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Committee on the Elimination of Discrimination against Women
Human Rights Treaties Division (HRTD)
Office of the United Nations High Commissioner for Human Rights (OHCHR)
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September 28, 2021

**Re: Information on Yemen for Consideration by the Committee on the Elimination of Discrimination against Women at its 80th Session (18 October – 12 November 2021)**

Dear Distinguished Committee Members,

We respectfully submit this letter to the Committee on the Elimination of Discrimination against Women (“the Committee”) for consideration during its 18th Session (18 October – 12 November 2021). Wogood for Human Security Foundation, Global Campaign for Equal Nationality Rights, and the Institute on Statelessness and Inclusion request that this letter be used to supplement Yemen’s combined 7th and 8th State Party periodic report to the Committee. Our joint submission expresses our concerns regarding gender discrimination in Yemen’s nationality law, which denies Yemeni women the right to pass nationality to their spouse on an equal basis with men, and other discriminatory elements of the nationality law, which intersect with and exacerbate the gender discriminatory impact of the law.

[Wogood for Human Security](http://wogod.org/) is a non-governmental voluntary organization that seeks, through its programs and activities, to improve the development of humans, human right, and expanding of opportunities to participate in community activities especially for women and children. The [Global Campaign for Equal Nationality Rights](https://www.equalnationalityrights.org/) mobilizes international action to end gender discrimination in nationality laws through its coalition of national and international organizations[[1]](#footnote-1). The [Institute on Statelessness and Inclusion](https://www.institutesi.org/) is an independent non-profit organization dedicated to promoting inclusive societies by realising and protecting the right to a nationality for all.

***Discriminatory provisions in the Nationality Law***

We welcome positive steps taken by the Yemeni Government since its 6th periodic review in 2008, to reform its nationality law through Law No. 25 in 2010 on Amending Law No. 6 of 1990 Concerning Yemeni Nationality, Article 3, which enshrines the right to Yemeni nationality to any child born to a Yemeni citizen at the time of birth.

However, the law as amended, continues to deny Yemeni women the right to confer their nationality on their non-national spouse, a right reserved for Yemeni men. The law also denies a naturalized Yemeni woman the right to confer nationality on children born prior her naturalization, a right that is reserved for naturalized Yemeni men. Discriminating between men and women on this basis is in contravention of the Yemeni Constitution and Yemen’s obligations under international law. Such discrimination impedes women’s right to freely choose a spouse and a place of residence and has other wide-ranging impacts on the lives of affected women, whose equal citizenship is undermined by this discrimination.

In its 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 on their non-national spouse.

In its combined 7th and 8th periodic report of the State Party, the government references the 2010 reforms to uphold women and men’s equal right to confer nationality on children as necessary to align the law with the principle of equality among citizens. However, this principle also requires that citizens have the equal right to confer nationality on a non-national spouse.

Further, there are concerning reports that, despite the 2010 legal reforms upholding women’s right to confer nationality on their children, in practice there have been limitations on the law’s implementation, particularly for women married to foreigners without prior approval of the Minister, as well as time limitations on the law’s retroactive effect.

We welcome that the Committee, in its List of Issues and Questions for the 7th and 8th periodic reports, asks the Yemeni government to provide information on measures taken to amend Law No. 6 of 1990 (as amended in 2010) to uphold women and men’s equal right to confer nationality on a spouse; measures taken to train judiciary and law enforcement officials on the implementation of Law No. 6 of 1990 without discrimination; and to ensure that women and girls have equal access to identity documentation without discrimination. We also welcome the Committee’s recommendation in its Concluding Observations from the 6th periodic review that the State Party enact reforms to eliminate discriminatory provisions which prevent Yemeni women from conferring nationality on non-national spouses on an equal basis with men.

We ask the Committee to continue to encourage the government of Yemen to advance further reforms to ensure that men and women have equal rights in relation to citizenship and equal access to identity documentation.

**Other discriminatory elements of the nationality law**

We are also concerned that, per Article 13 of the nationality law, a woman who acquires Yemeni nationality by marriage may be stripped of Yemeni nationality if the marriage is terminated and has lasted under four years. This provision is discriminatory and may cause the statelessness of women stripped of their citizenship. It also creates greater obstacles for women seeking to exit an abusive marriage, especially when the woman’s children may be Yemeni nationals.

The *Principles on Deprivation of Nationality as a National Security Measure,*[[2]](#footnote-2) and the *UNHCR Guidelines on Statelessness No 5: Loss and Deprivation of Nationality*[[3]](#footnote-3)provide important guidance on the question of deprivation of nationality; the former, from a wider international law perspective, and the latter, more specifically in relation to the 1961 Convention on the Reduction of Statelessness. Accordingly, state discretion in this area is subject to the individual right to nationality,[[4]](#footnote-4) the prohibition of arbitrary deprivation of nationality,[[5]](#footnote-5) the prohibition of discrimination[[6]](#footnote-6) and the obligation to avoid statelessness.[[7]](#footnote-7) Furthermore, the impact of nationality deprivation on the enjoyment of other human rights, humanitarian and refugee law obligations and standards must be taken into consideration when assessing the legality of citizenship deprivation. These include, the right to enter and remain in one’s own country, the prohibition of *refoulement*, the prohibition of torture and cruel, inhuman or degrading treatment or punishment, the liberty and security of the person the right to private and family life; legal personhood and the rights of the child.[[8]](#footnote-8) Any measures to deprive nationality must also comply with due process safeguards and the right to a fair trial.[[9]](#footnote-9)

While beyond the scope of this submission, we remain deeply concerned with the dire humanitarian crisis in Yemen, and the resultant mass displacement both within the country and across its borders. As a result of the conflict, Yemen has millions of internally displaced persons (IDPs) and hundreds and thousands of refugees who have fled the country. They face an increased risk of statelessness, given the difficulty of accessing documents.

***Recommendation for Action by the Government of Yemen***

In light of the above information, we respectfully urge the Committee to call on the government of Yemen to:

1. Enact reforms to remove gender discrimination in its Nationality Law to uphold citizens’ equal right to confer nationality on non-national spouses and to uphold naturalized citizens’ equal right to confer nationality on their children, regardless of the citizen’s gender.
2. Extend the period that Yemeni women can confer nationality on their children to permit the law’s implementation with fully retroactive effect.
3. Abolish the requirement that Yemeni women seek prior approval from the Minister to marry foreigners.
4. Train judiciary and law enforcement officers to ensure Yemeni women have the right to confer nationality on their children on an equal basis with Yemeni men in practice, regardless of the other parent’s nationality or legal status.
5. Enact reforms to ensure that women who acquired Yemeni nationality on the basis of marriage have the right to retain their Yemeni nationality if the marriage dissolves, regardless of the length of the marriage.
6. Strengthen processes for the issuing of civil documentation to IDPs and raise awareness amongst IDPs of their human rights and their right to access public services.
7. Accede to and fully implement the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

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

Sincerely,

Maha Awadh Catherine Harrington Amal de Chickera

Chairwoman Campaign Manager Co-Director

Wogood for Human Global Campaign for Institute on Statelessness

Security Foundation Equal Nationality Rights and Inclusion

1. Steering Committee members include Equal Rights Trust, Equality Now, Institute on Statelessness and Inclusion, Women’s Learning Partnership, and Women’s Refugee Commission. [↑](#footnote-ref-1)
2. Principles on Deprivation of Nationality as a National Security Measure, March 2020. Available at: <https://files.institutesi.org/PRINCIPLES.pdf>. The Principles were drafted by ISI in collaboration with the Open Society Justice Initiative and with support from the Asser Institute and Ashurst LLP. They were developed over a 30-month research and consultation period, with input from more than 60 leading experts in the fields of human rights, nationality and statelessness, counter-terrorism, refugee protection, child rights, migration and other related areas. At the time of submission, they have been endorsed by over 100 individual experts and organisations, including leading academics, UN Special Rapporteurs and Treaty Body members, litigators, judges, parliamentarians and diplomats. The Principles restate or reflect international law and legal standards under the UN Charter, treaty law, customary international law, general principles of law, judicial decisions and legal scholarship, regional and national law and practice. They articulate the international law obligations of States and apply to all situations in which States take or consider taking steps to deprive a person of nationality as a national security measure. More information is available here: <https://www.institutesi.org/year-of-action-resources/principles-on-deprivation-of-nationality>. [↑](#footnote-ref-2)
3. UN High Commissioner for Refugees (UNHCR), *Guidelines on Statelessness No. 5: Loss and Deprivation of Nationality under Articles 5-9 of the 1961 Convention on the Reduction of Statelessness*, May 2020, HCR/GS/20/05, available at: <https://www.refworld.org/docid/5ec5640c4.html>. The Guidelines provide authoritative guidance on the interpretation of Articles 5 – 9 of the1961 Convention on the Reduction of Statelessness. They draw on the Summary Conclusions of the Expert Meeting on Interpreting the 1961 Statelessness Convention and Avoiding Statelessness Resulting from Loss and Deprivation held in Tunis, Tunisia on 31 October-1 November 2013 (“Tunis Conclusions”) and the Expert Meeting on Developments related to Deprivation of Nationality held in Geneva, Switzerland on 5-6 December 2018. [↑](#footnote-ref-3)
4. *Human Rights Council Resolution 7/10, Human rights and arbitrary deprivation of nationality,* UN DocA/HRC/RES/7/10 (27 March 2008); *Human Rights Council Resolution* 10/13, *Human rights and arbitrary deprivation of nationality,* UN Doc A/HRC/RES/10/13 (26 March 2009); *Human Rights Council Resolution 13/2, Human rights and arbitrary deprivation of nationality,* UN Doc A/HRC/RES/13/2(24 April 2010); *Human Rights Council Resolution 20/4, The right to a nationality: women and children*,UN Doc A/HRC/RES/20/4 (16 July 2012); *Human Rights Council Resolution 20/5, Human rights and arbitrary deprivation of nationality,* UN Doc A/HRC/RES/20/5(16 July 2012); *Human Rights Council Resolution 26/14, Human rights and arbitrary deprivation of nationality,* UN Doc A/HRC/RES/26/14 (11 July 2014); *Human Rights Council Resolution 32/5, Human rights and arbitrary deprivation of nationality,* UN Doc A/HRC/RES/32/5 (15 July 2016). [↑](#footnote-ref-4)
5. Principles on Deprivation of Nationality as a National Security Measure, March 2020. Available at: <https://files.institutesi.org/PRINCIPLES.pdf>., Principle 7. See also, the Draft Commentary to the Principles, available at: [files.institutesi.org/PRINCIPLES\_Draft\_Commentary.pdf](https://files.institutesi.org/PRINCIPLES_Spanish.pdf). [↑](#footnote-ref-5)
6. Ibid Principle 6. [↑](#footnote-ref-6)
7. Ibid Principle 5. [↑](#footnote-ref-7)
8. Ibid Principle 9. [↑](#footnote-ref-8)
9. Ibid Principle 8 [↑](#footnote-ref-9)