



General Assembly

Distr.: General
28 July 2023

Original: English

Seventy-eighth session

Item 26 of the provisional agenda**

Advancement of women

Violence against women and girls, its causes and consequences

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on violence against women and girls, its causes and consequences, Reem Alsalem, in accordance with Assembly resolution [77/193](#).

* Reissued for technical reasons on 5 September 2023.

** [A/78/150](#).



Report of the Special Rapporteur on violence against women and girls, its causes and consequences, Reem Alsalem

Violence against women and girls, nationality laws and statelessness

Summary

In the present report, the Special Rapporteur on violence against women and girls, its causes and consequences, Reem Alsalem, explores the nexus between violence against women and girls, nationality laws and statelessness, with a view to assessing the way in which statelessness and gender-discriminatory nationality laws and practices function as a form of violence against women and girls. She also offers recommendations to States and other stakeholders on addressing discriminatory nationality laws and practices, including those based on sex and gender discrimination, and mitigating the harmful consequences of statelessness and discriminatory nationality laws and practices for women and girls.

I. Introduction

1. In the present report, which is submitted pursuant to General Assembly resolution 77/193, the Special Rapporteur on violence against women and girls, its causes and consequences, Reem Alsalem, explores the nexus between violence against women and girls, nationality laws and statelessness. The nationality laws of over 80 countries are considered to be discriminatory.¹ Of that number, almost 50 countries have nationality laws containing gender-discriminatory provisions, including with regard to women's right to confer nationality on a non-citizen spouse or to acquire, change or retain nationality on an equal basis with men.² In 24 countries, nationality laws deny women's right to confer nationality on their children on an equal basis with men.³ Gender-discriminatory provisions in nationality laws undermine gender equality. They can also lead to statelessness and cause wide-ranging and multilayered forms of human rights violations, including sexual violence and gender-based violence.

2. Statelessness is often a cause and consequence of migration and forced displacement. In 2022, the Office of the United Nations High Commissioner for Refugees (UNHCR) estimated that there were 4.4 million stateless persons on the basis of information from 95 countries.⁴ The actual figure is likely much higher, as data is only available for fewer than half of all countries; moreover, some countries with known stateless populations do not report data. Persons without identity documents may be unable or unwilling to be protected by their country of nationality and are therefore *de facto* stateless. At least half of those affected by statelessness are women and girls, and they experience the situation in a distinctively gendered manner. Statelessness among women and children is a growing concern, given increasing migration flows and the feminization of migration, which result in more mixed marriages. As a result, women's loss of nationality upon marriage or divorce or their inability to pass on their nationality to their spouse or children may have far-reaching consequences.

II. Activities of the Special Rapporteur

3. The activities carried out by the Special Rapporteur during the reporting period are outlined in her thematic report submitted to the Human Rights Council at its fifty-third session (A/HRC/53/36). The Special Rapporteur presented that thematic report, entitled "Custody, violence against women and violence against children", with a focus on parental alienation. She also presented her reports on her country visit to Türkiye (A/HRC/53/36/Add.1) and Libya (A/HRC/53/36/Add.2) at the same session. In preparing the present report, the Special Rapporteur sought contributions from Member States, international and regional organizations, national human rights institutions, non-governmental organizations (NGOs), statelessness changemakers, affected persons and other relevant stakeholders.

¹ Office of the United Nations High Commissioner for Human Rights and Office of the United Nations High Commissioner for Refugees (UNHCR), "Outcome document of the round table on equality and non-discrimination in nationality matters to end statelessness", 21 October 2021.

² Submission by Global Campaign for Equal Nationality Rights.

³ UNHCR, "Background note on gender equality, nationality laws and statelessness 2023", March 2023. Available at <https://www.refworld.org/pdfid/640751284.pdf>.

⁴ UNHCR, "Global trends: forced displacement in 2022", 14 June 2023.

III. Overview of nationality laws and statelessness

A. International and regional frameworks on the right to nationality and the prevention of statelessness

4. According to the 1954 Convention relating to the Status of Stateless Persons, stateless persons are individuals who are not considered as nationals under the operation of the law of any country. Statelessness negatively affects the fundamental rights protected by the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. As such, international law explicitly recognizes the universal right to a nationality; in the Universal Declaration of Human Rights, the link between nationality and the enjoyment of other human rights is also acknowledged.⁵ International customary law and general principles of international law and treaties recognize the sovereign rights of States to bestow nationality, although it is underscored that States must comply with their obligations concerning the granting and loss of nationality. Limitations on the discretion of States with regard to nationality matters include a negative duty to prevent statelessness as well as to ensure equality and non-discrimination.⁶

5. As nationality itself is a right and grants access to other derivative human rights, international human rights instruments prohibit States from arbitrarily depriving individuals of their nationality. The Human Rights Committee, in its general comment No. 16 (1988) on the right to privacy, established that the arbitrary deprivation of nationality is incompatible with the provisions and objectives of international human rights law (para. 4). In its most recent resolution 53/16 on the right to a nationality, the Human Rights Council reiterates the concern that the arbitrary deprivation of nationality may result in intergenerational statelessness. As noted in the report of the Secretary-General on human rights and arbitrary deprivation of nationality, the consequences of any withdrawal of nationality must be carefully weighed against the gravity of the behaviour or offence for which denationalization is prescribed (A/HRC/25/28, para. 4). Given the severity of the consequences of statelessness, the loss or deprivation of nationality cannot be justified as a proportional measure or on any grounds (ibid.).

6. In 1957, the Convention on the Nationality of Married Women became the first document at the international level to enshrine the principle of the independent nationality of married women. It was a precursor to article 9 of the Convention on the Elimination of All Forms of Discrimination Against Women, which establishes the obligation of States parties to uphold women's rights to acquire, change or retain their nationality and to confer their nationality on their children on an equal basis with men. While several countries have made reservations to the article, the legality of such reservations has been called into question for being incompatible with the object and purpose of the Convention and in direct opposition to its non-discrimination principle. The Committee on the Elimination of Discrimination Against Women has

⁵ Nationality refers to the status of belonging to a particular nation, whether by birth or naturalization. It constitutes a legal relationship between an individual person and a State. The terms nationality and citizenship are used interchangeably in the present report.

⁶ International and regional human rights treaties that enshrine protection against discrimination include Articles 1, paragraph 3, 55 and 56 of the Charter of the United Nations, article 2 of the Universal Declaration of Human Rights, article 2 of the International Covenant on Civil and Political Rights, article 2 of the Convention on the Rights of the Child, article 1 of the Convention on the Elimination of All Forms of Discrimination Against Women, article 5 of the European Convention on Nationality, article 1 of the American Convention on Human Rights, article 3 of the African Charter on the Rights and Welfare of the Child and article 2 of the African Charter on Human and Peoples' Rights.

continually urged States parties to uphold gender equality and non-discrimination in relation to women's right to nationality and, in its general recommendation No. 32 (2014) on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, has clarified that States parties have an obligation, under article 9, to ensure that spouses have equal rights to confer their nationality. The Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention on the Elimination of All Forms of Racial Discrimination also establish obligations on States parties to protect the right to nationality of the groups in question.⁷

7. Two international conventions on statelessness address the discriminatory treatment of women in nationality matters, albeit in an incomplete manner. The 1954 Convention relating to the Status of Stateless Persons is primarily concerned with the protection of persons who are already stateless. The 1961 Convention on the Reduction of Statelessness articulates a positive legal duty of States to prevent and reduce statelessness in nationality laws and practices. It explicitly states that a child born in the territory of a contracting State, whose mother has the nationality of that State, shall acquire that nationality at birth by operation of law or upon application, if the child would otherwise be stateless. Article 6 of the 1961 Convention stipulates that the loss or deprivation of nationality must be conditional upon the possession or acquisition of another nationality, while article 8 imposes a negative duty on States not to render a person stateless through the deprivation of nationality, albeit with a few exceptions.⁸ These articles, combined with developments in international law on women's rights, firmly establish the duty of States to prevent statelessness and uphold non-discrimination.

8. Regional instruments also guarantee the right to nationality. While the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) does not contain an explicit right to nationality, the Council of Europe established the European Convention on Nationality and the Convention on the avoidance of statelessness in relation to State succession. The Convention on the Nationality of Women, adopted in Montevideo in 1933, was the first regional treaty emphasizing the civil and political equality of women and explicitly calling upon States to end gender discrimination in nationality laws and practices. Years later, the American Convention on Human Rights, in its article 20, stated the universal right to nationality. The African Charter on Human and Peoples' Rights reiterates the obligations of States to ensure the universal access of every child to nationality. The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol) urges States parties to take corrective action on discrimination against women in law and to enact appropriate national legislative measures to ensure women's equal right to nationality. The Arab Charter on Human Rights enshrines the principle of equality, although it does not explicitly address the issue of non-discrimination in nationality laws, and, in the Arab Declaration on Belonging and Legal Identity, reforms of nationality laws to establish gender equality with regard to nationality rights were welcomed. The right to nationality is also reaffirmed in general terms in the Human Rights

⁷ For example, articles 7 and 8 of the Convention on the Rights of the Child, article 5 (d) (iii) of the International Convention on the Elimination of All Forms of Racial Discrimination, article 29 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and article 18 of the Convention on the Rights of Persons with Disabilities.

⁸ Nationality may be deprived on exceptional grounds of residency (article 7, paras. 4 and 5), misrepresentation or fraud (article 8, para. 2 (b)), disloyalty to the State or formal allegiance to another State (article 8, para. 3).

Declaration of the Association of Southeast Asian Nations and the Commonwealth of Independent States Convention on Human Rights and Fundamental Freedoms.

9. The Human Rights Council has adopted a set of resolutions on nationality, including on the arbitrary deprivation of nationality (resolution 13/2), on the right to a nationality of women and children (resolution 20/4), on birth registration and the right of everyone to recognition everywhere as a person before the law (resolution 28/13) and on the right to a nationality with regard to women's equal nationality rights in law and in practice (resolution 32/7). In July 2023, at its fifty-third session, the Human Rights Council adopted resolution 53/16, by which it urged States to reform nationality laws that discriminate against women and, where such laws had been reformed, to ensure their effective implementation.

10. In the 2030 Agenda for Sustainable Development, the importance of the right to a nationality is acknowledged, as is the fact that gender equality in nationality laws is crucial to the realization of the 2030 Agenda. In particular, target 16.9 of the Sustainable Development Goals is aimed at providing legal identity for all, including birth registration, and target 17.19 is aimed at the strengthening of statistical capacities, including to ensure that countries achieve universal birth registration.

B. Linkage between gender-discriminatory nationality laws and statelessness

11. Sex and gender-based discrimination contained in provisions of nationality laws is one of the major causes of statelessness, alongside State succession, military occupation, administrative barriers and gaps related to civil registration and other forms of discrimination in nationality laws and practices, such as with regard to ethnicity and religion. In many ways, discriminatory nationality laws and statelessness are mutually reinforcing, thereby resulting in a vicious circle. While systemic and historical discrimination is often at the root of statelessness, stateless persons face further discrimination and are deprived of basic rights owing to their lack of nationality. Although definitive or quantifiable data are limited, existing evidence suggests that gender-discriminatory nationality laws lead to statelessness.⁹

12. Many States discriminate in the way that their laws provide for the acquisition, conferral, change and retention of nationality, including on grounds of sex and gender. Even where the law is not exclusionary, women and girls from minority groups may experience discrimination in practice when seeking to access nationality rights. For instance, women may be required to change their nationality upon marriage or at its dissolution, restricted or denied in their ability to pass on their nationality to their children or a spouse or prevented from registering the birth of their children or other vital statistics or gaining independent access to civil registration documents, including birth and marriage certificates, that are required to claim nationality rights.

13. According to UNHCR, discriminatory nationality laws can lead to statelessness whereby children cannot acquire nationality from their fathers, which can occur: (a) where the father is stateless; (b) where the laws of the father's country do not permit conferral of nationality in certain circumstances, such as when the child is born abroad; (c) where a father is unknown or not married to the mother at the time of birth; (d) where a father has been unable to fulfil administrative steps to confer his

⁹ Radha Govil and Alice Edwards, "Women, nationality and statelessness: the problem of unequal rights", in *Nationality and Statelessness under International Law*, Alice Edwards and Laura van Waas, eds. (Cambridge, Cambridge University Press, 2014), p. 170.

nationality or acquire proof of nationality for his children; or (e) where a father has been unwilling to fulfil such administrative steps.¹⁰

C. Gender-discriminatory laws as a form of gender-based violence

14. Gender-based violence reinforces gender-discriminatory nationality laws, on the one hand, and statelessness, on the other. Statelessness and gender-discriminatory laws are tantamount to violence against women, as defined in the Declaration on the Elimination of Violence Against Women contained in General Assembly resolution [48/104](#), and constitute a violation of multiple human rights, resulting in the physical, sexual or psychological harm or suffering of women and girls, as well as seriously impairing and nullifying their fundamental rights and freedoms.¹¹ Taken as a whole, the overlapping, widespread and systematic impact of gender-discriminatory laws can also amount to torture, given the severity of the pain and suffering that certain practices inflict on affected women and girls and the long-term impact on their physical and psychological well-being, including the ability to enjoy all human rights (see [A/HRC/31/57](#)). In many respects, gender-discriminatory nationality laws institutionalize and codify violence against women and girls.

VI. Overview of gender discriminatory nationality laws

15. There are generally two modes of acquiring nationality at birth: *jus soli* (citizenship by place of birth), which provides for the acquisition of nationality on the basis of birth in the territory of a State, and *jus sanguinis* (citizenship by descent), which provides for the acquisition of the nationality of one or both parents. Many States have adopted a combination of these systems.¹² Even where there are exceptions to a general rule of *jus soli*, women may not benefit from them; moreover, existing gaps in the law and in relevant by-laws and instructions can still lead to or increase the risk of statelessness, while contributing to violence against women and girls.

16. For example, the Constitution of Iraq of 2005 establishes gender equality in relation to nationality by providing that a child's nationality is acquired by descent from nationals of either sex. The country's Nationality Act of 2006 also allows for equal rights of parents to transfer their nationality. Despite it being a relatively progressive nationality law in the Middle East, the Act still limits the ability of women to confer their nationality on children born outside Iraq. For such births, the child may only apply for Iraqi nationality within one year of coming of age, provided that the child's father is unknown or stateless and the child is residing in Iraq at the time of the application. In addition, under article 5 of the Act, the conferral of nationality to children born in Iraq to a non-Iraqi father is at the discretion of the Minister of the Interior, who may allow conferral if the father was also born in Iraq, had come of age and had been habitually residing in Iraq at the time of the child's birth. No such provision exists with regard to women in similar situations.¹³

¹⁰ UNHCR, "Background note on gender equality, nationality laws and statelessness 2023", pp. 2 and 3.

¹¹ 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", September 2020.

¹² Radha Govil and Alice Edwards, "Women, nationality and statelessness: the problem of unequal rights", pp. 173 and 175.

¹³ Iraq, Nationality Act, No. 26 (2006).

17. With regard to the conferral of citizenship to children born overseas, most countries guarantee equal rights to women and men; countries where that is not the case include Libya and Togo.¹⁴ Most countries have codified the continued right of any citizen to their nationality, irrespective of marriage to a foreigner or upon its dissolution. Restoring a woman's nationality is not a straightforward procedure in some countries. An Iraqi woman who chooses to renounce her nationality after acquiring the nationality of her non-Iraqi spouse is able to recover her nationality only under specific conditions, such as if her non-Iraqi spouse is granted Iraqi nationality or if she remarries an Iraqi national. In the event that her spouse dies, divorces her or terminates their marriage, she shall regain her Iraqi nationality effective from the date of application, provided that she was residing in Iraq at the time of application. The above-mentioned renunciation requirements are not imposed on men.¹⁵

18. Several countries also do not permit women to transmit their nationality to a foreign spouse. For example, in the Philippines, section 15 of the Commonwealth Act No. 473, otherwise known as the Revised Naturalization Law, provides for the automatic conferral of derivative citizenship from husband to wife, which ultimately deprives women of their choice of nationality. Furthermore, section 12 of Republic Act No. 9139 provides that married women who apply for naturalization are unable to confer their citizenship on a foreign spouse. In Jordan, Lebanon and Oman, women lack the right to transmit their nationality to their spouse or their children. In Iraq, even where naturalization of a foreign spouse is possible, the requirements for Iraqi women are more complicated than for non-Iraqi women married to Iraqi men.

19. In most countries, women can automatically transmit their nationality to their biological children, irrespective of whether the children were born in or out of wedlock. In other countries, it is impossible to confer nationality on children born to certain nationals or outside of a legal marriage to nationals, which may result in a situation of statelessness. For example, according to article 17 of the Personal Status Law No. 188 of 1959 of Iraq, Iraqi men who are Muslim are permitted to marry only Muslim, Christian or Jewish women, thereby making marriages between Muslim men and Yazidi women illegal and their children considered to be born "out of wedlock". Many Yazidi women have been forcibly married to Da'esh members in Iraq. Any children born out of wedlock in such cases are then registered as Muslim under a fake father's name, as the law does not allow for women to give their names to their children.

20. Several countries prohibit minorities from becoming nationals of their countries, thereby rendering them stateless, in contravention of their international obligations. As was noted by the Special Rapporteur on minority issues, in 2018, persons belonging to national or ethnic, religious and linguistic minorities accounted for more than 75 per cent of the world's known stateless populations (see [A/73/205](#)), with at least half of them women and girls. According to the 2014 population census of Myanmar, an estimated 11 million people lacked any legal identity documents, 54 per cent of them women. While a lack of legal identity documentation does not render someone stateless, it can be used as a means of excluding certain populations. In the light of the country's Citizenship Law of 1982, statelessness particularly affects those persons not recognized as belonging to one of the 135 defined "indigenous races" or ethnic groups. The largest of these affected groups is the Rohingya Muslim

¹⁴ For full list, see UNHCR, "Background note on gender equality, nationality laws and statelessness 2023".

¹⁵ Iraq, Nationality Act, No. 26 (2006).

minority who predominantly reside in Rakhine state and have limited access to citizenship.¹⁶

21. In India, residents living along the border between India and Bangladesh have a long history of being considered foreigners. In the Indian state of Assam, the National Register of Citizens lists only those persons identified as “genuine citizens” and stipulates that any person entering the state after the date of creation of Bangladesh would be considered a foreigner, unless proven otherwise, and would therefore be guilty of illegal immigration.¹⁷ This has had the effect of retroactively denying citizenship by birth to persons born in Assam prior to 1985, as well as citizenship by descent.¹⁸ The updated National Register remains inaccurate and incomplete and, while claims to revise data in the Register remain pending, the burden of proof is largely imposed on individuals, who may be retroactively denied citizenship. As a result of these processes, over 2 million people, including women and girls, are currently at risk of statelessness in Assam.¹⁹

V. Causes of gender-discriminatory nationality laws and statelessness

22. The following section is focused strictly on the causes of gender-discriminatory nationality laws. The Special Rapporteur does not probe comprehensively the causes of statelessness, such as those whereby persons deemed to be outsiders may be stripped of their nationality as a tool of discrimination and/or persecution on the basis of different grounds or for other reasons.

Patriarchal values

23. Gender-discriminatory nationality laws are shaped by patriarchal and colonial legal values that find their origin in common and civil law systems that have a prejudicial approach to family relations, including that the nationality of a child is derived from the father’s nationality in a marriage. Many of these laws were imposed during the colonial era.²⁰ Such prejudicial concepts have been reinforced through stereotypical representations of the man as the head of the household and the woman as a dependant; these have long been used to justify gender-discriminatory laws and practices to prevent women from acquiring, retaining or transmitting nationality, irrespective of the nationality status of their spouse. Some States apply the principle of “dependent nationality”, which ties the nationality of a married woman to that of her male spouse.

24. A woman’s nationality may also be automatically withdrawn if she marries a foreign national or is required to renounce her nationality to acquire her spouse’s nationality. Moreover, a woman who loses her nationality owing to the loss of a spouse’s nationality may have her application to recover her original nationality refused on the ground that she is no longer a national, even though the right of return to one’s country of origin is guaranteed in international law. Certain social and cultural norms deny women’s right to register children and require the presence of a

¹⁶ Institute on Statelessness and Inclusion, “Dangerous journeys through Myanmar: insecurities and immobilities for Rohingya and Muslim women in post-coup Myanmar”, March 2022.

¹⁷ India, Citizenship (Amendment) Act, 2003.

¹⁸ Nationality For All, Minority Rights Group International and Institute on Statelessness and Inclusion, “Joint submission to the Human Rights Council at the 41st session of the Universal Periodic Review, India”, 31 March 2022.

¹⁹ Ibid.

²⁰ Radha Govil and Alice Edwards, “Women, nationality and statelessness: the problem of unequal rights”, p. 173.

father, as is the case in Colombia. Furthermore, single mothers and women survivors of sexual violence or gender-based violence face discrimination by the authorities when obtaining citizenship documentation, owing to stigmatization. In several countries, children of single mothers who are unable to prove the identity of the father are unable to acquire nationality and derivative rights.

Fears and motivations of States to exert demographic control

25. Gender-discriminatory nationality laws may be used to exert demographic control over who is included and excluded by controlling women's rights. In Lebanon, women married to non-Lebanese men cannot confer their nationality on their children, with the authorities claiming that this restriction prevents a disruptive shift in the sectarian and demographic balance.²¹ The demographic implications of marriages between Lebanese men and foreign women are not raised as a similar concern, thus underscoring the patriarchal nature of the restriction. Women's sexual and reproductive rights may also be restricted as a method of population control, as is the case in Myanmar, where, under the Population Control and Health-care Law, married women are required to ensure an interval of at least 36 months between births, otherwise their children may not be registered and would be rendered stateless. In Nepal, perceived demographic threats owing to open borders with neighbouring countries have also resulted in the instrumentalization of women's rights.²²

Intersecting discrimination

26. Gender-discriminatory nationality laws are often compounded by intersecting forms of ethnic, religious, racial and linguistic discrimination, with the affected minorities facing serious obstacles in accessing their right to nationality and thus being rendered stateless, as is the case of Roma, Ashkali, Egyptian and Russian-speaking minorities in Europe, minorities of Haitian descent in the Dominican Republic, minorities of Bengali descent in India and the Rohingya in Myanmar. The causes of statelessness also vary and are rooted in long-standing and intersecting forms of discrimination, which exacerbate barriers to nationality acquisition procedures. In Kuwait, stateless Bidoon with disabilities face discrimination with regard to gaining access to services (see [A/HRC/43/41/Add.1](#)). In Assam, India, women and girls from marginalized communities who have limited financial resources and education may be arbitrarily deprived of their citizenship as a result of indirect discrimination or owing to a lack of acceptable documentation.²³ Palestinian-Syrian women found it more difficult to flee the Syrian Arab Republic on account of their gender and their lack of effective protection by any State. They were harassed for not having a male guardian based on the family law of the Syrian Arab Republic and were often denied entry on account of their Palestinian identity cards and travel documents, which are issued by the Government of the Syrian Arab Republic to Palestinian refugees habitually resident in the country and show that they are not in possession of Syrian nationality.²⁴

27. Women from religious minorities also face compounded, intersecting forms of discrimination. In Myanmar, the Buddhist Women Special Law of 2015 imposes restrictions on Buddhist women who wish to marry outside their faith and requires mixed-religion couples to obtain permission to marry, which may be denied at the discretion of local authorities. Women from ethnic minorities face additional difficulties in regularizing their status and acquiring legal documentation, including birth registration, owing to language barriers, limited access to information, unfair

²¹ Submission by Peter McMullin Centre on Statelessness.

²² Ibid.

²³ Ibid.

²⁴ Ibid.

treatment and unfamiliarity with local laws and procedures. In the Dominican Republic, health workers reportedly used social and ethnic markers, such as skin colour, hair or last name, to question the validity of identity documents presented by mothers of Haitian descent.²⁵ To avoid this, women may give birth at home and resort to alternative procedures for acquiring nationality. In Somalia, the nationality law contains provisions that are discriminatory towards ethnic minorities and may create risks of statelessness for children born to minority communities that are not recognized as Somali tribes or clans.

28. In Pakistan, the National Database and Registration Authority requires individuals to declare their religious denomination when applying for a computerized national identity card or passport.²⁶ Ahmadis, including women and girls, are considered non-Muslims under Pakistani law and are required to sign a declaration stating that they are not Muslim and that they belong to Qadiani, or Ahmadi, religion.²⁷ Such forced declarations could be viewed as being a violation of the freedom of religion (see [E/CN.4/2002/73/Add.2](#)) and conflicts with the personal beliefs of members of the Ahmadiyyah community, who consider themselves Muslims, even though the Constitution of Pakistan refuses to identify them as such.²⁸ These intersecting forms of discrimination serve to highlight the important role that religion and religious leaders play in preventing statelessness and protecting and promoting women's right to nationality.²⁹

Cumbersome administrative requirements for birth registration or acquisition of nationality

29. Administrative requirements often act as structural bottlenecks that impede civil registration. Gaps in relevant legislation, such as lack of safeguards in civil registration laws mandating universal birth registration, can also increase the risks of children being born into statelessness and being exploited or abused by informal employers and service providers (see [A/HRC/31/29](#)). For example, children born through assisted reproductive technologies and children born to lesbian couples or single mothers experience serious barriers to acquiring nationality at birth. Owing to the lack of awareness with regard to documentation, women and girls may face challenges in understanding their rights and navigating complex legal procedures to obtain legal status or documentation. Language barriers, limited access to information and unfamiliarity with local laws and procedures hinder women's ability to regularize their status and acquire legal documentation. In the Philippines, for example, fees incurred for late registration of birth can serve as barriers to registration for marginalized populations.

30. The age and marital status of women also affect their ability to register their children. Underage mothers may be required by civil registries to fulfil additional

²⁵ Submission by Allison J. Petrozziello.

²⁶ Submission by AGHS Legal Aid Cell. See also Home Office of the Government of the United Kingdom of Great Britain and Northern Ireland, *Country Policy and Information Note: Pakistan – Ahmadis*, September 2021. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1015790/PAK_CPIN_Ahmadis.pdf.

²⁷ International Human Rights Committee, "Ahmadis in Pakistan: forced to declare non-Muslim status", newspaper clippings, 2019. Available at: <https://hrcommittee.org/wp-content/uploads/2019/03/IHRC-Special-Issue-1-2019-v6.pdf>.

²⁸ Pakistan, Constitution (Second Amendment) Act, 1974.

²⁹ See, for example, the European Union Action Plan on Gender Equality and Women's Empowerment in External Action for the period 2021 to 2025, the Faith for Rights framework and #Faith4Rights toolkit of the Office of the United Nations High Commissioner for Human Rights, and UNHCR, "Partnership note on faith-based organizations, local faith communities and faith leaders", 2014.

requirements. In Ecuador,³⁰ Mexico³¹ and Uruguay,³² underage mothers must be accompanied by their legal guardian or caregiver. In the Islamic Republic of Iran, mothers need to pass security checks to apply for citizenship for their children.³³ In Costa Rica³⁴ and Guatemala,³⁵ authorities must report cases of births of underage mothers, which may discourage birth registration, owing to the fear of criminal investigation or retaliation. Single mothers may face problems when trying to register their children, as the father is often absent at the time of the birth and they are usually not legally married. In Peru, registry officials can refuse to register a birth if only the mother is present.³⁶ In Myanmar, one core obstacle for women is the need to obtain a curatorship for a spouse who is deceased, missing, incarcerated or otherwise unable to make decisions or take actions on their own behalf. Moreover, women heads of households may experience difficulties in finding alternative care arrangements if travel is required for birth registration.³⁷ Children born through international surrogacy arrangements or assisted reproductive technologies and children born to lesbian couples or single parents may also experience difficulties in acquiring nationality at birth.³⁸

VI. Impact of discriminatory nationality laws and statelessness on women and children

Problems in registering births or passing a woman's nationality to her children

31. Barriers with regard to birth registration and obtaining birth certificates hinder women's ability to register or naturalize their children, especially for women belonging to ethnic and religious minorities, women living in conflict areas, and refugee and migrant women. For countries that grant naturalization of women through marriage, women must satisfy legal and administrative conditions to acquire a spouse's nationality.³⁹ The completion of the process often hinges on the spouse, who may not complete the administrative requirements for various reasons, such as death or abandonment of the family. Other challenges may include obstacles to accessing consular services or absence of proof of birth or of the parenthood of the child.

32. In countries such as Bahrain, Iran (Islamic Republic of), Kuwait, Lebanon, Malaysia and Qatar, women cannot register births if they are unmarried or if their children were born out of wedlock, which makes it difficult for a child to obtain citizenship or gain access to basic services.⁴⁰ In addition, children born out of child marriages – which occur in a number of countries but are not considered legal forms

³⁰ Ecuador, regulations implementing the Organic Law on Management of Data and Civil Regulation (2016), art. 24. If the underage mother cannot attend in the company of a parent or guardian, the case is referred to the cantonal rights protection board for children and adolescents.

³¹ Mexico, Federal Civil Code, art. 362.

³² Uruguay, Code on Children and Adolescents, Act No. 17,823 (September 2004), art. 30.

³³ Equality Now, "The State we're in: ending sexism in nationality laws – update for a disrupted world", 2022.

³⁴ Costa Rica, Act No. 9406 of 24 October 2016 strengthening the legal protection of girls and adolescent women against gender-based violence associated with abusive relationships and reforming the Criminal Code, the Family Code, the Organic Law on the Supreme Electoral Tribunal, the Civil Registry and the Civil Code; art. 1.

³⁵ Guatemala, Child and Adolescent Protection Act, Decree No. 27-2003, arts. 44 and 54.

³⁶ UNICEF, "Birth registration: right from the start", Innocenti Digest No. 9, March 2002, p. 15.

³⁷ World Bank, "Incentives for improving birth registration coverage: a review of the literature", 2018, p. 6.

³⁸ Radha Govil and Alice Edwards, "Women, nationality and statelessness: the problem of unequal rights", p. 178.

³⁹ Ibid.

⁴⁰ Submission by Maat for Peace, Development and Human Rights Association.

of marriage and cannot be legalized – are often unregistered and may therefore be rendered stateless.

33. Discriminatory and arbitrary practices by health workers or officials registering births can limit the ability of women to register their children. In the Dominican Republic, the discretionary decisions of health-care workers on the adequacy of documentation and subsequent discrimination in birth registration have left many newborns without birth certificates. Fees levied for late registration may delay birth registration indefinitely. In addition, grammatical errors by health workers or civil registry officials are significant barriers and can lead to investigations into fraudulent applications, which can result in the withdrawal of nationality.

Lack of access to human rights and essential services

34. Owing to the lack of legal status or difficulties in gaining access to legal documents, stateless persons and those affected by discriminatory nationality laws and practices are unable to exercise their basic human rights and or access essential services, such as social protection, health care, education, formal employment, financial services, inheritance, property rights, development opportunities, freedom of movement and remedial measures. For instance, 14 States in the Middle East and North Africa region do not allow women to obtain passports for their children on an equal basis with men.⁴¹ As a result of the coronavirus disease (COVID-19) pandemic and the ensuing lockdowns, there has also been an increase in gender-based violence against migrant women and reduced or limited options for access to medical care, including maternal and child health-care and vaccines (see [A/75/144](#)). Stateless persons, such as those in Iraq and Pakistan, are often rendered invisible within the justice system and are unable to claim their rights, receive legal services or rectify their lack of legal status.⁴² Stateless women and girls may find it difficult to gain access to justice and legal assistance in cases related to sexual and gender-based violence, divorce or inheritance.

35. Stateless persons often work in the informal sector without access to formal employment and cannot access legal protections established for those formally employed. Affected women and girls not only face lower wages and job insecurity in the informal sector, but are also hindered in their ability to report workplace assault and harassment. Children of Jordanian women and non-citizen fathers cannot be employed in public institutions at all, despite the Government's pledge in 2014 to grant equal access to jobs. Employers often exploit the children of Jordanian women and non-citizen fathers by paying them less than Jordanians, not registering them for social security and health insurance and forcing them to work long hours. At the instruction of the Ministry of Labour, children who are considered foreigners are excluded from certain professions that are reserved for, or for which priority is given to, Jordanians.

Increased exposure to human rights violations

36. Stateless women and girls face compounded difficulties in terms of equal representation and full, equal and meaningful participation and can also find it challenging to gain access to the legal aid and support they need owing to their ethnicity, migratory status, race, disability, socioeconomic status, sexual orientation or gender identity. The collective disadvantages resulting from statelessness and gender-discriminatory nationality laws can expose women and girls to exploitation

⁴¹ Human Rights Watch, *Trapped: How Male Guardianship Policies Restrict Women's Travel and Mobility in the Middle East and North Africa*, July 2023.

⁴² Submission by AGHS Legal Aid Cell.

and abuse,⁴³ including domestic violence, child marriage, trafficking, restrictions on their freedom of movement and arbitrary detention, which have been addressed in various previous reports of the special procedure mandate holders of the Human Rights Council.⁴⁴ As a result of their situation, COVID-19, climate change and conflict deliver a particularly severe triple blow to stateless women and girls, owing to increased incidents of violence, forced marriage, child labour, trafficking and exploitation.⁴⁵

37. The precarious conditions persist, despite the continued efforts of States to fulfil their positive obligations to ensure the rights of stateless persons within their jurisdictions. Women whose children are denied a nationality and rendered stateless may experience a high degree of psychological violence, although this is still not sufficiently explored. In some countries, female citizens residing abroad have to travel home to give birth in order to secure citizenship for their child. This can be a highly dangerous undertaking, as pregnant women are unable to travel in their third trimester or take the long absences from work required to travel to give birth.⁴⁶

38. Discriminatory laws expose women to exploitative or informal forms of employment and precarious living conditions and increase their risk of exploitation through trafficking and sex work.⁴⁷ Trafficking can lead to new cases of statelessness as recognized in several Human Rights Council resolutions, such as resolutions 20/4, 32/7 and 32/5.⁴⁸ Gender-discriminatory nationality laws and statelessness can lead to an increase in child marriage, as seen in Eswatini and Lebanon.⁴⁹ In Bangladesh⁵⁰ and Lebanon,⁵¹ stateless women and girls may be exposed to higher rates of forced marriage and early pregnancy. Some sheikhs in Lebanon execute marriage contracts for underage girls without registration, which can lead to children born of those marriages being rendered stateless.⁵²

39. In Myanmar, stateless women and girls face increased risks in the context of conflict and integration. During their migration and flight from violence in Myanmar, and during their stay in refugee camps in neighbouring countries, stateless women and girls experience multiple types of sexual violence and exploitation and may be forced into early marriage or excluded from humanitarian assistance.⁵³ While the country's Citizenship Law is gender-neutral, gender barriers remain in terms of social norms and affect women's access to information on obtaining citizenship documentation, the ability to travel to obtain supporting documentation and file applications, the preference of families for obtaining citizenship documentation for men over women in the household and the implementation of laws that prohibit polygamy and regulate marriage between Buddhist women and non-Buddhist men.

⁴³ UNHCR, “‘This is our home’: stateless minorities and their search for citizenship”, November 2017, p. 2.

⁴⁴ See, for example, A/HRC/23/50, A/HRC/38/52, A/HRC/50/31 and A/HRC/53/28.

⁴⁵ UNHCR, “COVID-19 and climate crisis worsen inequalities for displaced women and girls”, press release, 8 March 2022. See also Institute on Statelessness and Inclusion, *Together We Can: The COVID-19 Impact on Stateless People and a Roadmap for Change*, 2021. Available at https://files.institutesi.org/together_we_can_report_2021.pdf.

⁴⁶ Submission by Association of Family Support and Welfare Selangor and Kuala Lumpur (Family Frontiers).

⁴⁷ Submission by Southall Black Sisters.

⁴⁸ See also, Conny Rijken and others, *The Nexus between Statelessness and Human Trafficking in Thailand* (Oisterwijk, Wolf Legal Publishers, 2015), pp. 103–106.

⁴⁹ Submission by Lebanon.

⁵⁰ Submission by Graduate Women International.

⁵¹ Submission by Lebanon.

⁵² Equality Now, “The State we’re in”, p. 15.

⁵³ Submission by Maat for Peace, Development and Human Rights Association.

Complicating child custody procedures

40. Women who do not have their spouse's nationality may experience challenges to claiming custody of their children. For example, in one case, the former husband of a Malaysian mother battling for custody of their child is asserting full custody as primary caregiver on the ground that the child lacks Malaysian citizenship and can reside in Malaysia only on a long-term social visit pass.⁵⁴ Similarly, when Palestinian women marry citizens of Israel or permanent residents of East Jerusalem, the woman is not required or directly involved in the registration of the child by Israeli law.⁵⁵ Should the spouse die prior to the child's registration, the mother cannot register the child except in exceptional circumstances. In most cases, custody of the child will be given to a first-degree relative of her deceased partner.⁵⁶ Women married to nationals in their own countries can face a similar situation. In Nepal, women must prove the paternal Nepali citizenship of her children's father in order to obtain citizenship documents for children, which are provided only after children reach the age of 16 years (see [A/HRC/38/41/Add.1](#)). Even if a divorced mother has full custody, officials require proof of the father's Nepali citizenship.⁵⁷

Remaining in abusive relationships

41. Women's inability to confer automatic citizenship on their children may discourage them from leaving toxic or abusive marriages in exchange for secured nationality for their children, because to leave would mean forfeiting the nationality acquired through marriage (see [A/HRC/19/43](#)). If women living abroad divorce their foreign spouse, they may face difficulties in obtaining assistance from their former spouse with regard to administrative processes, including those required to bring children to their own country or renew a child's passport. In the United Kingdom of Great Britain and Northern Ireland, undocumented migrants do not have a pathway to nationality or access to civil registration procedures, leading to migrant women being trapped in abusive relationships.⁵⁸

Lack of effective protection and participation in society

42. Stateless women and girls in conflict settings are vulnerable to human rights violations, as they do not enjoy protections derived from citizenship. They are also usually excluded from political processes and the governance of their country. The underrepresentation of stateless persons among any constituency in a country's population represents an acute form of exclusion. Although there is limited concrete evidence of the economic cost of the non-participation of stateless persons, the exclusion of stateless persons impedes the efficient use of available resources, limits the realization of their economic potential and prevents them from participating in and contributing to society in a meaningful way.

Family separation

43. Gender discrimination in nationality laws can also cause family separation, including by separating women from their spouse and children, which is a form of psychological violence. Women in Lebanon and Bahrain who are unable to pass on citizenship suffer the fear of actual forced separation from their family.⁵⁹ Not all

⁵⁴ Submission by Association of Family Support and Welfare Selangor and Kuala Lumpur (Family Frontiers).

⁵⁵ Palestinians of East Jerusalem have the status of permanent residents.

⁵⁶ Submission by Al-Quds University Community Action Center.

⁵⁷ Submission by Global Campaign for Equal Nationality Rights.

⁵⁸ Submission by Southall Black Sisters.

⁵⁹ Equality Now, "The State we're in".

Palestinian women seeking family reunification with persons who are Israeli citizens or permanent residents of East Jerusalem are allowed to live with them in Israel, including occupied East Jerusalem. Women from Gaza are banned from family reunification (A/HRC/46/63, para. 44). Women under 25 years of age from the West Bank are separated from their families, while women over 25 years of age can receive military stay permits, which need to be renewed annually. These women will not report incidents of violence to the Israeli police, given that it represents the occupying Power, but also owing to the real likelihood that mothers will lose any real chance of obtaining residence or for fear of losing their children.⁶⁰ Palestinian women who used to reside in the Syrian Arab Republic were often separated from their male family members and children while fleeing, in cases where their male family members were not travelling with them.⁶¹

44. In some countries, women unable to confer nationality on their foreign-born children have expressed concern that their children are unable to secure entry visas or short- or long-term residence permits for the mother's country of origin. For example, children born overseas to Malaysian women have limited options when it comes to staying in Malaysia.⁶² Up to 6 years of age, their children are issued with only a long-term social visit pass and thereafter a student pass, which is valid until they graduate from tertiary education or reach 18 years of age, at which point they are unable to secure a student or work visa to remain in the country and thus face family separation. Similarly, in the Bahamas, despite the Attorney General acknowledging the decision of the Privy Council to uphold a 2020 ruling granting Bahamian citizenship at birth to children born out of wedlock to Bahamian fathers and foreign mothers, Bahamian women cannot confer their nationality on a non-citizen spouse and need to apply for spousal permits, which is a notoriously slow and expensive process with unpredictable outcomes.⁶³ As the age criteria for citizenship is for children aged up to 21 years, non-citizen adult children face great uncertainty and may be separated from their families. There have been cases of girls and young women in such circumstances being sent abroad to live with abusive extended family members or even strangers.

Securitization of nationality as a counter-terrorism measure

45. Some European countries have stripped individuals, including women and girls, of nationality on security grounds and as a counter-terrorism measure. Often, family members may be deprived of citizenship without due process or an objective assessment of proven criminal responsibility for acts of terrorism. Women and children undergoing deprivation of citizenship measures, including many single-parent women-headed households, are reported to have been detained in camps and detention centres.⁶⁴ As has been noted by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism,

⁶⁰ Submission by Al-Quds University Community Action Center. See also HaMoked – Centre for the Defence of the Individual, “ACRI, HaMoked and PHR-Israel petitioned the HCJ: The Citizenship and Entry into Israel Law (Temporary Order) brands all Palestinians as a security risk; its purpose is racist and it must be abolished”, 25 April 2022.

⁶¹ Submission by Peter McMullin Centre on Statelessness.

⁶² Submission by Association of Family Support and Welfare Selangor and Kuala Lumpur (Family Frontiers).

⁶³ Equality Now, “2023 update: progress on ending sexism in nationality laws since July 2022”, 14 July 2023.

⁶⁴ Office of the United Nations High Commissioner for Human Rights, “Position of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on the human rights consequences of citizenship stripping in the context of counter-terrorism, with particular reference to north-east Syria”, position paper, February 2022. Available at www.ohchr.org/sites/default/files/2022-03/Deprivation-of-Citizenship.docx.

many are accused of terrorism merely by association with foreign terrorist fighters, rather than because of crimes committed themselves, and face extortion, torture, threats and violence. The arbitrary deprivation of nationality of women and children associated with or related to foreign terrorist fighters is unjustified and is an extreme form of punishment and violence against women, regardless of whether women have been associated with foreign terrorist fighters voluntarily or by force. The deprivation of nationality as a national security measure and the resulting statelessness could be considered cruel, inhuman and degrading treatment or punishment violating international law, including in cases where such measures are used to target human rights defenders in order to dismiss their activism as a terrorist threat.⁶⁵

VII. Good practices in the reduction and prevention of statelessness and the removal of discriminatory provisions in national laws

46. There have been notable advancements at the national level in reducing and preventing statelessness and reforming gender-discriminatory nationality laws through legislative reforms and civil society partnerships, as well as in the multilateral and regional forums, as outlined in the following section. Examples of good practices are illustrative, since the legislative and societal context in which countries operate differ considerably.

A. Legislative reforms and policy initiatives

1. Amendments to gender-discriminatory nationality laws and administrative laws

47. An increasing number of countries are repealing or amending gender-discriminatory nationality provisions in laws and constitutions. In 2007, Morocco amended its Nationality Code with retroactive effect to uphold women's right to confer nationality on their children and withdrew its reservation to article 9, paragraph 2, of the Convention on the Elimination of All Forms of Discrimination Against Women.⁶⁶ In the United Arab Emirates, the adoption of Federal Decree-Law No. 16 of 2017, amending Federal Law No. 17 of 1972 on nationality and passports, enabled Emirati women to apply to transfer their nationality to children born to a foreign father after a period of six years from the birth – with the decision being at the discretion of the Government – except in cases where the father is stateless or of unknown identity, in which case, citizenship is granted at birth.⁶⁷ In 2018, the Minister of the Interior of Lebanon allowed divorced women to include the names of their children on civil status papers, even if they were stateless, and, in 2022, the National Commission for Lebanese Women drafted a plan of action to permit Lebanese women to confer their nationality on their children.⁶⁸ In 2017, the Supreme Court of the United States of America ruled that the same physical presence and residency requirements for derivative citizenship should be established for unmarried American fathers and mothers.⁶⁹ With regard to statelessness specifically, in 2019, the Parliament of Latvia took a decisive step towards eliminating child statelessness with

⁶⁵ Institute on Statelessness and Inclusion, “Principles on deprivation of nationality as a national security measure”, 2020.

⁶⁶ UNHCR, “Background note on gender equality, nationality laws and statelessness 2023”.

⁶⁷ Submission by Maat for Peace, Development and Human Rights Association.

⁶⁸ Submission by Aix Global Justice.

⁶⁹ Supreme Court of the United States of America, *Sessions v. Morales-Santana*, No. 15-1191, 582 US, opinion, 12 June 2017.

the adoption of a law, effective from 1 January 2020, to grant automatic citizenship to children of “non-citizens”, unless the parents opt for another nationality.⁷⁰

48. More recent reforms have been made, in 2022, in Liberia, where an amendment to the Aliens and Nationality Law was passed to eliminate all gender-discriminatory provisions and uphold equal nationality rights and, in Benin, where a new nationality code was adopted to legalize equal parental transfer of nationality. The President of Nepal signed the Nepal Citizenship Act into law on 31 May 2023, eliminating some sex-based discrimination, but the right to confer citizenship on foreign spouses remains discriminatory towards women.⁷¹ In 2022, the Cabinet of Malaysia decided to grant Malaysian women the right to pass on their nationality to their children, stating that the restriction violated the country’s constitutional ban on sex-based discrimination. Following the landmark decision, the Federal Court gave leave for an appeal to proceed in a case concerning gender-equal citizenship rights, and the newly elected Government of Malaysia agreed to advance these reforms. Some countries maintain a dedicated task force or working group to implement the national action plans on statelessness.⁷² Several countries, including Kiribati, have reaffirmed their commitment to end gender discrimination in nationality laws. Over the past two decades, countries in the Middle East and North Africa region, such as Qatar, through its Law No. 5 of 2009, have amended laws to allow women to obtain passports without a male guardian.⁷³ In 2019, Saudi Arabia abolished Ministry of the Interior regulations requiring a woman to have the permission of a male guardian in order to travel abroad.⁷⁴ In addition, more countries have recently introduced safeguards to prevent childhood statelessness, as is the case in Côte d’Ivoire, Indonesia, Kyrgyzstan and the Philippines.⁷⁵

2. Improving the inclusiveness and accessibility of statelessness determination procedures

49. Statelessness determination procedures are crucial for identifying and granting protection status to stateless persons in migratory situations and can facilitate their naturalization. Only a few dozen countries have established dedicated statelessness determination procedures, and even fewer countries have procedures that fulfil all or some of the following core elements required to ensure the effectiveness of such a mechanism: (a) location of institutions overseeing statelessness determination procedures; (b) access to procedures; (c) coordination of refugee status and statelessness determinations; (d) evidentiary considerations; (e) procedural guarantees; (f) rights granted to recognized stateless persons; and (g) naturalization of stateless persons.⁷⁶ In 2019, Argentina adopted a law on the recognition and protection of stateless persons, which explicitly stated the Government commitment to taking a gender-sensitive approach to the issue.⁷⁷ Brazil has implemented three legislative mechanisms to address the issue of statelessness, combining *jus soli* and *jus sanguinis* and implementing the statelessness determination procedure with a shared burden of proof. To enhance accessibility, the Ministry of Justice and Public

⁷⁰ Commissioner for Human Rights of the Council of Europe, “Latvia takes important step toward eliminating child statelessness”, public statement, 18 October 2022. Available at: www.coe.int/en/web/commissioner/-/latvia-takes-important-step-toward-eliminating-child-statelessness.

⁷¹ Equality Now, “2023 updated: progress on ending sexism in nationality laws”.

⁷² UNHCR, “#IBelong campaign to end statelessness: January–March 2023 update”, 23 June 2023. Available at www.refworld.org/docid/649555744.html.

⁷³ Submission by Qatar.

⁷⁴ Human Rights Watch, *Trapped*.

⁷⁵ UNHCR, #IBelong campaign to end statelessness by 2024. See www.unhcr.org/ibelong/.

⁷⁶ For more information, see UNHCR, Good Practice Paper: *Action 6 – Establishing Statelessness Determination Procedures for the Protection of Stateless Persons*, July 2020.

⁷⁷ Submission by Argentina.

Security of Brazil launched an online platform, known as “SisApatridia”, to facilitate the submission and processing of statelessness recognition claims.⁷⁸

3. Development of a comprehensive civil registration system

50. A strong civil registration and vital statistics system is also crucial to preventing and addressing statelessness. A key component of such a system is birth registration, which in and of itself does not confer nationality, but serves as an important pathway towards establishing a person’s identity under the law; a birth certificate establishes a legal record of where a child was born and who the parents are, as well as other elements of information that are key to proving entitlement to nationality. Regardless of the means of acquiring nationality or the varying procedures and restrictions for birth registration, in cases where persons do not have legally valid birth certificates, alternative means to obtain identity credentials should be provided.⁷⁹

51. In recent years, Afghanistan, Guinea and South Sudan have made legislative reforms to allow mothers to register births, while Mozambique also allows a single mother to register a child under their maiden name.⁸⁰ Kyrgyzstan recently passed a bill that enables undocumented or stateless parents to register births.⁸¹ The Dominican Republic adopted the Organic Law on Civil Status Documents, creating the National Civil Status Registry System, which facilitates in-person and electronic civil registration service and eliminates the confirmation process for birth certificates and late birth registration after 60 days.⁸² Inter-institutional coordination helps with regard to registering persons on the move, as has been seen in Panama, where agencies work on a permanent and periodic basis to register births across the territory.⁸³ A dedicated national strategic plan on civil registration can be mainstreamed into national development plans, as in the case of Namibia, where the Government reiterated its commitment to regularizing undocumented and stateless persons in the second Harambee Prosperity Plan for the period 2021 to 2025.⁸⁴

4. Inclusion of statelessness in national statistics

52. More than half of all countries do not report data on statelessness, and those that do tend to have partial or unreliable data and apply different statistical methodologies and approaches to collect and report on the stateless population.⁸⁵ Some countries have integrated statelessness in the national statistical framework, as in the examples of the 2019 population and housing census and the socioeconomic survey of the stateless Shona of Kenya, the population register of Norway and the statelessness survey of Côte d’Ivoire. In addition, the Philippines has established a national coordination mechanism on statelessness statistics.⁸⁶

⁷⁸ Ana Raquel Menezes, “Breaking the mold: Brazil’s progressive approach to granting nationality and reducing statelessness”, European Network on Statelessness, 29 June 2023.

⁷⁹ *Guidelines on the Legislative Framework for Civil Registration, Vital Statistics and Identity Management*, Studies in Methods, Series F, No. 123 (United Nations publication, 2023).

⁸⁰ UNHCR and the United Nations Children’s Fund, “Background note on sex discrimination in birth registration”, 6 July 2021.

⁸¹ UNHCR, “Ground-breaking law means every child in Kyrgyzstan will have right to a birth certificate”, press release, 26 May 2023.

⁸² UNHCR, “#IBelong campaign to end statelessness: January–March 2023 update”.

⁸³ UNHCR and the Organization of American States, “Regional study on late birth registration, issuance of nationality documents and statelessness: standards, best practices, barriers and challenges”, December 2020.

⁸⁴ Anette Bayer Forsingdal, Dianne Hubbard and Adrijana Corluca, “Birth registration and statelessness in the member States of the Southern Africa Development Community”(UNHCR, 2022).

⁸⁵ UNHCR, “Global trends: forced displacement in 2022” (Copenhagen, 14 June 2023).

⁸⁶ Expert Group on Refugee, Internally Displaced Persons and Statelessness Statistics, “Country examples of data collection on statelessness statistics”, background document, January 2022.

B. Multilateral partnerships

1. Advocacy by rights mechanisms

53. Of the 24 countries that have gender-discriminatory nationality laws, 21 are parties to the Convention on the Elimination of All Forms of Discrimination against Women and 12 of those have made reservations to article 9, either in its entirety or specifically to article 9, paragraph 2, which requires States parties to grant equal parental rights with regard to transfer of nationality.⁸⁷ The Committee on the Elimination of Discrimination against Women has consistently engaged with and recommended that States parties, such as the Bahamas, Jordan, Morocco and Saudi Arabia, adopt necessary measures to eliminate direct and indirect discrimination in nationality laws and practices in order to achieve substantive equality in such matters.⁸⁸ The Human Rights Committee and other relevant treaty bodies have also called upon States parties to ensure women's right to confer nationality in law and in practice of statutory provisions.⁸⁹ Recommendations on removing gender-discriminatory provisions in nationality laws have been reiterated in the context of the universal periodic review,⁹⁰ where at least 250 relevant recommendations were made from 2008 to 2020 and almost 200 of the total number of recommendations on the issue were directed at the 24 countries that still discriminate with regard to conferral of nationality to children, with nearly a fifth of those recommendations having been accepted.⁹¹

2. Regional and national initiatives

54. In the Latin America and the Caribbean region, 28 countries and three territories adopted the Brazil Declaration and Plan of Action, in 2014, with a view to strengthening the protection of refugees, displaced persons and stateless persons and to eradicate statelessness in the region within 10 years. In Africa, member States of the Economic Community of West African States have stated their commitment to achieving gender equality in nationality laws in the Abidjan Declaration on Eradication of Statelessness, in 2015, and reiterated their commitment in the legally binding Banjul Plan of Action on the Eradication of Statelessness 2017–2024, in 2017. Similar commitments are evidenced in other parts of the world, with the League of Arab States adopting the Arab Declaration on Belonging and Legal Identity and the member States of the Central African Economic and Monetary Community endorsing the N'Djamena Initiative on the Eradication of Statelessness in Central Africa, both in 2018. In 2015, the Council of the European Union adopted its first conclusions on statelessness and, in 2016, at its 134th session, the Inter-Parliamentary Union Assembly adopted a resolution entitled “Giving an identity to the 230 million children without a civil status: one of the major challenges of the humanitarian crisis in the twenty-first century”. Other notable initiatives include the development by the African Union of a draft protocol to the African Charter on Human and Peoples' Rights on the specific aspects of the right to a nationality and the eradication of statelessness in Africa; the seven-point plan of action agreed at a conference entitled “Ensuring Everyone's Right to Nationality: The Role of Parliaments in Preventing and Ending Statelessness”, held in Cape Town, South Africa, in 2015; and the Bali Declaration on People Smuggling, Trafficking in Persons and Related Transnational Crime.

⁸⁷ UNHCR, “Background note on gender equality, nationality laws and statelessness 2023”.

⁸⁸ See also [CEDAW/C/OMN/CO/2-3](#).

⁸⁹ See, for example, [CCPR/C/KWT/CO/3](#), [CCPR/C/MRT/CO/1](#), [CERD/C/BHR/CO/8-14](#), [CERD/C/LBN/CO/23-24](#), [CRC/C/LBN/CO/4-5](#) and [CRC/C/KWT/CO/3-6](#).

⁹⁰ See, for example, [A/HRC/27/11](#).

⁹¹ UNHCR, “Background note on gender equality, nationality laws and statelessness 2023”, p. 5.

55. National stakeholders also play an important role in contributing to achieving gender equality in nationality laws. In Pakistan, in October 2022, the Peshawar High Court held that a Pakistani woman's Afghan husband was entitled to a Pakistan origin card from the National Database and Registration Authority, thereby signalling a favourable turn towards gender equality.⁹² In 2017, the Supreme Court of the United States ruled that the Constitution “requires the Government to respect the equal dignity and stature of its male and female citizens”, including in laws governing the citizenship of foreign-born children of parents with United States citizenship.⁹³ The Constitutional Court of Austria found that the decision of the Federal Administrative Court to reject an asylum application of a Palestinian woman was arbitrary, in the light of a UNHCR assessment against returning Palestinian refugees to the Gaza Strip.⁹⁴ Local governments have also proved to be crucial in fostering partnerships with relevant ministries and the United Nations system. For example, in the Philippines, a specialized one-stop shop has been set up to register births in the Sama-Bajau community on the basis of family listing.⁹⁵

3. United Nations initiatives

56. The United Nations system has led notable initiatives with regard to ending statelessness, legal identity, and data and statistics. For example, UNHCR launched the #IBelong campaign in 2014, with the goal of eradicating statelessness. In 2019, UNHCR organized a high-level segment on statelessness, where 360 pledges were submitted by various stakeholders, 252 of which were made by States, including on ending gender-discriminatory nationality laws.⁹⁶ The United Nations Legal Identity Agenda task force and the Global Alliance to End Statelessness have each brought together technical expertise spanning multiple organizations and regions. The Expert Group on Refugee, Internally Displaced Persons and Statelessness Statistics has led in the development of international recommendations on statelessness statistics, in consultation with civil society and government focal points, which were endorsed at the fifty-fourth session of the Statistical Commission, in March 2023.⁹⁷

C. Campaigns and initiatives by civil society actors

57. Civil society actors have an equally important role to play. In Malaysia and Nepal, legal action concerning women's right to confer citizenship has been prompted by cases filed before the high courts and supreme courts by civil society organizations supporting affected mothers, while legislative reform in Indonesia has also been primarily led by civil society actors and parliamentarians.⁹⁸ In the Dominican Republic, civil society organizations have developed a road map and advocacy plan to promote accession to the conventions on statelessness.⁹⁹ Civil society has also been crucial in engaging with international human rights mechanisms, including the Committee on the Elimination of Discrimination against Women (see [A/HRC/23/23](#)), and has proved instrumental in developing relevant guidelines, such as the UNICEF

⁹² Dawn News, “Pakistani woman's Afghan husband entitled to Pakistan Origin Card: PHC”, 12 October 2022. Available at: www.dawn.com/news/1714608.

⁹³ Supreme Court of the United States of America, *Sessions v. Morales-Santana*.

⁹⁴ See <https://caselaw.statelessness.eu/caselaw/austria-constitutional-court-case-e-761-7662018-18>.

⁹⁵ The Sama-Bajau are one of the State-identified populations that are at risk of statelessness, owing to their itinerant lifestyle and generations of the non-registration of births.

⁹⁶ See <https://www.unhcr.org/ibelong/results-of-the-high-level-segment-on-statelessness/>.

⁹⁷ See [E/2020/24](#), [E/CN.3/2022/10](#), [E/CN.3/2023/22](#) and decision 54/121 in [E/2023/24](#).

⁹⁸ Submission by Peter McMullin Centre on Statelessness.

⁹⁹ UNHCR, “#IBelong campaign update: January–March 2023”.

toolkit on the child's right to a nationality and on childhood statelessness.¹⁰⁰ The Global Campaign for Equal Nationality Rights works to promote reforms to address gender-discriminatory laws and acts as a consortium of local, regional and international NGOs, academics and the United Nations system focusing on advocacy, research and knowledge-sharing.¹⁰¹

VIII. Conclusion and recommendations

58. Statelessness is an inherently political outcome, and gender-discriminatory nationality laws are reflections of the patriarchal and colonial power structures that govern other forms of discrimination and violence against women and girls. Legislation and other initiatives must address the structural and historical causes of statelessness and gender discrimination in nationality laws, and reforms must be applied in tandem with relevant structures, such as civil registration and data systems. In all solutions, persons experiencing statelessness and affected by gender-discriminatory nationality laws must be consulted in a meaningful manner, with due consideration given to their age, gender, disability status, sexual identity and gender orientation, and other identities.

59. Regarding international frameworks and domestic legislation, the Special Rapporteur recommends that States and relevant actors take action:

(a) To accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness and implement their provisions;

(b) To implement the Convention on the Elimination of All Forms of Discrimination Against Women, without reservations to article 9, and uphold their obligations under the Convention on the Rights of the Child, as outlined in article 2, in combination with articles 7 and 8, to ensure the child's right to acquire their parents' nationality without discrimination on the basis of sex or residency status;

(c) To review and reform nationality laws and practices relating to nationality that discriminate on any prohibited grounds, including on the basis of sex or gender;

(d) To lower legal and practical hurdles to citizenship and establish pathways for naturalization that are equally accessible to women and men, including by removing gender-discriminatory provisions in documentation and other administrative requirements;

(e) To uphold women's equal right to acquire, change, retain and confer nationality on their children and spouse with due process guarantees;

(f) To include non-discrimination clauses in national constitutions and nationality laws and address the root causes of discrimination, such as social, cultural and religious norms, by incorporating a gender perspective into all laws and regulations related to statelessness and nationality rights;

(g) To improve the legislative framework to combat gender-based violence against stateless women and girls and ensure that legislation prohibiting domestic violence addresses statelessness and nationality-related concerns;

¹⁰⁰ UNICEF and Institute on Statelessness and Inclusion, "The child's right to a nationality and childhood statelessness: a toolkit for child rights actors", 23 April 2023.

¹⁰¹ See <https://equalnationalityrights.org/about-us>.

(h) To engage religious and community leaders in addressing discriminatory social and religious norms in order to end the harmful practice of child marriage and facilitate marriage registration;

(i) To establish exceptional clauses to grant independent residence status to migrant women who may be dependent on their spouses for residence in a country and may be victims of domestic violence, and ensure their access to services and to justice, irrespective of their migration or citizenship status.

60. Regarding civil registration, data and statistics, the Special Rapporteur recommends that States and relevant actors take action:

(a) To uphold the equal right to register births and access birth and marriage certificates and other civil documents, without discrimination, including on the basis of sex, gender or marital status;

(b) To pass comprehensive legislation on civil registration and vital statistics, reduce or remove administrative and financial barriers, such as late registration fees, that inhibit or delay registration, and establish the necessary safeguards;

(c) To conduct public awareness-raising campaigns on civil registration, legal identity and simplified registration procedures to educate communities, especially women and marginalized groups;

(d) To establish accessible civil registration units and implement outreach programmes in remote and marginalized communities;

(e) To ensure women's independent right to access civil documents and register vital events and eliminate the formal requirement for a legal guardian or representative to accompany women, especially minors or single parents;

(f) To sensitize and train health workers and civil registry officials with regard to statelessness and provide them with the requisite tools to comprehensively address the needs of affected persons in a gender-sensitive manner;

(g) To collect rigorous and comparable data on stateless populations, including data disaggregated by sex, gender, age and disability status, in accordance with the international recommendations on statelessness statistics and in consultation with relevant stakeholders.
