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Exploring Statelessness in Iran

Gaps in the nationality law, populations of concern and areas for future research

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The goal of the Statelessness Program is to fulfil the need for a sustainable centre of expertise, which is dedicated to research, training and outreach in this fascinating field. With this complementary three-pillar approach, the Statelessness Program aims to:

- engage in and provide support for research on statelessness;
- promote academic education and professional training on statelessness;
- engage in public debate and inform policy development by international, governmental, advocacy and service organisations.

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Abbreviations and Acronyms

BAFIA	Bureau for Aliens and Foreign Immigrants' Affairs
CERD	Convention on the Elimination of Racial Discrimination
CRC	Convention on the Rights of the Child
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
UN	United Nations
UNICEF	United Nations Children's Fund
UNHCR	United Nations High Commissioner for Refugees

Exploring Statelessness and Nationality in Iran

1. The legal framework surrounding statelessness in Iran

The objective of this research was to undertake an initial exploration into statelessness in Iran, by analysing the nationality law, consolidating and supplementing the previous literature on the groups and persons affected, and drawing out new factors that could increase the risk of statelessness in the country.

Iran has yet to be the subject of research looking into the gaps in the nationality law, which, could create and perpetuate statelessness. There were however, several pre-identified populations,¹ some members of which are believed to be affected by statelessness, as well as gender discrimination in the nationality law - which causes and increases the risk of rendering children stateless. Therefore, based on this previous knowledge of potentially stateless populations, and the gaps/lack of certain safeguards against statelessness in the nationality law, this research provides a foundation for understanding nationality and statelessness in the country.

This report begins by analysing the Iranian nationality law, highlighting where safeguards against statelessness exist and identifying gaps in the law that can create statelessness. Following this, the piece draws on interviews conducted between November 2013 and January 2014, in addition to existing literature on stateless populations/those at risk of statelessness in the country - the Faili Kurds and the Khavari Afghans. The causes and consequences of their statelessness, or risk thereof, are set out to begin to consolidate our understanding of the precarious situation these populations find themselves in.

Following this, several areas of concern with regard to creating new cases of statelessness that came out of the research are highlighted. This includes gender discrimination in the nationality law and risk of statelessness for children born of an Iranian mother and a father from the large unregistered Afghan population. Barriers to birth registration and the importance of this documentation as proof of nationality, as well as the ambiguity in the terminology, and implementation, of the law with regard to (il)legitimate marriage and children, are also discussed.

1.1 Methodology and research design

The research began with an analysis of the nationality law and a desk review on the pre-identified groups who are at risk of, or are currently stateless (the Faili Kurds and the Khavari Afghans). The main source of data was from secondary sources; however, data collection also involved interviews with key actors, lawyers, persons who undertake advocacy and the populations of concern (residing in and outside of Iran).² This allowed the data from the secondary sources to be verified, and new issues not covered in the secondary sources to be introduced.

¹ The pre identification of populations resulted from initial consultation with experts and a preparatory desk review.

² 13 interviews were carried out between November 2013 and January 2014.

1.2 Iran's international commitments with regard to statelessness

Iran is not a signatory to the 1954 *Convention on the Status of Stateless Persons* or the 1961 *Convention on the Reduction of Statelessness*. Despite this, Iran still has international obligations to prevent statelessness, on the basis of other conventions to which it is a party. Due to the devastating impacts statelessness has on a person's life, and the problems that arise from securing other human rights without citizenship of a state, the right to a nationality has been included in a number of international and region human rights conventions.³ Two prominent examples can be drawn on to show the centrality of statelessness in the human rights discourse. First, the *Convention on the Rights of the Child* (CRC), which states, in Article 7(1), that not only should a child be registered immediately after birth, but also that every child has a right to a nationality.⁴ Second, the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) states, in Article 9, that men and women should have equal rights to pass their nationality onto their children.⁵

It should be noted that Iran is not party to CEDAW, which would be an effective tool to challenge the gender discrimination in the nationality law. Despite this, Iran must abide by its obligations, based on its international commitments, to ensure that children acquire a nationality, are registered at birth and their treatment conforms to the best interests of the child.⁶ Further to this, Iran has also acceded to several conventions that prohibit discrimination based on factors such as gender, nationality, religion, ethnicity or social origin.⁷ Iran's signatory status to these conventions can be used to challenge the creation and perpetuation of statelessness in the country, based on its obligations to ensure no discrimination in access to nationality, and the need to ensure that children are not rendered stateless at birth. A full list of Iran's international commitments, and the articles relevant to statelessness in each, can be found in Appendix 2.

1.3 Nationality law

Iran's current nationality law dates back to 1929, when it was ratified by the *Majlis* (Parliament). This law built upon the previously defined citizenry of the country, as set out in a treaty signed between Nader Shah Afshar of Iran and Sultan Mahmoud Khan I of the Ottoman Empire.⁸ Since the introduction of the 1929 law there have however been additions and adaptations to its contents. In 1934 the 2nd volume of Iran's Civil Code was ratified, superseding the previous provision - including articles 976-991 which relate to nationality. These articles are still in force today, except for Article 981 which was repealed in 1982.

³ A more detailed analysis of the international legal framework surrounding statelessness can be found at <http://www.unhcr.org/4b960ae99.html>

⁴ UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations

⁵ UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, United Nations

⁶ Relevant articles based on Iran's international commitments - ICCPR Article 24(3), CRC Article 2/3/7, Cairo Declaration on Human Rights in Islam Article 7(a).

⁷ These commitments, which prohibit discrimination, include - ICCPR Article 6, ICESCR Article 2(2), CRC Article 2(1/2) CERD Article 5, Cairo Declaration on Human Rights in Islam Article 19(a)

⁸ Shahrzad, H., 2002, *Interview with Shahram Mohammadzadeh about Iran's Citizenship Laws*, Etemaad Daily Newspaper, 26th June 2002, [online], Available from: www.parstimes.com/law/citizenship_law.html

Following the fall of the Pahlavi monarchy - the result of the 1978-9 Revolution led by Ayatollah Ruhollah Khomeini - a new constitution was implemented that enshrined the new vision for Iran post-revolution.⁹ In 1989 when Ayatollah Khomeini died, Ayatollah Ali Khamenei took office, which he still holds today. The Constitution has however remained largely unchanged from the time of his predecessor. The Iranian Constitution states that: "Iranian citizenship is the indisputable right of every Iranian, and the government cannot withdraw citizenship from any Iranian unless he himself requests it, or acquires the citizenship of another country."¹⁰ As there was minimal constitutional change on issues of citizenship, the Revolution did not have a significant impact on the defining of the Iranian citizenry.

An analysis of the nationality law of the country demonstrates that it has, and continues, to create and perpetuate statelessness through gender discrimination, the lack of safeguards against statelessness at birth for otherwise stateless children born in Iran, the discretionary acceptance of claims for naturalisation, the lack of due process, ambiguity in the legislation on paternal lineage and barriers to birth registration. The following is an analysis of the nationality law, which draws out gaps that could lead to statelessness, as well as highlighting positive aspects.

1.3.1 Acquisition of nationality at birth

Iran uses a system of *jus sanguinis* and *jus soli* with regard to acquisition of nationality at birth, though it is predominately a system of paternal *jus sanguinis*. Therefore, a child obtains Iranian nationality regardless of where the child is born, *if* they are born to an Iranian father.¹¹ This is not to say that an Iranian mother can never pass on her nationality, as will be discussed in the following section. There are exceptions to this paternal link, such as the granting of Iranian nationality to foundlings¹² and to children born in Iran to foreign parents, one of whom was born in the country.¹³ Further to this, the nationality law prescribes a system of reciprocity.¹⁴ This system states that where children born in a country to Iranian nationals, acquire that country's nationality, their nationals will be able to acquire Iranian citizenship for their children if they are born in Iran.

The nationality law can be seen as containing safeguards against specific instances of statelessness, while also containing gaps in ensuring children are not rendered stateless at birth. With regards to safeguards, the granting of Iranian citizenship to those with unknown parents means that foundlings are not left stateless.

However, significant gaps exist in ensuring children acquire citizenship at birth in Iran. This includes article 976(4) which only allows for the acquisition of Iranian nationality of those born in Iran to parents - one of who was born in Iran - if they are of foreign nationality,¹⁵ and therefore excluding children with stateless parents. Further to this, children born to Iranian women (in Iran or abroad) and men who are, for example, unknown/not able to pass on their

⁹ Elling, R., 2013, *Minorities in Iran; Nationalism and Ethnicity after Khomeini*, Palgrave Macmillan pp.50

¹⁰ Iranian Nationality Law Article 41

¹¹ Iranian Nationality Law Article 976 (2)

¹² Iranian Nationality Law Article 976 (3)

¹³ Iranian Nationality Law Article 976 (4)

¹⁴ Iranian Nationality Law Article 978

¹⁵ The nationality law refers to those with *foreign nationality* or *foreign nationals*, thus not including the stateless.

nationality/do not have one to confer, are at risk of statelessness. This gender discrimination against Iranian women, and how this relates to risk of statelessness, will be drawn out in detail in the following section. With regards to Iran not meeting its international obligations as a signatory to the CRC and the International Covenant on Civil and Political Rights (ICCPR), a UNICEF report noted that:

No measures have been adopted by Iranian Registry Law to ensure the child's right to acquire a nationality, in particular where the child would otherwise be stateless.¹⁶

However, this lack of acquisition of nationality at birth does not mean that children born from the aforementioned couples can never acquire Iranian nationality. Sections 1.3.2 and 1.3.3 draw out the possibilities of some of these children potentially naturalising, upon reaching 18 years old. Though, as the sections explain, the legislation is insufficient to resolve all cases of statelessness arising from this lack of acquisition of nationality at birth.

1.3.2 Gender discrimination

The Iranian Constitution states that "All citizens of the country, both men and women, equally enjoy the protection of the law and enjoy all human, political, economic, social, and cultural rights, in conformity with Islamic criteria."¹⁷ Despite this, there is significant gender discrimination in the Iranian nationality law. The dominance of paternal *jus sanguinis*¹⁸ means that Iranian mothers do not have the same rights as Iranian fathers to pass their nationality to their children. The exception to this paternal *jus sanguinis* is the Constitutional Amendment passed in 2006. This minor change was the amendment to *Book 7, On Marriage and Divorce, Chapter 3 – On Impediments to Marriage*.¹⁹ The amendment consisted of a single article and two notes and was ratified during the open meeting of the Islamic Consultative Assembly, and approved by the Guardian Council on the 21st of September 2006. With regard to how this affects the acquisition of nationality of a child born to an Iranian woman and a *foreign* father, the amendment states that:

"Children who are the result of marriage between foreign men and Iranian women, who have been born in Iran, or are born in Iran within one year from the date of the ratification of this law, will be able to apply for Iranian citizenship when they reach the full age of 18. These persons will be accepted as Iranian citizens if they lack criminal records or security violation backgrounds and renounce their non-Iranian citizenship. The Interior Ministry obtains evidence of the birth of the child in Iran as well as the issuing of a marriage permit as stipulated in Article 1060 of the Civil Law, and the Law Enforcement Forces after being informed by the Interior Ministry issue the residence permit of the foreign

¹⁶ UNICEF, 2005, *Birth Registration in Iran: An analysis of the state of relevant laws in Iran*, http://www.unicef.org/iran/IRN_resources_BR_eng-word.pdf, pp. 7-8

¹⁷ Iranian Nationality Law Article 20

¹⁸ Iranian Nationality Law Article 976 (2)

¹⁹ Find the full text in Appendix 3

father stipulated in this article. Children concerned with this article are permitted to reside in Iran prior to obtaining citizenship.”²⁰

With regard to the debate that led to the Constitutional Amendment, the Bureau of Legal Studies of the Iranian Parliament claimed, in 2005, “Without any doubt Iranian citizenship laws which were enacted more than 70 years ago, need revision and do not reflect the change in women’s roles and their presence in the society. Thus, the change in laws is necessary.”²¹ However, the same report cautioned that further investigation was needed, so as to avoid “undermin[ing] men’s position in the family and... not encourage out-of-wedlock children”.²² The debate has been summed up as follows:

Between May 2005 and September 2006, the Parliament debated the positive and negative aspects of the change in citizenship laws. Many members of the Parliament supported the change in favor of women. Effat Shariati, a Member of Parliament from Mashhad, remarked that placing Iranian women and their children at a disadvantage in citizenship laws contradicts with the holy creed of Islam and the status of women in Islam. Further, the lack of status for these children is against humanity, human rights, and democracy. Shahriyar Mooshiri, a member from Bandar-e Abbas supported the change by stating, “We believe in mother land, mother tongue; why shouldn’t we believe in maternal [matrilineal] nationality?” Other members made similar statements in favor of the change. Yet, at the end, cultural and political concerns influenced the Parliament’s final decision.... In September 2006, the Parliament made minor changes and amended article 976.²³

The amendments potential to reduce statelessness is limited by criteria that are difficult (if not practically impossible) for those with stateless children, or those rendered stateless by gender discrimination, to meet. This includes the requirement of proof that the child was born in Iran, a marriage certificate between the parents, proving the foreign father’s legal residence in the country and proving they have renounced their non-Iranian nationality - which the stateless do not have. Interviews confirmed that children of Iranian women and stateless fathers face great difficulties in acquiring citizenship using this amendment.²⁴ The most problematic issue noted was the initial requirement to prove the father’s identity in the form of documentation when registering the child.²⁵ The criteria set out in the legislation to acquire Iranian nationality, most notably the need to provide the father’s documents and proof of marriage, means that children born out of wedlock cannot benefit from this amendment.

²⁰ Princeton University, 2013, *Iran Data Portal – Nationality Law*, www.princeton.edu/irandataportal/laws/institutionsgovernance/nationality-law/
Full text to be found in Appendix 3

²¹ Zahedi, A., 2007, Transnational Marriages, Gendered Citizenship, and the Dilemma of Iranian Women Married to Afghan Men, *Iranian Studies*, 40 (2) pp:236

²² Aftab-Yazd, 2005, “*Belakhareh Nasab-e Madari Dar Ghanoon-e Iran Aamal Mishavad*” [Finally Matrilineal Relations will be Taken into Considered in the Iranian Law], <http://www.aftabnews.ir/vdcjhteuqvehv.html>.

²³ Zahedi, A., 2007, Transnational Marriages, Gendered Citizenship, and the Dilemma of Iranian Women Married to Afghan Men, *Iranian Studies*, 40 (2)pp:227

²⁴ Interviews with two Iranian lawyers – Teheran (2/11/2013 and 23/12/2013)

²⁵ *Ibid*

Further to this, the aforementioned UNICEF report states, that failure to grant nationality to children who would otherwise be stateless, is especially problematic with regard to children who are born to Iranian mothers married to foreign men who have abandoned them, thus leaving the child in a very precarious position and vulnerable to being rendered stateless.²⁶ Therefore, despite the inclusion of this specific instance, where an Iranian woman can pass on her nationality to her children, Iran is failing to meet its international obligations to prevent statelessness at birth.

1.3.3 Naturalisation

With regard to the possibility to naturalise as an Iranian citizen there are certain criteria, including being over the age of 18, having resided in Iran for five years (either continuously or intermittently), not being a deserter from military service and not having been convicted of any non-political major crimes.²⁷ A positive aspect of the naturalisation articles is that it states that the wives and children of those who have acquired Iranian nationality, automatically gain Iranian nationality as well - though this can be rejected by those receiving it within one year of receiving the nationality for the wife, and one year after reaching the age of 18 for the children.²⁸ Further to this, there is facilitated naturalisation for those who have Iranian wives, by whom they have children.²⁹ The difference between Iranian men and Iranian women's ability to pass on their nationality to their spouse is that facilitated naturalisation is only possible for a foreign husband once there are children. However, an Iranian man can transfer his nationality to his foreign spouse even where there are no children.³⁰

There is also facilitated naturalisation in several other circumstances. These include if a person is born in Iran to a foreign father and has lived in the country one year immediately after turning 18, and any foreign woman who marries an Iranian man.³¹ There is also facilitated naturalisation for those who have rendered exceptional services to the state.³²

In all cases of naturalisation the acceptance of the application remains at the discretion of the Council of Ministers and the Government.³³ Other potential barriers faced by those applying for naturalisation, is a demand for the identity papers of the applicant and those of his wife *and* children, the requirement of proof of legal residence in Iran and proof of livelihood.³⁴ On top of this there are fees when applying for naturalisation, which may pose a significant barrier to some.³⁵ These barriers increase the risk of statelessness, as some persons at risk of statelessness, and those who are stateless, are unable to meet these criteria to naturalise as an Iranian.

²⁶ UNICEF, 2005, *Birth Registration in Iran: An analysis of the state of relevant laws in Iran*, http://www.unicef.org/iran/IRN_resources_BR_eng-word.pdf

²⁷ Iranian Nationality Law Article 979 (1-4)

²⁸ Iranian Nationality Law Article 984

²⁹ Iranian Nationality Law Article 980

³⁰ Iranian Nationality Law Article 976 (6)

³¹ Iranian Nationality Law Article 976 (5,6)

³² Iranian Nationality Law Article 980

³³ Iranian Nationality Law Article 983 (2)

³⁴ Iranian Nationality Law Article 983

³⁵ Iranian Nationality Law Article 991

1.3.4 Loss and renunciation of nationality

The nationality law only allows for the renunciation of Iranian nationality when the following criteria have been met; the person has to be at least 25 years old, has to have completed their military service, the Council of Ministers has to agree to their renunciation application and the individual has to agree to renounce all rights to land or land through inheritance.³⁶ This article is positive in that the renunciation of nationality of the father *does not* affect that of their wife or children. However, this article also fails to provide safeguards against statelessness, as there is no demand that proof of another nationality *has been acquired* before the acceptance of the renunciation application.³⁷

This request for the provision of evidence that another country will accept the individual as a citizen before renunciation, does however, occur in other articles relating to renunciation. If a person wishes to renounce his Iranian nationality and acquire that of his father (in the case of children born in Iran of two foreign parents, one of whom has been born in Iran) they can do so, if they place an application with the Ministry of Foreign Affairs, including evidence that their father's country will accept them as a citizen.³⁸ If the same provision was included in the other renunciation articles, then there would be further safeguards against people rendering themselves stateless, as they would have to prove another country would accept them as a citizen before they could renounce their Iranian citizenship.

In the case of Iranian women marrying a foreigner, they retain their Iranian citizenship, unless the nationality law of the husband's country imposes the husband's nationality onto the wife.³⁹ If an Iranian woman does renounce her nationality to take that of her husband's, she can reacquire her Iranian nationality in the case of the death of, or divorce from the husband.⁴⁰ While this would seem to protect against previously Iranian women being rendered stateless upon the death or divorce from their foreign husband, upon whom their nationality depends, it does require the women to provide the appropriate death/divorce certificate(s) upon application for the reacquisition of Iranian nationality. These certificates could prove problematic to obtain in certain circumstances, thus posing a barrier to reacquiring their Iranian nationality.

2. Populations of concern

The previous section set out the legal framework of the nationality law, and how it relates to the potential creation and perpetuation of statelessness. With regard to population-specific problems in Iran, two populations have been identified in the existing literature, and through consultation with experts, as either stateless or at risk, the Fails Kurds and the Khavari Afghans.

³⁶ Iranian Nationality Law Article 988

³⁷ Iranian Nationality Law Article 988

³⁸ Iranian Nationality Law Article 977 (a)

³⁹ Iranian Nationality Law Article 987

⁴⁰ Iranian Nationality Law Article 987

2.1 Statelessness amongst the Faili Kurds

The term 'Faili Kurds'⁴¹ historically refers to a group of nomadic Kurds living across the border area between Iraq and Iran. The Faili are Shia'a Muslims (unlike the majority of Kurds who are Sunni Muslims). Having lived across the Zagros mountain range for centuries, they settled in Iraqi cities during the Ottoman Empire.⁴² In Iran the majority can be found in the provinces of Kermanshah, Khuzestan, Fars and Ilam near the Iraqi border. Historically, Faili Kurds in Iraq were considered Persians/Iranians as:

During the Ottoman period, Faili Kurds who had been living in Iraq had the choice of registering as Ottoman or Persian/Iranian subjects. Many chose to align themselves with Iran both to avoid military service and in line with tribal and familial ties with Failis living in Iran, while continuing to reside in Iraq. Iraqi citizenship laws enacted in the early years of the Iraqi state cemented these distinctions by classifying citizens as of Ottoman or Persian descent.⁴³

In 1975 *The Algiers Accord* between Iran and Iraq was an attempt to resolve a border dispute between the two countries. This meant the withdrawal of Iranian government support for the Iraqi Kurds armed struggle for greater autonomy, or independence, from Baghdad. Following the withdrawal of Iranian support, Saddam Hussein was able to quell the uprising that was being led by the Kurds. The Faili Kurds faced particularly harsh treatment following the collapse of the rebellion, with their religious orientation being used to highlight their loyalty to Iran and not Iraq. This alleged connection to Iran, and perceived disloyalty to Iraq was used to justify their denationalisation in 1980 under Decree 666.⁴⁴ This denationalisation, which rendered approximately 300,000 of the Faili Kurds stateless, occurred amidst persecution, torture, arbitrary executions and forced deportations to Iran.⁴⁵ While forced deportation and the questioning of Faili Kurds' citizenship was not a new phenomenon,⁴⁶ the mass deprivation of citizenship was. Due to the extreme vulnerability of the Faili Kurds in Iraq, many fled to Iran, with the Iranian government facilitating this by keeping its borders open to this population. While no verifiable statistics are available, it is widely believed that several hundred thousand Faili Kurds fled or were deported to Iran between 1971 and the 1980s.⁴⁷ Failis who arrived in Iran during the 1970s, who could present proof of Iranian ancestry, were able to obtain Iranian citizenship.⁴⁸ Others were granted refugee status, and green refugee cards were issued based on the understanding that they were Iraqi. The Green Cards (which have to be renewed every six

⁴¹ Alternative spelling variations for Faili include Feyli, Faylee, Faily, Fayli and Feili

⁴² Minority Rights Group International, 2009, *Uncertain Refuge, Dangerous Return: Iraq's Uprooted Minorities*, www.minorityrights.org/8132/reports/uncertain-refuge-dangerous-return-iraqs-uprooted-minorities.html

⁴³ Department of Immigration and Citizenship, 2013, *Country Guidance Note Iran*, www.immi.gov.au/media/publications/pdf/cgn-iran.pdf, pp:7

⁴⁴ Campbell, E. 2010, *The Faili Kurds of Iraq: Thirty Years Without Nationality*, Refugees International, <http://refugeesinternational.org/blog/faili-kurds-iraq-thirty-years-without-nationality>

⁴⁵ *Statelessness in the MENA*, forthcoming, Statelessness Programme, 2014

⁴⁶ The deportation of the Faili Kurds to Iran began in 1936 during the government of Taha Yassin Al-Hashemy. This process continued into the Iran-Iraq war (1980-88). *Statelessness in the MENA*, forthcoming, Statelessness Programme, 2014

⁴⁷ Human Rights Watch, 1991, *Whatever happened to the Iraqi Kurds*, <http://hrw.org/reports/1991/iraq/>

⁴⁸ International Crisis Group, 2005, *Iran in Iraq: How much influence?*, www.iraqfoundation.org/reports/pol/2005/38_iran_in_iraq_how_much_influence.pdf

months) were substituted for white electronic cards (renewed annually) in 2002. However, not all the Faili have received these and some remain on temporary Green Cards.

The post-Saddam Iraqi government nullified Decree 666 (which had stripped the Faili of their Iraqi nationality) in the 2006 Nationality Law (No. 26) and approved the reinstatement of Iraqi nationality to all those whose Iraqi nationality was stripped by the previous regime. However, to reinstate Iraqi nationality the Faili Kurds have to prove that they were registered in the 1957 Iraqi national census. Due to some Failis not being registered, some not being able to provide the adequate documentation, and the loss of many documents during various conflicts, many Faili Kurds have not managed to resolve their statelessness.⁴⁹ In 2012 UNHCR noted that despite the change in the Iraqi nationality law, many Faili Kurds have not been able to acquire Iraq citizenship and remain stateless.⁵⁰

With regard to Iran, there remains a large stateless population of Faili Kurds who are unable/unwilling to reinstate their Iraqi nationality. Within the country estimates place the number of stateless Faili Kurds at approximately 8000 individuals (both camp and non-camp based). Interestingly, in 2008 UNHCR reported that Some 760 Faili Kurds were granted Iranian citizenship in Ilam (albeit after a long and complicated procedure).⁵¹ While 100,000 Iraqi refugees have been granted Iranian nationality, this is based on them proving that they are of Iranian origin, and not the Iranian authorities attempt to resolve statelessness.⁵²

Currently the Faili Kurds in Iran are living in either camps or in the local community, with the greatest number in the local community, being well integrated into Iranian society. However, there are still reports that this stateless population face restrictions accessing education, healthcare and employment, as well as facing harassment by the official security forces and the *Basij*.⁵³

2.2 Statelessness amongst members of the Khavari Afghan minority

The Khavaris are an ethnic group of Hazara origin (sometimes referred to as the 'Barbari') who are most associated with Afghanistan. The group are predominantly Shia'a Muslims. Throughout the 20th Century they left Afghanistan and settled in Iran. There are also cases of the Khavaris migrating from Iraq to Iran during the Pahlavi monarchy (1925-1979), while some were deported to the country under Saddam Hussein's regime during the 1970s. They can be found mostly in Khorassan province, in the North East of Iran, which runs along the Afghan border. They are also to be found in the cities of Qom, Esfahan and Tehran. Similarly to many of the non-camp residing Faili Kurds, the Khavaris have largely become integrated into the Iranian populous. While exact numbers of the Khavari minority are not available, there are reports of

⁴⁹ Campbell, E. 2010, *The Faili Kurds of Iraq: Thirty Years Without Nationality*, Refugees International, <http://refugeesinternational.org/blog/faili-kurds-iraq-thirty-years-without-nationality>

⁵⁰ UNHCR, 2012, *Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum-Seekers*, www.refworld.org/docid/4fc77d522.html, p:32

⁵¹ UNHCR, 2008, *The Feili Kurds in Iran seek a way out of identity impasse*, www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=483d60872&query=IRAQ%20war

⁵² Department of Immigration and Citizenship, 2013, *Country Guidance Note Iran*, www.immi.gov.au/media/publications/pdf/cgn-iran.pdf

⁵³ Interview with Faili Kurd – The Netherlands (15/12/2013)

Interview with researcher working on the Faili Kurds – Tehran (4/1/2014)
The *Basij* are the Iranian volunteer paramilitary group

there being around 300-400 families in Khorasan province alone (The Iranian Government registration system – the Amayesh database - indicates that 399 individuals are registered as Iraq-born Afghans and 125 individuals were registered with a former Iraqi nationality and a current Afghan nationality).⁵⁴

Despite their long history in Iran, the nationality of the Khavaris is disputed by the Iranian authorities. The Khavaris today are, by default, deemed to be Afghan by the Iranian authorities, if they fail to present ID cards showing they are of Iraqi or Iranian nationality - although many are not Afghan nationals. Moreover, even Khavaris in possession of Iranian documents now appear at risk of statelessness. In 2004, some had their birth certificates confiscated.⁵⁵ Similarly in 2005 there was an increase of cases of Khavaris reporting that their birth certificates had been 'nullified'.⁵⁶ UNICEF has highlighted that birth certificates are considered the most central form of proof of nationality in Iran⁵⁷. Therefore, this confiscation and nullification of their birth certificates places those who have been affected at risk of statelessness, if they do not hold another nationality.

3. Possible issues relating to the risk of statelessness

3.1 Gender discrimination and the failure to provide documents for (new) Afghan refugees post 2005

The most prominent and pressing example of how the 2006 Constitutional Amendment legislation fails to be a tool to reduce statelessness, is the case of the children of unregistered Afghan refugees and Iranian women. While large numbers of Afghans have been present in Iran for a long period of time, numbers of refugees from Afghanistan intensified after the 1979 Soviet invasion.⁵⁸ Further internal conflict and foreign occupation have caused many more to seek refuge in Iran - with some having repatriated as the situation changes in their country. While the Iranian government has ratified the 1951 Refugee Convention, their treatment of the Afghans has oscillated between informal acceptance of the population and forced repatriations.⁵⁹ Currently there are nearly 900,000 registered Afghan refugees in Iran, half a million with other statuses and many more who are completely unregistered.⁶⁰ Recently, government policies towards the population have become increasingly discriminatory.⁶¹ This has led to a situation where Afghan refugees who arrived after 2005 have been refused

⁵⁴ Interview with legal expert Tehran (10/12/2013)

⁵⁵ Interview with legal expert, Tehran (15/12/2013)

⁵⁶ Interview with legal expert, Tehran (15/12/2013)

⁵⁷ UNICEF, 2005, *Birth Registration in Iran: An analysis of the state of relevant laws in Iran*, www.unicef.org/iran/IRN_resources_BR_eng-word.pdf, pp:7

⁵⁸ Whitely, A, 1993, Minorities and the Stateless in Persian Gulf Politics, *Survival: Global Politics and Strategy*, 35 (4), pp:28-50

⁵⁹ Afghanistan Research and Evaluation Unit (AREU), 2005, *Return to Afghanistan. A Study of Afghans Living in Mashhad, Islamic Republic of Iran*, www.refworld.org/docid/47c3f3c91a.htm

⁶⁰ UNHCR, 2012, *Country factsheet Iran*, www.unhcr.org/50002081d.pdf, pp:1

Human Rights Watch, 2013, *Unwelcome Guests: Iran's Violation of Afghan Refugee and Migrant Rights*, www.hrw.org/sites/default/files/reports/iran1113_forUpload.pdf, pp:1

⁶¹ Shahi, A., 2012, *The plight of Afghan refugees in Iran*, Open Democracy, www.opendemocracy.net/opensecurity/afshin-shahi/plight-of-afghan-refugees-in-iran

registration by the authorities, and previous Green Card holders have seen the cost of renewing these increase.⁶²

It has been noted that:

The majority of Afghans have been undocumented and never had a valid passport or visa; thus, they could not submit the required documents to the Iranian state and their marriage requests were denied. Likewise, the state would not grant permission to Iranian women who wished to marry Afghans.⁶³

Due to the gender discrimination in the nationality law, there is a risk of Iranian women who are married to non-Iranians (but whose marriage is not recognised by the state) having stateless children - depending on the nationality law of the father's country. The numbers of Iranian women marrying foreigners has increased since the 1979 Revolution, due to the exodus of Iranians post-revolution, and as a consequence of the millions of Afghan and Iraqi refugees who have fled to Iran.⁶⁴

The exact numbers of Iranian women married to Afghans (the majority of marriages between Iranian women and foreigners) is unknown, though it is estimated to be around 30,000.⁶⁵ Some of these marriages are religious and not recognised by the state, leading to the lack of birth registration of around 100,000 children born from these marriages.⁶⁶ The Bureau for Aliens and Foreign Immigrants' Affairs (BAFIA) claimed that in 2004 there was a total of 26,742 'legal' marriages without government registration known to the authorities.⁶⁷ Explicit objection to the marriage of Iranian women to foreign men, and the local authorities' position with regards to these marriages, was highlighted in the case of:

A circular published by the provincial government in Mazandaran province in 2010, [that] declared all marriages in the province between Iranian women and foreign nationals illegal, and indicated that individuals who fail to observe this regulation would be subject to punishment. Afghans, along with Iraqis, Pakistanis, and Bangladeshis are specifically mentioned in the circular as foreign nationals that are "forbidden" from marrying Iranian women.⁶⁸

Another example that highlights the difficulties in gaining the required permit from the authorities is that in 2011, according to BAFIA, in the province of Razavi Khorasan, 5000 Iranian women and Afghan men applied for a permit for marriage, with only 2000 being permitted to do

⁶² Interview with Afghan who recently left Iran and held a Green Card, the Netherlands (January 2014).

⁶³ Zahedi, A., 2007, Transnational Marriages, Gendered Citizenship, and the Dilemma of Iranian Women Married to Afghan Men, *Iranian Studies*, 40 (2) pp:226

⁶⁴ *Ibid* pp:226

⁶⁵ BBC, 2011, *The Story of the Marriage between an Iranian Woman and an Afghan Man*, BBC Persian, May 30, 2011,

www.bbc.co.uk/persian/iran/2011/05/110525_121_married_iranian_women_afghan_men.shtml

⁶⁶ Zahedi, A., 2007, Transnational Marriages, Gendered Citizenship, and the Dilemma of Iranian Women Married to Afghan Men, *Iranian Studies*, 40 (2) pp:227

⁶⁷ *Ibid* pp:226

⁶⁸ Human Rights Watch, 2013, *Unwelcome Guests: Iran's Violation of Afghan Refugee and Migrant Rights*, www.hrw.org/sites/default/files/reports/iran1113_forUpload.pdf, pp:69

so.⁶⁹ This ties in with stricter national regulations since 2006, regarding marriages between Iranian women and Afghan men.⁷⁰

An example of where the gender discrimination in the nationality law and this lack of registration of marriages and births can lead to the increased risk of statelessness, was noted during an interview. It was claimed that there are appropriately 5,000 children of Afghan fathers and Iranian mothers in Baluchistan province (in the south of the country) who have not obtained Iranian citizenship and who do not possess Afghan citizenship. Further to this, in 2004 the UN Special Rapporteur on the Human Rights of Migrants, noted that over 10,000 children in Khourastan Province were facing the situation of lack of registration due the lack of recognition of the marriage between their Iranian mother and Afghan father.⁷¹

However, they should obtain Afghan nationality automatically under the 2000 Afghan nationality law. In Afghanistan both the 1936 and 2000 nationality laws, supplemented by the listing of ethnic groups with a claim to Afghan nationality in the constitution, are used to determine Afghan citizenship. Article 11 of the 2000 Nationality Law states, that a child is considered an Afghan citizen regardless of where the child is born or the statelessness of one of the child's parents, as long as one parent is an Afghan.⁷² Therefore, children born of a woman of any/no nationality and an Afghan man in Iran, can automatically gain Afghan citizenship under this article. With regard to the pragmatic steps to acquiring recognition/proof of Afghan citizenship, emphasis is placed on the individual proving familial and tribal ties to their 'place of origin' through local/national registries. This is often supplemented by confirmation of their claim to Afghan nationality by a state registered group representative, who vouches for their claim. These representatives often approve people based on the familial ties, irrespective of the amount of time the person has spent in the country.

While it is reported that many of these children have obtained ID documents in Iran, allowing them to access state services, their claim to Iranian nationality has been rejected upon reaching the age of majority. The reason that Khourastan Province seems especially problematic, with regard to the risk of statelessness, is due to its proximity with Afghanistan, the strict policies of the Iranian authorities governing where Afghans can live, and their lack of ability to travel freely within the country.

Referring to the 2006 Constitutional Amendment (see section 1.3.2) and the impact this has on children of Iranian mothers and foreign fathers (mostly Afghans), Human Rights Watch noted that:

Until recently, children born to Iranian mothers and foreign fathers were not issued national identification papers and were therefore deprived access to primary education and health benefits in Iran. A new law passed by Iran's

⁶⁹ BBC, 2011, *The Story of the Marriage between an Iranian Woman and an Afghan Man*, BBC Persian, May 30, 2011,

www.bbc.co.uk/persian/iran/2011/05/110525_i21_married_iranian_women_afghan_men.shtml

⁷⁰ Human Rights Watch, 2013, *Unwelcome Guests: Iran's Violation of Afghan Refugee and Migrant Rights*, www.hrw.org/sites/default/files/reports/iran1113_forUpload.pdf, pp:69

⁷¹ CRIN, 2012, *Iran, Islamic Republic of: Children's rights in the Special Procedures' reports*, www.crin.org/resources/infodetail.asp?ID=28023

⁷² *Law on Citizenship of the Islamic Emirate of Afghanistan* [Afghanistan], 24 June 2000, available at: www.refworld.org/docid/404c988d4.html [accessed 27 February 2014]

parliament in May 2012, however, provides these children with permanent residency rights and allows them to access the same social, health, and educational benefits that other Iranians enjoy. But the law still refuses to allow foreign nationals who were either born in Iran or who have resided there for decades the opportunity to acquire Iranian citizenship... Children of Afghan refugees who are properly registered through the Amayesh system generally have access to primary education and other benefits. This is not true for Afghans who are either out of status or migrants who have entered the country unlawfully.⁷³

3.2 Lack of birth registration; increasing the risk of statelessness

Birth registration is a very useful tool in combatting statelessness. This is because birth registration means that the state officially recognises the birth of the child, as well as some of the facts related to this, and these facts can play a decisive role in determining the nationality that the child obtains.⁷⁴

Birth registration in Iran is closely linked with statelessness and risk of statelessness. In 1918 Iran adopted a Birth Registration Law which stipulates in Article 12 that every child born in Iran (regardless of the nationality of its parents) shall be registered with the relevant authorities within 15 days after birth.⁷⁵ Failure to do so could lead to punishment – in the form of a fine – under Article 3 of *the Law on Contravention, Crimes and Punishments concerning Registration of Personal Status* (though in reality this is rarely enforced).⁷⁶ However, registration does not mean that a child will gain a birth certificate, as UNICEF noted:

By Iranian legislations, non-nationals can register their children's births but cannot get birth certificates easily because having a birth certificate means proof of Iranian nationality. This question of nationality is one of the most sensitive and complex aspects associated with birth registration and can compromise the registration of a child.⁷⁷

In 1997 it was estimated that 13% of births in Iran were not registered.⁷⁸ While not causing statelessness *per se*, it does increase the risk that a child will become stateless. This is because registration at birth, regardless of the status of the parents in the country, is a crucial means to prevent statelessness through proof of birthplace and parentage.

There are certain barriers, other than lack of ability to access the appropriate government office within 15 days, which could increase the risk of lack of birth registration. First, there is the fee which is required to register a child and to acquire a birth certificate for them. In 2005 this was

⁷³ Human Rights Watch, 2013, *Unwelcome Guests: Iran's Violation of Afghan Refugee and Migrant Rights*, www.hrw.org/sites/default/files/reports/iran1113_forUpload.pdf, pp:69

⁷⁴ Jaap E. Doek, 'The CRC and the Right to Acquire and to Preserve a Nationality' (2006) 25 *Refugee Survey Quarterly* [3] 26, 27.

⁷⁵ UNICEF, 2005, *Birth Registration in Iran: An analysis of the state of relevant laws in Iran*, www.unicef.org/iran/IRN_resources_BR_eng-word.pdf, pp:5

⁷⁶ *Ibid* pp:5

⁷⁷ *Ibid*, pp:7

⁷⁸ *Ibid* pp:3

20,000 Rials (c. \$2.5), with the first replacement costing 50,000 Rials (c. \$6.5).⁷⁹ The second worrying aspect of the lack of birth registration is the issue of the lineage of the child and its (il)legitimacy.

3.3 Illegitimate children and the impact on acquisition of nationality

The dominant form of acquisition of nationality at birth in Iran is through paternal *jus sanguinis*. However, during the research the issue of children born out of state recognised wedlock or wedlock at all, was raised as problematic with regards to children acquiring Iranian nationality.⁸⁰ This is a result of Article 2 of the Nationality Law (*Those born in Iran or outside whose fathers are Iranian*) not stating whether this lineage has to be 'legitimate', leaving room for ambiguity.⁸¹ According to The Iranian Civil Code, a child only obtain his father's nationality if he is born 'legally' and is 'legally' considered to be connected to the father (though a significant amount of ambiguity surrounds the term 'legally', it is widely believed to mean within wedlock),⁸² as Article 1167 of the civil law states "A child born of adultery shall not be connected to the adulterer".⁸³ With regard to children born illegitimately, Article 3 of the Nationality Law (*Those born in Iran of unknown parentage*), would not apply if the parents are known. Therefore, while this has been claimed to be aimed at restricting the inheritance claims of illegitimate children, it could also affect illegitimate children's claim to their father's nationality.⁸⁴ This is despite the fact that in 1997 the Office of the Supreme Court made a statement clarifying the application of Article 1167 of the Civil Code (on the legitimacy of children) claiming:

It is declared that a child born outside wedlock will be considered the child of its biological parents (*farzand-e orfi*) with the entire legal obligations that are attached to it, with the exception of inheritance. The only difference between legitimate and illegitimate children rest in inheritance law, since the only article of the Civil Code that deals with illegitimate children is Article 884 [on inheritance]. Thus an illegitimate child must be awarded all other rights that are given to legitimate children.⁸⁵

If the child is born inside or outside of Iran illegitimately to an Iranian father, it could lead to statelessness depending on the mother's nationality (including Iranian women), and/or the nationality law of the country where the child is born. When considered with the issue that marriage is only permitted between an Iranian and a foreigner at the discretion of the state, and religious marriages are not recognised (thus providing no legal protection), there is potential

⁷⁹ *Ibid* pp:11

The World Bank estimated the GDP per capita in Iran in 2011 to be \$6,831

⁸⁰ Azizi,S., Hajiazizi,B., and Hassankhani, R., 2012, Lineage Influence on Nationality from Islamic Republic of Iran law View Point, *Journal of Politics and Law*, 5(2)

⁸¹ Iranian legal language uses the term 'connected' (molhaq) to express legitimacy. See Yassari, N., 2005, *Who is a child? Consideration of tradition and modernity in Iranian Child Law*

⁸² Azizi,S., Hajiazizi,B., and Hassankhani, R., 2012, Lineage Influence on Nationality from Islamic Republic of Iran law View Point, *Journal of Politics and Law*, 5(2)

⁸³ *Civil Code of Iran (last amended 1985)*, 23 May 1928, www.refworld.org/docid/3ae6b5a68.html

⁸⁴ Azizi,S., Hajiazizi,B., and Hassankhani, R., 2012, Lineage Influence on Nationality from Islamic Republic of Iran law View Point, *Journal of Politics and Law*, 5(2)

⁸⁵ Yassari, N. 2005, Who is a child? Consideration of tradition and modernity in Iranian Child Law. In S. Rutten (Ed.), *Recht van de Islam 22. Teksten van het op 18 juni 2004 te Leiden gehouden tweewintigste RIMO-symposium* (pp. 17-30). Maastricht: Rimo., pp:29

for increased risk of statelessness through children born out of wedlock, as the children could be considered illegitimate. More research is needed to establish whether the statement released by the Office of the Supreme Court in 1997 is being followed, and the right to the Iranian father's nationality is not affected by the child being illegitimate.

Further complicating this issue is that the law in Iran strongly punishes adultery, in the most extreme cases leading to 100 lashes for adultery pre marriage, and stoning to death post marriage. UNICEF noted the dangers of women approaching the authorities to register their child who is illegitimate:

Being pregnant and not married makes the mother suspected of adultery (*zina*) simply by virtue of her pregnancy. This means that, according to Islamic Penal Code, an Iranian woman who gives birth to a child out of wedlock in Iran may be held legally responsible for such an act. The relationship in question may be regarded as constituting infidelity, and is thus liable to punishment. Such a woman if proved of adultery may be flogged 100 times for bearing a child out of wedlock.⁸⁶

This could mean that women who have an illegitimate child, or who cannot prove their marriage to the father, may not register their child for fear of being punished on charges of adultery. Without birth registration, proof of parents' marriage or proof of legal residence, the child may be rendered stateless and unable to resolve this upon reaching the age of majority, under the 2006 Constitutional Amendment. Therefore, Iran is failing to meet its international obligations, specifically in ensuring that children are registered as soon as possible after birth, and that every child has a right to a nationality, as set out in the CRC.

4. Conclusion; areas for future research

Analysing the nationality law of Iran with regards to statelessness shows that there are significant gaps that could lead to people being rendered stateless, and insufficient safeguards to prevent statelessness. The gender discrimination in the nationality law is the most prominent example. Despite the 2006 Constitutional Amendment broadening the situations under which an Iranian woman can pass on her nationality, children born of Iranian women and, for example, unknown or stateless fathers, or those who are unable to confer their nationality to their child, are still often unable to resolve this upon reaching 18. Further to this, articles that allow for the renunciation of nationality without the person having gained another nationality, means that a person can render him or herself stateless. What this analysis shows is that Iran is failing to meet its obligations under international treaties to ensure that children are not rendered stateless at birth, and that there is no discrimination in access to nationality.

The research also found that there continues to be issues of statelessness, or risk of statelessness, amongst the Faili Kurds and the Khavari Afghan populations in Iran. These populations were shown to be in a very vulnerable position, with their situation requiring further research.

⁸⁶ UNICEF, 2005, *Birth Registration in Iran: An analysis of the state of relevant laws in Iran*, www.unicef.org/iran/IRN_resources_BR_eng-word.pdf, pp:9

Two broader themes that relate to statelessness, or risk thereof, were highlighted as particularly problematic. The first is the lack of registration of Afghan refugees since 2005. This lack of registration is even more worrying if we consider the gender discrimination in the nationality law. Being unregistered means that a couple who have a child can face significant obstacles in providing documents (such as marriage or death certificates) when trying to access nationality for their children, and increasing barriers to this child securing a nationality upon reaching majority. As a consequence of this, statelessness could arise and be perpetuated. The second issue is that there are some barriers to birth registration in Iran, meaning that many children are not registered. As birth certificates are seen as one of the central forms of proof of nationality in Iran, access to birth registration is a politically sensitive issue. While it is possible, in theory, for non-nationals to register their child and gain a birth certificate, in practice this is not always the case. With birth registration being so crucial in determining a child's nationality, lack of registration can lead to cases of statelessness and hamper its resolution at a later date.

Finally the issue of illegitimate children was considered. While there was guidance from the Office of the Supreme Court in 1997, stating that these children should have a claim to *all* their father's rights, bar inheritance, the application of this must be further considered. This is due to the fact that there is a risk of children not being able to acquire their father's nationality if they are illegitimate, which could lead to statelessness in certain circumstances.

As a result of the findings of this research, several key areas for further research can be drawn out:

- ❖ What measures could be adopted by the Iranian registry office to reduce the risk of children being rendered stateless at birth?
- ❖ What is the relationship between birth registration and children born in Iran, and their ability to acquire a nationality?
- ❖ How, or if, the 2006 Constitutional Amendment could be expanded to resolve cases of statelessness which stem from the gender discrimination in the nationality law?
- ❖ What are the reasons behind, and consequences, of the 'nullification' of Kahvari Afghans birth certificates?
- ❖ What are the reasons for Faili Kurds not claiming, or not being able to claim, Iraqi citizenship, and in what ways can this be overcome to resolve their statelessness?
- ❖ Can illegitimate children claim their Iranian father's nationality, and how does this relate to risk of statelessness?

Appendix 1: Iranian Nationally Law

BOOK 2 - CONCERNING NATIONALITY

Article 976

The following persons are considered to be Iranian subjects:

(1) All persons residing in Iran except those whose foreign nationality is established; the foreign nationality of such persons is considered to be established if their documents of nationality have not been objected to by the Iranian Government.

(2) Those born in Iran or outside whose fathers are Iranian.

(3) Those born in Iran of unknown parentage.

(4) Persons born in Iran of foreign parents, one of whom was also born in Iran.

(5) Persons born in Iran of a father of foreign nationality who have resided at least one more year in Iran immediately after reaching the full age of 18; in other cases their naturalization as Iranian subjects will be subject to the stipulations for Iranian naturalization laid down by the law.

(6) Every woman of foreign nationality who marries an Iranian husband.

(7) Every foreign national who has obtained Iranian nationality.

Article 977

(a) If persons mentioned in Clause 4 of Article 976 wish to accept the nationality of their fathers they must submit a written declaration to the Ministry of Foreign Affairs to which they should annex a certificate issued by the national Government of their fathers to the effect that the said Government would recognize them as their own nationals.

(b) If persons mentioned in Clause 4 of Article 976 after reaching the full age of 18 years wish to remain of the nationality of their fathers, they must, within a period of one year, submit a declaration to the Ministry of Foreign Affairs to which they should annex a certificate from their father's national Government indicating that the said Government would recognize them as its own nationals.

Article 978

Reciprocal treatment will be observed in the case of children born in Iran of nationals of countries where children born of Iranian subjects are considered as nationals of that country and the return of such children to Iranian nationality is made dependent on permission.

Article 979

Persons can obtain Iranian nationality if they:

(1) Have reached the full age of 18.

(2) Have resided five years, whether continuously or intermittently, in Iran.

(3) Are not deserters from military service.

(4) Have not been convicted in any country of non-political major misdemeanors or felonies.

In the case of Clause 2 of this Article, the period of residence in foreign countries in the service of the Iranian Government will be considered as residence in Iran.

Article 980

Those opting for Iranian nationality who have rendered services or notable assistance to public interests in Iran, or who have Iranian wives by whom they have children, or who have attained high intellectual distinctions or have specialized in affairs of public interest can be accepted as nationals of the Islamic Republic of Iran without the observance of the requirement of residence, subject to the sanction of the Council of Ministers and provided that the Government considers their naturalization to Iranian nationality to be advisable.

Article 981 *This article was repealed on 29 December 1982.*

Article 982

Those who have obtained or who obtain Iranian nationality will enjoy all rights recognized for Iranians with the exception of the right to attain to the position of the President of the Republic, a Minister of Cabinet rank or of Acting Minister or any kind of diplomatic position abroad. They cannot, however, attain the following positions until 10 years after the issue of the document of Naturalization: (1) Membership of the Islamic Consultative Assembly. (2) Membership of Provincial or District Councils or Municipal Councils. (3) Entry into the service of the Ministry of Foreign Affairs.

Article 983

An application for naturalization must be submitted to the Ministry of Foreign Affairs direct or through the Governors or Governors-General, and be accompanied by the following documents:

(1) Certified copy of the identity papers of the applicant, his wife and children.

(2) Certificate from the police stating the period of residence in Iran of the applicant, his clean record, possession of sufficient property or of employment which ensure a livelihood. The Ministry of Foreign Affairs will complete, if necessary, the particulars concerning the applicant and will send the papers to the Council of Ministers for an appropriate decision rejecting or acceptance the application. If the application is accepted a document of nationality will be delivered to the applicant.

Article 984

The wife and minor children of those who obtain Iranian nationality in accordance with this Act will be recognized as Iranian nationals; but the wife can submit, within one year of the date of issue of nationality papers to her husband, and the minor children can submit, within one year after reaching the full age of 18, a written declaration to the Ministry of Foreign Affairs accepting the former nationality of her husband or the father as the case may be, provided, however, that the certificate mentioned in Article 977 is attached to the declaration of the children whether male or female.

Article 985

Adoption of Iranian nationality by the father in no way affects the nationality of his children who may have attained the full age of 18 at the date of the application for naturalization.

Article 986

A non-Iranian wife who may have acquired Iranian nationality by marriage, can revert to her former nationality after divorce or the death of her husband, provided that she informs the Ministry of Foreign Affairs in writing of the facts; but a widow who has children from her former husband cannot take advantage of this right so long as her children have not attained the full age of 18. In any case, a woman who may acquire foreign nationality according to this Article cannot possess properties except within the

limits fixed for foreign nationals. If she possesses landed properties more than those allowed in the case of foreign nationals, or if subsequently she comes into possession by inheritance of landed properties exceeding that limit, she must transfer by some way or other to Iranian nationals the surplus amount of landed properties within one year from the date of her acquiring the inherited property. Failing this, the properties in question will be sold under the supervision of the local Public Prosecutor and the proceeds will be paid to her after the deduction of the expenses of sale.

Article 987

An Iranian woman marrying a foreign national will retain her Iranian nationality unless according to the law of the country of the husband the latter's nationality is imposed by marriage upon the wife. But in any case, after the death of the husband or after divorce or separation, she will re-acquire her original nationality together with all rights and privileges appertaining to it by the mere submission of an application to the Ministry of Foreign Affairs, to which should be annexed a certificate of the death of her husband or the document establishing the separation.

Article 988

Iranian nationals cannot abandon their nationality except on the following conditions:

- (1) That they have reached the full age of 25.
- (2) That the Council of Ministers has allowed their renunciation of their Iranian nationality.
- (3) That they have previously undertaken to transfer, by some means or other, to Iranian nationals, within one year from the date of the renunciation of their Iranian nationality, all the rights that they possess on landed properties in Iran or which they may acquire by inheritance although Iranian laws may have allowed the possession of the same properties in the case of foreign nationals. The wife and children of the person who renounces his nationality according to this Article do not lose their Iranian nationality, whether the children are minors or of age, unless the permission of the Council of Ministers allows them to renounce their nationality; and
- (4) That they have completed their national military service.

Article 989

In case any Iranian subject acquired foreign nationality after the solar year 1280 (1901-1902) without the observance of the provisions of law, his foreign nationality will be considered null and void and he will be regarded as an Iranian subject. Nevertheless, all his landed properties will be sold under the supervision of the local Public Prosecutor and the proceeds will be paid to him after the deduction of the expenses of sale. In addition, he will be disqualified to attain the position of Cabinet Minister or Assistant Minister or of membership of the Legislative Assemblies, Provincial and District Council and Municipal Councils, or any other governmental positions.

Article 990

Iranian subjects who may have personally, or whose fathers may have, renounced Iranian nationality in accordance with the provisions of law and who may wish to re-acquire their original nationality can be reinstated in their Iranian nationality by mere application unless the Government may deem the grant of their application to be inadvisable.

Article 991

Particulars and instructions concerning the enforcement of the law of nationality and the exaction of the administrative fees in the case of those who may apply for naturalization as nationals of the Islamic Republic of Iran, or renunciation of Iranian or retention of original nationality, will be specified in regulations which will have to be sanctioned by the Council of Ministers.

Appendix 2: Iran's International Commitments

Convention	Relevant Article
ICCPR	<p>Article 24(3) Every child has the right to acquire a nationality.</p> <p>Article 26 All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.</p>
ICESCR	<p>Article 2 (2) The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.</p> <p>Article 3 The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.</p>
CRC ⁸⁷	<p>Article 2(1) States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.</p> <p>(2) States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.</p> <p>Article 3(1) In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.</p> <p>(2) States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.</p> <p>(3) States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.</p> <p>Article 7(1) The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.</p> <p>(2) States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.</p>

⁸⁷ With reservations to the articles and provisions which may be contrary to the Islamic Shariah, and preserves the right to make such particular declaration, upon its ratification.

	<p>Article 8 (1) States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.</p> <p>(2) Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.</p>
CERD	<p>Article 5 In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: (iii) The right to nationality.</p>
Cairo Declaration on Human Rights in Islam	<p>Article 7 (a) As of the moment of birth, every child has rights due from the parents, the society and the state to be accorded proper nursing, education and material, hygienic and moral care. Both the fetus and the mother must be safeguarded and accorded special care.</p> <p>Article 5 (a) The family is the foundation of society, and marriage is the basis of making a family. Men and women have the right to marriage, and no restrictions stemming from race, colour or nationality shall prevent them from exercising this right.</p> <p>(b) The society and the State shall remove all obstacles to marriage and facilitate it, and shall protect the family and safeguard its welfare.</p> <p>Article 19 (a) All individuals are equal before the law, without distinction between the ruler and the ruled.</p> <p>(b) The right to resort to justice is guaranteed to everyone.</p>

Appendix 3:
BOOK 7
On Marriage and Divorce
CHAPTER 3
ON IMPEDIMENTS TO MARRIAGE

Article 1060 - Marriage of an Iranian woman with a foreign national is dependent, even in cases where there is no legal impediment, upon special permission of the Government.

Law on determining the nationality of children who are the result of marriage between Iranian women and foreign men

Single Article – Children who are the result of marriage between foreign men and Iranian women, who have been born in Iran, or are born in Iran within one year from the date of the ratification of this law, will be able to apply for Iranian citizenship when they reach the full age of 18. These persons will be accepted as Iranian citizens if they lack criminal records or security violation backgrounds and renounce their non-Iranian citizenship. The Interior Ministry obtains evidence of the birth of the child in Iran as well as the issuing of marriage permit as stipulated in Article 1060 of the Civil Law, and the Law Enforcement Forces after being informed by the Interior Ministry issue the residence permit of the foreign father stipulated in this article. Children concerned with this article are permitted to reside in Iran prior to obtaining citizenship.

Note 1- If persons to whom this Articles applies, are older than 18 years of age at the time of the approval of this article, they must, within a period of one year, apply for Iranian citizenship.

Note 2 – Persons who after the date of the ratification of this law are born in Iran, are the result of marriage between a foreign man and an Iranian woman, and the marriage of their parents has been registered from the inception of the marriage in compliance with Article 1060 of the Civil Law, will be accepted as Iranian citizens within one year after reaching the full age of 18 and without meeting the residence requirement stipulated in Article 979 of the Civil Law.

The Aforementioned law which consists of a single article and two notes was ratified during the open meeting of the Islamic Consultative Assembly on Sunday September 11, 2006 and was approved by the Guardian Council 09.21.2006.

Speaker of the Islamic Consultative Assembly – Gholam Ali Haddad Adel