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The International Legal Protection of Stateless Individuals and the Legal Responses to Denationalization

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Introduction

The right to nationality is a foundational human right, essential for the enjoyment of many other civil, political, economic, and social rights. Stateless individuals, lacking legal recognition as nationals of any state, are often deprived of access to education, healthcare, employment, and legal protection, thereby placing them in one of the most precarious positions in the international human rights landscape. Despite the central role of nationality in shaping legal identity and civic belonging, millions of people around the world remain stateless. According to the UNHCR, approximately 4.4 million individuals are officially registered as stateless, caught in legal limbo and often subjected to exclusion, discrimination, and even expulsion from their country of origin.

The issue of nationality intersects both individual rights and state responsibilities, and its complex nature makes it more difficult to fully regulate under international law, as citizenship has historically been considered a matter of domestic jurisdiction.

In today's globalised context, the denial or deprivation of nationality has become a tool not only of marginalisation but also of political control. Statelessness affects millions of people, leaving them without legal identity, protection, or access to basic rights. At the same time, recent national security policies, particularly in Western democracies, have revived the use of nationality deprivation as a counterterrorism instrument, challenging the balance between state interests and individual rights. Consequently, the following analysis will address the tension between state discretion in nationality matters and the evolving recognition of the right to nationality as a fundamental human right by investigating how international law regulates nationality, protects stateless persons, and constrains state practices that result in deprivation of citizenship.

Subsequently, attention will be directed towards a critical analysis of the increasing tensions surrounding foreign terrorist fighters and the growing dependence on nationality deprivation as a counterterrorism strategy. This trend raises substantial concerns about the legality, proportionality, and due process implicated in these measures.

Chapter 1 introduces the concept of nationality and its evolution in international law, highlighting its centrality in the protection of human rights. It explores the consequences of statelessness by distinguishing between *de jure* and *de facto* statelessness and offers concrete examples of stateless populations who remain unrecognized by any state.

Building on this foundation, Chapter 2 examines the international legal framework designed to safeguard the rights of stateless individuals. It focuses in particular on the 1954 and 1961 Statelessness Conventions, both of which were adopted in the post-WWII context of mass displacement. These instruments aim to reduce the incidence of statelessness and ensure minimum standards of treatment for stateless persons. The chapter also considers the contributions of broader human rights treaties and relevant case law that support the right to nationality, namely, the International Covenant on Civil and Political Rights and the European Convention on Human Rights, which provide legal safeguards when the statelessness conventions are inapplicable or insufficient.

Chapter 3 addresses a pressing and controversial issue, the deprivation of nationality in counterterrorism contexts, particularly concerning foreign terrorist fighters (FTFs). The chapter analyses legislative practices in the United Kingdom, France, and Italy, assessing their compliance with international legal standards; special attention is paid to whether such measures serve legitimate security aims or primarily function as mechanisms of exclusion and removal.

Finally, the conclusion will evaluate the effectiveness of the current legal standards of nationality deprivation, assessing the compatibility with fundamental human rights principles. It will therefore consider whether state practices are consistent with international obligations or if they instead reflect a concerning trend toward exclusion and statelessness in the name of national security.

Chapter 1: Nationality and Statelessness in International Law

Introduction

Nationality is pivotal in shaping an individual's identity, rights, and belonging within a state. It is the instrument through which one is granted legal recognition; therefore, the lack thereof creates significant challenges. Statelessness is a phenomenon that impacts the lives of millions of people, and this chapter aims to explore the legal gaps that may cause exclusion from a nationality. The first point of analysis will be dedicated to the right to nationality, the instruments that have been implemented, and how international law has interacted with nationality, which has traditionally been within the scope of domestic law. Paragraph 1.2 will focus on the issue of statelessness and the legal international implications of this widespread phenomenon.

A key focus will also be on the distinction between *de jure* and *de facto* statelessness and the different ways in which each can manifest.

Conclusively, through three different case studies, their histories and legal proceedings, there will be an examination of different populations whose right to nationality is not protected.

1.1 Nationality and Citizenship: Legal Foundations, Case Studies, and Human Rights Implications

Nationality is a fundamental concept of international law, defining the legal bond between an individual and a state, entailing both rights and duties between the two entities.

In domestic law, nationality is a fundamental requirement for exercising political rights and claims to protection and for corresponding duties, such as military or civil service obligations, which may differ according to distinct national laws.

Although this matter falls within the national framework, its impact goes beyond the nation-state, as it influences how an individual is viewed from an international perspective.

Within the framework of international law, the terms nationality and citizenship are oftentimes used interchangeably, although they may represent different concepts depending on the discipline, legal tradition, and language. According to the Oxford English Dictionary, nationality is “the status of being a citizen of a particular state; the

legal relationship between a citizen and his or her state, usually involving obligations of support and protection¹”.

On the other hand, citizenship is referred to as “the position or status of being a citizen” and an “engagement in the duties and responsibilities of a member of society²”.

Therefore, nationality is used to describe the international aspect of belonging to a state, while citizenship is generally understood as a description of the internal, national, and municipal aspects of membership to a state. Both terms in legal debates are used to denote the legal status of an individual, even though they reflect different legal frameworks, respectively, the international and the domestic legal one.³

The difficulty in addressing the right to nationality resides in the fact that, traditionally, international law has afforded states broad discretion to define the content of and delimit access to, nationality, which may explain why political will to develop international norms on citizenship has been lacking. However, as state discretion has been ascribed to abide by human rights law in other matters covered by state sovereignty, the same rationale should be applied to the nationality question.

The Permanent Court of International Justice had already clarified in 1923 that state sovereignty in regulating citizenship was not absolute but rather subject to developments in international law. In the Advisory Opinion on the Tunis and Morocco Nationality Decrees, the Court acknowledged: “The question of whether a certain matter is or is not solely within the domestic jurisdiction of a state is an essentially relevant question; it depends on the development of international relations”⁴. Although this decision must be viewed in accordance with the historical landscape of the 1920s, when international law and international relations did not impose effective constraints on State sovereignty with respect to determining nationality, it is useful to note the direction that international law was already taking at the time – a trajectory that would later narrow State discretion over

¹ Oxford English Dictionary, s.v. “nationality (n.),” June 2024, <https://doi.org/10.1093/OED/8745608490>.

² Oxford English Dictionary, s.v. “citizenship (n.),” December 2024, <https://doi.org/10.1093/OED/3970756571>.

³ von Rütte, Barbara. "Chapter 2 Citizenship and Nationality: Terms, Concepts and Rights". In *The Human Right to Citizenship*, (Leiden, The Netherlands: Brill Nijhoff, 2022)
Doi: https://doi.org/10.1163/9789004517523_003

⁴ Advisory Opinion on the Tunis and Morocco Nationality Decrees [1922] PCIJ 3, para. 38 (4 Oct. 1922).

nationality matters. This is known as the first case in which an international court attempted to restrain a state's absolute power over nationality questions.

Another instance in which the scope of the right of nationality was challenged is the Nottebohm Case (Liechtenstein v. Guatemala, ICJ, 1955), which is a landmark ruling of the International Court of Justice that clarified the concept of nationality and the limits to the sovereign state within the international landscape, with particular attention to diplomatic protection.

After the outbreak of the Second World War, Friedrich Nottebohm, a German citizen by birth who had spent much of his life in Guatemala, applied for and obtained Liechtenstein citizenship. Following his approval and return to Guatemala, he was refused entry, as the Guatemalan authorities considered him to be a German citizen and, therefore, declined to recognize his newly acquired Liechtenstein citizenship. Liechtenstein thereby filed a suit before the International Court of Justice to ensure the recognition of one of its nationals. The ICJ famously ruled in favor of Guatemala, concluding that Nottebohm's naturalization had not been sufficient to obligate the Guatemalan authorities to recognize it for diplomatic protection.⁵

According to the ruling of the International Court of Justice, nationality is "A legal bond having as its basis a social fact of attachment, a genuine connection of existence, interests and sentiments, together with the existence of reciprocal rights and duties⁶".

Therefore, it is emphasised that nationality cannot be a mere formality. It holds great implications not only in the national but also international field: it must be a substantive relationship that involves genuine links with the concerned state.

From a human rights perspective, the starting point of the discourse on nationality is Article 15 of the Universal Declaration of Human Rights, according to which:

"1. Everyone has a right to nationality.

⁵ "Nottebohm Case (Liechtenstein v. Guatemala) – Case , <https://www.casebriefs.com/blog/law/international-law/international-law-keyed-to-damrosche/chapter-7/nottebohm-case-liechtenstein-v-guatemala/>.

⁶ Nottebohm (Liechtenstein v Guatemala) [1955] ICJ Reports 1955, p. 4 23

2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality”⁷

Citizenship and protection from arbitrary deprivation of nationality form an essential legal bond between individuals and states; as all states are bound to respect the human rights of all individuals without distinction, an individual’s legal bond to a particular state through citizenship remains a pillar for the enjoyment, maintenance and protection of the full range of human rights⁸.

Many of the rights of civic, political, economic, and social nature contained in the UDHR have been the object of additional binding international human rights instruments, for instance, through the treaty-based bodies of the United Nations, committees of independent experts whose purpose is to monitor the implementation of core international human rights treaties⁹. However, the substance of Article 15 has not garnered the same international attention as other rights expressed in the UDHR, which has resulted in a slower resolution of the issues attached to the right of nationality¹⁰.

In principle, the right to nationality is, as stated previously, a matter of exclusive domestic jurisdiction; however, it ceases to be as such whenever a state is bound by international commitments by treaty law on the question of nationality¹¹. Even though specific treaty obligations do not exist, a state’s authority to regulate nationality is not absolute, as renowned cases such as the *Nottebohm* case have demonstrated: customary international law is the main constraint imposed on conflicting domestic law, and general principles such as sovereignty and territorial supremacy play a fundamental role. The legal development of more cohesive instruments to combat the issue of statelessness has been inevitably hindered by the diversity of municipal nationality laws.

⁷ United Nations, Universal Declaration of Human Rights, Article 15, 1948, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

⁸ M. Adjami and J. Harrington, “The Scope and Content of Article 15 of the Universal Declaration of Human Rights,” *Refugee Survey Quarterly* 27, no. 3 (January 1, 2008): 93–109, <https://doi.org/10.1093/rsq/hdn047>.

⁹ OHCHR, “Instruments & Mechanisms,” OHCHR, 2024, <https://www.ohchr.org/en/instruments-and-mechanisms>.

¹⁰ Adjami et al., op. cit., p. 94

¹¹ Paul Weis, *Nationality and Statelessness in International Law: With a Forew. By Hersch Lauterpacht*. (Alphen Aan Den Rijn: Sijthoff & Noordhoff, 1979), p. 75.

As mentioned previously, under international law, states are generally accorded exclusive competence to legislate in nationality questions; the 1930 Convention on Certain Questions Relating to the Conflict of Nationality Laws granted the competence by stipulating that “it is for each state to determine under its law who are its nationals, as well as ensuring that other States recognize its nationality in so far as it is consistent with the relevant international conventions, international customs, and the principles of law generally recognized concerning nationality”¹².

The way citizenship is granted varies across different legal systems, and it is heavily influenced by the history of the legal system of each country. Birthright citizenship, for instance, may be granted on two grounds: *ius sanguinis* and *ius soli*. *Ius sanguinis*, the right of blood, refers to the principle according to which the parents’ nationality will automatically transfer to their child. Many European countries, including Italy, follow this approach as they emphasize ancestry and lineage over the place of birth¹³. On the other hand, the *ius soli* principle assigns citizenship depending on the place of birth, common in countries like the United States, where being born within the country’s territory will guarantee being an American citizen by law¹⁴.

Beyond birthright, citizenship can be acquired through different legal pathways, including naturalization, social integration, and employment-based opportunities. Naturalization typically requires an individual to meet specific residency requirements, and the duration of residency varies by country. In many cases, marriage to a citizen can accelerate the process. Some countries also permit one to obtain citizenship based on an individual’s successful integration into society, oftentimes involving tests demonstrating language proficiency, knowledge of national history, and active participation in social and cultural life. By emphasizing integration, these countries aim to ensure that new citizens share a common identity and commitment to the nation.

¹² League of Nations, Convention on Certain Questions Relating to the Conflict of Nationality Laws, 12 April 1930, Article 1, https://legal.un.org/ilc/texts/instruments/english/conventions/1_3_1930.pdf

¹³ “*Ius Sanguinis* Principle,” Oxford Constitutions, 2021, <https://oxcon.oupplaw.com/display/10.1093/law-mpeccol/law-mpeccol-e322?prd=OXCON>.

¹⁴ “*Ius Soli* Principle,” Oxford Constitutions, 2021, <https://oxcon.oupplaw.com/display/10.1093/law-mpeccol/law-mpeccol-e323?rskey=BbFVpf&result=1&prd=OXCON>.

Governments have the sole authority to establish the criteria for acquiring and revoking citizenship, shaping national identity and social cohesion; each domestic policy on the matter influences immigration trends, integration strategies, and the broader relationship between individuals and the states, reflecting the specific country's approach to inclusion and belonging. However, each state's authority to legislate nationality laws has led to distinct standards for acquiring or losing nationality, resulting in cases of dual or multiple citizenship, as well as instances of statelessness.

The right to nationality has major international implications, especially in diplomacy and state obligations concerning readmission and residence¹⁵; historically, these duties were seen as a state's obligations towards other states rather than to its nationals. However, as the concept of nationality evolved from a state-centric notion to a fundamental human rights issue, the duty of readmission and residence is now recognized as an individual right¹⁶.

Diplomatic protection is considered to be a right of the state to intervene on behalf of its nationals if their rights are violated by another state; the power invested in the authority of the state is far-reaching, and, as seen in the *Barcelona Traction Case*: “(the power) involves the resort to all forms of diplomatic intervention for the settlement of disputes, both amicable and non-amicable, from diplomatic negotiations and good offices to the use of force¹⁷”. As diplomatic protection is part of the law of state responsibility, the International Law Commission (ILC) has defined diplomatic protection as consisting of the invocation by a state of the responsibility of another state for an injury caused by an internationally wrongful act of that State to a natural or legal person that is a national of the former State with a view to the implementation of such responsibility¹⁸.

¹⁵Paul Weis, *Nationality and Statelessness in International Law: With a Foreword by Hersch Lauterpacht* (Alphen Aan Den Rijn: Sijthoff & Noordhoff, 1979), p. 87.

¹⁶Alice Edwards, “The Meaning of Nationality in International Law in an Era of Human Rights,” *Nationality and Statelessness under International Law*, September 18, 2014, 11–43, <https://doi.org/10.1017/cbo9781139506007.002>.

¹⁷*Barcelona Traction (Belg. v. Spain)*, 1970 I.C.J. 3 (Judgment of Feb. 5)

¹⁸Draft Articles on Diplomatic Protection adopted by the Drafting Committee on second reading in 2006 (Final Outcome) (International Law Commission [ILC]) UN Doc A/CN.4/L.684 and Corr.1-2, UN Doc

A State may exercise diplomatic protection solely in respect of its nationals¹⁹, as “it is the bond of nationality between the State and the individual that confers upon the State the right of diplomatic protection²⁰”, although limitations to the sovereign authority are imposed whenever the grant of nationality amounted to a translation into juridical terms of the individual’s connection to the state, following the legal doctrine of the “genuine link” installed by the *Nottebohm* jurisprudence.

The second function of nationality from a state’s perspective is the right and duty to readmit its nationals to its territory, grounded in the principle of territorial sovereignty. Developments in international human rights law confirm this duty of readmission and recognize it as an individual right. Notably, Article 12 of the International Covenant on Civil and Political Rights (ICCPR) prohibits the arbitrary deprivation of the right to re-enter one’s country, a principle mirrored in similar provisions of regional human rights treaties.

Conclusively, the question of nationality is foundational for an individual’s legal identity in both domestic and international law; ensuring that no one is deprived of this right is essential for upholding fundamental human rights and legal protections.

1.2 Statelessness in International Law: Legal Analysis of Rights and Protection

Nationality serves as the foundation of legal identity and confers rights, protections and obligations within both domestic and international frameworks. By extension, this translates to the authority of each state to assess and define who does not fall within the domestic criteria to become a citizen.

To this day, millions of people worldwide are not recognized by nationality and are left in a precarious state, known as statelessness. The stateless person who cannot legally

A/61/10, para.49, [2006] II(2) UNYILC 24, GAOR 61st Session Supp 10, 16, Part I General Provisions, Art.1

¹⁹ John Dugard, “Diplomatic Protection,” *Oxford Public International Law*, 2021, <https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e1028>.

²⁰ *Panevezys-Saldutiskis Railway Case (Estonia v. Lithuania)*, 1939 P.C.I.J. (ser. A/B) No. 76, at 16 (Feb. 28) https://www.worldcourts.com/pcij/eng/decisions/1939.02.28_panevezys-saldutiskis.htm.

travel, reside in a country, work, study or receive health care is extremely vulnerable to exploitation, discrimination, arbitrary detention, and social exclusion²¹.

In 1949, stateless persons marginalised from society were described as an “anomaly”, and within the post-world war landscape, international cooperation had yet to develop further to accommodate the necessities of all those individuals who had been left with no citizenship to appeal to.

"A Study of Statelessness"²² (1949), by the UN Ad Hoc Committee on Refugees and Stateless Persons, illustrates the enduring reality of individuals deprived of nationality rights and protections through a definition still regarded as accurate today: stateless persons, unlike other foreigners, do not fit into the legal, administrative, or social systems of the countries in which they reside, making it impossible to apply the usual legal measures reserved for foreigners. The report further analyzes that administrative authorities responsible for managing stateless persons encounter significant challenges due to the absence of a clear legal status for these individuals, as they exist in a legal limbo without the protections afforded by nationality²³.

The international legal framework, at the time ill-equipped to face this issue, reacted by the creation of international conventions whose aim was to eradicate the issue of statelessness. However, although many attempts to solve the issue were made, particularly through two conventions, one in 1954 and one in 1961, and additionally an international UN agency whose scope is to address the situation, the anomaly of stateless people remains subtly rooted within the international landscape, and they still suffer from great levels of uncertainty and marginalisation from international institutions. They are systematically excluded from belonging to any state, deprived of a recognized nationality, and consequently denied fundamental rights and legal protections.

The UNHCR has also illustrated the reality of stateless individuals by further refining its categorization which remains relevant today: statelessness is divided into two distinct types: *de jure* and *de facto* statelessness. Both categories result in the absence of state

²¹ De Chickera, Amal. “Part Three: Positive Developments, Recommendations, and Conclusions,” <https://www.equalrightstrust.org/sites/default/files/ertdocs/chapter%207.pdf>.

²² UN Ad Hoc Committee on Refugees and Stateless Persons, “A Study of Statelessness”, United Nations, August 1949, E/1112; E/1112/Add. 1

²³ UNHCR, *op. cit.*, p. 8

protection and legal recognition²⁴. Since individuals in both groups experience a lack of state protection, these two forms of statelessness have been internationally recognized to address and accommodate this phenomenon²⁵.

The United Nations High Commissioner for Refugees (UNHCR)²⁶, one of the UN agencies that has been given the mandate to ensure that everybody has the right to seek asylum and find safe refuge, having fled violence, persecution or war at home, has recorded that at least 4.4 million people in the world today are de jure stateless²⁷.

The World Bank's Identification for Development (ID4D)²⁸ initiative reports that over 850 million people lack official identification, which renders them de facto stateless, as they cannot prove their nationality or legal existence.

1.2.1 De Jure Statelessness: Definition, Causes, and Consequences

A de jure stateless person has no legal nationality: according to the 1954 Convention Relating to the Status of Stateless Persons, the category is defined as one “who is not considered as a national by any state under operation of its law²⁹”.

Several underlying issues are at the heart of the potential consequence of becoming a de jure stateless person, one of which is a conflict of laws: this may preclude an individual from being granted citizenship at birth. This issue may occur when a person is born in a country that grants citizenship based on ius sanguinis. Still, their parents are from a country that only grants citizenship based on ius soli, leaving the individual stateless.

²⁴ “Unravelling Anomaly: Detention, Discrimination and the Protection Needs of Stateless Persons,” Equal Rights Trust, July 19, 2010, <https://www.equalrightstrust.org/content/unravelling-anomaly-detention-discrimination-and-protection-needs-stateless-persons>.

²⁵ Katja Göcke, “Stateless Persons,” Oxford Public International Law, 2023, <https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e878?rskey=uclVq9&result=2&prd=MPIL>.

²⁶ United Nations High Commissioner for Refugees, “UNHCR - the UN Refugee Agency,” Unhcr.org, 2023, <https://www.unhcr.org>.

²⁷ “» Statelessness around the World,” UNHCR, n.d., <https://www.unhcr.org/ibelong/statelessness-around-the-world/>.

²⁸ “Data | Identification for Development,” Worldbank.org, 2016, <https://id4d.worldbank.org/global-dataset?>.

²⁹ United Nations High Commissioner for Refugees (UNHCR), Convention Relating to the Status of Stateless Persons, 28 September 1954, Article 1, <https://www.unhcr.org/3bbb25729.pdf>

Discriminating policies and laws directly affecting women may also be one of the reasons at the root of statelessness, as some countries automatically withdraw the nationality of a woman marrying a non-national. Consequently, if the spouse's nationality does not automatically cover the lack of citizenship, it will generate statelessness.

Bureaucratic and administrative practices with strict restrictions may also trigger the failure to acquire nationality: excessive administrative fees, unreasonable application deadlines, and the inability to produce documents are all factors that enable statelessness. Although the International Convention on the Elimination of all Forms of Racial Discrimination provides that persons shall not be deprived of the right to nationality on discriminatory grounds, there continue to be instances of racial, ethnic and religious discrimination, resulting in groups of persons being denied citizenship and consequently made stateless.

From this distinction, an additional division can be made into three categories of *de jure* stateless individuals: first, those who are victims of jurisdictional gaps due to conflicting laws and a lack of administrative efficiency, remaining a minority as they fall within the realm of accidental circumstances and may be able to acquire citizenship in the future; second, there are targeted groups of individuals who are directly discriminated against by domestic policies and laws, often as a consequence of state succession cases in which minority groups are excluded. However, if the discrimination is widespread, it may amount to persecution and, consequently, give rise to refugee status³⁰.

One of the most significant cases of discrimination resulting in the statelessness of an entire community is the Rohingya of Myanmar, which will be explained in greater detail in paragraph 1.3³¹.

³⁰ Gihan De Chickera, "Critiquing the Categorisation of the Stateless," in *Unravelling Anomaly* (London: The Equal Rights Trust, July 2010), 5284, <https://www.equalrightstrust.org/ertdocumentbank/chapter%202.pdf>.

³¹ Examining Cases of Statelessness: Causes, Consequences and International Responses

1.2.2 De Facto Statelessness: Challenges and Legal Uncertainty

The concept of de facto statelessness is complex, as it is based on the notion of ineffective nationality: while de jure statelessness is recognized under international law through a clear framework, de facto statelessness still lacks the same level of clarity.

Early attempts to establish the nature of de facto stateless persons precede the 1951 Refugee Convention and the 1954 Statelessness Convention; these conventions, by primarily addressing de jure statelessness, excluded from protection de facto stateless persons, particularly those sub-categories of people who never crossed international borders or did not qualify for the criteria necessary to be granted refugee status³².

In 1961 a significant development of the criteria presented in the 1949 study *A Study on Statelessness* was incorporated into the 1961 Convention on the Reduction of Statelessness, specifically in Resolution No. 1 of the Final Act of the Conference, which outlined that: “persons who are stateless de facto should as far as possible be treated as stateless de jure to enable them to acquire an effective nationality³³”. This reasoning was based on the need to facilitate the acquisition of an effective nationality for de facto stateless individuals.

By classifying de facto stateless individuals as de jure stateless, legal frameworks aimed at reducing statelessness can be applied, granting them access to nationality rights and protections. However, the concept of "effective nationality" was left undefined, creating ambiguity in its application.

As a response, the UNHCR has undertaken the process of reflection and consultation in collaboration with the Equal Rights Trust (ERT)³⁴, proposing a refined definition in the *Handbook on Protection of Stateless Persons*, according to which de facto stateless persons are persons outside the country of their nationality who are unable to avail themselves of the protection of that country. Persons who have more than one nationality are de facto stateless only if they are outside all the countries of their nationality and are

³² Dugard, op. cit.

³³ United Nations. Final Act of the United Nations Conference on the Elimination or Reduction of Future Statelessness. UN Doc. A/CONF.9/14, 1961.

³⁴ “Equal Rights Trust,” Equal Rights Trust, 2019, <https://www.equalrightstrust.org>.

unable, or for valid reasons, are unwilling to benefit from the protection of any of those countries³⁵”.

While this definition represents progress, the UNHCR acknowledges that it is not yet final and requires further refinement. One key concern is the exclusion of individuals who remain within their country of nationality but lack effective protection. This raises critical questions about their legal status and access to rights, particularly in cases where governments fail to recognize or protect their own nationals.

Conclusively, legal developments regarding de jure and de facto statelessness have created a hierarchical structure, resulting in unequal protection. Only de jure stateless individuals are formally recognized and safeguarded under the framework of the Refugee and Statelessness Conventions.

1.3 Examining Cases of Statelessness: Causes, Consequences, and International Responses

Given the analysis of statelessness and the ramifications of the lack of national support in everyday life, this paragraph will now delve into the renowned cases of populations deprived of any national recognition.

Their status of de facto or de jure statelessness is essential for understanding the discourse, as it can greatly alter how international organs may be enabled to act towards them to ensure their safety and protect their human rights.

1.3.1 The Nubian Community in Kenya: The Implications of Colonialism, Statelessness, and Struggle for Recognition

The struggle faced by the Nubian Community in Kenya can be traced back to its tumultuous past, which was caused by the aftermath of colonialism in Africa.

³⁵ “Handbook on Protection of Stateless Persons,” https://www.unhcr.org/wp-content/uploads/sites/27/2017/04/CH-UNHCR_Handbook-on-Protection-of-Stateless-Persons.pdf. Page 6, Section D

Historically, the Nubians descended from a community from the Nuba Mountains in central Sudan, recruited by the colonial British King's African Rifles Regiment in the 1900s. They were not a single cohesive ethnic group but rather a diverse collection of individuals from various tribes. However, their shared history, common Islamic faith, and role in the British military fostered a sense of unity in the face of persistent discrimination. Despite being conscripted into the Turco-Egyptian and British armies during Sudan's Anglo-Egyptian rule, the Nubians received no formal recognition or compensation for their service.

Demobilized without proper compensation, pension, or after-service benefits, they were denied the privilege of British citizenship, often extended to foreigners who serve in another state's military. This exclusion left them without any national recognition in the territory of Kenya, where they were viewed as a detribalized community rather than a Kenyan tribe. Since the Kenyan government determines belonging based on ethnicity and territorial claims, the contested status of Nubian ethnicity and their land occupation has been exploited by state authorities.

The absence of official recognition leads to numerous problems for this marginalized community; for example, the issuance of identity cards or passports is often denied due to a vetting process focused on ethnic determination.³⁶

As de facto stateless persons, Nubians lack adequate protection under both national and international law. They have adapted to life in Kenya without official belonging or political representation.

Due to persistent human rights violations, the Nubian community of Kenya, with support from the Open Society Justice Initiative (OSJI) and the Institute for Human Rights and Development in Africa (IHRDA), brought their case before the African Commission on Human and Peoples' Rights (ACHPR). The case asserted that rights to equality, non-discrimination, respect, and dignity had not been respected by the Kenyan government; another argument was centered on the indifferent treatment of the Nubians in the process for the acquisition of Kenyan citizenship, which has subjected them to isolation, land alienation, as well as the impossibility to exert the right to movement.

³⁶ "Kenyan Nubians: Standing up to Statelessness - Forced Migration Review," Forced Migration Review, August 27, 2024, https://www.fmreview.org/adam/#_ednrefl.

Once the commission considered the arguments in favor of the Nubians and the Kenyan government, it observed that the Nubians were indifferently treated in the process of citizenship acquisition on the grounds of ethnic and religious affiliation. The additional issue of the right to the land of Kibera, which had never been granted by government officials, was also addressed by the Commission as legitimate tenure by the Nubian community³⁷.

Although the ACHPR's recommendations to protect the minority, the Kenyan government has failed to adequately implement them due to their non-binding nature.

It remains a domestic prerogative to willingly adhere to the proposed remedies, leaving the issue of de facto statelessness for the minority yet to be solved.

1.3.2 The Statelessness and Persecution of the Rohingya in Myanmar: The Legal, Political, and Humanitarian Challenges

The Rohingya are an ethno-religious minority group from the Rakhine region, located within present-day Myanmar.

The majority of Rohingya in Myanmar today are stateless, having been arbitrarily deprived of their nationality in 1982. Before the 2017 crisis, the Rohingya population in Rakhine State was estimated at 1.4 million. However, due to ongoing displacement and persecution, their numbers have drastically declined. Their situation remains one of the most urgent cases of statelessness, with the number of affected individuals continuing to grow³⁸.

The Rohingya have faced persecution due to their distinct ethnic identity and religious beliefs, which differ from most of Myanmar's population: since the late 1960s, the Myanmar government replaced the term Rohingya with Bengali, implying immigrant status and precluding them from coexisting with the rest of the population³⁹.

³⁷ Equal Rights Trust, op. cit., p. 75

³⁸ Equal Rights Trust, *The Human Rights of Stateless Rohingya in Thailand* (London: Equal Rights Trust, 2014),

<https://www.equalrightstrust.org/ertdocumentbank/The%20Human%20Rights%20of%20Stateless%20Rohingya%20in%20Thailand%28small%29.pdf>.

³⁹ A. K. M. Ahsan Ullah, "Rohingya Crisis in Myanmar," *Journal of Contemporary Criminal Justice* 32, no. 3 (August 2016): 285–301, <https://doi.org/10.1177/1043986216660811>.

The 1982 Burma Citizenship Law established three categories of citizenship: full citizens, associate citizens, and naturalized citizens. However, the law effectively excluded the Rohingya, as they were preemptively disqualified due to a lack of official documentation. Under Section 6 of the 1982 Citizenship Law, the Rohingya should have retained their right to nationality. However, during the 1978 Operation Nagamin, many Rohingya lost their official documentation when inter-agency inspectors confiscated their papers, making it nearly impossible to prove their historical residence in Myanmar.

Despite being able to trace their ancestry under the new legal framework, most Rohingya remain unrecognized as citizens due to inadequate documentation. This has rendered them *de jure* stateless and deprived them of basic rights in Myanmar: the deliberate isolation faced by them has meant that their social, financial, and political existence has been cornered, and they face strong waves of violence from the state.

Despite ongoing human rights violations, ASEAN has maintained a policy of non-interference. While Malaysia, Indonesia, and Thailand initially expressed interest in addressing the crisis, the issue was never formally discussed and was instead redirected to the Bali Process on People Smuggling, Trafficking in Persons, and Related Transnational Crime.

The European Union and the United States have expressed serious concern for the Rohingya people. The UNHCR, the UN agency working to protect the Rohingya, has launched extensive relief efforts for the community.

However, the UNHCR has faced numerous obstacles in providing welfare to the Rohingya due to the uncooperative attitudes of the governments of both Bangladesh and Myanmar. The frequent arrests, intimidation, and exploitation of Rohingya refugees in Bangladesh, along with the country's refusal to recognize new arrivals and forced repatriation, are among the challenges the UNHCR has been addressing since its involvement in this issue. In Myanmar, the uncooperative stance of the country's authorities, combined with their refusal to grant full access to UNHCR representatives in Rakhine State, has complicated the task even further. Due to these challenges, the UNHCR's operations in Myanmar remain severely restricted, with access limited to only

two townships in Rakhine State. As a result, the Rohingya continue to face extreme hardship with little international protection⁴⁰.

1.3.3 Kurds of Syria: Systematic Discrimination and Legal Exclusion

The Kurds in Syria constitute the largest non-Arab ethnic minority, making up approximately 10 percent of the population, which is estimated at 13.8 million⁴¹.

As the country's largest ethnic minority under an exclusionary Arabist regime, the Kurds had long been victims of discrimination and persecution by the Syrian state.

In 1962, the Syrian government issued Decree No. 93, which mandated a census to identify so-called "alien infiltrators": specifically, Kurds suspected of illegally crossing from Turkish Kurdistan. Kurdish residents had to prove that they had lived in Syria since at least 1945; otherwise, they would lose their claim to Syrian citizenship⁴².

The arbitrary implementation of this census led to a chaotic and unjust reclassification of citizenship, creating two categories of stateless Kurds: the *ajanib* (foreigners), who were officially registered but denied full rights, and the *maktumeen*, who were completely unregistered and faced even harsher restrictions. As *de jure* stateless individuals, the *ajanib* were barred from owning land, housing, or businesses.

On the other hand, the *maktumeen*, including many undocumented children, face an even more precarious situation. Since they do not appear in official records, their legal invisibility is passed down to their children, creating a growing population of *de facto* stateless individuals.

In 1996, the Syrian government reported to Human Rights Watch⁴³ that *maktumeen* Kurds would still be allowed to attend school and retain their right to

⁴⁰ Jatswan S. Sidhu and Syeeda Naushin Parnini, "International Responses to Human Rights Violations in Myanmar: The Case of the Rohingya," *Journal of International Studies* 7 (2011): 119–34, <https://e-journal.uum.edu.my/index.php/jis/article/view/7920/966>.

⁴¹ Human Rights Watch, "Syria: The Silenced Kurds," www.hrw.org, October 1996, <https://www.hrw.org/legacy/summaries/s.syria9610.html>.

⁴² "Navigating Intersecting Statelessness: Syrian Kurds in Europe," European Network on Statelessness, May 6, 2021, <https://www.statelessness.eu/updates/blog/navigating-intersecting-statelessness-syrian-kurds-europe>.

⁴³ Human Rights Watch, "About Us," Human Rights Watch, March 28, 2019, <https://www.hrw.org/about-us>.

education. However, unofficial reports contradict this claim, indicating that de facto stateless individuals continue to face discrimination in access to education.

Furthermore, the actions taken by the Syrian government directly contrast with the right to freedom of movement guaranteed in Article 12 of the International Covenant on Civil and Political Rights (ICCPR)⁴⁴, which Syria has ratified. Syria has also ratified the Convention on the Rights of the Child, yet it has systematically violated this treaty for decades through discriminatory policies against Kurdish children.

Under international law, the Syrian government has longstanding obligations to implement legal and administrative reforms to address the systematic rights violations faced by the stateless Kurdish community.

Conclusion

Through this chapter, the analysis of the right to nationality within the framework of the international legal system has highlighted its essential role in ensuring everyone's access to fundamental human rights. While several international conventions, which will be examined in greater detail in the next chapter, aim to secure nationality for everyone, gaps in legal frameworks and cases of discriminatory exclusion continue to undermine those efforts.

As explored above, the Nubians in Kenya, the Rohingyas in Myanmar and the Kurds in Syria, among many others, remain victims of a system that has yet to protect their most basic human right adequately: conclusively, their struggle for national recognition is an ongoing battle that demonstrates the need for more international attention to their precarious living situations and the strengthening of the legal protections already in place.

⁴⁴ United Nations, "International Covenant on Civil and Political Rights," OHCHR (United Nations, December 16, 1966), <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

Chapter 2: The International Legal Framework on the Protection of Stateless People

Introduction

While Chapter 1 provided a comprehensive overview of how nationality intersects with international law, highlighting the legal gaps that contribute to the continued exclusion and discrimination of stateless individuals, this chapter focuses on the instruments currently in place to safeguard the right to nationality.

Stateless persons can rely not only on the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness—adopted in the post-World War II context—but also on a range of other international instruments that address their rights, either directly or indirectly.

Paragraph 2.1 provides an in-depth analysis of the two key conventions, while paragraph 2.2 examines additional human rights and regional treaties that can protect stateless individuals, including the ICCPR and the ECHR. Though these do not explicitly address statelessness, they provide essential safeguards when the core conventions fall short.

Finally, paragraph 2.3 discusses soft-law instruments, particularly the Handbook on the Protection of Stateless Persons, which serves as interpretative guidance and points to future developments that could enhance the protection of this vulnerable group.

2.1 The International Legal Efforts Implemented in the Post-WWII Context

In the aftermath of World War II, millions of people had been displaced across Europe, and several had become stateless due to the lack of recognition of their legal identity by any state. Prior to the codification of a dedicated legal framework, the legal status of stateless persons was oftentimes conflated with that of refugees. However, the divergent

legal characteristics of the two categories necessitated distinct normative responses to accommodate the differences in their conditions⁴⁵.

The Office of the United Nations High Commissioner for Refugees (UNHCR) has been mandated to assist and aid stateless refugees since its establishment on January 1, 1951. Following the entry into force of the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, a series of General Assembly Resolutions and Executive Committee Conclusions have reinforced UNHCR's leadership role in addressing the needs of stateless individuals who are not refugees. The agency is tasked with identifying, preventing, and reducing statelessness, as well as promoting the protection of stateless persons. This mandate was reaffirmed and elaborated upon in the 2014 Geneva publication of the UNHCR Handbook on Protection of Stateless Persons, which provides guidance on implementing these international conventions.

In response to the High Commissioner's goal of eradicating statelessness by 2024, UNHCR is intensifying its efforts to encourage States to accede to both statelessness conventions; indeed, thanks to the efforts of the campaign, ratifications increased, and 83 States became parties to the 1954 Convention in November 2014 when teams at UNHCR launched the Campaign to End Statelessness in 10 Years⁴⁶.

As of 2024, 99 states have acceded to the 1954 Convention and 78 to the 1961 Convention; one of the notable shortcomings is the absence of key regional and global powers, particularly those with large stateless populations or significant influence over migration and nationality policy. Among these countries, it needs to be highlighted that a lack of ratification from India, which, despite having one of the largest stateless populations, comprising the Chakma minority, several ethnic groups affected by the NRC

⁴⁵ Van Waas and Alice Edwards, *Nationality and Statelessness under International Law* (Cambridge University Press -9, 2014).

⁴⁶ "UN Conventions on Statelessness | UNHCR Africa," UNHCR Africa, 2015, <https://www.unhcr.org/africa/about-unhcr/who-we-protect/stateless-people/ending-statelessness/un-conventions-statelessness>.

issues with the Assam Registry⁴⁷, and the Rohingya⁴⁸, it has yet to accede to the Conventions and comply with the set standards.

The lack of accession to the Statelessness Conventions by countries like the United States and several Middle Eastern states, including Saudi Arabia, Kuwait, and Qatar, reflects a persistent gap in international legal commitment. This is especially concerning given the presence of long-standing stateless populations, such as the Bidoon⁴⁹, who remain without effective protection or recognition under international law.

China, as a major global actor and a permanent member of the UN Security Council, has notably not acceded to either the 1954 or 1961 Statelessness Conventions: while the Chinese government has made some domestic efforts to address statelessness, particularly regarding its border regions and ethnic minorities, stateless persons in China lack a clear legal framework or protections in line with international norms. This situation is compounded by the country's limited recognition of statelessness under its domestic law, leaving individuals without nationality vulnerable to exploitation, detention, and limited access to basic rights. Furthermore, the lack of accession to these conventions means that stateless people in China are denied the benefits of the legal safeguards offered by these international instruments, such as the right to identity documents, education, healthcare, and freedom of movement. This reflects broader international concerns about the failure of major states like China to adopt robust protections for stateless individuals, particularly when their own national interests or security concerns might overshadow these rights.

⁴⁷ The National register of Citizens, due to a series of legal and social challenges, has left out a part of the Indian population. It is the only register containing all “genuine” Indian citizens. According to most recent data released to the public, an estimate of 1.9 million people were not included, increasing political tensions and security issues.

<https://law.unimelb.edu.au/centres/statelessness/research/critical-statelessness-studies-blog/understanding-the-zone-of-statelessness-in-assam>

⁴⁸ See Chapter 1, 1.3.2 The Statelessness and Persecution of the Rohingya in Myanmar: The Legal, Political, and Humanitarian Challenges

⁴⁹ Minority Rights Group, “Bidoon in Kuwait,” *Minorityrights.org*, October 16, 2023, <https://minorityrights.org/communities/bidoon/>.

2.1.1 The 1954 Convention Relating to the Status of Stateless Persons

The international community, therefore, deemed it necessary to create a specific instrument to protect stateless persons' rights, recognizing the vulnerability of the group lacking effective nationality. While the Convention relating to the Status of Refugees was adopted in 1951 after the Conference of Plenipotentiaries, international negotiations on the protection needs of stateless persons continued in parallel.

These efforts culminated in the adoption of the 1954 Convention Relating to the Status of Stateless Persons⁵⁰, which entered into force on 6 June 1960. The Convention represents the first comprehensive international treaty aimed at the legal protection of stateless persons, mirroring the structure and the format of the Refugee Convention, although there are notable omissions, such as the lack of protection against refoulment and against penalization for illegal entry; hence, where a *de jure* stateless person is a refugee, protection should also be accorded under the 1951 Convention as it provides both a better standard of protection and its wider ratification and implementation in practice renders it a more reliable applied instrument⁵¹.

Despite some limitations, the 1954 Convention constitutes a pivotal development in the international legal framework concerning the rights of stateless persons. Adopted prior to the entry into force of several core human rights instruments, such as the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD), the Convention fills a critical normative gap by articulating the minimum standard of treatment that State parties are obliged to guarantee. Its provisions align with Article 15 of the Universal Declaration of Human Rights, which affirms that “everyone has the right to nationality”⁵².

⁵⁰ Convention Relating to the Status of Stateless Persons, adopted September 28, 1954, entered into force June 6, 1960, 360 U.N.T.S. 117. https://www.unhcr.org/ibelong/wp-content/uploads/1954-Convention-relating-to-the-Status-of-Stateless-Persons_ENG.pdf

⁵¹ Michelle Foster and Hélène Lambert, “Statelessness as a Human Rights Issue: A Concept Whose Time Has Come,” *International Journal of Refugee Law* 28, no. 4 (November 21, 2016): 564–84, <https://doi.org/10.1093/ijrl/cew044>.

⁵² Adjami et al., *op. cit.*, p. 93

As anticipated, the 1954 Convention outlines states' protection obligations vis à vis stateless persons, as well as the set of rights that state parties shall guarantee to this group; one of the most significant contributions to international law is the definition of a stateless person as someone "who is not considered as a national by any State under the operation of its law"⁵³. This description, which to this day is still appealed to as the most reliable definition of de jure statelessness, is fundamental in the interpretation of any other international instrument, legislation, or soft law texts.

Its character, however, is not universal, as it solely falls within the context of "de jure" stateless persons, those who are not legally recognized as citizens in any national system. Therefore, the framework developed in 1954 had yet to provide legal protection for de facto stateless persons, that is to say, those outside the country of their nationality who are unable to avail themselves of the protection of that country⁵⁴.

To further grasp the legal architecture of the 1954 Convention, it is essential to examine its substantive provisions, which articulate a structured set of rights afforded to stateless individuals.

For those individuals qualifying as de jure stateless, the Convention provides important minimum standards of treatment; it requires that stateless persons have the same rights as citizens with respect to freedom of religion and the education of their children, respectively, under Articles 4 and 22. For several other rights, such as the right of association, the right to employment and housing, it provides that stateless persons are to enjoy, at a minimum standard, the same treatment as other non-nationals⁵⁵.

In the realm of civil, economic, and social rights, the Convention establishes the aforementioned minimum standard of treatment, stipulating that state individuals shall be treated no less favorably than other non-nationals. Articles 17 to 19 outline access to wage-earning and self-employment, acknowledging the role of work in promoting

⁵³ United Nations General Assembly, Convention Relating to the Status of Stateless Persons, Article 1, 28 September 1954, United Nations Treaty Series, vol. 360, p. 117, https://www.unhcr.org/ibelong/wp-content/uploads/1954-Convention-relating-to-the-Status-of-Stateless-Persons_ENG.pdf

⁵⁴ Equal Rights Trust, p. 11

⁵⁵ "1954 Convention Relating to the Status of Stateless Persons," Melbourne Law School, September 20, 2024, <https://law.unimelb.edu.au/centres/statelessness/education/factsheet/1954-convention-relating-to-the-status-of-stateless-persons>.

autonomy and integration. Article 23 importantly ensures access to public relief and assistance on an equal footing with non-citizens.

A critical aspect of the Convention lies in its provision concerning legal status and identity documentation: the obstacles which are oftentimes encountered in accessing legal identity block their ability to enjoy other rights. Articles 25 to 28 deal with the issue, by obliging contracting States to offer administrative assistance in the absence of consular protection, which highlights the lack of legal representation that stateless persons face and issuing identity papers to stateless persons who do not possess valid travel documents apart from those which may be provided by the provisions of the 1951 Refugee Convention.

Additionally, Article 31 establishes safeguards against expulsion, ensuring that stateless persons are not removed except on grounds of national security or public order and only in accordance with due process guarantees.

While the Convention offers a protective framework, it does not create a statelessness determination procedure (SDP), and the states are left in charge of the adoption of mechanisms to determine whether a person is stateless⁵⁶. Without a dedicated mechanism to establish each individual's condition, stateless people may not be able to enjoy the protective legal order created. Only in recent years have these sorts of mechanisms been installed in 23 countries in Europe and America, thanks to the awareness raised by the UNHCR's #IBelong Campaign⁵⁷.

In sum, despite containing important provisions aiming at the regularization of the status of stateless persons and ensuring basic rights, the 1954 Convention has significant weaknesses: firstly, it can be applied only for de jure stateless individuals, and no protection is afforded to the group of de facto stateless, left unaddressed; additionally, many provisions require no more preferential treatment to be extended to stateless persons than to "aliens" generally, and, fundamentally, it does not contain a comprehensive non-discrimination provision.

⁵⁶ Marcella Rouweler, "Statelessness Determination in Europe and Beyond: Trends and Good Practices," European Network on Statelessness, September 30, 2020, <https://www.statelessness.eu/updates/blog/statelessness-determination-europe-and-beyond-trends-and-good-practices>.

⁵⁷ "IBELONG - Join the Campaign to End Statelessness," IBELONG, <https://www.unhcr.org/ibelong/>.

The Convention merely provides an interim protection status pending the acquisition of nationality, which remains the ultimate goal.⁵⁸

Still, the 1954 Convention relating to the Status of Stateless Persons remains critically important today, as millions of people worldwide continue to face severe challenges due to their statelessness.

The 1954 Convention offers practical solutions to help States address the specific needs of stateless individuals, ensuring their security and dignity. Raising awareness of this Convention is crucial, and UNHCR calls on all stakeholders to support broader accession efforts to mitigate the hardships faced by stateless populations globally⁵⁹.

2.1.2 The 1961 Convention on the Reduction of Statelessness

While the 1954 Convention mainly aimed at ensuring that stateless people enjoy a minimum set of human rights, establishing the legal definition of a *de jure* stateless individual, the 1961 Convention's goal is to actively prevent and reduce statelessness over time: it requires that states establish safeguards in their nationality laws to prevent stateless at birth and later in life⁶⁰.

It was adopted on 30 August 1961, after over a decade of international negotiations on how to avoid the incidence of statelessness, and it entered into force on 13 December 1975; it complements the 1954 Convention as the foundation of the international legal framework to address statelessness, a phenomenon which continues to adversely affect the lives of millions of people around the world. Indeed, the 1961 Convention is the leading international instrument that sets rules for the conferral and non-withdrawal of citizenship to prevent cases of statelessness from arising⁶¹.

⁵⁸ Clara Van Thillo, "From a Traditional International Law Approach to a Human Rights-Based Approach to Statelessness," SSRN Electronic Journal, 2024, <https://doi.org/10.2139/ssrn.4798990>.

⁵⁹ "Protecting the Rights of Stateless Persons," <https://www.unhcr.org/id/wp-content/uploads/sites/42/2017/05/Protecting-the-Rights-of-Stateless-People-ENGLISH-FINAL.pdf?>

⁶⁰ Convention on the Reduction of Statelessness, adopted August 30, 1961, entered into force December 13, 1975, 989 U.N.T.S. 175, https://www.unhcr.org/ibelong/wp-content/uploads/1961-Convention-on-the-reduction-of-Statelessness_ENG.pdf

⁶¹ Rouweler, op. cit.

However, the 1954 Convention has seen broader ratification with 99 state parties, while the 1961 Convention lags behind with only 78 ratifications. This disparity showcases the need for renewed international attention and advocacy, as the 1961 Convention plays a critical role in preventing statelessness from occurring in the first place⁶².

The underlying notion of the 1961 Convention is that, while States maintain the right to elaborate the content of their nationality laws, they must do so in compliance with international norms relating to nationality, including the principle that statelessness should be avoided and reduced whenever possible. Various provisions offer concrete guidance to States on how statelessness can and must be prevented in case of conflict of laws and nationality deprivation.

It is a relatively concise treaty, comprising 10 operative articles in four distinguishable thematic parts: Articles 1 to 4 are concerned with the avoidance of statelessness at birth, Articles 5 to 8 outline obligations designed to avoid statelessness through loss, renunciation or deprivation of nationality; Article 9 prohibits discrimination in deprivation on grounds of ethnic, religious or political grounds; and Article 10 is concerned with the avoidance of statelessness through state succession. For all these scenarios, the 1961 Convention safeguards are triggered only where statelessness would otherwise arise and for individuals who have some link with a country, to avoid nationality problems which might arise between States⁶³.

It is worth noting that, although an earlier draft did not permit any exceptions, the final text allows states to impose certain additional conditions, such as habitual residence, for acquiring nationality under Article 1. Secondly, Article 8 prohibits the deprivation of nationality if such an act would result in statelessness, a provision which has taken on particular relevance in recent years, especially as several states have resorted to citizenship revocation in the context of counter-terrorism: only in specific cases can any State revoke someone's nationality, even if it causes statelessness, but only in the case that the state has officially declared at the time of signing or ratifying the Convention that

⁶² "1961 Signatory States, Declarations and Reservations on the Reduction of Statelessness | Refworld," Refworld, 2023, <https://www.refworld.org/legal/agreements/unga/1961/en/85906>.

⁶³ Convention on the Reduction of Statelessness, preamble, adopted August 30, 1961, entered into force December 13, 1975, 989 U.N.T.S. 175, https://www.unhcr.org/ibelong/wp-content/uploads/1961-Convention-on-the-reduction-of-Statelessness_ENG.pdf

it desired to apply the reservation; if the state has failed to do so, it must fully comply with the no-deprivation rule in Article 8⁶⁴. However, this approach has been faced with intense criticism as a violation of international human rights law, which will be analyzed in detail in Chapter 3⁶⁵.

However, while the Convention explicitly prohibits deprivation of nationality on racial, ethnic, religious, or political grounds, it notably omits any reference to gender-based discrimination, a gap that undermines its comprehensiveness given the significant role gender inequality continues to play in the perpetuation of statelessness; consequently, reliance on complementary instruments, particularly the Convention on the Elimination of All Forms of Discrimination against Women, which obliges states to ensure equal rights for women and men to acquire, change, or retain their nationality, remains essential to filling this normative gap in the 1961 Convention⁶⁶.

Therefore, it needs to be noted that the Convention's contents continue to influence both regional and international standards and provide the most robust protection against statelessness at birth. As such, it is increasingly being relied upon by other treaty bodies in outlining the right of nationality in specific treaties.

Ultimately, the 1961 Convention must be interpreted and implemented as part of a broader international legal framework, including human rights treaties and regional instruments, to ensure a comprehensive and coherent legal response to statelessness that reflects a modern understanding of equality, due process, and state responsibility.

⁶⁴ Michelle Foster, "The 1961 Convention on the Reduction of Statelessness," *Statelessness & Citizenship Review* 4, no. 1 (July 20, 2022): 188–93, <https://doi.org/10.35715/scr40011115>.

⁶⁵ The following chapter will analyse the issues related to foreign fighters and the deprivation of nationality as a counterterrorism measure.

⁶⁶ UNHCR, *Gender Equality, Nationality Laws and Statelessness 2020: Background Note*, July 14, 2020, 2, <https://www.refworld.org/reference/themreport/unhcr/2020/en/123487>.

2.2 Statelessness as a Violation of Human Rights Treaties and Regional Treaties

The issue of statelessness also intersects significantly with broader international and regional human rights instruments, which, in addition to the 1954 and 1961 Conventions, specifically address the rights and protections that this vulnerable group is entitled to.

Indeed, statelessness often results in the denial of fundamental rights protected under these treaties, and as such, it constitutes not only a legal anomaly but also a violation of binding human rights obligations.

One of the main issues arising out of the 1954 and 1961 Conventions is the historically low rate of accession, despite ongoing efforts by the UNHCR to increase international attention to the precarity of the situation of stateless individuals, which means that there is a greater need for other human rights treaties to have a role in the protection of stateless individuals. Indeed, it is now widely appreciated that statelessness commonly occurs as a result of arbitrary deprivation of nationality, including on the basis of racial and gender discrimination. Arbitrary deprivation of nationality may take the form of failure to accord nationality, or of withdrawal of nationality on arbitrary or discriminatory grounds⁶⁷.

Conclusively, the consequences of statelessness are now increasingly conceived of in human rights terms, given that it frequently results in discrimination in terms of accessing basic human rights, such as the right to work, healthcare and education in one's own country, and that it can lead to vulnerability to other human rights violations, such as being trafficked. Enhancing the international focus on implementing status determination procedures represents a significant legal development, essential to safeguarding the rights and ensuring the protection of stateless individuals who might otherwise be neglected.⁶⁸.

⁶⁷ Michelle Foster and Hélène Lambert, "Statelessness as a Human Rights Issue: A Concept Whose Time Has Come," *International Journal of Refugee Law* 28, no. 4 (November 21, 2016): 564–84, <https://doi.org/10.1093/ijrl/eev044>.

⁶⁸ "International Standards | Stateless Hub," StatelessHub.org, 2024, <https://www.statelesshub.org/theme/international-standards>.

2.2.1 The ICCPR Provisions Related to the Prevention and Reduction of Statelessness

The International Covenant on Civil and Political Rights (ICCPR) represents one of the cornerstone treaties of the international human rights regime, enshrining a range of civil and political rights that apply to all individuals within a state's territory and are subject to its jurisdiction. Unlike the 1954 and 1961 Statelessness Conventions, which provide protection specific to stateless persons, the ICCPR adopts a status-neutral and universal approach.

This distinction renders the ICCPR a critical complementary legal instrument for the protection of stateless individuals, particularly in situations where the specific conventions on statelessness are not ratified, or if their provisions do not grant a robust enough protection framework. Stateless persons, often existing in legal limbo, benefit significantly from the ICCPR's broad and binding rights framework, which can be invoked to secure recognition, legal protection, and remedies against violations.

Indeed, the ICCPR protects a series of substantive rights that are essential to addressing both the causes and the consequences of statelessness. At the heart of the Covenant lies the principle of equality before the law, enshrined most notably in Article 26, which provides that "all persons are equal before the law and are entitled without discrimination to the equal protection of the law". This principle is particularly relevant in the context of statelessness, as such individuals are frequently subject to exclusionary practices and legal invisibility. Importantly, Article 26 applies to all individuals, irrespective of their nationality or legal status, affirming their right to non-discriminatory treatment and access to legal systems.

Furthermore, Articles 2 and 3 of the ICCPR consolidate this commitment by requiring states to guarantee the rights in the Covenant without distinction and to take effective steps to eliminate discrimination. This broad anti-discrimination mandate, unlike the narrower formulation under Article 3 of the 1954 Convention, enables stateless persons

to challenge not only direct discrimination but also structural or indirect forms of exclusion, such as denial of access to healthcare, education, or documentation⁶⁹.

Additionally, the principle of equality is not covered under the 1954 Convention relating to the Status of Stateless Persons. Therefore, said principle, as addressed under the ICCPR, would be a good supplement to the 1954 Convention: the closest principle that could be drawn from the 1954 Convention is the non-discrimination principle, covered under Article 3.

Notably, Article 24 established that every child has the right to acquire a nationality. This provision is of particular importance in contexts where statelessness is intergenerational, arising from discriminatory nationality laws or administrative obstacles to birth registration. The obligation to facilitate nationality acquisition under Article 24 supports the goals of the 1961 Convention on the Reduction of Statelessness, but operates independently and more broadly⁷⁰.

Additionally, Article 9 of the ICCPR prohibits arbitrary detention, a right that is especially pertinent to stateless persons, who are often held in prolonged or indefinite detention due to their inability to be deported or legally regularized. The Covenant requires that any deprivation of liberty be lawful, necessary, and proportionate and that detainees have access to judicial oversight, which is often denied to stateless individuals in migration contexts.

Under Article 2(3), the ICCPR obligates states to ensure that any individual whose rights under the Covenant are violated has access to an effective remedy, regardless of their legal status: this includes the right to challenge administrative or judicial decisions, seek reparation for rights violations, and access legal aid where necessary. In the context of statelessness, Article 2(3) imposes a positive obligation on states to establish fair and

⁶⁹ I-Hsuan Liu, *Statelessness and Human Rights* (master's thesis, Chulalongkorn University, 2018), Chulalongkorn University Theses and Dissertations (Chula ETD), <https://digital.car.chula.ac.th/chulaetd/2453>.

⁷⁰ UN Human Right Committee (HRC), "CCPR General Comment No. 17: Article 24 (Rights of the Child) | Refworld," Refworld, 2023, <https://www.refworld.org/legal/general/hrc/1989/en/37603>.

accessible Statelessness Determination Procedures (SDPs), ensuring that the affected individuals are not left without legal recourse⁷¹.

The Human Rights Committee has interpreted this provision as requiring states to implement remedies in practice, not merely recognize them in law. Thus, the ICCPR goes beyond the 1954 Convention by addressing not only the status and treatment of stateless persons but also the procedural means to assert and defend their rights⁷².

Unlike the 1954 and 1961 Conventions, which remain under-ratified and inconsistently applied, the ICCPR offers a widely accepted framework that can be mobilized across jurisdictions. It compels states to recognize the dignity, legal personhood, and procedural rights of stateless persons, even where nationality remains unresolved. This normative function is essential in contexts where states fail to implement specialized protection regimes or deny the existence of stateless persons altogether.

The role of other internationally recognized treaties acting in the protection of stateless individuals has been confirmed by the intervention of the UN Human Rights Committee published its views in a ground-breaking case, in which it was found that the Netherlands had violated the ICCPR by failing to protect the right of a child (Mr. Zhao), born in the country to a Chinese mother whose nationality was unverified, thus rendering him de facto stateless. Dutch authorities registered him as having “nationality unknown” and denied him legal recognition as stateless due to the lack of conclusive evidence, whose burden, under Dutch law, lies solely on the applicant. The court acknowledged legislative gaps but offered no remedy, leaving the child and his mother isolated and at constant risk of deportation.

In its decision⁷³, the UN Human Rights Committee invoked Article 24 ICCPR, the child’s right to special protection and the right to acquire a nationality, and Comment General

⁷¹ Katherine Perks and Amal de Chickera, “The Silent Stateless and the Unhearing World: Can Equality Compel Us to Listen?” *Corteidh.or.cr*, 2025, <https://www.corteidh.or.cr/tablas/r23684>.

⁷² “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,” accessed April 10, 2025, <https://www.ohchr.org/sites/default/files/2022-01/Background-Nonpaper-Statelessness-Discrimination.pdf>.

⁷³ Human Rights Committee, Communication No. 2918/2016, UN Doc CCPR/C/130/D/2918/2016 (28 April 2021).

No. 17⁷⁴, emphasizing the need for states to ensure that children are not rendered stateless, without discrimination based on the parents' status. However, it stopped short of stating that states must grant nationality solely based on birth in their territory (*ius soli*), reaffirming states' discretion over nationality laws but within the bounds of non-discrimination obligations under Articles 2 and 24.

The Committee used the 1961 Statelessness Convention and UNHCR Guidelines No. 4 to determine statelessness, adopting a lower evidentiary threshold than that of the 1954 Convention, which notably did not reference⁷⁵. It recognized that a state's refusal to confirm nationality (as in China's case with Mr. Zhao) is sufficient to establish statelessness. Moreover, the Committee underscored the need for a shred burden of proof, in line with UNHCR guidance, and highlighted the failure of the Dutch system to ensure effective rights enjoyment for a recognized stateless child, especially concerning residency and protection⁷⁶.

Another instance in which the Covenant had a fundamental role in safeguarding the rights of stateless individuals is through Communication 2498/2014 of the Human Rights Committee⁷⁷: the author of the communication fled with her family from Uzbekistan to the Netherlands, where, however, their asylum application was denied by the Dutch authorities. The applicant was later told that, by not registering with the Uzbek Embassy within five years of her departure from the home country, she had lost her Uzbek citizenship. Various applications for social and child benefits were rejected by various national courts because of her status. By having exhausted domestic remedies regarding her claims of violation of her right to family life and non-discrimination and of the right

⁷⁴ UN Human Rights Committee (HRC), "CCPR General Comment No. 17: Article 24 (Rights of the Child) | Refworld," Refworld, 2023, <https://www.refworld.org/legal/general/hrc/1989/en/37603>.

⁷⁵ UN Human Rights Committee (HRC), *op. cit.*, p. 1

⁷⁶ Rodolfo Riberio, "Protecting the Rights of the Rightless: The UN Human Rights Committee and the Right to Acquire a Nationality under International Law," EJIL: Talk!, February 11, 2021, <https://www.ejiltalk.org/protecting-the-rights-of-the-rightless-the-un-human-rights-committee-and-the-right-to-acquire-a-nationality-under-international-law/>.

⁷⁷ Human Rights Committee, Communication No. 2498/2014, *M.M.M. v. Netherlands*, UN Doc. CCPR/C/124/D/2498/2014(2018).

of her child, the applicant claimed that the state, party to the ICCPR, had been in breach of articles 23.1⁷⁸, 24.3⁷⁹, and 26⁸⁰.

In light of the level of vulnerability of the child and the inability of the mother to provide for the child, the Committee concluded that the state party had an obligation to ensure the child's physical and psychological well-being⁸¹.

These cases demonstrate that the ICCPR can serve as a powerful instrument for protecting stateless individuals in the absence of effective national mechanisms or full implementation of the 1954 and 1961 Statelessness Conventions. The Committee's use of Articles 24 and 2, respectively, concerning the rights of the child and non-discrimination and access to remedies. Affirm the ICCPR's broad applicability to stateless persons, even when non expressly labelled as such in domestic law.

2.2.2 European Convention on Human Rights and Statelessness

The European Convention on Human Rights (ECHR) stands as a key regional human rights instrument with significant relevance to the protection of stateless persons.

This is a development with respect to the former European Human Rights Commission, which considered nationality not to be within the ECHR's scope since none of its articles expressly referred to it; nationality matters were seen as connected with the question of state sovereignty, and the willingness of the ECHR state parties to bound themselves by such a protocol subjected to the Court's jurisdiction was seen as very slim.

⁷⁸ "The family is the natural and fundamental group unit of society and is entitled to protection by society and the State."

International Covenant on Civil and Political Rights, Article 23(1), December 16, 1966, 999 U.N.T.S. 171, <https://www.ohchr.org/sites/default/files/ccpr.pdf>

⁷⁹ "[...]Every child has the right to acquire a nationality". United Nations, ICCPR, op. cit., art. 24(3)

⁸⁰ "[...] the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground [...]". United Nations, ICCPR, op. cit., art. 26

⁸¹ Statelessness Case Law Database, "Human Rights Committee - Communication No. 2498/2014," Statelessness Case Law Database, May 24, 2019, <https://caselaw.statelessness.eu/caselaw/human-rights-committee-communication-no-24982014>.

Given the ECHR's silence on nationality as a right, the Council of Europe adopted the European Convention on Nationality (ECN)⁸² in 1997 to fill this legislative gap. However, due to limited ratifications and the absence of a judicial enforcement mechanism, the ECN remains complementary to the more robust ECHR framework, which continues to be the main invoked instrument in litigation by stateless persons; this explains why the ECHR with its judicial enforcement mechanism remains an attractive venture to pursue in case of a violation of one's right to nationality⁸³.

Although it does not explicitly refer to statelessness, its provisions, particularly those concerning the right to private and family life, non-discrimination, and access to effective remedies, have provided a legal basis for addressing many of the challenges stateless individuals face within the Council of Europe member states⁸⁴.

While the European Convention on Human Rights does not guarantee the right to a nationality, the European Court of Human Rights has acknowledged nationality as part of an individual's "social identity" and thus protected under the right to private life stated in Article 8⁸⁵. Most cases regarding citizenship brought before the European Court of Human Rights have involved applicants asserting their right to acquire citizenship and the refusal to recognize such citizenship.

While Article 8 of the European Convention on Human Rights does not guarantee a right to reside in a particular state, the European Court of Human Rights (ECtHR) has consistently held that decisions concerning residence may nonetheless fall within the scope of the right to respect for private and family life. Traditionally applied to cases involving foreign nationals, this provision has been interpreted to mean that states retain a wide margin of appreciation in regulating the entry, stay, and removal of non-citizens. However, the Court has also established that restrictions on residence may violate Article 8 where they have disproportionate repercussions on an individual's private or family life,

⁸² Caia Vlieks, "Preventing and Solving Statelessness in European Law," European Network on Statelessness, July 22, 2022, <https://www.statelessness.eu/updates/blog/preventing-and-solving-statelessness-european-law?>.

⁸³ Elspelth Guild and Sandra Mantu, "The Production of Statelessness in Europe," IWM WEBSITE, 2017, <https://www.iwm.at/publication/iwmpost-article/the-production-of-statelessness-in-europe>.

⁸⁴ "Europe | Stateless Hub," Statelesshub.org, 2022, <https://www.statelesshub.org/region/europe>.

⁸⁵ European Court of Human Rights, *Genovese v. Malta*, no. 53124/09, § 33, ECHR 2011, [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-106785%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-106785%22]})

depending on factors such as the length of residence, strength of ties, and impact of removal.

Importantly, these principles have gained increasing relevance in the context of statelessness. Stateless persons often find themselves in a protracted state of legal limbo, unable to acquire legal residence or obtain documentation, which directly impairs their ability to lead a stable and dignified private life. The ECtHR's evolving interpretation of Article 8 has progressively shifted from an emphasis solely on family life to a broader understanding of private life, encompassing an individual's social identity, personal development, and ability to establish relationships with others. This expansion is particularly significant for stateless individuals, whose lack of nationality can severely obstruct their access to employment, education, housing, and healthcare.

Moreover, the Court's case law recognizes that Article 8 may give rise not only to negative obligations (i.e., refraining from arbitrary interference) but also to positive obligations on states to take reasonable and appropriate measures to secure effective respect for private life. In cases involving stateless persons, this may include facilitating legal recognition, granting residence rights, or providing access to identity documentation where the absence of such measures would render private life impossible to exercise in practice. Thus, while statelessness is not explicitly addressed in the Convention, Article 8 serves as a critical legal avenue for ensuring that individuals without nationality are not left in a position of systemic exclusion and vulnerability⁸⁶.

In these cases, the Court has observed that although the right to citizenship is not guaranteed as such by the European Convention on Human Rights or its Protocols, it did not exclude that an arbitrary denial of citizenship might in certain circumstances raise an issue under Article 8 of the Convention because of the impact of such a denial on the private life of the individual⁸⁷.

In light of the indirect link that can be found between Article 8, the right to nationality and statelessness, the jurisprudence developed by the Court, together with the European

⁸⁶ Dorota Pudzianowska and Piotr Korzec, "Human Rights and the Protection of Stateless Persons in the Case Law of the European Court of Human Rights," Ssrn.com, 2020, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4289042.

⁸⁷ European Court of Human Rights, Factsheet – Deprivation of Citizenship, November 2023, https://www.echr.coe.int/documents/d/echr/FS_Citizenship_Deprivation_ENG

Commission on Human Rights, has proved to be a strong instrument in ensuring that questions related to the matter be lodged within the framework of the European Convention on Human Rights⁸⁸.

This interpretation of the Convention's provisions is further exemplified in cases such as *Kim v. Russia*, where the Court directly addressed the consequences of statelessness through the lens of Article 5, highlighting how the ECHR framework continues to evolve in offering protection to stateless individuals, and *Hoti v. Croatia*, which utilized as a legal basis Article 8 of the Convention.

The case of *Kim v. Russia*⁸⁹ is a significant ruling concerning the rights of stateless individuals under the European Convention on Human Rights. Mr. Kim, born in the former Uzbek Soviet Socialist Republic, became stateless following the dissolution of the Soviet Union and resided in Russia without acquiring any legal nationality. Despite his long-term residence, he was placed in immigration detention pending removal. However, due to the absence of a country willing to receive him, his removal was not feasible.

The European Court of Human Rights found that his prolonged and indefinite detention, in the absence of a realistic prospect of removal, constituted a violation of Article 5.1⁹⁰ ECHR, which protects the right to liberty and security, and Article 3⁹¹, concerning the protection of individuals subject to degrading and unlawful punishment.

The Court emphasized that statelessness does not justify indefinite detention and underscored the need for appropriate legal safeguards for stateless persons in such situations.

Following the discussion of *Kim v. Russia*, the case of *Hoti v. Croatia*⁹² presents another landmark ruling in which the European Court of Human Rights addressed the implications of statelessness, and, more specifically to the case in question, the prolonged lack of legal residence status through the lens of Article 8 of the Convention.

⁸⁸ Statelessness Hub, op. cit.

⁸⁹ *Kim v. Russia*, no. 44260/13, § 56, ECHR 2014.

⁹⁰ Council of Europe, European Convention on Human Rights, as amended by Protocols Nos. 11 and 14, art. 5(1), ETS No. 5, 1950.

⁹¹ Council of Europe, op. cit.

⁹² *Hoti v. Croatia*, no. 63311/14, § 134, ECHR 2018.

The applicant, Mr. Bedri Hoti, was born in Kosovo in 1958 and moved to Croatia in 1979, where he remained continuously. Although he had lived in the country for decades, Mr. Hoti never acquired Croatian citizenship, nor was he ever granted a stable legal residence status. Following the breakup of Yugoslavia and the changing legal frameworks in the region, his legal situation remained unresolved. He was officially considered a foreigner, yet he could not regularize his status due to legal and practical obstacles, including the lack of documentation from Kosovo and the absence of effective domestic procedures to resolve his status. Although he had been assured in 1993 that he would be granted citizenship as he met all the relevant requirements under the applicable domestic law, his multiple requests were all dismissed; the applicant's situation amounted to *de facto* statelessness, as he was unable to acquire nationality or enjoy the rights associated with lawful residence, despite repeated attempts to resolve his status, and he remained in legal limbo for more than two decades. The Croatian authorities failed to either regularize his position or provide a clear legal pathway to do so.

The ECtHR found that this prolonged uncertainty and exclusion from social life interfered with the applicant's right to private life under Article 8 ECHR. The Court reiterated that "private life" encompasses aspects of a person's social identity and right to establish and develop relationships with others and the community. Importantly, it held that states have a positive obligation under Article 8 to ensure that individuals who have resided in their territory for extended periods are not left in a state of legal precarity that effectively excludes them from the social and legal order.

The Court acknowledged that states retain a sovereign right to regulate the entry and stay of non-nationals. However, it emphasized that this discretion is not unlimited and must be exercised in a manner compatible with Convention obligations. In both *Hoti v. Croatia* and *Kim v. Russia*, the European Court of Human Rights highlighted that the prolonged legal uncertainty and administrative inaction affecting stateless individuals amount to violations of the ECHR, conclusively affirming through these rulings the serious human rights implications tied to statelessness and the obligations of states to ensure effective access to legal status and residence rights.

2.3 The Handbook on the Protection of Stateless Persons as a Guiding Soft-Law Instrument

In the last decade, there has been a renewed impetus on the part of the international community, supported by the United Nations High Commissioner for Refugees (UNHCR), to address the plight of stateless persons⁹³.

Despite the existence of several instruments for the protection of stateless persons, significant gaps remain in the practical application and enforcement of these norms. The Handbook also aims at addressing a range of issues concerning the identification and protection of stateless persons as defined in Article 1.1 of the Convention, as well as tackling the topic of how to effectively create statelessness determination procedures.

In fact, the 1954 and 1961 Conventions, as seen above, are not widely ratified across countries, and when they are implemented across jurisdictions, inconsistencies tend to arise.

The enforcement of obligations under these instruments is further weakened by the absence of binding international oversight and compliance, as it is oftentimes largely reliant upon voluntary cooperation and political will.

The United Nations High Commissioner for Refugees, while mandated to supervise the application of the Statelessness Conventions, lacks the authority to guarantee adherence to the treaties, as its main task is to protect and support stateless and displaced persons by providing shelter, aid, and advocating for their rights. To clarify the modalities of action in these contexts, the UNHCR has therefore developed the Handbook on the Protection of Stateless Persons, which offers interpretative guidance and practical recommendations. Being a soft-law instrument, however, its influence remains limited by states' discretion and varying degrees of political commitment.⁹⁴

Originally released in the form of a set of three guidelines in 2012, and consolidated in 2021, the Handbook delves into the definition and scope of statelessness under

⁹³ Volker Türk, foreword to Handbook on Protection of Stateless Persons (Geneva: United Nations High Commissioner for Refugees, 2014), <https://www.unhcr.org/wp-content/uploads/sites/27/2017/04/CH-UNHCR-Handbook-on-Protection-of-Stateless-Persons.pdf>

⁹⁴ UNHCR, "Technical Meeting of Experts -Identifying and Protecting Stateless Persons in Europe," September 21, 2021, <https://rm.coe.int/briefing-paper-session-1-with-coverpage-en-unhcr/1680a3e6a5>.

international law, by elaborating significantly not only on the notion of de jure statelessness, which had already been central to the 1954 Convention, but also expanding upon the underexplored category of de facto stateless persons. De facto statelessness had indeed been solely implied in paragraph 3 of the Final Act of the 1954 Convention, as it had not foreseen the difficulties of individuals who, while technically nationals of a state, are unable to enjoy the rights associated with nationality due to political, administrative, or practical constraints⁹⁵. It had set out a recommendation that such persons benefit from the provisions in the 1961 Convention to obtain an “effective nationality”, but no further definition or explanation had been granted⁹⁶.

Beyond the clarifications on the distinction between the two categories of statelessness, the Handbook provides practical guidance for the design and implementation of Statelessness Determination Procedures (SDPs), which are crucial for ensuring access to rights and protections under the 1954 Convention. It offers procedural standards, including principles of fairness, accessibility, the right to appeal, and non-refoulement, which reflect broader international human rights standards: courts and administrative bodies in countries such as Hungary, Spain, and the UK have used it as a reference when establishing statelessness determination procedures and interpreting related rights.

Each system has developed a different procedure depending on its legislative system, and while some issues have arisen with the complexity of the identification of citizenship and the lack thereof, it is important to highlight that the progress that has been made in each country has been notable, particularly through the guidelines promoted by the UNHCR⁹⁷. As a soft-law instrument, its application depends entirely on the willingness of individual states to incorporate its recommendations into domestic law and administrative practice.

⁹⁵ UNHCR, Handbook on Protection of Stateless Persons (Geneva: United Nations High Commissioner for Refugees, 2014), https://www.unhcr.org/wp-content/uploads/sites/27/2017/04/CH-UNHCR_Handbook-on-Protection-of-Stateless-Persons.pdf

⁹⁶ United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, “Final Act of the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons,” Refworld, July 25, 1951, <https://www.refworld.org/legal/leghist/cpsrsp/1951/en/89635>.

⁹⁷ Katia Bianchini, “A Comparative Analysis of Statelessness Determination Procedures in 10 EU States,” International Journal of Refugee Law 29, no. 1 (March 2017): 42–83, <https://doi.org/10.1093/ijrl/cex009>.

While some states have used the Handbook as a framework for creating or reforming SDPs, others have yet to engage with its guidance meaningfully.

In conclusion, the Handbook on the Protection of Stateless Persons fills crucial interpretative and practical gaps in the international legal framework, particularly in areas where treaty obligations remain vague or unimplemented. Even though its non-binding character does limit its scope of application, the content of the handbook has been cited in national courts, for instance in *MK (A Child By Her Litigation Friend CAE) v Secretary of State for the Home Department* in the High Court of England and Wales⁹⁸, in a case involving a stateless child born in the UK to Indian parents. The Court examined whether the child qualified as stateless under Article 1.1 of the 1954 Convention, and, to ensure the correct interpretation of the definition of “stateless person”, the Court referred to the UNHCR Handbook in order to assess the standard of proof required in statelessness determination procedures⁹⁹.

While there has been significant progress towards implementation of the Global Action Plan to End Statelessness, including through the implementation of pledges made at the 2019 High-Level Segment on Statelessness¹⁰⁰, which served as a mid-point intergovernmental meeting of the United Nations Member States and other stakeholders involved in the campaign launched in 2014 to end statelessness by the UNHCR¹⁰¹, challenges to the goal to effectively terminate statelessness in the near future do remain. Yet, its effectiveness will ultimately hinge on states’ political will to operationalize its recommendations and strengthen protections for one of the world’s most vulnerable populations.

⁹⁸ *MK (A Child By Her Litigation Friend CAE) v Secretary of State for the Home Department* [2017] EWHC 1365 (Admin), <https://caselaw.statelessness.eu/sites/default/files/decisions/MK%20%28India%29%20v%20SSHD.pdf?>

⁹⁹ “*MK (A Child by Her Litigation Friend CAE) v SSHD* [2017] EWHC 1365 (ADMIN) [2017] 6 WLUK 215 – One Court,” Onecourt.co.uk, 2017, <https://www.onepumpcourt.co.uk/cases/mk-a-child-by-her-litigation-friend-cae-v-sshd-2017-ewhc-1365-admin-2017-6-wluk-215/>.

¹⁰⁰ The UN Refugee Agency, “» High-Level Segment on Statelessness | Resources,” Unhcr.org, 2019, <https://www.unhcr.org/ibelong/high-level-segment-statelessness/>.

¹⁰¹ IBELONG - Join the Campaign to End Statelessness, op. cit.

Conclusion

The analysis presented demonstrates the vital importance that the 1954 and 1961 Conventions still have in the context of safeguarding the rights of stateless individuals, despite the challenges posed by the low ratification rates and, at times, inconsistent implementation. In this context, additional human rights treaties such as the ICCPR and the ECHR play a crucial complementary role, extending protections to stateless persons through universal provisions and interpretative case law, an approach that has yielded important jurisprudential developments, as for the cases of *Kim v. Russia* or *Hoti v. Croatia* have shown.

Moreover, initiatives like the UNHCR's "I Belong" campaign and ongoing institutional efforts continue to raise awareness and encourage action: soft law instruments such as the Handbook on the Protection of Stateless Persons provide the necessary guidelines to direct national governments towards the implementation of suitable measures to safeguard the rights of those affected.

Conclusively, while further actions need to be taken to protect the rights of stateless individuals, the existing framework does create a solid foundation upon which more effective legal and policy measures can be built to ensure their full inclusion and protection under international law.

Chapter 3: Legal Issues Raised by the Deprivation of Nationality of Foreign Terrorist Fighters

Introduction

After defining, through the previous chapters, the international framework in place to protect the rights of stateless individuals, the discourse will now shift to analyzing foreign terrorist fighters and how states have attempted to counter this issue. Several European states, particularly in the last decade, have resorted to deprivation of nationality as a tool to deter the participation of their citizens in international terrorist organizations.

Paragraph 1 will explore the historical development of foreign terrorist fighters and the domestic legal provisions adopted by a number of European states, namely, the United Kingdom, France, and Italy.

Subsequently, the second part of the chapter will be devoted to the response from international organizations, which aimed to create a robust system to counter the emerging and evolving threat of foreign terrorist fighters while upholding the rule of law. The position of the UN Security Council, the guidelines proposed by OSCE, the voices of legal scholars, and the stance of the European Union are discussed, considering all of their different approaches.

Additionally, the various legal provisions in place in Europe will be broken down to illustrate how deprivation of nationality may occur: this will include a comparison of the safeguards implemented by different states, through the analysis of key cases that showcase the highly controversial nature of such judgments.

Finally, paragraph 3.4 will focus on the issue of nationality deprivation and whether it is a practice in line with international human rights standards, as well as its effectiveness in counteracting international terrorism.

3.1 Transnational Terrorism and the Rise of Foreign Terrorist Fighters

In the last decade, the phenomenon of foreign terrorist fighters (FTFs) has emerged as a critical concern for the international community. These individuals, who travel from their home countries to conflict zones with the intent to join extremist groups and participate in acts of terrorism, have complicated global security dynamics and challenged existing

legal and policy frameworks¹⁰². The rise of transnational terrorism, particularly with the proliferation of groups like ISIS, has seen thousands of FTFs cross borders, raising alarms over radicalization, recruitment, and the potential threat of returning foreign fighters in their countries of origin.

Foreign terrorist fighters have furthermore been responsible for the increased intensity, duration, and complexity of conflicts and may constitute a danger to the states of origin, transit, and destination, as well as neighboring zones of armed conflict in which they are active. Their motivation for the move may be political, ideological, or religious. It is not a new phenomenon that has solely developed in recent years; rather, it has been a growing concern over the last decade as individuals from Europe and North America have sought to train and fight with Al Qaeda and its affiliates in places such as Afghanistan, Pakistan, Somalia, and Yemen.

3.1.1 The Practice of Deprivation of Nationality on Counterterrorism Grounds in Some Specific European Countries

As the subsequent paragraph 3.2¹⁰³ will underline, international organisations have been coming forth with specific guidelines so as to tackle the issues related to FTFs, enhancing the implementation of a criminal justice response to FTFs that fully incorporates the rule of law and respect for a human rights approach; however, several states have chosen to apply alternative provisions, which have become object of controversy.

Given that the surge of citizenship deprivation as a counterterrorism measure has been particularly notable among European states, the following analysis will focus on the varied approaches adopted by these different national jurisdictions.

Notably, another reason that has made the practice of deprivation of nationality even more common between European states is the avoidance of having to readmit foreign fighters into their territory as nationals, which would be one of the generally accepted and inherent

¹⁰² International Association of Chiefs of Police. Addressing the Threat of Foreign Fighters: The Role of Local Law Enforcement. Alexandria, VA: International Association of Chiefs of Police, 2014. https://www.theiacp.org/sites/default/files/all/i-j/IACP-COT_ForeignFighters_FINALAug12.pdf

¹⁰³ The International Norms on Citizenship and Counterterrorism: Human Rights Constraints on Nationality Deprivation

duties of states, according to the traditional conception of nationality and the principle of territorial supremacy of the state.

It is possible to identify a convergence of the legal standards that states must consider when attempting to deprive people of their nationality: within Europe, states have not ratified the same instruments in regard to the matter, and national preferences and national manifestations of sovereignty continue to influence how people are protected from losing their citizenship status.

A useful instrument in the analysis of the different national system in place is the Statelessness Index¹⁰⁴, an online comparative tool developed and maintained by the European Network on Statelessness (ENS), that assesses European countries' law, policy, and practice on the protection of stateless people and the prevention and reduction of statelessness against international norms and good practice.

ENS has worked with its members to research and compile comparative information on statelessness in 27 countries in Europe so far, and through its studies, it is possible to highlight the areas of greater concern for the lack of protection towards stateless individuals.

In most Index countries, provisions to deprive individuals of their nationality on national security grounds differentiate between nationals according to how nationality was acquired. Albania, Belgium, Bulgaria, Cyprus, France, Ireland, Italy, Malta, and Moldova, for instance, reserve the application of deprivation powers to individuals who acquired nationality after birth. However, in almost all cases, the distinction is made between multiple and single nationality holders to prevent deprivation on national security grounds, resulting in statelessness. Only Cyprus, Greece, Ireland, Italy and the UK, on certain grounds which will be specified in the next section, do not have these comprehensive safeguards, which means that individuals could be made stateless if their conduct is deemed prejudicial to national security¹⁰⁵.

So far, although there have been calls upon European states to repatriate foreign fighters in Kurdish and US captivity and adjudicate their cases in their domestic criminal justice

¹⁰⁴ European Network on Statelessness (ENS), "Statelessness Index," Statelessness Index, 2025, <https://index.statelessness.eu>.

¹⁰⁵ European Network on Statelessness, op. cit., p. 11

system, most European countries have refused to do so, effectively preventing FTFs from returning and making use of legislative reforms to prevent a similar situation in the future. The harsh stance taken in the last decade represents a sharp turn from the traditional hesitation in expatriation cases: by showcasing terrorism to the public as an act of national disloyalty, European politicians are currently attempting to deter participation of their citizens through this counter terrorism policy and justifying citizenship deprivation powers under the grounds of national security.

It needs to be highlighted that the international criminal law jurisprudence is far from crystallised on the topic, and more generally, that even though states on paper try to find a balance in their growing arsenal of measures countering foreign fighters, many of them are of a repressive nature and have received criticism¹⁰⁶.

The following sections will focus on three countries that have adopted different approaches and safeguards when dealing with deprivation of nationality: the United Kingdom, France, and Italy, whose diverging legal approaches will be compared to highlight the different procedures, organs, and safeguards in place.

3.1.2 The United Kingdom: The 2015 Counterterrorism and Security Act

Several reports have highlighted that powers to deprive citizens of their nationality on the grounds of disloyalty, national security or terrorism have spiked since 9/11, and the leading country winning the “race to the bottom¹⁰⁷” is the United Kingdom, having stripped 212 people of citizenship on national security grounds between 2010 and 2020. The UK has adopted legal frameworks allowing such measures under certain conditions, and this section aims to explore the key legal provisions that establish the grounds allowing for the revocation of nationality due to terrorist activities.

¹⁰⁶ Christophe Paulussen and Eva Entenmann, “National Responses in Select Western European Countries to the Foreign Fighter Phenomenon,” *T.M.C. Asser Press EBooks*, no. Chapter 20 (January 1, 2016): 391–422, https://doi.org/10.1007/978-94-6265-099-2_20.

¹⁰⁷ Luuk van der Baaren et al., “Instrumentalising Citizenship. A Global Comparative Analysis of Legislation on Deprivation of Nationality as a Security Measure in the Fight Against Terrorism,” March 2022, https://files.institutesi.org/Instrumentalising_Citizenship_Global_Trends_Report.pdf.

As a result of amendments to the British Nationality Act in 2014¹⁰⁸, the UK government may deprive naturalised nationals of their citizenship when they have conducted themselves in a manner prejudicial to the vital interests of the country, on the grounds that it is “conducive to the public good” to do so. This power, held by the Home Secretary, allows for deprivation of nationality even if it results in statelessness, and does not require judicial approval, which has made the amendment highly debated and controversial¹⁰⁹.

Statelessness was also a contentious point in the debates leading up to the passing of the Counterterrorism and Security Act¹¹⁰ in February 2015, as it introduced a statutory Temporary Exclusion Order¹¹¹, which allows authorities to manage the return of a British citizen suspected of involvement in terrorism-related activities abroad, by prohibiting entry into the UK for up to two years. It was argued that this might render these individuals de facto stateless during the period in which their return is managed, a fear that was also strongly voiced in earlier attempts to introduce this legal reform.

Additionally, the Act allows for the confiscation at the border of travel documents such as passports and flight tickets of individuals suspected of planning to leave the UK to engage in terrorism-related activities abroad.

In conclusion, while this measure was hailed by proponents as presenting an important tool to prevent aspiring foreign fighters from leaving, others have criticised the rather broad and undefined categorisation of terrorism-related activities, as the wide and unspecified scope of interpretation of the provision leaves great discretion to the authorities to act in cases of this calibre and gravity.

¹⁰⁸ European Network on Statelessness, op. cit., p. 12

¹⁰⁹ Laura van Waas and Cristophe Paulussen, “UK Measures Rendering Terror Suspects Stateless: A Punishment More Primitive than Torture,” International Centre for Counter-Terrorism - ICCT, June 5, 2024, <https://icct.nl/publication/uk-measures-rendering-terror-suspects-stateless-punishment-more-primitive-torture>.

¹¹⁰ United Kingdom, “Counter-Terrorism and Security Act 2015,” Legislation.gov.uk, 2015, <https://www.legislation.gov.uk/ukpga/2015/6/contents>.

¹¹¹ “A “temporary exclusion order” [...] requires an individual not to return to the United Kingdom [...] if the Secretary suspects that the individual is involved in terrorism-related activity; [...] that it is a necessary for the purpose connected with protecting members of the public; [...] if the individual is outside the UK; [...] if the urgency of the case requires a temporary exclusion.”

United Kingdom, op. cit., 2. Temporary exclusion order

3.1.3 France: Article 25 of the Civil Code

In France, loss of nationality is allowed where the loyalty and allegiance of the individual concerned are disputed. The law distinguishes between *perte*, loss, regulated by Article 23 of the Civil Code, which applies to all citizens, and *déchéance*, deprivation, covered by Article 25 of the Civil Code¹¹², but solely addressed to naturalised citizens, one of the reasons for which the law was contested as potentially unconstitutional, due to the lack of respect for the principle of equality. The provision lists several categories of acts and crimes that, after a conviction, could lead to citizenship deprivation, and include acts against the fundamental interests of the nation, or crimes or offences constituting acts of terrorism.

The deprivation of citizenship may only be used against naturalised citizens with dual citizenship; therefore, it is not intended to lead to statelessness for the individual involved. The deprivation decision is taken by the Council of Ministers, after the individual has been informed and has had a chance to respond and to consult the Council of State. Over the years, the provision has evolved due to the changing political landscape: in 2003, the scope of the provision was expanded to include terrorist acts committed up to 10 years before the individual's naturalisation, and in 2006, its temporal width engulfed crimes committed 15 years before and after the actual conviction.

Due to the arising tensions after the November 2015 Paris attacks, Francois Hollande's government called for a change in the constitution to extend deprivation powers to French-born citizens, as long as they held a second nationality, which, however, failed and was not further pursued¹¹³.

A report from 2016 by the Ministry of the Interior revealed that since 1996, 13 dual nationals had lost their French citizenship due to convictions for terrorist-related offenses¹¹⁴. Furthermore, between 2016 and January 2020, three more nationals were

¹¹² République Française, “Article 25 - Code Civil - Légifrance,” Gouv.fr, 2025, https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000006420133.

¹¹³ Émilien Fargues, Elke Winter, and Matthew J Gibney, *When States Take Rights Back* (Routledge, 2020), 2. *Governing Imperial Citizenship: A Historical Account of Citizenship Revocation*.

¹¹⁴ Le Parisien, “Qui Sont Les Derniers Déchus de La Nationalité Française ?,” leparisien.fr (Le Parisien, January 6, 2016), <https://www.leparisien.fr/archives/qui-sont-les-derniers-dechus-de-la-nationalite-francaise-06-01-2016-5426243.php>.

reported to have forfeited their French nationality for similar reasons. This brings the total to 16 cases from 1996 to 2020, and out of these individuals, six had previously held Algerian nationality, seven were of Moroccan nationality, one was Tunisian, another one was Turkish, and in one case, no media coverage was found¹¹⁵.

The French government's intentions also reflect the underlying objectives of the United Kingdom: citizenship deprivation has been used to their advantage to remove those who had been found guilty of terrorist offences or crimes against the country's basic interests, by physically removing the "terrorist" citizen from state territory rather than merely stripping him or her of citizenship.

Therefore, although the French norms do offer greater margins of protection thanks to the implementation of safeguards that limit the scope of Article 25, only applicable to citizens possessing an additional nationality, the outcome pursued aligns closely with the UK, highlighting how both legal systems prioritise national security through exclusionary measures.

3.1.4 Italy: Decree Law 133/2018

The phenomenon of foreign terrorist fighters alongside radicalized citizens involved in the planning and execution of terrorist attacks on European soil has been addressed by the Italian legal system. Following the legislative trends set by other European states between 2014 and 2017, the Italian also amended its nationality law in 2018: Article 14 of Decree Law 133/2018 introduced the possibility of revoking Italian citizenship, upon conviction for terrorist offences by the decision of the Minister of the Interior¹¹⁶.

¹¹⁵ Maarten P. Bolhuis and Joris van Wijk, "Citizenship Deprivation as a Counterterrorism Measure in Europe; Possible Follow-up Scenarios, Human Rights Infringements and the Effect on Counterterrorism," *European Journal of Migration and Law* 22, no. 3 (October 7, 2020): 338–65, <https://doi.org/10.1163/15718166-12340079>.

¹¹⁶ Italy, Decreto-Legge 4 ottobre 2018, n. 113, Disposizioni urgenti in materia di protezione internazionale e immigrazione, sicurezza pubblica, nonché misure per la funzionalità del Ministero dell'interno e l'organizzazione e il funzionamento dell'Agenzia nazionale per l'amministrazione e la destinazione dei beni sequestrati e confiscati alla criminalità organizzata, *Gazzetta Ufficiale*, October 4, 2018, art. 14, <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2018-10-04;113!vig=>

This measure, however, does not apply universally to all Italian citizens: it specifically targets naturalized citizens or those who acquired Italian nationality through marriage or by being born and residing in Italy until the age of 18¹¹⁷. The provision, therefore, disproportionately affects immigrants and their children who became Italian citizens through legal pathways other than birth to Italian parents, according to the *jus sanguinis* principle¹¹⁸.

Similar to the existing French provisions, not all Italian citizens can be targeted by this measure: it is only applicable to naturalized citizens or to those who acquired Italian nationality because they married an Italian citizen or were born and resided in Italy until the age of 18. Therefore, this provision specifically addresses immigrants and their children who have become Italian citizens.

However, while the French system has set up procedural safeguards, for which only individuals with dual nationalities can be deprived of their questioned nationality, the Italian system, alongside the aforementioned British Nationality Act of 2014¹¹⁹, does not exclude statelessness.

Critics argue that the differentiation between different categories of citizens may be in breach of the principle of equality expressed in Article 3 of the Italian constitution.

It seems relevant to mention one last issue with the provision that appears to put it at odds with international law. Such an issue derives from the wording of Article 10-bis of Law no. 91 of 1992, which, by making no reference to the requirement of a dual nationality for citizenship removal, makes it theoretically possible for an individual to be rendered stateless.

The initial response highlighted how the new provision contradicted the 1961 UN Convention on the Reduction of Statelessness. However, part of the doctrine disagreed with this observation, stating that the Italian legislation does not seem to account for the

¹¹⁷ Arianna Vidaschi and Chiara Graziani, “Citizenship Revocation in Italy as a Counter-Terrorism Measure,” *Verfassungsblog*, January 29, 2019, <http://dx.doi.org/10.17176/20190211-215013-0>.

¹¹⁸ Oxford Constitutions, *op.cit.*

¹¹⁹ European Network on Statelessness, *op. cit.*, p. 12

potential statelessness of the recipients of the revocation¹²⁰. Unlike France, Belgium, and the Netherlands, Italy, similar to the UK, placed a reservation on art. 8(3) of the 1961 Convention.

Yet, this position has been clearly refuted by Salvatore Curreri, who pointed out that one must consider the fact that this is a hypothesis of revocation of citizenship that was not foreseen at the time of the Convention's ratification and was only introduced into the legal system later. Consequently, with reference to the prohibition of creating situations of statelessness, the prospect of a frontal contrast with the 1961 Convention on the Reduction of Statelessness appears well-founded.

However, the possibility to revoke citizenship is not the only controversial issue of the decree, as Article 1 also repeals provisions allowing Italian public authorities to grant asylum for “compassionate, humanitarian or other reasons”¹²¹, even in cases whereby no other possible form of protection can apply. The broad Italian humanitarian protection system was a significant safeguard for many migrants who did not qualify for refugee or subsidiary protection but still had compelling vulnerabilities¹²². By restricting this to only narrowly defined cases, Italy significantly reduced access to protection. From a policy perspective, this move conflicts with broader EU and international human rights goals, particularly those encouraging humane migration governance, social integration, and protection of vulnerable persons.

Despite the controversy raised by the new legislative framework, it needs to be highlighted, however, that there are no documented cases concerning the actual nationality deprivation of foreign terrorist fighters on Italian soil.

In conclusion, although the Decree has certainly been at the centre of several controversies for its potential breach of the principle of equality and the violation of the 1961 Convention on the Reduction of Statelessness, no judicial proceedings have been

¹²⁰ Mazzeschi, “Legal Ghosts: The Rights of Stateless People in International and Italian Law | Mazzeschi Legal Counsels,” Mazzeschi Legal Counsels, August 7, 2020, <https://www.mazzeschi.it/legal-ghosts-the-rights-of-stateless-people-in-international-and-italian-law/>.

¹²¹ Italy, Decreto-Legge 4 ottobre 2018, n. 113, op.cit., art. 1.

¹²² Associazione per gli Studi Giuridici sull’Immigrazione, “Decreto-Legge 4 Ottobre 2018, N. 113 - Osservazioni ASGI,” Asgi, December 12, 2023, <https://www.asgi.it/decreto-immigrazione-sicurezza-documenti-asgi/>.

carried out effectively stripping any individual of his citizenship, as the current Italian system has been favouring the expulsion and deportation orders for foreign terrorist fighters, tools that allows for more immediate action without prolonged legal processes associated with citizenship revocation.

3.2 The International Norms on Citizenship and Counterterrorism: Human Rights Constraints on Nationality Deprivation

The legislation adopted by a number of European states, which has been analyzed in the first part of the chapter¹²³, seems to be incompatible with international nationality and human rights law, as well as being, according to several academics, an instrumentalized policy whose actual effectiveness in the fight against terrorism is yet to be proved in the international field¹²⁴.

The following sections will therefore explore the various legal standards and guidelines put forth by international organizations in response to this issue, highlighting the broader legal and normative frameworks at stake.

3.2.1 The Evolution of the Resolutions Implemented by the UN Security Council and Other Institutional Responses

Alongside the United Nations, regional organizations such as the Organization for Security and Co-operation in Europe (OSCE), through its human rights guidelines, various legal instruments and policy statements, have reinforced the principle that counterterrorism measures must fully comply with international human rights obligations. Before analyzing the specific legal instruments and institutional positions, it is crucial to recognize the prevailing international framework, which strongly advises against the use

¹²³ 3.1.1 The Practice of Deprivation of Nationality on Counterterrorism Grounds in Some Specific European Countries

¹²⁴ Maarten P. Bolhuis and Joris van Wijk, “Citizenship Deprivation as a Counterterrorism Measure in Europe; Possible Follow-up Scenarios, Human Rights Infringements and the Effect on Counterterrorism,” *European Journal of Migration and Law* 22, no. 3 (October 7, 2020): 338–65, <https://doi.org/10.1163/15718166-12340079>.

of nationality deprivation as a counterterrorism measure unless conducted in strict compliance with human rights obligations.

The United Nations in the last decades has created several Resolutions tackling the issue: during the early 2000s, through Resolution 1373¹²⁵, the Security Council required for all states to intensify their efforts in the fight against terrorism by strengthening their domestic laws, while Resolution 1390¹²⁶ reinforced the terrorist lists which had been set in place prior, making them into a permanent regime¹²⁷.

Being aware of the continuously evolving threat of FTFs, their constant movements and the issues arising from their return and relocation the UN Office on Drugs and Crime has been implementing a five-year initiative on “Strengthening the Legal Regime against the Threat posed by FTFs for the Middle East, North Africa and South-Eastern Europe”¹²⁸.

The project supports Member States in preventing and suppressing the flow of FTFs and in their implementation of the most relevant Security Council resolutions, one of them being Resolution 2178 (2014), as it requires states to criminalise travel or attempted travel abroad for “terrorist purposes”¹²⁹.

Therefore, the Resolution not only criminalizes the act of returning to commit terrorist offenses but also extends its reach to prospective foreign fighters by aiming to prevent their departure in the first place¹³⁰.

Given the rapid rise of the phenomenon of FTFs, several countries have adopted reactive measures in line with UN Security Council Resolution 2178, which, while providing clear

¹²⁵ United Nations Security Council, Resolution 1373, S/RES/1373 (2001), adopted September 28, 2001, [https://docs.un.org/en/S/RES/1373\(2001\)](https://docs.un.org/en/S/RES/1373(2001))

¹²⁶ United Nations Security Council, Resolution 1390, S/RES/1390 (2002), adopted January 16, 2002, [https://docs.un.org/en/S/RES/1390\(2002\)](https://docs.un.org/en/S/RES/1390(2002))

¹²⁷ Christopher Baker-Beall, “The Concept of the Foreign Terrorist Fighter: An Immanent Critique,” *European Journal of International Security* 8, no. 1 (February 1, 2023): 25–46, <https://doi.org/10.1017/eis.2022.30>.

¹²⁸ UNODC, United Nations Office on Drugs and Crime, “Supporting Legal Response and Criminal Justice Capacity to Prevent and Counter Terrorism,” June 2018, https://www.unodc.org/documents/terrorism/Menu%20of%20Services/18-05646_Terrorism_Prev_Branch_Services_Ebook_NEW.pdf.

¹²⁹ UN Security Council, “Resolution 2178 (2014),” Un.org, September 24, 2014, [https://docs.un.org/en/S/RES/2178%20\(2014\)](https://docs.un.org/en/S/RES/2178%20(2014)).

¹³⁰ Paulussen et al., op. cit., Chapter 20 p. 390

guidelines that states should respect, does, however, underline the need to do so in compliance with human rights law.

Therefore, all reactive measures undertaken should be designed not to endanger the protection of human rights, democracy, and the rule of law¹³¹.

Taking into consideration the increasing use of citizenship deprivation towards FTFs, “The Principles on Deprivation of Nationality as a National Security Measure” were developed as a response to the growing trend, particularly among European states, of using citizenship deprivation as a counterterrorism tool; while not a United Nations document, the Principles were created by leading legal experts and institutions to restate and clarify existing international legal standards derived from treaty law, customary international law, and authoritative scholarly interpretations. Their aim is to provide guidance on how to ensure that domestic nationality laws and practices remain consistent with international human rights and legal obligations.

As such, the Principles serve not to create new law, but to reinforce the regime created through international norms embedded in the 1954 and 1961 Conventions and additional instruments that, while not directly focused on the protection of nationality rights, have played an important role in safeguarding stateless individuals¹³²; the Principles highlight the legal and ethical limits of nationality deprivation, advocating for state compliance with international frameworks while addressing contemporary national security concerns. The increasing importance of the Principles is underscored by the recognition received from the United Nations; indeed, the document has been used in UN reports and discussions about human rights and counterterrorism.

For instance, in the Report A/78/256¹³³ by the General Assembly, condemning the act of deprivation of nationality resulting in statelessness as cruel and inhumane, the Principles

¹³¹ Organisation for Security and Co-operation in Europe (OSCE), “Countering the Incitement and Recruitment of Foreign Terrorist Fighters: The Human Dimension. 2015 OSCE-Wide Counter-Terrorism Expert Conference,” 2015, <https://www.osce.org/files/f/documents/b/3/166646.pdf>.

¹³² See Chapter 2, The International Legal Framework on the Protection of Stateless People

¹³³ United Nations General Assembly, Human Rights and Arbitrary Deprivation of Nationality: Report of the Secretary-General, A/78/256 (July 27, 2023), 21 n.65, <https://docs.un.org/en/A/78/256>

are explicitly referenced, demonstrating their relevance in the framing of the international conversation about the human rights implications of such policies¹³⁴.

In February 2022, in an effort to further consolidate and clarify the international standards to be upheld, the Special Procedures of the Human Rights Council of the United Nations published a key position paper. These independent human rights experts, mandated to contribute to the development of international human rights standards, engage in advocacy, raise public awareness, and provide advice for technical cooperation, issued the “Position of the United Nations Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, on the Human Rights Consequences of Citizenship Stripping in the Context of Counterterrorism with a Particular Application to North-East Syria”¹³⁵.

Although the document is not binding per se, it further assesses the importance of not using citizenship stripping as an instrument of counterterrorism.

It defines the policy as an “extreme measure”, oftentimes implemented through the executive powers without any judicial oversight, limiting and restricting the right to a fair trial, freedom of movement, work, and the right to private and family life. The Special Rapporteur also identifies citizenship as the “right to have rights”, to claim and secure a collection of other basic human rights, in national legal systems. The weakening of the right to a nationality and practices of arbitrary deprivation of citizenship which at its core prohibits deprivation of nationality that is not prescribed by law, that is not the least intrusive means proportionate to achieving a legitimate purpose and that does not comply with due process, undermine the equal access to human rights for citizens and non-citizens alike; while states have a legitimate right to take measures to address the national

¹³⁴ “The deprivation of nationality as a national security measure and the resulting statelessness could be considered cruel, inhuman and degrading treatment or punishment violating international law, including in cases where such measures are used to target human rights defenders in order to dismiss their activism as a terrorist threat.”

Institute Statelessness and Inclusion, “Principles on Deprivation of Nationality as a National Security Measure,” 2020, <https://files.institutesi.org/PRINCIPLES.pdf>.

¹³⁵ United Nations Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, “Position on the Human Rights Consequences of Citizenship Stripping in the Context of Counter-Terrorism with a Particular Application to North-East Syria,” February 2022, www.ohchr.org/sites/default/files/2022-03/Deprivation-of-Citizenship.docx.

security threat posed by terrorism, they remain bound by international law, and in particular, by the absolute prohibition of arbitrary deprivation of nationality, which should be avoided to achieve its purpose¹³⁶.

In conclusion, although the Security Council Resolutions initially did not directly address the deprivation of nationality, the UN emphasized in 2014 the need for compliance with human rights standards in all counterterrorism measures, without endorsing nationality stripping practices.

This stance has been further clarified through subsequent publications by the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism. However, a key limitation of these documents lies in their non-binding nature, meaning that states are not legally obligated to comply with them.

A particularly authoritative reaffirmation of the centrality of the right to nationality within international law came with the Tunis Conclusions adopted at the UNHCR Expert Meeting on the Human Rights of Stateless Persons in the Context of Expulsion, held in Tunisia in 2014¹³⁷.

These conclusions have again stressed the importance of the right to nationality and warned against the arbitrary deprivation of nationality, addressing directly the issue of deprivation of nationality on the ground of terrorist acts, stating that “governments do not gain from rendering individuals stateless through the application of this exception (deprivation on the grounds of terrorism), in particular because it may be difficult in practice to lawfully expel the persons concerned”¹³⁸.

This recognition reinforces the claim that states may not arbitrarily deprive individuals of nationality, especially where such deprivation leads to statelessness or violates due process, while also highlighting the inviolability of nationality as a gateway right, essential for the enjoyment and exercise of other fundamental rights. They explicitly

¹³⁶United Nations Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, op. cit., p. 2-3

¹³⁷ UNHCR, Tunis Conclusions: UNHCR Expert Meeting – The Human Rights of Stateless Persons in the Context of Expulsion, Tunis, Tunisia, 2014, <https://www.refworld.org/reference/confdoc/unhcr/2014/en/98677>.

¹³⁸ UNHCR; Tunis Conclusions, op. cit., para. 68

caution against the misuse of nationality laws for national security purposes in ways that are discriminatory, arbitrary, or disproportionate. In doing so, the Conclusions align closely with the concerns raised by the UN Special Rapporteur and reflected in the Principles on Deprivation of Nationality, clarifying the normative boundaries within which states must operate.

In conclusion, these developments reflect a growing international consensus that nationality must not be instrumentalised with the specific aim of excluding individuals from legal protection under the façade of national security.

3.2.2 The European Union’s Framework and Legal Considerations on Foreign Terrorist Fighters and Deprivation of Nationality

Not only have the United Nations and OSCE addressed the issue concerning the fair treatment of FTFs and the extreme character of the deprivation of nationality, but other international organisations have attempted to deter the threat of foreign terrorist fighters. The European Union has developed a robust counter-terrorism framework to address the threat of foreign terrorist fighters. The EU Counter-Terrorism Strategy¹³⁹ outlines key pre-emptive actions aimed at reducing the departure of FTFs by enhancing border control and information-sharing.

The Directive (EU) 2017/541 on Combating Terrorism¹⁴⁰ criminalizes terrorism-related activities, including the travel of FTFs, and ensures Member States harmonize their legal approaches to counterterrorism.

Additionally, the European Parliament’s Communications on Countering Terrorism¹⁴¹ provides further guidance and updates on the EU’s approach, strengthening the collective efforts of Member States to combat the FTF phenomenon while balancing security and human rights protections.

¹³⁹ European Council, “The EU’s Response to Terrorism,” Europa.eu (European Council, 2017), <https://www.consilium.europa.eu/en/policies/fight-against-terrorism/>.

¹⁴⁰ European Union, “EUR-Lex - 32017L0541 - EN - EUR-Lex,” Europa.eu, 2017, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32017L0541>.

¹⁴¹ European Parliament, “Communication on a Counter-Terrorism Agenda for the EU | Legislative Train Schedule,” European Parliament, 2024, <https://www.europarl.europa.eu/legislative-train/theme-a-new-era-for-european-defence-and-security/file-eu-agenda-on-counter-terrorism>.

The European Union has indirectly addressed at the regional level the topic of deprivation of nationality: although Member States are exclusively competent to attribute citizenship and to deprive an individual of their status, they are bound to respect EU law when they do so. The reason why they must have “due regard to EU law”¹⁴² when stripping an individual of national citizenship is that they may simultaneously deprive citizens of their EU citizenship and of the rights attached to it¹⁴³.

Given that European citizenship is a derived status, the case-law of the Court of Justice of the European Union (CJEU) for the interpretation of the rights enjoyed by EU citizens is one of the factors that national authorities need to take into consideration in the decision to deprive a certain person of their citizenship; the court has identified a number of obligations which affect the decision to deprive any individual of citizenship, that can also be applied in the context of FTFs.

Firstly, the deprivation of nationality must pass a proportionality test, according to which the measure must serve a legitimate public interest objective, such as the protection of public order or national security. These grounds, however, are to be interpreted narrowly, and their application is subject to oversight by European Union institutions, particularly the Court of Justice of the European Union. The standard for assessing public order involves the existence of “a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society”¹⁴⁴, while public security relates to threats against the functioning of state institutions, essential public services, the survival of the population, foreign relations, peaceful international coexistence, or military interests¹⁴⁵. In this context, terrorism can indeed constitute a threat to both the fundamental interests of society and the functioning of state institutions. As such, the deprivation of nationality as a response to terrorism may be viewed as pursuing a legitimate public interest

¹⁴² Court of Justice of the European Union, *Rottmann v. Freistaat Bayern*, Case C-135/08, ECLI:EU:C:2010:104, judgment of 2 March 2010, paragraph 42.

¹⁴³ Sara Poli and Luigi Lonardo, “Limits to Deprivation of National Citizenship under European Union Law: The Case of Foreign Terrorist Fighters and the Right to Be Readmitted into the EU for Their Children,” *German Law Journal*, January 10, 2025, 3–4, <https://doi.org/10.1017/glj.2024.70>.

¹⁴⁴ Court of Justice of the European Union, *Wiener Landesregierung (Revocation of an assurance of naturalisation)*, Case C-118/20, ECLI:EU:C:2022:34, judgment of 18 January 2022, paragraph 51.

¹⁴⁵ Court of Justice of the European Union, *X v. Udlændinge- og Integrationsministeriet*, Case C-689/21, ECLI:EU:C:2023:626, judgment of 5 September 2023, paragraph 69.

objective¹⁴⁶. However, the ECJ has not yet adjudicated cases specifically involving the deprivation of nationality of FTFs, its jurisprudence suggests that such measures would need to adhere to some strict principles, such as proportionality, respect of fundamental rights, and effective judicial review.

Even though the deprivation of citizenship is a matter of national law, there is a distinct EU law dimension that Member States need to consider when deciding to strip an individual of their citizenship. The justifications to deprive of citizenship on grounds of public policy or public security must be interpreted narrowly, with particular attention to the consequences such loss may have on individuals and their family members, especially when they are also EU citizens. Aside from this general proposition, the criteria for the assessment are left to the discretion of national authorities. European Union law does not provide specific guidance on the grounds for resulting to the deprivation of citizenship, as the EU lacks competence on the attribution or deprivation of citizenship.

Additionally, the principle of proportionality is inherently flexible and does not preclude the use of citizenship deprivation, be it as a punitive or as a preventive measure¹⁴⁷.

In conclusion, while the EU has emphasized the importance of preventing statelessness and upholding human rights, there is no detailed EU policy or legal framework explicitly governing the deprivation of nationality in the context of counterterrorism measures; this area remains within the discretion of Member States, who must nevertheless remain mindful of the broader international legal framework, beyond the European regime, which does not impose strict obligations in this regard.

3.3 National Cases of Citizenship Deprivation

The following section will analyse key cases addressed by the national courts in the United Kingdom and France, whose domestic legislative systems were examined in sections 3.1.2 and 3.1.3. This analysis will serve to illustrate how each legal system interprets and applies deprivation of nationality in practice.

¹⁴⁶ Poli et al., op. cit., p. 12

¹⁴⁷ Poli et al., op. cit., p. 19-20

3.3.1 Citizenship Deprivation under Section 40.2 of the British Nationality Act in the Cases of Begum and B2

Several instances within the British jurisdiction have been brought before the courts in which the legislative developments have been applied.

For instance, in the case of *Begum v Home Secretary*¹⁴⁸, the applicant, Shamima Begum, aged 15, left the UK for Syria to live with the Islamic State of Iraq and Syria¹⁴⁹. She was then deprived of her British citizenship by a decision taken by the Secretary of State for the Home Department on national security grounds under Section 40.2 of the British Nationality Act 1981, according to which “the Secretary of State may order deprive a person of a citizenship status if the Secretary of State is satisfied that deprivation is conducive to the public good¹⁵⁰”. Since the applicant’s parents were of Bangladeshi origin, she had Bangladeshi citizenship until her 21st birthday but this had no practical use since she would not be permitted to enter Bangladesh as she would have had to apply for citizenship according to the Bangladeshi legislative system: a person born abroad, in this case Begum had solely lived in the UK, to Bangladeshi parents may be eligible for citizenship, but it is not automatic as due application is required.

The applicant travelled to Syria at the age of 15 with two school friends to join ISIS and was subsequently married to an ISIS fighter. Following the collapse of the regime in 2019, she and her husband were captured and detained in a refugee camp in north-east Syria. From the camp, she appealed to the Special Immigration Appeals Commission (SIAC)¹⁵¹ against the deprivation of her British citizenship, as well as seeking permission to return to the UK in order to participate in the proceedings, but this request was denied by the Secretary of State for the Home Department (SSHD). The applicant appealed the refusal before the SIAC and simultaneously filed for judicial review in the Administrative Court.

¹⁴⁸ See *Begum v Secretary of State for the Home Department* [2024] EWCA Civ 152, Case No: CA-2023-000900; see also earlier proceedings in *Begum v Secretary of State for the Home Department* [2021] UKSC 7 and *Begum v Secretary of State for the Home Department* [2020] EWCA Civ 918.

¹⁴⁹ BBC, “Who Is Shamima Begum and How Do You Lose Your UK Citizenship?,” *BBC News*, March 2, 2021, sec. Explainers, <https://www.bbc.com/news/explainers-53428191>.

¹⁵⁰ United Kingdom, British Nationality Act 1981, para. 40(2). <https://www.legislation.gov.uk/ukpga/1981/61/section/40#>.

¹⁵¹ *Begum v Secretary of State for the Home Department* [2024] EWCA Civ 152, Court of Appeal (Civil Division), Case No: CA-2023-000900.

At a preliminary stage, both her appeal and judicial review claims were dismissed by the SIAC. She then sought judicial review of SIAC's decision and appealed to the Court of Appeal, which ruled in her favour. However, the SSHD appealed this decision to the Supreme Court, which ultimately reversed the Court of Appeal's ruling and upheld the SSHD's refusal to allow her entry into the UK¹⁵².

Conclusively, the SIAC ultimately dismissed the appeal, concluding that the deprivation of her citizenship was lawful.

Although the UK government justified its decision on the assumption that the applicant could rely on Bangladeshi nationality, under Bangladeshi law she had never applied for citizenship and was not recognised as a citizen. As a result, she has been rendered stateless.

In response to the rejection made by the United Kingdom's Court of Appeal concerning Begum's case, UN experts have expressed growing concern for her condition, as she remains "stripped of her citizenship, vulnerable and denied assistance and protection": the UNHCR, additionally, sustains that the judgement renders the applicant effectively stateless, in violation of international law as well as having a particularly disproportionate impact on people from non-white racial and ethnic backgrounds.

However, there has been no change in the stance from British authorities, and Begum is likely to remain in a Syrian detention camp for the foreseeable future¹⁵³.

The judgment in *B2 v. Secretary of State for the Home Department* closely mirrors how the Shamima Begum case has been handled, specifically regarding the legal interpretation of statelessness. In both cases, the courts upheld that the deprivation of citizenship was not a violation of international law, despite potential statelessness, and both have raised concerns as to their actual standing vis à vis the international conventions in protection of stateless individuals, to which the UK is also a party.

¹⁵² Statelessness Case Law Database, "United Kingdom - Shamima Begum v Secretary of State for the Home Department | Statelessness Case Law Database," [caselaw.statelessness.eu](https://caselaw.statelessness.eu/caselaw/united-kingdom-shamima-begum-v-secretary-state-home-department), February 23, 2024, <https://caselaw.statelessness.eu/caselaw/united-kingdom-shamima-begum-v-secretary-state-home-department>.

¹⁵³ Haroon Siddique and Haroon Siddique Legal affairs correspondent, "What Happens to Shamima Begum Now and What Are Her Legal Options?," *The Guardian*, February 23, 2024, sec. UK news, <https://www.theguardian.com/uk-news/2024/feb/23/what-happens-to-shamima-begum-now-and-what-are-her-legal-options>.

In *B2 v. Secretary of State for the Home Department*, the appellant, referred to as B2, was a British citizen of Vietnamese origin. In 2011, the UK government accused B2 of receiving terrorist training from al-Qaeda in Yemen, and as a result, the Secretary of State issued an order under Section 40.2 of the British Nationality Act 1981, claiming it was “conducive to the public good”, as in the abovementioned case.

B2 challenged the decision, arguing that his deprivation of citizenship would render him stateless, as he was not recognised as a Vietnamese national; indeed, Vietnamese authorities confirmed that B2 had no standing and could not claim said nationality¹⁵⁴.

The British Court of Appeal, after analysing relevant provisions of Vietnamese nationality law, held that if it is clear that under the law of a foreign state an individual is a national of that state, then he is not *de jure* stateless, but that if the government of a foreign state chooses to act contrary to its own law, it may render the individual *de facto* stateless. The Court further held that under these circumstances, they “must respect the rule of law and cannot characterise the individual as *de jure* stateless¹⁵⁵”; therefore, the judgement was considered not to be in violation of Section 40.4 of the British Nationality Act 1981¹⁵⁶.

In conclusion, both cases of *Begum* and *B2* highlight the UK’s firm stance on citizenship deprivation, prioritizing national security arguments even in situations that may lead to the statelessness of individuals accused of terrorism-related activities. This approach has raised significant concerns from a legal and ethical perspective, particularly from those who have emphasized the importance of preventing statelessness and ensuring fair treatment in accordance with international law: UN experts have recently expressed deep concerns, following the most recent rejection from the United Kingdom’s Court of

¹⁵⁴ Equal Rights Trust, “UK Court Allows Deprivation of Citizenship in Contravention of 1961 Convention on the Reduction of Statelessness,” Equal Rights Trust, May 29, 2013, <https://www.equalrightstrust.org/news/uk-court-allows-deprivation-citizenship-contravention-1961-convention-reduction-statelessness>.

¹⁵⁵ *B2 v. Secretary of State for the Home Department* [2013] EWCA Civ 616, para. 96, <https://www.bailii.org/ew/cases/EWCA/Civ/2013/616.html>

¹⁵⁶ According to Section 40.4: “The Secretary of State may not make an order under subsection (2) if he is satisfied that the order would make a person stateless”. British Nationality Act 1981, c. 61, § 40(4), <https://www.legislation.gov.uk/ukpga/1981/61/section/40>

Appeal, in Shamima Begum's case, and have asked the UK Government to take urgent action to provide Begum with assistance and protection¹⁵⁷.

3.3.2 French Legal and Procedural Controversies in the Nationality Deprivation and Expulsion of Ahmed Sahnouni el-Yaacoubi

The 2015 expulsion of Ahmed Sahnouni el-Yaacoubi, a naturalized French citizen of Moroccan origin, stands as one of the most controversial applications of France's nationality deprivation powers in recent years. He was deprived of his French nationality in 2014, having previously been convicted in 2013 for criminal conspiracy in relation to a terrorist enterprise and sentenced to seven years in prison, and, according to Article 25 of the French Civil Code, the Court could rely on the nationality stripping procedure for his particular case; possessing a Moroccan citizenship, French authorities could lawfully revoke his other nationality without rendering him stateless, which is a key safeguard embedded in French law.

The *Conseil d'État*, on behalf of Mr. Ahmed, challenged this decision, arguing that the law unfairly targeted naturalized citizens and was being used to facilitate his extradition to Morocco, where he could face further punishment for the same offenses¹⁵⁸.

The *Conseil Constitutionnel* reviewed several claims, including breaches of equality, proportionality of punishment, legal clarity, the right to private life, and legal certainty. While acknowledging the gravity of terrorism, the Court ruled that applying these laws only to naturalized citizens was justified under national security objectives. It further concluded that the penalty was not manifestly disproportionate, did not violate private life, and met the standards of legal clarity and constitutional legitimacy. Therefore, the citizenship revocation provisions were deemed constitutional¹⁵⁹.

¹⁵⁷ United Nations Human Rights - Office of the High Commissioner, "UN Experts Deplore Continuing Failures of Protection for Shamima Begum," OHCHR, 2024, <https://www.ohchr.org/en/press-releases/2024/03/un-experts-deplore-continuing-failures-protection-shamima-begum>.

¹⁵⁸ Reuters Staff, "French Court Approves Stripping Nationality of Franco-Moroccan Jihadist," *Reuters*, January 23, 2015, <https://www.reuters.com/article/world/french-court-approves-stripping-nationality-of-franco-moroccan-jihadist-idUSKBN0KW1HI/>.

¹⁵⁹ RFI, "Top French Court Backs Stripping Jihadist of Nationality," RFI, January 23, 2015, <https://www.rfi.fr/en/africa/20150123-top-french-court-backs-stripping-jihadist-nationality>.

The controversial nature of the case does not arise from the deprivation of nationality per se, which is a practice that has been used in France for decades in a lawful manner, but rather the fact that his swift expulsion to Morocco in 2015 had been executed before the ECHR could rule on his urgent appeal, sparking significant legal and ethical concerns: the French authorities bypassed the usual procedural safeguards, ignoring the ECHR's interim measures that requested a suspension of the deportation¹⁶⁰; this move was widely criticised as undermining the authority of international human rights law and circumventing judicial oversight in sensitive cases involving potential torture or inhumane treatment upon return.

In conclusion, the case of Ahmed Sahnouni el-Yaacoubi stands as a unique and highly debated example of the application of deprivation of nationality laws, particularly regarding the blatant disregard for the concerns the ECHR demonstrated about the swift deportation to Morocco.

3.4 Citizenship Revocation and Counterterrorism: The Analysis of the Legality, Proportionality, and Consequences of Nationality Deprivation Measures

As discussed in the previous sections, the deprivation of nationality has become a widely adopted practice across several European states, each implementing it with distinct legal and procedural nuances reflective of their national frameworks. While countries like France have introduced safeguards to prevent statelessness, ensuring that revocation is applied only to individuals holding dual nationality, other states have not incorporated such protections. In these cases, citizenship stripping may be carried out without regard to the risk of rendering an individual stateless, raising serious concerns under international human rights and statelessness-prevention norms.

Additionally, international human rights law prohibits the arbitrary deprivation of nationality, and, according to the UN Secretary General Report on “Human rights and

¹⁶⁰ Elise Vincent, “Un Marocain Condamné Pour Terrorisme Expulsé Contre l’Avis de La CEDH,” *Le Monde.fr* (Le Monde, September 24, 2015), https://www.lemonde.fr/police-justice/article/2015/09/24/un-marocain-dechu-de-sa-nationalite-francaise-expulse-contre-l-avis-de-la-cedh_4769487_1653578.html.

arbitrary deprivation of nationality”, there are five checks that need to be satisfied: one of the most important requirements, which is oftentimes disregarded, is the fact that parliament s need to be asked to consider legislative amendments that will introduce new grounds upon which nationals can be stripped of their nationality, prior to any practical exercise. In the approach taken by the UK, for instance, the Home Secretary is given authority to strip persons of nationality whenever this is justified by the “public good”, granting an extremely broad discretion that could be problematic from the perspective of legal certainty, if being exercised without due restraint.

Another necessary requirement is the reliance on standards of due process, which is also included in Article 8.4 of the 1961 Convention, as it is focused on “providing for the person the right to a fair hearing by a court or other independent body¹⁶¹”. Several instances in which states have impeded the right to a fair trial have occurred, such as the Begum case in which British authorities did not authorise her to return to the country to be present at court¹⁶². In the French case of Ahmed Sahnouni el-Yaacoubi¹⁶³, by appealing to the notion of national security dangers, although many of the acts had solely been alleged but not confirmed, the appeal procedure could not take place, therefore limiting the procedure that would be usually expected in the context of a deprivation of nationality judgment.

Even if the above procedural guarantees have been satisfied, deprivation of nationality can still be arbitrary, including where it does not serve a legitimate aim: preventing acts of terrorism, and thereby protecting national security, can certainly be such an aim, although such a justification cannot be invoked to immediately legitimatise any and all related state policy or acts¹⁶⁴. In some instances, the apparent aim of the decision to strip nationality is to enable the expulsion or deny re-entry to the territory of the citizen: the understanding that this may be the case is supported by International Law Commission which has included the prohibition not to strip one of the nationalities for the underlying

¹⁶¹ United Nations (1961), op. cit., Art. 8.4

¹⁶² See *Begum v Secretary of State for the Home Department*, 3.2.1 UK

¹⁶³ See Chapter 3, 3.2.2 France

¹⁶⁴ Laura van Waas, “Foreign Fighters and the Deprivation of Nationality: National Practices and International Law Implications,” *Foreign Fighters under International Law* 23 (January 1, 2016): 469–87, https://doi.org/10.1007/978-94-6265-099-2_23.

purpose of expulsion¹⁶⁵. An additional link between the deprivation of nationality and international humanitarian law can be identified in Rule 158¹⁶⁶ of the Customary International Humanitarian Law Study of the IRRC¹⁶⁷, according to which “states must investigate war crimes allegedly committed by their nationals or armed forces, or in their territory, and, if appropriate, prosecute the suspects”.

It is undisputed that members of radicalised terrorist groups have committed the most horrible war crimes, but it can be argued that, if states, rather than investigating the war crimes committed by their nationals, instead rescind responsibility by depriving them of their nationality and make their former nationals the problem of other actors, they violate this customary international humanitarian law obligation¹⁶⁸.

The denationalisation measure is often also linked to the state’s attempt to avoid international legal responsibility towards the person concerned, and by lifting the duty of protection, which should not only be guaranteed within the domestic soil, but also internationally.

Finally, the state seeking to denationalise an individual by invoking the newly expanded powers must also ensure that this measure is proportionate in the specific circumstances of the case, by weighing the interests and rights of the individual against the interests of the State. The implications of deprivation of nationality must be taken into account: the gravity of the impact of the withdrawal of nationality will necessarily also be affected by the question whether the person is thereby rendered without any nationality¹⁶⁹.

¹⁶⁵ “A State shall not make its national an alien, by deprivation of nationality, for the sole purpose of expelling him or her.”

International Law Commission, “Draft Articles on the Expulsion of Aliens 2014,” 2014, https://legal.un.org/ilc/texts/instruments/english/draft_articles/9_12_2014.pdf.

¹⁶⁶ International Committee of the Red Cross, Customary International Humanitarian Law, Vol. 1, Rules, ed. Jean-Marie Henckaerts and Louise Doswald-Beck), 588, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule158>.

¹⁶⁷ International Review of the Red Cross IRRC, “About the Review,” International Review of the Red Cross, n.d., <https://international-review.icrc.org/about/about-review>.

¹⁶⁸ International Review of the Red Cross, “Stripping Foreign Fighters of Their Citizenship: International Human Rights and Humanitarian Law Considerations,” International Review of the Red Cross, February 18, 2022, https://international-review.icrc.org/articles/stripping-foreign-fighters-of-their-citizenship-hr-and-ihl-considerations-916#footnoteref16_7nimix3.

¹⁶⁹ Laura van Waas, op. cit., p. 480

The use of denationalising practices has also been questioned for its actual effectiveness as a counterterrorism measure: by depriving an individual of the nationality, especially when the FTF in question has not been repatriated, the state consciously is lifted of any obligation towards the individual; if the FTF wishes to leave the conflict and is rendered stateless, the denationalising state forces that individual back into the terrorist group or into a position of interfering with other states' laws¹⁷⁰.

Therefore, the practice, instead of having any sort of rehabilitative scope, further disincentivizes him from renouncing his participation in a terrorist organisation. This view is supported by the former head of counterterrorism at MI6, the British external intelligence agency, who has recently stated that FTFs who wish to renounce their involvement in foreign terrorist activity need to "know that there is a place for them back at home"¹⁷¹.

Additionally, the engagement in terrorist activities of the individual in question may not cease as the stateless status does not give him any possibility to evade the terrorist group or violate other laws by evading capture and illegally remaining in another state¹⁷².

While the deprivation of nationality may be viewed as a temporary solution for an individual state, it does not address the broader and more complex issue of international terrorism. Although more and more Security Council resolutions have been published, and a more comprehensive legal framework has been created to tackle the issue of foreign fighters from an international standpoint, several states have implemented into their national legal system this denationalising practice that does not have any positive effect in the international sphere: simply stripping one of their nationality does not bring that person to justice, but it simply allows a particular state to absolve itself of legal and moral responsibility and jurisdiction over the person, which does not have a big impact on the fight against terrorist groups and the deterrence from their activities and recruitment.

¹⁷⁰ Shiva Jayaraman, "International Terrorism and Statelessness: Revoking the Citizenship of ISIL Foreign Fighters - A. Ignoring the Underlying Problem," Chicago Unbound 2016, <https://chicagounbound.uchicago.edu/cjil/vol17/iss1/6>.

¹⁷¹ Mark Townsend, Tracy McVeigh, and Andrew Anthony, "Isis Fighters Must Be Allowed Back into UK, Says Ex-MI6 Chief," the Guardian (The Guardian, September 7, 2014), <http://www.theguardian.com/world/2014/sep/06/richard-barrett-mi6-isis-counter-terrorism>.

¹⁷² Shiva Jayaraman, op. cit., B. Legal Obligations to Apprehend and Bring Suspected Terrorists to Justice and Related Legal and Ethical Concerns

A strong argument in favour of this claim has been expressed by the majority of the US Supreme Court in the case *Trop V. Dulles*¹⁷³, a case concerning the question of the constitutionality of revoking US citizenship as a punishment for military desertion. According to the Supreme Court, the measure of deprivation of citizenship was a form of punishment more primitive than torture: by emphasizing that stripping an individual of their nationality would lead to the destruction of the individual's status in organised society, it was held that such a punishment would be in violation with the Eighth Amendment of the American Constitution against cruel and unusual punishment¹⁷⁴. Moreover, the Court reinforced its stance by stating that “civilised nations of the world are in virtual unanimity that statelessness is not to be imposed as punishment for a crime¹⁷⁵.”

Given the legal, ethical, and practical shortcomings of citizenship deprivation outlined above, in particular its failure to comply with international obligations explicated in the previous chapter¹⁷⁶, it is imperative to consider more sustainable and legally sound alternatives. International law has increasingly emphasized the protection of individuals from arbitrary statelessness, and denationalization policies that risk violating these principles undermine both human rights and security objectives in inter-state relations. In light of this, states may shift their focus from exclusionary measures to strategies grounded in justice and accountability: by prosecuting foreign fighters under fair trial standards, and by reintegrating them into society under closely monitored programs, not only would states be upholding the rule of law, but also aligning more closely with the international framework protecting stateless persons and preventing further radicalization.

Instead of resorting to citizenship deprivation, which often raises serious concerns under international human rights and statelessness norms, states could strengthen their responses to FTFs through targeted monitoring and administrative controls. Measures such as blacklisting individuals from international travel, flagging their passports, and

¹⁷³ *Trop v. Dulles*, 356 U.S. 86, 101 (1958)

¹⁷⁴ U.S. Const. Amend. VII

¹⁷⁵ *Trop v. Dulles*, op. cit., para. 102

¹⁷⁶ See Chapter 2: The International Legal Framework on the Protection of Stateless People

placing them under sustained surveillance can serve as effective tools for managing potential threats.

These approaches are aligned with the framework outlined in United Nations Security Council Resolution 2178¹⁷⁷, which emphasizes the need for states to prevent the travel and support of FTFs through lawful and proportionate means that respect human rights and the rule of law. By adopting such strategies, states can effectively restrict the mobility and operational capacity of suspected FTFs without breaching international legal obligations or exposing individuals to the risk of statelessness. Moreover, they maintain legal accountability by keeping the individual within the jurisdiction of the state, thereby preserving avenues for prosecution, oversight, and, where appropriate, rehabilitation.

Conclusion

The study undertaken has delved into the existing counterterrorism policies in place in different Western countries concerning the treatment to be reserved for foreign terrorist fighters, showcasing the different applications of these norms in cases.

The revocation of citizenship, among the possible applicable measures, stands out particularly in these circumstances, and while states have justified the necessity of such powers to address evolving security threats, the analysis in this chapter has highlighted the legal and ethical dilemmas that have arisen.

International human rights norms, revolving around the protection of human rights and the rule of law, serve as constraints to the ongoing practice, which has raised concern among international organisations, which have timely replied to the European trend through various legal instruments, ranging from guidelines of non-binding nature to UN Security Council Resolutions.

Through the analysis of the measures implemented in the United Kingdom, France, and Italy, it has been shown that divergent legal frameworks and approaches have developed, with varying degrees of safeguards and protections. In some of the cases mentioned, the lack of respect for human rights and the lack of implementation of the 1961 Convention on the Reduction of Statelessness, among many other instruments at disposal, have

¹⁷⁷ United Nations Security Council 2014, op. cit.

resulted in several individuals being deprived of their nationality, or abandoned in refugee camps abroad, where the responsible state rendered them de facto stateless.

Moreover, this chapter has highlighted that deprivation of nationality is not the only or the most effective tool available: alternatives such as criminal prosecution and reintegration offer more sustainable and rights-respecting avenues for addressing the threat posed by people involved in terrorist activity.

Conclusively, the legitimacy and efficacy of counterterrorism policy depend on the adherence to the rule of law and the core principles of international human rights law, and by applying alternative solutions to the deprivation of nationality measure, it may be possible to effectively eradicate the practice and install a more functioning and sustainable counterterrorist policy.

Conclusion

The primary purpose of this thesis has been to emphasize the vital role of the right to nationality in international law as a key foundation for accessing fundamental human rights. Despite numerous international conventions aimed at ensuring this right, considerable legal gaps and instances of discrimination continue to hinder progress.

As explored throughout Chapter 1, several minority groups are affected by the deficiencies of the international system in their ongoing struggle for recognition, revealing the urgent need for stronger legal protections. The analysis emphasized the continued relevance of the 1954 and 1961 Conventions in protecting stateless individuals, even in the face of low ratification rates and inconsistent implementation. In this regard, broader human rights instruments like the ICCPR and the ECHR serve as essential complementary tools, extending protection to stateless individuals through universal provisions and case law.

Efforts by organizations such as the UNHCR, notably through the “I Belong” campaign, and guidance provided by soft law tools like the Handbook on the Protection of Stateless Persons, further support national authorities in implementing effective measures to safeguard stateless individuals by providing a solid foundation for building stronger protections and promoting full inclusion under international law.

The last chapter of this thesis examined counterterrorism policies in Western states, particularly concerning foreign terrorist fighters: among the various measures applied, citizenship deprivation has emerged as a prominent and controversial tool among several European states. In particular, the case studies of the UK, France, and Italy illustrate the divergent legal systems that have developed. Although the use of this measure is oftentimes justified on national security grounds, international human rights norms impose strict limits on these practices through instruments ranging from non-binding guidelines to UN Security Council Resolutions: this chapter has highlighted that deprivation of nationality is neither the sole nor the most effective means of addressing terrorism, as alternative strategies, such as criminal prosecution and reintegration, offer more sustainable and rights-compliant solutions.

In conclusion, counterterrorism policies should be carefully selected with regard to the rule of law and respect for principles of international human rights law.

Bibliography

Adjami, M., and J. Harrington. "The Scope and Content of Article 15 of the Universal Declaration of Human Rights." *Refugee Survey Quarterly* 27, no. 3 (January 1, 2008): 93–109. <https://doi.org/10.1093/rsq/hdn047>.

Ahsan Ullah, A. K. M. "Rohingya Crisis in Myanmar." *Journal of Contemporary Criminal Justice* 32, no. 3 (August 2016): 285–301. <https://doi.org/10.1177/1043986216660811>.

Associazione per gli Studi Giuridici sull'Immigrazione. "Decreto-Legge 4 Ottobre 2018, N. 113 - Osservazioni ASGI." Asgi, December 12, 2023. <https://www.asgi.it/decreto-immigrazione-sicurezza-documenti-asgi/>.

Baaren, Luuk van der, Maarten Vink, Laura van Waas, Caia Vlieks, Anne Brekoo, and Deneisha Moss. "Instrumentalising Citizenship. A Global Comparative Analysis of Legislation on Deprivation of Nationality as a Security Measure in the Fight against Terrorism," March 2022. https://files.institutesi.org/Instrumentalising_Citizenship_Global_Trends_Report.pdf.

Baker-Beall, Christopher. "The Concept of the Foreign Terrorist Fighter: An Immanent Critique." *European Journal of International Security* 8, no. 1 (February 1, 2023): 25–46. <https://doi.org/10.1017/eis.2022.30>.

Barbara von Rütte. "Citizenship and Nationality." *The Human Right to Citizenship*, December 19, 2022, 11–57. https://doi.org/10.1163/9789004517523_003.

Bianchini, Katia. "A Comparative Analysis of Statelessness Determination Procedures in 10 EU States." *International Journal of Refugee Law* 29, no. 1 (March 2017): 42–83. <https://doi.org/10.1093/ijrl/eex009>.

Bolhuis, Maarten P., and Joris van Wijk. "Citizenship Deprivation as a Counterterrorism Measure in Europe; Possible Follow-up Scenarios, Human Rights Infringements and the

Effect on Counterterrorism.” *European Journal of Migration and Law* 22, no. 3 (October 7, 2020): 338–65. <https://doi.org/10.1163/15718166-12340079>.

De Guttry, Andrea, Francesca Capone, and Christophe Paulussen. *Foreign Fighters under International Law and Beyond*. The Hague: Asser Press, 2016.

Edwards, Alice, and Laura van Waas. *Nationality and Statelessness under International Law*. Cambridge University Press EBooks. Cambridge University Press, 2014. <https://doi.org/10.1017/cbo9781139506007>.

Equal Rights Trust. “The Human Rights of Stateless Rohingya in Thailand.” <https://www.equalrightstrust.org>, February 2014. <https://www.equalrightstrust.org/ertdocumentbank/The%20Human%20Rights%20of%20Stateless%20Rohingya%20in%20Thailand%28small%29.pdf>.

Equal Rights Trust. “UK Court Allows Deprivation of Citizenship in Contravention of 1961 Convention on the Reduction of Statelessness.” Equal Rights Trust, May 29, 2013. <https://www.equalrightstrust.org/news/uk-court-allows-deprivation-citizenship-contravention-1961-convention-reduction-statelessness>

Equal Rights Trust. “Unravelling Anomaly: Detention, Discrimination and the Protection Needs of Stateless Persons.” Equal Rights Trust, July 19, 2010. <https://www.equalrightstrust.org/content/unravelling-anomaly-detention-discrimination-and-protection-needs-stateless-persons>.

European Network on Statelessness (ENS). “Statelessness Index.” *Statelessness Index*, 2025. <https://index.statelessness.eu>.

Fargues, Émilien, Elke Winter, and Matthew J. Gibney. *When States Take Rights Back*. Routledge, 2020.

Forced Migration Review. “Kenyan Nubians: Standing up to Statelessness - Forced Migration Review.” Forced Migration Review, August 27, 2024. https://www.fmreview.org/adam/#_ednref1.

Foster, Michelle. “The 1961 Convention on the Reduction of Statelessness.” *Statelessness & Citizenship Review* 4, no. 1 (July 20, 2022): 188–93. <https://doi.org/10.35715/scr40011115>.

Foster, Michelle, and Hélène Lambert. “Statelessness as a Human Rights Issue: A Concept Whose Time Has Come.” *International Journal of Refugee Law* 28, no. 4 (November 21, 2016): 564–84. <https://doi.org/10.1093/ijrl/cew044>.

Holborn, Louise W. “Nationality and Statelessness in International Law. By Paul Weis. Foreword by Hersch Lauterpacht. Published under the Auspices of the London Institute of World Affairs.” *The American Political Science Review* 51, no. 2 (June 1, 1957): 528–30. <https://doi.org/10.2307/1952216>.

Institute Statelessness and Inclusion. “Principles on Deprivation of Nationality as a National Security Measure,” 2020. <https://files.institutesi.org/PRINCIPLES.pdf>.

International Association of Chiefs of Police. *Foreign Fighters: An International Law Enforcement Response to a Global Threat*. August 2012. https://www.theiacp.org/sites/default/files/all/i-j/IACP-COT_ForeignFighters_FINALAug12.pdf.

International Review of the Red Cross. “Stripping Foreign Fighters of Their Citizenship: International Human Rights and Humanitarian Law Considerations.” *International Review of the Red Cross*, February 18, 2022. https://international-review.icrc.org/articles/stripping-foreign-fighters-of-their-citizenship-hr-and-ihl-considerations-916#footnoteref16_7nimix3.

Jayaraman, Shiva. “International Terrorism and Statelessness: Revoking the Citizenship of ISIL Foreign Fighters.” *Chicago Unbound - A. Ignoring the Underlying Problem*, 2016.
<https://chicagounbound.uchicago.edu/cjil/vol17/iss1/6>.

Mazzeschi. “Legal Ghosts: The Rights of Stateless People in International and Italian Law | Mazzeschi Legal Counsels.” *Mazzeschi Legal Counsels*, August 7, 2020.
<https://www.mazzeschi.it/legal-ghosts-the-rights-of-stateless-people-in-international-and-italian-law/>.

McGee, Thomas, and Haqqi Bahram. “Kurdes Syriens: Après l’Exil, l’Apatridie En Europe.” *Plein Droit* n° 128, no. 1 (March 26, 2021): 15–18.
<https://doi.org/10.3917/pld.128.0017>.

Melbourne Law School. “Understanding the Zone of Statelessness in Assam.” *Critical Statelessness Studies Blog*, Centre for Statelessness, University of Melbourne.
<https://law.unimelb.edu.au/centres/statelessness/research/critical-statelessness-studies-blog/understanding-the-zone-of-statelessness-in-assam>.

Melbourne Law School. “1954 Convention Relating to the Status of Stateless Persons.” Melbourne Law School, September 20, 2024.
<https://law.unimelb.edu.au/centres/statelessness/education/factsheet/1954-convention-relating-to-the-status-of-stateless-persons>.

Minority Rights Group. “Bidoon in Kuwait.” *Minorityrights.org*, October 16, 2023.
<https://minorityrights.org/communities/bidoon/>.

OHCHR. “OHCHR | Instruments & Mechanisms.” OHCHR, 2024.
<https://www.ohchr.org/en/instruments-and-mechanisms>.

OHCHR/UNHCR. “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,” October 21, 2021.

<https://www.ohchr.org/sites/default/files/2022-01/Background-Nonpaper-Statelessness-Discrimination.pdf>.

Organisation for Security and Cooperation in Europe. “Countering the Incitement and Recruitment of Foreign Terrorist Fighters: The Human Dimension 2015 OSCE-Wide Counter-Terrorism Expert Conference,” 2015.

<https://www.osce.org/files/f/documents/b/3/166646.pdf>.

Oxford Constitutional Law. “Ius Sanguinis Principle.” Oxford Constitutions, 2021,

<https://oxcon.oup.com/display/10.1093/law-mpeccol/law-mpeccol-e323?rskey=BbFVpf&result=1&prd=OXCON>.

Oxford English Dictionary, “Citizenship (n.),” December 2024,

<https://doi.org/10.1093/OED/3970756571>.

Oxford English Dictionary, “Nationality (n.),” June 2024,

<https://doi.org/10.1093/OED/8745608490>.

Oxford Public International Law. “Diplomatic Protection.” Oxford Public International Law, 2021. <https://opil.oup.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e1028>.

Oxford Public International Law. “Stateless Persons.” Oxford Public International Law, 2023.

<https://opil.oup.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e878?rskey=uclVq9&result=2&prd=MPIL>.

Perks, Katherine, and Amal de Chickera. "The Silent Stateless and the Unhearing World: Can Equality Compel Us to Listen?" *The Equal Rights Review*, no. 3 (2009): 42–56.

<https://www.equalrightstrust.org/ertdocumentbank/perks%20and%20chickera.pdf>.

Poli, Sara, and Luigi Lonardo. “Limits to Deprivation of National Citizenship under European Union Law: The Case of Foreign Terrorist Fighters and the Right to Be Readmitted into the EU for Their Children.” *German Law Journal*, January 10, 2025, 1–20. <https://doi.org/10.1017/glj.2024.70>.

Pudzianowska, Dorota, and Piotr Korzec. “Human Rights and the Protection of Stateless Persons in the Case Law of the European Court of Human Rights.” ssrn.com, 2020. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4289042#paper-references-widget

Ribeiro, Rodolfo. “Protecting the Rights of the Rightless: The UN Human Rights Committee and the Right to Acquire a Nationality under International Law.” EJIL: Talk!, February 11, 2021. <https://www.ejiltalk.org/protecting-the-rights-of-the-rightless-the-un-human-rights-committee-and-the-right-to-acquire-a-nationality-under-international-law/>.

Rouweler, Marcella. “Statelessness Determination in Europe and Beyond: Trends and Good Practices.” European Network on Statelessness, September 30, 2020. <https://www.statelessness.eu/updates/blog/statelessness-determination-europe-and-beyond-trends-and-good-practices>.

Sidhu, Jatswan S., and Syeeda Naushin Parnini. “International Responses to Human Rights Violations in Myanmar: The Case of the Rohingya.” *Journal of International Studies* 7 (2011): 119–34. <https://e-journal.uum.edu.my/index.php/jis/article/view/7920/966>.

Stateless Hub. “International Standards | Stateless Hub.” Statelesshub.org, 2024. <https://www.statelesshub.org/theme/international-standards>.

Technical Meeting of Experts. “Session 1 -Identifying and Protecting Stateless Persons in Europe,” September 23, 2021. <https://rm.coe.int/briefing-paper-session-1-with-coverpage-en-unhcr/1680a3e6a5>.

United Nations General Assembly. Human Rights and Arbitrary Deprivation of Nationality: Report of the Secretary-General. A/78/256. July 27, 2023. <https://docs.un.org/en/A/78/256>.

United Nations High Commissioner for Refugees. “Background Note on Gender Equality, Nationality Laws and Statelessness 2020 | Refworld.” Refworld, 2020. <https://www.refworld.org/reference/themreport/unhcr/2020/en/123487>.

United Nations High Commissioner for Refugees. “Expert Meeting - Interpreting the 1961 Statelessness Convention and Avoiding Statelessness Resulting from Loss and Deprivation of Nationality (‘Tunis Conclusions’).” Refworld, March 2014. <https://www.refworld.org/reference/confdoc/unhcr/2014/en/98677>.

United Nations High Commissioner for Refugees. “UNHCR - the UN Refugee Agency.” Unhcr.org, 2023. <https://www.unhcr.org>.

United Nations Human Rights - Office of the High Commissioner. “UN Experts Deplore Continuing Failures of Protection for Shamima Begum.” OHCHR, 2024. <https://www.ohchr.org/en/press-releases/2024/03/un-experts-deplore-continuing-failures-protection-shamima-begum>.

United Nations Office on Drugs and Crime. “Supporting Legal Responses and Criminal Justice Capacity to Prevent and Counterterrorism,” June 2018. https://www.unodc.org/documents/terrorism/Menu%20of%20Services/18-05646_Terrorism_Prev_Branch_Services_Ebook_NEW.pdf.

United Nations Refugee Agency. “Statelessness around the World.” UNHCR, n.d. <https://www.unhcr.org/ibelong/statelessness-around-the-world/>.

United Nations Refugee Agency. “High-Level Segment on Statelessness | Resources.” Unhcr.org, 2019. <https://www.unhcr.org/ibelong/high-level-segment-statelessness/>.

United Nations Refugee Agency. “IBELONG - Join the Campaign to End Statelessness.” IBELONG, 2014. <https://www.unhcr.org/ibelong/>.

United Nations Refugee Agency. “1961 Signatory States, Declarations and Reservations on the Reduction of Statelessness | Refworld.” Refworld, 2023. <https://www.refworld.org/legal/agreements/unga/1961/en/85906>.

Van Thillo, Clara. “From a Traditional International Law Approach to a Human Rights-Based Approach to Statelessness.” SSRN Electronic Journal, 2024. <https://doi.org/10.2139/ssrn.4798990>.

Vedaschi, Arianna, and Chiara Graziani. “Citizenship Revocation in Italy as a Counter-Terrorism Measure.” *Verfassungsblog*, January 29, 2019. <http://dx.doi.org/10.17176/20190211-215013-0>.

Vincent, Elise. “Un Marocain Condamné Pour Terrorisme Expulsé Contre l’Avis de La CEDH.” Le Monde.fr. Le Monde, September 24, 2015. https://www.lemonde.fr/police-justice/article/2015/09/24/un-marocain-dechu-de-sa-nationalite-francaise-expulse-contre-l-avis-de-la-cedh_4769487_1653578.html.

Vlieks, Caia. “Preventing and Solving Statelessness in European Law.” European Network on Statelessness, July 22, 2022. <https://www.statelessness.eu/updates/blog/preventing-and-solving-statelessness-european-law>.

Waas, Laura van, and Cristophe Paulussen. “UK Measures Rendering Terror Suspects Stateless: A Punishment More Primitive than Torture.” International Centre for Counter-Terrorism - ICCT, 2024. <https://icct.nl/publication/uk-measures-rendering-terror-suspects-stateless-punishment-more-primitive-torture>.

Webliography

BBC. “Who Is Shamima Begum and How Do You Lose Your UK Citizenship?” *BBC News*, March 2, 2021, sec. Explainers. <https://www.bbc.com/news/explainers-53428191>.

Forced Migration Review. “Kenyan Nubians: Standing up to Statelessness - Forced Migration Review.” *Forced Migration Review*, August 27, 2024. https://www.fmreview.org/adam/#_ednref1.

Human Rights Watch. “About Us.” Human Rights Watch, March 28, 2019. <https://www.hrw.org/about-us>.

Human Rights Watch. “Syria: The Silenced Kurds.” *www.hrw.org*, October 1996. <https://www.hrw.org/legacy/summaries/s.syria9610.html>.

IWM WEBSITE. “The Production of Statelessness in Europe,” 2017. <https://www.iwm.at/publication/iwmpost-article/the-production-of-statelessness-in-europe>.

Le Parisien. “Qui Sont Les Derniers Déchus de La Nationalité Française?” *leparisien.fr*. *Le Parisien*, January 6, 2016. <https://www.leparisien.fr/archives/qui-sont-les-derniers-dechus-de-la-nationalite-francaise-06-01-2016-5426243.php>.

Reuters Staff. “French Court Approves Stripping Nationality of Franco-Moroccan Jihadist.” *Reuters*, January 23, 2015. <https://www.reuters.com/article/world/french-court-approves-stripping-nationality-of-franco-moroccan-jihadist-idUSKBN0KW1HI/>.

RFI. “Top French Court Backs Stripping Jihadist of Nationality.” *RFI*, January 23, 2015. <https://www.rfi.fr/en/africa/20150123-top-french-court-backs-stripping-jihadist-nationality>.

Siddique, Haroon, and Haroon Siddique Legal affairs correspondent. “What Happens to Shamima Begum Now and What Are Her Legal Options?” *The Guardian*, February 23, 2024, sec. UK news. <https://www.theguardian.com/uk-news/2024/feb/23/what-happens-to-shamima-begum-now-and-what-are-her-legal-options>.

Townsend, Mark, Tracy McVeigh, and Andrew Anthony. “Isis Fighters Must Be Allowed Back into UK, Says Ex-MI6 Chief.” *The Guardian*. The Guardian, September 7, 2014. <http://www.theguardian.com/world/2014/sep/06/richard-barrett-mi6-isis-counter-terrorism>.

World Bank. “Data | Identification for Development.” [id4d.worldbank.org](https://id4d.worldbank.org/global-dataset), n.d. <https://id4d.worldbank.org/global-dataset>.