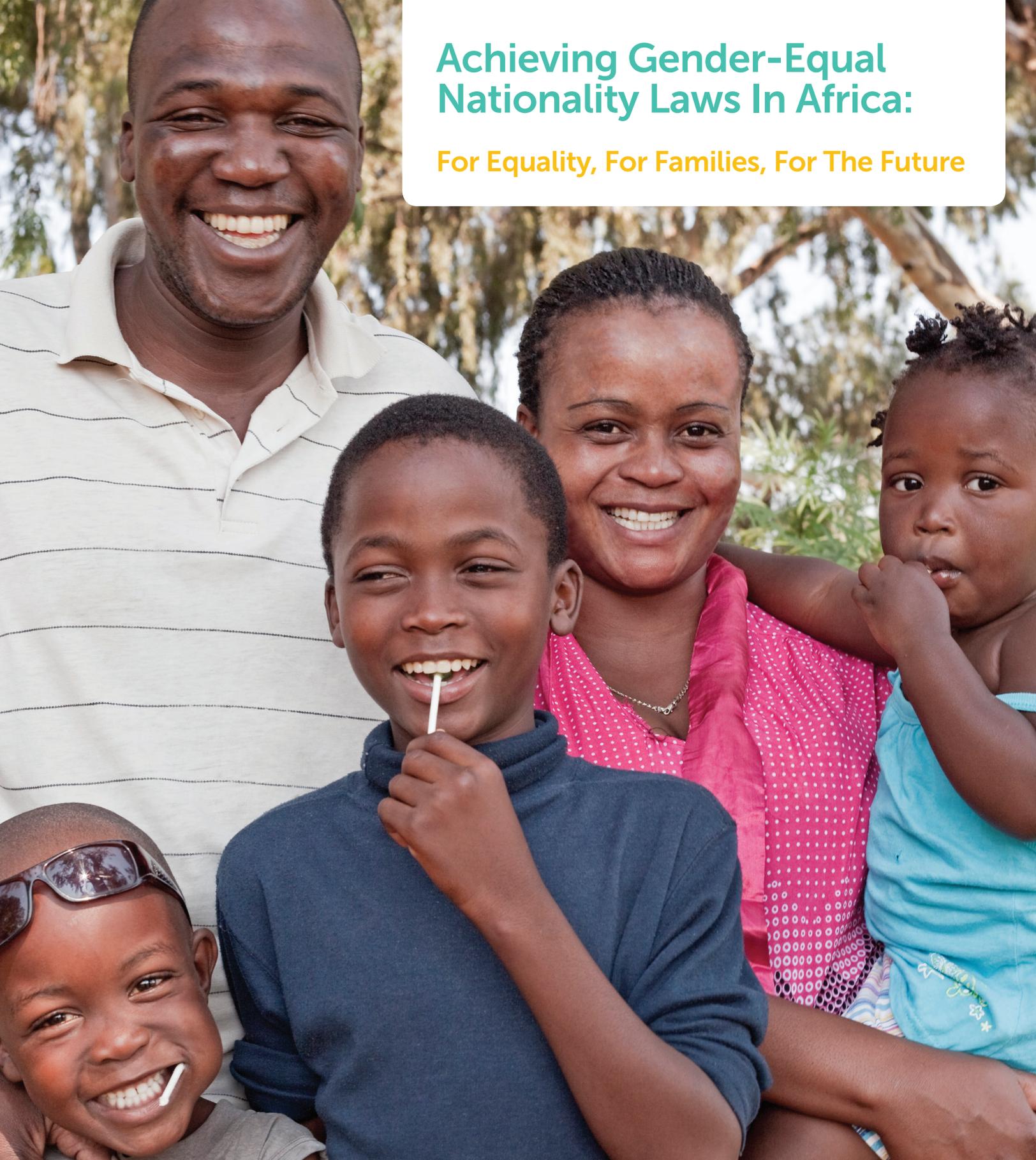


Achieving Gender-Equal Nationality Laws In Africa:

For Equality, For Families, For The Future



Global
Campaign
for **Equal**
Nationality
Rights

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Introduction

There is widespread consensus that gender equality and the right to non-discrimination are fundamental human rights that are vital to sustainable development and the achievement of stable, prosperous societies. As recognition of this reality, over the past several decades governments across Africa have committed to upholding equal rights for women and men in their countries' constitutions, through ratification of regional and internationality conventions and legal instruments, and in national development plans. Indeed, countries have achieved progress in a range of areas, such as by reforming a range of discriminatory laws, increasing gender parity in political representation, and advancing girls' education.

More recently, there is heightened awareness, globally and across Africa, of the need to eradicate statelessness, from both a human rights and development perspective. Though all individuals, regardless of their status, have inalienable human rights, the right to a nationality has been referred to as "the right to have rights" because of stateless persons' inability to access a wide range of human rights in practice. The impacts of statelessness extend far beyond the individual level; countries suffer from increased poverty, marginalized communities, and instability when populations within their territory are denied citizenship.

As of 2018, roughly 50 countries globally have nationality laws that discriminate on the basis of gender. Twenty-five countries retain nationality laws that deny women the right to pass their nationality to their children on an equal basis with men. While most African countries uphold citizens' equal right to pass citizenship to their children, roughly one-third of the countries that deny women the right to pass their nationality to their children on an equal basis with men are in Africa. Roughly 40 percent of African countries deny women the right to pass their nationality to their foreign spouse on an equal basis with men. Several countries in the region have nationality laws that also discriminate against women in their ability to change or retain their nationality. Today, ending gender discrimination in nationality laws is a critical area of reform needed to achieve gender equality and combat statelessness. One of just a few root causes of statelessness, gender discrimination in nationality laws undermines women's equal status in society and the family and implicitly ascribes women a second-class citizenship status.

Nationality laws that deny women equal rights with men were historically the norm across the globe. In fact, in many instances these discriminatory laws persist today because of the legacy of colonial rule. At independence, many new states modeled their nationality laws on those of the former colonial powers, which at the time denied women equal nationality rights with men in terms of their ability to acquire, change, or retain their nationality and/or to confer their nationality on their children and spouses.

Over the past several decades, most countries across the world have enacted reforms to remove gender-discriminatory provisions from their nationality laws, recognizing that citizens deserve equality before the law and that countries benefit when their citizens' families are included in the fundamental social contract of citizenship. In just the past 15 years, 10 African countries enacted nationality law reforms to advance gender equality: Egypt (2003); Algeria (2004); Morocco (2007); Zimbabwe (2009); Kenya (2010); Tunisia (2010); Senegal (2013); Niger (2014); Madagascar (2017); and Sierra Leone (2017). These reforms enshrined citizens' equal ability to confer nationality on children, with the exception of Niger, which had already enacted such reforms in 1999. In the case of Algeria, Kenya, Niger, Senegal, and Tunisia, these reforms also codified citizens' right to confer nationality on spouses, regardless of the citizen's gender.

When enacting these reforms, policymakers recognized the need for women and men to be treated as equal citizens as a moral and legal imperative. These reforms were understood to be constitutionally required, based on the fundamental rights of non-discrimination and equal protection of the law as enshrined in these countries' constitutions. Governments also recognized their obligation to uphold gender-equal nationality laws, based on their ratification of a number of regional and international legal instruments, including: the African Charter on Human and Peoples' Rights (ACHPR); the Protocol to ACHPR on the Rights of Women in Africa (Maputo Protocol); the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); the Convention on the Rights of the Child (CRC); and the International Covenant on Civil and Political Rights (ICCPR). Importantly, policymakers also recognized the immense harm that discriminatory nationality laws caused to women citizens, their families, and the country as whole.

Prior to reform, citizens' families endured serious hardships and rights violations. Children often lacked equal access to education and healthcare. Affected persons, namely female citizens' children and spouses and women who lost their own nationality due to their marital status, faced obstacles to accessing employment in many sectors. Those who could find employment were often forced into informal labor or exploited by employers. Women were impeded from passing their inheritance and family property on to their children and spouses. In some instances, children were left with no nationality at all—with no ability to thrive in their homeland, and no ability to leave their country in search of a better life elsewhere. Family members struggled to secure residency permits and women lived in fear that their children or spouse would be deported. For many, their status even meant they could not marry or have children. For others, it meant that their children were doomed to a life without legal status. Women were denied equal rights with men to choose a spouse freely, given that men, but not women, could confer citizenship on non-national spouses. Children's right to know and be cared for by both of their parents was also compromised, as foreign fathers who were unable to access citizenship through marriage were barred from formal employment, property rights, and even legal residency. All this suffering because half of the country's citizens—women—were not viewed or treated as *full citizens* under nationality laws.

However, after years of struggle by affected families, civil society, and government leaders, countries across Africa are now benefitting from reforms to uphold gender equality in nationality laws. These reforms have made families more secure and have protected family unity. Further, more children can access university and pursue their professional dreams and no citizen of these countries must choose between a life without children, or watching their child face a life of hardship as a stateless person.

Moreover, the benefits of gender-equal nationality laws extend beyond citizens and their families—they are strengthening these nations as a whole. The reforms are supporting sustainable development by enabling the families of women citizens to contribute to the prosperity of the country. By eliminating gender-discriminatory provisions in the nationality law, these countries have also eradicated a root cause of exclusion and marginalization, thereby enhancing national stability and security. Importantly, these laws are enabling countries to live up to the mandates enshrined in their constitutions and their international treaties to uphold the equal rights of citizens—both women and men—without discrimination.

The impact of these reforms illustrates the many benefits reaped by societies when gender equality is upheld in nationality laws. These examples also demonstrate that such reforms are possible in every country that has the political will.

Today, a number of countries in Africa are advancing similar reforms to expand women's nationality rights, and governments across the region are formally recognizing the importance of ending gender discrimination in nationality laws. At the regional level, the draft Protocol to the African Charter on Human and Peoples' Rights on the Right to a Nationality and the Eradication of Statelessness in Africa—which calls for the elimination of all gender-discriminatory provisions in nationality laws—is expected to be endorsed by the African Union in 2019. This mandate builds on commitments already established through countries' ratification of the ACHPR, the Maputo Protocol, CEDAW, and the CRC—all legal instruments that have been widely ratified across the continent. Support for gender equality in nationality laws was also reflected in Human Rights Council Resolution 32/7, "The Right to a Nationality: Women's Equal Nationality Rights in Law and Practice," which was cosponsored in 2016 by 107 U.N. Member States, including the Group of African States.

At the subregional level, governments across Africa have committed to concrete action needed to eliminate gender discrimination in nationality laws and to combat statelessness more broadly. In West Africa, all members of the Economic Community of West African States (ECOWAS) have signed the Abidjan Declaration of Ministers of ECOWAS Member States on Eradication of Statelessness (2015), which calls for the elimination of gender discriminatory provisions from nationality laws, in line with countries' CEDAW commitment. This commitment was echoed in the Resolution on the Prevention of Statelessness and the Protection of Stateless Persons in the Southern African Development Community (SADC) Region, endorsed at the SADC Parliamentary Forum in 2016, and the Declaration of International Conference on the Great Lakes Region (ICGLR) Member States on the Eradication of Statelessness, endorsed in 2017.

Given the impact of nationality rights on the Sustainable Development Goals (SDGs)—with at least nine out of the 17 goals significantly impeded by gender discrimination in nationality laws—reforms to uphold gender-equal nationality rights are practical and needed actions to include in SDG national action plans, in places where discrimination persists. As illustrated in the pages that follow, when countries ensure gender equality in their nationality laws, their citizens and society as a whole will benefit for generations to come.

This publication provides a brief overview of reforms to uphold gender equality in the nationality laws of Algeria, Botswana, Kenya, and Senegal—all countries where women and men have the equal ability to confer nationality on children and spouses. It also outlines partial reforms enacted in Madagascar and Sierra Leone, where citizens now have the equal right to confer nationality on children but where further reforms are needed to uphold citizens' equal right to confer nationality on spouses. This publication does not provide detailed information on the important movements for gender-equal nationality rights in these countries—movements that advanced women's equal citizenship and the welfare and security of countless affected families. The second half of the publication summarizes the significant benefits to citizens, their families, and society when gender-equal nationality rights are upheld.

Part 1: Country Case Studies

Algeriaⁱ

Following Algeria's independence from France in 1962, the country's Nationality Code was enacted in 1963. Like most former colonies, the law was based on the nationality law of the former colonial power, and therefore retained discrimination that was embedded in the French Nationality Code. Algerian men could confer their nationality on children in all circumstances, and also retained the right to confer nationality on foreign spouses. The law denied women citizens the right to confer nationality by descent, unless their child's father was unknown or stateless. Based on the principle of *jus soli*, or birth in the state territory, children born in Algeria to Algerian mothers and foreign fathers who were themselves born in Algeria acquired nationality at birth. Children born abroad of Algerian women and foreign fathers could apply to acquire nationality before reaching majority, as long as they resided in Algeria and obtained the approval of the Minister of Justice.

In the decades prior to the establishment of equal nationality rights for women and men, activists emphasized the Nationality Law's incompatibility with the constitution, which mandated the equality of all citizens without discrimination on the basis of sex. They also highlighted the serious negative impacts of the law on the families of Algerian women, especially children. In addition to other hardships and rights violations, these children suffered from their inability to access social services, educational opportunities, and employment in a number of sectors, including the civil service, a major sector for employment in the country. Many children who could not access their father's nationality for a variety of reasons were rendered stateless, resulting in even greater violations of their fundamental rights, including freedom of movement.



Algiers, Algeria (cc) inaki do campo gan

Though Algeria became a party to CEDAW in 1996, it entered a reservation to Article 9(2), which calls on all States Party to ensure the equal right of women and men to confer nationality on children. In Algeria's first review by the CEDAW Committee in 1999, the committee recommended that the country reform its nationality law, to bring it in line with the convention. Then, in 2003, a major movement was

launched, named *20 ans barakat* (20 years is enough!), with the goal of bringing the country's laws in line with the constitutional mandate for equality. Realizing equal nationality rights for women was a key component of the campaign.

Through the combination of mounting civil society calls for reform, engagement by international human rights bodies including CEDAW, and the championing of this issue by leaders within government, Algeria's parliament passed a new nationality law, signed by the President in February 2005, that guarantees the equal ability of citizens, regardless of gender, to confer nationality on their children and spouses. Since 2005, Algeria's citizens and the country at large have benefitted from the Nationality Code's embrace of equality and inclusion.



iccj UN Geneva

"Our constitution gives the same rights to women and men. Before reform the Nationality Code was in violation with the constitution.

When the reform was adopted, I met with affected persons, and they told me it has changed their lives. Now they could travel with an Algerian passport, they had the right to scholarship, you don't have to justify why you're living here for residency permits. It was very important to grow up belonging in the country, accessing the same rights. It is not only important for the welfare of the family, but for society. It is important to uphold fairness vis a vis your citizens. We used to think that changes will undermine society. But, these reforms did not make the country weaker, it made us stronger. Children who belong to the country—they serve this country. It is better that they are integrated, that they feel that they belong to this country, that the mother feels the country considers her children as belonging. It creates a more peaceful, stable country.

With all the movement of people today, such reforms are especially positive. It is a positive reform, without a cost. It demonstrates progress on women's rights. It is very important for the people affected, particularly children. It solved the problem for people in need, it gave them hope."ⁱ

—Leila Zerrougui, Former Justice in the Supreme Court of Algeria, former Ministry of Justice legal advisor, and former Special Representative of the Secretary General for Children in Conflict

Botswanaⁱⁱⁱ

At independence, Botswana's constitution recognized all children born in the state territory as citizens, with the exception of those born to fathers who were serving as foreign envoys to Botswana or those born to fathers who were citizens of a country at war with Botswana. Children born abroad to Botswana fathers had the right to acquire citizenship, though the constitution was silent on children born abroad to Botswana mothers. The Constitution also upheld the right of Botswana men to confer nationality on foreign spouses but made no reference to women's rights in this regard.

"Because [the appellant Unity Dow] is married to the alien father her children are not Botswana citizens. On the other hand, if a male citizen marries a non-citizen their progeny will be citizens... It seems to me that the effect of section 4(e) of the Citizenship Act is to hamper unnecessarily free choice, the liberty of the subject to exercise her rights in the way she sees fit, [and] to punish a citizen female for marrying a non-citizen male."^{iv}

—Judgement of Martin Horwitz, Ag. Judge in Unity Dow v. Attorney General

The Citizenship Act of 1982 and the Citizenship Amendment Act of 1984 eliminated women's previous right to confer nationality on their children born inside the country. According to these Acts, Botswana women could only confer nationality on children at birth when the child was born out of wedlock. Children of Botswana women married to foreign men could apply for naturalization upon turning 21, but this was a lengthy process with an uncertain outcome. Children of Botswana men born inside or outside the country were automatically recognized as citizens. These acts also reaffirmed the right of Botswana men to confer nationality on foreign spouses, without providing the same right to Botswana women.

Because of these laws, children born in wedlock of Botswana women and non-national men could remain in the country only if they obtained a residency permit, which was based on the father's permit. This limited women's right to freely travel in and out of the country with their children, and compromised women's ability to freely determine their place of residence. By denying women the equal right to confer nationality on non-national spouses and only permitting women to confer nationality on children born out of wedlock, the Citizenship Act also violated women's right to freely choose a spouse. Women were thus forced to choose: they could marry their foreign partner and have children who would be denied their nationality, or they could have children out of wedlock in order to secure the children's status as citizens. Children and spouses of Botswana women were denied a host of rights and services that were granted to the children and spouses of Botswana men married to foreign women.



Botswana (cc) World Bank Photo Collection

The Act therefore contravened Botswana’s international obligations as a state party to the ACHPR, which requires parties to: protect the family; ensure every individual has equal protection of the law; eliminate discrimination against women; and “protect the rights of the women and child as stipulated in international declarations and conventions.” Accordingly, Botswana was also bound by other commitments: the ICCPR obligation to ensure women and men’s equal rights “as to marriage, during marriage and

at its dissolution;” CEDAW and the CRC’s mandate that women and men have the equal ability to confer nationality on their children; and CEDAW’s obligation that state parties eliminate all discriminatory laws, including those related to nationality and marriage.

Following passage of the 1984 Citizenship Act, a group of Batswana women called *Emang Basadi* (Stand Up, Women) mobilized to fight discrimination against women, particularly in the area of citizenship rights. In 1990, one of the activists, Unity Dow, who was married to a foreign spouse, brought a case against the government challenging the constitutionality of the Botswana Citizenship Act. Dow’s first daughter was born out of wedlock in Botswana and so acquired Batswana nationality by birth. However, Dow’s two other children, born in Botswana following Dow’s marriage to the father of her first child, were denied Batswana nationality.^v

Dow held that, by denying women the ability to confer nationality on an equal basis with men, the Citizenship Act violated her constitutional right to non-discrimination. Though the constitutional article on non-discrimination did not include specific language on non-discrimination on the basis of sex, Dow argued that text on non-discrimination and equality before the law equally applied to women, as reflected in the constitution’s fundamental rights and freedoms.



Unity Dow (cc) kris krüg

Siding with Dow, the Court held that the preamble, which provides all people with fundamental rights and freedoms, should be interpreted to inform the subsequent rights outlined in the constitution. After the ruling, the government filed an appeal, which was heard by the Court of Appeal, the highest court in the country. In its appeal, the government argued:

Discrimination on the grounds of sex must be permitted in Botswana society as the society is patrilineal and therefore male oriented. The appellant accepts that the citizenship act is discriminatory, but this was intentionally made so in order to preserve the male orientation of Botswana society.

In 1992 Court of Appeal rejected the government's attempt to legitimize discrimination against women, finding such discrimination contradicted the constitution and international human rights standards, including the ACHPR, CEDAW, and the CRC.

Based on the Court's decision, the Citizenship Act was amended in 1995 to uphold women's right to confer nationality on their children and non-national spouses on an equal basis with men.

Kenya



At independence, Kenya's constitution (1963) mandated that citizenship be granted to any child born in the state territory, with the common exception of those born of foreign diplomat fathers or fathers who were nationals of a country at war with Kenya. Kenyan fathers automatically conferred citizenship to children born abroad, while Kenyan mothers could only apply for their children born abroad to be naturalized. Additionally, though children born in Kenya were entitled to citizenship per the constitution,

in practice, children born in the country to Kenyan mothers and foreign fathers were often denied citizenship documents by authorities. The constitution granted Kenyan men the ability to confer nationality on foreign spouses, though Kenyan women were denied this same right.

Kenya ratified CEDAW in 1984 and CRC in 1990. Following ratification, the CEDAW and CRC committees repeatedly raised the need for reform to uphold citizens' equal ability to confer nationality, as obligated by both conventions.

In the 1990s there were increasing calls for the review and redrafting of Kenya's constitution, ultimately resulting in the Constitution of Kenya Review Commission Act of 1997. Among the areas highlighted for reform by civil society were discriminatory provisions, including provisions denying Kenyan women equal nationality rights with men.^{vii}

"[Before the new constitution] the chief said he couldn't give [my children] IDs because he said, 'These are not our children, they are foreigners.' That was a problem because there were some things like college where they needed an ID." ^{vii}

—Caroline, a Kenyan mother of three children with a Ghanaian father

After an initial draft constitution failed to pass referendum in 2005, momentum to prepare a new draft increased following an outbreak of ethnic violence around the 2007 election. In

2008, the National Assembly passed the Constitution of Kenya Review Act, and a new draft constitution was prepared by a committee and released for public consultations in 2009.^{viii}

Along with a range of articles that supported gender equality, the draft constitution upheld the equal right of citizens, regardless of gender, to confer nationality on their children and spouses. In order to drive public support for women’s equal citizenship rights, human rights organizations, including the Kenya Human Rights Commission, mobilized to raise public awareness of how such reforms would benefit Kenyan families and society as whole. As part of this effort, civil society groups emphasized the sorrow Kenyan grandparents would feel if they were told their grandchildren did not belong—were not *really* Kenyan—simply because their daughter had children with a foreign man.^{ix}



Busia western Kenya (cc) Living Goods

Following a comprehensive public review process, on August 4, 2010 the people of Kenya endorsed the draft constitution, with 67% of the population voting in support. The new constitution significantly advanced the principles of non-discrimination and gender equality, while giving prominence to international law. According to the constitution, international conventions ratified by Kenya would now have domestic application. In line with Kenya’s CEDAW commitments, Article 14 outlined that all Kenyan citizens, regardless of sex, have the right to confer nationality on children born inside or outside the country. Importantly, this right was established retroactively, so families that had suffered from discrimination under the previous constitution could now avail themselves of the right to citizenship. The constitution also enshrined the equal ability of Kenyan citizens to confer nationality on foreign

spouses after seven years of marriage. A number of other constitutional articles advanced gender equality in a range of spheres, including Article 27(3) enshrining “the right to equal opportunities in political, economic, cultural, and social activities” for Kenyan women and men, and Article 45(3) stating that “Parties to a marriage are entitled to equal rights at the time of the marriage, during the marriage and at the dissolution of the marriage.” The Citizenship and Immigration Act No. 12 of 2011 was subsequently drafted to reflect women and men’s equal right to confer nationality, and to provide greater clarity to authorities charged with ensuring citizens’ access to these rights.^x

Today, Kenyan women and men have the equal right to confer their citizenship on their children and non-national spouses. Still, with some challenges with implementation remaining, further public awareness raising and training for local authorities is needed to ensure that citizens enjoy their nationality rights as guaranteed in the constitution and by the Citizenship and Immigration Act.

Madagascar^{xi}

Madagascar's first Nationality Code was established at independence in 1960. According to the code, children born in marriage to a Madagascan father and children born out of wedlock to a Madagascan mother would acquire nationality automatically. Children born in marriage



Madagascar (cc) Steve Evans

to Madagascan women and non-national men and children born outside of marriage to Madagascan men and non-national women had to apply for nationality—but this rule was subject to wide discretion by local authorities. The same discriminatory structure was applied to adopted children, with those adopted by married Madagascan men automatically acquiring nationality, but the same privilege not applying to those adopted by married Madagascan women. The code also granted Madagascan men, but not women, the right to confer nationality on non-national spouses.

Though the previous Nationality Code stipulated that children born in marriage to Madagascan women and non-national fathers could apply to be naturalized before the age of 21, applicants faced significant barriers. According to the code, the government could oppose nationality applications for a variety of reasons, including perceptions of the applicant's "indignity, default or inadequate assimilation, or serious physical or mental disability." Beyond the law's explicit discrimination against persons with disabilities, this language provided sanction for arbitrary and discriminatory application of the law. Numerous children of Madagascan women were told to provide unnecessary documentation or had applications for national identification rejected because their names sounded "foreign" or because they didn't "look" Madagascan. Demands for bribes also were reported frequently.

As a result, many children of Madagascan women without Madagascan nationality could not benefit from a range of rights and services, including access to education, especially university, health care, work in the formal sector, property rights, and even freedom of movement inside the country. Some children were rendered stateless, as they could not acquire the nationality of their mother or father. Because of the different treatment of children born inside and

“Women’s ability to give life to a child legitimizes her ability to transmit her nationality.”^{xii}

—Irma Naharimamy, Minister of Population, Social Protection and Women’s Empowerment of Madagascar

outside of legal marriage, numerous families faced a situation where some children acquired nationality, being born out of wedlock to Madagascan women, while other children of the same parents could not access nationality because their parents married before their birth. In such cases, some siblings would have the right to acquire an inheritance of family property, while others could not do so because of their lack of legal status.

These discriminatory provisions contravened the 2010 Constitution of Madagascar, Madagascar’s commitments under international law, and even the Nationality Code itself. Article 6 of Madagascar’s 2010 Constitution enshrines citizens’ right to non-discrimination, including on the basis of sex. Madagascar ratified CEDAW in 1989 and the CRC in 1991, both of which require that state parties uphold citizens’ equal ability to confer nationality on their children, regardless of the parent’s gender. Per its CEDAW commitments, Madagascar was also obliged to uphold women and men’s equal ability to acquire, change, and retain nationality, and to confer nationality on non-national spouses. Additionally, Madagascar committed to uphold persons’ right to non-discrimination through its 1992 ratification of the ACHPR, and its 2004 signing of the Maputo Protocol. Furthermore, Article 7 of the 1960 Nationality Code stated that nationality-related text in international treaties ratified by Madagascar must take precedence over any contradicting text in the Nationality Code. Accordingly, if Article 7 had been properly applied, Madagascan women and men should have had the equal right to confer nationality, per Madagascar’s ratification of the above legal instruments. However, the more restrictive Nationality Code provisions were applied by local authorities in practice. This underscores the importance of national legislation being brought into alignment with countries’ international legal commitments and constitutional articles protecting fundamental rights and freedoms.

In the years prior to reform, there had been increasing calls for a gender-equal Nationality Code by leaders within government and civil society who documented the impact of discrimination on affected persons. Women’s rights organizations, led by the national NGO Focus Development Association, began a series of capacity-building activities with government representatives and other civil society groups to heighten awareness of the costs of discrimination in the Nationality Code and the importance of bringing the law into

alignment with the country's commitments under international law. U.N. agencies engaged the government on this issue as well, with the U.N. Refugee Agency (UNHCR) and the Office of the U.N. High Commissioner for Human Rights (OHCHR) highlighting the law's role in perpetuating statelessness and other human rights violations. Government leaders increasingly championed reform and also facilitated exchanges among other government representatives, affected persons, and civil society. In November 2015, Focus Development organized a series of activities in partnership with the international human rights organization Equal Rights Trust, the Global Campaign for Equal Nationality Rights, UNHCR, and OHCHR, including a workshop in which parliamentarians debated reform and heard testimonies from affected persons. These activities resulted in a commitment by the President of the National Assembly to champion reform and a statement of support by numerous parliamentarians.

This wave of political support resulted in the National Assembly and Senate passing an amended Nationality Code in December 2016, a reform that was validated by the Constitutional High Court on January 16, 2017. According to loi n°2016-038 du 25 février 2017, Madagascan women and men now have the equal right to confer nationality on their children, regardless of whether the child is born inside or out of legal marriage. When announcing the reform, the government recognized that the change not only aligned with the constitutional requirement of non-discrimination, but also served as a positive response to international human rights treaty bodies that had long highlighted the need for such reform. Importantly, the reform has retroactive application, meaning that countless families that suffered under the previous law could now benefit from women and men's equal right to confer nationality on their children. By April 2018 —just a little over a year after the reform—1,361 families had already benefitted from the new law, which facilitates these citizens' full participation in society and in the country's development.

The reform also positioned Madagascar as the first country to enact reforms to uphold women and men's equal ability to confer nationality on their children since the launch of the Global Campaign for Equal Nationality Rights and the UNHCR's #IBelong Campaign to End Statelessness, both established in 2014.



Madagascan children (cc) Global Partnership for Education

While an important development for gender equality and ending statelessness, the reform is considered by gender equality and human rights leaders within government and civil society as a first step to removing gender discrimination in the Nationality Code. To fully uphold the principle of non-discrimination enshrined in the constitution and international conventions ratified by Madagascar, further reforms are needed to uphold men and women's equal ability to confer nationality on spouses.

Senegal^{xiii}

Senegal's first Nationality Code (1961), enacted a year after the country's independence, granted men the right to confer nationality on children regardless of their place of birth. Women could only confer nationality on children if the father was stateless or of unknown nationality, or if the child was born out of wedlock and not legally recognized by the father. Children born in Senegal to a parent who was also born in Senegal would



(cc) EU Civil Protection and Humanitarian Aid Operation

“When I was appointed Minister of Justice in 2012, the first injustice I had to repair was to correct the inequality between men and women in terms of access to Senegalese nationality. On the instructions of President Macky Sall, who pledged to advance the rights of Senegalese women, I prepared Law No. 2013-05 of 8 July 2013 amending Law No. 61-10 of March 7, 1961 determining Senegalese nationality, which was passed by the National Assembly. This amendment is in line with Senegal's international commitments resulting from the Convention on the Elimination of All Forms of Discrimination against Women. Henceforth, the transmission of Senegalese nationality through marriage, filiation and adoption is a right for all Senegalese regardless of sex. This has allowed many women compatriots to give their spouses and children the same rights as men [give their children and spouses].”^{xiv}

—*Aminata Touré, former Prime Minister of Senegal and, at the time of the 2013 reforms, Minister of Justice*

acquire nationality. The code enshrined the right of Senegalese men, but not women, to confer nationality on foreign spouses upon marriage.

However, at the start of the 21st century, the government undertook a number of actions that secured Senegal's status as a leader in advancing gender equality. In 2001, a new constitution was endorsed through a public referendum, with 94 percent voting in support. The constitution enshrines equality before the law and non-discrimination in the basis of sex (Articles 1 and 7), protects the right of women and men to equal property within marriage, and prohibits discrimination between women and

men in employment. The constitution also affirms the State’s adherence to international legal instruments ratified by the government, including the ICCPR (1978), CEDAW (1985), CRC (1990), and the ACHPR (1982).

“What really needs to be taken into consideration is what is in concordance with human rights. What will help enhance the culture of equality, equal access to decent life, to nationality, to freedom of movement, etc., etc. ...**You cannot say ‘I am committed to the Universal Declaration of Human Rights’ and then not uphold equal nationality rights.**”^{xv}

—*Soukeyna Diallo, Lawyer, Association of Senegalese Women Lawyers*

Following the establishment of the new constitution, gender equality activists, including the Senegalese Association of Jurists and the Conseil Senegalais des Femmes, began a concerted campaign to achieve a law on gender parity in the National Assembly—an effort that was supported by then President Abdoulaye Wade. After an earlier version of the law was rejected by the opposition in 2007, the law on parity was ultimately adopted in 2010, with the goal of achieving women’s equal representation in all elective and semi-elective bodies from the national to the local levels. According to the law, political party electoral lists are

required to alternate between male and female candidates. This contributed to strong political representation by women in the subsequent election, with women securing 44.6 percent of parliamentary seats in 2012. Passage of the law also reflected a general environment that was supportive of efforts to advance gender equality, a goal backed by the leading coalition in parliament after the 2012 elections.

In concert with the country’s efforts to advance women’s rights, there was growing regional attention to the issue of statelessness and the role that gender discrimination in nationality laws played in perpetuating this serious human rights violation. At a 2011 ministerial meeting convened by UNHCR to commemorate the 60th and 50th anniversaries of the 1951 Convention Relating to the Status of Refugees and the 1961 Convention on the Reduction of Statelessness, respectively, Senegal pledged to enact reforms to uphold gender equality in its Nationality Code. The proposed reforms were recognized as a realization of the Constitution’s mandate of equal protection of citizens and non-discrimination on the basis of sex; they responded to the CEDAW Committee’s recommendations to bring the country into compliance with its CEDAW commitments, per CEDAW Article 9, and they honored the country’s obligations under the Maputo Protocol to eliminate gender-discriminatory laws (Article 2).



Fishing boats in Yoff, Dakar (cc) jbdodane

Following the 2012 election, the Ministry of Justice led efforts to realize the government’s commitment to achieving gender equality in Senegal’s nationality law. It established a task force—comprising representatives from the president’s office and the ministries of justice, interior, and foreign affairs—that drafted a bill to eradicate gender discrimination in the Nationality Code. A consultative process was then initiated, which engaged parliamentarians, civil society, U.N. agencies, and issue experts. Based on these inputs, the bill was revised not only to eradicate gender discrimination, but also to eliminate distinctions in the Nationality Code between children born in or out of wedlock.

On June 28, 2013, the bill was passed unanimously by parliament without debate, and subsequently signed into law by the president on July 8, 2013. As a result, Senegalese women and men have the equal rights to pass nationality to children, regardless of place of birth, and the equal right to pass nationality to foreign spouses after five years of marriage.

The Story of Mrs. Diallo:

Mrs. Diallo is Senegalese and holds a Senegalese passport. She works as an economist within a state structure and previously had her own consultancy. Mme. Diallo lived and studied in Grenoble, France, from 1991 until the mid-2000s. She is the mother of two sons, both of whom were born in France, of a Congolese father to whom she was not married. She is now separated from the father and has no further contact with him. A child born in France to foreign parents does not acquire French nationality unless he or she resides in France until the age of 16. While in theory the children could have travelled to the Democratic Republic of Congo to acquire nationality papers on the basis of their father's nationality, their existing lack of documentation and the insecurity and administrative disarray in that country made this option unviable. Prior to a 2013 amendment to the law, Mme. Diallo's children had no right to Senegalese nationality. Article 5 of the Senegalese nationality code provided that a person was Senegalese if: (1) born in wedlock to a Senegalese father; (2) born in wedlock to a Senegalese mother and a father with no nationality or of unknown nationality; (3) born out of wedlock to a Senegalese person who was the first parent with whom descent was established; or (4) born out of wedlock to a Senegalese person who was the second parent with whom descent was established if the other parent was without nationality or of unknown nationality. Since none of these four situations applied to Mme. Diallo's children, all she could do was declare the births at the Senegalese consulate in France. However, they remained with no recognized nationality. In 2001, Mme. Diallo and her sons travelled to Senegal under her Senegalese passport. The trip was intended to be a short family visit. However, when time came to return to France, her children were denied entry. Consequently, Mme. Diallo was forced to leave her sons in the care of her mother in Senegal while she returned to France to complete her studies. While their French birth certificates permitted her sons to enroll in private schools in Senegal, entry to public examinations was always complicated by their lack of Senegalese documents. Only in 2013, when amendments were made to the Senegalese nationality code to remove gender discrimination were Mme Diallo's sons finally able to acquire Senegalese nationality and cease being stateless.^{xvi}

Testimony provided to Bronwen Manby during an interview with Kavita Brahmhatt, UNHCR, June 2014 and extracted from "Nationality, Migration and Statelessness in West Africa: A study for UNHCR and IOM."

Sierra Leone

When Sierra Leone gained independence from the United Kingdom in 1961, its nationality law was informed by the British Nationality Act of 1948. Persons born in the country after 1961

would acquire citizenship according to the principle of *jus soli*, unless the child's father was a diplomat and mother was not a citizen. Men also had the right to pass citizenship to children born abroad.

"The Secretariat [of the Constitutional Review Committee] ... looked at other provisions for citizenship in other constitutions including Ghana, Kenya, South Africa, and Uganda. It recommends the inclusion of a definition of citizenship within the revised constitution, which should contain no reference to race or gender..."^{xvii}

—*Constitutional Review Committee of Sierra Leone Abridged Draft Report, February 2016*

The Citizenship Act of 1973 resulted in greater discrimination in the nationality law, significantly limiting women's nationality rights and introducing new race-based restrictions on access to citizenship. Under the act, citizenship was only acquired by children of Sierra Leonean men of "negro African descent," defined as "a person whose father and father's father are or were negroes of African origin." Therefore, Sierra Leonean men of African

descent on the paternal side had the right to pass citizenship to their children regardless of the child's place of birth. Sierra Leonean women could only confer citizenship by birth on their children if the child would otherwise be stateless. Under other circumstances, children born inside the country to Sierra Leonean women of African descent and men of another or mixed race could only apply to be naturalized citizens. Such children were not permitted to hold a range of government offices, including at the local level. The act also recognized the right of Sierra Leonean men, but not women, to pass citizenship to their spouse.

Amid growing support for international human rights frameworks in the 1980s and 1990s, Sierra Leone demonstrated its commitment to key human rights principles, including gender equality and children's welfare, by ratifying the ACHPR in 1983, CEDAW in 1988, and the CRC in 1990. These positive trends were derailed tragically in 1991, when the country was overtaken by



(cc) H6 Partners

“What we did in 2017 in the Citizenship Amendment Act was to ensure that women can directly confer citizenship to their children. It’s very plain, it’s very simple, and it’s very straightforward. We did this in addition to ratifying and domesticating the statelessness convention. We now have a civil registration process where everyone should now have a national identity card...Before [the citizenship law was reformed] only a father could confer citizenship to a child [born abroad], so this amendment also protects children. It’s horrifying to imagine that a simple legislation like that – or the lack of a simple legislation – can cause so much pain. These are things we can’t imagine before hearing about them. Before the reform in Sierra Leone children [of Sierra Leonean women] would not have been protected.”^{xx}

—*Honorable Issata Kabia, Minister of Social Welfare Gender and Children’s Affairs at the U.N. Commission on the Status of Women, New York, March 14, 2018*

civil war. The civil war persisted over the next decade, costing hundreds of thousands of lives and causing high levels of displacement.

When peace was finally achieved, one of the recommendations of the Truth and Reconciliation Commission, formed in 2002, was to establish a new constitution to expand democratic principles, including non-discrimination, and to lay a strong foundation for a peaceful society. This followed on the establishment in 2000 of a national policy on the advancement of women and a national policy on gender mainstreaming.^{xix}

In line with this effort, the Citizenship Act was reformed in 2006 to uphold the right of Sierra Leonean women to confer nationality by birth to children born in the country. The act also included a provision permitting dual citizenship. Though a positive step forward, the law still denied women the same right as men to confer nationality on children born abroad and on adopted children.

Over the next decade, there was increasing attention at the regional and international levels to the plight of stateless persons, a population that historically had been forgotten. The UNHCR, which was mandated by U.N. member states to prevent and reduce statelessness, began a series of meetings with stakeholders in West Africa to heighten awareness of the root causes of statelessness and the costs to individuals and society. As part of this process, Sierra Leonean government and civil society representatives and U.N. statelessness experts convened in November 2013 to analyze gaps in national legislation and determine next steps to combat statelessness. As a result of this meeting and subsequent discussions, nationality law provisions that discriminated against women were identified as needing reform. Calls for reform were echoed by the CEDAW Committee in Sierra Leone’s 2014 review, where eliminating gender discrimination in the nationality law was raised by the committee as a priority reform needed to comply with the convention.

The following year, with a heightened understanding of the costs of statelessness, ECOWAS member states formally recognized their shared commitment to combat statelessness in the groundbreaking Abidjan Declaration of ECOWAS Ministers on the eradication of statelessness in West Africa. Signed by all ECOWAS member states, the declaration outlines commitments necessary to resolve root causes of statelessness, including the establishment of government statelessness focal points and the development of national action plans. Recognizing gender discrimination in nationality laws as a root cause of statelessness, the declaration includes a commitment by member states to uphold gender equality in nationality laws, in line with member states' CEDAW commitments. At the ECOWAS ministerial signing ceremony, Sierra Leone's Deputy Minister of Internal Affairs Sheka Tarawalie announced the government's commitment to address gender inequality in the nationality law.



(cc) Direct Relief

That same year, Sierra Leone ratified the Maputo Protocol, as a further expression of the government's commitment to upholding gender equality in law and practice. In 2016, Sierra Leone ratified the Convention Relating to the Status of Stateless Person—a step outlined in the Abidjan Declaration.

In June 2017, government and civil society stakeholders convened with UNHCR experts to develop a national action plan.

The participants—including a strong group of parliamentarians—agreed to take quick action to amend provisions that denied women the right to confer nationality on children born abroad on an equal basis with men. Within a few weeks of this meeting, on July 5, 2017, the Parliament of Sierra Leone enacted The Citizenship Amendment Act 2017, which enshrined the equal ability of all citizens, women and men, to confer nationality on their children, regardless of the child's place of birth.

Part 2: The Benefits of Reforms Advancing Gender-Equal Nationality Rights

Family Life and Family Unity

Reforms enshrining the equal ability of citizens—men and women—to confer nationality on their children have resulted in significant benefits for family unity and citizens’ right to family life.

Prior to reform, women struggled to secure residency permits for their own children, including those born and raised in the mother’s country. In addition to the financial burden of obtaining residency permits, families often lived in fear of deportation. Women and their children were especially vulnerable in instances of divorce or following the death of the father. In such circumstances, if the family lived abroad, it could be challenging for the mother to return to her home country with a child who did not hold her nationality.

“This fight is not a fight to help others, but a fight for ourselves—for our own integrity, our own dignity, and indeed our humanity. ... Issues relating to statelessness and gender inequality are certainly going to be addressed.”^{xxii}

—*Sierra Leone’s Deputy Minister of Internal Affairs Sheka Tarawalie on the country’s anticipated nationality reforms at the Meeting of ECOWAS Ministers of Internal Affairs on Stateless Persons, Abidjan, February 25, 2015*

Many children who lacked the legal right to their mother's nationality and who could not acquire their father's nationality for a variety of reasons were rendered stateless. Such children had no ability to travel abroad, and were therefore unable to visit family living outside their nation of birth. Though some stateless daughters were able to access nationality through marriage, this was not the case for sons, given women's inability to confer nationality on spouses prior to reform. ^{xxiii}

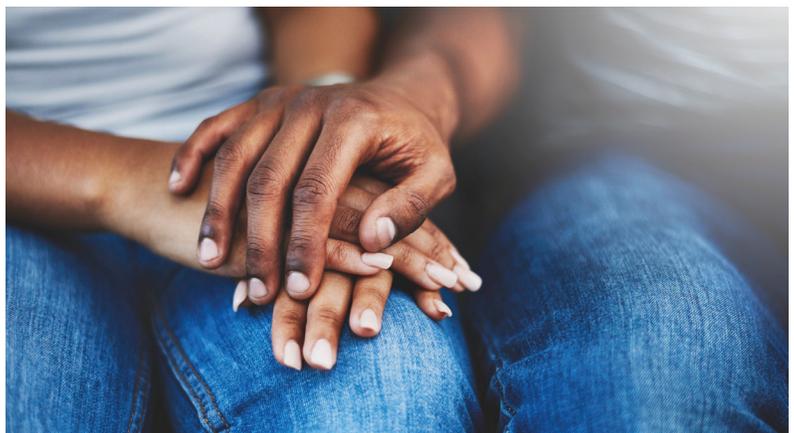
Before the reform in Madagascar, Yunis and his siblings struggled for years to get Madagascan nationality, but he was repeatedly rejected and the authorities told him he was not a citizen because of his name:

"I tell them my mother is a citizen but they refuse to believe me. Being questioned by the authorities made me sad because we feel like we are Madagascan. When I came to apply for the ID card and they kept questioning whether I was really Madagascan, that made me really sad and ashamed."

The inability of women's children to secure citizenship often had a tragic effect on the adult child's ability to marry and form a family. Many affected persons reported they could not marry because they lacked the proper documentation for a marriage certificate, and because their lack of citizenship resulted in unemployment, which prevented them from providing for a family. Those without identity or marriage certificates faced further obstacles when attempting to register the birth of their child, and often passed their stateless status to their children and their children's children. Knowing that any future children would face a life of statelessness and hardship, some affected persons denied themselves the family they

desired. The economic burden experienced by those lacking citizenship not only hindered their ability to raise a family, but also made it difficult to care for elderly parents.

Where women could only confer nationality on children born out of wedlock, there was an incentive for women to have children out of wedlock or claim to be single in order to access nationality for their children, even when the parents were a committed couple.



Before the reform in Madagascar, Monana spoke about how it felt to pretend to be single in order to ensure her daughter could access nationality:

“It makes me very sad to have to claim that I am single even though my daughter does have her father. It is a shame that I have to pretend that she doesn’t have a father.”^{xxiv}

Women’s inability to confer nationality on spouses on an equal basis with men infringed on their ability to freely choose a spouse, resulting in threatened family unity and other hardships. Without citizenship, some foreign spouses felt compelled to seek work abroad due to their inability to access formal employment or even residency permits, resulting in children being separated from their parents. In some instances, women were forced to be the sole breadwinner for the family.

When all citizens, regardless of gender, have the equal right to confer nationality, citizens’ families no longer live in fear of deportation, and can enjoy the social, psychological, and economic benefits of citizenship. Children of women citizens and non-national fathers can plan a future, a life, and a family, without fearing that marriage is not possible, or that their children will also be excluded from citizenship. By strengthening family life and family unity, reforms enshrining equal nationality rights for women and men strengthen society as a whole.



“This fight is not a fight to help others, but a fight for ourselves—for our own integrity, our own dignity, and indeed our humanity. ... Issues relating to statelessness and gender inequality are certainly going to be addressed.”^{xxii}

—Sierra Leone’s Deputy Minister of Internal Affairs Sheka Tarawalie on the country’s anticipated nationality reforms at the Meeting of ECOWAS Ministers of Internal Affairs on Stateless Persons, Abidjan, February 25, 2015

Education

“[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. 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.” ^{xxv}

—*Francine, born in Kenya to a Kenyan woman and a Ghanaian father*

Regional reforms enshrining the equal ability of women and men to confer nationality on their children has resulted in greater access to education, benefitting children throughout their lives and enabling them to better contribute to their societies.

Prior to the reform of nationality laws, children of women citizens and foreign fathers could not access university scholarships reserved for citizens and could even be denied access to free public education or the ability to attend university. For many, despite notable academic achievements, this meant they could not fulfill dreams of becoming a doctor, scientist, or a professional in numerous other fields requiring a degree.

Now, these children can benefit from all of the educational opportunities available to citizens, allowing them to more fully contribute to their societies as adults and to realize their dreams.



(cc) Sports Friends Kenya

Health Care

Ensuring women’s equal ability to confer nationality has had significant implications for their families’ access to health care. Prior to reforms, the children of women citizens with foreign fathers could not access health services reserved for citizens. Because of women’s inability to confer nationality, families faced an increased financial burden to pay for health care. For the most disadvantaged families, this could mean going without needed medicines and procedures due to the prohibitively expensive cost of private health care. As a result of their vulnerable status and the associated hardships, many affected persons suffered from psychological distress, anxiety, and depression.

Upholding women and men’s equal right to confer nationality not only advances the health of their families, but also supports the health of the nation by enabling access to preventive care and the treatment of communicable diseases.



(cc) IHH Humanitarian Relief Foundation



(cc) Mercy Ships

Employment and Economic Opportunity

Reforms advancing gender-equal nationality rights have had a dramatic impact on the ability of the children of women citizens and non-national fathers, and the naturalized spouses of women citizens, to secure employment and financial security.

Without citizenship, affected persons historically were incapable of obtaining employment in a number of sectors, including in the civil service, one of the largest sectors for employment in many countries, and in professions requiring membership in professional syndicates reserved for citizens. Because of their vulnerable status, when affected persons could get work, it was not uncommon for them to be underpaid and exploited by employers. As previously described, the lack of educational opportunities for those without citizenship meant that many who excelled academically were incapable of pursuing their professional dreams.

With children treated as foreigners in their homeland, and the foreign spouses of women denied access to citizenship through marriage, families faced an increased financial burden due to employment barriers and lack of access to social services. Affected persons were often unable to hold a bank account or obtain a loan, and restrictions on land ownership by foreigners meant that children could even be denied an inheritance of family land and other property. Due to their vulnerable status, it was not uncommon for affected persons to be forced to pay bribes simply to access the rights and services automatically granted to citizens. This practice not only caused financial hardships for the individual, but also contributed to corruption.

Today, as a result of reforms guaranteeing the right of all citizens to confer nationality on their children, children and non-national spouses of women citizens have the opportunity to pursue their profession of choice, execute financial and legal contracts, and benefit from the inheritance of family property. Moreover, it is not only the families of women citizens that are benefitting. The children and naturalized spouses of women citizens are now able to contribute more fully to the development of their nations by strengthening their countries' economies and enhancing their stability.

"I was born to a Lebanese father and an Algerian mother. My mother died while I was still a baby and my custody was entrusted to my maternal grandmother, so I grew up in Algeria without my biological parents, but surrounded by my grandparents, aunts, and cousins. I did not realize that under the law, my family was Algerian but not me. My status as a foreigner was only revealed to me after my baccalaureate when I wanted to enroll in the university. I was told I had to provide a certificate of residence, which is required of foreigners residing in Algeria, in order to register. The procedure was quite normal for foreigners but it made me feel terrible.

Although the authorities provided me with the necessary documents to enroll in the university, it was very hard for me to accept this reality. I was only able to study with the support of my grandparents, because, as a foreigner, I was not entitled to a scholarship. I could not travel and I lived with the constant fear of not being able to find work when I finished my studies.

This was my state of mind when the reform of the nationality code came about—a reform that totally transformed my life. As soon as the law was adopted and promulgated in the official newspaper, I was Algerian. I did not have to go to the police station to renew my residence certificate. My worries faded and I could think about my future with serenity. I remember that the first thing I did was apply for my passport.

When I graduated, I was able to apply for different administrative posts and I ended up being a civil servant, which obviously would have been impossible without the reform. The fact that I had papers and employment allowed me to go to Lebanon and get back in touch with my father and my family from my father's side. The paradox is: I was able to have the nationality of my mother and this has transformed my life. But, since I am also Lebanese, I would like to pass this part of my identity to my daughters. However, this is not yet possible because women can not pass on their Lebanese nationality to their children."^{xxvi}

—Testimony of the daughter of an Algerian woman and Lebanese man, who now holds Algerian nationality

Identity and Social Inclusion

Prior to reforms, families consistently expressed feelings of exclusion and psychological distress caused by children's inability to acquire their mother's nationality. Treated as foreigners in their homeland, affected children often felt hopeless, with no chance of bettering their lives in the future. Mothers suffered from feelings of guilt, shame, and depression because of their inability to confer this status, which was so critical to their children's well-being.

Born to an Algerian mother and Congolese father, the world-renowned football goalie Rais M'Bohi could only represent his country, Algeria, because of reforms upholding his right to citizenship through his mother.

Today, the children of women citizens are treated as full members of the national family, which in turn benefits from their contributions as citizens. Whereas, prior to reforms, affected persons lacked identity and civil documents, and thus were often forced to turn to the informal sector, they now contribute to the formal economy and participate in civil registration systems, enhancing national stability and sustainable development.



(cc) Sports Friends Kenya

"How would you feel as a grandfather if your grandchildren did not share your nationality simply because your daughter married a non-Kenyan? When the issue became that real and many people could connect with the fact that, yes, in all our families, increasingly, there are inter-country marriages—it is not a distant notion, it does happen and it can happen to your family."^{xxvii}

—*Patricia Nyaundi, Commission Secretary, Kenya National Commission on Human Rights*

"A child has the right to belong to a country. Citizenship is...a continuous state of allegiance and a source of duty as well as of rights whereby individuals belong to an organized political community."^{xxviii}

—*Nadia Ait Zai, Founder, Centre d'Information en de Documentation sur les Droits de l'Enfants et de la Femme*

National Stability and Development

At least nine of the 17 SDGs cannot be achieved in the absence of equal nationality rights for women and men. In addition to perpetuating inequality, gender discrimination in nationality laws prevents all members of society from fully contributing to a country's development.

"[Before the reform], Senegalese women married to non-Senegalese couldn't automatically pass to kids. Those children were lost kids for Senegal. Senegal was losing its youth. The idea of nationality is at the root of the sense of belonging—to a place, to a country. If you want to build a nation, if you want to enhance the strength of your country, the sense of belonging, of nationality for the children of all citizens is vital. It is critical that women have the equal right with men to pass nationality to their children and spouses to ensure that sense of belonging. Denying women equal nationality rights—equal citizenship—undermines the strength and the identity of the nation."^{xxx}

- *Soukeyna Diallo, Lawyer, Association of Senegalese Women Lawyers*

"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."^{xxix}

- *Kofi Annan, former United Nations Secretary General*

SDGs 5 (Gender Equality), 10 (Reduced Inequalities) and 16 (Peace, Justice, and Strong Institutions) recognize that sustainable development cannot be achieved without eliminating gender discrimination and other structural problems. These SDGs cannot be achieved without reforms to realize gender-equal nationality rights.

SDGs 1 (No poverty), 2 (Zero Hunger), 3 (Good Health and Well-being), 4 (Quality Education), 8 (Decent Work and Economic Growth), and 11 (Sustainable Cities and Communities) are undermined as long as gender discrimination continues to deny some citizens the right to acquire, retain, change, or confer their nationality. These goals cannot be achieved without the full participation of every member of society. Children who cannot acquire their mother's nationality, and men who cannot acquire their spouse's nationality are excluded from an abundance of opportunities in work, education, housing, and access to health care, with the emotional weight of those struggles having further detrimental effects on their health and well-being.

“The establishment of an inclusive, non-discriminatory and human rights-based law contributes, inter alia, to the implementation of the SDGs, to the country’s development by maximizing the use of available human resources, and to building a sustainable future in the world, in which all citizens, women and men, fully enjoy their rights.”

—Marie Francine Kidja, Director General of Women’s Empowerment, Ministry of Population, Social Protection and Women’s Empowerment of Madagascar, at the Meeting on Achieving Gender Equality in Nationality Laws and Practices in the SADC Region, December 1, 2018

Reforms that advanced gender-equal nationality laws in the African region are now fostering greater national stability, economic development, and prosperity by allowing more people to contribute to their country’s economy and development.

SUSTAINABLE DEVELOPMENT GOALS



Equal Nationality Rights for Equal Citizens—Women and Men

“The time that women were treated as chattels or were there to obey the whims and wishes of males is long past and it would be offensive to modern thinking and the spirit of the constitution to find that the constitution was framed deliberately to permit discrimination on the grounds of sex.”^{xxx}

—*Judge President P. Amisah, High Court of Botswana, in judgement in Unity Dow v. Attorney General, 11 June 1991*

“It is time to proclaim that the nationality rights of roughly half of humanity—women—is a human right. Whether it is nationality as a place of legal belonging to a particular nation or as a more complex concept emphasizing culture, ethnicity, religion, or sociology, women’s nationality rights must be recognized, protected, defended, and transmitted without any discrimination.”^{xxxii}

—*Patricia Lake Diop, Association of Senegalese Women Lawyers*

Reflecting biases and gender stereotypes that were ubiquitous during the colonial period, gender discrimination in nationality laws is rooted in an understanding of women’s citizenship status as inferior and women’s legal identity as derivative, such that it is based on the nationality of the father or spouse. In addition to the harm caused to affected families, these laws in fact violate the rights of all women citizens. In practice, these laws deny women the equal right to choose their spouse due to the greater hardships faced by couples with non-national husbands. They also undermine women’s equal status in the family, by implicitly endorsing male identity as the primary determinate of a family’s identity and access to rights.



Sierra Leone Partner Visit (cc) Direct Relief

Gender-equal nationality laws are critical to the establishment of women's equal status under the law and the realization of women's human rights. Reforms advancing women's nationality rights have strongly illustrated countries' commitments to gender equality and the empowerment of women.

"Law 61-10 of 7 March 1961 [the previous Nationality Code] determining Senegalese nationality introduced discrimination that was not seriously justified. It confined the Senegalese woman to the rank of second-class citizen ... such a situation was untenable." xxxiii

—*Aminata Touré, former Prime Minister of Senegal and, at the time of the 2013 reforms, Minister of Justice*

International Commitments

The right to nationality and to non-discrimination on the basis of sex are rights enshrined in several core international human rights conventions, including the ACHPR and the Maputo Protocol, ICCPR, CEDAW, and CRC, as well as the Universal Declaration of Human Rights. CEDAW’s Article 9 is devoted to the establishment of gender-equal nationality rights, while the CRC establishes the child’s right to acquire a nationality, and for the rights enshrined in the convention to be implemented without discrimination based on the sex of the child’s parent.

When Algeria, Botswana, Kenya, Madagascar, Senegal, and Sierra Leone enacted reforms advancing gender-equal nationality rights, all recognized that such reforms were a positive step towards realizing each country’s sovereign commitment to uphold these international conventions—a fact illustrated in their engagement with each treaty body.

“Citizenship or the possession of national documentation is often the link that connects a person to the rights on the land on which they live and recognition of their personhood. For women, access to these rights becomes even more tenuous as it is affected by the non-recognition of their equal status with men in marriage, custom, tedious administrative processes, and patriarchy itself. For this reason, compliance with the equality and non-discrimination standards as espoused by the Convention on the Elimination of all forms of Discrimination against Women is critical, and states’ reform of laws and policy to align them with Article 9 of the convention [gender equality in nationality laws] is indispensable to women’s equality and full enjoyment of rights.”^{xxxiv}

—*Hilary Gbedemah, Member, Committee on the Elimination of All Forms of Discrimination Against Women*

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

Article 2: Elimination of Discrimination Against Women

1. 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;...

"In my view, there is clear obligation on this country like on all other African States signatories to the [African] Charter [on Human and Peoples Rights] to ensure the elimination of every discrimination against their women folk."^{xxxv}

—*Judge President P. Amissah of the Botswana Court of Appeal, decision in Attorney General v. Dow, 1992*

"The Committee recommends that States parties that have not already done so... review and reform their nationality laws to ensure equality of women and men with regard to the acquisition, changing and retention of nationality and to enable women to transmit their nationality to their children and to their foreign spouses and to ensure that any obstacles to practical implementation of such laws are removed, in full compliance with articles 1 to 3 and 9 of the convention."

—*Committee on the Elimination of Discrimination against Women, General recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality, and statelessness of women*

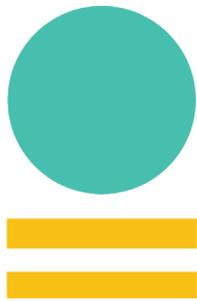
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The Global Campaign for Equal Nationality Rights mobilizes international action to achieve reform of nationality laws that discriminate on the basis of gender, so that men and women have equal nationality rights. The Campaign executes its mission through its coalition of national, regional and international organizations, activists, and UN partners, including Steering Committee Members Equal Rights Trust, Equality Now, Institute on Statelessness and Inclusion, Office of the United Nations High Commissioner for Refugees, Women’s Learning Partnership, and Women’s Refugee Commission.



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