



ICF UAE



STATELESSNESS IN THE UNITED ARAB EMIRATES

The International Campaign for Freedom in the United Arab Emirates

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I- Introduction

As the reputation of the United Arab Emirates (UAE) as the economic and touristic hub of the Middle East continues to grow, so too does scrutiny over its record of human rights violations; freedom of expression continues to be severely restricted, women are still largely treated as deferential to men, and the killing of civilians in Yemen by Saudi-UAE led forces “in a widespread and systematic manner” continues.

An issue too-often neglected in the UAE, however, is statelessness. A stateless person is one “who is not considered as a national by any State under the operation of its law”, whether that be due to a loss of nationality, having unknown heritage, or racial and/or religious discrimination. As a result, “using schools and hospitals, trying to get a job or receive benefits, renting a flat” all become extremely difficult, if not impossible. Women in particular face difficulties obtaining citizenship, given the characteristic discriminatory legal framework in the Arab peninsula. As of 2019, the UAE passport is the most

powerful in the world, according to the Passport Index. But citizenship in the UAE is a privilege, not a right. It is unclear how many people in the UAE are stateless, though the U.S. Department of State estimates the stateless population to be between 20,000 and 100,000 individuals.

Much like the majority of other States, Emirati nationality law operates under an ethnocentric doctrine of *jus sanguinis* (lat. right of blood). Citizenship is thus obtained by descent only. Obtaining nationality by being born in a State, *jus soli* (lat. right of soil), is only applied unconditionally by a few countries, such as the United States. Being born in the UAE, therefore, does not give one the right to citizenship. In accordance with UAE law, citizenship is patrilineal, and if the father is stateless so too is the child – a mother is only able to transfer her nationality to her child if the father is unknown. Children are therefore most susceptible to becoming stateless. This legislative approach is problematic in so far as neither the criteria necessary to obtain the Emirati citizenship nor the

¹ Arron Merrat, ‘The Saudis couldn’t do it without us’: the UK’s true role in Yemen’s deadly war, The Guardian, 18 June 2019

<https://www.theguardian.com/world/2019/jun/18/the-saudis-couldnt-do-it-without-us-the-uks-true-role-in-yemens-deadly-war>

² UN High Commissioner for Refugees (UNHCR), The 1954 Convention relating to the Status of Stateless Persons: Implementation within the European Union Member States and Recommendations for Harmonisation, October 2003. Available from: <https://www.refworld.org/docid/415c3cfb4.html>

³ BBC, ‘Who, what, why: what does it mean to be stateless?’, 18 November 2014, <https://www.bbc.co.uk/news/blogs-magazine-monitor30079580->

⁴ Staples, Rethorising Statelessness, 2012, p.12

⁵ <https://www.passportindex.org/byRank.php>

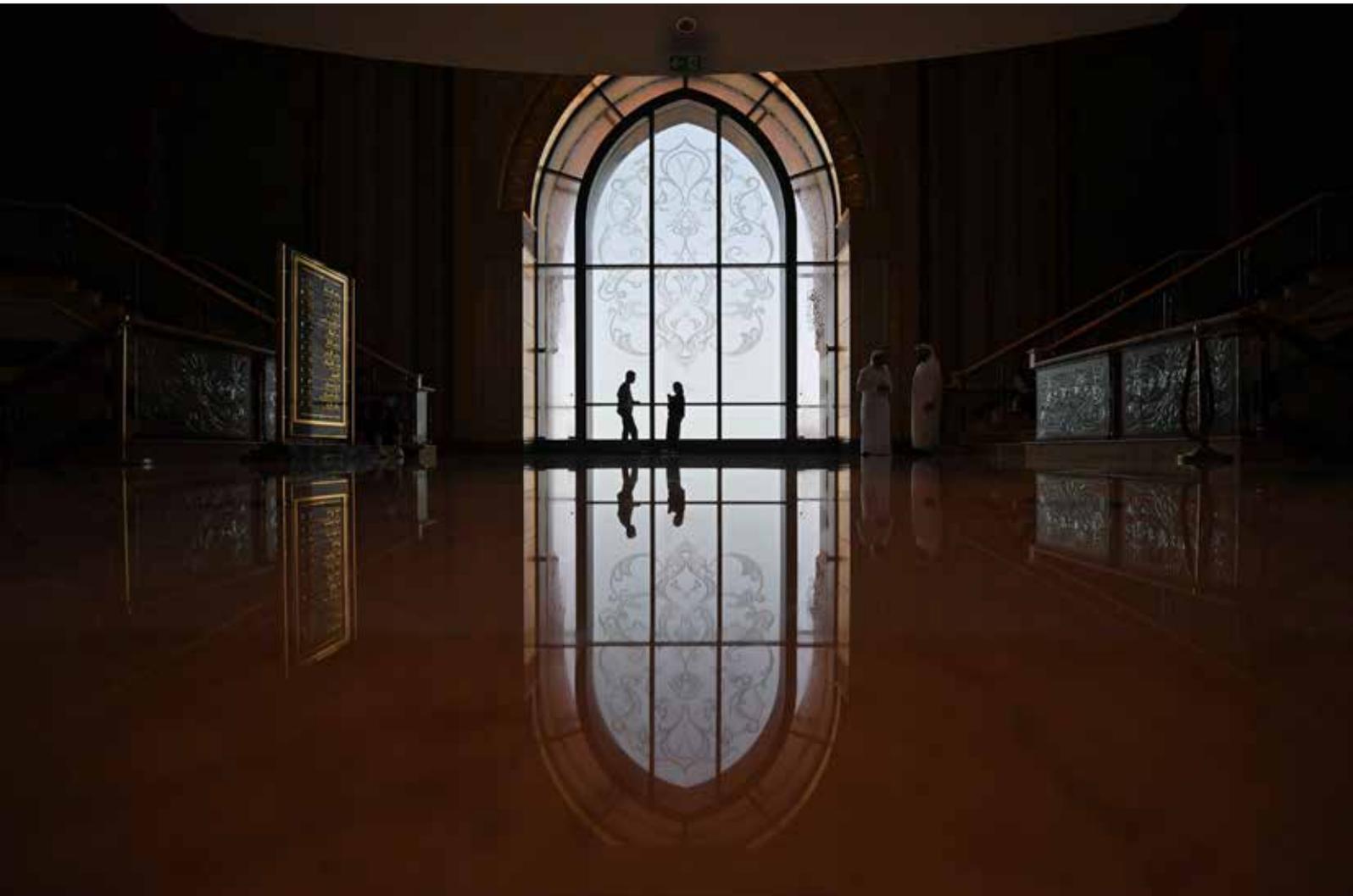
⁶ Jake Benhabib, ‘The Sage of Statelessness in Dubai’, Medium, 9 May 2018, <https://medium.com/@BUSLAHR/the-saga-of-statelessness-in-dubai-b90020a8543c>

⁷ Article, 2 c, d, Federal Law 17 No. 17 of 1971 on Nationality, UAE legislation, <https://elaws.moj.gov.ae/engLEGI.aspx>

procedural steps are clearly defined. Whilst the UAE are eager to remove this affair from their exhaustive list of human rights abuses, they are doing so in ways that contradict existing UN standards and regulations.

Despite refusal on behalf of the UAE government to publish concrete

information and figures regarding statelessness, this report aims to inform the international community on the current situation of stateless people in the UAE and to highlight the issues surrounding the lack of legal procedures concerning statelessness in the UAE.



⁸ Institute of Statelessness, Submission to the Human Rights Council at the 29th Session of the Universal Periodic Review – The United Arab Emirates, 2017, http://www.institutesi.org/UPR29_UAE.pdf

⁹ UNHCR, '#IBelong Campaign to End Statelessness', 2014. Available from: <https://www.unhcr.org/uk/ibelong-campaign-to-end-statelessness.html>

Statelessness and the Law

The right to nationality is a fundamental human right, one of paramount importance in establishing a link between the state and its citizens. Without this right, one does not have equal access to basic facilities such as health care, education or legal employment. As mentioned, Emirati laws on nationality and citizenship are based on the doctrine of *jus sanguinis*, in accordance with Federal Law No (17) for 1972 Concerning Nationality, Passports and Amendments thereof., which provides nationality by descent rather than by location of birth. The UAE's application of this legislation is problematic, however. Left intentionally ambiguous, there are no clear legal procedures in place for people with non-Emirati descent to obtain UAE citizenship, while women are also intentionally disadvantaged under Articles 3, 4 and 10 of this legislation.

Statelessness is an issue that has burdened the people of the UAE since its independence from Great Britain in 1971, and one that continues to plague the Emirati populace well into the 21st century. Since the Arab Spring in 2011 it has been increasingly used as a punitive

measure against those seeking democratic reform since the Arab Spring in 2011. Notable cases include the Al-Saddiq and Al-Ka'abi family, and the International Centre for Justice and Human Rights estimates that 60 individuals were stripped of their Emirati citizenship in 2016 alone. However, arguably no single population in the UAE has been so disenfranchised by issues of statelessness than the 'bidoon' -in Arabic meaning 'without'- population, comprised mainly of people from former nomadic tribes who have lived on the Arabian peninsula since long before the UAE's independence. Due to legal confusions, but also racial discrimination, the bidoon were left without a nationality when the new state was founded.

The UAE is not a party to two of the most important UN treaties regarding statelessness. The first convention on statelessness is the 1961 UN Convention on the Reduction of Statelessness. One of the main aims of this convention is to prevent statelessness at birth, which requires a state to grant citizenship of the country children are born in. The second, the 1954 UN Convention relating to the

¹⁰ Federal Law No (17) for 1972 Concerning Nationality, Passports and Amendments thereof., <https://www.refworld.org/pdfid/3fba182d0.pdf>

¹¹ International Centre for Justice and Human Rights, 'UAE: Revocation of Nationalities in the United Arab Emirates, 2018. Available from: <http://ic4jhr.org/en/activites/reports/619-uae-revocation-of-nationalities-in-the-united-arab-emirates-2.html>

¹² Dina Mansour-Ille, Cash for citizenship: rich Arab countries may pay poor islands to take 'stateless' Bidoon, 2016, <https://www.odi.org/comment/10461-cash-citizenship-rich-arab-countries-may-pay-poor-islands-take-stateless-bidoons>

¹³ Lin Noueihed, Sami Abudi, 'UAE says to register people', Thomson Reuters, 2008. <https://www.reuters.com/article/us-emirates-stateless/uae-says-to-register-stateless-people-idUSL361339320080903>

¹⁴ UNHCR, 1961. Available from: https://www.unhcr.org/ibelong/wp-content/uploads/1961-Convention-on-the-reduction-of-Statelessness_ENG.pdf

Status of Stateless Persons, defines a stateless person as someone who is not a member of any nationality. This convention was designed to give people basic rights despite being stateless, including access to the housing market, education, employability and religious beliefs. The 1954 UN Convention relating to the Status of Stateless Persons secures people's rights even without citizenship and gives them the same rights as citizens. This statute also provides stateless persons with papers and a right to identity, which gives them the possibility to access the job market and education. In the UAE, however, stateless people have very limited access to these rights and are therefore persecuted for staying in the country 'illegally' and often face prosecution.

Though the UAE is not a signatory to some of the most fundamental treaties on securing the rights of stateless people, the country has signed treaties that stipulate the equal conferral of nationality. The UAE is obligated under international law to consciously observe the provisions outlined in the Universal Declaration of Human Rights. This includes the right to citizenship without discrimination, as stipulated under Article 15 of this legislation. The International Convention

on the Elimination of all Forms of Racial Discrimination, meanwhile, was ratified by the UAE in 1974. According to Article 5 of this convention, it sets out that all people are equal and should not be treated differently on the grounds of race, religion, language and sex. The bidoon, however, have not been recipients of such social parity and instead consistently face racism, limited access to basic facilities and the threat of arbitrary arrest and deportation. The UAE government, for its part, has offered only palliative gestures, such as the provision of identity cards to the bidoon in 2007, but has fallen short of conferring full citizenship.

The UAE's attitude to its stateless can thus be described as, at best, blasé and, at worst, vindictive. The legal procedures for stateless are both unclear and inconsistent, often leading to arbitrary decisions. People seeking citizenship face a Sisyphean task and are subject to racial and gendered discrimination, as experienced by the bidoon population.

¹⁵ UNHCR, UN Conventions on Statelessness, The UN Refugee Agency, 2019, <https://www.unhcr.org/un-conventions-on-statelessness.html>

¹⁶ Convention Relating to the Status of Stateless Persons, New York, 28 September 1954, United Nations Treaty Series, vol. 360, p.117.

¹⁷ Refugees International, United Arab Emirates: nationality matters, Washington, 2019, <https://www.refugeesinternational.org/blog/united-arab-emirates-nationality-matters>

¹⁸ Institute of Statelessness, Submission to the Human Rights Council at the 29th Session of the Universal Periodic Review – The United Arab Emirates, 2017, http://www.institutesi.org/UPR29_UAE.pdf

¹⁹ <https://www.un.org/en/universal-declaration-human-rights/>

²⁰ International Convention on the Elimination of All Forms of Racial Discrimination, New York, 21 December 1956, United Nations, Treaty Series, vol. 660, p. 195, Available from <https://www.ohchr.org/Documents/ProfessionalInterest/cerd.pdf>

²¹ Ibid.

²² UN Meeting Report, Regional Expert Meeting on the Human Rights of Stateless Persons in the Middle East and North Africa, Amman, United Nations, 2010, p. 33. Available from: <https://www.unhcr.org/uk/protection/statelessness/4ce5019f6/meeting-report-regional-expert-meeting-human-rights-stateless-persons-middle.html>

Women, Children and Migrants

The UN Convention on the Rights of the Child outlines universal rights that should be enjoyed ubiquitously by children. One such right, set out in Article 7, states that “the child shall be registered immediately after birth and shall have their right from birth to a name, the right to acquire a nationality and as far as possible the right to know and be cared for by his or her parents”. Concurrently, Article 8 of the convention asks for the state to give appropriate support and legal protection should the child be refused some of the elements of identity on an illegal basis. Whilst the UAE has ratified this declaration to protect its youth, child statelessness persists nonetheless.

A main cause of this issue derives from gender inequality and the inherent contradictory attitude towards women in the UAE. Politically, they are granted suffrage and are guaranteed half of the seats in the semi-elected Federal National Council. Socially, however, women do not receive the same level of equality. With regard to nationality, though the UAE is a signatory to the Convention on the Nationality of Married Women, which ensures a woman’s right to nationality is guaranteed irrespective of their marital status, this is not entirely the case in the UAE. If an Emirati woman in the UAE wants to marry a non-Emirati they must first seek permission from the government or risk losing their nationality. Men, on the other hand, can marry freely and can even

pass on their nationality - nationality is not matrilineal, however, and a child born in the UAE to an Emirati mother without a husband can only become a UAE citizen if the father is either stateless or unknown.

A further catalyst for statelessness in the UAE concerns the plight of the migrant worker. Whilst the UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families states that “Each child of a migrant worker has the right to a name, to registration of birth and to a nationality”, the UAE is yet to sign this document. The experience of a migrant persona non grata was detailed by The Guardian in January 2019, as they documented the experience of a female Filipino resident in the UAE. Having become pregnant out of wedlock, an illegal act under UAE law, this migrant worker is now considered a fugitive and has since been without documentation and therefore employment, health care, or education for her child. This inexistent lifestyle is not anomalous in the UAE, however, and is in fact the daily life of much of its migrant population.

Whilst the UAE has been recalcitrant in granting full citizenship, it has sought a compromise by outsourcing the issue to the African coast. In 2008, the UAE signed an agreement with the Comoros, an archipelago in the Indian Ocean, to give 4,000 stateless families in the UAE Comorian passports in a deal reported to

²³ Convention on the Right of the Child, New York, 20 November 1989, United Nations Treaty Series, vol. 1577, p.3, Available from:

<https://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf>

²⁴ Ibid.

²⁵ Convention on the Nationality of Married Women, New York, 29 January 1957, United Nations, Treaty Series, Available from: http://www.un.org.ua/images/Convention_on_the_Nationality_of_Married_Women_eng1.pdf

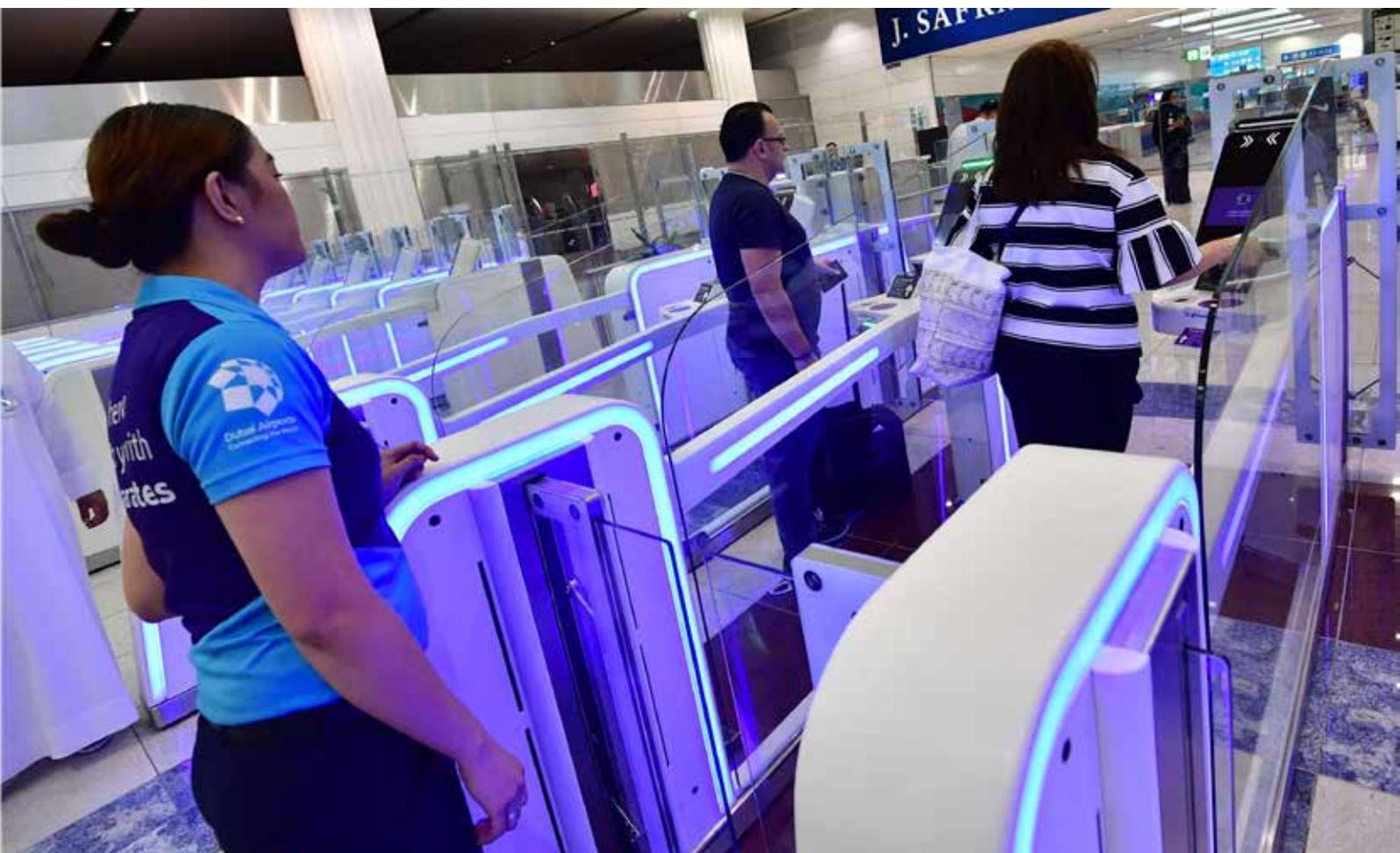
²⁶ ICFUAE, Women’s Rights in the UAE, UK, International Campaign for Freedom in the UAE, 2017, <http://icfuae.org.uk/issues/women%E2%80%99s-rights-uae-0>

²⁷ Article, 2 c, d, Federal Law 17 No. 17 of 1971 on Nationality, UAE legislation, <https://elaws.moj.gov.ae/engLEGI.aspx>

²⁸ The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, New York, 18 December 1990, United Nations, Treaty Series. Available from: <https://www.ohchr.org/en/professionalinterest/pages/cmw.aspx>

be worth \$200 million. Despite having no affiliation with the Comoros culturally, geographically or linguistically, many of the bidoon have had to adopt it as their home. Those who resist have been giving an ultimatum: forced deportation or detention, as was the case with Ahmed Abd al-Khaleq who left for Thailand and has since had his right to reside in the UAE permanently revoked as a consequence for his affiliation with al-Islah. For the UAE, the deal has thus been two-fold - used as both a 'solution' to the bidoon problem and a conduit for silencing dissent. For the

estimated 15,000 to 48,000 Emirati bidoon that have accepted Comorian passports but remained in the UAE, however, their position in the Arab state remains uncertain. Whilst they have been granted citizenship of sorts, it is not akin to Comorian or Emirati citizenship and "no jurisprudence exists to determine how Comorian 'expatriates' will be treated by foreign countries and courts." Instead, they merely enjoy rights equal to migrant workers; as such, they remain foreigners in their own country.



²⁹ Katie, McQue, 'It's a very big torture': the children growing up in hiding in Dubai, The Guardian, 2019, <https://www.theguardian.com/global-development/2019/jan/02/children-growing-up-in-hiding-in-dubai>

³⁰ Jelena Dzankic, 'Investor citizenship must not be used as a remedy for statelessness', European Network on Statelessness, 13 June 2019 <https://www.statelessness.eu/blog/investor-citizenship-must-not-be-used-remedy-statelessness>

³¹ Dina Mansour-Ille, 'Cash for Citizenship: rich Arab countries may pay poor island to take 'stateless' bidoons', Overseas Development Institute, 15 November 2016 <https://www.odi.org/blogs/10461-cash-citizenship-rich-arab-countries-may-pay-poor-islands-take-stateless-bidoons>

³² Paul McLoughlin, 'Power, passports and privilege: the state of the UAE', Al Araby, 3 December 2018 <https://www.alaraby.co.uk/english/indepth/2018/12/5/power-passports-and-privilege-the-state-of-the-uae>

³³ Atossia Araxia Abrahamian, 'Who Loses When a Country Put Citizenship Up for Sale?', New York Times, Jan 5 2018 <https://www.nytimes.com/2018/01/05/opinion/sunday/ united-arab-emirates-comorans-citizenship.html>

Conclusion

In 2019, His Highness Dr Sheikh Sultan bin Muhammad Al Qasimi, Supreme Council Member and Ruler of Sharjah, was asked about stateless people during a live radio programme. As he promised UAE citizenship to 6,000 stateless residents he facetiously reassured the caller: “don't worry, we won't ever ignore you.” Yet historical precedent demonstrates otherwise. The UAE is not a signatory to many of the essential documents that guarantee the protection of stateless men, women, and children. Those which it has signed it has ignored. At present, rather than sincerely engaging with the matter at hand, the UAE has remained apathetic and instead outsourced the problem to the African periphery.

If the issue of statelessness is to be resolved it must not be disregarded as a domestic issue but as one that deserves international attention. The UNHCR has aimed to end statelessness by 2024, but statelessness does not operate in vacuo and is not an issue that can be tackled in and of itself. What is imperative is a holistic approach that sincerely engages with the issue and adopts it as part of a broader approach to human rights globally, and especially in the UAE. Statelessness does not operate in vacuo and cannot be tackled in and of itself. What is imperative is a holistic approach that sincerely engages with the issue and adopts it as part of a broader approach to human rights in the UAE.



³⁴ Ahmed Shaaban, '6,000 stateless residents to get UAE citizenship', MSN, 30 March 2019 <https://www.msn.com/en-ae/news/other/6000-stateless-residents-to-get-uae-citizenship/ar-BBVqauA>

³⁵ UNHCR, Global Action Plan to End Statelessness, 2014. Available from: <https://www.unhcr.org/uk/protection/statelessness/54621bf49/global-action-plan-end-statelessness-2014-2024.html>

Recommendations

Recommendations for the UAE government:

- Devise and implement clear legal procedures to tackle the issue of statelessness;
- In particular, establish a clear process whereby stateless people who were forced to take
- Union of Comoros passports can obtain Emirati citizenship, especially in the cases in which they were born in the UAE and have no access to any other nationality;
- Take legislative measures to prohibit the discrimination of stateless persons;
- Collect data on stateless persons in the UAE: date of births, deaths, health and education access, employment opportunities, and economic conditions;
- Devise and implement policy measures to ensure all children born in the UAE are entitled to nationality;
- Give women the right to pass on citizenship to their children.



ICF UAE



campaigns@icfuae.org.uk

www.icfuae.org.uk