

*Ending Sex  
Discrimination in  
Nationality and  
Citizenship Laws*





## ABOUT EQUALITY NOW



Founded in 1992, Equality Now is an international human rights organisation that works to protect and promote the rights of women and girls around the world through the areas of **DISCRIMINATION IN LAW, FEMALE GENITAL MUTILATION (FGM) AND TRAFFICKING, WITH A CROSS CUTTING FOCUS ON ADOLESCENT GIRLS THROUGH ITS ADOLESCENT GIRLS' LEGAL DEFENCE FUND (AGLDF).**

Equality Now combines grassroots activism with international, regional and national legal advocacy to achieve legal and systemic change to benefit women and girls, and works to ensure that governments enact and enforce laws and policies that upholds their rights.

The organisation's Equality Action Network is comprised of groups and individuals in more than 190 countries.

Equality Now envisages a world where women and girls have equal rights under the law and full enjoyment of those rights.

For further details on our current campaigns, please visit [www.equalitynow.org](http://www.equalitynow.org)

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## INTRODUCTION

### Scope of the report

Despite repeated commitments by governments around the world to ensure women's equality by repealing discriminatory laws, sex discrimination persists, including in citizenship and nationality<sup>1</sup> laws. This is damaging to the lives of women and their families. Although there has been some progress, with a number of countries recently amending their laws on citizenship in order to provide equality between women and men and others announcing their intention to do so, too many laws continue to discriminate with a devastating impact on women and their families.

In this report, *Equality Now highlights those countries where significant discrimination remains in the law*. Nationality laws are very complex – this does not purport to be a definitive study of all the discrimination contained within them or in the regulations which govern them. We seek instead to show some of the harmful consequences of this discrimination and, consequently, how changes to the law to remove discrimination could exponentially improve the lives of the families affected.<sup>2</sup>

### Consequences of continuing discrimination

The inability, largely of women, to pass on their nationality to their spouse or children can have grave consequences<sup>3</sup> including:

- statelessness<sup>4</sup>

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<sup>1</sup> The terms are used interchangeably in this paper.

<sup>2</sup> This report originally reviewed laws accessible as of January 2013. It was subsequently updated as of May 2014. There may be some we were not able to locate at time of print which also contain discriminatory provisions. In addition, we have not looked at provisions which apply pre-independence in the countries concerned, discrimination in adoption provisions, between naturalised parents or provisions involving military service. Some laws provide that neither women nor men can pass nationality either to their spouse or to their children, but we have not highlighted these. Where there were contradictions between constitutional or legislative provisions, the constitutional provisions were generally taken on the basis that these have a higher authority, even though in practice the national law might be followed. We have also, as stated, focused on the provisions in the main relevant legislation most discriminatory to women and, as such, have generally not investigated linked or other relevant regulations, which could contain further discriminatory provisions or, possibly, some mitigation of the discrimination. Finally, several laws contain discrimination on the basis of race/ethnic origin which causes misery to millions and compounds the discrimination based on sex. All these issues should be addressed with urgency.

<sup>3</sup> See Equality Now's Actions 36.1 and 36.2, *Lebanon: Give women equal citizenship rights to men under the nationality law*, available in English, French, Spanish and Arabic at [http://www.equalitynow.org/take\\_action/discrimination\\_in\\_law\\_action362](http://www.equalitynow.org/take_action/discrimination_in_law_action362) for illustration.

- fear of deportation<sup>5</sup> of children and husband
- additional vulnerability of girls to forced and early marriage<sup>6</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 the children
- lack of access to publicly-funded medical services and national health insurance
- lack of access to social benefits
- inability to register personal property
- limited freedom of movement, including to travel abroad
- limited access to jobs and economic opportunities
- trauma and anxiety

### **Compounded discrimination**

Too many discriminatory nationality laws remain founded on *stereotypes* 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* – his nationality therefore is more likely to attach to the children (see case studies from Malaysia and Jordan below), 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.

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<sup>4</sup> See UNHCR, *Background Note on Gender Equality, Nationality Laws and Statelessness*, (7 March 2014) available at <http://www.unhcr.org/cgi-bin/texis/vtx/home/opendocPDFViewer.html?docid=4f5886306&query=gender,%20nationality>.

<sup>5</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 at: [https://www.google.com/url?q=http://www.crin.org/docs/Burundi\\_Coalition\\_CRC\\_NGO\\_Report\\_Summary\\_EN.doc&sa=U&ei=Y3j9T-vJI6Gk0QWp2cT3AQ&ved=0CBAQFjAF&client=internal-uds-cse&usg=AFQjCNHsDdkBMZ4xK0xXqoWF7vD9kXti7Q](https://www.google.com/url?q=http://www.crin.org/docs/Burundi_Coalition_CRC_NGO_Report_Summary_EN.doc&sa=U&ei=Y3j9T-vJI6Gk0QWp2cT3AQ&ved=0CBAQFjAF&client=internal-uds-cse&usg=AFQjCNHsDdkBMZ4xK0xXqoWF7vD9kXti7Q).

<sup>6</sup> See note 3. 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.

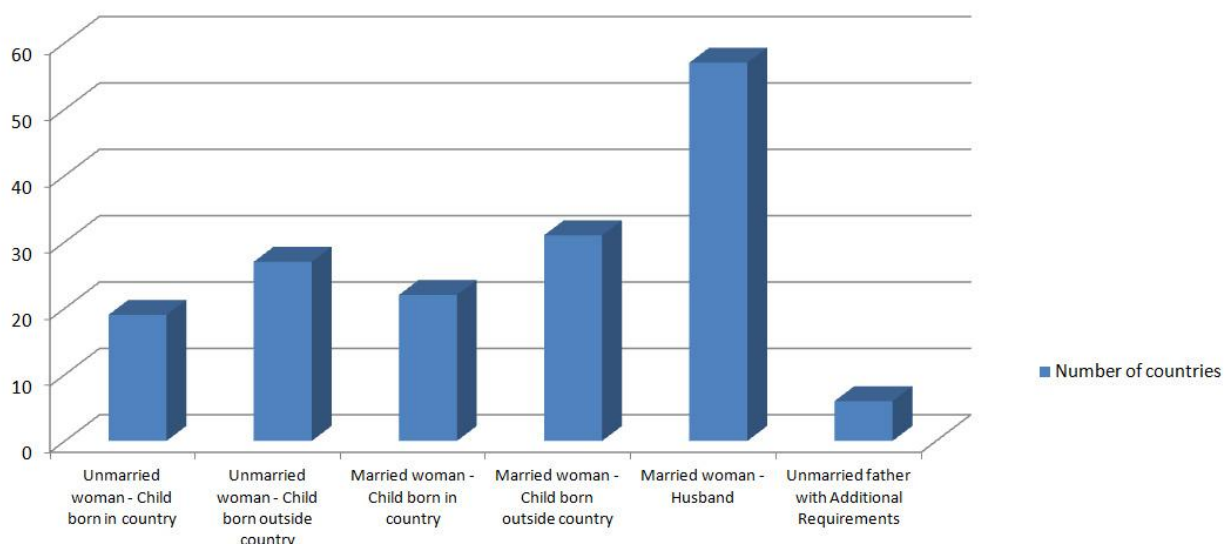
Where dual nationality is forbidden, women can be disproportionately affected. Women who live in their husband's country could be disadvantaged in terms of legal and social rights if they do not take on the nationality of their husbands, as well as having to face additional bureaucratic challenges. Losing her nationality of origin can leave a woman especially vulnerable if her marriage ends, particularly if her children have their father's nationality. Even if a woman is able to claim back her nationality on divorce or widowhood, delays and other hurdles in regaining citizenship can cause her considerable problems, including anxiety and hardship.

While, technically speaking, equal rights are ultimately provided in several laws, there are often multiple hurdles a woman must overcome to claim these for her husband and/or her children such that enjoyment of these rights is delayed or effectively denied. The poor and disadvantaged carry additional burdens to navigate an often complex system with sometimes narrow timeframes for claiming nationality. In addition, fees associated with residency permits and other bureaucratic procedures required of non-nationals are unaffordable for some.

***All governments concerned need to review and amend 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.***

## SEX DISCRIMINATION IN NATIONALITY LAWS AROUND THE WORLD

### Discrimination in Nationality and Citizenship Law



#### **Unmarried woman cannot pass to child born in country**

Bahrain<sup>y</sup>, Brunei, Burundi<sup>y</sup>, Iran, Jordan<sup>#</sup>, Kuwait<sup>\*</sup>, Lebanon<sup>#</sup>, Libya<sup>†</sup>, Nepal<sup>‡</sup>, Oman<sup>‡</sup>, Qatar, Saudi Arabia<sup>y</sup>, Senegal<sup>‡</sup>, Somalia<sup>□</sup>, Suriname<sup>x</sup>, Syrian Arab Republic<sup>y</sup>, Swaziland<sup>y</sup>, United Arab Emirates<sup>#^</sup>

#### **Unmarried woman cannot pass to child born outside country**

Bahrain<sup>y</sup>, Brunei, Burundi<sup>y</sup>, Iran, Iraq<sup>‡</sup>, Jordan, Kuwait<sup>\*</sup>, Lebanon<sup>y</sup>, Liberia<sup>‡</sup>, Libya<sup>‡</sup>, Mauritania<sup>‡</sup>, Nepal<sup>‡</sup>, Oman<sup>‡</sup>, Qatar, Saudi Arabia<sup>y</sup>, Senegal<sup>‡</sup>, Sierra Leone<sup>‡</sup>, Somalia<sup>□</sup>, Suriname<sup>x</sup>, Swaziland<sup>y</sup>, Syrian Arab Republic, Tunisia<sup>‡</sup>, United Arab Emirates<sup>#</sup>

#### **Married woman cannot pass to child born in country**

Bahrain<sup>y</sup>, Brunei, Burundi<sup>y</sup>, Iran<sup>+</sup>, Jordan<sup>#</sup>, Kiribati<sup>‡</sup>, Kuwait<sup>¥</sup>, Lebanon<sup>#z</sup>, Libya<sup>‡</sup>, Madagascar<sup>‡</sup>, Nepal<sup>‡</sup>, Oman<sup>‡</sup>, Qatar, Saudi Arabia<sup>‡</sup>, Senegal<sup>‡</sup>, Somalia<sup>□</sup>, Suriname<sup>‡</sup>, Swaziland, Syrian Arab Republic, United Arab Emirates<sup>#^</sup>

#### **Married woman cannot pass to child born outside country**

Bahamas<sup>‡</sup>, Bahrain<sup>y</sup>, Barbados, Brunei, Burundi<sup>y</sup>, Iran<sup>+</sup>, Iraq<sup>‡</sup>, Jordan, Kiribati, Kuwait, Lebanon<sup>z</sup>, Liberia<sup>§</sup>, Libya<sup>‡</sup>, Madagascar<sup>‡</sup>, Malaysia<sup>‡</sup>, Mauritania<sup>‡</sup>, Nepal<sup>‡</sup>, Oman<sup>‡</sup>, Qatar, Saudi Arabia, Senegal<sup>‡</sup>, Sierra Leone<sup>‡</sup>, Somalia<sup>□</sup>, Suriname<sup>‡</sup>, Swaziland, Syrian Arab Republic, Tunisia<sup>‡</sup>, United Arab Emirates<sup>#^</sup>

#### **Married woman cannot pass to husband<sup>1</sup>**

Bahamas, Bahrain, Bangladesh, Barbados, Benin<sup>°</sup>, Brunei, Burundi<sup>°</sup>, Cameroon<sup>°</sup>, Central

African Republic, Comoros°, Congo (Republic of), Egypt, Guatemala, Guinea°, Iran, Iraq°, Jordan, Kiribati, Kuwait, Lebanon, Lesotho, Libya, Madagascar, Malawi, Malaysia, Mali°, Mauritania°, Morocco°, Nauru, Nepal, Niger, Nigeria, Oman, Pakistan, Qatar, Saint Lucia<sup>x</sup>, Saint Vincent & Grenadines<sup>x</sup>, Saudi Arabia, Senegal°, Sierra Leone, Solomon Islands, Somalia<sup>α</sup>, Sudan<sup>»</sup>, Suriname, Swaziland, Syrian Arab Republic, Tanzania, Thailand°, Togo<sup>«</sup>, Tunisia°, United Arab Emirates, Vanuatu, Yemen

### **Unmarried father of child born abroad cannot pass to child without additional requirements<sup>2</sup>**

Austria, Denmark, United States of America

#### Key

- φ Unless father unknown or has repudiated/not acknowledged the child
- ‡ Unless father stateless or unknown
- # Unless father unknown, without nationality or fatherhood not substantiated
- \* Not by right, but possible by decree issued by the Minister of the Interior if father unknown or not legally established
- Except under certain conditions
- ⊠ In June 2012, Somalia drafted a Constitution providing for equality between men and women with an indication the nationality law will be amended accordingly
- ^ A December 2011 decree allows Emirati women married to non-nationals to pass citizenship to their children once the child reaches maturity
- + There is suggestion that citizenship is possible at age 18 for children born of Iranian women and non-national men. Several restrictions are placed on women marrying at all. For example, women need government permission to marry non-national men and Moslem women are explicitly forbidden from marrying non-Moslem men
- ∞ Unless mother irrevocably divorced/foreign father deceased and child resident in Kuwait until reaches majority
- § The Liberian Constitution provides that either parent can pass nationality to their children, but the nationality law restricts this. A new draft nationality law published at the end of 2012 proposes amendments to conform to the Constitution
- » Sudanese mothers, unlike fathers, have to go through the process of expressly applying for citizenship for their children, which causes additional hardship, but the law provides technical equality hence the omission of Sudan from the other categories
- « The Togolese nationality law discriminates against Togolese women passing their nationality to their children and their non-national husbands, but the Constitution and Children's Act both provide for equal parental rights, hence the omission of Togo from the other categories
- Husband can apply for naturalisation under normal procedures with reduced or waived conditions



- Ω Unless by permission of Head of State after acquiring foreign nationality and reapplying for Lebanese nationality within one year of dissolution of marriage/maturity of child and living in Lebanon
- × Possible for wives to pass nationality to non-national husbands, subject to proviso that Minister can refuse on reasonable grounds

### **JORDAN**

“My mother is Jordanian, and her nationality is my right” is a [campaign](#) led by Jordanian mothers married to non-Jordanians who cannot pass on their Jordanian citizenship to their children and husbands. With the support of the Arab Women Organisation, members of the campaign are calling on the government to amend the nationality law in line with the Jordanian constitution and Jordan’s international legal obligations. Testimony given to Equality Now details some of the problems associated with the inability of Jordanian women to pass their nationality to their children and husbands. See also our [website](#) for further case studies from Jordan. On 12 January 2014, the Government of Jordan gave approval for regulations to grant the foreign spouses of Jordanian women and their children certain civil rights, including residence permits and improved access to state medical care facilities, education and work in the private sector. No changes have been proposed to amend the still discriminatory nationality law.

### **Friyal**

Friyal has been married for 21 years to an Egyptian man. From the day she got married she has felt insecure. She was shocked when she realised that she could not register her children in her passport and that her husband needs a valid work permit in order for her children to go to school. Friyal participates in all demonstrations and sit-in activities organised by the campaign “My mother is Jordanian and her nationality is my right”. She believes that her children have the right to live in dignity in Jordan, which they consider their homeland. Her son Mohamed does not work because, as a technical “foreigner” he can’t afford the fees for the work permit; he worked twice but he was not paid and couldn’t file a complaint with the police for fear of being deported to a country he has never known. Eman, Friyal’s daughter, had to go through several bureaucratic procedures before she could get married in June 2011. The family had to get Ministry of the Interior approval for the marriage and then file that approval with the Sharia court. In doing so, the family was forced to pay 1100 Jordanian Dinar (about US\$1550) as a fine because Eman’s father had not renewed his work permit for two years due to the cost involved and additional family expenses required to pay for healthcare and education. The children are considered foreigners in their own country and therefore have to pay all fees associated with this status.

### **Maysar**

Maysar is 42 years old. She approached the Ministry of the Interior in 2011 to apply for naturalisation for her husband. The officer in charge refused to give her the application form before questioning her about her marriage, blaming her for marrying a non-national. Masyar, who has seven children, does not want her daughters to marry non-nationals, to ensure they will not suffer the hardships she has had to face. Her husband works in the construction industry illegally since he cannot afford the fees for the work permit.

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## **MALAYSIA**

While some gains have been made in improving the circumstances of Malaysian wives of foreigners and foreign wives of Malaysians, these two groups of women still face discrimination in different ways. Malaysian organisations, including [Women's Aid Organisation](#), continue to campaign for equal rights for women and men in relation to nationality.

### **Nina**

Nina, a Malaysian woman, met and married Brian in the US. They have a daughter, Julia, who was born in the US. The family moved to Malaysia, to the state of Johor, in mid-2009, when Julia was 2 years old.

When Nina was pregnant, the Malaysian Embassy told her that she could register Julia when she returned to Malaysia. Unlike Malaysian men, Malaysian women with foreign spouses who give birth to a child outside Malaysia cannot automatically confer citizenship to that child; they need to apply. Upon returning to Malaysia Nina went to the National Registration Department to apply for citizenship for Julia, where she was asked to fill out and submit a form.

Brian struggled to find employment in Malaysia – he didn't have long term legal immigration status necessary for him to work. This forced Nina to be the main breadwinner of the family. At the same time, her relatives had cultural expectations of her to perform the traditional roles of a wife and mother, such as cooking and cleaning. This dynamic severely strained her marriage. Soon, Nina took a job in Kuala Lumpur, the capital city four hours north of Johor.

Almost a year after submitting the form to the National Registration Department, Nina was called for an interview. Three months later, she was told the application had been

rejected. She was not given a reason, but at the interview she was asked about her marriage status (she was still married at the time although living separately from Brian) and was told that was a factor in the Department's decision. She was told she could only reapply for her daughter's citizenship after a year.

Meanwhile Nina's husband and daughter stayed in the country legally through social visit passes. These passes had to be renewed every six months and required a fee, and Nina had to be present during renewal. Nina now lived in Kuala Lumpur, but because she had initially registered for the social visit passes in Johor, she had to travel to Johor whenever she needed to renew the passes. A year after she moved to Kuala Lumpur the Immigration Department in Johor sent her file to a Kuala Lumpur office so she did not have to keep travelling back to Johor. Unfortunately they did not specify which branch they sent it to, and eventually Nina was informed that her file had been lost and that she would have to resubmit all her documents.

Nina attempted several times to obtain an extension of the social visit pass validity period from six months to one year. The Immigration Department noted that this would be possible only after three six-month visa cycles processed at the same Immigration Department office, and Nina's request was thus denied.

Nina also faced difficulties trying to register Julia for public school. Julia is due to enter primary school in 2014, but registration must be done two years prior. The school Nina went to refused to register Julia because she was not a citizen. Nina had to submit several forms to the District Education Department, which required her to obtain a signature from a village head to verify that she was a citizen, among other requirements. Nina worried that she might have had to send Julia to private school, which she could not afford.

A year after Julia's application for citizenship had been rejected, Nina publicly approached the Home Minister with her case. A senior-ranking immigration officer informed Nina that she should have had an option to confer citizenship to her daughter; Nina told him she was not given that option. She was asked to resubmit Julia's citizenship application. Eight months later, after many calls and inquiries by Nina, Julia received her citizenship.

It took three frustrating years for Nina to obtain Malaysian citizenship for her daughter, putting enormous and unnecessary emotional and financial strain on her. Had Nina been a man, the process would have been automatic.

## **BAHAMAS**

The Constitution of the Bahamas does not permit a Bahamian woman to pass her nationality to her children or to her husband. While the government says the effect of this legislation has been mitigated to some degree by domestic legislation, the discrimination in the law remains, causing great hardship to families. The issue has been raised with the government repeatedly by the Committee on the Elimination of Discrimination against Women, including during its last review of the Bahamas in July 2012. On 8 July 2013, the Constitutional Committee preparing a new Bahamian Constitution recommended "the amendment of the citizenship provisions to achieve gender-neutrality and full equality between men and women with respect to the acquisition or transmission of their nationality." The new Constitution has yet to be voted on.

### **Maxime**

Maxime is originally from Haiti but has lived in the Bahamas for fourteen years. A few years ago he married Annie-Lavel, a Bahamian woman, and they have two Bahamian-born children and are currently expecting a third. Maxime was working legally in the Bahamas under a work permit, which he had to renew regularly. All was fine until he had a disagreement with his employer and lost his sponsorship. He applied for a resident spouse permit, but the authorities refused to start the process until he received his birth certificate from Haiti, which took almost a year, with the Haitian authorities reporting it initially lost. The family then lost their home through fire and Maxime took up odd jobs to support them all, even though working without a permit was illegal. Some of his employers exploited this and didn't pay him. In addition, he was picked up several times by immigration control and held in detention until pregnant Annie-Lavel trekked by foot to where he was detained to beg for his release. The family has also had to find further funds to pay the permit application fees as well as fees for translation of the birth certificate. A non-national woman marrying a Bahamian man has automatic entitlement to citizenship on marriage.

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## **TANZANIA**

Although the Constitution of Tanzania provides for equality and non-discrimination in relation to all its citizens, the 1995 Tanzanian Citizenship Act and regulations under the 1995 Immigration Act remain discriminatory, only allowing a Tanzanian man to pass his nationality to his wife, but not giving a Tanzanian woman the equal right to pass citizenship to her husband. The case described below was brought to challenge this

statutory discrimination, arguing the supremacy of the Constitutional provisions on equality over the discriminatory provisions of the nationality legislation. However, the case failed in the High Court of Tanzania. An appeal against this decision was lodged in the Court of Appeal, but dismissed on a procedural technicality. There are no further avenues of appeal. Tanzanian women's rights groups, including the Legal and Human Rights Centre, have lobbied for a change in the law with the result that the new draft Constitution currently carries a specific provision to ensure equality in issues relating to nationality, with a child of any Tanzanian citizen and a foreign spouse being able to gain citizenship from birth and a foreign spouse being able to acquire citizenship after five years. The new draft Constitution will be voted by Tanzanians in a referendum later in 2015. It is hoped it will be passed without changes.

### **Sion Gabriel Jones**

Sion Gabriel Jones is a Tanzanian citizen by birth and was married to a British citizen while they were in the United States of America. Before their marriage, Sion's husband had already been living and working in Tanzania for 16 years and had a resident's permit. Two years after their marriage, on the imminent expiry of Sion's husband's work permit, the couple applied to the Regional Immigration Office in Arusha for a dependant's pass so they could also start a family in Tanzania. The application was rejected on the basis that application through Sion's status as a Tanzanian woman was not allowed. Such passes are only available to the foreign wives of Tanzanian men.

Sion subsequently gave birth to a baby daughter in a hospital in Kenya and sought to have the girl entered on her passport for re-entry to Tanzania. That application was rejected by the Tanzanian High Commission on the basis the baby's father was not a Tanzanian citizen. Sion's husband then had to apply for a British passport for this daughter, who was then allowed to enter Tanzania.

With the assistance of the Legal and Human Rights Centre, Sion filed a Constitutional Case before the High Court of Tanzania on 17 December 2002 requesting the discriminatory provisions of statutes relating to nationality be declared unconstitutional and therefore void and asking that non-citizen husbands of Tanzanian wives be allowed the same rights as non-citizen wives of Tanzanian husbands. The case was lost. Sion's family still suffers from the insecurities and hardships created by the continuing discrimination. Her husband has to regularly apply for renewal of his resident's permit, causing anxiety to the family as well as cost. They are nervous about buying a home in Tanzania in case one day his permit is not renewed and the family would have to leave the country.

## INTERNATIONAL STANDARDS OF NON-DISCRIMINATION IN THE GRANTING OF 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>7</sup>, in the Convention on the Rights of Child<sup>8</sup> and reinforced by the Beijing Platform for Action<sup>9</sup>. The Convention on the Elimination of Racial Discrimination calls<sup>10</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>11</sup> Most recently, in July 2012, the Human Rights Council passed a resolution, “The Right to a Nationality – Women and Children,”<sup>12</sup> demonstrating this is still an issue of great concern. It requested a report from the Office of the High Commissioner for Human Rights on the issue of discrimination against women on nationality-related matters, including the impact on children. The March 2013 report’s<sup>13</sup> recommendations included that States should “[r]emove all provisions in Constitutions and nationality laws that discriminate against women, thereby ensuring full equality between men and women regarding the acquisition, change and retention of their nationality” and “[a]mend nationality laws to allow women to confer their nationality to their children on the same basis as men”.

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 addresses both the conveyance of nationality to spouses and children by providing that:

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<sup>7</sup> Article 15

<sup>8</sup> Articles 7 and 8

<sup>9</sup> ¶ 274(b)

<sup>10</sup> Article 5(d)

<sup>11</sup> General Recommendation No.30: Discrimination Against Non Citizens: 01/10/2004, ¶8

<sup>12</sup> A/HRC/20/L.8, available at <http://ohchr.org/EN/HRBodies/HRC/RegularSessions/Session20/Pages/ResDecStat.aspx>

<sup>13</sup> A/HRC/23/23, available at

<http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session23/Pages/ListReports.aspx>

### ***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.

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>14</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.

Eighteen years after the adoption of the Beijing Platform for Action, and eight years past the UN’s set target date of revoking all sex discriminatory laws, numerous laws that explicitly discriminate against women, including in the area of nationality, are still in force. Governments should prioritise elimination of all discrimination on the basis of sex to comply with their international legal obligations as well as their own national obligations to ensure equality.

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<sup>14</sup> CCPR General Comment 17 (Thirty-fifth session, 1989) ¶8



## RECOMMENDATIONS

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

- so that women and men can equally confer citizenship on their children wherever born and whether born in or out of marriage
- so that women and men can equally confer citizenship on their spouses whether or not married at home or abroad
- to ensure that there is consistency between all laws and regulations dealing with the issue in order that all provisions treat 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

In addition, any discrimination relating to race or ethnicity 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 husbands. Governments should support the inclusion of a target on the elimination of *all* discriminatory laws, policies and practices in the post-2015 development framework.

### Interim Measures

Some interim measures have mitigated the hardships of a discriminatory nationality law. Like Jordan, the nationality law of Lebanon for example also only allows a man (and not a woman) to confer Lebanese nationality upon his spouse and his children. This law, which denies women equality with men in terms of nationality, 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. Regrettably, the Lebanese government in January 2013 rejected a draft bill seeking properly to address the inequality in the nationality law.

The Malaysian authorities have also lifted some employment restrictions among a few other measures which should, if implemented, ease the hardship on married couples and their children. And it is hoped the Jordanian government will heed the recommendation of the CEDAW Committee to accelerate its efforts in facilitating

provision of residence permits to foreign spouses of Jordanian women and access to health and education services to their children, as a temporary special measure until the Nationality Act is amended accordingly.

However, any discrimination in the law continues to have a negative impact on the lives of unmarried mothers and women married to non-citizens and to their families which restricts their freedom of choice, access and movement.<sup>15</sup> Discriminatory nationality laws around the world need to be comprehensively amended as soon as possible.<sup>16</sup>

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<sup>15</sup> See for example note 3

<sup>16</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/4f587d779.html>

## WHAT YOU CAN DO

Please:

- take action on our specific nationality campaigns, including on [Jordan](#) and [Lebanon](#)
- sign our petition for the amendment of all sex discriminatory nationality laws

This petition calls on the governments of the following countries to amend all discriminatory provisions in their constitutions, laws, regulations and policies that prevent women and men from passing on their nationality to their children and their spouse on an equal basis:

*Bahamas, Bahrain, Bangladesh, Barbados, Benin, Brunei, Burundi, Cameroon, Central African Republic, Comoros, Congo (Republic of), Denmark, Egypt, Guatemala, Guinea, Iran, Iraq, Jordan, Kiribati, Kuwait, Lebanon, Lesotho, Liberia, Libya, Madagascar, Malawi, Malaysia, Mali, Mauritania, Morocco, Nauru, Nepal, Niger, Nigeria, Oman, Pakistan, Qatar, Saint Lucia, Saint Vincent & Grenadines, Saudi Arabia, Sierra Leone, Solomon Islands, Somalia, Sudan, Suriname, Swaziland, Syrian Arab Republic, Tanzania, Thailand, Togo, Tunisia, United Arab Emirates, United States of America, Vanuatu, Yemen*

Petition text:

*Good laws that put women on an equal footing with men are necessary to protect and promote women's rights and facilitate their full social, economic and political participation. Legal equality gives women a level playing field from which to make their own choices, build their capabilities and realise their hopes and dreams, positively affecting the development of society in general.*

*We call on your government to amend, as a matter of urgency, the sex discriminatory provisions in your laws relating to nationality so that women and men may pass on their nationality to their children and their spouses on an equal basis and free from discrimination.*

*Thank you.*

List of legal sources referenced for nationality provisions

Bahamas

The Constitution of the Commonwealth of the Bahamas 1973

Bahrain

- Bahraini Citizenship Act - 1963
- Amended Bahraini Citizenship Act - 1963
- Law N° (10) for 1981 Amending Bahraini Citizenship Act – 1963
- Law N° (12) for 1989 Amending Bahraini Citizenship Act - 1963

Bangladesh

The Citizenship (Amendment) Act, 2009 (Act No XVII of 2009) (with effect from 31 December, 2008)

Barbados

The Barbados Constitution -The Barbados Independence Order 1966

Benin

Loi n° 65-17 du 23/06/65 portant Code de la nationalité dahoméenne

Brunei

Brunei Nationality 4 of 1961

1984 Edition, Chapter 15 Amended by S 43/00; 2002 Edition, Chapter 15, amended by S 55/02; Revised edition 2011

Burundi

Loi n° 1/013 du 18 juillet 2000 portant réforme du code de la nationalité

Cameroon

Loi n° 1968-LF-3 du 11 juin 1968, Portant code de la nationalité camerounaise

Central African Republic

Loi n° 1961.212 du 20 avril 1961 portant code de la nationalité centrafricaine

Comoros

Loi n° 79-12 du 12 décembre 1979 portant code de la nationalité comorienne

Congo (Republic of)

Loi 35-61 du 20 juin 1961 portant code de la nationalité congolaise

Denmark

Consolidated Act on Danish Nationality N° 422 of 7 June 2004

Egypt

Law No 26 For The Year 1975 Concerning Egyptian Nationality As Amended By Law N° 154/2004

Guatemala

- Constitución Política de 1985 reformada por Acuerdo Legislativo No. 18-93 del 17 de Noviembre de 1993
- Decreto número 1613 - 29 Octubre 1966 Ley de Nacionalidad y sus reformas\*  
\*Incluye reformas a la Ley de Nacionalidad mediante Decreto N° 86-96 del Congreso de la República de Guatemala, dictado el 9 de octubre de 1996 y refrendado el 21 de octubre de 1996

Guinea

Code Civil, 16 February 1983

Iran

The Civil Code of the Islamic Republic of Iran, 23 May 1928

Iraq

Iraqi Nationality Act (N° 26/2006), published in the Iraqi Gazette N° 4019, issued on 7 March 2006

Jordan

Law N° 6 of 1954 on Nationality (last amended 1987)

Kiribati

- The Constitution of Kiribati – The Kiribati Independence Order 1979
- Laws of Kiribati, Revised Edition 1998, Chapter 18, Citizenship

Kuwait

Nationality Law, 1959 including all changes/amendments from: Decree Law N° 40/1987, Decree N° 1/1982, Statute N° 1/1982, Decree Law N° 100/1980, and Statute N° 30/1970

### Lebanon

Decree N°15 on Lebanese Nationality 19 January 1925; Amended by Regulation N°160 dated 16 / 07 / 1934; Regulation N°122 L R dated 19/06/1939; Law of 11/1/1960

### Lesotho

The Constitution of Lesotho adopted in 1993, amended 1996, 1997, 1998, 2001, 2004

### Liberia

Aliens and Nationality Law: Part III, Nationality And Naturalization 1973-74  
(Constitution of the Republic of Liberia, 1986)

### Libya

Law N° (24) for 2010/1378 On The Libyan Nationality

### Madagascar

- Ordonnance n° 1960-064 portant code de la nationalité malgache (*J.O. n°111 du 23.07.60 p.1305*), modifiée par la loi n° 61-052 du 13 décembre 1961 (*J.O. n° 201 du 23.12.61, p.2260*), la loi n° 62-005 du 6 juin 1962 (*J.O. n° 228 du 16.06.62, p. 1075*), l'ordonnance n° 73-049 du 27 août 1973 (*J.O. n° 934 E.S. du 27.08.73, p. 2713*) et par la loi n° 95-021 du 18 septembre 1995 (*J.O. n° 2341 du 01.01.96, p. 3 et 13*).
- Loi no 2003-027 portant abrogation de la loi no 95-021 du 18 septembre 1995 ayant modifié l'ordonnance no 60-064 du 22 juillet 1960 portant Code de la nationalité.

### Malawi

- An Act to repeal and replace the Malawi Citizenship Act, 1964 with amendments made up to 1972
- Malawi Citizenship (Amendment) Act 1992

### Malaysia

The Constitution of Malaysia (last amended 2007)

### Mali

Loi n° 62 18 AN RM du 3 février 1962; Loi n° 95-70 du 25 août 1995 portant modification du Code de la nationalité malienne

### Mauritania

- Loi n° 1961-112, Loi portant code de la nationalité mauritanienne, Loi n° 1962-157 and Loi n° 1976-207
- Loi n°2010 – 023 du 11 février 2010 abrogeant et remplaçant certaines dispositions de la loi 61 –112 du 12 juin 1961 portant code de la Nationalité Mauritanienne

### Morocco

Code de la nationalité marocaine (modifié par la loi n° 62-06 promulguée par le dahir n° 1-07-80 du 23 mars 2007 - 3 rabii I 1428; B O n° 5514 du 5 avril 2007)

### Nauru

The Constitution of Nauru – 29 January 1968

### Nepal

Nepal Citizenship Act 2063 (2006)

### Niger

Ordonnance n° 99-17 du 4 juin 1999 portant modification de l'ordonnance n° 84-33 du 23 août 1984 portant Code de la nationalité nigérienne

### Nigeria

The Constitution of the Federal Republic of Nigeria 1999

### Oman

Royal Decree N° (3/38) Law on the Organisation of the Omani Nationality

### Pakistan

Pakistan Citizenship Act, 1951

### Qatar

Nationality Act Law N° 38/2005

### St Lucia

Constitution of St Lucia 1979

### St Vincent and the Grenadines

Constitution of St Vincent and the Grenadines 1979

### Saudi Arabia

Nationality Regulations 1374 H - Resolution N° (4) dated 25/1/1374 as amended

### Sierra Leone

- Sierra Leone Citizenship Act, 1973 as amended by Sierra Leone Citizenship (Amendment) Act, 1976
- The Sierra Leone Citizenship (Amendment) Act, 2006

### Solomon Islands

The Constitution of the Solomon Islands - The Solomon Islands Independence Order 1978

### Somalia

Law N° 28 of 22 December 1962 - Somali Citizenship

Constitution Somali Federal Republic, Mogadishu, 12th June 2012

### Sudan

- Sudanese Nationality Act 1994 as amended by Sudanese Nationality Law (Amended) of Year 2005
- Sudanese Nationality Act (Amendment) 2011

### Suriname

Law on Nationality and Residence, State Ordinance of 24 November 1975 for the Regulation of the Surinamese Nationality and Residence in Suriname (last amended 1983) (1989 amendments not available)

### Swaziland

- The Constitution of the Kingdom of Swaziland Act, 2005
- Swaziland Citizenship Act 1992

### Syrian Arab Republic

The Nationality Act - Legislative Decree n° 276 of 20 November 1969 as amended by the Legislative decree n° 17 of 13 February 1972



### Tanzania

Tanzania Citizenship Act, 1995

### Thailand

Nationality Act BE 2508 – As amended by Acts N° 2 and N° 3 BE 2535 (1992) and Act N° 4 BE 2551 (2008)

### Togo

- Ordonnance N° 78-34 portant code de la nationalité togolaise, 7 sept 1978
- La Constitution de la IVe République Adoptée par Référendum le 27 septembre 1992 Promulguée le 14 octobre 1992 Révisée par la loi n°2002-029 du 31 décembre 2002
- Loi No 2007-017 du 6 juillet 2007 portant code de l'enfant

### Tunisia

Décret-loi N° 63-6 du 28 février 1963 (4 chaoual 1382) portant refonte du Code de la Nationalité Tunisienne - (Modifié par la loi n°2010-55 du 1<sup>er</sup> décembre 2010)

### United Arab Emirates

- Federal Law N° (17) for 1972 Concerning Nationality, Passports and Amendments thereof (updated 1975)
- Decree of November 2011

### United States of America

The Immigration and Nationality Act 1952

### Vanuatu

Constitution of the Republic of Vanuatu - Act 10 of 1980; Act 15 of 1981; Act 20 of 1983  
Citizenship Act, Cap 112 – 30 July 1980

### Yemen

Law N° (6) of 1990 Concerning Yemeni Nationality (as amended 2010)





A woman stands on a grassy hill, seen from behind. She wears a dark floral dress and a long orange shawl draped over her shoulders. She is holding a bright yellow shawl out to her sides. The background consists of hazy, rolling mountains under a soft, overcast sky.

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*IMAGE: 'Achham women, Nepal', © Rob Tinworth, 2013*  
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