



CRC

CONVENTION ON THE RIGHTS OF THE CHILD

Quick Reference Guide

STATELESSNESS AND HUMAN RIGHTS TREATIES



Deborah has been going to school since she was six years old. But in two years, when she starts Year 6, she will have to present a birth certificate. If she does not obtain identity documents before then, she will no longer be able to go to school. © UNHCR/Arnaud Froger

This reference guide highlights key international human rights provisions found in the [CRC](#) that are directly relevant to preventing and reducing statelessness and protecting stateless persons. It is addressed to all stakeholders who may wish to use this international human rights instrument to improve the enjoyment of human rights by stateless persons and to resolve the problem, thereby helping to meet the goals of the [#IBelong Campaign to End Statelessness](#).

A **stateless person** is someone “who is not considered as a national by any State under the operation of its law,” according to the [1954 Convention Relating to the Status of Stateless Persons](#). The CRC has the most States parties of any human rights treaty and has achieved near universal ratification. It addresses statelessness through its provisions on non-discrimination (Article 2), the right of every child to acquire a nationality and to be registered at birth (Article 7), and the right of every child to preserve his or her identity (Article 8).

A number of **General Comments (GC)** of the **Committee on the Rights of the Child (Committee)** help to inform the meaning of these provisions when using them to address statelessness. In addition, the Committee has consistently recommended in its Concluding Observations that States parties review their legislation to ensure that nationality is granted to all children who are stateless or at risk of being stateless.

Prevention and Reduction of Statelessness and Protection of Stateless Persons

Article 7 (1):

“The child shall be **registered immediately after birth** and shall have the right from birth to a name, the **right to acquire a nationality...**”

Lack of any nationality has a profound impact on the ability of children to enjoy their basic rights, including rights to education, healthcare and freedom of movement. One of the most important safeguards to prevent statelessness is to ensure that nationality laws allow children born in the territory of a State to acquire the nationality of that State if they would otherwise be stateless. At least 29% of all States have no provision in their nationality laws to grant nationality to stateless children born on their territory or of unknown origin found on their territory (foundlings).

Birth registration is key to preventing statelessness. Birth registration proves where a person was born and who their parents are – key pieces of information needed to establish which country or countries nationality a child should acquire.

Laws that prevent children from acquiring nationality on an equal basis from either parent due to gender discrimination are also a major cause of childhood statelessness – see Article 2 below.

Article 7 (2):

“States Parties shall ensure the implementation of these rights... **in particular where the child would otherwise be stateless.**”

Safeguards in nationality laws are critical to preventing statelessness – see Article 7 (1) above.

- [GC No. 7: Implementing child rights in early childhood:](#)
“(…) As a first step in ensuring the rights to survival, development and access to quality services for all children (…), the Committee recommends that States parties take all necessary measures to ensure that all children are registered at birth.” (para. 25)
- [GC No. 9: The rights of children with disabilities:](#)
“The right to name and nationality, preservation of identity (…) are all universal civil rights and freedoms which must be respected, protected and promoted for all, including children with disabilities.” (para. 34)
- [GC No. 10: Children’s rights in juvenile justice:](#)
“(…) A child without a provable date of birth is extremely vulnerable to all kinds of abuse and injustice regarding the family, work, education and labour, particularly within the juvenile justice system. Every child must be provided with a birth certificate free of charge whenever he/she needs it to prove his/her age.” (para. 39)
- [GC No. 11: Indigenous children and their rights under the Convention:](#) “States parties are obliged to ensure that all children are registered immediately after birth and that they acquire a nationality. Birth registration should be free and universally accessible. The Committee is concerned that indigenous children, to a greater extent than non-indigenous children, remain without birth registration and at a higher risk of being stateless.” (para. 41)

Article 8 (1):

“States Parties undertake to respect the right of the child to preserve his or her identity, **including nationality**, name and family relations as recognized by law without unlawful interference.”

At least 20 States have nationality laws which permit loss or deprivation of nationality on discriminatory grounds.

- [GC No. 9: The rights of children with disabilities:](#)
(para. 34) – see above.
- [GC No. 14: The right of the child to have his or her best interests taken as a primary consideration:](#)
“The right of the child to preserve his or her identity is guaranteed by the Convention (art. 8) and must be respected and taken into consideration in the assessment of the child’s best interests.” (para. 55) Citizenship or nationality are forms of identity, especially legal identity. It is therefore in every child’s “best interests” to have, and be able to preserve, his or her nationality.

Article 2:

States must ensure the **protection of the rights of children “without discrimination of any kind**, 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.”

States must ensure that all children have the right to acquire a nationality and other rights without discrimination of any kind against the child or his or her parents. In more than 20 States, women are unable to confer nationality to their children on an equal basis as men. Gender inequality in nationality laws can create statelessness where children cannot acquire nationality from their fathers, where, for example, the father is stateless or the mother is not married.

- [GC No. 14: The right of the child to have his or her best interests taken as a primary consideration:](#) “The right to non-discrimination is not a passive obligation, prohibiting all forms of discrimination in the enjoyment of rights under the Convention, but also requires appropriate proactive measures taken by the State to ensure effective equal opportunities for all children to enjoy the rights under the Convention.” (para. 41) This means that States must take active measures to ensure that nationality laws do not discriminate on the basis of the gender of the child’s parents, and that the rights of stateless children are protected.
- [UN Secretary-General Report on the impact of the arbitrary deprivation of nationality on the enjoyment of the rights of children concerned:](#) “Where a child is precluded from obtaining a nationality on discriminatory grounds, this amounts to arbitrary deprivation of nationality.” (para. 8)

Article 12 (2):

“(…) the child shall in particular be provided the opportunity to **be heard in any judicial and administrative proceedings** affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.”

Stateless children often live on the margins of society, unseen and unheard. Frequently, they are denied legal standing and are often ignored in decision-making processes that affect their lives.

- [GC No. 12: The right of the child to be heard:](#)
“(…) attention is needed to ensure that stateless children are included in decision-making processes within the territories where they reside.” (para. 124)