

*The Institute on Statelessness and Inclusion (the Institute) is an independent, non-profit organisation dedicated to promoting an integrated, human rights based response to the injustice of statelessness and exclusion globally. Participation in the Universal Periodic Review (UPR) process is central to the human rights strategy of the Institute, and this document highlights the statelessness related challenges in the countries that will be reviewed at the Human Rights Council during the 26<sup>th</sup> Session of the UPR: Haiti, Iceland, Lithuania, Republic of Moldova, South Sudan, Syrian Arab Republic, Timor-Leste, Togo, Uganda, Venezuela (Bolivarian Republic of) and Zimbabwe. These challenges include: **the right of every child to acquire a nationality, the right of every woman to acquire, retain and transfer nationality on an equal basis with men, and the obligation of states to identify and protect stateless persons.** All states are urged to draw on this document when formulating recommendations to states under review. Besides this summary sheet the Institute has also made a submission (with the Global Campaign for Equal Nationality Rights) on statelessness in the [Syrian Arab Republic](#).*

## Haiti

Haiti is not a party to the 1954 Convention relating to the Status of Stateless Persons (1954 Convention) or the 1961 Convention on the Reduction of Statelessness (1961 Convention) and rejected recommendations to accede to these treaties in the first UPR cycle. A general recommendation on providing greater protection to vulnerable groups including stateless persons was accepted. A number of weaknesses in the civil registration system mean that not all children are registered at birth or have access to birth certificates, in particular in rural and remote areas. A draft nationality law which would help prevent statelessness by including safeguards to prevent statelessness and recognises the status of stateless persons has not yet been adopted. The draft Child Protection Code does not include provisions on the prevention of statelessness.

### *Recommendations*

1. Ensure that all children have access to birth registration and are issued with birth certificates as soon as possible after birth, including through the use of mobile birth registration teams to reach remote areas, as obligated under the CRC and recommended by its Committee.
2. Adopt as soon as possible the draft nationality law ensuring that it is fully in line with international standards – including those in the CRC - on the prevention of statelessness and the protection of stateless persons.
3. Accede to and take all necessary steps to implement the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

## Iceland

In the first UPR cycle Iceland accepted a recommendation from Slovakia to accede to the 1954 and 1961 Statelessness Conventions, but has not yet done so. The Icelandic Nationality Law can be further improved and brought fully in line with the principle of the best interests of the child, by granting Icelandic nationality at birth to all otherwise stateless child born in Iceland. At present, such children can acquire nationality only after the child has been resident in Iceland for three years. Icelandic law does not include a definition of a stateless person and Iceland does not have a designated statelessness determination procedure which would enable the identification and protection of stateless persons.

### *Recommendations:*

1. Accede to and take all necessary steps to implement the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, as accepted in the first UPR cycle.
2. Revise the nationality law to ensure that a child born in Iceland who does not acquire another nationality at birth is able to immediately acquire Icelandic nationality.
3. Introduce a definition of a 'stateless person' into Icelandic law in line with the 1954 Convention relating to the Status of Stateless Persons
4. Establish a statelessness determination procedure.

## Lithuania

Lithuania is a party to the 1954 and 1961 Statelessness Conventions, but not to the European Convention on Nationality. The Lithuanian Nationality Law provides that otherwise stateless children born in Lithuania only acquire nationality if their parents are permanent residents, which does not fully align with the provisions of the 1961 Convention or the CRC. The law does not include safeguards against statelessness when an individual is deprived of nationality and does not include provisions on facilitated naturalisation for stateless persons (1954 Convention, Art. 32). Roma in Lithuania face difficulties in accessing birth registration and identity documentation, which may also affect their ability to prove their right to Lithuanian nationality.

*Recommendations:*

1. Amend the nationality law to enable all children who would otherwise be stateless born in Lithuania to acquire Lithuanian nationality irrespective of their parents' residence status as recommended by CEDAW.
2. Provide for facilitated naturalisation of stateless persons.
3. Ensure free, universal birth registration and access to identity documentation, including for the Roma and implement CERD's recommendations on this subject.
4. Ratify, without reservation, the European Convention on Nationality.

## **Republic of Moldova**

Moldova has ratified the 1954 and 1961 Statelessness Conventions as well as the European Convention on Nationality. A recommendation from Mexico to 'work towards addressing statelessness and protecting the rights of stateless persons' was accepted in the first cycle. Moldova's nationality law grants nationality to all children born in Moldova and therefore effectively protects against statelessness at birth and provides that foundlings are considered Moldovan citizens. Problems however remain with regard to access to naturalisation for stateless adults. In particular stateless persons must have been legally resident in Moldova for eight years before they can apply for naturalisation (while this is a shorter period than the ten years generally required before foreigners can apply for naturalisation it still represents a considerable delay before stateless persons are able to resolve their status through the acquisition of nationality).

*Recommendations:*

1. Take steps to facilitate the naturalisation of stateless persons resident in Moldova, in particular by further reducing the period of residence required before stateless persons can apply for naturalisation.

## **South Sudan**

South Sudan is not a party to the 1954 or 1961 Statelessness Conventions. Rates of birth registration in South Sudan remain low and as yet there are no official birth certificates, but only birth notifications. The low rate of birth registration and lack of official documentation may cause problems in proving the child's right to a nationality and obtaining other forms of documentation. The interaction between South Sudan's nationality law (which permits anyone whose one of whose parents, grand-parents or great-grandparents was born in South Sudan or is a member of one of the indigenous ethnic groups of South Sudan to claim South Sudanese nationality) and Sudan's law which proclaims that "An individual will automatically lose his Sudanese nationality if he has obtained, de jure or de facto, the nationality of South Sudan" has left many people with unclear nationality status and potentially at risk of statelessness or being assigned a nationality that does not correspond to their identity or the State with which they have the strongest connection.

*Recommendations:*

1. Take steps to promote universal, free birth registration and improve access to identity documentation for all.
2. Accede to and take all necessary steps to implement the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.
3. Work with Sudan to ensure that no-one is left stateless as a result of the succession of South Sudan and to find solutions which reflect the identity and choice of those concerned.

## **Syrian Arab Republic**

Syria is not a party to the 1954 or 1961 Statelessness Conventions. While Syria is a party to the International Convention on the Elimination of All Forms of Discrimination against Women, it maintains a reservation to Article 9(2) which provides for the equality of men and women with respect to the transmission of nationality to children.

**Gender Discrimination in Syria's Nationality Law:** Article 3(a) of the Syrian Nationality Law states that "anyone born inside or outside the country to a Syrian Arab father [...] shall be considered as Syrian Arabs *ipso facto*". Article 8 of this law further discriminates against Syrian women by denying them the right to transfer nationality to their spouse on an equal basis with Syrian men. These provisions are clearly gender discriminatory and contradict the 2012 Constitution of Syria, which stipulates that "Citizens shall be equal in rights and duties without discrimination among them on grounds of sex, origin, language, religion or creed". They also contravene Syria's obligations under international law, in particular CEDAW Art. 9, Convention on the Rights of the Child (CRC) Art. 7, and International Covenant on Civil and Political Rights (ICCPR) Art. 24.

In 2011 a bill amending the nationality law was presented to the new Parliament and a committee was formed to discuss it, but has not yet been put to a vote. This bill has not been made public, and therefore it has not been possible to assess its compliance with Syria's international obligations.

**Gender discrimination as a cause of statelessness in Syria:** Syrian nationality law does – on the face of it – provide a partial safeguard against statelessness. Article 3(b) of the Syrian Nationality Law (Legislative Decree 275 1969) provides an exception permitting women to transmit nationality to a child "whose legal family relationship to his father has not been established". Furthermore, Article 3(d) states that nationality will be granted to "anyone born in the country and was not, at the time of his birth, entitled to acquire a foreign nationality by virtue of his parentage". However, these exceptions do not remedy the gender

discriminatory nature of the law and as they are rarely implemented in practice, they also do not provide safeguards against statelessness. One of the fundamental consequences of the gender discrimination in Syria's nationality law is that it results in statelessness of children who cannot acquire their father's nationality. The inability to acquire nationality through the father could be due to a variety of reasons, for example, when the father is himself stateless, deceased, unwilling or unable to cooperate to take the required administrative steps. Significantly, gender discrimination in nationality laws can perpetuate statelessness across generations, as male children who are rendered stateless through this provision will go on to have their own stateless children who cannot access nationality even if their mother is a citizen. The danger of inter-generational statelessness is further exacerbated by the existence of other stateless populations in Syria as well as challenges related to registration, documentation and proof of identity. Consequently, gender discrimination in Syria's nationality law (in itself a violation of the State's commitments under CEDAW, ICCPR and CRC) results also in statelessness, in violation of Syria's obligations under the CRC and ICCPR to ensure the right to a nationality of every child, which entails ensuring that no child is born stateless.

**Impacts on those displaced as a result of the conflict:** The Syrian conflict has created over 9 million refugees and internally displaced persons. This forced displacement has increased the risk of statelessness as tens of thousands of Syrian fathers who are deceased, fighting, missing, imprisoned or displaced have not been present at the birth of their children. This makes it extremely difficult to establish a child's legal link to a Syrian father, heightening the risk of statelessness. Consequently, many children born both in exile and inside Syria have no proof of paternity. Lacking identity documents, these children face additional obstacles to movement inside the country, including obstacles in fleeing areas under siege. Furthermore, with some countries only permitting asylum seekers from Syria, Iraq and Afghanistan, Syrians with a legitimate claim to asylum may be unable to access this status. Furthermore those without proof of their Syrian nationality may not be able to return to Syria. The conflict has also resulted in an increase in customary marriages that have not been formalised by law, meaning paternity cannot be legally established even if the father is present. This may be due to administrative obstacles such as the inability of couples to access registration centres or the lack of awareness of how to register in host countries. Furthermore, there has been an increase in child marriages (including as a means for girls to acquire a legal status), which cannot be registered due to their illegality. In both circumstances the fact that the mothers are unable to transmit nationality to their children puts the children at risk of statelessness.

**Human Rights Impact:** The families of Syrian women, whose children are denied Syrian citizenship, continue to face significant hardships and human rights violations both inside and outside of the country. Inside Syria, families lacking nationality due to discrimination in the law are deprived of most forms of social security, with the exception of education and medical care. For instance, non-citizen children are not eligible to receive food subsidies. This can have severe consequences on the welfare and livelihoods of these children and their families as well as violating the rights of the children.

Adult stateless offspring of Syrian women are also subject to various challenges to their ability to access basic rights inside the country. They are, for example, subject to the labour regulations that apply to non-citizens, face restrictions in joining trade unions and in owning property.

#### *Recommendations:*

1. Reform Syria's laws, policies and practices so that they fully comply with its obligations under Article 9 CEDAW and withdraw the reservation to CEDAW Article 9(2).
2. Take immediate steps to amend or repeal all discriminatory provisions in the Syrian Nationality Act of 1969 that prevent women from acquiring, retaining and transferring citizenship on an equal basis with men.
3. Implement the recommendation of the CRC and present its new nationality bill before parliament, ensuring that this bill complies with Syria's obligations under the CEDAW, and eliminate all forms of gender discrimination in the nationality law.
4. Ensure effective implementation of the new law for those within and outside Syria and apply it retroactively to children already born to Syrian mothers.
5. Fully promote, respect, protect and fulfil its other obligations regarding the right to nationality under international human rights law. In particular, by ensuring that its nationality laws, policies and practices fully comply with Articles 2, 3, 7 and 8 of the CRC and Articles 24 and 26 of the ICCPR, as well as with the general principles of equality and non-discrimination enshrined in international treaties.
6. Take steps to ensure equal protection of the law to persons who have been denied nationality and rendered stateless as a result of gender and ethnic discrimination. This includes ensuring that such persons have equal rights and access in terms of social welfare, work, joining trade unions and inheritance.
7. Accede to and take all necessary steps to implement the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

## **Togo**

Togo is not a party to the 1954 or 1961 Statelessness Conventions. Under Article 3 of the Nationality Code Togolese women can only transmit nationality to their children where the father is unknown or stateless. The Nationality Code also discriminates against women with regard to the transmission of nationality to foreign spouses; the wife of a Togolese man automatically

acquires Togolese nationality while the husband of a Togolese woman must apply for naturalisation. Furthermore the nationality law states that a woman who acquires Togolese nationality by marriage to a Togolese man loses it if they divorce, although the Code of Persons and the Family provides that nationality rights acquired through marriage are not affected by divorce. Togolese law does not include a provision granting nationality to foundlings or children of unknown parents, putting them at risk of statelessness.

*Recommendations:*

1. Revise the nationality code to grant women the ability to transmit nationality to their children and spouses on an equal basis with men in all circumstances.
2. Amend the nationality law to include safeguards against statelessness in particular by providing that foundlings and children of unknown parents acquire Togolese nationality at birth.
3. Accede to and take all necessary steps to implement the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

## **Uganda**

Uganda 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 and rejected Slovakia's recommendation to accede to this Convention in the first cycle. The provisions on nationality in Uganda's constitution do not provide for the grant of nationality to otherwise stateless children born in the territory. This creates a risk of statelessness for children of stateless persons or of non-nationals who are unable to transmit their nationality to their children. Furthermore the Constitution provides two means of acquiring Ugandan nationality at birth by *jus soli* for "every person born in Uganda 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" or by birth within or outside Uganda to "every person born in or outside Uganda one of whose parents or grandparents was at the time of birth of that person a citizen of Uganda by birth". The limitation of *jus sanguinis* transmission of nationality to citizens by birth and of *jus soli* nationality to those belonging to specific indigenous communities creates the possibility that the children of naturalised citizens will be left stateless. The laws of Uganda do not protect against statelessness in the case of loss or deprivation of Ugandan nationality.

*Recommendations:*

1. Accede to and take all necessary steps to implement the 1961 Convention on the Reduction of Statelessness.
2. Introduce a provision granting nationality to all otherwise stateless children born in Uganda
3. Revise nationality laws to ensure that they do not discriminate against naturalised citizens in the transmission of nationality to children
4. Revise nationality laws to provide that an individual cannot lose or renounce their nationality if this would render them stateless.

## **Zimbabwe**

Zimbabwe 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 although Slovakia's first UPR cycle recommendation on this subject was accepted. The nationality law does not provide a safeguard whereby a child who would otherwise be stateless who is born in Zimbabwe acquires Zimbabwean nationality. There are reports of children of parents whose nationality is unknown being denied access to birth registration and children of migrant workers having difficulty accessing birth registration and nationality despite their families being established in Zimbabwe. In this context, although the Constitution was amended in 2013 to permit dual nationality, the nationality law itself has not been amended leading to some ambiguity about the laws to be applied.

*Recommendations:*

1. Amend the nationality laws to provide that any child born in Zimbabwe who would otherwise be stateless can acquire Zimbabwean nationality.
2. Bring the nationality law fully into accord with the constitution in particular by amending provisions on dual nationality.
3. Ensure universal, free birth registration for all children, irrespective of the nationality, origin or immigration status of the parents as recommended by the CRC.
4. Accede to and take all necessary steps to implement the 1961 Convention on the Reduction of Statelessness in line with the recommendation accepted during the first UPR cycle.

## **Other countries under review: Timor-Leste, Venezuela**

The Institute has no information on human rights challenges related to statelessness in these countries. However, neither are parties to the 1954 Convention Relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness. Venezuela rejected first cycle recommendation to accede to these treaties. Recommendations could be made to both States on accession to these treaties. Recommendations on ensuring access to birth registration and documentation for all might also be appropriate.