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**Re: Information on the Protection of the Rights of the Child in Humanitarian Situations, as it Pertains to Child Marriage and the Right to Nationality**

Dear Office of the High Commissioner for Human Rights,

In response to the call for inputs by the Office of the High Commissioner for Human Rights (OHCHR) on the OHCHR Report being prepared pursuant to Human Rights Council resolution 34/16, *Rights of the child: protection of the rights of the child in the implementation of the 2030 Agenda for Sustainable Development*,[[1]](#footnote-2) Equality Now submits this communication[[2]](#footnote-3) on the protection of the rights of the child in humanitarian situations. Equality Now is an international human rights organization with ECOSOC status working to promote the equality of women and girls worldwide. This communication is in reference to the human rights violations children face during humanitarian situations as a result of sex discriminatory nationality laws and due to the increased prevalence of “child marriage”.

*Sex discriminatory nationality laws*

Sex discrimination persists in nationality and citizenship laws in over 50 countries around the world, wherein a woman has fewer rights than a man to pass on her citizenship to her children or her foreign spouse, or to acquire, change or keep her nationality.[[3]](#footnote-4) This inability of women to pass on their nationality to their children can have grave consequences for the rights of the child, including statelessness, deportation, additional vulnerability of girls to forced and early marriages, difficulties for women in claiming child custody on the dissolution of a marriage and difficulty accessing social benefits such as medical services and education.

Not only do discriminatory citizenship laws have grave consequences in times of peace, but as noted in United Nations Security Council resolution 2122, they also exacerbate the vulnerability of women and children in and fleeing conflict.[[4]](#footnote-5) For example, some nationality laws only allow women to convey citizenship to children born within the territorial boundaries of their country. Therefore, where laws restrict women’s abilities to convey citizenship to their children, children born outside the country to refugee mothers can be rendered stateless if their father has been separated from family and the mother has no legal proof of her marriage or access to her husband’s birth certificate. Families forced to flee their homes may not be able to take all their documentation; additionally, displaced families can face extreme difficulties securing replacement documentation from abroad, or even proof that such documentation existed, especially from home countries mired in conflict. In some circumstances, the mother may even be prevented from registering the baby’s birth. Children who lack nationality status can, for their entire lives, face a lack of access to publicly-funded education and social benefits and face limits on their ability to register personal property, travel abroad or access jobs. Women and girls who lack documentation and access to opportunity are more vulnerable to trafficking and harmful practices such as “child marriage”.

*“Child marriage”*

“Child marriage” is also a human rights violation, one that often follows from and leads to further human rights violations.[[5]](#footnote-6) The “practice” excludes girls from decisions regarding the timing of marriage and the choice of spouse and precipitates an abrupt and violent initiation into sexual relations. “Child marriage” can also lead to other human rights violations such as female genital mutilation (FGM), domestic violence, trafficking, exploitation and curtailed education. Young girls who are forced to marry are often isolated and, because of their marital status, have little access to education and other services generally provided to children in the community. Further, once a girl marries, she is often considered to have reached the age of majority – thereby excluding her from any protection and social programs afforded to children in the community.

It has been reported that in times of conflict, girl “child marriage” rates often increase.[[6]](#footnote-7) During humanitarian situations, some girls have been forced into marriage due to poverty, so as to enable their families to make use of the bride-price or simply to reduce the number of dependents in a household. Families marrying off their young daughters also do so purportedly to protect them from sexual violence and safeguard the family’s honor. In refugee camps, reports of sexual abuse, particularly of girls, are rife. An increase in child marriage has been reported in these camps due to families trying to provide food and financial security for their families. Girls are particularly damaged by this practice however, and are often married off to unknown and much older men. There is also evidence that some girls are sold into temporary marriages and then quickly trafficked into prostitution.[[7]](#footnote-8)

*Case study: Syrian refugee children and the combined threat of discriminatory laws and practices and “child marriage”*

Reem’s[[8]](#footnote-9) case serves as an example of the kinds of human rights violations faced by children in humanitarian situations. Reem was born in Syria in 1997. Due to growing political tensions and increased risks of sexual violence against young girls within the country, her family made the decision to force her into marriage when she was just 14 years old. Her consent to the marriage was never granted, and instead the Sheikh who performed the marriage ceremony accepted the consent of her father. Reem was a dedicated student who had dreamed of becoming a nurse like her mother, but after she became pregnant she was forced to drop out of school to care for her newborn daughter. The conflict then forced Reem and her family to flee to Jordan. Reem’s daughter was able to receive necessary vaccinations to remain in Jordan through her mother’s ID, but Reem is frantic about her daughter not having a birth certificate because it means that her daughter is not legitimate and has no rights.

The conflict in Syria places more girls at risk of being forced into a “child marriage”. Under the Syrian Personal Status Law, the minimum age of marriage is 18 for men and 17 for girls, although girls as young as 13 are allowed to marry if their father or grandfather gives his consent to the marriage.[[9]](#footnote-10) As noted previously, in times of humanitarian crises the likelihood that a girl’s family will force her into a child marriage in order to receive a “dowry” (i.e., payment from the groom’s family to the bride’s family) or to protect them from sexual violence increases. It is estimated that 35% of female Syrian refugees currently between 20-24 years of age entered into child marriages, and that 13% of female refugees are married by the time they are 15.[[10]](#footnote-11)

 The devastating impact of the Syrian conflict on the country’s children is exacerbated by its discriminatory nationality laws. Syrian law does not grant women the right to convey citizenship to children born abroad, nor to children born inside the country absent very limited circumstances – those children can only gain citizenship through their fathers. As discussed above, such discriminatory nationality laws leave children more vulnerable to being rendered stateless in humanitarian situations. Since the outbreak of the conflict in Syria, it is estimated that 11 million Syrians have been forced to flee the country and become internally displaced persons or refugees in neighboring countries, such as Jordan and Lebanon.[[11]](#footnote-12) Twenty-five percent of Syrian refugee households are fatherless, which means children from these households may be denied their right to nationality if their father is not unknown, but missing.[[12]](#footnote-13) It has been estimated that 90,000 Syrian refugee babies in Lebanon and Turkey are at risk of statelessness.[[13]](#footnote-14)

*Protecting the right of children in humanitarian situations: revoke sex discriminatory nationality laws and combat child marriage as mandated under international law*

Numerous international human rights treaties and the Sustainable Development Goals, most notably Goals 5 (“Achieve gender equality and empower all women and girls”) and 16 (“Promote peaceful and inclusive societies…”), call for the end of gender based discrimination and classify child marriage and discriminatory nationality laws as human rights violations.[[14]](#footnote-15) The child’s right to nationality has been established by Article 7 of the Convention on the Rights of Child (“CRC”), which states that “[t]he 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.”Additionally, Article 9 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) calls for State Parties to grant women equal rights with men in passing nationality on to children, as well as in acquiring, changing or retaining nationality. Finally, in June 2016, the United Nations General Assembly adopted a resolution which urged States to “take immediate steps to reform nationality laws that discriminate against women by granting equal rights to men and women to confer nationality on their children and spouses and regarding the acquisition, change or retention of their nationality.”[[15]](#footnote-16)

Article 16 of CEDAW is unequivocal on the subject of child marriage, stating that “[t]he betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.” Additionally, while child marriage is not explicitly mentioned in the CRC, the UN Committee on the Rights of the Child, mandated with monitoring the Convention’s implementation, has stated that early marriage is a harmful practice that negatively affects girls’ sexual and reproductive health and strongly recommends that all States Parties have minimum age of marriage legislation setting the age at 18. Governments are also accountable to Article 34 of the CRC, which mandates they protect the child from all forms of sexual exploitation and sexual abuse.

In order to protect children in humanitarian situations from being rendered stateless or from being forced into “child marriages”, it is important for all countries to ensure they have adopted and enforce non-discriminatory laws on nationality and marriage that align with international and regional human rights standards.

Governments with sex discriminatory legal provisions on nationality should revise them:

* so that women and men can equally confer citizenship on their children and spouses
* so that foreign spouses do not automatically lose their new nationality on termination of the marriage
* so that women do not automatically lose or gain nationality on marriage to a spouse of another nationality without their active consent
* so a change in the father’s nationality does not automatically mean loss of nationality for his wife and children
* to ensure that there is consistency between all laws and regulations laws are clear to both those wishing to take advantage of them and those implementing them

In order to decrease the risk of “child marriage” in humanitarian situations, countries should:

* enact, enforce, and raise public awareness of legislation that sets 18 as the minimum legal age for marriage, including by asserting the primacy of civil law over other forms of law such as religious or customary laws. In addition, repeal provisions in family laws that grant judges the right to marry girls before the age of 18.
* include safeguards in the law and its implementation to ensure that ‘parental consent’ is not used to justify customary or religious practices that permit child, early or forced marriages
* develop, support and implement comprehensive and integrated strategies to prevent child, early and forced marriage
* strengthen civil registration systems including birth and marriage registration systems as well as by removing obstacles to gaining citizenship and raise awareness of the importance of birth and marriage registration at the national, regional and local levels
* mainstream child, early and forced marriage prevention into emergency and humanitarian responses given the increased vulnerability of girls to child, early and forced marriage, trafficking and abduction in situations of crisis and instability

Today, Equality Now submits this information to provide OHCHR and the Human Rights Council with information that highlights violations of children’s rights in humanitarian situations, especially those rights associated with nationality and “child marriage”. We also request that the Council continue to call upon government bodies to adopt and enforce non-discriminatory laws on nationality and stronger minimum age of marriage and related laws to bring them in line with international and regional human rights standards so as to better protect children during humanitarian situations.

Thank you for your attention and please feel free to contact us with any questions or clarifications on these issues.

Sincerely,

Yasmeen Hassan

Global Executive Director

Equality Now

1. Human Rights Council, *Resolution 34/16: Rights of the child: protection of the rights of the child in the implementation of the 2030 Agenda for Sustainable Development,* A/HRC/34/L.25 (Mar. 24, 2017). [↑](#footnote-ref-2)
2. Equality Now hereby waives any claim of confidentiality to which we may be entitled in the communication process. [↑](#footnote-ref-3)
3. *The State We’re In: Ending Sexism in Nationality Laws,* Equality Now (Jan. 25, 2016) [↑](#footnote-ref-4)
4. UN Security Council, *Security Council resolution 2122 (2013) [on women and peach and security],* S/RES/2122 (Oct. 18, 2013). [↑](#footnote-ref-5)
5. *Protecting The Girl Child: Using the law to end child, early and forced marriage and related human rights violations,* Equality Now (Jan. 2014). [↑](#footnote-ref-6)
6. *Child Marriage in Humanitarian Crises,* Girls Not Brides (2016). [↑](#footnote-ref-7)
7. *See* *Report of the Special Rapporteur on trafficking in persons, especially women and children, on her mission to Jordan*, A/HRC/32/41/Add.1 (Jun. 8, 2016), ¶ 19, noting that Syrian refugee women and girls in Jordan are “trafficked for sexual exploitation through the practice of ‘temporary’ or child and/or forced marriages to Jordanians and order men from Gulf countries”. In her report, the Special Rapporteur details the story of “a 17-year-old Syrian girl forcibly married to 13 different men….[f]or each ‘marriage’, which lasted from one day to one month, the victim was forced to undergo hymen reconstruction surgery at a private clinic in Amman by her traffickers – her single mother, a family friend and a doctor.” [↑](#footnote-ref-8)
8. Not her real name. For more information on Reem’s story, please see: *Protecting The Girl Child: Using the law to end child, early and forced marriage and related human rights violations,* Equality Now, 48 (Jan. 2014). [↑](#footnote-ref-9)
9. *Id.* For example, take again the case of Reem. The Sheikh who performed the marriage ceremony accepted the consent of her father and did not even ask her if she wanted to be married. [↑](#footnote-ref-10)
10. Tanya Birbeck, *For Syrian refugees, child marriage robs a generation of its future,* The Globe and Mail, Mar. 30, 2017, https://www.theglobeandmail.com/news/world/for-syrian-refugee-girls-child-marriage-is-robbing-a-generation-of-itsfuture/article34347648/. [↑](#footnote-ref-11)
11. *Syrian Refugees: A snapshot of the crisis – in the Middle East and Europe,* Syrian Refugees (Sept. 2016), http://syrianrefugees.eu/. [↑](#footnote-ref-12)
12. *I am here, I belong: The Urgent Need to End Childhood Statelessness,* UNHCR, 23 (2015). [↑](#footnote-ref-13)
13. Louise Osborne and Ruby Russell, *Refugee crisis creates ‘stateless generation’ of children in limbo,* The Guardian, Dec. 27, 2015, https://www.theguardian.com/world/2015/dec/27/refugee-crisis-creating-stateless-generation-children-experts-warn. [↑](#footnote-ref-14)
14. United Nations General Assembly Resolution 70/1, *Transforming our world: the 2030 Agenda for Sustainable Development,* U.N. Doc. A/RES/70/1 (Oct. 21, 2015). [↑](#footnote-ref-15)
15. United Nations General Assembly Resolution 32/L.12, *The right to a nationality: women’s equal nationality rights in law and practice,* U.N. Doc. A/HRC/32/L.12, ¶5 (Jun. 28, 2016). [↑](#footnote-ref-16)