

Background Non-Paper on Equality and Non-discrimination in Nationality Matters to End Statelessness

Prepared in Support of OHCHR/UNHCR Virtual Roundtable on Equality and Non-Discrimination in Nationality Matters to End Statelessness 21 October 2021

I. Context

1. Although the exact number of stateless persons is unknown, some 4.2 million stateless people are reported by the Office of the United Nations High Commissioner for Refugees (UNHCR) in 94 countries. The actual number is believed, however, to be substantially higher.¹ In January 2018, in his first report to the Human Rights Council, the UN Special Rapporteur on Minority Issues, Dr. Fernand de Varennes, stressed that minorities are disproportionately affected by statelessness,² since more than 75% of the world's stateless individuals belong to national or ethnic, religious and linguistic minorities.³

2. Statelessness exacerbates obstacles already faced by minorities and vulnerable groups, including women, older persons, migrants, displaced persons and refugees, persons with disabilities, children and youth, in every aspect of their life and infringes on the full enjoyment of a broad range of human rights.⁴ During the High-Level Segment on Statelessness held on 7 October 2019, the Office of the United Nations High Commissioner for Human Rights (OHCHR) pledged “[t]o work jointly with UNHCR to raise awareness on statelessness and its human rights implications and to promote solutions to it.” As a result of this commitment, the UNHCR and the OHCHR have decided to organize a Virtual Roundtable on Equality and Non-Discrimination in Nationality⁵ Matters to End Statelessness on 21 October 2021.

3. In preparation for the Virtual Roundtable, **this background non-paper provides a summary of statelessness and deprivation of nationality issues resulting from racial discrimination⁶ or other discrimination such as on the grounds of age, gender identity or gender expression, disability, language, minority status, religion or belief, sex, sex characteristics or sexual orientation, or as a result of the compounding or intersectional impact of more than one ground.**

¹ UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2020*, June 2021, p. 4, available at: <https://www.unhcr.org/60b638e37/unhcr-global-trends-2020>.

² Report of the Special Rapporteur on Minorities Issues, “Priorities and vision of the mandate,” UN Doc. A/HRC/37/66, 16 January 2018, paras. 36-40, available at: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/37/66.

³ UNHCR, “This is our home”: Stateless minorities and their search for citizenship, 3 November 2017, p. 1, available at: https://www.unhcr.org/ibelong/wp-content/uploads/UNHCR_EN2_2017IBELONG_Report_ePub.pdf.

⁴ See, e.g., Report of the Special Rapporteur on Minorities Issues, *supra* note 2.

⁵ Citizenship and nationality refer to a legal bond between the individual and the State resulting in certain duties and responsibilities. The terms nationality and citizenship are used interchangeably in this document, as they generally are in international law.

⁶ Under Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination (1965), the term “racial discrimination” refers to “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life” (Article 1§1).

II. Methodology

4. OHCHR and UNHCR have undertaken an examination of national laws, policies, and practices concerning nationality acquisition, conferral, change, retention and loss, with a focus on the situation of individuals who are stateless as a result of discriminatory laws and practices. In July 2021, they jointly issued a public survey as well as a survey distributed to States calling for inputs by relevant stakeholders, including States, National Human Rights Institutions, UN entities and civil society organizations (CSOs).⁷ This background non-paper builds on the results of this survey to provide an overview of the current global situation regarding non-discrimination and equality in matters of nationality for minorities, as well as national efforts and relevant initiatives to address it.⁸

5. In addition to the survey results, this paper is informed by desk research relating to equality and non-discrimination in nationality matters, with a specific focus on minorities. It includes references to reports by the UN High Commissioner for Human Rights, the UN Special Rapporteur on Minority Issues, the UN Special Rapporteur on Contemporary Forms of Racism, and the UN Special Rapporteur on Freedom of Religion or Belief, as well as General Comments and State party reviews by UN Treaty Bodies. It also refers to documents issued by the UNHCR, including the 2015 report entitled “I am here, I belong: the urgent need to end childhood statelessness.” Lastly, this paper is supported by relevant human rights standards and documents, including the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, and General Recommendation No. 30 on the discrimination against non-citizens of the Committee on the Elimination of Racial Discrimination (CERD).

III. Issues identified concerning statelessness and minorities

6. Although the regulation of citizenship is generally considered to be part of States’ sovereign decision, rules and practices concerning nationality that are racially discriminatory⁹ or that discriminate in practice or effect on grounds such as religion or belief, age, gender identity or gender expression, disability, language, sex, sex characteristics or sexual orientation violate international human rights standards,¹⁰ especially the principles of equality and non-discrimination.¹¹ In General Recommendation No. 30, CERD stated that concerning nationality, citizenship or naturalization, States

⁷ See, Annex I.

⁸ The survey questions are included as Annex 1 to this non-paper below.

⁹ To be understood as any of the grounds covered under Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination. See, *supra* note 6.

¹⁰ See, *e.g.*, Report of the Special Rapporteur on freedom of religion or belief, Elimination of all forms of religious intolerance, UN Doc. A/63/161, 22 July 2008, para. 39, available at: <https://undocs.org/A/63/161>.

¹¹ The Human Rights Committee (CCPR), in General Comment No. 18 on Non-discrimination, recalls that “[n]on-discrimination, together with equality before the law and equal protection of the law without any discrimination, constitute a basic and general principle relating to the protection of human rights” (para. 1). The CCPR notes that “Article 2, paragraph 1, of the International Covenant on Civil and Political Rights obligates each State party to respect and ensure to all persons within its territory and subject to its jurisdiction the rights recognized in the Covenant without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Article 26 not only entitles all persons to equality before the law as well as equal protection of the law but also prohibits any discrimination under the law and guarantees to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (para. 1). See, UN Human Rights Committee, General Comment No. 18: Non-discrimination, 10 November 1989. Available at: <https://www.refworld.org/docid/453883fa8.html>.

The principle of non-discrimination is enshrined in additional international human rights instruments, including Article 2(2) of the International Covenant on Economic, Social and Cultural Rights, Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination, Article 30 of the Convention on the Rights of the Child, Article 2(1) of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and Article 2(1) of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

must not discriminate against any particular nationality.¹² Besides, the right to a nationality is enshrined in various international documents, including Article 15 of the Universal Declaration of Human Rights, Article 24 of the International Covenant on Civil and Political Rights and Article 7 of the Convention on the Rights of the Child.

7. Furthermore, the 1961 Convention on the Reduction of Statelessness requires States to prevent statelessness by granting nationality to persons who would otherwise be stateless and are either born in their territory or abroad to one of their nationals (articles 1, 3 and 4), and upon loss or deprivation of nationality (articles 5 to 8). Article 9 of the same Convention provides that States “may not deprive any person or group of persons of their nationality on racial, ethnic, religious or political grounds.” Yet, the survey results indicate the pervasiveness of discriminatory laws and practices regarding the acquisition, transmission, or deprivation of nationality in many States.

1. Discriminatory laws, policies, practices: multiple and compounded causes of statelessness

8. Throughout the world, many minority communities still struggle to access nationality.¹³ The main causes of statelessness are diverse and include state succession, histories of forced displacement, lack of civil documentation, discriminatory laws, policies and practices to access citizenship, or gaps in and between the nationality laws of States.

9. In particular, the survey results show that the laws and policies of several countries limit access to nationality through **requirements that are either explicitly discriminatory against certain individuals or groups, or that have discriminatory impact or effect on particular groups.**¹⁴ For instance, some national laws contain restrictive criteria (*e.g.*, origins, language, clan, or tradition-based requirements) for granting citizenship, which places minorities at greater risk of statelessness. Furthermore, many of these criteria lack clarity and consistency, hence they may be used arbitrarily to exacerbate discriminations against certain groups. Likewise, numerous national laws provide age restrictions to apply for nationality or contain higher requirements for certain age groups, such as language tests or civics exams.

10. The survey results also indicate that even when nationality laws do not discriminate against particular individuals or groups, they often face practical **obstacles in accessing citizenship** due to insurmountable or unduly burdensome administrative requirements. As noted by the UN Special Rapporteur on Contemporary Forms of Racism in 2018, “[s]ometimes, States produce stateless populations or persons with irregular or inadequate status through administrative barriers that structurally exclude marginalized social or national groups.”¹⁵ In many countries, birth registration or

¹² CERD Committee, General Recommendation No. 30 on the Discrimination of Non-Citizens, October 2002, paras. 1, 13-17, available at: <https://www.refworld.org/docid/45139e084.html>.

¹³ *See, e.g.*, updates of the Thematic report on statelessness as a minority issue and the level of awareness-raising and visibility of minorities and their human rights, UN Doc. A/HRC/40/64, 9 January 2019, paras. 85-87, available at: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/40/64.

¹⁴ Under international human rights law, the ban on discrimination covers all forms of discrimination, including direct and indirect discrimination. Direct discrimination occurs when a person is treated less favourably than another person is, has been, or would be treated in a comparable situation on the basis of one or more protected grounds; or when a person is subjected to a detriment on the basis of one or more grounds of discrimination. Indirect discrimination occurs when a provision, criterion or practice has or would have a disproportionate, negative impact on persons having a status or a characteristic associated with one or more grounds of discrimination. *See, e.g.*, UN Committee on the Elimination of Racial Discrimination (CERD), General recommendation No. 32: The meaning and scope of special measures in the International Convention on the Elimination of all Forms of Racial Discrimination, UN Doc. CERD/C/GC/32, 24 September 2009, paras. 7-9, available at: <https://www.refworld.org/docid/4adc30382.html>.

¹⁵ Report of the Special Rapporteur on Contemporary Forms of Racism, “Racial discrimination in the context of in the context of laws, policies and practices concerning citizenship, nationality and immigration,” UN Doc. A/HRC/38/52, 25 April 2018, para. 10, available at: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/38/52.

nationality acquisition procedures are extremely difficult to complete for marginalized communities, especially when they include arduous documentary evidence requirements or when minority individuals are subject to discriminatory attitudes by registry officials. In many countries, the lack of free legal aid available to the most vulnerable groups is also problematic, especially when individuals do not speak the country's language, are illiterate, or are unable to comprehend administrative procedures. Furthermore, the absence of civil registries in isolated areas and the geographical remoteness of some communities from public administrative offices constitute an additional barrier to access citizenship.

11. In many countries, legislation and policies include **onerous requirements for naturalization**, which often results in the exclusion of minorities. In several States, individuals may be naturalized only if they can prove that they speak and/or write the national language(s) or if they pass a civics test. These requirements disproportionality affect individuals belonging to national, ethnic, religious, or linguistic minorities. The survey results also indicate that the language and civics tests may not always be administered objectively, especially when they involve in-person interviews or when the examination criteria lack clarity and objectivity. In addition, the costs associated with these tests often constitute an additional obstacle for stateless persons as they may already live in a situation of poverty.

12. Some national legislation and policies also include **specific requirements on self-reliance and socio-economic participation** of individuals as a condition to confer citizenship, which may adversely affect minorities considering that they often face poverty, exclusion from the formal job market, or social stigmatization. For instance, in some States, persons who have received social assistance in a certain period of time before or during the application to naturalization cannot access citizenship because they do not meet the conditions of economic participation and self-reliance, unless the social assistance received is fully reimbursed. Furthermore, access to naturalization often requires proof of continuous residence for an elevated number of years, which might be difficult to fulfill for people without travel documents, legal residence permits, or those living in precarious settlements.

13. The Special Rapporteur on Contemporary Forms of Racism reported that “**racist and xenophobic ideologies rooted in ethno-nationalism** regularly combine with national security fears and economic anxieties to violate the human rights of non-citizens, indigenous peoples and minorities on the basis of race, ethnicity, national origin and religion.”¹⁶ In countries where naturalization is denied to categories of individuals who are considered a “threat” to public policy or national security, hate speech and racist or xenophobic ideologies can be used by political leaders and parties to exploit the discontent and national security anxieties of their populations, and to further restrict access to nationality or develop higher restrictions along racial, ethnic, religious or linguistic lines. In that regard, the exponential rise of hate speech and ethno-religious hatred, such as antisemitism, Islamophobia, anti-Roma rhetoric, Afrophobia or anti-Asian hatred, is particularly concerning.¹⁷

2. The specific vulnerability of certain groups to statelessness

14. In general, **national, ethnic, religious and linguistic minorities** face disproportionate discrimination and compounded obstacles in accessing their right to nationality. Since the adoption of the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, international interpretation has generally proceeded from an expansive

¹⁶ *Id.*, para. 63.

¹⁷ See, e.g., UN Special Rapporteur on Freedom of Religion or Belief, Report on Countering Islamophobia/Anti-Muslim Hatred to Eliminate Discrimination and Intolerance Based on Religion or Belief, UN Doc A/HRC/46/30, 25 February 2021, available at: <https://www.ohchr.org/EN/Issues/FreedomReligion/Pages/HatredAndDiscrimination.aspx>.

approach to interpret the term “minorities”.¹⁸ Reflecting a broad consensus on the relationship between the definition of minorities and citizenship, the UN Working Group on Minorities has set out *inter alia* that the Declaration benefits from a scope as wide as that of article 27 of the International Covenant and Civil and Political rights, and its application extends to minorities regardless of citizenship.¹⁹ The UN Human Rights Committee has set out an analogous interpretation.²⁰ The UN Special Rapporteur on Minority Rights, Dr. Fernand de Varennes, has also advanced a working definition on the concept of minority, according to which “[a] person can freely belong to an ethnic, religious or linguistic minority without any requirement of citizenship, residence, official recognition or any other status.”²¹

15. Nevertheless, there are important **gaps between this approach to minority protection under international human rights law and national laws, rules and practices in that regard**, since in practice States generally continue to require citizenship, residence, official recognition, or any other official status as a prerequisite to ensure the protection of the specific rights of minorities. Hence, although States have the obligation to protect minorities’ existence and identity and to ensure their effective participation regardless of whether they are citizens or not,²² discriminatory practices, laws, and policies against minorities in matters of nationality are prevalent in many countries.

Particular minorities are especially affected by problems of statelessness. The following is a non-exhaustive summary of some minorities or communities where international human rights review has consistently identified statelessness issues, in many cases implicating multiple jurisdictions or States. Throughout Europe, many **Roma** still struggle to secure documents to assert their nationality. Although some countries have facilitated naturalization procedures for stateless persons, some Romani individuals or families are often identified by State authorities as having “unknown nationality”, which prevents their access to secure legal recognition of citizenship, or they are otherwise unable to surmount barriers to the effective recognition of nationality. Roma, Ashkali and Egyptian minorities in or from southeastern Europe may also face statelessness as a result of the recent history of state succession, displacement, gaps and conflicts in nationality and civil registration laws, structural discrimination and xenophobia. The survey results also indicate that issues facing Roma may be compounded by the rise of hate speech and xenophobia, as well as the lack of consultation with Roma communities to resolve linguistic, administrative, socio-economic and other obstacles in accessing birth registration or other status documents, as well as administrative procedures more generally. In the Baltic States, thousands of individuals among the **Russian-speaking populations** have remained stateless since the dissolution of the Soviet Union. Likewise, since the **Rohingya** have been denied Myanmar citizenship in 1982 and the brutal crackdown by the Myanmar army in 2017 that prompted hundreds of thousands of Rohingyas to flee the country,²³ about one

¹⁸ Article 1 of the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities refers to minorities as based on national or ethnic, cultural, religious and linguistic identities, and provides that States should protect their existence. Although there is no international agreed definition as to which groups constitute minorities, it is often stressed that the existence of a minority is a question of factual elements and that any definition must include both objective factors (*e.g.*, existence of a shared ethnicity, language or religion) and subjective factors, including self-identification by individuals as members of a minority. See, UN Office of the High Commissioner for Human Rights, *Minority Rights: International Standards and Guidance for Interpretation*, UN Doc. HR/PUB/10/3, p. 2, available at : https://www.ohchr.org/Documents/Publications/MinorityRights_en.pdf.

¹⁹ Commentary of the Working Group on Minorities to the United Nations Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities, UN Doc. E/CN.4/Sub.2/AC.5/2005/2, 4 April 2005, available at: <https://digitallibrary.un.org/record/547650?ln=fr>.

²⁰ CCPR/C/21/Rev.1/Add.5, 26 April 1994

²¹ Report of the UN Special Rapporteur on Minority Issues, UN Doc. A/74/160, 15 July 2019, para. 59; OHCHR, "Faith4Rights Toolkit", 2021, p. 38, available at: <https://www.ohchr.org/Documents/Press/faith4rights-toolkit.pdf>, p. 38.

²² *Ibid.*

²³ See, *e.g.*, UN High Commissioner for Human Rights, Report on the Situation of human rights of Rohingya Muslims and other minorities in Myanmar, UN Doc. A/HRC/32/18, 29 June 2016, paras. 2-14, available at: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/32/18; UNHCR, “The Displaced and Stateless of Myanmar in the

million of members of the Rohingya minority who are stateless have faced “horrific human tragedies”.²⁴

16. Furthermore, **children and youth** may be particularly affected by statelessness and the denial of the right to nationality. In various States, nationality laws based on *jus sanguinis* contain limitations that distinguish between children born in and out of wedlock, as well as between children who are born to a national mother as opposed to a national father. Likewise, access to nationality by descent also has discriminatory aspects in various States where women and men do not have equal rights when transmitting nationality to their children.

17. Because **birth certificates** provide proof of links to a State and are therefore often a prerequisite for obtaining citizenship, children belonging to minority groups face heightened risks of statelessness when they cannot access civil registration. The survey results also indicate that the lack of recognition of same-sex partnerships or marriages by some countries can leave some children at risk of statelessness, especially when the national authorities of one country refuse to recognize birth certificates issued in another country because they include the names of both same-sex parents or when national legislation excludes the possibility to register the birth of a child with same-sex parents. Furthermore, some countries do not recognize the legal parentage between children and their non-biological parent(s) in situations other than adoption, and require proof of a biological link (*e.g.*, DNA test) to register the birth or transcribe birth certificates issued by another State into domestic law, which puts children born under surrogacy arrangements or with same-sex parents at greater risk of statelessness.

18. **Older stateless individuals** may also face specific obstacles in accessing nationality. Due to various historical and socio-political factors (*e.g.*, state succession, absence of civil registries), some have never registered their birth or received a birth certificate, thereby lacking the primary documentary evidence needed to apply for a nationality. These documents may also have been lost or destroyed. Furthermore, elderly individuals belonging to minorities may also face heavy burden to meet the language or income requirements in naturalization processes, since they tend to be disproportionately affected by illiteracy, poverty, and social exclusion.²⁵

19. For **nomadic communities or those living in transborder areas**, who often identify as minorities, effective access to birth registration and citizenship can be hampered when the precise location of their birth is unknown or when they are unable to prove that they were born in a specific country. Furthermore, in States where access to citizenship is contingent upon residence in the country for a specific number of years, nomadic or transborder communities may face difficulties to meet or proof this requirement.

20. **Former citizens of predecessor States** continue to face obstacles to the regularization of their status, especially when their birth certificates were lost, destroyed, or never issued. Furthermore, the dissolution, separation, or collapse of certain States or federations can be used by the new states as an opportunity to adopt restrictive citizenship laws that would serve ethno-nationalistic projects and

Asia-Pacific Region: An Overview of the Current Situation for Rohingya and Other Persons of Concern from Myanmar and UNHCR’s Response Across the Region,” January 2021, p. 2-4, available at: <https://reporting.unhcr.org/sites/default/files/The%20Displaced%20and%20Stateless%20of%20Myanmar%20in%20the%20Asia-Pacific%20Region%20-%20January%202021.pdf>.

²⁴ Statement of the UN Special Rapporteur on Minority Issues, “Statelessness of millions of minority people must be addressed urgently,” 13 March 2019, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24321&LangID=E>.

²⁵ See, *e.g.*, UN Department of Economic and Social Affairs, “Economic Inequalities in Old Age,” available at: https://www.un.org/development/desa/ageing/wp-content/uploads/sites/24/2016/08/Briefing-Paper_Economic-Inequalities_Final.pdf.

exclusionary political restructuring, which may disproportionately affect members of national, ethnic, religious, and linguistic minorities. For instance, following the dissolution of Czechoslovakia, Yugoslavia and the Soviet Union and the creation of a number of successor States from previously existing federations, a number of countries implemented restrictive citizenship laws to build an initial body of citizens by excluding certain ethnic, racial or religious groups, with Roma and Russians affected in particular.²⁶ In 2015, the UNHCR estimated that more than 722,000 stateless persons with no or unclear citizenship status lived in the Organization for Security and Cooperation in Europe (OSCE) area.²⁷

21. **Stateless migrants, asylum-seekers and refugees** face disproportionate obstacles in accessing citizenship, especially when they have entered the country irregularly. Furthermore, the Special Rapporteur on Contemporary Forms of Discrimination has reported that, “non-white migrants are far more vulnerable to discrimination and intolerance than white migrants, irrespective of nationality.”²⁸ Likewise, the UN Committee on the Elimination of Racial Discrimination (CERD) has explicitly instructed State parties to ICERD to “take all necessary measures in order to avoid any form of discrimination against immigrants or asylum-seekers of Roma origin.”²⁹ Some national legislation explicitly defines categories of persons that are prohibited from applying to citizenship, such as irregular migrants, asylum-seekers or refugees, or children whose parents are considered “enemy aliens”. **Children of refugees, asylum-seekers and migrants** may also face obstacles in accessing birth registration, especially when the registration procedures include stringent requirements or when they are conditional on parents’ legal residency or documentation status.

22. **Persons with disabilities** also face disproportionate challenges in accessing naturalization procedures. In some States, individuals who apply for permanent residence or citizenship may be found inadmissible on health grounds, especially when they suffer mental illness, stigmatized diseases like AIDS, or when government consider that they would be a “threat” to public health or place an “excessive” demand on welfare services. Although some countries include exemptions to naturalization requirements for persons with disabilities (*e.g.*, fee waivers, absence of language tests), the survey results indicate that the decisions to grant exemption tend to be discretionary. Furthermore, administrative procedures for accessing nationality tend to be particularly burdensome for people with disabilities, especially when they do not have the ability to handle this process on their own, which is aggravated by the frequent lack of free legal aid in this area.

23. **Minorities often face multiple or intersectional discrimination, that is, they face discrimination on the basis of more than one ground which often has a compounding effect, or as a result of the interplay of more than one ground.** In addition to possible racial discrimination or discrimination on grounds of language, religion or belief, they may also face discrimination related to their health status, migrant status, socio-economic status, age, or sexual orientation, gender identity,

²⁶ For example, the UNHCR reported that “[t]he statelessness of the Roma and other ethnic minorities is linked, in part, to the dissolution of the Socialist Federal Republic of Yugoslavia in the early 1990s.” UNHCR, “This is our home”: Stateless minorities and their search for citizenship, *supra* note 3, p. 22. Gay McDougall, Former UN Special Rapporteur on Minority Issues, also noted that “The break-up of the Soviet Union, for example, fomented numerous nationality contests which left millions effectively stateless and living as minorities in new political contexts. In a similar way, the de-federation and division of Czechoslovakia left thousands of Roma in a precarious situation while their citizenship status was questioned by both successor States.” See, Report of the independent expert on minority issues, Gay McDougall, UN Doc. A/HRC/7/23, 28 February 2008, para. 25, available at : <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F7%2F23&Language=E&DeviceType=Desktop>.

²⁷ OSCE and UNCHR, “Handbook on statelessness in the OSCE area: international standards and good practices,” 2017, p. 9, available at: www.osce.org/handbook/statelessness-in-the-OSCE-area.

²⁸ Report of the Special Rapporteur on Contemporary Forms of Racism, *supra* note 15, para. 30.

²⁹ UN CERD, General Recommendation No. 27 on Discrimination against Roma, UN Doc. 1/55/18, Annex V, 16 August 2000, Art. 1, para. 5, available at: <https://www.refworld.org/pdfid/45139d4f4.pdf>.

gender expression or sex characteristics, among others.³⁰ Furthermore, minority rights are intersectional from the outset, since in practice there are not firm boundaries between the four categories set out in the 1992 Declaration categories and, as noted by the Venice Commission “often, they may be in part cumulative.”³¹ Overall, the ‘grounds’ of discrimination are extended in practice by the notion of ‘intersectionality,’ which has gained increased attention among the minority rights movement.³² For instance, the survey results indicate that **women belonging to minorities** often face compounding discrimination not only based on their gender identity, gender expression or sex characteristics, but also linked with other factors, such as their race, sexual orientation, ethnicity, religion or belief, health status, age, class, caste, among others. In various countries, women do not acquire, change, or retain their nationality on an equal basis with men.³³ The nationality laws of 25 countries do not grant women equality with men in conferring nationality to their children.³⁴ Likewise, some countries explicitly discriminate against **lesbian, gay, bisexual, trans and/or intersex (LGBTI) individuals** who, for example, may be excluded as a “prohibited class” from naturalization procedures. Many States do not have a public policy related to sexual orientation, gender identity and/or expression, and sex characteristics (SOGIESC) that ensure their equal access to citizenship. Likewise, when the granting of citizenship is somewhat discretionary or involves a certain degree of subjectivity by public officials, an individual’s gender identity, gender expression, sexual orientation, or sex characteristics, could possibly be a barrier to citizenship. As mentioned earlier, LGBTI individuals may also be unable to transmit their nationality to their biological or non-biological children, which can lead to statelessness among children of same-sex partners.

3. The denial of human rights faced by stateless individuals

24. Statelessness is often associated with other human rights violations, in a context where “States have long used access to citizenship [...] as a **discriminatory tool to curtail the rights and benefits of marginalized groups.**”³⁵ As noted by former Independent Expert on Minority Issues in 2008, “[o]nce denied or deprived of citizenship, minorities are inevitably denied protection of their basic rights and freedoms, including minority rights as established in the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.”³⁶

25. In particular, the discriminatory deprivation of citizenship faced by minorities can be used as an “effective method of compounding their vulnerability,” since **statelessness has long-lasting and extreme consequences for the enjoyment of other rights, including the right to vote, and prevents**

³⁰ UN Treaty Bodies cover the following discrimination grounds under international human rights law: Age; Albinism; Birth; Civil, Family or career status; Colour; Descent; Disability; Economic status; Ethnicity; Gender expression; Gender identity; Genetic or other predisposition towards illness; Health status; Indigenous origin; Language; Marital status; Maternity or paternity status; Migrant status; Minority status; National origin; Nationality; Place of residence; Political or other opinion; Pregnancy; Property; Race; Refugee or asylum status; Religion or belief; Sex; Sex characteristics; Sexual orientation; Social origin; Social situation (see, e.g., Committee on Economic, Social and Cultural Rights, General Comment No. 20 (E/C.12/GC/20); Human Rights Committee General Comment 18; and Committee on the Rights of Persons with Disabilities, General Comment No. 6 (CRPD/C/GC/6)).

³¹ European Commission for Democracy through Law (Venice Commission), “Compilation of Venice Commission Opinions and Reports Concerning the Protection of National Minorities,” Strasbourg, 11 November 2017, Doc. CDL-PI(2018)002., p.4.

³² See, e.g., *Life at the Margins: The Challenges of Multiple Discrimination*, available at: <http://stories.minorityrights.org/life-atthemargins/>

³³ Equality Now, “The State We’re In: Ending sexism in nationality laws”, January 2016, available at: https://d3n8a8pro7vhm.cloudfront.net/equalitynow/pages/301/attachments/original/1527597970/NationalityReport_EN.pdf?1527597970

³⁴ UNHCR, “Background Note on Gender Equality, Nationality Laws and Statelessness 2021”, March 2021, available at: <https://www.refworld.org/docid/604257d34.html>

³⁵ *Ibid.*, para. 11.

³⁶ Report of the Special Rapporteur on Minority Rights, “Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, including the Right to Development,” UN Doc. A/HRC/7/23, 28 February 2008, p. 1, available at: <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F7%2F23&Language=E&DeviceType=Desktop>.

access to most services, including healthcare, education, or welfare.³⁷ The UN Special Rapporteur on Minority Issues noted that “without citizenship, people who are stateless become humans without rights.”³⁸ In some cases, stateless individuals are also more vulnerable to expulsion, forced removal, violence, or mass displacement.³⁹

26. Furthermore, statelessness is often inherited, which leads to a phenomenon of **intergenerational transmission of rights deprivation** and to the **enduring marginalization of stateless individuals across generations**. Besides, for individuals belonging to minorities, this exclusion from other social, economic, political benefits and rights deprivation is even more pervasive, because they are often underrepresented in or excluded from political decision-making.

27. **The COVID-19 pandemic has disproportionately impacted stateless populations**, as shown by recent reports from UNHCR⁴⁰ and the European Network on Statelessness.⁴¹ In particular, stateless communities living in overcrowded settlements or apartments have faced difficulties in maintaining physical distancing. The social security schemes implemented by many States during the pandemic have often been restricted to citizens, thereby depriving stateless individuals of welfare support. Likewise, stateless individuals have faced barriers to access basic health services, medication, testing, or masks, especially when they lack identification documents or when they live in situations of poverty or social marginalization.

28. The impacts of the COVID-19 pandemic on minorities have been more severe in a number of ways. The UN OHCHR reported that Some minority groups have suffered death rates several times higher than other groups during the pandemic, revealing substantial and structural inequalities in most countries.⁴² Since minorities have often been on the front lines with low-paid and essential jobs, such as cleaning or transportation, they have been particularly exposed to COVID-19.⁴³ Furthermore, minorities are also confronted with an increase in hate speech and intensified discrimination in many places, with minorities sometimes being cast as scapegoats for the COVID-19 virus.⁴⁴

29. Although some States have confirmed universal plans to vaccinate stateless individuals against COVID-19, **some vaccination campaigns have actively discriminated against non-citizens**, for instance by requiring identification documents to access vaccination. As a result, stateless people risk being excluded from national vaccination plans regardless of whether their age, medical conditions or health status, or role in society would otherwise place them among priority categories.

³⁷ Report of the Special Rapporteur on Minorities Issues, *supra* note 2, para. 37.

³⁸ Statement of the UN Special Rapporteur on Minority Issues, “Statelessness of millions of minority people must be addressed urgently,” 13 March 2019, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24321&LangID=E>

³⁹ Report of the Special Rapporteur on Minorities Issues, *supra* note 2, para. 38.

⁴⁰ UNHCR, “The Impact of COVID-19 on Stateless Populations: Policy Recommendations and Good Practices”, May 2020, available at: <https://www.refworld.org/docid/5eb2a72f4.html>

⁴¹ European Network on Statelessness, “Situation Assessment of Statelessness, Health, and COVID-19 in Europe,” April 2021. Available at: <https://www.statelessness.eu/updates/publications/situation-assessment-statelessness-health-and-covid-19-europe>.

⁴² UN OHCHR, Covid-19 and Minority Rights : Overview and Promising Practices, 4 June 2020, p. 1, available at: https://www.ohchr.org/Documents/Issues/Minorities/OHCHRGuidance_COVID19_MinoritiesRights.pdf.

⁴³ *Ibid.*

⁴⁴ *Ibid.*, p. 2.

Annex I.

Survey on nationality (citizenship) frameworks and equality in matters of nationality

1. Are the State's legal rules and regulations regarding the acquisition, conferral, change and retention of nationality (citizenship) the same for everyone, irrespective of one's real or perceived racial or ethnic origin, or do they restrict (in law or practice) certain groups from acquiring or conferring nationality, or from being protected from deprivation of nationality?
 - a. Yes, the rules are the same and they do not restrict any specific groups protected by international ban on racial discrimination from equal access to nationality/citizenship.
 - b. No, please explain:
2. Are the State's legal rules and regulations regarding the acquisition, conferral, change and retention of nationality the same for everyone, irrespective of one's religious affiliation, religious or spiritual beliefs, or do they restrict (in law or practice) members of certain religious or belief minorities from acquiring or conferring nationality or from being protected from deprivation of nationality?
 - a. Yes, they are the same and do not restrict any minorities having specific religious or spiritual beliefs.
 - b. No, please explain:
3. Do members of any minorities face particular burdens or obstacles as concerns the acquisition, conferral, change and retention of nationality (citizenship)?
 - a. No.
 - b. Yes, please explain:
4. Are the State's legal rules and regulations regarding the acquisition, conferral, change and retention of nationality the same for everyone, irrespective of one's sex (*i.e.*, are the rules identical for women and men), or do they restrict (in law or practice) women from acquiring or conferring nationality or from being protected from deprivation of nationality?
 - a. Yes, they are the same and do not restrict either sex.
 - b. No, please explain:
5. Are the State's legal rules and regulations regarding the acquisition, conferral, change and retention of nationality the same for everyone, irrespective of one's sexual orientation, gender identity and/or expression, and sex characteristics (SOGIESC), or do they restrict (in law or practice) persons with diverse sexual orientations, gender identities or expressions, or sex characteristics from acquiring or conferring nationality, or from being protected from deprivation of nationality?
 - a. Yes, they are the same and do not restrict persons with diverse SOGIESC.
 - b. No, please explain:
6. Are the State's legal rules and regulations regarding the acquisition, conferral, change and retention of nationality the same for everyone, irrespective of one's age, or do they restrict (in law or practice) certain age groups from acquiring or conferring nationality, or from being protected from deprivation of nationality?

- a. Yes, they are the same and do not restrict any specific age group.
 - b. No, please explain:
- 7.** Are the State's legal rules and regulations regarding the acquisition, conferral, change and retention of nationality the same for everyone, irrespective of disability, or do they restrict (in law or practice) persons with physical, mental, psychosocial, intellectual or sensory impairments from acquiring or conferring nationality or from being protected from deprivation of nationality?
- a. Yes, they are the same and do not restrict persons with physical, mental, psychosocial, intellectual or sensory impairments.
 - b. No, please explain:
- 8.** Is the acquisition, conferral, change or non-retention of nationality contingent on the ability to be self-reliant (*i.e.* that the person can „contribute” to society or not be a „burden”)?
- a. No.
 - b. Yes, please explain:
- 9.** Is the acquisition, conferral, change or non-retention of nationality contingent on the ability to read or speak a certain language (*e.g.* language requirements)?
- a. No.
 - b. Yes, please explain:
- 10.** Is the conferral of nationality to children of nationals contingent on the ability to prove a biological relationship to the child?
- a. No.
 - b. Yes, please explain:
- 11.** Are there any other ground-based limitations in nationality/citizenship law, rules, procedures, guidance, policy or practice?
- a. No.
 - b. Yes, please explain: