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The situation of stateless persons in the Middle East and North Africa

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Executive Summary

This paper provides an overview of the situation of stateless persons in countries in the Middle East and North Africa (MENA). It provides an analysis of the underlying conditions that have shaped these states' legislation and provides a description of how the laws, policies and practices of MENA countries have impacted on the incidence and treatment of stateless persons within their borders. The paper includes examples of best practices that have been identified in the course of studying the response to statelessness across the MENA region.

The information provided in this paper has been extracted from existing documents, reports and studies (drawing on information as at June 2010). Please note that the verification of information compiled from these sources remains the responsibility of the respective author(s). References are provided and a full bibliography is included.

For the purposes of this study, the MENA region has been defined as comprising of the following 18 countries: Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Occupied Palestinian Territories, Qatar, Saudi Arabia, Syria, Tunisia, United Arab Emirates and Yemen.

Worldwide, the number of stateless persons is believed to be in the millions and there is no region which is unaffected. Within the Middle East and North Africa, there are several sizeable stateless populations, including several hundred thousand Bidoon in the Gulf region and over 200,000 stateless Kurds in Syria and Lebanon. There are also numerous smaller groups throughout the region, while nationality law and practice in some countries heightens the risk of further statelessness. Since the possession of a nationality is of both legal and practical relevance in accessing rights and services, statelessness can have a severely detrimental impact on the lives of the individuals concerned. Moreover, the negative effects of statelessness are not limited to the persons immediately concerned, but may also affect their families, the wider community, the state and even inter-state relations. With this in mind, MENA states have already expressed their commitment, through ratification of a range of international human rights instrument, to address statelessness and its consequences.

State succession has long been major cause of statelessness, including in the MENA region. The nationality acts adopted following the establishment of MENA countries as we know them today were heavily influenced by conditions at the time and in some instances, there was a confluence of factors which resulted in cases of statelessness. For example, since the concepts of nationality and of controlled borders were previously unknown to certain (nomadic or tribal) sectors of the population, some persons failed to appreciate or prioritise the need to register to acquire citizenship and remained without nationality. Apart from historical conditions, restrictions remain in place in several countries which continue to create situations of statelessness. States may, for example, use nationality policy as a way to subdue a perceived threat to domestic security or to preserve the country's demographic balance. This can lead to individual or group denationalisation for reasons varying from criminal acts to "disloyalty". Some states have taken steps to tackle these causes of statelessness. As such, the region also provides examples of laws – such as that of Algeria – which successfully marry the desire to exclude from membership of the state those individuals who are deemed to be a threat, while ensuring that this does not lead to statelessness.

Another considerable cause of statelessness is gender-biased nationality legislation. While women have traditionally been in a disadvantaged or dependent position under nationality law, there is a growing global awareness that gender discrimination in nationality law is in violation of international standards. The MENA region has unfortunately been slower to achieve reform of nationality laws to reflect these international standards and there is an enduring risk of statelessness from discriminatory policies in some countries. In Lebanon alone, almost 18,000 Lebanese women are married to non-Lebanese and the children born to these

couples will be at heightened risk of statelessness since they cannot acquire their mother's nationality under Lebanese law. Many MENA countries have now pledged to reform their nationality laws and civil society groups have launched a region-wide campaign to promote women's nationality rights. In fact, there have already been a number of real victories, whereby several countries adopted amendments to introduce gender equality in their laws and even took steps to address situations of statelessness that had arisen under the former legislation. Examples of major legislative reform include Egypt, Algeria, Morocco and Iraq. More limited steps, which nonetheless reflect an effort to avoid statelessness, have been taken in Yemen and Saudi Arabia.

Problems relating to nationality and statelessness have also surfaced in the context of numerous migratory movements in the region. For instance, the nomadic way of life of Bedouin groups impeded their access to citizenship during the period of state formation, leaving some stateless. Furthermore, children born within nomadic, migrant or displaced communities find themselves at heightened risk of statelessness, because birth registration rates are generally understood to be much lower within such communities. Birth registration is pivotal to the prevention of statelessness because it documents place of birth and parental affiliation, thereby proving a child's entitlement to the nationality of a state under the applicable law. Displacement or migration may also accompany or follow statelessness, as illustrated by the movement of Bidoon from Kuwait to Iraq, the emigration of stateless Kurds from Syria, the arrival of stateless Rohingya in Saudi Arabia and the arrival of stateless refugees in various MENA states. As a consequence, countries become directly confronted with the problem of statelessness, even if they have safeguards in place to avoid the creation of statelessness within their own jurisdiction. Measures to ensure the protection of stateless persons must therefore be considered.

Most countries in the MENA region have no special determination procedures or status for stateless persons. As a result, stateless persons are dealt with simply under those laws that apply to other non-nationals – including immigration law – or through a variety of *ad hoc* measures. It may therefore be difficult for stateless persons to obtain residence permits and their treatment will be affected accordingly. A number of countries do have policies in place that benefit some stateless persons. For instance, both United Arab Emirates and Qatar make special allowances for children whose mothers hold their citizenship by providing residence plus various other privileges. In addition, a handful of MENA states have adopted more specific, yet still largely *ad hoc*, policies towards particular stateless populations within their borders which allows for some improvement in their protection situation. Nevertheless, this tendency towards an *ad hoc* response to statelessness has also contributed to problems encountered by stateless populations in acquiring appropriate personal documentation. Without a procedure to determine their status – or without recognition of a special status at all – stateless persons may be unable to acquire identity documents that reflect their situation or indeed any documentation. Access to travel documents is especially problematic, although there are examples whereby a state has facilitated international travel for stateless persons residing within their territory.

In a number of MENA states, nationality is the ticket to an extensive range of rights and privileges, to the exclusion of the stateless. Where stateless persons lack a secure legal status or personal documentation, the level of treatment that they experience may be particularly harsh. Among the most fundamental protection concerns are detention, expulsion and the denial of the right to return to their place of habitual residence – problems which, although not widely reported, have been experienced by some stateless individuals or groups in a number of MENA countries at one time or another. In contrast, recognition of the right to return to their place of habitual residence has played a central part in two major situations of statelessness that are now moving towards a resolution: the repatriation and confirmation or re-acquisition of nationality for formerly-stateless populations from Mauritania and Iraq. Access to housing, the opportunity to earn an adequate living, access to education and healthcare and the enjoyment of family life are all further areas in which stateless persons face significant challenges. The nature and extent of these difficulties vary from one person and one country to next. In some areas, states have made important progress. Kuwait has taken steps to promote the right to work for Bidoon, including by opening up various professions that Bidoon were previously ineligible for. Some of Lebanon's local mayors have issued "special papers" to stateless children to allow them to register at school. In Bahrain, where nationals are exempt from government fees for health services, public schools and certain other facilities, this waiver has now been extended to stateless children in Bahrain.

In terms of progress towards resolving statelessness, the MENA region provides examples of stateless populations whose situation has stagnated as well as a number of significant efforts to reduce statelessness. One way in which this has been achieved, as recently exemplified in Qatar, Mauritania and Iraq, is the simple confirmation or re-acquisition of nationality for persons whose citizenship had previously been disputed or withdrawn. A second important means of reducing statelessness has been that of large-scale, tailored naturalisation campaigns, such as those adopted in Lebanon, Bahrain and United Arab Emirates. A third approach that can be identified in the region is the adoption of legal reform to close gaps that may create statelessness, with *retroactive effect*. Recent examples of this practice can be found in Egypt, Morocco, Algeria and Iraq. A fourth reduction strategy is promoting increased social, economic or legal integration – for instance by conferring a residence status or improved access to certain facilities to stateless persons – measures which stop short of conferring citizenship but do take a step towards inclusion of a stateless population and may help to build a foundation for future acquisition of nationality. Finally, each state's nationality law may also provide avenues for the individual resolution of statelessness through regular naturalisation procedures. The prospects for naturalisation vary greatly from one MENA state to another, depending on the restrictiveness of criteria and the margin of discretion enjoyed by decision-making authorities.

In determining ways forward to further address statelessness in the region, there are numerous best practices to draw upon. The civil society campaign to introduce gender equality in the enjoyment of nationality rights is a well-documented example of such a carefully-tailored approach. Among the success factors were the adoption of a clear vision and strategy of action, the strengthening of the campaign through a dual national and regional focus, the investment in undertaking comprehensive research and building broad coalitions, as well as the effective use of the media. Similar lessons have been learned in the context of other significant advances relating to statelessness in different parts of the world, such as in Sri Lanka, Ukraine, Nepal and Bangladesh. Nevertheless, in the MENA region, further efforts to address statelessness may be obstructed by a number of factors, including the shortage of adequate information on the subject to inform an appropriate response and the perception of statelessness as a highly sensitive matter which is inextricably linked to political questions. Yet, concerned parties should recognise that now is the time to act, with the issue of nationality currently attracting much attention in a number of MENA countries, including in the context of the ongoing regional campaign to grant women equal rights with men in the enjoyment and conferral of nationality. Indeed, in line with this campaign, due consideration should be given to a regional response to the issue of statelessness. An assessment of the situation of stateless persons in the region reveals that there are many shared experiences of statelessness while there are also foundations for – and relevant examples of – regional cooperation already in place. Due consideration should moreover be given to the role to be played by the two UN conventions on statelessness which offer a solid foundation for a common response to the issue. The upcoming 50th anniversary of the 1961 Convention on the Reduction of Statelessness would be an opportune moment for MENA countries to give renewed consideration to accession to these instruments.

1. Introduction to statelessness in the MENA region

A stateless person is someone who “is not considered as a national by any state under the operation of its law”.¹ There are numerous ways in which an individual can be left without any nationality – for instance, as a result of a simple conflict of nationality laws, as a by-product of state succession or as a direct consequence of individual or mass denationalisation. The effects of statelessness may also vary, but the lives of stateless persons can generally be characterised in terms of hardship, exclusion and difficulties in the enjoyment of a range of rights and facilities. The impact that statelessness has on affected individuals can also have knock-on consequences for the families, communities and states involved, with statelessness understood to be a root cause of, for instance, displacement and even conflict. Worldwide, it is a problem of significant magnitude and reach: the number of stateless persons is believed to be in the millions and there is no region which is unaffected.²

The problem of statelessness is clearly present in the countries of the Middle East and North Africa, as it is elsewhere in the world. There are numerous sizeable stateless groups which have drawn the attention of the international community and there are ongoing concerns surrounding the content and implementation of (certain components of) nationality laws throughout the region. Although statistics on statelessness in the MENA region are imprecise at best – more often absent or severely contested³ – the picture is clear enough to appreciate that the problem is widespread and of a substantial scale. For instance, among MENA's significant stateless populations are several hundred thousand Bidoon in the Gulf region and over 300,000 Kurds in Syria and Lebanon.⁴ Moreover, there is a large, but unknown, number of children in the MENA region who failed to acquire a nationality due to laws that allow the perpetuation of statelessness across generations or limit the possibilities for women to transmit their nationality to their children. Also affected by statelessness, on a smaller scale, are some members of nomadic Bedouin tribes in various countries and a group of Armenians in Egypt. Stateless migrants from other areas of the world are also found in the region. Finally, the laws of many MENA countries allow for the loss or withdrawal of nationality in a wide range of circumstances, mainly relating to criminal or “disloyal” activity, and can be very restrictive when it comes to possibilities for naturalisation. This may lead to or prolong further, scattered cases of statelessness.

There are therefore many different factors that have contributed to problems of statelessness in the MENA region or have hindered efforts to address such situations. Sections 2, 3 and 4 of this paper are devoted to a discussion of the factors that underlie the existence of statelessness in the MENA region. In the two subsequent sections – 5 and 6 – the current treatment of stateless persons by MENA countries is examined. Problems relating to the legal status and documentation of stateless persons are considered and these are then linked in to the discussion of the situation of stateless persons with regards to the enjoyment of various rights and facilities. Wherever possible, best practices have been identified that could serve as an example to other states that are grappling with how to treat stateless populations within their jurisdiction. The final three sections of this paper extend the search for an appropriate response by itemising possibilities for tackling statelessness, discussing the motivations for doing so and offering suggestions for the way forward. Thus, section 7 investigates the efforts that have been taken by MENA countries to date to resolve statelessness and discusses the extent to which regular naturalisation procedures may present opportunities for the further, case-by-case reduction of statelessness. In section 8, a number of the most important considerations for forming a response to statelessness are presented – answering the question of why it is in the interest of both individuals and states to tackle this issue. Finally, section 9 details some of the key lessons to be taken from the analysis offered in this paper and discusses what else can be done to develop a more effective response to statelessness in the MENA region.

¹ Article 1, 1954 Convention relating to the Status of Stateless Persons.

² See, for a further introduction to the causes and consequences of statelessness – as well as a discussion of various situations of statelessness worldwide – the special edition of *Refugees* magazine on “The excluded: the strange hidden world of the stateless”, *Refugees Magazine*, No. 147, Issue 3, 2007; and the special edition of *Forced Migration Review* focussing on the issue of statelessness, *Forced Migration Review*, Issue 32, April 2009.

³ For instance, many stateless persons are not registered as stateless – due to lack of procedures, awareness or understanding – and information on stateless populations may be withheld due to political sensitivities. UNHCR, *The World's Stateless – Questions and Answers*, Geneva, 2004.

⁴ A. Shiblak, “The lost tribes of Arabia” in *Forced Migration Review*, Volume 32, 2009.

2. State formation, national identity and statelessness

State succession is a process that leaves its stamp, not only on the earth's political geography, but also on the division of its peoples. An emerging state must define itself – plot out its territory and delineate its population. The latter is addressed through the elaboration of nationality law and policy, which establishes who is a member of the new state and confers upon them the status of citizen. In setting out its nationality law and policy, the state must deal with questions of identity and belonging. This is not always straightforward or trouble-free. Indeed, history shows us that the redrawing of international borders has been a major source of statelessness, with individuals and entire groups sometimes overlooked by the newly-formulated nationality policy of the emerging state or states. Among well-known stateless groups that have, in the past, owed their plight to these processes are the *Heimatlosen* following the dissolution of Austria-Hungary, the *Bihari* upon the independence of Bangladesh (from Pakistan) and the Russian speakers who missed out on citizenship in Latvia and Estonia after the break-up of the Soviet Union.

MENA has seen its share of political upheaval with the region swept first by the dissolution of the Ottoman Empire and later by a wave of decolonisation. Processes of state formation were therefore evident across the region over the course of the twentieth century and as each state sought to develop its own identity it faced the question of who to include as citizens. The nationality acts that were adopted following the establishment of the MENA countries as we know them today, largely in the 1950s to early 1970s, answered this need to delineate the terms of membership of the state. The conditions that were existent in the region at the time – social, political, demographic, economic – had an impact on both the content of these laws and on their implementation. In some cases, these factors combined to result in cases of statelessness where persons and groups were overlooked by the new laws or in their application.

For instance, a particular issue in the Middle East was that “the emerging new sub-national states of Arabia cut through nomadic or semi-nomadic societies”.⁵ As such, to certain segments of the population, the previously unknown concepts of nationality and of enforceable borders were poorly understood, even suspect. Some people failed to comprehend or to prioritise the need for registration in order to acquire citizenship – continuing their lives instead as they had for centuries before, while remaining undocumented and without nationality.⁶ This was the case in Kuwait where illiteracy and poor awareness-raising efforts, as well as the fact that the real relevance of citizenship only manifested itself many years later, all contributed to the failure of large numbers of persons to register as nationals when the 1959 Nationality Law was introduced.⁷ As much as a third of the population of Kuwait became classified as “Bidoon Jinsiya” (without citizenship).⁸ In spite of numerous proposals and draft bills to address the status of the Bidoon being discussed by the authorities over the past few years, over 92,000 Bidoon in Kuwait remain stateless to this day.⁹

In other cases, individuals were unable to satisfy the practical requirements in order to be registered as citizens at the time of state formation. Thus, for example, part of the Bedouin population in Lebanon was overlooked by a 1932 census – a census which later became decisive in the enjoyment of Lebanese citizenship. At the time, only Bedouin who could show that they “normally” resided in Lebanon were counted as Lebanese which resulted in the exclusion of an unknown number of Sunni Muslim Bedouin who

⁵ A. Shiblak, “The lost tribes of Arabia” in *Forced Migration Review*, Volume 32, 2009.

⁶ A. Shiblak, “The lost tribes of Arabia” in *Forced Migration Review*, Volume 32, 2009.

⁷ A. Shiblak, “Arabia’s Bidoon” in B. Blitz (ed.), *Statelessness and the benefits of citizenship: A comparative study*, 2009; A. Shiblak, “The lost tribes of Arabia” in *Forced Migration Review*, Number 32, 2009; C. Doebbler, “A Human Rights Approach to Statelessness in the Middle East” in *Leiden Journal of International Law*, Vol. 15, 2002; S. Al-Khaldy, *Non-citizens, Al-Bedon in Kuwait*, Posted on the Arab Network for Human Rights Information, 2004; F. Al Waquian, *The Stateless Persons in Kuwait*, unpublished draft translation of report, March 2007.

⁸ Report by Mr. Maurice Glèlè-Ahanhanzo, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, *Mission to Kuwait*, E/CN.4/1997/71/Add.2, 14 January 1997; K. Southwick; M. Lynch, *Nationality Rights for All. A progress report and global survey on statelessness*, Refugees International, 2009.

⁹ Most recent (2009) figure made available by Kuwait’s “Executive Committee for Illegal Residents”. UN Human Rights Council, *Arbitrary deprivation of nationality: report of the Secretary-General*, A/HRC/10/34, 26 January 2009; UNHCR, *2009 Global Trends: Refugees, Asylum-seekers, Returnees, Internally Displaced and Stateless Persons*, page 27, available at <http://www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=4c11f0be9&query=global%20trends%20report%202009>.

could not prove residence.¹⁰ Further factors that have reportedly contributed to the bypassing of people for citizenship in the process of state formation in the region include: the overall inadequacy of population records upon which the registration of citizens is based;¹¹ the dominance of tribal (or kin group) identity over national identity which led to some persons taking no action to ensure acquisition of citizenship;¹² and the manipulation of the registration of citizens with a view to securing a particular sectarian or demographic balance at the defining moment of state formation.¹³ In the end, many thousands of people fell through the net or were omitted as the region's states were formed. Such individuals ended up with no nationality, including a large, further population of Bidoon in other countries of the Gulf.¹⁴

Efforts have been made in the period since the demarcation of the initial body of citizens to correct such oversights through renewed registration activities, amendments to nationality laws and naturalisation campaigns. In Lebanon, for instance, a Naturalisation Decree adopted in 1994 sought – among other things – to rectify some of the initial problems that came into being when the disputed 1932 Census became the basis for the enjoyment of citizenship.¹⁵ More than 150,000 persons acquired citizenship under the 1994 Decree.¹⁶ However, in the implementation of the 1994 Decree, there were also reports of arbitrary decision-making, failure to include persons who were outside of the country and administrative errors. It is therefore understood that an unknown number of persons remained without citizenship and that the problems of statelessness, created during the period of Lebanese state formation, have yet to be fully resolved.¹⁷

Other MENA states succeeded in constructing and asserting their national identity at the critical moment of state formation without this resulting in the exclusion from citizenship of a segment of the population. Nevertheless, the same questions, which present themselves with some urgency at such a pivotal time as state succession, remain of relevance thereafter. Thus, questions relating to the forging of a national identity and the parameters for access to membership remain pertinent after the initial period of state formation. So too, does the potential for exclusion and statelessness to result from the way in which countries deal with these questions. For instance, in Syria, Iraq and Mauritania, struggles with the notion of national identity contributed to the adoption of policies that led to the exclusion of certain sectors of the population and to the denationalisation of Kurds, Feili Kurds and black Mauritians.¹⁸ Where ethnicity is a factor in the conceptualisation of national identity, this can also influence opportunities for accessing citizenship in the first place. For instance, in Libya, naturalisation is only open to a man if he is of Arab descent and many

¹⁰ Immigration and Refugee Board of Canada, *Lebanon: Whether Bedouins born in Lebanon are entitled to Lebanese citizenship and are able to obtain identity documents; information on decree No. 5247, whether it enabled naturalisation of stateless Bedouins, time prior which it was in effect; consequences of illegal exit/entry in Lebanon*, LBN38078.E, 5 March 2002.

¹¹ S. Al-Khaldy, *Non-citizens, Al-Bedon in Kuwait*, Posted on the Arab Network for Human Rights Information, 2004.

¹² A. Shiblak, "Arabia's Bidoon" in B. Blitz (ed.), *Statelessness and the benefits of citizenship: A comparative study*, 2009; A. Shiblak, "The lost tribes of Arabia" in *Forced Migration Review*, Number 32, 2009; C. Doebbler, "A Human Rights Approach to Statelessness in the Middle East" in *Leiden Journal of International Law*, Vol. 15, 2002; S. Al-Khaldy, *Non-citizens, Al-Bedon in Kuwait*, Posted on the Arab Network for Human Rights Information, 2004; F. Al Waquian, *The Stateless Persons in Kuwait*, unpublished draft translation of report, March 2007; G. Parolin, *Citizenship in the Arab World. Kin, Religion and Nation-State*, IMISCOE Research, Amsterdam University Press, 2009.

¹³ Immigration and Refugee Board of Canada, *Lebanon: Whether Bedouins born in Lebanon are entitled to Lebanese citizenship and are able to obtain identity documents; information on decree No. 5247, whether it enabled naturalisation of stateless Bedouins, time prior which it was in effect; consequences of illegal exit/entry in Lebanon*, LBN38078.E, 5 March 2002.

¹⁴ A. Shiblak, "Arabia's Bidoon" in B. Blitz (ed.), *Statelessness and the benefits of citizenship: A comparative study*, 2009; A. Etefa; A. van Genderen Stort, "The Bidoon" in *Refugees Magazine*, Issue 147, 2007; *Mired in obscurity*, Gulf News, 25 June 2009 [United Arab Emirates]; *UAE says to register stateless people*, Reuters, 3 September 2008 [International News Agency]; *UAE denies 100,000 residents access to riches from oil boom*, Bloomberg, 31 March 2008 [International News Agency].

¹⁵ Rania Maktabi, "The Lebanese Census of 1932 revisited. Who are the Lebanese?" in *British Journal of Middle Eastern Studies*, Vol. 26, Issue 2, 1999.

¹⁶ Thibaut Jaulin, *Lebanese Politics of Nationality and Emigration*, EUI Working Papers, RSCAS No. 2006/29, 2006.

¹⁷ Immigration and Refugee Board of Canada, *Lebanon: Whether Bedouins born in Lebanon are entitled to Lebanese citizenship and are able to obtain identity documents; information on decree No. 5247, whether it enabled naturalisation of stateless Bedouins, time prior which it was in effect; consequences of illegal exit/entry in Lebanon*, LBN38078.E, 5 March 2002; K. Southwick; M. Lynch, *Nationality Rights for All. A progress report and global survey on statelessness*, Refugees International, 2009.

¹⁸ See, on Syria, H. Montgomery, *The Kurds of Syria. An existence denied*, Europäisches Zentrum für Kurdische Studien [European Centre for Kurdish Studies], Berlin, 2005;; Chatham House, *The Syrian Kurds: A people discovered*, Middle East Programme, January 2006; UK Home Office, *Country of Origin Information Report – Syria*, 10 October 2007; S. Kawakibi, *Les Kurdes en Syrie our les Kurdes syriens? a report for the Euro-Mediterranean Consortium for Applied Research on International Migration*, No. 12, 2009. On Iraq, *The "other" Kurdistan seethes with rage*, Asia Times Online, 16 October 2009 [Kuwait]; A. Shiblak, "The lost tribes of Arabia" in *Forced Migration Review*, Number 32, 2009. On Mauritania, B. Manby, *Struggles for citizenship in Africa*, in particular chapter 4 on "Mass denationalisation and expulsion", Zed Books, London, 2009.

Akhdam in Yemen, a small ethnic minority who may be descendants of African slaves, are reportedly unable to obtain citizenship.¹⁹ Where the state has included religion as a component of its national identity, and therefore the parameters for membership, this can cause similar problems. Thus, in Kuwait, for example, only Muslim applicants may seek naturalisation, while Libya's nationality law allows for the withdrawal of nationality on the grounds of conversion from Islam to another religion.²⁰

Good practice: Access to documentation and the prevention of statelessness

In Egypt it was the state's official non-recognition of the Baha'i faith that resulted in the difficulties experienced for many years by the small Baha'i community in accessing personal documentation – a problem that affected these individuals' ability to assert their nationality and accompanying rights and put them at risk of statelessness. Following a number of court cases on the question, the entry into force of Ministerial Decree No. 520/2009 in April 2009 put an end to the policy of refusal of identity documents, upholding the right of Egypt's Baha'i minority to obtain documents without revealing their religion, thereby strengthening the country's efforts to prevent statelessness.²¹

Alongside the assertion of a national identity, the broader objective of protecting the country's political status quo can also lead to problems for the acquisition and retention of nationality. In other words, states may use their nationality policy as a way to counter any perceived threat to domestic security or stability or to preserve the country's demographic balance. In Iraq, for example, a person may be deprived of Iraqi citizenship if he or she carries out acts that endanger the safety or security of the state; Qatari citizenship may be lost if a person is a member of an association or organisation which aims at changing the political regime; and in Saudi Arabia, an individual may be denaturalised if he or she is convicted of a crime that breaches trust or honour or undermines the Kingdom's security.²²

In practice, the implementation of such policies, whereby perceived "disloyalty" is the grounds for the forfeit of citizenship, has resulted in numerous instances of statelessness in the MENA region. In Qatar, a man, his six children and his two brothers were stripped of their nationality in October 2002 after the man and his brothers were sentenced to prison following a dispute with another individual in December 2001.²³ Also in Qatar, the revocation of citizenship in April 2005 from some 6,000 members of the Al Murra tribe was motivated by the belief that they had been hiding their dual nationality – a fact that may be considered to be contrary to the duty of loyalty to the state of citizenship. It has been suggested that a number of those denationalised may not, in fact, have been dual nationals and that this act of denationalisation may have created some cases of statelessness.²⁴ In Libya, an unknown number of members of the Tabu tribe reportedly saw their citizenship withdrawn in December 2007 due to their perceived support for Chad, at the time, a political rival of Libya and there have also been cases of individual denationalisation on political grounds, such as that of writer Farag Sayyid Bul-Isha who lost his nationality in April 2002 after appearing on the programme "The opposite direction" on Al-Jazeera.²⁵ A similarly high profile case in Oman drew the

¹⁹ B. Manby, *Citizenship law in Africa. A comparative study*, Open Society Justice Initiative, 2009; US State Department, *US Department of State Country Report on Human Rights Practices 2001 – Yemen*, 4 March 2002.

²⁰ Human Rights Committee, *Concluding Observations: Kuwait*, CCPR/CO/69/KWT, July 2000; UN Human Rights Council, *Arbitrary deprivation of nationality: report of the Secretary-General*, A/HRC/10/34, 26 January 2009; B. Manby, *Citizenship law in Africa. A comparative study*, Open Society Justice Initiative, 2009.

²¹ US State Department, *US Department of State Country Report on Human Rights Practices 2006 – Egypt*, 6 March 2007; K. Southwick; M. Lynch, *Nationality Rights for All. A progress report and global survey on statelessness*, Refugees International, 2009; *Rendered faithless and stateless*, Al-Ahram Weekly, Issue 825, 21-27 December 2006 [Egypt]; *Egypt: decree Ends ID Bias against Baha'is*, News item by Human Rights Watch and the Egyptian Initiative for Personal Rights, 15 April 2009.

²² UNHCR, *Regional Operations Plan, Saudi Arabia, Kuwait, UAE, Qatar, Bahrain, Oman*, 2008; UN Human Rights Council, *Arbitrary deprivation of nationality: report of the Secretary-General*, A/HRC/10/34, 26 January 2009.

²³ Amnesty International, *Amnesty International Report 2008 – Qatar*, 28 May 2008.

²⁴ *More than 5,000 Qatari nationals lose citizenship*, DPA, 2 April 2005 [Germany]; United States Department of State, 2005 *Country Reports on Human Rights Practices – Qatar*, 8 March 2006; Amnesty International, *Amnesty International Report 2006 – Qatar*, 23 May 2006; Minority Rights Group International, *World Directory of Minorities and Indigenous Peoples – Qatar: Overview*, 2007. United States Department of State, 2008 *Country Reports on Human Rights Practices – Qatar*, 25 February 2009. See also see also UNHCR, 2009 *Global Trends: Refugees, Asylum-seekers, Returnees, Internally Displaced and Stateless Persons*, page 27, available at <http://www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=4c11f0be9&query=global%20trends%20report%202009>.

²⁵ US State Department, 2008 *Country Reports on Human Rights Practices – Libya*, 25 February 2009; Freedom House, *Freedom*

attention of the media in May 2009: the former Vice President of Yemen, Ali Salem Al Beidh, who had been granted asylum in Oman in 1994, and subsequently gained Omani citizenship, had that citizenship revoked following an announcement that he planned to resume his political career.²⁶ Such cases demonstrate the risk that statelessness may result from the denationalisation of individuals or groups for a wide variety of activities that are judged to be contrary to the state's interests, if safeguards are not in place.

Good practice: National security, denationalisation policies and the prevention of statelessness

Algeria offers an example of how countries can marry the desire to exclude from membership those individuals who they deem to be a threat to the state while ensuring that statelessness does not result. The Algerian nationality law permits the loss of nationality on various grounds, including when individuals have committed a crime or are deemed to have displayed disloyal behaviour, but it provides that citizenship cannot be lost or withdrawn where this would lead to statelessness. Moreover, to ensure that this provision is applied correctly in practice, Algerian law grants a person who has been deprived of their Algerian nationality the right to a judicial remedy within 18 months of that decision.²⁷

Lastly, it is worthwhile noting here that states are sometimes concerned not just with countering potentially disloyal behaviour but also with pre-empting problems that they consider may arise if the demographic make-up of the country's body of nationals is altered. This preoccupation has been noted as one reason for restrictive naturalisation policies or the reluctance of states to resolve the situation of stateless persons within their jurisdiction - and therefore as an obstacle to fully addressing situations of statelessness - in a number of MENA countries. For example, one report suggested that two factors in the enduring exclusion of Bidoon from citizenship in Kuwait are the desire to preserve the current religious balance (with its Sunni majority) and to avert a power struggle between tribes since the majority of Bidoon belong to extended branches of tribes that reach beyond the borders to Iraq, Iran, Syria and Saudi Arabia.²⁸ In Lebanon it is reported that the authorities are concerned that any change to the citizenship policy, for example to allow Lebanese women to transmit nationality to their children, may upset the fragile confessional equilibrium in the country.²⁹ The controversy surrounding the 1994 Naturalisation Decree which sought to redress the situation of those who were initially passed over for nationality in the period of state formation, as described above, is illustrative of these underlying concerns. A number of politicians alleged that the vast majority of new citizens were Muslims and that this had further perpetuated the existing imbalance among religious factions in Lebanon and discussions on the legitimacy of the Decree appear to be ongoing.³⁰

in the World 2009 – Libya, 16 July 2009; Reporters Without Borders, *Reporters Without Borders Annual Report 2002 – Libya*, 3 May 2002; US State Department, *US Department of State Country Report on Human Rights Practices 2002 – Libya*, 31 March 2003.

²⁶ *Oman strips Yemeni dissident of citizenship for returning to politics*, Gulf News, 22 May 2009 [United Arab Emirates]; *Oman revokes citizenship of former Yemen Vice President*, Yemen Post, 22 May 2009 [Yemen].

²⁷ UN Human Rights Council, *Arbitrary deprivation of nationality: report of the Secretary-General*, A/HRC/10/34, 26 January 2009; B. Manby, *Citizenship law in Africa. A comparative study*, Open Society Justice Initiative, 2009.

²⁸ A. Shiblak, "The case of the Bidoon in Kuwait", unpublished draft report, 2007; A. Shiblak, "Arabia's Bidoon" in B. Blitz (ed.), *Statelessness and the benefits of citizenship: A comparative study*, 2009. Another source explained that many Bidoon are descendants from Northern tribes, so the naturalisation of Bidoon is seen as adding to the tribal majority in outer regions and thereby a threat to the urban elite. F. Al Waquian, *The Stateless Persons in Kuwait*, unpublished draft translation of report, March 2007.

²⁹ *Lebanon: Law does not recognise children of Lebanese females*, The Daily Star, 8 March 2006 [Lebanon]; Lina Abou-Habib, Director of Collective for Research and Training on Development – Action (CRTD-A), *Nationality and statelessness: Challenges and progress towards citizenship for all*, presentation at Panel Discussion organised by the United States Mission to the United Nations, New York, 8 November 2007; *No ID*, NOW Lebanon, 9 March 2009 [Lebanon]; *Lebanon: Women Battle for Citizenship Rights*, Inter Press Service, 6 June 2009 [Italy].

³⁰ An appeal was even brought before the State Council by the Maronite League which sought to achieve a review of the cases of persons who were granted citizenship under the Naturalisation Decree. In 2003, the Council ruled that a number of cases would indeed be reviewed. There is no information on the outcome of these reviews to date. Rania Maktabi, "The Lebanese Census of 1932 revisited. Who are the Lebanese?" in *British Journal of Middle Eastern Studies*, Vol. 26, Issue 2, 1999; Thibaut Jaulin, *Lebanese Politics of Nationality and Emigration*, EUI Working Papers, RSCAS No. 2006/29, 2006; US State Department, *Country Report on Human Rights Practices – Lebanon*, 2008; G. Parolin, *Citizenship in the Arab World. Kin, Religion and Nation-State*, IMISCOE Research, Amsterdam University Press, 2009.

These experiences have led some to conclude that any effort to deal with the plight of the stateless may be treated with suspicion and deemed to be motivated by a hidden agenda.³¹ Meanwhile, the presence of a large number of Palestinian refugees on the territory of several MENA countries, together with agreements reached under the “Casablanca Protocol” regarding restricted access for such individuals to the nationality of the host state,³² has also been cited as a major barrier to discussing and addressing statelessness in the region.³³

3. Women, nationality and statelessness

Women have traditionally found themselves in a disadvantaged or dependent position under nationality law, thanks to the principle of “dependent nationality” or “unity of nationality of the family”. This principle resulted from states’ conviction that all members of a family should hold the same nationality and deemed the nationality of the male family member to be decisive for all those connected to him. Thus, a woman acquired the nationality of her *husband* and nationality was transmitted through the line of descent from *father* to child, thereby ensuring unity of nationality of the family. This approach to the nationality of women was widely accepted during the first half of the 20th century – indeed it was, to a certain extent, formally acknowledged by the international legal regime of the time which did nothing to prevent (and perhaps even encouraged) the adoption of nationality law that discriminated against women.³⁴ However, this position is now generally considered to be outdated and in violation of the principle of non-discrimination which is reflected in every major human rights instrument adopted by the international community. Indeed, the prohibition of gender discrimination in nationality matters is explicitly included in the widely ratified Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), in its article 9. The prohibition of discrimination is also implicit in the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child. As a result, a majority of states have amended their nationality legislation so as to remove any gender discrimination, providing women equal rights with men with regard to nationality including in conferring nationality on their children.

However, this change in perception and in international law is not evident in a number of countries where gender discrimination is still present in the nationality laws currently in force. The MENA region is an area of the world in which change has been slower to arrive and numerous countries, although state parties to CEDAW, continue to uphold reservations to its article 9 on nationality rights.³⁵ According to one analysis, this is due, in part, to the prominent role of the family in MENA societies whereby the state “is primarily concerned with the protection of the family [as a unit] as opposed to individual members of it”.³⁶ The

³¹ *No ID*, NOW Lebanon, 9 March 2009 [Lebanon].

³² The Arab League Protocol signed in Casablanca in 1965 provides a legal basis for the denial of access to naturalisation procedures for Palestinian applicants. A. Shiblak, “Stateless Palestinians” in *Forced Migration Review*, Issue 26, September 2006.

³³ Consider, for instance, the experience of Jordan where Palestinians constitute more than half of the population. Initially, Jordan conferred citizenship to massive numbers of Palestinians – towards two million persons – but this policy later changed, reportedly due to a fear that the continued acceptance of Palestinians as Jordanian nationals may give rise to the identification of Jordan as an alternative homeland for Palestinians. *Jordan Queen’s Decree stirs tempest*, Christian Science Monitor, 17 December 2002 [United States]; Human Rights Watch, “*The silent treatment*”: *Fleeing Iraq, Surviving in Jordan*, E1810, 28 November 2006; US Committee for Refugees and Immigrants, *World Refugee Survey 2004 – Jordan*, 25 May 2004; Immigration and Refugee Board of Canada, *Jordan/Palestine: Whether there have been any recent change to rules or laws related to Jordanian citizenship or status (or protection) for Palestinians; in particular, whether authorities in Jordan are able to automatically revoke the citizenship of Palestinians who carry Palestinian Authority (PA) passports (2006 - July 2008)*, ZZZ102878.E, 5 August 2008. See also discussions in the following section on the situation of children born to Palestinian fathers and citizen mothers in other MENA states.

³⁴ The 1930 Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws includes a chapter on the nationality of married women in which only basic safeguards against statelessness are introduced and states are otherwise free to legislate such that a woman’s nationality is dependent on that of her husband. Indeed article 11, which provides that a woman shall not recover the nationality which she lost upon contracting marriage if this marriage is dissolved, except on her own application, may even serve to create statelessness. See also the 1930 Protocol Relating to a Certain Case of Statelessness which implicitly acknowledges a difference between men and women in the right to transmit nationality to their children (see article 1). These international norms helped to shape state practice which was later recognised to be counter to best interests, the rights of women and the prevention of statelessness.

³⁵ Tunisia appears to be the exception to this trend as it has allowed both women and men married to foreigners to pass citizenship to their children – whether born inside or outside the country – since 1993. Committee on the Elimination of All Forms of Discrimination Against Women, *State Party Report: Tunisia*, CEDAW/C/TUN/3-4, 2 August 2000; B. Manby, *Citizenship law in Africa. A comparative study*, Open Society Justice Initiative, 2009.

³⁶ Collective for Research and Training on Development – Action (CRTD-A), *Denial of Nationality: The Case of Arab Women*, Summary of Regional Research, February 2004.

dominant position of men in MENA countries also helps to explain the position attributed to women under many nationality laws.³⁷ The result is a substantially heightened risk of statelessness since children can rely only on their father for the acquisition of a nationality at birth. Where the father is unknown, stateless or simply fails to acknowledge his paternity by undertaking those acts which are required of him as a father (such as consular registration), a child will be left without any nationality unless additional safeguards are in place.³⁸ This statelessness can endure into adulthood and even remain unresolved throughout the individual's lifetime – and may be perpetuated if the stateless child becomes a parent him or herself. In addition, the inability of women to pass their nationality on to their non-national (potentially stateless) spouses, blocks this particular avenue that may otherwise help to gradually reduce statelessness on a case-by-case basis and again increases the risk of statelessness for children.

The persistence of gender discrimination in many nationality laws in the MENA region has attracted the attention of the international community. In reviewing compliance with human rights treaties in MENA countries, the UN treaty bodies have continuously pointed out and expressed concern at the position of women under the applicable nationality law, calling for the passing of legislative amendments and the raising of reservations to CEDAW. Such recommendations can be found in the concluding observations adopted by the CEDAW Committee,³⁹ but they also recur in the concluding observations of the Committee on the Rights of the Child, the Human Rights Committee and even, upon occasion, in those of the Committee on the Elimination of All Forms of Racial Discrimination.⁴⁰ In some states, such as Jordan, Yemen and Libya, women *can* transmit their nationality to their children *when the father's nationality is unknown or he has no nationality*.⁴¹

Such partial safeguards should help to ensure that nationality laws that discriminate on the basis of gender do not cause or perpetuate statelessness. Nevertheless, the implementation of these safeguards may involve complex administrative procedures and can be subject to the satisfaction of additional (evidential) conditions and may, therefore, remain ineffective. Moreover, such safeguards, which refer to the status of the father rather than concentrating on the risk of statelessness for the *child* concerned, will not always be sufficient to prevent a conflict of laws situation.⁴² Statelessness will still result where the father is the national of a state which does not allow him to transmit nationality to his children; where there are, for instance, limitations on the conferral of nationality to the second generation born abroad; or where the acquisition of the nationality of the father is a practical impossibility due, for instance, to the lack of a diplomatic presence with the competence to complete the necessary procedures. It is therefore likely that some cases of (temporary) statelessness may nevertheless occur, even where such partial safeguards are in place.

The number of people that are potentially impacted by discriminatory nationality laws in the MENA region is not insignificant. In Lebanon, for instance, one source estimates that there are 17,860 women married to non-nationals. Based on this number and fertility rates in the country, it has been estimated that more than 40,000 children have been born to Lebanese mothers and non-national fathers and are at heightened risk of statelessness since Lebanese law does not allow women to pass on their nationality.⁴³ However, the nationality rights of women in Lebanon are increasingly coming under discussion. Civil society

³⁷ UNDP, *Women are citizens too: The Laws of the State, the Lives of Women*, Regional Bureau for Arab States, 2001.

³⁸ For instance, a Bahraini mother of two was abandoned by her Saudi husband while she was pregnant with her second child and these children, now in their thirties, are still stateless. S. Hamada, *GULF: Gender Discrimination in Citizenship Rights*, Inter Press Service, 17 September 2009 [Italy].

³⁹ See, for instance, CEDAW Concluding Observations on Jordan, CEDAW, A/55/38 (SUPP), 4 February 2000; Iraq, CEDAW, A/55/38(SUPP), 30 June 2000; Yemen, CEDAW/C/YEM/CO/6, 23 August 2002; Mauritania, CEDAW/C/MRT/CO/1, 11 June 2007; and Bahrain, CEDAW/C/BHR/CO/2, 14 November 2008.

⁴⁰ See, for instance, CRC Concluding Observations on Qatar, CRC/C/15/Add.163, 6 November 2001; United Arab Emirates, CRC/C/15/Add.183, 13 June 2002; Syria, CRC/C/15/Add.212, 10 July 2003; Saudi Arabia, CRC/C/SAU/CO/2, 17 March 2006; Jordan, CRC/C/JOR/CO/3, 29 September 2006; and Oman, CRC/C/OMN/CO/2, 29 September 2006. Human Rights Committee Concluding Observations on Egypt, CCPR/CO/76/EGY, 28 November 2002 (refers to the law prior to the 2004 amendment); Jordan, CCPR/C/79/Add.35, 10 August 1994; and Lebanon, CCPR/C/79/Add.78, 1 April 1997. CERD Concluding Observations on Saudi Arabia, CERD/C/62/CO/8, 2 June 2003; Bahrain, CERD/C/BHR/CO/7, 14 April 2005; and Oman, CERD/C/OMN/CO/1, 19 October 2006.

⁴¹ Article 3, paragraph 4 of Jordan's Act of Nationality of 1954; Article 3, paragraph b) of Yemen's Nationality Act of 1990; Article 4 of Libya's Nationality Law of 1954.

⁴² This is the same conclusion reached, for instance, by the UN Committee on the Rights of the Child in considering Yemen's nationality law which includes the aforementioned safeguard where the father is of unknown nationality or stateless. See UN Committee on the Rights of the Child, *State Party Report: Yemen*, CRC/C/8/Add.20, 6 June 1995, paragraph 26.

⁴³ *Lebanon Snubs Women's Nationality Campaign*, Women's eNews, 17 June 2009 [United States].

organisations started campaigning to equalise the rights of women and men to pass on Lebanese nationality in 1992, stepping up this campaign in 2005 with the launch of the “My nationality is a right for me and my family” programme.⁴⁴ These activities have boosted awareness of the issue and mobilised both public and political support.⁴⁵ Moreover, a 2009 court ruling may help to further promote these efforts: the First Instance Court in Mount Lebanon ruled that the minor children of a Lebanese woman whose Egyptian husband was deceased were entitled to Lebanese citizenship. The court found the nationality law to be “obscure [...] prone to interpretation [and] generally imprecise”. The court then interpreted the nationality law in the light of article 7 of the Lebanese Constitution which establishes the principle of equality, finding in favour of recognising the children as Lebanese.⁴⁶ The decision did not directly recognise the right of Lebanese women to transmit nationality to their children, but the court did base its judgement on a number of arguments that could be extended to the case of transferral of nationality through the maternal line generally:

*“The Lebanese woman is a partner to man in citizenship, obligations and rights, and has therefore the right to give her nationality to her children if she marries a foreigner, strengthening thereby the children's attachment to their mother country, securing the unity of the family's citizenship, facilitating the belonging of the family and its living together in one country”.*⁴⁷

Although some within the country continue to oppose any amendment to the law and this court decision has now been overturned on appeal,⁴⁸ the debate spurred by the ruling and the active civil society campaign could nevertheless pave the way for a change of policy towards the nationality rights of women in Lebanon.

Similar developments are also evident in other MENA countries which have yet to amend discriminatory provisions of their nationality laws. In fact, the civil society campaign for gender equality in matters relating to citizenship is *region-wide* and has gained prominence. In Bahrain, a series of workshops and seminars have brought together women's organisations, parliamentarians, members of the Shura Council and the media, which has helped to increase the support for a change to the law among both the public and officials. In 2008, Nizar Al-Baharna, Minister of State for Foreign Affairs of Bahrain, explained to the UN Working Group on the Universal Periodic Review that a new draft law on citizenship that aims to avoid the negative effects which result from not granting nationality to the children of Bahraini mothers who are married to non-Bahrainis was now being debated.⁴⁹

Other MENA states have also promised change. United Arab Emirates, on the occasion of the Universal Periodic Review of the UAE in December 2008⁵⁰ for instance, agreed to consider “the possibility of

⁴⁴ UNDP, *Women are citizens too: The Laws of the State, the Lives of Women*, Regional Bureau for Arab States, 2001; Frontiers, *Women's Rights in Lebanon: Gender Discrimination in terms of Nationality and Residency*, Alternative Report to the Committee on the Elimination of Discrimination against Women (with the support of the International Federation for Human Rights), 2008.

⁴⁵ *Lebanon: Law does not recognise children of Lebanese females*, The Daily Star, 8 March 2006 [Lebanon]; Lina Abou-Habib, Director of Collective for Research and Training on Development – Action (CRTD-A), *Nationality and statelessness: Challenges and progress towards citizenship for all*, presentation at Panel Discussion organised by the United States Mission to the United Nations, New York, 8 November 2007; Human Rights Watch, *Lebanon's 2009 Parliamentary Elections*, Section 3 on “Women's Rights”, 3 May 2009; *Nationality rights for all Lebanese women*, NOW Lebanon, 27 May 2009; *Lebanon Snubs Women's Nationality Campaign*, Women's eNews, 17 June 2009 [United States].

⁴⁶ *Case of Samira Soueidan vs. Lebanese State*, First Instance Court of Mount Lebanon, Decision 200/2009, 16 June 2009; as cited in *Children of foreign father declared Lebanese*, The Daily Star, 13 August 2009 [Lebanon].

⁴⁷ *Case of Samira Soueidan vs. Lebanese State*, First Instance Court of Mount Lebanon, Decision 200/2009, 16 June 2009; as cited in *Children of foreign father declared Lebanese*, The Daily Star, 13 August 2009 [Lebanon].

⁴⁸ The ruling was appealed by the Justice Minister and the decision on appeal was issued on 18 May 2010. See *Landmark ruling granting citizenship to children of Lebanese mother overturned*, The Daily Star, 19 May 2010 [Lebanon]. Among the voices opposing the right of women to transmit nationality to their children are those expressing concern at the impact that a change of law will have on access to nationality and thereby “implantation” of Palestinians, that would infringe their right to have their own state and nationality. See Collective for Research and Training on Development – Action (CRTD-A), *Denial of Nationality: The Case of Arab Women*, Summary of Regional Research, February 2004; Lina Abou-Habib, Director of Collective for Research and Training on Development – Action (CRTD-A), *Nationality and statelessness: Challenges and progress towards citizenship for all*, presentation at Panel Discussion organised by the United States Mission to the United Nations, New York, 8 November 2007; Human Rights Watch, *Lebanon's 2009 Parliamentary Elections*, Section 3 on “Women's Rights”, 3 May 2009; *Lebanon: Women Battle for Citizenship Rights*, IPS Inter Press Service, 6 June 2009 [Italy].

⁴⁹ Human Rights Council, *Universal Periodic Review: Bahrain*, April 2008. See also Collective for Research and Training on Development – Action (CRTD-A), *Arab Women & the Denial of Citizenship: A Regional Programme on Gender and Nationality*, Brief narrative report to POGAR, 2006.

⁵⁰ Human Rights Council, *Universal Periodic Review: UAE*, December 2008. Already, according to one source, female citizens can apply to the Ministry of Presidential Affairs for their children to acquire the nationality and the government generally grants it, so

introducing amendments to national laws on citizenship, so that female citizens married to non-citizens can pass on their nationality to their children in the same way that male citizens married to non-citizens can do". The Libyan government has been promising a revision of the law for some years now, although this has not yet been followed through.⁵¹ In February 2009, CEDAW asked Libya to accelerate the process of amending the law.⁵² Yemen has already gone some way towards correcting gender discrimination in 2003, when Article 3 of the Nationality Law was amended to grant children of a Yemeni woman and a foreign husband citizenship at the age of 18 on one of three conditions: the divorce of the mother from her foreign husband, his insanity, or the death of the husband.⁵³ And Saudi Arabia adopted a revision to its laws in 2007 which allowed the sons of citizen mothers and non-citizen fathers to claim Saudi nationality when they reach majority but did not extend the same opportunity to daughters in the same situation.⁵⁴ In all of these cases, there is some way to go before the law provides full gender equality or sufficient safeguards against statelessness.

Meanwhile, the campaign for a woman's equal enjoyment of nationality rights has also seen a number of real victories over the past decade. Several countries have adopted amendments to introduce gender equality in their laws and even taken steps to address any situations of statelessness that had arisen under the former legislation. Egypt, for example, did just that with the adoption of an amendment to its nationality law in 2004 providing that a child born to an Egyptian mother would acquire Egyptian citizenship, regardless of their father's status or their place of birth (inside or outside the country).⁵⁵ The practical application of the new law raised some concerns, not least because children born before the entry into force of the amendment must *apply* for citizenship – rather than obtaining it automatically – and the procedures have been denounced as “protracted, costly and complex”.⁵⁶ In addition, it appeared that children born of Egyptian mothers and *Palestinian* fathers are still excluded from Egyptian nationality, negating the effect of the change in law for a large portion of the (stateless) population affected. Although a number of cases that were brought before the courts with the support of women's rights groups have been successful in gaining recognition of the right of an Egyptian woman married to a Palestinian man to transmit her nationality to her children, some problems remain.⁵⁷

Nevertheless, the legal reform is already having a clear impact. Within two years, some 17,000 individuals who had previously been passed by for Egyptian citizenship were able to acquire the nationality and more were expected to apply thanks to the decision of the Ministry of the Interior to waive the usual application fee.⁵⁸ Unfortunately there is no information on how many among these had been stateless but, in a country where the number of stateless children with Egyptian mothers is reported to be in the tens – if not hundreds – of thousands,⁵⁹ the potential of the new law in preventing and reducing statelessness is clear.

the amendment to the law would reflect an existing practice. See US State Department, *US Department of State Country Report on Human Rights Practices 2006 – United Arab Emirates*, 6 March 2007; US State Department, *2007 Country Reports on Human Rights Practices – United Arab Emirates*, 11 March 2008; US State Department, *2008 Country Reports on Human Rights Practices – United Arab Emirates*, 25 February 2009; CEDAW/C/ARE/CO/1, 5 February 2010.

⁵¹ CRC/C/15/Add.209, 4 July 2003; B. Manby, *Citizenship law in Africa. A comparative study*, Open Society Justice Initiative, 2009.

⁵² CEDAW/C/LBY/CO/5, 6 February 2009.

⁵³ Freedom House, *Women's Rights in the Middle East and North Africa - Yemen*, 14 October 2005; UN Committee on the Elimination of Discrimination Against Women, *Sixth Periodic Report of States Parties – Yemen*, CEDAW/C/YEM/6, 13 March 2007; Human Rights Council, *Universal Periodic Review: Yemen*, May 2009.

⁵⁴ S. Hamada, *GULF: Gender Discrimination in Citizenship Rights*, Inter Press Service, 17 September 2009 [Italy].

⁵⁵ Law No. 154 on the Amendment of Certain Provisions of Law No. 26 of the year 1975 Concerning the Egyptian Nationality, 2004.

⁵⁶ Collective for Research and Training on Development – Action (CRTD-A), *Arab Women & the Denial of Citizenship: A Regional Programme on Gender and Nationality*, Brief narrative report to POGAR, 2006. See also *Citizenship costs less*, Al-Ahram Weekly Online, Issue 806, 3-9 August 2006 [Egypt]; B. Manby, *Citizenship law in Africa. A comparative study*, Open Society Justice Initiative, 2009; Centre for Research and Training on Development – Action (CRTD-A), *Egypt: Discrimination continues despite law reform*, Campaign Update, 15 September 2009.

⁵⁷ Collective for Research and Training on Development – Action (CRTD-A), *My nationality: A right for me and my family*, Campaign Regional Conference Update, April 2007; Euro-Mediterranean Human Rights Network, *Recommendations on Human Rights in Egypt; In view of the second EU-Egypt Subcommittee on Political Matters: Human rights and democracy, international and regional issues*, July 2009; Centre for Research and Training on Development – Action (CRTD-A), *Egypt: Discrimination continues despite law reform*, Campaign Update, 15 September 2009; CEDAW/C/EGY/CO/7, 5 February 2010.

⁵⁸ *Citizenship costs less*, Al-Ahram Weekly Online, Issue 806, 3-9 August 2006 [Egypt]; B. Manby, *Citizenship law in Africa. A comparative study*, Open Society Justice Initiative, 2009; K. Southwick; M. Lynch, *Nationality Rights for All. A progress report and global survey on statelessness*, Refugees International, 2009.

⁵⁹ One source reported the number of stateless children with Egyptian mothers to be around 250,000. A. Shiblak, “The lost tribes of

Algeria and Morocco both followed Egypt, amending their own nationality legislation in 2005 and 2007 respectively. Iraq's new nationality law, adopted following regime change in the country, also provides for gender equality in the passing on of nationality from parent to child.⁶⁰ In Morocco, the reform followed a lengthy and intense campaign by women's rights groups such as ADFM (Association pour la Défense des Femmes Marocaines), which included a series of sit-ins in front of Parliament and the Ministry of Justice to call attention to the issue.⁶¹ The change in the law, whereby Moroccan women married to foreign men gained the right to pass Moroccan citizenship to their children, was reported to benefit many children who had previously been stateless. There are still elements of gender discrimination present in other areas of the nationality law.⁶² Nevertheless, with the number of marriages in Morocco which involve a non-national spouse on the increase – and in the majority of these it is the woman who is the Moroccan citizen – this legal reform will play an important role in preventing statelessness into the future.⁶³

Good practice: Gender equality and the prevention and reduction of statelessness

The 2005 changes to the Algerian nationality law provide the best example of efforts in the MENA region to bring legislation into compliance with relevant international standards: they allow an Algerian woman married to a foreigner to transmit Algerian nationality to her children and her spouse on equal terms as those which exist for men. The law has retroactive effect and children born to Algerian women before it came into effect are automatically considered Algerian nationals.⁶⁴ The reformed nationality code in Algeria thereby “remains the absolute model” for the regional campaign for gender equality in nationality rights.⁶⁵ This example, along with the other best practices discussed in this section, provides invaluable guidance for the further reform of nationality laws in the MENA region.⁶⁶

Much can be learned, not only from the way in which the laws of these countries have been amended and implemented, but also from the way in which the campaign for change was organised and executed. The final section of this paper offers a further reflection on some of these lessons and how these can be used to move forward in addressing (the threat of) statelessness in the region.

Arabia” in *Forced Migration Review*, Volume 32, 2009. Another explained that the legislative amendment would benefit one million individuals from 468,000 families, an unknown number of which were initially stateless. *Citizenship costs less*, Al-Ahram Weekly Online, Issue 806, 3-9 August 2006 [Egypt]; B. Manby, *Citizenship law in Africa. A comparative study*, Open Society Justice Initiative, 2009; K. Southwick; M. Lynch, *Nationality Rights for All. A progress report and global survey on statelessness*, Refugees International, 2009.

⁶⁰ Nationality Law 27/2006 as published in *Iraqi Official Gazette*, Issue 4019, 7 March 2006.

⁶¹ Collective for Research and Training on Development – Action (CRTD-A), *Arab Women & the Denial of Citizenship: A Regional Programme on Gender and Nationality*, Brief narrative report to POGAR, 2006.

⁶² B. Manby, *Citizenship law in Africa. A comparative study*, Open Society Justice Initiative, 2009.

⁶³ For instance, in 1997 there were 996 mixed nationality marriages and by 2001 this number had increased to 2379. Collective for Research and Training on Development – Action (CRTD-A), *Denial of Nationality: The Case of Arab Women*, Summary of Regional Research, February 2004.

⁶⁴ The availability of nationality to non-national spouses even includes non-Muslim spouses – a reform for which the Constitution was specifically amended. B. Manby, *Citizenship law in Africa. A comparative study*, Open Society Justice Initiative, 2009.

⁶⁵ Collective for Research and Training on Development – Action (CRTD-A), *Arab Women & the Denial of Citizenship: A Regional Programme on Gender and Nationality*, Brief narrative report to POGAR, 2006; Lina Abou-Habib, Director of Collective for Research and Training on Development – Action (CRTD-A), *Nationality and statelessness: Challenges and progress towards citizenship for all*, presentation at Panel Discussion organised by the United States Mission to the United Nations, New York, 8 November 2007.

⁶⁶ Note that Iraq's nationality law has also been amended, part of the reform of various pieces of legislation following regime change rather than as a product of a vigorous civil society campaign. Law No. 26 of 2006 introduced gender equality in the conferral of nationality from parent to child, with retroactive effect.

4. Statelessness and migration

Migration is an historic and ongoing human phenomenon, both in the MENA region and around the world. When migration transcends international borders, it raises interesting and sometimes difficult questions for the attribution of nationality. For one thing, international migration results in a greater intermingling of people, which may lead to an increase in mixed-nationality marriages, raising questions surrounding the citizenship of children born to such unions as discussed in the previous section.⁶⁷ On an even simpler level, with the movement of people from one country to another, comes the question of what impact emigration has on the enjoyment of citizenship by those who depart and what access new arrivals have to the nationality of their host state. Where this migration is continuous, as in the case of nomadic groups, the question of belonging becomes all the more complex and the risk of statelessness increases. Furthermore, it may be stateless persons who are on the move. Statelessness brings heightened susceptibility to (forced) displacement, in which case the simple fact of migration brings the host state in direct contact with the problem of statelessness.

Problems relating to nationality and statelessness have surfaced in the context of numerous migratory movements involving MENA countries. In the first place there are the Bedouin whose nomadic way of life impeded their access to citizenship during the period of state formation in the region, leaving some stateless. As discussed in section 2 of this paper, in Lebanon, only Bedouin who could show that they “normally” resided in Lebanon were counted as Lebanese, which resulted in the exclusion of an unknown number of Sunni Muslim Bedouin who could not furnish proof of residence. Some have since been able to acquire citizenship thanks to a special Naturalisation Decree adopted in 1994.⁶⁸ Another nomadic community which was affected by statelessness are the 15,000 or so nomadic Mauritians who were outside of the country at the time that the Mauritanian state implemented a policy of denationalisation of certain segments of the population, following ethnic conflict in the country in 1989-1990. Caught outside state territory, they were subsequently denied re-entry as the authorities refuted their Mauritanian citizenship.⁶⁹

Specific mention should be made of the position of children born to migrants and forcibly displaced persons and their vulnerability to statelessness. The problems that mixed nationality marriages may raise for access to citizenship from children born from such unions have already been discussed in the section on women and nationality. An additional concern is that children born within nomadic communities may face particular difficulties with birth registration, as reported for instance in Algeria, which puts them at increased risk of statelessness.⁷⁰ Indeed, in general, it is widely understood that birth registration rates are much lower within such communities, as well as among migrants and displaced populations.⁷¹ Since several MENA states host significant populations of refugees and a number are also home to large numbers of migrant workers, this problem is of great relevance to the region. In addition, there may be an equivalent risk of statelessness among the children of displaced persons or migrants who have departed from a MENA country. One example is provided by the difficulties reported in the registration at Lebanese embassies of children born abroad, to a Lebanese father. Thus, although a child whose father holds Lebanese nationality is in principle also automatically Lebanese regardless of his place of birth, to confirm this nationality the child must be registered at an embassy – so where there are barriers to this registration, it may give rise to statelessness.⁷²

⁶⁷ Both international migration rates and the incidence of mixed-nationality (and mixed-religion) marriages have increased in the MENA region over the past decade, adding impetus, for example, to the discussion of the nationality rights of women. M. Charrad, “Unequal Citizenship. Issues of gender justice in the Middle East and North Africa” in M. Mukhopadhyay; N. Singh (eds.) *Gender justice, citizenship and development*, International Development Research Centre, 2007; G. Parolin, *Citizenship in the Arab World. Kin, Religion and Nation-State*, IMISCOE Research, Amsterdam University Press, 2009.

⁶⁸ See section 2 above.

⁶⁹ United States Committee for Refugees, *World Refugee Survey 2004 – Mauritania*, May 2004; M. Lynch, *Futures Denied. Statelessness among infants, children and youth*, Refugees International, October 2008; B. Manby, *Struggles for citizenship in Africa*, chapter 4 on “Mass denationalisation and expulsion”, Zed Books, London, 2009. See section 7 of this paper for a discussion of subsequent efforts to re-establish the nationality of black Mauritians who were affected by this policy.

⁷⁰ Committee on the Rights of the Child, *Concluding Observations: Algeria*, CRC/C/66 (1997).

⁷¹ M. Miller, “Birth registration: Statelessness and other repercussions for unregistered children”, *3rd European Conference on Nationality – Nationality and the Child*, Strasbourg, 2004.

⁷² Immigration and Refugee Board of Canada, *Lebanon / United Arab Emirates: Whether a person can settle in Lebanon if his or her travel documents were issued by the Lebanese authorities, even though the person has never lived in that country but was born and has always lived in the United Arab Emirates, for example, because his or her Lebanese parents work there and renew their work permits every two years*, ZZZ43052.FE, 5 November 2004; Committee on the Rights of the Child, *General Comment No. 6: Treatment of unaccompanied and separated children outside their country of origin*, 1 September 2005.

Good practice: Birth registration efforts and the prevention of statelessness

Ensuring access to birth registration for nomadic, displaced and migrant communities – both through the host state and through embassies – should therefore be considered an important component of statelessness prevention efforts in the region. This is why, in Morocco for instance, UNHCR has seized the opportunity to work with its local partners (Organisation Marocaine des Droits Humains in this case) on documentation problems facing refugee populations. In 2008, a joint programme was launched to ensure that children born within refugee communities acquire birth certificates.⁷³

At the same time, it is important to note that there is a principle which retains precedence in many MENA states and which may in fact help to combat statelessness among emigrant populations: perpetual allegiance or perpetual nationality. In accordance with this concept, MENA countries allow their nationals to continue to transmit their citizenship to their children, *jus sanguinis*, even if successive generations are born outside the territory of the state. This principle has often been diluted or abandoned elsewhere in the world, where nationality laws may restrict the *jus sanguinis* conferral of nationality to only the first generation(s) born abroad – a policy shift which heightens the risk of statelessness if there are no appropriate safeguards in place. In retaining the model of perpetual allegiance, MENA states, keen to uphold the link to their emigrant communities and continue to take advantage of their attachment to their state of ancestral origin, are preserving a principle that helps to avoid statelessness.⁷⁴

Displacement or migration may also accompany or follow statelessness: individuals may be rendered stateless and simultaneously or subsequently expelled or induced to leave their country of residence. There are numerous examples of this phenomenon across the region, where stateless individuals or groups have arrived in a MENA state either from another – perhaps neighbouring – MENA country or from a point of origin outside the region. For instance, between 100,000 and 240,000 stateless Bidoon left Kuwait during the first Gulf War (1990-1991) – mainly for Iraq. Many have reportedly not been allowed to return.⁷⁵ Thousands of Kurds, including many who are stateless, are reported to have left Syria in recent years, using human smuggling and trafficking networks to seek entry to neighbouring states or countries further a field.⁷⁶ Among the cases of stateless persons who have arrived in MENA from elsewhere are a residual group of around eighty stateless persons who originated from Armenia or surrounding countries and have been living in Egypt since the First World War;⁷⁷ approximately 300,000 stateless Rohingya from Myanmar who have settled in Saudi Arabia;⁷⁸ and a further, undetermined number of refugees who have sought asylum in a MENA state who hold no nationality.⁷⁹

⁷³ Correspondence with UNHCR Morocco.

⁷⁴ See on perpetual allegiance in MENA states and elsewhere, G. Parolin, *Citizenship in the Arab World. Kin, Religion and Nation-State*, IMISCOE Research, Amsterdam University Press, 2009.

⁷⁵ Human Rights Watch, *Promises Betrayed: Denial of Rights of Bidun, women, and freedom of expression*, October 2000; UK Asylum and Immigration Tribunal, *HE (Bidoon – statelessness – risk of persecution) Kuwait* CG [2006] UKAIT 00051; A. Shiblak, “Arabia’s Bidoon” in B. Blitz (ed.), *Statelessness and the benefits of citizenship: A comparative study*, 2009.

⁷⁶ H. Montgomery, *The Kurds of Syria. An existence denied*, Europäisches Zentrum für Kurdische Studien [European Centre for Kurdish Studies], Berlin, 2005; M. Lynch; P. Ali, *Buried Alive. Stateless Kurds in Syria*, Refugees International, January 2006; UK Home Office, *Country of Origin Information Report – Syria*, 10 October 2007; M. Lynch, *Futures Denied. Statelessness among infants, children and youth*, October 2008; *Statelessness: International blind spot linked to global concerns*, Refugees International, 2 September 2009; *Stateless Kurds seek better life and future*, The National, 2 October 2009 [United Arab Emirates].

⁷⁷ UNHCR, *Country Operations Plan 2008 – Egypt*, 1 September 2007; UNHCR, *2008-2009 Global Appeal – Egypt*; K. Southwick; M. Lynch, *Nationality Rights for All. A progress report and global survey on statelessness*, Refugees International, 2009.

⁷⁸ *The Rohingya's lives in limbo*, The National, 9 June 2009 [Kuwait]; see also UK Parliament, Hansard (House of Commons Daily Debates), *Rohingya People*, 1 February 2006, Column 535W.

⁷⁹ There is no specific statistical data available on such cases. However there is anecdotal evidence of this phenomenon, such as the case of a stateless Banyamulenge refugee from DRC whose detention upon arrival in Egypt was reported on as part of a study by the Equal Rights Trust. See “Testimony of a stateless child in detention in Egypt” in *Equal Rights Trust Review*, Volume 3, 2009. It should also be noted that the countries of origin of asylum seekers arriving in various MENA states – such as Egypt, Morocco and Yemen – include a number of countries in which statelessness is a widely-reported problem, such as DRC, Côte d’Ivoire, Ethiopia and Eritrea. See, for instance, UNHCR, *2007 Statistical Yearbook*, 31 December 2008. See also, for instance, L. Thomas, *Refugees and asylum seekers from mixed Eritrean-Ethiopian families in Cairo*, FMRS report, June 2006.

The immediate consequence of such movements of stateless persons is that MENA countries become directly confronted with the problem of statelessness, even if these states have safeguards in place to avoid the creation of statelessness within their own jurisdiction. In other words, whatever measures a state has taken to prevent statelessness, this will not alleviate the need to consider how best to protect stateless persons, in accordance with international law, as and when the situation arises. In addition, states may need to reassess whether their nationality policy is adequate to avoid the perpetuation or expansion of statelessness. Furthermore, where states have hosted displaced persons who are stateless or whose nationality is disputed, it should be understood that this is a critical consideration in finding an appropriate solution to their situation. Of note here are the efforts to facilitate the repatriation for black Mauritians stripped of their nationality and forced into exile as well as (Feili) Kurds who were denationalised and expelled from Iraq. For both populations, measures have been put in place to ensure the concomitant re-establishment of nationality and issuance of appropriate documentation for returning populations.⁸⁰ The prevention and reduction of statelessness is thereby part and parcel of the refugee return programme and will help to promote a comprehensive and truly durable solution. It should also be noted that the avoidance of statelessness in such a context must take into account the situation of not only the population that is being repatriated, but also any residual group that stays behind in the asylum state – or indeed any individuals who have been or will be resettled for the purposes of achieving a durable solution. The case of the persons of Armenian origin in Egypt, who remain stateless more than half a century after their plight began, illustrates the danger that refugee situations may otherwise produce, over time, an unresolved caseload of solitary, elderly, stateless persons who have not found a durable solution and become dependent on assistance from the state, the international community or charity.

5. Status and documentation of stateless populations

An uncertain or insecure legal status and difficulties accessing personal documentation are problems that plague stateless populations the world over. One of the traditional functions of nationality is that it provides the holder with the right to live in that state. In other words, a state has the duty to allow its nationals to enter, reside in and return to state soil. As a corollary to this function of nationality, the state must also provide the necessary documentation to allow its nationals to leave and return to the country. Travel documents are therefore generally issued by a person's country of nationality as are, most commonly, other forms of basic documentation such as identity papers. A stateless person will therefore find him or herself not only without a nationality, but often also without paperwork and potentially without a clear legal status. Since no country is necessarily obliged to admit stateless persons to its territory, the stateless individual may be without a (stable) immigration status – unless he or she was able to satisfy the requirements of the state's immigration laws.

These problems of status and documentation can have dire knock-on effects since they obstruct access to other rights and facilities both in law and in practice. Thus, for instance, access to schooling for a stateless child can be cut off at any time if he or she has an unlawful immigration status and is subject to deportation. Or a stateless adult who holds no identity papers may be unable to register his or her marriage with the authorities because personal documentation is required. Moreover, many stateless persons are not registered as stateless due to a lack of procedures, awareness or understanding. This can impede the enjoyment of rights to which stateless persons are entitled on the basis of their stateless status. It is also an obstacle to prevention and reduction of statelessness. Plus, it can contribute to gaps and inaccuracies in statistical data on stateless populations.

The status and documentation of stateless persons in the MENA region is an aspect of their plight about which relatively little has been directly or specifically reported. Official statistical information on the region's stateless populations is also rarely comprehensive, if it is available at all. These facts alone suggest

⁸⁰ Mauritania withdrew nationality from – and forced into exile – around 75,000 black Mauritians in 1989 and 1990; while Iraq denationalised 300,000 to 600,000 (Feili) Kurds and Arab shi'ites with Decision No. 666 in 1980. B. Manby, *Struggles for citizenship in Africa*, chapter 4 on "Mass denationalisation and expulsion", Zed Books, London, 2009; M. Lynch; D. Calabia, *Senegal: Voluntary Repatriation Critical for Protecting Stateless Mauritians*, Refugees International, 9 February 2007; M. Verney, "The Road Home: The Faili Kurds" in *Refugees Magazine*, Issue 134 (Return), 2005; Internal Displacement Monitoring Centre (IDMC), *Challenges of forced displacement within Iraq*, 29 December 2008; A. Shiblak, "The lost tribes of Arabia" in *Forced Migration Review*, Number 32, 2009.

that most MENA states do not have well-developed procedures for identifying stateless persons and conferring them with a (specific) status and/or basic documentation. Moreover, just three MENA states – Algeria, Libya and Tunisia – are parties to the 1954 Convention relating to the Status of Stateless Persons, the international instrument designed to ensure the recognition of stateless persons and their access to documentation, as well as their enjoyment of various minimum rights. Accession to this Convention places an onus on states to make every effort to identify stateless persons on their territory with a view to applying the instrument’s protections to them, for example through a dedicated status determination procedure.⁸¹

However, in those states which have yet to accede to the Convention – the vast majority of MENA countries – it is even less likely that there is the knowledge, willingness and capacity in place to undertake the exercise of identifying stateless persons as a precursor to granting a special status and issuing corresponding documentation. Indeed, where reports have touched upon the identification of stateless persons by MENA states, it appears that the determination that a person is stateless is a by-product of another administrative procedure rather than a result of a deliberate attempt to identify stateless populations within a state’s territory. Thus, in the United Arab Emirates for instance, stateless persons may be issued a driving license with the words “does not carry nationality papers” in the nationality field.⁸²

With the lack of tailored or standardised identification methods comes the ambiguity of the status of stateless persons – each being, arguably, as much cause as effect (without a defined status there is no need for procedures, without procedures the effect of a status is lost). This leads to a largely *ad hoc* response to situations of statelessness, determining questions of status and of rights as they present themselves and on the basis of laws and policies that were not necessarily designed with the specific circumstance of statelessness in mind. Indeed, most MENA countries appear to have no special status reserved for stateless persons and to therefore deal with them, as best they can, simply under those laws that apply to other non-nationals. Little or no credence is given to their situation as stateless persons.

Oman, for instance, has a strict immigration policy which makes no special provision for refugees or stateless persons.⁸³ In Egypt, stateless persons are required to renew their residence permits every year, even if they have lived in the country for several decades like the small residual population of stateless persons who arrived in Egypt from Armenia in the years following the First World War.⁸⁴ As such, stateless persons who do not hold a formal refugee status must fulfil the criteria set by the Egyptian immigration law.⁸⁵ In Saudi Arabia, Muslim residents of western Myanmar (often referred to as Rohingya) who began to arrive from Myanmar as early as 1948 were initially granted residence permits with ease and in some cases even citizenship. However, following a change in the law in 1972, the Rohingya became subject to regular immigration requirements including the need to produce a non-Saudi passport which, since they were stateless, meant finding a sympathetic government willing to issue them a passport. While Pakistan and Bangladesh obliged with the issuance of passports in many cases, a large number of the approximately 300,000 Rohingya to have settled in Saudi Arabia were unable to (continue to) meet the criteria set by the immigration law – in particular a work sponsor - and subsequently lost their residence permits.⁸⁶

There are exceptions to this general policy whereby stateless persons are simply subjected to the terms of a state’s immigration law, their status dependent on whether they can fulfil the criteria set for non-nationals generally, rather than on their condition of statelessness. One such exception involves children whose mother is a national of the country in question. A few countries which do not generally allow children to acquire nationality from their mother will make allowances for these non-national children when it comes to

⁸¹ See UNHCR, *Final report concerning the Questionnaire on statelessness pursuant to the Agenda for Protection*, Geneva, March 2004, pages 26-27.

⁸² *The frustration of being a 'Bidoon'*, The National, 6 November 2008 [United Arab Emirates].

⁸³ US State Department, *US Department of State Country Report on Human Rights Practices 2001 – Oman*, 4 March 2002.

⁸⁴ UNHCR, *Country Operations Plan 2008 – Egypt*, 1 September 2007; K. Southwick; M. Lynch, *Nationality Rights for All. A progress report and global survey on statelessness*, Refugees International, 2009.

⁸⁵ Residence permits in Egypt depend on criteria such as education, licensed work, marriage to an Egyptian, business partnership with an Egyptian or a deposit of \$3,500 with the government. United States Committee for Refugees and Immigrants, *World Refugee Survey 2007 – Egypt*, 11 July 2007.

⁸⁶ It should be noted that, in 2008, the Governor of the Mecca region, Prince Khalid Al Faisal, announced that King Abdullah had approved a plan to grant legal-resident status to immigrants in the Mecca region, where 98% of the Rohingya in Saudi Arabia live. This residence status would be granted to “those who fled to protect their religion and the Kingdom accepted them because of religious oppression in their homeland. There had been no further news on the plan by June 2009. *The Rohingya's lives in limbo*, The National, 9 June 2009 [Kuwait].

residence status, thanks to their mother's status as a citizen. Thus in the United Arab Emirates, children whose mother is a national and whose father is a non-national will not acquire Emirati citizenship, but do nevertheless enjoy a right of residence and various other privileges.⁸⁷ Egypt maintained a similar policy, which should no longer necessary since legal reform has allowed children to acquire their mother's nationality.⁸⁸ In Qatar, children of Qatari mothers are also granted permanent residence, and are treated as Qatari for the purposes of education, medical treatment and employment, but only in the event that the non-national husband has died or has left the wife and the country permanently.⁸⁹

While these policies are not tailored to stateless persons specifically, they do provide a valuable opportunity for some stateless children to acquire a more secure status. This would therefore constitute a step forward in those countries which currently allow neither for the acquisition of nationality nor the granting of residence through the connection with a mother who is a citizen.⁹⁰ Enabling these children to acquire residence, if not nationality, is a key means to promoting not only the rights of the child, but also protecting the family unit – the family being the “core social institution” within MENA countries.⁹¹

There are just a handful of MENA states which have developed a specific, yet still largely *ad hoc* rather than legally embedded, policy towards (particular) stateless populations within their borders with the result that a status somewhere between that of citizen and foreigner has come into being.

Good practice: Legal status of stateless persons

In Saudi Arabia, stateless Bidoon are issued five-year residence permits and Palestinians are also granted legal residence even if they have not been formally recognised as refugees.⁹²

Lebanon introduced a “citizenship under study” status for a number of those who would have been eligible for nationality but were overlooked for various reasons in the process of state formation. The status reportedly opens an avenue for obtaining legal residence and entitles the holder to various rights, placing these persons in a less vulnerable position than those who continue to live without legal documentation.⁹³ However, granting of this status has not been standardised and it has been suggested that the establishment of this status has been used as a way to skirt around the more fundamental question of access to nationality for these individuals and their children (who inherit the status of citizenship under study). Finally, both Kuwait and the United Arab Emirates have held registration campaigns to identify the number of stateless Bidoon within their territories. In Kuwait, those who came forward to register enjoy a status that is superior to that of

⁸⁷ S. Hamada, *GULF: Gender Discrimination in Citizenship Rights*, Inter Press Service, 17 September 2009 [Italy].

⁸⁸ Immigration and Refugee Board of Canada, *Egypt/Lebanon: Egyptian mother's right to custody of her Egyptian-born children in case of divorce with a Lebanese national; children's right to citizenship if mother is granted custody; permission required for those children to travel outside of Egypt; risk that these children would be deported to Lebanon*, ZZZA2479.E, 15 March 2004.

⁸⁹ Committee on the Rights of the Child, *Consideration of report submitted by States parties under article 44 of the Convention: Qatar*, CRC/C/QAT/2, 16 December 2008.

⁹⁰ Bahrain and Jordan are two MENA states in which citizen women reportedly experience great difficulties in securing some kind of residence status for their children. S. Hamada, *GULF: Gender Discrimination in Citizenship Rights*, Inter Press Service, 17 September 2009 [Italy]; UNDP, *Women are citizens too: The Laws of the State, the Lives of Women*, Regional Bureau for Arab States, 2001.

⁹¹ UNDP, *Women are citizens too: The Laws of the State, the Lives of Women*, Regional Bureau for Arab States, 2001.

⁹² US State Department, *2007 Country Reports on Human Rights Practices – Saudi Arabia*, 11 March 2008; US State Departments, *2008 Country Reports on Human Rights Practices – Saudi Arabia*, 25 February 2009; United States Committee for Refugees and Immigrants, *World Refugee Survey 2009 – Saudi Arabia*, 17 June 2009.

⁹³ Alongside residence, persons who hold “citizenship under study” status are reportedly also allowed to work in Lebanon. However, other sources continue to report various difficulties endured by persons who hold this status, including in accessing healthcare, for instance. See *Forgotten tribes of Lebanon's Wadi Khaled thrive on smuggling of goods to Syria*, Los Angeles Times, 1 January 1989 [United States]; Immigration and Refugee Board of Canada, *Lebanon: Information on the rights conferred to a person in possession of a laissez-passer where nationality states “a l'etude”*, LBN16897.E, 1 March 1994; Frontiers, *Women's rights in Lebanon: Gender discrimination in terms of nationality and residence*, Alternative report to the Committee on the Elimination of Discrimination Against Women, 1 February 2008; Centre for Research on Population and Health, *The Bedouin Health Project: findings indicate high levels of discrimination and difficult access to health services*, CRPH News, American University of Beirut, December 2008. It has also been reported that some persons who hold the “citizenship under study” status have been able to obtain travel documents from the Lebanese authorities. Immigration and Refugee Board of Canada, *Lebanon: Information on the rights conferred to a person in possession of a laissez-passer where nationality states “a l'etude”*, LBN16897.E, 1 March 1994.

their unregistered counterparts.⁹⁴ Few details have been publicly reported of how any of these efforts to offer stateless persons a status in response to their statelessness have actually been implemented. Voluntary registration was clearly the method used in Kuwait and United Arab Emirates, but no information is given on the exact criteria set or procedure followed. In the other countries mentioned, it is unclear on what terms or at whose initiative stateless persons are able to claim the (benefits of the) status afforded to them and without a legal foundation or formal status determination there is no assurance that this status is invulnerable to the whims of politics.

This tendency toward a non-specific or *ad hoc* response to statelessness has clearly contributed to the problems encountered by some stateless populations in the MENA region in acquiring (appropriate) personal documentation. If stateless persons are treated merely as non-nationals with no account taken of their lack of *any* nationality, or if they are informally treated as if they hold a special status without that status being made official, it is unlikely that they will receive documentation that correctly represents their situation as stateless persons. Moreover, as mentioned above, it can be difficult for stateless persons to obtain any documentation at all, if states are unwilling to make allowances for their statelessness and take exceptional measures, since it is often the country of nationality which is tasked with providing documents. Indeed, for many years, Kuwait did not offer or renew identity papers to its Bidoon population, although the issuance of documents was resumed in March 2006 so the situation is being addressed.⁹⁵ In United Arab Emirates, many Bidoon are reported to be without any personal documentation.⁹⁶ In Syria, one portion of the stateless population – those included in the civil register, but listed simply as “foreign” – is issued with basic identity papers.⁹⁷ However, another large segment, the Maktoumeen, is not given any documents whatsoever.⁹⁸

Access to travel papers is similarly obstructed in numerous MENA countries. Bidoon in United Arab Emirates cannot obtain travel documents and those in Kuwait may generally obtain only single-use documents and then only in exceptional circumstances such as to travel to Mecca for Hajj or for medical treatment that is proven to be both necessary and unavailable in Kuwait.⁹⁹

⁹⁴ In March 2008, the Emirati Ministry of the Interior established a higher national committee to find a solution to the problem of persons without identification in the country. Starting on September 7, 2008, registration centres opened for a period of 2 months to register stateless Bidoon. *UAE says to register stateless people*, Reuters, 3 September 2008 [International News Agency]; Refugees International, K. Southwick; M. Lynch, *Nationality Rights for All. A progress report and global survey on statelessness*, 2009; US State Department, *2008 Country Reports on Human Rights Practices – United Arab Emirates*, 25 February 2009; Freedom House, *Freedom in the World 2009 – United Arab Emirates*, 16 July 2009. The registration of Kuwaiti Bidoon was carried out in 2000 and approximately 80,000 had registered by the deadline in June of that year. US Committee for Refugees and Immigration and Refugee Board Canada, *Kuwait: Treatment of Bidoons by authorities since the 27 June deadline for registering, including statistics on how many were registered, and how many acknowledged a foreign citizenship or were granted Kuwaiti citizenship*, KWT40583.E, 13 December 2002; *Deadline for Kuwait's stateless*, BBC News, 27 June 2000.

⁹⁵ UK Home Office, Operational Guidance Note – Kuwait, March 2009.

⁹⁶ UN Human Rights Council, *Summary prepared by the Office of the High Commissioner for Human Rights, in accordance with paragraph 15(c) of the Annex to Human Rights Council Resolution 5/1 – United Arab Emirates*, A/HRC/WG.6/3/ARE/3, 16 September 2008; US State Department, *2008 Country Reports on Human Rights Practices – United Arab Emirates*, 25 February 2009.

⁹⁷ Human Rights Watch, *The Silenced Kurds*, Vol. 8, No. 4, October 1996; Danish Immigration Service, *Report on fact-finding mission to Syria and Lebanon. Conditions for Kurds and stateless Palestinians in Syria etc.*, 17-27 September 2001; United States Committee for Refugees and Immigrants, *US Committee for Refugees and Immigrants World Refugee Survey 2003 – Syria*, 1 June 2003; H. Montgomery, *The Kurds of Syria. An existence denied*, Europäisches Zentrum für Kurdische Studien [European Centre for Kurdish Studies], Berlin, 2005; K. Southwick; M. Lynch, *Nationality Rights for All. A progress report and global survey on statelessness*, Refugees International, 2009.

⁹⁸ At one time, Maktoumeen were able to obtain certified “white papers” recognising their identity from the local mayor’s office, although these were not recognised legally by the government; but this practice has now stopped under orders from the Syrian government. UK Home Office, *Country of Origin Information Report – The Syrian Arab Republic*, 6 February 2009.

⁹⁹ Immigration and Refugee Board Canada, *Kuwait: Meaning of the term “undefined Kuwait” in a Kuwaiti passport issued in 2000*, KWT38608.E, 15 March 2002; *Country Report on Human Rights Practices – Kuwait*, section d on “Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons”, 2008; UK Home Office, Operational Guidance Note – Kuwait, March 2009; *Religious freedom respected in Kuwait*, Arab Times, 28 October 2009 [Kuwait].

Good Practice: Access to travel documents

Syria offers travel documents to Palestinians on much the same terms as these are issued to its own nationals: a 1963 law provides the legal foundation for the issuance of such documents, which can even be issued or extended via a Syrian embassy abroad and which allow the holder to re-enter Syria and take up residence there, even after spending many years abroad.¹⁰⁰ This example of the facilitation of international travel and ensuring the right to return, both dealt with separately from any question of possession of the issuing state's nationality, could provide a model for other countries and other stateless populations in the region.

It is also important to emphasise that the 1954 Convention relating to the Status of Stateless Persons provides the basis for a regime of internationally-recognised travel documents for the stateless.

6. Protection concerns for stateless persons

The enjoyment of a nationality typically brings with it an assortment of benefits – various forms of protection offered by the state of nationality. This is often in return for a number of duties that a citizen may be required to perform, such as a general duty of loyalty towards the state or the more specific obligation of military service. The rights (and duties) that a citizen holds are principally determined by municipal law, with an increasing influence from international law, in particular the field of human rights. In fact, the same is true for the rights enjoyed by non-nationals in a given state – these are laid out in domestic law, which should take the state's international human rights obligations into account.

However, the range and content of the rights enjoyed by a state's nationals tends to differ from those of non-nationals who find themselves on the state's territory, the former enjoying certain privileges that are not generally extended to the latter. Human rights law recognises some differences in treatment as legitimate, as long as certain basic standards and principles are complied with. Stateless persons may therefore find themselves in a disadvantaged situation, unable to enjoy rights that are reserved by states for their nationals. Unlike other foreigners, stateless persons are excluded from the protection offered by states to their nationals when they are abroad – since they hold no nationality – which can leave them in a more vulnerable situation than other foreigners. Nor can stateless persons benefit from any favourable treatment that has been explicitly agreed by states on a reciprocal basis for each other's nationals. In addition, the lack of a clear, secure and appropriate status for stateless persons, or the absence of personal documentation, can have a further detrimental impact on many aspects of their lives. It is with such specific difficulties in mind that the 1954 *Convention relating to the Status of Stateless Persons* (1954 Convention) was elaborated to compliment the standards applicable under general human rights law and offer special measures of protection for stateless persons. Thus the three countries within the MENA region that are parties to the 1954 Convention have, for instance, committed themselves to providing basic documentation to stateless persons and exempting the stateless from legislative reciprocity after three years of residence.¹⁰¹

Turning to the situation on the ground in the MENA region, it can be seen that a number of MENA states provide their citizens with extensive benefits. Nationals of United Arab Emirates are, for instance, entitled to an array of privileges from free healthcare and education to free land and interest-free loans to build homes.¹⁰² By contrast, non-nationals in United Arab Emirates find themselves facing disadvantages in these

¹⁰⁰ Immigration and Refugee Board of Canada, *Syria: Information on whether a stateless Palestinian born in Syria and travelling on a Syrian travel document needs to provide proof of military exemption or postponement in order to have the travel document extended in Syria or abroad*, SYR17238.E, 1 May 1994; Danish Immigration Service, *Report on fact-finding mission to Syria and Lebanon. Conditions for Kurds and stateless Palestinians in Syria etc.*, 17-27 September 2001; Immigration and Refugee Board of Canada, *Syria: Requirements and procedures for a stateless Palestinian male born in Syria to obtain a travel document in Syria; whether he, as an employee, be required to obtain a letter/certificate of service or a resignation order from his employer to obtain a travel document*, SYR38893.E, 16 April 2002.

¹⁰¹ It can be recalled here that Algeria, Libya and Tunisia have acceded to the 1954 Convention relating to the Status of Stateless Persons. The exemption from legislative reciprocity is to be found in article 7 of this instrument and the provision of identity, travel and other personal documents in articles 25, 27 and 28.

¹⁰² *Mired in obscurity*, Gulf News, 25 June 2009 [United Arab Emirates]. The average Emirati male receives benefits worth 204,000 dirhams (\$55,500) a year. *UAE denies 100,000 residents access to riches from oil boom*, Bloomberg, 31 March 2008

areas and others.¹⁰³ Kuwait maintains a similarly generous welfare system where Kuwaiti nationality is the ticket to benefits.¹⁰⁴

As a result, unless special provision is made to that effect – through the creation and implementation of a specific status for stateless persons – those without any nationality are excluded from the advantages enjoyed by nationals. This basic dichotomy underlies the situation of the Bidoon in Kuwait who are unable to enjoy the same rights as the country’s nationals in respect of work, education, healthcare and other areas. As mentioned, where stateless persons also lack a secure legal status, the level of treatment that they experience may be particularly harsh. Thus, those Bidoon in Kuwait who are also *undocumented* are classified as illegal aliens and afforded very few rights.¹⁰⁵ In the same way, those Rohingya in Saudi Arabia who do not hold residence permits face difficulties enrolling their children in public schools.¹⁰⁶ Meanwhile, the lack of appropriate personal documentation can cause a variety of problems for stateless populations, exacerbating the overall inability to enjoy basic rights but also, for instance, preventing a person from opening a bank account (reported in United Arab Emirates)¹⁰⁷ or leaving them vulnerable to arrest or detention (reported in Lebanon).¹⁰⁸ Where no provision is made to supply travel documents to stateless persons, this curtails their movement and can subsequently impact the enjoyment of other rights – as reported in one case of a Bidoon in United Arab Emirates whose inability to acquire travel papers rendered him unable to access specialised medical care abroad and left him with a permanent disability.¹⁰⁹ In general, reports that non-nationals, including stateless persons, are unable to enjoy a variety of rights and basic services are widespread in the MENA region, as will be seen in more detail below.¹¹⁰

Taking a closer look at some specific protection concerns for stateless persons, the first issues that demand attention are those related to the rights to enter and reside in a state: **detention, expulsion and the denial of the right to return**. These problems relate to the question of status, as already discussed – since nationality confers an automatic right to enter and remain in the state of nationality, without a nationality, stateless persons are subject to the state’s immigration law and policy. Although accounts of these problems in the MENA region are not widespread, there have been a number of reports of deportation orders issued against stateless persons, including in cases where they have been living in the state for years or even generations. For example, some Bidoon in Qatar and Kuwait have officially been subject to deportation, although there are no reports of these orders being carried out in practice.¹¹¹ In Qatar however, there were reports of efforts

[International News Agency].

¹⁰³ Freedom House, *Freedom in the World 2008 – United Arab Emirates*, 2 July 2008; Freedom House, *Freedom in the World 2009 – United Arab Emirates*, 16 July 2009.

¹⁰⁴ A. Shiblak, “The lost tribes of Arabia” in *Forced Migration Review*, Number 32, 2009; *Kuwait’s stateless despair at their state*, The National, 2 March 2009 [United Arab Emirates]; UK Home Office, *Operational Guidance Note – Kuwait*, March 2009; US State Department, *Country Report on Human Rights Practices – Kuwait*, Section on “National/Racial/Ethnic Minorities”, 2005.

¹⁰⁵ Undocumented Bidoon are those who failed to register before the June 2000 deadline of a government registration exercise or those who the authorities considered had not either disclosed their “true identity” (foreign nationality) or provided proof of their right to citizenship. HE (Bidoon – statelessness – risk of persecution) Kuwait CG [2006] UKAIT 00051; BA and Others (Bidoon – statelessness – risk of persecution) Kuwait CG [2004] UKIAT 00256; UK Home Office, *Operational Guidance Note – Kuwait*, March 2009.

¹⁰⁶ *The Rohingya’s lives in limbo*, The National, 9 June 2009 [Kuwait].

¹⁰⁷ US State Department, *US Department of State Country Report on Human Rights Practices 2006 – United Arab Emirates*, 6 March 2007.

¹⁰⁸ It is not only a question of the possession of identity documents, but also of the recognition of such documents. In Lebanon, even with identity cards provided by the General Security, it has been reported that the Internal Security Forces continue to detain and question stateless persons, occasionally charging them with vagrancy. *No ID*, NOW Lebanon, 9 March 2009 [Lebanon].

¹⁰⁹ M. Lynch, *Futures Denied. Statelessness among infants, children and youth*, October 2008.

¹¹⁰ Note that the situations and protection concerns referred to in this section are those which have been most widely reported. A lack of reference to the situation of stateless persons in other MENA states should not necessarily be read to mean that stateless populations in those states do not face similar problems. In fact, in states where information on the protection situation of non-nationals, especially stateless persons, is scarcer, those reports that do touch on this question have pointed to difficulties in the enjoyment of the full range of rights and services – including economic and social rights, civil and political rights, family rights and rights relating to freedom of movement. See, for instance, *What next for the Moroccan Campaign? Interview with Rabéa Naciri, President of ADFM*, Claiming Equal Citizenship, 2 February 2007; US State Department, *2008 Country Reports on Human Rights Practices – Bahrain*, 25 February 2009; US State Department, *2007 Country Reports on Human Rights Practices – Qatar*, 11 March 2008; UN Human Rights Council, *Summary prepared by the Office of the High Commissioner for Human Rights, in accordance with paragraph 15(c) of the Annex to Human Rights Council Resolution 5/1 – United Arab Emirates*, A/HRC/WG.6/3/ARE/3, 16 September 2008.

¹¹¹ Human Rights Watch, *Promises Betrayed: Denial of Rights of Bidun, women, and freedom of expression*, October 2000; UK Home Office, *Operational Guidance Note – Kuwait*, March 2009; K. Southwick; M. Lynch, *Nationality Rights for All. A progress report and global survey on statelessness*, Refugees International, 2009.

to force or induce the departure from the country of some of the members of the Al-Murra tribe who were denationalized.¹¹² Meanwhile, in Kuwait, one organisation identified a number of cases of Bidoon who were being held in detention due to their lack of status.¹¹³

For those stateless persons who have left their country of habitual residence, for whatever reason, return may pose a problem. A large number of Bidoon resident in Kuwait left the country during Iraqi invasion in 1990-1991, the majority to Iraq, and have not since been allowed to return – unless they can produce a Kuwaiti passport or foreign passport and visa, requirements that cannot be met by stateless Bidoon.¹¹⁴ In Syria, stateless Kurds are usually not authorised to leave the country and those who nevertheless do so may be refused readmission.¹¹⁵ These individuals may also find themselves detained upon their return or subject to a penalty for illegal exit that can range from a fine to a prison sentence.¹¹⁶ However, Syria does respect the right to return of stateless Kurds in some situations – such as for Ajanib who have been able to obtain travel documents providing for re-entry into the country or for other stateless persons who can prove their former residence and the residence of family in Syria – thereby proving that these difficulties can be overcome with the proper policy in place.¹¹⁷

Good practice: Right to return

The right to return has played a central part in the situation of (formerly) stateless populations from Mauritania and Iraq, who were displaced to neighbouring countries in conjunction with their denationalisation. The expelled groups of black Mauritians and (Feili) Kurds are now being assisted to return to their respective countries, as are their children who were born – stateless – in exile. This repatriation is taking place hand-in-hand with the reestablishment of nationality and efforts to provide the population with documentation of their restored citizenship.¹¹⁸

Not only can access to a state's territory be a problem, but access to a place to live within that territory also poses difficulties. A first, severe obstacle is the tendency evidenced in a number of countries to restrict the ownership of property by non-nationals which particularly affects **access to housing**. Some countries grant property rights on the basis of reciprocity – foreigners on a state's soil can acquire property only if their country of nationality grants the same opportunity to that state's nationals. This is the case in Lebanon, for instance and has resulted in the exclusion of stateless persons from property ownership.¹¹⁹ In Qatar, non-citizens are prohibited from owning property, except in two designated areas.¹²⁰ Thus, when Qatar withdrew nationality from members of the Al-Murra tribe in 2004-2005, this had an impact on their housing rights with reports that electricity and water were immediately cut off from the homes of those who lost their

¹¹² Amnesty International, *Amnesty International Report 2006 – Qatar*, 23 May 2006.

¹¹³ “At least 4 and as many as 15” Bidoon were found in detention due to lack of status in 2008 (one a 75 year old man detained since May 1999). M. Lynch, *Kuwait Voices: Stateless in Jahra*, Refugees International, Weblog, 29 September 2008. This report provides full descriptions of cases of 2 individuals in detention.

¹¹⁴ As many as 100,000 to 240,000 Bidoon are thought to have been prevented from returning to Kuwait. Human Rights Watch, *Promises Betrayed: Denial of Rights of Bidun, women, and freedom of expression*, October 2000; UK Asylum and Immigration Tribunal, *HE (Bidoon – statelessness – risk of persecution) Kuwait CG [2006] UKAIT 00051*; A. Shiblak, “Arabia's Bidoon” in B. Blitz (ed.), *Statelessness and the benefits of citizenship: A comparative study*, 2009.

¹¹⁵ Danish Immigration Service, *Report on fact-finding mission to Syria and Lebanon. Conditions for Kurds and stateless Palestinians in Syria etc.*, 17-27 September 2001.

¹¹⁶ M. Lynch; P. Ali, *Buried Alive. Stateless Kurds in Syria*, Refugees International, January 2006; UK Home Office, *Country of Origin Information Report – Syria*, 10 October 2007; Home Office, *Operational Guidance Note: Syria*, February 2009.

¹¹⁷ UK Home Office, *Operational Guidance Note: Syria*, February 2009. See also the provision of travel documents and a right to return by Syria to Palestinians discussed in the preceding section.

¹¹⁸ See on the situation of Black Mauritians B. Manby, *Struggles for citizenship in Africa*, in particular chapter 4 on “Mass denationalisation and expulsion”, Zed Books, London, 2009; and *Mauritania: Thousands of refugees await status*, Integrated Regional Information Networks, 26 November 2008; Immigration and Refugee Board of Canada, *Mauritania: Situation of refugees who left Mauritania in 1989, especially those who returned from Senegal and those who returned since November 2007 (2007 – January 2009)*, MRT103075.E, 26 February 2009. On the situation of (Feili) Kurds, see UK Home Office, *Country of Origin Information Report – Iran*, 21 April 2009; *Country of Origin Information Report – Iraq*, 16 September 2009; and *Feili Kurds in Iran seek way out of identity impasse*, UNHCR News story, 28 May 2008.

¹¹⁹ This situation was brought about by a 2001 amendment to Lebanon's 1969 Property Decree which introduced further restrictions on property ownership. United States Committee for Refugees and Immigrants, *World Refugee Survey 2007 – Lebanon*, 2007.

¹²⁰ United States Department of State, 2006 *Country Reports on Human Rights Practices – Qatar*, 6 March 2007.

nationality.¹²¹ Although these individuals were not necessarily rendered stateless by the revocation of nationality and many since had their citizenship reinstated,¹²² this example shows how the loss of nationality can influence a person's housing situation. Elsewhere, such as in United Arab Emirates, Syria and Kuwait, the inability to own land, a house or an apartment is a widespread problem that stateless persons are reported to face.¹²³ Syria, in fact, introduced further restrictions in its legislation on property rights in 2008 (with Decree 49) which has made ownership and inheritance of land yet more difficult for its stateless Kurd population – although they are still required to pay property tax on the land that they do not legally own.¹²⁴ In Kuwait, Bidoon are reportedly also prevented from officially renting property.¹²⁵ These property rights restrictions may leave stateless populations vulnerable to eviction.¹²⁶

Another widely reported problem which impinges on the living conditions of stateless populations in the MENA region relates to the **opportunity to earn an adequate living**. Both employment rights and social security benefits can be detrimentally affected by a person's statelessness. Broadly speaking, access to work or to particular fields of work may be off limits to non-nationals.¹²⁷ Government sector employment, in particular, may be reserved for the state's own nationals. Indeed, in several MENA countries, including Egypt, Syria and Kuwait, stateless persons have limited or even no access to public sector jobs, while this sector is a significant source of employment generally.¹²⁸ Access to specific professions – for instance, in the field of law, medicine or engineering – may also be restricted through direct regulation or because stateless persons are unable to join the requisite professional associations or labour unions.¹²⁹

¹²¹ *More than 5,000 Qatari nationals lose citizenship*, DPA, 2 April 2005 [Germany].

¹²² United States Department of State, *2007 Country Reports on Human Rights Practices – Qatar*, 11 March 2008; United States Department of State, *2008 Country Reports on Human Rights Practices – Qatar*, 25 February 2009; Amnesty International, *Amnesty International Report 2009 – Qatar*, 28 May 2009.

¹²³ UN Human Rights Council, *Summary prepared by the Office of the High Commissioner for Human Rights, in accordance with paragraph 15(c) of the Annex to Human Rights Council Resolution 5/1 – United Arab Emirates*, A/HRC/WG.6/3/ARE/3, 16 September 2008; Human Rights Watch, *The Silenced Kurds*, Vol. 8, No. 4, October 1996; Danish Immigration Service, *Report on fact-finding mission to Syria and Lebanon. Conditions for Kurds and stateless Palestinians in Syria etc.*, 17-27 September 2001; H. Montgomery, *The Kurds of Syria. An existence denied*, Europäisches Zentrum für Kurdische Studien [European Centre for Kurdish Studies], Berlin, 2005; Amnesty International, *Syria: Kurds in the Syrian Arab Republic one year after the March 2004 events*, 10 March 2005; US Committee for Refugees and Immigrants, *US Committee for Refugees and Immigrants World Refugee Survey 2005 – Syria*, 20 June 2005; World Association Against Torture, *Human Rights Violations in Syria*, 5 August 2005; Minority Rights Group International, *State of the World's Minorities 2007 – Syria*, 4 March 2007; UK Home Office, *Country of Origin Information Report – Syria*, 10 October 2007; P. Barbieri, *About being without. Stories of stateless in Kuwait*, Refugees International, October 2007.

¹²⁴ Amnesty International, *Amnesty International Report 2009 – Syria*, 28 May 2009; *Stateless Kurds seek better life and future*, The National, 2 October 2009 [United Arab Emirates].

¹²⁵ P. Barbieri, *About being without. Stories of stateless in Kuwait*, Refugees International, October 2007.

¹²⁶ In Kuwait, this situation has already arisen: some Bidoon families were threatened with eviction from their homes which were owned by Kuwait Oil Company. Fortunately, sympathetic government officials intervened on this occasion. *Kuwait Voices: A Bidun Shares the Difficulty of Being Stateless*, Refugees International, Web Article, 21 August 2007; P. Barbieri, *About being without. Stories of stateless in Kuwait*, Refugees International, October 2007.

¹²⁷ Work permits are generally required for non-nationals and can include a variety of stringent conditions, which stateless persons may not be able to meet. In addition, there may be a non-competition clause, where a non-national is only entitled to work in a job for which cannot be filled by a national of the state. This condition can be found, for instance, in Lebanon and Egypt – although the Egyptian Labour Law waives the non-competition requirement for stateless persons. Collective for Research and Training on Development – Action (CRTD-A), *Denial of Nationality: The Case of Arab Women*, Summary of Regional Research, February 2004; United States Committee for Refugees and Immigrants, *World Refugee Survey 2009 – Egypt*, 17 June 2009.

¹²⁸ US State Department, *US Department of State Country Report on Human Rights Practices 2003 – Egypt*, 25 February 2004; Immigration and Refugee Board of Canada, *Egypt/Lebanon: Egyptian mother's right to custody of her Egyptian-born children in case of divorce with a Lebanese national; children's right to citizenship if mother is granted custody; permission required for those children to travel outside of Egypt; risk that these children would be deported to Lebanon*, ZZZ42479.E, 15 March 2004; *Egypt houses up to 1 million stateless children*, Afrol News, 16 February 2005 [Lesotho]; UNHCR, *Country Operations Plan 2008 – Egypt*, 1 September 2007; Immigration and Refugee Board of Canada, *Syria: Information on the rights and treatment of an ethnic Kurd born in Syria in 1975 including restrictions to education, mobility, obtaining a driver's license, marriage, government employment and voting*, SYR38121.E, 12 December 2001; US State Department, *US Department of State Country Report on Human Rights Practices 2004 – Syria*, 28 February 2005; UK Home Office, *Operational Guidance Note: Syria*, February 2009; Human Rights Watch, *Civil and Political Rights Violations in Kuwait*, Submission to the UN Human Rights Committee, July 2000; *Health Ministry seeks to appoint Bedoons*, Kuwait Times, 11 June 2009 [Kuwait]. Note that the situation in Kuwait has recently shown signs of improvement – in 2008 and 2009 the government allowed Bidoon to (re)gain employment in an increasing number of positions. See also UK Home Office, *Operational Guidance Note – Kuwait*, March 2009.

¹²⁹ This is the case, for instance, in Egypt, Syria, United Arab Emirates, Lebanon and Jordan. See also *The frustration of being a 'Bidoon'*, The National, 6 November 2008 [United Arab Emirates]; US State Department, *2008 Country Reports on Human Rights Practices – United Arab Emirates*, 25 February 2009; *Mired in obscurity*, Gulf News, 25 June 2009 [United Arab Emirates]; *No ID*, NOW Lebanon, 9 March 2009 [Lebanon]; United States Committee for Refugees and Immigrants, *World*

Good practice: Right to work

In the late 1980s, many Bidoon who were employed in the public sector in Kuwait were dismissed from their jobs, including a substantial number who worked for the army or police force. In some instances, private sector employers followed suit and access to employment became a serious issue. Although the authorities have yet to resolve all of the issues relating to the status of Bidoon and grant them nationality, some marked improvements have recently been noted in the enjoyment of rights. In particular, efforts have been reported to promote the right to work for Bidoon in Kuwait. From 2008 it was reported that the government began to accept an increasing number of Bidoon into public sector jobs. The Health Ministry and the police force are reportedly accepting applications from Bidoon. A number of professions that Bidoon were previously excluded from have now been opened up, including medical doctors, nurses, technicians, administrators and supervisors. While many Bidoon, particularly *undocumented Bidoon*, are still reliant on insecure work in the informal sector, these efforts to reintegrate Bidoon into the national economy are encouraging.¹³⁰

Even without officially imposed restrictions on the right of stateless persons to work, their access to the formal job market can be very limited in practice.¹³¹ This may be due to discrimination¹³² or the stateless person's lack of identity documents.¹³³ Moreover, where stateless persons are unable to own property, this may further disrupt the opportunity to earn an adequate income by preventing them from running their own business. In Syria, stateless Kurds cannot obtain property deeds, register cars or businesses, open a bank account or obtain a commercial driver's license and in Bahrain, Bidoon have been prohibited from buying land, starting a business or obtaining a government loan.¹³⁴

In practice, with the opportunity to work restricted as described above, many stateless persons are reliant on the informal sector for an income. Such jobs are characterised by low pay and often abusive conditions.¹³⁵ Even where stateless persons are able to find work in the formal sector, their salary and benefits may be inferior to those of their counterparts who do hold citizenship. In Saudi Arabia, for instance, there is no minimum wage for non-citizen workers and pay scales are governed by bilateral, reciprocal agreements between states from which stateless persons could not benefit;¹³⁶ and in Syria, there was a disparity in the provision of social benefits and accident compensation between Syrian nationals and stateless persons.¹³⁷ In

Refugee Survey 2009 – Jordan, 17 June 2009; S. Kawakibi, *Les Kurdes en Syrie our les Kurdes syriens?* a report for the Euro-Mediterranean Consortium for Applied Research on International Migration, No. 12, 2009.

¹³⁰ UK Home Office, Operational Guidance Note – Kuwait, March 2009; *Health Ministry seeks to appoint Bedoons*, Kuwait Times, 11 June 2009 [Kuwait].

¹³¹ In both United Arab Emirates and Saudi Arabia, reports simply state that, in practice, Bidoon are denied or face restricted employment opportunities. *The frustration of being a 'Bidoon'*, The National, 6 November 2008 [United Arab Emirates]; US State Department, *2008 Country Reports on Human Rights Practices – United Arab Emirates*, 25 February 2009; *Mired in obscurity*, Gulf News, 25 June 2009 [United Arab Emirates]; Freedom House, *Freedom in the World – Bahrain (2007)*, 6 March 2007; US State Department, *2008 Country Reports on Human Rights Practices – Saudi Arabia*, 25 February 2009; United States Committee for Refugees and Immigrants, *World Refugee Survey 2009 – Saudi Arabia*, 17 June 2009.

¹³² UN Human Rights Council, *Summary prepared by the Office of the High Commissioner for Human Rights, in accordance with paragraph 15(c) of the Annex to Human Rights Council Resolution 5/1 – United Arab Emirates*, A/HRC/WG.6/3/ARE/3, 16 September 2008; US State Department, *2008 Country Reports on Human Rights Practices – Bahrain*, 25 February 2009.

¹³³ *No ID*, NOW Lebanon, 9 March 2009 [Lebanon].

¹³⁴ Human Rights Watch, *The Silenced Kurds*, Vol. 8, No. 4, October 1996; Danish Immigration Service, *Report on fact-finding mission to Syria and Lebanon. Conditions for Kurds and stateless Palestinians in Syria etc*, 17-27 September 2001; H. Montgomery, *The Kurds of Syria. An existence denied*, Europäisches Zentrum für Kurdische Studien [European Centre for Kurdish Studies], Berlin, 2005; US Committee for Refugees and Immigrants, *US Committee for Refugees and Immigrants World Refugee Survey 2005 – Syria*, 20 June 2005; US State Department, *US Department of State Country Report on Human Rights Practices 2002 – Bahrain*, 31 March 2003; S. Kawakibi, *Les Kurdes en Syrie our les Kurdes syriens?* a report for the Euro-Mediterranean Consortium for Applied Research on International Migration, No. 12, 2009.

¹³⁵ Collective for Research and Training on Development – Action (CRTD-A), *Denial of Nationality: The Case of Arab Women*, Summary of Regional Research, February 2004; *The frustration of being a 'Bidoon'*, The National, 6 November 2008 [United Arab Emirates]; US State Department, *2008 Country Reports on Human Rights Practices – United Arab Emirates*, 25 February 2009; *Mired in obscurity*, Gulf News, 25 June 2009 [United Arab Emirates]; M. Lynch; P. Ali, *Buried Alive. Stateless Kurds in Syria*, Refugees International, January 2006.

¹³⁶ US State Department, *2007 Country Reports on Human Rights Practices – Saudi Arabia*, 11 March 2008.

¹³⁷ Committee on Economic, Social and Cultural Rights, E/C.12/1/Add.63, 24 September 2001.

Jordan and Lebanon, access to social security benefits also depends on reciprocal privileges in the worker's country of nationality, to the exclusion of stateless persons.¹³⁸ Many stateless persons in the MENA region therefore find themselves living in poverty.¹³⁹ Their statelessness may also prevent them from accessing government benefits such as pensions.¹⁴⁰ In some cases, stateless groups have become reliant on charitable assistance programmes for a subsistence allowance or to be able to pay for basic facilities such as schooling and health services.¹⁴¹

With limited opportunities to earn an adequate living, access to basic services can become a serious problem. This, and other factors, contributes to the difficulties that stateless persons report in the enjoyment of **access to education and healthcare**. The key problem that is reported is that stateless populations have restricted or even no access to government institutions such as schools and hospitals.¹⁴² In Libya, for instance, after some members of the Tabu tribe were deprived of their nationality, local authorities reportedly issued decrees barring Tabu tribesmen who did not hold Libyan citizenship from access to education and health care services.¹⁴³ In Saudi Arabia, Bidoon report the denial of educational opportunities and indeed the majority of complaints received from Bidoon by a special committee created under the country's Human Rights

¹³⁸ United States Committee for Refugees and Immigrants, *World Refugee Survey 2006 – Jordan*, 14 June 2006; J. Suleiman, *Legal Issues Governing Palestinians' Right to Work and Social Security*, Lebanese-Palestinian Dialogue Committee Briefing Note, 3 April 2008.

¹³⁹ *UAE denies 100,000 residents access to riches from oil boom*, Bloomberg, 31 March 2008 [International News Agency]; US State Department, *2007 Country Reports on Human Rights Practices – Saudi Arabia*, 11 March 2008; US State Department, *2008 Country Reports on Human Rights Practices – Saudi Arabia*, 25 February 2009.

¹⁴⁰ United States Committee for Refugees and Immigrants, *US Committee for Refugees and Immigrants World Refugee Survey 2003 – Syria*, 1 June 2003. In Egypt, stateless persons are not covered by state pensions. US State Department, *US Department of State Country Report on Human Rights Practices 2003 – Egypt*, 25 February 2004; Immigration and Refugee Board of Canada, *Egypt/Lebanon: Egyptian mother's right to custody of her Egyptian-born children in case of divorce with a Lebanese national; children's right to citizenship if mother is granted custody; permission required for those children to travel outside of Egypt; risk that these children would be deported to Lebanon*, ZZZ42479.E, 15 March 2004; *Egypt houses up to 1 million stateless children*, Afrol News, 16 February 2005 [Lesotho]; UNHCR, *Country Operations Plan 2008 – Egypt*, 1 September 2007. In Qatar, the revocation of citizenship from members of the Al-Murra tribe resulted in their ineligibility for government benefits. United States Department of State, *2005 Country Reports on Human Rights Practices – Qatar*, 8 March 2006; Minority Rights Group International, *World Directory of Minorities and Indigenous Peoples – Qatar: Overview*, 2007.

¹⁴¹ In Egypt, the small, residual population of stateless persons who originate mainly from Armenia continues to rely on UNHCR for a subsistence allowance and assistance through implementing partner Caritas. UNHCR, *Country Operations Plan 2008 – Egypt*, 1 September 2007. In Kuwait, the Kuwaiti Red Crescent provides food assistance on a bi-monthly basis to a limited number of Bidoon families and distributes clothes at Ramadan and special charitable funds have been established to help Bidoon families pay for education and healthcare. M. Lynch, *Kuwait Voices: Stateless in Jahra*, Weblog, 29 September 2008; UK Home Office, *Operational Guidance Note – Kuwait*, March 2009; A. Shiblak, "Arabia's Bidoon" in B. Blitz (ed.), *Statelessness and the benefits of citizenship: A comparative study*, 2009.

¹⁴² In Egypt, stateless persons reportedly have no or only limited access to government-provided education and healthcare facilities. US State Department, *US Department of State Country Report on Human Rights Practices 2003 – Egypt*, 25 February 2004; Immigration and Refugee Board of Canada, *Egypt/Lebanon: Egyptian mother's right to custody of her Egyptian-born children in case of divorce with a Lebanese national; children's right to citizenship if mother is granted custody; permission required for those children to travel outside of Egypt; risk that these children would be deported to Lebanon*, ZZZ42479.E, 15 March 2004; *Egypt houses up to 1 million stateless children*, Afrol News, 16 February 2005 [Lesotho]; UNHCR, *Country Operations Plan 2008 – Egypt*, 1 September 2007. Persons without citizenship documents in United Arab Emirates similarly experience no access or restricted access to healthcare. *UN Human Rights Council, Summary prepared by the Office of the High Commissioner for Human Rights, in accordance with paragraph 15(c) of the Annex to Human Rights Council Resolution 5/1 – United Arab Emirates*, A/HRC/WG.6/3/ARE/3, 16 September 2008; M. Lynch, *Futures Denied. Statelessness among infants, children and youth*, October 2008; US State Department, *2008 Country Reports on Human Rights Practices – United Arab Emirates*, 25 February 2009; *Mired in obscurity*, Gulf News, 25 June 2009 [United Arab Emirates]. Stateless children in Jordan who do not hold legal residency are not entitled to attend public school or seek other government services. US State Department, *2008 Country Reports on Human Rights Practices – Jordan*, 25 February 2009. Stateless Kurds in Syria are not eligible for admission to public hospitals or lack the correct documentation to guarantee treatment in public hospitals, although they may be granted limited admission in rare emergency cases. Human Rights Watch, *The Silenced Kurds*, Vol. 8, No. 4, October 1996; Immigration and Refugee Board of Canada, *Syria: Information on the rights and treatment of an ethnic Kurd born in Syria in 1975 including restrictions to education, mobility, obtaining a driver's license, marriage, government employment and voting*, SYR38121.E, 12 December 2001; H. Montgomery, *The Kurds of Syria. An existence denied*, Europäisches Zentrum für Kurdische Studien [European Centre for Kurdish Studies], Berlin, 2005; US State Department, *US Department of State Country Report on Human Rights Practices 2004 – Syria*, 28 February 2005; Amnesty International, *Syria: Kurds in the Syrian Arab Republic one year after the March 2004 events*, 10 March 2005; World Association Against Torture, *Human Rights Violations in Syria*, 5 August 2005; UK Home Office, *Country of Origin Information Report – Syria*, 10 October 2007; UK Home Office, *Operational Guidance Note: Syria*, February 2009.

¹⁴³ US State Department, *2008 Country Reports on Human Rights Practices – Libya*, 25 February 2009; Freedom House, *Freedom in the World 2009 – Libya*, 16 July 2009.

Commission related to violations of rights concerning health and education services.¹⁴⁴ The Saudi Ministry of Education is now said to be taking steps to ensure that Bidoon children are able to attend school.¹⁴⁵

Elsewhere, problems of access to education are particularly reported to affect stateless children wishing to continue their schooling beyond primary or secondary level. Bidoon in United Arab Emirates cannot follow education beyond high school, while Bidoon in Kuwait and stateless Kurds in Syria report problems accessing secondary school as well as entering university.¹⁴⁶ If access to government education and healthcare facilities is barred, stateless persons must pay to use private services, which can be prohibitively expensive since stateless persons tend to have a poor income as described above. Moreover, where stateless persons are unable to obtain travel documents, this will prevent them from pursuing higher education or accessing specialised medical care abroad.

Good practice: Education and healthcare

Some MENA states have taken measures to promote access to basic education and healthcare services for stateless persons on their territory. In Bahrain, where nationals are exempt from government fees for health services, public schools and a number of other facilities, this waiver has now been extended to stateless children. In Lebanon, there are reports of stateless children being issued a “special paper”, free of charge, by the mayor to allow them to register at school and obtain a diploma. Also in Kuwait, where difficulties are still widely reported for stateless persons, there are clear signs that the authorities are taking some steps to improve access to healthcare and education. For instance, the Parliamentary Committee for women and family affairs is discussing issues concerning women married to stateless residents and their children with the Minister of Health with a view to lifting health fees as previously declared by the Minister. 16,000 stateless children of Kuwaiti mothers or with fathers in the Kuwait armed forces are now reported to receive free education.¹⁴⁷

¹⁴⁴ *Human rights body to study plight of 'stateless' tribe*, Arab News, 29 July 2008 [Saudi Arabia]; US State Department, *2008 Country Reports on Human Rights Practices – Saudi Arabia*, 25 February 2009; United States Committee for Refugees and Immigrants, *World Refugee Survey 2009 – Saudi Arabia*, 17 June 2009.

¹⁴⁵ US State Department, *2008 Country Reports on Human Rights Practices – Saudi Arabia*, 25 February 2009.

¹⁴⁶ Information surrounding Bidoon children's access to education in Kuwait is ambiguous. While significant numbers of children are now able to attend school (at least at the primary level), this may be possible only in private institutes and through the financial support of the *Kuwaiti Charitable Fund for Education*. Access to secondary education is still reported to be a problem, although there is also information that 100 places at Kuwaiti universities have been reserved for Bidoon. US State Department, *Country Report on Human Rights Practices – Kuwait*, Section on “National/Racial/Ethnic Minorities”, 2005; Immigration and Refugee Board of Canada, *Kuwait: Treatment of Bidoon by the Kuwaiti authorities (January 2003 – October 2005)*, KWT100681.E, 21 October 2005; A. Shiblak, “Arabia's Bidoon” in B. Blitz (ed.), *Statelessness and the benefits of citizenship: A comparative study*, 2009; UK Home Office, *Operational Guidance Note – Kuwait*, March 2009. In Syria, there are similarly mixed reports on access to education for stateless Kurds, although there is agreement that the undocumented Maktoumeen face even greater difficulties than the Ajanib. Thus since 1978, Ajanib have been allowed to enter university but they must obtain a report from state security in order to attend and upon graduation. Meanwhile, Maktoumeen children go through considerable administrative processes and delays in registering from primary education and must obtain permission from state security to attend secondary school. They do not receive a secondary school diploma, preventing studies beyond 9th grade and university enrolment. M. Lynch; P. Ali, *Buried Alive. Stateless Kurds in Syria*, Refugees International, January 2006; Human Rights Watch, *The Silenced Kurds*, Vol. 8, No. 4, October 1996; Immigration and Refugee Board of Canada, *Syria: Information on the rights and treatment of an ethnic Kurd born in Syria in 1975 including restrictions to education, mobility, obtaining a driver's license, marriage, government employment and voting*, SYR38121.E, 12 December 2001; Amnesty International, *Syria: Kurds in the Syrian Arab Republic one year after the March 2004 events*, 10 March 2005; *Syria: For many Kurds, statelessness remains a way of life*, Payvand Iran News, 21 November 2005 [United States]; M. Lynch, *Futures Denied. Statelessness among infants, children and youth*, October 2008; UK Home Office, *Operational Guidance Note: Syria*, February 2009; S. Kawakibi, *Les Kurdes en Syrie ou les Kurdes syriens?* a report for the Euro-Mediterranean Consortium for Applied Research on International Migration, No. 12, 2009.

¹⁴⁷ S. Hamada, *GULF: Gender Discrimination in Citizenship Rights*, Inter Press Service, 17 September 2009 [International]; *No ID*, NOW Lebanon, 9 March 2009 [Lebanon]; UK Home Office, *Operational Guidance Note – Kuwait*, March 2009; Minority Rights Group International, *State of the world's minorities*, 2007; UN Human Rights Council, *Arbitrary deprivation of nationality: report of the Secretary-General*, A/HRC/10/34, 26 January 2009; *MPs present draft bill to tackle 'sectarian and tribal statements'*, Arab Times, 15 June 2009 [Kuwait]. Note however, that a recent attempt to adopt more comprehensive measures to improve the overall status and access to rights for Bidoon in Kuwait has been unsuccessful – Parliament was to hold a special session on the 10th of December 2009 to approve a draft law which would clearly stipulate the rights of Bidoon but it fell through due to lack of adequate attendance. *Kuwait fails to meet on stateless rights*, Khaleej Times Online, 10 December 2009 [United Arab Emirates]; *Security measures, absence of MPs abort Bedouns session*, Kuwait Times, 11 December 2009 [Kuwait].

A last protection concern for stateless persons in the MENA region that can be discussed here is the **enjoyment of family life**. This can be affected in a number of different ways. One issue is the registration of marriages which poses difficulties in some countries where one or both of the partners is stateless. In Oman, permission is required from the Ministry of Interior if a national wishes to marry a non-national (including stateless persons) – a process that may include long delays and may end in a rejection.¹⁴⁸ The inability to register marriages can serve to create or perpetuate statelessness by obstructing the transmission of nationality from parent to child (for instance where different criteria have to be met for children born out of wedlock).

Marriages involving Ajanib or Maktoumeen in Syria may not be officially registered: where the man and woman are both Ajanib or Maktoumeen, where the man is a national and the woman is Maktoumeen, or where the woman is a national and the man is either Ajanib or Maktoumeen, the marriage cannot be formally registered even if a court decree is obtained recognising the union.¹⁴⁹ As a result, both partners are listed on their identity cards as “single” which poses problems for the registration of children and prevents the couple from enjoying the benefits of marriage, such as the simple right to share a room in a hotel.¹⁵⁰ Similarly, in Kuwait, difficulties are reported registering marriages between Bidoon couples or a Bidoon and a Kuwaiti citizen which leaves the pair without legal proof of their marriage. This in turn means that women lose the recourse to courts for disputes involving divorce, maintenance and child custody.¹⁵¹

With these problems in mind, as well as the other protection concerns that would arise, families who do hold nationality are reported to refuse to allow their children to marry a stateless person.¹⁵² Stateless persons may themselves also be reluctant to marry and start a family because they believe that they could not support their family and are concerned that their children would face the same hardships.¹⁵³ The vulnerable position of stateless individuals, especially women, may lead them to seek marriage with a person through whom they could acquire a nationality, regardless of their character. This scenario, identified among Bidoon women in Kuwait, would place the individuals at risk of coerced or early marriage and sexual exploitation.¹⁵⁴

Finally, statelessness within a family may also have just the opposite effect – rather than pushing people together it can drive families apart. For instance, in Kuwait, Bidoon families have been separated because of the governments immigration policy – the state may have refused re-entry of a Bidoon family member or treat the Bidoon husband of a Kuwaiti woman as a foreigner who requires a “sponsor” in order to enter or remain in the country.¹⁵⁵ In other cases, families have split because the child of a Kuwaiti woman (and Bidoon man) can acquire citizenship upon the divorce of the parents. This provides an incentive for couples to separate and some examples of this practice have been identified.¹⁵⁶ Such action will evidently have severe consequences for the continuing enjoyment of family life.

¹⁴⁸ US State Department, *Country Report on Human Rights Practices 2001 – Oman*, 4 March 2002; Freedom House, *Women’s Rights in the Middle East and North Africa 2009 – Oman*, 11 February 2009.

¹⁴⁹ Danish Immigration Service, *Report on fact-finding mission to Syria and Lebanon. Conditions for Kurds and stateless Palestinians in Syria etc.*, 17-27 September 2001; H. Montgomery, *The Kurds of Syria. An existence denied*, Europäisches Zentrum für Kurdische Studien [European Centre for Kurdish Studies], Berlin, 2005; M. Lynch, *Syria: Follow through on commitment to grant citizenship to stateless Kurds*, Refugees International Bulletin, 10 November 2005; UK Home Office, *Country of Origin Information Report – The Syrian Arab Republic*, 6 February 2009.

¹⁵⁰ Human Rights Watch, *The Silenced Kurds*, Vol. 8, No. 4, October 1996; M. Lynch; P. Ali, *Buried Alive. Stateless Kurds in Syria*, Refugees International, January 2006.

¹⁵¹ Human Rights Watch, *Promises Betrayed: Denial of Rights of Bidun, women, and freedom of expression*, October 2000.

¹⁵² Human Rights Watch, *The Silenced Kurds*, Vol. 8, No. 4, October 1996; M. Lynch; P. Ali, *Buried Alive. Stateless Kurds in Syria*, Refugees International, January 2006.

¹⁵³ K. Southwick; M. Lynch, *Nationality Rights for All. A progress report and global survey on statelessness*, Refugees International, 2009.

¹⁵⁴ K. Southwick; M. Lynch, *Nationality Rights for All. A progress report and global survey on statelessness*, Refugees International, 2009.

¹⁵⁵ Human Rights Watch, *Promises Betrayed: Denial of Rights of Bidun, women, and freedom of expression*, October 2000

¹⁵⁶ P. Barbieri, *About being without. Stories of stateless in Kuwait*, Refugees International, October 2007; S. Hamada, *GULF: Gender Discrimination in Citizenship Rights*, Inter Press Service, 17 September 2009 [Italy]. Note that a similar law is currently in force in the United Arab Emirates. Freedom House, *Women’s Rights in the Middle East and North Africa – United Arab Emirates*, 14 October 2005.

7. Efforts and opportunities for the reduction of statelessness

With the difficulties involved in acquiring reliable statistics on statelessness, it is hard to measure whether the problem is growing or diminishing worldwide. It is certainly the case that many countries do not have adequate safeguards in place to prevent the further perpetuation of statelessness, which means that the problem will not resolve itself with the arrival of a new generation. Instead, in fact, the numbers may be growing – especially where statelessness can be inherited through the paternal line of descent even if the children’s mother has a nationality, which can result in an expansion of the stateless population. At the same time, there have been a number of significant efforts in recent years to reduce statelessness, including through large-scale campaigns to naturalise or re-establish the nationality of stateless populations.¹⁵⁷ Nevertheless, the absence of adequate legal safeguards to prevent statelessness from arising from a conflict of laws or through an act of deprivation of nationality, as well as the potential for political forces to create new cases of statelessness on a sizeable scale, mean that numbers can easily continue to rise unless due attention is paid to prevention.

MENA is a case in point for these contradicting processes. The region provides examples of significant reduction efforts, but there are also stateless populations whose situation has stagnated as well as policies that permit the perpetuation and even expansion of statelessness. This section looks at the prospects for the resolution of cases of statelessness in MENA countries, in particular through a discussion of specific reduction strategies that have been established, including in Mauritania, Iraq, Bahrain, Lebanon, United Arab Emirates, Egypt, Morocco and Algeria. Thereafter, comments are provided on the overall opportunity for stateless persons to (re)acquire a nationality through the applicable naturalisation policies in MENA states.

A first type of reduction measure that has been implemented in the MENA region is the **re-establishment or restoration of nationality for persons whose citizenship had previously been disputed or withdrawn**. Current examples of this can be found in Qatar, Mauritania and Iraq. Within a year after approximately 6,000 members of the Al-Murra tribe lost their nationality, Qatar took steps to re-attribute citizenship to the vast majority of these individuals.¹⁵⁸ Most of these persons are believed to have been dual nationals prior to the withdrawal of their Qatari citizenship, meaning that statelessness will not have resulted. However, it is possible that some were rendered stateless by this act of deprivation and, regardless of the specifics of this case, this review and subsequent reversal of an act of withdrawal provides a good example of how statelessness may be resolved.

In both Mauritania and Iraq, a much longer period elapsed between the act of deprivation of citizenship and the re-establishment of nationality. As discussed earlier, Mauritania withdrew nationality from – and forced into exile – around 75,000 black Mauritians in 1989 and 1990; while Iraq denationalised 300,000 to 600,000 Feili Kurds and Arab shi’ites with Decision No. 666 in 1980.¹⁵⁹ In recent years, a change in the political circumstances in both states has heralded the adoption of a reduction strategy based on the re-establishment of citizenship. Mauritania recognised that the exiled black Mauritians were nationals and were to be treated as though their citizenship had never been withdrawn. The conclusion of a tri-partite agreement in 2007 between Mauritania, Senegal (the host state for the majority of the affected population) and UNHCR established the parameters for the practical implementation of the reduction strategy. It provided the basis for the distribution of identity cards to returnees and for recognition of the right of spouses and children of returnees to acquire Mauritanian nationality in conformity with the country’s legislation.¹⁶⁰ In

¹⁵⁷ Examples of such efforts can be found in Sri Lanka, Nepal and Ukraine. See *Refugees Magazine*, Issue 147, Volume 3, 2007.

¹⁵⁸ *Qatar resolves citizenship issues*, BBC News, 9 February 2006 [International News Agency]; United States Department of State, *2006 Country Reports on Human Rights Practices – Qatar*, 6 March 2007. According to some reports, 150-200 or more were still denied citizenship at end of 2007. Some among these are reportedly accused of being involved in the failed coup attempt in 1996 and these individuals, whether found guilty or not, may not regain citizenship. See also Amnesty International, *Amnesty International Report 2009 – Qatar*, 28 May 2009; United States Department of State, *2007 Country Reports on Human Rights Practices – Qatar*, 11 March 2008; United States Department of State, *2008 Country Reports on Human Rights Practices – Qatar*, 25 February 2009.

¹⁵⁹ B. Manby, *Struggles for citizenship in Africa*, chapter 4 on “Mass denationalisation and expulsion”, Zed Books, London, 2009; M. Lynch; D. Calabia, *Senegal: Voluntary Repatriation Critical for Protecting Stateless Mauritians*, Refugees International, 9 February 2007; M. Verney, “The Road Home: The Faili Kurds” in *Refugees Magazine*, Issue 134 (Return), 2005; Internal Displacement Monitoring Centre (IDMC), *Challenges of forced displacement within Iraq*, 29 December 2008; A. Shiblak, “The lost tribes of Arabia” in *Forced Migration Review*, Number 32, 2009.

¹⁶⁰ *Mauritania: Thousands of refugees await status*, Integrated Regional Information Networks, 26 November 2008 [International

Iraq, the new Nationality Law (27/2006) adopted following regime change, provided the legal foundation for the re-establishment of nationality for those who lost it under Decision No. 666 of 1980, by annulling this Decision. Similarly to the Mauritanian case, procedures were subsequently put in place to enable the full implementation of this legal reform and allow beneficiaries to acquire documentation proving their recovery of Iraqi nationality. Since Iraq also elected for a reduction strategy that repairs the situation by nullifying the original act of deprivation, procedures are moreover being established to allow, for instance, children who were born in the interim to benefit from the retroactive recovery of nationality by their parent(s).¹⁶¹

A second important reduction technique for addressing the situation of a substantial stateless group is a **tailored naturalisation campaign**. Lebanon's 1994 Naturalisation Decree, discussed briefly in section 2, is one example of this, where there was a massive naturalisation effort designed to resolve cases of statelessness that were created during state formation. At least 150,000 persons acquired citizenship, although not all of these individuals were previously stateless and it has been reported that there remain, to this day, both cases of persons who were overlooked by this Decree to resolve statelessness and uncertainties regarding the full enjoyment of rights as nationals by those who were naturalised in 1994.¹⁶² Meanwhile, Bahrain and United Arab Emirates adopted a similar approach, a large-scale naturalisation campaign, in an effort to resolve the statelessness of their respective Bidoon populations.

Good practice: Large-scale naturalisation of stateless populations

Reports show that, in Bahrain, there have been a number of successive rounds of naturalisation over the course of the last decade. These have led, according to the Minister of the Interior, to the acquisition of citizenship by 7,012 persons.¹⁶³ Few further details are given and the exact statistics, as well as the full impact of these efforts, remain contested – with independent and opposition groups contesting the government's claim that the plight of all Bidoon in Bahrain has now been exhaustively addressed.¹⁶⁴ Nevertheless, it is clear that a large number of stateless persons have seen their situation resolved by these naturalisation campaigns.

In United Arab Emirates, the government has articulated an analogous commitment to redress the situation of

News Agency]; B. Manby, *Struggles for citizenship in Africa*, chapter 4 on "Mass denationalisation and expulsion", Zed Books, London, 2009; Immigration and Refugee Board of Canada, *Mauritania: Situation of returnees who left Mauritania in 1989, especially those who returned from Senegal and those who returned since November 2007 (2007 – January 2009)*, MRT103075.E, 26 February 2009.

¹⁶¹ UK Home Office, *Country of Origin Information Report – Iraq*, 16 September 2009; Internal Displacement Monitoring Centre (IDMC), *Challenges of forced displacement within Iraq*, 29 December 2008; UNHCR, *Feili Kurds in Iran seek way out of identity impasse*, News story, 28 May 2008.

¹⁶² The Maronite League lodged an appeal before the State Consultative Council (Majliss Al Shawra, highest administrative tribunal in Lebanon), claiming that the 1994 Decree affected the moral, political, demographic, financial and social interests of the Maronite Community and that thousands of persons acquired citizenship by fraud or despite being ineligible. In 2003, the court produced an ambiguous verdict in which it referred the question back to the Interior Ministry, asking it to reconsider those cases in which there may have been irregularities. A committee was formed by the Interior Ministry to investigate the question but this has yet to yield any decision. Meanwhile, the status of these individuals and others naturalised under the 1994 Decree remains ambiguous, with some administrative bodies and courts reportedly assuming that the Consultative Council's decision "froze" the implementation of the Decree and refusing to give full effect to the nationality of those naturalised. Other parties determined that, until the Interior Ministry decides otherwise, no naturalisations were suspended or reversed by the Consultative Council's ruling. Recognition of the affects of naturalisation may therefore vary in practice and there may, in particular, be some problems for the recognition of the claim to nationality of a child of someone who was naturalised under the 1994 Decree. Thibaut Jaulin, *Lebanese Politics of Nationality and Emigration*, EUI Working Papers, RSCAS No. 2006/29, 2006; US State Department, *Country Report on Human Rights Practices – Lebanon*, 2008.

¹⁶³ A. Shiblak, "Arabia's Bidoon" in B. Blitz (ed.), *Statelessness and the benefits of citizenship: A comparative study*, 2009; US State Department, *2008 Country Reports on Human Rights Practices – Bahrain*, 25 February 2009

¹⁶⁴ Collective for Research and Training on Development – Action (CRTD-A), *Arab Women & the Denial of Citizenship: A Regional Programme on Gender and Nationality*, Brief narrative report to POGAR, 2006; A. Etefa; A. van Genderen Stort, "The Bidoon" in *Refugees Magazine*, Issue 147, 2007; A. Shiblak, "Arabia's Bidoon" in B. Blitz (ed.), *Statelessness and the benefits of citizenship: A comparative study*, 2009; K. Southwick; M. Lynch, *Nationality Rights for All. A progress report and global survey on statelessness*, Refugees International, 2009. Note that there has also been some criticism of the naturalisation efforts themselves, with the suggestion made that these have favoured a particular segment of the population – Sunni Muslims from certain tribes – and were a deliberate effort to manipulate the country's demographics rather than to establish a fair solution to the plight of stateless individuals. See also G. Parolin, *Citizenship in the Arab World. Kin, Religion and Nation-State*, IMISCOE Research, Amsterdam University Press, 2009.

all Bidoon in the country – to find them a “comprehensive and permanent solution” as pledged by the President in 2006.¹⁶⁵ In October 2007, 1294 Bidoon were naturalised, another 51 followed a year later and yet more cases are being considered. In all, around 10,000 stateless persons are meant to benefit from these naturalisation efforts, but the process is ongoing and there remains some ambiguity surrounding the total number of individuals who have been assisted to date as well as regarding the total number of stateless persons actually found in United Arab Emirates.¹⁶⁶

The latest stage in this campaign was a registration exercise in late 2008 during which stateless persons – including those living in the country without a residence status – could come forward with evidence of their entitlement to nationality under the criteria and procedures adopted in the context of this naturalisation campaign.¹⁶⁷ Those who missed the registration window or do not meet the prescribed conditions will not benefit from this reduction exercise, which has been described by the authorities as a last opportunity for United Arab Emirates’ stateless population to regularise their status and acquire nationality.¹⁶⁸ In this context, it was also reported that some stateless persons did not submit applications for fear of deportation and will therefore be overlooked.¹⁶⁹ Moreover, some sources have expressed concern over the lack of transparency of the procedures and the absence of any possibility of judicial review, stating further that the naturalisation initiative has fallen short of addressing all aspects of the problem.¹⁷⁰ So, although such policies can be very effective, a significant concern relating to reduction efforts that have been pursued through naturalisation campaigns, such as those in Bahrain and United Arab Emirates, thereby remains the frequently ad hoc and unsystematic approach adopted which may result in arbitrariness and continued exclusion for a residual caseload.

The third approach to the reduction of statelessness that can be identified in the MENA region is one that provides for a structural rather than ad hoc response. Moreover, it is simultaneously responsive and proactive by combining the reduction of existing cases with the prevention of further statelessness. This technique involves the adoption of **legal reform to close gaps that may create statelessness, with retroactive effect.**

Recent examples of this practice in the MENA region can be found in Egypt, Morocco, Algeria, Iraq and to a lesser extent Saudi Arabia. The legal reforms which introduced (greater) gender equality in the enjoyment of nationality rights have already been discussed in section 3 of this paper – the details to be recalled here relate to the potential for these reforms to assist in the *reduction* of statelessness in the respective countries. Thus, each of the laws adopted in Egypt, Morocco, Algeria and Iraq introduced the possibility for citizen women to

¹⁶⁵ UAE moves to naturalise 10,000 stateless people, Arab News, 26 October 2006 [Saudi Arabia]; A. Etefa; A. van Genderen Stort, “The Bidoon” in *Refugees Magazine*, Issue 147, 2007; Freedom House, *Freedom in the World 2007 – United Arab Emirates*, 16 April 2007; UAE grants citizenship to 1,300 Bidoon, Al Arabiya News Channel, 7 October 2007 [United Arab Emirates]; US State Department, *2007 Country Reports on Human Rights Practices – United Arab Emirates*, 11 March 2008; Freedom House, *Freedom in the World 2008 – United Arab Emirates*, 2 July 2008. UNHCR, *Regional Operations Plan: Saudi Arabia, Kuwait, UAE, Qatar, Bahrain, Oman*, 2008; US State Department, *2008 Country Reports on Human Rights Practices – United Arab Emirates*, 25 February 2009; Committee on the Elimination of All Forms of Racial Discrimination, *Reports submitted by State Parties in accordance with article 9 of the Convention: United Arab Emirates*, 27 March 2009; K. Southwick; M. Lynch, *Nationality Rights for All. A progress report and global survey on statelessness*, Refugees International, 2009; Freedom House, *Freedom in the World 2009 – United Arab Emirates*, 16 July 2009; Refugees International, *Statelessness: International Blind Spot Linked to Global Concerns*, 2 September 2009; A. Shiblak, “Arabia’s Bidoon” in B. Blitz (ed.), *Statelessness and the benefits of citizenship: A comparative study*, 2009.

¹⁶⁶ Some reports estimate the stateless population of United Arab Emirates to be as high as 100,000. UAE denies 100,000 residents access to riches from oil boom, Bloomberg, 31 March 2008 [International News Agency]; *The frustration of being a ‘Bidoon’*, The National, 6 November 2008 [United Arab Emirates]; *Mired in obscurity*, Gulf News, 25 June 2009 [United Arab Emirates].

¹⁶⁷ The criteria for access to citizenship under the government’s current policy are reported to be as follows: the person must have been resident in the country before declaration of United Arab Emirates Federation on 2 December 1971; must not conceal information or documents pertinent to their former nationality; and must not have been convicted for a criminal felony. UAE says to register stateless people, Reuters, 3 September 2008 [International News Agency]; UAE asks stateless people to register, Thaiandian News, 3 September 2008 [Thailand]; A. Shiblak, “The lost tribes of Arabia” in *Forced Migration Review*, Number 32, 2009; Refugees International, *Statelessness: International Blind Spot Linked to Global Concerns*, 2 September 2009.

¹⁶⁸ UAE moves to naturalise 10,000 stateless people, Arab News, 26 October 2006 [Saudi Arabia]; UAE says to register stateless people, Reuters, 3 September 2008 [International News Agency]; UAE asks stateless people to register, Thaiandian News, 3 September 2008 [Thailand].

¹⁶⁹ US State Department, *2007 Country Reports on Human Rights Practices – United Arab Emirates*, 11 March 2008.

¹⁷⁰ Freedom House, *Freedom in the World 2008 – United Arab Emirates*, 2 July 2008; A. Shiblak, “The lost tribes of Arabia” in *Forced Migration Review*, Number 32, 2009; Refugees International, *Statelessness: International Blind Spot Linked to Global Concerns*, 2 September 2009.

pass their nationality to their children and each one provided for the retroactive application of the relevant provision. The Algerian reform also allows citizen women to transmit their nationality to their spouse, on equal terms as citizen men can confer nationality through marriage, and this right too was granted with retroactive effect.¹⁷¹ Children and spouses who previously missed out on the nationality of one of these countries and were thereby left stateless, can now acquire citizenship (or may have acquired it by operation of the law) through their link to a citizen mother or wife. Existing cases of statelessness can be resolved while the continued application of the law in the future will help to prevent new situations of statelessness from arising.

As previously mentioned, in Egypt alone, the first eighteen months after the adoption of the legal reform saw around 17,000 persons acquiring citizenship – some of whom may have formerly been stateless.¹⁷² Moreover, the new Iraqi nationality law also allows children who were born outside Iraq to an Iraqi mother and an unknown or stateless father to acquire nationality by option within one year of reaching majority, provided that they are residing in Iraq at the time of application. This provision would allow for the reduction of statelessness in some cases of children who were born to refugee or migrant families abroad. Enjoyment of the benefits of this provision may be further facilitated by the flexible approach of the authorities to the application deadline as there may also be opportunity to apply later if the failure to apply in a timely manner is “due to difficult circumstances”, which could arguably include security concerns that prevented an earlier return to the country.¹⁷³

A similar provision – one which cannot technically be equated to retroactive effect but which may, nevertheless, allow for the reduction of statelessness among persons who were initially overlooked for citizenship – was adopted with the 2007 revision of Saudi Arabia’s nationality law. The reform introduced the possibility for sons of citizen mothers (and non-citizen fathers) to acquire Saudi nationality upon reaching the age of 18.¹⁷⁴ Although it is of concern that this opportunity is not extended to daughters in the same situation, this revision of the law may allow for the reduction of cases of statelessness as these sons attain majority. This is another case in point of how a policy change which is principally forward-looking can offer new avenues for the resolution of existing situations of statelessness.

A fourth type of reduction strategy is **increased social, economic or legal integration** which takes a step towards inclusion of a stateless population but stops short of conferring citizenship. This does not result in the resolution of cases of statelessness, but may help to build a foundation for further reduction efforts in the future. The announcement by the government of Saudi Arabia of a plan to offer legal residence to stateless Rohingya who are currently residing in the country without a status is an example of this.¹⁷⁵ If a legal status is conferred, this may allow the population in question to begin to accrue the years of residence required for naturalisation or open avenues for another permanent solution down the line. Similarly, if a state promotes the increased social and economic participation of stateless persons, this may allow them to access new opportunities to seek a solution for their situation and it may also help to build public support for their subsequent, full legal integration through the attribution of nationality. Thus, it has been suggested that although the climate may not currently be amenable to offering nationality to all Bidoon in Kuwait, encouraging other forms of inclusion through the recognition of basic social and economic rights may help to combat the exclusion of this population in the longer term. It will also result in an improved protection situation in the short term.¹⁷⁶

¹⁷¹ Collective for Research and Training on Development – Action (CRTD-A), *Arab Women & the Denial of Citizenship: A Regional Programme on Gender and Nationality*, Brief narrative report to POGAR, 2006; Freedom House, *Countries at the Crossroads 2007 – Algeria*, 25 September 2007; B. Manby, *Citizenship law in Africa. A comparative study*, Open Society Justice Initiative, 2009; US State Department, *2008 Country Reports on Human Rights Practices – Algeria*, 25 February 2009.

¹⁷² *Citizenship costs less*, Al-Ahram Weekly Online, Issue 806, 3-9 August 2006 [Egypt]; B. Manby, *Citizenship law in Africa. A comparative study*, Open Society Justice Initiative, 2009; K. Southwick; M. Lynch, *Nationality Rights for All. A progress report and global survey on statelessness*, Refugees International, 2009.

¹⁷³ Article 4 of the new Iraqi Nationality Law as published in *Iraqi Official Gazette*, Issue 4019, 7 March 2006.

¹⁷⁴ Freedom House, *Women’s rights in the Middle East and North Africa 2009 – Saudi Arabia*, 11 February 2009; *GULF: Gender Discrimination in Citizenship Rights*, Inter Press Service, 17 September 2009 [Italy].

¹⁷⁵ *The Rohingya’s lives in limbo*, The National, 9 June 2009 [Kuwait].

¹⁷⁶ As noted earlier in this paper, Kuwaiti parliamentarians have made a number of proposals to allow for greater enjoyment of civil, social and economic rights by Bidoon, pending the resolution of their statelessness, but these have yet to bear fruit. *Kuwait fails to meet on stateless rights*, Khaleej Times Online, 10 December 2009 [United Arab Emirates]; *Security measures, absence of MPs abort Bedouins session*, Kuwait Times, 11 December 2009 [Kuwait].

Another way in which stateless persons can be assisted with a view to securing an eventual resolution of their plight is through the provision of documentation that attests to certain personal facts such as birthplace, parentage, residence, etc. If, for example, a naturalisation campaign is later implemented for which beneficiaries must show – as in the case of the policy in place in United Arab Emirates – that they have been resident on state soil for a certain period, proof of these facts is available.¹⁷⁷ In the absence of documentation, it becomes very difficult to implement such reduction campaigns in a fair and correct manner.

Alongside any opportunities that may exist or arise for the reduction of statelessness on a large scale, it should be recalled that each state's nationality law may provide avenues for the individual resolution of cases. For instance, it may be possible for a stateless person to acquire citizenship through marriage to a national, such as in Lebanon where stateless women married to Lebanese men are able to obtain citizenship.¹⁷⁸ Another possibility is the prospect of case-by-case review of decisions relating to the withdrawal of nationality. In Qatar in 2006, a Qatari national who was compelled to surrender his passport, accept alternative travel documents and sign papers stating that he had given up his citizenship presented his case to the Nationality Human Rights Committee, which forwarded the complaint to the Minister of Interior to study the case and intervene to reinstate the man's nationality.¹⁷⁹

Good practice: Availability of a review of decisions on nationality

The Qatari example underlines the importance of ensuring that decisions that impact on acquisition and loss of nationality are open to some form of review. It is therefore encouraging to see, for instance, that the new Iraqi nationality law provides the administrative courts the authority to review decisions and introduces the possibility of appeal before the Federal Court.¹⁸⁰ Lebanon provides another example – article 9 of its nationality law establishes the jurisdiction of the courts in cases relating to nationality.¹⁸¹ The existence of a remedy against decisions that could result in (prolonging) statelessness is a critical for both the prevention and reduction of statelessness.

A further key consideration is the availability of procedures for **individual naturalisation**. For instance, as many as 760 Feili Kurds who were expelled from Iraq to neighbouring Iran were able to acquire citizenship in the host state thanks to their successful integration into Iranian society.¹⁸² In Kuwait, some Bidoon have also been able to resolve their situation through naturalisation. Indeed there are reports that over 10,000 Bidoon have naturalised over the past decade,¹⁸³ although others suggest that this figure in fact relates to *all* those who have been naturalised, such as foreign wives of Kuwaiti nationals and foreigners other than Bidoon.¹⁸⁴ While annual naturalisation estimates for the Bidoon population of Kuwait do point to a lower total, it is clear that several hundred Bidoon have been able to resolve their statelessness through naturalisation every year for the last few years.¹⁸⁵

In reality, prospects for individual naturalisation vary greatly from one MENA state to another. Some

¹⁷⁷ In United Arab Emirates, for Bidoon to acquire nationality through the naturalisation campaign they must have been resident in the country before declaration of United Arab Emirates Federation on 2 December 1971. *UAE says to register stateless people*, Reuters, 3 September 2008 [International News Agency]; *UAE asks stateless people to register*, Thaindian News, 3 September 2008 [Thailand]; A. Shiblak, "The lost tribes of Arabia" in *Forced Migration Review*, Number 32, 2009; Refugees International, *Statelessness: International Blind Spot Linked to Global Concerns*, 2 September 2009.

¹⁷⁸ US State Department, *Country Report on Human Rights Practices – Lebanon*, 2008.

¹⁷⁹ *Qatari moves NHRC for getting passport back*, The Peninsula, 11 May 2006 [Qatar].

¹⁸⁰ Articles 19 and 20 of the new Iraqi Nationality Law as published in *Iraqi Official Gazette*, Issue 4019, 7 March 2006

¹⁸¹ Article 9 of the Lebanese Law on Nationality, Decree No. 15 of 1925.

¹⁸² UNHCR, *Feili Kurds in Iran seek way out of identity impasse*, News story, 28 May 2008.

¹⁸³ US State Department as cited in UK Home Office, Operational Guidance Note – Kuwait, March 2009.

¹⁸⁴ A. Shiblak, "The case of the Bidoon in Kuwait", unpublished draft report, 2007.

¹⁸⁵ The following estimates were provided for the naturalisation statistics of Bidoon: 1600 persons in 2003; 400 persons in 2004; 1800 persons in 2005; 400 persons in 2006; 573 persons in 2007; 928 persons in 2008. Immigration and Refugee Board of Canada, *Kuwait: Treatment of Bidoon by the Kuwaiti authorities (January 2003 – October 2005)*, KWT100681.E, 21 October 2005; US Committee for Refugees and Immigrants information cited in Immigration and Refugee Board of Canada, *Kuwait: Treatment of Bidoon by the Kuwaiti authorities (January 2003 – October 2005)*, KWT100681.E, 21 October 2005; UK Home Office, Operational Guidance Note – Kuwait, March 2009; UN Human Rights Council, *Arbitrary deprivation of nationality: report of the Secretary-General*, A/HRC/10/34, 26 January 2009.

countries maintain very restrictive policies, considering nationality to be a privilege that may be granted by the state, rather than a status that a person could develop a right to over time. This is reflected in stringent naturalisation criteria. In United Arab Emirates, for instance, prospects for naturalisation through regular procedures are poor, not least because the law requires a person to have been resident in the country for a period of at least 30 years before he or she can submit an application for naturalisation.¹⁸⁶ United Arab Emirates is not the only state that requires an extensive period of residence prior to eligibility for naturalisation – Qatar and Bahrain, for instance, both in principle demand 25 years of residence.¹⁸⁷ Both of these states allow for a reduced term of residence for applicants of Arab descent, but this is a discriminatory provision which may also create difficulties for stateless persons and runs counter to international equality norms.¹⁸⁸ Of similar concern is the fact that Egypt also provides for preferential terms for persons of Arab origin and Muslims seeking to naturalise, that Libya requires a man to be of Arab descent for him to be eligible for naturalisation and that in Kuwait and Yemen, naturalisation is only available Muslim applicants.¹⁸⁹ Moreover, many MENA states deny applicants of Palestinian origin access to naturalisation procedures, in accordance with the Arab League Protocol adopted in Casablanca in 1965, which may raise concerns regarding non-discrimination.¹⁹⁰

Good practice: Reasonable residence requirements for individual naturalisation

There are several MENA countries which set reasonable, non-discriminatory and more favourable conditions for access to naturalisation. Tunisia, Morocco, Mauritania, Libya and Syria for example, require 5 years of residence – and Jordan just 4 years - before a person can apply for citizenship.¹⁹¹

However, the fact that many stateless persons hold temporary, *ad hoc* or no residence status means that they often will not be able to meet even reduced residence requirements because access to naturalisation hinges on possession of a *lawful* and/or *permanent* residence status. Moreover, while there are numerous examples of differentiation within the naturalisation criteria – with impeded or facilitated naturalisation for certain groups as outlined in some of the examples above – stateless persons have unfortunately not been targeted by such distinctions for facilitated naturalisation as required under the 1954 Convention relating to the Status of Stateless Persons.¹⁹²

If a stateless person is able to meet the residency requirements for naturalisation, the individual must then also satisfy the further criteria set, such as demonstrating good conduct or language proficiency. The ability to meet these requirements will, of course, differ from case to case. Nevertheless, the circumstance of statelessness may continue to create difficulties, for example where states require that an applicant meet conditions pertaining to income, this may present an obstacle for stateless persons in view of their vulnerable

¹⁸⁶ The further criteria include: having a legitimate source of income, demonstrating good conduct, not having been convicted of an offence violating honour or trust and being proficient in the Arabic language. An exception to this rule is allowed for persons who have rendered extraordinary services to the country. Federal Act No. 17 of 1972 as cited in Committee on the Elimination of All Forms of Discrimination Against Women, *Consideration of reports submitted by States parties under article 18 of the Convention: United Arab Emirates*, CEDAW/C/ARE/1, 17 September 2008.

¹⁸⁷ K. Southwick; M. Lynch, *Nationality Rights for All. A progress report and global survey on statelessness*, Refugees International, 2009; Immigration and Refugee Board of Canada, *Qatar: Information on whether children born in Qatar of foreign workers are considered Qatari nationals, and whether Iranian workers are currently naturalised in Qatar*, QAT14553, 1 June 1993; Freedom House, *Women's Rights in the Middle East and North Africa – Qatar*, 14 October 2005; Freedom House, *Women's Rights in the Middle East and North Africa 2009 – Qatar*, 11 February 2009; United States Department of State, *2008 Country Reports on Human Rights Practices – Qatar*, 25 February 2009.

¹⁸⁸ The UN Committee on the Elimination of Racial Discrimination has, for instance, expressed concern at the distinction made in the nationality act between nationals of Arab countries and others as regards the length of time that they must reside in Qatar before they can submit an application for naturalization. See CERD/C/60/CO/11, 21 May 2002.

¹⁸⁹ It has also been reported that, although not explicitly provided for in the law, Saudi Arabia in fact also requires applicants to be Muslim in order to be eligible for naturalisation. G. Parolin, *Citizenship in the Arab World. Kin, Religion and Nation-State*, IMISCOE Research, Amsterdam University Press, 2009; B. Manby, *Citizenship law in Africa. A comparative study*, Open Society Justice Initiative, 2009; Human Rights Committee, *Concluding Observations: Kuwait*, CCPR/CO/69/KWT, July 2000.

¹⁹⁰ A. Shiblak, "Stateless Palestinians" in *Forced Migration Review*, Issue 26, September 2006.

¹⁹¹ B. Manby, *Citizenship law in Africa. A comparative study*, Open Society Justice Initiative, 2009; G. Parolin, *Citizenship in the Arab World. Kin, Religion and Nation-State*, IMISCOE Research, Amsterdam University Press, 2009.

¹⁹² Article 32 of the 1954 Convention relating to the Status of Stateless Persons.

economic position as discussed above.¹⁹³ In addition, renunciation of previous nationality may be required – in the case of Jordan the applicant must prove that his or her prior nationality has been lost in order to acquire a certificate of naturalisation.¹⁹⁴ Such requirements may create a catch-22 situation in which a person cannot naturalise because they cannot prove they are stateless.

Furthermore, simply qualifying for naturalisation under the terms set by a state's law is no guarantee of access to citizenship. There are a number of additional hurdles to overcome. One particular question is whether a naturalisation quota has been set – in other words, whether the authorities have capped the maximum number of applications that can be granted over a certain period. Thus in Kuwait, where the criteria are so restrictive that it has been suggested that fewer than 20% of Bidoon are even eligible to apply,¹⁹⁵ access to naturalisation is further constrained by the existence of a quota. A maximum of 2,000 applications may be honoured each year,¹⁹⁶ although according to reports – as mentioned above – the number of Bidoon naturalised over the past few years actually falls well below the limit set by this quota. Qatar upholds an even stricter quota, allowing just 50 applications for naturalisations to be approved each year.¹⁹⁷ Similar to Kuwait though, Qatar has reportedly granted citizenship to fewer persons than the quota allows for, so in practice the quota itself is not the greatest obstacle in these states at the moment.¹⁹⁸

Meanwhile, naturalisation procedures themselves may present problems for stateless persons seeking to naturalise, in particular where these are complex, unduly lengthy or expensive. Reports indicate that in Kuwait, the Ministry of Interior has failed to provide applicants with clear, detailed information regarding the criteria used in making decisions; there are often lengthy and unexplained delays in making decisions;¹⁹⁹ and there has been a failure to make public any procedures and mechanisms to allow applicants to submit supporting evidence, challenge evidence supplied by the ministry and appeal ministry decisions.²⁰⁰ Such circumstances render naturalisation less accessible to potential applicants, including stateless persons.

Then there is the element of discretion. The degree of discretion afforded to the decision-making authorities in naturalisation procedures also varies from one country to another and this may have a substantial impact on the prospects for a successful application. In a number of states, the naturalisation criteria set out in the law are reported to be “unevenly applied” or it is simply stated that naturalisation is “almost never granted”. Reported examples of the former include Bahrain and Qatar, while an example of the latter scenario is Egypt.²⁰¹ Also in Lebanon, although it is possible to apply for naturalisation, the vast majority of citizenship applications are reportedly refused – with the example given that, in 2003, 100% of the citizenship applications that the authorities received (4,000 applications) were refused.²⁰² One source explains this phenomenon by suggesting that naturalisation is deemed a political question in Lebanon and thereby subject to the discretionary power of the State, with decisions influenced by religious and financial interests.²⁰³

¹⁹³ Among the states that require sufficient means, a legal source of income or similar, are Algeria, Egypt, Morocco and Qatar. B. Manby, *Citizenship law in Africa. A comparative study*, Open Society Justice Initiative, 2009; Freedom House, *Women's Rights in the Middle East and North Africa 2009 – Qatar*, 11 February 2009.

¹⁹⁴ G. Parolin, *Citizenship in the Arab World. Kin, Religion and Nation-State*, IMISCOE Research, Amsterdam University Press, 2009.

¹⁹⁵ A. Shiblak, “Kuwaiti Bidoon” in *Forced Migration Review – Update*, Number 12, 2002.

¹⁹⁶ UK Home Office, Operational Guidance Note – Kuwait, March 2009.

¹⁹⁷ United States Department of State, *2008 Country Reports on Human Rights Practices – Qatar*, 25 February 2009.

¹⁹⁸ K. Southwick; M. Lynch, *Nationality Rights for All. A progress report and global survey on statelessness*, Refugees International, 2009; Freedom House, *Women's Rights in the Middle East and North Africa 2009 – Qatar*, 11 February 2009; United States Department of State, *2008 Country Reports on Human Rights Practices – Qatar*, 25 February 2009.

¹⁹⁹ This is illustrated by the fact that 87,300 citizenship requests were pending at end of 2005 and “more than 80,000” requests were (still) pending at end of 2008. US State Department, *Country Report on Human Rights Practices – Kuwait*, Section on “National/Racial/Ethnic Minorities”, 2005; UK Home Office, Operational Guidance Note – Kuwait, March 2009; *Country Report on Human Rights Practices – Kuwait*, section d on “Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons”, 2008.

²⁰⁰ Human Rights Watch, *Promises Betrayed: Denial of Rights of Bidun, women, and freedom of expression*, October 2000.

²⁰¹ K. Southwick; M. Lynch, *Nationality Rights for All. A progress report and global survey on statelessness*, Refugees International, 2009; Freedom House, *Women's Rights in the Middle East and North Africa – Qatar*, 14 October 2005; Freedom House, *Women's Rights in the Middle East and North Africa 2009 – Qatar*, 11 February 2009; United States Department of State, *2008 Country Reports on Human Rights Practices – Qatar*, 25 February 2009; B. Manby, *Citizenship law in Africa. A comparative study*, Open Society Justice Initiative, 2009.

²⁰² Immigration and Refugee Board of Canada, *Lebanon: Whether a child born in Dubai, United Arab Emirates, of a Jordanian father and a stateless Palestinian mother born in Lebanon has the right to reside in Lebanon; whether Lebanese authorities would deny them permission to remain in Lebanon*, LBN43284.E, 11 January 2005.

²⁰³ Thibaut Jaulin, *Lebanese Politics of Nationality and Emigration*, EUI Working Papers, RSCAS No. 2006/29, 2006.

Similarly, the Qatari Ministry of the Interior has “extensive discretionary powers” in the question of naturalisation, Saudi Arabia’s Interior Ministry has reserved the right to deny citizenship to any person even if they meet all of the qualifications.²⁰⁴

With a wider margin of discretion, the propensity for the arbitrary refusal of an application increases and the availability of a review procedure for such decisions gains increased importance. However, the same understanding that underlies the discretion afforded to the authorities in this matter has also contributed to a reluctance to allow for a review of decisions relating to naturalisation. Thus, in Kuwait for instance, where the government also retains total discretion over naturalisation requests and it has been reported that “security” arguments have been invoked to deny citizenship in cases where tribal, ethnic or religious considerations have been allowed to prevail,²⁰⁵ the courts are not considered competent to review decisions on nationality because this is deemed a sovereign matter.²⁰⁶ All of these factors must be weighed in to any assessment of the prospects for the reduction of statelessness through naturalisation with the result that the overall picture for the region is such that there is room for improvement. Furthermore, it must be kept in mind that the naturalisation of stateless persons will not necessarily lead to an immediate and comprehensive resolution of their plight. Many MENA states continue to deny naturalised citizens specific rights which are enjoyed by their nationals generally – including those relating to political participation – for a certain period following the acquisition of nationality. The post-naturalisation qualifying period may range from five years to thirty years and some states even provide for perpetual exclusion from particular rights for naturalised citizens.²⁰⁷

8. Statelessness as a concern for individuals and states

The importance of addressing statelessness was acknowledged by the international community more than half a century ago. In recent years, this issue has gained a more prominent place on the agenda of both states and international organisations – in large part due to a growing awareness of the severe consequences that statelessness can have. Statelessness can have a detrimental impact on individuals, communities, states and even inter-state relations. An understanding of the effects of statelessness can help to motivate a response and to give content to that response. Within the MENA region, as elsewhere, there are thus a number of considerations to be kept in mind when discussing statelessness as a concern for individuals *and* states.

To begin with, taking measures to identify, prevent and reduce statelessness, as well as to protect stateless persons, is vital to **ensure the enjoyment of rights by individuals**. The possession of a nationality remains of both legal and practical relevance today for the enjoyment of all sorts of rights and facilities. As described in detail in section 6 of this paper on protection concerns for stateless persons, these populations can face a myriad of problems, from restrictions on international travel to denial of access to education. In order for each individual to live to their full potential, enjoy the protection of a state and participate fully in society, the possession of a nationality can be considered imperative. Failing that, it is essential that the basic rights of stateless persons are protected.

The promotion of individual rights and of equal opportunity for participation in society, including through the enjoyment of the right to a nationality, **reflects the existing international obligations and constitutional provisions of MENA states**. All MENA countries are, for instance, state parties to all three of

²⁰⁴ Immigration and Refugee Board of Canada, *Qatar: Information on whether children born in Qatar of foreign workers are considered Qatari nationals, and whether Iranian workers are currently naturalised in Qatar*, QAT14553, 1 June 1993; United States Committee for Refugees and Immigrants, *World Refugee Survey 2007 – Saudi Arabia*, 11 July 2007.

²⁰⁵ A. Shiblak, “The case of the Bidoon in Kuwait”, unpublished draft report, 2007; A. Shiblak, “Arabia’s Bidoon” in B. Blitz (ed.), *Statelessness and the benefits of citizenship: A comparative study*, 2009; A. Shiblak, “The lost tribes of Arabia” in *Forced Migration Review*, Number 32, 2009.

²⁰⁶ F. Al Waquian, *The Stateless Persons in Kuwait*, unpublished draft translation of report, March 2007; A. Shiblak, “The case of the Bidoon in Kuwait”, unpublished draft report, 2007; A. Shiblak, “Arabia’s Bidoon” in B. Blitz (ed.), *Statelessness and the benefits of citizenship: A comparative study*, 2009; A. Shiblak, “The lost tribes of Arabia” in *Forced Migration Review*, Number 32, 2009. Nor have the Legislative Committees that deal with complaints in this area been able to ensure an effective remedy in cases of abuse of authority. Human Rights Watch, *Promises Betrayed: Denial of Rights of Bidun, women, and freedom of expression*, October 2000.

²⁰⁷ In Qatar and United Arab Emirates, naturalised citizens are excluded from political rights. G. Parolin, *Citizenship in the Arab World. Kin, Religion and Nation-State*, IMISCOE Research, Amsterdam University Press, 2009.

the CRC, CEDAW and CERD conventions. Many have also ratified the International Covenant on Civil and Political Rights.²⁰⁸ Although some countries have entered reservations to the provisions in these conventions pertaining to the right to a nationality, these international commitments show widespread acceptance of the principles of equality, non-discrimination and the enjoyment of human rights.

Moreover, there are a number of regional instruments to which various MENA states are parties which also provide a foundation for promoting the enjoyment of rights by stateless persons and which recognise the right to a nationality. For instance, at least seven MENA countries have acceded to the Arab Charter on Human Rights which provides, in its article 29, that everyone has the right to a nationality and no one shall be arbitrarily or unlawfully deprived of his nationality.²⁰⁹ Five states are parties to the African Charter on the Rights and Welfare of the Child which includes among its provisions the child's right to acquire a nationality and the obligation to establish safeguards to ensure that children are not left stateless at birth.²¹⁰ Plus, the Covenant on the Rights of the Child in Islam – adopted by the Organisation of the Islamic Conference of which all MENA states are members – also includes an article relating to the right of a child to a nationality and a pledge for states to “make every effort to resolve the issue of statelessness for any child born on their territories or to any of their citizens outside their territory”.²¹¹ Together, these international instruments lay the foundation for tackling statelessness by both protecting the rights of stateless persons and preventing exclusion through statelessness by promoting the right to a nationality.

The constitutions of MENA countries also provide certain guarantees that reinforce this commitment to address statelessness. For instance, Egypt's constitution prohibits discrimination and guarantees the freedom of citizenship regardless of religious affiliation.²¹² Iraq's new constitution provides that Iraqi citizens by birth may not have their citizenship withdrawn for any reason and Yemen's constitution offers a similar guarantee to its nationals.²¹³ In Bahrain and Lebanon, the constitutions recognise the principles of equality and non-discrimination, including on the grounds of gender. The civil society campaigns to reform the respective nationality laws and allow women to transmit nationality to their children have appealed to these constitutional principles.²¹⁴ Constitutional amendments in Qatar recently introduced similar guarantees of gender equality.²¹⁵ Protecting individuals, promoting equality and preventing statelessness are therefore also recognised in the constitutional frameworks of the region.

Where a state fails to act on these issues, this contradicts its existing commitments and may be met with criticism from both domestic actors and the international community. Thus, for example, the situation of the Bidoon in Kuwait has affected the image of the country in the international arena, while a recent renewed pledge to address the situation of the stateless population in Kuwait has been commended.²¹⁶ Thus, when MENA countries have taken steps to improve the situation of stateless persons, close gaps in the law that may lead to statelessness and even provide for the acquisition of nationality by stateless persons, such efforts have met with praise and support from the international community. States that choose to follow this lead will be demonstrating their own commitment to these key international and constitutional standards.

²⁰⁸ With the exception of Saudi Arabia, Oman, Qatar and United Arab Emirates.

²⁰⁹ Note also that the second paragraph of this article provides that “states parties shall take such measures as they deem appropriate, in accordance with their domestic laws on nationality, to allow a child to acquire the mother's nationality”, thereby encouraging gender equality in the transmission of nationality from parent to child. The Arab Charter on Human Rights entered into force in March 2008 after the following seven countries acceded to the instrument: Jordan, Bahrain, Algeria, Syria, Palestine, Libya and United Arab Emirates. It is unclear how many states have subsequently ratified the Charter.

²¹⁰ Article 5 of the African Charter on the Rights and Welfare of the Child. The five MENA states that are party to this instrument are Algeria, Egypt, Libya, Mauritania and Tunisia.

²¹¹ This Covenant was adopted by the 32nd Islamic Conference of Foreign Ministers in Sana'a in June 2005. Note that the Covenant requires 20 ratifications for entry into force (in accordance with its article 23) and the current status of ratifications is unclear.

²¹² *The ID game*, Al-Ahram Weekly Online, Issue 962, 27 August – 2 September 2009 [Egypt].

²¹³ UK Home Office, *Country of Origin Information Report – Iraq*, 16 September 2009; United Nations International Human Rights Instruments, *Core document forming part of the reports of States parties: Republic of Yemen*, HRI/CORE/1/Add.115, 31 July 2001.

²¹⁴ Collective for Research and Training on Development – Action (CRTD-A), *Denial of Nationality: The Case of Arab Women*, Summary of Regional Research, February 2004; *Hope for 'stateless' children*, Gulf Daily News, 7 February 2007.

²¹⁵ Freedom House, *Women's rights in the Middle East and North Africa 2009 – Qatar*, 11 February 2009.

²¹⁶ Report by Mr. Maurice Glèlè-Ahanhanzo, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, *Mission to Kuwait*, E/CN.4/1997/71/Add.2, 14 January 1997; F. Al Waquian, *The Stateless Persons in Kuwait*, unpublished draft translation of report, March 2007; *Bedouins issue needs solution*, Arab Times, Editorial, October 2009 [Kuwait]; Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Kuwait*, A/HRC/15/15, 16 June 2010.

Furthermore, by tackling statelessness in accordance with internationally recognised human rights and humanitarian standards, states are helping to **promote international stability**. A link has been traced between the issue of statelessness and international tensions, even conflict.²¹⁷ Nationality disputes may escalate and the detrimental effects of statelessness may spill over – particularly because statelessness is understood to be a root cause of forced displacement.²¹⁸ By avoiding statelessness and protecting the rights of stateless persons, states are therefore also helping to **combat forced displacement and illegal and dangerous forms of migration**. There are many examples, including a number in the MENA region as discussed above,²¹⁹ of populations whose statelessness has led to refugee movements to neighbouring states and further afield. Such phenomena can put pressure on the host community and may strain inter-state relations. In addition, stateless persons are vulnerable to smuggling and trafficking. In Syria, for instance, it has been estimated that the enduring exclusion experienced by stateless Kurds has contributed to the departure of as many as thousands of people from the country. Without access to travel documents, many of these individuals are relying on people smugglers or traffickers, risking death, deportation or imprisonment.²²⁰ Failure to prevent statelessness or ensure adequate protection of stateless persons therefore feeds the human smuggling and trafficking industry. In contrast, addressing statelessness is one way to combat these international criminal networks.

A commitment to tackling statelessness is not only a commitment to promoting international stability, it is also a way to **promote domestic stability and security**. It is understood that “the refusal to grant citizenship to a large number of titular residents may severely affect the balanced integration of all groups in society [and] may represent a security threat”.²²¹ Indeed, there may be a tipping point at which the frustration of persons and communities who are excluded from full participation in society can lead to destructive behaviour, as the individuals seek to call attention to their plight (and with formal means for influencing their situation closed to them). Equally, other groups within society may display distrust or even animosity towards those persons or communities who have been singled out through statelessness and this may also result in tension. In the MENA region, such tensions have been evident on a number of occasions, including in incidents of civil unrest in Libya and Syria.²²² Therefore, by addressing statelessness within their territories, states can help to avert a volatile situation which could otherwise flare up to the detriment of all segments of society. In the MENA region, a number of actors and even the media have already acknowledged this aspect of the issue of statelessness.²²³

²¹⁷ See, for instance, Advisory Board on Human Security (prepared by C. Sokoloff), *Denial of Citizenship: A Challenge to Human Security*, February 2005; G. McDougall, *Report of the independent expert on minority issues*, A/HRC/7/23, 28 February 2008, paragraphs 47-48.

²¹⁸ UN General Assembly, *Resolution on the Office of the United Nations High Commissioner for Refugees*, A/RES/50/152, 9 February 1996.

²¹⁹ See section 4.

²²⁰ UK Home Office, *Country of Origin Information Report – Syria*, 10 October 2007; H. Montgomery, *The Kurds of Syria. An existence denied*, Europäisches Zentrum für Kurdische Studien [European Centre for Kurdish Studies], Berlin, 2005; M. Lynch; P. Ali, *Buried Alive. Stateless Kurds in Syria*, Refugees International, January 2006; M. Lynch, *Futures Denied. Statelessness among infants, children and youth*, October 2008; *Statelessness: International blind spot linked to global concerns*, Refugees International, 2 September 2009; *Stateless Kurds seek better life and future*, The National, 2 October 2009 [United Arab Emirates].

²²¹ Address by K. Vollebaek, OSCE High Commissioner on National Minorities, to the Expert Consultation on “Issues related to minorities and the denial or deprivation of citizenship”, convened by the UN Independent Expert on Minority Issues, G. McDougall, Geneva, 6 December 2007.

²²² In Libya, the discontent of members of the Tabu tribe at having their nationality withdrawn and being subjected to other discriminatory measures led to unrest in Al-Kufra in November 2008. The Tabu tribesmen were reportedly stripped of their nationality for their perceived support for neighbouring Chad. Acts of vandalism and the destruction of state property, triggered further violence as the government responded with force. The clashes claimed a number of lives and as many as 100 people may have been injured. Freedom House, *Freedom in the World 2009 – Libya*, 16 July 2009. In Syria, the ongoing exclusion of stateless Kurds has also contributed to periodic episodes of unrest since the 1980s. For instance, in a 2004 incident in Qamishli, violence erupted at a football match between a Kurd and an Arab team and subsequent riots led to a clash between security forces and Kurds. Human Rights Watch, *World Report 2005 – Overview of human rights issues in Syria*, 2005; US State Department, *US Department of State Country Report on Human Rights Practices 2004 – Syria*, 28 February 2005; Chatham House, *The Syrian Kurds: A people discovered*, Middle East Programme, January 2006; *Stateless Kurds seek better life and future*, The National, 2 October 2009 [United Arab Emirates]; *A murder stirs Kurds in Syria*, Christian Science Monitor, 16 June 2005 [United States]; *Kurds, Emboldened by Lebanon, Rise Up in Tense Syria*, The New York Times, 2 July 2005 [United States]; Minority Rights Group International, *State of the World's Minorities 2008 – Syria*, 11 March 2008; Freedom House, *The Worst of the World – Syria*, 5 May 2008; Freedom House, *Freedom in the World 2008 – Syria*, 2 July 2008.

²²³ See, in the context of United Arab Emirates, for instance *The frustration of being a 'Bidoon'*, The National, 6 November 2008 [United Arab Emirates]; *UAE asks stateless people to register*, Thaindian News, 3 September 2008 [Thailand]; *Mired in*

Another way in which tackling statelessness can contribute domestic and international stability is by **promoting a healthy, inclusive society and unleashing the full economic potential of the population**. It is clear from reports on the situation of stateless persons in several MENA states that the problems experienced can have a deep psychological effect on the individuals and families involved and that this may have a wider societal impact. For instance, a survey conducted among Bahraini women who had discovered that their children had no right to Bahraini citizenship revealed that ninety percent of those questioned expressed a sense of guilt for causing the situation and great sadness that society – including their own family – blame them for their children’s suffering. Meanwhile, children who were unable to acquire Bahraini citizenship reported that, by late primary school, they were being treated and being made to feel like foreigners and that this exclusion was making them unhappy.²²⁴ Similarly, in Lebanon, Lebanese women married to non-nationals who find that their children are unable to acquire citizenship declare feelings of anger, disappointment, disillusionment, culpability, regret and anguish.²²⁵ And stateless populations in Kuwait, United Arab Emirates and Syria all display psychological problems that have resulted from the general feeling of loss of opportunity and identity that accompanies their situation. Among the concrete manifestations of such problems are isolation, depression, poor academic performance, drug abuse, petty crime, mental disorders and suicide.²²⁶

Addressing statelessness and fostering inclusion helps to alleviate the psychological strains experienced by these populations and counteract such negative effects. Furthermore, promoting the full and regular participation of stateless persons in society, through the recognition of the civil, economic and social rights of the stateless and the resolution of cases of statelessness, allows states to profit from the economic potential of those who are currently marginalised or excluded. In Kuwait, for instance, the Bidoon were traditionally relied upon to fill gaps in the state’s army that were left by Kuwaiti nationals who were not receptive to military service. The policy of barring stateless Bidoon from recruitment into the armed forces thereby not only had a detrimental impact on the opportunity for these stateless persons to earn a living, but also on the capacity of the army itself.²²⁷ Elsewhere, the (re)integration of stateless individuals into mainstream society and the mainstream economy has been cited as an important tool for boosting the human capital of the states concerned.²²⁸

The foregoing shows that tackling statelessness and ensuring that individuals can participate fully in society can both stave off negative consequences and provide a highly positive contribution to the overall situation within a state in terms of welfare, stability and economy. A final consideration to note here is that, as MENA states seek to tackle situations of statelessness, there are **clear, existing links between stateless populations and the concerned states**. The recognition of rights or the attribution of nationality do serve to create new or artificial ties; rather they consolidate a connection between the individuals and the state that has, in many cases, already existed for several generations.

Moreover, the persons themselves have often expressed their own identity in terms of belonging to the state concerned. For instance, Feili Kurds who were denationalised and exiled in Iran continued to identify themselves as Iraqi, feel strongly attached to the Iraqi nation and wish to return to Iraq and re-establish their citizenship. Indeed, many feel so strongly about their Iraqi identity that they do not wish to be labelled as Feili or treated as a separate group, for instance in the context of discussions on the repatriation of Iraqi

obscurity, Gulf News, 25 June 2009 [United Arab Emirates].

²²⁴ International Development Research Centre, *Research Leads to Rights Breakthrough for Arab Women*, September 2009.

²²⁵ Collective for Research and Training on Development – Action (CRTD-A), *Denial of Nationality: The Case of Arab Women*, Summary of Regional Research, February 2004.

²²⁶ *UAE denies 100,000 residents access to riches from oil boom*, Bloomberg, 31 March 2008 [International News Agency]; S. Al-Khaldy, *Non-citizens, Al-Bedon in Kuwait*, Posted on the Arab Network for Human Rights Information, 2004; *Kuwait’s stateless despair at their state*, The National, 2 March 2009 [United Arab Emirates]; M. Lynch; P. Barbieri, *Kuwait: State of Exclusion*, Refugees International, Bulletin, July 2007; K. Southwick; M. Lynch, *Nationality Rights for All. A progress report and global survey on statelessness*, Refugees International, 2009; F. Al Waquian, *The Stateless Persons in Kuwait*, unpublished draft translation of report, March 2007; M. Lynch; P. Ali, *Buried Alive. Stateless Kurds in Syria*, Refugees International, January 2006.

²²⁷ F. Al Waquian, *The Stateless Persons in Kuwait*, unpublished draft translation of report, March 2007.

²²⁸ In the context of Syria, for instance, it was pointed out that thousands of highly educated and qualified Kurds who have much to offer to Syrian development now wait on the sidelines to become full-fledged and integrated members of Syrian society. M. Lynch; P. Ali, *Buried Alive. Stateless Kurds in Syria*, Refugees International, January 2006. See also the discussion of the Bidoon situation in United Arab Emirates in *UAE denies 100,000 residents access to riches from oil boom*, Bloomberg, 31 March 2008 [International News Agency]; *Mired in obscurity*, Gulf News, 25 June 2009 [United Arab Emirates].

refugees.²²⁹ Syria's stateless Kurds also identify themselves as Syrian and have expressed that they feel a bond with the state.²³⁰ In Kuwait, it has been reported that in Bidoon families, as many as 3, 4 or 5 generations were born consecutively in the Arab Gulf States and that as many as a third of the stateless Bidoon population has a direct link to a female Kuwaiti national through marriage or descent.²³¹ Resolving statelessness should therefore be based on the longstanding territorial or familial ties as well as the existing notions of identity among the affected populations. As discussed here, such an approach is also in line with the interests of both the individuals and states concerned.

9. Ways forward in addressing statelessness in the MENA region

Looking to the future and with the objective of better addressing statelessness in the MENA region, there are a number of things to consider. Among these are: what measures have already been taken in the region (or beyond it) and what lessons can be learned from these efforts; what obstacles may be present within the region that could hinder a response; and what basic steps could be taken to further understand the situation of stateless persons and define appropriate strategies for tackling the issue? By way of conclusion to this paper, each of these questions will now be touched upon briefly.

Throughout this paper, an effort has been made to identify good practices in MENA states.. These have included examples of laws and policies that states have adopted in order to: prevent new cases from arising (sections 2 to 4), offer protection to stateless persons (sections 5 and 6) and resolve situations of statelessness (section 7). It is clear that much is already being done to tackle the problem of statelessness and that within the MENA region there are numerous best practices that can be drawn from. On the one hand, these measures may be straightforward and require little in the way of investment, such as the recent move to allow members of the Baha'i faith in Egypt to acquire identity documents. This was achieved by providing – through Ministerial Decree – that persons who do not adhere to one of the three state-recognised religions may simply leave blank the line specifying religion on such documents.²³² Promoting access to official documentation is a simple yet key way in which states can work to prevent statelessness. On the other hand, effectively responding to situations of statelessness may demand a carefully-tailored solution which relies upon several or all of the following components: achieving political (and public) support, adopting or amending legislation or a formal statement of policy, building sufficient capacity for its proper implementation and establishing the means to monitor the results and intervene where necessary.

The campaign to introduce gender equality in the enjoyment of nationality rights has achieved a number of significant successes and is a well-documented example of this type of response from within the MENA region. It is therefore worth reviewing how the campaign unfolded and identifying the factors which led to its success.

To begin with, the fact that women were not able to pass their nationality to their children was not widely known, nor did it attract much attention. In order to shed light on this invisible issue and to spark debate, the women's organisations and NGOs that initiated the campaign for legal reform first concentrated on conducting research that would provide them with a clear picture of the problem. Studies, surveys and the collection of testimonies – in multiple countries – provided the organisations with the data and personal interest stories that they needed to satisfy the media that this was a significant issue and to build a structured case for legal reform. Subsequent activities were geared towards involving and mobilising many different actors. Roundtable discussions and workshops brought together the affected families, civil society groups, state authorities, academics, lawyers and the media. Bilateral meetings were held with members of parliament and government ministers and detailed proposals submitted for legal reform. Awareness raising campaigns were conducted in order to alert the public to the issue. Affected families and concerned parties

²²⁹ Correspondence with UNHCR Iraq, February 2010.

²³⁰ Chatham House, *The Syrian Kurds: A people discovered*, Middle East Programme, January 2006.

²³¹ F. Al Waquian, *The Stateless Persons in Kuwait*, unpublished draft translation of report, March 2007; *The 'Arab Bidoon' in the Arab Gulf States*, Al-Jazeera, 12 February 2009; B. Manby, *Citizenship law in Africa. A comparative study*, Open Society Justice Initiative, 2009; *Egypt: decree Ends ID Bias against Baha'is*, News item by Human Rights Watch and the Egyptian Initiative for Personal Rights, 15 April 2009; *The ID game*, Al-Ahram Weekly Online, Issue 962, 27 August – 2 September 2009 [Egypt].

²³² *Rendered faithless and stateless*, Al-Ahram Weekly, Issue 825, 21-27 December 2006 [Egypt]; US State Department, *US Department of State Country Report on Human Rights Practices 2006 – Egypt*, 6 March 2007

were encouraged to participate through petitions. And press conferences were held to ensure continued media coverage.

Upon achieving reform of the nationality laws in Morocco, Egypt and Algeria, the campaign entered a new phase in these countries in which follow-up activities were introduced to promote the full and correct implementation of the reforms. These included publicising the legislative amendments, providing legal counselling to affected families, continuing the dialogue with the relevant ministries on the content and application of the law and collecting details of individual test cases to assist with the monitoring efforts. In addition, there were continuous efforts to ensure that the lessons learned from the campaign process were communicated with partners throughout the region to promote the cross-pollination of innovations and strategies. Overall, the following **success factors** were highlighted:

- **The adoption of a clear vision and strategy of action, for both the mid- and long term, was critical to informing the steps taken in the campaign and its overall effectiveness.**
- **The dual national and regional focus strengthened the campaign, particularly because the regional angle provided an opportunity to refute political arguments against reform that surfaced at the national level.**
- **The investment in diligent and in-depth research laid the foundations for presenting a convincing case for reform by indicating that the issue was a priority and uncovering important arguments in favour of tackling it, such as by demonstrating that legal reform is a low-cost yet effective solution.**
- **The efforts taken to build broad coalitions, involving a diverse range of actors – including the affected population – and spanning several countries, led to widespread popular and political support and ensured that all parties concerned were engaged in designing and implementing solutions.**
- **The campaign achieved extensive media coverage through the presentation of statistics and personal accounts and used new media, such as blogs and a Facebook campaign, to further disseminate the core messages and mobilise public support.**²³³

Although they relate to a specific campaign, these success factors are undoubtedly of broader application and can inform other initiatives aimed at tackling nationality policy and addressing statelessness in the region.

Similar lessons have been learned elsewhere, in the context of other significant advances relating to statelessness, such as in Sri Lanka, Ukraine, Nepal and Bangladesh. Thus it is, for instance, evident from these success stories that detailed research should inform the strategy adopted, the advocacy efforts pursued and the concrete activities undertaken. For example, research into the legal status of the Bihari community in Bangladesh helped to provide the foundations for successfully lobbying with the authorities for an appropriate solution.²³⁴ In Nepal, an analysis of the population groups that were overlooked by the large-scale campaign for the distribution of citizenship certificates, in an effort to reduce statelessness, is helping to inform new strategies that will fill the gaps left by this initial campaign.²³⁵ The value of establishing broad partnerships has also repeatedly come to the fore, with bilateral consultations, workshops and roundtable discussions being three of the methods discussed for involving and mobilising multiple actors. In addition, it

²³³ Information on the campaign's activities and success factors has been extracted from Association Démocratique des Femmes du Maroc (ADFM), *We've won a battle but not the war*, 26 January 2007; Association Démocratique des Femmes du Maroc (ADFM), *Nationality Code – Held actions within the framework of the pleading for the reform and Follow-up of the reform*, Website information, accessed on 12 November 2009; Collective for Research and Training on Development – Action (CRTD-A), *Interview with Lina Abou-Habib*, Director of Collective for Research and Training on Development – Action (CRTD-A), 4 March 2006; Lina Abou-Habib, Director of Collective for Research and Training on Development – Action (CRTD-A), *Nationality and statelessness: Challenges and progress towards citizenship for all*, presentation at Panel Discussion organised by the United States Mission to the United Nations, New York, 8 November 2007; International Development Research Centre, *Research Leads to Rights Breakthrough for Arab Women*, September 2009.

²³⁴ UNHCR, "Statelessness" in *UNHCR Global Report 2008*, June 2009.

²³⁵ P. White, "Reducing de facto statelessness in Nepal" in *Forced Migration Review*, Issue 31, 2009; UNHCR, "Statelessness" in *UNHCR Global Report 2008*, June 2009.

has been noted that good communication with the affected population plays an especially important role in the successful design and implementation of a response to statelessness. In the context of the campaign for preventing and reducing statelessness in Ukraine, the engagement of the beneficiaries was accomplished through out-reach and public information activities as well as through collaboration with (political) representatives of the population concerned.²³⁶

Utilising the media is another important lesson identified in the MENA gender equality campaign described above that has been used effectively elsewhere – such as in Sri Lanka where a media campaign organised jointly by UNHCR, the immigration authorities, the Ministry of Interior and the Ceylon Workers’ Congress was key to informing the stateless population about the legal reform that had been introduced to reduce statelessness and about the procedures for acquiring nationality.²³⁷ All of these good practices – and many more examples of successful activities that have been undertaken in an effort to address statelessness in countries around the world – are highly transferable and provide invaluable input for the formulation of further strategies to tackle statelessness in the MENA region.²³⁸

Nevertheless, in working towards a more effective response to statelessness, it is important to not only extract lessons from relevant success stories, but also to be aware of what circumstances exist in the region in question that may hinder attempts to address this issue. Any strategy for tackling statelessness must be based on a realistic appraisal of the situation, which takes into account both opportunities and obstacles. To begin with then, in considering ways forward in the MENA region, it is helpful to understand that efforts may be obstructed by **the shortage of ready and adequate information on the subject to inform an appropriate response**. For instance, as stated early on in this paper, statistical data relating to statelessness in MENA countries is scarce and the figures that are available are often contested by one party or another. The discussion of the status of stateless persons showed that in many MENA states this question has been given little thought, with few or no dedicated procedures or regulations in place to deal specifically with the situation of individuals who are stateless, beyond a number of ad hoc policies. It is also evident that very little is known or has been reported about the protection concerns faced by stateless populations in the majority of MENA countries, beyond some elementary details that can be garnered from a variety of superficial media or civil society sources.

These observations are illustrative of the fact that few significant efforts have been made to comprehensively research and identify problems of statelessness and that the avoidance of statelessness and protection of stateless persons have not been sufficiently prioritised. This was confirmed when, in Lebanon for instance, women’s groups presented cases of stateless children and lobbied politicians to reform the nationality law to allow children to acquire their mother’s nationality and they reportedly met with the response that this situation is simply not a pressing issue.²³⁹ Similarly, in Bahrain, there are said to be “a lot of hot political issues”, making it difficult to draw the government, media or public’s attention to the question of amending the nationality laws.²⁴⁰ Meanwhile, the volatile political situation in some countries has affected the response to statelessness, among other issues, over the past few years. For example, ongoing insecurity following regime change and a military coup inevitably slowed progress in efforts to prevent and reduce statelessness in the course of repatriation of refugees to Iraq and Mauritania respectively.²⁴¹ The problems experienced may also be more generic. For instance, broad restrictions that are upheld to freedom of expression or freedom of assembly have knock-on effects for the ability of affected populations to raise public awareness for their plight or to become active in advocating for a response.

²³⁶ UNHCR, *Evaluation of UNHCR’s programme to prevent and reduce statelessness in Crimea, Ukraine*, March 2004; UNHCR, *Beyond Borders: Strengthening Asylum in Ukraine*, Bulletin No. 5 of the UNHCR in Ukraine, May 2005.

²³⁷ S. Perera, “Sri Lankan success story” in *Refugees Magazine*, Number 147, Issue 3, 2007.

²³⁸ See for further examples of activities aimed towards addressing statelessness UNHCR’s progress reports on statelessness, including UNHCR, *Progress report on statelessness 2009*, EC/60/SC/CRP.10, 29 May 2009.

²³⁹ Lina Abou-Habib, Director of Collective for Research and Training on Development – Action (CRTD-A), *Nationality and statelessness: Challenges and progress towards citizenship for all*, presentation at Panel Discussion organised by the United States Mission to the United Nations, New York, 8 November 2007.

²⁴⁰ Bahrain Women’s Society, *Interview with Wajeeha Al Baharna, President of the Bahrain Women’s Society, on the Nationality Campaign in Bahrain*, 7 March 2006.

²⁴¹ UNHCR, *Feili Kurds in Iran seek way out of identity impasse*, News story, 28 May 2008; B. Manby, *Struggles for citizenship in Africa*, in particular chapter 4 on “Mass denationalisation and expulsion”, Zed Books, London, 2009; Immigration and Refugee Board of Canada, *Mauritania: Situation of returnees who left Mauritania in 1989, especially those who returned from Senegal and those who returned since November 2007 (2007 – January 2009)*, MRT103075.E, 26 February 2009.

A second and closely related concern is **a reluctance among some stakeholders in MENA states to become actively engaged in the issue of statelessness**. The major investment that had to be made by women's groups and other civil society organisations, first in research and subsequently in workshops and debates that brought together government representatives and affected communities, shows how much effort may be needed to draw all concerned parties into a discussion on nationality questions and statelessness. Meanwhile, the substantial discretion left to state authorities in granting applications for naturalisation, as discussed in section 7 of this paper, is another sign of the tight hold that many governments are keen to keep on their nationality policy.

A glimpse at MENA states' accessions to relevant international instruments furnishes additional evidence of governments' reluctance to accept legal obligations in this field. For example, a number of MENA countries maintain reservations to article 9 of CEDAW (which addresses equality between men and women in the field of nationality), despite the CEDAW Committee's calls for these reservations to be withdrawn.²⁴² Only three MENA states (Algeria, Libya and Tunisia) are state parties to the 1954 Convention relating to the Status of Stateless Persons and just two (Libya and Tunisia), have acceded to the 1961 Convention on the Reduction of Statelessness. Finally, although this paper demonstrates beyond any doubt that problems of statelessness have arisen across the MENA region and that a number of states are taking steps to address them, only three MENA countries responded to UNHCR's global survey on statelessness, further illustrating a lack of interest or awareness of the issue.²⁴³

The foregoing remarks point to a third and more fundamental, potential barrier to the adoption of effective response strategies: **the perception of statelessness as a highly sensitive issue, inextricable from political questions and/or shrouded by misunderstandings**. This is evidenced, for instance, by the discussion in sections 2 to 4 of the root causes of statelessness in the MENA region. Nationality policy has clearly been influenced by numerous factors, such as notions of identity (religion, tribe, ethnicity, gender, etc) and country demographics (the presence of minorities, migrants, refugees, etc). In some cases, the decisions that have been taken with these factors in mind have contributed to (the perpetuation or prolongation of) cases of statelessness and the same factors that have shaped exclusion to begin with may equally stand in the way of a response. Thus, to dispel the threat of statelessness or redress the situation of stateless persons, these underlying influences must be brought to light and included in the discussion – otherwise they will continue to form a barrier to solutions.

For example, efforts to naturalise stateless persons in Bahrain have been met with severe criticism by opposition groups which have claimed that these measures comprise a deliberate attempt by the government to manipulate the country's demographics.²⁴⁴ This case shows how politically charged questions of nationality can be. Such critique, if left unaddressed, may stand in the way of further efforts to tackle statelessness. Jordan's defence of its nationality law offers an example of how a simple misunderstanding about statelessness – or how statelessness is to be addressed – can form an obstacle to a response: Jordan maintains that to allow women to pass on their nationality to their children would create cases of dual nationality which is impermissible according to the laws of numerous countries in the region.²⁴⁵

While the avoidance of dual citizenship is a legitimate policy and some states have indeed legislated against dual nationality, it is incorrect to conclude that reforming nationality laws in order to alleviate the risk of statelessness will compel states to accept dual citizenship. There are several examples from within the MENA region itself where countries have succeeded in introducing safeguards against statelessness while maintaining their policy of the avoidance of dual nationality. For instance, an amendment to the nationality act in Yemen in 2003 brought with it increased opportunities for children to acquire the nationality of the

²⁴² See, for instance, CEDAW, *Combined Third and Fourth Reports of States Parties – Jordan*, CEDAW/C/JOR/3-4, 10 March 2006; CEDAW, *Consideration of reports, combined initial and 2nd periodic reports of States Parties: Bahrain*, CEDAW/C/BHR/2, 12 November 2007.

²⁴³ These three states were Qatar, United Arab Emirates and Syria. UNHCR, *Final report concerning the questionnaire on statelessness pursuant to the agenda for protection. Steps taken by states to reduce statelessness and to meet the protection needs of stateless persons*, March 2004.

²⁴⁴ International Crisis Group, *Bahrain's Sectarian Challenge*, Middle East Report No. 40, 6 May 2005; Freedom House, *Freedom in the World 2009 – Bahrain*, 16 July 2009; US State Department, *2008 Country Reports on Human Rights Practices – Bahrain*, 25 February 2009; G. Parolin, *Citizenship in the Arab World. Kin, Religion and Nation-State*, IMISCOE Research, Amsterdam University Press, 2009.

²⁴⁵ CEDAW, *Combined Third and Fourth Reports of States Parties – Jordan*, CEDAW/C/JOR/3-4, 10 March 2006.

mother, thereby reducing the risk of statelessness, while also recognising that children who reach adulthood have the *unconditional right to choose between their parents' nationalities*.²⁴⁶ Providing for such a right of option for persons who are entitled to more than one nationality is a fair and appropriate tool for avoiding dual nationality which respects the choice of the individual. Perhaps more importantly, it allows states to maintain nationality policies that reduce the risk of statelessness without forcing them to accept dual citizenship.²⁴⁷ This example illustrates the importance of identifying misconceptions that may exist about nationality and statelessness. In dispelling the misunderstandings or misgivings of states – for which the discussion presented in section 8 of this paper is also useful – it is critical to be aware that a state's concerns need not stand in the way of addressing statelessness but can, instead, be used to inform the design of that response, as appropriate.

What then, is the way forward? While the answer to this question will necessarily differ from one state and one situation of statelessness to another, there are some general steps that can be considered to further understand the situation of stateless persons and define appropriate strategies for tackling the issue. A concerted effort should be made to **fill the present gaps in information through further studies and comparative analysis**. In order to better understand the scope and parameters of the problem of statelessness in the MENA region, more work is needed to compile and consolidate statistics including through the use of surveys and the extraction of data from population planning tools such as a national census; to identify legislative gaps that can continue to create statelessness and the social, political or economic factors that underlie them; to discover the exact protection concerns facing different stateless populations; to comprehensively map stakeholders - including their interests and capacities – and find effective ways to engage them; and to share the lessons learned from successful test cases and existing best practices for tackling statelessness.

In this regard, all parties concerned should **recognize that now is the time to act**. The issue of nationality is currently attracting attention in a great number of MENA countries. In some instances, this is thanks to the regional campaign to grant women equal rights with men in the enjoyment and transmission of nationality. Having already met with success in Algeria, Egypt and Morocco this campaign is now also active in countries like Bahrain, Lebanon and Syria. Although the campaign is focussed on the nationality rights of women, it necessarily raises the broader question of the recognition of membership of the state through the bond of nationality within civil society movements and with the government, thereby opening an avenue for further analysis and discussion of the specific problem of statelessness. The successes of this regional campaign and a number of other recent examples of progress made in addressing statelessness (see sections 5 to 7 of this paper) create a momentum that should be taken advantage of.

Additionally, statelessness has attracted a high level of media attention in many of these states and elsewhere, providing further evidence of the increased interest of different actors in this issue. For instance, in Kuwait, various initiatives and proposals to resolve the situation of the Bidoon have been actively discussed in the newspapers over the past 12 months.²⁴⁸ This media attention raises an opportunity to inform the public and generate debate on a response strategy. Moreover, several states have created special bodies charged with identifying a strategy to tackle statelessness,²⁴⁹ UNHCR recently launched its Thematic

²⁴⁶ UN Committee on the Elimination of Discrimination Against Women, *Sixth Periodic Report of States Parties – Yemen*, CEDAW/C/YEM/6, 13 March 2007.

²⁴⁷ Note that the utility of a right of option in nationality policy aimed at preventing statelessness is now also recognised in instruments such as the International Law Commission's Draft Articles on Nationality of Natural Persons in Relation to the Succession of States (article 15) and the Council of Europe Convention on the avoidance of statelessness in relation to State succession (article 4).

²⁴⁸ Some examples are: *Draft bill proposes to address problems of Bedouins in Kuwait*, Arab Times, 9 March 2009 [Kuwait]; *Health Ministry seeks to appoint Bedoons*, Kuwait Times, 11 June 2009 [Kuwait]; *Bidoon status link to Kuwait wedding fire*, The National, 20 August 2009 [Kuwait]; *Bedoons issue needs solution*, Arab Times, Editorial, October 2009 [Kuwait]; *Kuwait: A matter of sovereignty!* Kuwait Times, 9 October 2009 [Kuwait]; *Bedoon issue: MPs denounce government stance*, Kuwait Times, 20 October 2009 [Kuwait]; *Buramiya vows to lead 100,000 Bedoons to Assembly on Dec 10*, Arab Times, 24 October 2009 [Kuwait]; *Plan to delink naturalization of 2,000 from 33 withdrawals*, Arab Times, 25 October 2009 [Kuwait]; *Action needed against bedoon 'infiltrators'*, Kuwait Times, 29 October 2009 [Kuwait]; *Bedoons rights discussed at seminar*, Kuwait Times, 24 November 2009 [Kuwait]; *Kuwait fails to meet on stateless rights*, Khaleej Times Online, 10 December 2009 [United Arab Emirates]; *Security measures, absence of MPs abort Bedoons session*, Kuwait Times, 11 December 2009 [Kuwait]; *Parliament to debate Bedoons issue Dec. 24*, Al Watan Daily, 14 December 2009 [Kuwait].

²⁴⁹ Such as the *Committee on the Status of Stateless Persons* in United Arab Emirates and the *Executive Committee for the Affairs of Illegal Residents* (which a recent proposal suggested would be reformed as the *Stateless Persons Committee*) in Kuwait.

Protection Learning Programme on statelessness in MENA with a view to supporting the development of regional strategies²⁵⁰ and some important research into statelessness in the region is already underway.²⁵¹ These various channels and opportunities can be used to instigate a more comprehensive investigation into and discussion of the problem of statelessness as it manifests itself in MENA countries, and thereby promote the adoption of more effective response strategies.

Due consideration should also be given to a regional response. This paper has shown that there are numerous overarching themes that recur in several or even most MENA states. There is therefore already a certain natural tendency towards a regional focus. Furthermore, as the campaign to bring gender equality to nationality laws in the region has demonstrated, “meetings with regional partners and counterparts provide an opportunity to share experience and best practices, to seek advice and inspiration, most of all it gives the assurance that we are not working alone [and] change is contagious – when an Arab state sees that another has reformed its nationality law, for example, it is immediately encouraged to do the same”.²⁵² To this end, it is helpful to recall that the region has already seen a number of relevant collaborative initiatives. The Asian-African Legal Consultative Organisation (AALCO), of which all but four MENA countries are members,²⁵³ adopted a resolution on statelessness in 2006.²⁵⁴ The League of Arab States, which includes all MENA states in its membership, stipulates in its Charter that one of the statutory purposes of the League is the close cooperation of member states on nationality matters, providing a clear legal basis for the negotiation of regional agreements to address statelessness.²⁵⁵

It should be recalled that the Organisation of the Islamic Conference, to which all MENA states belong, adopted the Covenant on the Rights of the Child in Islam which recognises the right of a child to nationality and refers specifically to the avoidance of statelessness and that the African regional human rights system which includes the North African states recognises the right to a nationality. The Gulf Cooperation Council (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and United Arab Emirates) is currently developing its own sub-regional policy on nationality including a notion of “GCC Citizenship”.²⁵⁶ Therefore, with shared experiences of statelessness and various structures and relevant examples of regional cooperation already in place, some form of regional response seems appropriate.

Furthermore, adopting a regional focus is a way to promote acceptance of a common strategy and prevent new conflicts of laws or nationality disputes from arising in the future. In this context, **consideration should also be given to the role to be played by the two UN conventions on statelessness.** It has already been noted that the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness have respectively drawn just 3 and 2 MENA states as parties. So, there is ample scope for further advancing the acceptance of these instruments as a basis for responding to the problem of statelessness within the region. The upcoming 50th anniversary of the 1961 Convention provides an opportune moment to recall how the two statelessness conventions can help states to address the issues that

Committee on the Elimination of All Forms of Racial Discrimination, *Written replies by the Government of the United Arab Emirates to the list of questions sent by the Country Rapporteur in connection with the consideration of the 12th and 17th periodic reports of the United Arab Emirates*, CERD/C/AREQ/12-17/Add.1, 20 July 2009; *Draft bill proposes to address problems of Bedouins in Kuwait*, Arab Times, 9 March 2009 [Kuwait].

²⁵⁰ UNHCR, *Progress report on statelessness 2009*, EC/60/SC/CRP.10, 29 May 2009.

²⁵¹ For instance, in Lebanon, NGO Frontiers Rawad Association presented a study on statelessness in the country in December 2009 and the European Union Democracy Observatory on Citizenship is currently preparing a country report on citizenship in Lebanon. *Rights group: end abuse of stateless individuals*, The Daily Star, 8 December 2009 [Lebanon]; *Les apatrides, otages de l'équilibre confessionnel et du dossier palestinien*, L'orient le Jour, 8 December 2009 [Lebanon]; *'Invisibles' fight for recognition in eyes of the state*, Daily Star, 14 December 2009 [Lebanon].

²⁵² Bahrain Women's Society, *Interview with Wajeeha Al Baharna, President of the Bahrain Women's Society, on the Nationality Campaign in Bahrain*, 7 March 2006.

²⁵³ These five exceptions are Algeria, Mauritania, Morocco and Tunisia.

²⁵⁴ Asian-African Legal Consultative Organization (AALCO), *Resolution on the Half-Day Special Meeting on "Legal Identity and Statelessness"*, RES/45/SP.1, 8 April 2006.

²⁵⁵ This is established in article 2, paragraph d of the 1945 Charter of the Arab League. Note also that an agreement on nationality was signed in 1945 but never ratified and that a second agreement with regard to citizenship was elaborated in 1954 to govern issues of dual nationality of Arab States' nationals. Neither agreement entered into force due to lack of ratifications. G. Parolin, *Citizenship in the Arab World. Kin, Religion and Nation-State*, IMISCOE Research, Amsterdam University Press, 2009. Recall also that the Arab Charter on Human Rights provides that everyone has the right to a nationality and no one shall be arbitrarily or unlawfully deprived of his nationality.

²⁵⁶ G. Parolin, *Citizenship in the Arab World. Kin, Religion and Nation-State*, IMISCOE Research, Amsterdam University Press, 2009.

they face and give renewed consideration to accession.²⁵⁷

The conventions prescribe a number of simple yet effective measures for the protection of stateless persons and the avoidance of statelessness. For instance, this report has shown that the inability of stateless persons to access personal documentation has a severely detrimental impact on their protection situation, even where the laws in place are perfectly amenable to the enjoyment by stateless persons of a broad range of rights and facilities, because these often become inaccessible where an individual cannot furnish paperwork that testifies to his or her identity. The 1954 Convention relating to the Status of Stateless Persons acknowledges the importance of documentation and therefore provides for the issuance of both identity and travel documents to stateless persons. Similarly, quite a number of cases of statelessness can be prevented through the adoption of simple safeguards to ensure that children acquire a nationality at birth and that a person cannot be rendered stateless later in life. This paper has highlighted a number of situations in the MENA region where such safeguards have not been put in place. The 1961 Convention on the Reduction of Statelessness establishes a common framework for tackling statelessness which, if widely adopted, boosts legal transparency and predictability in states' response to the threat of statelessness and provides states with the tools to avoid and resolve nationality-related disputes.

Finally, while the path to achieving real and lasting progress in some situations of statelessness is not always clear, it is important to **acknowledge that the implementation of simple measures in the short term can be a highly effective first step towards a future comprehensive and durable solution.** For instance, while the resolution of existing cases of statelessness may be out of reach due to political sensitivities in a specific country, the prevention of new situations of statelessness through the adoption and implementation of safeguards in the nationality law and the improved protection of stateless persons through the issuance of identity documents may be achievable goals. Opportunities to push forward basic measures to address at least some of the problems surrounding statelessness in MENA countries should not be overlooked because they fall short of the ultimate aim of full resolution of the situation. This paper has discussed a number of examples of simple, effective and low cost strategies that go some way to tackling statelessness and can, moreover, open doors that also bring the long-term goals within closer reach. A comprehensive strategy on statelessness should comprise both these more immediate measures and ways to work towards the long-term objectives.

²⁵⁷ In its most recent resolution on arbitrary deprivation of nationality, the Human Rights Council “acknowledges that 2011 will mark the fiftieth anniversary of the Convention on the Reduction of Statelessness, and encourages states that have not acceded to the Convention and to the Convention relating to the Status of Stateless Persons to consider doing so”. Human Rights Council, *Resolution on Human Rights and Arbitrary Deprivation of Nationality*, A/HRC/13/L.4, 19 March 2010.

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