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Contemporary Issues in Marriage Law and Practice in Qatar

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Abstract

This paper discusses changing marriage practices in modern day Qatar, drawing on empirical data gathered in a socio-legal study involving interviews with individual citizens and residents about their marriage and family experiences, and with legal personnel and experts in family law. It presents a unique insight into the evolving practices and relationship behaviours occurring within and on the periphery of Qatar's family-law framework in the context of its population make-up, historic traditions, trends in education, and the impact of globalisation. Changing marriage practices examined include 'late' first marriages and the practice of marrying out. The empirical research findings are used to analyse the link between the administrative process of obtaining permission to marry out and non-state-registered marriages; the gender imbalance in the treatment of those marrying out; the state's role in 'sinful' relationships; and the link between child custody rights and unofficial marriages. The emerging narrative depicts couples navigating marriage laws and utilising non-state-registered 'religious-only' marriages as a temporary measure to overcome legal and administrative hindrances.

Key words: Family law, Qatar, marriage contract, marriage formalities, marrying-out, religious-only marriage, non-state-registered marriage

1. Introduction

There are so many people here from so many different nationalities.

There's such an influx of people from so many places with different agendas and plans. It is hard to find solutions for all of them.¹

A non-Qatari female living in Qatar.

I think people forget, because it is such a wealthy country and it is developing so fast. People forget it is still just a baby.

A Qatari female.

During the past five decades, the pace of transformation experienced by the Qatari population, citizen and long-term resident alike, has been unparalleled. Advancements in and of the state are observable in every aspect of society, from education, health, welfare, and state infrastructure, to city building, cultural advancements, and global financial ascendancy (Anser 2014: 60). However, this image of modernity and change must be tempered by the more workaday pace of adaptation and transition at the personal, family, and community levels. It is at

¹Participant comments are quoted from transcripts where interviews were recorded, or from interview notes where participants did not consent to recording.

these levels where family law acts, and where cultural norms subsist, and where change is following quite different trajectories and, in some ways, both advancing and resisting the modern, international outlook of the state. This paper draws upon socio-legal empirical research conducted in Qatar, interviewing men and women to explore the norms and experiences of marriage, and lawyers and academics engaged in teaching and implementing family law. Drawing on this research data and national statistics, this paper discusses changing marriage practices and the issue of religious-only (non-state-registered) marriages in the contexts of ‘marrying out’ and of child custody.² Points of focus include the impacts of law and of state administrative processes upon marriage, and their influence upon relationship behaviour amongst citizens and residents of Qatar.

Marriage practices in Qatar have historically been diverse and reflective of a society fully engaged with its neighbors. The development of the law has been described as threefold: ‘tribal law or desert law, Sharia law and modern law’ (Hamzeh 1994: 80).³ The advent of the nation state has led to stronger notions of national identity, but their effects in this sphere of law have been secondary to the tribal lineage and family connections that proliferate across national boundaries (Fromherz 2012: 3–4). In the Middle East and North Africa (MENA) region, the Gulf states have historically had comparable family laws; when coupled with family ties between tribes, across states and across similar cultural

² Elsewhere, this has been described as ‘unregistered marriage’, i.e. marriage which conforms to Islamic religious rites but does not conform to a state’s legal requirements for a recognized marriage.

³ The ‘modern’ period began in 1916.

traditions, this comparability has enabled intermarriages with comparable legal treatment, rights, and consequences.

Gulf residents have historically intermarried, and the available data on marriage (from Qatar's Planning and Statistics Authority) demonstrate both enduring norms and also a greater diversity in choice of marriage partner in recent years.⁴ The number of Qatari nationals 'marrying out' has fluctuated over time, but is currently steady.⁵ In 1985, 16.5 per cent of Qatari nationals married out, and numbers have generally continued to grow, peaking at 21 per cent in 2015 (Alharahsheh and al-Meer 2015: 5). In 2018, the figure decreased to 17 per cent. (Over the same period, Qatar's population has exploded: in 1985 it was 370,890,⁶ and in March 2020 it stood at almost 2.8 million.⁷ While it is difficult to obtain accurate figures on citizenship, it is estimated that 333,000 of the total population, or approximately 10.5 per cent, held Qatari citizenship in 2019.⁸)

While choosing to marry non-nationals is not a new phenomenon, when combined with the wider transitions engendered by globalization and social media that are currently underway in Qatari society this practice points toward long-term and far-reaching consequences in all spheres of life arising from

⁴ www.psa.gov.uk (accessed 18 November 2019). A note of caution is appropriate where official statistics are cited. While they are drawn from state sources, this does not of course guarantee accuracy. Where marriage is concerned, these also only account for state registered marriages in Qatar and not marriages performed elsewhere or unregistered marriages in Qatar. For the purposes of charting patterns of marriage behaviour within the population, they are suitable in the absence of contrary data.

⁵ 'Marrying out' refers to marriage where one spouse is a Qatari national and the other not.

⁶ Worldometers Qatar Population (Live) at <https://www.worldometers.info/world-population/qatar-population/> (accessed 1 May 2020).

⁷ Qatar Planning and Statistics Authority, monthly statistics March 2020 at <https://www.psa.gov.qa/en/Pages/default.aspx> (accessed 1 May 2020).

⁸ See <http://priyadsouza.com/> (accessed 1 May 2020).

Qatar's unique links and cultural transitions.

This paper begins by setting out the context of Qatar and the background to the implementation of the state's Family Law code. It then moves on to examine changing marriage practices in Qatar and the rest of the Gulf Cooperation Council (GCC), including the increase in late first marriage and the issue of marrying out. The empirical research findings will then be presented, with particular focus on the link between the administrative process of obtaining permission to marry out and non-state-registered marriage; the gender imbalance in the treatment of those marrying out; 'sinful' relationships and the state's role; and the link between child custody and unofficial marriage.

2. Background: Family Law in Qatar

In modern-day Qatar, the interface between culture, globalisation, and modernity is observed most intensely on the family front. Tribal genealogy and ancestry are still pivotal to self-identification for many Qataris, and while 'they are still bound by many of the same social rules and strictures as their parents [...] (e)ven so, the strictures and social rules are changing' (Fromherz 2012: 4). The forces of globalisation and modernisation are clearly impacting cultural and tribal family norms in the Gulf region, including Qatar, where 'globalisation is changing and challenging many of the local traditions and cultural values' (Al-Ammari and Romanowski 2016: 1536). The impacts of globalisation and modernisation are multi-dimensional. Within GCC states, one aspect of the nation-state building project in the twentieth century was the codification of

family law (Welchman 2004: 4). Where family formation and divorce are concerned, legal codes have only relatively recently replaced practices involving Shariah scholars applying largely uncodified religious jurisprudence. This process has paved the way for modern renditions of long-standing Islamic principles, as provided for in state constitutions.⁹

Marriage formation in Qatar is regulated by Law No. 22 of 2006 Promulgating 'The Family Law' (hereafter 'the Family Law'). Its 301 articles cover marriage, divorce, custody, and a penumbra of relevant cradle-to-grave issues (Elgendy 2010). Qatar's Family Law code is considered to be one of the most modern in the Gulf region, adopted following years of drafting and trial implementation. Reinforcing the primacy given to the family as the core of society, the code is grounded in systematizing people's lives from birth to death, on the basis of a law derived from religious textual sources (Bou Shehab 2017: 3). The main provisions regarding marriage formation (this paper's primary concern) are set out in Book 1, Part 2, Articles 9 to 48. Marriage is 'a contract issued in accordance with the law',¹⁰ and the prerequisites for it are that both parties satisfy the legal conditions for marriage,¹¹ and that both consent.¹² The parameters for these

⁹ For example, the Permanent Constitution of the State of Qatar was ratified in 2004. Article 1 provides that Shari'a Law shall be the main source of its legislation.

¹⁰ Article 10.

¹¹ The conditions are contained within Article 12, and include competence of the parties, the validity of the offer and acceptance, a guardian, and witnesses (two Muslim males).

¹² Article 11.

legal conditions include issues of affinity,¹³ ‘matching’ of the parties,¹⁴ mahr,¹⁵ and marital property.¹⁶

While the implementation of the Family Law code officially occurred in 2006, drafting began in the 1990s when the courts were divided into civil and religious, with family matters (or ‘personal law’) falling in the domain of the sharia courts (An-Na’im 2002: 134–5). The preceding personal status code had been derived from religious sources and implemented by religious scholars (Moller 2013: 23–5), a process described by some as ‘arbitrary and detrimental to women’s rights’ (Breslin and Jones 2010). Such a process did nevertheless allow flexibility and responses correlating more closely with the needs of the parties, though with an inevitable unpredictability in outcome (Welchman 2012: 368–74). Today, Qatar’s Family Law is implemented at first instance by circuit judges sitting in the Family Court, which opened in early 2018,¹⁷ and by a Family Court of Appeal to which decisions can be referred (Elgendy 2010: 5). Where gender equality is concerned, it should be noted that, at the time of writing, there were no female judges in the Family Courts, although this is due not to legal restrictions but rather cultural ones (Breslin and Jones 2010). Despite this statutory judicial process, the influence of religious clergy over family matters continues in tandem: Caeiro (2018: 6) sets out evidence from Islamweb, an online fatwa

¹³ Articles 20 to 24.

¹⁴ Articles 31 to 35. This refers to the suitability of the couple for each other.

¹⁵ Articles 37 to 41. Mahr (dower) is a gift given by the groom to the bride at the time of marriage, and usually stipulated in the religious marriage contract.

¹⁶ Articles 42 to 48.

¹⁷ Issuance Articles, Article 2, the Family Law 2006.

portal through which ‘the *muftis* target the family as the prime institution through which Islamic practice may be advanced in contemporary society’.

The social context in which family law is applied is an important dimension to assessing the effectiveness of its processes and implementation: the massive increase in Qatar’s population in recent decades has already been noted; as of March 2020, 73 per cent of the 2,795,484 population is male;¹⁸ 73 per cent is aged 25–64; a mere 1.22 per cent is over 65; under-fifteens account for 14 per cent; and those aged 15–24 12 per cent.¹⁹

The large numbers of non-Qatari residents present in the country and the growing population are compounding the stresses on family-law processes and infrastructure. While a detailed breakdown of Qatar’s population by nationality is not available from the Planning and Statistics Authority, reliable statistics have been gathered by an independent source.²⁰ In August 2019, the population was 10.5 per cent Qatari, 16.6 per cent other Arab, 21.8 per cent Indian, 12.5 per cent Bangladeshi, 12.5 per cent Nepalese, 4.7 Pakistani, and 4.35 Sri Lankan. The remaining 17 per cent hailed from a total of 76 other nations. Strict social divisions exist between ‘families’ and single male laborers—who number over a million—and this manifests itself in the form of segregated spaces. These single male laborers reside in Qatar without their families and, not being ‘potential marriage partners’ (Anser 2014: 61), are highly unlikely to use the family-law

¹⁸ This is due to the large numbers of single male laborers in the country.

¹⁹ Qatar Planning and Statistics Authority at <https://www.psa.gov.qa/en/pages/default.aspx> (accessed 1 May 2020).

²⁰ See <http://priyadsouza.com/> (accessed 1 May 2020).

infrastructure. Existing Qatari customs and norms are facing challenges from a multi-cultural population with diverse interpretations of Islam, though the exclusivity of citizenship serves to reinforce the temporariness of non-Qataris (Ahmed 2017: 4), limiting the extent of legal accommodation of these non-citizens. In addition, globalisation and the rise in the number of Qataris attending university in pursuit of a 'knowledge-based society' are also making an impact (Gremm et al. 2018). It is within this complex and evolving backdrop that a discussion of marriage law in Qatar is situated.

3. Changing Marriage Norms: the GCC and Qatar

For Qataris, changing demands within the family derive from changing norms and expectations more broadly. The wider Gulf region is facing transitions in a number of areas, including the role of women in general and ideas of authority, comparatively late marriage, high divorce rates, and women choosing not to marry (Al-Kazi 2008). Aligned with globalization trends, of particular note alongside material advancement is a change in intellectual pursuit. Many more Qataris are now university educated, with women far outstripping men: 68.2 per cent of the university population was made up of Qatari women in 2018, compared with just 8.5 per cent Qatari men.²¹ A small number of Qatari students study abroad, and the majority of these (67 per cent) are male. The impact of higher education on expectations of family life, particularly for women, requires

²¹ Education in Qatar Statistical Profile 2019, 45. Available at: https://www.psa.gov.qa/en/statistics/Statistical%20Releases/General/StatisticalAbstract/2019/Education_Statistical_Pro%EF%AC%81le_2019_En.pdf (accessed 1 May 2020).

further exploration. The issue of 'intellectual incompatibly' is not entirely new, of course: in 2008 the Qatar Statistics Authority found that the majority of women who married that year were university educated, while the majority of men had only reached secondary-school level (Al-Nasr 2011: 47–48). Nevertheless, despite their educational attainments, large numbers of women are economically inactive, with 'housewives' accounting for 47 per cent of the economically inactive population in 2017 (Labor Force sample survey 2017: 21).

During fieldwork conducted in Qatar, it was clear from numerous conversations with young Qatari women at universities that, for increasing numbers, the outlook is rapidly changing. The question of how this translates into relationship expectations shall become more apparent in the coming years, but it might go some way to explaining the so-called 'celibacy rate' of 12.9 per cent among female Qataris over the age of 30.²² These women are, for one reason or other, not marrying and producing children. The issue of 'celibacy' is one that effects many Gulf states, with 15–20 per cent of women in Bahrain, Kuwait, Qatar, and the UAE not marrying. According to some, it is due to 'lack of opportunity' (Anser 2014: 65). Compounded by relatively high divorce rates (34–46 per cent), many more women are no longer bearing or rearing children. State statistics reveal that the average age of first marriage for Qatari women increased by 3.7 years between 1986 and 2010, from 19.2 to 23.9.²³ A woman marrying over the age of

²² 2010 Qatar Ministry of Development and Planning Statistics, General Census of Population and Housing, and Establishment 2010.

²³ Qatar Marriage Registration Data, Ministry of Development Planning and Statistics, Qatar. Data analysed by M. Nizam Khan. 'Why are so many Qatari women marrying late or not marrying at all?' Presentation at the 2015 Annual Conference on Family Research and Policy: Research to Advance Family Policies, DIFI. Available at <https://www.difi.org.qa/wp-content/uploads/2017/11/Dr-Nizam-Khan.pdf> (accessed 23 May 2019).

25 is considered to be engaging in a late marriage. In 2018, 37 per cent of Qatari women marrying for the first time fell into this category.²⁴ It is highly likely that university education and workforce participation are factors in this delay, and the trend suggests that traditional family structure may be declining over time (Anser 2014: 61).

Another example of changing norms and practices relates to marrying out—where a Qatari citizen marries a non-Qatari. In 1985, 756 Qatari men married, of whom just 41 married non-Qatari women. Their wives came from a variety of places: other GCC countries (25), other non-GCC Arabs (8), Asians (2), and others (6). Eight hundred and fifteen Qatari women married in that same year, of whom 100 married non-Qatari men (85 from the GCC, 12 other Arabs, 2 Asians, and 1 from elsewhere). The overall rate of marrying out in 1985 reflected greater numbers of women marrying out than men: of a total of 141 Qataris marrying out, 71 per cent were women. Overall, 16.5 per cent of those marrying married out in 1985.

By 2018, things had changed. Of 2,184 Qatari men who married, 282 married non-Qataris (150 from other GCC countries, 90 from other Arab countries, 24 from Asia, 12 from Europe, and 5 others). Of 2,019 Qatari women who married, 117 married non-Qataris (73 from other GCC countries, 27 from other Arab countries, 13 from Asia, 1 European, and 3 others).²⁵ In a complete reversal of

²⁴ Qatar Planning and Statistics Authority, *Vital Statistics Annual Bulletin, Marriages and Divorces 2018*, 'First marriages of husband and wife by age group', 29.

²⁵ Qatar Planning and Statistics Authority, *Vital Statistics Annual Bulletin, Marriages and Divorces 2018*, 25th Issue, April 2019, 13.

the 1985 figures, out of a total of 399 marrying out, 71 per cent were men.²⁶

It is perhaps unsurprising that the majority of those marrying out are choosing spouses from other GCC states. Alharahsheh and Al Meer (2018b: 13) cite a study participant who stated that Qataris may choose GCC spouses as they share similar traditions and customs, have a similar environment, and enjoy the same social status. Importantly, tribal connections surpass national distinctions, and many are still marrying within families even if across borders.

3.1 Marriage Trends in Qatar, 1984–2019

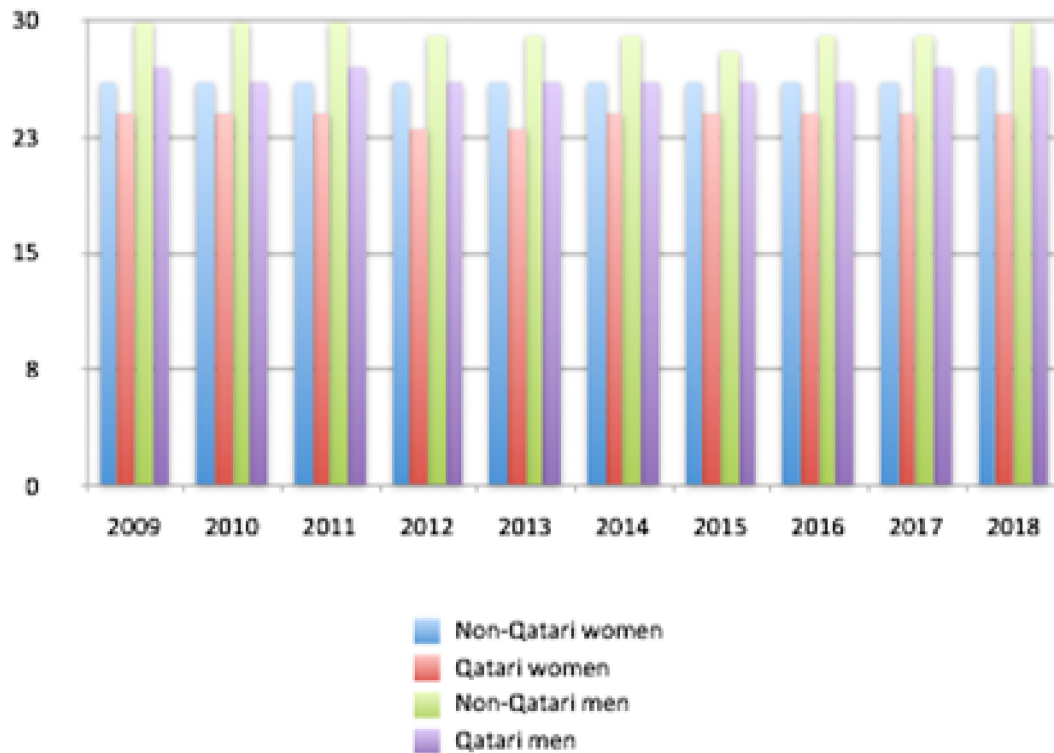
The National Planning and Statistics Authority of Qatar²⁷ provides annually collated data on marriage and divorce going back to 1984.²⁸ Over those years there has been a steady increase in the number of Qatari women marrying late, with 23 per cent marrying over the age of 25 in 1985, and 37 per cent in 2018. Concern over these late marriages rests in the impact they have on the fertility rate, making it an issue of public concern in the interests of preserving national identity. While age at marriage itself does not necessarily hinder women's child-bearing abilities and the consequent national fertility rate, other factors such as workforce participation may do so, with implications for the state's interests. The fertility rate in Qatar has dropped significantly since the 1970s. The total fertility rate of the entire population (Qatari *and* non-Qatari) was 6.11 from 1975 to 1980. This decreased to 2.21 from 2000 to 2005, and again to just 1.88 from

²⁶ Changes at an institutional level in Qatar mean that the official data relating to marriage may be partially fragmented, most notably when the Presidency of Sharia Courts was amalgamated with the Ministry of Justice in 2004.

²⁷ See <https://www.psa.gov.qa/en/Pages/default.aspx> (accessed 1 May 2020).

²⁸ Vital Statistics Annual Bulletin.

2015 to 2018 (Inhorn 2018: 156). This is qualified in that Qatari women have a slightly higher fertility rate (3.0) than non-Qatari,²⁹ though even this rate is of concern because of the overall low proportion of Qatari citizens in the population.



The number of Qatari men marrying above the age of 25 is much higher, although these are not labelled 'late marriages' as they do not impact on fertility in the same way. In 1988, 57 per cent of Qatari men married at age 25 and above. In 2018, this figure was 61 per cent. The average age of marriage of resident non-Qatari women is slightly higher than Qatari women, and the average age of marriage of resident non-Qatari men is slightly lower than Qatari men.

²⁹ 'The Arab world's silent reproductive revolution', Aljazeera 16 April 2019, available at <https://www.aljazeera.com/news/2019/04/arab-world-silent-reproductive-revolution-190416060958876.html> (accessed 10 December 2019).

Fig 1. The average age of marriage of Qatari and non-Qatari men and women.³⁰

Figure 1 reflects the variance in age at marriage between Qatari citizens and non-Qatari residents. The national statistics reflect higher levels of university education amongst non-Qataris and a higher average age at first marriage. It should be noted, however, that higher education is merely one additional variable, and not conclusive of transitioning norms. El-Haddad (2003: 6) cautions against drawing correlative links between Gulf women's education and their 'self-determination', suggesting that education and work do not occur in a vacuum and indeed can reproduce traditional systems of social values. This is particularly visible within Qatar University,³¹ where teaching is mainly conducted in Arabic and full segregation exists between male and female students, including the provision of two identically stocked libraries. While higher education is being engaged in, the physical parameters are carefully defined and in keeping with cultural norms and social values. Nonetheless, change is evident in the year-on-year increase in numbers enrolling at universities in Education City in Doha, which hosts a number of co-educational US university campuses.³² In addition, female leaders and stateswomen are increasing in numbers and visibility, including the Emir's sisters' occupation of

³⁰ Qatar Planning and Statistics Authority, Vital Statistics Annual Bulletin, Marriages and Divorces 2018, 'Average age of first marriage 2009–2018', 4.

³¹ QU has a student population of 23,000. See: <http://www.qu.edu.qa/about> (accessed 1 May 2020).

³² For example, Georgetown University in Qatar had a total of 501 graduates between 2009 and 2019, yet in the 2018–19 academic year alone 289 had enrolled on four-year undergraduate programmes, of whom 46 per cent were Qatari, demonstrating a significant increase in student numbers. See: <https://www.qatar.georgetown.edu/about/campus-publications/gu-q-annual-reports> (accessed 1 May 2020).

pivotal positions³³ and other examples.³⁴ Despite this, it is acknowledged that women's rights are yet to be brought into complete equality with men's in the GCC (Al-Nasr 2011: 45).

The 2013 Qatar Marriage Delay Survey was a significant study demonstrating further changing patterns of relationship behaviour by women in Qatar (Khan 2015). The survey of 1,721 Qatari women found that 'women in higher education and jobs were more likely to marry late compared with women with lower education and no work' (Khan 2015: 34). Pre-marriage employment also had a strong impact on marriage timing. Over the course of the five years after the study, the number of women in higher education only increased, and late marriage will presumably continue its upward trend. According to popular social discourse amongst Qataris, this may be compounded by the relative lack of 'compatible' male Qataris for university-educated women. Statistics from 2018 reveal that of the 2,184 Qatari men who married, 38 per cent were educated to university level and above, compared with only 30 per cent of the women.³⁵ However, the *combined* statistics for brides with secondary, post-secondary, and university education was 87 per cent,³⁶ against 84 per cent for grooms. This all indicates that large numbers of university-educated Qatari women are either not marrying (yet or at all), or not marrying *Qatari* men.

³³ For example, Sheikha Hind bint Hamad bin Khalifa Al-Thani is CEO of the Qatar Foundation for Education, and Sheikha Al-Mayassa bint Hamad bin Khalifa Al-Thani is chairperson of Qatar Museums.

³⁴ For example, Lolwah Al-Khater is spokesperson for the Ministry of Foreign Affairs and has been at the forefront of public announcements relating to the COVID-19 international emergency in the first half of 2020.

³⁵ State of Qatar Planning and Statistics Authority, Vital Statistics Annual Bulletin, Marriages and Divorces 2018, 25th Issue, April 2019, 32.

³⁶ This figure includes the 282 non-Qatari females married to Qatari men in 2018.

3.2 Marrying Out

Marrying out is not a new phenomenon, and it is unsurprising that Gulf states, where citizens are in the minority, would seek to carefully regulate the issue of who marries whom (Ahmed 2017: 4). GCC states have witnessed an increase in marrying out for decades, and figures from 2013–2014 show the rate to be 28.9 per cent in Bahrain, 28.8 per cent in the UAE, and 19.1 per cent in Kuwait (Alharahsheh and Almeer 2018a: 179).

In Qatar, which permits polygamy, Article 21 of the former Family Law of 1989 allowed for a Qatari man with a wife (or wives) to marry a non-Qatari woman. In other words, a non-Qatari woman could not be his first wife. The same law prohibited a Qatari woman from being a second or subsequent wife to a non-Qatari man.³⁷ The Law Decree No. (21) of 1989 Regarding the Regulation of Marriage to Foreigners, as amended in 2005,³⁸ now regulates such marriages.³⁹ The law no longer limits marrying out to second or subsequent wives for men, or to being a second or subsequent wife for women. Instead, it now places limitations on *who* may marry out, and excludes individuals working in certain capacities including high-ranking statesmen and women, diplomatic staff, security staff (including police and armed forces), and scholarship students studying abroad.⁴⁰ It places an obligation on all Qataris who wish to marry out to

³⁷ Interview with participant, an expert in Qatari family law.

³⁸ Saudi Arabia and Oman are the two other GCC states with similar laws restricting marrying out.

³⁹ Amended 17 March 2005.

⁴⁰ Article 1.

obtain permission from a Commission set up under the auspices of the Law,⁴¹ except when marrying a person from another GCC state. Qatari men are required to demonstrate that there are 'social reasons calling for such a marriage' and an 'appropriate' age difference between the intended spouses,⁴² amongst other requirements.⁴³ Women who do not fall within Article 1's categories of occupation are able to apply freely for permission to marry,⁴⁴ but cannot marry without the permission of the Commission and their guardian. It is unclear what criteria the Commission applies in granting permission, and based on interviews and anecdotal evidence they appear to be fairly arbitrary. However, once permission is granted the couple are able to engage with the legal formalities for marriage. Where permission is denied, the couple cannot legally marry. While a religious-only marriage may be an option, the couple cannot thereafter engage with the state in any way to seek recognition of or benefit from such a marriage, except for the exceptional use of Article 10 of the Family Law code, which is discussed later in this paper.

Despite marrying out being an option for both men and women, social stigma continues to be attached in particular to women who marry out. Alharahsheh and Al Meer (2018b: 5) suggest that 'Qatari society has become more accepting of cross national marriages.' However, this varies from family to family, and

⁴¹ Article 8. The Commission is made up of two representatives from the Ministry of Interior (Chairman of the Commission and a rapporteur of the Commission), a representative of the Ministry of Labour and Social Affairs, a representative of the Ministry of Awqaf and Islamic Affairs, a representative of the Ministry of Justice, and a representative of the Supreme Council for Family Affairs.

⁴² Not more than 15 years (Dresch 2013: 149).

⁴³ Article 2.

⁴⁴ Article 4.

where marriages are to other GCC citizens it is generally viewed more favourably. Despite this change, they also found that acceptance of marrying out is gendered, with Qatari women facing 'intensely negative reactions much more often than Qatari men' (2018b: 15). This may not be surprising in light of historic norms in the wider Gulf region, where tribes expect women to marry up, while only men could marry down because of the family being publicly defined through the male line (Dresch 2013: 137).

The formal weighting of the sexes, moreover, is far from equal. For men to marry out is at worst a misadventure to be dealt with by selective recall of genealogy; for women to marry out is to have the whole family give hostages to fortune (Dresch 2013: 138).

Yet these ideas are far from being notions of bygone eras and no doubt explain to some extent the difference in social treatment of men marrying out compared with women doing the same.

The 1989 law, if taken in the wider regional context, could be seen as a response to soaring numbers of individuals choosing to marry out. Reliable statistics are difficult to find, but a useful comparator is the UAE: Bristol-Rhys (2007: 22) describes discontent with the 'significant' numbers of Emirati men choosing to marry out, leading to President Sheikh Zayed calling in 1973 for the practice to be discouraged due to its perceived negative affect on society. Emirati women though 'have never married outside of the group' and are prohibited from doing so (Bristol-Rhys 2007: 31), a position which is significantly different to that of

Qatari women. Table 1 charts the numbers of Qatari men and women who have married out since 1984. Qatari women married out in far larger numbers than men during the 1980s, with the number of men and women marrying out more evenly distributed in the 1990s and 2000s. From 2013 onwards, by contrast, the number of men marrying out was greater, with a rapid drop since 2015 in women marrying out. There has been no obvious legal or political change to explain the drop in numbers of women marrying out, and this may in fact be explained by a lack of permission being granted by the Marriage Commission.

Table 1: Numbers of Qatari men and women marrying out between 1984 and 2019

Year	Total No. of Qatari men who married	No. of Qatari men marrying out	Total No. of Qatari women who married	No. of Qatari women marrying out	Total No. marrying out	% who married out
1984	847	58	890	101	159	16.77
1985	756	41	815	100	141	16.47
1986	840	53	868	81	134	14.55
1987	954	56	1025	97	153	14.15
1988	978	47	1016	85	132	12.42
1989	965	40	1011	86	126	11.99
1990	989	50	1021	82	132	12.32
1991	1141	76	1164	99	175	14.11
1992	1178	78	1202	102	180	14.06
1993	1148	73	1182	107	180	14.34
1994	1095	64	1125	94	158	13.29
1995	1030	72	1042	84	156	14.00
1996	1184	74	1193	83	157	12.39

1997	1245	85	1259	99	184	13.69
1998	1245	102	1249	106	208	15.40
1999	1296	145	1283	132	277	19.40
2000	1483	126	1473	116	242	15.13
2001	1549	114	1559	124	238	17.08
2002	1593	156	1577	140	296	17.33
2003	1773	169	1767	163	332	17.15
2004	1730	215	1742	227	442	22.59
2005	1848	210	1814	176	386	19.07
2006	2023	217	2024	218	435	19.41
2007	2013	234	2012	233	467	20.79
2008	1954	192	1992	230	422	19.32
2009	1920	202	1946	228	430	20.02
2010	1752	208	1775	231	439	22.14
2011	1898	241	1925	268	509	23.49
2012	2053	261	2067	275	536	23.02
2013	2072	272	2067	267	539	23.04
2014	2076	261	2047	232	493	21.36
2015	2069	272	1993	196	468	20.66
2016	2097	238	2042	183	421	18.46
2017	2181	279	2090	188	467	19.71
2018	2184	282	2019	117	399	17.34
2019	2077	225	1972	120	345	15.70

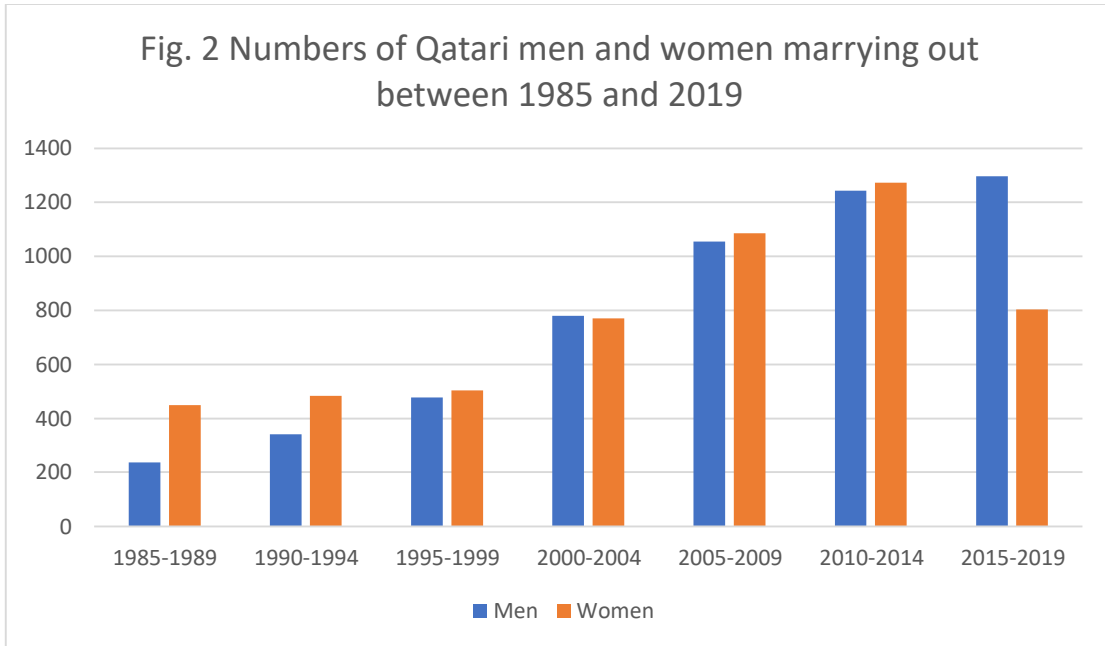
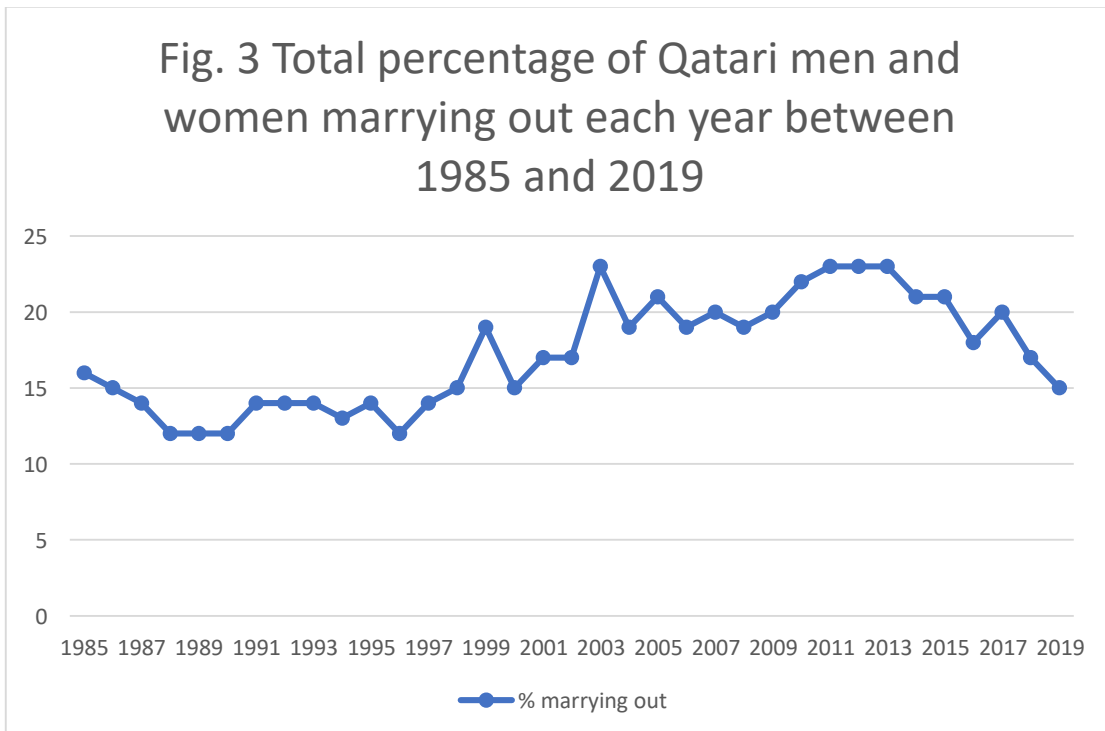


Figure 2 vividly demonstrates the increase in overall numbers marrying out, and the significant reduction since 2015 in Qatari women marrying out.





It is clear from Figure 3 that the overall percentage of Qataris marrying out has increased steadily, if unevenly, over the past 35 years. The peak occurred in 2011, when 23.5 per cent of all Qatari marriages were to a non-Qatari spouse. It is perhaps unsurprising that the lowest rate of marrying out (12 per cent) occurred in 1989, when the new law came into force to curb such marriages. But this was not, however, a significant decrease from previous years, and the rate rose slightly for several years thereafter.

Table 2: Nationalities of spouses of Qatari men and women marrying out between 1984 and 2019

Year	GCC		Arab		Asian		EU		Other	
1984	28	82	13	12	13	5	0		4	2
1985	25	85	8	12	2	2	0	0	6	1
1986	28	72	10	9	10	0	0		5	0
1987	21	83	11	11	11	3	0		13	0
1988	30	72	12	11	3	1	0	0	2	1
1989	31	74	4	11	4	1	0	0	1	0
1990	26	75	8	5	10	2	0	0	6	0
1991	47	82	14	12	13	3	0	0	2	2
1992	48	92	13	4	14	6	0		3	
1993	40	99	14	4	18	4	0	0	1	0
1994	44	86	6	7	12	1	1	0	1	0
1995	43	82	16	1	12	1	1	0	0	0
1996	45	74	14	4	14	4	0	0	1	1
1997	56	76	16	22	12	0	0	0	1	1
1998	56	75	22	25	19	6	0	0	5	0
1999	64	98	28	23	50	10	0	0	3	1

2000	71	79	35	27	18	9	0	1	2	0
2001	61	86	26	25	24	11	0	0	3	2
2002	67	104	52	24	35	12	1	0	1	0
2003	88	122	38	22	35	7	2	3	6	9
2004	92	133	73	82	43	9	5	1	2	2
2005	111	124	61	41	35	11	1	0	2	0
2006	104	171	60	36	50	8	1	0	2	3
2007	98	175	76	48	53	7	3	1	2	2
2008	85	165	55	51	48	11	2	0	2	3
2009	86	174	77	35	35	15	3	2	1	2
2010	98	164	60	48	47	18	1	0	2	1
2011	85	187	103	55	42	20	4	2	7	4
2012	97	202	109	59	47	7	7	3	1	4
2013	101	181	124	67	39	13	5	2	3	4
2014	101	164	107	50	41	13	3	2	9	3
2015	117	142	111	40	35	6	4	4	5	4
2016	118	124	86	46	23	7	6	3	5	3
2017	117	117	108	56	41	11	7	3	6	1
2018	150	73	90	27	24	13	13	1	5	3
2019										

 Husbands married to Qatari wives
  Wives married to Qatari husbands

The majority of women marrying out are marrying GCC nationals or ‘other Arabs’, and it is likely that the latter category reflects marriages between Qatari women and other Arab who are resident in Qatar. The number of Qatari men marrying Asian women has steadily increased over time, while Qatari women

have married Asian men less frequently. The numbers marrying Europeans and 'others' are small.

Further changes in marriage behaviour can also be seen in patterns of marriage between unrelated individuals. In 2010, there were 454 first-degree relative (i.e. cousin) marriages (26 per cent of the total), 369 second-degree (i.e. any other relative) marriages (21 per cent), and 923 between unrelated persons (53 per cent). In 2014, marriages between the unrelated peaked at 62 per cent,⁴⁵ a figure which by 2017 had dropped back to 57 per cent.⁴⁶ The remainder of the population married either a first- or second-degree relation. In 2018, 556 first-degree marriages (25 per cent) were recorded, 367 second-degree (17 per cent), and 1,261 unrelated (58 per cent). While the figures have fluctuated year on year, marriages to an unrelated spouse have exceeded 50 per cent. This apparent break with tradition brings with it several consequences. Firstly, the problem of genetic defects in children of first-degree cousins is likely to decrease (Teebi and Ben-Omran 2010). Secondly, property and wealth might be expected to be distributed beyond traditional family boundaries. And thirdly, cultural traditions within families might be expected to undergo changes in the light of exposure to new, external cultural norms, this phenomenon being more pronounced in children of the marriage.

The notion of marriage and what it facilitates for the couple are important considerations. In Qatar, family 'dominates the social lives of Qatari men and

⁴⁵ Ministry of Development Planning and Statistics, Marriage and Divorce in the State of Qatar, 2014 (Review and Analysis), 15.

⁴⁶ Marriage and Divorce State of Qatar, 2017, 17.

women. Little meaningful social, economic, or political life takes place outside the family' (Breslin and Jones 2010). The social function of marriage remains the same, regardless of choice of partner and form of marriage—to enable sexual intimacy, the care of children, and to meet economic needs. The state plays a significant and dominant role in encouraging marriage and enabling it.⁴⁷ In the Qatari context, it also plays a significant role in impeding it in certain circumstances. Thus, while Elgendy describes marriage as a 'solemn covenant' in the sight of God, because of its importance and privacy (2010: 29), the state also plays a significant role in encumbering marriages where it considers the partnership inappropriate. While the state's law allows marrying out, the research conducted in this study reveals that it also obstructs it.

4. Transitioning Marriage Practices in Qatar: Research Findings

An empirical qualitative study was undertaken in Qatar over a 6-month period, using semi-structured interviews with 24 men and women, and family-law professionals. In addition to the interviews, many non-formal conversations took place, providing a breadth of anecdotal contextual information. The interview method was preferred because of its ability to capture multi-dimensional research data in the form of lived experiences (Galletta 2013: 2). In particular, semi-structured interviews created 'openings for a narrative to unfold, while also including questions informed by theory' (Galletta 2013: 2). The data collected through the interviews was analysed through an iterative process using Nvivo software.⁴⁸ This enabled themes to be clustered for analysis, including the

⁴⁷ In accordance with the need for high fertility rates within Qatar's development project plans.

⁴⁸ Nvivo is a piece of qualitative data analysis software.

central themes in this paper—marrying out and non-state-registered marriage. As with all qualitative research, the findings of this study are qualified with the diversity of interpretative paradigms which exist (Galletta 2013: 75).

Social media such as WhatsApp were used to circulate a call for self-selecting participants, and snowball sampling followed (Atkinson and Flint 2003). Anyone who had used or was using the Qatari family-law regime to marry and/or divorce was eligible to participate, and sampling was non-random. The data more broadly revealed a fascinating snapshot of the complexity of family law in Qatar. Those interviewed hailed from a range of backgrounds, including Qatari nationals through birth and marriage, long-term residents of Qatar, more recent expatriate families, and those who had moved to Qatar for marriage. Engagement with the law, whether for marriage, access to legal advice, or an application to the court, is fraught with difficulty. Successful engagement is predicated on who is involved, how well connected they are, their language of communication, their financial liquidity to enable access to legal representation, and sheer persistence. Of the 24 interviews conducted, this paper focuses on the nine participants who were in marriages where one partner was a Qatari who had married out. Among the nine, there was one female Qatari, one male Qatari, one male non-Qatari married to a female Qatari, and six non-Qatari women married to Qatari men. Four of the non-Qatari women had obtained citizenship at some point following the marriage, and one was now divorced.⁴⁹ They each detailed their marriage processes, providing valuable insights into relationship behaviours. While there

⁴⁹ Women who marry Qatari men are eligible for citizenship after five years of marriage (Law No. 38 of 2005 on the acquisition of Qatari nationality).

was some uniformity in behaviour, each individual/couple had clearly had a unique journey.

The statistical data presented above shows that the majority of Qataris continue to marry other Qataris, but that the number marrying out has shown a general upward trend over the past 35 years (despite dipping since 2016, especially in the case of women). The social acceptability of marrying out—in tandem with the state's outward-looking focus and global agenda—is also increasing. Many conversations which occurred during the fieldwork suggested that Qatari society is becoming more amenable to such changing behaviours, even if amenability is very much dependent on any given family and its particular norms. Families can consist of hundreds of members and demarcate boundaries of social engagement, and resultant transitions in relationship behaviour are unlikely to be consistent across society as a whole. Those interviewees who had married out had each had an individual journey that reflected their individual circumstances. Behaviours were predicated on individual agency, which may be limited to a wish to marry out or extend to the complete manner and form of the marriage, but this agency was of course not being exercised in isolation. This has been a focal point of studies in the Gulf, including that of El-Haddad, who surmises that the impact of 'contemporary means of communication' has been to '[increase] the knowledge of young people and [give] them specific alternatives that put them in touch with peers all over the world, and especially in the West.' Over time, this is expected to transform 'not only [...] the concepts of marriage and family, but also [...] identity, in the meaning of life and in the system of values' (El-Haddad 2003: 4–5).

Analysis of the interview data from the nine participants revealed that religious-only (i.e. non-state-registered) marriages are occurring, and that couples enter into them for one of two reasons. Firstly, where one partner is a non-Qatari, the state requires the couple to obtain permission to marry through a lengthy administrative process. Some couples entered a religious-only marriage while awaiting the outcome of this process. Secondly, divorced women who feared losing custody of children or visitation rights were able to enter into a religious-only marriage without their former husband's knowledge. While in both instances a religious-only marriage had enabled a couple to begin an intimate marital relationship, it might also have given rise to difficulties, including the need to keep the marriage hidden from the public and the state, making it a short-term solution only.

Lengthy delays in the process of obtaining permission to marry out was a common theme amongst the participants, two of whom were still awaiting the outcome of applications made over a year earlier. The Qatari female participant had waited between 18 and 20 months for permission to marry out in the early 2000s.⁵⁰ Consequently, five of the participants had entered into secretive non-state-registered religious-only marriages abroad, enabling them to begin their marital relationships without the administrative delay having an impact. Two of the women interviewed had previously entered into religious-only marriages in part to protect their child custody or access rights. One of these women had had

⁵⁰ The father-in-law of one participant obtained permission for the marriage fairly quickly, relying on *wasta* (connections) to facilitate a speedier outcome.

custody of her children, while the other had not. They had both feared that entering into a new relationship would harm access to their children, and keeping this relationship unofficial had been essential to their capacity and willingness to remarry.⁵¹

One of the marriages conducted abroad included a nikah⁵² contract that was attested by the Qatari embassy in the bride's home country, in order to provide evidence of the marriage if the need arose. It should be noted here that such a step suggests a lack of consistency and coordination between state and embassy, as state formalities were not adhered to, yet the embassy was willing to attest the non-regular marriage certificate. Another participant had a nikah certificate from Egypt, which was indeed used as evidence of marriage when she gave birth in Qatar—Article 10 of the Family Law allows evidence such as a nikah certificate to be used in limited circumstances.

In light of these findings, three thematic areas form the focus of discussion: (1) the link between the permission process and non-state-registered religious-only marriages; (2) the link between custody rights and women entering into such marriages; and (3) their legal recognition.

⁵¹ Of these two marriages, one was conducted within Qatar and ended in divorce. The other was conducted abroad and is ongoing.

⁵² Muslim religious marriage ceremony.

4.1 Permission to Marry Out and Non-State-Registered Marriages

Where the bride is a Qatari wishing to marry a non-Qatari, the permission required from the state is preceded by permission and acceptance from her family and/or guardian. For the non-Qatari interviewee who married a Qatari woman, two years were spent trying to convince her family to allow them to marry, and then an additional one and a half years were taken up persuading the state under the provisions of its foreign marriage laws. When he approached the Marriage Commission⁵³ for permission to marry her, it asked for their ages and his nationality⁵⁴ and allowed him half an hour to present his reasons. The process is highly gendered, with women rarely representing themselves and instead relying on a male guardian or representative. Men, whether Qataris seeking to marry out or non-Qataris seeking to marry 'in', must engage with the process and be present for an interview with the Commission, the objective being to ensure that both parties are aware of the challenges they will face if the marriage goes ahead. The consequences are more severe for a Qatari female marrying out.

The purpose of the meeting is so that everyone is prepared. Everyone is prepared for the consequences.

Male non-Qatari, married to a Qatari female.

The meeting is [so] that her parents are willing to take all the challenges in the future as their daughter will be married to a non-Qatari. She will

⁵³ Article 8, Law Decree no. (21) of 1989 Regarding the Regulation of Marriage to Foreigners.

⁵⁴ Qatari men are also asked whether they have ever travelled to the home country of their intended bride.

definitely suffer. Not being married to a Qatari. You know due to the lifestyle at least. Like it will impact her life. For example, if we want to travel to Kuwait, it is a small thing. I have to obtain a visa. But if she is married to a Qatari, then no, you can just book a flight and go.

Male non-Qatari, married to a Qatari female.

Some of the privileges that Qatari men are entitled to, and which Qatari wives benefit from, do not arise upon a Qatari woman's marriage to a non-Qatari.

If she wants to apply for a house from the government. For a Qatari, he can get a house plus money or financial aid. But in her case she might take one thing—financial aid or land, you know. In the case of a man, he will have both. In her case, she will take only one thing. A small example.

Male non-Qatari, married to a Qatari female.

This inequality faced by Qatari women is one of a number which present challenges for a state modeling itself on modernity. The 2004 Constitution set out the values of 'justice, benevolence, equality, and high morals'⁵⁵ and the equality of all persons before the law, countering discrimination on the grounds of 'sex, race, language or religion.'⁵⁶ The state acknowledged that these were ambitious objectives in light of the historic inequality faced by women (Breslin and Jones 2010). However, one article of a Constitution agreed upon by elite leaders is a far cry from the reality of accessing rights at the grassroots level:

⁵⁵ Article 18.

⁵⁶ Article 35. Similar provisions can be found in the Constitutions of Kuwait (Article 29), UAE (Article 25), Bahrain (Article 4), Oman (Article 17). Notably, Saudi Arabia does not provide this equality overtly.

women in all GCC countries face restrictions on their autonomy, including freedom of movement and even the freedom to independently obtain official documents such as a driver's license (Al-Nasr 2011: 44).

For the male non-Qatari participant, a wait of over three and a half years eventually culminated in an official marriage, and he and his bride did not embark on any prior relationship. This was not the case for other participants, such as a non-Qatari female who met her future husband when she came to Qatar to work:

They were two journeys taking place in parallel. My journey understanding Islam and getting to know him and his culture [...] He came home with me on that winter break, to meet my family [...] While we were there he asked my dad if we could get married. My dad was like 'yes, against my better judgement'.

The potential for state delay is common knowledge, and so couples who undertake a non-state-registered religious-only marriage will keep their relationship concealed in order not to jeopardize the permission process. Participants believed that the state disapproved strongly of couples who marry in any form without its permission.

I have a friend who it took 10 or 12 years to get approval as they had got married in the States while he was there studying.

Qatari female.

The process of permission to marry out may lead to a rejection, rarely accompanied by an explanation. Anecdotal conversations suggest that rejection of applications occurs frequently. For one participant, the application was rejected the first time. He then appealed and had to appear before the Commission a second time to explain why he wished to marry the woman. Following the appeal, permission was granted. This uncertainty is no doubt intended to discourage such mixed marriages. However, for some, rather than discouraging, it is leading to a range of behaviours which seek to circumvent and manage the state's expectations. Quite often, *wasta* (connections) was cited by participants as a means to speed up the process.

One participant did however see some usefulness in a delay, in order to protect women:

Yes, there are Qatari men marrying western, European wives and their families don't know. They dump and divorce them too. You know what men are like.

Qatari (through marriage), female.

This participant was of the view that delays may discourage marriages from taking place. However, such cases are no doubt few and far between, and marriages can be entered into without state recognition if they are indeed temporary. It is perhaps beyond the state's remit to limit such informal marriages within its permission framework.

Another male Qatari participant also acknowledged that a delay might be warranted:

It does look like a stereotype, south-European woman, after divorce and having [...] kids, marrying a Qatari, that's like saving yourself. Maybe in our case it is ok that they take their time and investigate or whatever. But I don't think it should be this difficult for others.

This particular couple did not mind the delay in gaining official permission, as they were already in a 'halal marriage'.⁵⁷ For them the delay was helpful, as it meant the pressure to live together as a 'proper' family and have children was not yet upon them.

I don't mind, although I am under pressure from my family, to have children.

But I am still young.

One participant who was in a non-state-registered marriage with a Qatari man was unaware that he had not fulfilled his legal obligations.

He is a Qatari national. He was supposed to get permission, which he didn't do. He had previously been married before he married me, and I think he was still married to that woman at the time we actually got married.

This couple had married in Egypt because of the 'long-winded' steps required in

⁵⁷ Religiously permissible or acceptable.

Qatar. The process of then formalizing the marriage in Qatar took a long time, but in the meantime they were able to live together because of their Egyptian nikah certificate and the fact that they did not attempt to hide the Egyptian marriage from the state.

I was coming and going on a visitor's visa and I was having to go every six months. He made the application to have the marriage legalized here. And because he had not got permission beforehand it was a little bit more complicated.

The nikah certificate was particularly important for this couple, as they had had a child prior to the marriage being formalized. Proof of marriage had been essential in avoiding criminal sanction for having sexual relations outside of marriage.⁵⁸

Gender Imbalance

Of particular note is the gender imbalance in the treatment of Qatari men and women wishing to marry out. Men are expected to provide justification.

It is not a valid reason to say you have fallen in love with someone, that is not a valid reason for marrying a non-Qatari woman.

A valid reason is if he is lacking in something physically, like he is sick, he is

⁵⁸ Article 281, Law No 11 of 2004 Issuing the Penal Code provides for imprisonment for unlawful sexual relations outside marriage, up to a term of seven years.

not to his fullest health, and if getting married to someone other than a Qatari is easier for him, as a Qatari [woman] wouldn't agree to it, or as a second wife.

Qatari male

There is a clear preference among Qatari men for marrying a Qatari woman, at least as a first wife, very much in keeping with the original 1989 law. More leniency appears to be shown towards second or subsequent wives. Article 2-1(a) of the 1989 law provides that there 'must be social reasons calling for such a marriage'. The Qatari male participant who was seeking to formally marry a non-Qatari was cynical about the process, saying it required him to prove that he was somehow physically deficient. Qatari women choosing to marry out face even greater hurdles and social stigma. This gender imbalance also extends to non-Qatari women marrying Qatari men, but here the imbalance results from a lack of involvement and understanding of the formal legal process on the part of these women.

It is harder for a non-Qatari man to marry a Qatari woman.

The Qatari female participant described her journey to marriage as being fraught with difficulty.

My brother liked him when they met, but even then my family would not take the decision as it is difficult in our society for women to marry non-Qatari men.

It is more difficult for Qatari women to marry out, they are still facing some forms of prejudice, like people, men in particular, saying ‘you did not find a Qatari to marry?’ I had other proposals but this was the man I wanted.

The most contentious outcome of marrying out is the subsequent status of any children of the marriage, a topic which raises a range of questions about gender discrimination. Qatari citizenship is patrilineal, in keeping with the idea of the child belonging to ‘the father’s bed’ (Dresch 2013: 136). The children of this Qatari female participant did not have Qatari citizenship.

My children are not Qatari. This is the most painful part of the marriage. Anywhere else, the mother can give her nationality to her children. I want my children to have all the same rights as me.

She described the extent of the impact on her children, saying that they ‘don’t have any rights’. Her children do in fact have travel documents with their father’s nationality.

So the children have a different life. The future earning potential is different, there is a big difference in pay, social allowance, pension, retention, etc.

Qatari citizens enjoy certain social and employment privileges,⁵⁹ and lack of citizenship, even where the right to residence exists, will have a profound impact

⁵⁹ Civil Human Resources Law No 15 of 2016.

on her children's lives through to adulthood. Crucially, they will not benefit from the 'privileged status, and distinctive identity of citizens' (Dresch 2006: 203), including access to certain types of schooling, events which are 'Qatari only', potential discrimination in the classroom environment, and, when they graduate, employment potential and salary level. And beyond this material impact there is a deeper psychological issue to consider: lack of citizenship for children of Qatari mothers and non-Qatari fathers also leads to an identity crisis which cannot be overlooked. Muwangua (2016: 1) describes the 'rising health concerns, especially in terms of the conflicting social identity, which have proven to cause anxiety in many individuals'. She goes on to note that 'those born to Qatari mothers living within the state are unquestionably part of society, yet, is the social identity solely a factor of the state and not society?' (2016: 2).

The Qatari female participant made it clear that she wanted her voice heard. In particular:

I want to have my rights as a Qatari to pass on my heritage to my children.

By way of contrast, one of the female participants who had entered into a religious-only marriage abroad with a Qatari man was taken straight home to meet his family upon returning to Qatar. They seemed to have little say about his marriage choice, as is perhaps to be expected in a culture where women are deemed more vulnerable and families are more protective of sisters and daughters than of brothers and sons.

This gender imbalance extends beyond marriage, to divorce processes. One participant, who had divorced her Qatari husband, had gone through two and half years of separation before he agreed to formally divorce her. A lack of knowledge of the legal system and a lack of the backing of a tribe can lead to great disadvantages for non-Qatari women who are married to Qatari men. The lack of legal knowledge and procedural know-how means they cannot independently undertake action toward a divorce.

'Sinful' Relationships and the State's Role

Two of the participants had been in an intimate relationship prior to their marriage, despite not even being in a religious-only marriage. The delays in the marriage process had resulted in what they termed 'sinful' relations, an unintended consequence which raises serious quandaries for a state which models its family law on Sharia principles.

We actually went to Syria to get married. Because [...] you know there's no dating in Islam, and so we knew this committee approval process was coming up and we had no idea how long that would take and we knew the average was at least six months and we did not want to spend the next six months just waving out of the window to each other.

Qatari (through marriage), female.

Given this personal reflection on relationship behaviour, it is clear that the state's position had proved coercive. Common knowledge about delays in the permission process had led this couple (and others in this study) to undertake a

religious-only marriage abroad to prevent themselves from engaging in a 'sinful' relationship with each other.

I was really serious about my Islam, it wasn't just like I declared my shahada⁶⁰ so we could get the certificate to get married, which is what happens a lot.

When asked about her view of the state's policy, she said:

It's Islamically wrong but I understand that the population is so small. But I understand that it is not easy for Qatari men these days to get married with Qatari women, a lot of them demanding such huge amounts of money. Something has got to change.

There is some truth to this statement: Alharahsheh and Almeer (2018a: 192–8) found that the costs associated with marriage, including the mahr, is one of several reasons for Qatari men choosing to marry out. Other reasons include the expectations and protections of a Qatari tribe, which bring added responsibilities; exposure to other cultures; an opposition to traditional marriage; and individuality. And this is by no means limited to Qatar, with Bristol-Rhys finding (2007: 20) that Emirati men were similarly marrying out due to 'inflationary wedding costs'. The issue of the financial burden is clearly something that impacts upon decisions of whether and whom to marry. In Qatar, charity organizations undertake campaigns to 'finance group marriages among

⁶⁰ The declaration of faith upon converting to Islam.

young nationals' (Anser 2014: 61). This idea of providing financial support for citizens to marry each other is found throughout the GCC, with examples of marriage funds in places like the UAE to be found as early as the 1990s (Dresch 2013: 147–8; Hasso 2010: 10). For elite, wealthier tribes, conversely, conspicuous celebration of the wedding is more likely to be a status symbol.

4.2 Children and Religious-Only Marriages

The subject of children and religious-only marriages is complex. Two major issues arise: firstly, the conflict between child custody or access and remarriage following divorce; and, secondly, proof of marriage on the birth of children where state marriage formalities were not observed.

Child Custody

The Family Law sets out the right to child custody as first vesting in the mother and then the father, followed by other relatives in order of priority.⁶¹ However, Article 168 sets out that a female custodian of a child 'must not be married to a husband who is a stranger to the child', unless the court decides otherwise in the child's best interests. If the father wants custody where the mother remarries, based on law and customary practice she may lose custody of the child. While the law is not rigid and does allow for the child's best interests to prevail, the practical expectation of women in Qatar is that they will lose custody. (Paradoxically, Qatar's muftis take an opposing view, suggesting that they see no

⁶¹ Article 169. This is different to other Islamic schools of thought, in which female relatives of the mother precede the father in custody rights.

harm in a daughter living with an upright stepfather (Caeiro 2018: 26)—one example of law taking a narrower approach than religious doctrine.) Though this infringement on the right to marry runs counter to domestic and regional customs and law and international human rights principles,⁶² it must be noted that during the course of this research no example was identified of a woman who did actually lose custody of a child upon remarriage.

This issue of remarriage following divorce presents a number of complexities, and the usurping of conflicting rights of the mother and child [I don't understand what this sentence means].

I didn't know that if we got divorced and I wanted to leave the country, he can stop me from taking the kids, if we get divorced and I want to remarry, he can take custody of the kids from me. It's a completely different system in [my country]. You wouldn't have your kids taken away from you if you wanted to get remarried—a simple, normal, natural progression of life, you want to get remarried, you're not going to lose your kids because of it.

Non-Qatari female.⁶³

One non-Qatari female participant who did not have custody of her children—only visitation rights—also entered into a non-state-registered marriage after her divorce as she feared her first husband would impede her seeing the children. When she decided to remarry, she and her intended second husband

⁶² Article 16, Universal Declaration of Human Rights.

⁶³ This participant was not one of the nine interviewees marrying out, but an American citizen married to an Arab spouse in Qatar.

'agreed there would be no signed agreement but that we can do the halal marriage without the legal marriage.' Her main concern was that there should be no paper trail in Qatar for her ex-husband to trace. In the end, her ex-husband had a change of heart and entered a new agreement which allowed her to continue seeing her children after remarriage. Yet her autonomy, and that of other women in similar situations, is compromised; they are reliant on a system that empowers men and disempowers women where remarriage is concerned. The issue of custody is of particular relevance to those marrying out, as such marriages are statistically at higher risk of breaking down (Alharahsheh and Almeer 2018a).

Of course, experiences surrounding child custody are very individual. Another participant reported a better experience.

Alhamdulillah my ex has been very good with me, even to the point where I did actually have the possibility of getting remarried, and it wasn't a marriage in the normal sense of a marriage, it was marriage in the sense that I would only see him when my kids were with their dad, which is about twice a week. And he agreed to this guy coming to the house and he agreed to things and the plan I gave him [...] I have been very lucky.

Qatari (through marriage), female.

Proof of Non-State-Registered Marriage: Article 10

Article 10 of the Family Law specifies that 'Marriage shall be established by a formal contract issued in accordance with the Law, as an exception, it may be

proved by other Evidence as may be decided by the Judge.’ In case 137/2010,⁶⁴ involving a Qatari man who married a Jordanian woman in Syria, the court demonstrated a willingness to look at such other evidence. The husband had not taken any steps to seek the Qatari Marriage Commission’s approval and later disowned a son who was born in 2006. The wife sought to protect the rights of her child as well as establishing her own rights. The case was primarily intended to confirm that the child was the legitimate offspring of the Qatari man; the establishment of the marriage was a vehicle to achieving this. The wife presented her case to a Qatari court, calling witnesses to the wedding in Syria. The court requested DNA tests, but the alleged father failed to cooperate. The court recognised that a marriage existed based on the witness evidence presented, and ruled that the son was the legitimate offspring of the Qatari man. The wife herself did not draw any benefits of Qatari citizenship but did achieve her goal of protecting her son’s birth rights.

The approach of the court to the question of marriage recognition and so to the legitimacy of the child reflects a bias in favour of finding a marriage in such circumstances for the child’s protection. The provision in Article 10 allows flexibility in the recognition of marriages which do not conform to the requirements set out in the Family Law. This particular case established that relatives are able to provide evidence in a case as long as they are not direct ascendants or descendants (i.e. parents or children). ‘The legislator also permitted hearsay evidence in matters related to affinity.’⁶⁵ All of this reflects a

⁶⁴ Court of Cassation – Civil and Commercial Circle, Case No. 137/2010, Session 11/2011, Cassation No. 137 of 2010 – Civil.

⁶⁵ *Ibid.*, para 6.

rather lenient approach to testimony. Furthermore, where evidence can be deduced to support claims both for *and* against affinity, affinity is to be assumed. The judge also has full discretion regarding which witness statements to accept and which to reject. All in all, the general predisposition of Qatari family courts is to find that a marriage exists where children are involved,⁶⁶ an assumption that provides some security to women in non-state-registered marriages.

As already mentioned, a participant who had married in Egypt before returning to Qatar was required to produce a nikah certificate to prove a marriage existed during her pregnancy and upon the birth of her child. Such a certificate is also sufficient to fulfil the requirements of other institutions in Qatar, such as health centres or hospitals, and could no doubt be used as ‘other evidence’ to prove the existence of a marriage under Article 10.

5. Implications for Policy and Practice in the GCC

This study highlighted the impact of law and procedure on the marriage norms and practices of couples in Qatar. It was clear from a number of interviews that Qatari families’ embracing of non-Qatari spouses leads to them enjoying more integrated lives and feeling greater loyalty to state and culture. This is certainly a key point for the state to take note of.

It is clear that Qatari women are far better protected by state, society, and family when these three forces combine. How can these protections be extended to

⁶⁶ Views of interview participant, an academic expert in Qatari family law.

non-Qatari women marrying in? A number of participants in the study opined that the reason more men were marrying out was because this reduced the pressures upon them.

It is my personal opinion that this is why guys are going to women who don't have family and social support. Any of my sisters-in-law—Qatari married to Qatari—if their husbands tried to do those things, they would just go tell their father and he would call their husbands and say 'na'aa'. You've got a tribe behind her so you're not doing that.

Qatari (through marriage), female.

Each participant expressed views on the permission process for marrying out and how it could be improved, including abolishing the process except for those under the age of 25, who had limited experience of life. The issue of Qatari mothers with non-Qatari children was described as a particularly painful one which needs addressing to remove the discriminatory outcome of such marriages, so that all children of Qatari men or women can obtain Qatari citizenship through a parent. Finally, the idea of premarital counselling to prepare the couple for the reality of married-out life was supported by almost all participants.

6. Conclusion

Marriage practices in Qatar are changing. The state's global participation and outward-looking ethos are giving rise to unintended consequences. They are opening up opportunities for many citizens within the private domain pertaining

to relationship behaviour and marriage choices. Decisions over how marriages are entered into, and evidence of non-state-registered marriages occurring in order to circumvent the state's requirements for permission to marry, are all good evidence of autonomy and agency. However, not all of those involved in the permission process fully understand it. Where formal marriages are concerned, responsibility lies with the man to ensure formalities are met. This has the consequence of disempowering the woman, with the greatest impact being felt by those who do not have a family or tribe to support them. This may explain why some Qatari men are marrying out—to avoid the pressures of being married within Qatari society—and therefore why a social and/or legal response is required to protect the rights of the non-Qatari spouse.

These transitions will not impact upon all Qataris immediately, but with up to one in four marrying out there is likely to be an indirect impact upon most families in time. A further focus of change in this arena is likely to be the state's vision for expanding its population through permanent citizenship. This will further affect marriage practices by opening up the field of potential marriage partners who enjoy permanent citizenship of Qatar, who may be more attractive than those who do not offer such stability. This gives rise to questions about Qatari identity and coming generations which are very much central to families and family law. The state should not exclude any citizens who can trace Qatari lineage from fully claiming their Qatari identity. The continuing denial of citizenship to children of Qatari mothers and non-Qatari fathers runs counter to this.

The findings presented here draw particular attention to flashpoints where law and legal formalities lead to problematic outcomes for users of the system. The interviews gave rise to links being identified between non-state-registered marriages and the marriage permission process and child-custody issues. However, Article 10 allows room for manoeuvre where legal recognition of non-state-registered marriages is sought, enabling the courts to protect the rights of children. The scope for legal reforms in this area requires further investigation. Ultimately, while participants were clearly frustrated by the process, upon probing most conceded that the state had a legitimate role to play in ensuring marriages were appropriate, even if they would advocate a change in the current approach.

The issues which presented themselves in interviews were far from being mined to exhaustion, and this study provides a range of new evidence which asks to be further explored in empirical research studies focussing on particular points, including the marrying out phenomenon and the process of seeking permission for marriage. Future research should also include participants who are the children of mixed marriages, in order to ascertain how such marriages impact upon the next generation and their affiliation with the Qatari state and culture. With globalisation marching forward in the GCC and in Qatar in particular, it is unlikely that the marrying out trend will reverse, and longitudinal studies will help shape policy in a way that enhances citizens' loyalties to culture and state.

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