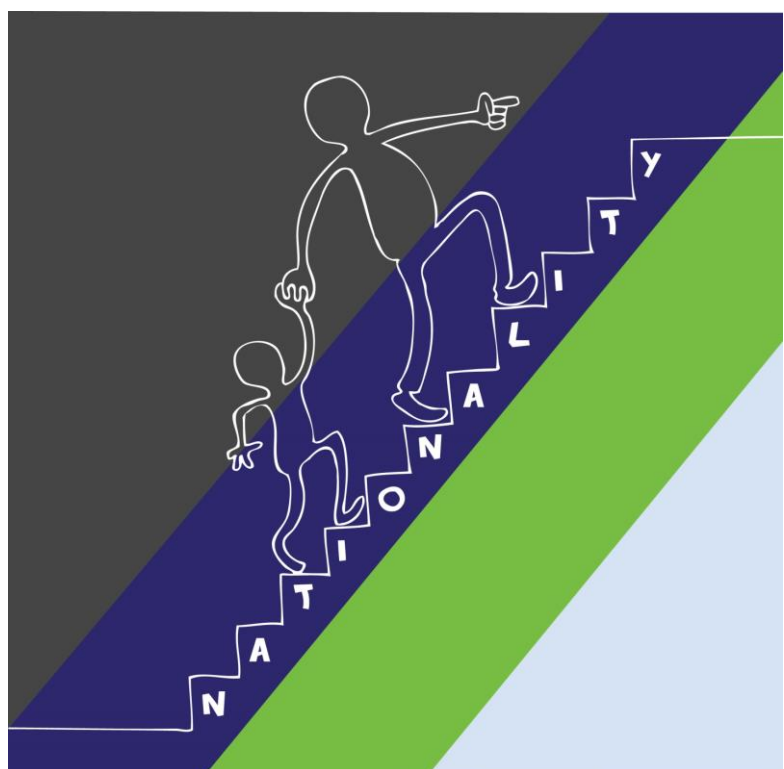


Addressing the Right to a Nationality through the Convention on the Rights of the Child

A Toolkit for Civil Society

Section 1: Introduction, including foreword by Benyam Dawit Mezmur, Chairperson of the CRC



Foreword

There is one thing that all adults all over the world have in common. We have all been children. Those first eighteen years of our lives in which we learnt the most, grew the most, imagined the most – our childhood years - formed us into the adults we have become. Childhood is finite, but its legacy lasts a lifetime, and the legacy of denial, disenfranchisement and disadvantage which often accompanies childhood statelessness is extremely difficult if not impossible to shake off. Ever.

Despite the language of the Convention on the Rights of the Child (CRC) being absolutely clear: the child *“shall have ... the right to acquire a nationality”*; this right has often been overlooked and sometimes poorly understood. But it is an incredibly important one. This is because the child’s right to acquire a nationality has a wider importance beyond the child’s identity - significant as this may be. It also serves as an enabling right through which the child’s access to and enjoyment of a range of other rights is strengthened, including education, healthcare, family life, an adequate standard of living, movement, liberty, equality and non-discrimination. Hence, realising every child’s right to a nationality is also essential to achieving many of the targets set out under the Sustainable Development Goals.



The Committee on the Rights of the Child, on which I serve, has been providing guidance on the scope and content of the child’s right to a nationality (and to be protected from statelessness) since the Convention came into force. Through many years of interpretation and application to real-life human rights challenges, the Committee has developed a rich body of jurisprudence, though inevitably there are gaps as new issues emerge and old issues remain unaddressed.

The Committee, which has a duty to be active and not activist in executing its supervisory role depends on a vibrant global civil society to provide it with the information it needs, to help ensure that every state fulfils its obligation to ensure every child’s right to acquire a nationality. This Toolkit is thus a timely and important new resource for civil society. It guides actors through both the issue and the process, and provides key information and helpful advice along the way. It is a useful, practical and accessible tool, no matter what the starting level of expertise of the user is.

The CRC provides a powerful framework through which gaps in law, policy and practice that continue to undermine children’s right to acquire a nationality and create statelessness can be identified, understood and addressed. We all have our own role to play in order to achieve this, and I have no doubt that this Toolkit will contribute to an increase in the quality, quantity and comprehensiveness of civil society submissions to the Committee on the child’s right to acquire a nationality; which in turn will enable the Committee to continue to raise this issue and make stronger, more consistent and better informed recommendations.

Benyam Dawit Mezmur
Chairperson, Committee on the Rights of the Child
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1. Introduction

The Institute on Statelessness and Inclusion has developed this Toolkit to assist civil society in its endeavours to effectively engage the Committee on the Rights of the Child to ensure that States fulfil their obligations under Article 7 of the Convention on the Rights of the Child to promote, respect and fulfil every child's right to acquire a nationality, and to ensure that no child is stateless.

The Toolkit comprises ten sections which can be read together or individually, depending on the reader's existing level of knowledge and interest. Each section serves a specific purpose, while also being part of a collection of Tools which provide civil society actors, including NGOs, National Human Rights Institutions and Ombudspersons with a wide range of information and advice.

Who is this Toolkit for?

The Convention on the Rights of the Child recognises the right of every child to acquire a nationality, yet millions of children are denied this right and face a life of statelessness. **This Toolkit is designed to help civil society organisations promote the fulfilment of the child's right to a nationality through leveraging the full potential of the CRC framework.** It offers an overview of the core challenges relating to childhood statelessness and how the CRC can support efforts to address these, as well as a step-by-step guide to effectively navigate relevant procedures. While not its primary focus, the Toolkit also looks at how challenges faced by stateless children in the enjoyment of their rights can be raised during the CRC monitoring and reporting process.

The Toolkit has two main audiences. Firstly, it aims to help civil society actors engaged in efforts to address statelessness to understand how the CRC can be used as an instrument in helping to prevent and reduce childhood statelessness and protect stateless children in their country or region. Secondly, the Toolkit aims to help civil society organisations working to promote the full enjoyment of child rights to better appreciate, identify and respond to problems relating to the realisation of the child's right to a nationality through their engagement with the CRC monitoring and reporting process. The content of this Toolkit may also be of interest to any civil society organisations operating in the broader field of human rights, as well as to other stakeholders involved in studying and/or promoting the fulfilment of child rights, including UN agencies, academics, legal practitioners, the media and government policy makers.

Why nationality?

Among child rights advocates, the right to a nationality has received relatively little attention. Nationality is a less tangible concept than, for example, education or protection from child labour. Childhood statelessness (the situation that arises when the right to a nationality has not been fulfilled) is also a largely invisible problem: it remains unidentified in many countries and there is very little data available on who is affected. Moreover, the very nature of statelessness as an extreme form of exclusion pushes stateless children to the very margins of society, from where it is very difficult to make their voices heard.

For all people, including children, nationality is a right that is of fundamental importance to well-being and the ability to lead a dignified life. Nationality acts as an 'enabling' or 'gateway' right, without which it is often impossible to exercise many other rights. Denying children a nationality can have a significant impact on all other child rights, including their access to education, healthcare, free movement and family life. Not

only is statelessness not in a child's best interests, but as long as children are denied the right to a nationality, this will obstruct the fulfilment of other child rights. Preventing and resolving childhood statelessness by ensuring the right of every child to a nationality is central to any holistic approach to the promotion, protection and fulfilment of child rights.

Why a child rights approach?

Statelessness is a global phenomenon, affecting millions of people of all ages, across all regions of the world. The problem is bigger than 'just' a child rights issue and a range of strategies must be adopted as part of an effective international response. However, there are a number of important reasons to adopt a child rights approach to statelessness, including through active engagement with the CRC framework.

As with any child rights issue, today's children cannot be made to wait for tomorrow's action or solutions. Childhood is finite: it lasts just 18 years. The failure to fulfil the right to a nationality is affecting the lives of millions of children right now, with tens of thousands more being born into statelessness every year. Childhood statelessness is a real and urgent issue that must be prioritised because with each year that a child spends without a nationality, the impact of statelessness on his or her life deepens.

Preventing childhood statelessness is also an important measure in halting the spread of statelessness in general. The greatest source of new cases of statelessness in any given year is the denial of the child's right to a nationality, in particular through the inheritance of statelessness from parent to child. While many situations of statelessness have become entrenched, making it difficult to achieve a wholesale remedy in the short term, taking measures to prevent new generations from being affected will contribute to at least managing such a situation and may help to pave the way to broader solutions in the longer term. It can also be easier to address cases of statelessness immediately at birth or during (early) childhood than to resolve them later in life. Children usually have clear and strong connections to just one or two countries – through place of birth and parentage – which should allow for a clear and uncomplicated pathway to nationality. The process of granting nationality to children also tends to be easier than acquisition of nationality as an adult – the latter of which often requires naturalisation, which can be subject to wide discretion and a range of conditions, some of which are particularly challenging for a stateless person to meet.

What can be found in the Toolkit?

The ten sections of this Toolkit provide the reader with the following:

- 1. Introduction:** The Introduction sets out the purpose and aims of the Toolkit. It also provides a basic introduction for its two key target audiences: Civil society actors working on statelessness and child rights organisations, on the importance and relevance of taking a child rights approach and addressing the right to a nationality respectively. The introduction also briefly summarises the contents of the Toolkit.
- 2. About the right of every child to a nationality:** This 'substantive' section of the Toolkit provides a more in-depth analysis of the scope and content of every child's right to a nationality. It explains childhood statelessness and its impact, sets out what international law can do to help prevent childhood statelessness and the key principles which inform the right of every child to a nationality. It also elaborates on why the CRC framework is so important.
- 3. About engaging with the Committee on the Rights of the Child:** This second 'substantive' section provides a closer look at the Committee, its mandate and its previous work to ensure every child's right to a nationality, including the recommendations it has made on the content/substance of the right and on general measures of implementation.

4. **The CRC reporting cycle and opportunities for civil society engagement:** This section provides an overview of the CRC reporting cycle – its different stages and the opportunities these each present for civil society engagement, the role that civil society actors can play in this process and relevant considerations for civil society actors in this regard.
5. **Checklist for identifying issues relating to the child’s right to a nationality:** This Checklist presents a group of questions to guide civil society stakeholders in the assessment of issues, legal gaps, and conditions in which statelessness may arise in countries being reviewed, in order to determine whether statelessness should be addressed within more globally thematic submissions presented before the CRC; or if the nature of the issues in the country under review warrants a specific and detailed submission focused on the performance of the State in respect to its obligations to guarantee the right to acquire a nationality and prevent statelessness under the CRC.
6. **Template for civil society submissions on the child’s right to nationality:** This Template sets out some general considerations for civil society actors to take into account when preparing a submission to the Committee. It then provides them with a model structure, proposing formatting and content of themes to guide civil society organizations in drafting submissions. It is important to note that this Template is merely for guidance and inspiration, and need not be strictly followed.
7. **Instructions for using the CRC Concluding Observations database on the child’s right to a nationality:** This user guide explains the wide variety of features available in the Institute’s *Analytical database of recommendations on the right to a nationality*. It provides instructions on how to make the most of this database to look up the information you require. It focuses on different sorts of queries that can be made by using various examples of data queries. Please note that these examples are only used to show different ways of retrieving information and aim to assist the user in finding patterns and combinations in the data available in this database.
8. **Relevant excerpts of other Treaties, Treaty Bodies and Special Procedures:** For ease of reference, this section collates for the reader, excerpts from other Treaties, Treaty Bodies and Special Procedures that relate to the child’s right to a nationality and the protection of stateless children.
9. **Resources and further reading:** For those interested to learn more, this final section of the Toolkit lists and provides links to other useful resources – both those published by the Institute and by other actors.
10. **Glossary and abbreviations:** This final section contains a list of all abbreviations used in this Toolkit as well as a glossary of key terms.

Complementing this Toolkit, is the Institute’s [Analytical database of recommendations on the right to a nationality](http://www.institutesi.org/ourwork/children.php). This database reproduces raw data of CRC concluding observations, without any further interpretations made by the Institute. It contains information on the content of the recommendations made by the Committee regarding children’s right to acquire a nationality and implementing measures that the Committee suggests on how a State can realise what has been recommended. With this database—which can, among others, be filtered by country, region, year, and theme—it is possible to easily and comprehensively research the Committee’s previous recommendations related to Article 7 CRC, for research, policy and advocacy purposes.

This Toolkit, the database and separate versions of the tools listed can be downloaded at: <http://www.institutesi.org/ourwork/children.php>.