



FAMILY FRONTIERS



My Nationality



Submission¹ to the UN Special Rapporteur on Human Rights of Migrants to inform the report on Human Rights Violations at International Borders: Trends, Prevention and Accountability – Recognizing the Particular Vulnerability of Women & Children

Gender-discriminatory nationality laws cause wide-ranging human rights violations that are often heightened for migrants, with particular hardships and rights violations experienced when affected persons seek to cross international borders. Twenty-five countries have nationality laws that deny women the right to confer nationality on their children on an equal basis with men. Approximately fifty countries deny women the same right as men to confer nationality on a noncitizen spouse. Women’s unequal ability to confer nationality on children and spouses causes family separation, inhibits freedom of movement, and is linked with multiple forms of gender-based violence, including trafficking of women across borders, sexual exploitation, child marriage, obstacles to women extracting themselves from domestic violence, and other unsafe situations. These harms and rights violations caused by gender discrimination in nationality laws have been tragically exacerbated by the pandemic and its associated travel bans.

Amidst the widespread closing of borders to noncitizens, many migrants affected by gender-discriminatory nationality laws were unable to reunite with family members in their home country due to their or their child/spouse’s lack of citizenship. For example, Family Frontiers documented numerous cases of Malaysian women residing/working abroad, whose children lack Malaysian citizenship due to gender discrimination in the law, and who were denied entry to the country with their children when seeking to return home to tend to ailing elderly parents. Others were only offered extremely short-term visas that added to families’ insecurity. One Malaysian mother shared:

During COVID 19, when the virus brought disaster to Italy, like everyone, I was affected. The Malaysian authorities were repatriating Malaysian families free of charge. However, my overseas born daughter for whom I am unable to obtain Malaysian citizenship, would only be given a one-month visa and where am I supposed to send her after that? Forced to take on her father’s nationality (whom I am now seeking a divorce from), she has never lived in her father’s country nor do we have any relatives there. Although I was desperate to return to Malaysia with my daughter to avoid the rampant virus in Italy, I was more scared to return [to Malaysia] due to the fact that she has no legal identity in my country and will have to live there on a temporary short-term visa. I have applied for her Malaysian citizenship since her birth, my child will turn 5 years old in April 2022 and her citizenship application continues to remain pending. I felt our

¹ This submission is made on behalf of Global Campaign for Equal Nationality Rights, Collective for Research and Training on Development-Action, Family Frontiers, Forum for Women, Law and Development, The Institute on Statelessness and Inclusion, and “My Nationality Is a Rights for Me and My Family” Campaign. The Global Campaign for Equal Nationality Rights is a coalition of national and international organizations and independent activists working to end gender discrimination in nationality laws. Steering Committee members include Equal Rights Trust, Equality Now, Family Frontiers, Institute on Statelessness and Inclusion, Nationality For All, Women’s Learning Partnership and Women’s Refugee Commission.



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legal status in a third country, Italy, is more secure where both my daughter and I have Permanent Residence, however in Malaysia even obtaining Permanent Residence for my daughter remains a distant dream. It is important for my child to obtain my nationality as I wish to return with her to Malaysia, the country we call home.

Further, as Malaysian men but not women hold the right to confer nationality on children born abroad, many Malaysian female migrants – if they are aware of this discrimination – return to Malaysia to give birth. During pandemic-related travel bans, pregnant Malaysian migrants were faced with the terrible choice of returning to Malaysia to give birth without their spouse and thereby secure citizenship for their child, or giving birth abroad with their spouse at their side and no guarantee that their child would ever obtain Malaysian citizenship. As one mother reported:

“I was planning to give birth in Malaysia but because of the Coronavirus, travels are restricted. I might not have a choice to give birth in Malaysia, which is a pity for my baby. Because Malaysian women are not able to obtain automatic Malaysian citizenship (upon registration) for their own children, this is just getting more and more impossible.”

Similarly in Lebanon, the “My Nationality is a right for me and my family campaign” documented cases of Lebanese mothers whose noncitizen children and spouses were abroad when travel bans were instituted and unable to return to their family in Lebanon due to the intersection of the travel ban and women’s inability to confer citizenship. After implementing its pandemic travel ban, the state allowed nationals who were outside the country to return starting on April 5, 2020. One Lebanese mother attempting to return home to Lebanon with her children was prevented from bringing her children on the plane, as they are considered foreigners. The mother refused to be separated from her minor children and was therefore unable to return home. Another child of a Lebanese mother who was studying abroad when the travel ban commenced was prevented from traveling back to Lebanon with his peers and was left stranded alone in a foreign country, while the virus quickly spread around him.

In many countries with gender-discriminatory nationality laws, the children and spouses of female citizens rely on temporary residency visas to stay in their mother’s/spouse’s country. In Oman, for instance, children born to an Omani mother and a foreign father cannot acquire Omani nationality, outside of extremely rare circumstances.² Not having Omani nationality means that Omani women’s noncitizen children must renew their residence permit every two years. Additionally, Omani mothers cannot cross borders with their children without a formal non-objection letter submitted by the father. An Omani mother shared her experience with the co-submitting partners:

² Omani Nationality Law, Article 18. A minor child born to an Omani mother and a foreign father may be granted Omani citizenship, if the child meets the following conditions: ‘ 1. The mother shall be widowed, divorced or abandoned by her husband [...]. 2. The marriage of the parents should have taken place after obtaining the prior approval from the Ministry [...] 4. He should have been residing in Oman for at least ten (10) legitimate continuous years; It shall be noted that the continuous residency period shall not be interrupted if he is traveling outside of Oman for a period that does not exceed sixty (60) days in one year.



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is a Right for me and my Family

“Since my son’s birth in Oman, I have to renew his residence permit every two years. One time, I forgot to renew his residence and we were at the Omani airport leaving for a summer vacation. I was stopped at the airport and transferred to the airport security office. I was asked to sign the cancellation of my son’s residency as soon as he left Omani lands, and therefore he will not be able to return to the country until a new application is submitted and approved by the Immigration and Passports Office.”

During the pandemic, as government offices closed and services were suspended, many noncitizen children and spouses of female citizens could not renew residency visas and were blocked from entering the country or, if already inside the country, faced the threat of expulsion.

While migrant families experienced many of these hardships prior to the pandemic, crises, conflict, and displacement often heighten the damage caused by gender discrimination in nationality laws. For example, the 2017 diplomatic crisis between several Gulf states and Qatar resulted in the forcible separation of many binational families due to gender discrimination in the law. As Qatari citizens were expelled from some Gulf states and vice versa, women were forcibly separated from their noncitizen children and spouses who fell on the opposite side of the states’ dispute.³

Additionally, amidst a tragic increase in gender-based violence during the pandemic, gender-discriminatory nationality laws heightened obstacles faced by affected women trying to extract themselves from abusive relationships. For example, women residing abroad reported feeling trapped in abusive relationships because they could not return to their home country with their children, due to their children’s lack of citizenship. Similarly, women victims of human trafficking also face increased challenges in returning to their home countries when they are unable to pass citizenship to their children born abroad.

We urge the Special Rapporteur to highlight in his report the particular harm and human rights violations experienced by migrants as a result of gender discrimination in nationality laws. We call on governments to reform gender-discriminatory nationality laws without delay to uphold gender-equality, protect migrants’ human rights, and combat statelessness, in line with their obligations under international law.

³ Rothna Begum, “Women’s Rights: Gulf Crisis Shows How Discrimination in Saudi Arabia, UAE and Qatar Tears Families Apart”, *Newsweek*, July 21, 2017, available at <https://www.newsweek.com/sexism-saudi-arabia-womens-rights-discrimination-damage-families-639204>