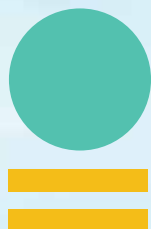


Flygtningenævnets baggrundsmateriale

Bilagsnr.:	244
Land:	Marokko-Vestsahara
Kilde:	UN High Commissioner for Refugees
Titel:	Equal Citizens, Thriving Families, Stronger Societies: Realizing Gender-Equal Nationality Rights in the Middle East-North Africa Region
Udgivet:	2. april 2018
Optaget på baggrundsmaterialet:	21. maj 2019



Global
Campaign
for **Equal
Nationality
Rights**



Equal Citizens, Thriving Families, Stronger Societies:

Realizing Gender-Equal Nationality Rights in the
Middle East-North Africa Region

Equal Citizens, Thriving Families, Stronger Societies:
Realizing Gender-Equal Nationality Rights in the Middle East-North Africa Region

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INTRODUCTION

Today there are 25 countries globally that deny women the right to confer nationality on their children on an equal basis with men. Roughly 50 countries have gender discriminatory provisions in their nationality laws, which discriminate against women in terms of their ability to retain their nationality or to confer nationality on spouses. While gender discriminatory nationality laws can be found in regions across the globe, the highest concentration are in the Middle East and North Africa (MENA) region. Just under half of the countries that deny mothers the equal ability to confer nationality on children – 12 of the 25 – are in MENA, and 19 out of the 53 countries maintaining other gender discriminatory provisions are also in the region.

However, MENA is also the region that has witnessed the greatest number of reforms advancing gender equal nationality rights since 2000. In just thirteen years, five countries in the region – Algeria (2005), Egypt (2004), Morocco (2007), Tunisia (2010), Yemen (2010) – have enacted reforms enshrining the equal ability of citizens to confer nationality on their children. In the case of Algeria and Tunisia, reforms also upheld the right of women to confer nationality on their spouses. In 2006, Iraq enacted reforms upholding citizens' equal ability to confer nationality on children born inside the state territory. Other countries in the region have enacted partial reforms to expand women's nationality rights, as well as policies to lessen the harm caused to affected families. Importantly, many governments in the region have expressed their commitment to addressing gender inequality in their nationality laws.

Historically, the norm in countries across the globe, nationality laws that deny women equal rights with men are overwhelmingly the legacy of colonial rule, with newly independent states having modelled their nationality laws on those of the former colonial powers. Today, most countries across the world have enacted reforms to guarantee equal nationality rights for all citizens. When these reforms were enacted in Algeria, Egypt, Iraq, Morocco, Tunisia, and Yemen, policy makers not only recognized the need to uphold women and men as equal citizens, but also recognized the immense harm discriminatory nationality laws caused to women citizens, their families, and to the country as a whole.

Prior to reform, affected citizens' families suffered serious hardships and rights violations. Their children often lacked equal access to education and healthcare. As adults, affected persons lacked access to employment in many sectors, and were often forced into informal labor, exploited by employers, or suffered unemployment. Mothers were inhibited from passing their inheritance and family property to their children. In some instances, children were left with no nationality at all – with no ability to travel abroad, and no ability to thrive in their homeland. Family members struggled to secure residency permits and parents lived in fear that children would be deported. For many, their lack of legal status even meant they could not marry or have children, all because half of the country's citizens were not treated as full citizens in the nationality law.

However, after years of struggle by affected families, civil society, and leaders within government, Algeria, Egypt, Iraq, Morocco, Tunisia and Yemen are now benefitting from reforms that advanced gender equal nationality rights. Because of these reforms, families are more secure and family unity is protected. Children can access university and pursue their professional dreams. No citizen must choose between a life without children, or watching their child face a life of hardship as a stateless person. However, the benefits of gender equal nationality laws are extending beyond citizens and their families, and 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 commitments in international treaties to uphold the equal rights of citizens, women and men, without discrimination.

The experience of these countries also demonstrates that such reforms can be made in countries across the region with the political will.

With the region facing instability and high levels of displacement, the size of the population suffering from gender inequality in nationality laws is on the rise, and threatens to create a new generation of stateless children. In contexts of conflict and displacement, fathers are often forcibly separated from their children or deceased, and civil documentation is frequently lost or unavailable. This can make it extremely difficult to prove the paternity of a displaced child. These factors, combined with nationality laws that deny women the right to confer nationality on their children, dramatically increase the risk of stateless amongst forcibly displaced children. This is particularly pertinent in the Syria situation which has left one fourth of Syrian refugee children in female-headed households, without fathers present to attest to their nationality. It is critical that regional governments take action without delay to end gender discrimination in nationality laws. As illustrated in the pages that follow, those countries that ensure the equal nationality rights of their citizens will benefit for generations to come.

This publication provides a brief overview of reforms enacted in Algeria, Egypt, Morocco, Tunisia and Yemen to enshrine the equal right of citizens of these countries to confer nationality on their children. It does not detail the important movements for gender-equal nationality rights in these countries, which advanced women's equal citizenship and the welfare and security of countless affected families. Iraq is also profiled, though gaps remain regarding women's ability to confer nationality on children born abroad. The second half of the publication summarizes the significant benefits to citizens, their families, and society when gender equal nationality rights are upheld.

ALGERIA¹

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 retained gender inequality 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, if 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 Code'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.



İñaki do campo gan/ Algiers, Algeria

Though Algeria became a party to the Convention on the Elimination of All Forms of Discrimination Against Women (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 CEDAW.

Then, in 2003, a major movement was launched, named "20 ans barakat", with the goal of bringing the country's laws in line with the Constitutional requirement for equality. Realizing

¹ For more information on good practices on removing gender discrimination from nationality laws, see UNHCR Good Practices Paper- Action 3: Removing Gender Discrimination from Nationality Laws, 6 March 2015, available at: <http://www.refworld.org/docid/54f8377d4.html>

equal nationality rights for women was a key component of the movement, which advocated that Algerian women, as full and equal citizens, must be treated as such by the country's Nationality Code. The movement also emphasized that ensuring women's equal nationality rights would support family unity, enhance children's wellbeing, and enable more individuals to contribute to the country's development. Through information sharing and outreach by "20 ans barakat" activists, the government became convinced that such reforms would end the unnecessary suffering experienced by affected families, while benefiting the country as a whole.

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, parliament passed a new nationality law, which was signed by the president in February 2005 and guarantees the equal ability of citizens, regardless of gender, to confer nationality on their children. Since 2005, Algeria's citizens and the country at large have benefitted from the Nationality Code's embrace of equality and inclusion.

"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, and they don't have to justify why they live 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."

Statement made during phone interview with the Global Campaign for Equal Nationality Rights on 4 August 2017.

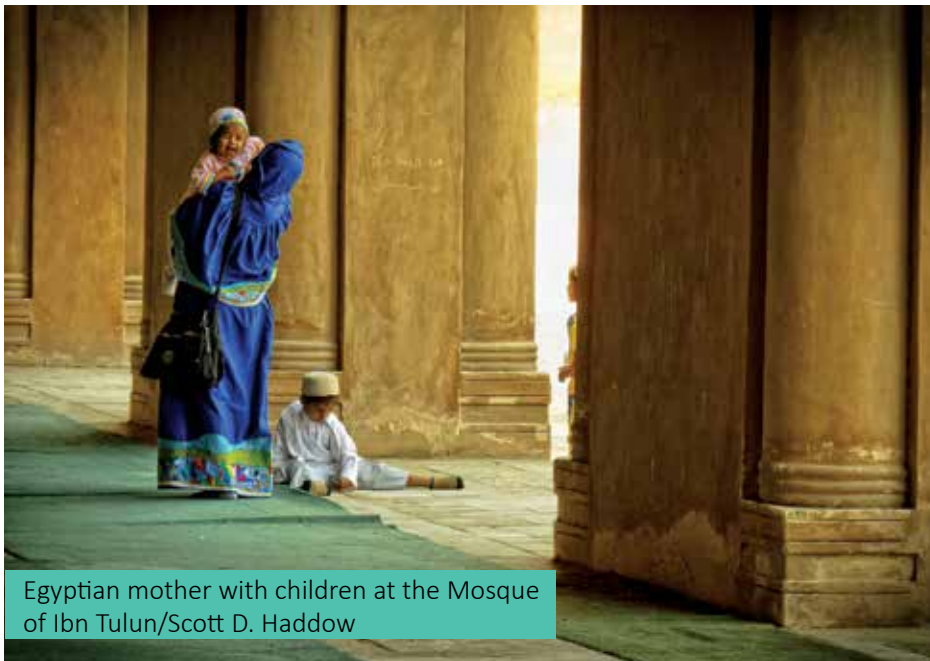


Leila Zerrougui, former Justice of the Supreme Court of Algeria, former Ministry of Justice legal advisor, and former Special Representative of the Secretary General for Children and Armed Conflict

EGYPT

Prior to Egypt's 2004 reform of the Nationality Law, women lacked the equal right as men to confer nationality on their children. According to Law No. 26 (1975) concerning Egyptian nationality, women married to foreigners could not confer their nationality on children, though the child of an Egyptian woman and a stateless father or a father whose nationality was unknown could acquire Egyptian citizenship.

The provisions in Law No. 26 contradicted Egypt's 1971 Constitution, which stated that all citizens are equal and have equal public rights and duties without discrimination (Article 40), and which enshrined women's equal status with men in political, social, cultural and economic life (Article 11).



Egyptian mother with children at the Mosque of Ibn Tulun/Scott D. Haddow

Though Egypt ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1981, it placed a reservation on Article 9(2), which calls for the equal ability of women and men to confer nationality on children.

By 2004, there were an estimated 298,000 families whose

children were denied Egyptian nationality because Egyptian women lacked the right to confer nationality on their children. These children faced significant hardships, including limited access to education and social services, as well as the threat of deportation. Due to their vulnerable status, the adult children of Egyptian women and foreign fathers faced incredible difficulty in securing employment in Egypt, with many attempting to seek work abroad. Affected families also faced psychological distress, with children who spent their entire lives in Egypt treated as foreigners.

In the wake of the 1995 Fourth World Conference on Women in Beijing, there were increasing calls for reform of the Nationality Law. Women's organizations highlighted the incompatibility of the law with the constitutional requirement for equality and the country's commitments under CEDAW to eliminate all laws that discriminated on the basis of gender. Those calling for

reform engaged a range of government institutions, and worked with affected mothers to share testimonials regarding the impact of the gender inequality in the nationality law on their families.

When the CEDAW Committee raised this gap in the law, the government responded that the law was intended to prevent the acquisition of dual nationality, and that children's acquisition of their father's nationality was "most suitable." No reason was given as to why a child's acquisition of the father's nationality was most suitable.

As calls for reform increased, the Egyptian President announced in 2003 that steps would be taken to address gender inequality in the law. A committee with representation from all relevant ministries was then formed by the Minister of Justice to consider this issue.



City of old Cairo
Dominic Chavez /World Bank

During these deliberations, the National Council of Women stressed that Egypt's Constitution provided for absolute, unconditional gender equality; therefore, the denial of Egyptian nationality to the child of an Egyptian woman married to a foreigner was unconstitutional, as this was a right reserved for Egyptian men. This position was backed by the Ministry of Foreign Affairs.

Based on their investigations, the Committee endorsed women's right to confer nationality on children, which was then enshrined in Law 154 of 2004. In 2008, Egypt also withdrew its reservation to CEDAW Article 9(2).

In May 2011, the government announced that the children of Egyptian women and Palestinian fathers would have the same access to Egyptian nationality as other children of Egyptian citizens, thereby affirming the right of all Egyptian women to confer nationality on their children. The 2011 decree resulted in the successful implementation of the 2004 law for this population.

"This is a victory for human rights and especially for women's rights because it gives them equality."

Nahed Shehada, Egyptian Center for Women's Rights in interview with The Media Line, May 2011

IRAQ



“I obtained Iraqi citizenship for my children and enabled them to enjoy the same rights as their peers, including their right to documentation and passport...All these privileges were not available under the previous law.”

Khansaa Yehya Ashur, an Iraqi mother of two children, married to Saad Atya Taha, an Egyptian man.

Iraq has made substantial gains in advancing women’s equal nationality rights. Though gaps remain, today Iraqi women and men have the equal right to confer nationality on children born inside the country.

Prior to the 2006 reform, Iraq’s nationality law, Law No. 46 of 1963, denied women the ability to confer nationality on children, unless the child’s father was unknown or stateless and an application was submitted before the child reached the age of majority. The law enshrined the right of Iraqi men to confer nationality on children in all instances, and provided terms for male citizens to confer nationality on foreign spouses. In the decades to follow, important steps were taken to advance gender equality: in 1970 the country’s Interim Constitution recognized all citizens as equal before the law; and in 1986 Iraq became one of the first countries to accede to CEDAW, though it retained a reservation to Article 9 regarding nationality, in addition to other articles.

Following decades of calls for reform by affected families, women’s rights organizations, and international human rights bodies, women’s nationality rights were significantly expanded in the 2005 Constitution, which states that the child of an Iraqi father or mother has the right to Iraqi nationality (Article 18). However, while Iraqi men can confer nationality on their children irrespective of whether the child is born inside or outside of the country, the country’s nationality Law (2006 Law) does not automatically extend this right to Iraqi women whose children are born abroad. Children born outside Iraq to an Iraqi mother and an unknown or stateless father can be granted nationality on discretionary basis, if they apply within one year of reaching the age of majority, and provided that the child resides in Iraq at the time of application. The 2006 Law also expands women’s ability to confer nationality on non-national spouses, though with a more stringent process than is required of Iraqi men seeking to confer nationality on non-national spouses. As a recognition of its commitment to uphold equal nationality rights for women and men, the government withdrew its reservation to CEDAW Article 9 in 2009.

MOROCCO²

Article 5 of Morocco's 1996 Constitution states, "all Moroccan citizens shall be equal before the law." In 2007 this mandate for equality was realized with regard to the legal right of Moroccan women to confer nationality on their children.

Though the country ratified CEDAW in 1993, it did so with a reservation to Article 9(2), due to gender inequality in the Nationality Code. At the time, the Nationality Code only permitted Moroccan women to confer nationality on their children if the father was unknown or stateless. During the country's CEDAW reviews in 1997 and 2003, the Committee called on the government to bring its Nationality Code in line with its CEDAW obligations.



The Kasbah of the Udayas
Arne Hoel

Like in countries with similar provisions, the law caused affected families to suffer a wide range of hardships. Many affected families especially noted the serious negative impact the law had on their access to healthcare and families' ability to reside together in Morocco.

For years prior to the reform, affected families and women's

rights groups advocated for an end to this gender inequality in the law, with the reform campaign linked with broader calls for reform to advance women's equality, including the reform of the Moroccan Family Code, Mudawana.

As civil society mobilization for women's rights grew, the new King also expressed his support for gender equality in a 1999 speech. Due to the King's leadership, a Commission, Oulema, was

"[Morocco's reforms] clarified my children's status, and meant they no longer felt like foreigners in their home country – but more secure and sure of themselves."

Moroccan woman whose children obtained Moroccan nationality following reforms", 18 September 2018, Casablanca.

² For more information on good practices, see UN High Commissioner for Refugees (UNHCR), Good Practices Paper - Action 3: Removing Gender Discrimination from Nationality Laws, 6 March 2015, available at: <http://www.refworld.org/docid/54f8377d4.html> [accessed 20 February 2018].

formed consisting of religious, legal, and social experts to provide recommendations regarding the reform of the Mudawana in line with the country's human rights commitments and Islamic values. The Commission and the King endorsed a new Family Code that enshrined gender equality, which was unanimously passed by the parliament in 2004 – a development that bolstered calls for reform of the Nationality Code.

Around this time, many of the country's political parties began using quotas for women's representation. While women's political representation increased, civil society successfully heightened awareness of the serious negative impact of the gender inequality in the Nationality Code on Moroccan women and their families through testimonies by affected persons, media engagement, and public rallies.

Then in 2005, the King publicly called for the reform of the Nationality Code to uphold gender equality. Following public and parliamentary debate, in 2007 the parliament unanimously passed the bill to amend the Nationality Code, which enshrined women's ability to confer nationality on children on an equal basis with men. Importantly, the new law took effect retroactively, meaning that children of Moroccan women who had suffered from their lack of citizenship could benefit from the reform.

Article 6 of the Moroccan code of nationality now reads:

“A child born of a Moroccan father, or a child born of a Moroccan mother, is a Moroccan citizen.”

Today, regardless of their place of birth, the child of a Moroccan father or mother has the right to Moroccan citizenship. The inclusion of the children of all Moroccan citizens in this essential civil contract continues to strengthen the development and security of the nation, while supporting the wellbeing of Moroccan families. In 2011, Morocco adopted a new Constitution that further reinforces the principle of gender equality in all areas of law.

It stipulates the equality between men and woman in the enjoyment of the rights and freedoms of civil, political, economic, social, cultural and environmental character, while it urges to ban and combat all forms of discrimination, including for reasons of sex.

TUNISIA

According to Tunisia's Nationality Code of 1963, Tunisian men could automatically confer their nationality on children without condition. Under the Nationality Code, Tunisian women lacked this right, and could only confer nationality on their children at birth if the child was born in the State territory or if the father was unknown, stateless, or his nationality was unknown.

The inability of women to confer nationality on an equal basis with men caused many families to suffer significant hardships, with children being denied the rights and services enjoyed by citizens.⁴ As the number of Tunisian women married to foreign nationals and living abroad grew, so did the number of families impacted by the discriminatory Nationality Code. It was especially challenging for Tunisian women who were the primary custodians of children who did not share their nationality.

In order to address the harm caused by the law, the Code went through several rounds of revisions. In 1993, the Nationality Code was amended to permit the child to a Tunisian woman and foreign father to acquire nationality in the year prior to reaching maturity, through the submission of a written request by the child's father and mother. Then in 2002, this provision was further amended to permit such children to acquire nationality through a statement by the mother alone, if the father was deceased, had abandoned the family, or was considered incapacitated.

Despite these provisions, notable gaps in the law remained. The amendments did not help in cases where the father refused to submit a statement for the child to acquire Tunisian nationality, a common occurrence in instances of parental dispute or divorce. In cases of divorce when the

family lived abroad, the child's inability to obtain Tunisian citizenship and identity documents made it difficult for mothers serving as the child's custodian to return to Tunisia with their child.

As the national movement for women's equal nationality rights grew, international human rights bodies continued to emphasize the need for reform in order to realize



View of El Kef medina
Arne Hoel

⁴ As detailed in pages 15-26.

the state's commitments under international law. Finally, in 2010 the Code was again amended, this time to uphold the equal right of all citizens – regardless of gender – to confer nationality on their children at birth. The revised provision simply states:

“Any child born to a Tunisian father or mother is a Tunisian national.”

The draft law was presented as the embodiment of Tunisia's Constitutional commitment to uphold women and men as equal citizens, with the ability to confer nationality recognized as a core component of citizenship. The reform was also upheld as a positive step to bring Tunisia's legislation in line with its commitments under international law, and coincided with the lifting of the country's reservation to Article 9 to the Convention on the Elimination of All Forms of Discrimination Against Women.



Matmata - Mother and daughter/Arne Hoel

“The development of society and the legal system as it relates to Tunisian women resulted in the need for legal provisions granting the children of Tunisian women nationality by descent. The increase in the number of women married foreign nationals, led to many cases in which the Tunisian woman was the primary custodian and responsible for a minor child who did not share her nationality. Until 2010, the law discriminated between men and women regarding the granting of nationality to children by descent. Although various legislative reforms were established to address the impact [of the discrimination in the law], problems still remained. The [2010] law was based on the need to end discrimination between men and women regarding their ability to confer nationality on their children by descent.”

Hasna Ben Slimane, Judge, State's delegate to the Administrative Tribunal in Tunisia

YEMEN

Yemen's Nationality Law (No. 6 of 1990) went through several revisions between 2003 and 2010, with the most recent reform enshrining Yemeni women's right to confer nationality on their children, on an equal basis with men.

Following the unification of the People's Democratic Republic of Yemen (South Yemen) and the Yemen Arab Republic (North Yemen) in 1990, Yemen's Constitution was adopted in 1991, and upheld all citizens as "equal before the law," and "equal in rights and duties." Unification also resulted Yemen accepting South Yemen's treaty obligations. This made Yemen a state party to CEDAW, which was ratified by South Yemen in 1984, without reservation to any provisions on the rights enshrined within the Convention.

Despite the Constitutional requirement for equality and the country's CEDAW obligations to uphold equal nationality rights for women and men, the Nationality Law of 1990 denied women the right to confer nationality on children and spouses, and only permitted children of Yemeni women to acquire nationality if paternity was not legally established and the child was born in the state territory. The Nationality Law upheld the right of Yemeni men to confer nationality on their children without condition, and provided a path to citizenship for their non-national wives.



In 2003, the Nationality Law was reformed to include Article 10, which allowed Yemeni women to confer citizenship on their children if they were divorced, widowed, or abandoned by their non-Yemeni husbands. Though a vital reform for the families concerned, this reform excluded a large portion of families, as many women still did not fall within these specified categories. To address remaining gaps regarding women's ability to confer on children, the law was again amended in 2008, this time codifying women's ability to confer nationality on her children if the father was unknown or had no nationality. However, the reform excluded single Yemeni women who fell outside of these categories and Yemeni women married to foreign men.

Given the contradictions between the Nationality Law and the country's CEDAW Commitments, in each of the country's three CEDAW reviews (1993, 2002, 2008) the Committee called on the government to enact amendments to uphold equality for women and men. In its CEDAW 2008 review, while noting that year's amendment to the Nationality Law, the government indicated that it was considering additional reforms, noting that the Women's National Committee was calling for further action to enshrine women's equal ability to confer nationality on children. This call was echoed in a joint submission to the CEDAW Committee by a group of Yemeni civil society organizations.

In 2010 the government embraced the growing calls for reform, and passed a new amendment that enshrined the equal rights of Yemeni women and men to confer nationality on their children, without condition. Ministerial guidance on implementation procedures are encouraged to further clarify and facilitate the application of the reforms.

"Throughout history, women and their role and status in society have always been - and still are - a yardstick of social progress."

Yemen state party report to CEDAW, 1989



Young girl with her mother- Sanaa
Francesco Veronesi

THE BENEFITS OF REFORMS THAT ADVANCE 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 these reforms, 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 residency permits, families often lived in fear of deportation. Women and their children were especially vulnerable in instances of divorce or 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 due to associated challenges in terms of securing legal entry to the country as well as obtaining residency permits and access to rights and services.³



iñaki do campo gan

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 often no ability to travel abroad, and were therefore unable to visit family living outside their nation of birth. Though some stateless daughters accessed nationality through marriage, this was not the case for sons, given women’s inability to confer nationality on spouses in these countries (a right now enshrined through reforms in Algeria and Tunisia).

³ Women’s Refugee Commission, *Our Motherland, Our Country: Gender Discrimination and Statelessness in the Middle East and North Africa*, June 2013, available at: <http://www.refworld.org/docid/51c02a084.html> [accessed 8 February 2018].

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, from generation to generation. Knowing that any future children would face a life of statelessness and hardship, some affected persons denied themselves the family that they so 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.

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.

"Before nationality [reform], the risk of deportation was the devil in our house, scaring us. It used to threaten all children of Egyptian women married to non-nationals. The only option we could look at was opening a business for them [the children] with our own money, or otherwise for them it would be deportation or detention. All of these options were really difficult."

Azza, an Egyptian national who had seven children, managed to get nationality for her children thanks to the reform of the law.



View of Salé
Arne Hoel

“My daughter, after the age of 18, she could no longer be residing in Morocco on my permit....She would have had to go abroad every three months, leave the territory and come back, in order to live in Morocco, or acquire a work permit. And that was not always possible. If they were not given this possibility [of acquiring Moroccan nationality], my children would have gone abroad and would never have returned. By forcing them to leave every three months, one day they would have had enough and would have left. That’s what I was afraid of, that they would leave and never come back to their country, that would have hurt me.”

Saïda, a Moroccan national married to a Sudanese man



A Moroccan woman with her Sudanese husband and children who gained Moroccan nationality following the 2007 Nationality Code reforms.
Women’s Refugee Commission

EDUCATION

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

Prior to the reform of nationality laws, children of women citizens and foreign fathers usually 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 realize their dreams.



Students at Ecole du Cirque, Salé, Morocco
Dana Smillie

*"It was the time for me to go and register Mira in school with her cousin....The woman in the school said, 'your child has no documents and isn't even Moroccan.' I thought she was just being not nice but then when telling people I realized Mira really wasn't Moroccan. I went home that night really sad....like really heavy and really sad.... **Mira couldn't get into school because she had no birth certificate, imagine what may happen because she has no nationality.** I sat and worried about that all summer. I don't have wasta (the use of connections with powerful people to obtain favors) I am a poor woman!... [Because of this, my daughter] can't be ok in her own country.*

[...]

*How do I feel now? **Now I can worry about normal things that mothers worry about.** Will she find a good man? Will she be successful? Will she study hard? **I don't have to just think and worry all the time that she isn't Moroccan, and what that will mean. For that part I can rest. We can all rest.**"*

Yusra, a Moroccan woman married to a Cameroonian man, living in Morocco.



School children in Ramadi, Iraq
UNDP Iraq

HEALTHCARE

Ensuring women's equal ability to confer nationality has had significant implications for their families' access to healthcare. Prior to reforms, the children of women citizens with foreign fathers could not access the health services reserved for citizens. Because of women's inability to equally confer nationality, families faced an increased financial burden to pay for healthcare. For the most disadvantaged families, this could mean going without needed medicines and procedures, due to the prohibitively expensive cost of private healthcare. Due to 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 supports the health of the nation, through preventive care and the treatment of communicable diseases.



Doctor at Fallujah hospital
PBS NewsHour



Mother with her newly vaccinated infant
USAID Egypt

EMPLOYMENT AND ECONOMIC OPPORTUNITY

Reforms advancing gender equal nationality rights had a dramatic impact on the ability of the children of women citizens and non-national fathers to secure employment and financial security. Lacking citizenship in their homeland, affected persons were incapable of being employed 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.



A PhD candidate at the university of Tunis.
World Bank Photo Collection

With children treated as foreigners in their homeland, families faced an increased financial burden, due to their children's lack of access to social services. Affected persons were often unable to hold a bank account or take out a loan, and restrictions on land ownership by foreigners meant that children could even be denied an inheritance to 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 obtain the rights and services automatically granted to citizens, which not only caused financial hardships for the individual, but also supported corrupt practices.

Today, due to reforms guaranteeing the right of all citizens to confer nationality on their children equally, the children of women citizens and non-national fathers have the opportunity to pursue

During the movement for reform in Morocco, a mother who was unable to pass her nationality to her three children noted in an interview in Rabat in 2005:

"They can't work if they don't have enough capital to finance a private project. They can't work in administrations, become architects, engineers or doctors."

their profession of choice, execute financial and legal contracts, and benefit from the inheritance of family property.

“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.”

Testimony of a 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 feeling of guilt, shame, and depression because of their inability to confer their nationality, which was critical to their children's wellbeing.

"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."

Nadia Ait Zai, Founder, Centre d'Information et de Documentation sur les Droits de l'Enfant et de la Femme, Algeria.

Today, in those countries that have enacted reforms to ensure that women and men have the equal right to confer their nationality, the children of women citizens are treated as full members of the national family, which benefits from their contributions as citizens.

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

"Before this law I didn't have the Moroccan Nationality. I felt like I was different from others. But now I can do anything I want, like all the other children."

Halima, the daughter of a Moroccan woman and foreign father

"Prior to the reform of the Nationality Code, [women married to non-nationals] and their families were in great distress, especially those residing in Morocco..."

A qualitative survey by the l'Association démocratique des femmes du Maroc (ADFM) revealed that the majority of women interviewed were unaware of the problems could arise from their marriage to a non-national. Difficulties were first discovered at the birth of the first child or upon divorce, abandonment, or the death of their spouse. [These] children were not included on their mother's passport and had to obtain visas, issued for a period of 3 months. The regulations governing the stay of foreigners [in the country] applied to children even if they were born in Morocco...If the father's residency visa was canceled for any reason, the children had no other choice than to leave with the father, who was the legal guardian of the children.

This reform made it possible to register children's births, thus guaranteeing all the civil rights that flow from it, including a Moroccan passport and national identity card. It has also extended the many economic and social rights attached to citizenship, with positive impacts that were even more important for poor and single-parent families."

Rabea Naciri, Member of the National Human Rights Council of Morocco

NATIONAL STABILITY AND DEVELOPMENT

Prior to the adoption of gender-equal nationality laws in the Middle East-North Africa region, affected persons were often forced to turn to the informal sector and lacked identity and civil documents. However, gender-equal nationality laws are now allowing more people to contribute to greater national stability and prosperity by enabling them to obtain secure livelihoods and to participate in civil registration systems, which serve as an important foundation for sustainable development and the delivery of human services.

At least nine of the seventeen Sustainable Development Goals (SDGs) are directly enhanced and promoted by equal nationality rights for women and men. In addition, gender-equal nationality laws allow all members of society to fully contribute to a country's development.

SDGs 5 (Gender Equality), 10 (Reduced Inequalities) and 16 (Peace, Justice and Strong Institutions) recognize that eliminating gender discrimination and other structural problems are essential to achieve sustainable development. These SDGs can be achieved through 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 directly enhanced by equal nationality rights, which allow both men and women to acquire, retain, change, or confer their nationality. To achieve these goals, the full participation of every member of society is essential. Allowing children to acquire their mother's nationality, and men to acquire their spouse's nationality would include them to access opportunities in work, education, housing, and healthcare.



School children, Cairo
vagabondblogger

EQUAL NATIONALITY RIGHTS FOR EQUAL CITIZENS, WOMEN AND MEN

Reflecting biases and gender stereotypes that were ubiquitous during the colonial period, gender inequality in nationality laws has its root in an understanding of women's citizenship status as inferior and women's legal identity as derivative, 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.

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.

"Laws and practices that treat women differently from men in terms of nationality constitute ipso facto discrimination against women."

Emna Aouij, Member of the UN Working Group on Discrimination Against Women,
former CEDAW Committee member, former Judge and Ambassador of Tunisia



Portrait of smiling girl, Morocco

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 International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination on All Forms of Discrimination Against Women (CEDAW), and the Convention on the Rights of the Child (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, Egypt, Morocco, Iraq, Tunisia, and Yemen 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.

“Nationality is critical to full participation in society.”

CEDAW General Recommendation 21: Equality in marriage and family relations

“The [2010] law was presented politically as a ‘harmonization with the international legal system’ and the ‘embodiment of the cultural commitments of Tunisia to support Tunisian women and men as equal citizens, recognizing that nationality [rights] is one of the key aspects of citizenship.’

*The first draft of this law was announced during Tunisia’s presentation of its fifth and sixth periodic report to the United Nations CEDAW Committee in October... **Tunisia’s integration into the international system was one motivation for changing the law**, as the United Nations [human rights bodies] had previously recommended that Tunisia abolish such discrimination.*

Equality between men and women in this regard has an important social impact, as it represents the actual realization of equality between female and male citizens as per the constitution.”

Hasna Ben Slimane, Judge, State’s delegate to the Administrative Tribunal in Tunisia



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.

website: equalnationalityrights.org



@EQL_Nationality



UNHCR, the UN Refugee Agency, is a global organisation dedicated to saving lives, protecting rights and building a better future for refugees, forcibly displaced communities and stateless people. We work to ensure that everybody has the right to seek asylum and find safe refuge, having fled violence, persecution, war or disaster at home.

website: www.unhcr.org



@refugees



Egyptian mother with children at the Mosque of Ibn Tulun

Equal Citizens, Thriving Families, Stronger Societies:

Realizing Gender-Equal Nationality Rights in the Middle East-North Africa Region