

Refugee Review Tribunal

AUSTRALIA

RRT RESEARCH RESPONSE

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This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

Questions

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RESPONSE

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Information from the sources consulted suggests that the children born in Iran would hold Iraqi nationality – since their parents are Iraqi – unless the children “have resided at least one more year in Iran immediately after reaching the full age of 18”. The Civil Code of Iran administers citizenship and specifies that birth within Iran does not necessarily grant citizenship. The following extracts from the Civil Code explain the necessary criteria for Iranian nationality:

BOOK 2 – CONCERNING NATIONALITY

Article 976

The following persons are considered to be Iranian subjects:

- (1) All persons residing in Iran except those whose foreign nationality is established; the foreign nationality of such persons is considered to be established if their documents of nationality have not been objected to by the Iranian Government.
- (2) Those born in Iran or outside whose fathers are Iranian.

- (3) Those born in Iran of unknown parentage.
- (4) Persons born in Iran of foreign parents, one of whom was also born in Iran.
- (5) Persons born in Iran of a father of foreign nationality who have resided at least one more year in Iran immediately after reaching the full age of 18; in other cases their naturalization as Iranian subjects will be subject to the stipulations for Iranian naturalization laid down by the law.
- (6) Every woman of foreign nationality who marries an Iranian husband.
- (7) Every foreign national who has obtained Iranian nationality.

...**Article 979**

Persons can obtain Iranian nationality if they:

- (1) Have reached the full age of 18.
- (2) Have resided five years, whether continuously or intermittently, in Iran.
- (3) Are not deserters from military service.
- (4) Have not been convicted in any country of non-political major misdemeanors or felonies.

In the case of Clause 2 of this Article, the period of residence in foreign countries in the service of the Iranian Government will be considered as residence in Iran (UNHCR 1985, *Civil Code of Iran (last amended 1985)*, 29 December – Attachment 1).

In its 2004 report, the UK Home Office provides similar information in relation to citizenship and nationality in Iran. The pertinent extracts follow in detail:

Citizenship and Nationality

5.2. Citizenship is based upon the Iranian Civil Code which stipulates that in general, birth within the territory of Iran does not automatically confer citizenship. **Some instances where birth does confer citizenship is when a child is born to unknown parents, children born to non-citizens, one of whom was born within Iran or a child born to non-citizens, if after reaching the age of 18 the child continues to live within Iran for at least one year.** [Researcher emphasis] [32] A child born to an Iranian father regardless of the country of birth is Iranian by descent. [32]

...**5.4.** Iranian citizenship may be acquired upon fulfillment of the following conditions: the person must be at least 18 years of age, have resided in Iran for five years, not be a military service escapee and not have been convicted of a major crime in any country. [32] The wives and minor children under 18 of naturalised citizens are also considered Iranian citizens. [32] Dual citizenship is not recognised. [32] Iran allows individuals to hold dual nationality, but will treat a dual national as Iranian and ignore the second nationality. [26b] (UK Home Office 2004, *Iran Country Report*, April, Sections 5.1-5.5 – Attachment 2).

With regard to Iraqi Nationality Law, obvious changes have occurred since the establishment of the Iraqi Governing Council. A new nationality law, approved by the Council, was announced in 2003. The new law suggests new concepts and reinstates the concept of dual nationality. For instance, it restores “citizenship to thousands of Shia Muslims who were deprived of their nationality” (‘Iraqi nationality law approved’ 2003, *BBC News*, 18

September http://news.bbc.co.uk/2/hi/middle_east/3119020.stm – Accessed 5 August 2004 – Attachment 3).

Article 11 of Iraq's Administration Law for the transitional period, published in March 2004, illustrates fundamental rights in relation to Iraqi nationality and citizenship. The relevant extract follows in detail:

Article 11

(A) Anyone who carries Iraqi nationality shall be deemed an Iraqi citizen. His citizenship shall grant him all the rights and duties stipulated in this Law and shall be the basis of his relation to the homeland and the State.

(B) No Iraqi may have his Iraqi citizenship withdrawn or be exiled unless he is a naturalized citizen who, in his application for citizenship, as established in a court of law, made material falsifications on the basis of which citizenship was granted.

(C) Each Iraqi shall have the right to carry more than one citizenship. Any Iraqi whose citizenship was withdrawn because he acquired another citizenship shall be deemed an Iraqi.

(D) Any Iraqi whose Iraqi citizenship was withdrawn for political, religious, racial, or sectarian reasons has the right to reclaim his Iraqi citizenship.

(E) Decision Number 666 (1980) of the dissolved Revolutionary Command Council is annulled, and anyone whose citizenship was withdrawn on the basis of this decree shall be deemed an Iraqi.

(F) The National Assembly must issue laws pertaining to citizenship and naturalization consistent with the provisions of this Law

(G) The Courts shall examine all disputes arising from the application of the provisions relating to citizenship ('law of administration for the state of Iraq' 2004, Coalition Provisional Authority (CPA) website, 8 March – Attachment 4).

According to an English translation of the Iraqi Nationality Law of 1963, Iraqi nationality was based on the citizenship of the parents rather than the place of birth. This law would have applied to the applicants at the time of their departure from Iraq. The following extract from Nationality Law No. 46 of 1963, sourced from UNHCR, stipulates the general criteria for Iraqi nationality as follows:

Article 4:

Shall hereby deemed [sic] to be an Iraqi National:

1. Every person born in or outside Iraq of a father possessing Iraqi Nationality.
2. Every person born in Iraq of an Iraqi mother and an unknown or stateless father.
3. Every person in Iraq of unknown parents. The foundling who is found in Iraq, shall be deemed to be born there unless there shall be an evidence against it UNHCR 1996, *Law No. (46) of 1963 – Iraqi Nationality*, October – Attachment 5).

List of Sources Consulted

Internet Sources:

Google search engine

UNHCR *REFWORLD*

UNHCR Refugee Information Online

Databases:

Public *FACTIVA*

Reuters Business Briefing

DIMIA *BACIS*

Country Information

REFINFO

IRBDC Research Responses (Canada)

RRT *ISYS*

RRT Country Research database, including
Amnesty International, Human Rights Watch,
US Department of State *Country Reports on Human
Rights Practices*.

RRT Library *FIRST*

RRT Library Catalogue

List of Attachments

1. UNHCR 1985, *Civil Code of Iran (last amended 1985)*, 29 December. (REFWORLD Legal Information)
2. UK Home Office 2004, *Iran Country Report*, April, Sections 5.1-5.5.
3. Iraqi nationality law approved' 2003, *BBC News*, 18 September.
(http://news.bbc.co.uk/2/hi/middle_east/3119020.stm – Accessed 5 August 2004)
4. 'law of administration for the state of iraq' 2004, Coalition Provisional Authority (CPA) website, 8 March. (CISNET Iraq CX97414)
5. UNHCR 1996, *Law No. (46) of 1963 – Iraqi Nationality*, October. (REFWORLD Legal Information)