low. This is primarily due to the high level of corruption in Bangladesh, as well as the inability to verify the information in genuine Bangladeshi documents due to the lack of a central database for the registration of vital statistics.

⁴¹ Transparency International, 2017.

⁴² Canada: Immigration and Refugee Board of Canada, 20 September 2010, pp. 1; Canada: Immigration and Refugee Board of Canada, 20 August 2015; Landinfo 4 July 2013, p. 7; Lifos, 2 February 2019, p. 7.

⁴³ Canada: Immigration and Refugee Board of Canada, 20 September 2010, pp. 1; Canada: Immigration and Refugee Board of Canada, 20 August 2015; Landinfo 4 July 2013, p. 7; Lifos, 2 February 2019, p. 7.

⁴⁴ Canada: Immigration and Refugee Board of Canada, 20 August 2015; Landinfo 4 July 2013, p. 7; Lifos, 2 February 2019, p. 7.

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