No child should be stateless: A crucial issue to be addressed

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INTERDISCIPLINARY RESOURCES

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The recent report No child should be stateless, published by the European Network on Statelessness, provides recommendations and concrete solutions to prevent children to be left stateless. ISS is happy to share an overview of the latter.

The number of stateless children is growing every year, particularly due to international migration processes, but also relating to other contexts such as assisted reproductive technology (e.g. surrogacy arrangements) or intercountry adoption processes. However, given this current situation, domestic legal frameworks sometimes do not ensure the proper implementation of children’s most fundamental rights, such as the right to a nationality and to be protected against any forms of sale or trafficking. No child should be stateless provides a comprehensive analysis of those issues and renders steps forward for States and other stakeholders on how to address gaps and fulfil their responsibilities under international laws.

Legal framework and challenges

The international human rights instruments, such as the Universal Declaration of Human Rights (Art. 15), the Convention on the Reduction of Statelessness (Art. 8), the UNCRC (Arts. 7 and 8), as well as regional instruments (e.g. European Convention on Nationality), provide a clear framework regarding the rights of every child to a nationality and identity in order to prevent their statelessness. However, many States in the world apply a jus sanguinis regime, which implies that a child’s nationality is conditioned by their parents’
status. Consequently, this may lead to a violation of children’s rights, such as their impossibility to travel, their exposure to sale and trafficking, as well as their discrimination, especially related to civil and social rights.

Furthermore, in the field of intercountry adoption, statelessness can result as consequence of lengthy procedures or the lack of provision regarding the attribution of the nationality to the adopted child. Concerning international surrogacy arrangements, despite many countries prohibiting such practice, the non-recognition of the commissioning mother or the surrogate mother as a parent, directly compromises the child’s access to a nationality or identity.

Moving forward: Actual responses

To prevent statelessness, doctrine proposes different solutions such as: ensuring birth registration at legal and practical levels, as well as its effects in cross borders situations. Another solution could be to resort to the principle of *jus soli* in specific contexts. Additionally, the report highlights key aspects to inspire States and other stakeholders:

- Inscription of childhood statelessness as a major policy priority through worldwide campaigns (*e.g.* National Action Plans stimulated by the United Nations High Commissioner for Refugees’ initiatives);
- Communication and cooperation between stakeholders to encourage joint actions;
- Transparency and awareness on childhood statelessness, by reporting and providing data collection;
- Ratification of the 1961 Convention on the Reduction of Statelessness;
- Adoption of amendments to domestic laws and policy guidelines addressing situations of potential statelessness.

The ISS/IRC welcomes this report that calls for the respect of children’s rights facing risks of statelessness and a violation of their fundamental rights, and identifies some very practical ways of improvement, which can inspire stakeholders at all levels.

Reference: