

Joint submission to the
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Uganda

International Refugee Rights Initiative (IRRI)

Minority Rights Group International (MRG)

International Center for Transitional Justice
(ICTJ)

Uganda Child Rights NGO Network (UCRNN)

Institute on Statelessness and Inclusion

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Joint Submission to the Human Rights Council at the 40th Session of the Universal Periodic Review.

UGANDA

Introduction

1. International Refugee Rights Initiative¹, Minority Rights Group², The Uganda Child Rights NGO Network³, the International Centre for Transitional Justice⁴, and the Institute on Statelessness and Inclusion⁵ make this joint submission to the Universal Periodic Review (UPR), on the right to a nationality and human rights challenges pertaining to statelessness in Uganda.
2. The International Refugee Rights Initiative (IRRI) is a not-for-profit organisation which aims at building a peaceful world where every person enjoys rights, security, and dignity. We have, for the last 15 years, been working to promote and protect human rights in conflict and displacement, through research, advocacy, and meaningful partnerships. IRRI is dedicated to promoting human rights in situations of conflict and displacement, and enhancing the protection of vulnerable populations before, during and after conflict. Our work, from research to advocacy, traverses various issues and situations across the African continent including statelessness.
3. The Minority Rights Group International (MRG) is an international human rights organisation founded with the objective of working to secure rights for ethnic, national, religious and linguistic minorities and indigenous peoples around the world.
4. The International Centre for Transitional Justice (ICTJ) is a non-profit human rights organisation that works across society and borders to challenge the causes and address the consequences of massive human rights violations. Founded in 2001, ICTJ aims to affirm victims' dignity, fight impunity, and promote responsive institutions in societies emerging from repressive rule or armed conflict as well as in established democracies where historical injustices or systemic abuse remain unresolved. ICTJ envisions a world where societies break the cycle of massive human rights violations and lay the foundations for peace, justice, and inclusion. ICTJ has been working in Uganda since 2009 to advance truth, justice and acknowledgment for victims of mass atrocities.

¹ For more information, see www.refugee-rights.org.

² For more information, see <https://minorityrights.org/>

³ For more information, see <http://ucrnn.net/>.

⁴ For more information, see <https://www.ictj.org/>.

⁵ For more information, see <https://institutesi.org/>.

5. Uganda Child Rights NGO Network (UCRNN) is a coalition of child focused organizations including community based, national and international organizations working for the welfare and the rights of children in Uganda. UCRNN envisions a society where children's rights are realized and exists to promote a coordinated action for the promotion and protection of children's rights in Uganda.
6. The Institute on Statelessness and Inclusion (ISI) is the first and only human rights NGO dedicated to working on statelessness at the global level. ISI's mission is to promote inclusive societies by realising and protecting everyone's right to a nationality. The Institute has made over 80 country-specific UPR submissions on the human rights of stateless persons. ISI has also compiled summaries of the key human rights challenges related to statelessness in all countries under review under the 23rd to the 38th UPR Sessions.
7. This submission focuses on:
 - I. **Ethnic discrimination in nationality law**
 - II. **Statelessness and forced migration**
 - III. **Birth registration and children's right to nationality**
 - IV. **Digital ID and access to rights**

Previous UPR of Uganda under the First and Second Cycle

8. Uganda was previously reviewed during the 12th and the 26th session of the UPR in 2011 and 2016, respectively.
9. During the 12th session, Uganda received the following recommendations:
 - I. Strengthen and further develop measures to ensure that all children born within the national territory are registered (Ghana).⁶
 - II. Ratify the 1961 Convention on the Reduction of Statelessness (Slovakia).⁷

Uganda accepted the first and noted the second recommendation.

10. During the 26th session, Uganda received the following recommendations:
 - I. Ratify the International Convention for the Protection of All Persons from Enforced Disappearance, the Convention on the Reduction of Statelessness, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Panama).⁸
 - II. Ratify the International Convention for the Protection of All Persons from Enforced Disappearance, the Convention on the Reduction of Statelessness, the Optional Protocol to the Convention against Torture, the Optional Protocol to the Convention on the Elimination of All Forms of

⁶ A/HRC/19/16, recommendation 111.72.

⁷ A/HRC/19/16, recommendation 112.12.

⁸ A/HRC/34/10, recommendation 117.39.

Discrimination against Women and the Second Optional Protocol to the International Covenant on Civil and Political Rights (Ukraine).⁹

- III. Exert further efforts to ensure that all children born in the national territory are registered (Sudan).
- IV. Adopt measures to reduce the number of children without birth registration (Angola).

Uganda noted the first two recommendations and accepted the third and fourth recommendations.

National Law

11. Uganda does not have a dedicated statelessness determination procedure in place. The absence of such a procedure makes it difficult to identify groups (at risk) of statelessness, collect substantive quantitative data on statelessness in Uganda. Identifying stateless people in the country is the first step to providing them adequate protection and rights in line with international law.
12. Further, no safeguards exist in national law to prevent statelessness or adequately protect stateless persons.¹⁰ Uganda's nationality laws have faced significant transformation since independence. The amendment of the independence Constitution in 1967 saw the removal of nationality acquisition based on a *jus soli* provision and the introduction of ethnicity-based citizenship, which was later partially restored in the 1995 Constitution, particularly for indigenous communities.¹¹ The 1995 Constitution, as amended in 2005, is the current legal framework that regulates citizenship matters in Uganda. Nationality acquisition relies on a descent-based system, which limits the automatic transmission of citizenship by birth to:¹²
 - 'Every person born in Uganda [and] one of whose parents or grandparents is or was a member of any of the indigenous communities existing and residing within the borders of Uganda as at the first day of February 1926, and set out in the Third Schedule to this Constitution'; and
 - 'Every person born in or outside Uganda [and] one of whose parents or grandparents was at the time of birth of that person a citizen of Uganda by birth'.
13. According to the Constitution, foundlings acquire Ugandan citizenship by birth. A child, five years of age or younger, found in Uganda with unknown parents, is presumed to be a citizen of Uganda by birth.
14. The growth of the Ugandan diaspora post-independence has led to growing communities of Ugandans living abroad, and resulted in increasing tolerance of dual nationality. Article 12(b) of the Uganda Citizenship and Immigration Control Act (UCICA) provides that citizenship is automatically conferred to persons born outside Uganda if their parents or grandparents were at the time of the birth of that person a citizen of Uganda by birth.¹³

⁹ A/HRC/34/10, recommendation 117.51.

¹⁰ Bronwen Manby, *Statelessness and Citizenship in the East African Community*, UNHCR, (September 2018), available at: <https://data2.unhcr.org/en/documents/download/66807>.

¹¹ 1995 Constitution of the Republic of Uganda.

¹² 1995 Constitution of the Republic of Uganda Article 10.

¹³ Uganda Citizenship and Immigration Control Act, Article 12(b).

In 2009, the UCICA was amended to include provisions that accept possessing dual nationality, particularly for Ugandan nationals who acquired a foreign citizenship by registration or by naturalisation, and people who wish to re-acquire Ugandan citizenship.

15. Further, the Constitution (Amendment) Act 2005, substitutes the previously noted clauses which prevent dual nationality. The Amendment stipulates retention of Ugandan citizenship in case a Ugandan acquires another citizenship¹⁴, in addition to permitting non-Ugandan citizens to apply and receive Ugandan citizenship while retaining the citizenship of their origin countries¹⁵. However, dual nationality can only be granted if a number of conditions are met, which differ based on being a Ugandan citizen at birth who acquires another nationality or a foreign national who acquires Ugandan nationality by registration or naturalisation.¹⁶

Snapshot of Statelessness in Uganda

16. According to UNHCR, reliable information on the number of stateless persons in Uganda is unknown.¹⁷ It is estimated that tens of thousands of people are affected by statelessness. Statelessness in Uganda relates strongly to gaps in law and practice to guarantee the right to nationality for vulnerable groups, including minority groups and those affected by forced displacement. The lack of safeguards to statelessness in legislation, coupled with ethnic discrimination, is the main cause of statelessness in Uganda. Gaps in Uganda's nationality laws create cracks through which individuals could become stateless.
17. The groups predominantly affected by statelessness include pre-independence migrants like 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. As a result of their status, they are exposed to numerous human rights violations and abuse as discussed below.
18. Children face the risk of statelessness, both due to discriminatory laws, inter-generational statelessness, and practices related to birth registration. Uganda's nationality laws prevents 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 (see Issue III), and low birth registration in remote areas in the country create increased risks of statelessness as a birth certificate is often an important document to establish a person's nationality.

¹⁴ Article 15, section (a)(1), Constitution Amendment Act (2005).

¹⁵ Article 15, section (a)(2) Constitution Amendment Act (2005).

¹⁶ Bronwen Manby, *Statelessness and Citizenship in the East African Community*, UNHCR, (September 2018), page 15, available at: <https://data2.unhcr.org/en/documents/download/66807>. Moreover, under Section 24 of UCICA, any person who acquired Ugandan citizenship through registration or naturalisation must provide evidence proving the renunciation of any other nationality within a ninety-day period or else "the registration or naturalisation of that person as a citizen of Uganda shall be cancelled; and he or she shall be taken never to have been so registered."

¹⁷ UNHCR, Global focus, available at <https://reporting.unhcr.org/node/29195>

Issue I - Ethnic discrimination in nationality law

19. Uganda's colonial boundaries were drafted arbitrarily, resulting in cross-border communities residing in neighbouring countries including, the Democratic Republic of Congo, South Sudan, Rwanda, and Kenya.¹⁸ The Third Schedule to Uganda's 1995 Constitution added another complex layer in defining who belongs to the country, explicitly identifying ethnic communities whose ancestors were of indigenous origin to Uganda as birth right citizens. The Third Schedule to the Constitution, as amended in 2005, attributes nationality at birth only to those that are members of 65 ethnic groups or their descendants.¹⁹
20. Ethnic minorities like the Maragoli, the Benet, the Bakingwe, the Bagabo groups, of Asian and European descent who have lived in Uganda since before 1926, are not eligible to acquire or transmit Ugandan citizenship by birth since they are not listed in the Third Schedule of the Constitution, despite efforts to advocate for their recognition as an indigenous community.²⁰
21. **The Maragoli** have been a stateless community since the adoption of the 1995 Constitution. They are part of the larger Luhya ethnic group of Kenya. It is estimated there are around 18,000 Maragolis in Uganda.²¹ The 2014-2015 countrywide National Identification registration exercise by the National Identification and Registration Authority (NIRA) led to the withholding of national IDs of the Maragoli because they do not meet the constitutional requirements to acquire Ugandan nationality. In recognition of their plight, the government offered the Maragoli citizenship by naturalisation, submitting them, however, to a discretionary process based on 20 years of residency in Uganda and not allowing them to transmit their citizenship to the next generation, thus providing a temporary solution.²²
22. In 2014, the Maragoli community filed a petition to the parliament seeking recognition as an indigenous Ugandan tribe.²³ In 2015, community leaders were invited to present their case to the Legal and Parliamentary Affairs Committee of Parliament which was considering a Constitution Amendment Bill. The Committee recommended the establishment of a Constitutional Review Commission. In 2016, the Solicitor General advised NIRA that the Maragoli should be issued national IDs "pending the constitutional amendment for inclusion of the Maragoli in the indigenous communities listed in the Third Schedule of the Constitution". The need to provide the Maragoli with national IDs was attributed to the challenges they faced in accessing health care, education, employment, as well as birth registration.²⁴ Following consistent lobbying efforts, fuelled by the urgent need of National IDs, NIRA released the formally withheld national IDs in 2018 and 14 members of the Maragoli community were appointed to the Constitutional Review

¹⁸ Globalcit, Country report: Uganda,

https://cadmus.eui.eu/bitstream/handle/1814/66750/RSC_GLOBALCIT_CR_2020_8.pdf?sequence=1&isAllowed=y

¹⁹ 1995 Constitution of the Republic of Uganda.

²⁰ 1995 Constitution of the Republic of Uganda.

²¹ Bronwen Manby, *Statelessness and Citizenship in the East African Community*. UNHCR, (2018), p. 91,

<https://data2.unhcr.org/en/documents/download/66807>.

²² Johanna Seidl, *Quest for citizenship – the story of the Maragoli*, (January 2019), <http://refugee-rights.org/wp-content/uploads/2019/01/Quest-for-Citizenship-Maragoli-1-1.pdf>.

²³ Radio One, 'The 'Maragoli' tribe to petition parliament, Citizenship Rights in Africa Initiative', (July 2014), available at:

<https://citizenshiprightsfrance.org/uganda-the-maragoli-tribe-to-petition-parliament/>.

²⁴ Ibid. N.33.

Commission.²⁵ In August 2020, a Private Members Bill for Constitutional Amendment was tabled in Parliament seeking the recognition of the Maragoli as one of the indigenous tribes in Uganda. The Bill sought for the amendment of the Third Schedule of the Constitution to include the Maragoli as one of Uganda's indigenous tribes.²⁶

23. **The Benet** are not listed among the recognised indigenous groups in the Third Schedule to the 1995 constitution, and neither in the 2005 Amendment. The Benet people are an indigenous community hailing from Mt. Elgon in Eastern Uganda with an estimated population of over 8,500 people. In 1993, the government gazetted the land of the Benet people into Mt. Elgon Crown Forest back without consultation or the consent of the community.²⁷ The government's failure to resettle the Benet who were evicted from their ancestral land by Uganda Wildlife Authority (UWA) decades ago has resulted into a series of events including violent clashes with government authorities which has led to the loss of lives of several Benet People living on the disputed parts of the Mt. Elgon.²⁸
24. **The Bakingwe** are not listed in the Constitution, yet they have been living in Kasese along the shores of Lake George and Lake Edward for centuries and traded in salt from lake Katwe and are neither a clan of any of the other indigenous communities that live in Kasese.²⁹
25. **The Bagabo** also are from Kasese District and were not included in the 2005 National schedule of ethnic groups. They have petitioned Parliament alongside the Bakingwe and have also complained on their livelihoods based on fishing as being threatened by the exclusions they face.³⁰
26. **Children of Ugandan Asian "returnees"**: The 1972 mass deprivation of Ugandan nationality of Ugandan Asians by the Amin regime (1971-1979) was a critical landmark in the discourse regarding citizenship rights in Uganda.³¹ The nationality deprivation was targeted at expelling citizens and residents of South Asian descent for socio-economic reasons, i.e. the Obote government focused on privileging Ugandan workers over other workers. However, targeting a specific ethnic community with nationality deprivation had a discriminatory effect.

²⁵ Tigranna Zakaryan, *Report on Citizenship Law: Uganda*, GLOBALCIT, April 2020, p. 12,

https://cadmus.eui.eu/bitstream/handle/1814/66750/RSC_GLOBALCIT_CR_2020_8.pdf?sequence=1&isAllowed=y.

²⁶ Daily Monitor, Maragoli minority group to be recognised soon, April 11, 2021. Available at <https://www.monitor.co.ug/uganda/special-reports/maragoli-minority-group-to-be-recognised-soon-3357614>

²⁷ Alliance for Food Sovereignty in Africa, *The Benet's struggle to secure their land*, July 2019, available at <https://afsafrica.org/wp-content/uploads/2019/04/the-benets-struggle-to-secure-a4-1.pdf>

²⁸ Since 2003, the Benet Lobby Group in concert with other civil society organisations have pursued legal action against UWA. Among the steps the government has taken to end the long-standing conflicts between the Benet community and UWA is the government's decision to surrender 8,250 hectares to the landless Benet. For more information, please see: Daily Monitor, 1 dead as locals, UWA clash over parkland, July 29, 2020, available at <https://www.monitor.co.ug/uganda/news/national/1-dead-as-locals-uwa-clash-over-parkland--1909548>; Daily Monitor, Govt orders UWA to surrender 8,000 hectares to Kween locals, August 03, 2020, Available at <https://www.monitor.co.ug/uganda/news/national/govt-orders-uwa-to-surrender-8-000-hectares-to-kween-locals-1913070>

²⁹ <https://ugandaradionetwork.com/story/bakingwe-tribe-requests-constitutional-recognition>

³⁰ Petitions from Bagabo and Bakingwe in Kasese:

<file:///C:/Users/Agnes/AppData/Local/Temp/Petition%20of%20the%20Bakigwe%20and%20Bagabo%20Ethnic%20Minorities%20to%20be%20included%20in%20the%20Constitution%20of%20the%20Republic%20of%20Uganda.pdf>.

³¹ Tigranna Zakaryan, *Report on Citizenship Law: Uganda*, GLOBALCIT, April 2020, p. 5-6,

https://cadmus.eui.eu/bitstream/handle/1814/66750/RSC_GLOBALCIT_CR_2020_8.pdf?sequence=1&isAllowed=y.

27. In 1982, a new government passed legislation for the restoration of confiscated property, enabling the return of Ugandan Asians.³² The children of Uganda Asians who returned to Uganda, however, have faced challenges regarding citizenship acquisition.³³ Children of those who obtain Ugandan citizenship through registration or naturalisation do not obtain citizenship as part of the same process. Children who are born after the parent acquires citizenship through naturalisation or registration, do not automatically obtain citizenship at birth (Article 19(b) Constitution). Consequently, a number of children of Ugandan Asian “returnees” who have grown up or were born in Uganda do not have Ugandan citizenship or and are at increased risk of statelessness, especially if their parent(s) renounced another citizenship to reacquire Ugandan citizenship prior to the amendment of the UCICA to allow for eligible individuals to possess dual citizenship.³⁴ During the negotiations of the 1995 Constitution, Uganda’s Asian community attempted to advocate for their recognition as an indigenous community. To date, they are not recognised as citizens.
28. **The Somalis** are not listed as an indigenous community in the Third Schedule of the Constitution. There is a significant number of Somalis in Uganda. Many are refugees but there are also descendants of pre-independence migrants from Somaliland. During the mass registration exercise for national identity cards, Somalis needed to prove that they fulfilled the requirements to acquire citizenship at independence either by birth or by registration or naturalisation.³⁵ Although some were entitled to automatic attribution of citizenship by law, they were rejected in practice preventing their children from enjoying citizenship by descent. Around 307,000 registered Somali refugees have arrived following the collapse of the Somali state in the 1990s.³⁶

Issue II - Statelessness and forced migration

29. Uganda is home to over 1.4 million refugees, and of these, a considerable number are caught in protracted situations unable to return to their countries of origin, sometimes for decades.³⁷ The number of refugees who have lived in protracted exile in Uganda for the past three decades is estimated to be more than 80,000. Among these, are Rwandan Tutsi who fled the genocide, Congolese who fled after the defeat of the Lumumbist rebels, Sudanese refugees prior to the secession of South Sudan. Unable to return due to persecution and other grounds, they have lost their connection with their home countries and do not enjoy nationality rights there. Despite their protracted stay, they have also not been able to acquire Ugandan citizenship.³⁸
30. There is significant political opposition to granting Ugandan citizenship to refugees. This has left many long-term refugees stranded and more vulnerable to statelessness. In June 2012, during an event to commemorate World Refugee Day, Uganda's Minister for Relief, Disaster Preparedness and Refugees, announced that the government had set up a committee to discuss the mechanisms for naturalisation of refugees, particularly for long-

³² Uganda Expropriated Properties Act, No. 9 of 1982, Laws of Uganda, Cap. 87.

³³ Bronwen Manby, *Statelessness and Citizenship in the East African Community*. UNHCR, (2018), available at: <https://data2.unhcr.org/en/documents/download/66807>.

³⁴ Tigranna Zakaryan, *Report on Citizenship Law: Uganda*, GLOBALCIT, May 2019, available at: https://cadmus.eui.eu/bitstream/handle/1814/62485/RSCAS_GLOBALCIT_CR_2019_05.pdf.

³⁵ Ibid.

³⁶ Ibid. N. 33.

³⁷ UNHCR, *Inter-Agency Revised Country Refugee Response Plan*, August 2020, available at <https://reliefweb.int/report/uganda/inter-agency-revised-uganda-country-refugee-response-plan-july-2020-december-2021>

³⁸ International Refugee Rights Initiative, *The Eligibility for Refugees to Acquire Ugandan Citizenship*, (March 2016), available at: <http://refugee-rights.org/the-eligibility-for-refugees-to-acquire-ugandan-citizenship/>.

term refugees who have lived in the country for lengthy periods and had no interest in returning to their countries of origin.³⁹

31. In 2015, the Ministry of Internal Affairs embarked on a country wide campaign to enable any non-citizen who 'has legally and voluntarily migrated to and has been living in Uganda for at least ten years', pursuant to Article 14 of the Uganda Citizenship and Immigration Control Act to acquire Ugandan citizenship. This provision excludes refugees from registering as they do not meet the 'voluntary migration' criteria.⁴⁰
32. Children of refugees are left stateless, even if they are from a community listed in the Constitution. They do not acquire citizenship based on birth in Uganda. As UNHCR explains: '*although "Banyarwanda" was listed as one of the "indigenous communities" of Uganda in the 1995 constitution (a controversial decision in the immediate aftermath of the Rwandan genocide) on the grounds that a substantial number of Banyarwanda were included in Uganda by colonial boundaries, children of Rwandan refugees are not attributed Ugandan citizenship at birth. In practice, it is very difficult for officials to distinguish between those who are descendants of Rwandan refugees and those who are Ugandan Banyarwanda. The same is true of Acholi and Kakwa who have fled from South Sudan, and others who are members of cross-border communities*'.⁴¹
33. In October 2015, following a petition seeking the interpretation of the Constitution⁴² regarding the eligibility of refugees to acquire Ugandan nationality. the Constitutional Court ruled that refugees can acquire Ugandan citizenship by naturalisation and not by registration.⁴³ Despite this progressive ruling, the reality demonstrates challenges refugees face in successfully naturalising. Relevant authorities have a broad discretionary power to determine whether to approve naturalisation applications, compared to applications for registered citizenship. Refugees approaching the office of the Immigration Department are turned away with the explanation that they are not eligible to apply for naturalised citizenship.⁴⁴

ISSUE III – Birth registration and children's right to a nationality

34. Article 7 of the Convention of the Rights of the Child sets out children's right to be registered immediately after birth, to a name, a nationality, and to know and be cared for by their parents. It requires State Parties to fulfil these rights, especially where children would otherwise be stateless.⁴⁵ Moreover, the African Union agenda 2063, and the African Union Charter on the Rights and Welfare of the Child all have provisions geared towards ensuring that states remove legal impediments around birth registration and the conferment of nationality. Regarding safeguards against statelessness, Article 6 of the

³⁹ The New Humanitarian Government *plans naturalization for refugees*, 21 June 2012.

<https://reliefweb.int/report/uganda/government-plans-naturalization-refugees>.

⁴⁰ Uganda Radio Network, *Government Starts Naturalizing Foreign Nationals*, 19 January 2015.

<https://ugandaradionetwork.com/story/government-starts-naturalizing-foreign-nationals#ixzz4luVcOXPg>.

⁴¹ Bronwen Manby, *Statelessness and Citizenship in the East African Community*. UNHCR, (2018), available at:

<https://data2.unhcr.org/en/documents/download/66807>.

⁴² Constitution of Uganda 1995, Article 12.

⁴³ <http://citizenshiprightsafrika.org/wp-content/uploads/2015/10/Uganda-ConCt-refugee-eligibility-citizenship-2015.pdf>

⁴⁴ Bronwen Manby, *Statelessness and Citizenship in the East African Community*. UNHCR, (2018), p. 71, available at:

<https://data2.unhcr.org/en/documents/download/66807>.

⁴⁵ 1989 *Convention on the Rights of the Child*, Article 7.

African Charter on the Rights and Welfare of the Child mandates states to grant nationality to children born in their territory who would otherwise be stateless.⁴⁶ However, Uganda has very few safeguards for children who would otherwise be stateless.

35. The Constitution of Uganda provides that “[t]he State shall register every birth, marriage and death occurring in Uganda”.⁴⁷ Similarly, section 4(1) (d), (e) of Uganda’s Children Act stipulates that a child has a right to be registered after birth and to be given a name and nationality.⁴⁸ Section 28 of the Registration of Persons Act 2015 provides for compulsory registration of any birth in Uganda.⁴⁹ However, Uganda still has a weak birth registration system and one of the lowest rates of birth registration in Africa.⁵⁰ According to a 2016 Demographic and Health Survey (DHS), about 32 percent of children under the age 5 had their births registered with the civil authority.⁵¹ Lack of awareness, fees and difficulties in accessing registration for rural and remote communities contribute to low birth registration rates.⁵²
36. Universal birth registration is crucial to prevent and reduce childhood statelessness. Birth registration is the first step to recognising everyone as a human being with rights and ensuring that they have a name and nationality. These are core elements of all individuals’ identities. Without them, children remain invisible into adulthood: they have no legal identity, no voice, and are at greater risk of other rights abuses.
37. In particular, CBW (Children Born of War) face enormous challenges accessing birth registration documents and are at increased risk of statelessness. During, and following the war in northern Uganda between the Lord’s Resistance Army (LRA) and the Government of Uganda, tens of thousands of women and girls became victims of sexual violence by the LRA and Uganda People’s Defence Force (UPDF), among other groups. The pattern of violations by LRA included systematic abduction of females followed by forced marriage, rape, and forced pregnancy leading to forced motherhood. As a result of rape, sexual slavery, forced marriage, and forced pregnancy, many girls and women returned to their communities with children born due to forced marriages, commonly referred to as CBW.⁵³
38. The total estimate of CBW in the Country is unknown but the children born in LRA captivity were predominantly born in South Sudan or the DRC, outside of a formal clinic and outside their home country. There was no provision for the registration of their birth. Especially children whose parents have died, may not know sufficient information to prove their

⁴⁶ 1990 African Charter on the Rights and Welfare of the Child, Article 6.

⁴⁷ Constitution of Uganda 1995, Article 18.

⁴⁸ 1997 Children Act, Section 4(1) (d&e).

⁴⁹ 2015 Registration of Persons Act of Uganda, Section 28.

⁵⁰ Bronwen Manby, *Statelessness and Citizenship in the East African Community*, UNHCR, (2018), available at: <https://data2.unhcr.org/en/documents/download/66807>.

⁵¹ Uganda Bureau of Statistics, *Uganda and Demographic Survey 2016*, (January 2018), available at: <https://dhsprogram.com/pubs/pdf/FR333/FR333.pdf>.

⁵² Tigranna Zakaryan, *Report on Citizenship Law: Uganda*, GLOBALCIT, (May 2019), available at: https://cadmus.eui.eu/bitstream/handle/1814/62485/RSCAS_GLOBALCIT_CR_2019_05.pdf.

⁵³ Ladisch, Virginie, *From Rejection to Redress. Overcoming legacies of conflict-related sexual violence in Northern Uganda*, International Center for Transitional Justice, (2015), available at: <https://www.ictj.org/sites/default/files/ICTJ-Report-Uganda-Children-2015.pdf>.

origin.⁵⁴ CBW children are at increased risk of statelessness due to the lack of birth registration. CBW experience immense social stigma, exclusion, and discrimination stemming from their mothers' victimization. The UN Secretary-General has acknowledged the challenges experienced by CBW. He noted that "Children conceived through wartime rape often struggle with issues of identity and belonging for decades after the guns have fallen silent. We amplify the voices of these forgotten victims of war, who suffer stigma, shame, and exclusion in societies polarized by armed conflict [...]"⁵⁵

39. A pilot study carried by the Justice Law and Order Sector (JLOS) in the Acholi sub-region on the birth registration of CBW revealed that an estimation of between 4000 to 6000 children was born in captivity as a result of forced marriages by the LRA rebels.⁵⁶ The study identified several challenges that impede CBW from accessing civil registration documents or national identity cards. These include the lack of information to satisfy the questions required to complete the registration. For instance, civil registration documents require the father's name, which poses a challenge for children who do not know their father or identity.
40. The lack of birth certificates and civil registration documents has long-term impacts. It exposes the children to the risk of statelessness and limits their access to health care, their ability to enrol in school, or access other social benefits that require birth certificates. Victims of conflict-related sexual violence in northern Uganda reported to ICTJ that their children had been prevented from registering for their Primary (School) Leaving Examination because they lacked birth certificates. This ultimately jeopardizes the future of CBW.⁵⁷
41. In 2019, at a dialogue organised by ICTJ and the JLOS, the National Identification and Registration Authority (NIRA) undertook to review their birth and civil registration procedures to provide for specific measures and guidelines for documentation and registration of CBW.⁵⁸ However, the special procedures and registration guidelines are yet to be adopted. The National Transitional Justice Policy recognises CBW as a special category of victims that require specific interventions; however, the delay in implementing the policy leaves CBW at a heightened risk of human rights violations and denial of fundamental rights.

⁵⁴ Bronwen Manby, *Statelessness and Citizenship in the East African Community*, UNHCR, (2018), available at: <https://data2.unhcr.org/en/documents/download/66807>.

⁵⁵ UN Secretary-General's Message on International Day for the Elimination of Sexual Violence in Conflict, (June 2018), available at: <https://www.un.org/sg/en/content/sg/statement/2018-06-19/secretary-generals-message-international-day-elimination-sexual>.

⁵⁶ Margaret Ajok, *Pilot study on Birth Registration of Children Born of War in the Acholi Region*, Justice Law and Order Sector, (2019).

⁵⁷ Report of Roundtable Dialogue convened by JLOS, NIRA and the ICTJ on birth registration of children born of war, (July 2019), available on file.

⁵⁸ Ibid.

ISSUE IV – Digital ID, access to rights, and statelessness

42. Ndaga Muntu is Uganda’s national digital ID system. Designed to fulfil national security purposes, Ndaga Muntu has failed to foster social inclusion.⁵⁹ According to government data, whose reliability cannot be guaranteed, the Center for Human Rights and Global Justice has calculated that “between 23% and 33% of Uganda’s adult population has not yet received a National Identity Card (NIC)”. Without a digital ID, the Ugandan identity of an individual can be questioned. The ID has also become the main evidence to prove Ugandan citizenship and a key to access basic human rights and services such as health and social security. Inability to obtain a digital ID can lead to a violation of multiple rights and is considered a form of ‘social death’, and’ and can even result in actual death.⁶⁰
43. Inability to obtain Ndaga Muntu is particularly observed among women who consequently face barriers in accessing public health facilities and the elderly who cannot access social security as they cannot provide their date of birth and age. To date no special provisions have been put in place to assist women and older persons, especially those living in poverty, to acquire a Ndaga Muntu leading to a violation of their right to health and social security without discrimination.⁶¹ Also, stateless people are barred from obtaining a digital ID.

⁵⁹ Center for Human Rights and Global Justice, Initiative for Social and Economic Rights, and Unwanted Witness, *Chased Away and Left to Die. How a National Security Approach to Uganda’s National Digital ID Has Led to Wholesale Exclusion of Women and Older Persons*, CHRGI, (June 2021), page 8, available at: <https://chrgi.org/wp-content/uploads/2021/06/CHRGJ-Report-Chased-Away-and-Left-to-Die.pdf>.

⁶⁰ *Ibid.*, page 11.

⁶¹ Center for Human Rights and Global Justice, Initiative for Social and Economic Rights, and Unwanted Witness, *Chased Away and Left to Die. How a National Security Approach to Uganda’s National Digital ID Has Led to Wholesale Exclusion of Women and Older Persons*, CHRGI, (June 2021), page 62, available at: <https://chrgi.org/wp-content/uploads/2021/06/CHRGJ-Report-Chased-Away-and-Left-to-Die.pdf>.

Recommendations

44. Based on the above information, the co-submitting organisations urge reviewing States to make the following recommendations to Uganda:

- I. Revise nationality laws to repeal ethnic discrimination in acquiring Ugandan nationality.
- II. Ensure access to citizenship at birth to otherwise stateless children born on the territory, in particular those who are not members of named ethnic groups but have other forms of long-term connection to Uganda.
- III. Revise nationality laws to repeal any form of discrimination against registered or naturalised citizens in the transmission of nationality to children.
- IV. Amend the Registration of persons Act to exempt Children Born of War (CBW) from civil registration requirements that they cannot fulfil due to being born of wartime rape while in LRA captivity. These include names of both parents, clan, place of origin and birth certificates.
- V. Adopt simplified, trauma sensitive administrative procedures, in particular access to birth registration and civil registration documents, that are tailored to avoid stigma and allow flexibility in civil registration requirements to ensure that CBW are not denied registration.
- VI. Facilitate access to nationality for protracted refugees and their descendants and adopt legal reforms that provide access to citizenship for those with access to no other citizenship.
- VII. Remove the provision on renunciation of nationality prior to acquisition of Ugandan citizenship by those that are applying for citizenship through registration or naturalisation to avoid risks of statelessness.
- VIII. Enact procedural reforms to facilitate universal birth registration by making the process free for all those residing in Uganda and removing fines for late birth registration. Remove fees for registration and application for birth certificates and national identity cards. Establish mobile registration units and raise awareness on the importance of birth registration.
- IX. Amend relevant legislation to ensure that access to social rights is not contingent on the acquisition of a Ndaga Muntu.
- X. Support the adoption of the draft Protocol to the African Charter on the Right to a Nationality and the Eradication of Statelessness in Africa.
- XI. Accede to the 1961 Convention on the Reduction of Statelessness.

Annex: Uganda's International obligations

1. Uganda is not a state party to the 1961 Statelessness Convention, but it has ratified the 1954 Convention Relating to the Status of Stateless Persons without any reservations.
2. Uganda has international obligations to protect the right to a nationality and to protect the rights of stateless persons on the basis of other UN and regional treaties to which it is party. These include, among others, the International Covenant on Civil and Political Rights (Article 24(3) ICCPR), the International Covenant on Economic, Social and Cultural Rights (Articles 2.2 and 3 ICESCR), the Convention on the Rights of the Child (Article 2, 3, 7 and 8 CRC), the Convention on the Elimination of All Forms of Discrimination against Women (Article 9 CEDAW), the International Convention on the Elimination of All Forms of Racial Discrimination (Article 5(d)(iii) CERD), the Convention on the Rights of Persons with Disabilities (Article 18, CRPD), the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (Article 29 CMW), and the International Convention for the Protection of All Persons from Enforced Disappearance (Article 25 CED). The right to a nationality is also protected in the Universal Declaration on Human rights under Article 15 (UDHR). Uganda does not have any relevant reservations to these treaties.
3. Further, various UN Treaty Bodies have made recommendations to Uganda to address issues relating to the right to nationality and statelessness. In 2016, the CRPD recommended Uganda to revoke the provisions in the Uganda Citizenship and Immigration Control Act (2009) as well as in the Immigration Act (1970) that hinder “the right to movement and liberty and acquisition of citizenship of persons with disabilities”, as well as ensure that children with disabilities are registered at birth.⁶² In 2015, the Committee on the Economic, Social and Cultural Rights recommended Uganda to increase its efforts safeguarding universal birth registration, by, among other things, reviewing the Birth and Death Registration Act, and raising awareness with regards to birth registration among parents.⁶³ In 2005, the Committee on the Rights of the Child (CRC) recommended, in light of Uganda's international obligation with regards to Article 7 of the CRC, that Uganda strengthen its measures that aim to ensure that all children born in Ugandan territory are registered at birth via facilitated methods. The Committee also recommended Uganda to also register those children that have not yet been registered.⁶⁴
4. At the UNHCR's High Level Segment on Statelessness in October 2019, Uganda pledged the following:⁶⁵
 - a. By 2021, complete a legal study on statelessness and citizenship in order to better understand and address the factors leaving certain populations stateless or at risk of statelessness and to support comprehensive legal and constitutional reform.

⁶² Concluding observations on the initial report of Uganda, CRPD/C/UGA/CO/1, 12 May 2016, Recommendation 37.

⁶³ Concluding observations on the initial report of Uganda, E/C.12/UGA/CO/1, 8 July 2015, Protection of Children.

⁶⁴ Concluding observation of the Committee on the Rights of the Child: Uganda, CRC/C/UGA/CO/2, 23 November 2005, recommendation 38.

⁶⁵ See: <https://www.unhcr.org/ibelong/results-of-the-high-level-segment-on-statelessness/>.

- b. By 2024, introduce and implement safeguard in its nationality law to grant nationality to children born on the territory who would otherwise be stateless.
 - c. By 2024, introduce a law reform to prevent denial or attribution of nationality at birth on discriminatory grounds.
 - d. By 2024, ensure that the Maragoli, Benet, Ugandan-Asian and other unrecognised communities present in Uganda since before 1926 are recognised as citizens of Uganda.
 - e. Accede to the 1961 Convention on the Reduction of Statelessness
 - f. By 2024, finalise and approve the National Action Plan to serve as the national strategy to eradicate statelessness in the country by 2024.
5. In line with the six pledges submitted by Uganda on the occasion of the High-Level Segment on Statelessness in October 2019, a Cabinet Memo to accede to the 1961 Convention on the Reduction of Statelessness was prepared for the Attorney General's attention and received an affirmative response of no objection (Pledge 1).⁶⁶ There has also been a concerted effort by non-state actors towards the eradication of statelessness. With the leadership of UNHCR, the launch of the I-Belong campaign helped raise awareness amongst the different practitioners and affected communities by bringing visibility to the plight of stateless communities and initiating dialogue aimed at putting an end to statelessness. In 2019, for instance, the Ministry of Internal Affairs and UNHCR convened a workshop to develop a National Action Plan to end Statelessness which was later validated and adopted (Pledge 2).⁶⁷ Also, a private Members Bill for Constitutional Amendment was introduced in Parliament to recognise or include the Maragoli as one of the indigenous tribes in Uganda (Pledge 6) and it will be included in the third schedule of the 1995 Constitution.⁶⁸
6. Uganda is a party to the following regional conventions:
- a. The African Charter on Human and Peoples' Rights, which calls for the elimination of all discrimination on the basis of sex.
 - b. The 2003 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Article 6).
 - c. The 1990 African Charter on the Rights and Welfare of the Child (Article 6).
7. According to an Equal Opportunities Commission report, the lack of a framework to implement international conventions poses a significant challenge in harmonising constitutional rights for ethnic minorities with international standards and makes the enforcement and monitoring of their rights difficult.⁶⁹

⁶⁶ UNHCR, Operational Update, 2020, available at:

<https://reliefweb.int/sites/reliefweb.int/files/resources/Uganda%20Operational%20Update%20-%20December%202020.pdf>

⁶⁷ UNHCR, *Monthly Protection Update - Urban Protection Response*, (September 2019), available at:

<https://reliefweb.int/sites/reliefweb.int/files/resources/72929.pdf>.

⁶⁸ UNHCR, Operational Update, 2020, available at:

<https://reliefweb.int/sites/reliefweb.int/files/resources/Uganda%20Operational%20Update%20-%20December%202020.pdf>

⁶⁹ Equal Opportunities Commission, *Annual Report on the State of Equal Opportunities in Uganda*, (Uganda, (March 2014), available at:

https://www.eoc.go.ug/sites/equalopportunities/files/publications/final_annual_report_on_the_state_of_equal_opportunities_in_uganda_8th_may_2014.pdf.