

**Submission by the United Nations High Commissioner for Refugees**

**For the Office of the High Commissioner for Human Rights' Compilation Report**

**Universal Periodic Review:**

*2nd Cycle, 23rd Session*

**THE REPUBLIC OF NAURU**

**I. BACKGROUND INFORMATION**

The Republic of Nauru (Nauru) acceded to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter collectively referred to as the *1951 Convention*) on 28 June 2011. Nauru is not a party to the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*) or the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*).

Historically, Nauru has received few asylum-seekers or refugees who have arrived spontaneously.<sup>1</sup> The Governments of Nauru and Australia signed a *Memorandum of Understanding* on 30 August 2012 (*2012 MOU*) relating to the transfer to Nauru of asylum-seekers who had arrived by sea to Australia without valid visas, to have their asylum claims assessed in accordance with Nauruan law.

Subsequently, the Government of Australia announced on 19 July 2013 that any asylum-seeker who arrived by sea on or after 19 July 2013 without prior authorization would not be settled in Australia if found to be a refugee. As a consequence, the Australian and Nauruan Governments signed a new *Memorandum of Understanding* on 3 August 2013 (*2013 MOU*) to supersede the *2012 MOU*. Under the *2013 MOU*, Nauru undertakes to enable individuals found to be in need of international protection to settle in Nauru, “subject to agreement between the Participants on arrangements and numbers.”<sup>2</sup>

The *2013 MOU* contains commitments on the part of Nauru in relation to *non-refoulement* obligations under international refugee law and international human rights law. Nauru commits to making a refugee status assessment or permitting such an assessment to be made. The Governments jointly commit to treating asylum-seekers with dignity and respect and in

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<sup>1</sup> At the request of the Government of Australia, Nauru hosted more than 1,600 asylum-seekers, who had been transferred to Nauru by Australia, pending determination of their refugee status, during the years 2001-2007.

<sup>2</sup> See *Memorandum of Understanding between the Republic of Nauru and the Commonwealth of Australia, relating to the transfer to and assessment of persons in Nauru, and related issues*, 3 August 2013, para.12, available at: <https://www.dfat.gov.au/geo/nauru/nauru-mou-20130803.pdf>.

accordance with relevant human rights standards. The Governments further commit to developing special arrangements for cases with specific needs, including unaccompanied minors.

As of 1 November 2014, there were 996 individuals who had been transferred from Australia to the regional processing centre in Nauru.<sup>3</sup>

## II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

UNHCR welcomes the accession by Nauru to the *1951 Convention* and the passing of the *2012 Refugees Convention Act*, which establishes a national legal framework for refugee status determination (RSD) and complementary protection under Nauruan law; an independent merit review tribunal; access to judicial review and the requirement for natural justice and confidentiality in relation to refugee claims. The Secretary for Justice and Border Control is empowered to make the determination on the basis of recommendations made by Refugee Status Determination Officers (RSDOs) working under the Secretary.

## III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

### Issue 1: Legal and physical detention conditions at the regional processing centre

UNHCR's general position is that asylum-seekers and refugees should ordinarily be processed in the territory of the State where they arrive, or which otherwise has jurisdiction over them.<sup>4</sup> All cooperation arrangements should build on and strengthen national asylum systems, not undermine regional cooperation.

With these general observations in mind, UNHCR's position is that the physical transfer of asylum-seekers from Australia to Nauru, as an arrangement agreed by two Contracting States to the *1951 Convention*, does not extinguish the legal responsibility of the transferring State (Australia) for the protection of the asylum-seekers affected by the arrangements. Both Australia and Nauru have shared and joint responsibility to ensure that the treatment of all transferred asylum-seekers is fully compatible with their respective obligations under the *1951 Convention* and other applicable international instruments.

Where transfers take place, UNHCR considers that the transfer arrangement needs to guarantee that each asylum-seeker:

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<sup>3</sup> See Australian Department of Immigration and Border Protection, *Immigration Detention and Community Statistics Summary*, 30 November 2014, available at: <http://www.immi.gov.au/About/Documents/detention/immigration-detention-statistics-nov2014.pdf>. Note, the regional processing centre (RPC) is referred to as the "Offshore Processing Centre" (OPC) by Australian immigration staff and service providers, notwithstanding that the Nauruan Government refers to it as the RPC, which is also the terminology used in Nauruan legislation and regulations, as well as in the bilateral MOU. For the purposes of this submission, the term RPC will be used.

<sup>4</sup> UNHCR, *Guidance Note on bilateral and/or multilateral transfer arrangements of asylum-seekers*, May 2013, para. 1, available at: <http://www.refworld.org/docid/51af82794.html>.

- a) is individually assessed as to the appropriateness of the transfer, subject to procedural safeguards, prior to transfer. Pre-transfer assessments are particularly important for groups with specific needs, including unaccompanied and separated children (UASC). The best interests of the child must be a primary consideration;
- b) is admitted to the proposed receiving State;
- c) is protected against *refoulement*;
- d) has access to fair and efficient procedures for the determination of refugee status and/or other forms of international protection;
- e) is treated in accordance with applicable international refugee and human rights law standards, for example, appropriate reception arrangements; access to health care, education and basic services; safeguards against arbitrary detention; identification and assistance of persons with specific needs; and
- f) if recognized as being in need of international protection, is able to enjoy asylum and/or access a durable solution within a reasonable time.<sup>5</sup>

UNHCR undertakes regular visits to the regional processing centres in Nauru. The most recent published report by UNHCR is from its monitoring mission of 7 to 9 October 2013.<sup>6</sup>

### International legal standards

The right to liberty and security of person<sup>7</sup> and freedom of movement<sup>8</sup> are fundamental rights enshrined under international human rights law, including under the *1966 International Covenant on Civil and Political Rights (ICCPR)*<sup>9</sup> and the *1948 Universal Declaration of Human Rights*.

In addition, the *1951 Convention* provides for the non-penalization for irregular entry of refugees and asylum-seekers<sup>10</sup> and for the freedom of movement and choice of residence for refugees lawfully in the territory, which includes asylum-seekers.<sup>11</sup> The applicable legal framework and standards are found in UNHCR's *Guidelines on the Applicable Criteria and Standards relating*

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<sup>5</sup> UNHCR, *Guidance Note on bilateral and/or multilateral transfer arrangements of asylum-seekers*, May 2013, para. 3 (vi).

<sup>6</sup> See UNHCR monitoring visit to the Republic of Nauru, 7 to 9 October 2013, available at: <http://www.refworld.org/country,NRU,5294a6534,0.html>.

<sup>7</sup> See Articles 3 and 9 of the *UDHR* and Article 9 of the *ICCPR*.

<sup>8</sup> See Article 12 of *ICCPR*, which covers the right to freedom of movement and choice of residence for persons lawfully staying in the territory, as well as the right to leave any country, including one's own.

<sup>9</sup> Nauru signed the *ICCPR* in 2001 but has not yet ratified it.

<sup>10</sup> See Article 31 of the *1951 Convention*, in particular Article 31(2) which provides that restrictions on movement shall not be applied to refugees (or asylum-seekers) who have entered irregularly, other than restrictions which are necessary, and such restrictions shall only be applied until the individuals status is regularized or they gain admission to another country.

<sup>11</sup> See Article 26 of the *1951 Convention*.

*to the Detention of Asylum-Seekers and Alternatives to Detention*<sup>12</sup> (UNHCR *Detention Guidelines*).

Although UNHCR acknowledges that detention of asylum-seekers is not prohibited under international law *per se*, it is only lawful if it is:

- a) pursued for a legitimate purpose of protecting public order, public health or national security;
- b) necessary in the individual case (requiring an individualized assessment of the asylum-seeker);
- c) reasonable in all the circumstances (requiring an assessment of any special needs of the individual); and
- d) proportionate to a legitimate purpose.

In relation to reception conditions for asylum-seekers put in place by States, UNHCR's Executive Committee has recommended, among other things, that reception arrangements be guided by respect for "human dignity and applicable international human rights law and standards."<sup>13</sup>

#### *Legal framework regarding detention at the regional processing centre in Nauru*

The *2012 Asylum Seekers (Regional Processing Centre) Act (RPC Act)* is the relevant Nauruan law regulating the operation of centres in which transferred asylum-seekers are required to reside. The *RPC Act* establishes certain protections for transferred asylum-seekers; sets out obligations of transferred asylum-seekers; imposes duties on the person managing operations at a centre; and appoints the Minister for Justice as guardian of certain children.

The *2014 Immigration Regulations* provide that asylum-seekers transferred to Nauru are issued with 'regional processing centre visas' with a maximum term not exceeding three months and are required to reside and remain at premises specified in the visa or at areas notified by a service provider.<sup>14</sup>

International legal standards require that decisions to detain, or to extend detention of, asylum-seekers at the regional processing centre be in accordance with national laws. In particular, those laws must prescribe minimum procedural safeguards, which are compatible with international human rights law including, but not limited to:

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<sup>12</sup> See UNHCR's *Detention Guidelines: Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*, 2012, available at: <http://www.unhcr.org/505b10ee9.html>

<sup>13</sup> UNHCR Executive Committee of the High Commissioner's Programme, *Conclusion on reception of asylum-seekers in the context of individual asylum systems*, 8 October 2002, No. 93 (LIII) - 2002, available at: <http://www.refworld.org/docid/3dafdd344.html>. See generally UNHCR, *Global Consultations on International Protection/Third Track: Reception of Asylum-Seekers, Including Standards of Treatment, in the Context of Individual Asylum Systems*, 4 September 2001, EC/GC/01/17.

<sup>14</sup> See *Immigration Regulations 2014*, sub-regulation 9(6).

- a) following an initial individualized decision to detain an asylum-seeker, asylum-seekers are given reasons for their detention in writing and receive regular periodic reviews of the necessity for the continuation of detention before a judicial or other independent authority to have the detention decision reviewed;
- b) a maximum period for detention of asylum-seekers ought to be prescribed;
- c) right to challenge the lawfulness of detention before a court of law at any time;<sup>15</sup> and
- d) persons in detention must be given access to asylum procedures and be provided with accurate legal information about the asylum process and their rights.<sup>16</sup>

At the time of UNHCR's visit in October 2013, asylum-seekers were subject to deprivation of their liberty, on a mandatory basis, in a closed place without an assessment as to the necessity and proportionality of the purpose of such detention in the individual case, and without being brought promptly before a judicial or other independent authority. This is still the case for transferred asylum-seekers in Nauru.

As of 30 November 2014, there were 155 children detained at the regional processing centre on Nauru.<sup>17</sup> As a matter of general principle, child asylum-seekers should not be held in closed detention. More particularly, Nauru is a party to the *1989 Convention on the Rights of the Child (CRC)* which sets out specific international legal obligations in relation to children and a number of guiding principles regarding the protection of children including, but not limited to, the following:<sup>18</sup>

- a) the best interests of the child shall be a primary consideration in all actions affecting children, including asylum-seeking and refugee children (see Article 3 in conjunction with Article 22, *CRC*);
- b) each child has a fundamental right to life, survival and development to the maximum extent possible (Article 6, *CRC*);
- c) children should be assured the right to express their views freely and their views should be given "due weight" in accordance with the child's age and level of maturity (Article 12, *CRC*);<sup>19</sup>

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<sup>15</sup> Article 9(4) *ICCPR*.

<sup>16</sup> See UNHCR Excom Standing Committee Conference Room Paper, *Detention of Asylum-Seekers and Refugees: The Framework, the Problem and Recommended Practice*, June 1999, EC/49/SC/CRP.13, Figure 2; and UNHCR's *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*, 2012, 28.

<sup>17</sup> See Australian Department of Immigration and Border Protection, *Immigration Detention and Community Statistics Summary*, 30 November 2014, 3 (accessible via <http://www.immi.gov.au/About/Documents/detention/immigration-detention-statistics-nov2014.pdf>)

<sup>18</sup> See UNHCR's *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*, 34-35.

<sup>19</sup> UNHCR, *Best Interests Determination Children – Protection and Care Information Sheet*, June 2008. UNHCR, *Guidelines on Determining the Best Interests of the Child*, May 2008, para. 20. UNHCR, *Field Handbook for the Implementation of UNHCR BID Guidelines*, November 2011. UNHCR, *Guidelines on International Protection No.*

- d) children have the right to family unity (*inter alia*, Articles 5, 8 and 16, *CRC*) and the right not to be separated from their parents against their will (Article 9, *CRC*);
- e) Article 22 of the *CRC* requires that States Parties take appropriate measures to ensure that children who are seeking refugee status or who are recognized refugees, whether accompanied or not, receive appropriate protection and assistance; and
- f) Article 37 of the *CRC* requires States Parties to ensure that the detention of children be used only as a measure of last resort and for the shortest appropriate period of time.<sup>20</sup>

UNHCR's view is that it is inappropriate to send asylum-seeker children to regional processing centres in remote locations, and that their mandatory and prolonged detention may be in breach of the *CRC* and other international human rights instruments.

When viewing the legal parameters and practical realities of the regional processing centre in their totality, UNHCR is of the view that the mandatory detention of asylum-seekers in Nauru amounts to arbitrary detention, which is inconsistent with international law.

#### Conditions at the regional processing centre

At the time of UNHCR's visit in October 2013, UNHCR noted that the conditions at the regional processing centre were harsh, with little natural shelter from the heat during the day, which was exacerbated by all the challenges arising from residing in a construction zone, including significant noise and dust, as well as the proximity to phosphate mining, which causes a high level of dust.

UNHCR found that families with children were living in cramped, hot conditions, with little privacy. Moreover, children had been transferred without an assessment of their best interests and without adequate services in place to ensure their mental and physical well-being.

Furthermore, children were in closed detention, in difficult conditions, without access to adequate educational and recreational facilities, and with a lack of a durable solution within a reasonable timeframe.

Viewed as a whole, UNHCR considers that the conditions at the regional processing centre, coupled with the protracted period spent there by some asylum-seekers, raise serious concerns about their compatibility with international human rights law, including the prohibition against torture and cruel, inhuman or degrading treatment (Article 2, *ICAT*), the right to humane conditions in detention (Articles 10 and 11, *ICAT*) and the right to family life and privacy (Articles 5, 8, 9 and 16, *CRC*).<sup>21</sup>

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8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees, 22 December 2009, HCR/GIP/09/08 (UNHCR Guidelines on International Protection on Child Asylum Claims) para. 5. CRC General Comment No. 6: Treatment of Unaccompanied and Separated Children Outside their Country of Origin, 1 September 2005, CRC/GC/2005/6.

<sup>20</sup> *CRC*, art. 37 (b); UNHCR *Detention Guidelines*, Guideline 9.2.

<sup>21</sup> See Guideline 8: Conditions of detention must be humane and dignified, UNHCR *Detention Guidelines*, 2012, para. 48. See also the Parliamentary Joint Committee on Human Rights, Parliament of Australia, Ninth Report of 2013: Migration Legislation

## Recommendations:

UNHCR recommends that the Government of Nauru:

- Ensure that reception arrangements for asylum-seekers respect human dignity and applicable international human rights law and standards.<sup>22</sup>
- As a matter of urgency, review the conditions at the regional processing centre with a view to alleviate the cramped conditions and exposure to heat, as well as to enhance privacy for all asylum-seekers;
- Ensure that the detention of asylum-seekers is in compliance with international legal standards, including that the necessity to detain is assessed in each individual case according to the applicable criteria and ensure that, in the absence of necessary, reasonable and proportionate limitations arising from each individual case, asylum-seekers enjoy freedom of movement; and finally, turn the regional processing centre on Nauru into an open centre;
- Provide asylum-seekers with reasons for their detention in writing and in a language they understand, and allow them to challenge the decision to detain, with periodic reviews thereafter to ensure no one is detained longer than necessary, with express maximum periods for such detention;
- In the case of families living together in marquees separated only by vinyl partitions, provide accommodations that allow families to live with a higher degree of separation and privacy from others; and
- Cease to receive transferred child asylum-seekers (both accompanied, unaccompanied and separated) to Nauru under current conditions. However, if children are transferred, the Governments of Australia<sup>23</sup> and Nauru should:
  - (i) ensure they are treated in full respect of their rights under the *CRC* and other applicable instruments;
  - (ii) prioritize their claims for international protection, which should be carried out by suitably qualified officials who are also able to conduct best interests determinations; and
  - (iii) appoint an independent and qualified guardian as well as a legal adviser in the case of any unaccompanied or separated children.

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Amendment (Regional Processing and Other Measures) Act 2012 and related legislation (2013), note 150, para. 2, and Australian Human Rights Commission, *Asylum seekers, refugees and human rights: snapshot report 2013*, page 17.

<sup>22</sup> ExCom Conclusion on reception of asylum-seekers in the context of individual asylum systems, 8 October 2002, NO. 93 (LIII) – 2002, and the Global Consultations on International Protection/Third Track: Reception of Asylum-Seekers, Including Standards of Treatment, in the Context of Individual Asylum Systems, 4 September 2001.

<sup>23</sup> A recommendation was made to “[P]romptly take effective measures to safeguard the rights of refugees and asylum-seekers, including not to let other countries violate the rights of refugees and asylum-seekers in the territory of Nauru” during the 1st cycle UPR examination of Nauru. See: Report of the Working Group of the Universal Periodic Review: Nauru, A/HRC/17/3, 8 March 2011, para 79.95, (recommended by Sweden).

## **Issue 2: Durable solutions**

Upon being granted refugee status, the *2014 Immigration Regulations* require the person to reside (but not remain) in “premises notified to the holder by a service provider as being premises set aside for the holder.”<sup>24</sup>

For those who are found to be refugees, there is considerable uncertainty over their ability to access durable solutions, as they are only granted a Temporary Settlement Visa to remain in Nauru for up to five years and not given access to full *1951 Convention* rights.<sup>25</sup> The Government of Nauru has indicated that it intends to establish open reception centres for all refugees.

Further, as noted above, the Australian Government’s policy is that asylum-seekers who arrived to Australia after 19 July 2013 will not be able to settle in Australia. The *2013 MOU* envisages that some refugees may be able to settle in Nauru, although it is not clear from the formal arrangements whether Nauru is committed, or even capable of, offering long-term and durable solutions to those to whom it owes protection under the *1951 Convention*. Additionally, in accordance with the *2013 MOU*, Australia agrees to assist Nauru with settlement in a third safe country for those found to be in need of international protection, and to assist with the removal of those who are found not to be in need of international protection.

On 26 September 2014, a bilateral *Memorandum of Understanding* was entered into by the Governments of Australia and the Kingdom of Cambodia (Cambodia), whereby Cambodia agreed that refugees recognized by the Nauruan Government be relocated to Cambodia. It has been reported that Cambodia has so far agreed to receive only very few refugees to be relocated from Nauru.<sup>26</sup>

On this basis, there is currently considerable ambiguity about the options available to both States in offering protection to refugees, as well as considerable ambiguity for the asylum-seekers and refugees themselves about durable solutions available to them.

### **Recommendations:**

UNHCR recommends that the Government of Nauru:

- Clearly address in a policy and operational framework the question of post-processing conditions, including any settlement services, in order to ensure that all refugees enjoy the rights to which they are entitled under the *1951 Convention* as well as other applicable international laws and standards.
- Undertake, prior to any relocation, an individualized assessment as to the individual refugee’s specific needs to ensure that appropriate support and assistance is available in the third State, including any special support required for individuals with specific needs,

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<sup>24</sup> See the *2014 Immigration Regulations*, sub-regulation 9(6A).

<sup>25</sup> See The Guardian, *The leaked Nauru resettlement document – in full: The department of justice and border control information sheet that provides model answers to expected questions from transferees detained on the island*, 28 April 2014 <http://www.theguardian.com/world/interactive/2014/apr/28/leaked-nauru-resettlement-document-in-full>

<sup>26</sup> ABC News, *Cambodia refugee deal: Protests outside Australian embassy in Phnom Penh as Scott Morrison signs agreement*, 27 September 2014 <http://www.abc.net.au/news/2014-09-26/immigration-minister-to-sign-cambodia-refugee-deal/5770468>.



including children, women, elderly, persons with disabilities and survivors of torture or trauma.

- Ensure that the refusal to accept an offer for relocation to a third country does not, *ipso facto*, raise questions about the individual's refugee status and is not a ground for cessation or cancellation of status.<sup>27</sup> (There may be a number of legitimate reasons which have led the refugee to refuse such an offer).
- Assess the legality and/or appropriateness of any relocation of a recognized refugee on a case-by-case basis, in light of the particular modalities, legal provisions, and sustainability.

### **Issue 3: Protection of stateless persons**

As stated above, Nauru is not a party to the *1954 Convention relating to the Status of Stateless Persons*, which ensures minimum standards of treatment for stateless persons in respect to a number of fundamental rights. These include, but are not limited to, the right to education, employment, housing and public relief. Importantly, the *1954 Convention* also guarantees stateless persons a right to identity and travel documents and to administrative assistance.

To UNHCR's knowledge Nauru does not have a statelessness determination procedure for identifying stateless persons in a migration context and does not have provisions in its immigration law to grant legal residence to non-refugee stateless persons or to provide other rights to stateless persons, which could ensure that protections contained in the *1954 Statelessness Convention* were guaranteed.

UNHCR would like to highlight that in November 2014, UNHCR launched its Global Campaign to End Statelessness by 2024. Action Nine of the *Global Action Plan to End Statelessness 2014 – 2024* calls for accession to the *UN Statelessness Conventions* to ensure that every person has a nationality and that stateless people enjoy a basic set of human rights. Action Six of the *Global Action Plan* involves granting protection status to stateless migrants and facilitating their naturalization, including by establishing statelessness determination procedures.<sup>28</sup>

Furthermore, UNHCR would like to note that Australia is a party to the *1954 Statelessness Convention* and is obliged to respect the rights of stateless persons guaranteed under it, including stateless asylum-seekers and their children. As noted above, UNHCR is of the view that Australia's responsibilities under applicable international instruments to which it is a party remain engaged and cannot be extinguished by the physical transfer of asylum-seekers to Nauru. Australia's obligations to asylum-seekers who are also stateless and their stateless children under the *1954 Convention* therefore remain extant. The transfer of stateless asylum-seekers and their

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<sup>27</sup> See UNHCR, *Procedural Standards for Refugee Status Determination Under UNHCR's Mandate*, Unit 10 (Procedure for Cancellation of Refugee Status) and Unit 11 (Procedure for Cessation of Refugee Status), available at: <http://www.refworld.org/docid/42d66dd84.html>.

<sup>28</sup> UNHCR, *Global Action Plan to End Statelessness*, 4 November 2014, available at: <http://www.refworld.org/docid/545b47d64.html>.

stateless children to Nauru may breach Australia's obligations under the *1954 Convention*, as appropriate protection is not available for them in Nauru, particularly if they are found not to be refugees.<sup>29</sup>

### **Recommendation:**

UNHCR recommends that the Government of Nauru:

- Accede to the *1954 Convention relating to the Status of Stateless Persons*; and
- Establish a statelessness status determination procedure and grant protection status to stateless migrants.

### **Issue 4: Prevention of statelessness**

The *1961 Convention on the Reduction of Statelessness* provides an international framework to ensure the right of every person to a nationality by establishing safeguards to prevent statelessness at birth and later in life. This treaty is therefore complementary to standards contained in other human rights treaties that address the right of children to acquire a nationality, including the *CRC* (Article 7) and *ICCPR* (Article 24). An increase in the number of Contracting States to the *1961 Convention* is essential to strengthening international efforts to prevent and reduce statelessness.

UNHCR welcomes the fact that there are several safeguards against statelessness found in the *Constitution of Nauru*. For example, the *Constitution* provides that any person born in Nauru on or after 31 January 1968 shall automatically acquire Nauruan citizenship of “if, at the date of his birth he would not, but for the provisions of this Article, have the nationality of any country”. However, UNHCR also notes that there appear to be no safeguards against statelessness for foundling children or to ensure that statelessness does not arise in the context of the loss or deprivation of nationality under *Nauruan Community Ordinance 1956 - 1962*.<sup>30</sup>

UNHCR would like to note that Action Two of the *Global Action Plan to End Statelessness 2014 – 2024* calls on States to ensure that no child is born stateless, including by ensuring that nationality laws: 1) allow children born in the territory of a State to acquire the nationality of that State if they would otherwise be stateless; 2) grant nationality to children born to nationals abroad who would otherwise be stateless; and 3) provide that foundlings are presumed to be nationals of the State in which they are found. The current lack of safeguards against statelessness that might arise in the context of loss or deprivation of nationality under the

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<sup>29</sup> See UNHCR, *Handbook on Protection of Stateless Persons*, 30 June 2014, available at: <http://www.refworld.org/docid/53b676aa4.html>, paras. 153-157.

<sup>30</sup> See, in particular, Article 8 (b) “A Nauruan who became a Nauruan otherwise than by reason of his birth in the Island of Nauru and ceases to be ordinarily resident in the Island of Nauru within ten years after the date of his admission to the Nauruan community, ceases to be a Nauruan;” and Article 9 “Ceasing to be a Nauruan by order of the Council,” *Nauruan Community Ordinance 1956-1962*, 31 December 1962, available at: <http://www.refworld.org/docid/3ae6b4f20.html>.

*Nauruan Community Ordinance 1956 - 1962* could be addressed by Action Nine of the *Global Action Plan*, which calls for States to accede to the *1954* and *1961 Conventions*.

**Recommendations:**

UNHCR recommends that the Government of Nauru:

- Undertake a study of domestic laws and practices to ensure full realization of the child's right to acquire a nationality, the right not to be arbitrarily deprived of nationality and to facilitate potential accession to the *1954* and *1961 Conventions*; and
- Accede to the *1961 Convention on the Reduction of Statelessness*.<sup>31</sup>

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<sup>31</sup> A recommendation was made to “[R]atify ... the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness” during the 1st cycle UPR examination of Nauru. See: Report of the Working Group of the Universal Periodic Review: Nauru, A/HRC/17/3, 8 March 2011, para. 79.24 (recommended by Slovakia).