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

**A Toolkit for Civil Society**

**Section 6:**

**Template for civil society submissions on the child’s right to nationality**

June 2016


# Template for civil society submissions on the child’s right to nationality

*The following template serves as a suggested model to help civil society stakeholders draft thematic submissions on the Article 7 “right to acquire a nationality”. This template serves as a guide, and it is not necessary for organisations to strictly follow it, rather to draw inspiration from it and adapt it to suit their context. This template is intentionally comprehensive so as to be as useful a tool as possible. Civil society actors should not feel that their submissions are required to be as comprehensive, and are encouraged to tailor their submissions according to their context and purpose.*

Points to be mindful of when drafting a submission

Certain aspects of drafting a submission for the CRC Committee require specific attention. The purpose, content, structure and format, and outcome are all important point to keep in mind when drafting a submission.

Purpose

What is the purpose of your submission? What situation/s do you want to highlight before the Committee? The Checklist (found in Section 5) is a useful tool to help determine this. Draft your submission in a way that highlights these issues.

Content

What content/information should you include in your submission? Be mindful of the Committee’s needs in preparing your submission – i.e., provide it with information and perspectives that it has not received from the State and other actors, so it is as well informed as possible. In particular:

* Refer to the State report and highlight any gaps, inaccuracies and counter-perspectives.
* Refer to previous relevant Concluding Observations and recommendations of the Committee as well as other human rights mechanisms, and comment on the State’s performance in this regard.
* Provide a balanced position based on reliable data, empirical research and your work in the field. Do not make unsubstantiated claims or engage in hate speech. These will undermine the credibility of your submission. Hence, where the State has performed well, it is important to record this.
* Draw the Committee’s attention to jurisprudence and relevant law and policy provisions. Quote the full provisions and if necessary, annex the relevant laws (or excerpts of them) to your submission.
* Include as many facts and statistical information and data in your submission as possible. Similarly, draw the Committee’s attention to the lack of statistical data.
* If it is possible to do so in a meaningful and protection-sensitive way, include the opinions and viewpoints of children.
* Strongly consider including case studies, testimonies and human stories to illustrate the issues being addressed by your submission.

Structure and format

Structure your submission in an easy to follow, and easy to refer to manner. Be mindful that the report will be referred to in a Committee setting, so numbering paragraphs will help Committee Members navigate it. Bearing in mind the purpose and intended outcome of your Submission, highlight key information in text boxes and bold text. In particular, highlight your suggested issues for the List of Issues and your suggested recommendations at the end of each relevant section.

Be mindful of practical considerations related to format and content, such as the maximum word limit (20,000 words) etc. For more information in this regard, visit this page of the Child Rights Connect mini-site: <http://crcreporting.childrightsconnect.org/convention-on-the-rights-of-the-child-alternative-report/>.

Outcome

Ultimately, you want your submission to achieve the following:

* Inform the Committee: of the situation and provide a different perspective to that of the State report.
* List of Issues: draw the Committee’s attention to information that is not available, so it may include questions related to this in the List of Issues to the State under review.
* Concluding Observations: Convince the Committee of the importance of addressing the issue in its Concluding Observations and provide the Committee with information and language that can inform this.
* **Recommendations on the content of children’s right to acquire a nationality:** Convince the Committee of the importance of making relevant content recommendations and provide the Committee with information and language that can inform this.
* **Recommendations on measures of implementation:** Convince the Committee of the importance of making relevant recommendations on measures of implementation and provide the Committee with information and language that can inform this.

**THE COMMITTEE ON THE RIGHTS OF THE CHILD**

**XXXX Pre-Sessional Working Group (DATE)**

**COUNTRY**

**Civil society submission on the right of every child to acquire a nationality under Article 7 CRC**

**DATE**

**Introduction**

1. This civil society submission by the **SUBMITTING ORGANISATION(S)[[1]](#footnote-1)** highlights problems in the realisation of the right of every child to acquire a nationality and the avoidance of childhood statelessness in **COUNTRY**.
	1. Enumerate any previous recommendations or Concluding Observation by [CRC](http://www.refworld.org/publisher/CRC.html),[[2]](#footnote-2) [CEDAW](http://www.refworld.org/publisher/CEDAW.html),[[3]](#footnote-3) [CERD](http://www.refworld.org/publisher/CERD.html),[[4]](#footnote-4) [CAT](http://www.refworld.org/publisher/CAT.html)[[5]](#footnote-5) or any other treaty body, Universal Periodic Review, UN Special Rapporteurs or regional and/or sub regional human rights mechanism.
	2. Highlight the importance of the eradication of statelessness as expressed by the UN High Commissioner for Refugees #IBelong campaign.[[6]](#footnote-6) If relevant, make reference to the Sustainable Development Goals (in particular, Goal 16.9).
	3. Highlight any international (if applicable), regional and domestic calls of concern on the issue.

The **SUBMITTING ORGANISATION(S)** hope the Committee will:

* Goal 1 (i.e. *Address recommendations to the Government of* ***COUNTRY*** *to further prevent and reduce the problem of childhood statelessness in the country*)
* Goal 2…
1. Description of sources and background material on which the content of the submission is based (for example, a consultation with affected children).
2. Briefly set out the work of the submitting organisations (show their credentials – experience, expertise, track record etc., and why their submission should be taken seriously).
3. Description on the content and thematic structure of the submission.

The report of COUNTRY to the Committee

1. In its combined [**ENNUMERATE PERIODIC REPORTS**] reports to the Committee, the Government of **COUNTRY** [describe content of statements, commitments, and existing domestic measures, policies and procedures reported by the State].[[7]](#footnote-7)
2. **UPDATE** on progress or developments, on the aforementioned, since the State report.
3. Highlight any **GAPS**/**INACCURACIES** in the State report, or any **COUNTER-PERSPECTIVES** you may have.
4. **Include suggestions for the List of Issues**

Statelessness in the COUNTRY

(The **Checklist** contained in **Section 5** will help identify statelessness issues in the country under review)

1. Brief summary of background of statelessness in the country. Referencing historical developments, legislative reform, and shifts in policies.
2. If available, provide data on stateless population in the country. Identify the different populations of concern that are either stateless or at risk of statelessness.
3. Describe the context and conditions that lead to childhood statelessness in the country.
4. If statelessness is not large in numbers or is not a result of historically rooted discrimination, but rather of technical issues in the interpretation or implementation of nationality laws and procedures, describe in detail what challenges or gaps exist.
5. Describe the consequences that statelessness, or lack of means to proof nationality, have on the enjoyment or full realisation of other rights under the CRC.
	1. Describe if the provision of services or rights is subject (in law or practice) to holding a birth certificates and/or national identification documents.
	2. Include a description of limitations or differentiated access to services, such as health and education (This might include access to specialised medical treatment, financial aid, subsidies or scholarships).
	3. Note if the Committee has highlighted these restrictions (including citation and reference).
6. Describe the challenges that remain with regard to children being stateless or at a risk of becoming stateless due to gaps that persist in legislation or in the implementation of norms. If any law reform is being discussed which would create statelessness, describe the problems that would arise in the implementation of this new law.
7. If applicable, describe how the status of parents (stateless, refugee, irregular migrant etc.) impacts the access to nationality or the enjoyment of rights for their children, particularly the right to health and education.
8. Detail any international or domestic pressure calling the country to address statelessness, and demonstrate if there has been any progress or if on the contrary there has been no political will to address this issue.
9. Enumerate the relevant international conventions the State is a party to, and include any reservations the State has entered that are of relevance to the issue of children’s right to a nationality. Including the [1954 and 1961 Statelessness Conventions](http://www.unhcr.org/pages/4a2535c3d.html)[[8]](#footnote-8), the [ICCPR](http://www.ohchr.org/EN/HRBodies/CCPR/Pages/CCPRIndex.aspx)[[9]](#footnote-9) and the optional protocols, the [ICESCR](http://www.ohchr.org/EN/HRBodies/CESCR/Pages/CESCRIndex.aspx)[[10]](#footnote-10), [CERD](http://www.ohchr.org/EN/HRBodies/CERD/Pages/CERDIndex.aspx)[[11]](#footnote-11), [CEDAW](http://www.ohchr.org/EN/HRBodies/CEDAW/Pages/CEDAWIndex.aspx)[[12]](#footnote-12), [CRPD](http://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx)[[13]](#footnote-13), and [CAT](http://www.ohchr.org/en/hrbodies/cat/pages/catindex.aspx).[[14]](#footnote-14) Highlight international and regional conventions relevant to statelessness to which the State is not a party to.
10. **Include suggestions for the List of Issues**

Positive developments

1. Describe any positive developments in the form of legislative reform or policy, and how it signifies progress and how, if at all, it has created an impact.

Enduring problems or possible issues that could arise and suggested questions for the State Party’s review

1. Using the **Analytical Database** of the Concluding Observations of the Committee on the Rights of the Child which relate to children's right to a nationality to establish if the Committee has directly addressed any of these challenges including the appropriate reference and analysis, to demonstrate how the problem persists. Use the database to determine if the Committee has addressed a similar issue when reviewing another country, include this reference, and explain how the situation is comparable and the Committee’s conclusions and recommendations applicable to the country under review.
2. Articles 2, 3, 6 and 12 of the CRC serve as **Guiding Principles** to assess if a country under review is complying with its obligations under different articles of the CRC.
* The State has a duty to respect and ensure the rights set forth in the Convention “*irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.*” (Art. 2).
* In all government action the best interests of the child shall be a primary consideration (Art. 3).
* The State must ensure the child such protection and care as is necessary for his or her well-being (Art. 3).
* All institutions, services and facilities of the State responsible for the care or protection of children shall conform to the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision (Art. 3).
* The State must protect every child’s right to life and ensure the survival and development of the child (Art. 6).
* The State should ensure the child’s right to express his or her views freely, and these views must be given due weight. In particular, the child should “*be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child*” (Art. 12).
1. Based on the assessment carried out through the use of the **Checklist** (**Section 5**), describe in detail, if any of the following issues highlighted in the checklist are relevant to the country under review (whenever possible, reference previous recommendations by the Committee).
2. **Include suggestions for the List of Issues**

**Access to other human rights under CRC provisions in relation to children’s right to acquire a nationality**

1. While focused on Article 7, the submission may also be an opportunity to raise questions and concerns regarding the enjoyment and protection of the rights of stateless children. The following is not a prescriptive nor exhaustive list of additional rights that may also be addressed through the submission:
	* + Non-discrimination (Article 2)
		+ Best interests of the child (Article 3)
		+ The right to an identity (Article 8)
		+ The right to education (Article 28)
		+ The right to the highest attainable standard of health (Article 24)
		+ The right to family life (Articles 7, 9, 10, 16 and 18)
		+ Freedom of movement (Article 10)
		+ The right to an adequate standard of living (Article 27)
		+ Protection from economic exploitation (Article 32)
		+ Child trafficking (Article 35)
		+ Freedom from torture, cruel, inhuman or degrading treatment or punishment (Article 37(a))
		+ Freedom from arbitrary deprivation of liberty (Article 37 (b))
2. **Include suggestions for the List of Issues**

Recommendations

1. Conclude your submission with proposed recommendations for the consideration of the Committee. There are two types of recommendation:
	1. Recommendations on General Measures of Implementation
	2. Recommendations on the content of Article 7 (or any other Article of the Convention your submission focuses on).
2. **General Measures of Implementation:** Support your submission by referencing any of the enumerated measures below, referenced by the Committee as “*General measure of implementation on the Convention on the Rights of the Child*” [(General Comment No. 5 (2003))](http://www.refworld.org/docid/4538834f11.html),[[15]](#footnote-15) which are not concerned to any specific right, but rather serve as a foundation for efforts to protect all the rights and principles as set forth in the Convention. States Parties to the CRC are required to develop these measures to fulfil the rights set out in the convention. Such measures have to do with “*making reality of the human rights of children*”.[[16]](#footnote-16) They are the “how” rather than the “what” in terms of States Parties’ obligations.
3. Mention if any of the following are relevant to the country under review, and how they could be useful to help overcome the challenges and issues detailed in the submission:
	* + Ensure that all children have access to nationality documentation and ensure that persons are not denied documentation on discriminatory grounds.
		+ Accede to relevant international treaties (the 1954 and 1961 Statelessness Conventions, 1951 Refugee Convention, CEDAW, CERD, CRPD and ICCPR) and remove reservations to relevant provisions of treaties that the State is party to.
		+ Collect and present data and statistics on stateless children, access to birth registration and documentation, implementation of the nationality law, etc.
		+ Grant nationality expeditiously to those who have been wrongfully denied nationality due to the discriminatory implementation of the law.
		+ Reform existing law and policy to remove discriminatory provisions, enhance safeguards against statelessness and address any gaps in national legislation that undermine the child’s right to acquire a nationality under Article 7 CRC.
		+ Update civil records and registries to include everyone living in the country.
		+ Seek technical assistance for the implementation of birth registration and of nationality laws, from UN agencies including UNHCR and UNICEF.
		+ Conduct campaigns to encourage universal birth registration and applications for nationality documentation to end statelessness, including for children of refugees, foreigners, stateless persons and single mothers.
		+ Monitor vulnerable groups exposed to discrimination in accessing nationality for their children, in particular, single mothers, refugees, foreigners, stateless persons and ethnic minorities.
		+ Ensure widespread and non-discriminatory implementation of national law and of court decisions.
		+ Allocate resources to ensure the right of all children born on the territory to acquire a nationality is respected, promoted and fulfilled.
		+ Cooperate with civil society to ensure full effectiveness of State policy and practice.
		+ Enhance international cooperation in efforts to ensure every child’s right to a nationality, including through supporting and cooperating with the UNHCR Campaign to End Statelessness and the Global Campaign for Equal Nationality Rights and including targets in its National Action Plan under the Sustainable Development Goals related to the achievement of universal birth registration and legal identity for all.
4. **Recommendations on the content of Article 7:** Based on the content of this submission, the following recommendations are made which we hope the Committee will consider in urging the Government of COUNTRY to ensure the right of every child to acquire a nationality and to solve statelessness:
5. You may wish to make recommendations on any of the focal areas of your submission. The following are **examples of possible recommendations**:
6. **Ensure that national laws, regulations and policies are in line with COUNTRY obligations under international law to ensure the right of every child to acquire a nationality, and to prevent childhood statelessness. In particular, guarantee the right to acquire a nationality for all otherwise stateless children born in COUNTRY, regardless of the parents’ nationality or statelessness, or of their legal status.**
7. **Amend legislation that creates barriers to accessing birth registration. In particular, the legal status of the parent should not determine whether a child’s birth can be registered or not, nor should the imposition of a short time limit for birth registration. Furthermore, the birth registration of foundling children must be clarified and implemented.**
8. **Implement information campaigns and other measures to disseminate information about legislative reform and how to access nationality under new frameworks.**
9. **Address the current gap in the law which allows particularly vulnerable children who are stateless or at risk of statelessness, to reach adulthood without having accessed COUNTRY nationality.**
10. **Take further measures to reduce and ultimately eradicate cases of statelessness, particularly among children, including through retroactive implementation of safeguards to provide a nationality to stateless children born on the territory, and through ensuring that loss, deprivation or renunciation of the parent’s nationality does not result in deprivation of the child’s nationality.**
11. **Accede to the 1954 Convention Relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness and OTHER RELEVANT TREATIES (see Section 9 of the Toolkit), and remove reservations to relevant provisions.**
1. HYPERLINK TO ORGANISATION [↑](#footnote-ref-1)
2. Available at: <http://www.refworld.org/publisher/CRC.html>. [↑](#footnote-ref-2)
3. Available at: <http://www.refworld.org/publisher/CEDAW.html>. [↑](#footnote-ref-3)
4. Available at: <http://www.refworld.org/publisher/CERD.html>. [↑](#footnote-ref-4)
5. Available at: <http://www.refworld.org/publisher/CAT.html>. [↑](#footnote-ref-5)
6. The UNHCR #IBelong campaign aims to eradicate statelessness by the year 2024, see further: <http://www.unhcr.org/ibelong/>. [↑](#footnote-ref-6)
7. ADD REFERENCE AND CITATION [↑](#footnote-ref-7)
8. Available at: <http://www.unhcr.org/pages/4a2535c3d.html>. [↑](#footnote-ref-8)
9. Available at: <http://www.ohchr.org/EN/HRBodies/CCPR/Pages/CCPRIndex.aspx>. [↑](#footnote-ref-9)
10. Available at: <http://www.ohchr.org/EN/HRBodies/CESCR/Pages/CESCRIndex.aspx>. [↑](#footnote-ref-10)
11. Available at: <http://www.ohchr.org/EN/HRBodies/CERD/Pages/CERDIndex.aspx/>. [↑](#footnote-ref-11)
12. Available at: <http://www.ohchr.org/EN/HRBodies/CEDAW/Pages/CEDAWIndex.aspx>. [↑](#footnote-ref-12)
13. Available at: <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx>. [↑](#footnote-ref-13)
14. Available at: <http://www.ohchr.org/en/hrbodies/cat/pages/catindex.aspx>. [↑](#footnote-ref-14)
15. Available at: <http://www.refworld.org/docid/4538834f11.html>. [↑](#footnote-ref-15)
16. Ibid. [↑](#footnote-ref-16)