



Submission by the United Nations High Commissioner for Refugees

**for the Office of the High Commissioner for Human Rights' Compilation Report-
Universal Periodic Review:**

SYRIA

I. BACKGROUND AND CURRENT CONDITIONS

Syria is neither a State Party to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol*, nor to the *1954 Convention relating to the Status of Stateless persons* and the *1961 Convention on the Reduction of Statelessness*.

Apart from Article 34 of the Syrian Constitution, which stipulates that “Political refugees cannot be extradited because of their political principles or their defense of freedom”, the country does not currently feature a refugee definition, or any reference to their protection, in its national legal framework. The existing legal vacuum affecting refugees and asylum-seekers is being filled with laws, decrees and regulations, which relate to the entry and legal status of foreigners.

Consequently, refugees and asylum-seekers admitted into Syrian territory are treated within the context of the national immigration framework, i.e. either as nationals of Arab League member states, if it concerns Iraqis for example, or as ordinary aliens if they come from non Arab countries.

The Ministry of Foreign Affairs sustained its commitment to lead the current efforts to draft a national asylum law and has enabled UNHCR to undertake in 2009 and 2010 a number of capacity-building initiatives related to refugee protection and international refugee law in support of the work of the Draft Asylum Law Committee. The first draft of the asylum law is currently being reviewed by relevant ministries. In the meantime, the absence of a national legal framework for the protection of refugees in Syria requires

UNHCR to provide the necessary support for the registration of refugees, assessment of asylum claims. UNHCR also carries out a number of protection and assistance-related activities directly or through partners.

The adoption in early 2010 of national legislation to combat trafficking in human beings is a breakthrough development, as it puts the protection of the rights of the victims on the forefront. While IOM is the lead agency in supporting the Government of Syria in the implementation of the decree, UNHCR in coordination with IOM is also engaged in supporting Government officials addressing smuggling and trafficking, ensuring that the specific needs of refugees and asylum-seekers are taken into account.

Similarly, UNHCR welcomes the adoption on 7 April 2011 of Presidential Decree No 49, which grants Syrian citizenship to the Kurdish population registered as foreigners in the Governorate of Hassake. This decision reflects Syria's commitment to improve the condition of its citizens and other populations living on its territory.

Populations of concern to UNHCR

Refugees

Perpetuating a long tradition of asylum, the Syrian Arab Republic hosts one of the largest urban refugee populations in the world. In addition to around 480,000 Palestine refugees who remain without a solution to their plight, the country has hosted hundreds of thousands of Iraqi refugees since 2003. In addition to this large refugee population, Syria also hosted 5,913 refugees and 1,773 asylum-seekers from countries other than Iraq, mainly from Somalia, Afghanistan, Sudan and Iran as of 30 April 2011.

With the situation in Iraq still volatile, Syria continues to register new refugee arrivals at a rate of 2,000 people per month. Comparatively few departures occur in the form of third-country resettlement or assisted repatriation, while additional departures are attributable to spontaneous returns, or migratory movements.

UNHCR remains prepared to facilitate individual voluntary returns, but maintains that the current situation in Iraq does not yet offer the necessary guarantees for a safe, sustainable and dignified large-scale return of Iraqi refugees. UNHCR Damascus has assisted some individual families who had expressed a free and informed decision to return to Iraq after individual counseling. The number of refugees assisted by UNHCR Syria to return to Iraq remains low. During 2010, the Office assisted 200 refugees in their voluntary return to their country of origin and 646 individuals in 2009. Based on information collected during UNHCR interviews, it appears that the main reason for refugees deciding to repatriate remains economic hardship in Syria.

The Syrian Government shoulders much of the burden of the Iraqi refugee population by granting entry and legal stay to refugees and allowing them access to public services, such as healthcare system and education. For its part, the Syrian population has strong cultural and social ties with the Iraqis and has demonstrated a great deal of empathy for their plight.

However, the massive influx of Iraqis took place against a difficult economic backdrop. Syria is a middle-income country with a high rate of unemployment. The recent rise in global commodity prices has put additional strain on the population, including refugees. The psychosocial needs of the latter require sustained attention, particularly for women and children.

The sheer number of refugees, their specific needs and the lack of clarity regarding their future prospects are understandably of concern to the host Government, the refugees themselves, as well as the international community. Among Iraqi refugees registered with UNHCR, over 50% arrived in Syria in 2006 and 2007, for example. Of these, 41% have specific needs, 22% have a critical medical condition, 25% are school-aged children, 3% are disabled and 29% of families are female headed-households.

Stateless persons

Part of the Kurdish population living in the north-east of the country is considered stateless. The majority of reports estimated that there are some 300,000 Kurds found not to be nationals of Syria, falling equally in the categories of *Ajanib* (“foreigners”) and *Maktoumeen* (“not registered”). While the *Ajanib* are those who, during the 1962 census, have been determined not to be residents of Syria before 1945, the *Maktoumeen* are those who did not show up during the census of 1962 or who settled in Syria after the census or whose birth was not registered for different reasons. Kurds belonging to these two categories are issued different types of documentation and have access to a limited number of rights and services. Given that Article 3(d)¹ of the nationality law confers citizenship to anyone born on the territory who cannot otherwise acquire a nationality, the children of the above populations should be entitled to Syrian citizenship. Like their parents, however, they are not yet considered Syrian nationals. The newly adopted Presidential Decree No 49 of 7 April 2011, which grants Syrian citizenship to the Kurdish population registered as foreigners in the Governorate of Hassake, will allow the *Ajanib* to acquire nationality. This is a major positive development that should be highlighted. In light of these advances, it is hoped that the situation of the non-registered population, i.e. the other category of stateless Kurds, will soon be addressed as well.

In addition, according to national legislation, Syrian women married to foreigners cannot pass on their nationality to their husband. This situation may give rise to statelessness when the husband is, for instance, a refugee or asylum-seeker who cannot approach his national authorities for issuance of identity documents, or when the husband is Palestinian. A number of positive initiatives have been taken by certain national actors on the issue of transfer of nationality by Syrian women, notably the drafting of an

¹ Article 3: The following shall be considered as Syrian Arabs ipso facto: [...] (d) Anyone born in the country and was not, at the time of his birth, entitled to acquire a foreign nationality by virtue of his parentage. (sic) Legislative Decree 276, 24 November 1969.

amendment to the Nationality Law, which has been discussed a number of times before the National Assembly.²

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

UNHCR commends the Government and the people of the Syrian Arab Republic for their generous policy and tolerant attitude towards the access and stay of a large Iraqi refugee population in the country, and expresses the hope that this may continue so long as the situation in Iraq is not conducive to a safe and sustainable return.

Most refugees live in the urban centers of Syria, side-by-side with the local population. Syrian's hospitality and tolerance towards Iraqi refugees has manifested itself through the granting of access to territory, temporary residency and freedom of movement, as well as the provision of basic public health and education services. However, non-Arab refugees may not always receive the same treatment as Iraqis do.

Despite the absence of a specific legal framework for the protection of refugees, the Ministry of Foreign Affairs has taken prompt action in addressing protection issues raised by UNHCR, such as residency, detention and the enjoyment of basic rights, in liaison with the competent authorities.

The 2010 Regional Response Plan ("RRP") for Iraqi Refugees for example, hosted by the UN Resident Coordinator and UNHCR in Syria, was launched in Damascus under the auspices of the Syrian Ministry of Foreign Affairs. The RRP brings together more than 50 humanitarian and development actors – including UN agencies, government counterparts, and national and international NGOs – working across 12 countries hosting refugees from Iraq.

Another positive development is the closure by the Syrian Government, duly supported by UNHCR and other UN agencies, of Al-Tanf in February 2010, a four-year old desert camp between the Syrian and Iraqi border. Out of the 1,300 Palestinian refugees who had lived at different times in the camp, around 1,000 were relocated to third countries, while the rest has been temporarily moved to Al-Hol Camp in northeastern Syria.

Of particular relevance, as mentioned above, is Decree 49 issued on 7 of April 2011 by the Syrian President aimed at granting Syrian citizenship to the "foreigners" (*Ajanib*) registered in Hassakeh. While the Ministry of Interior is requested to adopt the instructions for implementing this decree before the end of April, it already invited all persons registered as "foreigners" in Hassakeh's and other governorates official records to submit their documents to the competent authorities, in order to be issued a national number and identity documents.

² Apparently a parliamentary session was held in May 2010, during which a proposal was discussed, which had been presented by several members of Parliament to give Syrian women married to foreign men the right to pass their nationality to their children.

<http://www.thara-sy.com/TharaEnglish/modules/news/article.php?storyid=248>

III. CHALLENGES, CONSTRAINTS AND RECOMMENDATIONS

Issue 1: Social and economic impact of Iraqi refugees' presence

Recommendations:

Assurances should be provided to the Syrian Government of UNHCR's full determination to continue advocating for burden and responsibility sharing, particularly through resettlement solutions and through multilateral support for Syrian institutions, in order to mitigate the potential social and economic impact of Iraqis' continued presence in Syria.

Acknowledging the social and economic burden presented by such a large refugee population, it is hoped that UNHCR's increased support to and cooperation with national institutions (particularly the Syrian Arab Red Crescent and organisations under the responsibility of the Ministry of Social Affairs and Labour) will benefit the local population as well as the refugees while they remain in Syria.

Given the fact that many Iraqis are likely to remain in Syria beyond 2011, and with a view to optimise the use of funding currently made available to UNHCR, it is necessary for refugees to gain more self-reliance as a means to (1) prevent negative coping mechanisms that may in turn affect Syrians and Syrian society as a whole; and (2) prepare them for their eventual return, while contributing to the Syrian society in the mean time. More self-reliance could be achieved through vocational and life skills training in combination with livelihoods opportunities or micro-credit.

Issue 2: Penalization for illegal entry and deportation

Recommendations:

UNHCR advocates with concerned authorities to protect refugees and asylum-seekers from *refoulement* and expulsion.

UNHCR is also advocating with the relevant authorities for non-penalization or deportation of asylum-seekers and refugees who present valid reasons for being in the country illegally or without documents, provided they report without delay to the authorities and show good cause for their illegal entry or presence.

Refugee identification cards, in the form of identity documentation with anti-fraud features, to improve recognition of this population by the Syrian authorities could be provided by UNHCR, if considered favourably by the concerned authorities.

Moreover, the establishment of a national asylum system would be important to ensure the granting of entry into Syrian territory or extending the validity of residence permits for refugees and asylum-seekers, who are of concern to UNHCR, but who do not otherwise fulfill the preconditions (i.e. for obtaining an entry visa or an extension of their residence permit) set out in the relevant immigration regulations.

Issue 3: Statelessness

Recommendations:

While the issue of the stateless Kurds is very complex and politically sensitive, Syria should be commended on the recent adoption of Decree No.49, which is expected to greatly improve the protection situation of a segment of its population. UNHCR stands ready to support the Syrian authorities in implementing this Decree through the provision of technical support and expertise.

Concerning the transmission of nationality by Syrian women married to foreigners, the Syrian authorities should be encouraged to resume consideration of adopting a legislative act that allows for this possibility. Special measures could be taken, in order to cater for the political principles applicable to Palestinians.

The situation of stateless refugees from other countries should come under the purview of the future asylum law, which is currently being discussed.

The Government of Syria should be encouraged to apply Article 3(d) of the nationality code to ensure the right of every child to acquire a nationality.

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