



# BOSTON CONSORTIUM *for* ARAB REGION STUDIES

## **BCARS Brief on Women and Nationality in the Arab World**

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### **Discrimination toward Women in Arab Nationality Laws**

In most of the Arab world,<sup>1</sup> women cannot pass their nationality onto their spouses and children on equal terms with men, and in many cases, women cannot confer their nationality at all. This means, for example, that the child of a Jordanian mother and non-Jordanian father is not and cannot become Jordanian. Even if that child is born and raised in Jordan, that child would need to apply for residency, could not access work sectors reserved for citizens (like medicine and engineering), and could not even donate blood to a Jordanian family member because of the child's noncitizen status.

Currently, female citizens in 16 Arab countries cannot confer their nationality to their spouses on the same terms as men. Algeria is the only Arab state that has revised its nationality law to remove this discrimination toward women (DTW).<sup>2</sup> Similarly, 15 Arab countries prevent women from passing their nationality to their children on equal terms with men. The only Arab states that have removed this discrimination fully are Algeria, Egypt, and Morocco.<sup>3</sup>

Sixty years ago, most states' nationality laws included these forms of DTW (UNHCR 2017). In fact, colonial powers authored or influenced the content of nationality laws around the world, particularly in the Arab world (Sonbol 2003). However, this trend broadly ended with the adoption in 1979 of the Convention on the Elimination of all Forms of Discrimination Against

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<sup>1</sup> In this analysis, the Arab world refers to 17 countries in the Middle East and North Africa: Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Qatar, Saudi Arabia, Sudan, Syria, Tunisia, United Arab Emirates, and Yemen.

<sup>2</sup> Although Algeria revised the provisions of its nationality law to introduce gender equality in the conferral of nationality to children and spouses, Algerian Muslim women are banned from marrying, and as such, conferring nationality to men of other religions, and this restriction is not imposed on Algerian Muslim men (Global Campaign for Equal Nationality Rights).

<sup>3</sup> All statements regarding the content of these countries' nationality laws are based on the author's readings of the most recent nationality laws in English, Arabic, and or French, unless otherwise noted. These laws are cited at the end of this brief.

Women (CEDAW). After CEDAW, most states reformed their nationality laws during the 1980s to remove this legal DTW (Cole 2013).

However, Arab states have not been alone in their resistance to removing DTW in their nationality laws amidst international pressures to do so. In 2003, 61 countries still prevented female citizens from conferring their nationality to their spouses on the same terms as men. 42 of these countries also prevented female citizens from conferring their nationality to their children on equal terms with men. Liberia was the only country that allowed women to transfer their nationality to their spouses, but not their children, on equal terms with men.<sup>4</sup>

Reform efforts have been successful in some states. As of 2018, 23 countries had removed one or both forms of this DTW since 2003. Nine of these states changed their nationality laws to allow women and men to transfer their nationality equally onto their spouses and children. Algeria is one of these nine. During the same period, seven states only reformed to allow women to transmit their nationality equally to their children—Egypt and Morocco fall into this category. In addition, seven other states, who already equally permitted women to pass their nationality onto their children, changed to enable women also to transfer their nationality equally to their spouses.<sup>5</sup>

### **Variations in Levels of DTW in Conferring Nationality to Children**

Despite the widespread *presence* of DTW in nationality laws across the Arab world today, there is variation in the *levels* of this DTW. Specifically, in terms of conferring a mother's nationality to her children, Tunisia and Iraq allow women to transmit their nationality to their children on equal terms with men only when the child is born in-country. As such, the law still discriminates against citizen mothers, unlike citizen fathers, who have children abroad.

Other countries, like Yemen, Libya, Sudan, and the United Arab Emirates (UAE), have introduced legislation indicating that women can pass their nationality onto their children through certain procedures (while men confer theirs automatically). However, it is unclear whether and how these provisions have been implemented. For example, reports suggest that Yemen removed this DTW through an amendment in 2010 (van Waas 2014, 6; Equal Rights Trust 2018, 167–168; UNHCR 2019, 3), though the nationality law does not appear to have been updated.<sup>6</sup> In addition, other reports indicate that Yemen still discriminates against citizen mothers, unlike citizen fathers, living abroad (Albarazi 2017, 11); others suggest that naturalized Yemeni women cannot confer their nationality on equal terms with naturalized men (Equality Now 2016, 15–16, 103).

Libya, Sudan, and the UAE all include provisions in their nationality law stating that the children of citizen mothers and noncitizen fathers can obtain nationality.<sup>7</sup> Article 11 of the Libyan law

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<sup>4</sup> These data are from the author's global dataset on DTW in state nationality laws from 2003–18. This dataset primarily draws from the findings presented in the following reports: Equality Now (2016), Manby (2016), and UNHCR's annual "Background Note on Gender Equality, Nationality Laws and Statelessness" from 2014–19. In the case of discrepancies between these datasets, the author consulted the respective nationality law directly.

<sup>5</sup> Ibid.

<sup>6</sup> Based on searches in English and Arabic.

<sup>7</sup> However, it is unclear whether these provisions have been enforced in practice (Manby 2016).

mentions executive rules governing the implementation of this section, and Article 4.3 of the Sudanese law requires these children to apply for nationality. In 2017, the UAE modified its law to allow mothers to confer their nationality to their children once they turn six years old.

Saudi Arabia and Oman provide conditions under which mothers can transfer their nationality, though in both cases these conditions are stringent. In Oman, these conditions, specified in Article 18, include when the child's Omani mother has been widowed, divorced, or abandoned by her husband, after the child has resided continuously in Oman for at least 10 years, and when the child's parents obtained the prior approval of the Ministry of Interior for their marriage. In Saudi Arabia, these conditions, specified in Article 8, include once the child has declared Saudi Arabia as his or her permanent residence after reaching the age of maturity, has good conduct and a sound character, and submits the application within one year after he or she reaches the age of maturity.

Bahrain, Syria, Lebanon, and Jordan do not allow mothers to confer their nationality to their children unless the father is unknown, has not established filiation, or has an unknown nationality. However, this condition is not always enforced. For example, in Syria, Lebanon, and Jordan, governments generally do not enforce this provision in the case of Palestinians;<sup>8</sup> as such, the children of Palestinian fathers and citizen mothers do not receive nationality, even if this renders the children stateless (van Waas 2014, 32).<sup>9</sup>

Lastly, Kuwait and Qatar maintain the most DTW in their nationality laws. Kuwait, in Article 3, only allows mothers to pass their nationality to their children when the father is unknown or without filiation *and* when the child has reached the age of majority. This process is not automatic and instead depends on the child receiving nationality by decree upon the recommendation of the Minister of the Interior. The law does however note that "The Minister of the Interior may afford to such children, being minors, the same treatment as that afforded to Kuwaiti nationals until they reach their majority."

In Qatar, mothers cannot pass their nationality to their children under any conditions. However, according to Article 2, the children of Qatari mothers receive "priority" in gaining nationality through naturalization by Emiri decree.<sup>10</sup> This is relevant because Article 17 of the law limits the number of applications to 50 individuals each calendar year.

### **Variations in Levels of DTW in Transferring Nationality to Spouses**

There is less variation in the levels of DTW in transferring nationality to spouses. In this area, most states only allow citizen men to pass their nationality to their noncitizen spouses. In these cases, the nationality law only provides citizen men with specific procedures, distinct from general naturalization processes, for passing their nationality onto their noncitizen spouses. Algeria is the only Arab state to allow women and men equally to confer their nationality to their spouses.

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<sup>8</sup> This can occur because these states consider Palestine as an independent state.

<sup>9</sup> Stateless in the sense that they do not have an internationally recognized legal nationality, and as such, they do not have the protection of an internationally recognized state.

<sup>10</sup> However, it is unclear whether these provisions have been enforced in practice (Begum 2018).

However, several Arab states provide the foreign spouses of female citizens with facilitated naturalization processes, namely through reduced residency requirements. Tunisia is the most generous of this group, removing the residency requirement completely for female citizens' spouses. Iraq also reduces the residency requirement for these spouses from 10 to 5 years. Similarly, Oman lowers the requirement from 20 to 15 years.

Lebanon also contains this kind of facilitated naturalization clause in Article 3 of its nationality law, which reduces the residency of a foreigner married to a Lebanese woman from 5 years to 1 year.<sup>11</sup> However, this relatively liberal naturalization policy often is not implemented in practice (el-Khoury and Jaulin 2012, 1). This is feasible in part because the naturalization of foreigners residing in Lebanon, including those married to Lebanese women, depends on a discretionary decision by the head of state (el-Khoury and Jaulin 2012, 4). This executive discretion and inconsistent implementation are common across naturalization policies in the Arab world.

Saudi Arabia provides a more limited form of facilitated naturalization for the foreign husbands of Saudi women. Article 8 of the Saudi Citizenship System Regulations specifies a detailed list of "points" an applicant can earn toward getting their application for naturalization reviewed. This points system offers a total of 33 possible points and requires at least 23 points before the appointed committee will review the application. If the applicant's wife and the wife's father are Saudis, he acquires 2 points. If only his wife is Saudi, the applicant acquires one point. A similar clause is in place for the children of Saudi mothers, where if the applicant's mother and the mother's father are Saudis, the applicant acquires 3 points (while if only the mother is Saudi, the applicant acquires 2 points). However, these points are negligible compared to receiving 10 points for ten years of continuous residence in Saudi Arabia or for possessing a doctorate degree. In addition, the Minister of Interior still has the right to reject the application after reviewing it.

The remaining 11 Arab states do not include provisions for citizen women to transfer their nationality to their foreign spouses in their nationality laws at all.<sup>12</sup> This absence stands in stark contrast to each of these countries including a provision for citizen men to confer their nationality to their foreign spouses. Although the conditions for spousal transfer for these citizen men vary by country, none of these 11 states provide any conditions for citizen women to transmit their nationality to their spouses.

### **Why DTW in Arab Nationality Laws?**

Much of the literature explaining variations in DTW in state policies focuses on three main explanations: cultural and religious structures, women's activism, and women's political and economic participation. First, many highlight conservative personal status codes or family laws that codify rules of patrilineal descent as a perpetuating source of women's inequality, including in nationality laws (Joseph 1999; Charrad 2001). Similarly, others point to religious doctrine, particularly in Islam and Catholicism, as upholding gender inequality (Seely et al. 2013; Blofield

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<sup>11</sup> Some sources report that this article was abrogated by a regulation in June 1939. However, the May 1939 law that this regulation pertained to was annulled in 1940. As such, the text of Article 3 defers back to the original 1925 law.

<sup>12</sup> These include: Morocco, Libya, Egypt, Sudan, Syria, Jordan, Kuwait, the UAE, Qatar, Bahrain, and Yemen.

and Haas 2005), including the institutionalization of religion in the state, rather than religious tenets themselves (Htun and Weldon 2015).

Second, many scholars highlight the role of women's activism in pushing through reforms that expand women's rights. Some argue that reformist coalitions, including feminist activists, lawyers, state officials, academics, and social workers, are central in mobilizing demands for greater women's rights (Htun and Weldon 2011). These groups can become influential by teaming up with leftist political parties and human rights movements (Clark and Young 2008) or presenting their arguments within an existing social framework, such as Islam (Brand 1998; Saeidi 2010). In these studies, women's movements are central in directing a government's attention to women's rights issues (Weldon 2002).

Third, there is a diverse literature arguing that states grant women more rights when women participate widely in the government and economy. Some argue that higher literacy and education rates as well as labor force participation for women are central in empowering them to address gender discrimination (Nussbaum 2005; Cherif 2010). Others contend that legal gender discrimination persists when women lack political representation, such as in legislative and executive positions (Escobar-Lemmon and Taylor-Robinson 2014; Amawi 2000).

Although these existing explanations play a critical role in explaining the existence of DTW in nationality laws in the first place,<sup>13</sup> my fieldwork in Jordan has indicated that concerns with migration and demography have played a larger role in motivating the persistence of this DTW. Specifically, many of the 46 government officials and parliamentarians I spoke with in Jordan between 2016 and 2019 highlighted the large noncitizen population as the main barrier to removing DTW from the nationality law.<sup>14</sup> In an interview in February 2017, one former prime minister stated: "There are 600,000 Egyptian men in Jordan, also Iraqis and Syrians, they would all marry Jordanian women." He added, "we can't have citizenship equality without a solution to the Palestine issue."

The issue of noncitizen Palestinians in Jordan arose in every conversation I had about the women's nationality law during my fieldwork, including in many of the 200 interviews I conducted. These conversations included interviews with Jordanian women married to noncitizen men, activists working to reform the law, journalists both in favor and against the law, lawyers, government ministers, and others. For example, in an interview in January 2016, an activist in favor of removing DTW from the nationality law commented that "The Palestinian issue is the main issue for the women's citizenship reform; without the Palestine problem, it would have easily been amended." Likewise, another former prime minister stated in an interview in December 2017: "I do not think of it as a women's issue, but a political one...it is not about women's rights but diluting Palestinians in Palestine."

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<sup>13</sup> As mentioned earlier, DTW existed in nationality laws globally before the introduction of CEDAW. As such, these laws, at the time of their writing in the first half of the twentieth century, reflected widespread patriarchal norms that limited women's participation in economic, political, and public spheres.

<sup>14</sup> I maintain the anonymity of all my interviewees, in accordance with my study's terms (#111530), which were approved by the George Washington University Institutional Review Board.

These concerns with migrant pathways to citizenship and demography seem to motivate the persistence of this DTW more so than existing explanations. First, Jordan’s nationality law, which was adopted in 1954, came from the British, not tribal or religious law, with clauses that quote the former British law verbatim (Massad 2001). In addition, Jordan often is framed as a regional leader in adopting reforms promoting women’s rights, including legislation on violence against women and gender quotas in parliament (Shalaby 2014). However, Jordan—unlike Saudi Arabia—does not even allow the children of Jordanian mothers and non-Jordanian fathers to apply for Jordanian nationality.

Second, Jordan has had a visible women’s campaign to reform the nationality law since 2013.<sup>15</sup> This campaign, called “My Nationality is the Right of My Family,” includes 12 civil society organizations and has had the support of a parliamentary bloc and international organizations. Despite fierce advocacy for reform in 2014, Prime Minister Abdullah Ensour, decided not to change the nationality law, noting that the reform “might affect the demographic balance in Jordan and might lead to empty[ing] Palestine from its people” (Husseini 2014). Although the government introduced a limited set of “privileges” for the children of Jordanian women married to non-Jordanians, including access to public education, health services, certain work sectors, and driver’s licenses, Prime Minister Ensour emphasized that the government had no intention “now or in the future of granting these children citizenship” (Husseini 2014).<sup>16</sup>

Third, women in Jordan are among the most educated in the region. World Bank data indicate that Jordan’s adult female literacy rates have been above 84% since 2003, rising to 97.8% in 2018.<sup>17</sup> Further, in 2008, 12.7% of adult women in Jordan had completed some portion of post-high school education; this figure is higher than in Algeria (7.4%) or Tunisia (9.4%), both of which have less DTW in their nationality laws.<sup>18</sup> Likewise, in 2019, Jordan has more women in parliament (15.4%) and the labor force (17.9%) than other states with less DTW in their nationality laws, like Oman (1.2% and 12.7%, respectively).<sup>19</sup>

In addition, the role of migration in the persistence of this DTW does not appear to be unique to Jordan or the Arab world. Of the 63 states that had DTW in their nationality laws at the beginning of 2003, 71% of them had a migrant population that composed over 1% of the country’s total population. Further, 71% of them hosted protracted refugees, whom the United Nations defines as groups of refugees from the same territory living in the same host country for at least five years without immediate prospects for a durable solution (e.g., repatriation to their home state, resettlement in a third state, or full integration in their host state).

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<sup>15</sup> With smaller movements and social media campaigns starting in 2009. For more details on these efforts see Frost (2018) and Frost and Brown (Forthcoming).

<sup>16</sup> For more details on these “privileges” and their enforcement see Frost and Brown (Forthcoming).

<sup>17</sup> World Bank, “Literacy rate, adult female (% of females ages 15 and above) – Jordan,” <https://data.worldbank.org/indicator/SE.ADT.LITR.FE.ZS?end=2018&locations=JO&start=1993>.

<sup>18</sup> World Bank, “Educational attainment, at least completed short-cycle tertiary, population 25+, female (%) (cumulative),” <https://data.worldbank.org/indicator/SE.TER.CUAT.ST.FE.ZS>.

<sup>19</sup> World Bank, “Proportion of seats held by women in national parliaments (%)” <http://data.worldbank.org/indicator/SG.GEN.PARL.ZS>. World Bank, “Labor force, female,” <http://data.worldbank.org/indicator/SL.TLF.TOTL.FE.ZS>.

Further, of the 17 Arab states reviewed here, migrants made up at least 4.7% of the total population in 10 of the states that maintained DTW in their nationality laws in 2015. Further, these 10 states included those with the highest levels of DTW: Qatar, Kuwait, Bahrain, Jordan, and Syria. On the other hand, migrants made up less than 1% of the population in the states with the lowest levels of DTW: Algeria, Tunisia, Iraq, Egypt, and Morocco. Although more research and data are needed to test the robustness of this correlation, migration factors may be an important missing piece of the puzzle in understanding the persistence of DTW in nationality laws.

## Policy Implications

These findings suggest that migration is an important factor to consider and study further when evaluating persistent barriers to women's nationality rights. Domestic and international organizations may benefit from considering women's and migrants' rights together when planning strategies to pressure states to reform their nationality laws. Although migrant and women's issues may seem like disparate policy areas—housed in different parts of large non-governmental organizations and government offices—successful rights reforms may require international actors to offer concessions on migration issues, such as promising higher rates of refugee resettlement or making refugee returns a central part of peace negotiations, in order to pressure governments successfully to remove DTW from their nationality laws.



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## Nationality Laws

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