

22 March 2016

EQUALITY NOW and QUESTIONS DE FEMMES



QUESTIONS DE FEMMES

(QDEF)

Libérer la parole de la femme

Togo

Submission to the UN Universal Periodic Review

**Twenty-Sixth Session of the UPR Working Group of the Human Rights
Council**

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Submitted by:

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Introduction and Summary

1. Equality Now is an international human rights organization with ECOSOC status working to protect and promote the rights of women and girls worldwide since 1992, including through our membership network comprised of individuals and organizations in over 190 countries. Equality Now is also a founder and steering committee member of the Global Campaign for Equal Nationality Rights, which aims to eliminate gender discrimination in nationality laws.
2. Questions de Femmes is an association which works for the promotion and protection women's rights in Togo. It is comprised of advocates who put forward their legal expertise for the benefit of women especially women who do not have the means to pay for legal services. Questions de Femmes collaborates with associations and NGOs in Togo who channel to Questions de Femmes cases of women's rights violations that require legal intervention. It enjoys recognition in the judicial circles in Togo as it seeks to work towards ensuring access to justice by all.
3. In this submission, Equality Now and Questions de Femmes provide information as stipulated in the *Universal Periodic Review: information and guidelines for relevant stakeholders' written submissions*. The submission highlights our concerns about sex discrimination in the law with regard to nationality in Togo. We make key recommendations for action by the government of Togo to better address this area of concern.

Sex discrimination in the law with regard to nationality

4. Articles 5 and 12 of the Nationality Code of Togo do not allow women to transfer their nationality to foreign spouses on an equal basis with men. Their spouses may only apply for naturalization with waived conditions. Togolese men on the other hand may transfer their nationality to their foreign spouse automatically at the time of marriage. Additionally, under Article 23, foreign women who take their Togolese husband's nationality automatically lose it upon termination of marriage.¹ Although the Constitution and the Children's Act both provide for equal nationality rights in transferring to children, Article 3 of the nationality code also discriminates against Togolese mothers in only being able to pass their nationality to their children if the father is stateless or unknown.²
5. This law, which denies women equality with men in terms of nationality, undermines a woman's status as an equal citizen and violates international law as well as the Togolese Constitution, which guarantees equality before the law of all citizens without distinction, including of sex.

¹ For the text of the law, see Equality Now, *Words Deeds – Holding Governments Accountable in the Beijing+20 Review Process*, (2015), available at

http://www.equalitynow.org/law/ordinance_no_78_34_of_7_september_1978_establishing_the_code_of_togolese_nationality and in French at

http://www.equalitynow.org/fr/law/ordonnance_no_78_34_du_7_septembre_1978_portant_code_de_la_nationalit_togolaise

² Equality Now, *The State We're In: Ending Sexism in Nationality Laws*, (2016), available at

http://www.equalitynow.org/sites/default/files/NationalityReport_EN.pdf and soon available in French at à l'adresse http://www.equalitynow.org/sites/default/files/NationalityReport_FR.pdf

6. We note that there is legislation under consideration that would allow women the equal right with men to transfer their nationality to their children and spouses. In addition, the effects of the provision that causes naturalized Togolese women to automatically lose their nationality in cases of divorce is mitigated by the 2012 Code of Persons and the Family, which states that divorce has no effect on the nationality rights acquired by a man or a woman.³ However, we urge the Togolese government to undertake a full review of their nationality law, so there is no room for doubt.
7. We urge the Human Rights Council to encourage the Togolese government to remove the discrimination that Togolese women face under the nationality law so that women can enjoy full equality in transferring their nationality to their children and spouses and not lose their nationality automatically upon termination of marriage.

Recommendations for Action by the Government of Togo

Sex discrimination in the law with regard to nationality

8. Equality Now and Questions de Femmes, respectfully urge the Human Rights Council to call on the government of Togo to address sex discrimination in its nationality law by comprehensively amending the nationality law to:
 - a. allow Togolese women to transfer their nationality to their children on an equal basis with men;
 - b. allow Togolese women to transfer their nationality to their spouse on an equal basis with men; and
 - c. prevent naturalized Togolese women from automatically losing their nationality upon termination of marriage;
 - d. and remove any other discrimination on the basis of sex.

³ Id.