



# Nationality, Migration and Statelessness in West Africa

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# Gaps in the law



- State succession at independence & transfers of territory by ICJ
- Weak rights attached to birth in the country
- Gender discrimination
- Racial and ethnic discrimination
- Dual nationality rules easily misinterpreted
- Naturalisation very difficult to access
- Constitution & laws conflict (eg Liberia, Togo)
- No process to identify stateless persons

# Trends



1960s/70s:

- Reduction in rights based on birth in the territory (Côte d'Ivoire, Gambia, Ghana, Niger, Nigeria, Sierra Leone)

Since 1990s:

- Increased tolerance of dual nationality
- Reduced gender discrimination


2015→

- Increased protections against statelessness?

# Nationality based on birth in the territory

- Child is a national if born in territory :
  - C.Verde (if parents res. 5 yrs), Liberia (if “Negro”)\*  
\* under the law but not under the constitution
- If one parent also born in territory:
  - Benin, Burkina Faso, Guinea, Mali (if parent of “African origin”), Niger, Senegal, Sierra Leone (if “Negro-African”), Togo (both parents)
- If born + resident until majority:
  - Benin, Burkina, Guinea, Mali, Togo
- If parents unknown/abandoned baby:
  - Benin, Burkina Faso, Cape Verde, Ghana, Guinea, Guinea Bissau, Mali, Niger, Senegal

# Birth in the territory (2)

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- If parents stateless:
    - Benin, Cape Verde, Guinea Bissau
  - If cannot acquire nationality of parent:
    - Burkina Faso, Cape Verde, Guinea Bissau, Togo
  - No rights based on birth in territory:
    - Côte d'Ivoire, Gambia, Nigeria, (& Liberia\*, Sierra Leone if not “negro”)

\* In Liberia no rights if only the constitution is applied & not the law

# Gender & racial discrimination



- Equal rights for men and women
  - Burkina Faso, Cape Verde, Côte d'Ivoire, Gambia, Ghana, Guinea Bissau, Niger, Senegal
- Racial discrimination
  - Liberia, Sierra Leone, (Mali)
- Ethnic discrimination
  - Nigeria (“indigenous community”)

# Dual nationality



| Country       | Is dual nationality permitted? |           |       |
|---------------|--------------------------------|-----------|-------|
|               | Always                         | Sometimes | Never |
| Benin         | x                              |           |       |
| Burkina Faso  | x                              |           |       |
| Cape Verde    | x                              |           |       |
| Côte d'Ivoire |                                | x         |       |
| Gambia        |                                | x         |       |
| Ghana         | x                              |           |       |
| Guinea        |                                | x         |       |
| Guinea Bissau | x                              |           |       |
| Liberia       |                                |           | x     |
| Mali          | x                              |           |       |
| Niger         |                                | x         |       |
| Nigeria       | x                              |           |       |
| Senegal       |                                | x         |       |
| Sierra Leone  | x                              |           |       |
| Togo          |                                | x         |       |

# Naturalisation



- 3 yrs residence (Benin) → 15 yrs (Nigeria)
- Good conduct & morals / bonne vie & moeurs
- Good health, sufficient income
- Proof of existing nationality
- Administrative burden & costs
- Highly discretionary
- Very few obtain in practice




# The importance of administrative systems



- Civil law vs common law heritage
- Civil registration & other forms of evidence
- Identity cards & conditions to obtain
- Proof of nationality
- Official and unofficial costs
- Due process, possibility of appeal

# Taxonomy of statelessness

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- **Migrants**
    - Historical migrants and their descendants
    - Contemporary migrants
    - “Returnees” to a country of origin (eg from CAR)
    - Asylum seekers, refugees and former refugees
  - **Cross border populations**
    - Ethnic groups divided by international borders
    - Nomads (Tuareg, Fulani)
    - Zones where borders have been changed (Bakassi)
  - **Vulnerable children (who become adults)**
    - Born out of wedlock, abandoned, orphans
    - Child workers, trafficked, forced marriage

# Regional cooperation



- is badly needed...
- Integration with freedom of movement
- Harmonisation of laws
- Bi- & multi-lateral commissions to determine nationality
- Regional standard-setting