

Getting Statelessness on the Agenda at the Universal Periodic Review

The **European Network on Statelessness**, the **Institute on Statelessness and Inclusion**, the **University of Liverpool Law Clinic**, and **Migrants Resource Centre** (comprising **Asylum Aid** and the **Project for the Registration of Children as British Citizens**) made a [Joint Submission](#) on **statelessness in the UK** to the Universal Periodic Review (UPR) in September 2016. The co-submitting organisations are pleased to announce that at the UK's UPR session on 4 May 2017, numerous countries made recommendations relating to statelessness, access to British nationality, and detention of stateless persons.

The United Nations General Assembly created the UPR in 2006 as a mechanism to 'provide an opportunity for all States to declare what actions they have taken to improve the human rights situations in their countries and to overcome challenges to the enjoyment of human rights'. Through the UPR, each country, when under review, receives recommendations from other States on how to better comply with international human rights obligations. Civil society organisations, national human rights institutions, and UN bodies such as the United Nations Refugee Agency (UNHCR) can make submissions to the UPR. Each country comes under review every 4.5 years and the UK had its third UPR review in May 2017. Statelessness has not, thus far, been very visible at the UPR, but through dedicated efforts, it is getting on the agenda, and [UN guidelines](#) now encourage countries to include a section on statelessness in their national reports (however, the [UK Government's 2017 UPR report](#) did not do this).



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The Joint Submission on statelessness in the UK proposes recommendations on five key issues:

- I. Departures from the 1954 Convention in the UK's approach to statelessness
- II. Procedural safeguards during the statelessness determination procedure
- III. Indefinite and arbitrary detention of stateless persons
- IV. Socio-economic rights for persons granted leave to remain based on statelessness
- V. Preventing statelessness through acquisition of British nationality

UNHCR also made submissions relating to statelessness in the UK. A summary is available in the [Compilation on the United Kingdom](#) (paras 76-77).

Getting statelessness on the agenda is the result not only of making a submission to the UPR. Further to the Joint Submission in September 2016, the co-submitting organisations followed up by writing to and ringing embassies of various countries which

they hoped might make recommendations relating to statelessness. Subsequently, Cynthia Orchard (Legal Policy Officer at Asylum Aid/Migrants Resource Centre and European Network on Statelessness Advisory Committee member), Judith Carter (In House Solicitor and Lecturer at the University of Liverpool Law Clinic), and Laura van Waas (Co-Director of the Institute on Statelessness and Inclusion) attended the UPR pre-session in Geneva on 7 April, where they advocated for States to make recommendations on statelessness to the UK Government. Judith Carter also formally presented a summary of the Joint Submission to governmental representatives and civil society organisations at the pre-session, and the co-submitting organisations subsequently followed up with representatives of several countries.

The 227 recommendations to the UK on numerous human rights issues are listed in the [Draft Report of the Working Group on the Universal Periodic Review for the United Kingdom of Great Britain and Northern Ireland](#), published on 8 May 2017. Those relating to **statelessness** include that the UK should:

6.53. *Implement the 1954 Convention on statelessness to ensure that stateless persons in Britain access British nationality (Kenya);*

6.82. *Exert all its efforts, in law and practice, to combat racism, xenophobia and Islamophobia, and to eliminate all forms of discrimination against migrants, and to avoid subjecting asylum seekers and stateless persons to prolonged and/or repeat unlawful detention (Iran); [and]*

6.225. *Categorise statelessness as a protection status and provide stateless persons expedited and affordable access to British nationality (Hungary).*

In addition, several States made recommendations relating to immigration **detention**, one of the five topics covered in

the Joint Submission including recommendations 6.82 (Iran), 6.137 (Egypt), 6.215 (Brazil), 6.217 (Germany), 6.218 (Mexico), 6.219 (Bangladesh), and 6.224 (Ecuador). Further, the Netherlands recommended access to **legal aid** (6.154), another of the topics discussed in the Joint Submission.

Sir Oliver Heald, Minister of State for Justice, responded to some of the recommendations made at the UPR session on 4 May (which can be watched [here](#)). Regarding statelessness, he observed (at Item No. 66, from minute 2:17) that stateless 'status is not the same as refugee status' because stateless persons 'are not at risk of persecution or serious harm on return to their country of former habitual residence'. Whilst this is true for some stateless persons, he further remarked that the UK's stateless leave policy is 'designed to assist those who do not need protection but are unable to return to their country of former habitual residence'. The assertion that stateless persons are not in need of protection is in marked contrast to the position of UNHCR and the co-submitting organisations, as elucidated in the Joint Submission and in UNHCR's [Handbook on Protection of Stateless Persons](#), that statelessness is very much a **protection** issue. Stateless persons require protection under international law, even if they are not refugees, because they do not have any government of their own to protect their fundamental human rights.

The UK Government is due to formally respond to the UPR recommendations by September 2017, and it is hoped that the Government will recognise that statelessness is in fact a protection issue and will accordingly amend its approach to statelessness.

More information is available on [OHCHR's UPR webpage](#), OHCHR's [UK UPR webpage](#), and [UPR-Info's website](#).

More information on statelessness in the UK is available at: www.asylumaid.org.uk/statelessness

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