



**Submission to the Special Rapporteur on violence against women and girls to inform the report on the nexus between violence against women and girls, discrimination in nationality laws, and statelessness**

May 15, 2023

The Global Campaign for Equal Nationality Rights in partnership with coalition members Al-Rawnak Organization for Women and Children<sup>1</sup>, Arab Women Organization<sup>2</sup>, Bahrain Women Union<sup>3</sup>, Church Aid Incorporated<sup>4</sup>, Collective for Research and Training on Development-Action (CRTDA)<sup>5</sup>, Equality Bahamas<sup>6</sup>, Equality Now<sup>7</sup>, Family Frontiers<sup>8</sup>, Institute on Statelessness and Inclusion<sup>9</sup>, Iraqi Women's League<sup>10</sup>, Nationality For All<sup>11</sup>, and Youth Sustainable Development Centre (YSDC)<sup>12</sup> make this submission to inform the Special Rapporteur on violence against

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<sup>1</sup> Al-Rawnak Organization for Women and Children is a non-profit organization that involves Libyan civil society organizations. Its objectives include raising awareness, education, and defending the rights of Libyan women married to non-Libyans and the right of their children to nationality and the rights of equality between them and men. It is also concerned with everything related to Women in general, whether widowed or divorced, and all children.

<sup>2</sup> Founded in 1970, the Arab Women Organization of Jordan (AWO) is a Jordanian women's association that fights for equal rights between women and men and the empowerment of women and girls. The association seeks to develop women's leadership capabilities and find solutions to raise women's social, political and economic status.

<sup>3</sup> Bahrain Women Union comprises a group of Bahraini women's associations that are democratically oriented. Its primary objective is to promote women's empowerment and development, as well as that of the family, across all domains. It recognizes that collective efforts are vital to enhancing the status of Bahraini women as a fundamental human right, which is a critical milestone towards the advancement of Bahraini society. Moreover, the Union acknowledges the close relationship between women's issues and those affecting society as a whole.

<sup>4</sup> Church Aid Inc. (CAI) in Liberia is a campaigner against Statelessness and a promoter of birth registration, awareness and certification, and supporter of equal nationality rights, amongst others. Over the past 7 years, CAI has mobilized, sensitized, screened, registered and certificated more than ten thousand (10,000) under 12-year-old children in collaboration with the Ministry of Health of the Republic of Liberia, LRRRC, UNICEF, UNHCR and other local partners. CAI has conducted workshops and established local advocacy networks in ten counties of Liberia to help raise awareness on the causes and prevention of Statelessness in Africa.

<sup>5</sup> The Collective for Research and Training on Development-Action (CRTD.A) is a non-governmental organization that launched in 1999 the campaign "My nationality is a right for me and my family" in Lebanon and in a number of Arab countries. The campaign aims to contribute to achieving full citizenship for Arab women through reforming citizenship laws and in order to achieve social justice and eliminate all forms of gender discrimination.

<sup>6</sup> Equality Bahamas is a feminist organization that promotes women's and LGBTQI+ people's rights as human rights through advocacy, public education, and community engagement. It focuses on issues of gender-based violence which include structural violence. Its primary campaigns include constitutional reform to ensure gender-equal nationality rights.

<sup>7</sup> [Equality Now](#) is an international human rights organization with ECOSOC status and whose mission is to achieve legal and systemic change that addresses violence and discrimination against all women and girls around the world. Equality Now is the author of [The State We're In: Ending Sexism in Nationality Laws 2022 Edition - Update for a Disrupted World](#) (available in English, French, Spanish and Arabic).

<sup>8</sup> The Association of Family Support & Welfare Selangor & KL (Family Frontiers) is a registered entity established to advance, promote and strengthen the family unit so that no family is left behind. It acts as an umbrella body for the Foreign Spouses Support Group (FSSG), which supports and advocates for the rights of Malaysian binational families and mobilizes action for the Malaysian Campaign for Equal Citizenship through a multi-pronged advocacy approach.

<sup>9</sup> The Institute on Statelessness and Inclusion<sup>1</sup> is an independent non-profit organisation dedicated to promoting an integrated, human rights-based response to the injustice of statelessness and exclusion. Established in August 2014, it is the first and only global NGO committed to promoting the human rights of stateless persons and ending statelessness.

<sup>10</sup> The Iraqi Women's League was founded in 1952 and includes Iraqi women of all affiliations and social groups in its ranks. It aims to develop the democratic system, achieve social justice and gender-equality, ensure women's political participation in decision-making positions, spread awareness about women's issues, and combat all forms of violence against women and children and concern for rural women. and strengthening the Social Welfare Act.

<sup>11</sup> NFA is the only regional organization working to end statelessness and promote right to nationality in the Asia Pacific. NFA is committed to supporting the leadership and agency of persons with lived experience of statelessness by ensuring their meaningful participation in the planning, design, implementation and monitoring of our activities.

<sup>12</sup> Youth Sustainable Development Centre (YSDC) is a non-profit organization in Eswatini that is working on youth economic empowerment through sustainable development, which further mobilizes youth as sustainable development agents, problem solvers and human rights advocates.

women and girls' report on the Nexus between Violence against Women and Girls (VAWG), Nationality Laws, and Statelessness.

[Almost 50 countries](#) maintain gender-discriminatory nationality laws, including discrimination related to a women's right to confer nationality on a noncitizen spouse or to acquire, change, or retain nationality on an equal basis with men.<sup>2</sup> [24 countries](#) have nationality laws that deny women's right to confer nationality on their children on an equal basis with men. Citizenship laws form the foundation of individuals' relationship with the state and determine access to a range of fundamental human rights. At its core, gender discrimination in nationality laws undermines women's equal citizenship and equality within the family – thereby contributing to the root cause of VAWG – while causing other wide-ranging human rights violations. Gender discrimination in nationality laws has far-reaching consequences on all aspects of family life and is a leading cause of statelessness. The multi-layered hardships and rights violations caused by gender discrimination in nationality laws is linked with multiple forms of gender-based violence (GBV) impacting affected women and girls.

Women and girls face greater obstacles to extracting themselves from an abusive relationship when their or their children's citizenship is dependent upon the abusive spouse. For example, the inability for women to confer automatic citizenship on their children born overseas can lead to situations where they must depend on their foreign spouse for their children's citizenship. This can inhibit women's ability to leave toxic or abusive marriages. Women in such circumstances have reported feeling vulnerable and powerless. If these women divorce their foreign spouses abroad, they may face difficulties obtaining assistance from their former spouse to renew their children's passports and other bureaucratic processes including those required to bring their children to their mother's country. A similar situation can be faced by women married to nationals in their own countries. In Nepal, women in most circumstances must prove the Nepali citizenship of their children's father in order to obtain citizenship documents for their children, provided only after age sixteen. Even when the divorced mother has full custody, officials require proof of the father's Nepali citizenship, putting the child and the mother at risk of further harm as the abusive spouse/father must facilitate the child's citizenship process. Additionally, married Nepali women are required to secure their own citizenship documents on the basis of their husband's Nepali citizenship, even if the woman was born in Nepal to Nepali parents. There are numerous cases where the abusive spouse does not support the woman's citizenship application or coerces the woman to remain living with the abusive spouse in order to secure citizenship. In some countries, if a woman acquires her foreign spouse's nationality through marriage, she may be stripped of that nationality upon divorce even if she resides in the country, potentially losing her ability to work, own land, or even remain in that country – thereby threatening her ability to care for her children and significantly raising barriers to leaving situations of abuse.

Women unable to confer nationality on their children and trying to leave abusive relationships also experience challenges in claiming custody of their children.<sup>13</sup> In the case of a Malaysian

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<sup>13</sup> See the Annex for additional examples detailed in the case of Lina and Angeline.

mother in the Family Frontiers' network, her former husband is asserting full custody on the grounds that their child lacks Malaysian citizenship and can only reside in Malaysia on a Long-Term Social Visit Pass (LTSVP).<sup>14</sup>

When women are denied the right to confer nationality on their children, children born to parents in unregistered marriages are at great risk of statelessness. Where child marriage is illegal, such marriages are often unregistered preventing a legal link to fathers. At the same time, statelessness - often caused by gender discrimination in nationality laws - in turn increases the risk of child marriage, with some families seeking legal status for girls through marriage. Equality Now's Lebanese partner, LECORVAW, reports that some sheikhs execute marriage contracts for underage girls without registering them, which can lead to statelessness of children born of these marriages. Lacking nationality in their country of birth, stateless girls have been reported to be married off to relatives in other countries. According to LECORVAW, the stateless daughter of a Lebanese woman was married off at fifteen years of age to a relative in Egypt.<sup>15</sup> According to YSDC, stateless girls in Eswatini are often forced to stay with their partners with hopes that marriage will facilitate citizenship, even when they are being abused.

Those without nationality because of gender-discriminatory nationality laws often work in the informal sector as their status prevents access formal employment. Such workers often cannot access legal protections established for those formally employed. Affected women and girls not only face lower wages and job insecurity in the informal sector, but also a compromised ability to report assault and harassment by employers. Denied their mother's nationality, the children of Jordanian women and noncitizen fathers cannot be employed in government institutions at all. While they may be hired by private companies, Jordanian nationals are required to have priority for open positions. As such, employers often exploit the children of Jordanian women by giving them a lower salary than Jordanians, not registering them for social security and health insurance, and forcing them to work long hours. Based on the instructions of Jordan's Ministry of Labor, children of Jordanian women, considered foreigners, are excluded from certain professions reserved for Jordanians.

Without access to formal employment, women and girls who lack nationality in their country of residence are at an increased risk of human trafficking. Trafficking can also lead to new cases of statelessness, a fact recognized in several UN Human Rights Council Resolutions.<sup>16</sup> In some instances, nationality can be lost or withdrawn on the basis of long-term absence from the country and/or the failure to report regularly to the consular authorities during a prolonged period of residence abroad. In cases of trafficking in women and girls, the opportunity to be informed of or meet requirements for retention of nationality may be constrained, with trafficked

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<sup>14</sup> See the Case of Camelia in the Annex.

<sup>15</sup> Name changed for privacy. See Case Study - Lebanon in Equality Now, [The State We're In: Ending Sexism in Nationality Laws 2022 Edition - Update for a Disrupted World](#), p. 15

<sup>16</sup> Human Rights Council (HRC), "The right to a nationality: women and children," 16 July 2012 (A/HRC/RES/20/4); HRC, "The right to a nationality: women's equal nationality rights in law and in practice," 28 June 2016 (A/HRC/RES/32/7); HRC, "Human rights and arbitrary deprivation of nationality," 15 July 2016 (A/HRC/RES/32/5); See also, for instance, C. Rijken, L. van Waas, M Gramatikov and D. Brennan, "The nexus between statelessness and human trafficking in Thailand", 2015 (in particular pages 103-106).

women, girls and their offspring at a heightened risk of statelessness. Migrant women and girls may also be put at risk of statelessness as a result of human trafficking due to the loss or destruction of documentation establishing their legal identity. In such cases, there is a distinct risk of statelessness for children born in the receiving country to women who have been trafficked. Children of women who have been trafficked face an even greater risk of statelessness when their mother's country denies women the right to confer nationality on children on an equal basis with men.<sup>17</sup> Therefore, as the Committee on the Elimination of Discrimination Against Women has noted, states must "consider the impact of its citizenship and nationality laws on women who migrate or are trafficked abroad" and amend laws to mitigate any "potentially disadvantageous impact."<sup>18</sup>

Gender discrimination in nationality laws can also cause family separation, including women's separation from their spouse and children - a form of psychological violence against women. These hardships were shared by a Lebanese woman married to a stateless man and unable to pass her citizenship to her children or spouse:

*"Though my eldest daughter graduated from a prestigious private university, she still struggled to secure a career...I worked hard and contributed to building my country through my life-long career in education, yet the government met me with injustice, oppression and violence. My two older children and I suffered from this and now they had to migrate to other countries in search of a 'homeland' that appreciates their competencies and respects their humanity. My son is currently working in Europe and suffered...due to his inability to access Lebanese citizenship. My eldest daughter traveled to the Gulf for marriage after struggling with her career in Lebanon, and I now live with my youngest daughter. This resulted in being deprived of the opportunity to live close to my children...They had to leave in search of their dignity. For some people, emigration is a choice, but for us, it is by force and necessary to save my soul from my constant torment... I feel guilty for bringing my children into this world, as I could not grant them my nationality." <sup>19</sup>*

According to CRTDA, Lebanese women are in a state of constant anxiety over family dispersion. For example, when the Lebanese border was closed to foreigners during the COVID-19 pandemic, women outside the country with noncitizen spouses and children were faced with a terrible choice: either leave their children and husband and return to Lebanon, or remain abroad. In the Bahamian context, women married to non-Bahamians who decide to return to The Bahamas after residing abroad experience challenges from their first encounter with the immigration department at the airport. They are questioned about where their children

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<sup>17</sup> This risk is especially pronounced when children are born out of wedlock to women who have been trafficked, given the frequent lack of legal links to the father.

<sup>18</sup> Committee on the Elimination of Discrimination Against Women, Concluding Observations: Indonesia, 15 August 2007 (CEDAW/C/IDN/CO/5).

<sup>19</sup> See Case Study - Lebanon in Equality Now, [The State We're In: Ending Sexism in Nationality Laws 2022 Edition - Update for a Disrupted World](#), p. 15.

were born and whether they are married to their children's father.<sup>20</sup> When children of Bahamian women married to non-Bahamian men are born abroad, they are not granted regular entry to The Bahamas but instead receive a visitor's stamp. One Bahamian woman moving back from England to reside in The Bahamas reported that her children received 90-day stamps in their passports, though in other cases such children receive 60-day stamps. This meant one of the parents would have to leave the country with the children to renew the visa, and risk denial of re-entry. It also complicated other processes including enrollment in school. Similarly, as Bahamian women lack the same right as men to confer nationality on a noncitizen spouse, women's spouses have to apply for spousal permits, a notoriously slow, expensive, and unpredictable process. This sometimes results in women's spouses being forced to delay their move to The Bahamas in order to work. Children born overseas to Malaysian women face limited options for staying in Malaysia.<sup>21</sup> They are only issued a Long-Term Social Visit Pass up to the age of 6, and thereafter a Student Pass, until they graduate from tertiary education. As the age criteria for citizenship is twenty-one years old and below, non-citizen adult children above that age face great uncertainty and may be separated from their families. Family Frontiers has recorded cases of girls and young women in such circumstances being sent abroad to live with abusive extended family or even strangers.<sup>22</sup>

Stateless persons and those without nationality in their country of residence who experience VAWG often lack access to justice systems because of their vulnerable status and the threat of arbitrary and indefinite detention of stateless persons when attempting to report abuse. This contributes to impunity by abusers who exploit victims' vulnerable status. Non-citizens can also be denied access to GBV protective and welfare services. Additionally, where gender-discriminatory nationality laws give the state discretion regarding the conferral of nationality on women and/or their family members, there are frequent reports of extortion and abuse by state authorities.

## ***Recommendations***

To prevent statelessness and violence against women and girls States must :

- Reform nationality laws that discriminate on the basis of gender without delay so that women have the right to acquire, change, and retain, and confer their nationality on children and spouses on an equal basis with men;

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<sup>20</sup> Bahamian woman whose children are born abroad outside of legal marriage confer nationality to their children, while Bahamian women married to noncitizens lack the right to confer nationality on children born abroad.

<sup>21</sup> Malaysian women are denied the right to pass citizenship to children born abroad, an automatic right for the children of Malaysian men.

<sup>22</sup> Please see the Case of Jasim and Sarah for further information on family separation caused by gender discrimination in Malaysia's nationality law.

- Uphold citizens' equal right to register their children's birth and to access birth and marriage certificates and other civil documents without discrimination on the basis of gender or marital status;
- Ensure naturalized spouses do not automatically lose their new nationality on termination of the marriage;
- Ensure women do not automatically lose or gain nationality on marriage to a spouse of another nationality without their active consent;
- Ensure that a change in the father's nationality does not automatically result in the loss of nationality for his spouse and children;
- Ensure consistency between all laws and regulations related to nationality rights to uphold gender equality and authorities' gender-equal implementation; and
- States must not make exceptions for discriminatory religious and customary laws and religious leaders should be engaged by them to end harmful practices of child marriage and unregistered marriages which could lead to statelessness.

## **Annex:**

*Names in the below examples have been changed to protect the anonymity of affected women and girls.*

### **The Case of Camelia**

Camelia is a Malaysian woman with a non-citizen daughter due to gender discrimination in Malaysia's nationality law. Her daughter holds the citizenship of her foreign spouse from whom Camelia is separated and who subjected Camelia to domestic abuse resulting in her hospitalization. Though her spouse pled guilty to domestic abuse, he was only given a verbal warning by the court. Upon moving to Malaysia with her daughter, Camelia's husband filed a court order against her to recover and return their child to his country. The court case is currently ongoing, and Camelia has since filed for a divorce. Camelia's husband asserts that custody of their daughter should be accorded to him as their daughter is not a Malaysian citizen and is only able to live in Malaysia on a Long-Term Social Visit Pass. Camelia's daughter has been diagnosed with severe autism and fully depends on Camelia for daily care and support. Camelia faces psychological and physical effects from the domestic abuse she suffered and is still undergoing treatment for the damage caused by this physical abuse. She maintains that living in Malaysia will provide her and her daughter with a safe environment, away from any form of domestic abuse. But without Malaysian citizenship for her daughter, Camelia and her daughter face the risk of separation and continued violence.

### **The Case of Lina and Angeline**

Lina is a Malaysian woman with two daughters, one of whom, Angeline\*, is a non-Malaysian citizen. As a result of Malaysia's sex discriminatory nationality law, Angeline was forced to inherit citizenship from her abusive non-Malaysian father.

Lina had suffered emotional, physical and financial abuse by her former husband since their marriage in the 90s. He committed various forms of neglect, including but not limited to: failing to provide basic care for his children by neglecting to feed them, allowing their living environment to become unsanitary and infested with rats, and turning their bedroom into a hoarding ground. He also missed Angeline's school pick up by five hours.

When Angeline graduated from secondary school, Lina decided to return to Malaysia for Angeline's tertiary education, leaving the country and their abusive father/husband. When Angeline's student visa expired, she had to return to her father's home country where she had to live alone with her father. However, one day after a week of living at home, her father became aggravated with Angeline regarding the cost of her education in Malaysia and pending surgeries (the surgery was previously done incompletely because her father refused to pay at the time—it remains uncorrected until today).

Angeline's father became confrontational and gave her a one-day ultimatum to leave the premises on that day. As his anger persisted the following day, Angeline feared for her safety in case the situation worsened and chose to vacate the house. The memory of that night still lingers with her, as she was too scared to fall asleep.

During this time, Lina had to scramble to find money to bring Angeline back to Malaysia, and she used her savings to get Angeline enrolled into a Bachelor's degree merely for the purpose of securing a student visa, so that Angeline could be reunited with them.



Her student visa once again expired after Angeline completed her degree. Unable to find a job in Malaysia amidst the economic setbacks of repeated COVID-19-instigated lockdowns and with the status of a non-citizen, she enrolled into a Master's program at a local university paying exorbitant international student fees, just so that she can have a student visa to enable her to continue to live in Malaysia. She currently holds a student pass that is valid for two years.

Lina has since finalized her divorce with Angeline's father. She is now concerned about Angeline having to return to the ex-husband's country, where she has no familial support, once Angeline exhausts the student visa avenue.

Angeline is now over the age criteria of 21 years and the avenues available for citizenship for her are now limited. This lack of Malaysian citizenship as a result of the discrimination against Lina's gender directly puts Angeline in a volatile environment, where her security is at risk.

### **The Case of Jasmin & Sarah**

Jasmin is a Malaysian citizen who is unable to pass on her citizenship to her daughter, Sarah, who is now an adult. Due to Malaysia's gender-discriminatory citizenship law, Jasmin and Sarah were forcibly separated for over one year.

When Jasmin had to undergo neurosurgery, Sarah, who was then 17 years old, made the difficult decision to care for her mother instead of continuing her studies. When her student pass expired, Sarah was no longer able to extend it and was forced out of Malaysia and separated from her entire family. She moved to her father's country, where she spent over a year in temporary housing arrangements, moving from one relative to another. This caused Sarah a lot of anxiety and distress as the separation from her family, compounded with having to fend for herself in a foreign land, was hard to bear. Jasmin had limited funds, but did all she could to try to bring Sarah home to sit for her school-leaving examinations, or SPM. Finally, she got a placement for her daughter at a local secondary school and brought her daughter home on a 30-day tourist visa. However, as Sarah was over the age of 18, the Immigration department refused her application for any other pass to extend her stay to enable her to sit for her examinations, and stated that Sarah can only apply for a Student Pass. However, to get a Student Pass she would need an offer letter from a college in Malaysia.

This puts Sarah in an impossible quandary. In order to obtain an offer letter from a college, she must possess a SPM certificate; but without permission to remain in Malaysia to sit for her examinations, the SPM certificate remains firmly out of her reach. Even though Jasmin is a Malaysian, she is unable to keep her daughter with her in Malaysia. Without Malaysian citizenship, this mother and daughter face another possible forced separation.