



**Briefing Paper**  
**WHO IS SOMALILAND CITIZEN?**  
**Legal Analysis on Somaliland Citizenship Law (Law No: 22/2002)**

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## 1. INTRODUCTION

A citizen is a person who, by either birth or naturalization is a member of a political community, owing allegiance to the community and being entitled to enjoy all its civil rights and protections; whereas Citizenship is the status of being a citizen and the quality of person's conduct as a member of a community.<sup>1</sup> In Somaliland the citizen is an individual who descended from persons who were resident in the territory of Somaliland on 26 June 1960 or before, and a person who had Somaliland citizenship conferred on him lawfully.<sup>2</sup>

Hence there are two ways to become a Somaliland citizen, by birth or through naturalization which is the legal act or process by which a non-citizen in a country may acquire citizenship or nationality of that country.

The intent of this analysis is to legally recognize, who the citizen is, and who is not in Somaliland legal context. More over to inform the society living in Somaliland who are not legal experts and public authorities on the laws regarding citizenship.

### **By Birth**

In Somaliland citizenship Act, Somaliland citizen by birth is defined to anyone whose father is a descendent of persons who resided in the territory of Somaliland on 26 June 1960 and before.<sup>3</sup> It was not specifically indicated who that one is: is he Somali lander, Somali, Turkish, or other people. This legal provision excludes the assumption that only Somaliland people originally from Somali ethnic are only citizens in Somaliland. For instance, an Indian, British, Ethiopian, Turkish, Chinese and any other people having any other nationality other than Somali landers, and whose fathers are decedent of persons resided in 1960 or before, are a Somaliland citizens under Somaliland citizenship law.

### **Through Naturalization**

Somaliland citizenship is also granted to a foreign citizen or refugee after he fulfills the requirements established by article 4 of Somaliland Citizenship.<sup>4</sup>

To become a citizen through naturalization, the article provides any alien or refugee who is lawfully resident in the territory of Somaliland and who applies for Somaliland citizenship may be granted such citizenship when he has resided lawfully in the territory of Somaliland for an unbroken period of no less than 10 year, on condition that he is known for his good character and behavior; must not have been subject of a sentence for an offence proven in a court, must not have participated in activities which were contrary to the sovereignty of Somaliland; must have been taxpayer during his period of residence in the territory of Somaliland; must submit a declaration in which he is renouncing his previous citizenship, and he must, at the same time, make the oath set out in Somaliland Citizenship Law.<sup>5</sup> The above provision on having a person who has resided

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<sup>1</sup> (Garner, 2004, p. 278)

<sup>2</sup> Somaliland Citizenship Law, Art. 1

<sup>3</sup> Somaliland Citizenship Law, Art. 2

<sup>4</sup> Somaliland Citizenship Law, Art. 4(1)

<sup>5</sup> Somaliland Citizenship Law, Art.4(1)(a-f)

lawfully in the territory of Somaliland for an unbroken period of no less than 10 year and eligible to be granted Somaliland citizenship as well as its conditions, gives any person other than Somali landers originally from Somali ethnic, the opportunity to get through naturalization process Somaliland Citizenship same as the other Somali landers.

## **2. MALE LENEAL DESCENDENT IN CITIZENSHIP LAW**

Somaliland Citizenship law give priority to men lineal descendants, whether by birth or neutralization. By birth the Law provides that citizens are those whose father is a descendent of persons who resided in the territory of Somaliland on 26 June 1960 and before which means everyone descended from a male is a citizen. Similarly the law also give special consideration for men who are alien and refugees, and only point out in the act the man who needs to be Somali lander.

## **3. WOMEN LENEAL DESCENDENT IN CITIZENSHIP LAW**

In citizenship by birth, the law only mentioned those whose father is descendent of persons who resided in the territory of Somaliland is Somaliland citizen which means the person who is from descendent of a women who resided in territory of Somaliland on 26 June 1960 and before is not Soma lander. This provision is directly contrary to Somaliland Constitution which classified the persons residing in the territory neither male nor female, and constitutionally the citizen is described to any person who is a partial of Somaliland being a descendant of a person residing in Somaliland on 26th June 1960 or earlier.<sup>6</sup>

Likewise through naturalization, the aliens and refugees who are women are discriminated by the law. The law only states men who are aliens and refugees and states that he is eligible if he resides 10 consecutive years. What about if she resides 10 consecutive years in Somaliland? Why doesn't she eligible to get the citizenship through naturalization like their aliens and refugees male counterparts?

On the other hand in loss of citizenship, the law provides that women of Somaliland citizen will lose her citizenship if she marries a foreign male and at same time accepts his citizenship,<sup>7</sup> and also if she married to a husband who has renounced his Somaliland Citizenship and acquired another citizenship she shall lose her citizenship unless the husband was a refugee.<sup>8</sup>

In this provision women's status was linked to the men's status where the nationality of women depends on the nationality of men and her nationality is changed as the man's nationality changes. Since Somaliland's fundamental rights and freedoms are interpreted in a manner consistent with the international conventions on human rights and international laws,<sup>9</sup> this is contrary to the

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<sup>6</sup> Somaliland Constitutions, Art. 4 (1)

<sup>7</sup> Somaliland Citizenship Law, Art. 9(2)

<sup>8</sup> Somaliland Citizenship Law, Art. 9 (3)

<sup>9</sup> Somaliland Constitutions, Art. 3 (2)

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) which obliges Somaliland to grant women equal rights with men to acquire, change or retain their nationality in addition to that Somaliland is required to ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.<sup>10</sup> These articles are also conflicting with the equality of citizens stated in Somaliland Constitution, which granted equal rights and obligation to all citizens of Somaliland before the law, without discriminating on the grounds of gender.<sup>11</sup>

The Act provides that female alien who marries a male (Somaliland) citizen shall acquire Somaliland citizenship and, unless she has renounced it, shall retain such citizenship even after her divorce.<sup>12</sup> The question is why in Somaliland citizen women is losing their citizenship by birth, and the alien women is retaining the citizenship even after she is divorced. Why the alien women is gave to consideration and preferred from the Somaliland female citizen? Which nationality female citizen will get if her Somaliland citizenship is lost on the basis of her husband's citizenship? All these questions are required to get their answers legally, since it can cause stateless to female citizens and the children who are not from male Somali lander.

#### 4. CONCLUSION

Somaliland people from Somali ethnicity are not the only citizens in the eyes of Somaliland law. Somali lander can be every one other than Somali ethnic people who descended from persons who were resident in the territory of Somaliland on 26 June 1960 or before. On the contrary to Somaliland's constitution any descendants from women are not eligible to be recognized as citizens in Somaliland Citizenship Law. Finally this law waive the women's citizenship if she marries to non-Somali lander, and her nationality changes as her husband's nationality is changed.

Somaliland Citizenship Law is discriminatory, biased and contrary to Somaliland constitution, the international law, and the interest of the people of Somaliland.

#### 5. RECOMMENDATION

The Citizenship Law shall be amended and drafted in a manner consistent with the constitution and the international human rights law.

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<sup>10</sup> CEDAW, Art. 9

<sup>11</sup> Somaliland Constitutions, Art. 8 (1)

<sup>12</sup> Somaliland Citizenship Law, Art. 9(1)

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*(2002) Somaliland citizenship law.*

*(2001) Somaliland Constitution.*