**Impact of Gender Discrimination in Nationality Laws on Human Security of Women and Girls in the Context of Poverty and Inequality**

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The persistence and application of gender discrimination in nationality laws significantly undermines the human security of impacted women and girls, causing and exacerbating poverty and inequality[[1]](#footnote-1), while violating international human rights law.

As of this submission, twenty-four countries[[2]](#footnote-2) have nationality laws that deny women the right to pass citizenship to their children on an equal basis with men. Approximately fifty countries[[3]](#footnote-3) have laws that deny women the right to confer nationality on their spouse on an equal basis with men. While inhibiting women’s right to freely choose the spouse, such laws penalize women for marrying noncitizens, with wide-ranging, harmful impacts to them and their families.

The right to nationality without discrimination is protected in numerous international and regional conventions, including the Universal Declaration of Human Rights (Art. 15), the International Covenant on Civil and Political Rights (Art. 24), the Convention on the Elimination of All Forms of Discrimination against Women (Art. 9), the Convention on the Rights of the Child (Arts. 7-8), the International Convention on the Elimination of Racial Discrimination (Art. 5), the Convention on the Rights of Persons with Disabilities (Art. 18), the United Nations Declaration on the Rights of Indigenous Peoples (Art. 6), and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, (Art. 29). While States have the sovereign right to determine their frameworks and policies for the acquisition of citizenship, such policies should be consistent with human rights instruments.

Gender discrimination in nationality laws contributes to social exclusion, often with a heightened impact on families already facing socio-economic vulnerability. Gender discrimination in nationality laws has far-reaching consequences on all aspects of family life and is a leading cause of statelessness. Without citizenship, children and foreign spouses are often subject to a range of restrictions in their job and education opportunities; their ability to travel, open bank accounts, own or inherit property; and their full participation in society generally. Women’s inability to equally confer citizenship can put huge

financial, psychological, and physical strains on families, which can result in intergenerational poverty. The Sustainable Development Goals (SDGs) are significantly inhibited wherever this form of legal discrimination persists.[[4]](#footnote-4) Discriminatory nationality laws can threaten family unity, and in some cases, increase the potential for family violence.[[5]](#footnote-5) As a result of their inability to access formal employment, stateless women and girls are at a higher risk of being trafficked, while girls are also at a greater risk of child, early and forced marriage. Those who lack nationality due to gender-discriminatory nationality laws while also being a racial, religious, or ethnic minorities, and/or child of a foreign father face compounded discrimination throughout their lives, both due to their lack of citizenship and their identity.

In many countries with gender-discriminatory nationality laws, women may in certain instances only confer nationality at the discretion of the government. Where this discretion exists, it is widely applied in a discriminatory manner towards certain races, religious and ethnic minorities – including groups experiencing higher levels of poverty due to the marginalization already experienced due to their identity. For example, prior to Madagascar’s 2016 reforms upholding women’s equal right to confer on children, women married to foreigners could only confer nationality on children by application at the discretion of the government. Research undertaken prior to reforms found “as a result of systemic discrimination against minority groups and a high level of discretion power being held by authorities, in practice a person’s ability to confer nationality on their children is also directly related to their race, religion and socio-economic status.” [[6]](#footnote-6) During a 2015 discussion with local government authorities in Nepal, the chief local development officer in Sindhupalchok district suggested a simple “solution” to Nepali activist on the question of whether some children could acquire citizenship through mothers. The officer said, "The local officials simply needed to have a close look at the facial structure of the applicants. If the person reflected the traditional facial outlook of the Chhetri/Brahmin/Newar ethnicity, citizenship could be conferred through mothers, but if the person's facial configuration was similar to that of Madheshi people who are dark skinned or the people from Tibet who have distinctly smaller eyes, these cases must be investigated thoroughly." In this case, the official recommends that those appearing to be members of more elite ethnic groups – with more economic resources – be favored over already disadvantaged minority groups, including Tibetan refugees.

In the context of the COVID-19 pandemic, gender discrimination in nationality laws further exacerbated the vulnerability of affected families. Women’s noncitizen spouses and children were denied equal access to COVID-19 relief, including economic and social benefits, as well as vaccinations in numerous countries. Travel bans on noncitizens resulted in the separation of women from their noncitizen children and spouses, who would have access to citizenship if not for gender discrimination in the nationality law. In Malaysia, where women lack the right to confer nationality on children born abroad – a right reserved for men, pregnant women who were out of the country during pandemic travel bans on noncitizens had to choose between returning to give birth in Malaysia without their spouse and securing citizenship for their child or staying with their partner and giving birth abroad while risking being unable to ever secure Malaysian nationality for their child. One Malaysian mother shared, “I was planning to give birth in Malaysia, but because of the coronavirus, travels are restricted. I might not have the choice to give birth in Malaysia, which is a pity for my baby, as Malaysian women are not able to obtain automatic Malaysian citizenship (upon registration) for their own children. This is just getting more and more impossible.”[[7]](#footnote-7)

It is clear that gender-equal nationality laws are vital to human security, sustainable development and to upholding women and men’s equal citizenship.

Given the many ways that gender discrimination in nationality laws undermines human security and contributes to poverty, we urge the Working Group on Discrimination Against Women and Girls to highlight in their report the need for governments to ensure gender-equal nationality rights including through the amendment of nationality laws where needed, in line with their obligations under international law and to achieve the Sustainable Development Goals.

1. Global Campaign for Equal Nationality Rights, *Equal Nationality Rights for Sustainable Development: Eradicating Gender Discrimination*, available at: <https://equalnationalityrights.org/images/zdocs/SDGs--Gender-Discrimination-in-Nationality-Laws.pdf>. See also, Equal Rights Trust, “Ending Gender Discrimination in Nationality Laws - Sapana's Story” available at: <https://www.youtube.com/watch?v=GtIlhGSIM80> [↑](#footnote-ref-1)
2. The Bahamas, Bahrain, Barbados, Brunei, Burundi, Eswatini, Iran, Iraq, Jordan, Kiribati, Kuwait, Lebanon, Libya, Malaysia, Mauritania, Nepal, Oman, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Togo, United Arab Emirates [↑](#footnote-ref-2)
3. Bahamas, Bahrain, Bangladesh, Barbados, Benin, Brunei Darussalam, Burundi, Cameroon, Central African Republic, Comoros, Congo, Egypt, Eswatini, Guatemala, Guinea, Iran, Iraq, Jordan, Kiribati, Kuwait, Lebanon, Libya, Madagascar, Malawi, Malaysia, Mauritania, Morocco, Nepal, Nigeria, Oman, Pakistan, Qatar, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Sierra Leone, Singapore, Solomon Islands, Somalia, Sudan, Syrian Arab Republic, Thailand, Togo, Tunisia, United Arab Emirates, Tanzania and Yemen. [↑](#footnote-ref-3)
4. Global Campaign for Equal Nationality Rights, *Equal Nationality Rights for Sustainable Development: Eradicating Gender Discrimination*, available at: <https://equalnationalityrights.org/images/zdocs/SDGs--Gender-Discrimination-in-Nationality-Laws.pdf>

in Nationality Laws to Promote Sustainable Development [↑](#footnote-ref-4)
5. Global Campaign for Equal Nationality Rights, *The Impact of Gender Discrimination in Nationality Laws on Gender-Based Violence*, available at: <https://equalnationalityrights.org/images/zdocs/Impact-of-Gender-Discrimination-in-Nationality-Laws-on-Gender-Based-Violence.pdf> [↑](#footnote-ref-5)
6. Equal Rights Trust, *Our Children’s Future: Ending Gender Discrimination in Nationality Laws*, September 2015, available at: <https://www.equalrightstrust.org/ertdocumentbank/My%20Children%27s%20Future%20Ending%20Gender%20Discrimination%20in%20Nationality%20Laws.pdf> [↑](#footnote-ref-6)
7. *The Malaysian Insight*, “Pandemic worsens impact of biased citizenship laws on women,” 20 April 2020, available at: <https://www.themalaysianinsight.com/s/239146> [↑](#footnote-ref-7)