

This document highlights the statelessness related challenges in the countries that will be reviewed at the Human Rights Council during the 30<sup>th</sup> Session of the Universal Periodic Review (UPR): **Azerbaijan, Bangladesh, Burkina Faso, Cameroon, Canada, Cape Verde, Colombia, Cuba, Djibouti, Germany, Russia, Turkmenistan, Tuvalu, and Uzbekistan**. These challenges include: the right of every child to acquire a nationality, discrimination against stateless people, the prohibition of arbitrary deprivation of nationality, the prohibition of arbitrary detention and the obligation of states to identify and protect stateless persons (including stateless refugees), lack of data on stateless persons in the country, lack of civil registration. All recommending states are urged to draw on this document when formulating recommendations to states under review. In addition to this summary, the Institute also made joint submissions to the 30<sup>th</sup> Session on human rights and statelessness in Bangladesh, Cameroon, Canada, Colombia, Germany, and Russia.<sup>1</sup>

## **Azerbaijan**

Azerbaijan is party to the core human rights treaties that include provisions related to statelessness and/or nationality and has acceded to both Statelessness Conventions. Azerbaijan has also simplified the procedure of acquisition of a permanent residence permit for stateless persons in the country. However, the status of statelessness has not been resolved for people born in the former Soviet Republic of Azerbaijan who resided abroad during the fall of the Soviet Union.<sup>2</sup> These people only have a former Soviet passport and cannot prove to which successor state they belong, rendering them stateless. Another concern relates to the lack of birth registration, which is a crucial step to acquiring (proof of) nationality. Finally, very little data and information exists on statelessness in the country, making it challenging to understand the scope of the problem and the causes of statelessness.

### *Proposed Recommendations:*

1. Fully implement the 1954 and 1961 Statelessness Conventions.
2. Ensure the right to a nationality of all stateless persons born in the country, and all people born in the former Soviet Republic of Azerbaijan.
3. Ensure universal birth registration, regardless of the place where the person is born or the legal or nationality status of the parents.
4. Conduct a mapping study on issues of statelessness in Azerbaijan and make this information publicly available.

## **Bangladesh<sup>3</sup>**

Bangladesh is party to core human rights treaties that include provisions related to statelessness and/or nationality. However, Bangladesh is yet to accede to the 1954 Convention Relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness and the 1951 Convention Relating to the Status of Refugees.

- **Rohingya refugees** - Bangladesh currently hosts an unprecedented number of stateless Rohingya refugees who fled crimes against humanity in neighbouring Myanmar. To date, the Rohingya are deemed 'illegal migrants' in Bangladesh, and lack protection and enjoyment of basic rights. This contributes to continuous vulnerability of the Rohingya, being subject to human trafficking and smuggling under harsh conditions on boats to other countries in the region. Concerns exist as to Bangladesh's commitment to addressing the short-term emergency humanitarian needs and the mid-term human rights of Rohingya refugees. Bangladesh refuses to recognise that these arrivals from Myanmar – escaping persecution – are refugees entitled to protection under international law. There have also been incidents of *refoulement* of refugees from Bangladesh. A related particular concern is Bangladesh's call for Rohingya refugees to be returned to Myanmar, which has led to a repatriation agreement being signed between the two countries.
- **Urdu speaking community** - Bangladesh is home to approximately 300,000 members of the Urdu Speaking Community, popularly known as "Biharis". Despite official reaffirmation that all members of this community are nationals of Bangladesh and the promise of National Identity Cards without any further delay, they continue to face challenges. They still live in refugee camps under poor living conditions, are subject to discrimination in accessing their rights, including civil registration and accessing documentation, and acquiring proof of citizenship.

<sup>1</sup> <http://www.institutesi.org/ourwork/humanrights.php>.

<sup>2</sup> European Network on Statelessness, Still Stateless Still Suffering, Why Europe must act not to protect stateless persons, [https://www.statelessness.eu/sites/www.statelessness.eu/files/ENS\\_Still\\_Stateless\\_Still\\_Suffering\\_online%20version\\_2.pdf](https://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Still_Stateless_Still_Suffering_online%20version_2.pdf).

<sup>3</sup> For the Institute's full UPR submission on Bangladesh, see: [http://www.institutesi.org/UPR30\\_Bangladesh.pdf](http://www.institutesi.org/UPR30_Bangladesh.pdf).

- **2016 Draft Citizenship Bill-** The 2016 Draft Citizenship Bill does not protect every child's right to acquire a nationality, particularly where the child would otherwise be stateless.

*Proposed Recommendations:*

1. Ensure that all children born in the territory of Bangladesh, or to a Bangladeshi parent, are guaranteed without discrimination, their right to a nationality.
2. Fully promote, respect, protect and fulfil its obligations towards stateless persons under international human rights law.
3. Accede to and fully implement the 1954 and 1961 Statelessness Conventions and the Refugee Convention.
4. Protect all stateless Rohingya refugees on Bangladeshi territory, including by seeking the cooperation of the international community with sustainable integration efforts and through negotiating resettlement programmes with third countries.
5. Crack down on the people trafficking and human smuggling industries and protect all stateless Rohingya refugees and Bangladeshi citizens from trafficking.
6. Ensure that no Rohingya refugees are returned to Myanmar in violation of the principle of nonrefoulement, until basic conditions required under international human rights and humanitarian law are met by Myanmar.
7. Ensure universal and immediate access to birth registration with a special emphasis on eradicating discrimination and other barriers to access faced by vulnerable populations, such as members of the Urdu speaking community.
8. Guarantee access to and enjoyment of all basic human rights without discrimination of the Urdu speaking community of Bangladesh and Rohingya refugee community.
9. Address all concerns related to the right to nationality, statelessness and discrimination in the draft citizenship bill, and produce a new draft citizenship bill, which complies with relevant international standards and allows for considered public debate and consultation.

## **Burkina Faso**

Burkina Faso is party to the core international human rights conventions that include provisions related to statelessness and/or nationality and since 2017, has been party to both statelessness conventions.

- **Childhood statelessness** - Burkina Faso has not achieved universal birth registration. In 2012, it had a birth registration rate of 76.9%. It is particularly difficult for people living in remote areas to register their children. Ineffective civil registration and documentation systems create a risk of statelessness as a birth certificate is an important step in acquiring nationality.
- **Stateless persons in border regions** - People living in border regions face a risk of statelessness due to border disputes and lack of clarity regarding which country they were born in. Burkina Faso has been party to cases where territory has been transferred as a result of a ruling by the International Court of Justice (ICJ).<sup>4</sup> Often the populations affected by such border disputes have had very little contact with the central administrations of either country, and thus are likely to have few to no documents to prove their nationality.
- **Gender equality**- A Burkinabé(e) who acquires another nationality on the basis of marriage (almost certainly a woman), automatically loses her Burkinabé(e) nationality.<sup>5</sup>

*Proposed Recommendations:*

1. Ensure the full implementation of the 1954 and 1961 Statelessness Conventions.
2. Realise universal free birth registration, issue birth certificates to all children and strengthen the awareness of the importance of birth registration.
3. Prevent and resolve statelessness among people living in border regions.

## **Cameroon<sup>6</sup>**

Cameroon is not party to either of the Statelessness Conventions or the Convention on the Rights of Persons with Disabilities (CRPD). It is party to the other core human rights treaties.

- **Children** - Children born out of wedlock face a risk of statelessness, as they have to establish their affiliation with the Cameroonian parent in order to acquire nationality. Furthermore, children born to foreign parents and adopted children have to comply with additional residence requirements, which increases their risk of statelessness.
- **Discrimination on the basis of disability** - Cameroonian nationality law prohibits the conferral of nationality "to a person who has not been found to be of sound body and mind", discriminating against disabled persons.

<sup>4</sup> including disputes between Burkina Faso and Mali, and Burkina Faso and Niger.

<sup>5</sup> Zatu no An VII 0013/FP/PRES du 16 novembre 1989, portant institution et application du Code des personnes et de la famille, article 188.

<sup>6</sup> For the Institute's full UPR submission on Cameroon, see: [http://www.institutesi.org/UPR30\\_Cameroon.pdf](http://www.institutesi.org/UPR30_Cameroon.pdf)

- **Statelessness in border regions**- People living in disputed border areas face heightened risks of statelessness. The most famous case is the transfer of sovereignty of the Bakassi Peninsula from Nigeria to Cameroon.<sup>7</sup>
- **Civil registration**- Cameroon has not achieved universal birth registration, rendering many children at risk of statelessness.

*Proposed Recommendations:*

1. Ensure that all national laws, regulations and policies are in line with Cameroon's obligations under international law and its Constitution, ensure the right of every child to acquire a nationality, and protect against childhood statelessness.
2. Prevent discrimination against people vulnerable to statelessness due to their circumstances or discriminatory legal provisions, in particular, children born in the Bakassi Peninsula, children whose births have not been registered, extra-marital children, disabled children, children born to foreign parents, adopted children and children whose parents have been deprived their nationality.
3. Take all necessary steps to break down barriers to accessing birth registration and ensure that the births of all children born in Cameroon are registered immediately.
4. Fully implement the safeguards against statelessness in the Nationality Code to ensure that any child born in Cameroon who would otherwise be stateless may acquire Cameroonian nationality, whatever the place of birth of his or her parents.
5. Undertake, as soon as possible, a full population census with a view to improving the available data on the stateless people and those at risk of statelessness.
6. Ratify and fully implement the CRPD and accede to and fully implement the 1954 and 1961 Statelessness Conventions.

## Canada<sup>8</sup>

Canada is party to all the core human rights treaties that include provisions related to statelessness and/or nationality and to the 1961 Convention on the Reduction of Statelessness. However, it is not a party to the 1954 Convention relating to the Status of Stateless Persons. Canada's Citizenship Act does not define a stateless person nor has it adopted a procedure to determine statelessness.<sup>9</sup> Data on statelessness in Canada is unclear as four government agencies in Canada maintain and show different data on stateless persons.<sup>10</sup> Further, risks of statelessness exist for children born abroad. According to the Citizenship Act, the Minister of Immigration shall, on application, grant citizenship to a person who is born outside Canada on or after April 17, 2009 under by law, under a specified set of circumstances. This creates a risk of statelessness among children born before 2009 and those who cannot meet the requirements.

*Proposed Recommendations:*

1. Fully promote, respect, protect and fulfil its obligations towards stateless persons under international human rights law.
2. Accede to and fully implement the 1954 Convention Relating to the Status of Stateless Persons.
3. Adopt and apply the 1954 Convention definition of 'stateless person' in all national legislation and policy documents.
4. Establish a statelessness determination procedure, in line with international law and UNHCR Guidelines, and ensure that the definition of statelessness in national legislation is in accordance with international standards.
5. Ensure that all children of Canadian citizens have the right to acquire Canadian citizenship, eliminating any risk of statelessness.
6. Collect and make publicly available reliable, disaggregated data on statelessness.

## Colombia<sup>11</sup>

Colombia is party to all the core human rights treaties that include provisions related to statelessness and/or nationality and is also party to the 1961 Statelessness Convention. However, it signed but has not ratified the 1954 Statelessness Convention. Colombia nonetheless, considers the 1954 Convention applicable to issues of statelessness at national level.

- **Non-automatic and discretionary naturalisation procedure:** children born to non-citizens who are unable to transmit their own nationality can, in theory, acquire Colombian nationality. Complications arise in the implementation of the law, which requires that the Colombian-born child's parents prove that they are unable to transmit their nationality to their child.
- **Lack of institutional capacity and discrimination:** Access to civil registry services, especially to those populations living in remote areas or who have fled their homes and are internally displaced, continues to pose problems. Of particular concern is discrimination against indigenous people and Afro-Colombians in the registration processes and in accessing documents.
- **Lack of a statelessness determination procedure:** Colombia does not have a statelessness determination procedure in place.

<sup>7</sup> International Court of Justice, Land and Maritime Boundary between Cameroon and Nigeria, Cameroon v. Nigeria, 10 October 2002.

<sup>8</sup> For the Institute's full UPR submission on Canada, see: [http://www.institutesi.org/UPR30\\_Canada.pdf](http://www.institutesi.org/UPR30_Canada.pdf)

<sup>9</sup> As of June, guidelines are set in place on proof of statelessness, including what documentation and correspondence serves as evidence. However, this is not the same as a statelessness determination procedure.

<sup>10</sup> Statistics Canada, Immigration and Refugee Board of Canada (IRB), Immigration, Refugees and Citizenship Canada (IRCC), and Canada Border Services Agency (CBSA).

<sup>11</sup> For the Institute's full UPR submission on Colombia, see: [http://www.institutesi.org/UPR30\\_Colombia.pdf](http://www.institutesi.org/UPR30_Colombia.pdf)

*Proposed Recommendations:*

1. Ensure that all children born in the territory of Colombia, or to Colombian parents, are guaranteed their right to a nationality without discrimination. Allow for automatic acquisition of Colombian nationality for all children born in Colombia who would otherwise be stateless.
2. Fully promote, respect, protect and fulfil its obligations towards stateless persons under international human rights law.
3. Accede to and fully implement the 1954 Convention relating to the Status of Stateless Persons.
4. Establish a statelessness determination procedure, in line with international law and UNHCR Guidelines, and ensure that the definition of statelessness in national legislation is in accordance with international standards.
5. Ensure universal and immediate access to birth registration with a special emphasis eradicating discrimination and other barriers to access faced by vulnerable populations.
6. Collect and make publicly available reliable, disaggregated data on statelessness.

## **Cuba**

Cuba has not acceded to the 1954 and 1961 Statelessness Conventions. One of the biggest concerns is that no safeguards exist for otherwise stateless children born abroad to a Cuban parent(s). Such children do not automatically acquire the parent's nationality and have to meet strict conditions.<sup>12</sup> However, requirements for registration in Cuban territory and a three-month residency requirement were eliminated through a new decree enacted on 30 December 2017.<sup>13</sup> This is a significant step forward, but it is yet to be seen how this policy will be implemented.

*Proposed Recommendations:*

1. Accede to and fully implement the 1954 and 1961 Statelessness Conventions.
2. Ensure the right to nationality of all otherwise stateless children, in particular the right to a nationality for children born abroad to Cuban parents.
3. Collect and make publicly available reliable, disaggregated data on statelessness.

## **Djibouti**

Djibouti is not party to the 1954 or 1961 statelessness conventions. There is little known about the issue of statelessness in the country. Risks of statelessness exist as large groups of (stateless) irregular migrants are resident in Djibouti.

*Proposed Recommendations:*

1. Accede to and fully implement both the 1954 and 1961 Statelessness Conventions.
2. Conduct and make publicly available, mapping studies and data collection on statelessness in the country.
3. Ensure birth registration for all, including children born to irregular migrants.

## **Germany<sup>14</sup>**

Germany is party to both the 1954 and 1961 Statelessness Conventions, as well as the core human rights treaties that include provisions on nationality and statelessness.

- There is no dedicated **Statelessness Determination Procedure** in Germany to identify and protect stateless persons. There are administrative procedures that cover stateless persons, but which do not grant protection in line with international law.
- **Segregated data** – Data on statelessness in Germany is held by different institutions. This makes it difficult to determine the scale of the issue in Germany and to monitor whether the country is complying with its international obligations to protect stateless persons and prevent and reduce statelessness.
- **Birth registration** - There is evidence that new-born children of refugee parents living in initial reception facilities and emergency shelters in the country are not receiving birth certificates. Though birth registration is not synonymous to statelessness, it is fundamental to acquiring a nationality and preventing statelessness. A further major barrier to birth registration for undocumented or irregular migrants is the requirement of civil registry officials to communicate the identification of such persons to the immigration authorities. Many undocumented migrants therefore fear contacting birth registry officials due to their insecure immigration status.

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<sup>12</sup> See for instance, Manby, People without a country: the state of statelessness, American Bar Association, volume 17 issues 3, <https://www.americanbar.org/publications/insights-on-law-and-society/2017/spring2017/people-without-a-country.html>.

<sup>13</sup> Decreto Ley No. 352 de 30 de diciembre de 2017.

<sup>14</sup> For the Institute's full UPR submission on Germany, see: [http://www.institutesi.org/UPR30\\_Germany.pdf](http://www.institutesi.org/UPR30_Germany.pdf)

*Proposed Recommendations:*

1. Gather and make publicly available comprehensive national data to improve the protection of stateless persons in the country and facilitate the monitoring of its international obligations in relation to statelessness.
2. Put in place a dedicated statelessness determination procedure at federal level that meets international standards, good practice and procedural safeguards as outlined in UNHCR's Handbook on Protection of Stateless Persons.
3. Take urgent steps to guarantee the right of every child born on its territory to be registered, irrespective of the status of its parents, including by registering the names of both parents on a birth certificate and removing the obligation on registry officials to communicate the presence of irregular migrants to immigration authorities.
4. Ensure that the right of every child to acquire a nationality, as set out in CRC Article 7 is respected, and that all – otherwise stateless – children born in Germany, irrespective of the legal status of their parents, are granted German citizenship.

## **Russia<sup>15</sup>**

The Russian Federation is party to core UN human rights treaties, but is yet to ratify the 1954 and 1961 UN Statelessness Conventions, or the Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession (2006). Russia has signed but not ratified the European Convention on Nationality (1997).

- **The lack of an effective regularisation procedure for stateless persons in Russia** - In theory, stateless persons who either entered Russia before 1 November 2002 or received a 'wrong' passport before 1 July 2002 (i.e. that was later to be found illegal, despite having followed legal processes) can apply for a legalisation, and a facilitated procedure to acquire Russian nationality. In reality stateless persons encounter difficulties due to authorities not carrying out the procedure to establish a person's identity or prolonging this procedure for an indeterminate period. Further, stateless ex-USSR citizens who arrived in Russia after 1 November 2002 are not eligible to initiate the legalisation procedure. There is no other effective regularisation procedure, leaving them with no pathway to nationality.
- **The expulsion and detention of stateless persons** - Stateless persons are considered 'foreign nationals' who are illegally residing in the country. They are subject to expulsion/deportation, even if they cannot be deported or expelled to another country due to their stateless status. Their detention is thus arbitrary under international law.
- **The status of children born to stateless persons** - Children born in Russia to stateless parents are likely to inherit their parent's statelessness due to the lack of safeguards against statelessness for children born in the territory. They are subsequently deprived other fundamental rights such as healthcare and education.
- **Risks of statelessness among prisoners and released prisoners** - Risks of statelessness exist among (ex-)prisoners who are former Soviet citizens and are currently stateless. Some were imprisoned before the breakup of the Soviet Union and released in independent states where the law does not allow people with criminal records to become citizens. Others were already stateless without valid identity documents when they were imprisoned. Both groups have very little chance of obtaining legal status pursuant to national law. Concerns exist that stateless people will be detained until (forced) expulsion.
- **Deprivation of nationality** - In 2017, a Bill was signed which made it possible to strip citizenship of naturalised Russians convicted of extremist and terrorism-related crimes if they are guaranteed another nationality. Risks of statelessness exist as such a guarantee is not synonymous with actually having another nationality. The likelihood of receiving a new citizenship once convicted as a terrorist is low.

*Proposed Recommendations:*

1. Fully promote, respect, protect and fulfil its obligations towards stateless persons under international Human Rights law.
2. Accede to and fully implement the Convention relating to the Status of Stateless Persons (1954), the Convention on the Reduction of Statelessness (1961), and the Council of Europe Convention on the avoidance of statelessness in relation to State succession (2006); and ratify the European Convention on Nationality (1997).
3. Create an effective procedure to grant legal status and nationality to stateless persons.
4. Ensure the right of every child to acquire a nationality, as enshrined under CRC Article 7.
5. Prohibit the practices of separating families, and expelling children separately from their parents. Also, while deportation proceedings are carried, ensure that at all times and in all decisions the principle of the best interests of the child is upheld.
6. Grant legal stay and work rights to all persons who are released from detention centres without being removed. In the case of stateless persons, grant them legal stay, documentation and rights in line with the 1954 Convention.
7. Review the provisions for the deprivation of nationality of naturalised Russian citizens, taking into consideration that deprivation of nationality is not an appropriate punishment, and ensuring at the very least, that no person is made stateless as a result.

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<sup>15</sup> For the Institute's full UPR submission on Russia, see: [http://www.institutesi.org/UPR30\\_Russia.pdf](http://www.institutesi.org/UPR30_Russia.pdf)

## **Turkmenistan**

The situation of statelessness is not comprehensively mapped in Turkmenistan. However, according to UNHCR statistics, there are 5,744 recorded stateless persons in the country. Concerns exist of statelessness in the aftermath of state succession. After the dissolution of the Soviet Union in 1991, large numbers of people were rendered stateless in successor states across Central Asia, including Turkmenistan.

### *Proposed Recommendations:*

1. Accede to and fully implement the 1954 and 1961 Statelessness Conventions.
2. Ensure the right to a nationality for former USSR citizens in born or residing in the country.
3. Conduct and make publicly available, mapping studies and data collection on all stateless persons in the country.

## **Uzbekistan**

There is a reportedly large stateless population in Uzbekistan. According to UNHCR statistics, there were 86,703 stateless persons in the country at the beginning of 2016 and 86,524 by the end of the year. This corresponds to the number of permanent resident stateless persons reported by Uzbekistan to the Committee on the Elimination of Racial Discrimination in 2010. However, it is not clear how many additional 'non-permanent resident' stateless persons live in the country. Previous estimates by the Ministry of the Interior and Refugees International had placed the full population at over 500,000.

There are significant concerns relating to failure of the state to prevent statelessness in the aftermath of the dissolution of the Soviet Union. Furthermore, the country is not party to either of the statelessness conventions.

### *Proposed Recommendations:*

1. Accede to and fully implement the 1954 and 1961 Statelessness Conventions.
2. Ensure the right to a nationality for former USSR citizens in born or residing in the country.
3. Conduct and make publicly available, mapping studies and data collection on all stateless persons in the country.

## **Cape Verde and Tuvalu**

Both Cape Verde and Tuvalu have not signed the 1954 and 1961 Statelessness Conventions. Also, there is a lack of data on statelessness in both countries.

### *Proposed Recommendations:*

1. Accede to and fully implement the 1954 and 1961 Statelessness Conventions.
2. Collect and make publicly available reliable data on statelessness.