

WOMANS  
ARE Rights  
HUMAN Rights

# THE STATE WE'RE IN: ENDING SEXISM IN NATIONALITY LAWS

2022 Edition - Update for a Disrupted World

# ABOUT EQUALITY NOW

Founded in 1992, Equality Now is an international human rights organization that works to protect and promote the rights of all women and girls around the world. Our campaigns are centered on four program areas: Legal Equality, End Sexual Violence, End Harmful Practices, and End Sexual Exploitation, with a crosscutting focus on the unique needs of adolescent girls. Equality Now combines grassroots activism with international, regional and national legal advocacy to achieve legal and systemic change to benefit all women and girls, and works to ensure that governments enact and enforce laws and policies that uphold their rights. Equality Now is a global organization with partners and members all around the world.



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# FOREWORD



Dear Friends,

Everyone has the right to be born with a nationality – anywhere in the world – and to be secure in their human right to equally acquire, change, retain or transfer it, as provided for under international law. There is no good reason why almost 50 countries should still have sexist discriminatory nationality and citizenship laws which discriminate against women, potentially putting them and their families in danger. If governments make this a priority, this is something we can fix in a very short time, and the world will become a safer, more equal and more prosperous place for all.

Picture being born without a nationality or to be denied the citizenship of your mother, or, at times, your father. Imagine the struggle to get access to education, health, jobs, voting, and other human rights, benefits and services, such as access to driver's licenses, that most citizens take for granted. Unfortunately, this is the reality for too many women and their families.

All countries have committed to gender equality, including in their citizenship laws. Indeed, they are required to provide equal nationality rights by the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Beijing Platform for Action, and the Sustainable Development Goals, and in most cases by their own constitutions.

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Too many governments, a quarter of the world, however, have simply decided, including through inaction, that a woman should not enjoy the same rights as a man to pass on her citizenship to her children or her foreign spouse, or to change or keep it.

Now picture being born with your rightful citizenship, secure in the knowledge that it cannot be taken away from you. And that one day you will be able to pass on your nationality to your children and spouse, so that they too can enjoy their human rights and access the same freedoms, benefits and services to which we are all entitled.

Nationality laws need not be complex, and the solution is actually very simple - governments should dismantle sexist laws and give everyone the same nationality rights today.

This updated report from Equality Now, reflecting women's intersecting realities and the devastating impact of the sex discriminatory nationality laws on people's lives, alongside a record of inspiring progress being made in some countries and regions, is a timely and important tool for governments, lawmakers and advocates seeking to bring their vision of gender and generational equality to life.

**Women, their families and the world, cannot afford to wait. We must all come together to achieve our collective vision of full legal equality for all.**



**YASMEEN HASSAN**  
Global Executive Director,  
Equality Now



**CHADIA EL MEOUCHI**  
Co-Chair, Global Board,  
Equality Now



# INTRODUCTION



Conference for Arab States on Good Practices & Regional Opportunities to Strengthen Women's Nationality Rights, 2017

We have seen good [progress](#) in achieving equality in nationality laws with 19 countries making partial or full legal reforms and making significant commitments at the regional and global levels since Equality Now began in-depth work advocating for the reform of sex discriminatory nationality and citizenship laws globally almost a decade ago. Since the March 2016 launch of [The State We're In: Ending Sexism in Nationality Laws](#) alone, four countries we highlighted - Guinea, Lesotho, Nauru and Solomon Islands - have achieved **full** legal equality in nationality rights and another eight have achieved important reforms or taken important steps towards reform. Feminist movements and coalitions, including the [Global Campaign for Equality Nationality Rights](#) of which Equality Now is a founding steering committee member, have contributed significantly to this progress.

Despite this progress, sex discriminatory nationality laws still exist, however, **in 49 countries (25% of UN member states)**. Discriminatory nationality laws have an enormous **impact on women and their families**, often violating their rights to health, education, employment, and non-discrimination on the basis of race<sup>1</sup>, ethnicity and religion etc. They also limit women's participation in public life.

Women are also less protected from [gender-based violence](#) as they experience greater difficulty in leaving abusive relationships when their, and/or their children's, citizenship depends on an abusive spouse. Girls may even face child marriage in order to gain legal citizenship status.

The **COVID-19 pandemic**<sup>2</sup>, and **armed or political conflict and displacement** caused by other crises have exacerbated the effect of gender-discriminatory laws, resulting in increased family separations, statelessness and other unnecessary and unjust hardships as a result of patriarchal behavior and unequal power relations<sup>3</sup>.

When borders closed during the pandemic, children of non-citizen fathers in countries with discriminatory nationality laws were often trapped outside of the country due to failure of the state to recognize their right to their mother's citizenship. Inside some countries, women with non-citizen children and spouses were denied pandemic-related family aid and social benefits.<sup>4</sup>

An **ecosystem approach** to nationality rights, and legal equality generally, is essential, starting with guaranteeing and enforcing constitutional equality. For example, if the United States had the [Equal Rights Amendment \(ERA\)](#)<sup>5</sup> in its constitution, US sex discriminatory nationality provisions based on residency might well have been struck down earlier.<sup>6</sup>

Other nationality provisions based on and feeding into gender stereotypes which are still in place in the US could be struck down under an Equal Rights Amendment. And several countries continue to have contradictory nationality provisions in their nationality or citizenship acts which must be harmonized with either citizenship and/or equality provisions in their constitutions. Other laws, regulations and procedures affecting nationality rights that must be scrutinized and put in place include birth<sup>7</sup> and marriage registration, among others.

**As the world begins to build back from the COVID-19 pandemic, we hope governments will find new inspiration to undertake all necessary legal reforms so that all women and men can enjoy equal nationality rights and participate as full citizens, at all levels of society.**

<sup>1</sup> See Thematic Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on "Racial discrimination in the context of citizenship, nationality and immigration status," para. 12 re "importance of an intersectional approach to racial discrimination in the context of citizenship, nationality and immigration laws that accounts for the compounding and differential effects of sex and gender, among other factors. States continue to enforce patriarchal laws that use gender-based discrimination to achieve racial, ethnic and religious exclusion." available at <https://undocs.org/A/HRC/38/52>; See also <https://equalnationalityrights.org/images/zdocs/GCENR-et-al-Submission-regarding-2021-report-on-20th-anniversary-of-DDPA.pdf>

<sup>2</sup> In the wake of the COVID-19 pandemic, the Global Campaign for Equal Nationality Rights gathered data from national partners and released a statement and press release in April 2020 on the impact of COVID on families affected by gender-discriminatory nationality laws.

<sup>3</sup> See Global Campaign for Equal Nationality Rights, Submission to the UN Special Rapporteur on Human Rights of Migrants to inform the report 1 on Human Rights Violations at International Borders: Trends, Prevention and Accountability - Recognizing the Particular Vulnerability of Women & Children, <https://equalnationalityrights.org/images/zdocs/GCENR-et-al-Submission-SR-Migrants-Human-Rights-Violations-at-International-Borders.pdf>.

<sup>4</sup> Id. Gender based discrimination in nationality laws has exacerbated the hardships faced by the families of, for example, Lebanese, Malaysian and Omani women with non-citizen spouses and children during the COVID-19 pandemic.

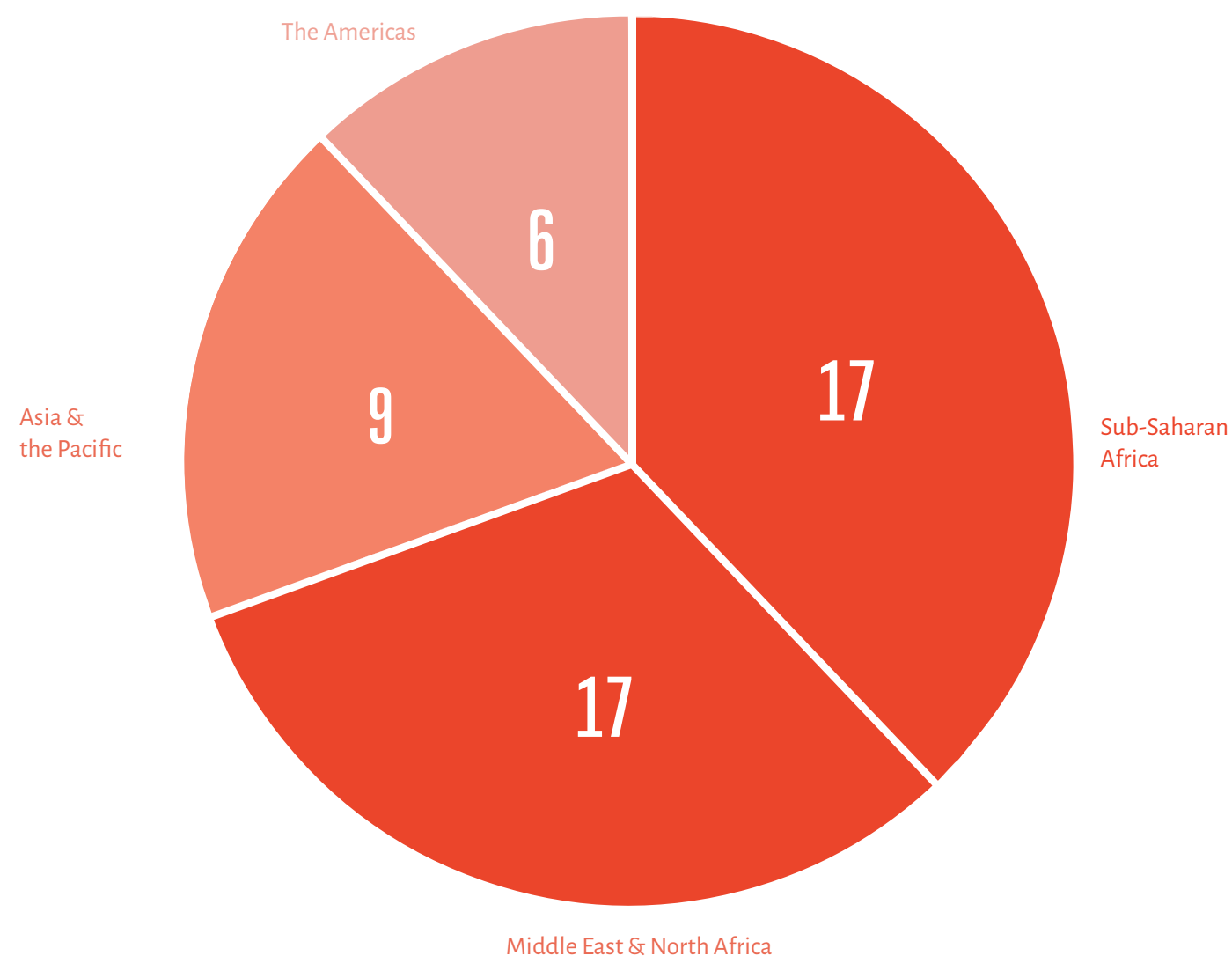
<sup>5</sup> For more information on the current status of the ERA see [https://www.equalitynow.org/news\\_and\\_insights/era-in-2022-whats-next/](https://www.equalitynow.org/news_and_insights/era-in-2022-whats-next/)

<sup>6</sup> In 2017, the U.S. Supreme Court in *Sessions v. Morales-Santana*, 137 S. Ct. 1678 (2017) found unconstitutional under the Fifth Amendment the nationality provision which required unmarried American fathers to satisfy a longer residency time period than mothers in order to pass on citizenship to their children born abroad. A previous case, *Flores-Villar v. United States*, 564 U.S. 2010 (2011) affirmed the constitutionality of the residency provision without providing a written opinion.

<sup>7</sup> For example, Section 10 of the Births and Deaths Registration Act 51 of 1992 was found unconstitutional by the Constitutional Court of South Africa (Case CCT 101/20), in part because it limited the right of unmarried fathers to register their child's birth, and consequently discriminated against children born to unmarried parents including in limiting their access to nationality. See also, UN High Commissioner for Refugees (UNHCR), UNHCR and UNICEF: Background Note on Sex Discrimination in Birth Registration, 6 July 2021, available at: <https://www.refworld.org/docid/60e2d054.html>



## NUMBER OF COUNTRIES WITH SEX DISCRIMINATORY NATIONALITY LAWS



### SUB SAHARAN AFRICA

Central African Republic  
Congo (Republic Of)  
Eswatini  
Madagascar  
Malawi  
Nigeria  
Sierra Leone  
Somalia  
Tanzania  
Benin  
Burundi  
Cameroon  
Comoros  
Mauritania  
Togo  
Mauritius  
Liberia

### MIDDLE EAST & NORTH AFRICA

Bahrain  
Jordan  
Kuwait  
Lebanon  
Qatar  
Saudi Arabia  
Syrian Arab Republic  
United Arab Emirates  
Yemen  
Iran  
Iraq  
Oman  
Egypt  
Libya  
Morocco  
Tunisia  
Sudan

### ASIA & THE PACIFIC

Bangladesh  
Brunei  
Kiribati  
Malaysia  
Nepal  
Pakistan  
Philippines  
Singapore  
Thailand

### THE AMERICAS

The Bahamas  
Barbados  
Guatemala  
Saint Lucia  
Saint Vincent & the Grenadines  
United States of America

## GLOBAL CAMPAIGN FOR EQUAL NATIONALITY RIGHTS

The Global Campaign for Equal Nationality Rights (GCENR) was established in 2014 by Equality Now, Equal Rights Trust, the Institute for Statelessness and Inclusion, the Office of UN High Commissioner for Refugees (UNHCR) and Women's Refugee Commission\*, dedicated to the eradication of gender discrimination in nationality laws worldwide. GCENR has undertaken substantial outreach and engagement at the international, regional, and national levels, to raise the visibility of the need to ensure equal nationality rights and the serious costs of gender discrimination in nationality laws to both affected persons and their families and society as a whole. Some of its achievements include:

- the reform of Madagascar's nationality law, enshrining women's right to confer nationality on children at birth on an equal basis with men, which took effect in January 2017 just over a year after GCENR's first national workshop with government and civil society;
- Sierra Leone's amendment of its Citizenship Act in June 2017, which now guarantees women and men the equal right to confer nationality on children;
- the United States Supreme Court in 2017 struck down one of the provisions that denied unmarried fathers the right to pass citizenship to their children on an equal basis with mothers; and
- following concerted advocacy for a new Human Rights Council Resolution on women's equal nationality rights, Resolution 32/7 passed with 107 co-sponsors in June 2016<sup>8</sup>



In addition, since 2017, the Global Campaign has, amongst many other activities:

- organized an [unprecedented convening](#) hosted by the League of Arab States, and co-sponsored by UN Women, UNICEF, UNHCR, focused on advancing women's equal nationality rights, which resulted in the [Arab Declaration on Belonging and Identity](#);<sup>9</sup>
- mobilized policy makers and civil society in **Togo and Malaysia** to support the elimination of gender discrimination in those countries' nationality laws, resulting in the drafting of a new Togolese Nationality code that eliminates discrimination and presently awaits passage by parliament, and a robust movement for equal nationality rights in Malaysia that continues to build momentum;
- heightened international attention to the issue through a series of events including with senior government officials such as:

- a [High Level Event on achieving gender-equal nationality laws on the sidelines of the 2020 UN General Assembly](#), with Ministers of Justice from Togo and **Eswatini** presenting their country's commitment to achieve gender-equal nationality laws, joined by the Secretary General of the Commonwealth, UN Women's Deputy Executive Director, and a Nepali formerly stateless youth activist; and

- a [High Level Side Event at the 2018 Commission on the Status of Women](#), which included cabinet ministers from **Morocco and Sierra Leone**, who emphasized the benefits of those countries' reforms and the Executive Director of UN Women; and a High Level Event at the United Nations High Level Political Forum on Sustainable Development, which resulted in a [joint statement by the Global Campaign, UNHCR, UNICEF, and UN Women](#) on the urgent need for reform of gender-discriminatory nationality laws.

\*current Steering Committee members also include Family Frontiers, Nationality For A II, and Women's Learning Partnership

<sup>8</sup> As a follow up to Resolution 32/7, Global Campaign, the Permanent Mission of the African Union and the Permanent Missions of Algeria and Madagascar convened a briefing on the need for gender equal nationality rights in Africa with AU members at the UN in Geneva.  
<sup>9</sup> This ground-breaking declaration calls on all Arab League members to uphold gender-equal nationality rights and enact reforms as necessary; remove reservations to CEDAW Article 9; and establish national government focal points and plans of action to implement the Declaration.



# METHODOLOGY



This report is an update of our 2016 report, [The State We're In: Ending Sexism in Nationality Laws](#). Equality Now was very grateful in 2016 to have had the pro bono assistance of global law firm Latham & Watkins LLP, through the facilitation of TrustLaw, for the research and analysis of legislation. All the discriminatory laws identified in the current Annex of this report have been reviewed to check for any amendments post 2016 and updated. The information was then verified through a review of Concluding Observations issued by the UN Committee on the Elimination of Discrimination against Women (CEDAW Committee) as well as State party reports submitted to the CEDAW Committee. In addition, wherever possible, an attempt was made to verify the legal status of discriminatory national laws with global, regional and local organizations working on the issue.

It is also important to note that:

- the research is based on laws accessible online as of March 2022, for the most part as translated into English. Unofficial translations were only considered where official translations were unavailable.
- where there were contradictions between constitutional or legislative provisions, both provisions have been cited and the contradiction noted. The countries with discriminatory provisions in the nationality/citizenship laws are classified as countries with sex-discriminatory laws as these laws are usually followed in practice and need to be amended even if the constitution provides for equality.
- the work has focused on provisions in the main relevant legislation, i.e. the constitution and/or nationality law. We have not investigated related laws or regulations (including other laws related to adoption in the case of discrimination against women regarding their ability to pass nationality to adopted children), which could contain further discriminatory provisions or, possibly, some mitigation of the discrimination.

# SCOPE OF THE REPORT



Marching for nationality rights in Nepal  
Credit: Forum for Women Law and Development

Our 2016 report focused on sex discrimination in the transferral of citizenship to children and foreign spouses; as well as an analysis of the compliance of nationality laws in terms of equality in the right to acquire, change and retain nationality with the provisions of international human rights standards. In order to clearly highlight the continuing existence of discriminatory nationality laws we focused on the crucial areas of discrimination that have a profound negative impact on the lives of individuals. In this report, we have expanded to provide high-level information and analysis of sex discrimination and good practices in certain additional categories, including the ability of women to pass nationality to adopted children; the right of LGBTQ+ individuals and same-sex couples to pass nationality to their spouse and children; and naturalization hurdles which discriminate against women with disabilities.

We also note in terms of scope that:

- If a provision within the law is technically discriminatory but may only have a very small discriminatory effect in practice, or none at all, then it has not been included. (For example, in some countries<sup>10</sup> a woman cannot pass her nationality to a child born abroad if her country is at war with that country or the father is deemed to be a “foreign enemy”.)
- As discussed below, some countries have special provisions for women seemingly in order to compensate for other countries’ discriminatory nationality laws. In reviewing these, we considered whether we should classify them as being discriminatory against men because they singled out safeguards for women. However, in practice we could not find an example of when men would ever need to access these provisions since they weren’t affected by the underlying circumstances these laws seek to address.
- This report does not comment on discrimination which applies pre-independence or pre-reform of the law. We note, however, there will be families still discriminated against if new or amended provisions are not applied retroactively.<sup>11</sup> Governments should remove discrimination covering all time periods from their legislation without delay and grant citizenship retroactively to those who were discriminated against, especially those who may have been rendered stateless.
- Several laws contain discrimination on the basis of race/ethnic origin, which causes distress to millions and compounds the discrimination based on sex. This should be addressed immediately.

<sup>10</sup> E.g. Barbados, St. Lucia, St. Vincent and the Grenadines, Singapore; see also Monaco, which though not included in this report, as it has greatly expanded the categories by which a child can obtain citizenship through his/her mother in almost all cases, but is still discriminatory per se in that fathers, unlike mothers, have unconditional rights in passing nationality to their children.

<sup>11</sup> For example, in Singapore’s law, after 2004 children born outside Singapore can get nationality through the mother or father; this is recent enough that there will still be many children born before 2003 that are discriminated against because they were not able to get Singaporean nationality from their mother. In Tunisia, the Code of Nationality was amended in 2010, as a result of which Tunisian mothers can pass nationality to children born outside the country after 2010. However, the amending law set a narrow one-year deadline for foreign born children of a Tunisian mother and foreign father who were born before the amendment and who were over the age of 18 to apply for citizenship; as a result of which many children were left out and not able to get Tunisian nationality from their mother.



# PROGRESS TOWARDS EQUALITY

## - CHANGES IN DISCRIMINATORY NATIONALITY LAWS



Protesting for equal nationality in Lebanon  
Credit: Collective for Research and Training on Development-Action

### REMOVAL OF ALL DISCRIMINATORY PROVISIONS SINCE 2016

- ✓ **Guinea:** In 2019, Guinea passed a new [Family Code](#), which removed discriminatory provisions on nationality laws and now allows Guinean men and women to pass on nationality to their spouses equally.
- ✓ **Lesotho:** In December 2018, Lesotho enacted [constitutional reforms](#) which now uphold citizen's equal ability to confer nationality on spouses.
- ✓ **Nauru:** In 2017, Nauru passed the [Citizenship Act 2017](#) which allowed Nauruan women to pass nationality to their spouses on an equal basis with men. Though the [Nauruan Constitution](#) still has a specific provision only relating to transfer of nationality from a Nauruan man to a foreign spouse, the Constitution permits Parliament to make provisions for acquisition of Nauruan citizenship by persons who are not otherwise eligible to become Nauruan citizens under the provisions of the Constitution. Accordingly, with the passage of the Citizenship Act 2017, the process to pass nationality to a spouse has [become equal for both men and women](#).
- ✓ **Solomon Islands:** In 2018, Solomon Islands passed the Citizenship Act 2018 which allows women to pass nationality to their spouses on an equal basis with men. The provisions of the [Citizenship Act 2018](#) read with the [Adoption Act 2004](#) also remove the earlier provisions which discriminated against women regarding passage of nationality to an adopted child, in case of a joint adoption.

### IMPROVEMENT OR STEPS TAKEN TOWARDS REMOVAL OF DISCRIMINATORY PROVISIONS SINCE 2016

- **The Bahamas:** The Supreme Court of The Bahamas, in a [decision issued in 2020](#), positively interpreted Article 14 of the Constitution to uphold the right of Bahamian men to pass nationality to their children, regardless of whether they are married to the biological mother or not. This decision could positively benefit children of Bahamian men born outside the marriage of the biological parents or outside marriage altogether. Unfortunately, as of March 2022, the Government continues to [appeal](#) this decision.
- **Iraq:** In 2017, Iraq [passed an amendment to the Nationality Law](#) which reduced the residency requirement from a five-year period to two years for the approval of the naturalisation of a non-Iraqi man married to an Iraqi woman. This makes it easier for Iraqi women to pass nationality to their spouses, though the law still remains unequal, as Iraqi men have the right to pass nationality to their foreign spouses after two years, while in the case of Iraqi women, their spouses may be granted nationality based on discretion of the authorities, and subject to the fulfillment of a number of conditions. Iraqi women also still do not have the same right as men to pass citizenship to their children born abroad.

- **Iran:** In 2019, Iran passed an [amendment to the Law on Determining the Nationality of Children Born from a Marriage of Iranian Women and Foreign Men](#). The amendments allow children born of Iranian mothers and non-Iranian fathers to submit applications to acquire Iranian nationality, whether they are born within or outside Iran. Though this is an [extremely welcome step](#), the law still remains [unequal](#) as it does not allow Iranian women to pass nationality to their children on the same conditions as Iranian men. Children born to Iranian fathers are eligible to obtain nationality automatically, while Iranian mothers are required to apply for nationality for their children (or their children can apply on their own behalf after turning 18); and they must pass a security check by the Intelligence Ministry and the Intelligence Organisation of the Islamic Revolutionary Guard Corps. On 13 May 2021, the National Organization for Civil Registration of Iran announced that over 88,000 applications were submitted following the legal amendment in June 2020 making it possible for children of Iranian mothers and foreign fathers to apply for citizenship. Of these, 1,401 applicants had so far received their nationality documents.<sup>12</sup>

- **Madagascar:** With the [25 January 2017 amendment](#) to Madagascar's 1960 Nationality Code, women now have the right to transfer their nationality to their biological children on an equal basis with men.

- **Malawi:** The [Malawi Citizenship \(Amendment\) Act, 2019](#), permitted Malawi citizens to hold dual citizenship and repealed an earlier discriminatory provision in the law whereby a Malawian woman was stripped of her nationality if she took her husband's foreign nationality.

- **Malaysia:** In September 2021, the Kuala Lumpur High Court, following a case filed by six Malaysian mothers and the non-governmental organisation Family Frontiers, held that Article 14(1)(b) of the Federal Constitution together with the Second Schedule, Part II, Section 1(b) must be read in harmony with Article 8(2) of the Federal Constitution, which prohibits discrimination on the basis of gender. Accordingly, the term "father" in these provisions must be read to include mothers, giving Malaysian women an equal right to pass on their nationality to children born outside the country by "operation of law". However, the government has appealed this decision to the Court of Appeal which is expected to pronounce its decision on 5 August 2022.

- **Sierra Leone:** On 5 July 2017, Sierra Leone's Parliament announced that the [Citizenship Amendment Act 2017](#) passed into law, giving mothers equal rights with fathers to transmit their nationality to their children.

- **United States:** On 12 June 2017, the US Supreme Court handed down a ruling in Sessions v. Morales-Santana (formerly Lynch v. Morales-Santana) to address the sex discrimination in the Immigration and Nationality Act. Going forward, unmarried American fathers and mothers will have the same residency requirements in order to pass on citizenship to their children born abroad, although the new length of the residency is still to be determined by Congress. Previously, fathers had to satisfy a longer residency time period than mothers, which the court found unconstitutional. Written by Ruth Bader Ginsburg, this decision is consistent with international law and jurisprudence, which Equality Now and our global partners highlighted in our 'friend of the court (amici curiae) brief'. While it is unfortunate that the sex discriminatory financial support requirement for a father remains as a condition for him giving his citizenship to a child born abroad and out of wedlock (not an issue in Session v. Morales-Santana), overall, the ruling represents real progress for both women and men in the movement for gender equality.

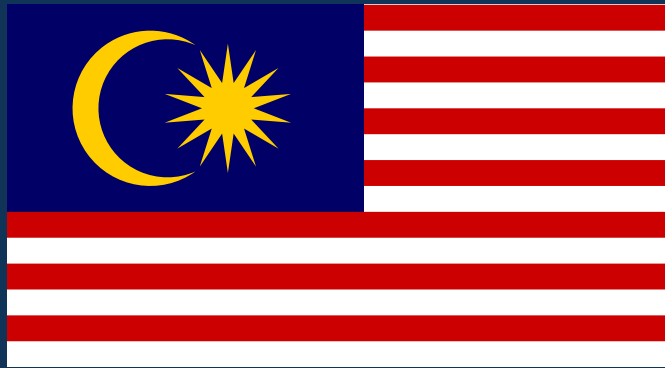


Campaigning in Malaysia  
Credit: Family Frontiers

<sup>12</sup> See UNHCR, I Belong Status Update Report, available at <https://www.refworld.org/country/,,,IRN,,60e808fc4,o.html>



# CASE STUDY – MALAYSIA



**A group of Malaysian mothers with children born outside the country come together with a human rights group to push for a change in the discriminatory citizenship law that has cost them and their children so much.**

In Malaysia, the Constitution's nationality provisions do not permit married Malaysian women to pass nationality to their foreign spouse or Malaysian mothers to automatically pass on nationality to children born abroad (only Malaysian fathers are permitted to do so for children born within marriage).<sup>13</sup> Instead, Malaysian women have to apply for their children's citizenship via an arbitrary, inconsistent and tedious registration process. These applications are almost never approved. Between 2013 and February 2022, only 117 of the 4870 applications (less than 2.5%) filed by Malaysian women were approved.

These discriminatory nationality provisions are especially problematic in a country where people often travel abroad for work for extended periods, and it's common for children to be born abroad. They have far-reaching implications on the lives of Malaysian women living abroad, and their children - who may be stateless if they are unable to access their father's nationality; or may be burdened with exorbitant "foreigner's fees" while accessing healthcare and unequal access to public education in Malaysia due to lack of citizenship. Mothers who live in Malaysia with their foreign-born children worry that their children may be deported. Watch this [moving short film](#) by Family Frontiers for more on the heavy toll that discriminatory citizenship laws take on families.<sup>14</sup>

with overseas-born children, approached the courts in order to challenge this discrimination. In September 2021, the Kuala Lumpur High Court passed a historic decision that granted Malaysian women equal citizenship rights and recognized their overseas-born children as citizens.

By harmoniously interpreting the nationality provision in the Constitution with the provision on fundamental liberties that prohibits gender discrimination, it held that the term "father" in these provisions must now be read to include mothers, giving Malaysian women an equal right to pass on their nationality to children born outside the country.

Disappointingly, the Malaysian government immediately appealed this decision to the Court of Appeal while delaying the implementation of the High Court decision in the meantime. As of April 2022, five out of the six women who are plaintiffs in the case have been granted citizenship documents for their children; one other plaintiff and other impacted mothers are yet to receive theirs.

In response to a [request](#) from Equality Now, as a steering committee member of the Global Campaign for Equal Nationality Rights, the United Nations Working Group on discrimination against women and girls issued a communication to the Malaysian government in September 2021. The [communication](#) urged the Malaysian government to amend all provisions of the Federal Constitution that deny women equal rights to transmit nationality, and asked the government about its plans to enforce the High Court ruling.

The Malaysian Government must respect and comply with the Kuala Lumpur High Court decision and expeditiously issue citizenship-related documents to all overseas-born children of Malaysian women. It also needs to formally amend the nationality provisions of the Constitution to solidify the High Court judgment. While awaiting the pronouncement of the decision of the Court of Appeal (due 5 August 2022), Family Frontiers and Malaysian women continue their fight for equal nationality rights. Sign their [petition](#) at Change.org calling on the Malaysian government to uphold the High Court decision!

# CASE STUDY – LEBANON



**A Lebanese woman married to a Palestinian man is unable to pass her citizenship to her children or to her husband. She suffers in the childrens' absence, as two of them were forced to move abroad for work due to discriminatory attitudes and being denied access to jobs in Lebanon.**

"I am married to a Palestinian who lives and works in Lebanon. We have a son and two girls whom I raised and schooled in Lebanon. I suffer from the denial of my fundamental rights including nationality rights to grant citizenship to my children.

I also endure severe pains culminating in psychological violence and oppression that has accompanied me for decades, due to the discrimination and persistent inequality faced by individuals from different political, financial and other backgrounds, [which is perpetuated and exacerbated by the effects of the discriminatory nationality law].

When I say violence, I mean the violence that prevents Lebanese mothers from giving their property to their children – this decision was reached a few years ago and applied specifically to children with Palestinian fathers. I mean the prevailing psychological and verbal violence in the recent period against children who are known not to have Lebanese citizenship. For example, my son was prevented from joining the national sports team in school because he was a "foreigner", even though he was a good athlete.

There is also violence experienced in seeking jobs and different professions, where one is denied joining some trade unions and professional associations or even prevented from practicing certain professions such as medicine or law - this is despite the parents paying considerable sums to educate their children. For instance, though my eldest daughter graduated from a prestigious private university in nutrition science, she still struggled to secure a career worthy of her ambition and specialization in this country that has robbed us of everything. I do not deserve to experience these struggles as a woman who has been an educator for 22 years. I worked hard and contributed to building my country through my life-long career in education, yet the government met me with injustice, oppression and violence. My two older children and I suffered from this, and now they had to migrate to other countries in search of a 'homeland' that appreciates their competencies and respects their humanity. My son is currently working in Europe and suffered long before travelling due to his inability to access Lebanese citizenship. My eldest daughter travelled to the Gulf for marriage after struggling with her career in Lebanon, and I now live with my youngest daughter.

This resulted in being deprived of the opportunity to live close to my children when they are in the prime of their youth. They had to leave in search of their dignity.

For some people, emigration is a choice, but for us, it is by force and necessary to save my soul from my constant torment as I used to suffer silently. I feel guilty for bringing my children into this world, as I could not grant them my nationality."

<sup>13</sup> Except if the child was born in Singapore

<sup>14</sup> [https://www.facebook.com/FamilyFrontiersMY/videos/1873488632856559/?extid=NS-UNK-UNK-UNK-AN\\_GKoT-GKtC](https://www.facebook.com/FamilyFrontiersMY/videos/1873488632856559/?extid=NS-UNK-UNK-UNK-AN_GKoT-GKtC)



# THE STATE WE'RE IN - DISCRIMINATION IN THE LAW AND ITS IMPACT ON WOMEN AND FAMILIES



CSW 62 Side event for Nationality Laws  
Credit: UN Women/Ryan Brown

## CONSEQUENCES OF DISCRIMINATION

The inability, largely of women, to pass on their nationality to their spouse<sup>15</sup> or to their children can have grave consequences<sup>16</sup> for both them and their families, including:

- statelessness<sup>17</sup> (including in the context of the COVID pandemic)<sup>18</sup>
- fear of deportation<sup>19</sup> of children and spouse and family separation
- additional vulnerability of girls to child, early and forced marriage<sup>20</sup>
- increased vulnerability of women in abusive marriages
- difficulties for women in claiming child custody/access on marriage break-up
- lack of access to publicly-funded education for their children
- lack of access to publicly-funded medical services and national health insurance
- lack of access to social benefits
- inability to register personal property and inherit family property
- limited freedom of movement, including to travel abroad
- limited access to jobs, economic opportunities, and financial services
- shame, trauma and anxiety

<sup>15</sup> In addition to provisions restricting married women from passing on their nationality to their foreign spouse on an equal basis with men generally, some countries also specify that a naturalised woman may not pass on her nationality to a foreign spouse where a man otherwise could.

<sup>16</sup> See Global Campaign for Equal Nationality Rights, "Ending Gender-Based Violence Requires Equal Citizenship: The Impact of Gender Discrimination in Nationality Laws," <https://equalityrights.org/images/zdocs/Impact-of-Gender-Discrimination-in-Nationality-Laws-on-Gender-Based-Violence.pdf>

<sup>17</sup> See Gender Discrimination and Childhood Statelessness available at <https://www.unhcr.org/ibelong/gender-discrimination-and-stateless-children/#:~:text=Children%20rendered%20stateless%20by%20gender,a%20range%20of%20social%20services>

<sup>18</sup> See UNHCR, The Impact of COVID-19 on Stateless Populations: Policy Recommendations and Good Practices, (May 2021) citing the Global Campaign for Equal Nationality Rights COVID19 statement.

<sup>19</sup> For example, a shadow report submitted by Ligue Iteka, ACAT Burundi, Observatoire Ineza des Droits de l'Enfant au Burundi and Association des Femmes Juristes du Burundi to the UN Committee on the Rights of the Child on the implementation of the Convention on the Rights of the Child in Burundi, September 2010, suggested that in 2009 Burundian police conducted a search for illegal immigrants and their children with Burundian mothers and that these men and their children were arrested and subsequently deported, although we have not been able to uncover more details about this incident or to find out whether it is a regular occurrence. Accessed in 2016 at: [https://www.google.com/url?q=http://www.crin.org/docs/Burundi\\_Coalition\\_CRC\\_NGO\\_Report\\_Summary\\_EN.doc&sa=U&ei=Y3j9T-vJl6GkoQWp2cT3AQ&ved=OCBAQFjAF&client=internal-uds-cse&usq=AFQjCNHsDdkBMZ4xKoxXqoWF7vD9kXti7Q](https://www.google.com/url?q=http://www.crin.org/docs/Burundi_Coalition_CRC_NGO_Report_Summary_EN.doc&sa=U&ei=Y3j9T-vJl6GkoQWp2cT3AQ&ved=OCBAQFjAF&client=internal-uds-cse&usq=AFQjCNHsDdkBMZ4xKoxXqoWF7vD9kXti7Q)

<sup>20</sup> Without Lebanese nationality, Hiam's daughters, once they left school, faced difficulties in staying in Lebanon. For Hiam's daughter Nour, this meant she was married off at 15 years of age to a relative in Egypt. See Actions 36.1 and 36.2, Lebanon: Give women equal citizenship rights to men under the nationality law, on file at Equality Now.

## STEREOTYPES

Too many discriminatory nationality laws remain founded on gender stereotypes, both in the family and the household and in the public sphere, which in turn reinforce stereotypical roles for both women and men:

- *A woman, once married, loses her independent identity* – this leads to the anomalous situation in some countries where a woman is permitted to pass her nationality to her children if she is single, but not if she is married.
- *A child “belongs” to a father rather than a mother, including in adoption cases* – his nationality therefore is more likely to attach to the children, even if they live in the mother's (different) home country. Children who are allowed to claim their mother's nationality, but who live outside her country of citizenship, are frequently only permitted a small window on maturity in which to claim maternal citizenship, which limits the family's options.
- The exception to this is when the couple is not married, when some laws encapsulate the view that *mothers will raise their children and fathers are, and are entitled to remain, irresponsible.*<sup>21</sup>
- *Every family has a father and a mother, a husband and a wife* - if a country does not recognize the right to same-sex marriage, it may not recognize one of the parents on the birth certificate, potentially causing statelessness.

## ADOPTION

The laws of some countries impose additional hurdles for granting citizenship to adopted children which are not applicable in the granting of citizenship to biological children.<sup>22</sup> Specifically with regard to sex discrimination, we note:

- **Lack of clarity:** Some countries fail to clearly provide in the law whether children adopted through international adoption are entitled to acquire the citizenship<sup>23</sup> of one of the adoptive parents; and there are no clear processes prescribed for applying for such citizenship. In such cases, **sex discrimination applicable in the law in terms of the right of mothers to pass nationality to biological children may well apply**, in law or in practice to passing of nationality to adopted children as well.
- **Explicit sex discrimination:** Some countries have explicit provisions in their nationality/citizenship laws or their constitution, which do not permit adoptive mothers, or sometimes do not permit adoptive mothers who have husbands, to pass nationality to their adopted children on an equal basis with adoptive fathers. These countries are The Bahamas, Barbados, Kiribati, Madagascar and Mauritius. However, it is important to note that in addition there may be similar sex discrimination in terms of passing nationality to adopted children in other laws or regulations in some countries, such as the law governing adoption, which have not been reviewed for the purposes of this report.



<sup>21</sup> See, for example, a US Supreme Court case, *Nguyen v. INS*, 533 U.S. 53 (2001) and [http://www.equalitynow.org/law/the\\_immigration\\_and\\_nationality\\_act](http://www.equalitynow.org/law/the_immigration_and_nationality_act)

<sup>22</sup> For instance, some laws may allow adopted children to only apply for citizenship after a prescribed residence period, may require government approval for grant of such citizenship or may even require adopted children to follow naturalization processes/obtain permanent residence status before applying for citizenship. Citizenship laws in certain countries, like Sierra Leone, explicitly exclude adoptive fathers and mothers from the definition of parents in the law, which creates the risk that adopted children will not be recognised as citizens.

<sup>23</sup> Such as, for example, in India and China. See Law Library of Congress, *Citizenship Through International Adoption*, February 2021, <https://tile.loc.gov/storage-services/service/ll/llgldr/2021666101/2021666101.pdf>



## LGBTQ+ INDIVIDUALS AND SAME-SEX FAMILIES

A number of countries discriminate against lesbian, gay, bisexual, trans, and queer individuals (LGBTQ+), including in terms of their ability to pass nationality to their spouses (clearly if the law does not recognise same-sex marriage) or to their children, whether biological or non-biological.<sup>24</sup> For instance, Bulgaria refused to grant citizenship to the child of a Bulgarian woman, who was born in Spain in 2019 as it refused to recognise a birth certificate where both parents were women. (Bulgaria does not recognise same-sex marriages).<sup>25</sup> The case was brought to the Court of Justice of the European Union (CJEU), which ruled that Bulgaria's failure to provide Bulgarian citizenship to the child discriminated against same-sex parents, whether or not they were the biological mother, and violated the right to freedom of movement. In a groundbreaking decision, the CJEU required Bulgaria to issue a passport or identity document to the child.<sup>26</sup> Similarly, according to reports, a court in Namibia granted citizenship to the son of gay parents born through a surrogate in South Africa by acknowledging diversity in families and the importance of citizenship by descent, despite Namibian law criminalising sex between men and not recognizing same-sex marriage.<sup>27</sup>

Even in countries that provide legal recognition to same-sex relationships, the lack of biological links to surrogate or adopted children can affect the ability of same-sex couples to pass nationality to their children, potentially causing statelessness.<sup>28</sup> For instance, until 2021, the United States did not grant citizenship to children born abroad, even when the parents were married, unless there was proof of genetic or gestational relationship between the child and an American parent. This policy, which affected many same-sex couples, was reversed by the State Department in 2021, to take into “account the realities of modern families”,<sup>29</sup> allowing married parents (at least one of whom is American) to pass citizenship to children born abroad as long as one of the parents (whether the surrogate or the adopting parent(s)) has a genetic or gestational link to the child.<sup>30</sup> This helps close a significant loophole.

**All women, no matter their gender identity, sexual orientation, marital status or motherhood status should be able to transfer nationality to their children and spouses equally.**

## DUAL NATIONALITY AND SEX DISCRIMINATION

Where dual nationality is forbidden, women can be disproportionately affected:

- where a law requires that a woman who has taken her husband's nationality is automatically stripped of that nationality on termination of the marriage for whatever reason, including death or divorce. This leaves her disadvantaged in terms of accessing rights and services in her adoptive country and particularly vulnerable if her children have their father's nationality.
- Even if a woman is able to claim back her nationality of origin on divorce or widowhood, delays and other hurdles in regaining citizenship can cause her considerable problems, including anxiety and hardship.
- Sometimes married women can only pass their nationality of origin to children born abroad if the child renounces its other citizenship upon reaching the age of majority, whereas this is not commonly expressly stated in the context of a married man passing on his citizenship.

Interestingly, some legislatures have attempted to anticipate the discrimination in other countries' laws and to safeguard women accordingly. For example, a general ban on dual citizenship can frequently be waived on application by a woman who wants to keep her citizenship of origin on marriage to a foreign national. This would give her a protective cushion should she have to take her husband's citizenship, but then lose it again if the husband dies or the marriage otherwise ends. These are therefore welcome provisions for the individuals concerned.

**We would encourage governments, however, to work together to remove all discrimination and to harmonize applicable laws.** This would make the law more accessible for individuals and authorities alike, including those who have to implement its provisions.

## LOSS OR ACQUISITION OF NATIONALITY

In several countries there is a specific provision which mandates that women who have gained citizenship through marriage to a foreign national lose their new nationality, sometimes automatically, upon marrying a new spouse of yet another nationality. Men in a similar situation are not mentioned in these provisions, again reinforcing the stereotype that a woman's identity follows that of her husband in all cases. Fortunately, there frequently are safeguards against statelessness in these provisions so a woman will only lose the new nationality if she in practice acquires her new spouse's nationality. However, the provisions relating to her existing children are not always clear and could cause difficulties for her and her family.

Many laws seem intent on singling out women or excluding them for no discernible reason. For example, under the law in the Comoros, a foreign woman will not acquire Comorian nationality if her marriage to a Comorian man is deemed void, even if the marriage was entered into in good faith. Why did the legislature in this case think this was a particular problem that had to be guarded against?

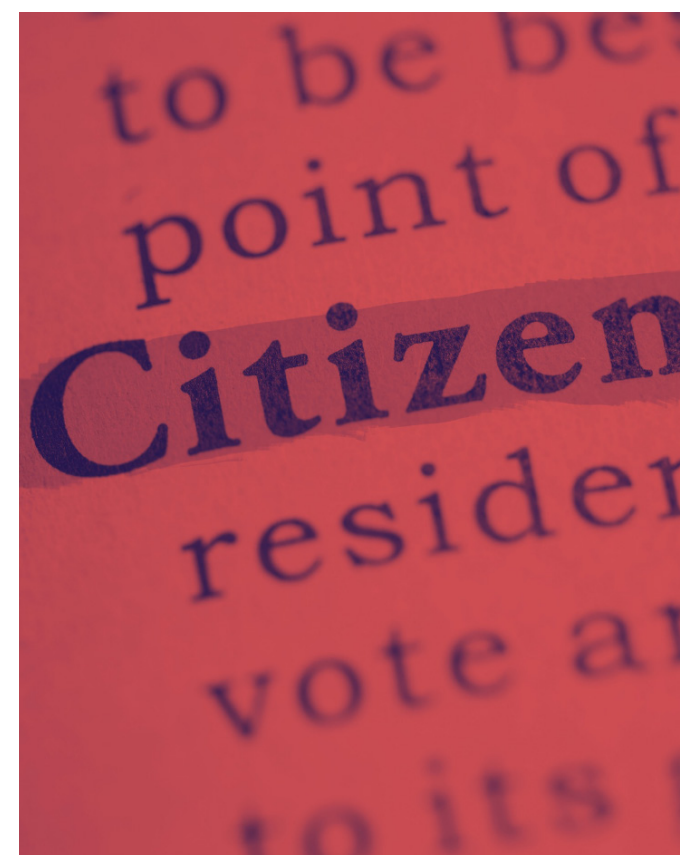
Other laws exclude mention of women. For instance, several laws state that if a man becomes a naturalised citizen his children and spouse can also get the new nationality, while keeping silent as to the situation of a woman who becomes a naturalised citizen. And conditions for naturalisation such as requirements the applicant be of “sound mind” or of “good conduct and reputation” may be interpreted in a discriminatory manner based on gender stereotypes. For example, the law in Yemen allows children born in Yemen to foreign parents to acquire nationality through naturalisation at the age of 18 only if they are of “sound mind”, “free of impairments” that render them “a burden to society”, and of “good conduct and reputation”.

As with all these laws, even where the discrimination is targeted at women by singling them out or excluding them, the effect is often felt much more broadly including by any spouses and any children.

## MALE “GUARDIANSHIP”

A woman is also discriminated against when she automatically, **without a say in the matter**, gains the nationality of her husband on his change of nationality. While all women and men should have equal rights to acquire nationality, citizenship should not be forced on anyone. This type of provision reinforces the view that men are guardians of women and women cannot make their own choices on the same basis as men.

Similarly, a foreign wife should be able to choose whether she wishes to acquire her husband's nationality at the time of the marriage rather than have it thrust upon her, as is the current situation in Somalia, for example. In relation to **adoption**, several laws provide that the citizenship of the father is the one that guides what citizenship the child will have; this means that a woman cannot pass it to her children in her own right if it is a joint adoption, and if a woman has married a foreign man and has not been able to pass her citizenship to him, she would also not be able to pass her citizenship to any adopted children through him. If a married man's nationality changes, his children may cease to be citizens, which continues the discrimination against his wife in not taking into consideration her nationality or even the nationality she would choose for her children. As a result, he could, for example, take the children away to his new country. It also perpetuates the stereotype that children belong to the father rather than the mother and they are under his guardianship alone. Stripping children of their nationality, even if they have another one, should not be automatic under the law.



<sup>24</sup> Office of the High Commissioner for Human Rights, Background Non-Paper on Equality and Non-discrimination in Nationality Matters to End Statelessness, 2021, <https://www.ohchr.org/sites/default/files/2022-01/Background-Nonpaper-Statelessness-Discrimination.pdf>  
<sup>25</sup> <https://www.ilga-europe.org/resources/news/latest-news/top-eu-court-recognises-relationship-same-sex-parents-and-their-children>  
<sup>26</sup> Court of Justice of the European Union, Judgment in Case C-490/20 Stolična obshtina, rayon 'Pancharevo'; <https://curia.europa.eu/jcms/upload/docs/application/pdf/2021-12/cp210221en.pdf>  
<sup>27</sup> <https://www.france24.com/en/live-news/20211013-namibia-court-grants-citizenship-to-gay-couple-s-son>  
<sup>28</sup> See Human Rights Watch, As Parenting Changes, So Should Citizenship: Outdated Nationality Laws Risk Leaving Some Children Stateless, 24 February 2022, <https://www.hrw.org/news/2022/02/24/parenting-changes-so-should-citizenship-outdated-nationality-laws-risk-leaving-some>  
<sup>29</sup> <https://www.npr.org/2021/05/19/998143097/u-s-ends-policy-denying-citizenship-to-children-born-via-in-vitro-surrogacy>  
<sup>30</sup> <https://travel.state.gov/content/travel/en/legal/travel-legal-considerations/us-citizenship/Assisted-Reproductive-Technology-ART-Surrogacy-Abroad.html>



## REINFORCEMENT OF OTHER SEX DISCRIMINATORY LAWS AND HARMFUL PRACTICES

Unfortunately, nationality laws sometimes reinforce sex discriminatory provisions in other laws and uphold harmful practices. For example, in the nationality laws of Mauritius and Nigeria, the provisions related to registration of citizenship/renunciation of nationality considers a married girl of 16 to be considered “full age” even though “full age” is defined as 18 elsewhere in the nationality law. And a number of countries, including for example, the Central African Republic and Cameroon, implicitly endorse child marriage by explicitly allowing a minor girl to retain her nationality at the time of marriage. Governments should consider this type of provision in context to evaluate whether it protects and promotes the rights of the girl concerned or whether it helps support a system of child marriage and inequality.



## DISCRIMINATORY FAMILY LAWS

**Gender discriminatory nationality laws and sexist family laws and traditions are inextricably linked.** Family, whatever form it takes, is considered the foundational unit of society, and is often associated with closely held beliefs about culture, religion, and tradition. It is regulated by a body of statutes, rules and regulations, court procedures, along with customary and uncoded laws and practices. This includes, but is not limited to, areas of family relations that fall under Article 16 of the CEDAW Convention, such as the rights of women and men entering into marriage, divorce, custody, guardianship of children, property rights, and equal rights to inheritance, and the right of a spouse to choose their profession and occupation. Divorce, for example, can be even more precarious for women with possible loss of nationality and limits on remarriage may also have negative impacts on gaining a new nationality. The [Global Campaign for Equality in Family Law](#) is a coalition of women's rights and faith-based organizations as well as UN Women working towards the goal of equality for all women and men under the law in all matters relating to the family. **Governments must abolish all sex discriminatory laws as soon as possible.**



# DISCRIMINATORY IMPLEMENTATION OF GENDER-NEUTRAL LAWS



While, in the final analysis, equal rights appear ultimately to be provided in several laws, there are often multiple hurdles a woman must overcome to claim these for her spouse and/or her children such that enjoyment of these rights is delayed or effectively denied. The poor and disadvantaged, as well as undocumented,<sup>31</sup> carry additional burdens to navigate an often complex system with sometimes narrow timeframes for claiming nationality and are at great risk of statelessness. As noted by the United Nations Special Rapporteur on Minority Issues, more than three-fourth of the stateless population in the world today belongs to national or ethnic, religious and linguistic minorities<sup>32</sup> due to discriminatory nationality laws or discriminatory application of such laws against minorities.<sup>33</sup> Women belonging to minority communities, who face the double burden of gender discrimination in addition to discrimination based on their ethnicity, religion, or language, may thus be further marginalized in relation to acquisition, retention or change in their nationality; or passing on their nationality to their children.<sup>34</sup>

In addition, fees associated with residency permits and other bureaucratic procedures required of non-nationals are unaffordable for some. Such administrative barriers often structurally exclude marginalized communities.<sup>35</sup> Lack of clarity and burdensome administration hampers fair and swift implementation of the law and too often leaves the door open for opaque and discriminatory interpretation. These additional burdens should be removed without delay to provide for equal rights of all regardless of sex or gender.

All governments concerned must review, amend and harmonize their laws as a matter of urgency to allow all people equal rights in conveying their nationality, thereby ensuring the civil, political, economic, social and cultural rights that nationality helps people access. They should work together to eliminate all legal inequality and gender discrimination, which can lead to statelessness and other harmful consequences.

## CASE STUDY – NEPAL



**A mother escapes an extremely violent and abusive relationship, but with no proof of paternity, her daughter is repeatedly denied approval for citizenship paperwork, ultimately leading them to take their case to the highest court in the land. Nepali law only allows Nepali mothers to pass citizenship to children born in the country if the father is unknown.**

### DEENA AND CHARULATHA

Deena is the 18 year old daughter of Charulatha. Deena has been denied a citizenship certificate through her mother, while Charulatha has been deprived of transferring Nepali citizenship to her daughter.

When Charulatha was three months pregnant with Deena, her partner physically abused her and tried to burn Charulatha and their unborn child alive by locking them up in a room, but they survived. Charulatha never saw her abusive partner again after escaping from the fire. She and Deena started living with Charulatha's father and mother. Charulatha went abroad for work for 11 years and then came back to Nepal.

When Deena turned 18, she went to the Ward Office for the recommendation in order to apply for her citizenship certificate. She was told that she cannot acquire the citizenship certificate if she doesn't have a birth registration certificate.

After that, her mother applied for birth registration on her behalf, but the authorities replied saying that Deena cannot register the birth through her maternal family, and hence refused to provide recommendation for her citizenship certificate. The authorities noted that there is no law allowing children to acquire legal identity through their mother, nor any law allowing a mother to transfer her nationality to her children. However later, the Mayor provided Deena with a birth verification recommendation. Yet, the authorities kept asking for legal identity documents for Deena's father as well as his recommendation for Deena's application.

Deena tried applying for citizenship two more times, once by trying to obtain a recommendation from the Ward Office for citizenship certificate by filling out another type of form, and again by using her mother's identity and address. However, she was flatly refused both times, leaving Deena stateless and both her and her mother feeling like they were in an abyss. The authorities refused to grant the application based on her mother's details and asked for proof of paternity and her father's Nepali citizenship.

After so many unsuccessful attempts to obtain citizenship for Deena, they finally filed a petition on January 29, 2022 at the Supreme Court of Nepal demanding to acquire the citizenship of descent through her mother. The Supreme Court has ordered the priority hearing of the case, and Deena is hopeful for a positive decision due to the Constitutional provisions which provide for equality in passing citizenship to children, despite contradictory discriminatory nationality provisions continuing to exist.

31 According to reports, the US state of Texas has refused to issue birth certificates for children born in Texas to undocumented parents, primarily mothers, even though all children born in the US are citizens under the law. As a result, "Women are unable to enroll their children in school or daycare without a birth certificate, or to authorize their child to be treated in a medical emergency." See <https://www.texasobserver.org/children-of-immigrants-denied-citizenship/>

32 Report of the Special Rapporteur on Minority Issues, Statelessness: A Minority Issue, A/73/205, 20 July 2018, <https://www.ohchr.org/en/documents/thematic-reports/report-special-rapporteur-minority-issues-statelessness-minority-issue>

33 For instance, see reports that persons and children of Haitian ancestry living in the Dominican Republic are denied Dominican citizenship- <https://www.theatlantic.com/ideas/archive/2018/11/dominican-republic-erased-birthright-citizenship/575527/>

34 Report of the Special Rapporteur on Minority Issues, Statelessness: A Minority Issue, A/73/205, 20 July 2018, <https://www.ohchr.org/en/documents/thematic-reports/report-special-rapporteur-minority-issues-statelessness-minority-issue>

35 Report of the Special Rapporteur on Contemporary Forms of Racism, "Racial discrimination in the context of laws, policies and practices concerning citizenship, nationality and immigration," UN Doc. A/HRC/38/52, 25 April 2018, [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/38/52](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/38/52)

# SEX DISCRIMINATORY NATIONALITY LAWS

See Annex for further details and the legal provisions for each country

## TRANSFERRING NATIONALITY TO CHILDREN

*Mothers cannot pass nationality to children on an equal basis with fathers*

Countries which do not allow mothers to confer nationality to their children with <b>very limited or no exceptions</b>	<b>Brunei, Eswatini,<sup>37</sup> Kuwait,<sup>38</sup> Lebanon,<sup>39</sup> Qatar, Somalia</b>
Countries which allow mothers to confer nationality to their children <b>only under certain circumstances</b> , <i>e.g. if father unknown; father has repudiated/not acknowledged the child; father is stateless; father of unknown nationality; fatherhood not substantiated; on a discretionary procedure to confer nationality application</i>	<b>Bahrain, Burundi, Iran, Jordan, Kiribati*, Libya, Nepal, Oman, Saudi Arabia, Sudan, Syrian Arab Republic, Togo, United Arab Emirates</b>
Countries which, in addition to the countries above, also do not allow mothers to confer nationality to children on equal basis with fathers <b>if the child is born outside the country</b>	<b>The Bahamas*,<sup>40</sup> Barbados*, Iraq, Liberia, Malaysia*,<sup>41</sup> Mauritania</b>
<b>Women cannot pass nationality to adopted children on an equal basis with men</b> <sup>42</sup>	<b>The Bahamas, Barbados**, Kiribati**, Madagascar, Mauritius**</b>
<b>Naturalised</b> mother cannot pass to children on an equal basis with naturalised father	<b>Kiribati, Yemen</b> (for children born prior to naturalisation)

\*discrimination applies to married women only \*\* in the case of joint adoption

*Fathers cannot pass nationality to children born outside of marriage to the biological mother, on an equal basis with mothers*

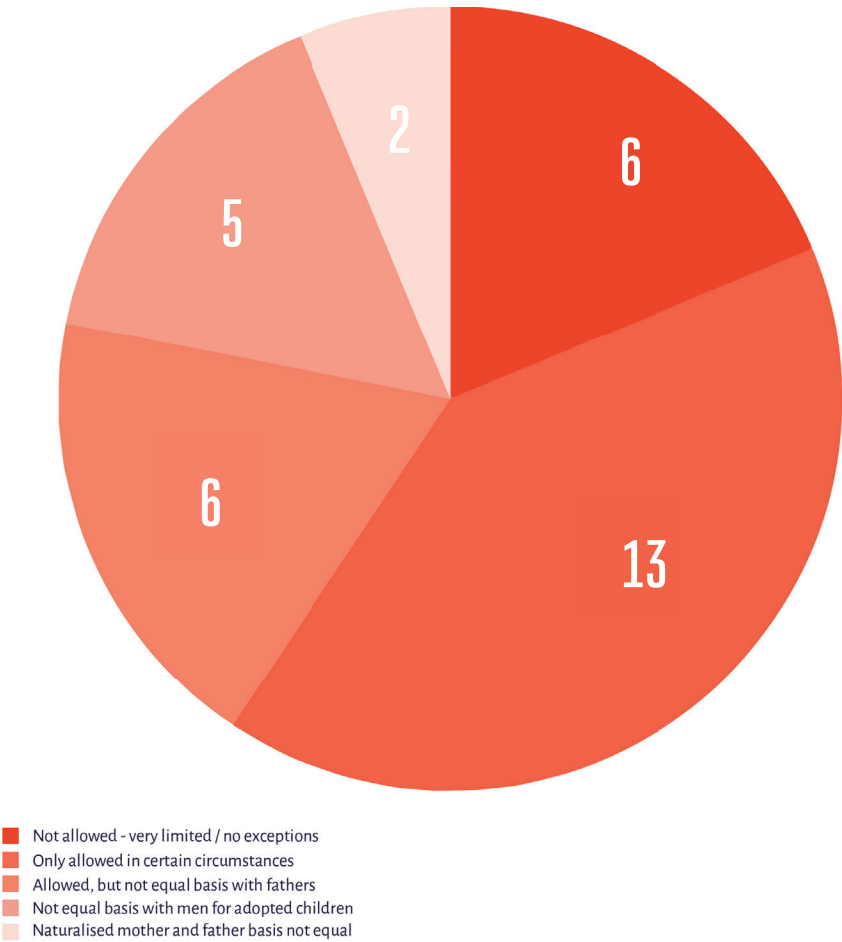
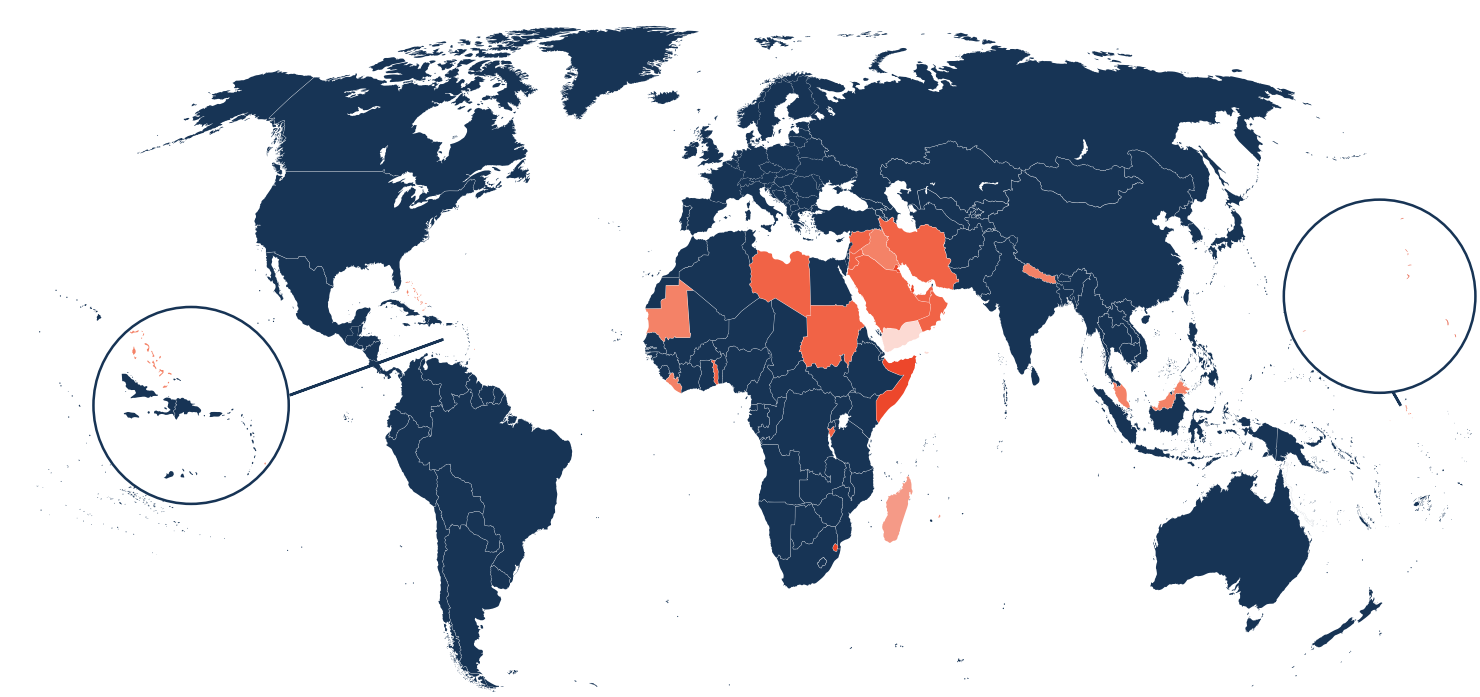
**A handful of countries discriminate against unmarried men in their ability to confer nationality to children. In all these countries except The Bahamas and Malaysia, the discrimination only applies in case of children born abroad:**  
The Bahamas,<sup>43</sup> Barbados, Kiribati, Malaysia, United States of America (Unless certain additional requirements beyond proof of paternity are met)

**If a father's nationality changes, his children may cease to be citizens without consideration of the mother's nationality:**  
Bahrain, Egypt,<sup>44</sup> Iraq, Kuwait, Madagascar#, Mauritania#, Oman#, Pakistan, Sudan#

#Except under very restrictive circumstances

<sup>36</sup> The list of 28 countries also includes 3 countries where the discrimination is applicable to adopted children or children of naturalized women only.  
<sup>37</sup> Unless the mother is unmarried and the child is not adopted or claimed by the father in accordance with Swazi custom  
<sup>38</sup> Not by right, but possible by decree issued by the Minister of the Interior if father unknown or not legally established  
<sup>39</sup> Unless by permission of Head of State after acquiring foreign nationality and reapplying for Lebanese nationality within one year of maturity of child and living in Lebanon  
<sup>40</sup> Except under certain circumstances and if the child renounces other citizenship  
<sup>41</sup> In September 2021, the Kuala Lumpur High Court gave Malaysian women an equal right to pass on their nationality to children born outside the country. This decision was appealed to the Court of Appeal, which is expected to pronounce its decision on 22 June 2022. See Annex for more details.  
<sup>42</sup> This is not an exhaustive list and is based on countries whose laws explicitly set out the right of adoptive parents to pass nationality to adopted children. In many others cases, sex discrimination applicable in the law in terms of the right of mothers to pass nationality to biological children may well apply, in law or in practice to passing of nationality to adopted children as well.  
<sup>43</sup> In May 2020, the Supreme Court of The Bahamas positively interpreted Article 14 of the Constitution and issued a decision upholding the right of unmarried Bahamian men to transfer nationality to their children. However, this decision has been appealed by the Bahamian government to the Privy Council, and thus the status of the law still remains unsettled. See Annex for more details.  
<sup>44</sup> Minor children will forfeit nationality if, as a result of their father's change in nationality, they acquire the new nationality as a result of applicable law but they can decide to choose the Egyptian nationality during the second year of reaching majority

## COUNTRIES DISCRIMINATING ON BASIS OF SEX IN TRANSFERAL OF NATIONALITY TO CHILDREN





# LAWS AFFECTING SPOUSES/MARRIAGE

*Married woman cannot pass to foreign spouse on an equal basis with married man*

Nationality laws in 46 countries around the world prevent women from passing nationality to their spouse on an equal basis with men.

No special provisions apply which allow married women to pass nationality to foreign spouses (though they apply for married men)	<b>The Bahamas, Bahrain, Bangladesh<sup>***</sup>, Barbados, Brunei, Central African Republic, Congo (Republic of), Egypt, Eswatini, Guatemala, Jordan, Kiribati, Kuwait, Lebanon, Libya, Madagascar, Malawi, Malaysia, Morocco, Nepal, Nigeria, Pakistan,<sup>45</sup> Philippines (applicable to naturalised women only), Qatar<sup>***</sup>, Saudi Arabia, Sierra Leone, Singapore, Somalia, Sudan, Syrian Arab Republic, Tanzania, United Arab Emirates, Yemen<sup>***</sup></b>
Foreign husband of married women can apply for naturalisation under normal procedures with reduced or waived conditions (which are more onerous than those applicable to foreign wife) <sup>46</sup>	<b>Benin, Burundi, Cameroon, Comoros, Iran,<sup>47</sup> Iraq, Mauritania, Oman,<sup>48</sup> Thailand, Togo, Tunisia</b>
Possible for wives to pass nationality to non-national husbands, subject to proviso that Minister can refuse on reasonable grounds	<b>Saint Lucia, Saint Vincent &amp; the Grenadines</b>

<sup>\*\*\*</sup> Applies to naturalised women also.

**Married man cannot pass to foreign spouse on an equal basis with married woman:**

Philippines (through judicial process for naturalization only), Tunisia (unless foreign woman is stripped of her nationality or under certain conditions)

## OTHER SEX DISCRIMINATORY PROVISIONS

**Foreign woman who takes spouse's nationality automatically loses it upon termination of marriage:**

Bahrain,<sup>49</sup> Togo, Tunisia, Yemen

**Woman automatically loses nationality of origin upon marrying spouse of another nationality:**

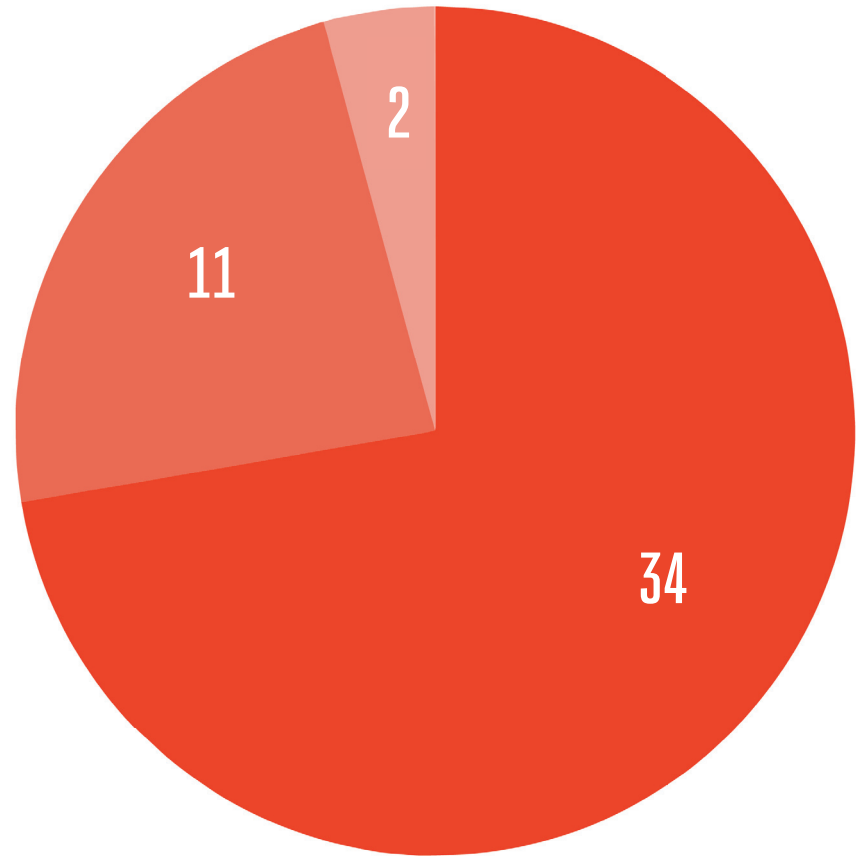
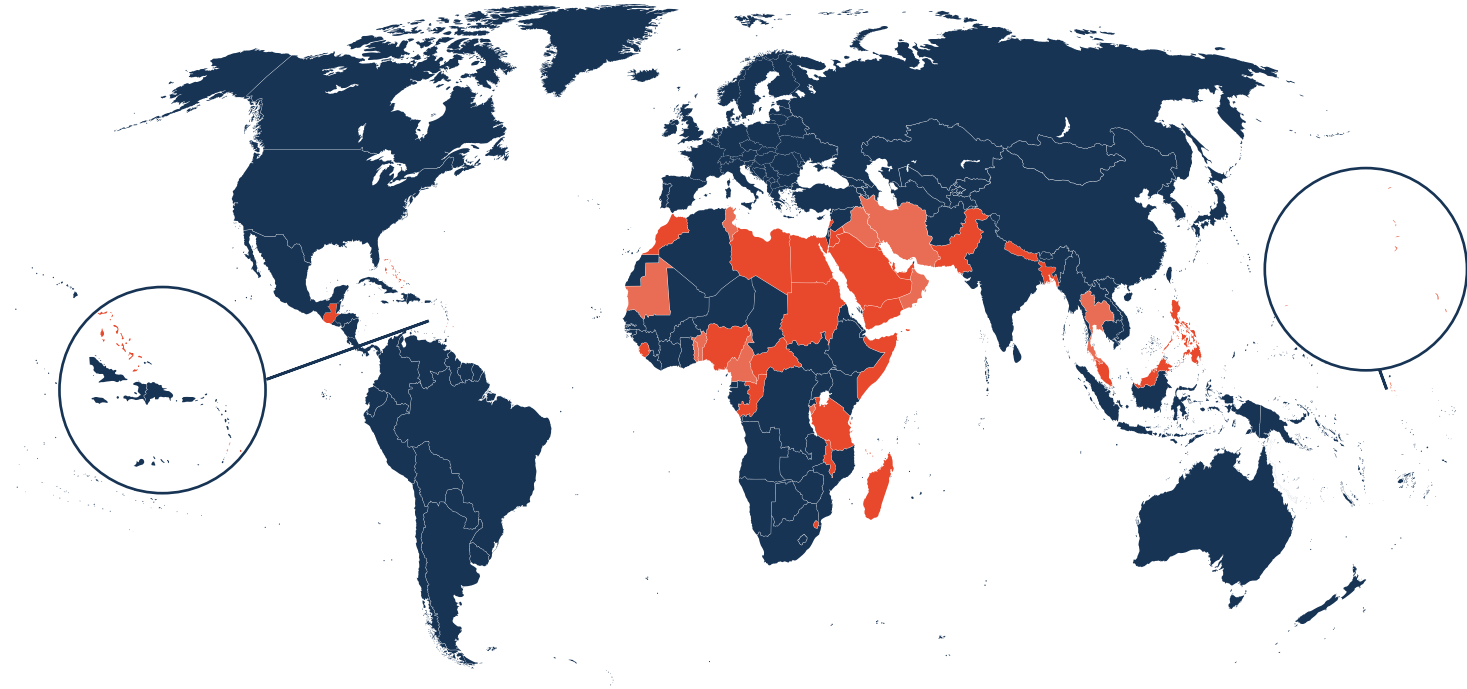
Guatemala, Iran,<sup>50</sup> Yemen

**Foreign woman automatically acquires her husband's nationality at the time of the marriage or on his acquisition of citizenship:**

Somalia

<sup>45</sup> In 2016, the Lahore High Court found this provision was discriminatory and unconstitutional. The Pakistani government has appealed this decision, and the appeal is currently pending before the Supreme Court. See the Annex for more details.  
<sup>46</sup> However, in many countries, even where the law provides for the ability of foreign husbands to apply for citizenship through naturalisation under reduced or waived conditions, these provisions are rarely applied in practice, making it extremely difficult for women to pass nationality to foreign spouses.  
<sup>47</sup> Men who are married to Iranian women and have a child with the Iranian national may apply for governmental approval to become a national.  
<sup>48</sup> Reduced naturalization requirements only apply if the couple have a son (both for foreign men and foreign women married to Omanis)  
<sup>49</sup> Upon divorce and only if she has retained her nationality of origin or acquired another one  
<sup>50</sup> Only if the laws of the spouse's nation automatically impose their nationality on her

# COUNTRIES WITH LAWS AFFECTING SPOUSES/MARRIAGE



■ Married women unable to pass nationality to foreign spouses  
■ Naturalisation easier for a foreign husband than a foreign wife  
■ Wives may pass nationality to husbands, subject to refusal on reasonable grounds

# CASE STUDY – JORDAN



A Jordanian woman married to an Egyptian man is unable to pass on her nationality to her husband or children, and finds her children are unable to leave the country or access educational and other benefits.

## THURAYA'S STORY

Under Jordanian Law No.6 of 1954 on Nationality, with very few exceptions Jordanian women married to non-Jordanian men cannot transmit their nationality to their husbands or their children.<sup>51</sup> This discriminatory provision causes severe hardships and suffering for impacted women, families and children.

In November 2014, the Jordanian government pledged to grant certain rights or privileged services (Mazaya) to children of Jordanian mothers and foreign fathers, including free access to public schools and health care, access to jobs, residence permits, driver's licenses, and the permission to own property and invest in business.

While reforms have been made in theory, in practicality children still struggle to obtain these benefits. The case of Thuraya demonstrates the barriers that families with Jordanian women married to non-Jordanian spouses still face, though her children have been able to access some of the benefits like health insurance.

When Thuraya, a Jordanian woman, married her Egyptian husband more than 20 years ago, she was not aware of the challenges she would face being married to a non-Jordanian. Due to discriminatory nationality laws, her husband and son had to work without permits, and were only safe from being deported after the government pronouncement in 2014. Thuraya even had to bail her husband out of jail after he was fined and jailed for working without a permit.

Due to the fact that Thuraya is married to a non-Jordanian man, her son is ineligible to receive grants that would help fund his university education, thus he studies at their expense. Thuraya reached out to the Ministry of Higher Education in search of an entity that could support her children's education, without avail.

Since Thuraya is not able to pass on her nationality to her children, they are not able to apply for Jordanian passports and find it difficult to travel outside the country.

The “My mother is Jordanian, and her nationality is my right” Campaign, led by Jordanian women married to non-Jordanians with the support of the Arab Women Organization, is calling on the Jordanian government to amend sex-discriminatory nationality laws as well as implement the increased rights for children.

# INTERNATIONAL LAW & REGIONAL DEVELOPMENTS ON EQUALITY AND CITIZENSHIP RIGHTS



**The fundamental right to sex equality has been affirmed and reaffirmed** repeatedly by governments in international treaties, declarations and conferences, as well as in domestic constitutions. At the United Nations Fourth World Conference on Women in 1995, 189 governments pledged in the Beijing Platform for Action to “revoke any remaining laws that discriminate on the basis of sex.” In 2000, the UN General Assembly established a target date of 2005 for revocation of all sex-discriminatory laws.

The right to nationality has also been established by the Universal Declaration of Human Rights,<sup>52</sup> in the Convention on the Rights of Child (CRC)<sup>53</sup> and reinforced by the Beijing Platform for Action.<sup>54</sup> The Convention on the Elimination of Racial Discrimination calls<sup>55</sup> for the right to nationality “without distinction as to race, colour, or national or ethnic origin,” and the Committee on the Elimination of Racial Discrimination has urged States Parties “to refrain from applying different standards of treatment to female non-citizen spouses of citizens and male non-citizen spouses of citizens.”<sup>56</sup>

The specific right to equality or non-discrimination on the basis of sex within the context of nationality rights has also been addressed by UN treaties and treaty monitoring bodies. The Convention on the Elimination of All Forms of Discrimination against Women, ratified by every single UN member state except six countries, addresses both the conveyance of nationality to spouses and to children by providing that:

## Article 9

1. *States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.*

2. *States Parties shall grant women equal rights with men with respect to the nationality of their children.*

<sup>52</sup> Article 15

<sup>53</sup> Articles 7 (“The child shall be registered immediately after birth and shall have ... the right to acquire a nationality”) and 8 (“right of the child to preserve his or her identity, including nationality”) in conjunction with Article 2 (rights of the child “irrespective of the child’s or his or her parent’s or legal guardian’s ... sex”) means sex discriminatory nationality laws violate the CRC.

<sup>54</sup> ¶ 274(b)

<sup>55</sup> Article 5(d)

<sup>56</sup> General Recommendation No.30: Discrimination Against Non Citizens: 65th Session (2005), ¶8

<sup>51</sup> Unless the father is unknown, without nationality or fatherhood is not substantiated.



In November 2014, the UN Committee on the Elimination of Discrimination Against Women (CEDAW) adopted General Recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women.<sup>57</sup> The Recommendation stated that the right under the Convention of women to acquire, change or retain their nationality and to confer their nationality on an equal basis with men also applies to spouses.<sup>58</sup> The Committee made a number of specific recommendations that States should follow in order to ensure they do not have discriminatory nationality laws on the basis of sex as “nationality is the legal bond between a person and a State and is critical to ensuring full participation in society”. The UN Working Group on discrimination against women and girls has also highlighted the need for legal reform in its letters to governments that discriminate against women in their nationality laws.<sup>59</sup>

Although the equal right of men and women to confer citizenship on their children is not explicitly articulated in the International Covenant on Civil and Political Rights (ICCPR), in a General Comment on the interpretation of ICCPR Article 24, which gives every child the “right to acquire a nationality”, the Human Rights Committee states that “no discrimination with regard to the acquisition of nationality should be admissible under internal law as between legitimate children and children born out of wedlock or of stateless parents or based on the nationality status of one or both of the parents.”<sup>60</sup> The jurisprudence of the Human Rights Committee, both in its General Comments and through its ongoing dialogue with States Parties, clearly establishes that laws that discriminate in the transmission of citizenship to children based on the sex of their parents are incompatible with the ICCPR.

In 2016, the Human Rights Council adopted a comprehensive resolution, “The right to a nationality: women’s equal nationality rights in law and practice”<sup>61</sup> co-sponsored by 107 countries and calling for women’s equal ability to confer to spouses, as well as children. This was broader than the 2012 resolution on “The right to a nationality - women and children”. It urged member states to undertake further reform to comply with their existing treaty obligations as well as the Agenda 2030 Sustainable Development Goals (SDGs) adopted in 2015.<sup>62</sup>

**Regionally**, there has been both progress and stalemate. In September 2015, the African Commission on Human and Peoples’ Rights adopted a new Protocol on the Right to Nationality, but this still has yet to be finalized, endorsed and adopted by the African Union and opened to member states for signature and ratification.

Subregionally, in 2016 the Southern African Development Community (SADC) Parliamentary Forum adopted a [Resolution](#) on the Prevention of Statelessness and the Protection of Stateless Persons in the SADC Region, and in 2017, the International Conference on the Great Lakes Region (ICGLR) adopted a [Declaration](#) on the Eradication of Statelessness, both of which call on member states to uphold equality nationality laws.

Then 2017 also brought renewed MENA regional momentum to advance gender-equal nationality laws, with the [first-ever Arab League meeting dedicated to women’s nationality rights](#), co-organized by GCENR, the UNHCR, UN Women, and UNICEF. This meeting of government, civil society, and inter-governmental representatives resulted in a strong call for the Arab League to take up this issue through continued government engagement to end gender discrimination in nationality laws. As a result, the Arab League and the UNHCR convened a ministerial meeting in February 2018 in Tunis, which resulted in the [Arab Declaration on Belonging and Identity](#). This historic Declaration, supported by the Arab League Secretariat, calls for the comprehensive elimination of gender discrimination in nationality laws, the removal of reservations to Article 9 of CEDAW, and the establishment of a regional plan of action to realize the Declaration’s goals. The next step is implementation.

We hope these reforms and steps to progress will inspire other nations and provide further impetus for change.

## INTERIM MEASURES

Some interim measures have the potential to mitigate some of the hardships of a discriminatory nationality law but are not enough. The nationality law of Lebanon, for example, only allows a man (and not a woman) to confer Lebanese nationality upon a spouse and any children. This law undermines a woman’s status as an equal citizen and contradicts the Lebanese Constitution, which provides that all Lebanese citizens are equal before the law and enjoy the same civil and political rights. A few critical changes in the labour regulations issued in September 2011 led to some improvements in the lives of Lebanese women married to non-citizens by allowing work permits to non-citizen husbands and their children without the need for a sponsoring employer and free residence permits without the need for a job.

**Any discrimination in the law continues to have a negative impact on the lives of unmarried mothers and women married to non-citizens and on their families which restricts their freedom of choice, access and movement. Discriminatory nationality laws around the world need to be comprehensively amended as soon as possible.**<sup>63</sup>

<sup>57</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW), General recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, 5 November 2014, CEDAW/C/GC/32, available at [http://tbinternetohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/32&Lang=en](http://tbinternetohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/32&Lang=en)

<sup>58</sup> Id. at para. 59.

<sup>59</sup> Available at [http://ap.ohchr.org/Documents/sdpage\\_e.aspx?b=10&se=163&t=9](http://ap.ohchr.org/Documents/sdpage_e.aspx?b=10&se=163&t=9) and <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session29/Pages/ListReports.aspx>

<sup>60</sup> CCPR General Comment 17 (Thirty-fifth session, 1989) ¶8.

<sup>61</sup> A/HRC/RES/32/7, available at [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/RES/32/7](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/32/7)

<sup>62</sup> <https://sustainabledevelopment.un.org/post2015/transformingourworld>; see also <https://equalnationalityrights.org/images/zdocs/SDGs--Gender-Discrimination-in-Nationality-Laws.pdf> for the impact of discriminatory nationality laws on the achievement of the SDGs.

<sup>63</sup> Other testimonials can be found in the UNHCR paper, “Gender Equality, Nationality Laws and Statelessness: Testimonials of the Impact on Women and their Families,” available at <http://www.unhcr.org/4f587d79.html>





# RECOMMENDATIONS



### Right to nationality principles

We are hopeful that, by 2030, the state we're in will be one of equality under the law, safety and security for all. To achieve this, the following principles should be adhered to and guaranteed by all governments.

- All have the right to acquire, change or retain nationality on the same basis regardless of sex, gender, race, ethnicity, etc. Marriage should not automatically result in loss of one's original nationality.
- All have the equal right to confer nationality on to their children, including adopted children and children born through use of Assisted Reproductive Technologies and surrogacy, on an equal basis regardless of sex, gender, sexual orientation and / or marital status, and the right to confer on their spouse on an equal basis.
- All children, regardless of their sex, found or born on the territory of a State shall acquire the nationality of that State, if they would otherwise be stateless.
- All naturalised parents may confer citizenship on their children.
- No one shall be deprived of their nationality because their parent or spouse renounces or loses their nationality, or if they will be rendered stateless. Deprivation of nationality should be a last resort and all circumstances must be considered with a gendered lens.
- No one shall lose their nationality upon divorce or death of a spouse.

### Governments with sex discriminatory legal provisions on nationality should revise them so that:

- all women and men can equally confer citizenship on their children wherever born, whether born in or out of marriage (whether heterosexual or same-sex), and whether the child is adopted or not
- all women and men can equally confer citizenship on their spouses whether married at home or abroad
- foreign women and men do not automatically lose their new nationality on termination of the marriage
- women do not automatically lose or gain nationality on marriage to a spouse of another nationality without their active consent
- a change in the father's nationality does not automatically mean loss of nationality for his spouse and children
- there is consistency between all laws and regulations dealing with the issue in order that all provisions treat all men and women equally and fairly and that these provisions are clear to both those wanting to take advantage of them and those implementing them

These revisions and subsequent changes in the law should be achieved in a collaborative manner with other countries in order to create a cohesive set of nationality laws.

In addition, any discrimination relating to race, ethnicity or disability should be removed. Governments should also review all associated regulations and processes to ensure wider discrimination does not impact on the ability of women to pass their nationality freely to their children and spouses.



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