

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report –

Universal Periodic Review:

EGYPT

I. BACKGROUND INFORMATION

The Arab Republic of Egypt (Egypt) acceded to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter collectively the *1951 Convention*) in 1981, and entered reservations to Articles 12 (1), 20, 22 (1), 23 and 24. Egypt is also a State party to the *1969 OAU Convention Governing Specific Aspects of Refugee Problems in Africa*. Egypt has not yet acceded to either the *1954 Convention relating to the Status of Stateless Persons* or to the *1961 Convention on the Reduction of Statelessness*.

While Egypt has acceded to the *1951 Convention* and the *1969 OAU Convention*, it has not yet developed domestic procedures and institutions for asylum. In the absence of national asylum legislation and the requisite institutional arrangements and capacity, the functional responsibilities for all aspects of registration, documentation and refugee status determination in Egypt have fallen upon UNHCR. The Office carries out these functions under a Memorandum of Understanding signed with the Government in 1954.

As of the end of 2013, Egypt hosted a total of 183,316 refugees, of whom around 70% are Syrian.

In the aftermath of the 2011 revolution, the situation of persons in need of international protection in Egypt has been characterized by difficult socio-economic conditions and increased crime rates, coupled with an increasing threat of trafficking at the borders. Persons of concern face persistent limitations on access to employment, access to public schools, health care and public relief, in addition to the recent administrative hurdles facing the work of some national NGOs.

Reports on irregular movements of people, including asylum-seekers, and on detention of people arrested after attempting to irregularly cross the borders, have continued to be received by UNHCR during 2012 and increased dramatically for Syrian refugees in 2013. UNHCR is not granted access to non-registered individuals, but is authorized to meet with registered asylum-seekers and refugees in detention on a case-by-case basis.

Following the armed conflict in Syria, Egypt received a large influx of Syrian refugees. Until July 2013, the Egyptian Government had granted Syrians visa-free entry followed by a

renewable three-month residency, and access to public schools and hospitals without bearing additional costs. However, this practice changed since the second uprising in June 2013 and the overthrow of President Morsi. A few Syrians were alleged to have been involved in demonstrations and political violence and, as a result, there has been a shift in perception in the media and in the level of sympathy afforded to Syrian refugees and asylum-seekers. On 8 July 2013, the Government of Egypt announced temporary measures requiring Syrians coming to Egypt to obtain a visa and prior security approval. Syrians in Egypt, including minors, have also been experiencing increasing incidents of verbal threats, physical assaults, arrests, detention and deportation.

II. ACHIEVEMENTS AND BEST PRACTICES

UNHCR welcomes the Government's practices in the following areas:

- 1) Persons of concern to UNHCR generally have access to justice. The competent authorities have usually recognized UNHCR cards, when endorsed with a legal residence permit, as valid documentation for filing police reports, authorizing powers of attorney, and standing before the prosecutor and courts of law.
- 2) Syrian refugees with valid residence permits in Egypt continue to be granted free access to public schools and hospitals.

III. CHALLENGES AND RECOMMENDATIONS

Issue 1: Respect for the principle of *non-refoulement*

Based on Egypt's accession to the *1951 Convention* and in line with *non-refoulement* as a principle of customary international law, according to Article 33 of the *1951 Convention*, States are obliged to provide protection to those in need and are prohibited from returning a person to a place where his or her life or freedom could be threatened. This is a core principle of refugee protection, the principle of *non-refoulement*.

UNHCR was informed of six cases of *refoulement* in 2012 and 2 cases in 2013. Whether or not they are registered with UNHCR, refugees and asylum-seekers should be given access to asylum procedures and protected against *refoulement*.

Since the imposition of visa requirements on Syrians in July 2013, UNHCR has observed that although the number of arrivals has decreased, Syrian nationals continue to arrive in Egypt without a visa or with forged documents. These persons are regularly detained and deported, typically to the State from which they departed, including Syria. This practice contravenes Article 31 of the *1951 Convention*, which provides for an exemption from imposing any penalties on refugees who attempt entry or stay without authorization.

Additionally, non-Syrian asylum-seekers and refugees who are caught on a smuggling route towards Israel, Libya or Europe are regularly detained and deported without access to UNHCR or Egyptian asylum procedures, in violation of the principle of *non-refoulement*. Syrians and Palestinians ex-Syria¹ who wish to leave Egypt should be able to do so on the

¹See also Issue 5: "Palestinians ex-Syria" refers to persons of Palestinian origin who had been living in Syria after fleeing Palestine and then fled to Egypt as a result of the growing violence in Syria. While in Syria, these individuals were under the mandate of UNRWA. However, after fleeing violence in Syria and entering Egypt, they no longer fall under UNRWA's mandate and thus should fall within UNHCR's mandate.

basis of a free and informed decision. The conditions in detention cannot be seen as an appropriate environment to make such a decision.

Recommendation:

UNHCR recommends that the Government of Egypt:

- Ensure strict adherence to the international principle of *non-refoulement* including for individuals who arrive at the border, individuals who are undocumented within the country and individuals who are apprehended attempting irregular departure.

Issue 2: Asylum procedures

UNHCR notes that Egypt has not yet developed domestic procedures and institutions for asylum or for conducting refugee status determinations (RSD). The functional responsibilities for all aspects of registration, documentation and RSD in Egypt have thus fallen upon UNHCR. This creates a problematic situation for individuals in need of international protection who are detained or facing deportation and to whom the UNHCR cannot obtain access.

The establishment of a national legal and institutional framework, in compliance with international standards and UNHCR Guidelines, would provide a clearer basis for the Government to provide international protection to refugees.

Recommendations:

UNHCR recommends that the Government of Egypt:

- Enact domestic asylum legislation and procedures, including a refugee status determination (RSD) procedure, in compliance with relevant international standards and UNHCR guidelines;
- Grant access to asylum procedures for all individuals who may be in need of international protection including detainees, those who arrive in Egypt with or without documentation and those attempting to leave Egypt in an irregular manner;
- Remove entry restrictions that prevent Syrians and Palestinians ex-Syria from accessing the territory and the asylum system without a visa and prior security clearance.

Issue 3: Detention of asylum-seekers and UNHCR's access to persons in detention

On several occasions, the Egyptian authorities have intervened in the due process rights of asylum-seekers and have ordered arbitrary and indefinite detention. Where justifications are given for such interventions, they typically refer to reasons of national security. In such situations, the national authorities then require UNHCR to find another host country for the refugee. However, the Government still prevents UNHCR from contacting individuals in detention who might be persons in need of international protection and at risk of *refoulement*.

UNHCR received reports that, in total, the Government detained more than 1,500 Syrians and Palestinians ex-Syria for reasons ranging from the lack of residence visas to irregular departure and participation in demonstrations².

²Further to UNHCR's advocacy efforts, a relatively small number of detainees with families in Egypt were released by the end of 2013.

The Government of Egypt does not grant UNHCR formal access to refugees in detention. Thus, UNHCR is unable to carry out registration or refugee status determination procedures for detained persons. The fate of these individuals is unknown, and there are reports of *refoulement*.

UNHCR notes that detention prevents persons in need of international protection from the enjoyment of their fundamental rights, undermines a secure family life, and limits education and employment opportunities. Thus, the detention of asylum-seekers and refugees should be avoided and should only be used as a measure of last resort. Alternatives to detention should be sought and given preference, in particular for certain categories of vulnerable persons. If detained, asylum-seekers should be entitled to minimum procedural guarantees, including the possibility to contact and be contacted by UNHCR.

With regards to children in particular, in its 57th session the Committee on the Rights of the Child (CRC) made an explicit recommendation that the Government “*ensure that no asylum-seeking child is ever detained and to this end ensure the United Nations High Commissioner for Refugees (UNHCR) unimpeded access to any detained asylum-seeking child.*”³

Recommendations:

UNHCR recommends that the Government of Egypt:

- Utilize detention only as a means of last resort for asylum-seekers and, where necessary, for as short a period as possible;
- Employ alternatives to detention for asylum-seekers, whenever possible;
- Ensure that UNHCR has unhindered access to detention centers in order to identify persons of concern who are not in a position to approach the office and may be in need of international protection.

Issue 4: Human trafficking

Refugees and asylum-seekers are particularly at risk of falling victim to trafficking or dangerous smuggling due to the vulnerable and volatile situations they often face in their countries of origin or in Egypt. In Egypt, many who are arrested while attempting to leave Egypt in an irregular manner (via the use of smugglers or traffickers) are held in detention facilities without UNHCR being able to contact them. While in detention, they often do not have access to legal representation, or the possibility to apply for asylum pending deportation. The Egyptian authorities deny access to asylum to any person that is apprehended when trying to leave Egypt in an irregular manner, irrespective of their profile and possible protection needs.

A proper referral system should be established in order to ensure that victims of trafficking and irregular migrants in need of international protection have the right to seek and be granted asylum. In particular, Egypt should adopt proper measures, including the development of standard operating procedures, to facilitate their prompt identification and referral to UNHCR and asylum procedures. The Government should take into account the fact that victims or potential victims of human trafficking who are at risk of persecution, if

³UN Committee on the Rights of the Child (CRC), UN Committee on the Rights of the Child: Concluding Observations: Egypt, 15 July 2011, CRC/C/EGY/CO/3-4, available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhso1Q2s755AxsWlLMpbBrBttxv249Mhm4QR%2bD3jX%2f9n10lim7eVxsHiLwC72697dCf2e%2f2fjWjssXWv2h79%2f77ow4AAo%2fdPibXdGCRFkeqvJh>.

returned to their countries of origin, may qualify as refugees within the meaning of the *1951 Convention*. The Office of the Commissioner may wish to note that *UNHCR's Guidelines on victims of trafficking* provide guidance on asylum applications submitted by victims or potential victims of trafficking.⁴ In addition, the Government of Egypt has signed the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*, which requires states to protect the victims of trafficking and allow them to remain on the state's territory, temporarily or permanently⁵.

In this regard, the Special Rapporteur on trafficking in persons, especially women and children in his report on Egypt in April 2011 made several recommendations to Egypt, calling on the Government to:

- Establish procedures to identify trafficked persons and a referral mechanism to ensure that they are referred to the appropriate service providers for assistance. The Government of Egypt should create guidelines for identification and referral of trafficked persons for distribution to all officials who may come into contact with trafficked persons, including the police, immigration officials, border guards, labour inspectors, and medical and health professionals.
- Establish, as a matter of urgency, shelter facilities for all trafficked persons where they may seek refuge from further harm and exploitation, regardless of their age, sex, nationality or immigration status. Service providers should be adequately trained to respond effectively to the needs of trafficked persons.
- In the case of foreign victims of trafficking, ensure that immigration officials do not repatriate foreign victims of trafficking, unless the repatriation is voluntary and the authorities have conducted a risk assessment to ensure that their safety upon return would not be jeopardized. Foreign victims of trafficking should also be given a reflection and recovery period, and a special permit to remain in the country temporarily or permanently in appropriate cases, as well as necessary assistance for their recovery, such as adequate shelters, medical and psychological counselling, legal and other assistance.⁶

Recommendations:

UNHCR recommends that the Government of Egypt:

- Ensure adherence to the *1951 Convention* and its *1967 Protocol* in relation to victims of trafficking who may also be persons of concern to UNHCR;
- Provide trafficked persons with prompt access to asylum procedures and provide UNHCR access to any detained individuals;
- Refrain from detaining victims of trafficking without following proper rule of law or a court order and promptly release all those who do not pose a security risk;
- Employ alternatives to detention for trafficked persons, including refugees and asylum-seekers, particularly for vulnerable groups such as women and children.

⁴ UN High Commissioner for Refugees, *UNHCR Guidelines on International Protection No.7: The application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to Victims of Trafficking and Persons At Risk of Being Trafficked*, HCR/GIP/06/07, 7 April 2006, available at: <http://www.unhcr.org/443b626b2.html>.

⁵ *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*, Article 7.

⁶ UN Human Rights Council, *Report of the Special Rapporteur on Trafficking in Persons, Especially Women and Children : Addendum, Mission to Egypt*, 15 April 2011, A/HRC/17/35/Add.2, available at: <http://www.refworld.org/docid/50f0287c2.html>

Issue 5: Palestinian refugees and asylum-seekers in Egypt

We wish to note that Egypt hosts an estimated 70,000 Palestinians who hold Egyptian documents. In addition, there are approximately 6,000 Palestinians who have fled from Syria and now stay in Egypt. They have not been able to register with UNHCR. In principle, Palestinian refugees in Egypt, being outside of the United Nations Relief Works Agency for Palestine's (UNRWA) area of operation, fall under UNHCR's mandate based on Article 1D of the *1951 Convention*. However, the Government of Egypt has formally requested that UNHCR refrain from extending its support to or intervening on behalf of Palestinians. This has effectively prevented UNHCR from assisting these individuals in securing their rights and has also put them at a heightened risk of *refoulement*, and other forms of abuse or marginalization.

Recommendation:

UNHCR recommends that the Government of Egypt:

- Remove restrictions which have prevented UNHCR from extending support and protection to Palestinians residing in Egypt and who are outside the area of operation of UNRWA.

Issue 6: Residence permits

The Government of Egypt issues 6 months renewable residence permits on documentation issued by UNHCR for persons of concern aged 12 and above. However, the administrative procedures for renewal are onerous and permits are only valid for 6 months. Additionally, while no supportive documentation other than UNHCR cards was requested in the past, since mid-2013 the immigration authorities have been frequently demanding the presentation of a valid passport in order to issue a residence visa based on a UNHCR card.

Recommendation:

UNHCR recommends that the Government of Egypt:

- Facilitate the renewal of refugee residence permits and issue them on UNHCR asylum and refugee cards, even if the applicants do not possess valid passports.

Issue 7: Reservations to the 1951 Convention

We wish to note that reservations have been made by Egypt with regards to several important provisions of the *1951 Convention*, namely Article 12(1) on personal status, Article 20 on rationing, Article 22 (1) on primary education, Article 23 on public relief and Article 24 on labour legislation and social security. These reservations restrict the rights of refugees and asylum-seekers.

Only refugee children from Syria and Sudan have access to public education, whereas children of refugees from other countries do not have access to education due to Egypt's reservation to Article 22(1) of the *1951 Convention*. During 2011, UNHCR had to provide support for over 7,000 refugee children to enable them to attend primary or secondary school. Prospects for employment of refugees are also limited due to the Government's reservation to Article 24 of the *1951 Convention*, combined with the economic situation and domestic regulations related to the employment of foreigners.

The CRC, in its 57th session called upon Egypt to “ensure access to free public education and to primary and emergency health care for all asylum-seeking and refugee children on an equal basis with Egyptian children, including by ... putting in place a comprehensive law on the status and rights of refugees.”⁷ With regards to labour legislation, the CRC also recommended that Egypt “take all necessary measures to improve living conditions for refugee and asylum-seeking children in the State party, including by considering abolishing the prohibition of work permits for refugees.”⁸

Recommendation:

UNHCR recommends that the Government of Egypt:

- Take immediate steps to remove reservations to Articles 12(1) 20, 21, 22, 23, 24 of the 1951 Convention and, most urgently, extend access to education to all refugee and asylum-seeking children in Egypt.

Issue 8: Nationality

In their most recent Concluding Observations on Egypt, the Committee on the Rights of the Child (CRC Committee) and the Committee on the Elimination of Discrimination against Women (CEDAW Committee) commended the State party for adopting Law No. 154 of 2004, which allows Egyptian women to confer nationality to children on an equal basis as men.⁹ However, both Committees noted with concern that certain gaps remain in ensuring that all children benefit from this provision.¹⁰ In particular, challenges remain with respect to individuals born before the law’s entry into force in 2004. Reportedly, there is only one office in the entire country, located in Cairo, to which all individuals born before 2004 must apply—leading to delays in processing, and impeding the process for poor families who face difficulties traveling to Cairo in terms of cost and distance.¹¹ Additional application requirements are also imposed on those who were born before 2004, as the mother of the child must also submit the birth certificate of her father and grandfather, a requirement that some will be unable to satisfy.¹² Finally, while the State is to be commended for the joint decree by the Ministries of Interior and Foreign Affairs on 2 May 2011 allowing Egyptian women married to Palestinian men to confer their nationality to their children, this decree does not explicitly provide for application to births before 2011 and it has yet to be fully incorporated into domestic law.¹³

In line with these concerns, the CRC Committee recommended in 2011 “that the State party ensure that the decree of 2 May 2011 is fully incorporated into national law, including by amending Act No. 154 of 2004 to the effect that it explicitly grants all children born to

⁷ *Supra* note 3.

⁸ *Id.*

⁹ See UN Committee on the Elimination of Discrimination against Women, *Concluding observations of the Committee on the Elimination of Discrimination against Women: Egypt*, 18 January-5 February 2010, CEDAW/C/EGY/CO/7, at para. 37, available at:

<http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-EGY-CO-7.pdf>;

UN Committee on the Rights of the Child, *Concluding observations: Egypt*, 15 July 2011, at para. 45, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/441/90/PDF/G1144190.pdf?OpenElement>.

¹⁰ *Id.*

¹¹ Women's Refugee Commission, *Our Motherland, Our Country: Gender Discrimination and Statelessness in the Middle East and North Africa*, June 2013, ISBN:1-58030-112-6, available at: <http://www.refworld.org/docid/51c02a084.html> [accessed 17 January 2014].

¹² *Id.*

¹³ See *id.*; UN Committee on the Rights of the Child, *Concluding observations: Egypt*, 15 July 2011, at para. 45.

Egyptian mothers or fathers the nationality of the State party, irrespectively of the nationality and origin of either parent”.¹⁴ Likewise, the CEDAW Committee requested in 2010 that the State party endeavor to “remove any obstacles to the practical implementation” of Law No. 154 of 2004.¹⁵ The CEDAW Committee also noted the importance of removing the remaining elements of gender-discrimination in the nationality law, noting its concern that despite various reforms undertaken since 2004, “Egyptian women cannot pass their nationality on to their foreign husbands, unlike Egyptian men who have such right after two years of marriage”.¹⁶ In practice, denying foreign husbands the ability to naturalize imperils their economic and social integration and security—thus affecting the well-being of the family as a whole. The CEDAW Committee therefore requested the State party to ensure that women and men enjoy equivalent rights to acquire nationality, so as to bring Egypt’s nationality law into conformity with Article 9(2) of the Convention on the Elimination of All Forms of Discrimination against Women.¹⁷

While Egypt’s nationality law contains some safeguards against statelessness at birth, such as a dedicated provision to automatically grant nationality to foundlings, it notably contains gaps that can lead to statelessness among certain profiles of children. This includes the lack of dedicated provisions to prevent statelessness in the case of a child who does not acquire any nationality (eg. those born to two stateless parents, or to two foreign nationals who are unable to transmit nationality to children born abroad under the laws of their country (or countries) of nationality). Furthermore, while other provisions in Egyptian law appear designed to prevent statelessness at birth, they may be difficult to utilize in practice. For instance, Article 2(2) of the Nationality Law provides citizenship at birth to children born to an Egyptian mother and a father who is stateless, or whose nationality is unknown.¹⁸ With respect to children born to stateless fathers and mothers who are nationals of the country, legal provisions of this nature are generally difficult to utilize until a mechanism is established to determine that the father is indeed stateless, so as to verify the eligibility of the child for citizenship. Similarly, while Article 2(3) of the nationality law allows Egyptian women to transmit nationality to children in cases where paternity is not formally established, this provision may be of limited practical value, as women are likely to face considerable social stigma upon disclosing that they are unable to identify the father of their children. This can discourage women from seeking recognition of nationality for their children by these means.

It is therefore advisable to adopt a comprehensive provision that guarantees the right of a child born in Egypt to acquire Egyptian nationality in any situation where he or she would otherwise be stateless. This formulation is in keeping with Article 7 of the Convention of the Rights of the Child and Article 24(3) of the International Covenant on civil and Political Rights. This approach is also in keeping with the principle of non-discrimination, as it ensures that all children enjoy the right to acquire a nationality, irrespective of whether they are born in or out of wedlock.

¹⁴ *Id.* at para. 47.

¹⁵ UN Committee on the Elimination of Discrimination against Women, *Concluding observations of the Committee on the Elimination of Discrimination against Women: Egypt*, 18 January-5 February 2010, CEDAW/C/EGY/CO/7, at para. 38.

¹⁶ *Id.* at para. 37.

¹⁷ *Id.* at para. 38.

¹⁸ Law No. 26 of 1975 Concerning Egyptian Nationality [Egypt], Official Journal No. 22, 29 May 1975, 29 May 1975, available at: <http://www.unhcr.org/refworld/docid/3ae6b4e218.html>.

Additional safeguards are also needed to prevent statelessness arising from the deprivation of nationality. For instance, Article 15(3) of Egypt's nationality law allows for the deprivation of nationality on the basis of having resided abroad for two consecutive years, and there is no safeguard in the law against the deprivation of nationality in cases where it would result in statelessness.¹⁹ Similarly, Article 17 is also problematic as it provides that, where an individual have been deprived of nationality under Article 15, his or her spouse and children may also have their nationality withdrawn as a consequence.²⁰ This raises a significant risk of statelessness, as there is no provision to prevent the deprivation of their nationality in instances where the individual's spouse or children do not possess the citizenship of another country.

In 2009, the Human Rights Council advised that, "regardless of the general rules regulating nationality issues at the domestic level, States should ensure that safeguards are in place to ensure that nationality is not denied to persons with relevant links to that State who would otherwise be stateless".²¹ In 2011, the Human Rights Council further noted that, in practice, statelessness impedes the enjoyment of a wide array of human rights.²² In view of these concerns, UNHCR would respectfully recommend that the Egypt adopt dedicated legal safeguards to ensure the right of all children born in its territory to acquire a nationality, especially where they would otherwise be stateless. The State party is also advised to reform its nationality legislation with a view to preventing arbitrary deprivation of nationality, and ensuring that the loss, renunciation, or deprivation of nationality does not result in statelessness.

Recommendation:

UNHCR recommends that the Government of Egypt:

- Fully implement decree of 2 May 2011 to ensure that nationality is granted to all children born to Egyptian mothers or fathers, irrespective of the nationality and origin of either parent.
- Ensure full application of Law No. 154 of 2004, in particular for individuals born before 2004, by removing additional requirements upon applicants and establishing additional offices within and outside Cairo to process applications.
- Remove remaining elements of gender-discrimination from the nationality law by ensuring Egyptian women and men enjoy equal rights to confer nationality by marriage to foreign spouses.
- Adopt a comprehensive provision, consistent with Article 7 of the CRC, that guarantees the right of a child born in Egypt to acquire Egyptian nationality in any situation where he or she would otherwise be stateless.
- Adopt reforms to ensure that the nationality law does not allow for the loss, renunciation, or deprivation of nationality in situations where it would result in statelessness.

Issue 9: Birth Registration

¹⁹ *Id.* at Article 15(3). This pertains to individuals who have acquired nationality by naturalization of by marriage to an Egyptian national.

²⁰ *Id.* at Article 17.

²¹ *Id.* at para. 36.

²² UN Human Rights Council, *Human rights and arbitrary deprivation of nationality : report of the Secretary-General*, 19 December 2011, A/HRC/19/43, available at: <http://www.refworld.org/docid/4f181ef92.html>.

In 2011, the CRC Committee applauded the adoption of the Child Law (2008), which gives both parents the right to register the birth of a child or to request a birth certificate and establishes a universal right to birth registration including for children born out of wedlock.²³ This progress notwithstanding, concerns remain regarding the lack of birth registration in certain regions of the country, including upper Egypt, and among the children of migrants, children in street situations, and children born out of wedlock.²⁴ Although the law in principle permits the registration of children born to unwed parents, such children are sometimes refused registration in the absence of paternal filiation. This practice makes birth registration virtually impossible for a child born out of wedlock in cases where the father refuses to acknowledge the child or formally assist with registration of the child. Another obstacle to universal birth registration in the State party is the requirement of fees for the official stamping of birth certificates. In view of these concerns, and the critical importance of birth registration as a human right and child protection measure, the CRC Committee has urged the State party to take all necessary measures to “ensure free and compulsory birth registration to all children born in the State party as guaranteed by law.”²⁵

Recommendation:

UNHCR recommends that the Government of Egypt:

- Take all necessary measures to fully implement the 2008 Child Law, which establishes that all births in the country should be registered without distinction.
- Remove obstacles to registration, including fees associated with obtaining official stamps and the practice of refusing birth registration in the absence of paternal filiation.
- As an interim measure, establish mobile registration units to ensure comprehensive registration in priority areas, including upper Egypt, with a view to achieving full and uniform registration throughout the country.

Issue 10: Accession to the Statelessness Conventions

The *1954 Convention relating to the Status of Stateless Persons* ensures minimum standards of treatment for stateless persons in respect to a number of fundamental rights. These include, but are not limited to, the right to education, employment, housing and public relief. Importantly, the 1954 Convention also guarantees stateless persons a right to identity and travel documents and to administrative assistance.

The *1961 Convention on the Reduction of Statelessness* establishes an international framework to ensure the right of every person to a nationality by establishing safeguards to prevent statelessness at birth and later in life. This treaty is therefore complementary to standards contained in other human rights treaties that address the right to a nationality. An increase in the number of State parties to the two Statelessness Conventions is essential to strengthening international efforts to prevent and reduce statelessness and ensuring full enjoyment of a number of these rights.

²³ UN Committee on the Rights of the Child, *Concluding observations: Egypt*, 15 July 2011, at para. 44.

²⁴ *Id.*

²⁵ *Id.* at para. 45.

Accession by Egypt to the *1954 Convention relating to the Status of Stateless Persons* and to the *1961 Convention on the Reduction of Statelessness* would establish a stronger framework to prevent and reduce statelessness and avoid the detrimental effects of statelessness on individuals and society by ensuring minimum standards of treatment for stateless persons.

In this regard the CRC, in its 57th session, recommended that the Government “*ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.*”²⁶

Recommendations:

- Accede to the *1954 Convention relating to the Status of Stateless Persons* and the *1961 Convention on the Reduction of Statelessness*.
- Assess the scope of statelessness in the country and provide the necessary protection to these persons of concern.

**Human Rights Liaison Unit
Division of International Protection
UNHCR
March 2014**

²⁶*Id.*

Excerpts of Concluding Observations and Recommendations from UN Treaty Bodies and Special Procedures' Reports

- Universal Periodic Review:

EGYPT

We would like to bring your attention to the following excerpts from UN Treaty Monitoring Bodies' Concluding Observations and Recommendations and from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to Egypt.

I. Treaty Bodies

Committee on the Rights of the Child

CRC/C/OPSC/EGY/ 1, 57th Session

20 June 2011

Positive aspects

5. The Committee also welcomes the progress achieved in the creation of institutions and adoption of national plans and programmes that facilitate the implementation of the Optional Protocol, including:

- (a) The establishment of the National Coordinating Committee for Combating and Preventing Trafficking in Persons, in 2007;
- (b) The establishment of the Child Trafficking Unit in the National Council for Childhood and Motherhood, in 2007;
- (c) The adoption of the National Plan of Action against Human Trafficking, 2011-2013.

7. The Committee further welcomes the State party's invitation extended to and cooperation with the United Nations Special Rapporteur on Trafficking in Persons, especially women and children, who undertook a mission to Egypt from 11 to 21 April 2010. The Committee also commends the State party for its leadership role in efforts to prevent and eliminate offences under the Optional Protocol in the Middle East and North Africa region.

Legislation

10. While noting as positive provisions related to the offences under the Optional Protocol in the Law on Combating Trafficking in Persons (2010), amendments to the Penal Code and the Child Law (2008), the Committee is concerned that these laws fail to specifically define and prohibit all the offences as provided in articles 1, 2 and 3 of the Optional Protocol.

11. The Committee urges the State party to continue its efforts to harmonize domestic legislation with the Optional Protocol. In particular, the Committee reminds the State party of its obligation under articles 1, 2 and 3 of the Optional Protocol to define and prohibit all cases of sale of children, a concept which is similar to but not identical with trafficking in persons.

Measures adopted to protect the rights and interests of child victims of offences prohibited under the Protocol

35. In addition to article 116 bis (d) of the Child Law (2008) protecting the rights of child victims and witnesses, the Committee welcomes the adoption of several protection measures,

including training programmes on victim identification in prostitution and trafficking and training manuals and victim identification indicators. Nevertheless, the Committee is concerned that such efforts are insufficient and have not been adequately institutionalized, in particular in view of the State party's acknowledgment in its written replies that children subjected to the offences under the Optional Protocol may not always be perceived as victims. The Committee notes with particular concern information by the delegation that elements of coercion or forced exploitation are necessary for children over fifteen who are involved in prostitution to be considered victims and that children in this age who enter into prostitution on their "own free will" are held responsible under domestic legislation which criminalizes prostitution. It is further deeply concerned at reports, albeit limited, that children exploited in pornographic activities have been victimized by being prosecuted.

36. The Committee recommends that the State party strengthen measures to protect the rights and interests of child victims of all offences under the Optional Protocol and, in particular:

- (a) Develop guidelines on child protection for personnel at Child Protection Committees at governorate and district levels respectively, social workers and law enforcement officials and ensure training on such guidelines;**
- (b) Establish mechanisms and procedures for the early identification of child victims of the offences under the Optional Protocol, including by establishing cooperation mechanisms between law enforcement agencies, relevant ministries and the Child Protection Committees;**
- (c) Ensure that child victims of offences under the Optional Protocol are not treated as offenders.**

Committee on the Rights of the Child

CRC/C/OPAC/EGY/CO/1, 57th Session

18 July 2011

Training

11. The Committee notes as positive that human rights and child rights are included in training at the Military College and police colleges and in pre-deployment training sessions for military personnel participating in peacekeeping operations. While further noting information by the delegation that the Optional Protocol is also part of training for peacekeepers as well as for border guards, police and judges, the Committee is concerned that the Optional Protocol may not be specifically included in the training curricula for military and law enforcement personnel. The Committee is particularly concerned that training on the protection and rights of children in armed conflict, including the Optional Protocol, is inadequate. The Committee is further concerned at the lack of systematic awareness-raising, education and training on the Optional Protocol for military officials involved in recruitment as well as for prosecutors, immigration officials, staff in charge of asylum and refugee determination procedures and assistance, members of the Child Protection Committees, and social workers.

12. The Committee recommends that the State party:

- (a) Introduce the Optional Protocol in modules on human rights and child rights in training programmes for members of the armed forces and for law enforcement personnel;**
- (b) Develop systematic education and training programmes on the provisions of the Optional Protocol for all relevant professional groups working with and for children, in particular among military officials involved in recruitment, judges,**

prosecutors, immigration officials, personnel working with asylum-seekers and refugees, members of the Child Protection Committees and social workers.

Data

13. The Committee regrets the lack of data and statistics on many areas covered under the Optional Protocol, in particular the number of persons under the age of 18 voluntarily recruited into the armed forces of the State party, the number of children enrolled in military schools and refugee and asylum-seeking children who have been or may have been involved in armed conflict.

14. **The Committee recommends that the State party establish a comprehensive data collection system on all areas relevant for the implementation of the Optional Protocol and to use the information and statistics collected as a basis for designing comprehensive policies and programmes with respect to the protection of children affected by and involved in armed conflict. The Committee recommends that the State party seek the assistance of the United Nations Children’s Fund (UNICEF) in this regard.**

Measures adopted to protect the rights of child victims

27. The Committee notes that almost a third of refugees and asylum-seekers residing in the State party are children, the majority having fled countries which are or have recently been affected by armed conflict and where children are known to have been recruited by State armed forces or by armed groups. While noting as positive the State party’s programme for protection and integration of refugee children, the Committee is seriously concerned at the absence of official statistics and data on asylum-seeking and refugee children in the State party and at the lack of procedures to identify victims of crimes under the Optional Protocol. The Committee notes with concern information by the delegation that the perceived stigma attached to offences under the Optional Protocol among refugee children pose challenges in identification efforts. Such circumstances seriously undermine the capacity of the State party to provide these children with the necessary assistance, including physical and psychological rehabilitation and social integration. The Committee is further seriously concerned at reports of forced returns of refugees, asylum-seekers and migrants among whom may be victims of crimes under the Optional Protocol, and at the risk that child victims of crimes under the Optional Protocol may be among those returned. It notes with interest the Memorandum of Understanding between the National Council for Childhood and Motherhood and the Catholic Relief Service on peace and civic education for refugee children and their families.

28. **In light of its obligations under article 7 of the Optional Protocol, the Committee urges the State party to:**

(a) **Put in place a national system of data collection and registration of all asylum-seeking and refugee children under its jurisdiction;**

(b) **Establish an identification mechanism for children, including asylum-seeking and refugee children, who have been or may have been involved in armed conflict abroad, and ensure that personnel responsible for such identification are trained on child rights, child protection and interviewing skills;**

(c) **Provide children who have been or may have been involved in armed conflict with appropriate assistance for their physical and psychological recovery and their social reintegration;**

(d) **Immediately end any forcible return of children who may have been, or are at risk to become, victims of crimes under the Optional Protocol to their countries of origin;**

- (e) **Implement the Memorandum of Understanding on peace and civic education for refugee children and their families;**
- (f) **Seek technical assistance from the Office of the United Nations High Commissioner for Refugees (UNHCR) and UNICEF in this regard.**

Committee on the Rights of the Child

CRC/C/EGY/CO/3-4, 57th Session

20 June 2011

Non-discrimination

36. While the Committee recognizes efforts undertaken by the State party to ensure equal enjoyment of rights for all children in the State party, the Committee shares the State party's concern at continued discrimination against the girl child and children living in poverty and regrets reports of discrimination against children of migrant workers and refugee children, especially in relation to the right to education.

37. In the light of article 2 of the Convention, the Committee urges the State party to ensure that all children in the State party enjoy equal rights under the Convention without discrimination on any ground, and to this end:

- (a) **Continue the Girls' Education Initiative and intensify awareness-raising programmes, including campaigns, on the right of all children to education and on the correlation between girls' education, the eradication of poverty and the achievement of the Millennium Development Goals;**
- (b) **Ensure that all children, irrespective of nationality, gender or socio-economic background, have access to primary education without discrimination, as per article 54 of the Child Law (2008);**
- (c) **Repeal all discriminatory legislation against women, including the Penal Code and personal status law, with a view to eradicating negative perceptions and stereotypes on the role of girls and women in society.**

Birth registration

44. The Committee welcomes that the Child Law (2008) gives both parents the right to register the birth of a child or to ask for a birth certificate and that the universal right to birth registration also includes children born out of wedlock. It further notes with appreciation information by the delegation that line ministries have committed to ensure birth registration to all children with a view to closing the remaining gap of children in the State party still lacking birth certificates (1-4%). Nevertheless, the Committee is deeply concerned that the rates of birth registration are not yet uniform throughout the State party, with remaining gaps in Upper Egypt, and that children born in the State party of migrant workers (CMW/C/EGY/CO/1, para. 34), children in street situations and children born out of wedlock continue to face difficulties in obtaining birth certificates due to social stigma. It is also concerned that registration is not yet de facto free of charge since obtaining a certificate requires a stamp.

45. In the light of article 7 of the Convention, the Committee urges the State party to ensure free and compulsory birth registration to all children born in the State party as guaranteed by law, paying particular attention to children in remote and deprived regions, including Upper Egypt, children of migrant workers, children in street situations and children born out of wedlock. The Committee recommends that the State party abolish birth registration fees.

Name and Nationality

44. The Committee commends the State party for adopting legislation granting equality between Egyptian men and women in passing the nationality to their children. While welcoming the joint decree by the Ministries of Interior and Foreign Affairs on 2 May 2011 allowing Egyptian women married to Palestinian men to pass on their nationality to their children, the Committee is concerned that this provision has not yet been fully incorporated into domestic law. It further regrets that Egypt has not signed or ratified the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

45. The Committee recommends that the State party ensure that the decree of 2 May 2011 is fully incorporated into national law, including by amending Act No. 154 of 2004 to the effect that it explicitly grants all children born to Egyptian mothers or fathers the nationality of the State party, irrespectively of the nationality and origin of either parent. It calls upon the State party to ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

Asylum-seeking and refugee children

78. The Committee, noting that children comprise almost a third of the refugee and asylum-seeking population living in the State party, the majority of which are of Sudanese, Somali, and Iraqi nationalities, regrets the absence of a national asylum system in the State party and the lack of legal protection of refugee children in domestic law. While noting the provision of scholarships and educational grants by the State party for refugee children and Decrees of 1992 (No. 24) and of 2000 of the Minister of Education and Decree No. 147 (2003) of the Minister of Health, the Committee is seriously concerned at legal and de facto restrictions in equal and effective access to education and public health care system for all refugee and asylum-seeking children. Such restrictions are of particular concern to the Committee in view of poor living conditions of refugees living in Egypt, exacerbated, as acknowledged by the State party, by the prohibition of work permits for refugees. The Committee is further deeply concerned at reports of unregistered asylum-seeking children held in detention and at difficulties of international protection agencies to have access to these children.

79. In the light of article 22 of the Convention and recalling articles 7 bis and 54 of the Child Law (2008), the Committee calls upon the State party:

(a) To ensure access to free public education and to primary and emergency health care for all asylum-seeking and refugee children on an equal basis with Egyptian children, including by amending the aforementioned decrees issued by the Ministries of Education and Health and by putting in place a comprehensive law on the status and rights of refugees;

(b) To ensure that no asylum-seeking child is ever detained and to this end ensure the United Nations High Commissioner for Refugees (UNHCR) unimpeded access to any detained asylum-seeking child;

(c) To take all necessary measures to improve living conditions for refugee and asylum-seeking children in the State party, including by considering abolishing the prohibition of work permits for refugees.

Trafficking and prostitution

25. While noting the establishment of a national coordinating committee for preventing and combating human trafficking and the fact that a comprehensive draft law on human trafficking is on the parliamentary agenda, the Committee is concerned at the prevalence of

trafficking in the State party, and it regrets the lack of information on the content of the draft law and the lack of disaggregated data on the prevalence of trafficking and prostitution. It is also concerned at the failure of the State party to address the root causes of trafficking, which impedes the effects of the State party to address the trafficking problem in a serious way. The Committee regrets the lack of information provided on the existence and implementation of regional and bilateral memorandums of understanding and/or agreements with other countries on trafficking and the inadequate information provided on the prosecution and punishment of traffickers. It is further concerned that, while women working in prostitution are punished, their clients are not.

26. The Committee urges the State party to fully implement article 6 of the Convention, including by speedily enacting specific and comprehensive national legislation on the phenomenon of trafficking and ensuring that perpetrators are punished and victims adequately protected and assisted. The Committee calls upon the State party to increase its efforts at international, regional and bilateral cooperation with countries of origin, transit and destination through information exchange in order to prevent trafficking, and to harmonize legal procedures aimed at the prosecution of traffickers. It also recommends that information and training on the anti-trafficking legislation be provided to the judiciary, law enforcement officials, border guards and social workers in all parts of the country. In addition, the Committee recommends that the State party conduct comparative studies on trafficking and prostitution and address their root causes in order to eliminate the vulnerability of girls and women to sexual exploitation and traffickers and to undertake efforts for the recovery and social integration of the victims. The Committee further urges the State party to pursue a comprehensive approach in addressing the question of prostitution, including exit programmes for women who wish to leave prostitution and legislation to sanction the demand side. The Committee calls upon the State party to ensure systematic monitoring and periodic evaluation, including through the collection and analysis of data on the trafficking and exploitation of women in prostitution, and to include such data in its next periodic report.

Female domestic workers

35. The Committee notes with concern that article 4 (b) of the Labour Code stipulates that the provisions of that law shall not apply to workers in domestic service, including foreign workers. It also notes with concern the rising number of migrant domestic workers, including females, the absence of legal protection afforded to them and the fact that they are often not aware of their rights and, in practice, cannot easily file complaints and gain redress in cases of abuse.

36. The Committee recommends that the Labour Code be amended in order to apply to domestic workers, including migrant domestic workers, or that new legislation be adopted to provide for their protection. It also recommends that the State party take appropriate measures to protect migrant domestic workers, particularly women domestic workers, that migrant workers in domestic service should have access to mechanisms for bringing complaints against employers and that all abuses, including ill-treatment, should be promptly investigated and punished.

Nationality

37. The Committee notes that the nationality law has been amended under Law No. 154 of 2004, which grants gender equality regarding the transfer of Egyptian nationality to the children of a man or a woman who marries a foreigner. The Committee is concerned, however, that Egyptian women cannot pass their nationality on to their foreign husbands,

unlike Egyptian men who have such right after two years of marriage, and it is also concerned that the children of Egyptian women married to foreigners from certain countries are still encountering obstacles in passing their nationality to their children.

38. The Committee requests the State party to amend the nationality law so as to bring it into conformity with article 9 of the Convention. The Committee also calls upon the State party to remove any obstacles to the practical implementation of the law.

Vulnerable groups of women

45. The Committee is concerned at the very limited information and statistics provided about vulnerable groups of women and girls, including older women, women with disabilities, refugee women and girls living in the street. The Committee is also concerned that those women and girls often suffer from multiple forms of discrimination, especially with regard to access to education, employment and health care, protection from violence and access to justice.

46. The Committee requests the State party to provide, in its next report, a comprehensive picture of the de facto situation of vulnerable groups of women and girls in all areas covered by the Convention and information on specific programmes and achievements.

II. Special Procedures

Report of the Special Rapporteur on trafficking in persons, especially women and children

Addendum: Mission to Egypt
Human Rights Council, 17th Session
A/HRC/17/35/Add.2, 15 April 2011

62. Based on these conclusions, the Special Rapporteur recommends that the Government of Egypt:

63. Continue its efforts to collect accurate and comprehensive data on the forms and manifestations of trafficking in persons in the country, using an effective and appropriate methodology to accurately capture the complex phenomenon of trafficking in persons. To this end, the Special Rapporteur urges the Government of Egypt to further enhance cooperation with the United Nations country team and to engage in open and close consultation with them, particularly the IOM which has relevant expertise and experience.

64. Ensure the effective implementation of the National Plan of Action (NPA) and further reinforce it by clearly setting out methods of monitoring and evaluation. The Government should regularly monitor and evaluate the NPA with the participation of all stakeholders and in consonance with international human rights standards that promote respect for the rights of trafficked persons.

65. Allocate adequate resources to the National Coordinating Committee and strengthen its capacity to effectively coordinate all anti-trafficking efforts and provide coherent strategic guidance in the fight against trafficking. The Government of Egypt should consider establishing a national rapporteur's office or a separate government agency specifically dedicated to developing, implementing and coordinating policies and programmes to combat trafficking in persons.

66. Adopt and amend relevant legislation that would contribute to preventing human trafficking. The Special Rapporteur specifically recommends that:

- The Labour Code be extended to protect domestic workers, who are often at higher risk of abuse and exploitation;**
- Both the Labour Code and the Child Law be amended to prohibit exploitative forms of domestic work performed by children;**
- The Penal Code specifically criminalize violence in the private sphere, given the correlation between trafficking and gender-based violence, such as domestic violence.**

67. Provide comprehensive training programmes to increase knowledge and awareness of human trafficking among all stakeholders, particularly the police, immigration and border guards, and labour inspectors, with a view to equipping them with skills to accurately identify cases of trafficking.

68. Enhance efforts to eliminate “seasonal” or “temporary” marriages which amount to trafficking of women and girls for the purpose of exploitation. The Government of Egypt should continue to carry out targeted campaigns to raise awareness of potential victims and communities about the risks, and to equip law enforcement authorities with knowledge and skills to properly prosecute and punish individuals who commit or are implicated in the crime, pursuant to the Trafficking Law.

69. Establish procedures to identify trafficked persons and a referral mechanism to ensure that they are referred to the appropriate service providers for assistance. The Government of Egypt should create guidelines for identification and referral of trafficked persons for distribution to all officials who may come into contact with trafficked persons, including the police, immigration officials, border guards, labour inspectors, and medical and health professionals.

70. Create a separate 24-hour hotline dedicated to victims of trafficking and staffed by personnel adequately trained to identify trafficked persons and to provide the necessary assistance to them. The Government of Egypt should also ensure that the personnel can speak languages other than Arabic, and in particular English and languages spoken by groups known to be trafficked to Egypt, such as Indonesians and Russians.

71. Continue and strengthen its efforts to train journalists on effective reporting of trafficking in persons, so as to convey accurate information about the manifestations of trafficking and not stigmatize trafficked persons.

72. Intensify its efforts to train prosecutors and judges on trafficking in persons and the provisions of the Trafficking Law, so that they can effectively investigate, prosecute and punish traffickers.

73. Establish, as a matter of urgency, shelter facilities for all trafficked persons where they may seek refuge from further harm and exploitation, regardless of their age, sex, nationality or immigration status. Service providers should be adequately trained to respond effectively to the needs of trafficked persons.

74. Enhance its current efforts to establish facilities to provide physical and psychological care and services for trafficked persons, along with any other system

necessary to realizing such services, such as a referral mechanism. In this regard, the Special Rapporteur specifically recommends that a referral mechanism or an interim referral mechanism be established as soon as possible, so that the existing facilities, such as the Trafficking Victims Support Unit at the National Bank Hospital, may be fully utilized.

75. Create a system to provide legal assistance to trafficked persons in accordance with the Trafficking Law, and provide training to lawyers and paralegals on the issue of trafficking in persons.

76. In the case of foreign victims of trafficking, ensure that immigration officials do not repatriate foreign victims of trafficking, unless the repatriation is voluntary and the authorities have conducted a risk assessment to ensure that their safety upon return would not be jeopardized. Foreign victims of trafficking should also be given a reflection and recovery period, and a special permit to remain in the country temporarily or permanently in appropriate cases, as well as necessary assistance for their recovery, such as adequate shelters, medical and psychological counselling, legal and other assistance.

77. Intensify awareness-raising campaigns, targeting groups at higher risk of being trafficked, as well as individuals or entities in the position to break the trafficking chain, such as tourism companies.

78. Develop comprehensive prevention programmes to raise awareness on human trafficking and discourage sex tourism in cooperation with the tourism sector under the leadership of the Ministry of Tourism. Furthermore, the Government of Egypt should train staff in this sector to identify trafficked persons and make necessary referrals.

79. Address the root causes of trafficking, such as poverty, unemployment, education, gender discrimination and inequalities, including gender-based violence. The Government of Egypt should implement initiatives and programmes which effectively alleviate these factors which contribute to vulnerability to trafficking, particularly targeting the population at higher risk of being trafficked.

80. Respect, protect and fulfil the human rights of migrants, in accordance with the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), to which Egypt is party, as a tool for preventing trafficking. In this regard, the Government of Egypt is encouraged to enhance the existing bilateral labour migration agreements with receiving or sending states to protect the labour rights of migrant workers, and/or to seek to adopt such agreements with other receiving or sending states.

81. Strengthen partnerships with civil society organizations, particularly in view of its experience and expertise in working on related issues, such as violence against women and children. The Government of Egypt should enhance its current efforts to encourage participation of civil society organizations in formulating anti-trafficking policies and programmes and to fully take their views into account.