

# Universal Periodic Review

## All country summary and recommendations

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

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This document highlights the **statelessness** related challenges in States that will be reviewed during the 40th Session of the Universal Periodic Review (UPR): **Algeria, Bahrain, Brazil, Ecuador, Finland, India, Indonesia, Morocco, Netherlands, Philippines, Poland, South Africa, Tunisia and United Kingdom**. 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 [Bahrain](#), [India](#), [Morocco](#), [Netherlands](#), [South Africa](#) and [United Kingdom](#). Further, the Institute and its partners made two specific submissions on deprivation of nationality in the [Netherlands](#) and [United Kingdom](#).

## Algeria

Algeria is a state party to the 1954 Convention on the Status of Stateless Persons, but not to the 1961 Convention on the Reduction of Statelessness. The UN Committee on the Rights of the Child has expressed concern regarding children of foreign fathers who are in some circumstances required to obtain permission of a family judge to transmit nationality to their children, which results in increased risks of childhood statelessness. The Committee also highlighted the deficiencies in the birth registration system for children born out of wedlock, refugee and stateless children.<sup>1</sup> UNHCR reports that there are 90,000 refugees from Western Sahara in Algeria,<sup>2</sup> while the Government of Algeria estimates the number to be far higher, at approximately 165,000.<sup>3</sup> The legal status of these refugees is complicated by the disagreement regarding the status of Western Sahara itself. Meanwhile, Algerian nationality has not been extended to Sahrawi refugees in the camps. It remains difficult to conclude exactly how many Sahrawi are stateless today, but it is likely that a significant proportion of the over 115,000 – 190,000 persons living as refugees in Algeria and Mauritania are stateless. This includes new generations born in the camps despite clear international legal obligations to ensure that all children enjoy the right to a nationality.<sup>4</sup>

Proposed recommendations:

1. Take steps to accede to and fully implement the 1961 Convention on the Reduction of Statelessness.
2. Ensure that children born to an Algerian mother married to a foreign national can automatically acquire their mother's nationality as stated in the Nationality Code.
3. Ensure that all children within the territory of the State party living in Algeria, including children born out of wedlock, refugee and stateless children are registered at birth.
4. Take steps to resolve the legal status of Sahrawi refugees by facilitating access to Algerian nationality.

## Bahrain

Bahrain is not a signatory to either the 1954 Convention on the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness. The Citizenship Act of 1963 denies Bahraini women the right to confer their nationality on their children, leaving them vulnerable to statelessness. Since 2012, the Government has engaged in indiscriminate arbitrary revocations of nationality as a tool of oppression, unlawfully targeting opposition members and alleged political dissidents such as activists. Pursuant to Article 10 of the 1963 Bahraini nationality law (as amended in 2019), all power to revoke nationality in national security context currently sits with the Minister of Interior (subject to Cabinet approval), who has wide discretion to act, and is not subject to any judicial oversight. Furthermore, the children of (formerly) Bahraini men who were stripped of their nationality are at heightened risk of being rendered stateless. Individuals who have had their Bahraini citizenship restored do not enjoy full rights in respect to housing, social allowances, social welfare, and healthcare, and continue to face discrimination and harassment from Bahraini institutions.

Proposed recommendations:

1. Accede to both the 1954 Convention and the 1961 Convention and take all steps necessary to implement the Statelessness Conventions.
2. Comprehensively amend the nationality law to uphold the right of Bahraini women to confer their nationality on their children and spouse on an equal basis with men and eradicate any form of gender discrimination with respect to the right to nationality.

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<sup>1</sup> Committee on the Rights of the Child, Consideration of reports submitted by States parties under article 44 of the Convention. Concluding Observations: Algeria, (18 July 2012), CRC/C/DZA/CO/3-4, available at: <https://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=CRC/C/DZA/CO/3-4&Lang=E>.

<sup>2</sup> UN Refugee Agency, 2022 Algeria Factsheet, available at: <https://reporting.unhcr.org/document/2447>.

<sup>3</sup> UN Refugee Agency, 2013 UNHCR Country operations profile – Algeria, available at: <https://www.unhcr.org/pages/49e485e16.html>.

<sup>4</sup> Institute on Statelessness and Inclusion, *The World's Stateless*, (December 2014), available at: <https://files.institutesi.org/worldsstateless.pdf>.

3. Ensure everyone's right to a nationality and reform national laws so that they comply with international obligations as set out in the Principles on Deprivation of Nationality in a National Security Context, which prohibit the arbitrary and discriminatory deprivation of nationality, require the avoidance of statelessness and adherence to procedural safeguards and fair trial rights.<sup>5</sup>
4. Restore individuals' nationality that has been stripped by Bahrain's authorities, together with the full rights associated with citizenship.

## Brazil

Brazil is a party to both the 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. Brazil maintains worldwide leadership in addressing statelessness. Following the Brazil Plan of Action,<sup>6</sup> Brazil adopted in 2017 a statelessness determination procedure.<sup>7</sup> In 2021, only 12 stateless individuals were recorded under the UNHCR mandate, but the number may be higher in reality.<sup>8</sup> Brazil received recommendations from Uruguay during its second cycle of UPR and from the Committee on the Rights of the Child to ensure birth registration.<sup>9</sup> Significant efforts were made in this regard during the following years to eradicate the lack of birth registration.<sup>10</sup>

Proposed recommendations:

1. Ensure the access to birth registration to indigenous people and people residing in rural areas.
2. Monitor and regularly evaluate the implementation of the stateless determination procedure to ensure compliance with international law.
3. Continue efforts to eradicate statelessness in practice.

## Ecuador

Ecuador is a party to both the 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. Ecuador has received multiple recommendations within UPR on achieving universal birth registration. The State has also been urged to accede to the 1961 Convention which it did in 2012. It was also urged to establish a statelessness determination procedure which it introduced in 2017 under the Organic Law on Human Mobility along with facilitated naturalisation for stateless migrants.

Proposed recommendations:

1. Ensure that the statelessness determination procedure is easy to access and that officials working on the procedure receive adequate training.
2. Continue strengthening universal birth registration services in the country, ensuring that it is free and accessible to all.

## Finland

Finland is a party to both the 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. Finland's Nationality Act contains several provisions that aim to prevent and reduce statelessness. However, according to UNHCR, there are 3,416 stateless persons in the country. The number may be higher in reality as Finland does not have a statelessness determination procedure in place. Finland is currently reviewing its Nationality Act whereby it will incorporate one definition of statelessness into Finnish law.<sup>11</sup> It is currently offering temporary protection to refugees from Ukraine granting protection to stateless persons who have fled due to the Russian invasion with the condition that they have been legally resident in Ukraine and are unable to return to their country of origin safely and permanently.<sup>12</sup>

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<sup>5</sup> Please see, [www.institutesi.org/year-of-action-resources/principles-on-deprivation-of-nationality](http://www.institutesi.org/year-of-action-resources/principles-on-deprivation-of-nationality).

<sup>6</sup> Regional Refugee Instruments & Related, Brazil Declaration and Plan of Action, (3 December 2014).

<sup>7</sup> Law No. 13445/2017.

<sup>8</sup> UN Refugee Agency, Global Trend Annex 2021, 'Table 5, Persons under UNHCR's statelessness mandate, 2021', available at: <https://www.unhcr.org/2021-global-trends-annex-table-statelessness>.

<sup>9</sup> Human Rights Council, Report of the Working Group on the Universal Periodic Review. Brazil, (9 July 2012), A/HRC/36/11, para 67; Committee on the Rights of the Child, Concluding observations on the combined second to fourth periodic reports of Brazil, (30 October 2015), CRC/C/BRA/CO/2-4, para 32.

<sup>10</sup> Thiago Assunção, *Statelessness in Brazil: from invisibility to the invitation for becoming a citizen*, 13 *Revista de Estudos e Pesquisas sobre as Americas* 1, (March 2019), p. 294.

<sup>11</sup> UN Refugee Agency, 2022 Finland Factsheet, available at: <https://www.unhcr.org/623469bef.pdf>.

<sup>12</sup> For more information see: <https://migrifin/en/-/temporary-protection-in-finland-granted-to-over-20-000-people-fleeing-ukraine-decisions-now-issued-quickly>.

Proposed recommendation:

1. Introduce a statelessness determination procedure and ensure that it is in line with international standards and UNHCR guidance.
2. Establish a unified definition of statelessness under the Nationality Act.
3. Grant temporary protection to stateless people fleeing Ukraine despite of their residency status.

## India

India is not party to the 1954 and 1961 Statelessness Conventions and is also not party to the 1951 Refugee Convention. No reliable statistics on statelessness in India are available, but there are many communities in India that are stateless or at risk of statelessness, including the Chakma, Hajong, refugees from Tibet and Sri Lanka, Rohingya, and people that are 'declared foreigners' in the State of Assam, after having been excluded from the National Register of Citizens. In accordance with the Assam Accord and Section 6A of the Citizenship (Amendment) Act (CAA 1985, a separate citizenship standard in Assam, large-scale citizenship identification processes take place through two parallel processes: individual citizenship determination proceedings in Foreigners' Tribunals that began in 1964 and the state-wide updating of the National Register of Citizens (NRC) in Assam that began in 2013. As a result of these process, over two million people are currently at risk of statelessness in Assam. The NRC process has been heavily criticized, including due to onerous documentation requirements and reverification processes, and lack of due process. The majority of whom are excluded are reportedly Muslim and Hindu Bengali speakers. While the NRC process remains unique to Assam, the Union Government and high-ranking officials have expressed intentions to introduce a nation-wide NRC process. Both result in discriminatory access to citizenship in India. The Citizenship (Amendment) Act (CAA) stipulates that 'persons belonging to minority communities, namely Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan shall not be treated as illegal migrants for the purposes of this Act'. They are subject to facilitated naturalisation requirements and exempt from the illegal migrant' definition and prosecution for immigration offences. However, this provision remains unavailable for key persecuted groups including Ahmadis in Pakistan, Sri Lankan Tamils, Rohingyas from Myanmar, of which thousands reside in India and face protection gaps and/or risks of deportation. The exclusion of Muslims in general places Muslim migrants and refugees at greater risk of statelessness.

Proposed recommendations:

1. Accede to both the 1954 Convention and the 1961 Convention and take all steps necessary to implement the Statelessness Conventions.
2. Amend the Citizenship Act, 1955 to abolish all provisions that are discriminatory on the basis of ethnicity and religion.
3. Immediately stop the national registration of citizens process, the detention of those declared 'foreigners' and burdensome police reporting procedures for released detainees.
4. Repeal the Foreigner Tribunals and replace them with a judicial mechanism that meets basic procedural and fair trial standards and provide an effective and timely appeal system against the 'opinions' of the Foreigner Tribunals.
5. Immediately cease efforts to deport refugees and stateless people, including Declared Foreigners and Rohingya refugees.

## Indonesia

Indonesia is neither a party to the 1954 Convention relating to the Status of Stateless Persons, nor to the 1961 Convention on the Reduction of Statelessness. Nor is it a signatory to the 1951 Convention Relating to the Status of Refugees or the 1967 Protocol Relating to the Status of Refugees. Neither UNHCR nor the Indonesian government published reliable data on the number of stateless people in the country. According to the National Statistical Board's 2012 National Socio-Economic Survey, almost 24 million Indonesian minors under 18 lack birth certificates, which can create risks of statelessness. An analysis of the 2019 National Socio-Economic Survey shows that 14% of the children under 18 do not have a birth certificate.<sup>13</sup> There are signs that a substantial stateless population may be hidden among this population. As such, due to administrative impediments that hinder birth registration, many Indonesians remain at risk of statelessness. Indonesia also counts many stateless refugees who flee their countries of origin, including members of the Rohingya community. Indonesia offers very limited rights to stateless refugees on its territory, with refugees facing discrimination and the lack of access to primary and higher education, healthcare, and livelihood opportunities, due to various administrative and identification barriers.

Proposed recommendations:

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<sup>13</sup> The Conversation, The unregistered: the fragile foundations of civil registration in Indonesia, 21 April 2021 available at <https://theconversation.com/the-unregistered-the-fragile-foundations-of-civil-registration-in-indonesia-158434>

1. Accede to both the 1954 Convention and the 1961 Convention and take all steps necessary to implement the Statelessness Conventions.
2. Ensure every child's right to immediate, free birth registration and certification for all children, regardless of their parents' identity, status, or documentation, in accordance with Article 24, ICCPR and Article 7, CRC.
3. Ensure that stateless refugees have access to human rights without any administrative and identification barriers, particularly for children to access the right to education.

## Morocco

Morocco is neither a party to the 1954 Convention relating to the Status of Stateless Persons, nor to the 1961 Convention on the Reduction of Statelessness. While Morocco made positive changes to eliminate gender discrimination in nationality, ensuring mothers can confer their Moroccan nationality onto their children in an equal manner as men, gender discrimination still denies women to confer their nationality to their non-citizen spouse as Moroccan men. Furthermore, Moroccan women are expected to renounce their Moroccan nationality or lose their Moroccan nationality, if they were to marry a foreigner and acquire, as a result of their marriage, the nationality of their husband. Unequal ability to confer nationality onto their spouses affects women's ability to freely choose their partner, to freely form a family, and maintain family unity. Morocco's Nationality Code also affects Moroccan children's right to know and be cared for by their father. As their fathers may encounter hurdles relocating to Morocco to be united with his family without a citizenship. This discrimination can perpetuate statelessness when a Moroccan woman's husband is stateless or loses his nationality owing to lengthy absence from his home country.

Proposed recommendations:

1. Accede to both the 1954 Convention and the 1961 Convention, and take all steps necessary to implement the Statelessness Conventions.
2. Reform the Nationality Code to uphold the right of Moroccan women to confer nationality on their noncitizen spouse on an equal basis with, and under the same conditions required of Moroccan men.
3. Guarantee women and men's equal right to apply for the forfeiture of their nationality in the event of acquisition, through marriage, of the nationality of their spouse in cases where a Moroccan citizen is forced, by decree, to renounce their Moroccan nationality prior to the conclusion of marriage.

## The Netherlands

The Netherlands is a state party to both the 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. As of 1 January 2021, around 6,000 persons were registered as stateless, and 31,000 persons were registered as having 'unknown nationality.' Further, no data is available on stateless people in immigration detention. Fully reliable data on statelessness in the Netherlands thus remains absent, including due to the lack of a procedure to determine who is stateless on the territory. On the latter matter, there have been new developments.

On 31 May 2022, Dutch House of Representatives has adopted two bills on statelessness in the Netherlands. These bills contain a statelessness determination procedure (SDP) that will allow for explicit identification of statelessness by a civil court. The procedure will be open to all stateless people on the territory who wish to have their statelessness identified (including those without lawful residence), but will not provide a residence permit or protection status after statelessness is determined. Furthermore, the bills will expand the 'option procedure' for stateless children born in the Netherlands without a residence permit so that they will now be able to access to a facilitated pathway to acquiring Dutch nationality. The expanded option procedure will, however, require stable, principal residence for a period of at least five years (compared to three years 'lawful' residence for children with a residence permit). The child and their parent(s) must also have fully cooperated with the immigration authorities, including in the context of deportation proceedings, for residence to be considered stable. The bills are therefore not fully in line with international obligations under the 1954 and 1961 Statelessness Conventions, as well as the Convention on the Rights of the Child. Parliament has indicated by resolution that an external evaluation of the effects and effectiveness of the SDP needs to take place after five years. The bills are now before the Senate is expected to enter into force later this year.

Proposed recommendations

1. Introduce additional safeguards in Dutch nationality law, policy and practice to ensure that children born in the Netherlands have their nationality status determined and only remain registered as having 'unknown nationality' for the shortest possible period and ensure that stateless children born in the Netherlands acquire Dutch nationality.
2. Make provision for an effective statelessness determination procedure in line with UNHCR guidance and good practice standards, which is accessible to all persons on the territory of the Netherlands and automatically leads to the granting of a

residence permit, at least for the duration of the procedure, and all rights protected under the 1954 Convention relating to the Status of Stateless Persons.

## The Philippines

The Philippines has ratified the 1954 Convention on the Status of Stateless Persons. Recently, the Philippines' accession to the 1961 Statelessness Convention along with the adoption of the Act on foundlings and the Rule on expediting the naturalization process, have further enhanced the Philippines' credential as a regional leader in taking robust steps to address statelessness. In a welcome effort, on 25 March 2022, the Philippines approved the Rule on facilitated Naturalization of Refugees and Stateless person, that streamlines and simplifies the judicial naturalization process for refugees and stateless persons.<sup>14</sup> Despite significant progress in the registration and identification of citizenship of people with undetermined nationality, high administrative fees on the naturalisation procedure remain obstacles to some communities. Particular concern has been raised around the children of undocumented Overseas Filipino Workers (OFW) in the Gulf countries, where restrictive labour legislation and gender discriminatory birth registration provisions place the children at risk of statelessness.

Proposed recommendations:

1. Expedite and reduce the costs of naturalization process of stateless persons.
2. Scale-up birth and civil registration and citizenship identification of populations at risk of statelessness such as the Sama-Bajau tribe, persons of Indonesian descent and persons of Japanese descent.
3. Conduct regular consular missions in countries with high number of undocumented Filipinos.

## Poland

Poland remains one of the few EU states which is not party the 1954 and 1961 Statelessness Conventions for which it received multiple recommendations within UPR. No official data on stateless populations in the country is published, and there is no statelessness determination procedure. There is no legal definition of a stateless person in Poland. This means the term is interpreted inconsistently by relevant authorities and government departments. Therefore, the severity of statelessness in the country is unclear leading to protection gaps, human rights violations and exposing stateless persons to arbitrary detention. There is no full safeguard to prevent childhood statelessness in the country despite Poland's obligations to ensure children's right to a nationality deriving from the Convention on the Rights of the Child. The law provides for certain categories of children born in Poland to unknown or stateless parents to acquire Polish nationality, but this does not apply to children born to parents who cannot confer a nationality to their child.<sup>15</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. Establish a statelessness determination procedure and collect accurate data regarding stateless persons.
3. Ensure every child's right to acquire a nationality and to universal and free birth registration.

## South Africa

South Africa is neither a party to both the 1954 Convention on the Status of Stateless Persons nor the 1961 Convention on the Reduction of Statelessness. It does not have a mechanism to identify stateless persons, but it is estimated that over 10,000 people are stateless and over 15 million people are unregistered or undocumented, with 3 million under the age of 18. Restrictions to birth registration place specific groups of children at risk of statelessness. Further, the lack of documentation and legal restrictions in the domestic framework prevent unaccompanied or separated migrant children (UNSMC) placed in care centres, and young adults, from obtaining immigration status or nationality. A lack of due process in the citizenship procedure also affects stateless individuals from obtaining their right to nationality. Despite the growing number of judgments on statelessness issued by South African domestic courts, the State has failed to implement them.

Proposed recommendations:

1. Accede to both the 1954 Convention and the 1961 Convention and take all steps necessary to implement the Statelessness Conventions.
2. Regularise the status of all USMC who are at risk of statelessness by providing them with permanent residence status and a pathway to South African nationality through a no fee, child friendly dispensation.

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<sup>14</sup> See more: UNHCR, Philippines approves rules on facilitated naturalization for refugees, stateless persons, available at <https://reliefweb.int/report/philippines/philippines-approves-rules-facilitated-naturalization-refugees-stateless-persons>

<sup>15</sup> For more information, please see: <https://index.statelessness.eu/country/poland>.

3. Ensure every child's right to immediate, free birth registration and certification, regardless of their parents' identity, status, or documentation, in accordance with CRC Article 7.
4. Draft and disseminate a national directive requiring the provision of reasons and an appeal process if applications to acquire South African nationality are rejected.
5. Comply with court judgments by promulgating regulations to section 2(2) and 4(3) of the Citizenship Act to facilitate the application for South African nationality for stateless children and young adults.

## Tunisia

Tunisia is a state party to both the 1954 and 1961 Statelessness Conventions and also a party to the 1951 Refugee Convention along with the 1967 Protocol Relating to the Status of Refugees. Currently Tunisia has reservations to the 1961 Convention on the Reduction of Statelessness. Tunisia declares that in accordance with article 8, paragraph 3, of the Convention, it retains the right to deprive a person of Tunisian nationality under numerous circumstances as provided for in its existing national law. Tunisian legislation discriminates against women. Article 7 of the nationality code confers Tunisian nationality to everyone whose father and paternal grandparents were born in Tunisia, but mentions no matrilineal line. Currently, refugees in Tunisia are unable to ever naturalise based on their refugee status and become fully integrated. Tunisia issues two-year residence permits that can be extended, but do not grant permanent residence or the freedom to work. This precarious state is particularly difficult for stateless refugees, for whom "voluntary repatriation" does not exist.

Proposed recommendations:

1. Lift reservations to the 1961 Convention on the Reduction of Statelessness in order to ensure that no-one will be left stateless as a result of the deprivation of nationality.
2. Fill current gaps in the nationality legislation, policies and practices that currently put refugees at risk of statelessness and hinders their right to work.
3. Ensure full reform of the nationality law, especially Article 7 of the nationality code to eradicate gender discrimination all together and remove requirement of paternal links to fulfil the *jus soli* criteria.

## United Kingdom

The UK is party to both the 1954 and 1961 Statelessness Conventions and also party to the 1951 Refugee Convention along with the 1967 Protocol Relating to the Status of Refugees. There are relatively few sources of accurate data on the stateless population in the UK, but all data indicates that statelessness occurs predominantly in a migratory context. However, the data is not analysed or presented in a way that enables a full and accurate understanding of the stateless population in the UK. Despite the introduction of a Special Determination Procedure in 2013, there remain significant gaps in law, policy and practice that result in the failure to respect, protect and fulfil the rights of all stateless persons and every child's right to acquire a nationality. Further, the UK has one of the most ambiguous and broad bases for nationality deprivation and is one of just five European countries that allows nationality deprivation even when it causes statelessness. The UK has deprived more persons of nationality on national security grounds than virtually any other country, with 212 deprivations between 2006 and 2020. With the adoption of the *Nationality and Borders Bill (NABB)* in April 2022, the UK government further relaxed the procedural requirements associated with deprivation of nationality. The *NABB* introduces an amendment of the provisions on citizenship deprivation laid down in the 1981 British Nationality Act (BNA). Clause 9 of the Bill amends section 40 of the 1981 BNA in such a way that the government is exempted from giving notice of a deprivation order to those being deprived of their nationality and to allow for the retroactive application of this power. Additionally, it is extremely concerning that under Section 40 of the BNA, the Home Secretary (HS) currently has almost unfettered discretion to deprive people of nationality. Concerns exist about the discriminatory potential of the UK's nationality-stripping powers, given its vagueness and lack of independent authority, as well as their disproportionate impact on people from non-white racial and ethnic backgrounds, especially Muslim and migrant communities.

Proposed recommendations:

1. Take concrete steps to improve the recording of statelessness, namely by harmonising quantitative data on stateless persons, ensuring that statistical categories cover the entire stateless population, and publishing annual disaggregated, transparent and comparable statistics on stateless people and on deprivation decisions.
2. Introduce adequate procedural safeguards during the statelessness determination procedure.
3. Ensure that national laws comply with international obligations as consolidated in the Principles on Deprivation of Nationality in a National Security Context, which prohibit the arbitrary and discriminatory deprivation of nationality, require the avoidance of statelessness and adherence to procedural safeguards and fair procedure rights.<sup>16</sup>

<sup>16</sup> Please see, [www.institutesi.org/year-of-action-resources/principles-on-deprivation-of-nationality](http://www.institutesi.org/year-of-action-resources/principles-on-deprivation-of-nationality).