

Universal Periodic Review

All country summary and recommendations

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

43rd Session, 4th Cycle
01 May - 12 May 2023

This document highlights the **statelessness** related challenges in States that will be reviewed during the 40th Session of the Universal Periodic Review (UPR): **Bahamas, Barbados, Botswana, Burundi, France, Israel, Liechtenstein, Luxembourg, Mali, Montenegro, Romania, Serbia, Tonga and United Arab Emirates**. 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 [Bahamas](#), [Montenegro](#), [Romania](#) and [United Arab Emirates](#).

Bahamas

Bahamas is not a party to either the 1954 Convention relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness. No data is available on stateless people in the country. Despite being a signatory of CEDAW, Bahamas holds a reservation on Article 9(2) on equal transmission of nationality to children. The 1973 Constitution and the 1973 Nationality Act have gender discriminatory provisions preventing Bahamian women from conferring their nationality to their children and foreign spouses on an equal basis as men. Children born abroad to a Bahamian father have an automatic right to Bahamian citizenship, while children born abroad to a Bahamian mother can only apply for Bahamian citizenship at the age of eighteen. In addition, children born in the Bahamas to a Bahamian father only acquire Bahamian citizenship automatically at birth if the child is born in wedlock. In March 2021, the Bahamian Court of Appeal re-affirmed a Supreme Court ruling on the interpretation of Article 6 of the Constitution confirming that all children born in the Bahamas to a Bahamian parent should automatically acquire nationality at birth, including those born out of wedlock to Bahamian fathers. However, in response to the ruling, the Bahamas' Government filed an appeal, which now sits before the Judicial Committee of the Privy Council.¹ Furthermore, children are at risk of statelessness due to lack of safeguards that ensure access to nationality for children born in the territory who would otherwise be stateless. This presents a clear obstacle for the child's right to acquire citizenship as well as access other rights such as education and healthcare.

Proposed recommendations:

1. Amend the Constitution and Nationality Act in order to ensure women and men's equal ability to confer nationality on their children and non-national spouses.
2. Establish safeguards in the Constitution and/or Nationality Act to prevent statelessness and ensure children who are otherwise stateless have a pathway to nationality.
3. Accede to the 1954 Convention on the Status of Stateless Persons and 1961 Convention on the Reduction of Statelessness and take all steps necessary to implement the Conventions.
4. Immediately remove reservations on CEDAW Article 2(a) and 9(2), and the reservation on Convention on the Rights of the Child, Article 2.

Barbados

Barbados is a party to the 1954 Convention on the Status of Stateless Persons, but not to the 1961 Convention on the Reduction of Statelessness. No data is available on stateless people in the country. The 2002 Constitution and the 1982 Citizenship Act have gender discriminatory provisions in transferring Barbadian nationality to children and foreign spouses. Section 5(1) of the Constitution recognises the right of married Barbadian fathers to pass on their nationality, regardless of the father or child's place of birth. However, Section 5(2) stipulates that Barbadian women may only confer their nationality on children born abroad if the mother was herself born in Barbados. Barbadian women are also denied the right to confer their nationality on foreign spouses, a right that is constitutionally reserved for men. Under section 10(2) of the Constitution, an unmarried Barbadian father is denied the right to confer his nationality onto his children, a right reserved for unmarried mothers. Further, the Barbados Citizenship Act denies Barbadian women the right to confer their nationality to adopted children on an equal basis with men in the case of joint adoption.

Proposed recommendations:

1. Amend the Constitution and Citizenship Act, with retroactive effect, to remove all gender discriminatory provisions.
2. Conduct a mapping study on statelessness and make data on statelessness publicly available.
3. Accede to the 1961 Convention on the Reduction of Statelessness and take all steps necessary to implement it.

Botswana

Botswana is a party to the 1954 Convention on the Status of Stateless Persons, but not to the 1961 Convention on the Reduction of Statelessness. No data is available on stateless people in the country. According to the 2009 Botswana Children's Act, every child is entitled to acquire Botswanan nationality at birth. However, there is no safeguard in the country's law to ensure that (otherwise) stateless children will acquire Botswanan nationality, including for foundlings. As

¹ Jasper Ward, 'Pinder: Govt will proceed with appeal of citizenship ruling', *the Nassau Guardian*, (21 March 2022), available at: <https://thenassauguardian.com/pinder-govt-will-proceed-with-appeal-of-citizenship-ruling/>.

such, children born in Botswana to stateless or unknown parents are not protected against statelessness. These children could only apply for naturalisation after ten years of residing in the country. Nevertheless, the Citizenship Act requires applicants to hold a permanent residence permit. This could be challenging particularly for foundlings with a migratory background who cannot claim, for example, refugee status through refugee parents and lack documentation from the country of origin. Further, as the Committee on the Rights of the Child (CRC) stated during Botswana's reviewing process, a significant number of children are not registered due to several barriers throughout the procedure, particularly for refugee children and those abandoned.²

Proposed recommendations:

1. Amend the Citizenship Act and regulations in accordance with the Botswana Children's Act and international treaties to ensure every child's right to a nationality and that no child is born stateless in Botswana.
2. Take all necessary steps to ensure immediate and universal birth registration of children born in Botswana, particularly foundlings and those born to migrants and undocumented persons.
3. Conduct a mapping study on statelessness and make data on statelessness publicly available.
4. Accede to the 1961 Convention on the Reduction of Statelessness and take all steps necessary to implement it.

Burundi

Burundi is not a party to either the 1954 Convention relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness. No data is available on stateless people in the country. While the 2018 Constitution of Burundi ensures equal conferral of nationality rights, the 2000 Nationality Code is yet to be amended to ensure compliance with its Constitution. Article 2 of the Nationality Code stipulates that women cannot pass their nationality onto their children on an equal basis with men, and are denied the equal right to transmit their nationality to their spouses. Article 2 of the Nationality Code also does not allow women to confer nationality on children except when maternal filiation is established, and the child is born out of wedlock to an unknown father, or is disowned by the father. Further, married women cannot pass their Burundian nationality onto foreign spouses on an equal basis with married men. Whereas foreign women acquire the nationality of their Burundian spouses by declaration during or after their marriage, male spouses of Burundian women can acquire Burundian nationality via naturalisation, with a reduced residency requirement (from ten to five years).

Proposed recommendations:

1. Amend the 2000 Nationality Code to bring it into full compliance with Burundi's 2018 Constitution and its international obligations.
2. Take steps to ensure the right to nationality for those denied Burundian citizenship due to gender discriminatory nationality laws and, in the interim, ensure enjoyment of their other human rights on a non-discriminatory and equal basis.
3. Conduct a mapping study on statelessness and make data on statelessness publicly available.
4. Accede to both the 1954 and 1961 Conventions and take all steps necessary to implement them.

France

France is a party to the 1954 Convention relating to the Status of Stateless Persons but not to the 1961 Convention on the Reduction of Statelessness, the European Convention on Nationality and the European Convention on the Avoidance of Statelessness in Relation to State Succession. According to UNHCR, there were 3,560 stateless people in the country at the end of 2021.³ France has a statelessness determination procedure (SDP) and safeguards to prevent statelessness in its nationality law. However, such procedure still shows disaggregated data. While individuals' applications through the SDP are being processed, they have no legal right to stay in the country. Therefore, they remain at risk of detention. France does not have a comprehensive safeguard against statelessness. Otherwise stateless children born in the country are not eligible to acquire nationality automatically. Instead, they are required to apply for the SDP. Further, multiple barriers are encountered when registering births and issuing certificates to children both in France and overseas territories. Late registrations can only be recognised by the High Court.⁴

Proposed recommendations:

1. Ensure the right to legal stay for applicants whose claim for statelessness status is being processed and ensure that no stateless persons are arbitrarily detained.

² Committee on the Rights of the Child, 'Concluding observations on the combined second and third reports of Botswana', (29 June 2019), CRC/C/BWA/CO/2-3, para. 30.

³ UNHCR, 'Global Trends 2021. Statelessness', Annex, Table 5, available at: <https://www.unhcr.org/globaltrends.html>.

⁴ The European Network on Statelessness, 'Statelessness Index: France', available at: <https://index.statelessness.eu/country/france?language=en>.

2. Refrain from depriving persons of nationality in any case where the effect would be discriminatory, could render the person stateless or at risk of statelessness, could result in refoulement, encroaches on prosecution interests, or when a less intrusive means is available.
3. Implement a comprehensive safeguard against statelessness by ensuring that all children born on the territory who would otherwise be stateless, automatically acquire French nationality.
4. Accede to the 1961 Convention, the European Convention on Nationality and the European Convention on the Avoidance of Statelessness in Relation to State Succession and take all steps necessary to implement them.

Israel

Israel is a party to the 1954 Convention on the Status of Stateless Persons, but not to the 1961 Convention on the Reduction of Statelessness. According to UNHCR, 42 people were registered as stateless in the country at the end of 2021, excluding Bedouin people and former USSR nationals.⁵ Israel still uphold provisions in national laws that discriminate against Arab citizens and Palestinians, causing barriers to the enjoyment of fundamental rights. In March 2023, the Israeli Parliament revived a controversial Citizenship Bill which bans Palestinians married to Israeli citizens from receiving citizenship and residence permits in the country.⁶ Further, national authorities can revoke the citizenship of people who carry out actions that cause a “breach of loyalty” against the state, including terrorism, espionage and treason.⁷ Following the adoption of such law, in February 2023, Israel also passed legislation allowing the State to strip Arabs convicted of terror offences of citizenship and residency and deport them to the West Bank or Gaza Strip if financial aid from the Palestinian Authority was accepted.⁸ Israel has also stripped a large number of Bedouins of their Israeli citizenship without due process.

Proposed recommendations:

1. Amend Israel’s Citizenship Law to ensure that Palestinians married to Israeli citizens are entitled to receive Israeli citizenship and residency.
2. Refrain from depriving persons of nationality in any case where the effect would be discriminatory, could render the person stateless or at risk of statelessness, could result in refoulement, encroaches on prosecution interests, or when a less intrusive means is available.
3. Accede to the 1961 Convention on the Reduction of Statelessness and take all steps necessary to implement them.

Liechtenstein

Liechtenstein is a party both to 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 Nationality and the European Convention on the Avoidance of Statelessness in Relation to State Succession. No data is available on stateless people in the country. Liechtenstein does not have a dedicated statelessness determination procedure (SDP), which inhibits the country’s ability to produce and publish clear data on statelessness.⁹ While Liechtenstein ensures that stateless individuals have access to citizenship, it requires proof of five years of residency before applying for naturalisation. Applying the requirement to stateless children could negatively impact their access to basic human rights as pointed out by Committee on the Rights of the Child.¹⁰ Further, the Parliament voted to allow citizens of the European Economic Area (EEA) and Switzerland to keep their nationality of origin when naturalizing in Liechtenstein. However, following a referendum which rejected such amendment in 2020, Liechtenstein does not allow dual citizenship.¹¹

Proposed recommendations:

1. Establish a clear and predictable statelessness determination procedure that guarantees basic procedural rights and safeguards.
2. Ensure that all children, including those who are stateless, have immediate access to nationality.

⁵ UNHCR, ‘Global Trends 2021. Statelessness’, Annex, Table 5, available at: <https://www.unhcr.org/globaltrends.html>.

⁶ Toi Staff and Carrie Keller-Lynn, ‘Knesset extends law banning Palestinian family unification for another year’, *The Israel Post*, (6 March 2023), available at: <https://www.timesofisrael.com/knesset-extends-law-banning-palestinian-family-unification-for-another-year/>.

⁷ ‘Israel’s Supreme Court rules ‘disloyal’ citizens can be stripped of status’, *Reuters*, (21 July 2022) available at: https://www.reuters.com/world/middle-east/israels-supreme-court-rules-disloyal-citizens-can-be-stripped-status-2022-07-21/?taid=62d9a6e33a90f700019c8ab5&utm_campaign=trueAnthem%3A%20Trending%20Content&utm_medium=trueAnthem&utm_source=twitter&s=08; and Institute on Statelessness and Inclusion, ‘September Bulletin 2022’, available at: <https://mailchi.mp/5e5a8902eee7/monthly-bulletin-september>.

⁸ Bethan McKernan, ‘Israel votes to strip citizenship from Arabs convicted of terrorism’, *The Guardian*, (16 February 2023), available at: <https://www.theguardian.com/world/2023/feb/16/israel-votes-to-strip-citizenship-from-arabs-convicted-of-terrorism>; and Institute on Statelessness and Inclusion, ‘March Bulletin 2023’, available at: <https://mailchi.mp/a887da40bf52/monthly-bulletin-march-2023>.

⁹ <https://www.unhcr.org/623469c7f.pdf>

¹⁰ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2F2FLIE%2FQPR%2F3-4&Lang=en

¹¹ Global Citizenship Observatory, ‘Liechtenstein rejects dual citizenship with EEA/CH in a referendum’, (28 October 2020), available at: <https://globalcit.eu/liechtenstein-rejects-dual-citizenship-with-eea-ch-in-a-referendum/>.

3. Amend the country's Law on Acquisition and Loss of Citizenship to ensure that all individuals are eligible for dual nationality.
4. Accede to the European Convention on Nationality and the European Convention on the Avoidance of Statelessness in Relation to State Succession, and take all steps necessary to implement them.

Luxembourg

Luxembourg is a party both to the 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness as well as the European Convention on Nationality and the European Convention on the Avoidance of Statelessness in Relation to State Succession. According to UNCHR, there were 194 stateless people in the country at the end of 2021.¹² Luxembourg has a dedicated statelessness determination procedure (SDP). Its law states that when children born in the country to non-Luxembourgish biological or non-Luxembourgish adoptive parents turn 18 years old, they can apply for Luxembourgish nationality if they can prove five years of continuous residence in the country before turning 18 and if one of their biological or adoptive parents was a legal resident for 12 months immediately after their birth. Such procedure may cause challenges if not all these requirements are met and increases the risk of statelessness.

Proposed recommendations:

1. Amend Luxembourg's law to ensure that all children born on the territory who would otherwise be stateless are immediately entitled to Luxembourgish nationality regardless of their residence and their biological or adopted parents' status.

Mali

Mali is a party both to the 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. No data is available on stateless people in the country. Mali does not have a dedicated statelessness determination procedure (SDP), which inhibits the country's ability to produce and publish clear data on statelessness. However, at the 2019 UNHCR High-Level Segment on Statelessness, Mali pledged to improve the overall situation on the right to a nationality in the country, including the implementation of a statelessness determination procedure, a better birth registration system and improvements in collecting official data on statelessness. Despite this, the current law still contains discrimination against children born out-of-wedlock and does not guarantee Malian nationality to children born in the country who would otherwise be stateless. Further, it also lacks a facilitated naturalisation procedure for stateless people. After the country's independence, some ethnic communities and those living in rural areas were not registered nor issued with identity documents.¹³

Proposed recommendations:

1. Establish a clear and effective statelessness determination procedure that guarantees basic procedural rights and safeguards.
2. Ensure free, universal birth registration so that all children born in the territory obtain a birth certificate.
3. Address discrimination in the country's law regarding access to nationality and ensure Malian nationality and identity documents to all children born in the country.
4. Ensure ethnic communities are registered and receive identity documents and provide them with a clear pathway towards Malian citizenship.
5. Grant pathways to citizenship through facilitated naturalisation to stateless people residing in the country.

Montenegro

Montenegro is a party both to the 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. According to UNHCR, there were 502 stateless persons in Montenegro at the end of 2021.¹⁴ In 2018, Montenegro established a statelessness determination procedure (SDP). However, significant issues persist such as the exclusion of people with refugee status or subsidiary protection from the SDP, inconsistencies during the process, lack of adequate information for applicants, as well as inflexible application requirements. Further, issues can be identified in birth registration practices that disproportionately impact Roma and Egyptian communities in the country. The new birth registration process faces serious implementation issues due to the three-day requirement for registration of birth and the difficulty of registering births happening outside medical institutions. Further, Montenegrin law does not have any guidance on how to determine the child's nationality status at birth or later. Such obstacles, together with discriminatory practices against Roma and Egyptian communities contribute to low birth registration rates and can lead to intergenerational statelessness.

¹² UNHCR, 'Global Trends 2021. Statelessness', Annex, Table 5, available at: <https://www.unhcr.org/globaltrends.html>.

¹³ Global Citizenship Observatory, 'Report on Citizenship Law: Mali', (June 2020), available at: https://cadmus.eui.eu/bitstream/handle/1814/67494/RSCAS_GLOBALCIT_CR_2020_11.pdf?sequence=1&isAllowed=y.

¹⁴ UNHCR, 'Global Trends 2021. Statelessness', Annex, Table 5, available at: <https://www.unhcr.org/globaltrends.html>.

Proposed recommendations:

1. Take concrete steps to facilitate access to the statelessness determination procedure for all stateless persons in Montenegro.
2. Ensure that policies and practices relating to birth registration remove all practical barriers to birth registration, with a particular focus on minority groups including Roma and Egyptian communities, so that all children are registered immediately regardless of their parents' documentation or residence status.
3. Ensure that children's nationality status is determined as soon as possible after birth in order to guarantee that otherwise stateless children born in Montenegro acquire a nationality.

Romania

Romania is a party both to the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness and the European Convention on Nationality but not the European Convention on the Avoidance of Statelessness in Relation to State Succession. Romania also retains multiple reservations to the 1954 Convention. According to latest UNHCR statistics, 316 people were registered as stateless in Romania.¹⁵ However, this number may be significantly higher since Romania has no dedicated statelessness determination procedure (SDP). The procedure is also essential for the identification of stateless refugees coming from Ukraine to Romania and the protection of their human rights. As part of the Temporary Protection Directive, Romania grants temporary protection to displaced people with Ukrainian citizenship, but excludes many stateless individuals fleeing Ukraine who are not automatically eligible for protection. Further, Romania lacks sufficient safeguards to prevent childhood statelessness. Children born to stateless parents are not granted citizenship at birth and, instead, they must apply for naturalisation alongside their parents. Foundlings are granted Romanian citizenship, but their citizenship can be revoked if it is established that one or both parents are foreign nationals leaving the child at the risk of statelessness.

Proposed recommendations:

1. Establish a clear and predictable statelessness determination procedure that guarantees basic procedural rights and safeguards.
2. Put in place safeguards in law and practice to ensure all children born in Romania who would otherwise be stateless acquire Romanian nationality automatically at birth.
3. Extend Temporary Protection to include all stateless persons fleeing Ukraine and ensure that stateless people and people at risk of statelessness who have fled Ukraine can access Temporary Protection and other international protection in Romania without direct discrimination or indirect discriminatory impacts related to race, ethnicity, sex, or lack of nationality.

Serbia

Serbia is a party both to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness but not to the European Convention on Nationality and the European Convention on the Avoidance of Statelessness in Relation to State Succession. According to UNHCR, there were 2,666 stateless people in Serbia and Kosovo at the end of 2021.¹⁶ However, such a number may not represent the real picture since Serbia does not have a dedicated statelessness determination procedure (SDP). Lack of birth registration and delays in the process continue to pose a major risk of statelessness in Serbia. Without an identification document, parents cannot register their child immediately after birth but have to go through additional administrative procedures that can take months leaving a child without access to basic rights. In particular, the Roma community is affected as many community members lack personal documentation as a result of ongoing discrimination against them. Serbia has introduced legal safeguards in national law to prevent statelessness in the case of children born in Serbia or abroad to Serbian nationals, foundlings and adopted children. However, there are implementation gaps including, against statelessness for children born on the territory, whereby otherwise stateless children need to apply for nationality with the competent authority. However, it is implemented in such a way as to apply only to minors, and a request must be submitted to the competent authority for a decision to be made on the acquisition of nationality. Further, individuals whose documents were part of the registry that had been lost or destroyed during the 1999 Kosovo conflict remain at risk of statelessness unless they re-register. However, re-registration is a complex procedure and requires proof of documentation that is cumbersome to be obtained.¹⁷

Proposed recommendations:

¹⁵ Id.

¹⁶ Id.

¹⁷ The European Network on Statelessness, 'Statelessness Index: Serbia', available at: <https://index.statelessness.eu/country/serbia?language=en>.

1. Establish a clear and predictable statelessness determination procedure that guarantees basic procedural rights and safeguards.
2. Ensure full implementation of Serbia's Law on Registries with specific emphasis on immediate birth registration and access to identity documents for children regardless of their parents' documentation status.
3. Provide a clear and accessible pathway to re-registering into citizenship registries for those whose documents were part of the missing or destroyed registries.
4. Accede to both the European Convention on Nationality and the European Convention on the Avoidance of Statelessness in Relation to State Succession and take all steps necessary to implement them.

Tonga

Tonga is not a party either to the 1954 Convention relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness. There is very limited data or information about statelessness in the country. During its reviewing process, the Committee on the Rights of the Child (CRC) expressed its concern regarding the birth registration system in the country and recommended Tonga to improve its efficiency and strengthen its capacity.

Proposed recommendations:

5. Conduct a mapping study on statelessness and make data on statelessness publicly available.
6. Ensure free, universal birth registration so that all children born in the territory obtain a birth certificate.
7. Accede to both the 1954 and 1961 Conventions and take all steps necessary to implement them.

United Arab Emirates

The United Arab Emirates is not a party either to the 1954 Convention relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness. There is no clear data on statelessness in the UAE, since the UAE claims to have 'resolved' the issue of statelessness through its agreement with the Comoros Government in 2008 that provides Comoros's passports to stateless people.¹⁸ However, holders of Comoros' passport in effect continue to be stateless, since such passport does not provide a pathway to citizenship, nor residence in Comoros. Children are at risk of statelessness due to gender discrimination in Emirati nationality law. While there are no restrictions on a father's right to pass on nationality to his children, a mother cannot automatically pass nationality to her children. Children cannot apply for citizenship until they are six years old. Emirati women cannot confer nationality on a non-citizen spouse either. An additional risk of statelessness exists for those expressing dissent to the Government. Law in the UAE allows for the deprivation of citizenship for all Emirati citizens based on terrorism charges as well as for constituting a threat to the internal and external security of the State. Overbroad interpretation of that law can lead to arbitrary deprivation of nationality and violation of human rights norms.

Proposed recommendations:

1. Amend the law and regulations that govern citizenship transmission to enable Emirati women to confer nationality on their children without restriction and on their noncitizens spouse, on an equal basis to men.
2. Reform Federal Law No. 17 of 1972 Concerning Nationality & Passports (as amended in 1975 and 2017) to bring it in line with international and regional standards, by ensuring that it prohibits any deprivation of nationality that is disproportionate, discriminatory, and arbitrary, especially where such deprivation may result in statelessness.
3. Restore the nationality of those from whom it was stripped as a result of their political opposition to the government, and ensure the restoration of full citizens' rights to those who lost their nationality and their family members.
4. Accede to both the 1954 and 1961 Conventions and take all steps necessary to implement them.

¹⁸ Z. Albarazi and Y. Kuzmova 'Trafficking in (Non)-Citizenship in Kuwait and the UAE' in Roel Meijer, James N Sater and Zahra R Babar (eds), *Routledge Handbook of Citizenship in the Middle East and North Africa* (Routledge 2020) 349; A. Abrahamian, *The Cosmopolites: The Coming of the Global Citizen*. New York: Columbia Global Reports, (2015).