



Our Motherland, Our Country

Gender Discrimination and Statelessness
in the Middle East and North Africa



**WOMEN'S
REFUGEE
COMMISSION**

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The Women's Refugee Commission identifies needs, researches solutions and advocates for global change to improve the lives of women, children and youth displaced by conflict and crisis. The Women's Refugee Commission is legally part of the International Rescue Committee (IRC), a non-profit 501(c)(3) organization, but does not receive direct financial support from the IRC.

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Photographs © Hannah Boatfield

Cover photo: This picture is a Jordanian family book. In Arabic it says "Children should not be added because the father's nationality differs."

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Acronyms & Abbreviations

| | |
|-------|--|
| CEDAW | Convention on the Elimination of All Forms of Discrimination against Women |
| CESCR | Committee on Economic Social and Cultural Rights |
| CRC | Committee on the Rights of the Child |
| GCC | Gulf Cooperation Council |
| HRC | Human Rights Committee |
| MENA | Middle East and North Africa |
| NGO | Nongovernmental organization |
| UNHCR | United Nations High Commission for Refugees |
| UPR | Universal Periodic Review |

Executive Summary

Statelessness—where an individual does not enjoy the legal bond of nationality with any state—affects an estimated 12 million people worldwide. One cause of this problem is gender discrimination in nationality laws, which is still present in 29 countries, 14 of which are found in the Middle East and North Africa. One of the main and most worrying forms of this gender discrimination occurs where women cannot transfer their nationality to their children on an equal basis as men.

In order to understand the impact of discriminatory nationality laws on women, their children and their spouses, the Women's Refugee Commission and the Statelessness Programme at Tilburg University, undertook a year-long project that researched two countries in the Middle East that still have discriminatory nationality laws—Jordan and Kuwait—and two countries in North Africa—Egypt and Morocco—that have changed their nationality laws to allow women as well as men to pass their nationality onto their children. The research included a review of nationality legislation of the four countries and field assessments in each country to interview affected women, men and their children. The report brings out their experiences and their voices.

Gender discrimination in nationality laws occurs when women cannot acquire, change, retain or pass on their nationality to their children and/or non-national spouses on an equal basis as men. Gender discrimination in nationality laws can result in statelessness where children are born to a mother who is a national, reside in their mother's country and cannot obtain any other nationality for many reasons which include:

- The father died before the birth of the child
- The father is unknown
- The father is stateless and has no nationality himself
- The father is unable to confer his nationality
- The father is unwilling or unable to take the neces-

sary steps to acquire a nationality for his child

The report draws heavily on testimonials collected during the field research, demonstrating the human impact of gender discrimination in nationality laws. The findings show that being left stateless has grave humanitarian consequences, often leading to violations of fundamental human rights. The report documents the many barriers and obstacles faced by those who are stateless—from problems with owning and renting property to problems securing formal employment, applying for identity documents, and accessing services such as public health care and education.

Ironically, although originally intended to preserve family unity by ensuring that all family members enjoy the same nationality, gender discrimination actually poses a serious threat to family unity. The research found, in particular, that the impact of statelessness puts huge strains on the structure of the family. Difficulties are encountered right from the outset. There are obstacles to starting a family—marrying and having children become severely challenging; as one person testified: "I cannot get married. The court will refuse to allow me to sign a marriage certificate. Because I do not exist." The enjoyment of family life and the healthy development of the family are also compromised—where threats of deportation and detention are constant. There can then be pressure on families to divorce, including in the hope of securing a better future for children by using legal provisions that allow them to apply for their mother's nationality if their parents irrevocably divorce. These and many other pressures on the psychological, material and legal bonds of a family are evident as a consequence of gender discrimination in nationality laws.

Changes in nationality legislation in Morocco and Egypt, however, have led to women being able to transfer their nationality to their children, thereby conferring rights previously denied. Before 2007, only men could transmit nationality to their children in Morocco, regardless of their place of birth, putting children of Moroccan mothers and non-Moroccan fathers at heightened risk of statelessness. The reformed law now states, "A child born of a Moroccan father, or a child born of a

Moroccan mother, is a Moroccan child.” The reform has resolved many of the previous problems with regards to residency and access to public health care. Similar reforms in Egypt in 2004 have led to significant benefits to previously affected families. Some of the positive impacts have been the ability of families to remain in Egypt without fear of deportation, as well as improved access to education and employment. The reforms in the two countries demonstrate the positive change in individuals’ and families’ lives when gender discrimination is removed from nationality legislation. The addition of three short words, “and their mother” to a country’s nationality law, that is “a child’s father, **and their mother**, are both able to pass on his or her nationality to their children,” can make a huge difference to the lives of those affected. The research also emphasized the importance of adequate dissemination, public information and proper implementation of the legal reforms. Interviews in those countries that have reformed their laws highlighted that problems of access to nationality can endure if insufficient attention is paid to questions of implementation and dissemination.

Key Recommendations

Governments that have not reformed their nationality laws: Ensure that their legislation is in accordance with their national and international obligations and is implemented in practice without discrimination. These governments should take immediate steps to remedy situations where gender discrimination in the nationality law is creating or perpetuating statelessness by amending their nationality laws to allow women equal rights as men to pass on their nationality to their children and non-national spouses with retroactive effect.

Governments that have reformed their nationality laws: Ensure that reformed laws are implemented in practice without discrimination; ensure wide dissemination and public information on the reformed laws and provide information and training to the relevant authorities on implementation of the laws. These governments should also encourage neighboring countries to reform their na-

tionality laws by providing information, advice and positive examples of the impacts of nationality reform to other countries in the region that have yet to amend their laws.

Civil Society: Advocate for nationality reform not just as a women’s rights issue, but also as an issue affecting children’s rights and the right to preserve family unity. Litigate violations of rights, such as the inability to access public schools, through the judiciary and advocate for allowing judicial review of nationality cases. Continue to raise public awareness on discriminatory laws and undertake information, dissemination, awareness raising and publicity campaigns on reformed laws. Monitor the implementation of the new laws and report on problems to the relevant government and UN authorities.

UNHCR: Work with governments that maintain discriminatory laws to provide legal and technical advice and training on reform of their nationality laws, including providing positive examples from other countries in the region. In countries that have reformed their laws, provide technical advice and training to national and local officials on the content and implementation of the new laws. Provide legal advice and information to individuals affected by gender discrimination and statelessness, and to individuals facing difficulties in accessing their rights under reformed laws.

All UN agencies with relevant mandates: Work together to address gender discrimination in nationality legislation as a serious human rights violation through international, national and regional human rights mechanisms. Support families affected by gender discrimination and statelessness to access their rights to education, employment, health care and identity and travel documents. Undertake information, awareness raising and publicity campaigns on new laws using innovative dissemination methods. Monitor the implementation of the new laws by the administrative authorities and the courts, and report any problems to relevant government authorities.

For a full list of recommendations, see page 23.

“I begged my husband to divorce me. It was the only way to solve our children’s problem. He told me, ‘Dear, after all these years you want us to separate? I can’t do it.’ Even my son kept on asking me to get a divorce.”

Scope of the Report

When sitting in a room with parents whose children have been left stateless due to gender discriminatory nationality laws, every story is different, but a similar sadness fills the air. It is always the mother, the national, who tries to remain positive, and tries to inject hope into her husband and children. The fathers will often sit silently, staring into the house, devoid of hope. They were not allowed to study, they are not allowed to work. They cannot guarantee the future of their children, their wives or themselves. They live in a protracted state of poverty and depression, one they cannot escape because of a legal anomaly. If their children fall ill they know there is little they can do about it. The mother blames herself for marrying someone who does not hold the nationality of her country and is stateless or unable to pass on his own nationality to his children and the children are left the new victims as they cannot obtain any nationality. They have not been allowed to inherit the nationality of their mother; instead they have inherited despair from their parents.

The Statelessness Programme at Tilburg University, commissioned by the Women’s Refugee Commission, conducted research on gender discrimination in nationality legislation and statelessness. Field visits were carried out during the first quarter of 2013 where interviews with women, their husbands and children took place, alongside focus group discussions. This study was conducted in four countries—Jordan and Kuwait, where women are still unable to transfer their nationality to their children, and Morocco and Egypt, where recent reforms have allowed this right. Although a global issue, the four countries identified are in the Middle

East and North Africa (MENA) region; 11 out of the 29 countries worldwide that still uphold this discrimination can be found in this region.¹ The focus on the MENA region was also informed by the fact that the region has witnessed recent amendments in nationality legislation and broader political transition in the context of the Arab Spring, and therefore shows potential for legislative reform resulting in the removal of discriminatory laws and practices.² The aim of the research was to document and understand the impact of discriminatory nationality legislation on families, some of whose members have been rendered stateless because of these laws. The research aimed to understand better the link between gender discrimination and statelessness, and the practical consequences of statelessness on the lives of individuals and their families.

Historically it was deemed to be in the family’s best interest if all members possessed the same nationality to ensure family unity. One of the justifications still repeatedly given for these discriminatory laws is to protect family unity—that the family make-up should encompass one identity, and that children should consequentially be attached to their father’s country and nationality. However, one of the most striking conclusions to emerge from the research data was that exactly the opposite is happening—gender discrimination in nationality laws is breaking up families, straining and destroying their structure. Although often conceptualized as a women’s rights issue, this form of discrimination is not only damaging to the lives of women, but to the whole family. Gender discrimination—rendering individuals and families stateless—affects mothers, daughters, sons, fathers, wives and husbands. It is a collective sentence: a woman’s inability to pass her nationality to her children punishes everyone related to the woman.

In this report we seek to show how gender discrimination in nationality laws affects family unity, based on some of the key consequences identified during the research and illustrated through some of the testimonials collected. This will include exploring the problems stateless persons face in starting a family, unification problems, how the strains of lack of access to basic rights affects families both materially and psychologically, and how families have resorted to divorce and separation in a desperate attempt to reach a solution. This report will also explain the background to gender discrimination in nationality laws and how it can lead to statelessness. After examining progress and challenges in each of the four countries analyzed, the report will conclude by offering recommendations that seem most applicable in the context to all relevant stakeholders.

See page 23 for recommendations.

Various civil society initiatives at the national level to try and address the problem of discriminatory nationality laws have recently emerged worldwide, and this comes alongside a great deal of international interest regarding the issue of gender discrimination in nationality legislation. The United Nations High Commission for Refugees (UNHCR) conducted a Regional Dialogue on Gender Equality, Nationality and Statelessness in 2011,³ and in 2013 two further reports highlighted how this discrimination exists globally: one published by Equality Now⁴ and another compiled by the UN Office of the High Commissioner for Human Rights.⁵ This report aims to add to this documentation by offering a unique perspective regarding the impacts of gender discrimination in nationality laws on family unity through individual testimony. In 2014, there will also be a renewed focus on family issues as the international community celebrates the 20th anniversary of the International Year of the Family, providing additional opportunities for utilizing this data when reviewing challenges faced by families worldwide.

Methodology

This report is based on interviews with 152 individuals across four countries: Kuwait, Jordan, Morocco and Egypt. These interviews were conducted with both national females and stateless men, women and children. Most of the interviews were conducted in the affected families' households.

Six focus group discussions were conducted alongside 32 stakeholder interviews. The focus group participants were made up only of women (except one focus group in Kuwait, where male sons also took part). These provided an opportunity for discussion on any issue that was not covered during the in-depth interviews. The stakeholder meetings covered a variety of stakeholders including national nongovernmental organizations (NGOs), UN agencies, academics and lawyers.

Understanding the Link between Gender Discrimination and Statelessness

"Please, can you explain to me, because I don't understand. Why is there this discrimination? Why do they differentiate between men and women? I don't understand, why?"⁶

Gender discrimination in nationality laws arises where women cannot acquire, change, retain or pass on their nationality to their children and/or their spouses on an equal basis as men. This section highlights in more depth why discriminatory laws developed, and will show how they can lead to new cases of statelessness. Gender discrimination in nationality legislation was a common feature of nationality laws adopted in the late 19th and early 20th centuries, at which time it was also introduced to the MENA region, due to the French and British influence in the region. The adoption of the Convention

on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1979, particularly with the inclusion of Article 9 which stipulates equal rights of men and women to confer nationality,⁷ began encouraging a worldwide shift away from this discrimination.⁸ This led to widespread legal reform across countries globally, introducing gender equality in nationality rights. However, gender discrimination remains in 29 states worldwide.⁹ The type of discrimination that can be found varies from country to country. At one end of the spectrum, Algeria is the only country in the MENA region that allows women to pass their nationality to both their children and their spouse on equal terms with men, whereas in Egypt and Morocco amendments to nationality laws only allow women to transfer their nationality to their children and not their spouse. Conversely, in Lebanon, for example, a woman can only pass on her nationality to her children if the father is unknown and a Lebanese woman's foreign husband does not have facilitated access to nationality, whereas a Lebanese man's foreign wife does. Looking beyond the MENA region, the Constitution of the Bahamas, for instance, does not permit a Bahamian woman to pass her nationality to her children or to her husband under any circumstance.¹⁰

Gender discrimination in nationality legislation can lead to statelessness where children are born to a mother who is a national, who reside in their mother's country and who are unable to obtain any other nationality due to the following circumstances:

- where the father died before the birth of the children;
- where the father is unknown;
- where the father is stateless and has no nationality to confer;
- where the father holds a nationality but is unable to confer it (e.g., country of nationality does not allow for transfer of nationality where the children are born abroad or out of wedlock);
- where the father is unable or unwilling to take the

necessary steps to secure a nationality for the children (e.g., to complete a registration procedure at his country's embassy).¹¹

Being left stateless has grave humanitarian consequences, often leading to a violation of fundamental human rights, although the exact situation of stateless people varies from country to country. While this report focuses on the impact of statelessness on family unity in particular, the testimonies collected during this research also touched upon many of the broader problems caused by statelessness. These include the lack of access to:

- formal employment
- public healthcare
- state education, both public schools and universities
- social welfare, benefits, pension, etc.
- official documentation
- judicial process
- property (to own or rent)
- travel, both within the country and abroad.

This can consequently lead to;

- living under threat of arbitrary arrest and/or the threat of deportation
- separation of families
- institutional and social discrimination
- a heightened risk of local or national tensions, with a community that has been left marginalized and impoverished.

These challenges are also widely reported in other research on the situation of stateless populations around the world.

Country Profiles

Four countries were identified as the research sites for this project: two countries that have enacted reform in nationality legislation to make it gender neutral (Morocco and Egypt) and two that have not (Jordan and Kuwait). This methodology was adopted to highlight the problems and offer a comparative perspective as to how successfully implemented reform can have direct positive effects on lives. This participatory research sought to understand the impacts of gaps in nationality legislation on women and their families as well as problems in the implementation of existing legislation and the consequential impacts.

Each country has differing socioeconomic, historical and political reasons for the development of its nationality laws, but the negative effects of discrimination and positive effects of successful reform are similar. Although, as this section will show, there have been several significant obstacles to the smooth implementation of the reforms in the post-reform countries, the extent to which families' lives have changed because of amendments to these law must be emphasized. A simple amendment that allows for women as well as men to pass on their nationality has brought protection and stability to families in Morocco and Egypt.

In order to place the testimonials collected in their proper context, some background information on the legal setting and specific issues present in each country was compiled through desk research and stakeholder interviews. A summary of this information is presented in the sections below.

Jordan

There are no figures on the number of stateless persons in the country although it is evident that the size of this population is significant and that the majority have been living in a protracted situation of statelessness. Statelessness in Jordan is a major and severe humanitarian problem, and the link between gender discrimination

and statelessness is clear. Jordan's 1952 constitution calls for equal rights for men and women and stipulates in article 6 that Jordanians shall be equal before the law. However, the nationality law of 1954 (amended in 1987) limits the granting of nationality to those born of a father holding Jordanian nationality. Article 3.3 states:

"Any person whose father holds Jordanian nationality is deemed Jordanian."

Women can only pass on their nationality in exceptional circumstances, namely when a person is born in the territory under the following criteria:

"To a mother holding a Jordanian nationality and to a father whose citizenship is unknown or who is stateless or whose paternity has not been legally established; and those born in the Hashemite Kingdom of Jordan to unknown parents."¹²

Even with these few exceptions, the law does not enable Jordanian women to pass their citizenship to their chil-



A stateless boy in Jordan. His mother is Jordanian and so is his paternal grandmother, but as his father is stateless he has not obtained any nationality.

dren in all circumstances in which statelessness might otherwise arise, and then in practice even these limited exceptions are rarely, if ever, implemented. There are a large number of Jordanian women who are married to non-nationals. Estimates of the size of the respective population are contested, but according to one official source in 2011, the number of Jordanian women married to non-Jordanians is 65,956.¹³ The majority of these women are married to Palestinians.¹⁴ The country hosts a large population of Palestinians, approximately 2.7 million. While most of them have acquired Jordanian nationality, especially those who came to Jordan in 1948, a significant number of them have been left stateless. Jordan has also been host to large waves of more recent refugee populations, notably Iraqis and more recently Syrians. One of the obstacles to reform of the law is believed to be the concern that with these large populations, the Jordanian government is preoccupied with the effects any change of policy may have on the country's demographic make-up.

Many NGOs are campaigning for reform on this issue in Jordan. These activities include regular protests and sit-ins outside government buildings and attempts to show the problem through various outlets, such as theatre performances and social media campaigns.

Kuwait

The constitution of Kuwait prescribes equality before the law, with Article 29 stating that "All people are equal in human dignity and in public rights and duties before the law, without distinction to race, origin, language, or religion." However, Kuwaiti nationality legislation explicitly discriminates between men and women (as well as incorporating other provisions that discriminate on the ground of religion). The law allows only fathers to confer their nationality to their children, with Article 2 of the 1959 nationality law stating that:

"Any person born in, or outside, Kuwait whose father is a Kuwaiti national shall be a Kuwaiti national himself."

Children of Kuwaiti women are only entitled to apply for citizenship in certain exceptional circumstances. For example, Article 5.2 of the Kuwaiti nationality law states that the Minister of the Interior may allow the nationality to be given to:

"any person [upon his attaining his majority who was] born to a Kuwaiti mother and who has maintained his residence [in Kuwait] until reaching the age of majority and whose foreign father has irrevocably divorced his mother or has died."

Even then, a decree with the approval of the Ministry of Interior is needed and in practice this does not always happen.

Interestingly, unlike all other countries in the region, the extent of gender discrimination in Kuwait's nationality legislation has increased rather than decreased and the country's nationality laws have become increasingly exclusive. The 1959 law explicitly stated that a child born to a Kuwaiti mother is considered a citizen "if the father is unknown, his paternity unproven, of unknown nationality or stateless." However, in 1980, an amendment to this provision was adopted that denied citizenship to children of Kuwaiti women and stateless fathers, and more worryingly this was enacted retroactively. In theory, this means that no child of a Kuwaiti national mother and Bidoon (literally translated to "without") father could under any circumstance become Kuwaiti.¹⁵

Kuwait is a "rentier" state: vast oil resources mean it is able to heavily subsidize basic commodities for its citizens and to offer them a generous welfare system. However, there is a large stateless population in Kuwait—the Bidoon, consisting of an estimated 80,000-120,000 people.¹⁶ The Bidoon consist mainly of persons who have remained in legal limbo for the past 50 years, having been left out of the initial registration of the state's citizenry and are therefore stateless.¹⁷ Although no official statistics exist, an estimated 30,000 of this population of Bidoon are spouses or children of female Kuwaiti nationals. The number of Bidoon continues to grow—in part due to the gender discrimination in the nationality law. It is also a case of protracted



Taimia is a suburb on the outskirts of Kuwait City, one of the areas in which the stateless Bidoon reside. Compared with Kuwaiti areas, the standard of living here is particularly dire.

humanitarian suffering—the stateless population arguably face the greatest social and human rights challenges in Kuwait.

The problem is also of increasing political significance. The Bidoon population has become highly active in calling for access to nationality and all associated rights in the country—as seen from the protests in 2011 and 2012. The government department that has been established to address this problem—the Centre for Illegal Residents—has accepted that 34,000 Bidoon do have the right to obtain Kuwaiti citizenship—but no steps have been taken to address what needs to be done to achieve this. This has left many of the Bidoon unsure of what their future status will be. There are also new color-coded ID documents that are being distributed among the Bidoon. Although the rights conferred on to the holders are similar across the different groups, these ID documents differentiate between the Bidoon, with the color indicating to what extent the au-

thorities deem the holder to be “connected” to Kuwait. For instance, those whose fathers served in the military are reportedly seen as enjoying the closest links. Some herald this as a good step to identifying the different groups of Bidoon, which may be a concrete step towards the resolution of statelessness for at least some of this population, while most others see this as an apartheid-like method of creating disunity among and avoiding responsibility for all the Bidoon. Campaigning by civil society to address both the gender discrimination in the law continues, alongside action to combat the issue of statelessness for the Bidoon in the country.

Egypt

Before 2004, women were unable to transmit nationality to their children in Egypt, regardless of their children’s place of birth.¹⁸ Amendments of the nationality laws took place, after much campaigning, with retroactive effect. Article 2 of the Egyptian nationality law now stipulates that both the mother and the father can transfer their Egyptian nationality to their children, as follows:

“The following shall be considered Egyptian:

1. Whoever is born of an Egyptian father or an Egyptian mother shall be considered Egyptian [...]”

This means that, regardless of where a child is born, if s/he has *either* an Egyptian mother *or* an Egyptian father, s/he is automatically considered as an Egyptian citizen. However this initially excluded children of Palestinian fathers,¹⁹ the argument being that this would “protect” their right of return to Palestine.²⁰ It was not until 2011, after increased campaigning from NGOs and affected families, that children born to such couples were able to acquire citizenship.²¹ The government went on to pass a decree explicitly stating that children born to Palestinian fathers and Egyptian mothers can also acquire citizenship.²²

In general, Egypt has witnessed positive implementation of the reform of the law and most families have benefited significantly from their children acquiring citizen-

ship. The greatest impact this has had is the ability for families to remain in Egypt without fear of deportation, access to education and employment, and the resultant enhanced opportunities of maintaining themselves financially. However, through the process of interviewing women concerned, four main problems in the actual implementation of the law were identified during the field research conducted as part of this study:

- The required documents for obtaining nationality: To ensure a child born before the reform acquires Egyptian nationality the women must provide her father's and grandfather's birth certificates.
- The location where procedures is carried out: There is only one, very busy and disordered office in the whole of Egypt, situated in Cairo, to which everyone has to go to carry out the procedures necessary for a child born before the reform of the law to acquire nationality from his or her mother (i.e., to benefit from the amendment's retroactive effect).²³
- There was no government initiative to ensure that knowledge of this reform was disseminated, so there are concerns that families in rural communities are yet to benefit from the retroactive effect of the law.
- The decree for children of Palestinian fathers does not explicitly provide for retroactive effect and therefore children born before 2011 have generally not benefited from access to nationality in practice.²⁴

As the reform has been formally completed, no international organizations or local civil society organizations are conducting follow-up campaigns or research to understand and ensure implementation. Additionally, there is still gender discrimination in the law in that Egyptian women do not share equal facilitation in transferring their nationality to their spouse as Egyptian men. So, a foreign woman married to an Egyptian man has facilitated access to Egyptian nationality according to Article 7 of the Egyptian nationality law, while a foreign man married to an Egyptian woman does not.

Morocco

Before 2007, only men could transmit nationality to their children in Morocco, regardless of place of birth, putting children of Moroccan mothers and non-Moroccan fathers at heightened risk of statelessness. Now, due to the law being reformed in 2007 after extensive campaigning, both men and women can equally transfer their Moroccan nationality to their children. Article 6 of the Moroccan code of nationality now reads:

"A child born of a Moroccan father, or a child born of a Moroccan mother, is a Moroccan citizen."

This means that, regardless of where a child is born, if s/he has either a Moroccan father or mother, s/he automatically becomes a Moroccan citizen.

In Morocco, there has been general success in the implementation of the reform of this law. Once nationality was obtained, there were widespread reports of the highly positive effects on families' lives. More specifically, access to free healthcare and the resolution of residence issues—the main pre-reform problems that those interviewed pointed towards—is now helping to promote the healthy development of their families.

However, certain problems remain in the actual application of the law, which were raised during the interviews conducted for this study. These include the following:

- There were some delays in dealing with applications for retroactive benefit from the law—some cases deemed "non-urgent" by local authorities were asked to wait many months before they applied.
- There are concerns that the information about the reform was not widely disseminated in rural areas.
- "Sensitive" cases often experience difficulties obtaining citizenship. For example, where a child was born out of wedlock and therefore often not legally recognized, the transfer of nationality may not be possible or recognized in practice. This is also true

where Moroccan women are married to irregular migrants and therefore cannot provide proof of marriage.

- There is also a clear problem of discrimination from local authority staff against women who have married sub-Saharan Africans; these officials make it particularly difficult for the women to successfully obtain the relevant documents to apply for nationality for their children.

Once again there are no civil society organizations that are conducting follow-up campaigns or research to understand and ensure implementation. Also, there is still gender discrimination in the law in that Moroccan women do not share equal facilitation in transferring their nationality to their spouse as Moroccan men. A foreign woman married to a Moroccan man has facilitated access to Moroccan nationality according to Article 10 of the Moroccan nationality law, while a foreign man married to an Egyptian woman does not.

Nationality, Gender and Family Unity

*“We are Jordanian, our mother is Jordanian, we are all Jordanian, we lived in and were brought up here. It is our country. We know nothing but this country.”*²⁵

In Arab societies, the family has always played a particularly important function. Across all ages, socioeconomic and religious backgrounds, the support, influence and power of the family has traditionally and historically been the cornerstone of individual development. The family plays a function in the lives of its members as well as a role in societal interactions. The extended family, for example, is often the first point of

call for someone experiencing difficulties.²⁶ Marriage is also of paramount importance, where men and women are often expected to marry, settle and start a family as soon as is possible. Alongside the social role, the importance of protecting family unity is also reflected in many states’ laws. Article 15 of the Emirati Constitution, for example, states that “the family is the basis of society. It is founded on morality, religion, ethics and patriotism. The law shall guarantee its existence, safeguard and protect it from corruption,” whilst Article 10 of the Egyptian constitution states that “the state and society shall commit to preserving the true nature of the Egyptian family.”

The Arab Charter on Human Rights also emphasizes the importance of the family, with Article 33 stating:

1. *The family is the natural and fundamental unit of society, founded by the marriage of a man and a woman. The right of men and women of marriageable age to marry and to found a family shall be recognized.*



Radia and her four stateless children. Both she and her husband are stateless, as they were unable to obtain Jordanian nationality from their respective mothers.

2. The State and society provide for the protection of the family and its members, for the strengthening of its bonds.

When asked why they think discriminatory nationality legislation exists, government officials and the affected community often reply that it is needed for the family. Thus, they say, if a woman decides to marry someone from outside her nationality, both she and her children should follow his kinship and obtain his nationality.

This idea is reflected in the fact that across the region, all nationality laws allow for men to pass on their nationality to their female spouses, while only one country, Algeria, allows for female citizens to do the same.²⁷ This was, in fact, once the common practice worldwide. However, today, the international consensus is that such policy disadvantages women and is no longer legitimate.²⁸ Yet, the rhetoric of family unity through a single nationality (the man's) is still used as an excuse by many governments to maintain gendered laws. Such policies can also be affected by political motives, such as an unwillingness to include long-term migrants within a state's citizenry—such as is the situation in many Gulf Cooperation Council (GCC) countries;²⁹ or a fear that the demographics of a country may change if the nationality law is reformed on this point.

The retention of nationality laws that disadvantage women has drawn the attention of the human rights community and numerous commentators.³⁰ Generally, literature on nationality in the MENA region has become increasingly concerned with the intersection of gender and nationality.³¹ At the same time, the overall discourse in this region has recently shifted away from discussing the effects of human rights problems from a family perspective to a more gendered approach.³² Women's rights groups are among the most influential and successful human rights organizations in the MENA region. They have been instrumental in the gradual reform of nationality legislation to remove gender discrimination. Nevertheless, in countries where this discrimination remains, even the continued and vocal efforts by women's rights organizations have yet

to yield any significant results. We hope that the data compiled for this project offer these organizations and other interested parties an opportunity to refocus their advocacy through an awareness of the threat gendered nationality laws pose to the institution of the family. This threat is one of the most significant concerns of the affected families themselves.

This field research has demonstrated that discriminatory laws, rather than preserving family unity as states claim, are having the opposite effect. Instead of unifying a family under one nationality, it is breaking up families through the legal impossibilities it creates and the added economic, social and emotional strain it generates. This cycle begins with the various impediments to starting a family, is compounded by obstacles in developing a healthy family structure legally, socially and psychologically, and may end with pressures for divorce and separation.

This report shows how the day-to-day, year-to-year and intergenerational struggle that families live with because of statelessness and the consequential lack of rights has put an overwhelming pressure on family unity. The data bring together testimonials from four countries: Kuwait and Jordan, where this discrimination still exists, and Morocco and Egypt, which have recently reformed their nationality laws.

Starting a Family

"I cannot get married. The court will refuse to allow me to sign a marriage certificate. Because I do not exist." ³³

Being stateless because you cannot obtain the nationality of your mother affects in various ways the ability of young people to start a family. Getting married becomes difficult, if not impossible, and having children becomes a strain. As a result of the psychological and social burdens on both the women and their children, their sons, and sometimes daughters, are unwilling or unable to marry and have children purely because

of this status. The inability to marry and start a family stems from several reasons, as discussed below.

Documentation

Some stateless individuals in Jordan have a residence permit, and recently a large proportion of Bidoons in Kuwait have been given access to certain documentation such as birth certificates and tailored ID documents. However, a significant proportion of the communities in these two countries have been left without any form of identification document. This includes not having a national ID card as well as such documents as birth certificates, passports and driving licenses. One man interviewed in Jordan showed a membership card to a gym, which he said was the only formal document that he owned. Being unable to officially provide proof of who they are impedes stateless persons' ability to acquire any formal registration or other documentation. Registering a marriage officially becomes problematic, if not impossible; when one (or both) partner(s) is unable to provide any form of ID, officials often refuse to register the marriage.

Often, stateless individuals have resorted to not making their traditional marriage official at the state level. They will be married by the local religious leader, but this does not result in state recognition or bestow the resultant rights flowing from the union unless it is subsequently made official. Without this step, the couple faces an extra layer of vulnerability to their relationship.

No ID, No Marriage

Huda, a Jordanian national, worries about her eldest son who is in his early twenties. She says that for him to get married in the future may prove very difficult:

"It affects their mental state. If he wants to get married, he cannot get married. There is nothing he can use to register for the Ketb Alkitab [Islamic registration of a marriage]. If there is no ID how can he get married, right?"

Impossible to Get Birth Certificates Due to Lack of Marriage Certificate

Sanaa, a Moroccan citizen, did not officially register her marriage because her husband was stateless. That means that she is now facing difficulties in benefiting from the reform of the law:

"When I go to the authorities they send me away and won't let me get a Moroccan birth certificate for my children. I tell them that I am Moroccan, and really was married, but there is nothing to prove that. The people who work at the office discriminate against me because they think I had a child outside of marriage."

It can be extremely problematic if, in the future, a couple faces difficulties with problems such as inheritance, separation or guardianship of children, in which the judiciary or local authorities would normally play a role, as there are no documents to prove the existence of their marriage. In a society where having a child outside of wedlock is extremely taboo, no proof of marriage cre-

Family Calls Off Engagement When Stateless Fiancée Cannot Get Medical Test

Houria has a Jordanian mother and a Jordanian paternal grandmother. But as her father was a stateless Palestinian, she was left with no nationality. She, her sisters and her brothers have been left with no documentation and no access to the most basic of rights. Houria was engaged to get married. In Jordan people are encouraged to take a medical test before marriage to ensure the medical compatibility of the couple. Her fiancé's family insisted that the young couple take this test. However, as Houria has no papers, not only can she not access free medical healthcare, but private hospitals also refused to carry out the test as she had no way to prove who she was. After weeks of trying in vain, the couple finally broke off the engagement and she could not get married to her fiancé.

ates further problems. In Morocco, for example, children of unmarried women have been unable to benefit from the reforms to the law.

Lack of documentation also affects the ability to get married in less direct ways. Not having any form of identification makes access to basic rights and services problematic, rendering a marriage very difficult.

Inability to Establish Financial Means to Start a Family

Access to state primary and secondary education is often problematic for stateless individuals. In Kuwait, although there have been recent reforms that have facilitated this,³⁴ access to what is viewed as “good quality” state education is difficult and in Jordan access to free primary and secondary education is often arbitrary. Furthermore, there are huge obstacles to accessing free university education for all stateless populations. Coupled with this, major impediments in access to formal employment

also exist. Even when some sectors of formal employment were accessible, such as in some cases in Kuwait, stateless persons interviewed complained that wages are always far lower for them, even than for foreign migrant workers, with benefits and access to promotion severely limited. With impeded access to education and, most importantly, employment, statelessness in this region prolongs and often exacerbates poverty.

With poverty comes the inability of these individuals, mainly men, to establish their lives well enough to start a family. This includes having an adequate wage to support a family, especially as costs for a stateless family are often higher than nationals, given that services otherwise provided by the state for free or at reduced rate are off limits to the stateless. Those interviewed often spoke of their fear that their current financial concerns prohibit getting married and having children, and see no hope for improving their situation in the future. This often leaves men in one of two situations—either they decide not to marry because of their situation, or they are met

Too Poor to Marry

Abdulrahmen is an intelligent young stateless Bidoon, whose mother is a Kuwaiti national but whose father was Bidoon. He is just finishing his degree, while working to pay for it. He was not allowed to enter into his educational field of choice because of his status, and now in a rich rentier state of extremely generous welfare, where the government offers generous financial benefits to its citizens, he cannot access a well-paid job and sees no opportunity to improve his situation.

“In my job now, I get paid much less than anyone else. If I get married I won’t get any benefits. This is different from a Kuwaiti citizen who, if they marry they get financial benefits for their kids. I can’t go out and solve this situation, to leave, to have my own house, it’s very difficult. I’m 27 years old now, I have a brother who is 34, and the eldest is 37; none of us have got married yet. It is so the problem does not get inherited, this generation, that is enough. We don’t want the children to suffer the same....My salary is just pocket money. I’m 27 years old and my salary is just pocket money. I can’t start a family. My 400 dinars (\$560) is split between university costs and paying for the car. It’s impossible.”

This not only affects him and his brothers but puts strains on their parents who feel helpless leaving their children in such a state. Abdelrahman’s mother adds:

“None of my sons have married yet. Their financial situation makes it difficult, having a house...they want to get married—they just can’t....He wants to, it’s been two years that he wants to, and I’m just sitting, I can’t help him do anything. But how will he, how will she (his wife) live? With only 400 dinars? What about the rent? It’s expensive, life is difficult.”

with rejection from the potential wife's family because of this financial insecurity.

Rejection from Suitors

The status of statelessness is hereditary, and therefore children of stateless fathers automatically become stateless—sometimes even despite national legislation that should prevent this. For example, in Jordan, Article 3.4 of the nationality law declares that anyone with a Jordanian mother and stateless father should be deemed a Jordanian national. Yet, in practice, this rarely, if ever, happens. When a stateless person decides that he or she is ready for marriage, he or she may find himself rejected repeatedly because of his/her status. This mainly happens to stateless men who are asking for a woman's hand in marriage, regardless of her nationality status. The common reasons for rejection given by a potential spouse are that they do not want to suffer by

marrying a stateless man who cannot provide financial or legal security, and that they do not want any future children to suffer, as they will also be stateless.

Even female nationals who married foreigners or stateless persons and have children who consequently are stateless refused to let their children marry stateless men.

Generally, stateless women find it much easier to get married. They are able to rectify their stateless situation as all nationality laws in the region allow for men to pass on their nationality to their female spouses, so marrying a national solves this problem. However, there are still several problems for some stateless women in marrying, with the main issue being that of discrimination. In many of the countries with stateless populations, these communities are often ostracized and therefore not only experience discrimination from institutions but media and public opinion are also often prejudiced against them.

"I Won't Ever Marry a Foreigner"

Hala is a young stateless woman who lives in Jordan. Her mother is Jordanian and her father is Egyptian. She was unable to obtain her father's nationality as her parent's marriage was never officially registered and her father left her mother when Hala was very young. Hala's birth was therefore never registered at the Egyptian embassy and she is unable to acquire her mother's nationality. Hala suffered discrimination at school and then was unable to access higher education because of her nationality status. She tells of her unwillingness to marry a non-national:

"My cousins, my uncle's kids, asked for my hand in marriage, but I did not accept as they are Egyptian. I won't ever marry a foreigner, he has to be Jordanian. I don't want my children to suffer as I suffered, and how my siblings suffered. Do you understand me? I want them to live as children of this country, even though I don't really understand why this discrimination."

Fifteen Years after Marrying for Love, a Change in the Law Brings Basic Rights to Children

Fatima, an Egyptian journalist, married a stateless Palestinian, with whom she has five children. Although it was a long struggle to finally grant her children basic rights, she recently benefited from the decree allowing her children to obtain her nationality in 2012. She tells of the problems women used to face in marrying a non-national.

"I really suffered with my family as they never accepted my marriage. My mother was against me marrying a Palestinian. My whole family were against me marrying him. We had a neighbor who had married a Palestinian and she kept saying, 'See the suffering their kids go through. Why do you want to go through the same thing?' But I was determined. I told her you never know what may happen in the future. Things will change. She answered me, 'You think they will change the law just for you?' After all our efforts, fifteen years later, and after much suffering, they finally changed the law!"

Suitors Scared Off by Statelessness

Nour, a stateless young woman living in Kuwait, emphasizes the problems for her in getting married. Her mother is a Kuwaiti citizen while her father was a foreigner who left after her birth and never registered her in his embassy, leaving her stateless. Now in her mid-twenties, she talks of the discrimination stateless persons face:

"No one of my friends, relatives, people in Kuwait, know about my story. There is no point. They will sit and chit-chat about, gossip about it, and they will start judging me and my family."

She goes on to talk about what happens when she meets potential men for marriage and how this discrimination becomes an obstacle for her to continue her life:

"When a man comes into my house, sometimes we get on and we really like each other, but then when they find out my situation, it scares them off. They are scared to be involved with someone like this, someone stateless. Once with one man, his mother was crying and hugging me as she liked me so much but knew her son couldn't marry me after finding out about my situation."

In Kuwait, another reason, alongside discrimination, why stateless women find it difficult to marry is that Kuwaiti men obtain financial benefits³⁵ from marrying a Kuwaiti citizen, therefore often preferring that to marrying a stateless woman.

Not Having Children

Getting married is not the only struggle in starting a family. Another problem is the unwillingness of couples with a stateless father to have children. Worries over the future suffering of the children often outweigh the desire to procreate. This is again due to the hereditary nature of the statelessness/nationality status.

Choosing Not to Have Children



Gehan, a Jordanian national, married a stateless Palestinian man. Their marriage was one of love, but they have now been together for four years and they refuse to have children because of the worries of bringing a stateless child into the world. She explains how they have considered every option, including emigrating and even divorce, to resolve the limbo they find themselves in. She talks of how difficult this has been on them emotionally and how much of a strain it has been on their relationship:

"Of course it's affecting us. This problem affects me and my husband a lot because every married couple wants to have children. And it's the only thing that I cannot give my husband, and my husband cannot give me. Every woman has the motherly instinct and even if she tries she cannot suppress that. Every woman wants a baby, and if she doesn't have a baby she feels emptiness. Because she has to have a baby. And I feel bad when I see others with babies because I cannot have a baby."

Unification Problems

“If they were not given [my nationality], my children would have gone abroad and would never have returned. One day they would have had enough and would have left. That’s what I was afraid of, that they would leave and never come back to their country, which would have hurt me.”³⁶

The ability to live together in one area as a family, physically protecting family unity, is often threatened because of statelessness caused by discriminatory nationality laws. Often stateless persons are not allowed to stay in a country, are unable to acquire a residence permit anywhere and are at constant risk of deportation or of being refused re-entry to their mother’s country. This creates severe obstacles in preserving the simple right of a family to live together.

Residency Problems

Being a citizen of a country grants you the rights to enter and exit that country as you wish and to live there as long as you want. However, being stateless gives you no such right and therefore the simple ability to live in a country often becomes problematic. In both Kuwait and Jordan, stateless children and husbands of nationals often have no legal right to reside unconditionally in the territory of their mother or wife. Many stateless persons therefore live in the country illegally or have to regularly renew their residence—a process that can be costly and time-consuming—and are at increased vulnerability of having their residence application rejected. Because of this, keeping a stateless family physically together can be problematic.

In Morocco, before the reform of the law, children of national women could reside in the country up to the age of 18 on the basis of their attachment to their mother, but after that they were required to acquire an independent residence permit to be in the country.

The situation in Morocco has changed. In Jordan, how-

Mother Fears Her Children Will Leave and Never Return

Saida, a Moroccan national married to a Sudanese man, talks about the fear she used to have of her daughter growing up without the ability to obtain Moroccan nationality:

“My daughter, after the age of 18, she could no longer be residing in Morocco on my permit....She would have had to go abroad every three months, leave the territory and come back, in order to live in Morocco, or acquire a work permit. And that is not always possible. If they were not given this possibility, my children would have gone abroad and would never have returned. By forcing them to leave every three months, one day they would have had enough and would have left. That’s what I was afraid of, that they would leave and never come back to their country, that would have hurt me.”

ever, many of the people interviewed had either two- or one-year residence permits, which they had to renew at a cost for every member of the family. In Kuwait, the government has declared the Bidoon community “illegal residents” despite offering them residence cards. However, the protection offered by these residence documents is often unsubstantial and largely dependent on the discretion of the official. Because of these residence issues, there is often an increased desire to emigrate, if this is an option.³⁷

Some See Emigration As the Only Solution

When Abdelrahman, a Kuwaiti Bidoon, is asked what he thought the solution was to his statelessness situation, he answered, to the distress of his mother:

“I’m going to apply for emigration, inshallah [God willing]. It will be to a country that has freedoms. I’m seriously thinking about the option. It is the only solution. To leave.”

Re-entering the Country

Another genuine fear for many families in the non-reform countries was the inability of the stateless members to re-enter their country. Having no documentation and often no residence permit, if they had the opportunity to leave the country they often had no right to re-enter their mother's homeland.

Sometimes the inability to re-enter the country is not a temporary problem.

Stopped at the Border

Um Mohammed, a strong and outspoken Jordanian national, spoke of how she would be emotionally at peace if her children were able to get Jordanian nationality. Um is married to an Egyptian who had lived in Jordan for a long period and failed to serve his military service in Egypt. He was consequently reluctant to approach the Egyptian embassy in Jordan, for fear of prosecution, and he therefore did not register the birth of his children. As Um is also unable to pass her nationality to her children, all their children are stateless.

She talks about how once she took her five children on a boat to see Egypt, their father's country of origin. On their return to Jordan, when they were boarding the boat, the Jordanian officials stopped her children from coming aboard, telling her that only she had the right to enter Jordan.

She asked to speak to the main official, and after several hours they allowed them to continue their journey back to Jordan (on a later boat), but only after she had made a commotion and showed them proof that her children attended school in Amman.

She believes that if she did not have a strong personality they would not have let them in. She says it was a humiliating experience, and went on to say how she heard of other cases where people were turned back and not allowed to enter. Sometimes these people did not have the money to go anywhere so had to stay at the border for days until they persuaded the authorities to allow them back in.

Barred from Returning to Country of His Birth

Um Ziad, a Jordanian, sits in her house with her sister and talks about her family's situation. She tells the story of her nephew, who has a Jordanian mother and a stateless Palestinian father, who experienced the problem of re-entering Jordan despite being born there, having lived there all his life and having a Jordanian mother.

"He was a great student, really, really clever, but he couldn't go to university here or afford private universities in Jordan because he was stateless, so his father sent him to study in Gaza. He did really well and is now teaching at the university there."

"His Jordanian residency permit ran out while he was there, so he sent it to his mother to renew it. His mother went to renew it but instead it was rejected as there were questions raised as to how he had entered Gaza. They revoked his residency and refused to address his situation. He is now living in Gaza with no documentation at all. He has been stuck there for eight years not being able to return. In the end he got married and had children there, but he hasn't seen his family or mother for the past eight years as he cannot get back into the country. He can only see them through the Internet."

Some high-profile cases of families that are unable to enter the country have recently been reported by the national media. Amidst the turmoil in Syria, one such story emerged: a Jordanian woman had remained in Jordan while her husband and children were in Syria. Trying to escape the war there, they tried to enter Jordan, the home country of their mother. However, they were refused entry and were left waiting at the border for several weeks, during the winter, before they were eventually allowed in. The fact that the children had a Jordanian mother and had always lived there gave them no right to rejoin her in her country, even in an attempt to escape civil war. The story made headlines because,

out of desperation, the mother publicly attempted suicide from one of the major bridges of Amman. Culturally, suicide is a major taboo and so to attempt to commit it publicly reflects the desperation of this woman. In April 2013, a similar high-profile incident saw Omar Anzi, a stateless Bidoon with a Kuwaiti mother, unable to enter Kuwait and left stuck at the border with Saudi Arabia for days as his passport had expired. This is a common situation that Kuwait's stateless Bidoon face.

Deportation

When stateless individuals have or are accused of having links with another country, often they may be at risk of being deported despite always having lived and resided in the country of their mother. The risk of deportation mainly arises as the state refuses to offer them the right to residence in a country that denies responsibility for them.

Threat of Deportation Hangs Over Families

Azza, an Egyptian national who had seven children, managed to get nationality for her children thanks to the reform of the law. She talked about the concerns she had experienced before her children were granted nationality:

"Before nationality, the risk of deportation was the devil in our house, scaring us. It used to threaten all children of Egyptian women married to non-nationals. The only option we could look at was opening a business for them [her children] with our own money, or otherwise for them it would be deportation or detention. All of these options were really difficult. I had even thought of taking my children and leaving the country to try and find a solution elsewhere."

Fatima, a Jordanian national, married an Egyptian man in 1979 and had three girls and two boys with him. The family lived in Jordan and although her children had rights to Egyptian nationality, they often had practical difficulties in obtaining necessary documents. Her husband applied over and over again to naturalize as a Jordanian but was rejected, so none of his children could obtain Jordanian nationality. Her eldest son started to work as a conductor although he didn't have the right to work in Jordan, and could not afford the expensive work permit required of foreigners. He was therefore working illegally and was eventually caught and deported to Egypt. As his mother explains:

"There was no sympathy that he had a Jordanian mother. Every time they went near a check-point the bus driver would tell him to hide. He was constantly running from the police. And that is how our life continued....They took him from the bus, they continued to follow and follow him until finally they took him out of the bus, they took him to the security station. The bus driver came to me and said 'Um Mohammed, the government have taken Mohammed. Give me his Egyptian passport.' He didn't have an Egyptian passport as otherwise he would have to do military service there, in a country he had never been to. The driver took an out-of-date passport and told me to follow him to the station. I followed him there and asked them, 'Where is my son?' They told me my son had been transferred somewhere else, gave me his belongings and told me to leave them the documents. When he saw the passport he said, 'Oh and he is Egyptian.' Then he told me that they had fired on him—I asked him why and he responded because my son had run away from them. Is it not enough that he was tortured by them? [referring to a separate incident where he was arrested]. I said, 'OK, we can talk about that later. Where is my son?'"

Continues on next page

He told me that my son was now going to be deported. I had all of my documents on me and I said, 'But he is my son.' He responded, 'You can't protect your son, your son is like any other foreigner in this country.' I told him that is ridiculous, you are speaking to me as a Jordanian, I will not allow my son to leave my lap."

She invested much effort, through a lawyer, trying different ways to solve the problem:

"My children do not know anything about Egypt. They do not have anyone there....It is like he committed a crime. They brought him to me handcuffed and I fed him yogurt with his sisters while the policeman stood downstairs. I asked the officer, I said you are going to take my son away from me, at least undo the handcuffs. He told me that the key remained in the police station. And he had an order not to unleash his hands....The day they deported him it was like a funeral leaving my house, someone leaving his family knowing he will never see them again. And it really was his funeral for us."

After about a year, when she finally was planning to go to visit him, she got news that her son had died in a car crash. Since then she has had to receive medical care for her depression. She finishes her story in tears saying that:

"Now I have my second son left, Ahmed. And Ahmed is starting to go through exactly the same thing as his elder brother. I am Jordanian and I live with my heart in my hand worrying that the same thing that happened to his brother will happen to him."

Property and Inheritance

"When they can't even get a nationality anywhere, how do you expect them to own something? I have to own everything. It's all in my name, and in my uncle's name. So for them, their rightful things, the things that are actually for them, are in someone else's hands."³⁸

In the MENA region, property rights are often only accorded to the country's citizens and the ability of a non-citizen to own or inherit property is restricted. For the stateless, this means that they will not hold these rights anywhere. As a direct consequence of the restrictions on property rights, a stateless person will also be unable to inherit anything—a house, a car, a business—which is bequeathed to him or her by family or friends. A female national who has property registered in her name faces the dilemma of not being able to leave this to her family when she dies.

Property Rights

Restrictions on property rights for foreigners, which affect stateless people regardless of the nationality status of their mother, mean that they do not have the right to register a property in their name, and often means they cannot register a car or any other vehicle. Alongside the social and economic consequences of this situation, it also means that stateless persons must trust a family member or acquaintance who does hold citizenship to register their property under their name, putting the stateless person in a highly vulnerable position. They often become susceptible to abuse and are constantly under threat of these citizens appropriating their property, leaving the stateless person with no legal recourse. Not only does the lack of ownership rights affect them directly through the inability to develop financially but it also threatens the stability of a family by creating tensions among members.

Stateless men mostly register their property under the names of their mothers or their wives. Property registered under the wife's name can cause strains on a

marriage and leave the man in a vulnerable position. Men can become trapped in a relationship in which they have no leverage, as leaving it, or even causing animosity with the spouse, would mean that they could lose everything they had worked for.

No Right to Own

Ahmed, a stateless Palestinian man, married a Jordanian national and has three stateless daughters with her. After many years together they got divorced, and he says this meant he went from being a relatively well-off man to having nothing:

"My wife was great and respectable. But when we divorced, she became my enemy. I have an apartment and a villa. I bought an apartment and couldn't register it in my name, so I had to register it in her [my wife's] name.... Then I bought a villa to relax, and who is the person you trust most in the world to register in their name? I couldn't register in my daughter's name as she doesn't have a national ID number. There was a dispute between us [my wife and me] and she [my wife] said 'bye bye.' I had to leave everything. Everything was now hers. I had to leave in my shirt and trousers that I was wearing. "

Heba, who is one of five stateless children, has a Jordanian mother and stateless father. She talks of the daily problems her family faces, one of the biggest being the problem of ownership rights:

"My dad bought a car to go to work in. To formalize this he got a work partner, his uncle, who bought it under his name. Then my father would pay him installments. Once the installments finished the car was now my fathers. But of course there are no papers to show this, it is officially in the name of the other guy, as we are not allowed to own anything. So, this partner just took the car. Just took it. The law does not protect him [father]."

Inheritance Difficulties

Due to the inability to register anything in their names, stateless persons are also unable to inherit from their mothers or wider family members. The mothers, the children and the husbands live in constant fear that when the mother dies and they cannot inherit, all belongings could go to either the mother's extended family or the government. This can furthermore create tension within families where the children expect to inherit their mother's wealth as rightfully theirs, while the extended family in fact gains legal title and is unwilling to relinquish this.

Family Home Will Be Lost When Mother Dies

Um Khalid, a Kuwaiti citizen, married a stateless Bidoon in 1983 and now has four stateless children. She inherited her house from her father and is worried about the consequences of who will own her house after she dies:

"The government will take the house? Yes, as the kids cannot inherit. I will come back from the dead to give it to them. I will get up. My children will become homeless? I won't die! They are going to take it from my children? No way! I can't let them do that. It is their right. This is a real, a real problem."

Psychological Implications

*"All we are asking for is security and peace. We want our children, when they put their heads down on the pillow at night, to wake up the next day emotionally at rest."*³⁹

Living through a daily struggle to access the most basic of rights often leaves generations of families impoverished and frustrated, and has a major emotional effect on individuals and families. The crippling consequences of statelessness on family life and being denied the

right to have a legal link to any state had a clear psychological impact on those interviewed.

Guilt

Although some women were adamant that their husbands were the right choice of spouse, the overwhelming majority of the female nationals interviewed stated that if they had known beforehand the problems they would face, they would never have married a foreigner or stateless person. The mothers often are left with a prolonged feeling of guilt that they have caused the suffering in the lives of their children through their choice of spouse.

In Kuwait, treatment of stateless Bidoons and Kuwaiti nationals differed very little before the 1980s, as they had access to the same benefits and rights. It was not until the mid-1980s that the situation for the Bidoon community began to rapidly deteriorate and things became progressively worse. Kuwaiti women who had married Bidoon men before this shift had no indication of the consequences this would have on their children.

Regret Over Decision to Marry

Sana, a Jordanian national, is married to an Egyptian man and lives with him and their children in Jordan. Her six children (four boys and two girls) have not obtained Egyptian nationality as their father's ID has expired and he cannot renew it because he has not satisfied his military service. As a consequence, they are currently stateless.

"If I had known that there would be these problems, I would never have married my husband. Why are my children to blame for a mistake I made? I made a choice to marry someone who doesn't have the same nationality as me. Now my kids can't access education or healthcare, and my husband really suffers from this problem, emotionally it really affects him. I really regret it sometimes, but I didn't think that there would be these problems when I wanted to marry."

Change in Nationality Law Has Repercussions for Already-Married Woman and Her Children

Um Khalid, a Kuwaiti national, talks about how her marriage to her husband, a Bidoon who also has a Kuwaiti mother, has affected her:

"I was married in 1983, before the catastrophe [Iraqi invasion]. There was no difference in treatment then [between Bidoons and Kuwaitis]. I married my husband, who was a Bidoon, but I don't think I even knew he was a Bidoon then. No one spoke about it. Everything was fine until after the catastrophe. Then all the troubles started, and I started to think, what have I done? My children are suffering, my house, my family is suffering, my husband is suffering. I am suffering. All because I married a Bidoon man. I feel really guilty, and sometimes my son says to me, 'Why did you marry a Bidoon man and do this to us?' It makes me feel really bad."

Depression

Whilst the mother often feels guilty and regretful, children and extended family members often feel depressed because of their situation. A few of those interviewed explicitly mentioned their feelings of depression.

For men, the social stigma attached to depression, which in the region can often be seen as a sign of weakness and emasculation, meant that depression was rarely talked about. However, it came out implicitly through the conversations with them—the emotional burden they were feeling was often clearly visible in their faces, body language and the setting. They also spoke at length of their intense sense of hopelessness in not being able to provide for their families.



Um Chadi, a Jordanian national with five stateless children. Here, she tells the researchers of the difficulties for her children to obtain even the most basic of rights.

Divorce

*"I have heard of it happening a lot—it isn't a strange thing to hear of here. Lots of couples, they divorce to try and solve the problem. It is the only thing they feel in control of doing."*⁴⁰

Alongside the extreme difficulties in establishing and sustaining a healthy developing family, statelessness also has led to the breaking apart of families by contributing to couples' decision to divorce. This is not only a consequence of the severe social, economic and psychological strains on the family, but can also be encouraged by discriminatory legislation. In other words, it may also be a conscious decision by couples to improve their situation.

Depression Is Widespread

A Kuwaiti mother talks about her daughter, who had to wait two years at home, with nothing to do, before a recent change of law allowed her to enter university.

"She spent the two years waiting crying. Every day, she did nothing but cry. I swear to God she did nothing but cry. She wanted to continue her studies, and she wasn't even allowed to work. I used to say, What can I do? Where can I take you?"

Her second daughter, Esra, explains:

"The situation kills your dreams. It kills hopes. Of course, emotionally, you are not going to be comfortable"

Um Chadi, a Jordanian national, also spoke of the depression that she feels is ruining her children's lives:

"I swear, my biggest fear is that my son will have a nervous breakdown. I'm so worried that he will break down. I call him when he's late, I call him on his phone and ask him where he is. I call him just to check if he'll answer or not....If he gets fired from his company now, I know he will give up. He will commit suicide."

Is Divorce the Only Way to Improve Children's Lives?

Abier, a Kuwaiti national who had four stateless children and was married to a stateless Bidoon, spoke about how she felt the need for years to divorce. She believed it was a sacrifice she could and should make to improve the quality of her children's lives:

"I begged my husband to divorce me; it was the only way to solve the children's problem. He told me, 'Dear, after all these years you want us to separate, I can't do it.' Even my son kept on asking me to get a divorce."

Even After Divorce, Children Wait Years to Gain Nationality

Um Mariam, a Kuwaiti national, divorced her stateless husband in 2001 (for reasons unrelated to his statelessness) and subsequently applied for her children to be given her Kuwaiti nationality. She talks of the problems she has experienced in the implementation of this law:

"I have applied for my children to get the nationality. I am separated from my husband since 2001. But until now they still haven't got the nationality....We just haven't heard anything from them, and they didn't give me any reasons why. What can I do with my children? This is from 2001 we are waiting."

In Kuwait, the law allows for children of Kuwaiti mothers to apply for citizenship if the foreign father has irrevocably divorced the mother or has died.⁴¹ In theory, this suggests that it is only once the father is no longer involved in the family that the mother may have the right to apply for citizenship for her children who have resided in her homeland. However, in practice what this criterion actually does is encourage couples who are desperate to resolve their situation to divorce in order

to solve the nationality problem of their children. Requiring an "irrevocable" divorce is an added obstacle to family harmony as this means that the couple can never remarry—the divorce must be final. Even when divorce does not occur, the idea that separation can provide a potential solution to their legal status can put strains on a relationship. Some parents interviewed even told of the pressure put on them by their children to get a divorce.

More worryingly, once a divorce has been granted, there is no guarantee that nationality will be granted to children, as it is not automatic. It only enables an application, which is then at the discretion of the Minister of the Interior.

Recommendations

To Countries in the MENA Region That Maintain Gender Discrimination in Their Nationality Laws, Including Jordan and Kuwait

Governments

- In consultation with UN bodies and national civil society organizations, ensure that their legislation is in accordance with their national and international obligations and is implemented in practice without discrimination. These governments should:
- take immediate steps to remedy situations where gender discrimination in the nationality law is creating or perpetuating statelessness by amending their nationality laws to allow women equal rights as men to pass on their nationality to their children and non-national spouses with retroactive effect;
- provide access to basic rights for those affected by gender discrimination in nationality laws, in particular access to education, health, care, employment, identity and travel documents;

- if they have not yet done so, withdraw reservations to Article 9 of CEDAW;
- accede to the 1954 and 1961 International Conventions on Statelessness, if not parties already.

Civil Society

- Advocate for nationality reform, not just as a women's rights issue, but also as an issue affecting children's rights and the right to preservation of family unity.
- Strengthen and expand collaboration with organizations working on nationality issues both nationally and regionally.
- Find new ways to involve affected families, in particular women who hold nationality, in advocating for reform of the nationality law.
- Continue to raise the issue in relevant international forums, including before the CEDAW, Committee on the Rights of the Child (CRC), the Human Rights Committee (HRC), the Committee on Economic Social and Cultural Rights (CESCR) and the Universal Periodic Review process (UPR).
- Advocate for allowing judicial review of nationality cases, given that lack of due process in nationality cases is one of the major obstacles to solving the problem and provide legal assistance with nationality claims where judicial review is or becomes available.
- Litigate violations of rights, such as the inability to access public schools, through the judiciary.
- Continue to raise public awareness, including by expanded use of traditional and social media.
- Conduct and support further studies, including through collaboration with academia, to understand the broader issues involved—for example psychosocial or economic impacts of discriminatory nationality laws and statelessness.

UNHCR

- Work with the governments in the region to provide legal and technical advice and training on reform of their nationality laws, including providing positive examples from other countries in the region and highlighting the positive impacts nationality reform will have on their societies.
- In collaboration with NGOs, provide information and legal advice to individuals affected by gender discrimination and statelessness and help them to access their rights through legal assistance including, where possible, seeking judicial reviews of their cases.
- In collaboration with NGOs and other partners, support families affected by gender discrimination and statelessness to access their rights to education, employment, health care, identity and travel documents through advocacy and interventions with national and local government authorities.
- Encourage governments to accede to the 1954 and 1961 International Statelessness Conventions, if they have not already done so.

UNICEF

- Work proactively with governments to ensure that all children enjoy the right to a nationality and that no children are left stateless through advocating for the incorporation and implementation of legal safeguards against statelessness at birth.
- Work with national and local authorities to ensure that all children, regardless of their nationality status, have access to basic rights, including education and health care.

UN Women and UNDP

- Conduct further research and collect additional documentation on gender discrimination in nationality laws, including its impact on women and their families.
- Advocate with governments to remove gender discrimination from nationality legislation.

All UN Agencies with Relevant Mandates

- Work together to address gender discrimination in nationality legislation as a serious human rights violation through international, national and regional human rights mechanisms.
- Encourage and support national NGOs to bring this issue to the attention of international, national and regional human rights mechanisms, including national human rights commissions, CEDAW, the CRC, the HRC, the CESCR and the UPR process.

Countries in the MENA Region That Have Reformed Their Nationality Laws to Introduce Greater Gender Equality, Including Morocco and Egypt

Governments

- In consultation with UN bodies and national civil society organizations, ensure that reformed laws are implemented in practice without discrimination and respect their national and international obligations. These governments should:
 - ensure wider dissemination of information about the reform of the law, especially to rural areas;
 - take measures to inform and train staff within all relevant authorities on the reform of the law, including its operation in difficult cases—such as with regard to children born out of wedlock;

- ensure that local officials apply the law fairly and without discrimination based on the nationality or legal status of foreign male spouses;
- ensure that the procedure for applying for nationality retroactively is accessible, simple and effective;
- if they have not yet done so, withdraw reservation to Article 9 of CEDAW;
- undertake a broader review of the nationality law with a view to removing any remaining elements of gender discrimination (in particular, women's right to pass nationality to their non-national spouse) and incorporating safeguards against statelessness;
- set a positive example in the region by ratifying and acceding to the 1954 and 1961 International Conventions on Statelessness;
- encourage neighboring countries to reform their nationality laws by providing information, advice and positive examples of the impacts of nationality reform to other countries in the region that have yet to amend their laws.

Civil Society

- Undertake information, dissemination, awareness raising and publicity campaigns on the new laws.
- Monitor the implementation of the new laws by the administrative authorities and the courts, including reporting on problems to relevant government actors, UNHCR and other UN bodies.
- Offer information and, as relevant, legal assistance to individuals who are trying to navigate nationality procedures.
- Disseminate experiences from the successful advocacy campaigns to reform the law to civil society actors in other countries that have yet to reform their laws, including by participating in and sup-

porting relevant research initiatives.

UNHCR

- Undertake information, awareness raising and publicity campaigns on the new laws using innovative dissemination methods, including traditional and social media.
- Provide training and technical assistance for national and local officials on the content and implementation of the amended laws.
- In collaboration with national NGOs, provide technical expertise to ensure the smooth monitoring of implementation of the new laws.
- Provide legal advice, assistance and information to individuals encountering problems in accessing

their rights under the new legislation.

- Encourage governments that have enacted legislative reform to share information and experiences with countries that have not yet amended their laws.
- Encourage governments that have enacted reforms to take a leadership role in the region by ratifying the 1954 and 1961 International Statelessness Conventions.

UNICEF

- Strengthen birth registration efforts, to ensure that vulnerable groups (such as children born out of wedlock) have access to documentation and are able to prove their entitlement to the mother's nationality.



Zakia, a Moroccan national whose three children have benefited from the reform in nationality law.

UN Women and UNDP

- Undertake information, awareness raising and publicity campaigns on the new laws using innovative dissemination methods, including traditional and social media.
- Monitor the implementation of the new laws by the administrative authorities and the courts, including reporting on problems to relevant government actors and other UN bodies.
- Support legal assistance projects aimed at helping individuals encountering problems to access their rights under the new legislation.
- Encourage governments that have enacted legislative reform to share information and experiences with governments in the region that have not yet amended their laws.

As part of this project, short video clips were made of some of the families and their stories.

“Our Mother’s Country, Our Country”

- <http://womensrefugeecommission.org/our-mothers-country-our-country-video>
- <http://womensrefugeecommission.org/our-mothers-country-our-country-arabic>

“No Nationality, No Future”

- <http://womensrefugeecommission.org/no-nationality-no-future-video>
- <http://womensrefugeecommission.org/no-nationality-no-future-arabic>

Notes

1 UN High Commissioner for Refugees, *Revised Background Note on Gender Equality, Nationality Laws and Statelessness*, March 8, 2013, available at: <http://www.refworld.org/docid/4f59bdd92.html> [accessed May 2, 2013].

2 During the past decade the region has also witnessed some significant advances, with legislative amendments enacted to remove gender discrimination in nationality laws since 2004. These countries are: Egypt (2004), Algeria (2005), Iraq (2006), Morocco (2007), Tunisia (2010) and Yemen (2010). Please note that the legislative reform passed in Yemen had not, at the time of writing, been published in the official state gazette; it is therefore unclear whether the amendments have entered into force or there are likely to be difficulties with regard to the practice on the ground.

3 UN High Commissioner for Refugees, UNHCR and CRTD. *A Regional Dialogue on Gender Equality, Nationality and Statelessness: Overview and Key Findings*, January 2012, available at: <http://www.unhcr.org/refworld/docid/4f267ec72.html>.

4 Equality Now, *Campaign to End Sex Discrimination in Nationality and Citizenship Laws*, 2013, available at <http://www.equalitynow.org/sites/default/files/NationalityReport.pdf>.

5 UN Office of the High Commissioner for Human Rights, *Report on discrimination against women on nationality related matters, including the impact on children*, A/HRC/23/2, 2013 available at: <http://www.refworld.org/docid/4ee9ec902.html>.

6 Interview with a Kuwaiti woman married to a stateless man, who is unable to confer her nationality to her stateless children, and was bewildered by why such discrimination existed.

7 This Article states that 2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

8 In the MENA region, only Morocco and Tunisia have withdrawn their reservations to Article 9 of this convention.

9 UNHCR, *Background note on gender equality, nationality laws and statelessness*, March 8, 2012, available at: <http://www.unhcr.org/refworld/pdfid/4f59bdd92.pdf>. The countries with significant problems with regards to gender discrimination in their nationality law in MENA are: Bahrain, Jordan, Kuwait, Lebanon, Libya, Mauritania, Oman, Qatar, Saudi Arabia, Syria and UAE.. Also to view which countries continue to have gender discrimination in their nationality laws see Equality Now, *Campaign to End Sex Discrimination in Nationality and Citizenship Laws*, 2013, available at <http://www.equalitynow.org/sites/default/files/NationalityReport.pdf>.

10 For a comparative study of the extent of gender discrimination in nationality laws globally, see Equality Now, *Campaign to End Sex Discrimination in Nationality and Citizenship Laws*, 2013, available at <http://www.equalitynow.org/sites/default/files/NationalityReport.pdf>.

11 UNHCR, *Background note on gender equality, nationality laws and statelessness*, March 8, 2012, available at: <http://www.unhcr.org/refworld/pdfid/4f59bdd92.pdf>.

12 Jordanian lawyers have reported that this provision is not implemented successfully.

13 Statistics of Ministry of Interior Statistics, 2009, stated in the 5th Annual Report 2009, National Centre of Human Rights, p. 33, paragraph 43.

14 See for a further discussion of statistics regarding mixed-nationality marriages in Jordan, Arab Women Organisation, *Field Study: Economic, Social, Political and Psychological Implications on Jordanian women married to Non-Jordanians and their Families*, June 2010, available at: <http://www.el-karama.org/sites/default/files/Citizenship%20Report%20-%20EN.pdf>.

15 There have been limited developments since, such as discussion in July 2010 when the Interior Ministry submitted an amendment to the National Assembly that would allow Kuwaiti females married to non-Kuwaiti males to sponsor their husbands and children to acquire Kuwaiti nationality after they had been married for a minimum of 10 years. However, no action was taken on this bill.

16 These individuals were excluded from the original identification of citizens and despite their ancestral ties with or long-time residency in the country, they have been denied Kuwaiti citizenship. After being unable to register as nationals they became labelled as illegal residents as the state sought to rid itself of all responsibility of providing them with social, political or civil rights. The Kuwaiti authorities have accused the Bidoon community of being foreigners and of hiding their nationalities of origin, but have made no attempt to substantiate this claim.

17 For more information on the Bidoon in Kuwait, see Human Rights Watch, *Prisoners of the Past. Kuwaiti Bidun and the Burden of Statelessness*, June 2011, which can be accessed at <http://www.hrw.org/sites/default/files/reports/kuwait0611WebInside.pdf> and Open Society and Refugees International *Without Citizenship; statelessness, discrimination and repression in Kuwait*, 2011 which can be accessed http://www.refugeesinternational.org/sites/default/files/120511_Kuwait_With_Citizenship_0.pdf/.

18 NGOs fighting for this amendment say that a quarter of a million households, encompassing an approximate one million children, were of Egyptian mothers. Interview with the founder of "Towards the removal of the Nationality Law," a campaign set up in July 2002.

19 Women's Learning Partnership, *Gender and Citizenship Programme: Major Developments in 2006* (December 21, 2006), <http://www.learningpartnership.org/lib/gender-citizenship-programme-major-developments-2006>.

20 In respect of the Casablanca protocol of 1965. See Gianluca P. Parolin, *New policy on Egyptian citizenship for children of Palestinian fathers*, European Union Democracy Observatory on Citizen-

ship, <http://eudo-citizenship.eu/citizenship-news/530-new-policy-on-egyptian-citizenship-for-children-of-palestinian-fathers>.

21 Women's Learning Partnership, *Post-Revolution, Egypt Establishes Right of Women Married to Palestinians to Pass Nationality to Children* (May 13, 2011), <http://www.learningpartnership.org/lib/post-revolution-egypt-establishes-right-women-married-palestinians-pass-nationality-children-1>.

22 Decree, number 1231, issued on May 2, 2011.

23 This was made even more problematic as this office was based in Tahrir Square, Cairo, and so during the revolution and aftermath chaos it was particularly difficult to access.

24 For more details on the implementation of this law see Mackay, C, *Strategies for Change: Exploring the Impact of the 2004 Nationality Law Reform Campaign on Gender Equality in Egypt*, AUC, available at <http://dar.aucegypt.edu/bitstream/handle/10526/3087/C.MacKay%20Thesis%20Final%20Draft.pdf?sequence=3>.

25 An interview with Huda, a stateless woman with a Jordanian mother. To protect individuals' identities, some of the names used in this report have been changed.

26 Al-Ghanim, K, "The Hierarchy of Authority Based on Kinship, Age, and Gender in the Extended Family in the Arab Gulf States," *International Journal of the Jurisprudence of the Family*, Vol. 3, 2013/.

27 Article 9 of the Code de la Nationalité Algérienne.

28 Some examples can be found in for example; Human Rights Committee, Concluding Observations: Jordan, A/49/40 vol. 1, Geneva; 1994, paragraph 232; Turkey, A/52/38/Rev.1 part 1 New York and the UN Human Rights Commission, Resolution on Human Rights and Arbitrary Deprivation of Nationality, 1998/48, April 17, 1998.

29 G. Parolin, *Citizenship in the Arab World. Kin, Religion and Nation State*, Amsterdam University Press, 2009.

30 A recent example of this is the UN Office of the High Commissioner for Human Rights, *Report on discrimination against women on nationality related matters, including the impact on children*, A/HRC/23/2, 2013 available at: <http://www.refworld.org/docid/4ee9ec902.html>.

31 A good example of this is the UNDP report of 2005: Bibars, I, *Gender and Citizenship in the Arab World. To be or not to be: Arab Women's Legal Existence and Their Compromised Citizenship*, 2005, UNDP, available at <http://www.adew.org/ar/documentations/ResearchesPDF/7.pdf>, that looks in detail into this issue.

32 Nicholas S. Hopkins (ed.), "The New Arab Family." *Cairo Papers in Social Science*. Vol. 24, No. 1/2001.

33 Nour, a stateless young woman in Kuwait, who talks of the difficulties she has faced in getting married as she has no documents.

34 Following the protests of the Bidoon in 2011 demanding rights and access to nationality, the government established the Central Agency for Illegal Residents that looked specifically into their problem, and published a decree allowing a proportion of the community access to certain rights.

35 As a rentier state, upon marriage the Kuwaiti state offers a financial gift to the newly-wed couple to facilitate the establishment of the family.

36 Saida, a Moroccan national, talking about the benefits of having the right to transfer her nationality to her children.

37 Some of the Bidoon possess an "Article 17" passport that allows them restricted access to travel abroad

38 Kuwaiti national whose stateless children are unable to own anything.

39 A Kuwaiti national, Um Ahmed, in a focus group in Sulibiya, one of the areas in Kuwait where the majority of Bidoons reside. She talks about the emotional stress statelessness has on her children.

40 Kuwaiti national whose husband and children are stateless.

41 Article 5.2 of the Kuwaiti nationality law.



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