

ICCPR

INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

Quick Reference Guide

STATELESSNESS AND HUMAN RIGHTS TREATIES

This reference guide highlights key international human rights provisions found in the [ICCPR](#) 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 ICCPR addresses statelessness through a number of provisions, including through its provisions on non-discrimination (Article 2), equality between men and women (Articles 3 and 23), and the right of every child to acquire a nationality (Article 24). A number of **General Comments (GC)** of the **Human Rights Committee** further inform the meaning of these provisions when using them to address statelessness.

Prevention and Reduction of Statelessness

Article 3 & Article 23:

“...equal right of men and women to the enjoyment of all civil and political rights” & “...equality of rights...of spouses as to marriage...”

In more than 60 States, women do not have the same rights as men with regard to acquisition, change or retention of nationality upon change in civil status.¹ This can lead to statelessness where a foreign woman is required to renounce her

nationality upon marrying yet does not automatically acquire the nationality of her husband. Ensuring gender equality in the transmission of nationality is necessary to prevent statelessness, particularly amongst children.

- [GC No. 28: Article 3 \(The Equality of Rights Between Men and Women\)](#) & [GC No. 19: Article 23 \(The Family\)](#) Protection of the Family, the Right to Marriage and Equality of the Spouses: “States parties should ensure that no sex-based discrimination occurs in respect of the acquisition or loss of nationality by reason of marriage, of residence rights, (...)” (para. 25 & para. 7 respectively).

Article 24:

“Every child shall be registered immediately after birth...” and “Every child has the right to acquire a nationality.”

Lack of birth registration can make it difficult for individuals to prove that they have the relevant links to a State that entitle them to a nationality, and can therefore create a risk of statelessness. In 27 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.² More than half the States in the world lack or have inadequate safeguards in their nationality laws to grant nationality to children born stateless in their territory.

- [GC No. 28: \(The Equality of Rights Between Men and Women\)](#) “States parties must ensure that the matrimonial regime contains equal rights and obligations for both spouses with regard to (...) the capacity to transmit to children the parent’s nationality (...)” (para. 25).

Kyrgyzstan: A stateless Dolmari Woman holds her old Soviet Union passport, 2015.
© UNHCR/Gabrielle Menezes

- [GC No. 17: Article 24 \(Rights of the child\)](#) requires States “to adopt every appropriate measure, both internally and in cooperation with other States, to ensure that every child has a nationality when he is born.” (para. 8). It also stipulates that “no discrimination with regard to the acquisition of nationality should be admissible under internal law as between legitimate children and children born out of wedlock or of stateless parents or based on the nationality status of one or both of the parents (...)” (para. 8).
- The purpose of Article 24 is “to prevent a child from being afforded less protection by society and the State because he is stateless” (para. 8).

Protection of Stateless Persons

Article 2 & Article 26:

“...ensure to all individuals... the rights recognised in the present Covenant... without distinction of any kind...” & “...the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground...”

States must ensure the protection of the rights of stateless people, without discrimination including under the law.

- [GC No. 15: Article 2 \(The Position of Aliens under the Covenant\)](#) states that “the rights set forth in the Covenant apply to everyone, (...) irrespective of his or her nationality or statelessness” (para. 1).
- [GC No. 31: Article 2 \(The Nature of the General Legal Obligation Imposed on States Parties to the Covenant\)](#) adds that, “the enjoyment of Covenant rights is not limited to citizens of States Parties but must also be available to all individuals, regardless of nationality or statelessness (...)” (para. 10).

Article 9:

“Everyone has the right to liberty and security of person” and “Anyone who is deprived of his liberty... shall be entitled to take proceedings before a court...”

Everyone is entitled to the right to liberty and security of person. Stateless people should not be subjected to arbitrary deprivation of liberty.

- [GC No. 35: Article 9 \(Liberty and security of person\)](#): “Everyone’ includes, among others, (...) stateless persons (...)” (para. 3).

Article 10:

“All persons deprived of their liberty shall be treated with humanity and with respect...”

This provision ensures that individuals who are deprived of their liberty are treated with dignity and respect, whether they possess a nationality or not.

- [GC No. 21: Article 10 \(Human Treatment of Persons Deprived of Their Liberty\)](#): “This rule must be applied without distinction of any kind, such as (...) national or social origin (...)” (para. 4).

Article 12:

“Everyone shall be free to leave any country...” and “No one shall be arbitrarily deprived of the right to enter his own country.”

Freedom of movement includes the right to leave and enter one’s own country. Most stateless persons are *in situ*, meaning that they are often born in and have lived their entire lives in the country in which they are found, and have never crossed an international border.

- [GC No. 27: Article 12 \(Freedom of Movement\)](#): “The scope of ‘his own country’ is broader than the concept ‘country of nationality.’” This allows for a “broader interpretation that might embrace other categories of long-term residents, including but not limited to stateless persons arbitrarily deprived of the right to acquire the nationality of the country of such residence” (para. 20).

Article 14:

“All persons shall be equal before courts and tribunals... everyone shall be entitled to a fair and public hearing...”

The right to equality before courts and tribunals and to a fair trial is a fundamental principle of the Rule of Law. They must be recognized to everyone without exception.

- [GC No. 32 Article 14: \(Right to equality before courts and tribunals and to a fair trial\)](#): the provision “must be available to all individuals, regardless of nationality or statelessness (...)” (para. 9).

Article 27:

“...persons belonging to... minorities shall not be denied the right... to enjoy their own culture, to profess and practice their own religion, or to use their own language.”

Stateless people are often members of minority groups. As minorities, their rights must be recognized, pursuant to Article 27.

- [GC No. 23: Article 27 \(Rights of Minorities\)](#): to receive protection, individuals “need not be nationals or citizens [and] they need not be permanent residents” (para. 5.2).

ENDNOTES

¹ UNHCR, *Background Note on Gender Equality, Nationality Laws and Statelessness* 2016.

² *Ibid.*