

# Universal Periodic Review

## All country summary and recommendations

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

40<sup>th</sup> Session, 3<sup>rd</sup> Cycle  
24 January - 04 February 2022



Institute on  
Statelessness and  
Inclusion

This document highlights the **statelessness** related challenges in States that will be reviewed during the 40<sup>th</sup> Session of the Universal Periodic Review (UPR): **Haiti, Iceland, Lithuania, Moldova (Republic of), South Sudan, Sudan, Syrian Arab Republic, Timor-Leste, Togo, Uganda, Venezuela (Bolivarian Republic of) and Zimbabwe**. 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 [Moldova \(Republic of\)](#), [Syrian Arab Republic](#), [Togo](#), [Uganda](#) and [Zimbabwe](#).

## Haiti

Haiti is a state party to both the 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. Official statistics of stateless people in Haiti remain unknown. No dedicated statelessness identification and determination procedure is in place in Haiti. Following several natural disasters, displaced people face multiple challenges, including the risk of becoming stateless.<sup>1</sup> Several obstacles are still encountered by children when they need to be registered at birth, leaving them without proof to then enjoy their basic rights, including the right to a nationality. A draft nationality law which would prevent statelessness and recognise the status of stateless persons was not adopted.

Proposed recommendations:

1. Ensure that all children have access to birth registration and are issued with birth certificates as soon as possible after birth.
2. Adopt and implement the nationality law ensuring that it is fully in line with international standards.

## Iceland

Iceland is a state party to both the 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. Iceland's legislation does not include a definition of a stateless person (1954 Convention, Article 1). Different registries in Iceland collect and register data on stateless people. However, each of them has a different approach. This means there are no official statistics on the number of stateless people in the country. The Icelandic Nationality Act allows children born stateless in the country to acquire Icelandic nationality, only if they had at least three years of residence in the country.<sup>2</sup> This leaves children who have less than 3 years of residence in the basis of residence permits that were valid for more than six months. This means there is no safeguard to prevent statelessness for all otherwise stateless children born in the country.

Proposed recommendations:

1. Establish a formal statelessness identification and determination procedure.
2. Revise the nationality law to ensure that all otherwise stateless children born in Iceland acquire are registered at birth and acquire Icelandic nationality.
3. Introduce a definition of a 'stateless person' into Icelandic law in compliance with the 1954 Convention relating to the Status of Stateless Persons.

## Lithuania

Lithuania is a state party to both the 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness but not to the European Convention on Statelessness. No dedicated statelessness identification and determination procedure are in place in Lithuania. According to the Lithuanian Nationality Law, otherwise stateless children born in the country only acquire nationality if their parents are permanent residents. Further, there are no safeguards against statelessness when a person is deprived of Lithuanian nationality. Stateless persons are not allowed to opt for a facilitated naturalisation procedure. Roma people, particularly children, face challenges in being registered at birth, accessing identity documentation and acquiring Lithuanian nationality.<sup>3</sup>

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<sup>1</sup> Report of the Working Group on the Universal Periodic Review, Haiti, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/436/58/PDF/G1643658.pdf?OpenElement>.

<sup>2</sup> European Network on Statelessness (ENS), "Stateless persons in Iceland, rarer than the Northern Lights?", (2015), available at: <https://www.statelessness.eu/updates/blog/stateless-persons-iceland-rarer-northern-lights-%20of%20Stateless%20Persons>.

<sup>3</sup> UN High Commissioner for Refugees (UNHCR), *Mapping Statelessness in Lithuania*, (2016), available at: <https://www.refworld.org/docid/580f649c4.html>.

Proposed recommendations:

1. Accede to the European Convention on Nationality, and take all steps necessary to implement their content.
2. Establish a formal statelessness identification and determination procedure.
3. Amend the nationality law to enable all children who would otherwise be stateless born in Lithuania to acquire Lithuanian nationality irrespective of their parents' residence status and ensure free, universal birth registration and access to identity documentation, including for the Roma.
4. Provide for facilitated naturalisation of stateless persons.

## Moldova (Republic of)

Moldova is a state party to both the 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. Disaggregated data on the stateless population in Moldova is limited. The authorities record data on people recognised as stateless through a dedicated special determination procedure in Moldova, but this data is not routinely published. Following amendments of the Law on Citizenship in 2018, children born on the territory who would otherwise be stateless may only acquire nationality automatically at birth if at least one of their parents has the right to reside, benefits from international protection, or is a recognised stateless person by the authorities of Moldova. There are currently two appeals pending before the Constitutional Court to challenge this provision. In Moldova, slightly facilitated naturalisation procedures for recognised stateless people and refugees exist after eight years of legal residence instead of the standard 10 years. Further, there are few protections in place against the arbitrary detention of undocumented stateless people, including provisions establishing that detention should be a measure of last resort and a country of removal must be identified prior to detaining. However, in practice, it is unclear how these principles are implemented.

Proposed recommendations:

1. Amend the law to reinstate the full safeguard to ensure that all children born on the territory who would otherwise be stateless acquire Moldovan nationality automatically at birth, regardless of the residence status of their parents.
2. Amend the law to further facilitate the naturalisation of stateless persons, by reducing the residence requirement and waiving the requirement to pay fees, have a minimum income and pass language tests for stateless applicants.
3. Take concrete steps to protect undocumented stateless people from arbitrary immigration detention ('public custody'), including considering statelessness as a juridically relevant fact in return and detention decisions and ensuring that identification of statelessness is included in individual vulnerability assessments.

## South Sudan

South Sudan is not a state party to either the 1954 Convention on the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness, but signed the Brazzaville Declaration on the eradication of statelessness in the Great Lakes Region. After gaining independence from the Republic of the Sudan, many people are left at risk of statelessness or with unknown status of their nationality, or with the nationality of the country they do not belong to. The new normative framework set out in the Civil Registry Act in 2018 represents a positive step for all children being registered at birth. However, the regulations have not yet been implemented and universal birth registration has not yet been achieved. Access to citizenship and identity documentation represent further serious obstacles to end statelessness in the country. Particularly, remote minority groups, cross border populations, internally displaced people and returnees who are not recognised South Sudan remain at risk of statelessness.<sup>4</sup>

Proposed recommendations:

1. Accede to both the 1954 Convention and the 1961 Convention, and take all steps necessary to implement their content.
2. Take steps to promote universal, free birth registration and improve access to identity documentation for all.
3. Work with Sudan to ensure that no-one is left stateless as a result of the succession of South Sudan, particularly ensure access to citizenship and identity documentation for remote minority groups, cross border populations, internally displaced people and returnees.

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<sup>4</sup> UN High Commissioner for Refugees (UNHCR), *Statelessness and Citizenship in the East African Community*, (2018), available at: <https://www.refworld.org/pdfid/5bee966d4.pdf>.

## 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.<sup>5</sup> Further, after the succession of South Sudan, those who have applied for South Sudanese nationality, automatically lose Sudanese nationality without any guarantee that they will acquire South Sudanese nationality.<sup>6</sup> 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.<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup>

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.

## Syrian Arab Republic

Syria is one of 25 countries globally that discriminate against women in their ability to confer their nationality on their children on an equal basis with men in contravention of its international obligations under CEDAW, ICCPR and CRC. Mothers are only permitted to pass on Syrian citizenship to their children in rare circumstances and Syrian women are denied the right to transfer nationality to their noncitizen spouse on an equal basis with Syrian men. Those without Syrian nationality, as a result of gender discriminatory nationality laws, often face obstacles to equally accessing education, healthcare, inheritance and property rights, family unity and freedom of movement. The combination of the gender discriminatory law and the ongoing conflict and resultant large-scale displacement since 2011, has dramatically increased the risk of statelessness among children born to Syrian women both inside and outside the country. Due to the conflict, refugee and internally displaced families may be separated, civil documents lost or destroyed, and fathers may be imprisoned, missing or deceased – all increasing the risk of statelessness, which is dramatically exacerbated by gender discrimination in the nationality law. Under Syrian law, the mother and father must have a registered marriage in order to register the birth of their child, regardless of whether the birth occurs inside or outside Syria. In this regard, children may face difficulties obtaining nationality if their parents are unmarried or have an unregistered marriage. Prior to 2011, UNHCR had estimated that there were some 300,000 stateless Kurds in Syria. Due to the intergenerational nature of statelessness, the number of stateless Kurds has grown since then. Palestinians in Syria face many of the same risks as others as a result of the civil war; yet Palestinian refugees are even more vulnerable due to their pre-existing refugee status and statelessness. Unlike many Palestinians in other countries in the region, such as Jordan, those in Syria have not acquired any other citizenship, and so are stateless under international law.

1. Amend the Syrian Nationality Law in accordance with Article 33(3) of the 2012 Constitution and Syria's international obligations, to remove all gender discriminatory provisions and ensure that women and men have equal rights to confer nationality on their children, regardless of place of birth, and their noncitizen spouse, and to acquire, change, and retain their nationality on an equal basis.
2. Amend birth registration policies to enable parents the equal and autonomous right to access documentation for their children regardless of gender or marital status.

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<sup>5</sup> Available at: <http://citizenshiprightsafrika.org/region/sudan/>.

<sup>6</sup> 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>.

<sup>7</sup> 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>.

<sup>8</sup> Available at: <http://citizenshiprightsafrika.org/region/sudan/>.

<sup>9</sup> Nationality and Statelessness in Sudan following the Secession of South Sudan (2016) Human Rights Centre, University of Khartoum

3. Acknowledge the injustice experienced by stateless Kurds and facilitate their naturalisation, including for the *Maktumeen* who were excluded from the application of Decree 49.
4. Allow Palestinian refugees living in Syria to become naturalised Syrian citizens.

## Timor-Leste

Timor-Leste is not a signatory to either the 1954 or the 1961 Statelessness Convention. There are no available statistics regarding the number of stateless persons in Timor-Leste. To acquire Timor-Leste citizenship, foundlings must evidence their birth on the territory thereby running the risk of being left stateless. Furthermore, children born in Timor-Leste to parents who are not stateless but are otherwise unable to confer their nationality to their children, do not acquire Timor-Leste citizenship.

1. Accede to both the 1954 Convention and the 1961 Convention, and take all steps necessary to implement their content.
2. Collect accurate statistics on statelessness.
3. Ensure access to citizenship at birth to otherwise stateless children born on the territory.

## Togo

The Togolese Constitution, Nationality Code, Children's Act and Code of Persons and the Family all contain provisions pertaining to nationality rights. Notably, several of these legal texts retain gender-discriminatory provisions that contradict the rights enshrined in other, more recent legal sources, including those pertaining to women's ability to confer nationality on children and to retain nationality without discrimination on the basis of marital status. The Nationality Code also includes gender-discriminatory provisions pertaining to the right of a woman to confer nationality on a noncitizen spouse. The Togolese Nationality Code includes gender discriminatory provisions that contribute to statelessness, yet there is no statistical information on the scope or extent of statelessness in Togo. The Togolese Nationality Code does not provide for the granting nationality to foundlings or children of unknown parents above age five, putting them at risk of statelessness. A new bill amending the Nationality Code is awaiting to be tabled in Parliament for four years. However, the proposed amendments do not address the issue of gender discrimination in the nationality law.

1. Enact law reforms to remove gender discrimination from the nationality law, i.e. through removing gender discriminatory provisions in the pending Bill amending the Nationality Code to ensure that Togolese women have the right to transfer their nationality to their children and to their spouse on an equal basis with men.
2. Enact law reforms to prevent naturalized Togolese women from losing their nationality upon termination of marriage.
3. Protect every child's right to acquire and preserve a nationality, without discrimination in relation to the child or the child's parents or guardians.
4. Amend the Nationality Law and Children's Code to provide that all foundlings, including those above five years of age, acquire Togolese nationality and that children of parents whose place of birth is unknown acquire Togolese nationality at birth.

## Uganda

According to UNHCR, reliable information on the number of stateless persons in Uganda is unknown. It is estimated that tens of thousands of people are affected by statelessness. Statelessness in Uganda is caused by the lack of safeguards to prevent statelessness and ethnic discrimination in national legislation, affecting minority groups and forcibly displaced people. In particular, migrants who settled in the country pre-independence are (at increased risk of becoming) stateless such as, the Maragoli, Asian returnees, and Isaaq Somalis. Also, long-term refugees, especially Rwandan and Congolese refugees who have lived in Uganda for over 50 years, and other ethnic minorities like the Benet, Bakingwe, Bagabo, who are not recognised by the Constitution face (risks of) statelessness. They are exposed to numerous human rights violations and abuse. Children face risks of statelessness, due to discriminatory laws, inter-generational statelessness, and no access to birth registration. Uganda's nationality laws prevent refugees from naturalising despite the protracted nature of their situation, whereby risks of childhood statelessness continue to exist due to the lack of safeguards against intergenerational statelessness. Also, Children Born of War (CBW) face risks of statelessness, and low birth registration in remote areas in the country creates increased risks of statelessness as a birth certificate is often an important document to establish a person's nationality.

1. Enact law reforms to repeal ethnic discrimination in the acquisition of Ugandan nationality.
2. Ensure access to citizenship at birth for otherwise stateless children born on the territory.
3. Facilitate and ensure access to nationality for protracted refugees and their descendants.
4. Enact procedural reforms to facilitate free and universal birth registration, and remove fines for late birth registration.

## Venezuela (Bolivarian Republic of)

Venezuela is not a signatory to either Statelessness Convention, although the country has signed the Brazil Declaration and Plan of Action which aims to eradicate statelessness in the region by 2024. Groups who are most at risk of statelessness include, indigenous communities and families affected by the humanitarian crisis in Venezuela. Especially, those without any civil documentation and children born in exile who are unable to access Venezuelan consular services or acquire nationality in the State of birth are at risk of statelessness. In 2016, 570,000 children in Venezuela were reported to lack birth registration documents. Most affected are children in remote areas of the country and/or who belong to an indigenous group. Since 2015, more than 1.4 million Venezuelans have fled to neighbouring Colombia, leaving children born to Venezuelan parents at risk of statelessness. Prior to August 2019, children born in Colombia to Venezuelan parents were effectively unable to access citizenship from either country. In August 2019, Colombia introduced a decree which recognises children born in Colombia to Venezuelan parents since 19 August 2015 and up until 20 August 2021 as Colombian citizens. This decree is estimated to have granted citizenship to more than 24,500 children who would otherwise have been at risk of statelessness.

1. Enact procedural reforms to facilitate universal birth registration.
2. Ensure that children born outside of Venezuela to Venezuelan parents can effectively access Venezuelan citizenship.

## Zimbabwe

UNHCR has estimated in 2016 that there are approximately 300,000 people at risk of statelessness in Zimbabwe. Different groups have been affected by statelessness, including hundreds of thousands of migrant workers from neighbouring countries (Malawi, Mozambique and Zambia) and their descendants who were settled and born in the country pre-independence. The main causes of statelessness are attributed to systemic discrimination and exclusion of ethnic minorities and persons of foreign origin, changes and gaps in the nationality framework, lack of safeguards for otherwise stateless children born on the territory, and restrictive and discriminatory legal and administrative framework for birth notification, birth registration and access to identification documentation. Between 1983 and 1987, an estimated 20,000 people were killed during the Gukurahundi Massacres in Matabeleland and Midlands provinces. Many people were forcibly displaced, lost their identity documents and were unable to replace them. Those who lost their relatives are still experiencing challenges in obtaining their death certificates and providing evidence of their Zimbabwean nationality and registering for birth certificates and consequently national identity cards. Marginalised communities like the Doma people from Kanyemba in Mbire and other border areas around the country are also affected by non-documentation and are at increased risks of statelessness. Refugee and asylum seeker communities in Zimbabwe are also at risk of statelessness. Failed asylum seekers in refugee camps remain undocumented, and their children do not receive birth certificates. Children born out of wedlock, or whose parents have separated, or who are not present due to migration or other circumstances, face risks of statelessness as they are barred from birth registration. In a recent [case](#), the High Court ordered the Registrar to comply with the Birth and Death Registration Act which allows the fathers to apply for birth certificates for their children in circumstances where the mother abandoned or deserted the child.

1. Amend the Citizenship of Zimbabwe Act to ensure that all stateless persons born in Zimbabwe and permanently resident in Zimbabwe are granted Zimbabwean citizenship.
2. Amend the Births and Deaths Registration Act to align with the Constitution and international and regional treaty obligations, particularly removing discriminatory provisions that affect registration of children born out of wedlock and easing registration requirements to assist marginalised people and historically discriminated groups, protecting against statelessness and facilitating effective registration of all births in Zimbabwe.
3. Formulate and implement policies to ensure the right to Zimbabwe nationality and accelerated registration of all special interest groups such as persons with disabilities, Gukurahundi affected communities, minority groups, inter-sex persons, refugees and failed asylum seekers in protracted situations, and disaster affected communities