

Institute on Statelessness and Inclusion, the Global Campaign for Equal Nationality Rights and the European Saudi Organization for Human Rights

Joint Submission to the Human Rights Council at the 31st Session of the Universal Periodic Review

Saudi Arabia

Introduction

1. The Institute on Statelessness and Inclusion (the Institute),¹ the European Saudi Organization for Human Rights (ESOHR)², and the Global Campaign for Equal Nationality Rights (GCENR)³, welcome the opportunity to make this submission to the Universal Periodic Review (UPR) in relation to discrimination in nationality laws, statelessness and related human rights challenges in Saudi Arabia.
2. The Institute is an independent non-profit organisation dedicated to promoting an integrated, human rights based response to the injustice of statelessness and exclusion. Established in August 2014, it is the first and only global centre committed to promoting the human rights of stateless persons and ending statelessness. The Institute has made over 30 country specific UPR submissions on the human rights of stateless persons, and also compiled summaries of the key human rights challenges related to statelessness in all countries under review under the 23rd to the 30th UPR Sessions.⁴
3. The European Saudi Organization for Human Rights (ESOHR), is an independent and non-profit human rights organisation, whose work focuses on Saudi Arabia. It was founded in August 2013, in response to the human rights violations being perpetrated inside Saudi Arabia. Due to repression of civil society within Saudi Arabia, which makes human rights work impossible, ESOHR operates outside of Saudi Arabia from its headquarters in the German capital Berlin and has representatives in London and Beirut.
4. The Global Campaign for Equal Nationality Rights mobilises international action for the removal of gender discriminatory provisions from all nationality laws through its coalition of national and international organisations and activists.
5. This joint submission addresses two main issues: discrimination against women in nationality legislation, and the protracted statelessness experienced by certain groups in the country. Both of these issues create and/or prolong statelessness, while also negatively impacting a range of other human rights.

¹ See www.institutesi.org/

² See www.esohr.org/en/

³ See www.equalnationalityrights.org

⁴ For more information on the Institute's UPR advocacy, see <http://www.statelessnessandhumanrights.org/upr-universal-periodic-review/resources-database>.

The Universal Periodic Review of Saudi Arabia under the Second Cycle

6. In its state report before its previous UPR, Saudi Arabia did not comment on the issue of stateless communities in its territory, neither did it directly address gender discrimination that exists in its nationality law. It did however elaborate on the efforts the State has made with regards to the situation of children of women married to non-nationals. Paragraph 56 of the report explained the various rights now afforded to children and spouses of Saudi women:

*'Saudi women married to non-nationals: Pursuant to Cabinet Decision No. 406 of 12 November 2012, approval was given for the sponsorship of children of Saudi women married to non-nationals to be transferred to their mother if they are resident in the Kingdom. If they are abroad, their mother is entitled to send for them and the State shoulders the cost of their resident permits. They are also permitted to work in the private sector without any transfer of the sponsorship. They receive the same schooling and medical treatment as any Saudi and are included in the Saudization percentages for the private sector. Saudi women married to non-nationals are further permitted to bring their spouse to the Kingdom if he is abroad or, if he is resident in the Kingdom and so wishes, to have his sponsorship transferred to her.'*⁵

7. Several countries made general recommendations to Saudi Arabia with regard to the promotion of gender equality and elimination of gender discrimination, but none specifically mentioned gender discrimination in nationality laws. With regard to statelessness, Mexico recommended that Saudi Arabia should *'Consider positively the ratification of the conventions on enforced disappearance, the migrant workers, refugees, statelessness and the reduction of cases of statelessness, and the Optional Protocol to CAT.'* Saudi Arabia did accept this recommendation, but did not follow up with any remedial steps. Unfortunately, there were no other statelessness related recommendations.⁶

Saudi Arabia's International Obligations

8. The gaps in law and policy that are detailed below, specifically in Saudi Arabia's current Citizenship Act, and the challenges that many individuals and groups face in obtaining their right to a nationality, are in clear violation of the international obligations of Saudi Arabia.
9. The state has not ratified the International Covenant on Civil and Political Rights (ICCPR) or the International Covenant on Economic, Social and Cultural Rights (ICESCR). The state is also not party to the 1954 and 1961 UN Statelessness Conventions, or the 1951 Refugee Convention and its Protocol.
10. However, Saudi Arabia, as a Member of the United Nations is obligated by the Charter of the United Nations to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion".⁵ Also, Article 15 of the UDHR states that "everyone has the right to a nationality" and "no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality".

⁵ A/HRC/WG.6/17/SAU/1

⁶ <https://www.upr->

[info.org/database/index.php?limit=0&f_SUR=149&f_SMR=All&order=&orderDir=ASC&orderP=true&f_Issue=All&searchReco=&resultMax=300&response=&action_type=&session=&SuRRgrp=&SuROrg=&SMRRgrp=&SMROrg=&pledges=RecoOnly](https://www.upr-info.org/database/index.php?limit=0&f_SUR=149&f_SMR=All&order=&orderDir=ASC&orderP=true&f_Issue=All&searchReco=&resultMax=300&response=&action_type=&session=&SuRRgrp=&SuROrg=&SMRRgrp=&SMROrg=&pledges=RecoOnly)

11. Further, Saudi Arabia is a party to other treaties that do preserve the right to nationality without discrimination. According to Article 7 of the Convention of the Rights of the Child (CRC), which Saudi Arabia is party to enshrines every child's right to be registered immediately after a birth and to acquire a nationality, and protects all children from statelessness. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) states in Article 9 that: (2) States Parties shall grant women equal rights with men with respect to the nationality of their children. However, Saudi Arabia has in place a reservation to Article 9.6

Gender Discrimination in Saudi Arabia's Nationality Law

12. According to Saudi Arabia's nationality law, the Saudi Arabian Citizenship System, children of Saudi fathers acquire Saudi nationality at birth, regardless of the child's birthplace, but Saudi women cannot transmit their Saudi nationality automatically to their children. Article 7 of the law states that, "*Individuals born inside or outside the Kingdom from a Saudi father, or Saudi mother and unknown father, or born inside the Kingdom from unknown parents (foundling) are considered Saudis.*"⁷ Alongside the discrimination that this is embedded in and the human rights impacts it has on the children, it also - in many cases - puts children at risk of statelessness when they cannot obtain the nationality of their father, or if their father is also stateless.
13. Article 8 of Saudi Arabian Citizenship System further goes onto allow children of Saudi mothers the option of applying for nationality at the age of majority, with conditions attached. The Article states that '*Individuals born inside the Kingdom from Non-Saudi father and Saudi mother may be granted Saudi Citizenship by the decision of The Minister of Interior in case of the following conditions. a- Having a permanent Resident Permit (Iqama) when he reaches the legal age; b- Having good behaviour, and never sentenced to criminal judgment or imprisonment for more than six months; c- Being fluent in Arabic; d- Applying for the citizenship after one year of reaching the legal age.*' This allows the option for children of Saudi women to naturalise, at the states discretion, after reaching the age of majority. Although this option is a step forward, it falls far behind standards of gender equality and child rights. This provision does not render mothers the same nationality rights as fathers, and denies children access to many rights in their childhood.
14. Saudi women are also denied the right to transfer their nationality to non-national spouses, a right that is reserved only for Saudi males, according to Article 14 of the Citizenship act.
15. In addition, despite Article 7 of the CRC obligating states to ensure every child's right to a nationality, particularly if they would otherwise be stateless, Saudi Arabia's nationality law contains no safeguard against statelessness at birth. Such a safeguard would, in practice, mean that any child born in Saudi Arabia who cannot obtain any other nationality would acquire Saudi nationality without undue delay. Without such a safeguard, Saudi Arabia does not have at its disposal, one of the most efficient ways that would both lead to no new cases of statelessness in the territory and would allow Saudi Arabia to ensure it does not violate many of its international obligations.

⁷ Saudi Arabia Citizenship System, <http://www.refworld.org/pdfid/3fb9eb6d2.pdf>

Stateless Communities in Saudi Arabia

Bidoons

16. Saudi Arabia hosts a sizable Bidoon⁸ population, reporting has suggested near to 250,000.⁹ Even with the UNHCR official statistic of 70,000, it is one of the top 20 countries in the world. This group mainly consists of descendants of nomadic tribes who failed to register for Saudi nationality in the past when the nation state was being formed. This may have been as they did not know of the registration procedure, did not understand its importance and/or were travelling during the registration period. In the country today, Bidoons are considered "illegal residents" by the Saudi government and are not eligible for Saudi citizenship. They are instead issued identity documents, known as "black cards" which the government began to issue in 2009 and indicate "five-year residency permits". The procedure for obtaining these cards is unclear and their validity is often precarious.¹⁰
17. Although these Bidoons have no other option of obtaining nationality elsewhere in the world, the Saudi Arabian authority has made no attempts to resolve their situation of statelessness, nor ensure that their access to rights in the country are protected. This is particularly incomprehensible given that among the Saudi population, unlike other countries in the Gulf region, there is quite significant empathy towards this population and they are truly considered to belong to the Saudi citizenry.
18. It is of utmost importance to address the citizenship status of this population, as a matter of urgency. It has been noted that in 2020, the Bidoon will be asked to provide documentation establishing their origin. It is not clear what the consequences would be for those who cannot provide this documentation. Most fear they will be at risk of deportation, but they have nowhere to be removed to.

Other Stateless Populations

19. Significantly, there is a large population of stateless **Rohingya** who reside in Saudi Arabia. The majority have been there for decades and over generations (many since the 1950s), and again there are no official statistics for this population. However, estimates place the figure in the hundreds of thousands and possibly well over half a million. Their status and protection has improved over the past few years during which Saudi Arabia has issued 190,000 free residency permits to members of this Myanmar community, which allows residency for four years.¹¹ Under this process, applicants were also exempted from paying previous fines which resulted from non-renewal of their previous residency permits. Although this is a positive first step, it is not wholly adequate to resolve the legal status of stateless Rohingya living in Saudi Arabia. There are many reasons for this:

⁸ Literal translation from Arabic is 'without'

⁹ See ESOHR, *The Suffering of a Quarter of a Million Stateless and Calls for Radical and Urgent Solutions*, 2016, access at <http://www.esohr.org/en/?p=723> and Alwatan news article http://www.alwatan.com.sa/Local/News_Detail.aspx?ArticleID=242939&CategoryID=5

¹⁰ For more information on this group see Canada: Immigration and Refugee Board of Canada, *Saudi Arabia: Situation of Bidoons, including ability to obtain a passport; whether a person born to a Saudi mother and Bidoon father can obtain Saudi citizenship, and would be issued a Saudi passport as a minor (2014-June 2016)* and Alarabiya, *The Bidoon of Saudi Arabia, Generations of Discrimination*, 2014 access at <http://english.alarabiya.net/en/perspective/features/2014/08/30/The-Bidoon-of-Saudi-Arabia-Generations-of-discrimination.html>

¹¹ Alarabiya, *190,000 Myanmar nationals get residency relief in Saudi Arabia*, 2017, access at <http://english.alarabiya.net/en/News/gulf/2017/01/25/Over-190-000-Myanmar-nationals-granted-Saudi-residency.html>

- a. short-term residency permits are not a permanent solution and the status of Rohingya continues to be at the discretion and goodwill of the state;
- b. this initiative has not included the full population of Rohingya in the country, there are significant numbers who remain with no legal status;
- c. this status does not ensure them full access to rights; and
- d. perhaps most importantly, Rohingya children born in Saudi Arabia – who should be entitled to Saudi nationality in accordance with Article 7 CRC, are denied this right.

20. **Palestinians** in Saudi Arabia, who are estimated to number about 287,000, and have often lived there for decades – many since the 1950s - mostly have only residence status and are excluded from naturalisation procedures.¹² This means that their stay and status in the country relies on ensuring they have sponsorship. They constantly have no security, their status is very volatile, and they are ineligible to benefit from public services. With the current volatile nature of the cost of sponsorship in the country, they are always at risk of being deported.¹³ In addition, UNRWA is has no presence in Saudi Arabia and so does not formally recognise or assist them. Therefore in practise they are not entitled to the basic protections that citizens or refugees are granted.

Impacts of statelessness

21. Being stateless in Saudi Arabia can result in significant violations of rights, which has included lack of access to public education, healthcare and other services; inability to access employment, impeded family reunification; social alienation and psychological challenges. What is often the most difficult consequence for these communities is that, alongside other non-nationals they are at the mercy of their sponsors to remain in the country. But unlike other non-nationals they would have nowhere to return to if deported. Bidoons in Saudi Arabia are particularly marginalised and remain the poorest segment of the Saudi population. Due to recent economic changes – i.e. imposition of value added tax and the doubling of the price of some services such as electricity – their situation is likely to further deteriorate. Finally, given the significance of the size of the stateless population (Bidoon, Rohingya and Palestinian), a certain part of society inevitably feels alienated and indefinitely marginalised from mainstream society, undermining social cohesion.¹⁴

¹² A.Shiblak, Stateless Palestinians, FMR 26 access at <http://www.fmreview.org/sites/fmr/files/FMRdownloads/en/palestine/shiblak.pdf>

¹³ MiddleEastEye, A Palestinian refugee in Saudi Arabia: 50 Years of lost dreams, 2016, access at <http://www.middleeasteye.net/columns/palestinian-refugee-saudi-arabia-civic-immobility-and-lost-dreams-344102002>

¹⁴ See ESOHR, The Suffering of a Quarter of a Million Stateless and Calls for Radical and Urgent Solutions, 2016, access at <http://www.esohr.org/en/?p=723> and *Alarabiya, The Bidoon of Saudi Arabia, Generations of Discrimination, 2014* access at <http://english.alarabiya.net/en/perspective/features/2014/08/30/The-Bidoon-of-Saudi-Arabia-Generations-of-discrimination.html>

Recommendations

22. To address the multifaceted issue of statelessness and discrimination in Saudi Arabia, the co-submitting organisations recommend the following:
- i. Ensure that all necessary steps are taken to amend the Citizenship Law to enable Saudi women to transfer nationality to their children and spouses without restriction, on an equal basis to men without unnecessary delay, in accordance with international standards.
 - ii. Take all necessary steps to facilitate the pathway to citizenship and the full rights associated with citizenship for those who have been determined stateless Bidoon in Saudi Arabia, and to ensure that no child of these communities are born stateless in the territory of Saudi Arabia.
 - iii. Take all necessary steps to implement comprehensive safeguards against statelessness of any child who is born in Saudi Arabia. This would protect all children's right to acquire and preserve nationality without discrimination.
 - iv. Ensure that all stateless populations in Saudi Arabia with a refugee and migration background, such as the Palestinians and Rohingya, are ensured full access to rights and services and a secure and indefinite residency status. Ensure that all children born to these communities in Saudi Arabia, are granted Saudi nationality in compliance with Saudi Arabia's obligations under the CRC.
 - v. Take all necessary steps to accede to and fully implement the 1954 and 1961 Statelessness Conventions.