



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

Joint Submission to the Human Rights Council at the
36th Session of the Universal Periodic Review

(Third Cycle, April/May 2019)

Liberia

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Introduction

1. The Institute on Statelessness and Inclusion (ISI), the Global Campaign for Equal Nationality Rights, and Equality Now make this joint submission to the Universal Periodic Review (UPR), on the right to a nationality and human rights challenges pertaining to statelessness in Liberia.
2. This submission focuses on gender discrimination in nationality laws, specifically, discriminatory provisions in the Aliens and Nationality Law of 1973 which deny Liberian women the right to confer nationality on children born abroad, a right reserved for men.
3. ISI¹ 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. The Institute has made over 50 country specific UPR submissions on the human rights of stateless persons, and also compiled summaries of the key human rights challenges related to statelessness in all countries under review under the 23rd to the 35th UPR Sessions.
4. The Global Campaign for Equal Nationality Rights mobilizes international action for the removal of gender-discriminatory provisions from all nationality laws, through its coalition of national, regional and international organizations and activists, including steering committee members Equality Now, Equal Rights Trust, the Institute on Statelessness and Inclusion, UNHCR, Women's Learning Partnership and Women's Refugee Commission.
5. Equality Now is an international human rights organisation with ECOSOC status working to protect and promote the rights of all women and girls worldwide since 1992, including through our membership network comprised of individuals and organisations in over 190 countries. In 2014, Equality Now made a submission on Liberia for the 22nd Session of the UPR. In 2016, Equality Now published an updated comprehensive advocacy report, *The State We're In: Ending Sexism in Nationality Laws* (available at www.equalitynow.org).

1 For more information about the Institute on Statelessness and Inclusion, see: www.institutesi.org.

Previous UPR of Liberia under the First and Second Cycle

6. Liberia was previously reviewed during the 9th and 22nd sessions of the UPR, in 2011 and 2015 respectively. During the first cycle, Liberia received no recommendations relevant to nationality, statelessness or birth registration. During the second cycle, Liberia received five relevant recommendations, including four on gender discrimination in nationality laws and one on birth registration, and accepted all. These recommendations are set out below:
 - I. Kenya: *“take steps to harmonize her nationality laws in order to provide women with the right to pass on their rights of nationality to children born abroad, on an equal basis with men”*;
 - II. Mexico: *“modify its legislation on nationality so as to guarantee equal rights for men and women with respect to the handing down of nationality to their children and spouses”*;
 - III. Senegal: *“do more to fight discrimination against Liberian women by allowing them to transmit their nationalities to their children and their spouses”*;
 - IV. Switzerland: *“guarantee women the same right as men to transmit their nationality to their children, in particular by deleting Section 20.1 (b) of Part III of the “Law on Immigration and Nationality”*”; and,
 - V. Turkey: *“further improve the birth registration system and support it by awareness-raising activities, in order to boost the registration numbers”*.

Liberia’s International obligations

7. Liberia acceded to the *1954 Convention Relating to the Status of Stateless Persons* in 1964 and to the *1961 Convention on the Reduction of Statelessness* in 2004. Liberia also has international obligations to protect the right to a nationality and protect the rights of stateless persons on the basis of the core UN and treaties to which it is a party. These include, among others, the International Covenant on Civil and Political Rights (ICCPR - article 24.3), the International Covenant on Economic, Social and Cultural Rights (ICESCR - articles. 2.2 and article 3), the Convention of the Rights of the Child (CRC - articles 2, 3, 7 and 8), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW - article 9), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD - article 5(d)(iii)), the Convention on the Rights of Persons with Disabilities (CRPD - article 18), and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW - article 29). Furthermore, the right to a nationality is protected under Article 15 of the Universal Declaration on Human Rights.
8. Liberia also has relevant regional obligations, including through ratification of the African Charter on the Rights and Welfare of the Child, which provides for the right to a name and nationality for every child in its Article 6. Liberia also signed the Abidjan Declaration of Ministers of ECOWAS Member States on the Eradication of Statelessness, which includes a commitment to ensure nationality laws uphold gender equality in line with States’ commitments under CEDAW and the Protocol to the African Charter on Human

and Peoples' Right on the Rights of Women in Africa (Maputo Protocol). Liberia has also ratified the Maputo Protocol, which calls on States Parties to eliminate gender discrimination in law in Article 2, stating:

Article 2 (1): States Parties shall combat all forms of discrimination against women through appropriate legislative, institutional and other measures.

... d) take corrective and positive action in those areas where discrimination against women in law and in fact continues to exist;

9. In addition and on the basis of the CEDAW, the Committee on the Elimination of Discrimination against Women, in 2015, "noted the State party's efforts to address challenges relating to its nationality legislation", but stated its concern "that the Aliens and Nationality Law of 1973, which contradicts article 28 of the Constitution, remains in force and continues to be applied, thereby preventing women from transmitting Liberian nationality to their children if they are born outside the country". It recommended that Liberia:

"repeal [these provisions] in order to bring it into line with the Constitution and the Convention, to ensure that, in accordance with article 9 of the Convention, Liberian women who give birth to children outside the country can transmit their nationality to their children on an equal basis with Liberian men whose children are born outside the country".

The Committee also recommended:

"that the State party ensure that children born to Liberian women married to non-Liberian men are not rendered stateless and have access to education, health care and other basic services equal to that of other children".²

10. The Human Rights Committee stated its concern in 2018 that

"a certain number of provisions of the Constitution and of statutory and customary laws remain incompatible with the provisions of the Covenant, such as those concerning [...] acquisition of nationality, and at persistent discrepancies between different sources of law, including those in relation to [...] transmission of nationality to children (art. 2)".

It recommended that Liberia "should pursue the reform of the Refugee Act, notably by incorporating provisions on stateless persons aimed at establishing an effective statelessness determination procedure". It also recommended that Liberia:

"should step up its efforts to achieve universal birth registration with a view to guaranteeing children's enjoyment of the Covenant rights and avoiding the risk of becoming stateless".³

² Committee on the Elimination of Discrimination against Women, *Concluding observations on the combined seventh and eighth periodic reports of Liberia* (2015), CEDAW/C/LBR/CO/7-8.

³ Human Rights Committee, *Concluding observations on the initial report of Liberia* (2018), CCPR/C/LBR/CO/1.

Discrimination in the Nationality Law of Liberia

11. Nationality rights in Liberia are addressed in the Constitution and Aliens and Nationality Law of 1973 as amended in 1974. Accordingly, the right to nationality is impeded by Constitutional provisions which are discriminatory on the basis of race, and provisions of the Aliens and Nationality law which are discriminatory on the basis of sex.

Gender Discrimination

12. Although the Liberian Constitution provides that either parent can pass nationality to their children, the nationality law restricts the equal right of mothers to do so. Section 20.1(b) of the Aliens and Nationality Law: Part III, Nationality and Naturalization 1973-1974 discriminates on the basis of sex. The provision states:

“A person born outside Liberia whose father (i) was born a citizen of Liberia; (ii) was a citizen of Liberia at the time of the birth of such child, and (iii) had resided in Liberia prior to the birth of such child.”

Although children born outside of Liberia to a citizen mother and alien father can eventually apply for naturalization at age 21 under Section 21.31, in effect, Liberian women cannot pass on their Liberian citizenship to their children who are born abroad, regardless of whether their children are born in or out of wedlock. Fathers, however, can automatically pass on their Liberian citizenship to children born both at home and abroad.

13. This distinction discriminates against women. This not only denies equality to women and men, but can also result in severe consequences for children such as statelessness, risk of deportation, and lack of access to publicly-funded education, health and social benefits and economic opportunities. This discrimination also serve to compromise Liberian women’s equal right to freely choose a spouse and a place of residence.
14. Such distinctions in the transmission of citizenship violate the right to equality before the law and equal protection of the law and constitute discrimination on the basis of sex. In accordance with the principles of equality and non-discrimination set forth in treaties ratified by Liberia, Liberia should guarantee its citizens the equal right to confer citizenship on their children born abroad

Race Discrimination

15. The Liberian Constitution is also discriminatory on the basis of race. According to Article 27(2) of the 1986 Constitution:

“In order to preserve, foster and maintain the positive Liberian culture, values and character, only persons who are Negroes or of Negro descent shall qualify by birth or by naturalization to be citizens of Liberia.”

16. The prevalence of race discrimination under the Constitution, which denies the equal right to nationality of members of minority communities, has been critiqued by both internal and external actors, with President George Weah calling the provision *“unnecessary, racist and inappropriate”*, in his first State of the Nation address in January

2018. President Weah also called for the removal of this clause,⁴ but it still remains in the Constitution.

17. An estimated 4,000 persons of Lebanese descent, who have lived in Liberia for generations, are barred from citizenship, land ownership and other rights as a result of this discriminatory constitutional provision.⁵

Recommendations

18. Based on the above information, the co-submitting organisations urge reviewing States to make the following recommendations to Liberia:
 - I. Guarantee women the same right as men to transmit their nationality to their children, in particular by amending Section 20.1 (b) of Part III of the Aliens and Nationality Law;
 - II. Remove race discrimination by amending Article 27(2) of the Constitution, which restricts access to nationality by birth or naturalisation, to persons of Negro descent.

⁴ <https://www.bbc.com/news/world-africa-42871741>.

⁵ Ibid