



SIERRA LEONE GOVERNMENT

18/12/2014

Ref: L/FA/1

FROM : The Attorney-General and Minister of Justice,
TO: The Ag. Director-General, Ministry of Foreign Affairs & International Cooperation.

12th December, 2014.

Cc: The Permanent Secretary
Ministry of Social Welfare, Gender
and Children's Affairs

RE: COMMUNICATION FROM SPECIAL PROCEDURES

I refer to your memorandum reference UN/314/1/2 dated the 19th November, 2014 on the above subject requesting clarifications on the legal provisions in Sierra Leone relating to gender equality on nationality laws. | α

We have considered the question(s) and the current law and we wish to state that the present legal position on the issue is that there is no law that is discriminatory against women on nationality or citizenship.

In fact further positive recommendations are being proposed for the consideration of the Constitutional Review Commission to improve the issue even further by making it a human rights issue and provide for it in the Constitution in consonance with the principles and provisions of The Convention on The Elimination of All Forms of Discrimination Against Women (CEDAW).

We would keep the Committee(s) informed through the various reporting mechanisms available to us.

We count on your usual cooperation.

Find attached a detailed review of the extant law on same.



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THE LAW RELATING TO NATIONALITY/CITIZENSHIP IN SIERRA LEONE

The law governing nationality or citizenship in Sierra Leone include:

- (i) The Sierra Leone Citizenship Act, 1973 Act No.4 of 1973;
- (ii) The Sierra Leone Citizenship (Amendment) Act, 1976 Act No.13 of 1976; and
- (iii) The Sierra Leone Citizenship (Amendment) Act, 2006 Act No.10 of 2006.

Section 2 of The Principal Act provides, under the rubric "Citizenship By Birth", as follows:

"Every person who, having been born in Sierra Leone before the nineteenth day of April, 1971, or who was resident in Sierra Leone on the eighteenth day of April, 1971, and not the subject of any other State shall, on the nineteenth day of April, 1971, be deemed to be a citizen of Sierra Leone by birth:

Provided that –

- (a) his father or his grand father was born in Sierra Leone; and
- (b) he is a person of negro African descent;" (emphases mine).

Section 1(1) of The 1973 Act (which is the interpretation section) defines "person of negro African descent" to mean "a person whose father and father's father are or were negroes of African origin". (emphases mine)

By these provisions, the law on nationality or citizenship was clearly discriminatory against women as being a citizen of Sierra Leone both by birth and ancestry was based on patrilineal (not matrilineal) descent i.e. one's father or grandfather (not one's mother or grand mother) was born in Sierra Leone or were negroes of African descent i.e. black Africans or negro Africans.

Also Section 7 of both the 1973 and 1976 Acts are discriminatory against women in the area of acquisition of citizenship by naturalization.

Section 7 of both said Acts provide as follows:

"Every woman who is not a Sierra Leonean and who is or has been married to a Sierra Leone citizen, may, on application being made by her in the prescribed manner, be granted a certificate of naturalisation."

This provision means that female foreigners can only become citizens of Sierra Leone by naturalization and if they marry a Sierra Leonean man/husband. There is no corresponding requirement for male foreigners to marry a Sierra Leonean women/wife before they could be granted citizenship by naturalization.

However, by Section 8(2), (3) and (4) of The 1976 Act, men and women are expressly put on equal footing in so far as acquiring citizenship by naturalization is concerned.

Section 8(2) provides as follows:

"Every person of full age and capacity, either of whose parents is a person of negro African descent who is resident in Sierra Leone and has been continuously so resident for a period of not less than eight years may, on application in the prescribed manner being made by him that he is qualified for naturalization under the Second Schedule, be granted a certificate of naturalization" (emphases mine).

Section 8(3) provides as follows:

"Every person of full age and capacity, neither of whose parents is a person of negro African descent, who is resident in Sierra Leone and has been continuously so resident for a period of not less than fifteen years may, on application being made by him in the manner prescribed, be granted a certificate of naturalisation if he satisfies the Minister that he is qualified for naturalisation under the provisions set forth in the Third Schedule" (emphasis mine)

Section 8(4) provides as follows:

"Any person under the age of twenty-one years –

- (a) whose father or mother was a citizen of Sierra Leone by naturalization;
- (b) born outside Sierra Leone on or after the date on which the father or mother became a citizen as aforesaid may if he desires to acquire citizenship of Sierra Leone, make an application therefor for naturalization under the foregoing provisions of this Section"

There was no such non-discriminatory provisions based on sex in the 1973 Act.

A further considerable progress was made by the 2006 Act by the repeal of the proviso in Section 2 of The 1973 Act as follows:

"The proviso to Section 2 of the Principal Act is repealed and replaced by the following proviso:-

"provided that his father, mother or any of his grand parents was born in Sierra Leone and is or was a person of Negro African descent". (emphases mine)

Further, subsection 1 of Section 1 (i.e. the definition Section) was amended by the 2006 Act with the addition of a definition of "mother" to mean "a natural but not an adoptive mother" and "person of negro African descent" amended to mean "a person whose mother or father and any of the grand parents of the mother or father is or was a Negro of African descent".

Also Section 10 of The 1973 Act which did not allow for dual nationality or citizenship has been repealed and replaced by Section 5 of The 2006 Act which provides for a non-discriminatory provision based on sex on the acquisition of dual nationality or citizenship.

The said Section 10 of The 1973 Act provided as follows:

"No person shall have Sierra Leone Citizenship and any other citizenship at one and the same time"

The amendment of Section 10 of The 1973 Act is by Section 5 of The 2006 Act which provides that:

“Section 10 of the principal Act is repealed and replaced by the following section:-

‘10. A citizen of Sierra Leone may hold a citizenship of another country in addition to his citizenship of Sierra Leone’”

The gender-neutral phrase “a citizen of Sierra Leone” was deliberate as it was meant to include both men and women equally.

These amendments to the Principal Act have progressively put men and women on equal footing on the acquisition and retention of nationality or citizenship by birth and descent so that as at present, there is no discrimination against women on the law relating to nationality or citizenship in Sierra Leone.

Further progress is being made on this issue by the recommendation of the last Constitutional Review Commission of 2008 recommended equal treatment of men and women on the acquisition, retention, transmission and renunciation of nationality or citizenship by birth, descent, marriage, naturalization and adoption. The Commission further recommended that the issue of nationality or citizenship be treated as a human rights issue and be provided for in the Constitution. These recommendation, if accepted, would now make the laws on nationality or citizenship be in line with the principles of The Convention on The Elimination of All Forms of Discrimination Against Women (CEDAW) particularly Articles 1, 2 & 9 of CEDAW.

In view of the above review of the extant law on the subject, we wish to state that there is no discriminatory law(s) against women on nationality or citizenship and with the current Constitutional Review in progress, the position is expected to be made better when nationality or citizenship would have been made a human rights issue and provided for in the Constitution.

We also wish to state that Government would continue to take steps (administrative and legislative) to ensure equality between men and women in all areas of human endeavor in Sierra Leone.