

**OASIS INTERNATIONAL SCHOOL MODEL UNITED NATIONS**

Human Rights Council

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**Guiding package**

**Topic 1 :** Arbitrary deprivation of nationality and stateless people

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11. **ABSTRACT**

The right to a nationality is a fundamental human right, as article 15 of the Universal Declaration of Human Rights[[1]](#footnote-1) states that :

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

 Usually a person acquires a nationality automatically at birth, either through the nationality of the parents or the country in which they were born. However, sometimes a person must apply to become a national of the country. Disastrously, according to the United Nations High Commissioner for Refugees[[2]](#footnote-2), over 10 million people today around the world are stateless. That poses a challenge for the Sustainable Development Goals[[3]](#footnote-3), and a distinct threat under Goal 16.9: ‘*By 2030, provide legal identity for all, including birth registration.*’

 All countries have nationality laws, if those laws are not correctly applied, some people can be excluded and deprived of their nationality. Immigration can also be a terrible cause of statelessness since nationality laws differentiate from one country to another. Additionally, the nationality laws are sometimes discriminatory, since some countries limit citizenship to people of certain races and ethnicities. In some cases some people are born stateless, others become stateless. In countries with only the Jus Sanguinis law, statelessness will be passed on to the next generation.

 For a stateless person it is difficult to access basic rights such as education, healthcare, employment, freedom of movement or even marriage. Consequently, stateless people are placed in a situation of increased vulnerability to human rights violations. Legally they do not exist, which violates article 6 of the UDHR : "Everyone has the right to recognition everywhere as a person before the law”. Statelessness is a global issue that makes basic human rights inaccessible to the person.

1. **INTRODUCTION**

Stateless people are among the most vulnerable in the world, which means the most affected and the most fragile. They are generally treated as strangers by all the states of the world, including those in which they are born, in which they live and in which they can be sent back. Stateless people face extreme forms of exclusion that affect their access to many fundamental rights. Stateless persons face various problems, depending on where they live and why they are stateless. In general, since they can not obtain identity documents to prove their citizenship, they may have problems with legal housing, travel, work, own property, vote and receive protection and security of a State. Often, because of the lack of documentation, stateless persons remain outside social protection systems and are subject to extensive chances of detention.

From a human perspective, statelessness often causes difficulties and undermines dignity and identity. Statelessness is also a concern for States as it can affect the unification of people in society, contribute to discrimination and differentiation, and create tension within the community. In addition, stateless persons do not fit into the conventional international legal order, which is a system that directs the actions of States under international law, where nationality, constituting the common link between individual and international law, establishes is the State responsible for protection.

In the case of children, they may become stateless due to poor administrative practices, such as failure to notify registration or other obligations or because of their parents who are stateless or refugees. Children who are not properly registered at birth can easily become stateless because they are not able to show where and to whom they were born.

1. **DEFINITION OF KEY TERMS**
2. **Nationality:** The status of belonging to a particular nation.
3. **State:** A nation or territory considered as an organized political community under one government.
4. **A stateless person:** A person who does not have the nationality of any country.
5. **Arbitrary Deprivation:** A violation of one of the most important rights to a dignified life (eg, freedom).
6. **JUS SOLI:** Right of the ground. It is to have the nationality of the territory on which one is born.
7. **JUS SANGUINI:** Right of the blood, one acquires nationality by descent.
8. **Repudiation:** Renunciation of an acquired right.
9. **Citizenship:**The status of being a citizen of a particular country.
10. **BACKGROUND INFORMATION**

a) Nationality in International Law

Nationality is a legal bond that attributes a being to a state. The right to a nationality is a basic human right. It implies the right of every individual to acquire, change or retain a nationality.

The concept of nationality plays a vital role in the establishment of international order since it allows the distribution of the entire world population among the different sovereignties. So each state carries its principle of exclusive and universally recognized sovereignty. It is up to the State and its own authorities to say who is of such nationality and who is not. This is decided according to certain criteria specific to each state, its legislative laws and international customs.

b) Loss or deprivation of nationality

An individual will not have the right to nationality and will not be able to dispose of his nationality except by an act of the State. Only the state foresees cases of loss. Other states provide for cases of automatic loss (voluntary acquisition of another nationality "by marriage"). This loss will never affect the persons concerned since it is a voluntary loss due to the acquisition of another nationality. On the other hand, other cases of anticipated lapse due to unfair State behavior are much more serious.

c) Pretext for statelessness

The causes for which a person could lose his nationality can result from various situations generally placed in the following headings :

1. Loss of nationality *by voluntary act of the individual*. This act occurs when the person concerned has moved to another country and is about to acquire the nationality[[4]](#footnote-4).

2. Loss of nationality by state act. That is automatic deprivation under domestic law. This may happen when they are engaged in the armed forces of another country or if a person has committed a serious crime against the interests of that state such as espionage.

3. Loss of nationality by marriage regulations, a woman may become stateless if she marries a man whose nationality is different from yours.

To these situations we must add the particular case of a person deprived of nationality by the conflict of laws rules regarding the acquisition of nationality or because of the shortcomings contained in certain international conventions.

d) Protection against statelessness

The right to retain a nationality corresponds to the prohibition of the arbitrary deprivation of nationality. The arbitrary deprivation of nationality thus places the persons concerned in an unfavorable situation as regards the exercise of their fundamental rights, as some of these rights are in fact subject to several legal limitations which would no longer be applicable. This is why those affected are placed in a situation of increased vulnerability to human rights violations.

Some states like Russia, France, Belgium, etc. are actually aware of the effects of such arbitrary action. That is why in these states the repudiation would be attributed to the people by the specialized authorities only when it is certain that the person has acquired another nationality. This makes it possible to avoid statelessness. Therefore, the person can not be deprived of his nationality for simple crimes, only for interests against the interests of the nation.

1. **MAJOR COUNTRIES AND ORGANIZATIONS INVOLVED**
2. **Major Countries Involved**
* The Dominican Republic :

The Constitutional Court’s judgment 168/13 in 2013 decided to amend the law to only recognize people born in the Dominican Republic with dominican parents as citizens. This law was applied to children born between 1929 and 2010, and as a result arbitrarily depriving thousands of Haitian descendent of their Dominican nationality and leaving them stateless.

* The State of Qatar :

 In September 2017, after the crisis situation between the GCC (Gulf Cooperation Council) and the State of Qatar, Qatar began taking away citizenship from people who felt sympathy towards Saudi Arabia.

 In 2017, Qatar deprived Sheikh Talib bin Mohammed bin Lahoum bin Shraim Al Murra the chief of the AL Murra tribe from his qatari nationality along with 54 members as a form of punishment.

 However, article 13 of Qatar’s Nationality Act says: *“Save as otherwise provided for in the removal or withdrawal decision, the forfeiture of nationality shall only apply to the person concerned.'' This* previous article contradicts the collective revocation that Qatar applied.

* The Kingdom of Bahrain:

The 2006 anti-terror law has a vague definition of “terrorist acts and incitements to such acts” affected the king’s decision in july 2013. When the king applied a decree adding the recomendations proposed by the Shura Council (the royally-appointed upper house of parliament) with the aim to enlarge the Law of Protecting Society from Terrorism Acts. The decree gave more authority to the bahraini government to revoke the nationality of bahraini citizens who convicted a terrorist offences such as bahraini activists, human rights defenders and alleged violent extremist.

In february 2015, the 72 bahraini citizens were deprived from their rights to be part of society. 50 people from 72 turned out to be human rights defenders, political activists, journalists, academic or religious scholars, whereas 20 individuals were linked to extremist groups such as Al Qaeda and Daesh.

1. **Major Organizations Involved**
* United Nations High Commissioner for Refugees[[5]](#footnote-5) :

 The UN Refugee Agency is a global organization dedicated to saving lives, protecting the rights and building a better future for refugees, forcibly displaced communities and stateless people. UNHCR was created in 1950, during the aftermath of the Second World War, and since then has won two Nobel Peace Prizes for their worldwide assistance to refugees. The organization has had an important role in helping over 50 million refugees to successfully restart their lives, and has expanded their role in helping stateless people. They work in 134 countries, and work hard to help the displaced, specializing in legal protection, administration, community services, public affairs and health. In August 2017, UNHCR launched a new manual entitled "Representing Stateless Persons Before U.S. Immigration Authorities: A Legal Practice Resource from the United Nations High Commissioner for Refugees.”

 UNHCR has many supporters, including the Special Envoy, Angelina Jolie, who has shown years of dedicated service to the UN Refugee Agency by becoming an influential advocate on refugee and displacement matters. They collaborate with other UN agencies, for example the UN Children’s Fund (UNICEF), that has long worked on improving birth registration and civil registries. The Agency is funded almost entirely by voluntary contributions, mostly from governments and the European Union. They also receive a limited subsidy from the UN budget for administrative costs. UNHCR are determined to end statelessness by 2024.

* Institute on Statelessness and Inclusion[[6]](#footnote-6) :

 The Institute on Statelessness and Inclusion (ISI) is the first and the only human rights NGO (Non-Governmental Organization) dedicated to working on statelessness at the global level. Their mission is to promote inclusive societies by realizing and protecting the right to a nationality. The organization has cooperated with NGOs to enlarge the visibility of statelessness and advance its positioning as a human rights issue, in particular within key UN frameworks. They have many ongoing projects relating to providing legal identity, like the Myanmar -Civil Registration Project.

 They have identified four goals to pursue as a matter of priority over the next five years (2018-2023) :

Goal 1: Realizing every child’s right to a nationality.

Goal 2: Countering discrimination and the arbitrary denial and deprivation of nationality.

Goal 3: Broadening and deepening effective engagement on statelessness.

Goal 4: Building a sustainable, effective and inclusive organization.

1. **UN INVOLVEMENT**

The Office of the United Nations High Commissioner for Human Rights (OHCHR) provides advice on nationality policies in order for it to be compatible with the standards of the international human rights. OHCHR report to the Human Rights Council on “discrimination against women on nationality-related matters” (A/HRC/23/23) stresses on the importance of having equal rights between men and women in earning and passing on their nationality to their children. In some countries, women do not enjoy their rights to acquire, change and retain their nationality as well as transferring the nationality to their children which results in many cases to statelessness. The resolution also examines the consequences of discriminatory nationality laws on the enjoyment of women’s rights and the rights of their children and spouses. The resolution gives the best solution to take and other mesures to end discrimination against women in nationality laws.

1. **POSSIBLE SOLUTIONS**

Here are some possible solutions that can be effective, reliable and sustainable:

1. States register the birth of each child regardless of the legal status of their parents.
2. Recommends that all States monitor and control that persons deprived of their nationality are protected from all inhumane treatment at all times.
3. Reaffirms that States are responsible for the protection of human rights and fundamental freedoms of all stateless persons, especially children between the ages of 1 and 10, irrespective of their legal status.
4. **GUIDING QUESTIONS**
5. How can the Human Rights Council help reduce the number of stateless people in the world and prevent the arbitrary deprivation of nationality?
6. What is your country's position on the subject?
7. How can the international community get involved in solving the problem of the arbitrary deprivation of nationality in different States?
8. What solutions can be recommended to ensure the protection of vulnerable groups among stateless persons such as women and children?
9. What measures can be taken to combat the deprivation of nationality and the abuses committed in society?
10. Are there any incentives we can offer to stateless people so that they can claim their rights in their country?
11. How can we promote and improve the integration and unification of stateless people in society?
12. **USEFUL LINKS**
* Office of the United Nations High Commissioner for Human Rights. “*Right to a Nationality and Statelessness”,* [Online]Available on : <https://www.ohchr.org/EN/Issues/Pages/Nationality.aspx>
* Institute on Statelessness and Inclusion. “*What is statelessness”,* [Online]. Available on : <http://www.institutesi.org/what-is-statelessness>
* United Nations High Commissioner for Refugees. “*What is statelessness?”,* [Online]. Available on : <https://www.unhcr.org/ibelong/wp-content/uploads/UNHCR-Statelessness-2pager-ENG.pdf>
* Institute on Statelessness and Inclusion. “*Statelessness and Displacement”,* [Online]. Available on : <http://www.institutesi.org/stateless_displacement_brief.pdf>
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* UNHCR. *"A Guide to Teaching on Statelessness"*. Available on : <https://www.refworld.org/pdfid/4d7f5f982.pdf>, accessed June 22, 2019.
* European Parliament, *"International law: the rules of acquisition and withdrawal of nationality"*, [Online]. Available on : <http://www.europarl.europa.eu/EPRS/EPRS-AAG-545715-Rules-Acquisition-and-Pension-National-FINAL.pdf>, accessed 21 June, 2019.
* Oxford Brookes University. *"What is statelessness"*, [Online]. Available on : <https://www.nationalityforall.org/whatis>, accessed June 24, 2019.
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* Institute on Statelessness and Inclusion. *“The arbitrary deprivation of nationality of Qatari citizens”*,[online]. Available on : <http://www.institutesi.org/UPR33_Qatar.pdf>, accessed 30 June, 2019.
* The institute on Statelessness and Inclusion And Americans for Democracy & Human rights in Bahrain. *“The arbitrary deprivation of nationality”* [online]. Available on : <https://www.upr-info.org/sites/default/files/document/bahrain/session_27_-_may_2017/js10_upr27_bhr_e_main.pdf> , accessed the 2nd of July, 2019.
* ANONYMOUS. *"Definition of national"*, [Online]. Available on : <https://www.linternaute.fr/dictionnaire/fr/definition/ressortissant/>, accessed July 2, 2019.
1. An international document that states basic rights and fundamental freedoms to which all human beings are entitled.

United Nations. “*Universal Declaration of Human Rights”,* [Online]. Available on : <https://www.un.org/en/universal-declaration-human-rights/> [↑](#footnote-ref-1)
2. United Nations High Commissioner for Refugees. [Online]. Available on : <https://www.unhcr.org> [↑](#footnote-ref-2)
3. United Nations. “*Sustainable Development Goals”,* [Online]. Available on : <https://www.un.org/sustainabledevelopment/sustainable-development-goals/> [↑](#footnote-ref-3)
4. European Parliament. *"International law: the rules of acquisition and withdrawal of nationality"*, [Online]. Available on : <http://www.europarl.europa.eu/EPRS/EPRS-AAG-545715-Rules-Acquisition-and-Pension-National-FINAL.pdf>, accessed 21 June 2019. [↑](#footnote-ref-4)
5. United Nations High Commissioner for Refugees. [Online]. Available on : <https://www.unhcr.org> [↑](#footnote-ref-5)
6. Institute on Statelessness and Inclusion, [Online]. Available on : <http://www.institutesi.org> [↑](#footnote-ref-6)