

Committee on the Elimination of Discrimination Against Women
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Re: Barbados – 67th Session of the Committee (03 Jul 2017 - 21 Jul 2017)

19 December 2016

Distinguished Committee Members,

We respectfully submit this letter on behalf of the Global Campaign for Equal Nationality Rights and the Institute on Statelessness and Inclusion in advance of the Committee on the Elimination of Discrimination Against Women (the Committee's) review of Barbados at its 67th Session of the Committee (03 Jul 2017 - 21 Jul 2017). This letter will focus on continued violations of women's nationality rights in Barbados in violation of Articles 2 (policy measures) and 9 (nationality) of the Convention on the Elimination of All Forms of Discrimination Against Women.

The Global Campaign for Equal Nationality Rights¹ mobilizes international action for the removal of gender discriminatory provisions from all nationality laws through its coalition of national and international organizations and activists (www.equalnationalityrights.org). 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).

As a party to the Convention, Barbados has obligations to ensure that women enjoy equality in the area of nationality.² In its recent General Comment No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, the Committee confirmed that Article 9 extends an obligation to ensure equality between men and women in the ability to confer their nationality to their spouse.

¹ Steering Committee members include 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, which houses the Global Campaign.

² Article 9 states that: 1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband. 2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

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 particularly against married women and single fathers. 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 a single father the ability to confer nationality on children.

According to the Constitution of Barbados, a married Barbadian father can confer nationality on his children regardless of the child's or father's 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. This situation amounts to discrimination on the basis of the parents' gender and marital status. The Constitution also treats children born outside Barbados to a Barbadian mother differently to those of a Barbadian father, with respect to accessing citizenship. Section 5(1) of the Constitution explicitly recognizes the right of Barbadian fathers to pass on their nationality, regardless of their or their child's place of birth, provided the child is born within wedlock. The position of a child born outside Barbados to a Barbadian mother is unclear as the Constitution is ambiguous on this point. Section 5(2) appears to provide an avenue through which the child born outside Barbados of a married Barbadian mother can acquire nationality, subject to the Barbadian mother having herself been born in Barbados. Section 10(2) appears to provide an avenue through which an unmarried Barbadian woman is permitted to confer nationality on children born outside Barbados in all circumstances. Information as to how these provisions are applied in practice is lacking and, regardless of the interpretation followed by the State, it is evident that the Constitution fails to provide for equality of nationality rights for Barbadian men and women 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.

Sex discrimination in nationality laws can result in significant violations of the rights of women and girls, including: statelessness; lack of access to public education, healthcare and other services; increased risk of gender-based violence; unemployment and poverty; and social alienation and psychological damage. We therefore respectfully request the Committee explore further with the State Party any harmful impacts of its sex discriminatory nationality law.

In its October 2015 report to the Committee (CEDAW/C/BRB/5-8), the government states that recent Constitutional amendments now permit women and men to confer nationality on children regardless of their place of birth – a point in need of further clarification, as requested by the Committee (see below). The State party report did not reference the perpetuation of legal discrimination against women in terms of the ability to confer nationality on non-national spouses, a right exclusively reserved for men.

However, the government did affirm its recognition of the “ultimate legal equality for women with men under the highest law of the land,” and “the principle that participation of women and men as equal partners in all aspects of human life and development is critical to national development and the achievement of a just, equitable and prosperous society.” We welcome the State party’s commitment in this regard and respectfully call attention to the fact that legal equality for women and men cannot be realized in Barbados in the absence of reforms to uphold gender equal nationality rights. We also welcome the State party’s acceptance of recommendations made by multiple States during Barbados’ second cycle Universal Periodic Review to reform nationality legislation to enable mothers to confer nationality on children on an equal basis with fathers and to continue efforts to combat gender inequality.

We welcome the Committee’s request in its List of Issues (CEDAW/C/BRB/Q/5-8) for the State party to clarify how Article 5 of the Constitution and national legislation are applied to ensure women and men’s equal ability to confer nationality on children. The List of Issues does not include a reference to gender discrimination regarding the conferral of nationality on spouses. In addition to being in violation of Article 9 (1) CEDAW, per General Recommendation 28, women’s inability to equally confer nationality on spouses further entrenches traditional stereotypes regarding the primacy of the male spouse’s legal identity. Women’s inability to equally confer citizenship on spouses also limits women’s ability, in practice, to freely choose a spouse in violation of Article 16.

We further welcome the Committee’s request in its List of Issues for the State party to “provide information on any measures taken by the State party to develop a comprehensive policy to change social and cultural patterns that reinforce traditional stereotypes on the roles and responsibilities of women and men in the family and in society.” While women’s inability to equally confer citizenship on children and spouses is particularly relevant to the reinforcement of traditional stereotypes, the nationality law’s discrimination against single fathers is also pertinent to the perpetuation of traditional stereotypes that negatively impact women. By denying single fathers the right to confer nationality on children on an equal basis with single mothers, the State is implicitly endorsing the notion that the responsibilities of parenting ‘naturally’ belong exclusively to the mother.

In addition to raising women’s inability to equally confer nationality on children, we respectfully urge the Committee to address in its dialogue with the state party during the forthcoming Committee session the following issues:

- What steps is the state taking and within what timeframe to amend Barbados’ nationality law to remove all remaining gender discrimination in order to enshrine women’s ability to confer nationality on children and spouses on an equal basis with men and the ability of single fathers to confer nationality on children on an equal basis with single mothers?
- 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?



- Given the ambiguity regarding national legislation pertaining to the acquisition of nationality and the implementation of this legislation, would Barbados provide evidence related to the equal acquisition of Barbadian nationality by children born abroad to Barbadian citizens, regardless of gender and marital status?

Thank you very much for your kind attention, and please do not hesitate to contact us if we can provide further information.

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



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