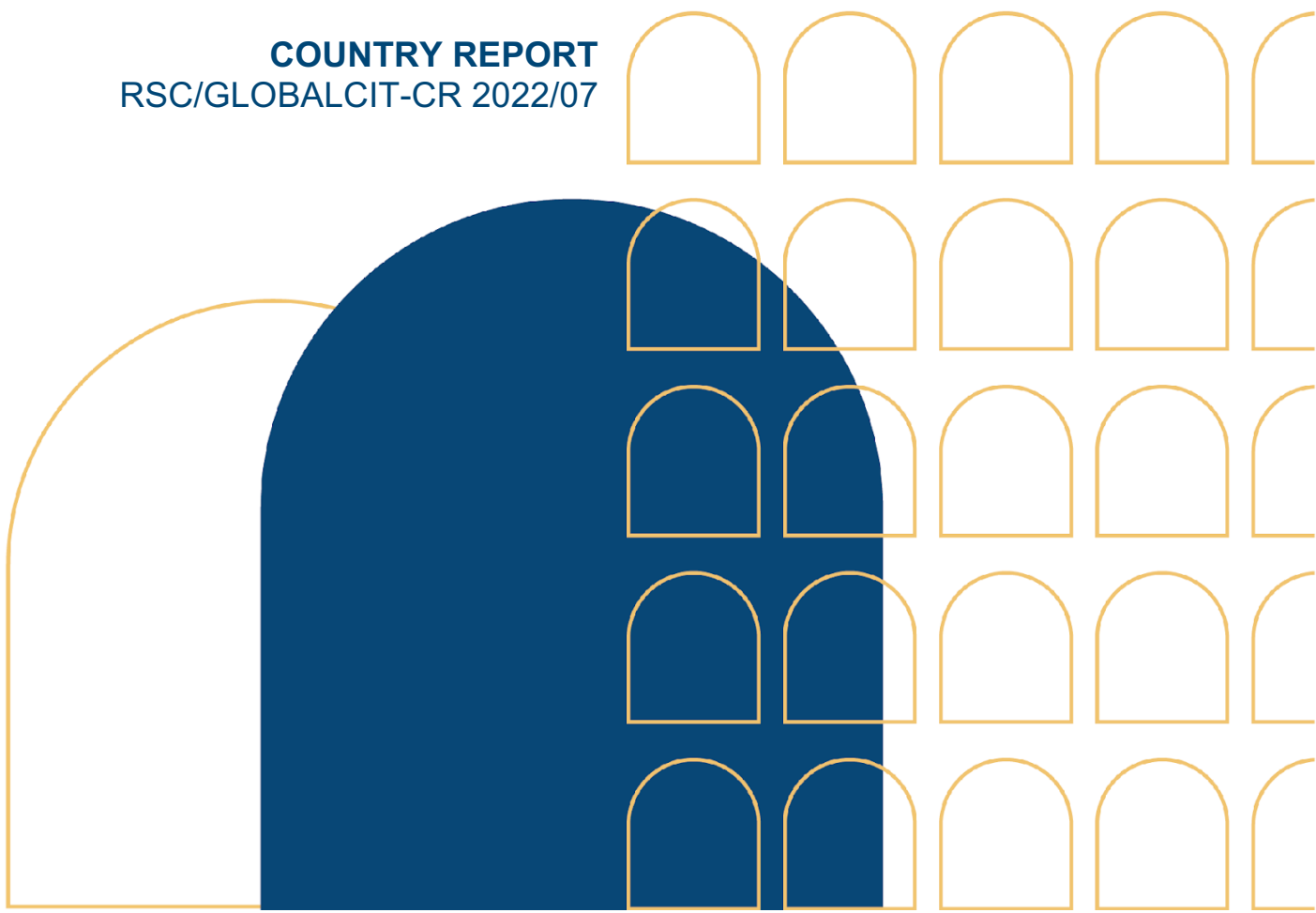


Report on Citizenship Law: United Arab Emirates

Zeineb Alsabeehg and Yoana Kuzmova

COUNTRY REPORT
RSC/GLOBALCIT-CR 2022/07



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Global Citizenship Observatory (GLOBALCIT)
Robert Schuman Centre for Advanced Studies
in collaboration with Edinburgh University Law School

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1. Introduction

The United Arab Emirates (hereinafter: UAE, the Emirates) is a federation of hereditary monarchies founded in 1971 out of seven Emirates that had, until then, shared sovereignty with the British Empire.¹ The UAE's citizenship regime is marked by the relative youth of the UAE's institutions, the accompanying rapid evolution of the UAE legal system and the absence of conventional democratic influence on law making. The UAE is one of only four Arab states employing a federal system of government.² Power and wealth in the federation of Emirates skews heavily in favour of Abu Dhabi and Dubai, and tensions between these two Emirates have influenced the debates around its citizenship regime, particularly with regard to naturalisation.

The citizenship regimes of all members of the Gulf Cooperation Council (hereinafter: GCC) emerged at around the same time, in the 1950-1970s, and drew on common influences.³ As a result they share several key characteristics. First, in the UAE, as throughout the GCC, female citizens are unable to confer nationality to their children and spouses on par with male citizens. Second, access to naturalisation is limited, though there is a trend towards developing special naturalisation programs meant to attract especially gifted or wealthy individuals. Third, and alongside this selective opening to new citizens, all GCC states have in recent years amended their laws and policies to broaden anti-terrorism provisions or make the stripping of nationality easier or available to the government in more circumstances.⁴ Fourth, registration as a national

¹ Abu Dhabi, Dubai, Sharjah, Ajman, Fujairah, and Umm Al Quwain united in 1971, and were joined in 1972 by a seventh Emirate, Ras Al Khaimah. Collectively, the five smaller Emirates located to the northeast of Dubai are often referred to as the "Northern Emirates." See: Shaimaa Fayed, "Arab Unrest Puts Focus on UAE's Northern Emirates," *Reuters*, 6 July 2011, <https://www.reuters.com/article/us-emirates-northern-idUSTRE7652Y020110706> (accessed 11 October 2022).

² Within members of the League of Arab States, the other federal systems are Iraq, Somalia, and Sudan. In contrast to the federal regimes in Iraq and Sudan, which were introduced after state formation and in response to claims for regional self-governance, the UAE federal structure has been in place since the country's founding. The federal government's powers have gradually increased over the last five decades in line with the entrenchment of Abu Dhabi as the wealthiest emirate and seat of government. The UAE's president is customarily the ruler of Abu Dhabi. For reference, see: Forum of Federations, "United Arab Emirates", <https://forumfed.org/countries/ united-arab-emirates/> (accessed 7 October 2022).

³ See section 2 for historical background.

⁴ Zahra Babar, "The 'Enemy Within': Citizenship-Stripping in the Post-Arab Spring GCC," *Middle East Journal* 71, no. 4 (2017). Since the publication of Babar's article, as discussed in Section 3, the UAE has amended its nationality law to enable citizenship stripping from naturalised citizens as well as those born Emirati.

upon independence in each of the Gulf monarchies required proving a registrant's ancestors resided on the country's territory since the beginning of the 20th century.⁵ These lengthy residence requirements were set back to exclude from the citizenry those who had arrived after the discovery of oil.⁶ The low administrative capacity of new states at independence and tribal groups' limited engagement with the state meant that many long-standing local residents were left without nationality at the time of state formation. Particularly in Kuwait and the UAE, these originally excluded populations have become a thorny political and human rights problem.⁷ Finally, territorial boundaries were set in the Arab Gulf monarchies relatively late, at a time when the most relevant unit of collective identity was still the tribe that a person belonged to. Some tribes were nomadic but even those that were settled changed their allegiances from one sheikh to another over time. Pinning tribal allegiances to a territorial state was a challenge, as discussed in section 2. Even after independence the loyalty and national belonging of tribes remained a major influence on the consolidation of citizenship regimes.⁸

In the UAE today, citizens form around twelve percent of the whole population.⁹ Though the percentage has fluctuated, the citizen population has been a minority of all residents since state formation. Framed as demographic or population imbalance, the relatively small portion of citizens is seen as both a threat to the country's identity and a core feature of the trajectory of the UAE's economic development.¹⁰ In 2007, in a rare public commentary on state policy, an Emirati political scientist expressed alarm at the "deadly demographic imbalance in the UAE" and criticised prominent public figures' proposal to open up access to naturalisation.¹¹ In 2013, the mere suggestion of extending citizenship to long-standing migrants was met with social media uproar in opposition.¹² Indeed, the existence of a demographic or population

⁵ Kuwait's law requires that lineage can be traced to a Kuwaiti resident in 1925; in the UAE, a citizen is the person who can prove that his or her patrilineal ancestors resided in the constituent Emirates as of 1925; Qatari law contains a similar requirement listing 1930 as the relevant year. The nationality law of Bahrain refers to an earlier nationality ordinance from 1937 and proclaims that those who were counted as Bahraini citizens under this law and their descendants are Bahraini by operation of law.

⁶ Union of Arab Emirates: Nationality proposals (Memorandum by D.J. McCarthy from Arabian Department to the Nationality & Treaty Department), 7 October 1969, Foreign & Commonwealth Office File FCO 8/993, p. 3, Arabian Gulf Digital Archives, <https://www.agda.ae/en/catalogue/tna/fco/8/993> (accessed 31 October 2022).

⁷ On the context in Kuwait, see Claire Beaugrand, *Stateless in the Gulf: Migration, Nationality and Society in Kuwait* (London: I. B. Tauris & Company, Ltd., 2018).

⁸ Miriam Cooke, *Tribal Modern: Branding New Nations in the Arab Gulf* (Berkeley: University of California Press, 2014), 36.

⁹ This figure is based on United Nations estimates. UNDataApp: United Arab Emirates, <http://data.un.org/en/iso/ae.html> (accessed on 13 July 2022). Since 2005, the UAE has not had a nation-wide census or published detailed breakdown of migrant and national population. In 2019, the UAE announced a transition to an administrative census though the results of this census have not been made publicly available. UAE Ministry of Cabinet Affairs, "The UAE Administrative Census Project 2020 Launched," <https://fcsc.gov.ae/en-us/Pages/Press-Release/02-07-2019.aspx> (accessed on 23 July 2022); Individual Emirates have selectively published data on the breakdown between nationals and non-nationals on their territory. While Dubai excludes this information from its statistical yearbook, Abu Dhabi's 2020 Statistical Yearbook mentions that non-citizens comprise 81% of the population. Abu Dhabi Statistics Centre, Abu Dhabi Statistical Yearbook 2020, page 93, https://www.scad.gov.ae/Release%20Documents/Statistical%20Yearbook%20of%20Abu%20Dhabi_2020_Annual_Yearly_en.pdf (accessed 31 October 2022).

¹⁰ "Population and Demographic Mix - The Official Portal of the UAE Government," <https://u.ae/en/information-and-services/social-affairs/preserving-the-emirati-national-identity/population-and-demographic-mix> (accessed 20 July 2022) (government position on demographic imbalance and introduction of measures undertaken to address its implicit perils); Ahmed Mustafa Elhussein Mansour, "Population Imbalance and Immigration as a Public Policy Problem in the United Arab Emirates," in *Adjusting to a World in Motion*, eds. Douglas J. Besharov and Mark H. Lopez (New York: Oxford University Press, 2016) (laying out policy options to address population imbalance, a problem the UAE government considers "a potential threat to national security, political stability, and national identity.")

¹¹ Abdulkhaleq Abdullah, "UAE's Demographic Imbalance," *GulfNews*, 14 April 2007, <https://gulfnews.com/opinion/op-eds/uaes-demographic-imbalance-1.172314> (accessed 11 October 2022).

¹² For the original provocation, see Sultan Sooud Al Qassemi, "Give Expats an Opportunity to Earn UAE Citizenship," *Gulf News*, 22 September 2013, <https://gulfnews.com/opinion/op-eds/give-expats-an-opportunity->

imbalance turning the citizens into a minority has been seen as a main driver of the consolidation of a unified national identity across citizens of the individual constituent Emirates.¹³

While acknowledging preoccupation with demographic imbalance, the UAE's leaders project a vision for the country as a haven for innovation, traditional values, and social tolerance.¹⁴ It is unclear if such a vision accommodates or disrupts the widespread gender inequality enshrined in Emirati law.¹⁵ Gradual moves toward allowing female citizens to confer their nationality more easily to their children with non-citizen fathers in recent years have been welcomed, but anxiety around the "taboo of the mixed marriage" persists.¹⁶ In contrast to reforms in other GCC states, particularly Kuwait and Bahrain, advances in gender equality appear to have taken place in the UAE without any conventional civil society pressure or advocacy.

Finally, the presence of long-standing minorities in the UAE, since before independence, is often erased or discounted in official constructions of the nation's imaginary.¹⁷ Managing the status of long-settled non-citizens in the UAE has been a project of increasing relevance to the government since 2004. This project was enabled by growing government centralisation led by Abu Dhabi (the biggest Emirate and seat of the UAE's capital). By the mid-2000s, stateless persons in the UAE were referred to as '*bidoon*' likely by analogy with the large population of unincorporated locals in Kuwait.¹⁸ Following the last official country-wide census conducted in 2005, the UAE government passed a resolution to expeditiously find a solution to the '*Bidoon*' issue.¹⁹ Thereafter, in the context of a registration drive for those without nationality documents, the UAE Ministry of Interior launched the most idiosyncratic aspect of the Emirates' de-facto citizenship regime: the granting of passports from the Union of the Comoros to thousands of local residents without any nationality documents.²⁰ The passports were framed as interim solutions required for all those hoping to qualify for Emirati nationality. Unfortunately, they appear to have mainly enabled the '*foreignization*' of a segment of the population made up of persons who held Emirati passports but were never fully naturalised.²¹

to-earn-uae-citizenship-1.1234167 (accessed 31 October 2022). For commentary on the fallout from the article, see, e.g., Mira Al-Hussein, "The Economic Contracts of New Gulf Citizenships," *Orient XXI* (blog), 30 December 2021, <https://orientxxi.info/magazine/the-economic-contracts-of-new-gulf-citizenships>, 5265 (accessed 11 October 2022).

¹³ Frauke Heard-Bey, "The United Arab Emirates: Statehood and Nation-Building in a Traditional Society," *Middle East Journal* 59, no. 3, 357–75, 361 (2005).

¹⁴ Kristian Alexander and Leonardo Jacopo Maria Mazzucco, "Beyond the Bedouin Path: The Evolution of Emirati National Identity," *Middle East Institute*, 1 December 2021, <https://www.mei.edu/publications/beyond-bedouin-path-evolution-emirati-national-identity> (accessed 11 October 2022).

¹⁵ The issue of gender equality in the UAE's nationality law is discussed in detail in Section 4.2.

¹⁶ Sultan Sooud Al Qassemi, "Mixed Marriages Bring Strength upon Strength to the UAE," *The National*, 29 August 2010, <https://sultanalqassemi.com/articles/mixed-marriages-bring-strength-upon-strength-to-the-uae/> (accessed 31 October 2022); Anna Zacharias, "A New Generation of Emiratis Speak out about Mixed Parentage," *The National*, 6 April 2013, <https://www.thenationalnews.com/uae/a-new-generation-of-emiratis-speak-out-about-mixed-parentage-1.607950> (accessed 11 October 2022).

¹⁷ Noora Lori, *Offshore Citizens: Permanent Temporary Status in the Gulf* (Cambridge: Cambridge University Press, 2019), 50; but see Sultan Sooud Al Qassemi, "United Arab Emigrants," *Medium* (blog), 31 July 2016, <https://medium.com/@SultanAlQassemi/united-arab-emigrants-92314e7f3eca> (accessed 31 October 2022) (profiling dozens of Arab immigrants who contributed to the construction of the UAE).

¹⁸ '*Bidoon*' or '*bedun*' comes from '*bidoon jinsiya*' which means without nationality. See Beaugrand, *supra* note 7.

¹⁹ U.A.E. Federal Supreme Council (2006) Resolution (2) of 2005 Concerning the Problem of Stateless Persons (the Bidoon), 28 September [Online], available at https://lexmena.com/law/ar_fed~2005-12-03_00002_2020-01-27/ (accessed 23 July 2022)

²⁰ This report does not consider the legality of this *sui generis* policy under international law. For further discussion, see Yoana Kuzmova, "Statelessness Elimination Through Legal Fiction: The United Arab Emirates' Comorian minority" in *Statelessness, Governance and the Problem of Citizenship* eds. Tendayi Bloom and Lindsey Kingston, (Manchester: Manchester University Press 2021), 274. This mass acquisition of Comorian "citizenship" is considered in section 3.3 and 4.3 *infra*.

²¹ *Id.* at 280.

This report presents an overview of the legislative process in the UAE through a historical perspective, highlighting influences on the legal foundations of the citizenship regime and outlining its political development around the time of state formation. Section 3 details the features of the current citizenship regime, based around the 1972 Nationality Law²² and its amendments in the direction of increasing the scope of citizenship revocation as well as opening for naturalisation of a selection of individuals with certain attributes or possessions. Section 4 highlights three areas of upheaval, including (1) reforms to naturalise persons of exceptional wealth or desired professional skills, (2) women's right to confer citizenship to their children and the gradual steps taken to extend this right, and (3) the administrative erasure of the UAE's stateless persons.

2. Historical background

2.1. Law making in the UAE

The UAE's head of state, the president, holds all executive and legislative power and is responsible for making sure that laws are passed (typically with minimal consultation) by the partially elected advisory body called the Federal National Council (hereinafter: FNC).²³ The president himself is elected by representatives of all seven Emirates, sitting on the Federal Supreme Council (hereinafter: FSC), the highest executive authority. Traditionally, the president is a member of the royal family of the biggest Emirate, Abu Dhabi. Since 2006, half of the FNC's forty members are elected by a group cherry-picked from among the UAE's citizens, and half are appointed by the ruler of each individual Emirate.²⁴ The FNC's role in the legislative process is to consider draft laws submitted to it by the Council of Ministers and provide comments on the drafts. The FNC's approval is not necessary for the promulgation of a law, as the president may do so at any point circumventing the FNC. Finally, the FSC ratifies the law. It makes decisions by a supermajority of 5 out of 7 votes and no decision may be taken without Abu Dhabi and Dubai's assent.²⁵

Most federal legislation promulgated in the early 1970s is the result of the state-building approach that preceded independence. Early federal laws, including the country's nationality law, were first drafted in relative haste by a group of advisers to the Emirates' rulers who came from Egypt, Jordan, and Sudan.²⁶ For at least two decades after independence, law-drafting and judicial functions were often held by non-Emirati jurists, which has caused international observers to question the impartiality and integrity of the judicial system.²⁷

²² Federal Law No. 17 of 1972 Concerning Nationality & Passports (1972 Law, 1972 Nationality Law), available with its amendments at the Global Nationality Laws Database: <https://globalcit.eu/national-citizenship-laws/> (accessed 12 October 2022).

²³ UAE Ministry of State for Federal National Council Affairs, "Stages of Drafting Laws", <https://www.mfnca.gov.ae/ar/areas-of-focus/political-participation/stages-of-drafting-laws/> (accessed on 23 July 2022).

²⁴ Decision of the National Elections Committee No. (03/02/2019) regarding the executive instructions for the elections of the Federal National Council, Art. 3, <http://www.uaenec.ae/ar/executive-instructions> (stating that the electors in each Emirate are selected by the ruler of that Emirate and that at least three hundred electors must be named per candidate).

²⁵ UAE Official Government Portal, "The Federal Supreme Council", <https://u.ae/en/about-the-uae/the-uae-government/the-federal-supreme-council> (accessed on 23 July 2022).

²⁶ Nathan J. Brown, ed., "Legal Reform in the Arab States of the Gulf," in *The Rule of Law in the Arab World: Courts in Egypt and the Gulf*, Cambridge Middle East Studies (Cambridge: Cambridge University Press, 1997), 129–156.

²⁷ Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul, Mission to the United Arab Emirates, UN Doc No A/HRC/29/26/Add.2, 5 May 2015.

The high prevalence of non-citizen civil servants and administrators, continuing from the years of British presence, is a consequence of the dearth of citizen professionals including trained judges and teachers in the early 1970s.²⁸ Emirati scholars have lamented the poor fit between Western-type, secular legal regimes and local practices based on Shari'a law and customs of tribal adjudication.²⁹ This mismatch undermined the legitimacy of early federal laws in the eyes of citizens and side-lined federal courts and institutions. Still, the resultant move to acknowledge and respect the relevance of tribal allegiance and the power of individual Emirates paralysed the federal government's ability to strengthen its power, allowing for a fluid and decentralised citizenship regime in the first four decades after independence.³⁰

2.2. Background to Emirati nationality and the 1972 Nationality Law

Prior to federation, the constituent Emirates' rulers governed under the protection of the British Empire, a relationship that was formalised under bilateral treaties, completed in 1853 and recast in 1946.³¹ These agreements ceded power to govern the foreign affairs of the Emirates (then "Trucial States") to the British. In exchange, the British were to provide defence and police forces to the Emirates. The British also exercised jurisdiction over British subjects and other (mostly non-Muslim) foreigners in the Emirates. As a result, two legal regimes operated simultaneously, that of the local rulers and that applicable to British subjects. In the context of the United Nations' decolonisation efforts, and following the Suez Crisis of 1956, the maintenance of such dual jurisdiction in the Trucial states was considered an "anachronism which was politically embarrassing."³² Starting in the late 1950s, the British Agency in the Gulf sought to develop the local legal system alongside the introduction of British laws, in contemplation of the eventual departure of the British from the region, a process referred to as "retrocession of jurisdiction."³³

Until then, few formal judicial institutions or written local legislation were in place in the Emirates, and early draft laws were prepared by British judges themselves.³⁴ No written nationality codes had been issued by the rulers of the Trucial States as of 1955.³⁵ Already by that time, however, the rulers of the Emirates that would form the UAE issued passports to those living in their territories. In the absence of a nationality law, such passports were mere

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=dtYoAzPhJ4NMy4Lu1TOebO12nIZGpERKVV%2br5nx2A7qC%2fRBvTHVHPzJDnoVsrD2YVu4rUHazErX%2fApf4Bu6ykt%2bM%2bcKFQ5e1yka77cfxhO3FpvwH5HzfXis3flhGn4H> (accessed 11 October 2022).

²⁸ Butti Al-Muhairi, "The Development of the UAE Legal System and Unification with the Judicial System," *Arab Law Quarterly* 11, no. 2 (1996), 116-160 and 147-150.

²⁹ *Id.*

³⁰ Heard-Bey, *supra* note 13.

³¹ It is the treaties (or truces) with the British Empire that gave the Emirates their collective pre-independence designation in English, the "Trucial States" or "Trucial Oman." The states that were to become the UAE lacked a group descriptor.

³² Annual Report for 1965 Made by the Judge of the Chief Court for the Persian Gulf to the Secretary of State Pursuant to the Provisions of the Persian Gulf Orders in Council (Sir John Whyatt to Mr. Stewart), 6 May 1966, Foreign Office File FO 371/185214, pp 81-103, Arabian Gulf Digital Archives, <https://www.agda.ae/en/catalogue/tna/fo/371/185214/n/112> (accessed on 16 October 2022).

³³ *Id.*

³⁴ Draft Nationality Law for the Trucial States, 1953-55, Foreign Office File 317/104418, File EA1603, <https://www.agda.ae/en/catalogue/tna/fo/371/104418/n/22> (draft nationality law for discussion before presentation to the Rulers of the Trucial States prepared by Judge Haines) (accessed on 16 October 2022).

³⁵ Letter from Joyce A.C. Gutteridge at Foreign Office to W.L. Dale at Ministry of Education, Foreign Office File FO 371/114728, File EA 1601/1, p. 6, Arabian Gulf Digital Archives, <https://www.agda.ae/en/catalogue/tna/fo/371/114728/n/5> (accessed 17 October 2022).

travel documents, and implied allegiance rather than nationality.³⁶ To some rulers, the issuance of passports was a source of revenue and passports were sold to willing buyers, with few drawbacks since consular services to Emirati passport holders abroad were provided by British consulates.³⁷ Disgruntled by this practice, Abu Dhabi's ruler resisted the unification of passports that the British urged in 1967 on the grounds that the rulers of other Emirates allowed undesirables to obtain their passports.³⁸ This early mistrust among the leadership of the UAE appears to have permeated future policy decisions, as discussed in sections 3.3 and 4.

Beginning in the mid-1960s, Egyptian and Jordanian jurists (trained during the British Mandate and recruited by the British to advise the rulers) introduced concepts of national citizenship current in French and British legislation but struggled to reconcile them with the pre-existing tribal practices of patronage and allegiance.³⁹ The archives of the Emirates tell the story of a British protectorate apparatus preoccupied with ensuring a common-law legacy in the soon-to-be-independent Trucial States, and displeased with the perceived excessive influence of Egyptian legal advisers in Qatar and Bahrain.⁴⁰ Indeed, Kuwait had also opted for "Continental Code modelled on the Egyptian system," an outcome that the British were eager to avoid in the rest of the Gulf sheikhdoms.⁴¹ British officials thus worked to recruit lawyers in Lebanon for service in the Gulf States "in order to prevent further Egyptianisation of legal posts in the Gulf."⁴²

The need to codify a concept of nationality emerged, first when British officials in the Gulf struggled to enforce dual jurisdiction, and later in preparation for independence.⁴³ The initial motivation, in 1953, was to "settle ...the jurisdiction of the rulers over nomadic tribes." Additionally, to properly exercise jurisdiction over foreigners, the British also found it necessary to have a codified definition of a Trucial State subject.⁴⁴ The British Foreign Office failed to arrive at a mechanism that would allow the rulers to identify their nationals among members of nomadic tribes, or that could overcome the territorial boundary disputes among the rulers. Thus, the question of nationality laws was tabled repeatedly, until its resolution became urgent on the eve of British withdrawal.⁴⁵

³⁶ Foreign Office File FO 371/114728, p. 16 (1955) (letter from Eastern Department, explaining that the passports that the rulers will be able to issue do not materially differ from the travel documents they have been issuing since 1951), <https://www.agda.ae/en/catalogue/tna/fo/371/114728/n/16> (accessed on 16 October 2022).

³⁷ Letter from the Political Agency in the Trucial States (Dubai) to British Political Residency in Bahrain, 13 March 1961, Foreign Office File FO 271/157060, p. 5, Arabian Gulf Digital Archives, <https://www.agda.ae/en/catalogue/tna/fo/371/157060/n/5> (accessed on 16 October 2022).

³⁸ Telegram: Abu Dhabi to Foreign Office (Mr. Lamb), 25 March 1967, Foreign & Commonwealth Office File FCO 8/825 /196, p. 195, Arabian Gulf Digital Archives, <https://www.agda.ae/en/catalogue/tna/fco/8/825> (accessed on 16 October 2022).

³⁹ Manal A. Jamal, "The 'Tiering' of Citizenship and Residency and the 'Hierarchization' of Migrant Communities: The United Arab Emirates in Historical Context," *International Migration Review* 49, no. 3 (2015): 601–632, at 611.

⁴⁰ Annual Report for 1965 Made by the Judge of the Chief Court for the Persian Gulf, *supra* note 32, at 89.

⁴¹ Letter from the British Residency in Bahrain (W.H. Luce) to Michael Stewart, MP, 29 January 1966, Foreign Office File FO 371/185214, p. 7, Arabian Gulf Digital Archives, <https://agda.ae/en/catalogue/tna/fo/371/185214> (accessed on 16 October 2022).

⁴² Citation taken from letter from the British Political Agency Bahrain to Foreign Office Arabian Department (J. Whyatt to A.R. Walmsley), 4 May 1962, Foreign Office File FO 371/162814, p. 136, <https://agda.ae/en/catalogue/tna/fo/371/162814> (accessed on 16 October 2022).

⁴³ See Draft Nationality Law, *supra* note 34.

⁴⁴ *Id.* Annual Report for 1965 Made by the Judge of the Chief Court for the Persian Gulf, *supra* note 33; Letter from British Residency in Bahrain to Foreign Office Arabian Department (M.C.G. Man to R.A. Beaumont), 31 December 1959, Foreign Office File FO 371/149106, p. 6, <https://www.agda.ae/en/catalogue/tna/fo/371/149106/n/6> (accessed 16 October 2022) (decrying that Trucial Rulers had never identified their subjects and describing situations where the rulers indeed treated as their subjects long-standing immigrants, citing examples from Dubai and Bahrain) (accessed on 16 October 2022).

⁴⁵ See, Draft Nationality Law, *supra* note 34; see also Letter from M.C.G. Man at British Residency in Bahrain to R.A. Beaumont at the Foreign Office Arabian Department, 31 December 1959, Foreign Office File FO

The Emirate of Abu Dhabi, where oil was already commercially exploited in the 1960s, showed the most initiative among the Emirates to establish a separate legal system and take over British jurisdiction. Law No 1 of 1967, the Abu Dhabi Nationality Law, was the only nationality law in place in the Emirates prior to independence.⁴⁶ Unlike the nationality laws issued by Kuwait, Bahrain, Qatar, and the subsequent UAE Nationality Law of 1972,⁴⁷ the Abu Dhabi law did not refer to a point in time when a person must have resided in the Emirate to be considered a national. Rather, it defined a citizen of Abu Dhabi as someone who “relates to any of the tribes of Abu Dhabi and has established normal residence in Abu Dhabi before the operation of this law.”⁴⁸ A national was also a person born in Abu Dhabi to a father who was also born in Abu Dhabi (double *ius soli*). The nationality would also extend to foundlings presumed to be born in Abu Dhabi. The Abu Dhabi Nationality Law allowed for matrilineal transmission of nationality to a child whose father is stateless. It also allowed for naturalisation of applicants who had resided in the Emirate for 10 years (7 if Arab) and obtained the ruler’s approval. The key continuities and discontinuities between the original Abu Dhabi law and the one adopted for the UAE can be extracted from the examination of the current Emirati citizenship regime in section 3. Notably, the residence periods for naturalisation were overall shorter in the Abu Dhabi law, and no original date of ancestral residence had to be established. Furthermore, unlike in the 1972 Nationality Law, the tie between tribal ancestry and original citizenship was made explicit.

The UAE Constitution was accepted by the Emirates in July 1971, but it was initially promulgated as a Provisional Constitution.⁴⁹ According to Article 120 of the UAE Constitution, among the competences within the exclusive jurisdiction of the Union fall “union nationality, passports, residence and immigration.” According to Article 8, UAE citizens may not possess dual nationality and may only be stripped of their citizenship under “exceptional circumstances which shall be defined by law.”⁵⁰

Owing to protracted power-sharing negotiations among the Emirates, the Provisional Constitution did not become final until 1996, and the powers reserved to the federal government were not consistently enforced until then.⁵¹ During this provisional stage, individual Emirates’ rulers regularly waded into exclusively federal matters and regulatory action on the federal level was relatively constrained. One example is the fact that although the executive regulations to the 1972 Nationality Law stipulate that a unified population register was to be established, it did not materialise until the creation of the Emirates Identity Authority in 2004.⁵² Thus, it was only after the Emirati Constitution became final that the federal government’s full power to determine and document who are its citizens could be exercised. Previously, individual Emirates’ rulers freely drafted decrees for the issuance of passports at their discretion and could command the local offices of the Passports and Naturalisation to

371/149106, p. 7, Arabian Gulf Digital Archives, <https://www.agda.ae/en/catalogue/tna/fo/371/149106/n/6> (accessed on 16 October 2022).

⁴⁶ Viktor Knapp, ed., *International Encyclopaedia of Comparative Law*, Volume 1 National Reports – U, vol. 1, U-53 (De Gruyter, 1976).

⁴⁷ For the 1972 Nationality Law’s original version, see Federal Law No. 17 of 1972 Concerning Nationality & Passports, https://elaws.moj.gov.ae/UAE-MOJ_OG/10002S_1972/11-28-1972_0007/UAE-OG_1972-11-18_00017_kait.pdf (accessed 16 October 2022).

⁴⁸ *Id.* At U-54.

⁴⁹ Heard-Bey, *supra* note 13.

⁵⁰ Constitution of the United Arab Emirates (دستور الإمارات العربية المتحدة), Article 8, https://www.constituteproject.org/constitution/United_Arab_Emirates_2004.pdf (accessed on 16 October 2022).

⁵¹ Heard-Bey, *supra* note 13.

⁵² Council of Ministers Resolution No. 2 of 1972 Issuing the executive regulations of the Nationality and Passports Law from December 31, 1972 (قرار مجلس الوزراء رقم 2 لسنة 1972), available in original Arabic online through search at <https://elaws.moj.gov.ae/> (accessed 16 October 2022).

implement them. Thus, the practice of issuing passports by the individual Emirates, despite Abu Dhabi's resistance, continued well after the UAE was established.⁵³

Prior to its significant amendment in 1975, the 1972 Nationality Law, in Article 2, pointed to the executive regulation for directions on how registration of citizenship by descent would be conferred.⁵⁴ According to the regulation, the residents of the constituent Emirates were to submit proof to a special registration advisory committee, that they had resided in the territories of the UAE since before 1925, in the form of a family summary (*bayan ahsai*),⁵⁵ presumably attested by a tribal sheikh or based on a prior census.⁵⁶ Under the regulations, citizen registration would take place for four years after independence and was supervised by a committee of seven members, one from each Emirate. In the 1975 amendment to the law, reference to the executive regulation in Article 2 was removed.

The establishment of the UAE mostly settled its territorial boundaries, but the nationality status of nomadic groups whose areas of residence varied throughout the year was not addressed explicitly by the 1972 Nationality Law. Though they were not mentioned in the 1972 Nationality Law, Article 5, which provides facilitated terms of discretionary naturalisation to those of Omani, Bahraini or Qatari origin, or members of Arab tribes who emigrated to the UAE from neighbouring states, presumably aims to shore up these groups (see section 3.1.4). Still, the regulations are silent as to how an applicant may meet the additional criteria for naturalisation, namely residence on a "continuous and lawful basis for at least three years directly before the date of submitting naturalisation."

In devising the UAE's nationality law, the members of the Provisional Federal Council (the rulers of the individual Emirates and their legal advisers) appear to have taken into consideration the access to citizenship for the many Arab migrants who had been at the service of the sheikhs for years, albeit after 1925. For example, during deliberations by the Trucial Council on the draft nationality law in 1969, the list of persons who would be entitled to Emirati nationality included "any Arab of Omani origin not in possession of any other nationality, who has lived in one of the states of the Union, with the intention of settling, for a period of not less than three years at the date on which this law comes into effect."⁵⁷ It was believed that this provision, unusually inclusive of foreign-born persons, was tailor-made to accommodate the situation of one of the rulers' advisers and ensure that those in his situation would benefit from Emirati citizenship from the start.⁵⁸ Another way of reading this expansive provision could be as an attempt to recognize as citizens the hundreds of Zanzibaris of Omani origin who had been welcomed by the sheikhs of Abu Dhabi and Dubai upon fleeing the young state of Tanzania where they had been persecuted after 1964.⁵⁹ For reasons not discernible from the archival record, this is the only substantive nationality acquisition provision of the early draft of the law which was deleted in the final law promulgated in 1972. However, the 1972 Law did provide a similar opening for naturalisation in the UAE for persons of Omani origin as well as

⁵³ See Federal Law No. 17 of 1972 on Nationality and Passports, at Article 43, ensuring that passports issued by individual Emirates at the time of the law's promulgation would remain until withdrawn or replaced by new passports by the Minister of Interior.

⁵⁴ Executive regulations of the Nationality and Passports Law 1972, *supra* note 52.

⁵⁵ In Arabic: بيان احصائي

⁵⁶ The only census carried out across the Trucial States before independence took place in April 1968. The most authoritative survey of tribes relied on by the British and Emirates' authorities alike was John Lorimer's *Gazetteer*. John Gordon Lorimer, *Gazetteer of the Persian Gulf, 'Omān, and Central Arabia* (Superintendent Government Print., India, 1915).

⁵⁷ Union of Arab Emirates: Nationality proposals (Report of the Committee on Immigration, Nationality & Unification of Passports), 7 October 1969, Foreign & Commonwealth Office File FCO 8/993, p. 10, Arabian Gulf Digital Archives, <https://www.agda.ae/en/catalogue/tna/fco/8/993> (accessed on 16 October 2022).

⁵⁸ *Ibid.*

⁵⁹ Nathaniel Mathews. "The Zinjibari Diaspora, 1698-2014: Citizenship, Migration and Revolution in Zanzibar, Oman and the Post-War Indian Ocean", PhD Dissertation, Northwestern University, 2016.

Bahraini and Qatari origin (see section 3.1.4), though it is unclear to what extent this opening has benefited Zanzibaris of Omani descent fleeing persecution.

The seeds of future statelessness were planted even before the British withdrew from the Gulf, a fact that did not escape officials in the British Political Agency and in the Foreign Office.⁶⁰ Between 1964 and 1967, Dubai's ruler, Sheikh Rashid, had allowed Zanzibari refugees arriving by sea to take refuge in Dubai and reside as guests of the Sheikh. Zanzibari exiles were generally educated and affluent and Sheikh Rashid committed to treating them as brothers and extending citizenship to them.⁶¹ Subsequent rulers of Dubai issued Zanzibaris with naturalisation decrees, which Abu Dhabi officials have subjected to extensive scrutiny in the last ten years.⁶² Dubai's rulers' insistence on following a distinct economic model of development and the accompanying imperative to preserve relative autonomy in immigration policy played a significant role in this conflict. Well after Abu Dhabi had promulgated numerous orders spelling out that proof of nationality required a family book in addition to a passport, Dubai's ruler, Sheikh Mohammed Bin Rashid, issued an order mandating that all Dubai government agencies treat passport holders without final naturalisation decrees as if they were full citizens.⁶³

3. The current citizenship regime

According to Chapter 1 of the 1972 Nationality Law, citizenship can be acquired by descent, marriage, or naturalisation. Foundlings in the country are also entitled to Emirati citizenship. Original citizens of one of the constituent Emirates who can prove that they had resided in the Emirate since 1925 could claim the citizenship of the Federation in 1972. The 1972 Law also regulates withdrawal of citizenship of native as well as naturalised citizens. The main modes of acquisition and loss of citizenship in the UAE are explained below.

3.1. Modes of acquisition of citizenship

3.1.1 *Citizenship for residents of one of the Emirates before 1972*

The 1972 Nationality Law states that “every Arab individual who was a citizen of a member Emirate in 1925 or before and who continued to reside therein until the effective date of this law [in 1972]” is deemed a citizen of the UAE.⁶⁴ Thus, the decisive conditions that determined who became citizens in the years after the formation of the union, were Arab origin and long-running residency in one of the Emirates that jointly became the UAE. Their descendants were also entitled to Emirati citizenship based on the right of citizenship acquisition by descent, as described in more detail below (section 3.1.2). Additionally, persons who were not regarded as citizens by one of the Emirates but had resided in the territory a long period – since at least 1940 and until the enactment of the law in 1972, could *apply* for citizenship on the basis of a

⁶⁰ Union of Arab Emirates: Nationality proposals (Memorandum by D.J. MacCarthy from Arabian Department to the Nationality & Treaty Department), 7 October 1969, Foreign & Commonwealth Office File FCO 8/993, p. 3, Arabian Gulf Digital Archives, <https://www.agda.ae/en/catalogue/tna/fco/8/993> (in the final analysis, the British Political Agent chose not to intervene in the legislative process with to raise possible statelessness outcomes concluding that stepping in would only be necessary “where we consider that we have an inescapable international obligation to do so.”)

⁶¹ Kuzmova, *supra* note 20.

⁶² *Ibid.*

⁶³ See, for example, UAE Minister of State for Cabinet Affairs, “Proof of citizenship”, *Circular*, 19 June 1989. Available at <https://elaws.moj.gov.ae> (accessed 7 July 2022); H.H. Ruler's Court, Mohammed bin Rashid Al-Maktoum, Order from 7 April 2003 issued in Dubai (on file with author).

⁶⁴ 1972 Nationality Law, Article 2 (a).

continuous and lawful residence.⁶⁵ Other requirements that were set for the latter group included proficiency in the Arabic language, lawful source of income, good reputation, and not having been convicted of an offence involving breach of honour or trust. Those who had not resided in one of the Emirates that long prior to the formation of UAE, had the opportunity to apply for naturalisation based on Article 8 in the citizenship law as examined in section 3.1.4. Article 8 states that anyone who has resided in the country for 30 years – in which at least 20 years had to be after 1972 – and fulfilled the other conditions set in the law could apply for citizenship.

3.1.2 Citizenship by descent

The main mode of citizenship acquisition in the UAE today is acquisition by descent – patrilineal descent, in particular. An individual whose father is a citizen of the UAE is a UAE citizen by operation of law regardless of their place of birth.⁶⁶ An individual whose only Emirati parent is their mother can acquire citizenship in some circumstances. Citizenship acquisition at birth by matrilineal descent may only happen if the father is unknown or stateless.⁶⁷ These conditions apply regardless of the birthplace of the individual, whether in the UAE or abroad. An Emirati woman can also transfer her citizenship to her child if the child's filiation to the father cannot be legally substantiated.⁶⁸ This may be the case for a child whose father dies before he or she is born and the patrilineal filiation to the child cannot be established, though with modern technology and marriage registration requirement before any personal relationship, such a case is highly unlikely to take place.

Children of Emirati women and foreign fathers whose citizenship is known, cannot obtain Emirati citizenship at birth. In this case, it is expected that they acquire the citizenship of their fathers. However, the citizenship law lays out the opportunity for this group to apply for Emirati citizenship when they are six years or older.⁶⁹ This requires that the mother was an Emirati citizen at the time of the birth of the child and continues to be a citizen until the submission of the application. An Emirati woman keeps her original citizenship when she marries a foreigner unless she decides to acquire the citizenship of her husband.⁷⁰ Thus, if she keeps her original Emirati citizenship, she may apply to transmit her citizenship to her child when the child is six years old. This age restriction follows the 2017 amendment of the citizenship law.⁷¹ Previously, the children of Emirati mothers and non-citizen fathers had to wait until they turned 18 years before they could apply for citizenship in their mothers' home country. Following this amendment, over 3350 children of Emirati women were granted Emirati citizenship in 2019 by the Federal Authority for Identity, Citizenship, Customs and Ports Security (hereinafter: ICP).⁷² Though many of them were in the age range of 6 to 18, there were also individuals over 18 years who had been waiting for their applications to be approved, a process which their Emirati mothers reported could take several years.⁷³

⁶⁵ 1972 Nationality Law, Article 7.

⁶⁶ 1972 Nationality Law, Article 2 (b).

⁶⁷ 1972 Nationality Law, Article 2 (d).

⁶⁸ 1972 Nationality Law, Article 2 (e).

⁶⁹ 1972 Nationality Law, Article 10 (1) bis.

⁷⁰ 1972 Nationality Law, Article 14.

⁷¹ Federal Decree-Law No. 16 of 2017 concerning Amendment of Certain Articles of Law No. 17 of 1972 concerning Nationality and Passports, https://elaws.moj.gov.ae/UAE-MOJ_OG/10002S_2017/09-28-2017_0622M/UAE-OG_2017-09-18_00016_Markait.pdf (accessed 7 October 2022).

⁷² The National, "Thousands of children to be given Emirati citizenship", *The National*, 29 May 2019, <https://www.thenationalnews.com/uae/government/thousands-of-children-to-be-given-emirati-citizenship-1.866880> (accessed 13 June 2022).

⁷³ Shireena Al Nowais, "'This will change our lives': Emirati mothers rejoice as children granted citizenship", 29 May 2019, *The National*, <https://www.thenationalnews.com/uae/this-will-change-our-lives-emirati-mothers-rejoice-as-children-granted-citizenship-1.867176> (accessed 13 June 2022).

3.1.3 Citizenship for foundlings

The 1972 Law extends Emirati citizenship to a child born in the UAE to unknown parents.⁷⁴ Such a child is regarded as having been born in the country unless proven otherwise. In 2012, the Federal National Council's (FNC) rapporteur on health, labour and social affairs committee reported that almost 50 children are born in the UAE annually with unknown parentage.⁷⁵ In Dubai, up to five foundlings are found every year, according to figures from 2019. Emirati citizens can adopt these children if the authorities do not manage to track their biological parents. All foundlings in Dubai were adopted and living with Emirati families by 2019, and there were more Emirati families on the waiting list ready to adopt children who need a home.⁷⁶

3.1.4 Citizenship by naturalisation

Several different provisions govern naturalisation in the UAE. Naturalisation is easier for foreigners from neighbouring countries, with as little as three years residence requirement for Arabs from Bahrain, Oman or Qatar, while for non-Arabs the residence requirement is 30 years.⁷⁷ Around the time of British withdrawal from the Gulf, Bahrain and Qatar had considered becoming part of the UAE, but they eventually claimed their independence as individual states and did not join the Union in December 1971. This, along with their geographical proximity, may explain why Bahrainis and Qataris enjoy facilitated naturalisation under Emirati law. Oman shares a long border with UAE, which was not fully demarcated by the time the federation was established in 1971. The borders that were later drawn at times cut across the areas inhabited by certain tribes. Perhaps in recognition of this reality, Omanis who moved to the Emirates and resided there for three years could also become Emirati citizens through facilitated naturalisation. This was not always implemented in practice. As discussed above, one large community of Omani descent that migrated from Zanzibar (once part of the Omani Sultanate) to Dubai and other Emirates in the 1960-70s have struggled to acquire Emirati citizenship to this day.⁷⁸

Members of Arab tribes from neighbouring countries who emigrated to the UAE also benefit from the same terms and length of residence for naturalisation (three years) as those of Bahraini, Omani or Qatari origin.⁷⁹ This may be read to include tribes from other parts of the Gulf region, particularly neighbouring Saudi Arabia. For any other Arab, the residence requirement for naturalisation is seven years.⁸⁰ Non-Arabs are required to have had a continuous and lawful residence in the country for at least 30 years to be eligible to apply for Emirati citizenship.⁸¹

⁷⁴ 1972 Nationality Law, Article 2 (e).

⁷⁵ Samir Salama, "Number of children with unknown parentage increases in UAE", *Gulf News*, 27 June 2012, <https://gulfnews.com/going-out/society/number-of-children-with-unknown-parentage-increases-in-uae-1.1040856> (accessed 27 June 2022).

⁷⁶ Ramola Talwar Badam, "Lost mall boy: Up to five newborns abandoned every year in Dubai", *The National News*, 6 October 2019, <https://www.thenationalnews.com/uae/lost-mall-boy-up-to-five-newborns-abandoned-every-year-in-dubai-1.919769> (accessed 27 June 2022).

⁷⁷ Naturalisation applicants who are Arabs of Bahraini, Omani or Qatari origin can acquire citizenship after they have resided in the country lawfully and continuously for at least three years prior to the time of application. 1972 Nationality Law, Article 5.

⁷⁸ Noora Lori and Yoana Kuzmova (2021), "Who counts as "People of the Gulf"? Disputes over the Arab status of Zanzibaris in the UAE", POMEPS, <https://pomeps.org/who-counts-as-people-of-the-gulf-disputes-over-the-arab-status-of-zanzibaris-in-the-uae> (accessed 27 June 2022).

⁷⁹ 1972 Nationality Law, Article 5.

⁸⁰ 1972 Nationality Law, Article 6.

⁸¹ 1972 Nationality Law, Article 8.

The period of residence is only one of several requirements for naturalisation. The full list can be found in Article 12 bis in the 1972 Law. Article 12 bis, which applies to Arabs and non-Arab alike, states that Emirati citizenship can be granted to the applicant if he or she:

1. renounces his/her citizenship of origin or any other citizenship he/she holds.
2. has lawful and continuous residence in the country.
3. is proficient in Arabic.
4. has a lawful source of income.
5. holds an educational qualification.
6. has good reputation and good conduct.
7. has never been convicted for a felony or misdemeanour involving breach of honour or trust, unless rehabilitated.
8. obtains security approval.
9. swears allegiance to the State.

These requirements are further elaborated in the Executive Regulation of the Nationality and Passports Law.⁸²

The 1972 Law does exempt one group from the long residence period of up to 30 years: people who have “provided outstanding services to the State.”⁸³ The 2017 amendment of the Law extended an additional option to bypass the general naturalisation requirements, allowing the President to issue a decree granting Emirati citizenship by naturalisation or by operation of law to any person without regard to the residence period and the conditions set forth in the law.⁸⁴ In 2020, yet another route to naturalisation was added, which also cast aside all requirements under Article 12 bis. This route, under Article 9 bis, is available to “investors, businessmen, highly skilled workers and individuals with exceptional talents.” Article 12 bis was changed in 2020 by adding that “it is permitted to exempt those who acquire citizenship according to Article 9 bis of this law from all or some of the requirements for citizenship acquisition.” Article 11 of the 1972 Law, also amended in 2020, states that people who receive citizenship based on Article 9 bis are exempted from the requirement to renounce their original citizenship in order to naturalise. This provision conflicts with the Constitution of 1996 which states that “the citizens of the UAE shall have a single nationality specified by law.”⁸⁵

When a man is naturalised, on any basis, his wife and minor children also have the right to acquire Emirati citizenship. The wife of a naturalised man gets naturalised too if she renounces her original citizenship. The children become naturalised citizens, though they can choose to return to their original citizenship during the first year after they reach the age of majority, defined under the law as 21 Gregorian years.⁸⁶ After the amendment of 2020, an exemption was made here too for those naturalised under Article 9 bis. The amended Article 10 now states that when naturalisation occurs under Article 9 bis, “it is permitted to grant it to the wife

⁸² Government sources assert that the Executive Regulation was last amended in January 2021 (<https://u.ae/en/information-and-services/passports-and-traveling/emirati-nationality>), but to the authors' knowledge the most recent version is not public. The version found on the website of the Ministry of Justice was last amended in 1988 https://elaws.moj.gov.ae/UAE-MOJ_LC-Ar/00_%D8%AC%D9%86%D8%B3%D9%8A%D8%A9%20%D9%88%D8%A7%D9%82%D8%A7%D9%85%D8%A9/00_%D8%A7%D8%AF%D8%A7%D8%B1%D8%A9%20%D8%A7%D9%84%D8%AC%D9%86%D8%B3%D9%8A%D8%A9/00_%D8%A7%D9%84%D8%AC%D9%86%D8%B3%D9%8A%D8%A9%20%D9%88%D8%AC%D9%88%D8%A7%D8%B2%D8%A7%D8%AA%20%D8%A7%D9%84%D8%B3%D9%81%D8%B1/UAE-LC-Ar_1972-12-31_00002_Karmaj.html?val=AL1#Anchor12 (accessed 16 October 2022). The authors were therefore not able to examine the current executive regulations of the law, including the procedures for applications for naturalisation.

⁸³ 1972 Nationality Law, Article 9 (1).

⁸⁴ 1972 Nationality Law, Article 9(1).

⁸⁵ Constitution of 1996, Article 8.

⁸⁶ 1972 Nationality Law, Article 10.

and minor children" – without demanding them to choose between the Emirati citizenship and their original citizenship.

Federal Law No. 17 of 1972 in Articles 19 and 20 states that the authorities empowered to review requests for naturalisation are the Minister of Interior whose task it is to form a committee to review the applications for naturalisation. Naturalisation requires the issuance of a decree (*marsum*) requested by the Minister of Interior and approved by the Council of Ministers. In practice, while a Naturalization, Residency and Ports Committee exists within the UAE's Ministry of Interior,⁸⁷ no publicly available information concerning how one may apply for naturalisation exists to the authors' knowledge.

According to civil servants in the Dubai Nationality and Residency Department (hereinafter: DNRD), the naturalisation process requires vetting on multiple levels; applicants must first be approved as citizens of a specific Emirate before their cases are sent to the federal level.⁸⁸

This dual process means that applicants not only have to demonstrate their continuous residence in the UAE without any substantial breaks, but also must show that they resided in the same Emirate for the entire period (30 years for non-Arabs). According to the DNRD officials, an applicant must begin the process through the residency and naturalisation administration in their Emirate of residence, and only after the application is approved at the Emirate level is it passed on to the federal naturalisation and residency administration in Abu Dhabi. At the federal level, a 7-person committee reviews the application and interviews the applicant, making the ultimate decision about whether they will be naturalised. The review process alone can take years. Once the council approves the application, the Emirate-level administration issues a passport to the resident. However, only the Ministry of Interior in Abu Dhabi can issue the more important nationality document ('family book,' or *Khulasat al qaid*)⁸⁹ that gives citizens access to state benefits.⁹⁰

Complete naturalisation thus involves acquiring two separate documents, the passport and the separate 'family book.' The latter is issued to all married male UAE citizens and to unmarried women older than thirty-four by the ICP. The 'family book' is required for public education enrolment, state services, the courts, the issuance of new passports, and other interactions with the authorities. As an example, when an Emirati man marries a woman from another Emirate, he must show her name on his family book and apply for a new passport on her behalf reflecting the new Emirate she is now a part of.⁹¹

Though the family book is not mentioned anywhere in the 1972 Nationality Law, possession of one has played a significant role in culling out from the pool of UAE passport holders those whose families belonged to a local tribe or could prove that their ancestors had resided in the Emirates since before 1925. It includes reference to the holder's tribal origin which conforms to an official list of tribes maintained by the Ministry of Interior.⁹²

⁸⁷ UAE Ministry of Interior. Searching the Mol's website for the term "naturalisation" delivers information about two events held by the Naturalization, Residence and Ports Committee. See, for example, <https://www.moi.gov.ae/en/media.center/news/9420214.aspx> (accessed on 24 July 2022).

⁸⁸ Noora Lori, "Unsettling State: Non-Citizens, State Power and Citizenship in the United Arab Emirates", *PhD Dissertation*, Oct. 2013, at 168-169.

⁸⁹ In Arabic: خلاصة القيد

⁹⁰ Lori, *supra* note 88, at 169.

⁹¹ *Ibid.*

⁹² UAE Federal Authority for Identity, Citizenship, Customs & Port Security, "ID card renewal service through typing offices from 03/02/2011", <https://icp.gov.ae/en/media-center/id-card-renewal-service-through-typing-offices-from-03-02-2011/> (accessed on 24 July 2022).

3.1.5 Citizenship by marriage

The foreign wife of an Emirati man can apply for Emirati citizenship on the basis of her marriage to an Emirati, once they have been married for seven (if the couple has a child) or ten years (if there are no marital children).⁹³ Even if the woman is divorced or widowed before she acquires Emirati citizenship, she can acquire it if she has an Emirati child. However, this requires that she is still residing in the UAE and that she has either not re-married or has married another Emirati citizen.⁹⁴ Conversely, if a foreign woman has no children upon her divorce or death of her husband, or if she remarries to a non-citizen, her application for Emirati citizenship will be cancelled. If a foreign woman obtained Emirati citizenship before the death of her husband, she may keep the Emirati citizenship unless she remarries to a foreigner, chooses to reclaim her original citizenship, or obtains another citizenship.⁹⁵ The latter condition is connected to the general ban on dual citizenship in the country (for more on this, see section 3.2.3). Almost 6000 Emirati men married foreign women between 2017 and 2019.⁹⁶

The law does not allow an Emirati wife to transmit her citizenship to a foreign husband. A foreign husband must therefore follow the ordinary procedures for naturalisation if he wants to acquire Emirati citizenship, which could include up to 30 years residency in the UAE if he is non-Arab. An increasing number of Emirati female citizens are marrying non-citizens, though it is less common for Emirati women compared with men to take foreign spouses. In 2010, the number was 737, an increase of 15 per cent from the year before.⁹⁷ Emirati women married to foreigners are thus less likely to live with spouses who have been naturalised citizens. This can cause problems particularly during inter-state disputes, such as the Gulf Crisis starting in June 2017 between Qatar, on the one hand, and the UAE, Saudi Arabia, and Bahrain, on the other. All Qatari citizens were asked to leave the UAE within 14 days when the conflict began. Amnesty International reported that this ripped families apart, including a Qatari husband and a Emirati wife who all the sudden were separated when the man was denied entry to the UAE, where he had resided with his family for more than 10 years.⁹⁸ However, shortly after the Amnesty International report, the UAE - along with Saudi Arabia - exempted Qatari spouses from the sanctions imposed on Qatari citizens married to Emirati spouses.⁹⁹ It is worth noting that when such state sanctions are imposed without exemptions, they can also affect the children of Emirati women who usually hold their father's citizenship and cannot acquire Emirati citizenship by birth.

3.2 Modes of loss of citizenship

3.2.1 Revocation of citizenship

In 2017, the UAE extended the possibility to revoke the citizenship of Emiratis by birth and naturalisation alike. A new article was added to the 1972 Nationality Law, which stresses that

⁹³ 1972 Nationality Law, Article 3 (1).

⁹⁴ 1972 Nationality Law, Article 3 (2).

⁹⁵ 1972 Nationality Law, Article 4.

⁹⁶ Haneen Dajani, "UAE minister asked about security checks for expats who marry Emiratis", *The National*, 26 May 2021, <https://www.thenationalnews.com/uae/government/uae-minister-asked-about-security-checks-for-expats-who-marry-emiratis-1.1230251> (accessed 28 June 2022).

⁹⁷ Manal Ismail, "More Emirati women marrying foreigners", *The National*, 10 April 2011, <https://www.thenationalnews.com/uae/more-emirati-women-marrying-foreigners-1.443834> (accessed 28 June 2022).

⁹⁸ Amnesty International, "Families Ripped Apart, Freedom of Expression Under Attack Amid Political Dispute in Gulf," 9 June 2017, <https://www.amnesty.org/en/latest/press-release/2017/06/families-ripped-apart-freedom-of-expression-under-attack-amid-political-dispute-in-gulf/> (accessed 22 July 2022).

⁹⁹ Haneen Dajani and Taimur Khan, "Saudi Arabia and the UAE exempt Qatari spouses caught in GCC crisis", *The National*, 11 June 2017, <https://www.thenationalnews.com/world/saudi-arabia-and-the-uae-exempt-qatari-spouses-caught-in-gcc-crisis-1.42885> (accessed 22 July 2022).

individuals who have committed crimes of terrorism or that threaten the country's external security, could be punished with withdrawal of citizenship. The Article states that a citizen can be deprived of his citizenship in the following cases:

1. If he is convicted for (*sic*) any of the terrorist offenses provided for in the Law on Combating Terrorist Offences.
2. If he is convicted of an offence that threatens the external security of the State and that is punishable in accordance with the Federal Penal Code or other offences which are considered to be a threat to the external security of the State in accordance with the laws in force in the State.¹⁰⁰

Such cases must be heard by the Abu Dhabi Federal Court of Appeal, and all prosecution offices in the country must raise such cases to the Federal Court for judicial proceedings. Sentences on citizenship revocation in these cases can be appealed to the Federal Supreme Court.¹⁰¹ However, in cases other than the two mentioned above, the decisions on citizenship deprivation are made by federal decrees. The court cannot overturn such decrees.¹⁰² This includes:

if he is convicted, by a final judgement, for an offence prejudicing the internal security of the State and which is punishable in accordance with the Federal Penal Code, or other offences which are considered to be a threat to the internal security of the State as per the laws in force in the State.¹⁰³

Though the scope of citizenship deprivation was broadened in 2017, the 1972 Law has always allowed stripping the citizenship of anyone who “engages in military service for a foreign State without a permission from the State, and he has been ordered to leave said service but has refuted (*sic*) to do so” or “has acted for the benefit of a hostile nation.”¹⁰⁴ Since its initial promulgation, the law has also contained a ban on dual citizenship, resulting in deprivation of citizenship of anyone who “willingly becomes a naturalised national of a foreign state.” An exemption from this prohibition introduced in 2020 will be examined in more detail in section 3.2.3.¹⁰⁵

In the 2010s, Emirati authorities revoked the citizenship of dozens of individuals. Many of these revocations took place before the 2017 extension of the power to strip citizenship of citizens by operation of law. Among the best-known cases are those of the so-called “UAE94,” a group of 94 Emirati dissidents who were prosecuted and sentenced in 2013 for calling for political reforms such as direct elections and a parliament with legislative powers. The authorities accused them of plotting to overthrow the regime. They received long prison sentences, and some had their citizenship revoked. One of them was Abdul Salam Darwish al-Marzouki, who worked as a teacher and public servant in the UAE prior to his arrest in 2012. Six of the “UAE94” were stripped of their citizenship already in December 2011, the year before the series of arrests against the critics took place.¹⁰⁶

Family members of dissidents have faced deprivation of citizenship and other types of persecution, a move that human rights groups call an act of “collective punishment”. This includes the wife and two sons of Darwish al-Marzouki who found their citizenship revoked

¹⁰⁰ 1972 Nationality Law, Article 14 bis.

¹⁰¹ 1972 Nationality Law, Article 14 bis.

¹⁰² 1972 Nationality Law, Article 20.

¹⁰³ 1972 Nationality Law, Article 15 bis.

¹⁰⁴ 1972 Nationality Law, Article 15.

¹⁰⁵ 1972 Nationality Law, Article 15.

¹⁰⁶ Amnesty International, ““There is no freedom here”: Silencing dissent in the United Arab Emirates (UAE)”, 18 November 2014, <https://www.amnesty.org/en/documents/mde25/0018/2014/en/> (accessed 4 July 2022).

while they were on a trip for medical treatment in the United States of America (USA).¹⁰⁷ According to Human Rights Watch (hereinafter: HRW), 19 relatives of two dissidents were deprived of their Emirati citizenship between 2012 and 2019. Besides citizenship revocations, family members of imprisoned or exiled dissidents have been banned from leaving the country, while others have been refused renewal of their identity documents. HRW has called these measures “arbitrary and unjustified” because the legal basis of this treatment of relatives, including the citizenship revocations, is unclear.¹⁰⁸ At least one individual whose citizenship had been stripped appealed the withdrawal to the Federal Supreme Court.¹⁰⁹ The Court dismissed the appeal on procedural grounds without addressing the merits of the allegation that Articles 15 and 16 of the 1972 Nationality Law are unconstitutional and that the government’s act of withdrawing the appellant’s family book and passport were unlawful.

3.2.2 Denaturalisation of naturalised citizens

There are specific circumstances in which naturalised citizens and their descendants can be deprived of Emirati citizenship. Firstly, they may lose their UAE citizenship if convicted of additional criminal offences besides those discussed in 3.2.1. above which also apply to citizens by birth. The law states that “repeated conviction for offences connected to honour or security” can lead to the withdrawal of Emirati citizenship of naturalised citizens. Secondly, citizenship can be withdrawn if it appears that citizenship was obtained through “falsification, fraud or adulteration” of the documents that were used for naturalisation. Thirdly, denaturalisation can be a consequence of “residence outside the State without excuse for a continuous period exceeding two years.” Before 2017, the residence period abroad without excuse that justified denaturalisation was four years. Lastly, naturalised citizens cannot “exercise citizenship rights in any other country.” The exemption from this prohibition is examined in section 3.2.3 below. Furthermore, if a naturalised citizen has his citizenship withdrawn, the authorities have the authority to denaturalise his minor children as well as his wife who may have obtained UAE citizenship.¹¹⁰

According to a source in the Federal Authority for Identity, Citizenship, Customs and Ports Security, six individuals – members of the group of dissidents later known as “UAE94” – who had their citizenship revoked in December 2011, “originally were holders of citizenship in other countries and acquired citizenship by naturalisation” in the UAE. They were stripped of their citizenship because they “conducted acts that threaten the security and peace of the country.”¹¹¹ These 2011 cases of citizenship revocations were thus justified by the government’s powers to withdraw the citizenship of naturalised citizens. However, according to Amnesty International, those whose citizenship was revoked did not hold any other citizenship, and, therefore, they became stateless.¹¹² None of the 1972 Nationality Law’s revocation provisions in Articles 14 bis, 15, 15 bis, and 16 include a safeguard against

¹⁰⁷ The International Campaign for Freedom in the United Arab Emirates (ICF UAE), “Factsheet: The UAE Collective Punishment Policy On Families Of Prisoners Of Conscience”, 27 June 2022, <https://www.icfuae.org.uk/research-and-publications-factsheets/uae-collective-punishment-policy-families-prisoners-conscience> (accessed 4 July 2022).

¹⁰⁸ Human Rights Watch (HRW), “UAE: Unrelenting Harassment of Dissidents’ Families”, 22 December 2019, <https://www.hrw.org/news/2019/12/22/uae-unrelenting-harassment-dissidents-families> (accessed 4 July 2022).

¹⁰⁹ UAE Federal Supreme Court, Case No 3 of 2013 decided on 6 November 2013, available online at <https://www.moj.gov.ae/ar/about-moj/union-supreme-court/e-services/latest-court-interpretations.aspx#page=1> (accessed 16 October 2022).

¹¹⁰ 1972 Nationality Law, Article 16.

¹¹¹ Emerat Al-Youm, “Withdrawal of Emirati citizenship of six persons due to their involvement in offense against the country’s security” (original title: “سحب الجنسية الإماراتية من 6 أشخاص لتورطهم بالمساس بأمن الدولة”), *Emerate Alyoum*, 22 December 2011, <https://www.emaratalyoum.com/local-section/other/2011-12-22-1.447078> (accessed 4 July 2022).

¹¹² Amnesty International, ““There is no freedom here”: Silencing dissent in the United Arab Emirates (UAE)”, 18 November 2014.

statelessness, in contravention of the Universal Declaration of Human Rights and other sources of international human rights law.¹¹³

3.2.3 Loss of citizenship in cases of dual citizenship

The Constitution expressly prohibits dual nationality.¹¹⁴ In 2020, an exemption was introduced in the 1972 Nationality Law for “investors, businessmen, highly skilled workers and individuals with exceptional talents” who could receive Emirati citizenship under Article 9 bis in the nationality law. The law allows this group to keep their original citizenship when taking Emirati citizenship. Nevertheless, after acquisition of the Emirati citizenship, they risk losing their citizenship in the UAE if they voluntarily choose to naturalise in another country.¹¹⁵ An amendment to the Constitution has not been introduced to reflect this exception, so, strictly speaking, dual nationality remains unconstitutional.

In all other cases, individuals need to renounce their original citizenship or any other citizenship they possess in order to be granted Emirati citizenship. Once they are Emirati citizens, they cannot obtain another citizenship. For native and naturalised citizens alike, obtaining another citizenship entails losing Emirati citizenship.¹¹⁶ Furthermore, the 1972 Nationality Law specifies that Emirati women who are married to foreigners lose their Emirati citizenship if they choose to obtain the citizenship of their husbands.¹¹⁷

Everyone who loses Emirati citizenship due to the acquisition of another citizenship can restore it if they renounce the new citizenship. This includes Emirati women who acquired the citizenship of their husbands, but who due to the death of their husbands, abandonment, or divorce, wish to return to the Emirati citizenship and renounce their obtained foreign citizenship. Though citizenship acquisition for children of Emirati women and foreign fathers is restricted, as examined in section 3.1.2, the children of an Emirati woman can apply for Emirati citizenship if they reside in the country and show willingness to renounce the citizenship they have from their father.¹¹⁸

Except in cases in which a citizen chooses to obtain another citizenship, or other incidents as stated in the law which might lead to the loss of Emirati citizenship, the citizenship law does not contain clauses that enable citizens to voluntarily renounce their Emirati citizenship.

Children who lose their Emirati citizenship can apply for its restoration upon reaching the age of majority, which is 21 under the Nationality Law.¹¹⁹

3.3. Specific rules and status for certain groups

3.3.1. Long-standing residents and their UAE-born descendants, stateless persons (Bidoon)

As the UAE developed into a commercial hub over the last five decades, it attracted a tremendous number of foreign residents, all of whom were admitted as temporary guest

¹¹³ UN Human Rights Council, ‘Human rights and arbitrary deprivation of nationality: Report of the Secretary General’, A/HRC/25/28 (2013), p. 3.

¹¹⁴ Constitution of 1996, Article 8 (“The citizens of the UAE shall have a single nationality specified by law”).

¹¹⁵ 1972 Nationality Law, Article 11.

¹¹⁶ 1972 Nationality Law, Article 15 (c).

¹¹⁷ 1972 Nationality Law, Article 14.

¹¹⁸ 1972 Nationality Law, Article 17.

¹¹⁹ 1972 Nationality Law, Article 18.

workers. In practice, however, a large proportion of this migrant population has permanently settled with a second and in some cases even third generation born in the UAE.¹²⁰

The history, laws, and policy of the UAE, as well as the country's ongoing consolidation of federal power serve as conditions that enable the growth of a stateless population. Statelessness can result when a child is born to two stateless parents, including within the inter-generational '*Bidoon*' community in the country. Children can also be born into statelessness if the mother is Emirati and the father is non-Emirati and cannot confer his citizenship to his children.¹²¹ Although an Emirati woman can by operation of the law transfer her citizenship to her children when the father is stateless, this is not always implemented in practice.¹²² Statelessness could also result as the descendants of migrants lose their ability to claim nationality from their parents' or grandparents' states of origin, or when an Emirati is stripped of nationality.

Ever since the early 2000s, the phenomenon of statelessness in the UAE has been noted in the United States Department of State's annual Human Rights Practices report on the UAE.¹²³ At first, the report identified a small population of residents, many of whom had lived in the UAE for over a generation and whose ancestors were from Iran, Zanzibar and South Asia, but also Bedouins whose ancestral homelands became the UAE. Among the hardships encountered by stateless residents, the report notes that lack of official identification documents excludes the stateless from being able to enrol in school, secure a work permit, open a bank account or travel outside the country, among other issues. The 2007 Human Rights report expands on the previous information by specifying that the United Nations High Commissioner on Refugees (UNHCR) estimates there are at least 20,000 stateless individuals in the UAE.¹²⁴ The number of stateless residents in the UAE has never been officially confirmed but research by Refugees International in 2005 estimated them at around 100,000.¹²⁵

Around the same time as the initial mention of statelessness as a human rights concern in the US Department of State's report, UAE-based newspapers published a series of reports describing the deplorable situation of stateless UAE residents.¹²⁶ In 2006, the Minister of Interior, Sheikh Saif bin Zayed Al Nahyan, was quoted by the government site "UAEinteract"

¹²⁰ A 2009 Labour Force Survey indicates that a quarter of all non-nationals in the UAE are under the age of 15. (Federal Competitiveness and Statistics Authority, 2010); see also Noora Lori, "Temporary Migrants' or Permanent Residents? The Kafala System and Contestations over Residency in the Arab Gulf States", Center for Migrations and Citizenship, *Institut Français des Relations Internationales* (November 2012), <https://www.ifri.org/en/publications/notes-de-lifri/temporary-workers-or-permanent-migrants-kafala-system-and-contestations> (accessed on 24 July 2022).

¹²¹ See section 3.1.2. for the legal basis for applying for Emirati nationality when only the mother is Emirati.

¹²² Betsy L. Fisher, "Gender discrimination and statelessness in the Gulf Cooperation Council states", *Michigan Journal of Gender & Law* 23, no. 2 (2016), p. 283. Available at: <http://repository.law.umich.edu/mjgl/vol23/iss2/1>

¹²³ For example, the 2006 report, <http://www.state.gov/j/drl/rls/hrrpt/2006/78865.htm> (accessed 16 October 2022).

¹²⁴ Over the years, UNHCR's published data on statelessness in the UAE has changed. Estimates that UNHCR may have offered the United States' State Department cannot be gleaned and are not recorded in currently available data on UNHCR's website, which suggests that in the last forty years, the only stateless persons in the UAE were five individuals counted in 2020.

¹²⁵ Maureen Lynch, "Lives on Hold: The Human Cost of Statelessness", Refugees International (2005), p. 21.

¹²⁶ *Khaleej Times*, "Stateless residents: a social reality that requires attention", 23 March 2006, <http://khaleejtimes.com/nation/general/stateless-residents-a-social-reality-that-requires-attention> (accessed 11 October 2022). The article relates an acknowledgement by the Human Rights Department of the Dubai Police that there is a "small population" of stateless residents in the UAE. It goes on to tell the story of a Palestinian resident of Ajman since 1960 who bemoans that the new rules in place in 2006 have made it so that her children cannot change jobs and her grandchildren cannot access education because they do not have the necessary documents. Yet, the long-term resident of Ajman whose children and grandchildren were all born in the UAE cannot go back to the Palestinian Territories as they do not have a right to reside there either.

as saying that a “solution to the Bedouins [*sic*] problem is imminent.”¹²⁷ The story reported on the creation of a committee within the Interior Ministry that was working on “a list of the stateless people who are entitled to UAE citizenship after proving that they have lived here prior to creation of the UAE federation.” By implication, the stateless persons who arrived in the UAE after the founding of the federation were not to be included in the effort.

In 2006, the government announced the naturalisation of 1294 persons who had proof that they had resided in the UAE since before its establishment and had no previous nationality or criminal background.¹²⁸ The article suggests that the naturalisation selection process is not application-based but rather relies on a top-down determination of eligibility. As described in the article, “the eligible persons were summoned to the Ministry and given their new passports.”

In 2008, the Ministry of Interior launched a country-wide registration effort for persons without nationality documents which was linked to the prospect of naturalisation.¹²⁹ This registration was introduced as a final opportunity for those holding no nationality documents to present themselves to the government and be assessed for naturalisation.

The five categories of persons eligible to register were listed on the application form as:

1. Persons who have UAE passports but no family book [*khulasat al-qaid*];
2. Persons for whom UAE naturalisation decrees have been issued and who hold no other nationality;
3. Persons who have at one point registered for naturalisation and whose application was accepted but were never issued UAE naturalisation decrees and who hold no other nationality;
4. All persons who hold no identification documents;
5. All persons who hold no identification documents or are known as “without nationality” [*Bidoon*].¹³⁰

The term used to describe the regularisation candidates in the fifth category, ‘*bidoon*’, was disfavoured by the Emirati authorities.¹³¹ Nevertheless, the word is widely used. The five groups represent distinct strata of Emirati society, but the registration, for the first time, administratively collapsed them into one process, with a single immediate outcome. In 2008-09, registrants were issued a card bearing their photo and identifying the carrier as someone who does not have nationality documents. The carriers of these cards affectionately called them “gold cards” after the colour of the plastic.¹³²

By 2008, the distinction between UAE passport holders with and without family books had for the first time become visible in their everyday identification documents, when the authorities

¹²⁷ UAEinteract story from 26 October 2006, titled “Solution to Bedouins problem imminent: Interior Minister” (The UAEinteract website has since been shut down, copy on file with author).

¹²⁸ Emirates News Agency-WAM, “Bedoons in UAE to be naturalized”, 27 December 2006, <http://wam.ae/en/details/1395227769304> (accessed 11 October 2022).

¹²⁹ Emirates News Agency, “MoI sets panel to close file of stateless persons”, 3 September 2008, <http://wam.ae/en/details/1395228180581> (accessed 11 October 2022), and UAEInteract, “7,873 Applications Distributed to Stateless Persons”, 8 September 2008.

¹³⁰ This list was provided to one of the authors by a person who registered in the regularisation drive who obtained it upon filling out his application.

¹³¹ Khaleej Times, “Stateless residents: a social reality that requires attention,” 23 March 2006, <http://khaleejtimes.com/nation/general/stateless-residents-a-social-reality-that-requires-attention> (accessed 11 October 2022).

¹³² “Gold cards” should not be confused with the Golden Visa, introduced in the UAE in 2019, which allows its holders ten-year renewable residency in the country. The scheme is only open for certain categories of individuals such as investors and highly-skilled workers. See: “Getting the Golden visa”, <https://u.ae/en/information-and-services/visa-and-emirates-id/residence-visa/getting-the-golden-visa> (accessed 11 October 2022).

began issuing the Emirates ID in 2004.¹³³ By making the possession of an Emirates ID essential for everyday life in the UAE, the federal Ministry of Interior created a stark and digitised dividing line between “real” Emiratis and those whom separate Emirates had endowed with UAE passports at their Rulers’ discretion.¹³⁴

Later, the UAE Ministry of Interior demanded that all those registered in 2008 should acquire another country’s passport in order to qualify for Emirati naturalisation, reinforcing the idea that the 2008-09 regularisation drive was a way of identifying and excluding the stateless rather than qualifying them for citizenship. Through a secret agreement between the UAE and Comoros, thousands of individuals in the UAE were granted Comoros passports.¹³⁵ An investigation of records leaked by a Comorian parliamentary Commission of Inquiry tasked with evaluating the legality of the scheme suggested in 2017 that the number of passports issued was at least 50,000.¹³⁶ The leaked report and associated data suggest that the legislators on the Commission concluded that the scheme was illegal under both national and international law, and operated in a manner that prejudiced Comorian national interests. The Commission recommended eliminating the program and pausing the renewal of passports issued under it. Though informants who hold these passports had shared that renewals appeared to have stopped around 2019 and for the first year of the COVID-19 pandemic, but renewals restarted in 2022. Around the same time, the UAE announced the extension of significant development aid to the Union of Comoros.¹³⁷

4. Current political debates and reform plans

As discussed in section 2.1, UAE citizens lack a deliberative forum to openly debate citizenship. Given this political reality and the pervasive censorship and self-censorship of the local media, public opinion on citizenship matters is hard to gauge.¹³⁸ Government policy and internal contestation that may exist among various branches of the federal or local

¹³³ Jamal, *supra* note 39 at 606. (“Most notably, in 2004, the UAE instituted the Emirates Identification Card which links every individual to his/her own personal and biological lifetime data. ...Whereas previously, the possession of a passport implied citizenship, the Identification Card indicates whether the individual possesses *khulasat al-qaid*, and only those individuals who possess *khulasat al-qaid* are regarded as UAE citizens (as approved by the federal government) and entitled to state services.”)

¹³⁴ Bassma Al Jandaly, “Emirati passports not enough for IDs,” *GulfNews*, 27 October 2008, <https://www.pressreader.com/uae/gulf-news/20081027/281573761526033> (accessed on 23 July 2022),

¹³⁵ Noora Lori, *Offshore Citizens: Permanent Temporary Status in the Gulf* (Cambridge University Press: 2019), 204-205.

¹³⁶ Union of Comoros National Assembly, “Rapport de synthèse, rapport de la Commission d’Enquete Parlementaire sur la loi relative à la citoyenneté économique” [“Synthesis report, report of the Parliamentary Enquiry Commission into the law relating to economic citizenship”] (2017), <https://tinyurl.com/y7mtq282> (accessed 24 June 2022).

¹³⁷ MEMO Middle East Monitor, “UAE to Set up Dialysis Units, Childcare Centres in Comoros,” *Middle East Monitor* (blog), 24 July 2022, <https://www.middleeastmonitor.com/20220724-uae-to-set-up-dialysis-units-childcare-centres-in-comoros/> (accessed 16 June 2022).

¹³⁸ Abdul Hamid Ahmad, “Self-censorship virus plagues media,” *GulfNews*, 3 May 2005, <https://gulfnews.com/uae/self-censorship-virus-plagues-media-1.286464> (accessed 16 June 2022); Christopher Davidson, “Dubai’s stifled voice: censorship vs progress in the UAE”, *OpenDemocracy*, 22 October 2008, <https://www.opendemocracy.net/en/dubai-s-stifled-voice-censorship-vs-progress-in-the-uae/> (accessed 20 October 2022); Naomi Hunt, “Journalism Professor and Columnist Speaks out on Press Freedom in the U.A.E. and How he Lost his Job”, 3 September 2012, International Press Institute, <https://ipi.media/journalism-professor-and-columnist-speaks-out-on-press-freedom-in-the-u-a-e-and-how-he-lost-his-job/> (accessed 20 September 2022); “Ugandan journalist’s damning account of UAE media censorship”, Reporters without Borders, 19 June 2014, <https://rsf.org/en/ugandan-journalists-damning-account-uae-media-censorship> (accessed 24 June 2022); Freedom House has repeatedly ranked the UAE as “not free”, see <https://freedomhouse.org/country/united-arab-emirates/freedom-world/2022> (accessed 20 October 2022).

governments is also hard to discern from policy choices. Since 2004, when Sheikh Seif bin Zeid al Nahyan became Minister of Interior, the centralisation of citizenship policy has allowed Abu Dhabi to scrutinise and effectively undo previous naturalisations for which decrees were issued in the other six Emirates.¹³⁹ Though resisted by Dubai, this centralisation has effectively tied individual Emirates' hands to do anything to help stateless residents, though efforts to alleviate hardship for Comoros passport holders have been reported in Ras-al-Khaimah, where local authorities have helped the stateless with housing.¹⁴⁰

Scholarship, foreign media, and sparse government announcements point to three areas of ongoing controversy. These interconnected but distinct areas are the new rules on naturalisation of exceptional migrants, women's nationality rights, and the fate of the UAE's stateless residents. The order of discussion below follows the extent of the Emirati government's acknowledgement of each issue.

4.1. Elite naturalisation

The Emirati commentator and columnist Sultan Sooud Al Qassemi argued in a 2013 opinion piece that long-term exceptional immigrants should be given access to Emirati nationality.¹⁴¹ The article brought on an onslaught of Twitter responses that signalled the existence of a vocal opposition to a more inclusive nationality law among the UAE's social media using citizenry.¹⁴²

In early 2021, UAE's Prime Minister and Ruler of Dubai, Sheikh Mohammed bin Rashid, announced that the UAE would offer naturalisation to individuals of high professional qualifications or net worth.¹⁴³ In effect, this policy neatly aligned with Al-Qassemi's recommendation from 2013, but public response was muted.¹⁴⁴ It is impossible to tell if this reflects the growing acceptance of the policy or an increase in the public's self-censorship around issues of citizenship. Since the announcement, few reports have followed up on the new rules' implementation.¹⁴⁵ Commentators have pointed out that the message implicit in this scheme is that Emirati citizenship is a privilege, a reward for exceptional abilities, and that it is ultimately a revocable contract.¹⁴⁶

¹³⁹ Kuzmova, *supra* note 20.

¹⁴⁰ Anna Zacharias, "Special Report: Ten Years on, the UAE's Stateless People Reflect on How Life Has Improved and on the Challenges Ahead," *The National*, 5 September 2018, <https://www.thenationalnews.com/uae/special-report-ten-years-on-the-uae-s-stateless-people-reflect-on-how-life-has-improved-and-on-the-challenges-ahead-1.767367> (accessed 16 June 2022).

¹⁴¹ Sultan Sooud Al Qassemi, "Give expats an opportunity to earn UAE citizenship", *GulfNews*, 22 September 2013, http://sultanalqassemi.com/wp-content/uploads/2021/06/screenshot-gulfnews-opinion-op-eds-give-expats-an-opportunity-to-earn-uae-citizenship-1-1234167-2021-06-06-16_21_56.png (accessed 15 June 2022).

¹⁴² Mira Al-Hussein, "The Economic Contracts of New Gulf Citizeships," *Orient XXI*, 30 December 2021, <https://orientxxi.info/magazine/the-economic-contracts-of-new-gulf-citizenships,5265> (accessed 16 June 2022).

¹⁴³ Kristian Alexander and Leonardo Jacopo Maria Mazzucco, "Breaking the Citizenship Taboo in the UAE," *Middle East Institute*, 7 April 2021, <https://www.mei.edu/publications/breaking-citizenship-taboo-uae> (accessed 16 June 2022).

¹⁴⁴ *Ibid.* but see, Aythar Musa, "Criteria for obtaining Emirati citizenship" (original title: "ضوابط الحصول على الجنسية الإماراتية") (blog), 9 June 2019, <https://www.mohamah.net/law/%d8%b6%d9%88%d8%a7%d8%a8%d8%b7-%d8%a7%d9%84%d8%ad%d8%b5%d9%88%d9%84-%d8%b9%d9%84%d9%89-%d8%a7%d9%84%d8%ac%d9%86%d8%b3%d9%8a%d8%a9-%d8%a7%d9%84%d8%a5%d9%85%d8%a7%d8%b1%d8%a7%d8%aa%d9%8a%d8%a9/> (accessed 16 June 2022) (expressing an early alarm at the possibility of liberalising access to naturalisation and warning that such change in policy could have disastrous consequences).

¹⁴⁵ See, e.g., Ramola Talwar Badam, "Abu Dhabi Professor Tells of Pride at Receiving UAE Citizenship under New Scheme," *The National*, 6 May 2021, <https://www.thenationalnews.com/uae/government/abu-dhabi-professor-tells-of-pride-at-receiving-uae-citizenship-under-new-scheme-1.1217679> (accessed 16 June 2022).

¹⁴⁶ Al-Hussein *supra* note 142.

4.2. Women's nationality rights

As discussed in section 3.1.2., a child born to an Emirati father is an Emirati citizen by operation of law. By contrast, Emirati women married to non-citizens can apply for their children to obtain Emirati nationality. The entitlements such children enjoy are inferior to the care provided by the state for the children of Emirati men. While the UAE has taken steps towards advancing gender equality in nationality rights, there is no record of conventional public civil society advocacy for these changes. Rather, individual figures of some prominence have taken to traditional and social media to respectfully plead the case for greater equality.¹⁴⁷

After the January 2021 announcement of the new elite naturalisation option, the wife of Sharjah's Ruler, Sheikha Jawaher Bint Mohammed Al Qasimi, tweeted a demand for nationality for the children of Emirati mothers.¹⁴⁸ Another journalist married to a non-Emirati marked the occasion of the new naturalisation program's announcement to express hope that soon all Emirati children, including those born to an Emirati mother and non-Emirati father, will enjoy equal rights.¹⁴⁹ The author's vision was partially adopted in June 2022, when without an apparent precipitating event, the government announced that the children of Emirati mothers and non-citizen fathers who reside in the UAE would be able to access expanded health and education benefits.¹⁵⁰ The journalist quickly followed up with an extensive coverage of the perceived impact of these positive reforms, and sympathetic accounts in the affected women's own words.¹⁵¹

The framing of the issue of gender equality espoused by these two women (the journalist and Ruler's wife), in terms of the interests of children seems significant and promising, given the UAE's concern with demographic imbalance and desire to increase the national population and citizen participation in the UAE's economic life.

4.3 Denial of the existence of statelessness

Public discussion of statelessness in the country ended soon after the registration drive of 2008, about as suddenly as it had begun in the early 2000s. Still, some traces of evidence remain that the 'bidoon file' is far from closed and that the holders of Comoros passports remain in limbo. For example, the records of a June 2010 meeting of the Federal National Council show concern on part of an FNC member from Dubai, Maysa Rashid Ghadeer, over the plight of UAE nationals who do not hold a family book and thus cannot obtain medical treatment.¹⁵² Ms. Ghadeer objected to the inflexible policy of the Emirates Identity Authority (the former name of the ICP) and the Ministry of Interior, in refusing to issue Emirates IDs to

¹⁴⁷ See, e.g., Rasha Abu Baker, "In Waiting: Children of Emirati Women," *Khaleej Times*, 23 February 2022, <https://www.khaleejtimes.com/emirati-wise/in-waiting-children-of-emirati-women> (accessed 16 June 2022); Sultan Al Qassemi, "Book That Proves Some Emiratis Are More Equal than Others," *The National*, 7 February 2010, <https://www.thenationalnews.com/uae/book-that-proves-some-emiratis-are-more-equal-than-others-1.524231> (accessed 10 June 2022).

¹⁴⁸ Kateryna Kadabashy, "UAE Grants Added Benefits to Children Born to Female Citizens," 30 June 2022, <https://finance.yahoo.com/news/uae-grants-added-benefits-children-091835113.html> (accessed 10 October 2022).

¹⁴⁹ Rasha Abu Baker, *supra* note 147.

¹⁵⁰ Rola Alghoul and Esraa Ismail, "President Issues Resolution Granting Children of Emirati Mothers in UAE Same Education, Health Benefits as Other Citizens," WAM, 30 June 2022, <https://wam.ae/en/details/1395303062090> (accessed 10 June 2022).

¹⁵¹ Rasha Abu Baker, "Emirati Mothers of Foreign Children Hope That They Will Soon Be Embraced as UAE Citizens," *Khaleej Times*, 10 July 2022, <https://www.khaleejtimes.com/uae/emirati-mothers-of-foreign-children-hope-that-children-will-soon-be-accepted-as-uae-citizens> (accessed 10 June 2022).

¹⁵² United Arab Emirates Federal National Council, Session number [461 / F14 / D] Fourteenth Legislative Semester Fourth Ordinary Session (2010), p. 74, available online by searching <https://www.almajles.gov.ae/Pages/FNCHome.aspx>.

persons in this situation, and then mandating that public hospitals to only provide treatment to Emirates ID holders. The FNC member from Dubai characterised the situation as one of “humanitarian concern” which the Ministry of Interior (hereinafter: Mol) was well-positioned to address, seeing as it was the Mol that had initially mandated institutions such as public hospitals to only accept Emirates IDs.

The pressure on those who registered in 2008 to obtain the Comoros passports intensified in the years that followed, as their health insurance cards and driver’s licences expired and could not be renewed.¹⁵³ Eventually, many who resisted taking the passport of a country they had never even visited found themselves forced to reconsider.¹⁵⁴ In international forums, the UAE has asserted that no stateless persons remain in the UAE because the ones that claimed to be stateless were routed through the registration process and allowed to apply for citizenship.¹⁵⁵ No official data has been provided, however, concerning the number of stateless persons who were naturalised. Nor has the government given any information about the “impact of the lack of nationality on [stateless persons’] ability to access health care, education, employment and State-provided services, without discrimination.”¹⁵⁶

To the authors’ knowledge, the UAE has never acknowledged the status of the Comoros passport holders, or the scheme undertaken by the government to secure the passports. These passports do not entitle their holders to full Comorian citizenship.¹⁵⁷ Gradually, the holders of Comoros passports have been transformed from de-facto Emiratis with limited identity documentation to “economic citizens” of Comoros treated by Emirati authorities just as any other group of expatriate workers in the UAE. This re-classification has caused significant hardship. Comoros passport holders have reported difficulties with timely renewals of the passports, discrimination on the job market, and limited access to healthcare and education. In 2018, the United States Department of Homeland Security (hereinafter: DHS) restricted the travel of Emirati residents with Comoros passports because of a determination that holders of these passports do not enjoy a right to reside in or return to the Union of the Comoros.¹⁵⁸ In all, it appears that holders of Comorian passports from the UAE remain just as stateless as they were before the UAE’s 2008 registration campaign. A process through which stateless holders of Comorian passports can apply for Emirati nationality, if such exists, has never been made public.

5. Conclusions

Four main regional and state-specific features of the UAE’s citizenship regime raised in the introduction frame this study. These cross-cutting features have their roots in decisions made before the UAE emerged as an independent state, but they cannot be ignored by Emirati policy makers or citizenship rights advocates in the 21st century.

¹⁵³ Anna Zacharias, “Citizenship Hope for UAE’s Stateless,” *The National*, 31 July 2012, <https://www.thenationalnews.com/uae/citizenship-hope-for-uae-s-stateless-1.362084> (accessed 10 June 2022).

¹⁵⁴ *Ibid.*

¹⁵⁵ Committee on the Elimination of Racial Discrimination, “Concluding Observations on the Combined Eighteenth to Twenty-First Periodic reports of the United Arab Emirates, CERD/C/ARE/CO/18-21”, 13 September 2017, at paras 27-28.

¹⁵⁶ *Ibid.*

¹⁵⁷ F. Mukinda, “Meet “stateless” man who has been stranded at JKIA for four months”, *Nairobi News*, 6 April 2018, <https://nairobineews.nation.co.ke/life/stateless-man-stranded-jkia> (accessed 14 July 2022).

¹⁵⁸ A US DHS determination to this effect was made available to and is on file with the authors.

First is female citizens' inability to transmit their citizenship to children and spouses on par with male citizens. This issue impacts a core demographic group (women of childbearing age) that has a significant role to play in the UAE's economic future. As the state pushes ahead with efforts to nationalise the professional workforce, women's equality of opportunity and status stands to gain increasing prominence in policy priorities. Recent reforms (discussed in sections 3.1.2 and 4.2) signal the government's recognition of this but the reach of reforms remains unclear. The UAE has a vital interest in retaining upwardly mobile educated citizens at home and providing for the equal treatment of their children would be a sensible step to ensuring this. It is worth watching if recent exemptions to the 1972 Nationality Law's ban on dual nationality for those benefiting from the 2020 Nationality Law reform open the door to demands on part of Emirati women married to non-citizens to allow exceptions to dual nationality for their children as well.

Second, the UAE, like all its neighbours, faces a paradoxical dilemma: how to reconcile a highly restrictive naturalisation policy with the ever-receding number of citizens in proportion of the total population. Early on, high barriers to naturalisation were seen as necessary to avoid freeriding on the country's oil boom, and as a means of protecting the Arab Muslim and tribal identity of the UAE. After fifty years of statehood, the engine of economic development in the Emirates appears to be the labour and capital of foreigners who disproportionately dominate the workforce. In an effort to secure the loyalty of such high-status residents without appearing to be "shrinking the pie," the UAE announced a facilitated naturalisation program in early 2021 (see section 3.1.4). It is hardly accidental that the announcement was made by the ruler of Dubai and UAE Prime Minister, Sheikh Mohammed bin Rashid, whose Emirate has long supported a more flexible and inclusive immigration policy. To date, no data has been made available about the beneficiaries of the program. It remains to be seen if it will normalise the expansion of naturalisation to less exceptional others as well. Alongside this special naturalisation program, whose main new features are the ability to retain a dual nationality, and circumvent residency requirements, the UAE has been introducing a variety of taxation reforms. These aim to slowly diversify government revenue but destabilize the rentier economy's established logic of citizenship. The duties of Emirati citizens have, to date, primarily centred around military service and loyalty to the autocratic regime. The gradual introduction of a value-added tax in 2018 and corporate income tax in 2022 may create a case for greater citizen involvement in policy making. The new policy of elite naturalisation has also highlighted the commodified nature of Emirati citizenship. After amendments to the law in 2017 that expanded the scope of citizenship revocation for Emiratis, Emirati citizenship increasingly resembles an exclusive private club membership which can be inherited or bought, but also withdrawn for misconduct without much ceremony.

Third, the history of nationality legislation illustrates the contestation around entitlement to citizenship among the constituent Emirates and the tribes that rule them, as discussed in section 2. This contestation may account for the creation of a group of long-standing half-citizens in the UAE, persons who received passports or naturalisation decrees by individual emirates, but whose Emirati citizenship was never officially sanctioned by Abu Dhabi. Even before 1971, Abu Dhabi and Dubai had distinct visions for how citizenship was to be meted out. Abu Dhabi saw the Northern Emirates and Dubai as exploiting for economic gain their right to issue passports prior to 1971 and doubted their willingness to strictly abide by naturalisation procedures after independence. Indeed, Dubai was believed to have made an end run around federal nationality law until as late as the mid-2000s, when the Ministry of Interior decisively took the reins of identity management and citizenship documentation. Those who suffered from the local Rulers' subsequent inability to define who is a citizen on the territory of the Emirate are unevenly distributed across the UAE. In other words, they are not seen as a tangible problem to Abu Dhabi, even if their fate concerns Dubai and Sharjah. The

relative weakening of the Northern Emirates and Dubai after the financial crisis of 2008-9 have left unincorporated groups there in a state of limbo.

Finally, the UAE's transactional approach to citizenship policy has been crystallised in the creation of a program to administratively transfer stateless people to the Union of Comoros through the granting of Comoros passports to all those who do not hold nationality documents in the UAE. The program, in place since 2008, has offered the UAE an expensive and extra-legal way to 'offshore' a diverse population of undocumented or partially naturalised locals who could otherwise hardly fit in the naturalisation regime. While it was initially framed as a "waiting room" from where candidates for Emirati nationality would be pulled based on eligibility, reports suggest that naturalisation of the new "Comorians" has not been the observed outcome. Instead, these locals have learned to operate as expats, whose notional homeland they have never seen, nor can they enter (see section 4.3 above).

How these four themes combine to shape the future of citizenship policy in the UAE remains to be seen but the rate of policy change over the past fifteen years shows no signs of slowing down. While no scarcity of upheavals is anticipated, the main challenge to understanding future reforms lies in the country's notorious lack of transparency in policymaking.

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