

The Institute on Statelessness and Inclusion (the Institute) is an independent non-profit organisation committed to addressing statelessness and disenfranchisement globally through the promotion of human rights, participation and inclusion. Engaging in the Universal Periodic Review (UPR) process is central to the Institute's human rights strategy. For the 23rd Session of the UPR, the Institute made a dedicated submission on Nepal. This additional document highlights the statelessness related human rights challenges in other states under review at the 23rd Session of the UPR. These include challenges related to: **the right of every child to acquire a nationality, the right of every women to acquire, retain and transfer nationality on an equal basis with men, the right of every person to not be arbitrarily deprived of their nationality, 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.

Australia

Australia's refugee reception and immigration detention policies have increasingly been subject to the criticism of national and international human rights actors. The offshore detention and processing of refugees and boat migrants, the interception of refugees at sea and the conducting status determination at sea and deciding to *refouler* refugees on that basis are among some of the concerns that have been brought to the attention of the Human Rights Council through the UPR. Such regressive policies and practices are detrimental to the human rights protection of all refugees and migrants, and stateless refugees fleeing persecution, such as the Rohingya of Myanmar have also been negatively impacted. Of particular concern, was the August 2015 news that stateless asylum seekers whose claims and appeals are rejected offshore, will be detained indefinitely in detention centres and correctional facilities outside Australia. Australia also is yet to implement a procedure to identify and protect stateless persons on its territory or subject to its jurisprudence.

Recommendations:

1. Reverse its policies of offshore processing and mandatory detention of refugees, stateless persons and migrants, and uphold all of its human rights obligations towards refugees, stateless persons and migrants, as entrenched in relevant UN Statelessness, Refugee and Human Rights Conventions that Australia is party to.
2. Establish a statelessness determination procedure and protection status to ensure that stateless persons are treated in accordance with their rights under the 1954 Convention relating to Status of Stateless Persons and international human rights law.

Austria

There are three key challenges to be addressed in the Austrian context:

1. *Discrimination in right to nationality between children born in and out of wedlock* – while Austria amended its nationality law in 2013 in light of the case of *Genovese v. Malta* (ECtHR, 2011), under the new Austrian law, if a child is born out of wedlock, he/she will only acquire Austrian nationality if the Austrian father recognizes the child *before birth or within 8 weeks thereafter*, limiting access to Austrian nationality for children born out of wedlock. Moreover, the amendment does not address access to nationality for children born *before* the changes entered into force.
2. *Right to nationality for stateless children born in the country* - Under the Austrian nationality law, children who are born stateless in the country are entitled to acquire Austrian nationality upon application between the ages of 18 and 20, subject to various conditions. This provision contravenes Austria's treaty obligations under the 1961 Convention on the Reduction of Statelessness (which states that the person concerned must be given *until at least age 21* to lodge an application), the European Convention on Nationality (which prescribes access to nationality after 5 years of residence) and the Convention on the Rights of the Child (which obligates states to ensure that all stateless children have access to nationality of the state in which they are born as soon as possible after birth, in accordance with the principle of best interests of the child).
3. *Statelessness determination and identity documentation* – Despite being party to the 1954 Statelessness Convention, Austria does not have a statelessness determination and protection procedure in place. Austria also maintains a reservation to article 27 of the 1954 Convention with respect to access to identity documents, restricting this right to stateless persons lawfully in the territory, and Austrian nationality law also does not grant facilitated access to naturalisation for stateless persons habitually residing in the territory whereas facilitated access is granted to refugees.

Recommendations:

1. Further reform the nationality legislation to ensure that, in accordance with CRC articles 2 & 7 and the *Genovese* ruling of the ECtHR, there is no discrimination in the right to acquire Austrian nationality between children born in and out of wedlock, including by providing access to nationality for children previously affected by such discrimination in the law.

2. Amend the safeguard which grants access to Austrian nationality for stateless children born in the territory to bring it in line with Austria's international obligations by ensuring that the application procedure is available as soon as the prescribed period of habitual residence has been met and remains available until the person is at least 21 years of age.
3. Establish a statelessness determination procedure and protection status to ensure that stateless persons are treated in accordance with their rights under the 1954 Convention relating to Status of Stateless Persons and international human rights law. Withdraw its reservation to article 27 of the 1954 Convention relating to the Status of Stateless Persons to enable all stateless persons in Austria to access identity documents if they are not in possession of a valid travel document and extend access to facilitated naturalisation to stateless persons on a par with refugees by reducing the residence requirements.

Georgia

Georgia is commended for recent progress made through accessions to the 1954 and 1961 Statelessness Conventions in December 2011 and July 2014 respectively, and through the establishment of a statelessness determination procedure in September 2014. However, under the Georgian nationality law, children who are born stateless in the territory are only entitled to Georgian nationality if *the parents are stateless and hold permanent residence*. By contrast, Georgia's obligations under the Convention on the Rights of the Child and the 1961 Convention on the Reduction of Statelessness require Georgia to ensure that *all* children born on the territory who would otherwise be stateless can acquire Georgian nationality, regardless of the nationality or statelessness status of the parents and without this right being contingent on the parents' residence status.

Recommendation:

1. Amend the safeguard which grants Georgian nationality to otherwise stateless children born in the territory to ensure that *all* children who would otherwise be stateless, regardless of the parents' own nationality or statelessness status or their residence status in the country, are protected.

Lebanon

Tens of thousands of people have been denied the right to a nationality in Lebanon for decades, living as stateless persons with limited access to rights and services. The main cause of statelessness in Lebanon has been the non-registration (and consequently recognition) of individuals at the moment of state formation and independence, and the non-provision since, of any avenue through which such persons and their descendants could access Lebanese nationality. The situation is further exacerbated by gender discrimination in the nationality law, which does not allow Lebanese women to acquire, retain or transfer nationality on an equal basis with men. The Committee on the Rights of the Child has addressed this issue, for example in 2006, recommending that Lebanon "*critically review its legislation... in order to ensure that also a Lebanese mother has the right to confer Lebanese citizenship to her children equally and without discrimination*" (CRC/C/LBN/CO/3). A further problem which requires urgent attention in the context of the Syria crisis, is the existence of a large refugee population in the country, and a complex civil registration system that is difficult for refugee families to navigate, leaving many children born in exile without proof of their birth and putting many more individuals in the Lebanese territory at risk of statelessness.

Recommendations:

1. Repeal the discriminatory provisions in the Lebanese nationality law, which prevents women from acquiring, retaining and transferring citizenship on an equal basis with men, to bring the law into compliance with international human rights standards, including CRC Article 7 and CEDAW Article 9, and ensure effective implementation of the law.
2. Ensure that birth registration procedures are simplified and universally implemented to facilitate the documentation of all children born in the territory, including the children of refugees, so they may be able to confirm their nationality, or if they are stateless, have access to nationality in compliance with Lebanese nationality law and the Convention on the Rights of the Child.
3. Accede to, and take all steps necessary to implement the 1954 and 1961 Statelessness Conventions, and remove its reservation to CEDAW Article 9(2).

Mauritania

The nationality law of Mauritania is gender discriminatory. While there are no barriers to Mauritanian men conferring their nationality on their children, if the child has been born abroad, Mauritanian women can only do so when the father is unknown or stateless. The children of Mauritanian mothers and foreign fathers who have been born abroad, are not considered to be Mauritanian.

Recommendations:

1. Repeal the discriminatory provisions in the Mauritanian nationality law, which prevents women from acquiring, retaining and transferring citizenship on an equal basis with men, to bring the law into compliance with international human rights standards, including CRC Article 7 and CEDAW Article 9, and ensure effective implementation of the law.
2. Accede to, and take all steps necessary to implement the 1954 and 1961 Statelessness Conventions.

Myanmar

The arbitrary deprivation of nationality, acute discrimination, exclusion and persecution of the Rohingya minority in Myanmar has been well documented, and brought to the attention of the Human Rights Council, both under this cycle of the UPR and the first cycle. The acute violence against the Rohingya in June 2012 and its aftermath of forced migration, segregation, deprivation of liberty, crack-down on expressions of identity and political participation of the Rohingya, has further deteriorated the already fragile human rights situation of Rohingya in the country. Myanmar's failure to protect the Rohingya undermines its claims of moving towards democracy and rule of law. There are also other minority groups in Myanmar, including those of Indian and Chinese origin, who were arbitrarily deprived of their nationality as a result of the discriminatory 1982 Citizenship Law.

Recommendations:

1. Comprehensively address the systematic and entrenched discrimination, exclusion and persecution of the Rohingya by state and non-state actors alike, and end the impunity with which atrocities continue to be committed against the Rohingya.
2. Repeal the discriminatory 1982 Citizenship law and recognise the unrestricted right to Burmese nationality of the Rohingya and other minority groups arbitrarily deprived of their nationality.
3. Accede to, and take all steps necessary to implement the 1954 and 1961 Statelessness Conventions.

Nauru

Nauru is one of the principle offshore processing and detaining centres for refugees, stateless persons and other migrants under Australia's international law contravening policy. The role Nauru is playing in this process, subjects it to the scrutiny of international law, and there are significant concerns regarding the arbitrary detention of refugees, migrants and stateless persons, poor detention conditions which fall below internationally accepted standards, and the lack of protection for refugees, stateless persons and other migrants. Nauru is also not party to both the 1954 and 1961 Statelessness Conventions.

Recommendations:

1. Cease to perform the role of offshore processing and detaining centre for refugees, stateless persons and migrants that Australia is obligated to protect under international law.
2. Cease the arbitrary detention of refugees, stateless persons and other migrants, and ensure that any detention that does take place, complies with international standards, including in relation to detention conditions.
3. Accede to, and take all steps necessary to implement the 1954 and 1961 Statelessness Conventions.

Oman

The nationality law of Oman is gender discriminatory. While there are no barriers to Omani men conferring their nationality on their children, Omani women can only confer nationality on their children if the father was Omani but became stateless, or if the father is unknown. The Committee on the Rights of the Child has addressed this issue, recommending that Oman *"taking into account the principle of the best interests of the child, ensure the respect of the right of all children to preserve her or his identity, including all elements which constitute the identity of the child such as nationality, name and family relations. The Committee urges the State party to review its Nationality Law in order to ensure that an Omani mother has the right to confer Omani citizenship to her children equally and without discrimination"* (CRC/C/OMN/CO/2). Women are also denied the right to confer their nationality to foreign spouses on an equal basis with men. Oman also maintains a reservation to Article 9(2) CEDAW.

Recommendations:

1. Repeal the discriminatory provisions in the Omani nationality law, which prevents women from acquiring, retaining and transferring citizenship on an equal basis with men, to bring the law into compliance with international human rights standards, including CRC Article 7 and CEDAW Article 9, and ensure effective implementation of the law.
2. Accede to, and take all steps necessary to implement the 1954 and 1961 Statelessness Conventions, and remove its reservation to CEDAW Article 9(2).

Other countries under review: Micronesia, Saint Kitts and Nevis, Saint Lucia and Sao Tome and Principe

While there do not appear to be significant human rights challenges related to statelessness in these countries, it is recommended that they all accede to, and take all steps necessary to implement the 1954 and 1961 Statelessness Conventions.

** No recommendations have been made in this summary sheet in relation to Rwanda, as the Institute does not possess adequate information relating to the right to a nationality and the protection of the human rights of stateless persons in the country.*

A separate one page summary sheet outlining the situation in **Nepal** and related recommendations is available at:

www.InstituteSI.org/UPRNepal_short.pdf

This summary sheet is also available online at: www.InstituteSI.org/UPR23.pdf