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Proposed Select Draft Articles on Nationality Rights to Ensure Gender Equality



A just world for all women and girls





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About Equality Now

Equality Now is an international human rights organization founded in 1992 to protect and advance the rights of all women and girls around the world. Its campaigns focus on four programmatic areas: achieving legal equality, ending sexual violence, ending harmful practices, and ending sexual exploitation, with a cross-cutting focus on the unique needs of adolescent girls and other vulnerable groups.

Equality Now is a global organization with partners all around the world. You'll find our 80+ team across the world in places such as Beirut, Johannesburg, London, Geneva, San José, New York, Nairobi, Tbilisi, and Washington DC, among many others.



About the Global Campaign for Equal Nationality Rights

The **Global Campaign for Equal Nationality Rights (GCENR)** mobilizes action to end gender discrimination in nationality laws (GDNL) so that citizens have the equal right to confer nationality and to acquire, change and retain their nationality. Housed at Women's Refugee Commission, GCENR executes its mission through its coalition of national and international organizations and independent activists in over twenty countries and partner UN agencies. GCENR Steering Committee members include Equality Now, Family Frontiers, Institute on Statelessness and Inclusion, Nationality For All, the UN Refugee Agency, Women's Learning Partnership, and Women's Refugee Commission.



Introduction

In 2022, Equality Now launched *The State We're In: Ending Sexism in Nationality Laws 2022 Edition - Updated for a Disrupted World*. The report and accompanying Annex highlight the close to 50 countries around the world that still have gender-discriminatory nationality laws, almost always discriminating against women in how they acquire, change, retain, or confer their nationality¹ to their children and/or spouses.

International human rights law, as noted in *The State We're In*, requires governments to protect and promote equality on the basis of sex, and whether they adhere to a *jus soli* (nationality by birth in a State) and/or a *jus sanguinis* (nationality by descent) system, they must revise any gender discriminatory nationality provisions so that:

- ◆ any citizen can confer nationality, on an equal basis without gender discrimination, on their child wherever born, whether born in or out of marriage, and whether the child is biological, adopted or in instances of naturalisation;
- ◆ any person can equally confer citizenship on their spouses without discrimination on the basis of sex, whether married at home or abroad;
- ◆ no one automatically loses their new nationality on termination of their marriage;
- ◆ women do not automatically lose or acquire nationality upon marriage to a foreign spouse without their active consent;
- ◆ a change in a parent's or spouse's nationality does not mean loss of nationality of their children or spouse; and
- ◆ all related laws and regulations are consistent, ensuring that all men and women are treated equally and that these provisions are clear to both those seeking to benefit from them and those responsible for implementing them.

¹ In international law, “nationality” and “citizenship” are synonymous and are used interchangeably. This toolkit will primarily use “nationality”.

Comprehensive review

States should review all constitutional provisions, nationality/citizenship and immigration laws, associated regulations, policies, and processes to ensure the ability of women to pass their nationality to their children and spouses on an equal basis with men.

Comprehensive equality in all circumstances

It is insufficient for women to merely have the right to confer nationality if it is not on an equal basis with men and only under certain circumstances, e.g, if their children must apply for nationality versus men being able to confer nationality on their children from birth automatically. In addition, any discrimination relating to race, ethnicity, religion, disability, or any other socio-economic status must be removed.

Equal nationality rights in countries with bans on dual nationality

Although States might retain bans on dual nationality, they must still uphold their legal obligation to nondiscrimination on the basis of sex. For example, States with bans on dual nationality may require children of binational parents to decide at the age of majority which parent's nationality to retain, while upholding the equal right of all citizens, women and men, to confer nationality on their child at birth and in cases of adoption or naturalization.

Spousal conferral & access to rights and services

States should establish a **streamlined process** for the conferral of nationality to non-citizen spouses of citizens without discrimination on the basis of sex, including the provision of temporary residence permits, healthcare, employment eligibility, and other rights during the process.

Ensuring harmony with other laws & policies

States should consider including a **“repeal and savings” clause** to repeal provisions inconsistent with the reformed, egalitarian law to create legal consistency and ensure that non-discriminatory laws prevail. Such a clause also safeguards existing rights of persons and obligations of the State prior to the enactment of the law.

Retroactivity is critical to equality

States should include a **“retroactive” clause** to ensure that the amended law will apply retroactively, as when there is no retroactivity provided for, some siblings may obtain citizenship while older siblings are denied it because of when they were born. Human rights abuses will persist for many families without retroactivity and leave some women as second-class citizens in terms of their inability to ever confer nationality on children born prior to the reform of the law.

Obligation to prevent statelessness

States must also ensure that nationality laws include and uphold gender equal provisions to **prevent statelessness**, as everyone has a right to a nationality.

A row of many national flags on tall poles against a clear blue sky. The flags are of various colors and designs, including the United States flag, the Swiss flag, and the German flag. The poles are arranged in a line that recedes into the distance.

Objective

The objective of these proposed select Draft Articles is to assist States in amending or enacting laws regarding the acquisition, retention, conferral, or change of one's nationality so that they are gender equal, whether the State follows *jus soli* or *jus sanguinis* principles, or a combination thereof. In many cases, States may easily amend their laws, for example by replacing "father" with "parent", in the conferral of nationality. The use of gender-neutral language underscores that nationality rights are held on the basis of one's status as a citizen, not one's sex or gender.

To further aid States in reforming their laws, below are proposed articles on the right to nationality, a term commonly used interchangeably with citizenship, which can be adapted to best uphold equality within the national context. They are intended to act as a guide for the revision of substantive constitutional provisions, laws, policies and regulations pertaining to nationality, based on international human rights law and principles of sex and gender equality and best practice. These have been developed in consultation with the UN Refugee agency (UNHCR) and UN Women.

Legal reforms should be achieved in a collaborative manner with other States and civil society, in particular with impacted persons and impacted person-led groups, in order to create a cohesive set of nationality laws and regulations that promote and ensure equality.



Background - International law and standards

- ◆ Noting that Article 15 of the Universal Declaration of Human Rights states that:

“Everyone has the right to a nationality. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.”

- ◆ Acknowledging that Article 3 of the International Covenant on Civil and Political Rights requires equality and non-discrimination on the basis of sex and Article 24 prescribes that:

“Every child has the right to acquire a nationality.”

- ◆ Recognising that Article 2 of the Convention on the Rights of the Child requires non-discrimination “irrespective of the child’s, or his parent’s or legal guardian’s ... sex, ..., birth or other status” and Article 7 of the Convention on the Rights of the Child states that:

“The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality... States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.”

- ◆ Recognising also that Article 9 of the Convention on the Elimination of All Forms of Discrimination against Women states that:

“1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

2. States Parties shall grant women equal rights with men with respect to the nationality of their children.”

- ◆ Bearing in mind that the Committee on the Elimination of Discrimination against Women’s General Recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women states that:

“Article 9 of the Convention establishes that women enjoy the rights to acquire, change or retain their nationality and to confer their nationality on their children on an equal basis with men. The Committee has interpreted that this right also applies to spouses.”

- ◆ Considering that Article 1 of the Convention on the Nationality of Married Women highlights that:

“Each contracting State agrees that neither the celebration nor the dissolution of a marriage between one of its nationals and an alien, nor the change of nationality by the husband during marriage, shall automatically affect the nationality of the wife.”

- ◆ Noting that Article 5 of the Convention on the Elimination of All Forms of Racial Discrimination states that:

“In compliance with the fundamental obligations laid down in article 2 of this Convention, State Parties undertake to prohibit and eliminate racial discrimination in all its forms and to guarantee the right to everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: (d)(iii) The right to nationality.”

- ◆ Noting that Articles 1, 2 and 4 of the Convention on the Reduction of Statelessness state:

“A Contracting State shall grant its nationality to a person born in its territory who would otherwise be stateless.... A foundling found in the territory of a Contracting State shall, in the absence of proof to the contrary, be considered to have been born within that territory of parents possessing the nationality of that State.... A Contracting State shall grant its nationality to a person, not born in the territory of a Contracting State, who would otherwise be stateless, of the nationality of one of his parents at the time of the person’s birth was that of the State....”

- ◆ Considering Human Rights Council Resolution 32/7 of 2016 on The Right to a Nationality: Women’s Equal Nationality Rights in Law and Practice, which:

“Calls upon all States to adopt and implement nationality legislation consistent with their obligations under international law, including with respect to the elimination of all forms of discrimination against women and girls in nationality-related matters, and with a view to preventing and reducing statelessness;...

Urges States to take immediate steps to reform nationality laws that discriminate against women by granting equal rights to men and women to confer nationality on their children and spouses and regarding the acquisition, change or retention of their nationality”

- ◆ Considering also Human Rights Council Resolution 53/16 of 2023 on The Right to a Nationality: Equality in Nationality Rights in Law and in Practice, which:

“Reaffirms that the right to a nationality is a universal human right enshrined in the Universal Declaration of Human Rights, and that everyone has the right to a nationality, without distinction of any kind; ...

Urges all States to refrain from enacting or maintaining discriminatory nationality legislation, policies and practices, in a manner consistent with their respective obligations under international law, with a view to avoiding statelessness and loss of nationality, preventing vulnerability to human rights violations and abuses, decreasing the risk of exploitation and abuse, and eliminating discrimination against all women and girls in the acquisition, change, retention or conferral of nationality;

Urges States to take immediate steps to reform nationality laws that discriminate against women regarding the acquisition, change or retention of their nationality and the conferral of nationality on their children and spouses; ...

Urges States to refrain from gender-based discrimination in access to documents used to prove nationality, in particular passports, identity documents and birth certificates, and, where relevant, marriage certificates.”

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- ◆ Bearing in mind the adopted, but not yet in force as of July 2025, Protocol to the African Charter on Human and Peoples' Rights Relating to the Specific Aspects of the Right to a Nationality and the Eradication of Statelessness in Africa:

"A State Party shall grant women and men equal rights to acquire, transmit, change or retain their nationality, and with respect to the nationality of their children in accordance with national law.

A State Party shall provide in law that:

- a. Marriage or the dissolution of a marriage between a national and a non-national shall not automatically change the nationality of either spouse nor affect the capacity of the national to transmit his or her nationality to his or her children.*
- b. The change of nationality of one spouse during marriage shall not automatically affect the nationality of the other spouse or of the children."*

- ◆ Recalling also that Article 6 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) states that:

"(g) a woman shall have the right to retain her nationality or to acquire the nationality of her husband"

- ◆ Noting Article 1 of the American Convention on Human Rights guarantees non-discrimination on the basis of sex and Article 20 states that:

- 1. Every person has the right to a nationality.*
- 2. Every person has the right to the nationality of the state in whose territory he was born if he does not have the right to any other nationality.*
- 3. No one shall be arbitrarily deprived of his nationality or of the right to change it.*

- ◆ Noting the League of Arab States Declaration on Belonging and Legal Identity, which:

"Call[s] upon Member States to end all forms of discrimination in the field of nationality and take concrete steps to amend laws and legislation at the national level related to equal nationality rights with the aim to reduce statelessness and protect the right of children to obtain a legal identity, including by strengthening laws that enable women to confer their nationality to their children and spouses in a way that conforms with international standards and does not contradict with national interests."

- ◆ Noting Article 5 of the European Convention on Nationality states that:

- 1. The rules of a State Party on nationality shall not contain distinctions or include any practice which amounts to discrimination on the grounds of sex, religion, race, colour or national or ethnic origin.*
- 2. Each State Party shall be guided by the principle of non-discrimination between its nationals, whether they are nationals by birth or have acquired its nationality subsequently.*

- ◆ Considering that the 2030 Agenda for Sustainable Development (the SDGs), calls for States to:

"end all forms of discrimination against women and girls everywhere" (SDG 5.1); and "ensure equal opportunity and reduce inequalities of outcome by ... eliminating discriminatory laws" (SDG 10.3); and "By 2030, provide legal identity for all, including birth registration" (SDG 16.9); and that the Pact for the Future adopted by States in 2024 calls on States to "Urgently remove all legal barriers ... to achieve gender equality" (Action 8);

Therefore, we guarantee equality and non-discrimination at the national level in the acquisition, change, retention, and conferral of nationality rights.

This section provides basic definitions for terms and words used throughout the proposed select Draft Articles. States should use this section based on their particular needs and legislative styles. Nationality and citizenship are used interchangeably in law; the Draft Articles below will primarily use “nationality”.

Definitions

- a. “Child” means every person below the age of eighteen years and includes biological and adopted children, as well as children born through Assisted Reproductive Technologies (ART).
- b. “Citizen” or “National” refers to a citizen or national of [name of State].
- c. “Citizenship” or “Nationality” refers to the legal relationship between a person and [name of State].
- d. “Foundling” abandoned/found children of unknown parentage.
- e. “Non-citizen” or “non-national” includes any person not a citizen or national, i.e, a “foreign”, stateless or “alien” person, of [name of State].
- f. “Spouse” includes a partner in a marriage or equivalent union, regardless of sex or gender.
- g. “Transfer”, “confer” or “transmit” nationality shall mean the same passing or conveying of nationality, e.g., from parent to child or between spouses.

Article on the guarantee of equality and non-discrimination

- a. The acquisition, change, retention, conferral, loss and reacquisition of nationality shall be governed by principles of equality and non-discrimination on the basis of sex, race, ethnicity, socio-economic status, or any other personal characteristic.
- b. All laws and regulations pertaining to nationality inconsistent with guarantees of equality and non-discrimination shall be amended or repealed.

Note: This proposed Draft Article enshrines the principle of equality and non-discrimination to ensure that all individuals have equal nationality rights regardless of their personal characteristics or socio-economic status. This is especially important for States which currently discriminate on the basis of sex and/or other grounds in their nationality laws, or in which there is a discretionary process through which persons may acquire or change their nationality status.

Article on nationality at birth in the territory, foundlings - prevention of statelessness

- a. Every person born within the territory of [name of State] who would otherwise be stateless shall acquire nationality at birth.
- b. Foundlings will be presumed to be citizens of [name of State] unless proven otherwise.

Note: This proposed Draft Article ensures that children born or found within the State are not stateless. In countries with the 20 largest stateless populations, at least 70,000 stateless children are born every year. Statelessness puts children at particular risk of multiple rights deprivations and a lifetime of discrimination due to a lack of legal personhood. Article 7 of the Convention on the Rights of the Child (CRC), among others, guarantees children “the right to acquire a nationality” from birth, and calls upon State Parties to ensure “implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child could otherwise be stateless.” This should include developing detailed regulatory procedures to prevent statelessness. The Committee on the Rights of the Child, the treaty body which monitors implementation of the CRC, has stressed that this right must be implemented in a way that ensures the best interests of the child.

Article on nationality by descent - conferral of nationality by Parent

- a. Every person born in the territory of [name of State] to a national of [name of State] shall be a citizen of the State at birth.
- b. Every person born outside the territory of [name of State] to a national of [name of State] shall be a citizen of [name of State] at birth, particularly if they would otherwise be stateless.
- c. Minor children of a naturalised citizen shall acquire nationality upon the naturalisation of their parent(s), so long as it does not result in the automatic loss of any other nationality; or

Minor children may be included in a parent's naturalisation application.

Note: A child born inside or outside the State to a citizen of the State, regardless of the parent citizen's sex or gender or any other status, *should* be able to acquire the nationality by descent, and nationality by descent is required under international law if the child would otherwise be stateless. This proposed Draft Article ensures that all parents, including naturalised citizens and regardless of their marital status, can confer nationality on their children equally, without discrimination based on the parent's sex or gender, or on other grounds, or children's birth circumstances, including, e.g. to adopted children and children born through the use of Assisted Reproductive Technologies. This includes circumstances where the child is born outside of the State and/or outside of a legally recognized marriage.

Article 7 of the CRC, among others, guarantees children "the right to acquire a nationality," and calls upon State Parties to ensure "implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child could otherwise be stateless." Importantly, the CRC also states that the rights enshrined in the Convention must be applied without discrimination on the basis of the sex of the child **or the parent**. As of June 2025, nationality laws in 24 States around the world prevent women from passing nationality to their children on an equal basis with men, with harmful consequences for children and their families, including an acute risk of statelessness.

Article on nationality by marriage

- a. A non-citizen spouse of a citizen shall acquire the nationality of [name of State] upon registration [or upon application], on an equal basis irrespective of sex, or other personal characteristic.
- b. Nationality shall be conferred based on the non-national spouse's consent.
- c. The provisions of this article shall apply even if the citizen spouse is deceased, so long as the non-national spouse has not remarried to another person before the application for citizenship is made.
- d. Legally recognized customary marriages and religious marriages held before religious authorities shall be granted the same recognition as registered civil marriages for the purposes of nationality rights.

Note: This proposed Draft Article promotes equality in the conferral of nationality on spouses so that nationality laws do not discriminate against women's conferral of nationality on their non-citizen spouses who are foreign or stateless men. All should be able to confer nationality equally on their spouses, whether married at home or abroad.

Article 9(1) of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) requires States Parties to “grant women equal rights with men to acquire, change or retain their nationality.” In addition, the CEDAW Committee, the treaty body which monitors implementation of the CEDAW, in its General Recommendation No. 32, has interpreted Article 9 of the Convention to apply to spouses. At present, over 45 States globally deny women equal rights with men in their ability to acquire, change, or retain their nationality, or to confer their nationality on non-national spouses. Additionally, the Draft Article specifies that legally recognized customary and religious marriages are treated the same as civil ones for the purpose of conferring nationality. This is important because in many States, a current lack of marriage registration may also prevent a person from conferring citizenship to a spouse or child. Under international law, any minimum age of marriage should be 18 without exception and with the full consent of both parties. Birth and marriage registration should also be required by law.

Accommodations should be made to facilitate the acquisition of nationality by a woman who has citizen children, even if her marriage to a national has dissolved. This is to support the mother's ability to reside with her children and have access to citizenship rights if she decides to exit the marriage prior to securing the nationality of the State. This is particularly important in situations of domestic violence, where the inability of a woman with citizen children to acquire nationality in instances of divorce inhibits her ability to leave a situation of abuse where she and/or her children are at risk.

“GBV victims should not fear that reporting abuse or extracting themselves from an abusive marriage would impact their legal status in the country. Non-citizen women residing in their spouse's country may fear reporting abuse or seeking divorce if they could face removal from the country, especially when they have children being raised in their spouse's country.”²

² Global Campaign for Equal Nationality Rights, “Ending Gender-Based Violence Requires Equal Citizenship: The Impact of Gender Discrimination in Nationality Laws on Gender-Based Violence”, Oct. 2024, https://www.equalnationalityrights.org/wp-content/uploads/2024/10/Impact-of-Gender-Discrimination-in-Nationality-Laws-on-Gender-Based-Violence_ENGLISH_FINAL_10.2024.pdf

Article on retention of nationality

- a. No person shall lose their nationality due to the renunciation or loss of nationality by a parent or spouse.
- b. No person shall lose their nationality upon divorce or the death of a spouse.
- c. No person shall lose their nationality as a result of marriage or remarriage.

Note: This proposed article provides protection against the involuntary loss or deprivation of nationality, ensuring that individuals are able to retain their nationality regardless of changes in marital status or the actions of their parents or spouses. These provisions are critical to prevent statelessness and safeguard the right to nationality and family unity, as well as women's right to be free from gender-based violence and their right to divorce. Deprivation of nationality should be a last resort, and all circumstances must be considered with a gendered lens.

Article 9(1) of the CEDAW calls upon States to “ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.”

Equality Now and the **Global Campaign for Equal Nationality Rights** remain at the service of all those who wish to ensure gender equality in nationality rights, paving the way for a more sustainable future for all.





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