

**Statelessness in the GCC:
Gender Discrimination beyond Nationality Law**

By Betsy L. Fisher

Statelessness Working Paper Series

No. 2015/01

The Institute on Statelessness and Inclusion Statelessness Working Paper Series is an online, open access resource, which offers an avenue for centralising and sharing the latest knowledge, developments, and research findings on statelessness from multiple fields (including, but not limited to law, sociology, history, economics and health). It aims to inform a more effective response to the issue globally by facilitating the flow of knowledge and information between actors engaged with the issue across different contexts, countries and disciplines.

Submissions can be made at any time but papers will, in principle, be reviewed in three cycles each year (January, May and September). Contributions are welcomed from both scholars and practitioners, at any stage of their career. Research papers may present the findings of studies relating to statelessness in any discipline and may offer a discussion of theoretical/conceptual issues or an analysis of on-the-ground realities. Policy papers may report and comment on developments in the area of statelessness-related law, policy or programming.

For more details, visit <http://www.institutesi.org/forum/workingpapers.php>.
Submissions and questions should be addressed to papers@institutesi.org.

Statelessness Working Paper Series No. 2015/01
December 2015

The Statelessness Working Paper Series is fully Open Access and published digitally on the website of the Institute. All papers have been reviewed by an editorial team, but the opinions expressed in the papers are solely those of the authors.

**Statelessness in the Gulf Cooperation Council (GCC):
Gender Discrimination beyond Nationality Law**

Betsy L. Fisher

*Statelessness Working Paper Series No. 2015/01
Institute on Statelessness and Inclusion
December 2015*

Author biography

Betsy L. Fisher is a U.S.-trained attorney with the International Refugee Assistance Project (IRAP). This paper reflects solely her own views. She received her J.D., *magna cum laude*, and M.A. in Middle Eastern and North African Studies from the University of Michigan and her B.A., *magna cum laude*, from Denison University.

Author email

betsy.l.fisher@gmail.com

Keywords

causes of statelessness – gender discrimination – birth status discrimination – civil registration – paternity – marital status – Gulf Cooperation Council (GCC)

Abstract

Looking at the six states of the Gulf Cooperation Council, this article discusses three ways in which discrimination in the basis of gender and birth status can create statelessness—beyond nationality law. First, preventing civil registration on the basis of birth status creates a strong risk of statelessness for non-marital children. Second, discrimination against women and non-marital children also limits avenues to verify the paternity of non-marital children. Finally, governmental restrictions that prevent citizens from marrying foreigners can lead to statelessness because children born to forbidden unions may be treated as non-marital children.

1. Introduction

Since the 1990s, UNHCR¹, academic articles, and NGO publications have worked to identify causes of statelessness including state succession, arbitrary deprivation of nationality, inadequate civil registration systems and gender discrimination in nationality law.² This article contributes to that discussion by explaining in greater detail how gender discrimination in civil status and civil registration law, not just nationality law, can generate statelessness. Gender discrimination in civil registration law impedes women's ability to register their children's births, particularly when children are born outside of wedlock. Discrimination against women and non-marital children also limits avenues to verify the paternity of non-marital children.³ Further, governmental restrictions that prevent citizens from marrying foreigners can lead to statelessness because children born to forbidden unions may be treated as non-marital children and create a risk of statelessness. Children born in the Middle East to unmarried parents or to parents with unrecognized unions are at an increased risk of statelessness.⁴ This article explores how children can become stateless as a result of gender and birth status discrimination beyond nationality law. It focuses on one region where *de jure* discrimination on the basis of gender and birth status is prominent, namely the six countries of Gulf Cooperation Council (GCC): Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates (UAE).

UNHCR and its global partners have embarked on an ambitious and praiseworthy plan to end statelessness by 2024.⁵ Action 3 of UNHCR's plan aims to "[r]emove gender discrimination from nationality laws," while Action 7 aims to "[e]nsure birth registration for the prevention of statelessness."⁶ This article demonstrates that gender discrimination is a problem in at least some countries in the world in civil registration and civil status law; ensuring universal registration will require the international community to address gender discrimination in a variety of legal sources beyond nationality law. In sum, this article hopes to promote UNHCR's goal of ending statelessness by 2024 by explaining more deeply the causes of statelessness.

2. Statelessness in GCC States

Citizenship is the legal bond between an individual and the state.⁷ Due to extravagant oil wealth throughout GCC countries, citizens receive generous social benefits. As a result, citizens are likely to oppose expanding the nation's citizenry since doing so dilutes resources amongst a greater pool of beneficiaries. The six GCC states have long hosted populations of stateless persons who are generally

¹ United Nations High Commissioner for Refugees.

² See, e.g., UNHCR, GLOBAL ACTION PLAN TO END STATELESSNESS, (2014), 1, <http://www.unhcr.org/54621bf49.html> (aiming to end statelessness caused by gender discrimination, discriminatory denationalization, state succession, migration, lack of birth registration, etc.) ; A Edwards and L van Waas, (eds.), *Nationality and Statelessness under International Law*, (2014) (including chapters that address statelessness caused by gender discrimination, discriminatory denationalization, state succession, and migration); WOMEN'S REFUGEE COMMISSION, OUR MOTHERLAND, OUR COUNTRY: GENDER DISCRIMINATION AND STATELESSNESS IN THE MIDDLE EAST AND NORTH AFRICA (June 2013), <http://www.refworld.org/docid/51c02a084.html> (discussing gender discrimination in nationality law as a major cause of statelessness in the Middle East); Z Albarazi and L van Waas, 'Towards the Abolition of Gender Discrimination in Nationality Laws', (2014) 46 FMR (advocating for reform of discriminatory nationality laws as a tool to reduce new causes of statelessness).

³ I use the term "non-marital children" to refer to children whose parents were not married at the children's birth rather than the pejorative term "illegitimate children."

⁴ Betsy Fisher, *Why Non-Marital Children in the MENA Region Face a Risk of Statelessness*, (2015) Harvard Hum. Rights J. Online, http://harvardhrj.com/wp-content/uploads/2015/01/Fisher_HRJ_01-05-15.pdf Discrimination on the basis of birth status refers to discrimination against children who are born out of wedlock.

⁵ UNHCR, GLOBAL ACTION PLAN TO END STATELESSNESS, (2014), <http://www.unhcr.org/54621bf49.html>

⁶ *Ibid.* at 1.

⁷ *European Convention on Nationality*, art. 2(a), Nov. 6, 1997, E.T.S. No. 166 ("'nationality' means the legal bond between a person and a State...")

excluded from those social benefits. Data on numbers of stateless persons in the region are elusive.⁸ UNHCR estimates that Kuwait hosts 93,000 stateless persons, Saudi 70,000, and Qatar 1,200, but it does not provide estimates on the number of stateless persons in Bahrain, Oman, or the UAE.⁹ Most stateless in the region are *Bidoon*, short for *Bidoon jinsiya*, which means ‘without nationality.’ Most of these individuals are descendants of people who lived in the Gulf long before its independence, but who failed to register in post-independence censuses as citizens.¹⁰ Other stateless individuals in the Gulf are Palestinians who migrated to Gulf States after the founding of the State of Israel.¹¹ Saudi Arabia hosts a large population of Rohingya, a Muslim stateless group from Myanmar who could not or did not return home after *hajj*, the religious pilgrimage in Saudi Arabia.¹² Particularly in Kuwait and Bahrain, states have stripped nationality from nationals due to their political dissent.¹³ Finally, individuals may find themselves stateless due to so-called ‘technical causes,’ or gaps in nationality law, in particular because of gender-discriminatory nationality laws which do not allow women to convey nationality to their children.¹⁴

This article focuses on how law in GCC states renders individuals stateless through so-called ‘technical causes’ created by gender discrimination beyond nationality law. Gender discrimination in nationality law is a primary cause of statelessness, but gender discrimination outside the scope of nationality law and discrimination on the basis of birth can also result in statelessness. Here, I explore how gender-discriminatory civil registration laws, inadequate means to verify paternity, and restrictions on marriages to foreigners, can also generate new cases of statelessness.

2.1. Gender-discriminatory civil registration laws

The Convention on the Rights of the Child (CRC)—the most widely ratified international human rights treaty—requires that “each child shall be registered immediately after birth and shall have the right from birth to a name [and] the right to acquire a nationality.”¹⁵ All GCC states have ratified the CRC. Birth registration verifies that a child is entitled to nationality through birth in a country’s territory (if nationality is conveyed through birth in territory) or the child’s parentage (if nationality is conveyed through the parents).¹⁶ When a child’s birth is not documented, the child’s nationality may not be recognized by his/her state of nationality due to lack of proof. If the child does not have another

⁸ INSTITUTE ON STATELESSNESS AND INCLUSION, THE WORLD’S STATELESS 105 (Dec. 2014), <http://www.institutesi.org/worldsstateless.pdf> (noting “substantial under-reporting on statelessness in UNHCR’s statistics with respect to MENA”).

⁹ UNHCR, STATISTICAL YEARBOOK (2012) 70-73, <http://www.unhcr.org/52a723f89.html>

¹⁰ L VAN WAAS, THE SITUATION OF STATELESS PERSONS IN THE MIDDLE EAST AND NORTH AFRICA, 2-3 (Oct. 2010), <http://www.refworld.org/pdfid/4cea28072.pdf>; E Dickinson, *Kuwait’s Bidoon may Still be in Limbo*, THE NATIONAL, (April 1, 2013), <http://www.thenational.ae/news/world/middle-east/kuwaits-bidoon-may-still-be-in-limbo>

¹¹ PALESTINIAN CENTRAL BUREAU OF STATISTICS, PALESTINIANS AT THE END OF YEAR 2003 (Dec. 2003); BADIL, 2005 HANDBOOK (2005), http://www.badil.org/phocadownload/Badil_docs/publications/handbook/ch1.pdf

¹² L Van Waas, The situation of Stateless Persons in the Middle East and North Africa, *supra* note 7, at 2-3.

¹³ BAHRAIN CENTER FOR HUMAN RIGHTS, STATELESS IN BAHRAIN (Sept. 24, 2014); The Economist, *Human Rights in the Gulf: The New Unpeople: Statelessness as Punishment against Political Dissent in the Gulf*, Nov. 15, 2014, <http://www.economist.com/news/middle-east-and-africa/21632640-statelessness-punishment-against-political-dissent-gulf-new-unpeople>

¹⁴ I would like to note that the label ‘technical causes’ should not obscure that many of these causes are also discrimination forbidden by international law. Some individuals are rendered stateless through truly technical causes. A child could be born in a country with *jus sanguinis* nationality to parents who are nationals of a country with a *jus soli* system. The child would then be ineligible for nationality from either the place of birth or her parents’ country of nationality. However, when a child is rendered stateless because she cannot receive her mother’s nationality, for example, this is not simply an unlucky ‘technicality’ resulting in a violation of the child’s right to a nationality. The mother’s basic right to non-discrimination on the basis of gender has been violated also. Thus, where statelessness is created by a gap in law relating to discrimination on the basis of gender or birth status, we should not hesitate to name it as a violation of international human rights as well as a ‘technical’ cause of statelessness.

¹⁵ *Convention on the Rights of the Child*, art. 7, Nov. 20, 1989, 1577 U.N.T.S. 3.

¹⁶ L VAN WAAS, NATIONALITY MATTERS (2008).

nationality, he/she is at a severe risk of statelessness.¹⁷ Gender discrimination in civil registration law occurs when mothers have less opportunity than fathers to register the births of their children. Like all gender discrimination, gender discrimination in civil registration law is forbidden by numerous international legal instruments. While gender discrimination in nationality law and the importance of civil registration law are both frequently discussed in literature on the causes of statelessness, gender discrimination in civil registration law is not.¹⁸

Many legal and societal factors may dissuade a mother from registering her child's birth. Even where nationality law technically allows a woman to convey nationality to her children, this right may be rendered completely theoretical if the mother cannot register the births of her children and thereby give the child proof of her nationality.¹⁹ Every GCC country's civil status provides a list of individuals responsible for documenting the child's birth, with legal responsibility falling to each individual in the order they are listed (meaning that the second person on the list faces personal liability for failure to register only if the first person on the list is unavailable to do so, and so on). Each country's law prioritizes male relatives over female relatives. Only Saudi law explicitly allows a mother to register the birth of her child; the other states do not clearly state that a mother could register the birth of her child.²⁰ Under Kuwaiti civil registration law, there is no way for a woman to register the birth of her child.²¹ In Bahrain, Oman, Qatar, and the Emirates, preference is given to registration by the father, but it is unclear whether mothers can register or not.²²

At least some GCC states also prevent parents from registering non-marital children. While Kuwait and Oman's policies are unclear, any form of birth registration in Bahrain, Qatar, and Saudi Arabia requires the parents to show documentation of their marriage.²³ It appears that non-marital children can only be registered, then, as foundlings or orphans. This means that non-marital children will have their births registered and will receive nationality, but only because they are treated as if they were abandoned. When non-Emirati women have children out of wedlock in the Emirates, "only the courts can issue a birth certificate, and...they normally do so after a conviction [for adultery]."²⁴ Clearly, each GCC country has a policy favouring birth registration from the father, precluding a mother from registering the child's birth where the father is available to do so. Most, if not all, place significant obstacles on registering non-marital children. When women are deprived of the ability to register their children, and when non-marital children cannot be registered, this violates international norms forbidding discrimination on the basis of gender and birth status. But this discrimination also increases the likelihood that children will go undocumented, become stateless later in life, and be unable to access basic human rights without proof of their identity. In order to ensure that all children are registered at birth, as Action 7 of UNHCR's Global Plan aims to do, the international community must address gender discrimination in civil registration law as well as nationality law, and also address discrimination on the basis of birth status.

¹⁷ L Van Waas, *Nationality Matters*, *supra* note 13, at 153.

¹⁸ B Fisher, 'Why Non-Marital Children in the MENA Region Face a Risk of Statelessness', (2015) HARVARD HUM. RIGHTS J. ONLINE, http://harvardhrj.com/wp-content/uploads/2015/01/Fisher_HRJ_01-05-15.pdf

¹⁹ L Van Waas, *Nationality Matters*, *supra* note 13, at 153.

²⁰ Saudi Civil Registration Act of 2001, art. 29.

²¹ Kuwaiti Law No. 36 of 1969 concerning the System of Registering Births and Deaths.

²² Bahraini Law No. 6 of 1970, Organizing Birth and Death Registration (last amended by Law. No. 17 of 1998), art. 1; Omani Civil Status Law, art. 16, http://www.civilstatus.gov.om/english/law_03.asp; Qatari Law No. 5 of 1982 on the Organization of Birth and Death Registration, art. 3, http://www.sjc.gov.qa/lawlib/criminal_law/criminal/laws/5-1982/1.htm; Emirati Federal Law Number 18 for 2009 in Organizing Birth and Death Registration, art. 5.

²³ Bahraini Law No. 6 of 1970, art. 1 (outlining that, in cases of unestablished paternity, a child treated in the same manner as a foundling, the child of unknown parents); QATARI GOVERNMENT, ISSUING THE BIRTH CERTIFICATE [AR], <http://tinyurl.com/mf6e4gy> (requiring a marriage certificate to register a child); SAUDI MINISTERIAL AGENCY OF CIVIL AFFAIRS, SERVICES, <http://tinyurl.com/oaxdnrd> (similar).

²⁴ W Issa, *Children Jailed with their Mothers in UAE Visa Amnesty*, THE NATIONAL, (March 31, 2013) <http://www.thenational.ae/news/uae-news/children-jailed-with-their-mothers-in-uae-visa-amnesty>

2.2. Inadequate means to establish paternity

Another cause of statelessness that has not been previously discussed in the literature on statelessness is the absence of adequate means to document paternity. Put simply, if a child is entitled to receive her father's nationality, but there is no legal process to confirm the child's relationship to the father, the child will not benefit from her father's nationality. Gulf countries are generally reluctant to use DNA testing in paternity because, throughout the region, traditional interpretations of *sharia'* remain influential. Interpretations of *sharia'* are extremely detailed when addressing family law and propose traditional ways of establishing paternity.²⁵ Every GCC state except Saudi Arabia has codified a family law (usually called a personal status law), Bahrain has a codified family law for the Sunni population in 2009, leaving the Shia' population without a codified family law.²⁶ Each of these codes draws upon *sharia'*. Under traditional interpretations of Islamic law, "paternity has always been connected with licit sexual relationship . . . [C]hildren born within wedlock are automatically attached to the bona fide husband who also becomes the bona fide father."²⁷ More than a question of biology, paternity is a matter of a legal relationship (marriage) between the child's mother and father.

When a child is unable to prove paternity in a country that conveys nationality exclusively or primarily through the father, the child is at severe risk of statelessness. This risk can arise when the parents are married but the father disclaims paternity; when the parents are married but the marriage is not recognized by the state; when the father wants to verify paternity but cannot because the couple is not married; or when the parents are not married and the mother or the child want to verify paternity but do not have a way to force the father to acknowledge paternity.²⁸ While each of the five GCC codified family laws provides some way for a husband to disclaim paternity for his wife's child, no GCC family law explains how a non-marital child can force its father to acknowledge paternity. Bahrain's Sunni family code presumes paternity for the husband of the child's mother. A husband can disclaim paternity of his wife's child, but only when DNA evidence confirms that the husband is not the father.²⁹ This DNA prerequisite ensures that a biological father cannot disown a child through mistake or fraud and thereby leave the child potentially stateless. It appears that, since 2008, paternity can be established in a family court by the use of DNA.³⁰ Whether a mother or child can use this means to force the father to acknowledge paternity, though, is unclear. Furthermore, Kuwait, Oman, Qatari, and Emirati laws all provide that a mother's husband is automatically established as the father, but the husband is given an opportunity to deny paternity by swearing an oath that he is not the father.³¹ In Kuwait, paternity is also automatically established for children born to couples who attempt to marry but whose marriage is defective because of some procedural inadequacy.³² However, none of these states' family laws establishes a way to force a man to acknowledge paternity, whether with DNA testing or otherwise.

²⁵ A. Shabana, 'Negation of Paternity in Islamic Law between Li'an and DNA Fingerprinting', (2013) 20 ISLAMIC L. & Soc'y 157, 158

²⁶ L Welchman, 'Bahrain, Qatar, UAE: First time Family Law Codifications in Three Gulf States' (2010), in INTERNATIONAL SURVEY OF FAMILY LAW 163; K AL-AZZAWI, *SOCIAL AND GENDER INEQUALITY IN OMAN: THE POWER OF RELIGIOUS AND POLITICAL TRADITION* (2013).

²⁷ Shabana, *supra* note 21, at 158-59.

²⁸ See R Torr, *DNA Test to Decide Boy's Future*, GULF DAILY NEWS, (Aug. 17, 2008), <http://www.gulf-daily-news.com/NewsDetails.aspx?storyid=226531> (discussing a case in Bahrain in which the parents had not registered their marriage and DNA testing was necessary to verify the child's paternity).

²⁹ Welchman, *supra* note 22, at 12-13.

³⁰ Torr, *supra* note 24.

³¹ Kuwaiti Personal Status Law No. 51 of 1984, arts. 169-71, 177-80; Omani Personal Status Law No. 32 of 1997 at arts. 70, 89-79; Welchman, *supra* note 22, at 12-13 (describing means to disclaim paternity in Bahraini, Qatari, and Emirati law). However, in at least one case in Kuwait there were reports of DNA testing against potential fathers. See Kuwaiti Times, *Pregnant Filipina - 6 Kuwaitis Called to Take DNA Test*, April 11, 2014, <http://news.kuwaittimes.net/pregnant-filipina-6-k Kuwaitis-called-to-take-dna-test/>

³² Kuwaiti Personal Status Law, No. 51 of 1984, art. 172.

The UAE's family law allows fathers to disclaim paternity without DNA tests by taking a series of oaths.³³ Where a mother attributes paternity to a man but the alleged father disputes paternity, the DNA tests may be used to determine the parents' criminal responsibility, since extramarital sexual relations are criminalized in the UAE.³⁴ In at least some instances, Emirati courts "could not force a man to accept paternal responsibility"—even when DNA tests conclusively proved parentage.³⁵ Furthermore, Saudi Arabia does not have a codified personal status or family law. However, its Basic Law of 1992 emphasizes that the Saudi legal system is based in Islamic law.³⁶ As a concept of *sharia'* family law, a husband can disclaim paternity of his wife's child through a series of oaths that result also in divorce. For mothers and children seeking to establish paternity, however, it is not clear that there is any way for a child born to unmarried parents to confirm paternity or receive nationality from her Saudi father. Children who are not acknowledged by their fathers are at a severe risk of statelessness. In one case in Saudi, a woman's son was born with a congenital heart defect, but because the father refused to acknowledge the child, the child could not obtain Saudi nationality, a Saudi nationality card, or derivatively, treatment in public Saudi hospitals. Reportedly, the Saudi government had to intervene to ensure that the child could receive access to life-saving medical treatment.³⁷

In each of the GCC states, if for any reason the child's paternity is not established, the child will not take her father's nationality and is unlikely to take her mother's nationality due to severe gender discrimination in nationality and civil registration law throughout the GCC. When women cannot convey their nationality to their children or register their children's births, a child who cannot establish her relationship to her father will likely be stateless. In order to ensure that all children are born with a nationality and to eradicate statelessness, the international community must address birth status discrimination in civil status law.

3. Restrictions on marriage to foreigners

Although international law prohibits discrimination on the basis of nationality and national origin, five of six GCC countries restrict their citizens' ability to marry foreigners, ranging from simple formalities to severe limitations on an individuals' choice of partner.³⁸ Some of these regulations are also gender-discriminatory because they limit one gender's choice of partner more strictly than the other's. These regulations can result in statelessness because these laws will inevitably be broken and children resulting from these unrecognized unions may also not be recognized. For nationals living overseas, it

³³ B. Al Jandaly, *Paternity Denial Cases on the Rise in Courts*, GULF NEWS, (Nov. 28, 2007), <http://gulfnews.com/news/gulf/uae/crime/paternity-denial-cases-on-the-rise-in-courts-1.214211>

³⁴ M. Nammour, *Nurse on Trial for Claiming Love Child is of Estranged Husband*, KHALEEJ TIMES, (Sept. 3, 2014), http://www.khaleejtimes.com/nation/inside.asp?xfile=/data/courtroundup/2014/September/courtroundup_September6.xml§ion=courtroundup; N. Nazzal, *Egyptian Man, Indonesian Woman Held for Adultery*, GULF NEWS, (March 23, 2004), <http://www.gulfnews.com/news/gulf/uae/general/egyptian-man-indonesian-woman-held-for-adultery-1.317115>

(discussing cases in which a legal father used DNA tests to dispute paternity); *but see* I. Sherif, *Emirati Man Declared Father despite Negative Result in DNA Test*, GULF NEWS, (July 3, 2012), <http://www.gulfnews.com/news/gulf/uae/complaints/emirati-man-declared-father-despite-negative-result-in-dna-test-1.1043708>

³⁵ U.S. DEPARTMENT OF STATE, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2013: UNITED ARAB EMIRATES (2013), <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>

³⁶ Article 48 reads, "The Courts shall apply rules of the Islamic Sharia in cases that are brought before them, according to the Holy Qur'an and the Sunna, and according to laws which are decreed by the ruler in agreement with the Holy Qur'an and the Sunna." *See also* articles 1 and 7 (affirming the role of Islam in Saudi law and government).

³⁷ Saudi Gazette, *Saudi Divorcee in Paternity Row with Ex*, (Aug. 19, 2013), <http://www.saudigazette.com.sa/index.cfm?method=home.regcon&contentid=20130819177336>

³⁸ *International Convention on Civil and Political Rights*, art. 2(1), (Dec. 16, 1966), 999 U.N.T.S. 171; *International Convention on Economic, Social, and Cultural Rights*, art. 2(2), (Dec. 16, 1966), 993 U.N.T.S. 3; *Convention on the Rights of the Child*, art. 2(1), 1989, (Nov. 20, 1989), 1577 U.N.T.S. 3.

may be difficult to obtain all the necessary paperwork to complete an application for governmental approval prior to marriage. Some couples may not even be aware of the restrictions and may marry without government approval. Some couples may decide to defy a rejected application and marry despite the regulation. In any of these cases, children resulting from an unrecognized union are likely to be treated as non-marital children. As outlined above, non-marital children may not receive nationality or may face significant obstacles to register.

While Bahrain has considered imposing restrictions on the rights of its nationals to marry foreigners, at present Bahrain is the only GCC state that does not impose marriage restrictions based on nationality.³⁹ Kuwait requires men in its armed forces to obtain prior approval before marrying foreigners. This restriction does not appear to limit many unions: “In practice the government offered only non-binding advice in such matters and did not prevent any such marriages.”⁴⁰ However, Kuwaiti men who marry non-Kuwaiti women post-January 2010 must receive approval from a government committee for the non-Kuwaiti wife to be able to live in Kuwait. Qatar requires its citizens to obtain approval prior to marrying non-Qataris. The United States Department of State reported in 2013 that government permission “was generally granted.”⁴¹ Prior to registering the birth of a child to a Qatari father and a non-GCC national mother, however, the father must present documentation of his permission to marry the child’s mother as part of the birth registration process.⁴² Oman limits the rights of its citizens to marry individuals who are not Omani or GCC nationals. Marrying “without ministry approval may result in denial of entry for the foreign spouse at the border and preclude children from claiming citizenship rights. It also may result in a bar from government employment and a fine of 2,000 rials (\$5,200).”⁴³ Saudi has long imposed restrictions that require prior approval for a Saudi man to marry a woman from outside the Gulf Cooperation Council (GCC). The Saudi government recently enacted further regulations as well as total prohibitions on marriages between Saudi men and women of four nationalities. These new restrictions, if left in place, can only increase the risk of statelessness for children born to Saudi men.

The Saudi Gazette summarizes both the prior restrictions and the recent prohibition:

Applicants should be over 25 and attach identification documents signed by his local district mayor as well as all other identity papers, including a copy of his family card. If the applicant is already married, he should attach a report from a hospital proving that his wife is either disabled, suffering from a chronic disease or is sterile. . . . Saudi men have been prohibited from marrying expatriate women from Pakistan, Bangladesh, Chad and Myanmar. According to unofficial statistics, there are about 500,000 women from these four countries currently residing in the Kingdom.⁴⁴

Assuming that a Saudi man may at some point break this law, his children will be at a severe risk of statelessness. Because Saudi Arabia does not recognize foreign marriage certificates, it seems that the child of an unapproved union would be treated the same as a non-marital child (i.e., unable to be registered).⁴⁵ Of more than 1,800 cases filed in Saudi Arabia in 2014 seeking to establish paternity or

³⁹ Gulf Daily News, “Marriage Bill Shelved,” (June 21, 2006),

<http://www.gulfdailynews.com/NewsDetails.aspx?storyid=146895>

⁴⁰ U.S. DEPARTMENT OF STATE, HUMAN RIGHTS REPORT KUWAIT (2013), <http://www.state.gov/documents/organization/220573.pdf>

⁴¹ U.S. DEPARTMENT OF STATE, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2010: QATAR (2010), <http://www.state.gov/j/drl/rls/hrrpt/2010/nea/154471.htm>

⁴² QATARI GOVERNMENT, ISSUING THE BIRTH CERTIFICATE [AR], <http://tinyurl.com/mf6e4gy>

⁴³ UNITED STATES DEPARTMENT OF STATE, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2013: OMAN (2013), <http://www.state.gov/documents/organization/220581.pdf>

⁴⁴ Saudi Gazette, *Rules for Saudi Men Marrying Foreign Women Made Tougher*, (Aug. 4, 2014), <http://www.saudigazette.com.sa/index.cfm?method=home.regcon&contentid=20140805213657> (internal quotations omitted)

⁴⁵ S. Abdullah, *Children of Saudi Fathers Cry for Help*, ARAB NEWS, (June 2, 2012), <http://www.arabnews.com/children-saudi-fathers-cry-help>

maternity, “most of the paternity cases at the Saudi courts were filed by Saudi husbands who had married foreign women without government approval.”⁴⁶ Saudi fathers whose marriages are not registered can apply for an entry visa for their children and finish the paperwork granting nationality once in Saudi Arabia. If the father is deceased, does not take these necessary steps, or has married a woman whom he was forbidden from marrying, it is not clear that the child has any way to receive Saudi nationality. If a marriage is not registered and approved, and if the Saudi father refuses to acknowledge the child as his, the child will almost certainly not receive Saudi nationality.⁴⁷ There are many possible combinations of a Saudi father, a non-GCC mother, and a given place of birth that would result in statelessness. Consider a Saudi man married to a Burmese national, one of four nationalities the Saudi man is prohibited from marrying. Burma’s nationality law recognizes a child as a Burmese nationality only when *both* parents are Burmese nationals.⁴⁸ Burma does not allow for dual nationals, so the child could not receive Burmese nationality, nor would the child receive Saudi nationality unless the child was recognized by the Saudi government, even though the marriage contravenes Saudi law.

Turning to the UAE, International women’s rights group FIDH reports that an Emirati woman who marries without prior approval can lose her nationality or lose the opportunity to convey nationality to her foreign husband. Meanwhile, “Emirati men are free to marry foreign women”⁴⁹ unless they are in the armed forces, in which case they are required to obtain prior government approval.⁵⁰ Some of these restrictions appear to be mere formalities and are likely to result in violations of the law. Other restrictions are severe and carry harsh consequences. These states restrict the ability of its citizens to marry, and may refuse to acknowledge as legitimate the children born to these couples.

As noted above, children born out of wedlock may not be able to have their births registered or their relationships with their fathers verified. In a region that strongly favours conveying nationality through the father, restrictions on marriage place the children of these unions at a severe risk of statelessness. When non-marital children are at risk of statelessness, so too are children whose parents were married but whose marriages are not recognized. In the interests of ending statelessness, limitations on marriages should be critically examined to ensure that children of unrecognized unions receive a nationality at birth.

4. Conclusion

Gender discrimination in the GCC displays itself not just in nationality law but also in civil registration and civil status (or family) law. As a result of laws that discriminate on the basis of gender and marital status, children experience human rights violations including statelessness. Discrimination that targets women, non-marital children, and children of unrecognized marriages creates a significant risk of statelessness. These risks are amplified when combined with gender-discriminatory nationality laws and when verification of the child’s relationship to the father is the primary or only way for the child to receive nationality. In at least some countries, non-marital children are at severe risk of stateless because the mother may not be able to register the child’s birth, and there may not be a way for the

⁴⁶ Al-Arabiya, *Over 1,850 Paternity, Maternity Rows Brought before Saudi Courts*, (Oct. 27, 2014), <http://english.alarabiya.net/en/News/middle-east/2014/10/27/Over-1-850-paternity-maternity-rows-brought-before-Saudi-courts.html>

⁴⁷ UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, SUBMISSION FOR UNIVERSAL PERIOD REVIEW OF SAUDI ARABIA, <http://www.refworld.org/pdfid/5135c0902.pdf>

⁴⁸ Burma Citizenship Law, Oct. 15, 1982, <http://www.refworld.org/docid/3ae6b4f71b.htm>

⁴⁹ FIDH, *Women’s Rights in the United Arab Emirates (UAE): Note Submitted to the 45th Session of the Committee on the Elimination of Discrimination against Women (CEDAW) on the Occasion of its First Examination of the UAE*, (4, Jan. 2010), https://www.fidh.org/IMG/pdf/UAE_summaryreport_for_CEDAW.pdf

⁵⁰ ABU DHABI EGOVERNMENT GATEWAY, GETTING MARRIED, https://www.abudhabi.ae/portal/public/en/citizens/family/getting_married?_afLoop=5287076128369447&_adf.ctrl-state=1bl3y8bc7a_4

father to register or acknowledge the child or to force the father to acknowledge the child. In states with gender-discriminatory nationality laws, the child is likely to be stateless. Laws limiting marriages between foreigners risk treating marital children as non-marital children, with all of the same risks applicable even though the child's parents are in fact married. Discrimination in civil registration law, the absence of means to establish paternity, and restrictions on marriages to foreigners can generate new cases of statelessness. UNHCR and the international community are working to eradicate statelessness by 2024. In order to do so, the international community must expand its focus beyond gender discrimination in nationality law. States must their nationality laws, but also must address discrimination in civil registration and civil status laws to ensure that all children receive a nationality.