

Gender and
Statelessness



Vanuatu

Gender, Citizenship Laws and Statelessness

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CONFERRAL TO BIOLOGICAL CHILDREN

Children born in the country

Any child born in Vanuatu is a citizen of Vanuatu if at least one parent is a citizen of Vanuatu.¹

Children born outside of the country

Any child born outside of Vanuatu is a citizen of Vanuatu if at least one parent is a citizen of Vanuatu.²

ADOPTED CHILDREN

A child adopted in Vanuatu who is not a citizen on the day of adoption becomes a citizen if either of the adopters is a citizen on that day.³

FOUNDINGS

The right to citizenship for foundlings is not explicitly mentioned in the Vanuatu legislation.

REGISTRATION OF THE BIRTH OF A CHILD

Births in Vanuatu are required to be registered by the father or mother of the

child, a member of the family, a medical officer present, or other relevant individual as listed in the *Civil Status (Registration) Act*.⁴ The requirement as to timeframe for registration is to be within the period prescribed for each area by order made by the Minister.⁵

LOSS AND RENUNCIATION OF CITIZENSHIP

A person of full age and capacity may renounce their citizenship only if they already hold some other nationality or citizenship; or the renunciation is for the purpose of obtaining some other nationality or citizenship.⁶

A person of full age and capacity shall lose their citizenship where the person:

- Makes an affirmation of allegiance to another country;
- Does any act to whereby the person becomes a national of another country;
- Enters the armed forces of another country;
- Votes in the election or accepts elective office of another country;
- Is found by a court to have obtained citizenship by false representation;

¹ *Constitution of the Republic of Vanuatu* s 11 ('Constitution').

² *Ibid* s 11.

³ *Citizenship Act 1980* s 11 ('Citizenship Act'); *Citizenship (Amendment) Act 2016 (No 8)* Schedule, ss 2 and 6.

⁴ *Civil Status (Registration) Act* s 18.

⁵ *Ibid* s 18.

⁶ *Citizenship Act* (n 3) s 14.

fraud or concealment of material fact; or

- Has obtained citizenship by naturalisation and travels across a national boundary using the passport of a foreign state.⁷

NATURALISATION FOR SPOUSE OF CITIZEN

A non-citizen who is married to a citizen of Vanuatu may apply for citizenship if he or she has lived with his or her spouse in Vanuatu for more than two years.⁸ The applicant must sit and pass a citizenship test in Bislama.⁹

A national of a foreign state or a stateless person may apply to be naturalised as a citizen of Vanuatu if the person has lived continuously in Vanuatu for at least 10 years immediately before the date of the application.¹⁰

This is subject to a number of requirements, including that the person:

- Intends to continue to reside in Vanuatu;
- Is of good character;
- Is able to speak and understand sufficiently for normal conversational purposes, Bislama, English, French or a vernacular of Vanuatu; and
- Has renounced or agreed to renounce any citizenship which he or she may possess.¹¹

The applicant may include his or her spouse and children in the application.¹² Where a spouse is included in an application, the

application must include a statement that he or she wishes to become a citizen.¹³

DUAL NATIONALITY

The *Constitution of Vanuatu* recognised dual citizenship as of 2013.¹⁴ An individual with dual citizenship is prohibited from involvement in Vanuatu politics, except for an indigenous citizen or a person who has gained Vanuatu citizenship by naturalisation, who holds dual citizenship.¹⁵

In order to become a dual citizen an individual must make an application.¹⁶ This is available under the *Citizenship Act* only to a person who intends to apply for Vanuatu citizenship and hold dual citizenship.¹⁷

Vanuatu citizens may not become dual citizens upon gaining the citizenship of a foreign country, as the legislation states that a citizen of full age and capacity loses their citizenship where the person does, agrees to or adopts any act by which he becomes a national or citizen of another country.¹⁸

GENDER EQUALITY ACHIEVED

Gender equality with respect to citizenship based on descent was achieved with the *Constitution* in 1980. Other gender-based changes, including citizenship by marriage and use of gender pronouns in the legislation, have been subject to progressive change within the *Citizenship Act* through amendments up to 2016.

The 2013 amendment allowed for application for citizenship for a spouse of either gender married to a Vanuatu citizen. Previously, this covered only a non-citizen wife of a Vanuatu citizen. The 2016

⁷ Ibid ss 14, 15.

⁸ *Citizenship (Amendment) Act 2013* s 7 ('Citizenship Amendment 2013').

⁹ Ibid s 7.

¹⁰ *Constitution* (n 1) s 12.

¹¹ *Citizenship Act* (n 3) s 12(2).

¹² *Citizenship Act* (n 3) s 12(3); *Citizenship Amendment 2013* (n 8) s 7C.

¹³ *Citizenship Act* (n 3) s 12(4); *Citizenship Amendment 2013* (n 8) s 7D.

¹⁴ *Constitution* (n 1) s 13(1); *Constitution (Sixth Amendment) Act No 27 of 2013*.

¹⁵ *Constitution* (n 1) ss. 13(3), 13(4).

¹⁶ *Citizenship Amendment 2013* (n 8) s 9.

¹⁷ Ibid s 9.

¹⁸ *Citizenship Act* (n 3) s 14(1)(b).

amendment made changes to gender pronouns in the Act to include “he or she”.

GENDER AND STATELESSNESS RISKS

As previously stated, progressive changes have been made to Vanuatu citizenship legislation to mitigate gender discrimination. The most recent changes occurred in 2016 with amendment to the *Citizenship Act*.

There remain gaps in the legislation however which may create risk for statelessness. Vanuatu legislation is silent on citizenship for foundlings. Additionally, provisions for dual citizenship may inhibit a child born in Vanuatu from obtaining the citizenship of both parents.

There may be a need for further amendments to ensure equality in the application of the dual citizenship amendment, so that its benefits may apply equally to both Vanuatu citizens with intent to obtain foreign citizenship (to whom it does not currently apply) and non-citizens with intent to obtain Vanuatu citizenship.

UNHCR Representation in Canberra

Note: *This factsheet only provides information of a general nature. It should not be relied on for any other purpose, such as legal advice. This factsheet should be read in light of the last date on which it was updated.*