



# Leveraging UN Human Rights Mechanisms to Achieve Gender-Equal Nationality Laws: Key Points for Civil Society



My Nationality is a Right for Me and My Family Campaign. (cc) CRTDA

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As of 2021, twenty-five countries<sup>1</sup> have nationality laws that deny women the right to pass citizenship to their children on an equal basis with men. Approximately fifty countries<sup>2</sup> have laws that deny women the right to confer nationality on their spouse on an equal basis with men. Over the past several decades all regions of the world have seen a strong trend toward ending gender discrimination in nationality laws, with 87% of countries today upholding citizens' equal right to confer nationality on their children and 75% upholding citizens' equal right to confer nationality on a noncitizen spouse.

While undermining women and men's equality, such laws result in wide-ranging violations of international human rights law and commitments made by governments through UN agreements. Gender discrimination in nationality laws results in affected persons facing obstacles to accessing education, healthcare, employment, freedom of movement, property rights and family unity. A leading cause of statelessness, these laws are linked with gender-based violence, human trafficking, corruption and other forms of discrimination, including discrimination based on race, religion, ethnicity, and disability. Gender-discriminatory nationality laws also inhibit the achievement of Sustainable Development Goals and contribute to poverty and exclusion.

National-level advocacy and domestic pressure on policymakers is essential to achieving nationality law reforms to uphold gender equality. At the same time, United Nations human rights mechanisms and related bodies provide important entry points to initiate, complement and bolster national advocacy. As members of the UN, States have obligations to uphold international human rights law, including rights outlined in the Universal Declaration of Human Rights and based on their ratification of the nine core human rights treaties.<sup>3</sup> States have also committed themselves to global agreements and standards, such as the Sustainable Development Goals, which are relevant to the elimination of gender discrimination in nationality laws. Especially given the many challenges associated with advocacy for gender-equal nationality rights, campaigns for reform benefit from taking a multi-pronged approach that includes strategic UN-related advocacy. Impactful and ethical UN advocacy – like advocacy at all levels – should be centered on the experiences of affected persons and involve affected persons, to the extent possible, in the planning, implementation and monitoring of such activities.

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1 The Bahamas, Bahrain, Barbados, Brunei, Burundi, Eswatini, Iran, Iraq, Jordan, Kiribati, Kuwait, Lebanon, Liberia, Libya, Malaysia, Mauritania, Nepal, Oman, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Togo, United Arab Emirates

2 The Bahamas, Bahrain, Bangladesh, Barbados, Benin, Brunei Darussalam, Burundi, Cameroon, Central African Republic, Comoros, Congo, Egypt, Eswatini, Guatemala, Guinea, Iran, Iraq, Jordan, Kiribati, Kuwait, Lebanon, Libya, Madagascar, Malawi, Malaysia, Mauritania, Morocco, Nepal, Nigeria, Oman, Pakistan, Qatar, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Sierra Leone, Singapore, Solomon Islands, Somalia, Sudan, Syrian Arab Republic, Thailand, Togo, Tunisia, United Arab Emirates, Tanzania and Yemen.

3 The International Covenant on Civil and Political Rights, the International Covenant on Economic, Social, and Cultural Rights, Convention on the Elimination of All Forms of Discrimination Against Women, Convention on the Rights of the Child, Convention on the Elimination of Racial Discrimination, the Convention on the Rights of Persons with Disabilities, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, International Convention for the Protection of All Persons from Enforced Disappearance



UN Human Rights Council, Geneva. (cc) UN Photo/Jean-Marc Ferré

When planning to engage in UN advocacy, it is important to set realistic expectations of what can be achieved.

## Limitations of UN Advocacy

- Human rights treaties and agreements generally lack enforcement mechanisms, meaning states cannot be forced to comply. Governments may therefore make commitments without a firm intention to implement these commitments.
- The Member States of the UN – governments – inform actions taken by the UN. Relatedly, UN agencies and actors operate inside countries with approval from that government. The UN is therefore not an independent actor but is shaped by its Member States.
- UN/international advocacy may at times be framed by domestic actors as an “external” or “foreign” entity threatening the country’s sovereignty.
- At the end of the day, political will for reform must be created primarily through internal pressure.

# Strengths of UN Advocacy



Governments care about their international image. As gender discrimination in nationality laws has been rejected by most countries and gender equality is established as a fundamental component of international human rights standards, the persistence of gender-discriminatory nationality laws in a small portion of countries stains their international image.



Elevating the experiences of affected persons on an international stage can mobilize other governments, UN actors, and civil society to support reform efforts, thereby strengthening national advocacy campaigns.



Governments have voluntarily committed themselves to international human rights obligations and agreements; UN advocacy provides an opportunity to attempt to hold governments accountable and acknowledge progress made, thereby strengthening advocacy opportunities at the national level.



Where advocacy inside countries is limited or not possible because of government restrictions on freedom of speech and association, UN advocacy is essential to maintaining pressure for reforms.




UN advocacy can create and strengthen opportunities for further national and regional engagement. For example, the [Arab Declaration on Belonging and Legal Identity](#) cites CEDAW and the Sustainable Development Goals as informing regional standards upholding gender-equal nationality laws.



UN advocacy provides opportunities to engage with NGOs from other countries and international NGOs to share experiences, collaborate, and build solidarity.



A woman with blonde hair and sunglasses on her head is holding a white sign with Arabic text. She is smiling slightly. In the background, other people are visible, some holding signs, and there are cars parked on a street. The scene appears to be a public demonstration or protest.

# KEY POINTS ON UN ADVOCACY FOR GENDER-EQUAL NATIONALITY RIGHTS

**An**

**intersectional**

**approach**



UN Geneva. (cc) Adrien Tanghe

## Taking an intersectional approach provides opportunities to leverage a range of UN human rights mechanisms for gender-equal nationality rights advocacy.

The existence and impact of gender discrimination in nationality laws violates a number of core international human rights conventions and therefore falls under the mandates of many UN Treaty Bodies.<sup>4</sup> Civil society may engage treaty bodies by making **written submissions** and through **participation in pre-sessions** and other dialogues. ([Click here for UN human rights resources for civil society](#))

Treaties especially relevant to gender-equal nationality rights include:

**The Convention on the Elimination of Discrimination Against Women (CEDAW)**<sup>5</sup>

which calls for gender-equal nationality rights (see Article 9, though many articles are impacted);

**The Convention on the Rights of the Child (CRC)**<sup>6</sup>

which enshrines children's right to a nationality without discrimination on the basis of the parent's sex (see Articles 2, 7 and 8, though others are impacted);

**The International Covenant on Civil and Political Rights (ICCPR)**

which enshrines every person's right to a nationality and nondiscrimination on the basis of sex and is monitored by the Human Rights Committee (see Article 24 and 2 though others are impacted);

**The Convention on the Elimination of Racial Discrimination (CERD)**

which intersects with gender-equal nationality rights as limitations on women's right to confer nationality are frequently applied in a discriminatory manner towards certain races (Article 5 though others are impacted);

**The Convention on the Rights of Persons with Disabilities (CRPD)**

which intersects with gender-equal nationality rights as some nationality laws limit women's ability to confer nationality on the basis of the child's or spouse's disability (Article 18 though others are impacted).

[Click to view](#) ratification status by country.

Please see sample submissions to the [CEDAW](#), [CRC](#), and [Human Rights Committees](#).

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<sup>4</sup> A UN treaty body is a group of international experts who assess compliance with an international convention. See the UN Treaty Body Database for more information: <https://tbinternet.ohchr.org/SitePages/Home.aspx>

<sup>5</sup> See International Women's Rights Action Watch Asia Pacific's dedicated [website on CEDAW engagement by civil society](#), [the Convention on the Rights of the Child](#); see also [Child Rights Connect](#) for further information on engaging the Committee on the Rights of the Child.

<sup>6</sup> See Institute on Statelessness and Inclusion [Toolkit on Addressing the right to a nationality through the Convention on the Rights of the Child](#); see also [Child Rights Connect](#) for further information on engaging the Committee on the Rights of the Child.

- **The Universal Periodic Review (UPR)**<sup>7</sup> is a process whereby every Member State's human rights record is reviewed by their peer Member States. During the review, other governments make recommendations that may be accepted, rejected, or noted by the State under review. Civil society may influence States' recommendations through written submissions, participation in pre-sessions, and engagement of local embassies and Missions to the UN. UPR recommendations hold particular weight, as governments may be more influenced by recommendations from peer-states than treaty bodies comprised of independent human rights experts.
- A number of **UN Special Rapporteurs**<sup>8</sup> and **Working Groups**<sup>9</sup> have mandates that intersect with gender-equal nationality rights.
- The **Sustainable Development Goals (SDGs)**<sup>10</sup> and their annual review during the **High Level Political Forum on Sustainable Development (HLPF)** provide opportunities to highlight how gender discrimination in nationality laws inhibits developments while centering human rights.
- **Other UN Processes and Events:** Other convenings such as the annual Commission on the Status of Women (CSW), Human Rights Council (HRC) sessions, the UN General Assembly General Debate, and processes linked with the Global Compact on Migration and the Global Compact on Refugees provide opportunities to highlight

thematic links with gender discrimination in nationality laws including through public side events,<sup>11</sup> participation in sessions, and other forms of engagement specific to these processes.

- **Engaging concerned UN agencies** at the national and regional levels: A number of UN agencies hold mandates relevant to gender-equal nationality rights. Civil society engagement of UN agencies at the national and/or regional levels may provide opportunities to influence UN engagement of policymakers at the national level and/or facilitate opportunities for joint dialogues with government representatives. Agencies with mandates especially relevant to gender-equal nationality rights include (not exhaustive): UN Women, UNICEF, the UN Refugee Agency (UNHCR), the Office of the High Commissioner for Human Rights (OHCHR), the UN Development Programme (UNDP), the UN Population Fund (UNFPA), the International Organization for Migration (IOM).
- Consider the **intersection of gender-equal nationality rights with other issues** of concern to UN human rights mechanisms and bodies, such as links with gender-based violence, human trafficking, and xenophobia. The testimonies of affected persons can effectively demonstrate the connection between gender discrimination in nationality laws and other issues under the mandate of UN actors and processes.

7 See Institute on Statelessness and Inclusion guide [Statelessness and Human Rights: The Universal Periodic Review](#); See [UPR Info](#) for further information on engaging in the UPR process.

8 Special Rapporteurs with a particular connection to gender-equal nationality rights include Special Rapporteurs on: Cultural Rights, Right to development, Disabilities, Education, Physical and Mental Health, Adequate Housing, Human Rights Defenders, Internally Displaced Persons, Human Rights of Migrants, Minority Issues, Extreme Poverty and Human Rights, Racism and Xenophobia, Sale and Sexual Exploitation of Children, Trafficking in Persons, Violence Against Women. [Click for full list of current mandate holders](#). N.B. Special Rapporteurs conduct country visits at the invitation of the state; a number of states with gender-discriminatory nationality laws have rejected requests for visit by Special Rapporteurs – a fact that may be highlighted in advocacy for reform.

9 Working Groups with a particular connection to gender-equal nationality rights include those on Arbitrary Detention and Discrimination against women and girls. [Click for full list of current mandate holders](#).

10 See GCENR [Guide on the links between the SDGs and Gender-Equal Nationality Rights \(Arabic/French/Bahasa Malaysia\)](#).

11 See for example GCENR's High Level Event during the 2021 UN General Assembly "[Achieving Gender Equality in Nationality Laws](#)."





**Reservations and  
conflicting  
domestic laws**

**NATIONALITY RIGHTS  
BELONG TO ALL OF US;  
NOT ONE GENDER**

## Reservations or the existence of conflicting domestic law are not legitimate justifications for the maintenance of gender-discriminatory nationality laws under international law.

- According to Article 2(d) of the Vienna Convention on the Law of Treaties ([Vienna Convention](#)), a “reservation” is a “unilateral statement...made by a State, when signing, ratifying, accepting, approving or acceding to a Treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the Treaty in their application to that State”.
- Many states with gender-discriminatory nationality laws maintain reservations to human rights convention articles pertaining to nationality rights, in particular CEDAW Article 9, which obliges states to uphold equal nationality rights for women and men, and CRC Articles 2 and 7, pertaining to the child’s right to acquire nationality (Article 7) without discrimination on the basis of the parent’s sex (Article 2). Similarly, a number of states with gender-discriminatory nationality laws have made general reservations to human rights conventions for any article that contradicts the government’s interpretation of the state religion.
- However, the Vienna Convention clarifies that the act of expressing a reservation to a treaty does not make the reservation valid under international law. In fact, **the Vienna Convention (Articles 18 and 19) obliges states to refrain from reservations which are incompatible with the object and purpose of the treaty.**

Such reservations therefore do not justify the state’s maintenance of gender-discriminatory nationality laws, a fact which should be highlighted in UN advocacy.

- The CEDAW Committee has in fact clarified that, given the centrality of citizenship to the enjoyment of a host of other rights, **reservations to CEDAW Article 9 are contrary to the object and purpose of the treaty**, and should be progressively withdrawn.<sup>12</sup> The CRC Committee has similarly asserted that compliance with Article 2 (nondiscrimination on the basis of the child or parent’s sex) and the best interest of the child (Article 3) are central to the object and purpose of the treaty.<sup>13</sup> Therefore, the failure to protect the child’s right to a nationality, and to do so on the basis of the parent’s sex, undermines the guiding principles of the CRC.
- Many states with gender-discriminatory nationality laws also state in their engagement with UN human rights bodies that they are unable to comply with nationality rights obligations because it would require Constitutional reform. However, the Vienna Convention (Article 27) also states that **the status of domestic laws is not a legitimate justification for failing to uphold a treaty.**

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<sup>12</sup> CEDAW General Recommendation No 21 Equality in Marriage and Family Relations, Paragraph 43. “Consistent with articles 2, 3 and 24 in particular, the Committee requires that all States parties gradually progress to a stage where, by its resolute discouragement of notions of the inequality of women in the home, each country will withdraw its reservation, in particular to articles 9, 15 and 16 of the Convention”; Paragraph 49. “States parties should, where necessary to comply with the Convention, in particular in order to comply with articles 9, 15 and 16, enact and enforce legislation”; Paragraph 50. “Assisted by the comments in the present general recommendation, and as required by articles 2, 3 and 24, States parties should introduce measures directed at encouraging full compliance with the principles of the Convention, particularly where religious or private law or custom conflict with those principles.”

<sup>13</sup> UN Committee on the Rights of the Child (CRC), [General comment no. 5 \(2003\): General measures of implementation of the Convention on the Rights of the Child](#), 27 November 2003, CRC/GC/2003/5, para 12.

**Maximising  
national-level  
impact**



## Leverage UN advocacy for national-level impact.

- Consider creative ways to raise awareness domestically of your government's UN engagement:
  - For example, Malaysian women's rights activists organized a "Watching Party" where participants gathered to watch the livestream of their government's CEDAW review in Geneva and live-tweeted the event.
  - Circulate testimonies of affected persons used in UN submissions via social media and in press releases, maintaining anonymity as needed.
  - Consider including side-by-side lists of recommendations by UN human rights bodies/mechanisms in shadow reports next to the government's response. Such a table can be used as a stand-alone graphic to be shared on social media or as a handout.
- Follow up on UN human rights recommendations with government, civil society allies, media, and other concerned national actors, facilitating spaces for affected persons to highlight why these recommendations are essential to their wellbeing.



Malaysian mothers advocating for equal citizenship, 2021. (cc) Family Frontiers



# UN Advocacy as a coalition

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# The risk of backlash and security concerns



## When feasible, conduct UN advocacy as part of a coalition.

UN advocacy with diverse national and/or international coalitions can raise the profile of calls for gender-equal nationality rights, illustrate the importance of this cross-cutting issue to government and influential actors, and may provide some safeguards from retribution against a single organization.

## Consider potential backlash and security concerns for human rights defenders.

- From the initial planning stage to post-UN engagement, activists should have a system in place to assess and respond to backlash and potential threats resulting from their activism.<sup>14</sup>
  - Such a strategy would ideally include partnership with other actors inside and/or outside the country who can assist in monitoring the situation and support responses as needed.
- Where countries do not uphold freedom of speech and association, it is essential for external advocates to support domestic reform efforts. Activism by actors outside the country should ideally be led by activists from that country residing abroad in partnership with international allies.
- Where there is the potential for backlash and national actors decide to publicly engage, international partners should be in close contact and have a plan to engage appropriate UN entities regarding reprisals.<sup>15</sup>



14 See also Frontline Defenders for resources for human rights defenders, including risk assessment tools and protection grants.

15 See OHCHR "Intimidation and reprisals for cooperation with the United Nations in the field of human rights."



**The Global Campaign for Equal Nationality Rights (GCENR)** is a coalition of national and international organizations, independent activists, and UN partner agencies working to end gender discrimination in nationality laws.

For more information visit: [equalnationalityrights.org](https://equalnationalityrights.org)  @EQL\_Nationality

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UN Geneva. (cc) Adrien Tanghe

GCENR High–Level Side Event at CSW62, 2018. (cc) GCENR

Malaysian women advocate for gender–equal citizenship laws, 2021. (cc) Family Frontiers

Eswatini youth activists street outreach. (cc) Youth Sustainable Development Centre (YSDC)