
NATIONALITY AND STATELESSNESS: THE CHALLENGES OF ARBITRARY DEPRIVATION

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INTRODUCTION:

Nationality serves as a fundamental component of legal identity, establishing an individual's legal affiliation with a state and granting access to rights and protections under both national and international law. According to Article 15 of the Universal Declaration of Human Rights, every person has the right to a nationality; however, statelessness remains a significant global issue, affecting millions who lack legal recognition and state protection¹.

Statelessness arises when individuals are not considered nationals by any country, resulting in serious consequences such as restricted access to education, healthcare, employment, and freedom of movement. Additionally, the arbitrary deprivation of nationality, often driven by political, ethnic, or security considerations, further exacerbates the issue by leaving affected individuals vulnerable and without the legal protections afforded to citizens².

To address these concerns, international legal frameworks such as the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness have been established. However, challenges persist in the enforcement and implementation of these instruments, as states continue to exercise broad discretion in nationality laws, sometimes in ways that conflict with international human rights obligations (Shearer & Opeskin, 2012)³.

STATEMENT OF PROBLEM:

The 1954 and 1961 Statelessness Conventions establish key protections for stateless individuals, but their effectiveness is undermined by poor implementation and lack of

¹ Carol A. Batchelor, *Statelessness and the Problem of Resolving Nationality Status*, 10 Int'l J. Refugee L. 156 (1998).

² Laura van Waas, *Nationality Matters: Statelessness Under International Law* (Tilburg Univ. 2008).

³ Ivan Shearer & Brian Opeskin, *Nationality and Statelessness*, in *Foundations of International Migration Law* (Brian Opeskin, Richard Perruchoud & Jillyanne Redpath-Cross eds., Cambridge Univ. Press, forthcoming 2012).

international oversight, unlike the actively monitored refugee regime. States retain broad authority over nationality laws, often misusing this power such as revoking citizenship on national security grounds even when it risks statelessness, bypassing the safeguards in Article 8 of the 1961 Convention. Additionally, gender discrimination persists in over 25 countries where women are still denied the right to pass nationality to their children or spouses, heightening the risk of statelessness and stalling reform efforts under the guise of national sovereignty.

SCOPE AND LIMITATION:

This research examines arbitrary deprivation of nationality within the international legal framework on statelessness, assessing the effectiveness 1961 Statelessness Conventions. It analyses state discretion, enforcement challenges, and human rights implications. However, limitations include inconsistent data, weak enforcement due to state sovereignty, and political sensitivities around national security-based revocations. Despite these challenges, the study aims to enhance legal protections against arbitrary nationality deprivation.

RESEARCH OBJECTIVES:

1. To examine the effectiveness of 1961 Convention in safeguarding individuals from unjust deprivation of nationality and reducing the risk of statelessness.
2. To analyse the issues that leads to legal gaps in enforcement
3. To discusses the human rights consequences of losing nationality
4. To propose suggestion and recommendations to strengthen protection against statelessness.

RESEARCH QUESTIONS:

1. How well do the 1961 Convention protect people from losing their nationality unfairly, and what problems make these laws less effective?
2. How do countries use their power to take away citizenship, and how do weak laws and lack of enforcement increase the risk of statelessness?
3. What are the main human rights problems caused by unfair loss of nationality?

RESEARCH METHODOLOGY:

This paper adopts a doctrinal legal research methodology. It involves a systematic analysis of international conventions, judicial decisions, and academic commentaries related to nationality and statelessness. Primary sources include 1961 Convention on the Reduction of Statelessness, is examined alongside secondary sources including journal articles, legal reports, and academic commentaries.

LITERATURE REVIEW:

Carol A. Batchelor, *Transforming International Legal Principles into National Law: The Right to a Nationality and the Avoidance of Statelessness*, 25 REFUGEE SURV. Q. 8 (2006).

This article examines the disconnect between international legal standards and their implementation at the national level. It highlights how states exercise broad discretion in nationality laws, often resulting in statelessness due to inconsistent or arbitrary policies. The article emphasizes the weak enforcement of international legal norms, as many policymakers are unaware of fundamental principles, creating loopholes that enable the revocation of nationality. Batchelor also discusses the conflict between state sovereignty and international obligations, showing how legal ambiguities allow governments to justify arbitrary nationality deprivation. Additionally, she highlights the serious human rights implications of statelessness, particularly its impact on legal identity, rights, and access to essential services. The paper advocates for comprehensive legal and policy reforms to align national laws with international standards, ensure transparency, uphold due process, and prevent statelessness.

This analysis aids for research on arbitrary nationality deprivation, as it identifies legal shortcomings, enforcement challenges, and the necessity for stronger international oversight to protect individuals from statelessness.

Peter J. Spiro, *Review of Nationality and Statelessness Under International Law*, 110 Am. J. Int'l L. 148 (2016).

Peter J. Spiro's review of Nationality and Statelessness Under International Law offers a critical analysis of the difficulties international legal frameworks face in addressing nationality and statelessness. It highlights the ineffectiveness of international conventions, particularly the

1954 and 1961 Statelessness Conventions, due to weak enforcement mechanisms and the lack of strong institutional oversight. It further emphasizes the broad discretion afforded to states under the 1930 Hague Convention, which enables them to enforce restrictive citizenship policies, often resulting in arbitrary deprivation of nationality. He contrasts the statelessness regime's weak enforcement with the refugee protection system, which benefits from the oversight of the UNHCR. Moreover, he examines how national security concerns are increasingly used to justify nationality revocation, particularly in counterterrorism cases, despite the risk of statelessness. His analysis underscores the necessity of stronger legal and policy reforms to improve international oversight and prevent arbitrary nationality deprivation.

This review is highly relevant to the present research, as it highlights key gaps in the existing legal framework and advocates for more robust mechanisms to hold states accountable for nationality revocation.

Paul Weis, *The United Nations Convention on the Reduction of Statelessness*, 1961, 11 Int'l & Comp. L.Q. 1073 (1962). In his influential analysis *The United Nations Convention on the Reduction of Statelessness* (1962), Paul Weis offers a thorough examination of the 1961 Convention, exploring both its legal structure and its practical limitations. He acknowledges the Convention as a notable advancement in establishing international responsibilities aimed at preventing and reducing statelessness, especially through protective measures at birth and in situations involving the loss or withdrawal of nationality. However, Weis also critiques the Convention's reliance on state discretion and the broad range of exceptions it allows which, he argues, weakens its overall impact. His work underscores the ongoing conflict between the universal right to a nationality and the sovereign authority of states to define their citizenship laws. This perspective is central to the present research, as it illuminates the enduring legal and practical obstacles in resolving statelessness.

EFFECTIVENESS OF INTERNATIONAL LEGAL INSTRUMENTS IN PREVENTING ARBITRARY DEPRIVATION OF NATIONALITY:

OVERVIEW OF 1961 CONVENTION IN REDUCING STATELESSNESS:

The 1961 Convention on the Reduction of Statelessness is a key international agreement designed to prevent and reduce statelessness around the world. It provides a detailed legal structure to protect individuals from being unfairly stripped of their nationality, reinforcing the

basic right to nationality as outlined in Article 15 of the Universal Declaration of Human Rights (UDHR).

Article 1 of the 1961 Convention imposes a firm obligation on states to provide nationality to individuals born within their territory if they would otherwise be stateless. This nationality can be granted either automatically at birth or through an application process, as determined by national legislation. While states may impose certain criteria such as age restrictions, periods of residence, or a clean criminal record these conditions must be fair and should not block a stateless person's access to citizenship. The Article also protects children born in wedlock to a mother who is a national by ensuring they acquire citizenship if they would otherwise be stateless, supporting gender equality in nationality laws. Moreover, it allows those who failed to meet specific conditions or deadlines another opportunity to acquire citizenship if one of their parents was a national. In essence, Article 1 provides a critical legal foundation to prevent statelessness at birth and address legal gaps in national frameworks.

Article 2 of the 1961 Convention states that a child of unknown parentage found within the territory of a Contracting State shall be presumed, in the absence of evidence to the contrary, to have been born in that country to parents who are nationals of that State.

Article 3 stipulates that births occurring on ships or aircraft are considered to have taken place in the territory of the state whose flag the vessel flies, providing clarity on nationality in such unique circumstances.

Article 4 of the 1961 Convention requires a Contracting State to grant its nationality to a person born outside its territory who would otherwise be stateless, if one of their parents was a national of that State at the time of birth. This can be done automatically at birth or through an application. States may impose conditions like age limits, residency requirements, or a clean national security record, but the person must always have been stateless.

Loss and Deprivation of Nationality (Articles 5–8):

Changes in Personal Status (Articles 5 and 6): These articles deal with cases where changes like marriage, divorce, or adoption could result in the loss of nationality. The Convention only permits this if the person already has or will obtain another nationality, ensuring no one becomes stateless due to civil status changes

Voluntary Renunciation (Article 7): Individuals may give up their nationality under Article 7, but only if they already hold or are guaranteed to gain another nationality. This balances personal freedom with the need to avoid statelessness.

Deprivation for Specific Reasons (Article 8): This article restricts states from revoking nationality if it would cause statelessness. The only exceptions are for cases involving fraud in obtaining nationality or serious threats to national security. These exceptions are tightly defined to prevent abuse.

Prohibition of Discrimination (Article 9): Article 9 strengthens protections by banning nationality removal based on race, ethnicity, religion, or political beliefs. This guarantees that nationality laws are applied fairly and without prejudice.

Article 10 of the 1961 Convention requires that when territory is transferred between states, treaties must include safeguards to prevent statelessness. If no such provisions exist, the receiving state must grant nationality to anyone at risk of becoming stateless due to the transfer⁴.

Universal declaration of human rights, Article 15 affirms that every individual has the right to a nationality and should not be arbitrarily deprived of it or denied the right⁵.

LEGAL GAPS AND CHALLENGES IN ENFORCEMENT:

Weak Implementation of International Legal Protections

Despite the existence of the 1954 and 1961 Statelessness Conventions, their implementation remains weak. While over 90 states are party to these treaties, many have not fully integrated their principles into domestic law⁶. The conventions prohibit arbitrary deprivation of nationality, but enforcement is left to individual states, which often act in ways contrary to these obligations.

⁴ Convention on the Reduction of Statelessness, Aug. 30, 1961, 989 U.N.T.S. 175.

⁵ Universal Declaration of Human Rights art. 15

⁶ Carol A. Batchelor, *Transforming International Legal Principles into National Law: The Right to a Nationality and the Avoidance of Statelessness*, 25 REFUGEE SURV. Q. 8 (2006). Peter J. Spiro, Review of Nationality and Statelessness Under International Law, 110 Am. J. Int'l L. 148 (2016)

Lack of Effective Oversight Mechanisms

Unlike the refugee protection regime, which benefits from UNHCR supervision, statelessness protections lack strong institutional oversight. The UNHCR serves as the designated agency for statelessness issues but lacks enforcement powers, limiting its ability to hold states accountable⁷. Additionally, there is no judicial body that can directly intervene in nationality disputes at an international level, except in rare cases that reach the International Court of Justice (ICJ) or regional human rights courts.

Extent of State Discretion in National Laws

Many national laws grant governments broad authority to confer and revoke citizenship. While legitimate grounds for revocation exist, such as fraud in the naturalization process, some states have expanded these grounds to include vague notions like "national security" or "loyalty." This broad discretion allows for potential misuse, enabling politically motivated actions against individuals or groups. For instance, certain states have proposed revoking the nationality of suspected terrorists as part of their counterterrorism strategies, raising concerns about the potential for arbitrary deprivation of nationality.⁸

ARBITRARY DEPRIVATION OF NATIONALITY AND ITS LEGAL IMPLICATIONS:

National Security, Counterterrorism, and Denationalization Policies

One of the most common justifications for citizenship revocation is national security. Many states have enacted laws that allow the deprivation of nationality, particularly in cases involving terrorism or acts against state interests. The **United Kingdom**, for example, has made extensive use of nationality revocation under the British Nationality Act 1981, with amendments allowing the government to strip individuals of citizenship if they are considered a threat to national security even if this renders them stateless⁹.

⁷ Ivan Shearer & Brian Opeskin, *Nationality and Statelessness*, in *Foundations of International Migration Law* (Brian Opeskin, Richard Perruchoud & Jillyanne Redpath-Cross eds., Cambridge Univ. Press, forthcoming 2012).

⁸ Paul Weis, *The United Nations Convention on the Reduction of Statelessness*, 1961, 11 Int'l & Comp. L.Q. 1073 (1962)

⁹ Peter J. Spiro, Book Review, *Nationality and Statelessness Under International Law*, by Alice Edwards & Laura van Waas, 110 Am. J. Int'l L. 148 (2016)

The **United States** also has provisions under the Immigration and Nationality Act (INA) that allow for revocation if citizenship was obtained through fraud or if the individual voluntarily engages in acts such as serving in the armed forces of a foreign state hostile to the U.S.¹⁰. However, the U.S. does not actively use citizenship revocation as a counterterrorism tool, unlike some European nations.

In **France**, after the 2015 Paris attacks, the government proposed constitutional amendments to expand the state's ability to revoke nationality for individuals convicted of terrorism. The proposal faced strong opposition due to concerns about discrimination and statelessness.¹¹

Political and ethnic discrimination in nationality laws

Nationality revocation has often been used as a tool of political repression and ethnic exclusion. A prime example is **Myanmar**, where the **Rohingya** people have been systematically stripped of their citizenship through the 1982 Citizenship Law, rendering them stateless and without legal protection. This has facilitated widespread human rights abuses, including denial of basic services, displacement, and genocide¹².

Another case is **Bahrain**, where the government has revoked the citizenship of political dissidents, particularly those associated with Shia opposition groups. Between 2012 and 2019, Bahrain stripped more than 900 people of their nationality under the justification of safeguarding national security¹³.

Similar practices have been observed in **India**, where the implementation of the Citizenship Amendment Act (CAA) and National Register of Citizens (NRC) has raised concerns about rendering certain ethnic and religious groups stateless. Critics argue that these laws disproportionately target Muslims by imposing stricter documentation requirements¹⁴.

¹⁰ Ivan Shearer & Brian Opeskin, *Nationality and Statelessness*, in *Foundations of International Migration Law* (Brian Opeskin, Richard Perruchoud & Jillyanne Redpath-Cross eds., Cambridge Univ. Press, forthcoming 2012).

¹¹ Carol A. Batchelor, *Transforming International Legal Principles into National Law: The Right to a Nationality and the Avoidance of Statelessness*, 25 REFUGEE SURV. Q. 8 (2006). Peter J. Spiro, Review of Nationality and Statelessness Under International Law, 110 Am. J. Int'l L. 148 (2016)

¹² Ivan Shearer & Brian Opeskin, *Nationality and Statelessness*, in *Foundations of International Migration Law* (Brian Opeskin, Richard Perruchoud & Jillyanne Redpath-Cross eds., Cambridge Univ. Press, forthcoming 2012).

¹³Id.

¹⁴ Peter J. Spiro, Review of Nationality and Statelessness Under International Law, 110 Am. J. Int'l L. 148 (2016).

Mass Deprivation of Nationality (Case Studies)

The Dominican Republic: In 2013, the Constitutional Court ruling TC/0168/13 retroactively stripped thousands of individuals mostly of Haitian descent of their Dominican nationality. This left many stateless and unable to access basic rights.

Kuwait's Bidoon Population: The Kuwait government has refused to recognize the nationality of thousands of Bidoon, an ethnic group that has lived in Kuwait for generations. They remain stateless, with restricted rights¹⁵.

Soviet Successor States: Following the dissolution of the USSR, many ethnic Russians residing in Latvia and Estonia were denied automatic citizenship, creating a population of stateless individuals who struggled with access to employment and political rights¹⁶.

HUMAN RIGHTS CONSEQUENCES OF ARBITRARY DEPRIVATION OF NATIONALITY:

The arbitrary deprivation of nationality has profound human rights implications, affecting individuals' legal identity, access to fundamental rights, and exacerbating vulnerabilities, particularly among women and children. Impact of stateless individuals include:

Loss of Legal Identity and Access to Rights

Nationality serves as the legal bond between an individual and a state, conferring a sense of identity and belonging. When individuals are arbitrarily stripped of their nationality, they lose their legal identity, resulting in statelessness. This status severely hampers their ability to exercise basic rights and access essential services. For instance, in **Nicaragua**, 317 individuals were arbitrarily deprived of their nationality in February 2023, leaving them in a state of legal limbo without access to identification documents, which are crucial for daily activities such as opening bank accounts or securing employment.¹⁷

¹⁵ Ivan Shearer & Brian Opeskin, *Nationality and Statelessness*, in *Foundations of International Migration Law* (Brian Opeskin, Richard Perruchoud & Jillyanne Redpath-Cross eds., Cambridge Univ. Press, forthcoming 2012)

¹⁶ Peter J. Spiro, Book Review, *Nationality and Statelessness Under International Law*, by Alice Edwards & Laura van Waas, 110 Am. J. Int'l L. 148 (2016)

¹⁷ FIDH – International Federation for Human Rights, Nicaragua: Serious Human Rights Impacts Caused by Arbitrary Deprivation of Nationality, FIDH (Feb. 21, 2023),

Stateless individuals encounter considerable difficulties in securing legal protection. Lacking nationality, they are often denied lawful residency in any country, increasing their vulnerability to detention and deportation. Without formal legal recognition, they are also unable to seek justice for rights violations, reinforcing their marginalization and exposure to further mistreatment. For instance, in **Kuwait**, around 42,000 people have had their citizenship revoked, leading to significant social unrest and the loss of essential legal safeguards¹⁸.

Violations of International Human Rights Norms

The arbitrary revocation of nationality violates established international human rights principles. The Universal Declaration of Human Rights affirms that every individual has the right to a nationality and should not be deprived of it without justification. Additionally, the 1961 Convention on the Reduction of Statelessness restricts nationality deprivation that leads to statelessness, allowing it only under specific, limited conditions. However, despite these legal safeguards, arbitrary nationality revocation continues to occur, weakening global human rights protections.¹⁹

Gender Discrimination in Nationality Laws

In many countries, nationality laws are gender-discriminatory, preventing women from passing their nationality to their children or spouses on the same terms as men²⁰. This legal inequality often results in statelessness, especially when the father is either stateless, absent, or of unknown nationality. The UNHCR reports that such discriminatory laws remain in effect in 25 countries, increasing the risk of statelessness for children and exposing them to various human rights violations.²¹

<https://www.fidh.org/en/region/americas/nicaragua/nicaragua-serious-human-rights-impacts-caused-by-arbitrary>.

¹⁸ Ivan Shearer & Brian Opeskin, *Nationality and Statelessness*, in *Foundations of International Migration Law* (Brian Opeskin, Richard Perruchoud & Jillyanne Redpath-Cross eds., Cambridge Univ. Press, forthcoming 2012)

¹⁹ U.N. High Comm'r for Refugees (UNHCR), Background Note on Gender Equality, Nationality Laws and Statelessness – 2024, Refworld (Mar. 4, 2024), <https://www.refworld.org/reference/themreport/unhcr/2024/en/147696>.

²⁰ U.N. Human Rights Council, Impact of Arbitrary Deprivation of Nationality on the Enjoyment of the Rights, U.N. Doc. A/HRC/31/29 (Dec. 16, 2015), <https://www.ohchr.org/en/documents/thematic-reports/ahrc3129-impact-arbitrary-deprivation-nationality-enjoyment-rights>.

²¹ U.N. High Comm'r for Refugees (UNHCR), UNHCR Releases New Guidelines on Loss and Deprivation of Nationality, UNHCR (Dec. 22, 2023), <https://www.unhcr.org/us/news/news-releases/unhcr-releases-new-guidelines-loss-and-deprivation-nationality>

Human Rights Implications for Stateless Children and Families

Stateless children affected by gender-discriminatory nationality laws experience significant hardships, such as restricted access to education, healthcare, and essential social services. They may also face difficulties in maintaining family unity and exercising their right to freedom of movement. According to the UNHCR, such legal inequalities lead to widespread violations of children's rights, underscoring the urgent need for legal reforms to promote gender equality in nationality laws.²²

RECOMMENDATIONS AND LEGAL REFORMS:

To enhance the implementation of the 1961 Convention on the Reduction of Statelessness, both international oversight and national legal systems must be strengthened. A dedicated UN body should be established to monitor state compliance, interpret key provisions, and receive complaints related to statelessness. The UNHCR's role should also be expanded to include peer reviews, support for legal reforms, and the publication of reliable data on stateless populations. These efforts would provide much-needed accountability and consistency in upholding the Convention's principles.

At the national level, states must align their laws with the Convention by granting nationality to stateless children, ensuring due process in revocation cases, and eliminating gender-based discrimination in nationality laws. Legal frameworks should include clear, limited grounds for revoking nationality and guarantee procedural safeguards. Regional courts and soft-law mechanisms can further enforce state obligations, while civil society and international advocacy are vital in pressuring governments to implement reforms. Together, these actions can significantly reduce statelessness and protect individuals' right to a nationality²³.

CONCLUSION:

Statelessness continues to pose a significant challenge to human rights, driven by factors such as arbitrary deprivation of nationality, discriminatory practices, and the state-dominated nature of citizenship laws. Although instruments like the 1961 Convention on the Reduction of Statelessness exist, their impact is limited by weak enforcement mechanisms and gaps in legal

²²Id.

²³ Paul Weis, *The United Nations Convention on the Reduction of Statelessness*, 1961, 11 Int'l & Comp. L.Q. 1073 (1962)

frameworks. The consequences are particularly severe for vulnerable groups, including children, women, and marginalized populations, highlighting the urgent need for comprehensive reform. Addressing statelessness effectively requires coordinated international monitoring and robust national legal reforms. States must harmonize their domestic legislation with international norms, uphold procedural safeguards, and recognize nationality as a fundamental human right rather than a discretionary benefit.

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1961 Convention on reduction of statelessness.