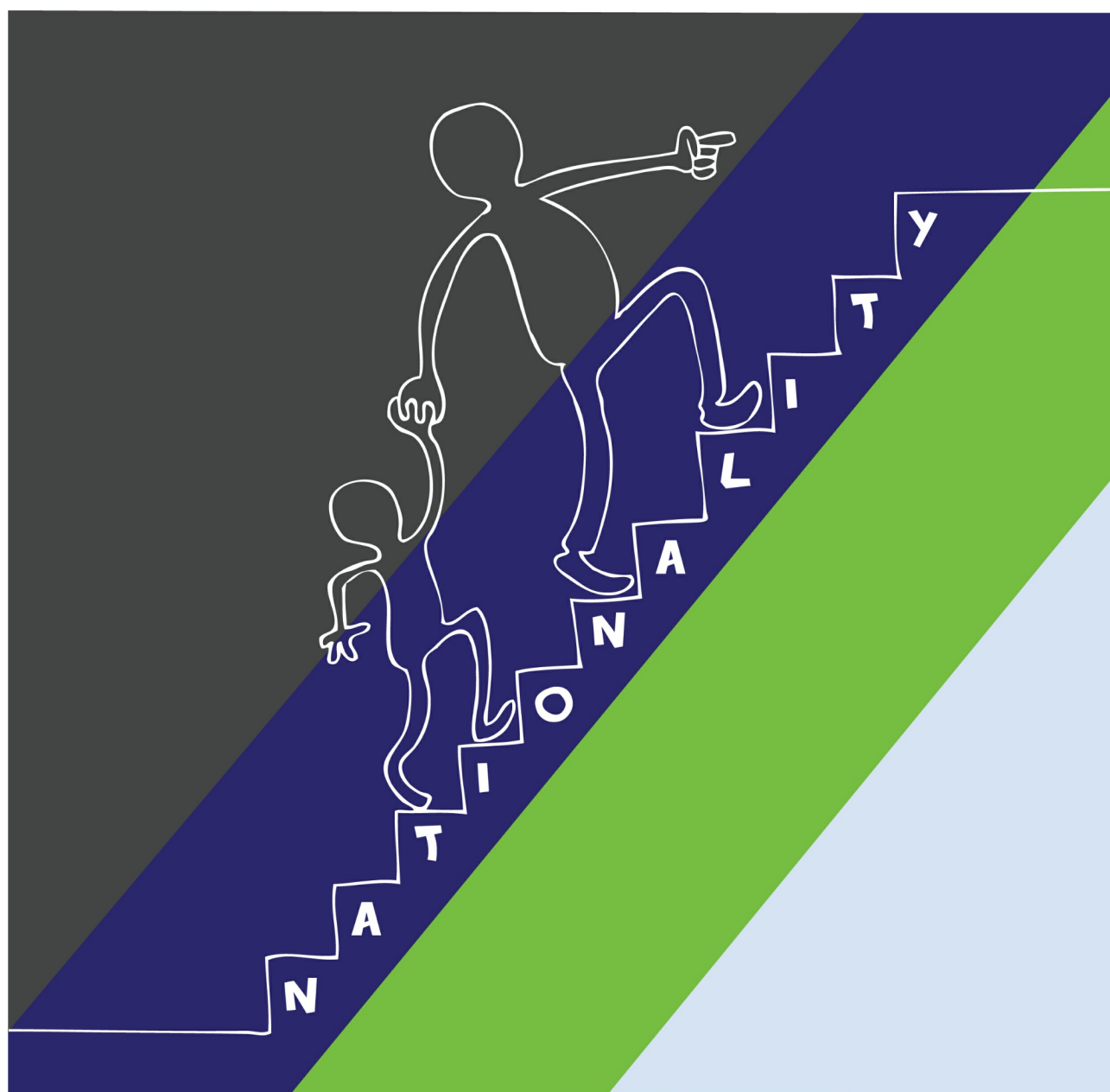


# Addressing the Right to a Nationality through the Convention on the Rights of the Child:

## A Toolkit for Civil Society



Institute on  
Statelessness and  
Inclusion



Access the complete Toolkit at  
[www.institutesi.org/children](http://www.institutesi.org/children)

# A Toolkit for civil society on the child's right to nationality

The Institute on Statelessness and Inclusion has developed a Toolkit for civil society on Addressing the Right to a Nationality through the Convention on the Rights of the Child (CRC) as part of its broader engagement in support of efforts to address childhood statelessness globally. It offers a collection of resources and tools which provide civil society actors – including NGOs, National Human Rights Institutions and Ombudspersons – with information and advice on how to promote the fulfilment of the child's right to a nationality through leveraging the full potential of the CRC framework.

**The Toolkit has two main objectives:**

1. To help civil society actors working on statelessness understand how the CRC can be used as an instrument in helping to address childhood statelessness in their country or region.
2. 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

**This brochure contains excerpts from the Toolkit and links to selected resources. The full Toolkit is available for download and as an interactive tool through the Institute's website. It is designed to be practical and flexible: each of its ten sections stands alone and can also be accessed separately.**

**The CRC - with 196 States Parties - is the most widely ratified international treaty through which civil society actors can address the right to a nationality and the prevention of statelessness.**

**Article 7 is clear and unambiguous in its affirmation of every child's right to acquire a nationality, and of every state's obligation to protect children from statelessness.**

**The Committee on the Rights of the Child works closely with civil society actors as well as State Parties and UN Agencies, in monitoring the implementation of the Convention. As such it is an extremely relevant and important framework through which to promote every child's right to acquire a nationality.**

**Preventing childhood statelessness is one of the central actions of UNHCR's #ibelong campaign, aimed at ending statelessness by 2024.**

**UNHCR's special report "I am here, I belong" highlights the impact of statelessness on children.**



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# Why every child needs a nationality

Nationality is an important aspect of a child's identity and serves as a 'gateway' right, facilitating children's access to and enjoyment of their other human rights. Although the CRC and other human rights treaties generally guarantee rights to all persons within the territory or jurisdiction of the State, in practice stateless children are often denied equal access to rights such as education, health care, free movement and family life. Many stateless children grow up in poverty and on the margins of society. The impact of their childhood disadvantage extends into adulthood and even to subsequent generations.

Statelessness is not in a child's best interests. Article 7 of the CRC obliges States Parties to realise every child's right to acquire a nationality (paragraph 1), and to ensure the implementation of this right, in particular where the child would otherwise be stateless (paragraph 2).

Addressing childhood statelessness is not only a basic obligation accepted by States in ratifying the CRC; it is also an essential step in ensuring all rights guaranteed by the CRC to all children within their territory or jurisdiction, and an important contribution to reducing statelessness generally by preventing new cases of statelessness occurring.

**From a young age, stateless children are aware of the disadvantage and discrimination they face.**

**"All my friends go to places and I could not go to them. I feel sad because I don't have ID and all my friends have ID... I don't like to be stateless because it's not fair"**

**9 year old Rama, in Lebanon**



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## The challenge of childhood statelessness

Despite the fact that the right to a nationality is affirmed by the CRC (which has near universal ratification), millions of children around the world are stateless, and over 70,000 children are born into statelessness each year. States set their own rules on who is a national, with certain limitations under international law, such as the prohibition of discrimination and arbitrariness. Statelessness mostly occurs when these limitations are disregarded in law or practice, and research shows there is often an element of discrimination underlying the statelessness of particular individuals or groups. The main causes of statelessness are:

- ✧ The inheritance of statelessness by new-borns, from their parents
- ✧ Gaps in and conflicts between nationality laws
- ✧ State succession and the legacy of colonisation
- ✧ Arbitrary deprivation of nationality
- ✧ Administrative barriers and lack of documentation proving links to a country

Childhood statelessness may have varied and sometimes complex causes, but it is an avoidable and resolvable problem. The CRC is an important mechanism through which the issue can be raised and addressed. Children will generally only have a strong connection to one or two States through place of birth and parentage – which should (in theory) allow for a clear and uncomplicated pathway to nationality.

**No child asks to be stateless. To be excluded from nationality has a significant impact on a child's sense of belonging and self-worth.**

**"I don't know, I can't explain the feeling because the feeling is like you are less than everyone. Less. I am still someone, but less".**

**A now 22-year old stateless woman from Ukraine who grew up without a nationality in the Netherlands.**



© Greg Constantine

NOTE: The QR codes contained in this brochure will direct you to additional resources online (videos, reports, websites). Scan the code with your smartphone or tablet.

# Checklist for identifying issues relating to the child's right to a nationality

The Institute's Toolkit offers a 10-point checklist to guide civil society stakeholders in the assessment of issues, legal gaps, and conditions in which statelessness may arise and manifest in countries under review, in order to determine if and how they would engage with the CRC Process. For each of the issues on the checklist, the Toolkit gives a brief description/guiding questions to help identify relevant problems, as well as some examples of relevant recommendations previously issued by the Committee. A much-condensed overview of this checklist is reproduced here.

## Scale of the problem and related data/statistics



### Is there a large habitually resident stateless population in the country?

23 countries have known non-refugee stateless populations of over 10,000. In many other countries, there are large but unquantified stateless populations. Inherited statelessness is a serious problem in most of these countries, with new-born children failing to acquire a nationality.



### Does the country host a large refugee or irregular migrant population that is stateless or at risk of statelessness?

Forced migration can cause statelessness and stateless refugees face added vulnerability. Particularly in countries without adequate safeguards against statelessness, statelessness in migration can be inherited by new generations.



### Does the state maintain systematic and disaggregated data on children's acquisition of nationality, birth registration and statelessness?

Childhood statelessness is a largely invisible problem: it remains unidentified in many countries and there is very little data available on who is affected. Better data is key to monitoring and improving the implementation of the right of every child to a nationality.

## The Legal framework



### Does the country's legal framework contain discriminatory provisions which arbitrarily deprive nationality or deny access to nationality?

27 countries discriminate against women in their ability to confer nationality to their children. Many countries discriminate in access to nationality on grounds of race, religion, disability etc. Discriminatory implementation of the law can also cause statelessness.



### Does the country's legal framework have adequate safeguards to protect all children born in the territory (including foundlings) from statelessness?

Some countries have no safeguards to protect against childhood statelessness. Others have partial safeguards, conditional on the fulfilment of unreasonable criteria. Even in countries with full safeguards, implementation can be discriminatory and/or ineffective.



### Are there other legal gaps affecting children's access to nationality?

In some countries, children born abroad to nationals do not have access to nationality. The law may also not protect against statelessness in the context of adoption or surrogacy, or allow for the deprivation or loss of nationality of children (including as a result of deprivation or loss of their parent's nationality).



### Is the State party to the most relevant treaties and has it removed any reservations that it made to these treaties?

The 1954 and 1961 Statelessness Conventions and other core human rights treaties with statelessness relevant provisions including CEDAW, CERD, CRPD and ICCPR, are all relevant. States may be party to these treaties but have declared reservations on provisions which relate to the right to a nationality and statelessness.



## State practice

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### Is there universal birth registration, which is free and accessible for all?

The majority of countries have not achieved universal birth registration. Minority, rural, poor, migrant and refugee communities are disproportionately impacted. The lack of birth registration and documentation is not the same as statelessness, but it heightens the risk of statelessness, in particular in a context of forced displacement or where a population's belonging is challenged.

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### Is there access to justice and a right to a remedy?

Statelessness can serve as a barrier to accessing justice, with stateless children being denied legal recourse and a fair remedy for rights violations, including the violation of their right to a nationality.

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### Do stateless children in the country benefit from the protection and enjoyment of other human rights enshrined in the CRC?

When a child is stateless, this can result in denial of (or disadvantage in) accessing a multitude of other fundamental rights including the rights to an identity, education, health, family life, adequate standard of living, freedom of movement and protection from economic exploitation.

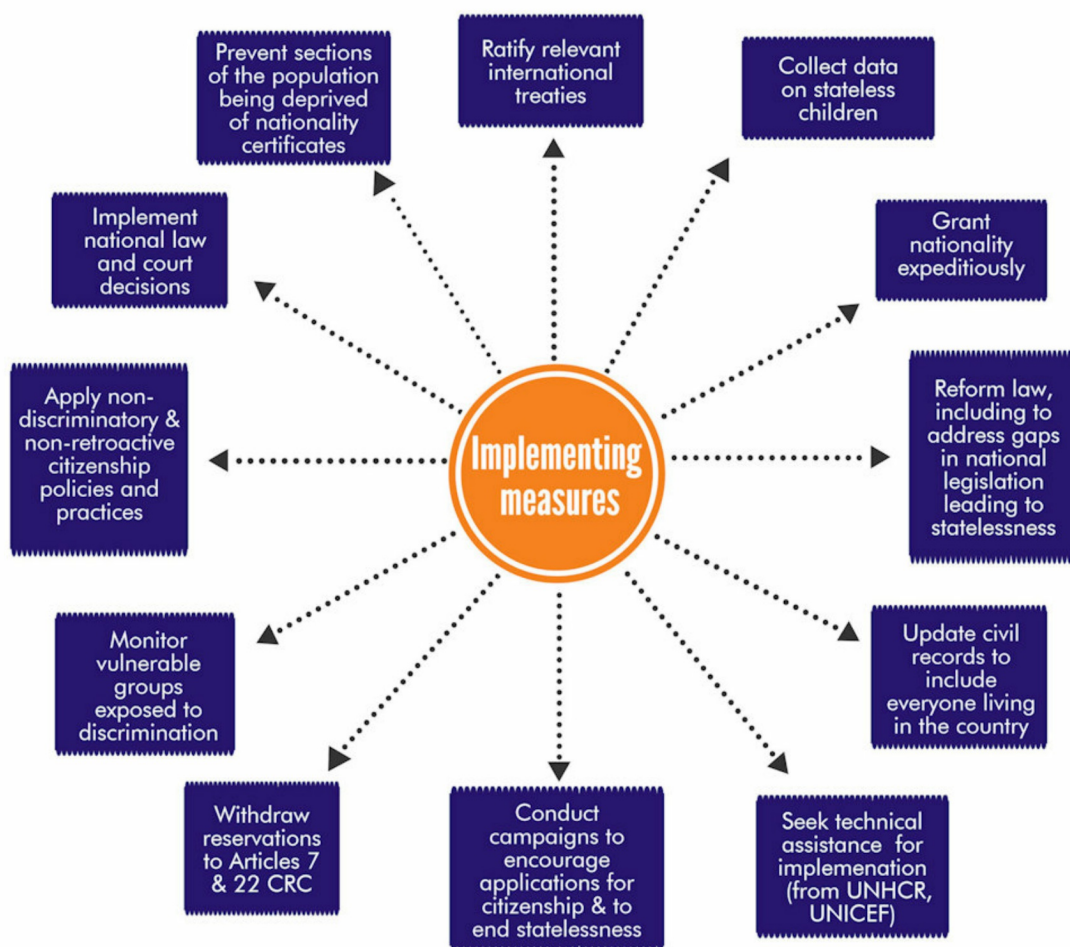
## Committee engagement on childhood statelessness

In the 23 years of Committee reviews of State Party reports (until mid-2016), the Committee issued 126 recommendations on the content of children's right to acquire a nationality. An additional 226 recommendations have been made on measures of implementation that states should take in order to improve the protection of children's right to acquire a nationality. In total, 89 different states have received relevant recommendations from the Committee.

In its substantive recommendations, the Committee has paid the greatest attention to addressing the obligation of states to grant nationality to children who are born stateless in their territory, to ensuring that access to nationality is non-discriminatory and to promoting universal birth registration as a means to help prevent childhood statelessness.

The most common implementing measure recommended has been the ratification and application of other relevant international standards, including the two UN statelessness conventions.

The Committee has also made recommendations regarding the treatment and rights of stateless children.



Explore the Committee's engagement by theme, country or region using the Institute's Analytical database of recommendations on the right to a nationality, in which all relevant CRC concluding observations can be found.



Available at [www.institutesi.org/children](http://www.institutesi.org/children)

# Addressing childhood statelessness through the CRC and its Committee

Through its Concluding Observations and General Comments, the Committee on the Rights of the Child contributes to the development of a broader understanding of the right to a nationality and the obligations of states with regard to the prevention of childhood statelessness. Recommendations made by the Committee provide authoritative guidance on the steps that must be taken to improve implementation of the CRC and consequently the situation of children. Such recommendations can help raise awareness of issues at the national level, guide states in addressing problems, and influence the recommendations made by other global, regional and national human rights bodies. The extent to which childhood statelessness is still a hidden issue makes recommendations from the Committee particularly valuable in drawing attention to the situation of children affected, both internationally and within states.

The Committee is composed of 18 members. While these independent experts collectively have a great depth of knowledge on child rights issues, it is impossible for them to be aware in detail of the situation of child rights in all 196 States Parties to the CRC. NGOs, NHRIs and other civil society actors who are working on the ground have this detailed information on the situation in their respective countries, as well as insights into the best ways to address problems in the national context. Their information can be a vital resource for the Committee on the Rights of the Child, providing a credible, independent perspective to complement the information provided by the state and other actors.

This Toolkit aims to assist civil society in its efforts to engage the Committee on the Rights of the Child to ensure that States fulfil their obligations under Article 7 of the CRC to promote, respect and fulfil every child's right to acquire a nationality, and to ensure that no child is left stateless.

"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 of the Committee  
on the Rights of the Child

Child Rights Connect's website **Engaging in the Reporting Cycle of the UN Committee on the Rights of the Child** offers a practical, step-by-step guide for civil society actors interested in commenting on state party reports, helping the Committee to identify issues, supporting the government in following-up on recommendations and providing information to the Committee on how its recommendations are being implemented.



The Institute on Statelessness and Inclusion is an independent non-profit organisation committed to promoting the human rights of stateless persons and fostering inclusion to ultimately end statelessness. This Toolkit was produced as part of an ongoing project which aims to reduce childhood statelessness by strengthening the role and impact of the Convention on the Rights of the Child and its Committee in promoting the realisation of the right of every child to acquire a nationality. This Toolkit was produced with the financial support of Janivo Stichting. The Institute is grateful to Gihan de Chickera for the cover image and Saiful Huq Omi and Greg Constantine for the photographs in this brochure.

