



Institute on Statelessness and Inclusion

Submission to the **Human Rights Council**
at the 30th Session of the
Universal Periodic Review

(Third Cycle, May 2018)

Cameroon

5 October 2017

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Introduction

1. The Institute on Statelessness and Inclusion (ISI) makes this submission to the Universal Periodic Review (UPR) in relation to the right to nationality, statelessness¹ and related human rights in Cameroon.
2. ISI is an independent non-profit organisation committed to an integrated, human rights based response to the injustice of statelessness and exclusion through a combination of research, education, partnerships and advocacy. Established in August 2014, it is the first and only global centre committed to promoting the human rights of stateless persons and ending statelessness. Over the past two years, the Institute has made over 20 country specific UPR submissions on the human rights of stateless persons, and also compiled summaries of the key human rights challenges related to statelessness in all countries under review under the 23rd to the 28th UPR Sessions.²
3. This submission highlights four main challenges in the realisation of every person's right to acquire a nationality and avoidance of statelessness:
 - I. Childhood statelessness
 - II. Birth Registration
 - III. Discriminatory practices in nationality legislation
 - IV. Access to nationality for vulnerable groups
4. This submission draws on the Institute's 2016 submission on Cameroon to the Committee on the Rights of the Child, which contains a more detailed analysis of the issues presented here.³

The Universal Periodic Review of Cameroon under the Second Cycle

5. Cameroon was under review in July 2013 during the Sixteenth Session of the Second Cycle. Djibouti recommended that Cameroon accedes to the 1961 Convention on the Reduction of Statelessness.⁴ This recommendation was supported and noted by Cameroon. However, it has not yet acceded to the 1961 Convention.

¹ According to Article 1.1 of the 1954 Convention relating to the Status of Stateless Persons, a stateless person is someone "who is not considered as a national by any state under the operation of its law." It is estimated that there are at least 15 million stateless people worldwide.

² For more information on the Institute's UPR advocacy, see <http://www.statelessnessandhumanrights.org/upr-universal-periodic-review/resources-database>.

³ ISI, Civil Society Submission on the right of every child to acquire a nationality under Article 7 CRC http://www.institutesi.org/CRC_Cameroon_2016.pdf.

⁴ 131.23; Convention on the Reduction of Statelessness, 1961, <http://www.unhcr.org/en-us/protection/statelessness/3bbb286d8/convention-reduction-statelessness.html>.

6. Other relevant recommendations include:

- **Promoting the rights of indigenous populations of the country, particularly their access to citizenship (Cape Verde).**⁵ Cameroon supported this recommendation. As explained in this submission, Cameroon is obligated ensure the right to acquire nationality of indigenous people and vulnerable groups. This includes ensuring their access to immediate birth registration, without which a child cannot be registered as a national.
- Relatedly, the Republic of Moldova and Sierra Leone recommended that Cameroon applies a strategy for **universal birth registration**. Cameroon supported both recommendations.⁶ Legal and practical barriers to universal birth registration still exist, undermining the child's right to a nationality.
- **Thailand recommended** that Cameroon should 'Promote equal treatment before the law, including through social protection, the right to birth registration, and the right to an equal use of natural resources'.⁷ Cameroon supported this decision. However, as explored in this Submission, the risks of statelessness as a result of discrimination is still prevalent in Cameroon.

Relevant international, regional and national law

7. Cameroon is not party to the 1954 UN Convention on the Status of Stateless Persons and the 1961 UN Convention on the Reduction of Statelessness. A recommendation to accede the latter Convention was noted during the 2nd UPR cycle. Cameroon has however signed the 1951 Convention Relating to the Status of Refugees and has acceded to its 1967 Protocol.
8. Cameroon is also a party to core human rights treaties that include provisions related to statelessness and/or nationality, such as the International Covenant on Civil and Political Rights (ICCPR, 1966), the Convention on the Elimination of All Forms of Racial Discrimination (CERD, 1965), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979), the Convention on the Rights of the Child (CRC, 1989) and the Convention on the Rights of Persons with Disabilities (CRPD, 2006).
9. As a party to the Convention on the Rights of the Child, with no reservations in place, Cameroon is obliged to ensure every child's right to acquire a nationality in accordance with Article 7 of the Convention and the Convention's Guiding Principles of non-discrimination, best interests of the child, the child's right to participate and the right to life, survival and development of the child. The CRC also prohibits denial of the child's right to right to a nationality as a result of discrimination against the child or his or her parents or guardians, on all prohibited grounds including gender, race and disability.
10. Regionally, several African Union (AU) instruments adopted and ratified by Cameroon protect the right to nationality of vulnerable groups such as children, women, refugees, IDPs, migrants and indigenous peoples, or prevent them from becoming stateless.⁸ Of these, Article 6 of the African Charter on the Rights and Welfare of the Child specifically recognises the right of every child to a nationality.

⁵ 131.168. This recommendations was supported by Cameroon.

⁶ 131.90 (Republic of Moldova), 131.91 (Sierra Leone)

⁷ 131.89.

⁸ They include the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, the 1981 African Charter on Human and People's Rights, the 1990 African Charter on the Rights and Welfare of the Child (Article 6 recognises every child's right to a nationality), the 2003 Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, the 2009 AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa, and the 1998 Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights

11. Cameroon's Nationality Code reinforces the principle of the superiority of international instruments in Cameroonian law:

*Provisions regarding nationality contained in international treaties or agreements duly ratified and published shall have effect in Cameroon even though contrary to the provisions of Cameroon internal legislation.*⁹

The Bakassi Peninsula and refugees from Nigeria

12. The group at greatest risk of statelessness are those of the Bakassi Peninsula. A 2002 judgment of the International Court of Justice granted sovereignty over the disputed Bakassi Peninsula between Nigeria and Cameroon, to Cameroon. There have been problems in establishing recognition of nationality both for those Bakassi residents who remained in their homes, in what is now Cameroon, and for those who relocated to the Nigerian side of the border, all of whom are at risk of statelessness.
13. Many residents in the peninsula do not have identification documents, due to difficulties they face in obtaining them. Unofficial reports indicate that children born there are not being registered at birth as a practice, for fear of them claiming Cameroonian nationality when their parents' loyalties lie with Nigeria. The extent to which such discriminatory attitudes prevail and undermine the child's right to a nationality are unclear.
14. Cameroon is host to a large refugee population. However, in the wake of protecting national security and fighting Nigeria's extremist group Boko Haram, Cameroonian authorities have deported at least 100,000 Nigerians asylum seekers since 2015.¹⁰ This year 4,402 are known to have been forcibly deported back to Cameroon, finding themselves living in remote border areas back to war, displacement, and destitution in Nigeria's Borno State.¹¹ While issues revolve around the prohibition of *non-refoulement*, forced migration also poses risks of statelessness. There is a lack of information on birth registration and documentation rates among refugees and IDPs. Though not synonymous to being stateless, birth registration is generally the first step in the process of acquiring a nationality. Not being registered could lead to risks of statelessness. Furthermore, situations of protracted forced displacement can lead to statelessness

Discrimination against extra marital children

15. Article 6 of the nationality law of Cameroon provides that "*Cameroonian nationality attaches to (a) a legitimate child born of Cameroonian parents; (b) an illegitimate child whose parents are both Cameroonians*". Thus, while extra-marital children are not denied access to nationality, additional conditions must be fulfilled in order for them to acquire nationality. As Article 7 further elaborates:

"Cameroon nationality attaches to:

- a) A legitimate child born of a Cameroonian father or a Cameroonian mother;*
- b) An illegitimate child born of parents of whom one is Cameroonian, when his affiliation to that one is first established, though the other be foreign; but subject in either case to the minor's right to renounce Cameroon nationality within six months before his majority, either*

⁹ Article 3, Law No. 1968- LF-3 of the 11th June 1968

¹⁰ Human Rights Watch, They Forced Us Onto Trucks Like Animals, Cameroon's Mass Forced Return and Abuse of Nigerian Refugees, 27 September 2017, <https://www.hrw.org/report/2017/09/27/they-forced-us-trucks-animals/camerouns-mass-forced-return-and-abuse-nigerian>.

¹¹ From 1 January 2017 until 15 July 2017.

if he was born out of Cameroon or if, according to the national law of the foreign parent, he is able to avail himself of that nationality.”

16. The additional conditions that must be met by extra-marital children are discriminatory, contrary to the best interests of the child and undermine the child’s right to a nationality.

Safeguard against statelessness

17. Article 11 of the nationality law has a double *Jus Soli* basis, whereby if both the child and their foreign parent were born in the country, they would have access to Cameroonian nationality, which they can renounce. This places the children of stateless parents, or parents who cannot pass on their nationality who were not themselves born in Cameroon, at risk. Article 11 establishes that:

“Cameroon nationality attaches, subject to the right to renounce it within six months before majority, to:

- a) A legitimate child born of foreign parents, if both he and his father or mother were born in Cameroon;*
- b) An illegitimate child born of foreign parents, if both he and the parent to whom his affiliation is first established were born in Cameroon.”*

18. It may be argued that Article 15, which sets out that *“the affiliation of an illegitimate child has no effect on his nationality unless established in the course his minority”* serves as a safeguard against statelessness, but only in a limited sense.

19. The more comprehensive safeguards include Article 9, according to which a child born in Cameroon of unknown parents, shall be deemed to never have been a Cameroonian, but only if his affiliation is established with regard to a foreign parent and if in accordance with the national of his foreign parent, he has the nationality of the latter. In other words, if the parents remain unknown, or are found to be Cameroonian, the child should be recognised as Cameroonian. This is underscored by Article 12 which sets out that acquisition of nationality by birth extends automatically to any person born in Cameroon, who is unable to claim any other nationality of origin.

20. However, there remain concerns over the implementation of Articles 9 and 12, particularly in light of poor birth registration.

Children of foreign parents and adopted children

21. Cameroonian law also differentiates children born to foreign parents, who must satisfy an additional residence requirement in order to obtain Cameroonian nationality by Declaration. Article 20 states that:

“Any person born in Cameroon of foreign parents may claim Cameroon nationality within six months before attaining his majority by declaration in the manner prescribed by Sections 36 and following of this law, provided that on such date he has had his domicile or residence in Cameroon for at least five years.”

22. Similarly, adopted children need to satisfy a residence requirement, although no length of residence is indicated. Article 21 states that:

“The adopted child of a Cameroonian may declare within six months before attaining his majority and in the manner prescribed by Sections 36 and following of this law, that he claims Cameroon nationality, provided that at the time of his declaration he has his domicile or residence in Cameroon.”

Discrimination on grounds of disability

23. Of significant concern, is the discrimination on grounds of disability that applies in Cameroon. Contrary to the CRC and CRPD, Article 25 (e) states that *“Cameroon nationality may not be conferred on a person (...) who has not been found to be of sound body and mind.”*

Deprivation of nationality

24. In addition, by allowing for the deprivation of nationality of a person *“who is not of good character and morals, or has suffered conviction of an offence against ordinary law, not expunged by rehabilitation or amnesty”* (article 25 (d)), the law fails to protect the children of such persons, who may not be able to access nationality through their affiliation.

Birth registration

25. Law No. 2011/011 has harmonised the civil status registration process in Cameroon, notably with respect to the question of who has the ability to register births. Under article 7-1 of the law, authority to register births is given to the following categories of public servants: Government delegates to city councils and their assistants; Mayors and their assistants; Heads of diplomatic or consular missions and diplomats deputizing for them. The law also extended the time limit for the declaration of births and provided for sanctions for failure to register births (with penalties set forth in section 151 of the Penal Code (article 83-1)). While this represents progress towards implementing Cameroon’s obligations with regard to the registration of births some problems remain.
26. The current law on birth registration does not address the issue of costs pertaining to civil status registration for poor and vulnerable families and therefore fails to address one cause of the failure to register children from these families. Further, the law focuses on child birth in hospitals and does not provide for the registration of children delivered outside hospitals, which is still prevalent in most rural areas and some urban localities, due to the absence of sanitary institutions.
27. At present, statistics and data on birth registration are not systematically available, making it difficult to track progress in this area. The data that is available is collected by humanitarian agencies and only provides an approximate figures for birth registration rates. These figures are also not always up to date. They can, however, give an indication of the level of birth registration and the groups or areas where birth registration is particularly low, particularly when considered alongside other indicators of the level of birth registration. The most recent data from UNICEF covers the years 2002-2012 and shows that birth registration in Cameroon stands at approximately 61.4%. However, there is a serious discrepancy between the rates of birth registration in urban (80.5%) and rural (47.6%) areas.
28. The 2011 law does not clarify the process of recognition of the child by the father, although article 34-1 requires information on the nationality of the mother and father to be included in the registration record. Article 41(2) states that: *“Recognition and Legitimation, excepting adoptive legitimation, shall be based on blood relationship. Once the relationship has been established, no one may raise objection on the recognition”*. The law does not, however, clarify the procedure for establishing the said *“blood relationship”*, leaving it solely in the discretion of the mother.

Recommendations

29. Based on the content of this submission, the Institute on Statelessness and Inclusion urges reviewing states to make the following recommendations to Cameroon:

- I. Ensure that all national laws, regulations and policies are in line with Cameroon's obligations under international law and its Constitution, ensure the right of every child to acquire a nationality, and prevent childhood statelessness.
- II. Prevent discrimination against those who are particularly vulnerable to statelessness due to their circumstances or discriminatory legal provisions, in particular, children born in the Bakassi peninsula, children whose births have not been registered, extra-marital children, disabled children, children born to foreign parents, adopted children and children whose parents have been deprived of their nationality.
- III. Take all necessary steps to break down barriers to accessing birth registration, and ensure that the births of all children born in Cameroon are registered immediately. Ensure non-discriminatory, comprehensive and consistent implementation of regulations relevant to birth registration, in particular of children born in the Bakassi peninsula, in rural areas, among indigenous populations and for children not born in hospitals, including by providing for free birth registration for those unable to pay the current costs and raising awareness about the importance of birth registration.
- IV. Take all necessary steps to prevent forced repatriation of Nigerian asylum seekers and to prevent and avoid (risks of) statelessness as a result of forced migration. Ensure that all children born to asylum seekers are registered at birth and can acquire a nationality.
- V. Fully implement the safeguards against statelessness in the Nationality Code to ensure that any child born in Cameroon who would otherwise be stateless may acquire Cameroonian nationality, whatever the place of birth of his or her parents.
- VI. Undertake, as soon as possible, a full population census with a view to improving the available data on the population as a whole. In the course of the preparation and implementation of the census pay particular attention to the Bakassi Peninsula taking into consideration their particular history and culture as well as questions relating to their access to nationality.
- VII. Ratify the CRPD and accede to the 1954 and 1961 Statelessness Conventions.