



**Global Campaign for Equal Nationality Rights
and
Institute on Statelessness and Inclusion**

Joint Submission to the Human Rights Council at the
25th Session of the Universal Periodic Review

Sudan

21st September 2015

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1. The Global Campaign for Equal Nationality Rights and the Institute on Statelessness and Inclusion make this submission to the Universal Periodic Review (UPR) in relation to Sudan.
2. The [Global Campaign for Equal Nationality Rights](#) (the Global Campaign) is a coalition of international and national organizations that promotes gender equality in nationality laws, so that women and men can confer, acquire, change and retain their nationality on an equal basis. The Campaign includes a Steering Committee of Equality Now, Equal Rights Trust, the Institute on Statelessness and Inclusion, UNHCR and Women's Refugee Commission. The Campaign was launched in June 2014 at a Side Event at the 26th Session of the Human Rights Council in Geneva, and has conducted several international advocacy activities to encourage states which still maintain gender discriminatory nationality laws, to reform their laws and bring them into compliance with international human rights standards.
3. The [Institute on Statelessness and Inclusion](#) is an independent non-profit organisation dedicated to promoting an integrated, human rights based response to the injustice of statelessness and exclusion. Established in August 2014, it is the first and only *global* centre committed to promoting the human rights of stateless persons and ending statelessness. Its work combines research, education, and advocacy, and it provides expertise to civil society, academia, the UN and governments.
4. This joint submission focuses on continued violations of Sudanese women's rights with respect to nationality and subsequent violations of the rights of their children and foreign spouses in Sudan in violation of the state's human rights obligations and commitments to uphold international human rights treaties, including the Convention on the Rights of the Child (CRC), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

Universal Periodic Review of Sudan under the First Cycle

5. Sudan was first subject to the Universal Periodic Review at Session 11 of the First Cycle, in May 2011. Multiple recommendations were made to Sudan with respect to the advancement of gender equality and women's equal rights, which were accepted by Sudan. These include:

| Recommendation | Recommending Country |
|---|----------------------|
| Ratify without any limiting reservations the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, as well as repeal all laws that discriminate against women | Finland |
| Adjust legislation and practices affecting women and children to international law obligations assumed by Sudan | Honduras |
| Make further efforts to protect and promote women's rights in Sudan | Republic of Korea |
| Repeal all laws that discriminate against women | Austria |

6. The State acknowledged the need to advance gender equality and women's equal rights, in line with the principle of equality between women and men enshrined in the country's Constitution. However, while the State noted the positive steps taken in 2005 to address gender discrimination in the Nationality Act of 1994, the State failed to recognise the ongoing and significant discrimination against women that remains enshrined in the Act. The State's failure to amend its gender discriminatory citizenship law has had significant negative impact on Sudanese women, their children and spouses.

Sudan's international obligations

7. Sudan has acceded to the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). It is also party to the Convention on the Elimination of all forms of Racial Discrimination (CERD) and the Convention on the Rights of the Child (CRC). It is notable that Sudan has made no reservations or interpretive declarations to the CRC which entrenches every child's right to acquire a nationality and protects against childhood statelessness (see CRC Article's 7 and 8).
8. Significantly though, Sudan has not acceded to the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), the 1954 Convention Relating to the Status of Stateless Persons (1954 Convention) or the 1961 Convention on the Reduction of Statelessness (1961 Convention).

Gender discriminatory laws violate Sudan's international obligations

9. Despite Sudan's international obligations, it is one of 27 countries around the world that continues to discriminate against women in their ability to confer their nationality on their children on an equal basis with men.¹ Gender discrimination in nationality laws contravenes Article 9(2) of the CEDAW and can lead to statelessness when fathers are stateless or also unable to confer their nationality on their children.
10. Sudan is also one of over 60 countries that denies women equal rights with men to acquire, change or retain their nationality, and to confer nationality on their non-national spouses, in contravention of Article 9(1) of CEDAW.
11. While Sudan is not party to CEDAW, gender discrimination in its citizenship law undermines the child's right to a nationality and can result in statelessness of children whose mothers have faced discrimination. Thus, the prevailing legal framework in Sudan falls short of its obligations under Article's 7 and 8 CRC. Article 7 CRC obligates the state to register the child immediately after birth and bestows on the child the right, from birth, to a name and nationality. States are obligated to implement these rights, "in particular where the child would otherwise be stateless." Article 8 CRC obligates states to respect the child's right to an identity "including nationality, name and family relations".
12. The Sudanese Nationality Act of 1994 states that children can only acquire citizenship from their Sudanese mothers through an application process to acquire Sudanese citizenship by descent, whereas all children of Sudanese fathers acquire Sudanese citizenship automatically. The Nationality Certificate Regulations of 2005 specify that to apply for citizenship, a Sudanese mother must provide the consent of the child's father and marriage certificate, if the father is still alive and married to the mother, or the Court order granting the mother custody of the child where the relationship is not ongoing, and the death certificate of the father where the father has died. The Nationality Act also grants Sudanese men the right to confer their nationality on foreign spouses, while denying Sudanese women this right.
13. While the Constitution of Sudan states that "every person born to a Sudanese mother or father shall have an inalienable right to enjoy Sudanese nationality and citizenship," administrative authorities generally apply the more specific and practice-oriented Nationality Act, which discriminates against women.

¹ UN High Commissioner for Refugees (UNHCR), Background Note on Gender Equality, Nationality Laws and Statelessness 2015, 6 March 2015, available at: <http://www.refworld.org/docid/54f8369b4.html>.

14. This discrimination results in severe hardship for the families concerned. Women and their families have suffered through lack of access to social services. Such distinctions in the transmission of citizenship violate the right to equality, and constitute discrimination on the basis of sex in breach of international law. As described above, they can also result in statelessness of children who cannot acquire their mother's nationality, when their father is himself stateless, deceased, unwilling or unable to cooperate. Significantly, gender discrimination in nationality laws can perpetuate statelessness across generations, with children rendered stateless through such provisions growing up to be adults who have no nationality to pass on to their own children.
15. In addition to its impact on children, the Sudanese Nationality Act of 1994 clearly also denies women equal protection of the law. Despite provisions granting children of Sudanese women the right to citizenship through application.
16. Families of Sudanese women, whose children and spouses are denied Sudanese citizenship, continue to face significant hardships and human rights violations due to gender discrimination in the country's nationality law.

Recommendations

17. The Human Rights Council has stated that “[t]he second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the developments of the human rights situation in the State under review”.² Sudan has failed to adequately address various relevant recommendations under the first cycle. The recommendations below, build on previous state recommendations but also introduce new recommendations related to ending gender discrimination in Sudan's nationality law and the devastating human impact of such discriminatory law, including that of statelessness:
 - I. Take immediate steps to amend/repeal all discriminatory provisions in the Sudanese Nationality Act of 1994 that prevent women from acquiring, retaining and transferring citizenship on an equal basis with men, and ensure the effective implementation of the law.
 - II. Fully promote, respect, protect and fulfil its obligations under international human rights law. In particular, ensure that its national laws, policies and practices fully comply with Articles 7 and 8 of the CRC, as well as the principle of the best

² Human Rights Council, *Resolution 16/21: Review of the work and functioning of the Human Rights Council*, UN Doc. A/HRC/RES/16/21, April 2011, Annex 1, Para 6.

interests of the child and with general principles of equality and non-discrimination enshrined in international treaties.

- III. Ratify without any limiting reservations the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol.
- IV. Recognise the fundamental human right of all human beings to a nationality, without discrimination. Recognise also that right to a nationality should not be at the discretion of administrative authorities, but instead should be protected by the state.
- V. Recognise the independent right of each parent to provide citizenship based on lineal descent to their children, and the right of both women and men to confer citizenship to their foreign spouse on equal terms.
- VI. Ratify the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.