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Statelessness Programme

A comparative analysis of nationality laws in the MENA region

Report of the Middle East and North Africa
Nationality and Statelessness Research Project

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More information about the Statelessness Programme can be found at http://www.tilburguniversity.edu/statelessness

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Introduction

The phenomenon of statelessness has not as widely known as other international concerns and many people have never stopped to consider what life would be like without a nationality. Where a conversation is sparked about the issue though, attention is often instinctively directly towards the Middle East. This is because the Palestinians are possibly the best known stateless population in the world. Some even perceive statelessness to be synonymous with the Palestinian situation and are surprised to learn that there are also other stateless groups, both in the Middle East and North Africa (MENA) and in other regions. It is true that none perhaps matches the Palestinian situation in scale and political complexity, yet the exclusion and marginalisation suffered through statelessness is very much shared by other populations. A research project was therefore developed to explore nationality and statelessness across the whole of the MENA, in order to shine a spotlight in particular on the lesser-known problems in the region. This report is one of the products of this broader research project and provides a detailed comparative analysis of current nationality laws in the MENA region,[1] paying particular attention to the identification of elements or gaps that may contribute to the creation, perpetuation or prolongation of statelessness. It is accompanied by an annex in which the comparative analysis of some of the central rules relating to the acquisition and loss of nationality are set out in the form of analytical tables.

Although every country's nationality law is unique in its details, the overall mechanics are largely similar and all share certain common features. Understanding the general system of nationality laws therefore simplifies the process of reading, analysing and comparing their content. First of all, it is helpful to realise that the conferral – and withdrawal – of nationality is based on the existence – or presumed severing – of a link between the person and the state. The two principal connections that underlie nationality policy are familial (i.e. a family member is already a national) and territorial (i.e. birth or long-term residence within the borders of the state). Criteria based on different combinations and permutations of these two links can be found in every nationality law in the world. Secondly, many nationality laws also include other criteria that are deemed to represent "belonging", including racial, cultural, religious or linguistic conditions.[2] A third common feature of nationality laws are those stipulations that relate to the desired quality or expected behaviour of the state's nationals. In other words, concepts such as good behaviour, honesty, loyalty and allegiance have made their way into both provisions relating to acquisition of nationality (e.g. naturalisation criteria) and those dealing with the withdrawal of nationality (e.g. denationalisation in response to a crime against the state). The aforementioned elements can be found to a greater or lesser extent in all nationality laws worldwide,

[1] The study encompasses the following 17 countries: Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Qatar, Saudi Arabia, Syria, Tunisia, the United Arab Emirates (UAE) and Yemen.
[2] Note that some criteria of this nature may now be considered to violate international standards of non-discrimination.

including in the MENA, although what weight is given to each and how they are translated into concrete provisions can vary significantly.

This report is dedicated to exploring and comparing the details of the region's nationality laws. It looks at how the broad concepts of connectedness, belonging and loyalty have been transposed into individual provisions, in particular in regulating acquisition of nationality (at birth and later, through naturalisation) and in stipulating the conditions for the change or withdrawal of nationality. This comparative analysis offers the reader an insight into the main trends in nationality policy in the MENA, while identifying examples of strengths or good practices, as well as gaps or potential problems in these laws – paying special attention to where nationality provisions offer protection against or expose people to the risk of statelessness. After dealing with these main components, the report also comments on the specific issue of discrimination in nationality policy in the region as well as on procedural features of MENA's nationality laws. Furthermore, it is important to note that the letter of the law is only half the story. In order to ascertain whether a country is successfully pre-empting or addressing statelessness, it is also necessary to consider how the law is interpreted and applied in practice by the competent authorities of the state. While such practice is much harder to grasp and may in fact vary base by case, the analysis of this report closes with a section that comments on some of the most significant challenges that have been identified in terms of the implementation of the MENA region's nationality laws. Finally, a conclusion summarises the main findings of the report and offers some recommendations with regard to how the nationality law regimes in the MENA could be strengthened in order to better respond to the challenge of statelessness.

1. Acquisition of nationality at birth

In the MENA region, and worldwide, the vast majority of people acquire their nationality at birth. A new life brought into the world means a new person to be attributed to one state or another. This process tends to occur without the need for any intervention by the parents or the state. The new-born, by virtue of certain facts of birth, is granted nationality automatically because he or she meets the conditions laid down in the law that allow for this. For the majority of people, this is also the end of their nationality story in the sense that they will continue to enjoy the nationality of the same state throughout their lifetime, perhaps even perceiving this to be an immutable part of their identity. This is indeed one of the reasons why statelessness is such an unknown and unfamiliar phenomenon – many people have simply never considered the possibility that someone could be left without any nationality nor stopped to imagine what impact this might have on their lives.

Nevertheless, since different states maintain different regimes with regard to conferral of nationality at birth, this can create complications. In some instances, a child may be "claimed" more than once – i.e. he or she may, by virtue of the facts of birth, meet the terms for membership of more than one state and acquire dual or even multiple nationality. In other situations, a child may remain "unclaimed", failing to meet the conditions for acquisition of nationality set by any state. In the latter scenario, the child will be left stateless. In the following sections, the regulations relating to acquisition of nationality at birth in the countries of the MENA are set out and a commentary is provided on where these regulations contain gaps that can and do result in cases of childhood statelessness.

1.1 Nationality by parentage (jus sanguinis)

The countries of the MENA region are united in their preference for the doctrine of *jus sanguinis:* nationality is transmitted through the "bloodline", from parent to child. This is the main method of acquiring a nationality at birth in the region. As such, precedence is given to the familial link – the family bond with a person who is already a national – as the decisive condition for membership of the state. This approach sits comfortably in both the religious and cultural setting of the MENA, which places great emphasis on the role of the family and great value in the ties of kinship, as well as notions of tribal belonging.[3]

All MENA countries recognise the paternal *jus sanguinis* in their nationality laws, reflecting the traditional perception that a person's political identity is determined through the paternal line of descent.[4] Thus, a father can pass his nationality to his children, whether they are born within the country or abroad. In almost all cases, the acquisition of the father's nationality happens automatically and will not require any action on the part of the state or the family. The only exception is Libya where, if the child is born outside the country to a Libyan father, a registration procedure must be completed before Libyan nationality is conferred.[5]

Rules incorporating maternal *jus sanguinis* are less commonplace in the MENA. Although the picture has been changing rapidly over the past decade, currently, still less than half of the countries in the region offer children an unconditional right to acquire their mother's nationality. Gender discrimination in nationality laws thus remains a significant issue in the region.[6] Only Algerian, Egyptian, Moroccan and Tunisian nationality laws clearly provide for the transmission of nationality

[3] G. Parolin, *Citizenship in the Arab World. Kin, Religion and Nation State*, Amsterdam University Press, 2009.
[4] S. Joseph, "Gendering Citizenship in the Middle East" in S. Joseph (ed.) *Gender and Citizenship in the Middle East*, Syracuse University Press, 2000, at pages 17-18. See also N. Hijab, "Women Are Citizens Too: The Laws of the State, the Lives of Women", United Nations Development Programme – Regional Bureau for Arab States, 2002.
[5] Article 3(c), Law No. 24 on the Libyan Nationality, 2010.
[6] To compare the MENA region to the rest of the world, see UNHCR, *Background Note on Gender Equality, Nationality Laws and Statelessness 2014*, 8 March 2014, available at: http://www.refworld.org/docid/532075964.html.

from mother to child on the same terms as from father to child (i.e. automatic and regardless of the child's place of birth). In Yemen, an amendment fully recognising the maternal *jus sanguinis* was passed in 2010, but only entered into force following published in the state's Official Gazette in mid-2013 and it is unclear to what extent it has been implemented to date. Iraq and Libya similarly provide for maternal *jus sanguinis*, but there is an internal inconsistency in their laws due to the retention of other provisions which previously allowed women to only pass on nationality in the exceptional circumstance that the child's father was stateless (both countries) or unknown (Iraq). It is therefore unclear whether the child of an Iraqi or Libyan mother will always be recognised as a national.[7]

In all other MENA countries, women do not yet enjoy equal rights with men, with respect to the nationality of their children, despite this being prescribed by international human rights standards.[8] Children born in Mauritania to a Mauritanian mother do automatically receive this nationality, but those born to a Mauritanian mother abroad will need to complete a registration procedure. In all other MENA countries, as shown in Table 1, women can also only pass on their nationality in exceptional circumstances. The most common of these is where the father is unknown or paternal affiliation has not been established – usually meaning where the child is born outside marriage. The second most widely regulated circumstance in which a mother can transmit her nationality is where the father has none to offer, i.e. he is himself stateless. It must be recognised, however, that this is insufficient to prevent all cases of statelessness among children. There are many situations in which the father is known and has a nationality and yet the child may be unable to enjoy the father's nationality – including, for instance, where the father is unable or unwilling to complete any necessary administrative procedures or where the law of the country of nationality of the father does not allow *jus sanguinis* transmission of nationality beyond the first generation born abroad.

Finally, Saudi Arabia and Kuwait both have unique maternal *jus sanguinis* provisions in place: children born in Saudi Arabia to a Saudi mother are entitled to facilitated naturalisation upon reaching the age of majority,[9] while children of Kuwaiti mothers are also entitled to facilitated naturalisation if they are still resident in the country at majority and the father is deceased or has divorced the mother.[10] It is important to note that these are both discretionary procedures and thus, provide no guarantee that an application will lead to acquisition of nationality. Moreover, although the entitlement to nationality is based in large part on the person's facts of birth, nationality is not granted at birth, but rather only after reaching adulthood. This means that, if no other nationality has been acquired, the person will spend their whole childhood stateless.

[7] In Libya, the "Executive Ordinance" required for the implementation of the new maternal *jus sanguinis* provision (article 11 of the law) has also not yet been issued.
[8] Among which, article 9(2) of CEDAW.
[9] Article 7, Saudi Arabian Nationality System, 1954.
[10] Article 5.2, Kuwait Nationality Law, 1959.

1.2 Nationality by birthplace (jus soli)

The *jus soli* doctrine, the other major mechanism for establishing nationality at birth whereby the child's place of birth is decisive, is less popular in the MENA region. That a person's connection will be strongest with the state in which he or she is born and that this should be acknowledged through the conferral of nationality is a sentiment far more alive in other parts of the world, especially the Americas. None of the countries in the MENA has a blanket *jus soli* provision which would grant nationality to everyone born on the state's territory.

Nevertheless, that such a territorial connection could open up a pathway to nationality is recognised in numerous clauses of MENA laws, in particular in the form of so-called "double" (and even "triple") *jus soli* rules, as shown in Table 2. In seven countries in the region, two or three successive generations of birth on state soil may lead to an entitlement to nationality. Thus, a child born in Mauritania to a parent who was also born in Mauritania can acquire nationality upon completion of a registration procedure.[11] In Yemen[12] and Tunisia,[13] acquisition of nationality by birth on state territory is automatic, but only if the child's *father* (and in Tunisia also the child's *paternal* grand*father*) were also born in the country. Oman has a similar provision, but in addition to having been born in Oman, the child's father must also be stateless.[14] Bahrain's law also provides for conferral of nationality to a child born in Bahrain, if his or her stateless father was also born in Bahrain, but the father must also have made Bahrain his place of permanent residence.[15]

In Iraq, the law also requires that the child and his or her *father* were both born in the country, but it provides for a discretionary application procedure rather than automatic conferral of nationality. The Egyptian provision is similar but has the further requirement that the father originate from a country in which Arabic is the principal language and Islam the religion.[16] Lastly, in Morocco the law has a simpler non-discretionary registration procedure attached to its own double *jus soli* provision. It requires either that the father was also born in Morocco and that he originate from an Arabic-speaking Muslim country, or that both parents were born in Morocco and remain permanent residents there.[17] Although both the Egyptian and Moroccan laws have added some criteria of "belonging" alongside the familial and territorial connections, it is worth pointing out that neither of the provisions concerned

[11] Article 9(1), 1961-112 Law on Mauritanian Nationality.
[12] Article 4(c), Yemen Nationality Law No. 7, 1990.
[13] Article 7, Tunisian Nationality Code (Decree No. 63-6), 1963.
[14] Article 1(4), Omani Nationality Law, 1962.
[15] Article 5(a), Bahraini Citizenship Act, 1963.
[16] Article 4(3), Law No. 26 concerning Egyptian Nationality, 1975.
[17] Article 9(1), Moroccan Nationality Law (Decre No. 1-58-250), 1958.

explicitly requires the father to speak Arabic or be a Muslim, but rather it is sufficient that he is from a country where this is the norm.

It is, furthermore, of interest to note that birth on state territory generates an entitlement to facilitated naturalisation under a number of MENA nationality laws. Egypt, Mauritania, Saudi Arabia and Yemen all provide for different conditions to be met by someone born in the country who is seeking to naturalise, as opposed to someone who has immigrated subsequently.[18]

1.3 Safeguards for otherwise stateless children

States are, in principle, free to set the conditions for acquisition of nationality, including by choosing whether to grant nationality at birth on the basis of the *jus sanguinis* or *jus soli* doctrine, or a mixture of the two.[19] However, international law sets certain limits to this freedom, including where it provides that every child has the right to acquire a nationality. The child's right to a nationality is recognised in several major human rights instruments that are widely ratified in the MENA region, among which is the Convention on the Rights of the Child, as well as in relevant regional treaties.[20] Article 7 of the Covenant on the Rights of the Child in Islam, for instance, determines that:

> A child shall, from birth, have the right to […] have his nationality determined; States parties shall […] 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.

These international standards demand that, regardless of the regular rules in place, states include within their legislation the necessary legal safeguards to prevent childhood statelessness. In practice and as indicated in the provision cited above, such safeguards should include both *jus soli* and *jus sanguinis* elements, as needed, to ensure that any child who is connected to a state by birthplace or parentage is not rendered stateless. Thus, for example, while a state may choose to generally confer nationality by way of *jus sanguinis*, it should exceptionally provide for the possibility of *jus soli* acquisition of nationality in those few instances that a child would otherwise be left without any nationality.[21]

[18] See Table 8.
[19] Article 1 of the 1930 Hague Convention on Certain Questions relating to the Conflict of Nationality Laws.
[20] Article 7 of the Convention on the Rights of the Child protects every child's right to acquire a nationality – it has been ratified by all MENA states. Article 24 of the International Covenant on Civil and Political Rights has a similar provision, as does article 6(3) of the African Charter on the Rights and Welfare of the Child, relevant for a number of countries in the MENA region. Note that this latter instrument also goes on to determine that "States Parties to the present Charter shall undertake to ensure that their Constitutional legislation recognize the principles according to which a child shall acquire the nationality of the State in the territory of which he has been born if, at the time of the child's birth. he is not granted nationality by any other State in accordance with its laws".
[21] See also the detailed safeguards against childhood statelessness elaborated in the 1961 Convention on the Reduction of Statelessness, in particular articles 1 and 4. Note that, at the time of writing, only Libya and Tunisia were state parties to this international instrument.

Turning to the content of MENA states' nationality laws, the picture is very mixed in terms of the incorporation of such safeguards for children who would otherwise be stateless. On the one hand, the region's strong *jus sanguinis* tradition means that, in many cases, nationality will be transmitted into perpetuity for successive generations, even if the children, grandchildren and great-grandchildren in question are born (all) outside the territory of the state. Nevertheless, this picture is tainted by the fact that so many MENA states, as already outlined above, restrict their *jus sanguinis* rules to the paternal bloodline only. It is true that of those states which generally only allow fathers to transmit their nationality, several have included a special clause that is directed towards the avoidance of statelessness, allowing women to transmit their nationality if the father of their child is stateless himself (and therefore, by definition, has no nationality to offer). Yet such safeguards are short-sighted in their focus on the statelessness of the father, rather than the threat of statelessness for the child, for it may be that the father does hold a nationality and yet the child is unable to inherit it. Moreover, the child of a Kuwaiti, Lebanese, Qatari, Saudi Arabian or Syrian mother will fail to acquire her nationality even if the father in question is stateless. None of these countries has any significant safeguard in place for the avoidance of statelessness among children who are descendants of a female national[22] – although children of a male national will always receive nationality.

There are also significant legal gaps when it comes to safeguards that provide nationality to a child who is born on state territory and would otherwise be stateless. Some such children will benefit from the general *jus soli* provisions outlined in the previous section. But many of these have a rather narrow scope and the preference for a double *jus soli* rule means that the first generation of children born in these states' territory will not be protected from statelessness under these clauses. Only two countries in the MENA region have in place the "perfect" legislative safeguard against childhood statelessness within their borders: Lebanon[23] and Syria.[24] Both of these provide for the automatic conferral of nationality to any child who is born on their territory who does not acquire any other nationality at birth. Nevertheless, these provisions can be considered essentially defunct, since they are virtually never applied in practice.[25] Nowhere else is there a blanket safeguard in place that would allow any otherwise stateless child born in the country to acquire a nationality – in spite of the fact that there are two states parties to the 1961 Convention on the Reduction of Statelessness in the MENA which contains this explicit obligation.[26] The only other relevant provision which can be found and which should go some way to mitigating statelessness for children born within the region is that which confers nationality to any child born within the state whose parents are stateless. Yet even this

[22] The only situation in which women holding one of these nationalities can transmit it to her children is where the father is unknown, although even this is not possible in Qatar.
[23] Article 1(2), Decree No. 15 on Lebanese Nationality, 1925.
[24] Article 3(d), Syria Nationality Law No. 276, 1969.
[25] See for further comment on the gaps between law and practice in MENA nationality policy section 5 below.
[26] These are Libya and Tunisia, neither of which have incorporated the safeguard which the 1961 Convention prescribes to grant nationality to otherwise stateless children born in the territory in their nationality laws.

narrower safeguard is only in place in three countries: Syria,[27] where it is also a defunct provision given that statelessness remains an inherited status in this country, as evidenced in the experience of the stateless Kurds;[28] Tunisia,[29] where an additional residence requirement for the parents further restricts the effect that this provision will have in preventing statelessness and where this standard falls clearly short of Tunisia's international commitments under the 1961 Convention on the Reduction of Statelessness; and Algeria,[30] where an otherwise stateless child will acquire nationality if born in the country only if the father is unknown. Given these significant gaps, the MENA region is lagging behind in effectuating its commitment to prevent childhood statelessness. Resolving this situation does not require a significant overhaul of nationality policies in the region, but rather the introduction and implementation of some very simple safeguards that would apply in the exceptional circumstance that otherwise a child will be stateless, as outlined in relevant international conventions.

1.4 Foundlings

International law takes a special interest in the conundrum of so-called "foundlings". This term refers to a child (sometimes interpreted as an infant or even a new-born), that is quite literally "found" and whose origins and parentage are unknown. Given that the line of descent cannot be established – nor, definitively, the exact birthplace in many cases – crucial facts of the child's birth which are needed to determine his or her nationality are unclear. Unless this is dealt with through a specific clause in the state's nationality law, the child will remain stateless. Thus, since as early as 1930, international instruments have provided explicitly for the acquisition of nationality by foundlings.[31] The Covenant on the Rights of the Child in Islam echoes other international treaties in explicitly asserting that "the child of unknown descent […] shall have the right to a nationality".[32]

The general rule prescribed by international law and transposed into domestic nationality legislation is that any child of unknown parents shall acquire the nationality of the country of birth. Where a foundling's place of birth is not established, he or she shall be presumed to have been born in the territory of the state (i.e. unless there is evidence to the contrary). Here, the countries of the MENA region present a strong and united front: all have included the prescribed protection against statelessness for foundlings within their nationality law.[33] For this, MENA states are to be commended, although it is unfortunate to see that abandoned children are protected from statelessness while other children born in the state may be left without a nationality (in some cases even if their mother holds

[27] Article 3(c), Syria Nationality Law No. 276, 1969.
[28] See Z. Albarazi, *The Stateless Syrians*, May 2013, available for download at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2269700.
[29] Article 8, Tunisian Nationality Code (Decree No. 63-6), 1963.
[30] Article 7(2), Algerian Nationality Code, Ordonnance No. 70-86, 1970.
[31] See article 14 of the 1930 Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws and, later, article 2 of the 1961 Convention on the Reduction of Statelessness.
[32] Article 7 of the Covenant on the Rights of the Child in Islam.
[33] See table 3.

the country's nationality), although the right to a nationality is a fundamental entitlement of all children.

2. Acquisition of nationality by naturalisation

Besides acquisition of nationality at birth, the other major route to becoming a national is through naturalisation. This is a procedure that is initiated through an application by the individual seeking nationality, usually in adulthood, leading to the conferral of nationality by the state if all prescribed conditions are met – in principle. In the context of most naturalisation procedures, the relevant authorities of the state enjoy the discretion to decline an application even if the basic requirements have been satisfied. How wide this margin of discretion is will vary from state to state, sometimes having a significant impact on an individual's real prospects of naturalisation. Nevertheless, the starting point for the question of when a person is eligible to naturalise is the set of criteria outlined within the nationality law which form the minimum benchmark that a prospective applicant must meet. In the sections below, the general naturalisation criteria of MENA states are compared, before also exploring the circumstances in which access to naturalisation is facilitated – i.e. for which groups are the conditions lowered or the procedures simplified? Subsequent paragraphs also look at the particularities of MENA states' policies towards the naturalisation of persons of Palestinian origin and towards the attribution of political rights following naturalisation. As is the case throughout this report, the commentary provided is especially mindful of the question of how these provisions interact with the problem of statelessness, in this case how particular naturalisation criteria may contribute to the resolution or the entrenchment of statelessness.

2.1 General naturalisation criteria

While MENA nationality laws share a similar overall approach to naturalisation and many common criteria, there is a wide divergence in the details of the naturalisation requirements set. The primary connection between an individual and the state which lays the foundation for naturalisation is a territorial one, established through long-term residence within the country's borders. All MENA states prescribe a minimum period of residence as one of the conditions for eligibility for naturalisation. Yet here, already, a great variety of standards can be seen. At one end of the scale are Jordan, Morocco, Saudi Arabia, Syria and Tunisia – Jordan requiring four years of residence and the others setting the bar at five years. At the opposite end are Kuwait, Oman, UAE, all prescribing 20 years' residence, as well as Bahrain and Qatar which both demand a minimum of 25 years. The remaining MENA countries have all taken the middle ground, most requiring ten years of residence within their borders

before a person can apply for naturalisation, while Algeria asks for seven.[34] This huge disparity, especially between the lower and upper ends of the scale (4 years versus 25), is an immediately tangible demonstration of the fact that becoming accepted as a full member of the state is a far easier feat in some parts of the region than others. Overall, the tendency is for countries of North Africa and the Levant to have a more "welcoming" approach to the legal integration of newcomers through naturalisation, while the GCC countries are largely reluctant to expand their body of nationals in this manner.

With regards to the other criteria that must be met by a person seeking to naturalise, as shown in Table 7, there are four further conditions that are especially common. The first of these is knowledge of the national language, which is in most cases Arabic. This requirement is about demonstrating "belonging" to the state, in the sense of an affinity to its population and their culture. The exact formulation of this condition varies somewhat from one state to another, with some requiring fluency (e.g. Egypt and Jordan) and others being satisfied when the applicant can demonstrate "sufficient knowledge" (e.g. Syria and Mauritania). The further three most common criteria relate not to connectedness nor belonging, but to the desired qualities or expected behaviour of a would-be national: they relate to the applicant's social, economic and physical attributes. Thus, the applicant is often required to be of "good character" and/or have a clean criminal record, have sufficient income to sustain him or herself (or, in Bahrain, a similar intent is expressed as ownership of real estate) and be in a state of good mental and/or physical health.

This last condition appears problematic in some instances, such that it may violate international norms relating to the rights of persons with disabilities. Article 18 of the Convention on the Rights of Persons with Disabilities establishes that persons with disabilities are to enjoy, on an equal basis with others, the right to acquire and change a nationality. Yet, in Syria for example, a person who has "any diseases or disabilities" is ineligible for naturalisation.[35] In Tunisia, an applicant for naturalisation may not have a "physical state making them a burden or danger to the community",[36] which may also be interpreted to the detriment of persons with certain disabilities. This type of clause not only violates international standards of equal treatment, it may form a real obstacle to naturalisation, including where the applicant is stateless and this procedure would otherwise offer a solution. Meanwhile, in Mauritania, not only are there criteria within the naturalisation provisions that discriminates against persons with disabilities, but if a person who has successfully naturalised is subsequently found,

[34] See table 7.
[35] Article 4(c), Syria Nationality Law No. 276, 1969.
[36] Article 23(4), Tunisian Nationality Code (Decree No. 63-6), 1963.

within a year, "to be physically or mentally disabled", this nationality can be withdrawn – even if this renders the person stateless.[37]

Other, less common, preconditions for naturalisation may also pose an insurmountable obstacle for some individuals and can block the route to nationality for stateless people resident in the country. For instance, in Kuwait, "belonging" is defined not just on linguistic, but also religious grounds: an applicant must know the Arabic language and be Muslim in order to naturalise – preventing any non-Muslim from acquiring Kuwaiti nationality.[38] Moreover, an applicant for naturalisation in Kuwait must also render a service or hold a qualification which is needed in the country, further restricting the circle of individuals who may be eligible.[39] Comparable conditions can be found elsewhere. Yemen requires that an applicant for naturalisation be either Arab or Muslim,[40] showing how the country's conception of its own identity has put its stamp on nationality policy. It should be noted that such criteria which preclude people of other ethnicities or religions from being able to naturalise sit at odds with international law, in particular article 5(diii) of the International Convention on the Elimination of All Forms of Racial Discrimination and the *jus cogens* norm which prohibits racial discrimination. Syria, on the other hand, shares Kuwait's requirement that a person can only naturalise if they hold experience or qualifications that benefit the country[41] – a more utilitarian view of naturalisation policy. In Libya, among the many naturalisation conditions set are an age-limit (the applicant must be under 50 years old) and the catch-all of "any other conditions deemed relevant to the public interest",[42] which gives the authorities free reign in restricting access to naturalisation and refusing applications. Finally, the Qatari nationality law establishes a naturalisation quota: a maximum of 50 people per calendar year will have their applications approved.[43]

2.2 Facilitation for specific groups

As shown above, the regular requirements for naturalisation are rather onerous in many MENA countries and should these be the only terms under which someone can seek to acquire nationality (other than at birth), some may find that they will never be eligible. However, it is common for nationality laws to offer a simplified or facilitated route to nationality for specific individuals, whereby certain conditions are waived or lowered. This is also the practice in most MENA states. There are two circumstances in which the majority of MENA nationality laws will make it easier for a person to obtain nationality than under the regular naturalisation procedure: in the event that the applicant is

[37] Articles 19(1) and 14, 1961-112 Law on Mauritanian Nationality, 1961.
[38] Article 4(3) and 4(5), Kuwait Nationality Law, 1959.
[39] Ibid, article 4(4).
[40] Article (5), Yemen Nationality Law No. 7, 1990.
[41] Article 4(e), Syria Nationality Law No. 276, 1969.
[42] Article 9(6) and 9(7), Law Number 24 on the Libyan Nationality, 2010.
[43] Article 17, Qatari Nationality Law No. 2, 1961.

married to someone who already holds nationality or where the applicant has rendered exceptional services to the state.[44] It should be noted that in almost all cases, the facilitation for a spouse of a national is only applicable to the non-national wife of a male national – the non-national husband of a female national will often have to meet the regular naturalisation conditions regardless of this familial connection to the state. The other two circumstances in which some MENA countries facilitate naturalisation is for individuals who were born on state territory and for people who are themselves Arab or who come from an Arab country. Wherever a stateless person falls into one of these categories, he or she will be able to benefit from the facilitated procedure, which can improve the chances of successfully acquiring nationality.

Importantly, international law calls on states to facilitate the naturalisation of stateless persons as an independent category. This serves the common interest of ensuring that everyone enjoys the right to a nationality as set out in a multitude of human rights instruments at UN and regional level. Such a provision can explicitly be found in article 32 of the Convention relating to the Status of Stateless Persons, to which Algeria, Libya and Tunisia are all state parties. Yet, not a single nationality law in the MENA region recognises this principle and stateless people are subject to the same naturalisation conditions and procedures as anyone else seeking to acquire nationality. Only in Yemen is there the possibility that a more loosely-formulated article may be invoked to the benefit of stateless people: article 6 of the Yemen Nationality Law allows for a reduction of the qualifying period of residence (from 10 years to 5), if there is an "urgent reason" for obtaining nationality. It is unclear whether this clause would be interpreted such that a stateless person will be offered this facilitated path to naturalisation, especially given that the nationality law generally does not make special provision for the prevention or resolution of statelessness. The unfortunate conclusion is therefore that the stateless long-term residents of any MENA country will face the same conditions – and obstacles – as any other person who wishes to acquire nationality by naturalisation. As such, they may be forced to wait many years before becoming eligible to apply and, even then, the other requirements may prove insurmountable. For instance, demonstrating sufficient income could be problematic, given the difficulties in accessing education and employment as a stateless person.[45] Furthermore, especially given the absence of statelessness determination procedures in any MENA state, it is also questionable whether a stateless person would be deemed identified as such and/or be able to secure lawful residence, as required to actually qualify for naturalisation. Overall, the prospects for naturalisation as a means to resolve a person's statelessness in the MENA region are rather poor.

[44] See table 8.
[45] See, for instance, UNHCR, *The situation of stateless persons in the Middle East and North Africa*, October 2010.

2.3 Refusal to naturalise Palestinians

The on-going struggle for a full-fledged Palestinian state and the dispersal of several million Palestinian refugees across the MENA region (in particular Jordan, Lebanon, Iraq, Syria and Egypt), forms the backdrop for an interesting anomaly in naturalisation policy: the deliberate exclusion of an identified group from access to nationality. In 1965, the League of Arab States adopted an agreement – commonly known as the "Casablanca Protocol" – which set out certain rules for the treatment by these states of Palestinians on their territory. The Protocol provides for the enjoyment of rights relating to employment, freedom of movement and travel documents by Palestinians, while "retaining their Palestinian nationality". Thus, although not explicitly provided for in the Protocol, a policy of non-naturalisation of Palestinians is widely seen as derived from this agreement. It is informed by the widely-held belief that to grant nationality to Palestinians in their country of exile would be to undermine their right of return and their claim to their original homeland.[46] While it is true that a solution to the Palestinians' statelessness depends largely on the question of full Palestinian statehood and the implementation of a Palestinian nationality law, the non-naturalisation of Palestinians is an interesting phenomenon which can sometimes contribute to hardship for persons of Palestinian origin who would otherwise have qualified for nationality – including families who have lived for generations in other parts of the region.

The exclusion of Palestinians from naturalisation procedures – and other modes of acquisition of nationality – is most evident in the *practice* of MENA states. Currently, only Iraq explicitly disqualifies Palestinians from naturalisation in its nationality law:

> "Iraqi nationality shall not be granted to Palestinians as a guarantee to their right to return to their homeland".[47]

In the same vein, however, the opportunity to naturalise has generally not been extended to Palestinians in other MENA states either. Nor, despite their statelessness, have they benefited from relevant safeguards that aim to prevent the perpetuation of statelessness – in particular, those present in the laws of Lebanon and Syria which should allow an otherwise stateless child born in the country to acquire nationality.[48] In Egypt, when the nationality law was amended in 2004 to allow Egyptian women to transmit nationality to their children on the same terms as men, children of Palestinian fathers were initially excluded. It was not until 2011, following further advocacy and public protest,

[46] See, for instance, A. Kassim, "The Palestinians. From Hyphenated to Integrated Citizenship" in *Citizenshi and the State in the Middle East. Approaches and Applications*, N. Butenschon, U. Davis and M. Hassassian (eds), Syracuse University Press, 2000; A. Shiblak, "Stateless Palestinians" in *Forced Migration Review*, Issue 26, September 2006.
[47] Article 6(2), Iraqi Nationality Law No. 26, 2006.
[48] See, for instance, on the exclusion of Palestinians from Lebanese nationality, M. el-Khoury, T. Jaulin, *Country Report: Lebanon*, EUDO Citizenship Observatory, September 2012.

that a supplementary decree was passed that gave children of Egyptian women and Palestinian men the entitlement to Egyptian nationality. Even thereafter, the implementation of this policy remained a challenge.[49] In Jordan, although many Palestinians were initially extended nationality, decades later mass denationalisation has plunged thousands back into statelessness.[50] Thus, as a result of the overriding reluctance of host states to incorporate Palestinians into their body of nationals, the vast majority face intergenerational statelessness and the prospect of naturalisation channels being opened up to them by their host states remains poor.

2.4 Naturalisation and political participation

As described above, naturalisation can be far easier to achieve in one state than another and it may also be facilitated or obstructed for particular groups. However, once an applicant is successful, naturalisation results in a person's inclusion as a full member of the political community of the state. Yet, in the next section, the circumstances in which a nationality acquired by naturalisation may be withdrawn will be set out and it will become apparent that a nationality acquired by naturalisation is generally more precarious a status than a nationality acquired by birth. Moreover, when exploring the effects of naturalisation in terms of an individual's ability to exercise the political rights attached to membership of the state, there are also indications that to be admitted to a body of nationals through naturalisation is not necessarily an immediate guarantee of full and *equal* participation.

In fact, in the MENA region, there are a multitude of restrictions in place with regards to the enjoyment of political rights by (newly) naturalised nationals. Across all countries in the MENA, there is, at a minimum, a waiting period between naturalisation and eligibility to full political participation – i.e. to holding the political rights enjoyed by those who were nationals from birth. The time period in question differs from one state to another, while some of the restrictions imposed on political rights for naturalised nationals are permanent. Thus, in the UAE and Qatar for example, naturalised citizens are indefinitely barred from taking part in the political process. Article 16 of the Law No. 38 of 2005 on the acquisition of Qatari nationality 38 / 2005 states that "naturalised Qataris shall not be entitled to participate in elections or nominations, or be appointed to any legislative body". The same provision of the Qatari nationality law also regulates access to employment in the public sector for naturalised citizens as follows:

[49] Some data on the number of children of Egyptian women and Palestinian men to benefit from the new policy over the course of 2011, as well as details of some of the difficulties in terms of the implementation of this policy, is available at http://eudo-citizenship.eu/citizenship-news/530-new-policy-on-egyptian-citizenship-for-children-of-palestinian-fathers. Interviews conducted with affected families in early 2013 yielded reports of on-going barriers to the claiming of Egyptian nationality where the father is Palestinian, in particular for those born before the 2011 decree. See Women's Refugee Commission, *Our Motherland, Our Country.* Gender Discrimination and Statelessness in the Middle East and North Africa, June 2013.

[50] See, among others, Human Rights Watch, *Stateless Again. Palestinian-origin Jordanians deprived of their nationality*, 2010.

> "Naturalised Qataris shall not be equated with Qatari nationals in terms of the right to work in public positions or work in general until five (5) years after the date of naturalisation".

A less prohibitive example but still highly restrictive is that found in the law of Kuwait. Kuwaiti nationality law, in Article 6, provides that a person who acquires nationality by naturalisation must subsequently wait 30 years before being eligible to vote in any Parliamentary election and will never have the right to stand as a candidate for or be appointed as a member of any Parliamentary body. In effect, although a national, a naturalised Kuwaiti has very limited opportunity to participate in the country's political system. At times, there is added discrimination between naturalised citizens themselves. Yemen for example, in Article 23 of its nationality law provides that

> "A Muslim foreigner who has acquired the Yemeni Nationality in accordance with Articles (4, 5, 6, 9, 11) shall not have the right to exercise the political rights designated for Yemenis until after fifteen years of his acquiring the Yemeni nationality. He moreover may not be elected to, or appointed in, any parliamentary body until after the lapse of the period specified above".

It is not clear, on the other hand, what political rights are provided to a non-Muslim naturalised national.[51] As such, Yemeni law appears to add a new layer of discrimination grounded on religion.

Various forms of political participation may also be regulated differently. In Jordan, the law establishes different waiting periods for different public positions. Article 14 states that

> "A person who acquires Jordanian nationality shall be deemed to be a Jordanian in every respect, but he may not hold any political or diplomatic position or any public office prescribed by the Council of Ministers and may not become a member of the State Council for at least *ten years* after acquiring Jordanian nationality. He shall be eligible for nomination to a municipal or village council or to trade union office only after a period of at least *five years* has elapsed as from his acquisition of Jordanian nationality".

Egypt has a similar system with different waiting periods: under article 9 of the Egyptian nationality law, a naturalised national cannot "exercise political rights" during the first five years following naturalisation and cannot be elected or appointed to a parliamentary body during the first ten years. However, through explicit waivers, the law places less restrictions on the participation of the newly naturalised in religious institutions and it allows further exemptions to the aforementioned waiting periods to be granted by Presidential Decree in individual cases. Nevertheless, the overall picture in

[51] Recall that under Yemeni law, a person must either be a Muslim or Arab to naturalise, as per the conditions laid out in article 5.

Egypt and around the MENA region is that a successful application for naturalisation, while leading to the enjoyment of nationality, does not immediately bring all of the expected benefits of nationality and there may be a further, sometimes lengthy, wait before the naturalised national can fully participate in public life.

3. Renunciation, loss and deprivation of nationality

Nationality is not necessarily a fixed status. Under international law, a person enjoys the right to change his or her nationality,[52] should the desire and opportunity arise. A common way to do this is to take up a new nationality through naturalisation – as outlined above. In such circumstances, a person may want to give up his or her original nationality, or may be compelled to do so by the laws of the respective states if they do not tolerate dual nationality. At the same time, a person may also have their nationality revoked for a variety of reasons relating broadly to the (presumed) lapse or change of allegiance and/or to behaviour that is considered unbefitting of a national. In the sections below, MENA's rules relating to voluntary renunciation of nationality, loss and deprivation of nationality and the question of whether the withdrawal of nationality has an effect on the status of dependents, are outlined. Again, particular attention is paid to the question of whether these rules provide enough protection against statelessness.

3.1 Voluntary renunciation of nationality

Where someone chooses to give up their nationality, at their own initiative, this is termed "renunciation". The principal reason that a person would voluntarily renounce their nationality is because they have acquired – or are in the process of acquiring – a different nationality, i.e. in the context of a change of nationality. People are sometimes also motivated by other circumstances to renounce, for instance in order to avoid certain duties which are attached to their nationality (commonly taxes or military obligations) or for personal or political reasons.

While voluntary renunciation of nationality is an act initiated by the individual, it is the state which sets the conditions under which this is possible, by laying these down in its nationality law. When assessing these rules in the MENA region, the first thing to note is that not all countries explicitly foresee the possibility of renunciation of nationality. Given that the law remains entirely silent on this point in the countries concerned, it is unclear how these states would respond to an individual's request to renounce his or her nationality. In a number of them, the point is arguably resolved by a

[52] Article 15 (2) of the Universal Declaration of Human Rights; article 29(3) of the Arab Charter of Human Rights.

different but related provision in the law which sets out that, where a person acquires a foreign nationality, their old nationality is automatically lost through this act. In other words, the voluntary acquisition of a new nationality effectively operates as the voluntary renunciation of the original nationality.[53] If this is the only circumstance by which a person can give up their nationality at their own initiative, such an arrangement provides a strong guarantee against statelessness.[54] However, it may also serve to constrict a person's ability to change nationality, in practice, where the state of intended naturalisation requires prior renunciation of the original nationality.

Approximately half of the countries in the MENA region have a provision in their nationality law which is dedicated to renunciation. Of these, all but four only allow a person to renounce their nationality if there is no threat of statelessness – i.e. renunciation is only possible if the person already holds or has been assured of acquiring another nationality. For example, in Lebanon, the requisite provision deals specifically with renunciation in the context of marriage to a foreigner, stating: "The Lebanese woman marries a foreigner remains Lebanese until she *requests the striking off of her registration in the census records on account of acquiring the nationality of her husband*".[55] Nevertheless, in Bahrain, Iraq, Jordan and Qatar, it is possible to voluntarily renounce nationality even where statelessness results.[56]

3.2 Loss or deprivation of nationality

Nationality can also be withdrawn without a request by or even the consent of the individual concerned. Technically, this can happen in two ways. Firstly, it may be the direct and automatic consequence of particular circumstances arising – for instance, absence from the state for a defined period of time – which are outlined in the law as grounds for the *loss* of nationality. In such cases, the nationality of the person lapses, *ex lege*, without any intervention by the state. Secondly, the law may delineate certain circumstances in which the state is empowered to *deprive* a person of nationality. In these instances, nationality is only withdrawn if and when the state actually takes the decision to strip a person of nationality in accordance with one of these provisions. Often it is within the authorities' discretion to determine that it will not take action in a particular case and the person will retain nationality. In practice, establishing a power of deprivation appears to be more common in this region that providing for automatic loss of nationality. Yet, it is not always easy to distinguish from the

[53] See, for instance, Article 11 and 15(c), UAE Federal Law No. 17 Concerning Nationality and Passports; Article 11, Kuwait Nationality Law, 1959.
[54] Note that article 7 of the 1961 Convention on the Reduction of Statelessness provides that nationality shall not be renounced unless the person has or acquires another nationality.
[55] Emphasis added, article 6. Note that Lebanon also provides for the automatic lapse of nationality where a Lebanese national voluntarily acquires a new nationality (article 8).
[56] In Algeria, this is also possible in the following specific circumstance: where nationality was acquired by a child through the naturalisation of his or her parent. In such cases, the child can renounce Algerian nationality within 2 years after attaining the age of majority, even if this leads to statelessness (articles 18(4) and 17(2)). See further Table 4.

language of the law whether a particular article provides for loss or deprivation of nationality and therefore how it will operate in practice.

In this report, the focus is not on whether a particular clause provides for *loss* or for *deprivation*, but on what the criteria are under which a person may be stripped of their nationality – since this offers a picture of how varied the circumstances are under which a person's nationality may be threatened. As already mentioned, the grounds for both loss and deprivation of nationality tend to relate broadly to the (presumed) lapse or change of allegiance and/or to behaviour that is considered unbefitting of a national. In the MENA region, the three most common grounds are where the person commits an act/crime that threatens the security of the state, renders services to a foreign state or is discovered to have acquired the nationality through fraud. For instance, with respect to withdrawal of a nationality which has been fraudulently obtained, all MENA states with the exception of Algeria, Lebanon and Tunisia have legislated for this possibility. Thereafter, the withdrawal of nationality in response to a demonstration of allegiance to a foreign or enemy state and in response to the commission of a serious non-political crime are the next most commonly recognised grounds. Most MENA countries have legislated for the loss or deprivation of nationality in several of the aforementioned circumstances. As shown in Table 5, Bahrain, Morocco, Qatar, Saudi Arabia and UAE allow the state to withdraw nationality on all of the these grounds.

Among the less common but nevertheless noteworthy circumstances in which MENA's laws may provide for the loss or deprivation of nationality are the following:

- *Long-term absence from the territory of the state (i.e. long-term residence abroad)*: Egypt, Libya, Qatar, Syria, UAE and Yemen. This is based on the notion that the connection with the state of nationality has faded and a new tie of allegiance is being formed elsewhere.

- *Failure to fulfil military obligations*: Morocco and Tunisia. Being prepared to defend one's country is a common duty attached to nationality and the failure to fulfil military obligations may therefore be read as a sign of disloyalty. In both of these states, this ground for revocation of nationality only applies to naturalised nationals.

- *Dismissal from public service for reasons relating to honour or honesty*: Kuwait and Qatar. As with the failure to fulfil military obligations, this provision can only be invoked against naturalised nationals and is likely also an expression of the idea that a display of disloyalty will be penalised by the withdrawal of this naturalisation.

- *Terrorism*: Morocco. With the latest amendment to the Moroccan nationality law, passed in 2007, one new ground for deprivation of nationality was introduced – conviction for an act of terrorism.[57] While it is likely that a person convicted of terrorism could have been deprived of his nationality on one of the previously existing grounds in the law, the authorities evidently felt the need to add this explicit clause.[58]

More problematic are an isolated selection of further loss and deprivation provisions that allow for withdrawal of nationality on grounds that are prohibited under international law:

- *Religion*: In Kuwait, nationality can be deprived – or rather, naturalisation voided – if a person renounces Islam or "behaves in such a manner as clearly indicates his intention to abandon Islam".[59] Not only does this contravene the fundamental right to freedom of religion, the vague language of the provision also leaves it open to abuse and to arbitrary decision-making. In Oman, a person can be stripped of nationality on the grounds of being an atheist or of belonging to an "anti-religious group".[60] As with the Kuwaiti provision, this article is both contrary to basic human rights standards and formulated in worryingly broad terms.

- *Disability*: A person who acquires Mauritanian nationality by naturalisation may subsequently be deprived of that nationality if, within a year from the date of naturalisation, he or she is found to be "physically or mentally disabled".[61] This goes against the equal right of persons with disabilities to acquire and change nationality, as set out in article 18 of the Convention on the Rights of Persons with Disabilities.

- *Political beliefs*: In Egypt, the nationality law gives the state the authority to deprive a person of nationality "if, at any time, he is assumed to be a Zionist".[62] Such an act is also likely to amount to the arbitrary deprivation of nationality, resting as it does on political grounds[63] and again, formulated in a vague manner such that it is unclear under which circumstances exactly it could or would be invoked.

In Qatar and Libya, the articles in the law which regulate deprivation of nationality create a different kind of challenge. Rather than authorising deprivation on what would be considered a prohibited ground under international law, they appear to effectively give the competent authorities *carte blanche*

[57] Article 22(1c). See also D. Perrin, *Country Report: Morocco*, EUDO Citizenship Observatory, October 2011, available at http://eudo-citizenship.eu/admin/?p=file&appl=countryProfiles&f=Morocco.pdf.
[58] See further Table 6 of the annex.
[59] Article 4(5), Kuwait Nationality Law, 1959.
[60] Article 13(2), Omani Nationality Law, 1962.
[61] Article 14, 1961-112 Law on Mauritanian Nationality, 1961.
[62] Article 16(7), Law No. 26 concerning Egyptian Nationality, 1975.
[63] See, for instance, article 9 of the 1961 Convention on the Reduction of Statelessness.

in determining when to withdraw a person's nationality. Under Qatari law, the Minister has the discretion to withdraw nationality from anyone "if it is in the public interest".[64] In Libya, nationality can be deprived in any situation where the decision is "justified" by General Security.[65] Under international law, the withdrawal of nationality must have a clear legal basis if it is not to be deemed arbitrary (and therefore prohibited).[66] It can be questioned whether such broadly formulated powers of deprivation would satisfy this, given the absence of legal security on the part of the individual to know or be able to predict under what circumstances – or in response to what behaviour – nationality might be withdrawn.[67]

Two key things stand out in the analysis and comparison of all these legal provisions. Firstly, that someone who has acquired nationality by naturalisation is much more exposed to the subsequent withdrawal of that nationality than someone who acquired nationality by birth. In some cases, this vulnerability of naturalised persons to withdrawal of nationality is mitigated by the establishment of a maximum period (usually several years) following naturalisation during which nationality can be deprived on the various grounds prescribed, but after which this nationality also becomes more secure. In Egypt, for instance, nationality can be withdrawn from someone who has acquired it through naturalisation within *five* years from the date of acquisition if the person commits a crime, but within up to *ten* years from the date of acquisition if it is found that this was based on forgery or false statements.[68] Nevertheless, there are roughly twice as many clauses that provide for the withdrawal of naturalised nationality than there are provisions that extend to people who acquired nationality by birth.

Secondly, *none* of MENA's nationality laws include a safeguard to prevent a person from being rendered stateless through the loss or deprivation of nationality. This is a serious concern and here the region's nationality laws fall far short of the standards set by international law with regard to the avoidance of statelessness – in particular the 1961 Convention on the Reduction of Statelessness, ratified in the MENA region by Libya and Tunisia. There many more circumstances in which a state can withdraw a person's nationality and render them stateless than those exceptionally tolerated under the 1961 Statelessness Convention.[69] For instance, this convention does not allow for the deprivation of nationality in response to a serious non-political crime if this would result in statelessness, while 11 MENA countries have legislated for this possibility – including, notably, Tunisia, which is a state

[64] Articles 11 and 12, Qatari Nationality Law No. 2, 1961.
[65] Article 14, Law Number 24 on the Libyan Nationality, 2010.
[66] See, among others, article 29(1) of the Arab Charter of Human Rights.
[67] See also UNHCR, *Expert Meeting - Interpreting the 1961 Statelessness Convention and Avoiding Statelessness resulting from Loss and Deprivation of Nationality ("Tunis Conclusions")*, March 2014.
[68] Article 15, Law No. 26 concerning Egyptian Nationality, 1975.
[69] Under the terms of the 1961 Convention on the Reduction of Statelessness, loss or deprivation of nationality can only result in statelessness in the following circumstances: a naturalised person subsequently takes up residence abroad for more than 7 years; a national born abroad who is not present in the state upon attaining majority or a person has acquired nationality by fraud or misrepresentation. In addition, a state can, upon accession to the 1961 Statelessness Convention, retain the right to deprive a person of nationality, including to render them stateless, in the following circumstances: where he or she has committed specific acts inconsistent with a duty of loyalty or has made an oath or formal declaration of allegiance to another State.

party. Moreover, those provisions of MENA's nationality laws which are basically aligned with the clauses of the 1961 Statelessness Convention – i.e. invoke generally permissible grounds for deprivation – tend to also extend the powers of deprivation of the state beyond what the convention permits. Although the 1961 Statelessness Convention recognises that a person who acquires nationality through naturalisation but subsequently resides for an extended period abroad may be deprived of his or her nationality, even if statelessness results, the minimum duration of the absence from the state which can be set is seven years. In Egypt, by comparison, nationality acquired by naturalisation may be withdrawn after just two years of absence, if no acceptable reason is given for this absence. Moreover, it should be noted that the 1961 Statelessness Convention and broader human rights law both call for due process and the right to an effective remedy where a decision is taken to deprive a person of their nationality. The right to appeal is especially important if statelessness results from such a decision – yet only six MENA countries provide for this in their laws.[70] Overall, in view of the widespread international recognition and regional reaffirmation of the right to a nationality, it is surprising and highly regrettable just how lacking MENA's laws are in safeguards that would protect a person from losing or being deprived of nationality such that they end up with none.

3.3 Effect of loss or deprivation of nationality on dependents

In many MENA countries, the loss or withdrawal of nationality can also affect the spouse and/or minor children – especially, again, where this nationality was acquired by naturalisation. In such cases, only Morocco and Tunisia make this conditional on the spouse and children in question not being rendered stateless. Thus, elsewhere, a woman may be rendered stateless if her husband is denationalised and children may also be stripped of their nationality in conjunction with an act affecting the parent. In Egypt, Kuwait, Oman, Saudi Arabia and UAE, for example, the revocation of naturalised nationality can extend to the spouse in particular circumstances, even potentially rendering them stateless. This stands at odds with article 9 of CEDAW, the first paragraph of which compels states to ensure, among others, that the "neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband". In these states, children can also be stripped of their nationality in conjunction with a parent who is denaturalised and they, too, may be left stateless in the process. This is also the case in certain circumstances in Bahrain, Jordan and Libya – and in the first two of these, a nationality acquired by birth may also be affected. All such provisions which allow the effect of loss or deprivation of nationality to extend to a spouse or child without a safeguard to avoid statelessness contravene article 6 of the 1961 Statelessness Convention. Where the effect is on a child,

[70] See further section 4.2 of this report.

they may also raise questions under article 8 of the Convention on the Rights of the Child which protects the child's right to preserve his or her identity, including nationality.

4. Further common elements of MENA countries' nationality laws

In the preceding sections, the conditions set by MENA countries for the acquisition and loss of nationality were presented in some detail. As such, the bulk of the region's substantive nationality provisions has now been dealt with. Nevertheless, a few further comments are due. Firstly, it is important to draw out from the above discussion a number of elements of MENA nationality policy that raise serious questions when set against international legal standards of non-discrimination. Secondly, it is worthwhile looking at some procedural questions surrounding nationality policy, including such matters as the issuance of proof of nationality (when and by whom) as well as the availability and effectiveness of an appeals mechanism should an individual assert that the nationality rules have been applied incorrectly or arbitrarily. These issues are dealt with in the following paragraphs.

4.1 Discrimination

By virtue of its very purpose, nationality law makes distinctions between "us" and "them" – a process which involves ascertaining which people are deemed to be connected to the state, belong to its political community, share its values and be worthy of full membership, including assumption of the rights, benefits and responsibilities associated. This is a context in which it can be all too easy to rely on distinctions and qualifying criteria that run counter to international standards of equal treatment. In the foregoing discussion of the conditions for acquisition and loss of nationality in MENA countries, several examples of provisions that directly discriminate or have the potential to lead to discrimination have already been pointed out. When drawn together, in the MENA, there are four particularly problematic areas of policy, which have a varying prevalence across the region: gendered nationality rules; ethnic criteria for access to nationality; religion-based prerequisites for access to or a grounds for loss of nationality; and conditions relating to mental and physical health that may operate to discriminate against persons with disabilities.

By far the most common form of discrimination present in MENA states' nationality laws is that on the ground of gender. In almost every country in the region, nationality policy is biased in favour of men, bestowing on them greater privileges with regards to the retention and transmission of nationality than women enjoy. Only Algeria places men and women on an entirely equal footing in its nationality

law. Elsewhere, as shown above, there is wide-spread gender discrimination in the conferral of nationality *jus sanguinis*: in the majority of MENA countries, a child is still only entitled to inherit nationality from his or her mother in certain exceptional circumstances, whereas nationality can always be passed from father to child. Even more common are gendered provisions on access to nationality following marriage: apart from Algeria (as already mentioned), the route to nationality for a non-national woman who marries a national man is far less burdensome than that for a non-national man who marries a national woman. On the other hand, it is encouraging to see that none of MENA's current nationality laws contain provisions that would leave a woman stateless by automatically stripping her of nationality if she marries a foreign man – nationality is only lost, in those countries which provide for it, in the event that she actually acquires her foreign husband's nationality. Nevertheless, given that it is such a prevalent issue in the region, the background to and consequences of such gendered nationality policy, as well as the context and content of recent reforms to remove discriminatory provisions in several countries, is explored in greater detail in the forthcoming full regional report on nationality and statelessness in the MENA.[71] It suffices to say here that the MENA has a long way to go before its laws fully catch up with the contemporary perspective of women's independent nationality rights and with international standards, including those in CEDAW and the Convention on the Rights of the Child.

Far less of a problem in the MENA region today is direct discrimination on the grounds of ethnicity within countries' nationality policy. Only one state, Yemen, explicitly requires that an applicant for naturalisation be either Muslim or Arab – excluding anyone who does not satisfy one or other of these demands.[72] Although there is much contention over whether there is such a thing as an Arab ethnicity, the retention of this condition in addition to requirements relating to the level of proficiency in the Arabic language,[73] suggest that it should not be equated with mere linguistic affinity. As such, there is a risk that in the application of this standard, the division is drawn along (perceived) ethnic or tribal lines. It can be questioned whether this is in accordance with international law, including the Convention on the Elimination of All Forms of Racial Discrimination. Similar questions may be raised with regard to the nationality laws of Bahrain and Kuwait, which facilitate naturalisation for people who are Arab, over others (again, without further defining the term Arab and while clearly establishing a separate criterion of Arabic language proficiency). Elsewhere, facilitated naturalisation for those with a close cultural affiliation to the country – which can be recognised as a legitimate ground for preferential treatment – is organised through the privileging of people who are "from an Arab

[71] See also Women's Refugee Commission, *Our Motherland, Our Country.* Gender Discrimination and Statelessness in the Middle East and North Africa, June 2013; Z. Albarazi and L. van Waas, "Transformations of nationality legislation in North Africa" in Isin, E., and Nyers, P. (eds) *The Routledge Handbook on Global Citizenship Studies,* Routledge, 2014.
[72] Article 5, Yemen Nationality Law No. 7, 1990.
[73] Ibid, article 5(5).

country",[74] which arguably does not raise a suggestion of ethnic bias. This would seem to be a more appropriate way to formulate an entitlement to facilitated naturalisation under the law. Meanwhile, it is important to flag here that the absence of nationality rules that directly discriminate on the grounds of race or ethnicity has not spared the region, in practice, from the problem of racially motivated nationality policies. An obvious example of such problems is the long-standing and largely continuing exclusion of many Kurds from nationality in Syria.[75] This and other situations of arbitrary deprivation and denial of nationality have led to the region being so heavily blighted by statelessness. Again, an analysis of the letter of the nationality law, while important to understand how a country's policy is framed and what opportunities a person has to enjoy a nationality, offers an incomplete picture of the manner in which nationality is actually – or has historically been – attributed in practice.

The third form of discrimination that was noted in the analysis of MENA's nationality laws is that grounded on religion. Islam is the predominant faith in the region and has the status of official religion in many MENA countries. Although most nationality laws have succeeded in 'secularising' nationality, some retain religious criteria. Thus, it was shown that in Kuwait, only Muslims are eligible for naturalisation. As noted in the previous paragraph, Yemen requires an applicant for naturalisation to be either Arab or Muslim. Furthermore, in the foregoing section on loss and deprivation of nationality, it was noted that religious beliefs – or a change of religion – may lead to the withdrawal of nationality. This was found to be the case in Kuwait, where being a Muslim is a prerequisite for naturalisation and a person who subsequent to their successful acquisition of nationality renounces Islam risks forfeiting their naturalised Kuwaiti nationality. In Oman, atheism or "belonging to an anti-religious group" was noted to be a ground, under the law, for deprivation of nationality. In each of these cases, religious considerations have crept into the terrain of nationality policy and have even been formally codified. Elsewhere in the region, religion has also played a significant role and discrimination has pervaded nationality policy, albeit more covertly. For instance, in Lebanon, maintaining the country's (perceived) confessional balance has long been the most significant consideration in debates surrounding and implementation of nationality policy.[76] In Saudi Arabia, being of Muslim faith is reported to be an implicit requirement for naturalisation, given that good behaviour – an explicit condition in the nationality law – must in practice be proven by a certificate signed by the Imam in the person's place of residence.[77]

While discussing the pervasion of religion into the sphere of nationality policy, it is also worth noting the influence of Islamic Shari'a law within the overall domestic legal systems of MENA countries. In

[74] For example, Articles 5 and 6, UAE Federal Law No. 17 Concerning Nationality and Passports, 1972.
[75] See Z. Albarazi, *The Stateless Syrians*, May 2013.
[76] See, for instance, "Lebanese Citizenship: Given arbitrarily" in *The Monthly*, Information International, Issue 94, May 2010; G. Hourani, *The 1994 Naturalisation Decree*, EUDO Citizenship paper, 2011, available at: http://eudo-citizenship.eu/docs/LEB-1994NaturalizationDecree-GuitaHouraniNov2011.pdf.
[77] G. Parolin, *Citizenship in the Arab World. Kin, Religion and Nation State*, Amsterdam University Press, 2009, page 103.

much of the region, Shari'a dominates the areas of family law and personal status law, which can have a knock-on effect for the enjoyment of nationality. A clear example of this is the absence, in many countries, of a legal framework for adoption. As such, most nationality laws make no provision for the acquisition of nationality through adoption – itself an unrecognised legal concept.[78] This may create problems for the enjoyment of nationality by children who have been abandoned, if their parentage is unknown but they are also unable to benefit from the legal provisions guaranteeing a nationality for foundlings. In Lebanon, for example, concerns have been flagged regarding the enjoyment of nationality by some children living in orphanages and the absence of a regime for formal adoption and the attendant acquisition of nationality may leave children stateless.[79]

The fourth area of discrimination in MENA nationality laws is that against persons with disabilities. Here too, it was seen that conditions relating to mental and physical health featured among naturalisation criteria, but could also lead to deprivation of nationality. This is a severely understudied question in nationality policy worldwide and there is little information on the implementation of the pertinent legal provisions in the MENA region. Nevertheless, given that the equal enjoyment of the right to a nationality for persons with disabilities is clearly established under international law, the fact that at least five MENA countries (Algeria, Libya, Mauritania, Syria and Tunisia) maintain legislation that could be interpreted to bar persons with disabilities from naturalisation is of serious concern. This is an area which is deserving of further attention and study, with a view to ensuring that such discrimination against persons with disabilities is removed.

4.2 Procedural questions

Having deconstructed and compared the substance of MENA's nationality laws, it is of interest to look at some of the procedural features of this legislation. Perhaps the most immediate procedural question is to what extent a right of appeal is recognised where an individual is negatively affected by a decision relating to his or her nationality. For example, if the state uses its powers of deprivation to strip someone of their nationality, does the person in question have the opportunity to challenge that decision? Access to an effective remedy is of critical importance, as evidenced by some of the jurisprudence emerging in the region.[80] Yet just six countries in the MENA region guarantee a right to appeal against decisions relating to the enjoyment of nationality: Algeria, Egypt, Iraq, Lebanon, Morocco and Tunisia. It should be noted that none of the GCC countries are among those that permit such an appeal. As such, there is no system of checks and balances in these states that will help to

[78] For instance article 7(3) of the Covenant on the Rights of the Child in Islam states that "the child of unknown descent […] shall have the right to guardianship and care but without adoption".
[79] Interviews conducted by researcher Z. Albarazi in two Lebanese orphanages in 2011.
[80] See, for instance, the analysis of case law relating to nationality in Lebanon in Frontiers Ruwad Association, *Invisible Citizens: Humiliation and a life in the shadows. A legal and policy study on statelessness in Lebanon,* 2011.

prevent the authorities from stepping beyond their powers or rendering a decision arbitrarily. This is in spite of some examples of provisions that appear to be geared towards ensuring due process. For instance, in Saudi Arabia, where the state has identified behaviour, such as the rendering of services to a foreign state or other similar grounds, which are grounds under the law for withdrawal of nationality: "the Saudi national shall be warned about the consequences of his deed in a proper manner three months at least before issuance of the decree of withdrawal of the Saudi Arabian nationality".[81] Yet it is not apparent that the individual would be able to take action to spare him or herself from denationalisation, contest the authorities' assessment of the situation or appeal against the subsequent issuance of the decree of withdrawal of nationality. The value of this type of provision is therefore unclear. Certainly, the absence of jurisdiction for the courts in nationality matters in the majority of MENA countries is of serious concern given the manifold problems that are seen in practice with regard to the implementation of nationality law – as touched upon in section 5 of this report.

In the case of Kuwait, one of the common complaints with regard to the protracted situation of statelessness faced by the Bidoon is the lack of any procedure to review nationality cases or to compel the competent authorities to take a decision on pending applications (many of which have already been awaiting a response for years). Despite being a form of administrative action, nationality decisions are expressly excluded from the jurisdiction of the administrative courts.[82] This, however, seems to contradict a provision in the Kuwaiti Constitution stipulating that "Kuwaiti nationality shall be determined by law and nationality may not be forfeited or withdrawn unless within the limits of the law",[83] which would suggest that decisions on the withdrawal of nationality at least should be subject to some form of appeal in order to review compliance with the law. Moreover, there is jurisprudence to suggest that not all nationality questions are non-justiciable in Kuwait. In November 2007, the Court of Cassation ruled that the administrative circuit is competent to decide on a complaint regarding the refusal to issue a nationality certificate to a person who has already acquired nationality by operation of the law (in the case in point, a daughter of a Kuwaiti national father).[84] It therefore appears that where the case concerns the confirmation of nationality through the issuance of the requisite documentation, rather than a dispute over access to nationality itself, there may be a role for the courts. It may therefore be plausible for some Bidoon to bring their situation before the courts, if the assertion is not that they should be entitled to acquire nationality, but that they are being refused documentation recognising the nationality that they obtained under the law, i.e. on the basis of residence in Kuwait from 1920 to 1959 or as the descendant of a man who qualified thus. Even if such cases would be admitted to the courts, there would be a significant challenge to provide satisfactory

[81] Article 13, Saudi Arabian Nationality System, 1954.
[82] See article 20 of Law No. 20 (1981) on the establishment of administrative courts, as referenced in Human Rights Watch, *Prisoners of the Past. Kuwaiti Bidun and the Burden of Statelessness*, June 2011, at page 18.
[83] Article 27, Kuwait Nationality Law, 1959.
[84] Case 219/2006 decided on 27 November 2007.

proof of this residence so long after the fact (i.e. through documentation or witness testimony). Regardless of the extent to which such an avenue may prove successful, it is encouraging to see that access to the courts with regard to nationality complaints is not, perhaps, entirely off limits. Elsewhere in the GCC there have also been some isolated examples of appeals procedures being invoked with respect of nationality decisions, in particular the deprivation of nationality. Seven Emirati nationals stripped of their nationality for speaking out against the authorities in 2011 managed to have their case reviewed by the courts, but to no avail – the ruling confirmed that the state had acted within its powers.[85]

A closely linked procedural question is how much discretion is allowed to the authority responsible for issuing decisions on nationality. Measuring discretion from the letter of the law is not easy – a lot will depend on practice. However, provisions using terms like "can" and "may" (rather than "will") with regard to, for instance, the conferral of nationality clearly leave room for the relevant authority to decide whether to do so in a particular case, or not. The greater the margin of discretion, the more legal certainty may become an issue, because it is difficult for potential beneficiaries to predict how the law will be applied to them. An area in which there is traditionally greater discretion is with regard to decisions on naturalisation and this is clearly also the case in the MENA region. In fact, some of the nationality laws admit that the requisite authority has absolute discretion in this regard. For example, in Saudi Arabia, "the Minister of Interior, *in all cases*, may refuse granting Saudi Arabian nationality to aliens, who have fulfilled all the conditions, which are prescribed [for naturalisation]".[86] Elsewhere, this is not explicitly stated in the law but is a matter of policy. For instance, in Lebanon, the Ministry of Interior explains that "it is not definite that a foreigner who meets [the conditions for naturalisation] will be granted Lebanese nationality".[87] This means that a decision not to approve a request for naturalisation can never be challenged and need apparently not even be motivated. Access to nationality through naturalisation may therefore be a challenge. At the same time, there have also been positive developments in this regard. For example, in Qatar, the law used to simply decree that the Emir was empowered to grant naturalisation at his discretion and no criteria were set out, but a 2005 amendment brought in eligibility guidelines for naturalisation such that there is now more clarity on what a person would need to do to qualify. More troublingly however, in some MENA states, unfettered discretion appears to also extend to decisions on the withdrawal of nationality. As identified earlier, in Qatar and Libya, nationality may be withdrawn in the "public interest" or where "justified"

[85] Gulf Centre for Human Rights, *UAE: Revocation of citizenship of seven human rights defenders and deprivation of basic rights*, 16 January 2012.
[86] Article 10, Saudi Arabian Nationality System, 1954.
[87] Ministry of Interior, *General Questions*, available at http://www.moim.gov.lb/ui/Fa-Details.aspx?faqid=352, as cited in Frontiers Ruwad Association, *Invisible Citizens: Humiliation and a life in the shadows. A legal and policy study on statelessness in Lebanon*, 2011, at page 70.

respectively.[88] The law leaves significant scope for abuse of power here and in neither country is there a safeguard specifying that statelessness may not result nor can a decision be appealed.

A final procedural question that can be raised here is that of proof of nationality, i.e. what constitutes evidence that a person enjoys a nationality under the law and, more importantly, where does the burden of proof to produce this evidence lie? Several of the laws in the region deal explicitly with this question. For instance, in Kuwait, article 19 of the nationality law informs that "the Head of the Departments of Police and Public Security shall issue to every Kuwaiti national a certificate of Kuwaiti nationality after investigation has been made to establish his right to such nationality in accordance with the provisions of this Law". Subsequently, article 20 adds: "in every case, the burden of proof shall rest upon one who claims Kuwaiti nationality". The Yemeni nationality law also puts the burden of the proof of nationality in the case of individuals wishing to confirm or restore their nationality according to article (27) which stipulates that:

> The burden of proof falls upon whoever claims to be holder of the Yemeni nationality or submits that he is not.[89]

This condition has been perceived as arbitrary by some stateless persons who complained about the difficult process of restoring their citizenship.[90] Such complaints are rejected by governmental officials who state that the capacity of the government is so limited, that it cannot search for evidence on behalf of those who want to obtain citizenship. A Yemeni judge had also interpreted the burden of the proof on the applicant with reference to an Islamic principle "the proof falls on the shoulder of the claimant".[91] The government of Yemen**,** however**,** made some legislative reforms over the last decade to facilitate the acquisition of the Yemeni nationality via amending nationality legislation of 1990.[92] This has been seen as a good step forward and it is expected to be followed by further legislative reforms in the upcoming constitutional reform in Yemen, which was expected by 2014.[93] It is important to keep in mind that successfully safeguarding the enjoyment of a nationality and the avoidance of statelessness can be achieved through substantive reform but can also be facilitated through a review of procedural questions relating to nationality.

[88] See section 3.2 above.
[89] Articles 27, Yemen Nationality Law No. 7, 1990.
[90] A group discussion with some refugees, lawyers and stateless persons held on 24th of September 2012.
[91] Justice Jamal Alhubaishi, Focus Group Discussion on stateless persons held on 24th of September 2012
[92] Yemen passed three amendments to its nationality law between 2003 and 2010 to facilitate acquisition of Yemeni nationality.
[93] An interview with Mr. Anis Abdalla Alaqraby, Saba News Agency, conducted on the 2nd of July 2012.

5. Nationality law versus nationality *practice*

Perhaps the greatest challenge when it comes to assessing a state's performance in terms of its nationality policy, or indeed to establishing whether there is a problem with regard to a particular group or individual's enjoyment of nationality,[94] is that the letter of the law can be only half of the story. The competent authority of the state in question must interpret and apply the law, a process that can yield unpredictable results. For instance, the relevant authorities may have divergent views on the interpretation of particular terms or conditions. Where decision-making powers have been decentralised, the competent authorities may not be aware of recent amendments to the law, such that they continue to apply the old and familiar regulations in practice. The competent authorities may, alternatively, have very good knowledge of the law and interpret it appropriately, yet not be in a position to apply it in practice due to, for instance, procedural problems. For instance, they may be aware that a child born to a female national is entitled to nationality *if* the child's father is stateless, but not know how to or have a procedure for establishing this statelessness, such that this safeguard is not invoked. The authorities can also be aware of the operation of the law, but due to disinterest, discriminatory attitudes or corrupt practices, the law is nevertheless applied arbitrarily and decisions are taken which are at odds with the letter of the law. Furthermore, the law may – as described above – grant the authorities a certain margin of discretion with regards to the interpretation and application of its terms, which can also serve to make state practice diverse and unpredictable.

In sum, given these and other potential stumbling blocks, there can often be gaps between law and practice. This may be to the benefit of people who would otherwise be stateless – for instance where provisions for loss of nationality, such as in the event of long-term residence abroad, are ignored and those who would be affected according to the letter of the law actually continue to be treated as nationals. Equally, state practice may aggravate problems of statelessness where the law in question should provide protection and guarantee the right to a nationality but this is not what happens on the ground. While this research was not comprehensive enough to offer a full picture of state practice with regard to nationality policy in each of the MENA states – this, indeed, being an area in which a further study would be worthwhile – some basic observations are provided below.

[94] To determine whether a person is stateless, i.e. *not considered as a national* by a state *under the operation of its law,* (article 1 of the 1954 Convention relating to the Status of Stateless Persons) requires a careful analysis of how a state applies its nationality laws in practice, in that individual's case. In some cases, an objective analysis of the law would lead to the conclusion that the person is a national, but the state may not in practice follow the letter of the law, so the analysis must be based on how the competent authorities interpret the law. See UNHCR), *Handbook on Protection of Stateless Persons,* 30 June 2014, available at: http://www.refworld.org/docid/53b676aa4.html.

5.1 Acquisition of nationality

It was shown above that comprehensive safeguards allowing for the conferral of nationality to otherwise stateless children have yet to fully pervade the MENA region. In most countries, there are some provisions designed to reduce the risk of statelessness among children but these are insufficient to guarantee the enjoyment of the right to a nationality in all circumstances. Perhaps the most disappointing discrepancy between law and practice then, is where those countries which do have an inclusive safeguard are failing to implement it. Lebanon and Syria both provide in their nationality law for the acquisition of nationality by *any* child born on state territory who does not acquire another nationality at birth. However, neither country's nationality practice reflects this safeguard and statelessness is passed on from one generation to the next. Stateless Kurds are labelled *ajanib* (foreigner) or *maktoumeen* (unregistered) by the Syrian authorities, rather than recognised as stateless, creating an excuse not to apply the safeguard against statelessness for their children.[95] It is a similar story in Lebanon where the stateless known as *kayd al dars* (nationality under study) or *maktoum al kayd* (unregistered) also find that the general practice is to consider these statuses as hereditary rather than to protect the next generation from statelessness. Only in a limited number of court rulings have children born to a *kayd al dars* or *maktoum al kayd* father won the right to Lebanese nationality on the ground that they were born in the state and have not acquired another nationality.[96] Meanwhile, in both Syria and Lebanon, children of Palestinians are also excluded from benefiting under the safeguards on the grounds of preserving their Palestinian 'nationality'. Similarly, countries such as Jordan, which have special provisions that allow for the acquisition of the nationality of the mother if the father is stateless frequently do not implement this and children of Palestinian fathers, in particular, are excluded.

In Iraq, the apparent internal inconsistency in the country's nationality law has created problems in its implementation. Article 3 of the law clearly indicates that any child born to either an Iraqi mother or father acquires nationality, regardless of the place of further facts of birth. Article 4 goes on to state that "the Minister may consider Iraqi any person born outside Iraq to an Iraqi mother and an unknown or stateless father". Instead of being treated as obsolete because of the contradiction with article 3, in practice this provision has been applied such that it has narrowed the interpretation of article 3. Thus, where a child is born to an Iraqi mother abroad, nationality is only conferred if the authorities are satisfied that the father is unknown or stateless. There are also signs that, even in these circumstances, access to nationality is problematic because it is difficult to satisfy the burden of proof with regard to

[95] See for the ramifications in terms of the growth of the stateless population in Syria over time, KurdWatch, 'Stateless Kurds in Syria: Illegal invaders or victims of a nationalistic policy?' March 2010. access at http://www.kurdwatch.org/pdf/kurdwatch_staatenlose_en.pdf.
[96] Frontiers Ruwad Association, *Invisible Citizens: Humiliation and a life in the shadows. A legal and policy study on statelessness in Lebanon*, 2011, from page 59.

the status of the father. This practice heightens the risk of statelessness for children born to Iraqi women abroad, despite the law not initially appearing to be problematic on this point.

Another problem that is in evidence in the region when it comes to the implementation of rules relating to the acquisition of nationality is the obstruction caused by certain administrative or logistical arrangements. For instance, in Egypt, the law now allows women to confer nationality to their children. When this rule came into effect in 2004, it was introduced with retroactivity, such that children born before the relevant legal reform could also benefit and claim their Egyptian mother's nationality. However, to acquire nationality in this manner, an application process must be completed and the lodging of the application must take place at one particular office which has been identified for this purpose in the heart of Tahrir, Cairo. This makes it very difficult for families living far from the city to claim nationality for their children, given the time and cost of making the journey to the office. The onset of the Arab Revolution in Egypt, the political instability in the country and the repeated demonstrations in precisely that part of Cairo made access to this procedure even more complicated. As such, there are likely to be many children who qualify for Egyptian nationality under the law but who have yet to acquire it in practice because they have not completed the necessary application procedure.

Lebanon offers another example of administrative hurdles that are affecting the acquisition of nationality by children. There, problems arise from the intrinsic relationship between birth registration and the recognition of Lebanese nationality. Where, for whatever reason, a child's birth is not registered within 30 days after birth,[97] subsequent registration incurs a fine which can act as a deterrent. Repeated late registration may lead to a more severe sanction as it becomes a matter for criminal law, whereby punishment could include imprisonment (article 498 and further in Lebanese Penal Law). If there is a delay of more than a year after the child's birth before registration is sought, this can only be achieved through a complicated, costly and demanding court procedure, which is often unsuccessful. Those who have not succeeded in having their birth registered are known as *maktoum al kayd* (unregistered).[98] Although Lebanese law does not make acquisition of nationality by a child conditional upon the registration of his or her birth, the practice is different. Regardless of any formal entitlement under Lebanese nationality law, the *maktoum al kayd* are not recognised as Lebanese citizens by the state and discussions on the resolution of their legal status will often take shape as a debate on *naturalisation*. Here, the gap between nationality law and nationality practice is contributing to the expansion of statelessness within the country.

[97] The period prescribed by the Personal Status Registration Act of 1951.
[98] See, for instance, F. Rida, *Unregistered persons in Lebanon: Thousands were never born according to official state documents… and they never died,* Al Hayat, 12 August 2007.

In Lebanon then, birth registration and recognition of nationality are closely entwined and a child who lacks a birth certificate and is unable to remedy this, can be left in a position where he or she is not recognised as a national as a consequence. In general, however, the lack of birth registration should not be equated with a lack of nationality, i.e. statelessness. Nor should every child who lacks a birth certificate be considered at real risk of statelessness. Yet, lacking proof of the facts of birth can make it difficult for a person to establish their claim to a nationality and when combined with other factors – such as migration, state succession or belonging to a population that experiences discrimination – may lead to them not being considered as a national by any state.[99] Birth registration therefore remains an important tool in the prevention of statelessness and where there are problems with access to this procedure, problems of non-recognition of nationality may follow. In Morocco, women married to sub-Saharan African men can face hurdles in registering the birth of their child.[100] Although the law provides for access to birth registration for all children born in the territory and the rules on acquisition of nationality are such that if the mother is Moroccan, the nationality or origin of the father is irrelevant, problems do occur in practice when these families approach the authorities. It would appear that discriminatory attitudes on the part of some civil registry officials makes them reluctant to carry out the birth registration procedure. Wider problems experienced in their interactions with the state may also put the family off attempting to register the birth to begin with. While, again, this should not affect the child's enjoyment of Moroccan nationality if the mother is a Moroccan national, in practice it may contribute to a situation in which the competent authorities do not recognise the child in question as Moroccan. Similar challenges arise in the MENA region more widely in the context of the registration of births and recognition of nationality of children born out of wedlock. In Iraq, for example, women have enjoyed the right to pass their nationality to their children since a reform of the nationality law in 2006, but problems remain with regard to illegitimate children. The repercussions of an unmarried woman approaching the authorities to register a child can be severe, including the possibility of imposition of a criminal penalty. As such, she may decide not to register the birth or, when attempting to initiate the procedure, she may be turned away by the authorities. The social stigma attached to extra-marital children in much of the MENA region can indeed present a major hurdle to the registration of these births and may lead to difficulties establishing nationality for those concerned. Moreover, although many MENA countries have special provisions to allow women to confer nationality on their children if the father is unknown or his paternity has not been substantiated[101] – designed to protect children, including those born out of wedlock, from statelessness

[99] See also UNHCR, *Birth Registration: A Topic Proposed for an Executive Committee Conclusion on International Protection*, 9 February 2010; UNHCR, *Conclusion on civil registration*, No.111(LXIV)-2013, 17 October 2013.
[100] Women's Refugee Commission, *Our Motherland, Our Country.* Gender Discrimination and Statelessness in the Middle East and North Africa, June 2013.
[101] In those states which have yet to recognise, more broadly, the right of women to pass nationality to their children.

– the social stigma surrounding such situations can similarly obstruct the operation, in practice, of this important safeguard.[102]

Turning to the question of state practice with regards to the acquisition of nationality in later life, it is of interest to note some trends surrounding naturalisation procedures. Among the problems that have been reported with regard to access to naturalisation in practice – over and above the challenge of meeting the sometimes stringent eligibility criteria set by the law – are: naturalisation quota (i.e. a maximum number of acceptances per year); complicated and expensive procedures, with lengthy waiting times for a decision on an application; and the active use of the state's discretion to deny naturalisation to otherwise qualified individuals.[103] For instance, one report indicated that in Lebanon, 100% of the 4,000 applications received in 2003 were refused.[104] With regard to the implementation of the naturalisation decree passed by Syria in 2011, there were similar complaints of lengthy procedures – even before the onset of the Syrian crisis – as well as reports that the success of an application could be dependent on your "wasta" (i.e. personal influence or connections), as much as whether you were eligible.[105] In Kuwait, thousands of stateless Bidoon have had naturalisation requests "pending" for years, or even longer, without a definitive response from the authorities.[106] The naturalization process in Saudi Arabia is based on a points system: the minimum points are 23 that should be met by the Saudi nationality applicant. Thus, for instance, an applicant who holds an academic degree is given 8 points, a Masters 9 points and PhD 10 points (or 13 if the PhD is in medicine or engineering). It the applicant's mother is a Saudi national, the award is 3 points, the same if mother and grandfather of the mother are Saudi nationals. After collecting the minimum of 23 points, the competent committee examines the application and decides either to grant or reject the Saudi nationality. Although offering a greater measure of clarity about what is expected, in practice the points system is such that it is almost impossible for a stateless person (Bidoon) in Saudi Arabia to meet these requirements – they often have no proof of residence, have been unable to access higher education or prove the origins of their family members. Nor is there an opportunity for a person to contest their rejected application for naturalisation in Saudi Arabia. In other words, MENA states' naturalisation practices can be highly challenging, often unpredictable and are especially problematic in those states with large stateless populations where a pathway to naturalisation is most needed.

[102] See, for instance, Women's Refugee Commission, *Our Motherland, Our Country. Gender Discrimination and Statelessness in the Middle East and North Africa*, June 2013.
[103] See UNHCR, *The situation of stateless persons in the Middle East and North Africa*, October 2010, from page 34.
[104] 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.
[105] According to interviews conducted during a field mission that was undertaken by one of the project consultants in the Kurdistan Region (KR) of Northern Iraq during the summer of 2012.
[106] One report mentions that "Over the last 12 years more than 80,000 applications for nationality have sat before the Kuwait government's '*Bidoon* Committee'." Refugees International, *Kuwait: Bidoon nationality demands can't be silenced,* 6 March 2012, available at: http://www.refintl.org/sites/default/files/030512_Kuwait_Bidoun_Nationality%20with%20letterhead.pdf.

5.2 Renunciation, loss and deprivation of nationality

State practice in respect of renunciation, loss and deprivation of nationality is more difficult to assess, not least because much of the information on these questions is anecdotal at best. In some cases, it would appear that MENA state practice in this area is quite lax. For example, the nationality law of Syria gives the authorities the power to withdraw nationality from a person who has resided abroad (in a non-Arab country) for more than three years if he or she has failed to respond to a notification to return.[107] In practice, it would appear that this provision is largely obsolete as – even before the current crisis – there are large numbers of Syrian expats dispersed around the world who continue to maintain and even pass on their nationality while living abroad. Similarly, it is unclear to what extent the power to deprive Egyptian nationality based on the assessment that the person in question is alleged to be a "Zionist" is actually in active use today. As such, although the potential for loss or deprivation of nationality is significant under many of the MENA's nationality laws – i.e. can be invoked in a wide range of circumstances – the risk that nationality will be withdrawn in practice may be less great.

On the other hand, there are also plenty of instances in which these provisions are put into practice. For instance, with a view to restricting dual nationality, some states have implemented initiatives to withdraw nationality from those who are also nationals of another country. For example, in Kuwait, in 2010 it was reported that "the interior ministry has drawn up a list of 2,000 Kuwaitis who might also have the nationality of another Gulf country [and] if the records prove that they are dual citizenship holders, they will be summoned to explain the violation of the law and the Kuwaiti nationality could be withdrawn".[108] In Qatar, the pretext that they were dual nationals formed the grounds for the deprivation of nationality from 6,000 members of the Al Murra tribe in 2004-2005[109] – most reportedly having their nationality reinstated a few months later.[110] According to some sources, around 100 to 200 of those affected by the denationalisation remain stateless today.[111] Also in Qatar, the National Human Rights Commission shares publically the number of people who, on an annual basis, have come to them with issues on deprivation of nationality, which in the 2008 report is referred to as "Seeking Restoration of Citizenship" and in subsequent reports as "Denationalization" or "Seeking Cancelation of Denationalization". The number of people who solicited the NHRC's assistance under this category were 108 in 2008, 46 in 2009, and 26 in 2010.[112] The report indicates that the NHRC

[107] Article 21(g), Syria Nationality Law No. 276, 1969.
[108] *Dual nationality holders could lose Kuwaiti citizenship*, Gulf News, 25 April 2010, available at: http://gulfnews.com/news/gulf/kuwait/dual-nationality-holders-could-lose-kuwaiti-citizenship-1.617523.
[109] *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.
[110] *Qatar 'resolving citizenship cases'*, Aljazeera, 25 June 2005, available at: http://www.aljazeera.com/archive/2005/06/20084101021284816l5.html.
[111] Amnesty International, *Amnesty International Annual Report 2013 – Qatar*, 23 May 2013; Human Rights Watch, *World Report 2013: Qatar*, 2013.
[112] National Human Rights Committee, Annual Reports 2008, 2009, and 2010.

follows processes to act on the behalf of the complainants but does not provide further details on specific cases dealt with, nor on the grounds for withdrawal of nationality invoked by the state in these cases.

The power to deprive nationality in response to acts of disloyalty or threats to the security of the state has found new expression in the context of the Arab Revolution. In both Bahrain and UAE, there have been examples of high-profile deprivations of nationality from political opponents or others voicing dissent. For example, in November 2012, Bahrain ordered the withdrawal of nationality from 31 individuals who were accused of "undermining the security of the state" – a ground for deprivation of nationality under article 10 of Bahrain's nationality law. Just a few days later, courts in the UAE rejected an appeal lodged by seven Emirates whose nationality had been withdrawn due to their commission of acts "threatening the security of the state". These practices have been described as "setting a worrying precedent" in a region which is currently characterised by on-going political turmoil.[113] Moreover, in such instances, it is evident that the state will and does proceed with the withdrawal of nationality regardless of the potential for creating statelessness.[114]

Conclusion

The nationality laws in operation in the Middle East and North Africa make very interesting material for a comparative study: there are some clear trends in the way the rules on acquisition and loss of nationality have been formulated, as well as some very unique particularities – both in individual countries in the MENA and in the region as compared to other parts of the world. In respect of the general trends in the region it is apparent, for instance, that *jus sanguinis* (nationality by descent) is the preferred means of attributing nationality at birth, while *jus soli* provisions (nationality by birthplace) are more rare and subject to various further conditions.[115] There are also broad similarities in the approach to naturalisation. Although the exact eligibility conditions do vary – for instance, there are significant differences when it comes to the length of residence required for naturalisation – most MENA countries set a similar mix of language, good character, income and physical/mental health requirements. Another commonality in the MENA region is that most states enjoy considerable powers when it comes to the loss and deprivation of nationality. With the exception of Lebanon, where the grounds established in the law for loss and deprivation of nationality are limited, through the MENA states can withdraw nationality in a range of circumstances – the most "popular" of which

[113] Z. Albarazi, *Denationalising Bahraini's: ousting the opposition,* 16 November 2012, available at: http://statelessprog.blogspot.nl/2012/11/denationalizing-bahrainis-ousting.html.
[114] See for a number of other examples of the withdrawal of nationality from individuals and groups within the MENA region, UNHCR, *The situation of stateless persons in the Middle East and North Africa,* October 2010, page 8.
[115] Compare Table 1 with Table 2 in the annex to this report.

being where the person commits an act/crime that threatens the security of the state, renders services to a foreign state or is discovered to have acquired the nationality through fraud. Another trend here is that a nationality acquired by naturalisation is much more vulnerable – more prone to subsequent loss or deprivation – than a nationality held from birth.

Looking more closely at trends in the region from the perspective of the avoidance of statelessness, it is possible to identify some good practices. In particular, a safeguard to ensure that foundlings are able to secure a nationality is present in the law of every country in the region.[116] Rules providing for the automatic loss of nationality of a woman if she marries a foreigner have been abolished throughout the region, which this helps to lower the risk of statelessness in the context of marriage. Many countries also have a clause which prevents the voluntary renunciation of nationality if the person concerned would thereby be left stateless.[117]

Nevertheless, these positive trends are rather overshadowed by the considerable gaps that endure. Generally speaking, in the rules relating to the acquisition and loss of nationality, there is little regard for the avoidance of statelessness. Just two countries, Syria and Lebanon, have a safeguard in place which confers nationality to any child born in the territory who would otherwise be stateless.[118] Rather remarkably, these are not the two states which are parties to the 1961 Convention on the Reduction of Statelessness and hold a clear obligation under international law to provide such a safeguard – and in practice it would appear that the safeguard which is in place in Syria and in Lebanon is rarely implemented. Across all of the region's nationality laws, where the grounds on which nationality may be lost or deprived are set out, there are no safeguards whatsoever which curtail the withdrawal of nationality if that would lead to statelessness.[119] Where a state in the MENA region deprives a person of his or her nationality, there is also little opportunity for recourse to a court in order to challenge this decision for being unlawful or arbitrary. In most MENA countries, decisions relating to nationality are not subject to administrative or judicial review. Furthermore, gender discrimination remains in place in many of the nationality laws in the region and this is causing new cases of statelessness to emerge among children who thereby have no entitlement to their mother's nationality, even if they are also unable to acquire a nationality from their father. While not unique to the MENA region, gender discrimination in nationality laws is a more prolific problem there than in other parts of the world.[120] Interestingly, gender discrimination is even present in some of the *jus soli*-based rules in place in MENA countries for the acquisition of nationality at birth.[121]

[116] See table 3.
[117] See table 4.
[118] See table 2.
[119] See table 5. Compare this with the safeguards in place in, for instance, European nationality laws, as analysed in the EUDO-Citizenship Database on Protection Against Statelessness, available at: http://eudo-citizenship.eu/databases/protection-against-statelessness.
[120] See UNHCR, *Background Note on Gender Equality, Nationality Laws and Statelessness 2014*, 8 March 2014, available at: http://www.refworld.org/docid/532075964.html.
[121] See table 2.

Another worrisome trend in the MENA region is the establishment of stringent and in some cases distinctly problematic naturalisation requirements. A number of countries require two decades or more of residence before a person is eligible to apply for naturalisation. Some limit naturalisation to persons who hold qualifications which are needed in the country, bar anyone who is a non-Muslim from naturalisation or set a maximum annual quota for naturalisation. These and other criteria, such as income and health requirements, can make it very difficult for anyone to naturalise. Moreover, in practice, in those countries with large stateless populations, it is evident that naturalisation is not a readily available option and statelessness is instead an enduring problem.[122] Many MENA countries have also barred access to their nationality for a specific category of persons – against the difficult and complex backdrop of emerging Palestinian statehood, those of Palestinian origin are often largely refused access to nationality in their host state.

In a region which is already plagued by significant statelessness problems,[123] there are clearly a number of ways in which MENA countries could better equip themselves to prevent and reduce statelessness, through some simple changes to their nationality laws. Safeguards to ensure that all children who would otherwise be stateless can acquire the nationality of the country where they are born, in accordance with international and regional standards such as those in the Covenant on the Rights of the Child in Islam, should be put in place across the region. Safeguards are also needed in the context of loss and deprivation of nationality to avoid statelessness resulting. Furthermore, procedural protections must be strengthened in respect of nationality decisions, at least where deprivation of nationality is concerned, to avoid arbitrary decision-making. MENA states should also, as a matter of priority, review and revise their nationality laws on any and all points of discrimination, whether that be on the grounds of gender, religion or disability. Such provisions evidently run counter to international standards. Finally, it should not be forgotten that for nationality laws to truly protect people from statelessness, they must also be implemented fully and fairly. While this report only scratches the surface of nationality *practice* in the MENA region, it has already identified signs of a large gap between the terms of the law and the practice on the ground. There is, in short, a real rule of law problem in respect of nationality matters. In some cases, the non-implementation of certain legal provisions, such as with regard to loss of nationality, may work in favour of protecting persons from statelessness. Yet there are also cases of non-implementation of safeguards that are needed to ensure that everyone enjoys a nationality and this is highly problematic. A comprehensive review of domestic decision-making and jurisprudence in respect of nationality and statelessness can provide a helpful foundation for states to assess where legislative or policy reform is needed and where closer scrutiny and correction of nationality practice is required.

[122] Consider the problem of protracted and intergenerational statelessness among some Kurds in Syria, various populations in Lebanon and Bidoon in the Arab Gulf states (such as Kuwait).
[123] UNHCR reported close to 450,000 persons under its statelessness mandate in the MENA region at the end of 2013 – a figure which does not include stateless refugees or stateless persons of Palestinian origin. See UNHCR Global Trends 2013.

Annex: Comparative nationality law analysis in table form

Table 1: Acquisition of nationality at birth – *jus sanguinis*

Country	Father is a national, child born in country	Mother is a national, child born in country	Father is a national, child born abroad	Mother is a national, child born abroad	Mother is a national, father is stateless	Mother is a national, father is unknown
Algeria	Art 6	Art 6	Art 6	Art 6	n/a	n/a
Bahrain	Art 4(a)	-	Art 4(b)	-	-	-
Egypt	Art 2(1)	Art 2(1)	Art 2(1)	Art 2(1)	n/a	n/a
Iraq	Art 3(a)	Art 3(a)	Art 3(a)	Art 3(a)	Art 4	Art 4
Jordan	Art 3(3)	-	Art 3(3)	-	Art 3(4) **>**	Art 3(4) **>**
Kuwait	Art 2	-	Art 2	-	-	-
Lebanon	Art 1	-	Art 1	-	-	Art 2
Libya	Art 3(a)	Art 11	Art 3(b) *****	Art 11	Art 3(c)	-
Mauritania	Art 8(1)	Art 8(3)	Art 8(1)	Art 13 *****	Art 8(2)	Art 8(2)
Morocco	Art 6	Art 6	Art 6	Art 6	n/a	n/a
Oman	Art 1(1)	-	Art 1(1)	-	Art 1(2)[124]	Art 1(2)
Qatar	Art 1(4)	-	Art 1(4)	-	-	-
Saudi Arabia	Art 7	Art 8 ******	Art 7	-	-	Art 7
Syria	Art 3(a)	-	Art 3(a)	-	-	Art 3(b) **>**
Tunisia	Art 6	Art 6	Art 6	Art 6	n/a	n/a
UAE	Art 2(b)	-	Art 2(b)	-	Art 2(d)	Art 2(c)
Yemen	Art 3(a)	Art 3(b)	Art 3(a)	Art 3(b)	n/a	n/a

Unless indicated otherwise, the acquisition of nationality under the articles cited in this table is automatic, by operation of the law and without further conditions. Please note that the table offers a simplified overview of the content of the nationality law only and does not consider any problems that may exist regarding the full and correct implementation of the law in practice.

Articles highlighted in red indicate areas in which the law has an apparent internal inconsistency: for instance, both a general provision allowing a child to acquire nationality from its mother and a special rule allowing for this possibility in the specific circumstance that the father is stateless.

Key to symbols used in the table:

n/a Issue not applicable because regular *jus sanguinis* rules already cover any situation in which the mother is a national of the state

\- Not covered by any provision in the law

***** Non-automatic acquisition of nationality: registration or application required (non-discretionary procedure)

****** Non-automatic acquisition of nationality: application required (discretionary procedure)

> Child must be born in the country or meet additional requirements if born outside the country

[124] Stateless father must be former Omani.

Table 2: Acquisition of nationality at birth – *jus soli*

Country	Child born in country who would otherwise be stateless	Child born in country whose parent(s) were born in the country	Child born in country to whose parents are stateless
Algeria	-	-	-
Bahrain	-	-	-
Egypt	-	Art 4(3) < **~	-
Iraq	-	Art 3(5) **~	-
Jordan	-	-	-
Kuwait	-	-	-
Lebanon	Art 1(2)	-	-
Libya	-	-	-
Mauritania	-	Art 9(1) *	-
Morocco	-	Art 9(1) < *~	-
Oman	-	Art 1(4) < ~	-
Qatar	-	-	-
Saudi Arabia	-	-	-
Syria	Art 3(d)	-	Art 3(c)
Tunisia	-	Art 7 ~	Art 8 <
UAE	-	-	-
Yemen	-	Art 4(c) ~	-

Unless indicated otherwise, the acquisition of nationality under the articles cited in this table is automatic, by operation of the law and without further conditions. Please note that the table offers a simplified overview of the content of the nationality law only and does not consider any problems that may exist regarding the full and correct implementation of the law in practice.

Key to symbols used in the table:

n/a Issue not applicable because regular *jus sanguinis* rules already cover any situation in which the mother is a national of the state

\- Not covered by any provision in the law

***** Non-automatic acquisition of nationality: registration or application required (non-discretionary procedure)

****** Non-automatic acquisition of nationality: application required (discretionary procedure)

~ Paternal affiliation only – i.e. law requires the child's *father* to have also been born in the country

< Additional requirements must be met

Table 3: Foundlings

Country	Foundlings
Algeria	Art 7(1)
Bahrain	Art 5(b)
Egypt	Art 2(2)
Iraq	Art 3(b)
Jordan	Art 3(5)
Kuwait	Art 3
Lebanon	Art 1(3)
Libya	Art 3(c)
Mauritania	Art 10
Morocco	Art 7
Oman	Art 1(3)
Qatar	Art 2(4)
Saudi Arabia	Art 7
Syria	Art 3(c)
Tunisia	Art 9, 10
UAE	Art 2(e)
Yemen	Art 3(d)

Table 4: Voluntary renunciation of nationality

Country	Nationality can be voluntarily renounced
Algeria	Art 18 *[125]
Bahrain	Art 9(1b)
Egypt	-
Iraq	Art 10(1) *
Jordan	Art 15, 16
Kuwait	-
Lebanon	Art 6 *
Libya	-
Mauritania	Art 31 *
Morocco	Art 19(1) *
Oman	-
Qatar	-
Saudi Arabia	-
Syria	Art 10 *
Tunisia	Art 30 *
UAE	-
Yemen	-

Please note that the table offers a simplified overview of the content of the nationality law only and does not consider any problems that may exist regarding the full and correct implementation of the law in practice.

Key to symbols used in the table:

***** Nationality cannot be voluntarily renounced if statelessness would result

1 A child who acquires nationality through the naturalisation of a parent can renounce within 2 years after attaining majority, even if subsequently stateless

[125] A child who acquires Algerian nationality through the naturalisation of a parent can voluntarily renounce this nationality within 2 years after attaining majority, even if subsequently stateless (articles 18(4) and 17(2)).

Table 5: Loss and deprivation of nationality - common grounds

Country	Residence abroad	Services to a foreign state	Allegiance to a foreign or enemy state	Crime against state or threat to national security	Serious non-political crime	Fraud
Algeria	-	Art 23(3) ~^	-	Art 22(1) ~^	Art 22(2) ~^	-
Bahrain	-	Art 10(a)	Art 10(b)	Art 10 (c)	Art 8(2) ~^	Art 8(1) ~
Egypt	Art 15(3) ~^	Art 16(2) Art 16(4) Art 16(6)	-	Art 15(2) ~^ Art 16(3) Art 16(5)	Art 15(1) ~^	Art 15 ~^
Iraq	-	-	-	Art 15 ~	-	Art 15 ~
Jordan	-	Art 18(1) Art 18(2a)	Art 18(2b)	Art 18 (2c) Art 19(1) ~	-	Art 19(2) ~
Kuwait	-	Art 13(4) ~ Art 14(1)	Art 13(5) ~ Art 14(2) Art 14(3)	-	Art 13(2) ~^	Art 13(1) ~
Lebanon	-	-	Art 8(2)	-	-	-
Libya	Art 13(2) ~^	-	-	Art 13(1) ~^	-	Art 12 ~
Mauritania	-	Art 33(3) ~	-	Art 33(1) ~	Art 33(2) ~	Art 22 ~
Morocco	-	Art 19(5)	Art 22(3)~	Art 22(1a) ~ Art 22(1b)	Art 22(1d) ~	Art 14~
Oman	-	Art 13(3)	Art 13(4)	Art 13(5) ~	-	Art 13(1)~
Qatar	Art 12(4) ~	Art 11(1)	Art 11(2)	Art 11(3) Art 11(4)	Art 12(2) ~	Art 12(1) ~
Saudi Arabia	-	Art 13(b,d)	Art 13(c)	Art 21(b) ~^	Art 21(a) ~^	Art 22 ~
Syria	Art 21(e,g)	Art 21 (b,c)	Art 21(d)	Art 21(f) ~	-	Art 20 ~
Tunisia	-	Art 32	-	Art 33(1,2) ~^	Art 33(3)~^	-
UAE	Art 16(4) ~^	Art 15(a)	Art 15(b)	Art 16(1) ~	Art 16(2) ~	Art 16(3) ~
Yemen	Art 18(b) ~^	Art 19(a,b,c) ~	-	Art 18(d) ~^ Art 19(d) ~	Art 18(a) ~^	Art 18(c) ~^

Please note that the table offers a simplified overview of the content of the nationality law only and does not consider any problems that may exist regarding the full and correct implementation of the law in practice. Other grounds for loss or deprivation of nationality that feature in only one or two countries in the region are listed in table 6.

Note that none of these provisions contain a safeguard such that loss or deprivation of nationality cannot result in statelessness.

Key to symbols used in the table:

~ Nationality can only be lost/deprived if a naturalised citizen

^ Time limit for loss/deprivation of nationality, i.e. only possible within certain number of years after naturalisation

Table 6: Loss and deprivation of nationality - exceptional grounds

Country	Other grounds
Algeria	-
Bahrain	-
Egypt	Believed to be a Zionist - Art 16(7)
Iraq	-
Jordan	-
Kuwait	Dismissed from public service for reasons relating to honour / honesty – Art 13(3) Renounced Islam or shown evidence of wanting to – Art 4(5) ~
Lebanon	-
Libya	"Justified decision" – Art 14
Mauritania	Found to be physically or mentally disabled – Art 14 ~^
Morocco	Terrorism – Art 22(1c) ~ Failed to fulfil military obligations – Art 22(2) ~
Oman	Atheist or belonging to an anti-religious group – Art 13(2)
Qatar	Dismissed from public position for reasons relating to honour – Art 12(3) ~ "In the public interest" – Art 11, 12
Saudi Arabia	Worked for international organisation despite order to quit – Art 13(d)
Syria	-
Tunisia	Failed to fulfil military obligations – Art 33(4) ~^
UAE	-
Yemen	-

Please note that the table offers a simplified overview of the content of the nationality law only and does not consider any problems that may exist regarding the full and correct implementation of the law in practice. The most common grounds for loss or deprivation of nationality that feature in the laws of countries in the region are shown in table 5.

Note that none of these provisions contain a safeguard such that loss or deprivation of nationality cannot result in statelessness.

Key to symbols used in the table:

~ Nationality can only be lost/deprived if a naturalised citizen

^ Time limit for loss/deprivation of nationality, i.e. only possible within certain number of years after naturalisation

Table 7: Naturalisation – eligibility requirements

Country	Residence period	Language knowlege and/or integration	Income	Good character / clean criminal record	Mental or physical health	Other
Algeria	7 years Art 10(1)	Assimilated Art 10(7)	Art 10(5)	Art 10(4)	Art 10(6)	-
Bahrain	25 years Art 6(1a)	Speaks Arabic well Art 6(1c)	-	Art 6(1b)	-	Must own real estate – Art 6(1d)
Egypt	10 years Art 4(5)	Fluent Arabic Art 4(4.3)	Art 4(4.4)	Art 4(4.2)	Art 4(4.1)	-
Iraq	10 years Art 6(c)	-	Art 6(e)	Art 6(d)	Art 6(f)	Palestinians excluded – Art 6(f2)
Jordan	4 years Art 12(1)	Fluent Arabic Art 12(4)	Art 12(7)	Art 12(2) + 12(5)	Art 12(6)	-
Kuwait	20 years Art 4(1)	Know Arabic Art 4(3)	Art 4(2)	Art 4(2)	-	Must be Muslim – Art 4(5) Must hold qualifications needed in country – Art 4(4)
Lebanon	5 years Art 3	-	-	-	-	-
Libya	10 years Art 9(3)	-	Art 9(3)	Art 9(4)	Art 9(5)	Must be under 50 years old – Art 9(6) Must meet any other conditions deemed relevant to public interest – Art 9(7)
Mauritania	10 years Art 18	Fluent in one of official languages Art 19(2)	-	Art 19(3)	Art 19(1)	-
Morocco	5 years Art 11(1)	Sufficient knowledge of Arabic Art 11(5)	Art 11(6)	Art 11(4)	Art 11(3)	-
Oman	20 years Art 2(2)	Read + write Arabic Art 2(1)	Art 2(4)	Art 2(3)	Art 2(5)	-
Qatar	25 years Art 2(1)	Proficient in Arabic Art 2(4)	Art 2(2)	Art 2(3)	Art 18	Annual naturalisation quota: max. 50 people – Art 17
Saudi Arabia	5 years Art 9(c1)	-	Art 9(c4)	Art 9(c2 + c3)	-	-
Syria	5 years	Read + write Arabic	Art 4(e)	Art 4(d)	Art 4(c)	Must hold qualifications benefiting country – Art 4(e)

	Art 4(b)	Art 4(f)				
Tunisia	5 years Art 20	Sufficient knowledge of Arabic Art 23(2)	-	Art 22 + 23(5)	Art 23(3 + 4)	-
UAE	20 or 30 years Art 8	Proficient in Arabic Art 8(e)	Art 8(c)	Art 8(d)	-	-
Yemen	10 years Art 5(2)	Proficient in Arabic Art 5(5)	Art 5(4)	Art 5(3)	-	Must be Arab or Muslim – Art 5

Please note that the table offers a simplified overview of the content of the nationality law only and does not consider any problems that may exist regarding the full and correct implementation of the law in practice.

Table 8: Naturalisation – facilitated categories

Country	Born in country	Married to national	Arab / from Arab country	Exceptional services to the state	Stateless persons
Algeria	-	Art 9(bis)	-	Art 11	-
Bahrain	-	Art 7(1) *	Art 6(1a)	Art 6(2)	-
Egypt	Art 4(1)	Art 6 *	-	Art 5	-
Iraq	-	Art 7 + 11 ~	-	-	-
Jordan	-	Art 8 *	Art 13(2)	Art 13(2)	-
Kuwait	-	Art 7 *	Art 4(1)	Art 5(1)	-
Lebanon	-	Art 5 *	-	Art 3	-
Libya	-	Art 10(2 + 3) *	-	Art 10(1 + 4)	-
Mauritania	Art 18	Art 16 + 18 ~	-	Art 18	-
Morocco	-	-	-	Art 12	-
Oman	-	Art 2(2) + 4 ~	-	-	-
Qatar	-	Art 8 *	-	Art 6	-
Saudi Arabia	Art 8	Art 15 + 16 *	-	-	-
Syria	-	Art 8(1) *	Art 6(c)	Art 6(b)	-
Tunisia	-	Art 13 + 21(2) ~	-	Art 12(3)	-
UAE	-	Art 3 *	Art 5,6	Art 9	-
Yemen	Art 4(b)	Art 11 *	-	Art 4(d)	Art 6 [1]

Please note that the table offers a simplified overview of the content of the nationality law only and does not consider any problems that may exist regarding the full and correct implementation of the law in practice.

Key to symbols used in the table:

***** Naturalisation facilitated for female spouses of male nationals only

~ Naturalisation for female spouses of male nationals is more facilitated than for male spouses of female nationals

[1] Naturalisation facilitated if “urgent need” for obtaining nationality, no direct reference to stateless persons as beneficiaries