



Joint statement by the Coordinating Assembly of Non-Governmental Organizations, Youth Sustainable Development Centre, Southern African Human Rights Defenders Network, Global Campaign for Equal Nationality Rights and Institute on Statelessness and Inclusion

Universal Periodic Review Pre-Session for Eswatini

I am pleased to make this statement¹ on the right to a nationality and non-discrimination in Eswatini.

Eswatini is one of twenty-five countries with a nationality law that denies women the right to confer nationality on their children on an equal basis with men. Only the father can transmit citizenship to children², unless the child of a Swazi woman was born outside of marriage and was not adopted or recognised by the father³. The Constitution also denies women the right to transmit citizenship to her foreign spouse, a right reserved for Swazi men.

By discriminating on the basis of gender and marital status, the nationality law results in rights violations in contradiction to the state's obligations as a state party to CEDAW, CRC, and the ICCPR. Gender discrimination in the nationality law jeopardizes family unity and undermines equal access to education, healthcare, formal employment, financial services, inheritance, property rights, and freedom of movement.

Eswatini's domestic law also does not contain safeguards to ensure that children born in the country who would otherwise be stateless are granted Eswatini nationality. The Constitution⁴ stipulates that a deserted *child of not more than seven years* found in Swaziland shall be treated as a citizen by birth, while the Citizenship Act states that *every* deserted infant first found in Swaziland shall be registered as a citizen.⁵ While the Citizenship Act and Constitution should be brought into alignment, both require reform to uphold foundlings' right to acquire Eswatini nationality up to the age of majority, in line with the best interest of the child.

Gender-discriminatory practices and policies pertaining to birth registration also increase the risk of childhood statelessness, while undermining women and men's equality in the family. While unmarried women can register children, problems arise if they wish to register the child in the father's name. Unmarried men may not register a child in the absence of the mother or a relative with legal authority to assist with the registration.

¹ This statement is being made on behalf of the Coordinating Assembly of Non-Governmental Organizations, Youth Sustainable Development Centre, Southern African Human Rights Defenders Network, Global Campaign for Equal Nationality Rights and Institute on Statelessness and Inclusion

² Constitution of Eswatini, Article 43.1; women and men have the equal right to confer nationality on children born before the Constitution came into effect.

³ Ibid. Article 43.4

⁴ Constitution of Eswatini, Article 47

⁵ Citizenship Act, Article 17



Despite legislative measures to advance children’s protection, many children and adolescent girls remain vulnerable to sexual abuse and exploitation, teenage pregnancy, and child marriage. These risks increased amid the pandemic and are exacerbated by gender discrimination in the nationality law, which is linked with a greater risk of child marriage, human trafficking, and other forms of GBV faced by girls who cannot access their mother’s citizenship.

We welcome the Eswatini Government’s pledge made at the 2019 UNHCR High-Level Segment on Statelessness (HLS) to achieve a gender-equal nationality law and to introduce a provision in the nationality law to grant nationality to all children of unknown origin found in Eswatini by 2024. We urge the government to take swift action to achieve these pledges.

The co-submitting organisations urge reviewing States to make the following recommendation to Eswatini:

- **Enact legal reforms to uphold women and men’s equal right to confer nationality on their children and spouse;**
- **Ensure legal safeguards to prevent statelessness.**

Thank you.