Global Campaign for Equal Nationality Rights

Institute on Statelessness and Inclusion

THE COMMITTEE ON THE RIGHTS OF THE CHILD

74th Session (16 January – 3 February 2017)

BARBADOS

Additional information for the consideration of the Committee on the right of every child to acquire a nationality under Article 7 CRC

15 December 2016

1. The Global Campaign for Equal Nationality Rights(Global Campaign)[1] and the Institute on Statelessness and Inclusion(ISI),[2] welcome the opportunity to submit additional information for the consideration of the Committee on the Rights of the Child regarding Barbados' compliance towards every child's right to acquire a nationality under Article 7 CRC. This submission will focus on the denial of the child's right to acquire a nationality in violation of Articles 2, 7 and 8 of the CRC, as a result of gender discrimination in the nationality law of Barbados.

2. The Constitution of Barbados (LRO 2002) and the Barbados Citizenship Act, Cap 186 (last amended 1982) contain provisions that discriminate on the basis of the parent's gender and marital status, with provisions discriminating against married women and single fathers. By denying children's ability to access Barbadian nationality due to the sex and marital status of the parent, Barbados' nationality law is in violation of Articles 2 of the CRC. Barbados is one of only two states in the Western Hemisphere that deny married mothers the ability to confer nationality on children on an equal basis with married fathers. It is also one of only two states in the Western Hemisphere to deny single father the ability to confer nationality to children.

3. According to the Constitution of Barbados, a married Barbadian mother can only confer her nationality on children born abroad if the mother was born in Barbados, while a married Barbadian father can confer nationality on his children regardless of the child's or father's place of birth. At the same time, a single

[1] The Global Campaign for Equal Nationality Rights mobilizes international action for the removal of gender discriminatory provisions from all nationality laws and is led by its Steering Committee of the Office of the UN High Commissioner for Refugees, Equality Now, Equal Rights Trust, the Institute on Statelessness and Inclusion, and Women's Refugee Commission. (www.equalnationalityrights.org)

[2] The **Institute on Statelessness and Inclusion** is an independent non-profit organization committed to ending statelessness and disenfranchisement through the promotion of human rights, participation and inclusion. (www.institutesi.org)

Barbadian father is denied the right to confer his nationality on his children in all circumstances. Single Barbadian women are permitted to confer nationality on children in all circumstances. Regarding the conferral of nationality of adopted children, the Barbados Citizenship Act, Cap 186 (last amended 1982) denies Barbadian women the right to confer their nationality on children in the case of joint adoption, while Barbadian men are permitted to confer their nationality on adopted children in all circumstances. Barbadian women are also denied the right to confer their nationality on foreign spouses, a right that is reserved for men in the Constitution of Barbados.

4. Article 7 of the CRC states that a child has "the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents … in particular where the child would otherwise be stateless." Article 8 calls for States Parties to "undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations…" Barbados' law does not fulfill the requirements of Articles 7 and 8 and should be amended without delay to ensure that children born to Barbadian citizens are not denied their right to nationality as a result of discrimination against one or both of their parents on grounds of their gender or marital status.

5. In addition, Barbadian women's inability to confer nationality on their foreign spouses threatens a child's right to know and be cared for by his or her parents. For example, when foreign men are denied access to their spouses' nationality, they may be forced to live away from their children due to challenges in acquiring residency permits and obstacles to employment. Or conversely, children may have to live with their father in such circumstances in his country, separated from their mother. A father may even threaten to take any children away from the mother and back to his home country for a number of reasons, including if his employment and social status in his wife's country is insecure because of his nationality status. His wife may have very limited legal means to oppose such a threat.

6. Sex discrimination in nationality laws can result in significant violations of children's rights, as well as the rights of women and their foreign spouses, including: statelessness; lack of access to public education, healthcare and other services; child marriage; increased risk of gender-based violence; unemployment and poverty; and social alienation and psychological damage.[3] We therefore respectfully request the Committee explore further with the State Party any harmful impacts of its sex discriminatory nationality law, such as on children's right to healthcare and to education under Articles 24 and 28 respectively, and recommend swift and comprehensive changes to remedy all breaches of the CRC.

7. In the Committee's previous concluding observations to Barbados,[4] it recommended that the "State party continue and increase its efforts to address discrimination arising from the inappropriate socialization of boys and girls into inappropriate gender roles and the resulting determination of social attitudes concerning children based on gender." It further recommended that "continuing attention be given to the risks of early parenthood and single parenthood, to the promotion of higher levels of involvement of fathers in the upbringing and development of the child, and to the need to provide necessary support to children in these cases." The achievement of these recommendations requires the State party to enact reforms to ensure gender equal nationality rights. In the absence of such reforms, the State is implicitly endorsing the notion that: in the case of single parents, the responsibilities of parenting 'naturally' belong to the mother; in the case of married parents, the father's nationality takes

[3] Equality Now, *The State We're In: Ending Sexism in Nationality Laws*, 2016, available at http://www.equalitynow.org/sites/default/files/NationalityReport_EN.pdf

[4] CRC/C/15/Add.103, August 24, 1999

precedence, and therefore is conferred in all circumstances, while that of the mother's is secondary and thus comes with limitations on its conferral.

8. We welcome the government's stated commitment in its most recent report to the Committee, to: promote through the Bureau of Gender Affairs legislative reform to address gender discrimination and a national policy on gender and development; recognise that the principle of the child's best interest must be of paramount consideration; and to recognise the family of whatever structure, ranging from the single parent unit to the extended family, as the best institution for bringing up the child.

9. However, we remain deeply concerned at the lack of progress and the absence of a firm commitment by the government to enact reforms to uphold gender equal nationality rights, including conferral of nationality to children.

10. In the List of Issues adopted by the Committee (CRC/C/BRB/Q/2), the issue of the child's right to a nationality is not raised. However, the Committee has requested that the state "provide information on measures taken to eliminate discrimination against children in vulnerable situations and to change attitudes in society in that respect." The situation highlighted above, is one of unnecessary vulnerability created by discriminatory law, which specifically stigmatises children with foreign fathers or single parents, and increases their vulnerability through the denial of nationality.

11. The Global Campaign and ISI would therefore like to take this opportunity to request that the Committee nevertheless address the issue of the child's right to a nationality in its dialogue with the state party during the forthcoming Committee session. In particular, we request the Committee to seek further information and clarification from Barbados on the following:

    I. What steps is the state taking and within what timeframe to amend the nationality law to ensure that children are not discriminated against in relation to their right to acquire Barbadian nationality on the basis of their parent's gender or marital status?

    II. What support might be needed, if any, to further the process of nationality law reform to eliminate sex discrimination in the conferral of nationality to children and spouses?

    III. What support and technical assistance is needed to realise its commitments under the CRC and CEDAW to ensure the children of Barbadian citizens have access to Barbadian nationality regardless of the parent's gender or marital status.

12. ISI and the Global Campaign stand ready to provide the state party with technical support on this issue.