

The Global Campaign for Equal Nationality Rights

Submission to the Human Rights Council at the 28th Session of the Universal Periodic Review

The United Arab Emirates

Introduction

1. The Global Campaign for Equal Nationality Rights (the Campaign) welcomes the opportunity to make this submission to the Universal Periodic Review (UPR) in relation to gender discrimination in nationality laws in the United Arab Emirates (UAE).
2. The Campaign¹ mobilizes international action to achieve law reform in the 26 countries that prevent mothers from conferring their nationality on their children on an equal basis with fathers; and to achieve law reform in the 50+ countries which deny women equal nationality rights with men, including conferral of nationality to non-national spouses.
3. This submission addresses gender discrimination against women in nationality Emirati legislation, which impacts a range of other human rights, including access to socio-economic rights and can result in statelessness.

The Universal Periodic Review of The UAE under the Second Cycle (2013).

4. Unfortunately, in 2013, under the second UPR cycle there were no recommendations regarding the gender discrimination in Emirati nationality law. Instead, the 2013 UAE report stated that 'In 2011 the United Arab Emirates had taken another important step in cementing the rights of women when the United Arab Emirates President issued a decree according citizenship rights to children born to Emirati women but whose father is not Emirati. It accords them citizenship rights, and at the age of 18 they have the choice of taking United Arab Emirates nationality or retaining the father's nationality. The Government was taking the implementation of recommendations on women's rights very seriously and was in the process of adopting a National Strategy for the Advancement of Women for 2013 to 2017.'² While the Campaign acknowledges this positive development, it reiterates that the UAE law, policy and practice nonetheless falls short of internationally acceptable standards of gender equality. The fact that women cannot transfer nationality to her children and spouses on an equal basis to men must be addressed. It is also important to note that there was no recommendation in 2013 for the UAE to remove its reservation to Article 9 of CEDAW.

¹ For more information see <http://equalnationalityrights.org/>

² Ibid. at 16

Relevant international and national law

5. The UAE has not ratified the International Covenant on Civil and Political Rights (ICCPR) or the International Covenant on Economic, Social and Cultural Rights (ICESCR). However, the UAE, as a Member of the United Nations is obligated by the Charter of the United Nations to promote “universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion”.³ The human rights and fundamental freedoms referred to in Article 55 (c) of the UN Charter are specified in the Universal Declaration of Human Rights (UDHR), and many are also recognised as principles of customary international law and are therefore universally applicable. Article 15 of the UDHR states that “*everyone has the right to a nationality*” and “*no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality*”.
6. Article 7 of the Convention of the Rights of the Child (CRC), which the UAE is a State party to, states that: “(1) *The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and be cared for by his or her parent. (2) States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.*” Article 24 of the Arab Charter on Human Rights states that “*No citizen shall be arbitrarily deprived of his original nationality, nor shall his right to acquire another nationality be denied without a legally valid reason.*” The UAE therefore has strong international treaty obligations to ensure that all children born on its territory, regardless of their ethnicity or status or that of their parents or guardians, will acquire Emirati nationality if they would otherwise be stateless.
7. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) states in Article 9 that: **(2) States Parties shall grant women equal rights with men with respect to the nationality of their children.** The UAE has been a State party to CEDAW since 2004. However, it has in place a reservation to Article 9. ⁴As stated by the CEDAW, Article 9 among others is “*central to the object and purpose of the Convention and that the reservations impact negatively on the enjoyment by women of their rights.*”⁵ Therefore, the maintenance of nationality laws which discriminate on the basis of gender are themselves in conflict with the object and purpose of the CEDAW and with the general obligation of all state parties to “*agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women.*”⁶ Furthermore, in its recent General Comment No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, the CEDAW Committee confirmed that Article 9 extends an obligation to ensure equality between men and women in the ability to confer their nationality to their spouse.

³ Article 55 (c) of the Charter of the United Nations. According to Article 56 of the Charter, It is the obligation of all member states of the UN to take “joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55”

⁴ A/HRC/WG.6/15/ARE/2

⁵ The CEDAW Committee has noted this on a number of occasions and in Concluding Recommendations for State Parties under review, including in CEDAW/C/ARE/CO/1, para 16.

⁶ Report of the Committee on the Elimination of Discrimination against Women (Eighteenth and nineteenth sessions), A/53/38/Rev.1, page 47.

Gender discrimination in nationality law

8. Article 2 of the United Arab Emirates: Federal Law No. 17 for 1972 Concerning Nationality states that a citizen is:
 - B. *Anyone born in the country or abroad to a father who is a citizen by law.*
 - C. *Anyone born in the country or abroad to a mother who is a citizen by law, whose fatherhood is not substantiated.*
 - D. *Anyone born in the country or abroad to a mother who is a citizen by law, whose father is unknown or without nationality.*
9. Furthermore, a decree issued November 2011 by the President, Sheikh Khalifa, gives children of Emirati women married to non-Emiratis the opportunity to apply for citizenship when they reach the age of 18. When this was announced it resulted in the acquisition of Emirati nationality by 1,117 children born to Emirati women married to foreigners.⁷ This is not sufficient under international human rights law, as discrimination against women still exists and this situation is not always compatible with the best interest of the child.
10. The law is therefore based on paternal *jus sanguinis*, which means that nationality is transferred through an Emirati male, although some exceptions exist for females. Even with this decree, women cannot transmit their nationality to their children on an equal basis to men. Furthermore, a mother's transmission of nationality according to this decree is neither automatic nor non-discretionary, as required under international standards.⁸
11. The UAE is thus, one of 26 countries around the world that continues to discriminate against women in their ability to confer their nationality to their children on an equal basis with men. Given that gender discrimination in nationality laws has no basis under international human rights law, that it is easily remedied through law reform and that it continues to have significant detrimental human rights impacts including statelessness, the international community has come together to address this phenomenon under the banner of the Global Campaign for Equal Nationality Rights.⁹ Furthermore, UNHCR's Global Campaign to end statelessness prioritises the removal of gender discrimination from nationality laws through its Action Point 3.7.¹⁰
12. As Emirati nationality law does not have a provision that would entitle a child born on its territory a nationality if it would otherwise be born stateless, the discriminatory nature of

⁷ UN High Commissioner for Refugees (UNHCR), Submission by the United Nations High Commissioner for Refugees For the Office of the High Commissioner for Human Rights' Compilation Report - Universal Periodic Review: United Arab Emirates, June 2012, available at: <http://www.refworld.org/docid/4ffd31262.htm>

⁸ See UN High Commissioner for Refugees (UNHCR), *Good Practices Paper - Action 3: Removing Gender Discrimination from Nationality Laws*, 6 March 2015, available at: <http://www.refworld.org/docid/54f8377d4.html>

⁹ The Global Campaign for Equal Nationality Rights (the Global Campaign) is a coalition of international and national organisations that promotes gender equality in nationality laws, so that women and men can confer, acquire, change and retain their nationality on an equal basis. The Campaign has a Steering Committee comprising Equality Now, Equal Rights Trust, the Institute on Statelessness and Inclusion, UNHCR and Women's Refugee Commission. The Campaign was launched in June 2014 at a Side Event at the 26th Session of the Human Rights Council in Geneva, and has conducted numerous international advocacy activities to encourage states that still maintain gender discriminatory nationality laws to reform their laws and bring them into compliance with international human rights standards.³

¹⁰ See UN High Commissioner for Refugees (UNHCR), *Global Action Plan to End Statelessness*, 4 November 2014, available at: <http://www.refworld.org/docid/545b47d64.html>

Emirati nationality law also puts children at heightened risk of statelessness. When a child cannot obtain the nationality of the father, they are at heightened risk of becoming stateless.¹¹ With a substantial number of stateless individuals in the country, this is a particular problem as if the father is stateless, the child will then become stateless regardless of the status of the mother. In order to transfer nationality to their children, unless the father is stateless, women have to actively demonstrate that the father is unknown or that fatherhood was not substantiated, which can be very difficult to do, especially in a culture where having children outside of wedlock is often not accepted and may lead to stigmatisation, further exacerbating the risk that their children will remain stateless. Therefore, even though the child in theory would be able to claim nationality at 18, s/he would have gone through a stateless childhood.

13. The Nationality Law also discriminates on the basis of gender with regard to the conferral of nationality on non-national spouses. Article 3 of the Nationality Law enshrines the right of Emirati men to confer nationality on foreign spouses, a right that is denied Emirati women.¹² Women's inability to equally confer nationality on spouses also further entrenches traditional stereotypes regarding the primacy of the male spouse's legal identity. Affected families have suffered through lack of access to social services and equal economic opportunities.
14. Despite the creation of the National Strategy for the Advancement of Women in the UAE, there has been no attempt to remove existing discrimination against women in nationality laws. Parliament has not discussed it since and there has been limited media coverage on the issue. While the authorities appear to consider this issue as resolved, in reality, this remains an important human rights and gender equality challenge.

Human rights consequences

15. Being denied the right to acquire a nationality at birth due to gender discrimination results in egregious violations of human rights law, including the right to a nationality, non-discrimination, equality before the law and due process. Additionally, the lack of citizenship or statelessness can lead to other significant violations of human rights. Being stateless in the UAE may result in the inability to access various employment opportunities, or, in violation of Article 7 of the CRC, to register a new-born baby. The children and spouses of Emirati women who are denied nationality due to gender discrimination in the law may not be able to own property, have access to health and social services and they may have difficulties with regard to access to education at schools and universities. Being stateless in the UAE may mean that an individual is denied their freedom of movement, but may also lead to deportation, despite there being no country of nationality to remove such persons to.

¹¹ For more information see UNHCR, Background Note on Gender Equality, Nationality Laws and Statelessness 2016, 8 March 2016, available at: <http://www.refworld.org/docid/56de83ca4.html>

¹² Article 3 As amended by Federal Law No. 10/1975 dated 15/11/1975:

Marriage of foreign woman to a citizen shall not result to her acquisition of the nationality of her husband unless by declaration made to the Ministry of Interior of her will and should the wedlock continues three years from the date of declaration. It is also conditioned upon renunciation of her original nationality.

If the woman is married to a citizen before the date of implementation of this Law, and if wedlock is still existing or if her husband deceased leaving children from him, and if she is bearing the passport of any Emirate or she is mentioned in the passport of her husband, she shall be entitled to citizenship by affiliation provided that she renounces her original nationality. In all instances, the husband shall not affiliate to his wife's nationality.

Recommendations

16. To address the multifaceted issue of discriminatory nationality law and policy, the Campaign urges states to recommend to the UAE the following:
 - i. Remove the UAE's CEDAW reservations and ensure full compliance with CEDAW, in particular Article 9.
 - ii. Amend the Citizenship Law to enable Emirati women to transfer nationality to their children without restriction and to spouses, on an equal basis to men. Ensure that this is completed without delay, in accordance with international standards.