



29th Session of the Universal Periodic Review

Gender discrimination in nationality laws in The Bahamas, Barbados, Burundi and the United Arab Emirates

Summary and recommendations



Gender discrimination in nationality laws result in myriad [human rights violations](#), treat women as second-class citizens, and are a leading cause of statelessness. Today, more than fifty countries maintain some form of gender discrimination in their nationality law. Twenty-five countries deny women the right to pass their nationality to their own children on an equal basis with men. **Four of these twenty-five countries will be reviewed during the 29th Session of the UPR: The Bahamas, Barbados, Burundi, and the United Arab Emirates.** Discriminatory laws in these countries result in numerous human rights violations, with affected persons facing:

- obstacles to accessing education, healthcare, social services, employment, inheritance, civil documentation, financial services, property rights and freedom of movement;
- threatened family unity; and
- an increased risk of statelessness.

The Global Campaign for Equal Nationality Rights and Institute on Statelessness and Inclusion have made [submissions](#) to the 29th Session of the UPR on each of these countries. As global momentum builds for the eradication of gender discrimination in nationality laws, it is critical that Member States leverage the UPR process to sustain calls for reform, especially as many of these States accepted recommendations to address gender discrimination in nationality laws under the previous UPR cycle, but are yet to realise their commitments. The below recommendations for these four countries are being shared with Member States with strong track records as champions of gender equality. We thank you for your support and attention to this critical human rights issue.

The Bahamas: The Bahamas has largely failed to follow through with the majority of recommendations that it “accepted” during the previous UPR cycle. It continues to discriminate against Bahamian women married to foreigners in their ability to confer nationality to their spouses or children born abroad, and against unmarried Bahamian men in their right to pass on their nationality to their children. These denials amount to violations of Article 9 of the CEDAW and 7 of the CRC. At a 7 June 2016 referendum, the Bahamian public resoundingly voted against removing these gender discriminatory provisions from the Bahamian Constitution (and also voted against enshrining “sex” as a Constitutionally prohibited ground for discrimination). Notwithstanding this result, Prime Minister Minnis, who was elected in 2017, announced that The Bahamas Nationality Act will be amended to eradicate gender discrimination in relation to conferral of nationality on children. Despite these positive overtures, no discussion regarding the removal of the country’s reservations to Articles 2(a) and 9 of CEDAW has taken place.

Proposed Recommendations:

1. Remove all reservations to CEDAW and sign the CEDAW Optional Protocol. Remove its reservation to CRC Article 2.
2. Take steps to ensure that all children and adults who have been denied access to Bahamian citizenship due to gender discriminatory nationality laws are granted nationality and, in the interim, that they fully enjoy their other human rights on a non-discriminatory and equal basis.
3. Accede to and fully implement the 1954 and 1961 Statelessness Conventions.

Proposed Recommendations:

1. Amend the Constitution, with retroactive effect, to remove discriminatory provisions based upon gender, marital status and/or place of birth.
2. Amend the Citizenship Act, with retroactive effect, to remove discriminatory provisions based upon gender.
3. Establish comprehensive and effective safeguards to ensure that no child is born stateless in Barbados.

Barbados: The Barbadian Constitution and Citizenship Act (Cap. 186) allow for discrimination in the transmission of nationality from a parent to a child based on the parent’s gender, marital status and/or place of birth. Under section 10(2) of the Constitution, an unmarried Barbadian father is denied the right to confer his nationality on his children, a right reserved for unmarried mothers. Section 5(1) of the Constitution recognises the right of married Barbadian fathers to pass on their nationality, regardless of the father or

child's place of birth. However, Section 5(2) stipulates that Barbadian women may only confer their nationality on children born abroad if the mother was herself born in Barbados. Furthermore, Barbadian women are denied the right to confer their nationality on foreign spouses, a right that is constitutionally reserved for men. Finally, the Barbados Citizenship Act (Cap. 186) 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.

Burundi: According to the Burundian Nationality Code of 2000, Burundian women cannot pass nationality to children on an equal basis with Burundian men, and are denied the equal right to confer nationality on spouses. The law, which predates Burundi's 2005 Constitution, contradicts Article 12 of the Constitution, which enshrines the equal right of Burundian men and women to confer nationality on children, as well as the entitlement of all citizens to equal rights and legal protection. Article 2 of the Nationality Code also does not allow women to confer nationality on children except when maternal filiation is established, and the child is born out of wedlock to an unknown father, or is disowned by the father. By contrast, Burundian men have the right to confer nationality on children in all circumstances. Furthermore, a foreign woman acquires, by marriage, the nationality of her Burundian spouse by simple declaration at any time during or after the celebration of the marriage. However, the male spouse of a Burundian women must follow the normal procedures for naturalisation, though the residency requirement is reduced from ten to five years.

Proposed Recommendations:

1. Amend the 2000 Nationality Code to bring it into full compliance with Burundi's 2005 Constitution and relevant provisions of CEDAW and the CRC.
2. Take steps to ensure that all those denied Burundian citizenship due to gender discriminatory nationality laws are granted nationality and, in the interim, that they fully enjoy their other human rights on a non-discriminatory and equal basis.
3. Accede to and fully implement the 1954 and 1961 Statelessness Conventions.

Proposed Recommendations:

1. Remove the UAE's reservation to, and ensure full compliance with, Article 9 of the CEDAW.
2. Amend the Citizenship Law to enable Emirati women to transfer nationality to their children without restriction, on an equal basis to men, in accordance with international standards.
3. Accede to and fully implement the 1954 and 1961 Statelessness Conventions, the ICCPR and ICESCR.

The United Arab Emirates: The UAE placed a reservation on Article 9 of the CEDAW, stating it does not consider itself bound by the convention as pertains to Emirati women's right to pass on their nationality on an equal basis to men. According to Emirati nationality law, while no restrictions exist on a father's right to pass on nationality to his children, a mother can pass on her nationality only in exceptional circumstances, such as when the father is unknown or is stateless. In the former situation, the mother must actively demonstrate that the father is unknown or does not accept paternity, which can be very difficult to do, especially in a culture where having children outside of wedlock may lead to stigmatisation and imprisonment. A 2011 Decree enabled the children of Emirati women married to foreigners to apply for Emirati citizenship. This is not an automatic process, children can only apply for citizenship when they reach the age of 18 and, even then, it is a discretionary procedure.

The Global Campaign for Equal Nationality Rights and Institute on Statelessness and Inclusion thank you for your attention to this critical human rights issue. We would be pleased to provide further information.

Catherine Harrington: Campaign Manager
Global Campaign for Equal Nationality Rights
catherineh@wrccommission.org;
equalnationalityrights.org

Amal de Chickera: Co-Director
Institute on Statelessness and Inclusion
amal.dechickera@institutesi.org;
institutesi.org