

Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report -
Universal Periodic Review:
THE KINGDOM OF SAUDI ARABIA

I. BACKGROUND INFORMATION

Protection of Refugees

The Kingdom of Saudi Arabia (KSA) 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*. The Kingdom of Saudi Arabia currently hosts 110 refugee families (588 persons) and 40 asylum-seekers.

The Government's policies regarding asylum stem from religious tenets, respect for international law and recognition of UNHCR's mandate. UNHCR signed a Memorandum of Understanding (MoU) with the Government in 1993 during the crisis in Iraq when the KSA hosted roughly 35,000 Iraqi refugees in the Rafha camp. This MoU was amended in 2010, with the modification and removal of some articles, as requested by the KSA.

However, in terms of durable solutions for refugees, there are practically no prospects for the naturalization and local integration of the refugees that are under UNHCR's mandate. Refugees are only allowed to stay temporarily, pending the identification of a durable solution, such as repatriation or resettlement. With the absence of local integration prospects or voluntary repatriation in the foreseeable future, resettlement is used by UNHCR in a strategic manner and as a tool for protection, mainly for persons who have been identified as being extremely vulnerable or as having legal problems in the KSA.

Although under the nationality law, women are able to confer their nationality to their children in cases where the father is stateless or of unknown nationality, they cannot do so in cases where the father is a foreign national. As such, children of these unions will be rendered stateless where the father is prevented by the laws of his country from conferring his nationality to his children born abroad or unable or unwilling to support the child in acquiring the his nationality. Children may also be left stateless in situations where the father is separated from the family, due to divorce, detention, displacement, death, or other factors, or refuses to acknowledge paternity of the child.

II. ACHIEVEMENTS AND BEST PRACTICES

UNHCR commends the humanitarian spirit shown by the KSA in contributing to the humanitarian relief of refugees, particularly Syrians in Jordan, Lebanon and Turkey, as well as in providing humanitarian assistance to refugees and internally displaced persons in Somalia and Myanmar.

UNHCR welcomes the advanced level of collaboration both with *Naif Arab University For Security Sciences* and with civil society actors, which allowed for capacity-building and the exchange of expertise. Saudi officials have taken part in UNHCR's capacity building programme, which involves workshops, round table discussions, and other training activities on refugee and humanitarian law. UNHCR has also facilitated the participation of officials from the Saudi Ministry of Interior and the Ministry of Foreign Affairs in refugee law courses in San Remo and Hammamet.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Creation of a refugee protection framework

UNHCR operates in KSA under a Memorandum of Understanding from 1993. Accession to the 1951 Refugee Convention and establishment of a national legal framework would provide a clearer basis for the Government of KSA to provide refugees with international protection. This would formally recognize the KSA's solidarity towards refugees and underline the importance attached by the KSA to cooperate with the international community in efforts to finding solutions for refugees. It would also allow the Government to deal with issues related to asylum in a structured manner, thus complementing KSA's obligations under international human rights instruments, as well as provisions in its Constitution. UNHCR believes that it is necessary to broaden the base of State support for the international refugee instruments, ensuring that the protection provided to refugees is more universal in scope and the burdens and responsibilities of governments are equitably distributed and consistently applied.

Recommendation:

- Accede to the *1951 Convention Relating to the Status of Refugees and its 1967 Protocol*.

Issue 2: Respect of the *non-refoulement* principle

UNHCR is concerned that there are currently no procedures through which a person in need of international protection can seek asylum. Refugees are not able to integrate into Saudi society and they thus remain in a vulnerable situation. UNHCR highlights the need for KSA to provide effective protection to asylum-seekers and refugees against *refoulement*, as well as to promote the integration of refugees. At the same time, UNHCR's efforts to resettle refugees to third countries should be facilitated.

Recommendation:

- Adopt national refugee legislation and an asylum procedure in accordance with international standards, providing safeguards against *refoulement* and promoting durable solutions for refugees.

Issue 3: Detention of asylum-seekers and refugees:

UNHCR would like to note that the detention of asylum-seekers and refugees should normally be avoided and be 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. *UNHCR's Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention* highlight that “the position of asylum-seekers may differ fundamentally from that of ordinary migrants in that they may not be in a position to comply with the legal formalities for entry. They may, for example, be unable to obtain the necessary documentation in advance of their flight because of their fear of persecution and/or the urgency of their departure. These factors, as well as the fact that asylum-seekers have often experienced traumatic experiences, need to be taken into account in determining any restrictions on freedom of movement based on illegal entry or presence.”¹

Recommendation:

- Ensure that the detention of asylum-seekers is only used as a last resort, and where necessary, for as short a period as possible and apply alternatives to detention.

Issue 4: Prevention of statelessness and protection of stateless persons

UNHCR notes with concern that Saudi mothers are not able to pass their nationality on to their children at birth, if they are married to foreign nationals. Children of these unions will be left stateless, if the father is prevented by the laws of his country from conferring his nationality to his children born abroad or is unable or unwilling to support the child in acquiring the father's nationality.

In April 2008, the Committee on the Elimination of Discrimination against Women also noted its concern that “[...] certain provisions of the Saudi Arabian Nationality Code contradict article 9 of the Convention and continue to discriminate against Saudi Arabian women married to non-Saudi nationals. It is also concerned that children of such marriages do not have an equal right to nationality as children of Saudi men married to non-Saudi women.”² It should furthermore be noted that the reservation by KSA to Article 9(2) of CEDAW, which requires equality in the ability of mothers and fathers to confer their nationality to their children, is incompatible with commitments that the State has made under other international instruments, such as Article 7 of the CRC, which requires States parties to ensure that every child has the right to a nationality – a provision to which KSA does not have any reservation.

The Kingdom of Saudi Arabia is not a State party to either the *1954 Convention relating to the Status of Stateless Persons* or the *1961 Convention on the Reduction of Statelessness*.

¹ UN High Commissioner for Refugees, *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*, 2012, available at: <http://www.unhcr.org/refworld/docid/503489533b8.html>

² UN Committee on the Elimination of Discrimination Against Women (CEDAW), *Concluding comments of the Committee on the Elimination of Discrimination against Women: Saudi Arabia*, 8 April 2008, CEDAW/C/SAU/CO/2, available at: <http://www.unhcr.org/refworld/docid/48e346b80.html>

Accession to the Statelessness Conventions would establish a 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.

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.

Furthermore, 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. 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.

Recommendations:

- Accede to the *1954 Convention relating to the Status of Stateless Persons* and the *1961 Convention on the Reduction of Statelessness* as well as taking steps to draft and adopt national legislation guiding prevention and reduction of statelessness or the protection of stateless persons.
- Amend the Nationality Law to enable Saudi mothers to pass their nationality to their children, regardless of the status or nationality of the child's father.
- Lift the reservation to Article 9 (2) of CEDAW.

Issue 5: Access to health care

UNHCR notes with concern that non-Saudi nationals and those in rural areas are having trouble accessing adequate healthcare. Under Article 12 of the *International Covenant on Economic, Social, and Cultural Rights*, all persons have the right to enjoy the highest attainable standard of physical and mental health. The Committee made clear in its General Comment 14 that this right requires State Parties to make health facilities, goods and services “accessible to all, especially the most vulnerable or marginalized sections of the population, in law and in fact, without discrimination.” The Committee also specified that States are legally obligated to refrain from limiting equal access to all persons, including asylum-seekers and illegal immigrants.³ Additionally, Article 9 of the ICESCR “recognize[s] the right of everyone to social security, including social insurance.”

UNHCR would like to note that in April 2008, the Committee on the Elimination of Discrimination against Women also noted its concern about “[...]the lack of information and data on health problems unrelated to maternity, as well as the access by women and girls from rural areas and non-Saudi nationalities to adequate health-care services.”⁴

³ UN Committee on Economic, Social and Cultural Rights, “*General Comment No. 14; The right to the highest attainable standard of health*” (2000), UN Doc. E/C.12/2000/4, 11 August 2000, para. 34.

⁴ UN Committee on the Rights of the Child (CRC), UN Committee on the Rights of the Child: Concluding Observations, Saudi Arabia, 17 March 2006, CRC/C/SAU/CO/2, available at: <http://www.unhcr.org/refworld/docid/45377ed70.html>

Recommendation:

- Promote access to the highest attainable standard of health by identifying the specific needs of asylum-seekers as early as possible after arrival, and by granting asylum-seekers and refugees full access to preventive health care.

**Human Rights Liaison Unit
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UNHCR
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ANNEX

Excerpts of Concluding Observations and Recommendations from UN Treaty Bodies - Universal Periodic Review:

Saudi Arabia

We would like to bring your attention to the following excerpts from UN Treaty Monitoring Bodies' Concluding Observations and Recommendations relating to issues of interest and persons of concern to UNHCR with regards to Saudi Arabia.

Committee on the Elimination of Discrimination Against Women

CEDAW/C/SAU/CO/2, 40th Session

8 April 2008

27. The Committee notes with concern that certain provisions of the Saudi Arabian Nationality Code contradict article 9 of the Convention and continue to discriminate against Saudi Arabian women married to non-Saudi nationals. It is also concerned that children of such marriages do not have an equal right to nationality as children of Saudi men married to non-Saudi women.

28. The Committee requests the State party to amend the Nationality Code so as to bring it in conformity with article 9 of the Convention and to withdraw its reservation concerning article 9, paragraph 2.

29. While acknowledging the significant progress made in the area of women's education and appreciating the efforts of the State party to revise school curricula to remove stereotyped images of women and men, the Committee is concerned about the high rate of illiteracy among women, which demonstrates a pattern of direct and indirect discrimination under article 10. It is also concerned about the discrimination against women in relation to their access to certain fields of studies. The Committee also expresses concern that the number of women in higher studies is still low compared to their male counterparts. It regrets that the State was not able to provide sufficient information and statistical data regarding the levels of education and access to education by women and girls from rural areas, and non-Saudi nationals.

30. The Committee encourages the State party to raise awareness of the importance of education as a human right and as the basis for the empowerment of women. It recommends that the State party implement measures to ensure equal access for girls and women to all levels and fields of education and ensure the retention of girls in school. The Committee calls on the State party to make every effort to improve the literacy level of girls and women through the adoption of comprehensive programmes of formal and non-formal education, and through adult education and training. The Committee requests the State party to provide detailed information and statistics in its next report on the education of women and girls, including those from rural areas, and non-Saudi nationals.

33. While commending the efforts made by the State party to improve the health-care infrastructure, the Committee expresses concern about the lack of information and data on health problems unrelated to maternity, as well as the access by women and girls from rural areas and non-Saudi nationalities to adequate health-care services. The Committee further

expresses concern that women may require the permission of their male guardian to access health facilities.

34. The Committee calls upon the State party to take all necessary measures to improve women's access to health care and health-related services and information, within the framework of the Committee's general recommendation 24. The Committee further recommends that special attention is paid to the health needs of women from rural areas and non-Saudi nationalities. The Committee also recommends training for hospital staff on the rights of women regarding health care and the implementation of a system of supervision to ensure that staff respects these rights.

Committee on the Rights of the Child

CRC/C/SAU/CO/2, 41st Session

17 March 2006

Non-discrimination

27. The Committee shares the concerns expressed by the Committee on the Elimination of Racial Discrimination in its concluding observations on Saudi Arabia adopted in March 2003 (CERD/C/62/CO/8) that the mere statement of the general principle of non-discrimination in domestic law is not a sufficient response to the requirements of the Convention. De jure and de facto discrimination against girls and de facto discrimination against children born out of wedlock are issues of particular concern to the Committee as well as disparities in the enjoyment of economic and social rights experienced by non-nationals' children and other vulnerable groups, such as children belonging to religious minorities.

28. The Committee recommends that the State party review relevant domestic laws and administrative regulations in order to ensure full respect for the equality between girls and boys in the enjoyment of all rights in the Convention, and in order to ensure that children born out of wedlock, children of non-Saudi nationals (migrants) and children begging on the streets are not discriminated against. The Committee encourages the State party to further strengthen its proactive and comprehensive efforts to eliminate de facto discrimination on any grounds and against all vulnerable groups of children, including through public education campaigns to prevent discrimination and combat negative attitudes in society. The State party should pursue such efforts in close cooperation with community and religious leaders with a view to promoting change in persisting patriarchal sociocultural traditions and attitudes, especially towards girls in particular.