

Gender Discriminatory Nationality Laws (GDNL)

a. What are GDNL?

GDNL are laws that deny a woman equal rights with men in terms of her nationality. For example, legislation may either prevent a woman citizen from passing her citizenship to her children or to her foreign spouse. In some cases, a country's constitution entrenches gender discrimination in the acquisition or retention of nationality; in others the constitution is silent on such matters, but citizenship legislation incorporates gender discrimination.

b. Where do GDNL exist?

- There are over [fifty countries](#) in the world that do not give women equal rights with men to acquire, retain, change or transfer their nationality, for example:
 - A woman automatically loses her nationality if her husband changes his nationality ([Benin](#)).
 - Women are prohibited from transferring their nationality to a foreign spouse ([Central African Republic](#)).
- In twenty-five of the fifty countries, women also cannot pass on their nationality to their children on an equal basis with men, for example:
 - The child of a male citizen and a foreign woman automatically acquires citizenship, but the child of a female citizen and a foreign man must apply for naturalisation ([Nepal](#)).
 - A woman cannot pass on her nationality to her child unless the father is declared unknown ([Bahrain](#)).
 - In a joint adoption, only the male adopter can pass on his citizenship ([Kiribati](#)).
- GDNL can, in some cases, discriminate against men also. Three countries in the world discriminate against unmarried fathers in their right to pass on their nationality, for example:
 - A child born abroad cannot claim the citizenship of their father if the child was born out of wedlock ([Barbados](#)).
 - A child born in a country, whose parents are unmarried, does not have an automatic right to their father's citizenship ([The Bahamas](#)).

c. How do GDNL impact people?

- Children are at risk of statelessness when a woman is restricted in her ability to give her nationality to her child, for example:
 - A child can only receive their mother's nationality if they are able to prove the father is stateless or that they don't know who the father is ([Syria](#)).

- o Although safeguards against childhood statelessness may exist, they may not be implemented in practice. Administrative officers often have discretionary power to grant citizenship to the children of single mothers. Misogynistic attitudes can prevent the implementation of safeguards.
- o The refugee crisis has also exacerbated the problem of implementation. It may be difficult for parents in transit or exile to register the birth of their children.
- Women are at-risk of statelessness when their nationality is dependent on their husbands, for example:
 - o A woman automatically loses her nationality upon marriage to a foreign man ([Yemen](#)).
 - o A woman who takes her foreign spouse's nationality will automatically lose it upon divorce ([Togo](#)).
- Women who cannot pass on their nationality experience [mental, emotional and physical strain](#), including overwhelming feelings of guilt, insomnia, stress, depression and anxiety. In countries where GDNL exist, some women [choose not to have children](#) in order to avoid any future possible hardship they would face.
- When children become stateless as a result of GDNL, they are often unable to complete their education, to gain formal employment, to inherit property, and in some cases, it also makes it more difficult to find a spouse. Children can become dependent on the mother's income, causing a [financial strain on families](#) and further pressure on the mother.

d. Why do GDNL exist?

- GDNL are largely based on [gender stereotypes](#), for example:
 - o A woman may pass on her nationality only if she is single, this is based on the idea that once married, a woman loses her independent identity.
 - o A child 'belongs' to a father, rather than a mother, and as such even if they live in the mother's country, the child is expected to take their (foreign) father's nationality.
 - o An unmarried father cannot pass on his nationality to his children because it is assumed he cares little about his child and that the mother will bear sole responsibility.
- Historically GDNL existed in almost every country in the world:
 - o GDNL came into force in France, the first country in the world to codify nationality laws, [in 1804](#).
 - o Subsequently, GDNL were spread around the world by [colonial powers](#).
 - o Over the past century, countries have been slowly reforming their nationality laws and removing GDNL.

e. What does international law say about GDNL?

- The world's first international convention relating to women's rights of any kind was the Pan-American Union's 1933 '[Convention on the Nationality of Women](#)'. It guaranteed that no distinction based on sex would be made in laws or practice.
- Today, the *Convention on the Elimination of all forms of Discrimination Against Women* ([CEDAW](#)) prohibits GDNL. The Convention has 189 state parties. 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 *Convention on the Rights of the Child* ([CRC](#)) also prohibits GDNL. There are 196 state parties to the Convention. Article 7 states that:
 1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
 2. States parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

f. Who works on the eradication of GDNL?

- Feminists have engaged in activism, advocacy and academia to eradicate GDNL since the turn of the [20th century](#) when women's nationality rights in nearly every country in the world were restricted. Since the 1920s and 1930s campaigns, countries have been reforming their nationality laws and removing GDNL.
- Today, activism continues in the fifty countries where GDNL is upheld. Local organisations and people affected by the issue hold [protests](#), [conferences](#) and [workshops](#) calling for law reform. People affected by GDNL also partner with not-for-profit organisations in [litigation](#) for their right to acquire a nationality.
- [The Global Campaign for Equal Nationality Rights](#) was launched in 2014 to mobilise international action against GDNL.
- Action 3 of [UNHCR's campaign to end statelessness](#) by 2024 is to 'Remove gender discrimination from nationality laws'.

Suggested further reading:

Bredbenner, Candice L, *A Nationality of Her Own: Women, Marriage, and the Law of Citizenship* (University of California Press, 1998)

Brennan, Deirdre, 'Feminist Foresight in Statelessness: Century-Old Citizenship Equality Campaigns' (2020) 2(1) *The Statelessness and Citizenship Review* 43

[Equal Rights Trust, My Children's Future: Ending Gender Discrimination in Nationality Laws \(Report, 22 September 2015\)](#)

Petrozziello, Allison J, '(Re)producing Statelessness via Indirect Gender Discrimination: Descendants of Haitian Migrants in the Dominican Republic' (2019) 57(1) *International Migration* 213



[UN High Commissioner for Refugees \(UNHCR\), Background Note on Gender Equality, Nationality Laws and Statelessness 2020 \(14 July 2020\)](#)

[UN High Commissioner for Refugees \(UNHCR\), Gender Discrimination and Childhood Statelessness \(Report, 22 Aug 2019\)](#)

van Waas, Laura, Zahra Albarazi, and Deirdre Brennan, 'Gender Discrimination in Nationality Laws: Human Rights Pathways to Gender Neutrality' in Niamh Reilly (ed), *International Human Rights of Women* (Springer, 2019) 193–207

[Women's Refugee Commission, Our Motherland, Our Country: Gender Discrimination and Statelessness in the Middle East and North Africa \(Report, 7 Jun 2013\) ❖](#)

Last updated September 2020