

**Submission by the United Nations High Commissioner for Refugees
for the Office of the High Commissioner for Human Rights' Compilation Report -
Universal Periodic Review:**

ALGERIA

I. Background and current conditions

Algeria is a party to the *1951 Convention relating to the Status of Refugees*, its 1967 Protocol and the *1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa*. Algeria has also acceded to the *1954 Convention relating to the Status of Stateless Persons*, but is not a State party to the *1961 Convention on the Reduction of Statelessness*.

Algeria has yet to put in place fully functional national asylum system. At present, the only relevant national legislative act remains Decree No. 63-274 of 25 July 1963 related to the modalities for the application of the 1951 Refugee Convention. The Decree established the “*Bureau Algérien pour les Réfugiés et Apatrides*” (BAPRA) within the Ministry of Foreign Affairs. According to the Decree, BAPRA, the institution responsible for determining refugee status in Algeria, should, *inter alia*, recognize UNHCR’s “mandate refugees.”¹ However, in the absence of a comprehensive legal framework, including asylum legislation and administrative procedures, and consequent lack of institutional and administrative capacity, BAPRA has not yet developed into a functioning asylum structure.

Based on its strategic geographical location between sub-Saharan Africa and Europe, Algeria is a major transit hub for irregular/illegal mixed migratory movements. Crackdowns on people-smuggling and human trafficking via Morocco, Libya and Tunisia, combined with firm interception measures and increasingly restrictive asylum policies in EU countries, have turned Algeria into an alternative destination for mixed groups of migrants.

II. Populations of concern to UNHCR

A. Refugees and Asylum-Seekers

¹ A person who meets the criteria of the UNHCR Statute qualifies for the protection of the United Nations provided by the High Commissioner for Refugees, regardless of whether or not the person is in a country that is a party to the 1951 Convention or the 1967 Protocol or whether or not the person has been recognized by the host country as a refugee under either of these instruments. Such refugees, being within the High Commissioner's mandate, are usually referred to as “mandate refugees”.

UNHCR in Algeria protects and assists two distinct populations of refugee and asylum-seekers, Sahrawi refugees in Tindouf camps and urban refugees of various nationalities. (i) Western Saharans, known as Sahrawi refugees, are recognized refugees on a *prima facie basis* by the Algerian Government. They are accommodated in four camps (Laayoune, Smara, Awserd and Dakha) and one settlement (27th February) located in the Tindouf area, south-west of Algeria. Due to political sensitivities surrounding the Western Sahara situation, and owing to objections on the part of the host Government and the Sahrawi refugee leadership (POLISARIO), it has not been possible to conduct proper registration in the camps. Therefore, accurate statistics as to the number of Sahrawi refugees in the camps do not exist. UNHCR's assistance programme is based on a planning figure of 90,000 vulnerable refugees in the camps. The Sahrawi community provides a positive model in terms of promotion of gender equality. Women traditionally play an active role in the leadership of the Sahrawi community, in part because of the nomadic culture that values the work of women. Article 41 of the Sahrawi "Constitution" of 1999 supports the empowerment of women: "*The State acts to promote women's political, economic, social and cultural roles in the construction of the Sahrawi society and the development of their country.*"

(ii) The State hosts refugees and asylum-seekers in Algiers and other urban centers, including some 4,200 Palestinians, a number of Iraqis and a growing number of nationals of sub-Saharan African countries. It is worth noting, that unlike the situation of nationals of sub-Saharan African countries, Palestinians and Iraqis are well integrated in the Algerian society, hence only few of them approach UNHCR seeking protection or assistance. As of 1 September 2011, UNHCR in Algeria has registered 146 urban refugees, of which 40% are females and 33% are children, as well as 795 asylum-seekers, of whom 27% are females and 12% are children.

The Algerian Government and public at large view all asylum-seekers and refugees as economic migrants contributing to a rise in illegal activities in the country. Meanwhile, in the absence of official recognition of their status by the host Government, sub-Saharan African refugees and asylum-seekers are denied most of their rights, including access to labor market and adequate shelter.

B. Stateless Persons

No official information is available on the number or conditions of stateless persons in Algeria. UNHCR office has been approached by very few individual cases regarding issues potentially related to statelessness, based on which no particular trends or issues could be determined.

III. Achievements and positive developments

UNHCR welcomes the positive decision of the Algerian Government to maintain open borders for people fleeing violence in Libya and welcoming them in Algerian families.

UNHCR commends the Government for the adoption of Law n°09-01, which criminalizes all forms of human trafficking. However, UNHCR encourages the Algerian

Government to establish mechanisms to ensure effective protection and assistance to victims of this phenomenon.

UNHCR welcomes Algeria's decision to enact an asylum law, and recommends that such a law be consistent with international standards and adopted in a reasonable timeframe.

IV. Challenges, constraints and recommendations

Issue 1: Lack of appropriate mechanisms and legislation to effectively protect persons in need of international protection in accordance with international standards

Though Algeria has acceded to the main international and regional refugee instruments, it has not yet adopted national asylum legislation and established functional national asylum procedures. UNHCR continues to make refugee status determinations, but recognized "mandate refugees" are not recognized by the Government, and hence not issued with appropriate residence permits. This also prevents UNHCR mandate refugees from accessing housing and universal education.

Recommendations:

UNHCR recommends to the relevant authorities to adopt national legislation with appropriate provisions to enshrine the right to asylum in Algeria and to strengthen the capacities of the authorities that deal with persons of concern to UNHCR. These authorities include those within the justice system, police force, gendarmerie and especially the authorities that intervene on the border. UNHCR reiterates its readiness to assist the Government through capacity-building, training for national and local authorities as well as to provide expertise on drafting the national refugee law.

Issue 2: Lack of effective mechanisms to respond to human trafficking

As mentioned above, UNHCR notes with satisfaction that the Government has adopted new provisions relating to human trafficking (Law 09-01). However, no provisions have been made for shelters for victims of violence, and no facilities have been put in place to deal with urgent cases. In addition, a proper referral system into the refugee status determination procedure should be set up, in order to ensure that victims' rights to seek and be granted asylum are fully respected. The Government should adopt proper measures, including development of standard operating procedures, to facilitate prompt identification and referral to the asylum system, where appropriate. Additionally, specific policies to protect and support victims who cannot return to their countries of origin should be adopted. UNHCR's Guidelines on victims of trafficking and persons at risk of being trafficked provide guidance on the adjudication of asylum applications presented by victims or potential victims of trafficking.²

² 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*", 7 April 2006, available at: <http://www.unhcr.org/443b626b2.html>.

It has been difficult to monitor the situation of women and girls of concern to UNHCR due to lack of Algerian authorities' engagement with refugees and asylum-seekers in urban areas. Ensuring an adequate degree of protection for this category of persons has therefore been a challenge for UNHCR, particularly as the operational capacity of UNHCR in terms of legal assistance is limited to Algiers. This is partially the consequence of the security situation in the country, which imposes strict measures to be adhered to. Consequently, many persons in need of international protection who may be in precarious situations, notably those residing in migration concentration areas such as Oran, Maghnia, Adrar, Bordj Badji Mokhtar and Tamanrasset, may not have access to UNHCR assistance. These cities are also major centers for illegal activities and practices, such as human trafficking and other forms of sexual exploitation.

UNHCR would like to note that a large number of sub-Saharan migrants who often intend only to pass through the country en route to Europe, ultimately remain stranded in Algeria. Consequently, many turn out to be at risk of being coerced into sexual exploitation or involuntary servitude to pay off smuggling debts. Algeria is also a common point of transit on the way to Europe for human traffickers. Many women end up being victims of human rights abuses in the form of trafficking, sexual exploitation and involuntary servitude.

The lack of proper response mechanisms and victim protection services in Algeria means that victims of trafficking are not only unprotected, but often punished. The Algerian Government is therefore called upon to establish appropriate response mechanisms capable of protecting victims of trafficking.

Issue 3: Non-recognition of refugees under UNHCR mandate

Presently, there are 146 refugees in Algeria recognized under UNHCR's mandate, but they are nevertheless considered as illegal migrants by the Algerian authorities. These refugees do not have the right to work and are not given access to social security or to other rights that refugees are normally entitled to, including social housing and universal education.

Recommendations:

UNHCR recommends to the Government of Algeria to ensure proper implementation of Article 2(b) of the 1963 Decree, to the effect of granting official recognition to refugees recognized as such under UNHCR's mandate.

Issue 4: Penalization for illegal entry and deportation

Although the number of asylum-seekers and refugees arrested because of illegal entry/stay has decreased, there are still cases of arrests necessitating UNHCR's immediate interventions to prevent deportation or *refoulement*.

In 2011, two refugees recognized under UNHCR mandate were deported to the Malian border, although their sentences did not include the measure of deportation.

Recommendations:

UNHCR recommends to the Government of Algeria to implement the 1951 Convention relating to the status of refugees and also the national law n° 08-11 relating to the conditions of entry, stay and movement of foreigners, especially articles 7 and 42, which exempts persons in need of international protection from punishment for illegal entry and stay in the country.

Issue 5: Lack of systematic issuance of birth certificate

UNHCR would like to note that birth certificates are not issued systematically to children born in Algeria of refugees or stateless persons. This hinders their access to essential social services and can put them at risk of statelessness, thus increasing their vulnerability.

Recommendations:

UNHCR recommends to the Government of Algeria to accede to the 1961 Convention on the reduction of Statelessness and to issue birth certificates to all children born on its territory, regardless of the status of their parents, in accordance with the State's international obligations. 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 States parties is essential to strengthening international efforts to prevent and reduce statelessness.

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