

GENDER DISCRIMINATION AND CHILDHOOD STATELESSNESS

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Gender discrimination in nationality laws is a root cause of childhood statelessness. Gender-discriminatory policies and practices also contribute to statelessness among children.

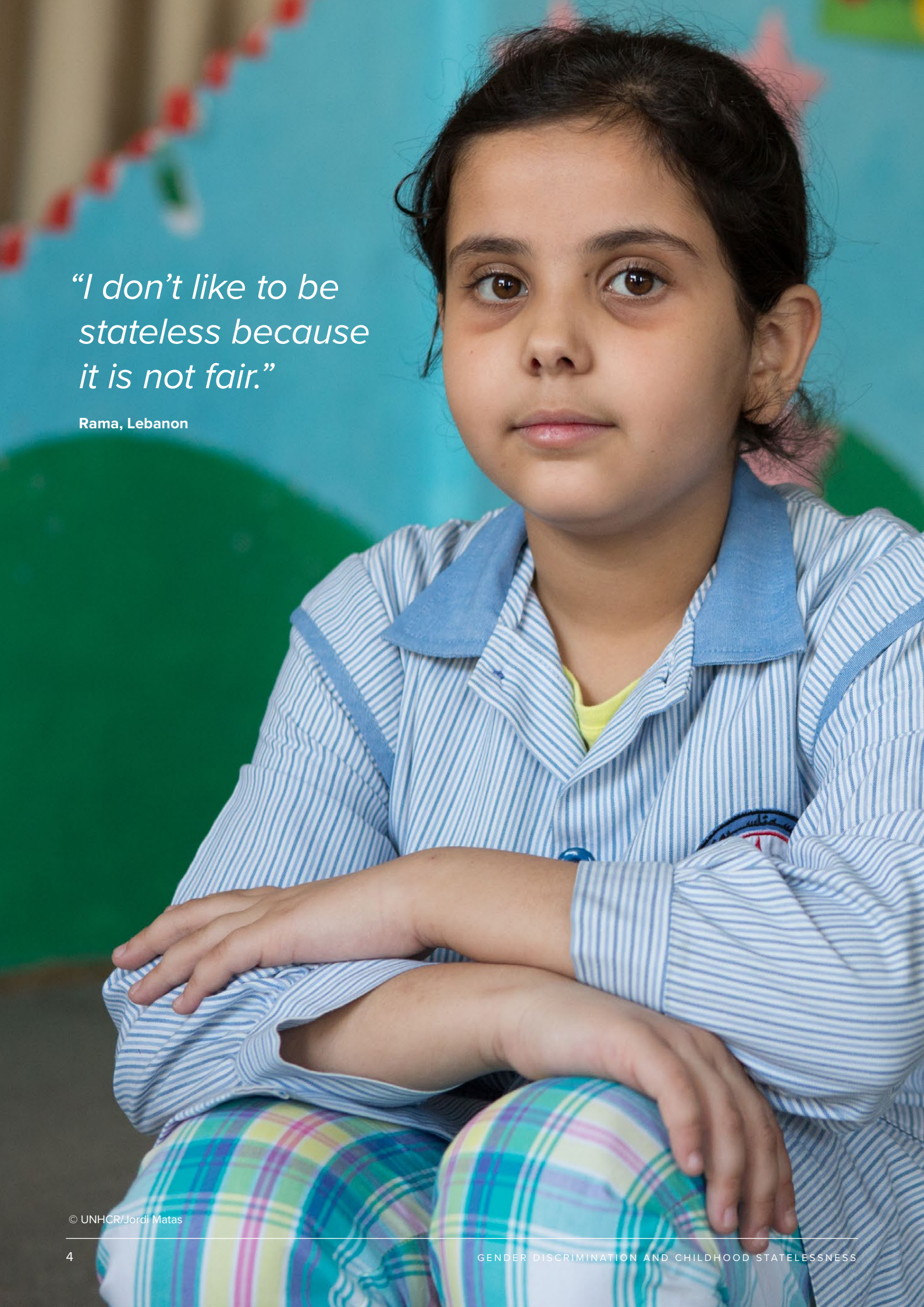
Twenty-five countries retain nationality laws that deny women the right to pass their nationality to their children on an equal basis with men.¹ Three countries discriminate against men in terms of their ability to pass their nationality to their children born out of wedlock.² These discriminatory laws can render children stateless when they are unable to acquire the nationality of the other parent, which can occur for a variety of reasons.

In some countries, even where women have formal equality before the law with regard to nationality laws, gender-discriminatory policies and practices prevent women from independently accessing birth certificates and identity documentation for their children – documents that are often necessary for children to acquire a nationality.

Children rendered stateless by gender-discriminatory laws and practices are often unable to enjoy a broad range of human rights, including family unity, freedom of movement, and access to education, healthcare, and a range of social services.

“Gender equality is more than a goal itself. It is a precondition for meeting the challenge of reducing poverty, promoting sustainable development and building good governance.”

– Kofi Annan, former United Nations Secretary General



*“I don’t like to be
stateless because
it is not fair.”*

Rama, Lebanon



What is gender discrimination?

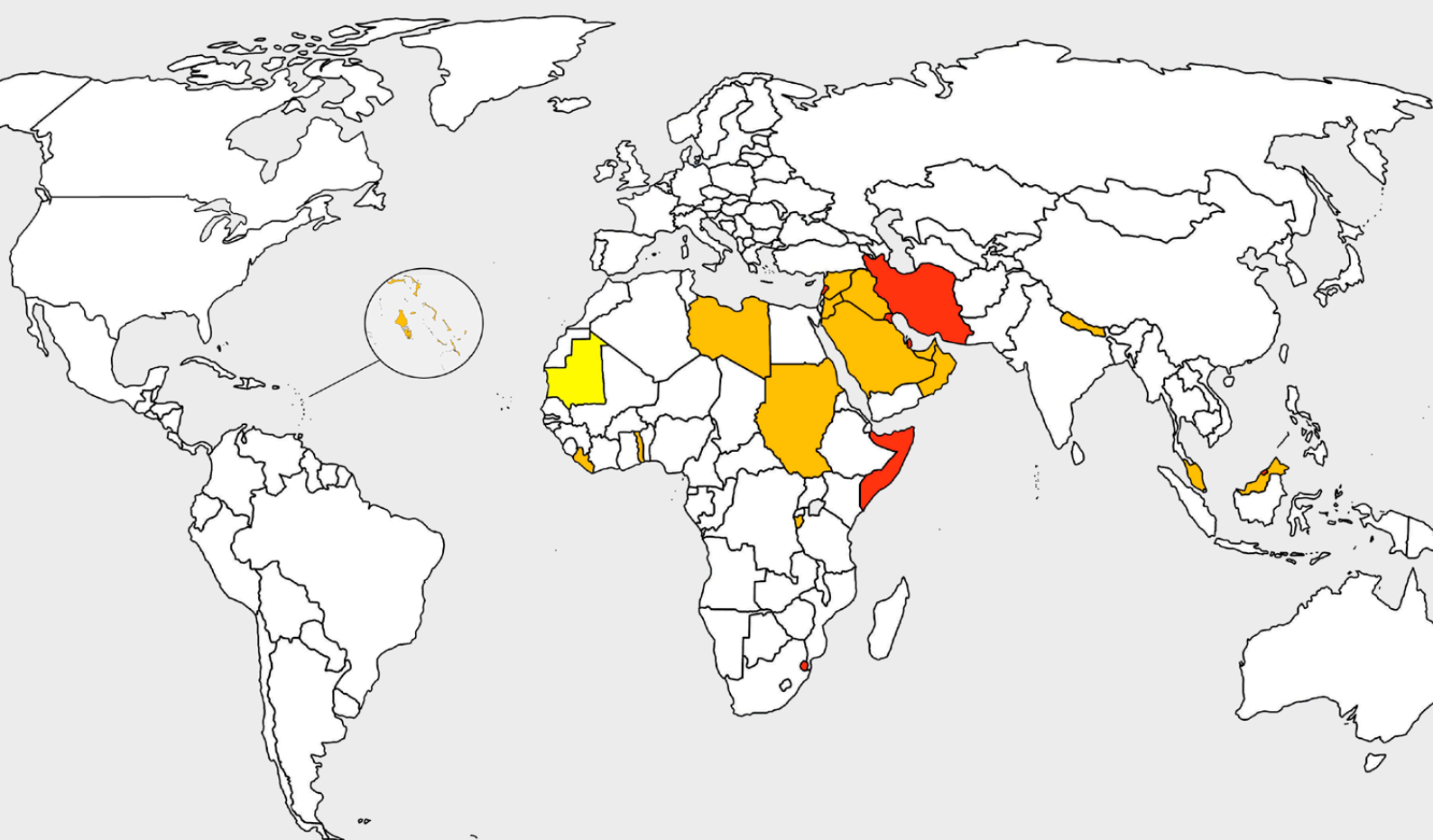
Gender discrimination:

Being treated less favorably because of an individual's gender.


According to the Convention on the Elimination of All Forms of Discrimination Against Women, the term “discrimination against women” shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. Gender discrimination may likewise be understood to refer to any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the enjoyment of rights, on a basis of equality of men and women, and irrespective of marital status.

While most gender-discriminatory provisions in nationality laws and policies disadvantage women, such discrimination also harms, girls, boys, men and society as a whole.

Countries with gender-discriminatory nationality laws regarding the conferral of nationality on children



The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.



Nationality laws do not allow mothers to confer their nationality on their children with no, or very limited, exceptions.

- Brunei Darussalam
- Iran
- Kuwait
- Lebanon
- Qatar
- Somalia
- Eswatini

Nationality laws deny mothers the right to confer nationality on their children on an equal basis with men, but have some safeguards against statelessness.

- Bahrain
- Burundi
- Iraq
- Jordan
- Kiribati
- Liberia
- Libya
- Nepal
- Oman
- Saudi Arabia
- Sudan
- Syria
- Togo
- United Arab Emirates

Nationality laws deny mothers the right to confer nationality on their children on an equal basis with men, but have some safeguards against statelessness. Nationality laws also deny fathers the right to confer nationality on their children born outside of legal marriage on an equal basis with women under the same circumstances.

- The Bahamas
- Barbados
- Malaysia

Nationality laws deny mothers the right to confer nationality on their children on an equal basis with men but provisions ensure that statelessness will only arise in very few circumstances.

- Mauritania

Why does gender discrimination contribute to statelessness among children?

Children who cannot acquire their mother's nationality – or in several countries, their father's nationality – because of gender discrimination in the law may also be unable to acquire the other parent's nationality for a number of reasons, such as:

- An inability to locate the parent or establish a legal link with the parent;
- The parent's unwillingness to assist in the acquisition of nationality;
- The parent's stateless status;
- The parent's lack of civil or identity documentation (e.g., national ID, marriage certificate);

The parent's country of citizenship prevents them from passing nationality in certain circumstances, such as when the parent and the child were born outside the country.

What is the impact of gender discrimination in nationality laws on children?

Gender discrimination in nationality laws places many children worldwide at risk of statelessness and can result in wide-ranging violations of children's rights, including obstacles to family unity, freedom of movement, access to education, healthcare, and social services, the right to an inheritance, and freedom from child marriage, in addition to other hardships and rights violations. The exclusion caused by gender discrimination in nationality laws and policies contributes to psychological distress and marginalization, while denying children the chance to follow their dreams to pursue certain professions. Countries also suffer and sustainable development is inhibited when such children are prevented from fully contributing to society.

In more than fifty countries women are denied equal rights with men to confer nationality on foreign spouses. Due to the associated challenges of securing residency permits and employment for foreign spouses, women's inability to equally confer nationality on spouses threatens family unity and children's ability to know and be cared for by both of their parents.

Gender discrimination in nationality laws also perpetuates women's unequal status in society and the family, sending a message to girls that they are not equal citizens because of their gender.

According to the Constitution of The Bahamas, women cannot pass their nationality to their children born abroad on an equal basis with married men.

“To not have the ability to confer citizenship to my child, on the basis of my gender alone, is disheartening and dehumanizing. Why should I as a woman not hold the same rights as a man in the same situation? I hope that the Government will address this issue very soon, as so many families are adversely affected by these disparities in the nationality laws”

– Bahamian mother

Children currently and formerly affected by statelessness because of gender discrimination

Jin^Φ

was born in Brunei Darussalam to a Malaysian mother and stateless father, who was also born in Brunei. Though Malaysian men have the right to confer nationality on children born within a legal marriage regardless of the child's place of birth, Malaysian women are denied the same right. Due to gender discrimination in Malaysia's law, in combination with his father's stateless status, Jin is also stateless. Lacking citizenship, Jin faces a range of hardships including obstacles to accessing medical care, educational opportunities, property rights and freedom of movement.

“To be honest, I feel hopeless. I feel hopelessness and powerlessness. I feel discriminated. I feel depressed. I used to have a small hope that this would be solved in the near future...”

– Jin, child of Malaysian mother and father who is a stateless permanent resident of Brunei Darussalam

Saidika and Her Children*Φ

Saidika is a Kuwaiti woman married to a stateless man. They have three children who are all stateless because Kuwaiti women do not have the right to pass their nationality to their children – a right reserved for Kuwaiti men.

“If they don’t have an ID card, if they don’t have the nationality... they will face difficulties when dealing with the authorities. When applying for university, when applying for jobs, any of these things, they will face difficulties. [The government] should do something for us. Not for me or for my husband, but for the future of our children.”

– Saidika, a Kuwaiti woman with three stateless children



Saidika's children. © Hannah Boatfield

Amina, Ahmed and their children

Amina*, a Sudanese woman, had seven children with her husband Ahmed, a Sudanese man who passed away several years ago. Amina had no identity documents and had not been able to secure birth certificates for her children. A domestic cleaner, Amina had dreams that her children would get an education and become professionals. When she realized the educational and employment opportunities that would be denied her children without identity documentation, she went to the civil registry to try to obtain birth certificates and national numbers for them. However, the authorities asked her to bring members of her husband's family to testify in order for the children to get birth certificates and a national number. Amina was not in contact with her husband's family and did not know even know where they lived.

While the Interim National Constitution of the Republic of Sudan (2005) upholds the equal right of men and women to pass nationality to their children, the Sudanese Nationality Act (amended 2011) retains several provisions that discriminate against women. However, in a decision in 2017, the Supreme Court of Sudan reaffirmed the right of Sudanese women to independently confer nationality on their children, regardless of the father's nationality. Despite this important decision – as Amina's case demonstrates – it can still be difficult for Sudanese mothers to independently secure needed documentation for their children. This underscores the need for Sudan and other countries to address

discrepancies between their Constitution, nationality law, and related policies, in order to ensure women's independent right to confer nationality and access birth certificates for their children, regardless of the mother's marital status.

Luckily for Amina, UNHCR was able to work with authorities to first secure her national number and then birth certificates and national numbers for her children.

“Securing birth certificates and national numbers for my children has enabled them to sit for the primary and high school qualifying exam, and to access university. This in turn means a better future as well as work opportunities for them. Since we got the [birth] certificates, I'm finally able to sleep well in the night, as I was feeling guilty for not being able to secure these basic rights for them.”

– Amina



Rama and her mother, Lebanon. © UNHCR/Jordi Matas

Rama^Φ

Rama was born in Lebanon to a Lebanese mother. However, Rama is stateless. Rama's father is stateless and her mother, like all Lebanese women, is denied the right to pass her nationality to her child. Lacking identity documentation because of her stateless status, Rama cannot travel freely and faces many obstacles.

Because Rama is stateless, it is unlikely she could sit for the public exams required to become a doctor. "I feel that Rama has no future. The situation of stateless people in Lebanon should change so that they can exist and live with everyone else in society." – Rama's mother

"All my friends go to places and I could not go to them. I feel sad because I don't have an ID and all my friends have an ID. I want my job when I grow up to be a baby doctor, because when the baby is sick, I want to help them."

– Rama

International and regional instruments promoting gender equality in nationality laws

Many international legal instruments and regional declarations uphold the right of citizens to pass their nationality to their children regardless of the parent's gender.

International Instruments

Convention on the Rights of the Child

Article 2(1). States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction **without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.**

Article 7 (1). The child shall be registered immediately after birth and shall have the right from birth to a name, the **right to acquire a nationality** and as far as possible, the right to know and be cared for by his or her parents.

Convention on the Elimination of All Forms of Discrimination Against Women

Article 2. States Parties **condemn discrimination against women in all its forms**, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women

Article 9(2). States Parties shall **grant women equal rights with men** with respect to the **nationality of their children.**

Regional declarations and protocols

Arab Declaration on Belonging and Legal Identity, endorsed at the Arab League Ministerial Conference on Belonging and Identity, 28 February 2018, Tunis

Article 9: Call upon Member States to put an end to all forms of discrimination in the area of nationality and to take concrete steps to amend laws and legislation relating to nationality in order to grant women and men equal rights in conferring nationality to children and spouses and to acquire, change or retain nationality in conformity with international standards and not contrary to national interests; and

Article 10: Promote the lifting of reservations to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in relation to provisions which protect the equal rights of women and men to acquire, retain or change their nationality and confer it to children.

Abidjan Declaration of Ministers of ECOWAS Member States on Eradication of Statelessness

Article 3: 3. We affirm our commitment to implement, as appropriate, the relevant provisions of the Convention on the Elimination of All Forms of Discrimination against Women and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa and to ensure that men and women have equal rights to acquire, change and retain their nationality and confer nationality to their children.

Declaration of the International Conference on the Great Lakes Region (ICGLR) Member States on the Eradication of Statelessness

“We, Member States of the International Conference on the Great Lakes Region (ICGLR)... Reaffirm our commitment to implement the relevant international and regional legal instruments on the rights of women to **ensure that women and men have equal rights to acquire, change, and retain their nationality and to confer their nationality to their children and spouses...**”

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa

Article 2: Elimination of Discrimination Against Women

States Parties shall combat all forms of discrimination against women through appropriate legislative, institutional and other measures. In this regard they shall:

- a) Include in their national constitutions and other legislative instruments, if not already done, the principle of equality between women and men and ensure its effective application;
- b) Enact and effectively implement appropriate legislative or regulatory measures, including those prohibiting and curbing all forms of discrimination particularly those;
- d) **Take corrective and positive action in those areas where discrimination against women in law and in fact continues to exist;**

The N'Djamena Initiative on the Eradication of Statelessness in Central Africa

Article 11: Encourage States Parties to pursue the implementation of the relevant provisions of the aforementioned conventions and to ensure that men and women have equal rights in terms of acquisition, change and retention of nationality, as well as in transmission of nationality to their children.

The Sustainable Development Goals

Ending Gender Discrimination in Nationality Laws to Promote Sustainable Development

The Sustainable Development Goals (SDGs) were adopted by consensus by Member States of the United Nations. Gender-equal nationality rights are essential to achieving SDG 5: "Achieve gender equality and empower all women and girls." The achievement of many SDGs will be negatively impacted unless nationality laws are reformed to uphold gender equality.

Examples of reform

Nawal and Her Children^Φ

Iraq has made important progress in advancing gender equal nationality rights. Notably, the 2005 Constitution made positive progress towards gender equality by establishing that nationality can be acquired by descent by children born to either an Iraqi mother or father (Article 18, items 1 and 2). Although Iraq's 2006 nationality law extends the right to confer nationality to children born in Iraq equally to Iraqi men and women, the law limits the ability of Iraqi women to confer nationality on children born outside the country. Nawal explains what this change in law will mean for her children:

"I am an Iraqi national married to an Iranian national. I am currently taking all the necessary legal procedures to enable my children to obtain Iraqi citizenship and enjoy the same rights as their peers, including their right to documentation, a passport, and the right to vote. All these privileges were not available under the previous law, where Iraqi women were prohibited from passing their nationality to their children."

–Nawal



Nawal and her children, Iraq. © UNHCR



Francine, Kenya. © Equal Rights Trust

Francine^Φ

Prior to Kenya's 2010 Constitutional reform, Kenyan women lacked the right to pass their nationality to their children on an equal basis with men. Francine is the daughter of a Kenyan mother, Caroline, and a Ghanaian father. When the children were young, Caroline tried to get passports for them, but the authorities said they could not give her children passports because her husband is not Kenyan. Francine also tried twice to obtain her ID document: "[Prior to the 2010 Constitution] the authorities told me, you are not even Kenyan. Your dad is not Kenyan. At the time I was in college and was supposed to sit for my exams, but you are not allowed to do the exams if you don't have the ID because you're not Kenyan." – Francine

In 2010, Kenya established a new Constitution that upholds the equal ability of citizens to pass their nationality to their children and spouses, regardless of gender. "After the reforms – my mom is Kenyan – so [the authorities] didn't ask about my dad...They knew that my dad was not Kenyan, but they didn't care. I just got the ID." – Francine

"How would you feel as a grandfather if your grandchildren did not share your nationality simply because your daughter married a non-Kenyan?"

– Patricia Nyaundi, Commission Secretary, Kenya National Commission on Human Rights

Halima^Φ

Halima was born in Morocco to her mother Zakia, a Moroccan national, and a foreign father. Prior to Morocco's 2007 reforms, Halima was treated like a foreigner, despite being born and raised in Morocco. In 2007, Morocco reformed its nationality law, which now guarantees the equal right of Moroccan women and men to pass their nationality to their children.

“Before this law, I didn't have the Moroccan nationality. I felt like I was a little bit different from the others. But now I can do anything I want, like all the other children.” – Halima

“Before they received Moroccan nationality, they were considered foreigners. Now everything has changed. Now that they have Moroccan nationality, they are considered Moroccan.”

– Halima's mother, Zakia



Halima and her family, Morocco. © Hannah Boatfield



Global Campaign for
Equal Nationality Rights

The **Global Campaign for Equal Nationality Rights** works to end gender discrimination in nationality laws, so that women and men have the equal right to acquire, change, and retain their nationality and to pass their nationality to children and spouses. The Campaign executes its mission through its coalition of national and international organizations, activists, and UN partners. Steering Committee Members include Equal Rights Trust, Equality Now, the Institute on Statelessness and Inclusion, the Office of the United Nations High Commissioner for Refugees, Women’s Learning Partnership, and Women’s Refugee Commission.



**COALITION ON EVERY CHILD’S
RIGHT TO A NATIONALITY**

The **Coalition on Every Child’s Right to a Nationality** aims to develop, expand and strengthen international co-operation to raise awareness about and combat the hidden problem of childhood statelessness. It also aims to promote the right of every child to acquire a nationality.

1 *Background Note on Gender Equality, Nationality Laws and Statelessness 2019*, 8 March 2019, available at: <http://www.refworld.org/docid/5aa10fd94.html>

2 Bahamas, Barbados and Malaysia.

* Name has been changed to protect the individual’s privacy.

Φ These stories were collected by Global Campaign for Equal Nationality Rights members, Equal Rights Trust, The Brunei Project, UNHCR, and Women’s Refugee Commission.

Cover: “Before this law, I didn’t have the Moroccan nationality. I felt like I was a little bit different from the others. But now I can do anything I want, like all the other children.” Halima, Morocco. © Hannah Boatfield.