

Universal Periodic Review

All country summary and recommendations

related to the right to a
nationality and the rights of
stateless persons

39th Session, 3rd Cycle
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This document highlights the **statelessness** related challenges in states that will be reviewed during the 39th Session of the Universal Periodic Review (UPR): **Antigua and Barbuda, Eswatini, Greece, Hungary, Ireland, Papua New Guinea, Saint Vincent and the Grenadines, Samoa, Sudan, Suriname, Tajikistan, Tanzania, Thailand and Trinidad and Tobago**. The issues raised in this summary include gender and racial discrimination in nationality laws, arbitrary deprivation of nationality and the child's right to a nationality. All recommending states are urged to draw on this document when formulating recommendations to States under review. In addition to this summary, the Institute on Statelessness and Inclusion (ISI) and its partners made joint submissions on human rights and statelessness issues in [Eswatini](#), [Hungary](#), [Ireland](#), [Tanzania](#) and [Thailand](#).

Antigua and Barbuda

Antigua and Barbuda is a state party to the 1954 Convention on the Status of Stateless Persons. Although it adopted the Brazil Declaration and Plan of Action which calls on States to accede to the Statelessness Conventions, it is not a state party to the 1961 Convention on the Reduction of Statelessness. There are no official statistics on the number of stateless people in the country. In both UPR cycles, Antigua and Barbuda received recommendations on acceding to the 1961 Convention.¹ It also received a recommendation by the CRC to establish a specific statelessness determination procedure, particularly for unaccompanied children.²

Proposed recommendations:

1. Accede to the 1961 Convention and take all steps necessary to implement its content.
2. Establish a formal statelessness identification and determination procedure.

Eswatini

Eswatini is a state party to both the 1954 Convention and the 1961 Convention. According to UNHCR, the number of stateless persons in Eswatini is currently unknown. There are no provisions to safeguard against statelessness in the nationality law. Increased risks of statelessness particularly exist for children who are not registered at birth and issued with birth certificates. Further, women cannot confer their nationality onto their children and spouse on an equal basis with men, resulting into (risks of) statelessness. Although neither the Constitution nor the Citizenship Act stipulate deprivation of nationality of women upon marriage to a foreign national, cases of such loss of nationality have occurred in practice. This means that women who have been deprived of their Eswatini nationality face a high risk of statelessness, particularly if they do not acquire their husband's nationality and are not allowed to reacquire their Eswatini nationality. Children born of these marriages could also face challenges to access Eswatini nationality through their mother.

Proposed recommendations:

1. Amend the Constitution and Citizenship Act to ensure that women have equal nationality rights as men, in particular, in relation to the acquisition and retention of their own nationality, and the conferral of their nationality on their children and non-national spouses.
2. Ensure that otherwise stateless children born in Eswatini acquire Eswatini nationality as soon as possible after birth, regardless of the status or identity of their parents.
3. Strengthen and further develop measures to ensure that all children born within the national territory are registered by, inter alia, making birth registration equally accessible to either parent regardless of marital status.

Greece

Greece is a state party to the 1954 Convention but not to the 1961 Convention. Official statistics of stateless people in Greece remains unknown, including statistics on statelessness arising in migratory context. Further, no dedicated statelessness identification and determination procedure is in place. This also affects stateless individuals at risk of arbitrary and/or prolonged immigration detention as a proposed country of removal does not need to be identified prior to detention and no individual vulnerability assessment is carried out prior to the decision to detain.³ There are still various communities of the Greek population who are stateless or at risk of statelessness such as people in the Thrace area who were deprived of their citizenship in 1955, Roma people and a number of "homogenis" from Constantinople and the islands of Imvros and Tenedos, who were born in Turkey or Greece and live in Greece.⁴

Proposed recommendations:

1. Accede to the 1961 Convention and take all steps necessary to ensure implementation.

¹ Available at: <https://database.institutesi.org/>

² Concluding Observations on the combined second to fourth periodic reports of Antigua and Barbuda, (2017), available at: <https://undocs.org/CRC/C/ATG/CO/2-4>.

³ European Network on Statelessness (ENS), *Country Briefing. Greece*, (2020), available at: [https://index.statelessness.eu/sites/default/files/Country Briefing Greece ENG 2020 FINAL.pdf](https://index.statelessness.eu/sites/default/files/Country%20Briefing%20Greece%20ENG%202020%20FINAL.pdf).

⁴ Ibid.

2. Establish a formal statelessness identification and determination procedure.
3. Ensure that all children are registered at birth and issued with birth certificates regardless of their status or ethnicity.

Hungary

Hungary is a state party to both the 1954 Convention and the 1961 Convention. While a comprehensive mapping study of statelessness in Hungary has yet to be undertaken, statelessness specifically occurs in a migratory context. Hungary has established a statelessness determination procedure. However, obtaining the 'stateless' status does not result into (facilitated) naturalisation. According to Hungarian law, the possession of a 'domicile' is a prerequisite to acquire Hungarian nationality. The 'domicile' status is only accessible to holders of stateless status with a permanent residence permit. Acquisition of a permanent residence permit can take several years, leaving stateless persons who are otherwise lawfully staying in the country (e.g. holders of a humanitarian residence permit or residence permit based on work, study, or family reunion) unable to enjoy their right to facilitated naturalisation. Only partial safeguards to prevent statelessness exist in national law including, for foundlings and children born abroad to Hungarian nationals. However, no safeguard against statelessness exists for all children born on the territory. For example, adopted stateless children remain stateless until they are naturalised, and statelessness is not prevented in the case of children whose parents cannot confer a nationality to their child, or who are stateless but do not have 'domiciled' residence status in Hungary.

Proposed recommendations:

1. Ensure the right to nationality for all children born in Hungary who would otherwise be stateless, in line with Article 7 of the Convention on the Rights of the Child.
2. Ensure that stateless persons have a clear and facilitated pathway to acquiring a nationality, including by automatically establishing domicile and receiving a residence permit upon recognition of their statelessness.

Ireland

Ireland is a state party to both the 1954 Convention and the 1961 Convention, but neither Convention has been fully incorporated into domestic law. There is very limited data available on the stateless population in Ireland. However, some indicators show that statelessness occurs predominantly in a migratory context impacting migrants and refugees from former USSR States, Rohingya Muslims and minority groups such as Roma and Bidoon. There is no statelessness determination procedure in Ireland. According to Section 6(3) of the Citizenship Act, a person born in Ireland is an Irish national from birth if they are 'not entitled to citizenship of any other country'. The wording of the law and lack of guidance on the implementation of the provision leaves a gap for children who may be entitled but cannot acquire the nationality of their parents. Further, nationality deprivation laws in Ireland lack adequate safeguards against statelessness. Stateless people are also at risk of arbitrary immigration detention. The law does not explicitly provide that detention should be used as a last resort and legal aid is not guaranteed.

Proposed recommendations:

1. Collect and make publicly available, reliable data on statelessness in Ireland including disaggregated data on stateless children.
2. Introduce a dedicated statelessness determination procedure and protection status that complies with international standards of due process and which follows the guidance of UNHCR and good practice.
3. Protect every child's right to acquire a nationality by amending the safeguard to ensure all otherwise stateless children born in Ireland acquire Irish nationality (by operation of the law) and adopting specific guidance on the implementation of the safeguard in practice.

Papua New Guinea

Papua New Guinea is not a state party to the 1954 Convention nor the 1961 Convention. It is estimated that 97% of the children do not have birth certificates and 90% are not registered at all.⁵ Manus Island was officially closed as Australia's offshore processing and detaining centres for refugees, stateless persons and other migrants in 2017. Some of them were subject to offshore processing and were relocated to the US, Canada and some to Australia for further processing. Nonetheless, there are some still living in Port Moresby.⁶ It has been reported that asylum seekers, refugees and stateless persons were subjected to abuse by security forces and the local population. A number of violent attacks took place on the apartment complexes where the refugees, asylum seekers and stateless persons are residing in Port Moresby.⁷ Although the Australian government has indicated that it intends to 'exit' Papua New Guinea as an offshore processing detention centre, Australia's current refugee migration policy is to hold asylum

⁵ United Nations Annual Progress Report 2017 *Papua New Guinea*, 35.

⁶ Refugee Council of Australia, 'Offshore Processing Statistics', (2021), available at: <https://www.refugeecouncil.org.au/operation-sovereign-borders-offshore-detention-statistics/3/>.

⁷ Overseas Security Advisory Council (OSAC), *Papua New Guinea 2020 Crime & Safety Report*, (2020), available at: <https://www.osac.gov/Country/PapuaNewGuinea/Content/Detail/Report/09ff0d7b-cb0d-4c30-ae2a-181bf1cb0822>.

seekers in mandatory detention. Asylum seekers are also unable to apply for protection unless the Minister personally decides otherwise. This mandatory detention policy has been found to be contrary to Australia's international legal obligations.⁸

Proposed recommendations:

1. Accede to both the 1954 Convention and the 1961 Convention and take all steps necessary to implement their content.
2. Ensure effective and universal birth registration to facilitate the documentation of all children born on the territory, including the children of refugees and stateless persons.
3. Further cease to perform the role of offshore processing and detaining centre for refugees, stateless persons and migrants, in particular with continuing threats to the safety of those parties while continuing to reside in Papua New Guinea.

Saint Vincent and the Grenadines

Saint Vincent and the Grenadines is a state party to the 1954 Convention but not to the 1961 Convention. There are no official statistics on the number of stateless persons in Saint Vincent and the Grenadines. In 2019, CCPR urged Saint Vincent and the Grenadines to ensure protection to stateless people on the territory.⁹ In 2015, CEDAW expressed its concerns regarding gender discriminatory provisions between men and women when passing on their nationality to their foreign spouses.¹⁰

Proposed recommendations:

1. Accede to the 1961 Convention and take all steps necessary to implement its content.
2. Ensure that all stateless persons on the territory are protected.
3. Amend the Citizenship Law to remove any discriminatory clauses, including provisions affecting women's ability to transmit their nationality to foreign spouses.

Samoa

Samoa is not a state party to the 1954 Convention nor the 1961 Convention. There are no official statistics on the number of stateless people in Samoa. In 2017, a UN Agency organised a training course to help Pacific border control officials prepare for an anticipated influx of refugees, asylum seekers and stateless persons in relation to the closure of the Australian offshore processing detention centre on Manus Island. The training was requested by the Samoa Immigration Office and was designed to ensure the proper handling of asylum seekers upon arrival at Pacific Island countries. Although there are currently no documented refugees, asylum seekers or stateless persons, training of this kind will enable authorities to adopt best practices when dealing with stateless people. Further, it should be noted that climate change has been driving more migration around the globe¹¹ and also results into increased risks of statelessness. It is advised Samoa to take a proactive approach to policy development and decision making in this regard, since emergency migration and relocations will likely result in "trapped populations" unable to migrate increasing human rights concerns for Pacific populations.¹²

Proposed recommendations:

1. Accede to both the 1954 Convention and the 1961 Convention and take all steps necessary to implement their content.
2. Continue to develop and adopt policies to prevent statelessness, particularly for displaced persons as a result of effects of climate change for the Pacific nations.

Sudan

Sudan is not a state party to the 1954 Convention nor the 1961 Convention. There are no official statistics on the number of stateless people in Sudan. According to Article 7 the Sudanese Constitution, every person born to a Sudanese mother or father enjoys the right to acquire Sudanese nationality. However, the nationality law discriminates against women when passing Sudanese nationality onto their children. Children of Sudanese mothers are required to start an application process to obtain their nationality, whereas children of Sudanese men automatically obtain Sudanese citizenship.¹³ Further, after the succession of South Sudan, those who have applied for South Sudanese nationality, automatically lose Sudanese nationality without any guarantee

⁸ Refugee Council of Australia, 'Australia's Detention Policies', (2021), available at: <https://www.refugeecouncil.org.au/detention-policies/>.

⁹ Concluding Observations on Saint Vincent and the Grenadines in the absence of its second periodic report, (2019), available at: <https://undocs.org/CCPR/C/VCT/CO/2/Add.1>.

¹⁰ Concluding Observations on the combined fourth to eight periodic reports of Saint Vincent and the Grenadines, (2015), available at: <https://undocs.org/CEDAW/C/VCT/CO/4-8>.

¹¹ Jeff Turrentine, 'Natural Resource Defence Council', (2019), available at: <https://www.nrdc.org/onearth/climate-change-already-driving-mass-migration-around-globe>.

¹² United Nations Economic and Social Commission for Asia and the Pacific Office, *Climate Change and Migration Issues in the Pacific Project 'Enhancing the Capacity of Pacific Island Countries to Manage the Impact of Climate Change on Migration'*, (2014), p 28.

¹³ Available at: <http://citizenshiprightsfrica.org/region/sudan/>.

that they will acquire South Sudanese nationality.¹⁴ This amendment has left a large number of people with connections to South Sudan stateless or at risk of statelessness. In 2012, Sudan and South Sudan agreed to offer reciprocal rights to the citizens of one in the other.¹⁵ However, a person has to be documented with the nationality of the other country, whereas many people potentially affected in fact consider themselves nationals of the state where they live.¹⁶ Moreover, the new national number and biometric identity card being introduced by Sudan since the secession of South Sudan are also being used to denationalise people who have never considered themselves South Sudanese.¹⁷

Proposed recommendations:

1. Accede to both the 1954 Convention and the 1961 Convention, and take all steps necessary to implement the Statelessness Conventions.
2. Take immediate steps to amend/repeal all discriminatory provisions in the Sudanese Nationality Act of 1994 that prevent women from acquiring, retaining and transferring citizenship on an equal basis with men, and ensure the effective implementation of the law.
3. Recognise the fundamental human right of all human beings to a nationality, without discrimination.

Suriname

Suriname is not a state party to the 1954 Convention nor the 1961 Convention. There are no official statistics on the number of stateless people in Suriname. In 2014, Suriname amended its Nationality Law and gave women equal rights with men to pass on their nationality to their children and to acquire, retain or confer their nationality if they are married or divorced.¹⁸ Nevertheless, there is no proof on how and if Suriname adopted these measures accordingly. In 2018, CEDAW urged Suriname to facilitate birth registration to all and to remove any discriminatory practices that children born to foreign parents to be registered at birth.¹⁹ In 2016, CRC also recommended improving birth registration practices in Suriname.²⁰

Proposed recommendations:

1. Accede to both the 1954 Convention and the 1961 Convention, and take all steps necessary to implement their content.
2. Ensure effective implementation of the amendment to the nationality law providing gender equal rights related to the acquisition, transfer and conferral nationality.
3. Ensure that all children are registered at birth and issued with birth certificates regardless of their status or ethnicity.

Tajikistan

Tajikistan is not a state party to the 1954 Convention nor the 1961 Convention. There are no official statistics on the number of stateless people in Tajikistan. In 2019, CMW urged the State to ensure that migrant workers who have lost their nationality or do not have identity documentation were not deported, fined or penalised.²¹ In 2018, CEDAW recommended Tajikistan to ensure birth registration also in rural areas and to regularise those who do not have identity documents.²² According to 2020 UNHCR statistics, even though 59 per cent of 7,200 stateless people acquired their nationality at the beginning of 2020, several people remain stateless in Tajikistan.²³

Proposed recommendations:

1. Accede to both the 1954 Convention and the 1961 Convention and take all steps necessary to implement their content.
2. Continue with its efforts to protect those at risk of statelessness and guarantee Tajik nationality to all.
3. Ensure that all children are registered at birth and issued with birth certificates regardless of their status or ethnicity.

¹⁴ Bronwen Manby, *The Right to a Nationality and the Secession of South Sudan*, (2012), available at: <https://www.opensocietyfoundations.org/uploads/f0afaf98-0bb3-4e46-b6c1-aefbf4c3debf/right-nationality-and-secession-south-sudan-summary-recommendations-20120618.pdf>.

¹⁵ Human Rights Watch, 'Sudan: Guarantee Post-Referendum Citizenship Rights', (2010), available at: <https://www.hrw.org/news/2010/12/16/sudan-guarantee-post-referendum-citizenship-rights>.

¹⁶ Available at: <http://citizenshiprightsfrica.org/region/sudan/>.

¹⁷ Nationality and Statelessness in Sudan following the Secession of South Sudan (2016) Human Rights Centre, University of Khartoum

¹⁸ Global Campaign for Equal Nationality Rights, 'Suriname's amendment of gender discriminatory nationality laws an example to follow', available at: <https://equalnationalityrights.org/news/26-suriname-amendment-of-gender-discriminatory-nationality-laws>.

¹⁹ Concluding observations on the combined fourth to sixth periodic reports of Suriname, (2018), available at: <https://undocs.org/CEDAW/C/SUR/CO/4-6>.

²⁰ Concluding observations on the combined third and fourth periodic reports of Suriname, (2016), available at: [CRC/C/SUR/CO/3-4 - E - Desktop \(undocs.org\)](https://undocs.org/CRC/C/SUR/CO/3-4-E-Desktop).

²¹ Concluding observations on the second periodic report of Tajikistan, (2019), available at: <https://undocs.org/CMW/C/TJK/CO/2>.

²² Concluding observations on the sixth periodic report of Tajikistan, (2018), available at: <https://undocs.org/CEDAW/C/TJK/CO/6>.

²³ UN High Commissioner for Refugees (UNHCR), *Global Trends. Force Displacement in 2020*, (2020), available at: <https://www.unhcr.org/60b638e37/unhcr-global-trends-2020>.

Tanzania

Tanzania is not a state party to the 1954 Convention nor the 1961 Convention. UNHCR does not have an accurate estimate of the number of stateless persons in Tanzania, and there is no formal statelessness determination procedure. Moreover, the ongoing exercise of issuing national identification cards to citizens in Tanzania is likely to expose more people to the risk of being stateless. Communities like the Kambas, the Makondes and the Comorians are at risk of statelessness. The Tanzanian nationality law does not contain a safeguard to provide Tanzanian nationality to all children born on the territory who would otherwise be stateless. Moreover, authorities regularly apply a combination of jus soli and jus sanguinis citizenship acquisition for children born in the territory putting at risk of statelessness, children born to foreign parents, or to parents of unknown nationality, which is particularly problematic given the long-term refugee populations residing in the country. Despite efforts to make birth registration accessible to all children born in Tanzania, some children remain at risk of statelessness due to lack of access to birth registration. Further, Tanzania's Citizenship Act does not afford equal rights to women and men to confer citizenship to their spouses, as a married woman cannot pass nationality to her foreign/stateless spouse on an equal basis as a married man. The safeguards against deprivation of nationality are weak.

Proposed recommendations:

1. Accede to both the 1954 Convention and the 1961 Convention, and take all steps necessary to implement their content.
2. Amend the nationality law on provisions that discriminate on the basis of gender.
3. Ensure that all children in Tanzania are registered at birth and amend the nationality law to incorporate a safeguard for all otherwise stateless children born on the territory to acquire Tanzanian citizenship, including foundlings.

Thailand

Thailand is not a state party to the 1954 Convention nor the 1961 Convention. Thailand is home to the fourth largest known stateless population in the world with 479,943 stateless persons reported by the Government as of June 2020. However, this number is likely to be higher because many stateless people may not be included in the national civil registration system. Thailand's nationality law denies women the equal right to confer nationality upon their foreign spouse. It also lacks safeguards to ensure that children born on the territory, including foundlings, who would otherwise be stateless are automatically granted Thai nationality. Although there have been improvements in the birth registration process, many are still waiting for documentation. Systematic discrimination and exclusion of ethnic minorities also affect the ability to acquire nationality and cause statelessness. It is estimated that at least 3,000 Rohingya have settled in Thailand. However, Thailand has no domestic refugee law framework. As such those fleeing persecution are treated as irregular migrants, and not granted protection as refugees. Their conditions have worsened worryingly during the COVID-19 pandemic and without no clear indication about vaccines for the stateless in the national vaccination plan.

Proposed recommendations:

1. Accede to both the 1954 Convention and the 1961 Convention and take all steps necessary to implement their content.
2. Amend the Nationality Act to ensure that women have the equal right to confer nationality upon their non-citizen spouses.
3. Further improve efforts to ensure birth registration for all, through addressing barriers to access such as lack of awareness, language, logistical challenges, and fear to approach authorities.
4. Amend the Nationality Act to include safeguards to ensure that otherwise stateless children born in the territory, including foundlings, are automatically granted nationality.
5. End the arbitrary detention of stateless Rohingya, combat their trafficking across borders, and protect them according to international human rights law.

Trinidad and Tobago

Trinidad and Tobago is a state party to the 1954 Convention but not to the 1961 Convention. There are no official statistics on the number of stateless people in the country. CEDAW has urged the State to ensure birth registration to all, particularly to women and girls at risk of statelessness and trafficking.²⁴

Proposed recommendations:

1. Accede to the 1961 Convention and take all steps necessary to implement their content.
2. Ensure that all children are registered at birth and issued with birth certificates, including women and girls.

²⁴ Concluding observations on the combined fourth to seventh periodic reports of Trinidad and Tobago, (2016), available at: <https://undocs.org/CEDAW/C/TTO/CO/4-7>.