

Right to Nationality (R2N) in the East African Community

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Abbreviations

African Charter - African Charter on Human and Peoples' Rights

African Commission – African Commission of Human and Peoples' Rights

African Court - African Court of Human and Peoples' Rights

AU - African Union

CRC - Convention on the Rights of the Child

EAC - East Africa Community

EACSO - East African Civil Societies Forum

EALA - East Africa Legislative Assembly

EASSI- East African Sub-regional Support Initiative

ECCAS – Economic Community of Central African States

ECOWAS – Economic Community of West African States

IDPs - Internally Displaced Persons

IRRI - International Refugees Rights Initiative

LHRC – Legal and Human Rights Centre

OSF- Open Society Foundations

PALU- Pan African Lawyers Union

R2N – Right to Nationality

SADC – Southern Africa Development Community

UDHR - The Universal Declaration of Human Rights

Opening Remarks

The session started with opening remarks from Martha Makege, Program co-ordinator at EACSOF who welcomed the participants and introduced the objectives of the meeting. She stated that the right to nationality is key to all other rights and therefore the discussions of the meeting would be important. She stated that in 2009 AfriMAP, now AfRO, published two studies on issues of exclusion and citizenship in Africa. She hoped that after the meeting, participants would be more aware of the recommendations made in the studies and that they would be more aware of the issues involving the right to nationality.

Her remarks were followed by introduction of all participants. (Please see Annex 1 to see list of participants.)

1. Project Background and Concept on the Right to Nationality - The Justification

Presented By: Jeggan Grey-Johnson-AfRO, OSF

The presenter thanked EACSOF and PALU for organising and welcoming the Right to Nationality (R2N) Coalition and partners to such an important meeting. He started by quoting Patch Adams who said *"We can never get a re-creation of community and heal our society without giving our citizens a sense of belonging"*. The quote encapsulates the topic of discussion, the notion of community, a sense of identity, of belonging, an idea of a good neighbourhood. He explained that he was hoping to have held the meeting on the sidelines of the EAC meetings, this was not looking like a possibility anymore.

He explained that the EAC's lofty policies to attain regional integration, at least on paper, demonstrates the need for the integration project of a united continent, borderless in construction, endowed with cultural diversity, natural resources, and a young and vibrant population, full of promise to transform our economies a hundred fold over.

He however explained that some of the obvious variances that prevent the attainment of a harmonised threshold for a Regional Economic Community range from regional power houses and resource rich nations, to heavily indebted and donor dependent ones; from member states with strong democratic dividends to those with little or none; from member states that are politically stable to ones that are tethering on the brink of disintegration and total mayhem.

He went further to highlight that there are other less subtle, and more glaring realities, that undermine the aspirations of this vision of a happy community that we yearn for: the absence of a people factor- and the presence of "the others", the closing of borders to non-citizens-'foreigners', clearly undermine the idea of a community.

He stressed that development is not only about building infrastructure, or signing agreements, or promising promises, but it is ultimately about people and community is about the collective.

He pointed out that most AU member states' citizenship laws are inadequate and subjected to pervasive discrimination, because they do not guarantee the right to a nationality for hundreds of millions of Africans most of whom are women and children. The denial of citizenship rights is also a major cause of conflict in countries such as Cote d'Ivoire, Mauritania, Uganda, Democratic Republic of Congo, and Zimbabwe.

He highlighted the sad fact that each year more than 16 million children risk becoming non persons because they risk being born in a place not of their choosing. In many instances, the country in which they find themselves may not recognize them as one of their own.

He added that few countries in Africa provide for an explicit right to nationality. Despite the fact that states have signed the Convention on the Rights of the Child (CRC), in practice the sections detailing the right to citizenship and therefore to an identity and protection from the state are often ignored. Although there is a broad agreement that the right to belong, to have an identity and to be protected by the state should not be compromised, this is consensus has not yet evolved to become a reality. State parties to the African Charter and CRC have failed to fulfil their obligations on the right to nationality for every child

He stressed that the issue of statelessness should be focused on starting with the ones that are the most affected, the vulnerable and the voiceless children, who are deprived of the right to meet their full potential of contributing to the future wealth of the EAC and the African Union (AU). He added that regional community aspirations may not be fully met, simply because, it is people who make integration possible and not policies, or institutions alone.

He stressed that the fact that the first right to exist, is discriminately applied, means that the wilful act of impoverishment is systematically being perpetrated. If children are denied this right, it affects many generations to come.

He then proceeded to discuss how this right affects women. He stated that achieving gender equality in the right of a woman to pass citizenship to her husband, has proved to be very difficult. More than two- dozen countries in Africa today still do not allow women to pass citizenship to their spouse. Countries such as Burundi, Kenya and Tanzania make this difficult. Such provisions are particularly problematic when a husband is stateless or at risk of statelessness.

He discussed initiatives by AfriMAP, now the AfRO and the AU Summit in January 2015 when it launched the R2N report at the African Union Commission. He also discussed the resolution adopted by African Commission a few weeks later calling for the drafting and the adoption of a Protocol on the Right to a Nationality. He also added that the Economic Community of West African States (ECOWAS) in a Declaration adopted on February 26, 2015, endorsed the prevention, reduction and elimination of statelessness in West Africa, and the proposal for the adoption of a treaty on the issue in calling upon the African Union *"To prepare and adopt a Protocol to the African Charter on Human and Peoples' Rights on the right to a nationality."*

He concluded by stating that the road has been long, and that we have reached the point of no return. A point where it takes longer to go back on our journey, than to go forward, no matter how difficult. He urged the participants not to lose momentum, but to elevate the issue, build alliances, mobilise and leverage resources, aimed at supporting the imminent protocol on R2N.

2. Support to Right to Nationality by African Union Commission

Presented By: Olabisi Dare, AU Political Affairs Division

Presenter began by thanking the organisers. He then proceeded to share his thoughts on the need to support the Right to Nationality. He said that there are three main factors that lead to instability which are; contestation of power by stakeholders, diversity in management and equitable access to proceeds and national resources. For example Contestation of power led to the situation in Cote d'ivoire pertaining to nationality where the prime minister, Alassane Dramane Ouattara was challenged to stand for elections as his nationality was contested.

He insisted that there is need to have a legal mechanism in place that can solve issues of citizenship. Four years ago, the African Union together with the African Commission on Human and Peoples' Rights put in place a treaty on the Right to Nationality.

He stressed the need to have every child registered at birth. There is a risk of losing the Right to Nationality at the beginning of life.

He further went on to explain how the issue of nationality is linked to the freedom of movement as well as how movement is based on the person belonging to a particular country.

He also explained how it is important for a woman to be able to pass on her nationality in order to enjoy the full ambit of this right. He cited the case Botswana that came before the court, where it ruled that a woman is able to pass on her nationality.

3. UNCHR Strategy and Interventions on Statelessness in Eastern Africa

Presented by Mrs. June Munala: Senior Regional Protection Officer Statelessness with the UNCHR

Mrs. Munala began by thanking the organisers and explaining that in 1995, the UN General Assembly requested UNCHR to undertake activities to identify, prevent and reduce statelessness and to protect the rights of stateless persons. In particular, UNCHR was asked to:

1. Promote State Accession to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness;
2. Provide technical & Advisory Services to interested states pertaining nationality. UNCHR was asked to take a study and provide a picture of people who have no right to nationality;

3. Provide appropriate training to government officials.

She explained that the 1954 and 1961 Conventions are the two key international conventions that help UNCHR identify, prevent and reduce statelessness. The 1954 Convention aims to regulate and improve the status of stateless persons and to ensure that stateless persons enjoy the widest possible exercise of their human rights. The 1961 Convention elaborates clear, detailed and concrete safeguards to ensure a fair and appropriate response to the threat of statelessness and establishes specific obligations relating to prevention and reduction of statelessness.

She noted that the accession of the two conventions in Africa has been very low. In East Africa only Rwanda has acceded to both conventions. Uganda has only acceded to the 1954 Convention. The rest of the EAC countries have been slow in the accession of the two key conventions.

She stated that UNCHR recognises that statelessness is a global issue that needs to be solved. To do this UNCHR has come up with a 10-point global action plan that seeks to end statelessness by year 2024. UNCHR plans to implement the action plan by resolving existing major situations of statelessness, preventing emerging cases of statelessness and identifying and protecting stateless people. Successful implementation of this action plan requires the support of all relevant stakeholders.

The 10 Action Points are:

1. Resolve major situations of statelessness;
2. Ensure that no child is born stateless;
3. Remove gender discrimination from nationality laws;
4. Prevent denial, loss or deprivation of nationality on discriminatory grounds;
5. Prevent statelessness in cases of state succession;
6. Grant protection status to stateless migrants and facilitate their naturalisation;
7. Ensure birth registration for the prevention of statelessness;
8. Issue nationality documentation to those entitled to it;
9. Accede to the UN statelessness conventions;
10. Improve quantitative and qualitative data on stateless populations.

She further explained that UNCHR is currently in the process of drafting a five-year African sub-regional strategy to assist countries assist countries to achieve the goals of the global action plan. They convene country and regional level roundtable discussions with governments, civil society, other UN agencies and stakeholders and also work with UNHCR country operations to develop and implement National Action Plans. UNCHR also provides technical advice and where necessary, resources to governments and stateless populations to assist in identifying gaps in administrative and legal process of acquiring nationality.

She explained that the current interventions of UNCHR are:

1. Developing regional support hubs that cover countries in the great lakes region, North Africa and Central Africa. The regional hubs will help in identifying priority action points and encourage countries to develop a country action plan. Kenya, for instance, has already established a task force and has identified priority areas.
2. Endeavour to seize opportunities such as the year 2019 census that will help in capturing important data.
3. Working and expanding partnership. UNCHR has launched an “IBELONG” campaign that seeks to end statelessness in 10 years. The implementation strategy of the campaign will have a “heat from above and heat from below” approach. Heat from above will involve friendly countries and RECs of the campaign the end statelessness in 10 years. Kenya is one of the friends of the campaign. Working with RECs. RECs will help with group accession.

4. Keynote Speaker the Right to Nationality and the EAC integration Project

Presented By: Stephen Niyonzima, Principal, Labour and Employment Officer, EAC Secretariat, Arusha Tanzania

The speaker thanked the chair for the floor and discussed the EAC and its work. He started by discussing what the notion of nationality is. The nationality of an individual is his qualification of being a subject of a certain state and therefore its citizen and that it may denote political and legal membership of a state. He added further that nationality and citizenship are synonymously applied. Conceptually and linguistically, the terms “nationality” and “citizenship” emphasise two different aspects of the same idea; state membership with citizenship leaning more towards national, while nationality on international perspective.

He stated that both The Universal Declaration of Human Rights (UDHR) and The 1961 Convention on the Reduction of Statelessness mandate contracting states to guarantee the Right to Nationality to those that are born within their territory.

He noted that at independence, most Commonwealth countries including some East African partner states, whose constitutions were drafted according to the standard “Lancaster House” included the right to nationality but this got lost along the way.

He discussed the Constitutions of Rwanda, Kenya, Uganda, Burundi and Tanzania and the relevant provisions in their Constitutions that guarantee the Right to Nationality.

He then discussed regional integration, a process by which neighbouring states enter into an agreement in order to upgrade their cooperation through common institutions, rules and defined fields of cooperation. He recounted the origins of the EAC including its two stages of existence: EAC1 1967-1977 and the EAC in this current state.

He discussed the objectives and aims of the EAC and noted that the development of the EAC integration is a progressive process. This process has involved the movement from one level of

integration to another through negotiated protocols, starting with Customs Union Protocol followed by Common Market, then Monetary Union and ultimately Political Federation

He highlighted that the Protocol for establishment of the East African Common Market defines a national of a Partner State as a natural or legal person who is a national in accordance with the laws of the Partner State (Art .1). He pointed out however that here are no citizens/nationals of East African Community, because the EAC is not yet politically federated. What infact is in existence are the citizens/nationals of the EAC Partner States. Therefore, the Protocol provides for the freedoms and rights to the citizens/nationals of the EAC Partner States. The Protocol provides for free movement of persons without any discrimination based on nationality. The right to free movement of persons include: the right to enter the territory of a Partner State without a visa; the right to move freely within the territory of a Partner State; the right to stay in the territory of a Partner State; the right to exist without restrictions; and the right to full protection by the laws of a Partner State.

He then discussed the freedoms and rights of nationals of the EAC Partner States including the introduction of EAC Passport in 1999 at the 17th Ordinary Summit.

He concluded by stressing that the actualisation of the Common Market and the related projects and programmes could result in dramatic economic upturn of the EAC region. He stressed that the prompt domestication of the provisions of the Common Market Protocol within Partner States' National Laws and their implementation is, therefore, critical.

Brief Presentation on Case Studies of Statelessness in Africa

Presented by Donald Deya, CEO, PALU

Mr. Deya's Presentation cited a few real life examples of people that are stateless.

He first gave the example of Miranda*¹, a Kenyan mother with a father from a Southern African State. She lives and works in Tanzania. She then had a baby in Tanzania but with a man from the Caribbean who then left her. She wanted to give her child a nationality. She went to the State in Southern Africa to attain a nationality for her son, but was denied one because the father of her child is no from that State. She then turned to Kenya but her son was denied a nationality in Kenya as well. Considering he was born in Tanzania, she turned to the Tanzanian authorities but they also rejected her plea for her son's nationality. Her son is now stuck in Tanzania without a nationality.

He then gave an example of some Burundians who moved to Tanzania during the conflict in Burundi. Having lived in Tanzania for very many years, some of them are now third generation but have been denied Tanzanian Nationality even though they inter-married with Tanzanians and were born in Tanzania and have never been to Burundi. At some point the Tanzanian

¹ Not her real name.

government decided to force some of these refugees back to Burundi after deciding that Burundi was now safe. Some of these people that were forced to go back were in fact Tanzanian who were connected to these refugees in one way or another.

Another example he cited was about a group of 11 former Rwandans stuck in Tanzania, after being arrested and tried for the Rwandan genocide by the United Nations Criminal Tribunal for Rwanda. 8 were acquitted and 3 were found guilty and have served their sentence. Considering the current Rwandan regime is very bitter, they fear returning to Rwanda. They fear that once they go back they will be arrested and charged with additional offences, convicted and jailed. Their spouses and children have also run away and are no longer in Rwanda. Their travel documents have since expired and have attempted to renew their passports. The embassy in Nairobi informed them that they must go to Kigali for their passports where they fear persecution. On the other hand, the Tanzanian Government has only offered a one-way travel document out of the country, thus they are now stuck in Tanzania stateless.

Plenary Discussions on Presentations of Morning Session

The following questions and comments were asked after the presentations of the mid-morning session:

- 1 This issue of nationality is a key problem in Africa because of the inter-state conflicts that Africa is facing and the movement of people within the EAC. The EAC and the African Union is moving towards political integration. We need to look into areas of good practice such as the EU and point out gaps within our system. An important point to note is that the Roma communities in Europe still face similar discrimination and challenges on grounds of nationality, we need to ask ourselves if we will make the same mistake with refugees. We also need to work on the formation of a national action plan and collection of qualitative as well as quantitative data for the Government.
- 2 A Representative from Equality Now stated that they are updating their data and report with regards to Burundi. She said that there is still a lot to be done especially in terms of discrimination pertaining to women passing on their nationality.
- 3 The following question was directed to UNHCR: Considering the world is facing the fear of terrorism, refugees in particular are at risk and face a lot of difficulty in obtaining citizenship especially due to security concerns. How is the UNHCR prepared for this?
- 4 The following question was directed to EAC: The formation of the first EAC collapsed in 1977, mainly due to governance issues and distribution of resources. The current EAC still suffers from Governance issues and we find that countries are still changing their Constitution for example Rwanda and Burundi. How can we ensure that the EAC will be sustainable this time and will not collapse like the last time?
- 5 There was comment on the need to observe the Right to Nationality at not only a national and regional level but also a global level.
- 6 Pertaining to the Rwandans that are stuck in Tanzania and fear returning to Rwanda after having served their sentence should keep in mind that the Criminal Procedure Act provides for the principle of double jeopardy where an individual cannot be tried for the

same crime twice. The victims should therefore consider returning to Rwanda as there are systems in place to protect them.

- 7 The following question was directed to EAC: One of the principle pillars is to ensure no discrimination, however if you look at the situation pertaining nationality, you will note that a woman cannot pass down her nationality quite often for example in Tanzania and Burundi. What is the EAC doing to address this kind of discrimination? Furthermore, what is the community doing on the challenges surrounding stateless persons? Is the community keeping count of the number of stateless people? Does the EAC have a relationship with UNHCR that has a universal mandate to deal with this?

In response to the questions and comments the presenters and the general plenary noted the following:

1. In her response Mrs June Munala explained that the formation of a national action plan on statelessness is a job for the government to do. The UNHCR has a responsibility to provide guidance and support to enable governments to do this, however it is at a very early stage.

On Data Collection she noted that from December, the UNHCR is supporting Kenya bureau of National statistics in collecting data on issues such as statelessness. This information is then to be shared with the wider public.

She also noted that they are involving parliaments on this issue. An inter-parliamentary union to discuss issues on nationality is under development.

On the question on terrorism she acknowledged that it is indeed a new challenge that countries are concerned and are therefore closing borders. Governments have become very cautious in determining who belongs to a particular country and who does not. There is lack of information as well therefore this campaign is crucial for people to bring out their stories.

2. Mr. Stephen Niyonzima in his response explained that the first phase of the community collapsed in 1977, but this does not mean that the community formed in 1999 will die. He explained that the EAC had developed the following safeguards to ensure that EAC does not collapse:

- Strong pillars that are embedded under Article 35 of the EAC treaty.
- Involvement of the people e.g the civil society and the private sector are a guarantee that the community will not collapse. The community is for the people.
- Lengthy, cumbersome and expensive withdrawal procedures
- The EAC operates on a principle of consensus
- Decision-making has a bottom up approach and thus based on strong structures.

- There is a unique provision of political federation that seeks to have a strong political EAC
- There is a common market that has been developed through a lot of consultations.

He explained that the EAC had made a comparative study and carried out wide consultation with other structures such as the EU. Matters of nationality are Constitutional matters. It is important that we borrow best practices.

With regard to Refugees he cited Article 124 of the EAC treaty that provides that partner states will develop common mechanism to deal and manage with refugees.

With regard to security in the region he explained that by virtue of location, our natural resources could bring a potential of insecurity. East peace and security is at its stages of ratification as it is important to have a safe community.

With regard to governance he stated that Article 6 of the treaty provides for the provision of good governance. Governments are currently developing a protocol on the area of Governance.

He also explained that non-discrimination is applied to freedoms and rights protected by the protocol. If the issue of statelessness is considered, the reasons behind statelessness needs to be appreciated. The protocol ensures that people's freedom and rights are protected such as labour, movement.

Referring to the free movement of people, he explained that there is a mechanism being put in place to provide a common standard document to travel freely within states. This document will be used to travel abroad.

On the issue of children involved in the migration process, he noted is a Constitutional matter. He asked the participants and the EAC to develop regional benchmarks and proposals to push it forward.

5. Gender and a Right to Nationality in EAC- Streamlining the EAC Protocol on Gender Equality and Development Bill, 2015

Presented By: Elizabeth Ampairwe, Project Coordinator, Women and Economic Empowerment, East African Sub-Regional Support Initiative for the Advancement of Women (EASSI)

She discussed the components of the EASSI Gender Equality Bill. She explained the whole process of the bill. Drafting of the Bill began in 2008, it started as a declaration campaign, then took on the form of a protocol and later a bill. Its purpose is to consolidate and harmonise the gender equality movement. The draft Bill will be tabled to the East African Legislative Assembly.

She explained that the bill however has a gap with regard to the issue of Gender and Nationality in that it is silent on matters of nationality. She then went on to explain the components of the Bill as follows:

1. The Right to life of every woman and man: prohibiting sexual and gender based violence, harmful practices such as FGM. For example in Uganda FGM is illegal. In some countries such as Kenya, it is not illegal so people cross over to Practice it. It is important to ensure the harmonization of laws;
2. Women and Media: Partner states should ensure that the media does not stereotype when reporting especially with regards to women. The media should also ensure reporting takes place in a gender sensitive manner;
3. Right to Education: The Bill hopes to make primary and secondary education compulsory and free and also making higher education accessible;
4. Health: Developing policies and programs on health issues. Work towards reducing child and maternal mortality rates;
5. Power and decision making: Right to equal spaces to public service and governance.
6. Economic Empowerment: Partner states are called to promote right to employment, adequate standard of living and security;
7. Agriculture and Food Security: Agriculture is the backbone of the EAC, women are leading this industry yet women are the face of poverty;
8. Land Rights: Partner states should ensure access to the use of land is governed by National Laws and policies that are aligned to international and regional standards;
9. Trade: The Bill seeks to promote Regional trade protection and support national and regional trade associations with women in trade;
10. Peace and Security: Promotion of peace, security and stability in the community;
11. Environmental Management: Struggling with climate change. Example, prices of products, famine in regions. Member states to enact laws and policies to reverse the negative effects of climate change;
12. Marginalised groups: This section can be enriched and issue of nationality can be raised under this section;
13. Financial Provisions: Partner states should empower women and girls to live under their full potential.

She reiterated that the bill has potential to be enriched before it is tabled before EALA as it is in draft format

6. Topic of our times – Burundi: Fleeing in Fear

Presented by Dismas Nkunda, Executive Director, Atrocities Watch Africa

Mr. Nkunda presented a short video on the current situation in Burundi. He also narrated his personal experience in a visit to Bujumbura.

After the video, Mr. Nkunda narrated his experiences when he recently visited Burundi, some of which were almost life threatening. He questioned the irony of political federation for the East Africa Community when atrocities in Burundi continue to happen. The current Burundi refugee crisis could be a possible cause of statelessness in the near future. Mr. Nkunda called on the relevant stakeholders to act immediately to avoid such a situation.

7. The Game Changer - Right to Nationality: A Win for Refugees

Presented by Olivia Bueno, Director, International Refugees Rights Initiative

The presenter began by explaining that a lot of issues regarding statelessness are related to the structures put in place to deal with them. She stressed on the importance of the element of prevention. Denial of nationality is, in some circumstances, the reason why people have to flee. In 1989 thousands of Mauritians were expelled to Senegal. This was a violation of their human rights and the African Commission ruled that Mauritania had violated these rights. We need to realise that the stronger the standards we have, the more we can encourage debate.

She went on to discuss the importance of resolving the issue of refugees. She explained that once a refugee flees they can continue to access the nationality of country they fled from. They legally maintain that status but cannot access the protection from their state or rights from that state. She gave a hypothetical example of a person whose parents fled from Burundi in 1972. How is that person supposed to now go back to Burundi if forced to? They will not have access to the nationality that would in essence protect them.

The 1951 Convention encourages states to promote naturalisation. She however pointed out that returning to their country is often seen as the preferred solution. There is a presumption that at some point you have to go back. She stressed that whether these people go back or not, we need to encourage integration in the short term. She gave the example of Congo, where some Rwandans went there as far back as 1985, but they have never really been accepted.

She further stressed that there needs to be protection in the country that you are in. Regarding children, she stated that a child born in the territory of a country should have ease to naturalise.

She discussed some major obstacles relating to refugees. Money is one of them. There are often fees to be paid to facilitate the naturalisation process. In most cases, refugees usually do not have the resources. She gave positive example of Tanzania which waived the fee for about 160000 Burundian refugees who naturalised. The second issue is that of documentation. Refugees do not normally have time to sit and prepare documents before they are forced to leave their home countries. In some situations, refugees do not want to register for various reasons.

She concluded by stressing that we need to seriously think of such issues.

Plenary Discussions on Presentations of Mid-Morning Session

The following questions and comments were asked after the presentations of the mid-morning session:

- 1 There was a question on the expected timeline for adoption of the draft EASSI Gender and Equality bill. There was also a question on whether the civil Society organizations can input into the draft Bill.
- 2 There was a comment on the need to consider the impact the Burundi crisis will have on the right to Nationality and the consequences to those displaced.
- 3 There was a comment on the need to have in place a rapid response to the Burundi crisis. The EAC agreed on the principle of consensus but is not being applied to Burundi.
- 4 There was a question on the added value of the EASSI Bill on gender.

In response to the questions and comments the presenters and the general plenary noted the following:

- 1 In her response Ms. Elizabeth Ampairwe said that the deadline for the EASSI Bill to be approved is 2017, two years, from now assuming it receives all the support from stakeholders. She promised that issues of nationality are something she and her colleagues will discuss and how they can be included in the Bill. She asked the participants present to give their contacts so that they can communicate on how they can have more consultative meetings on the issue. With regard to the question on the added value the Bill she explained that the Bill is seeking to harmonise gender equality issues within the region. She also said that EAC can consider developing a gender barometer similar to the one used in SADC.
- 2 In his response, Mr. Nkunda noted that the Burundi crisis is a difficult situation but one that needs to be dealt with before it gets out of hand.
- 3 Mr Stephen Niyonzima responded by saying that political federation within the EAC being a political goal will create a solution on the governance issue. A federal constitution will address issues on term limits, corruption etc. The EAC will be looked upon as a supra national community someday. He hoped that issues of statelessness will be resolved and will not erupt. He also explained that under the draft protocol, consultations are being made to borrow good practices to address issue of governance. The Summit is the highest body of the EAC. He urged everyone to look upon the summit, respect the institutions of the EAC as well as their decisions and wait for a decision of the summit on the Burundi crisis.

8. The work of the Coalition on Promoting the Right to Nationality and the Eradication of the Statelessness from 2013 to now: what and next steps

8.1 Presented by: Ibrahima Kane, AU Advocacy, AfRO OSF

Mr. Kane explained how we are in a context of promoting deeper integration between people and states and how bad it is when one is excluded because of nationality. He explained that nationality is not something of choice, it is based on where one is born or where one's father is from. Nationality also relates to where one carries out most of his activities. There are no accurate figures of the number of people that do not have a nationality.

He highlighted the issue of countries that do not permit dual nationality. He stressed the importance of resolving issues on nationality using the legal frameworks within our disposal. He stressed on the need to find a common ground on nationality as most of our current laws are based on colonial past. The AU and AU Commission need to adopt laws to govern nationality, as presently there is no comprehensive continental level framework on nationality. A draft protocol that has been worked on for the past three years by the AU and UNHCR will be tabled in January. The whole idea is to persuade our states to adopt the treaty that is in line with international laws and regulations i.e. The protocol on the Right to Nationality and the Eradication of Statelessness. Knowledge of what the EAC is doing in this area is important so that they can put issue of nationality at the forefront.

He called upon civil society organisations to be at the forefront of pushing for the protocol on nationality. He concluded by linking nationality to human dignity and noted that a human being can lose his dignity due to lack of paperwork.

8.2 Presented by: Agnes Ebo'o, Executive Director CGI

Ms. Ebo'o began by introducing the Coalition on right to nationality and the work it does. The Coalition covers all the continental sub regions in Africa: EAC; ECCAS; ECOWAS; SADC and Northern Africa.

The Coalition, she explained further works as a platform for CSOs to support work of AU and other groups including UNHCR.

It has 3 objectives

1. Share information on Right to Nationality;
2. Strengthen capacity of organisations to mobilise members;
3. Promote stronger collaboration between intergovernmental organisations with respect to Right to Nationality.

She added that they have an online platform (www.citizensrightsinafrica.org) where they post material on the issue, have a mailing list for members, update members through a newsletter, and maintain a database of organisations working on issues of statelessness.

She added further that with the support of the OSF, they had worked on two documentaries, one of which was recognised by LHRC in South Africa about a stateless man. In their work they focus on the protection of children, women, Internally Displaced Persons (IDPs) and refugees.

She concluded by stating that the Coalition provides technical support to countries to understand that statelessness is real and not just a virtual possibility.

9. The role of continental, regional and national civil society organizations in the promotion of the right to a nationality as a way to eradicate statelessness in Africa & African Court's role in protecting R2N

Presented By: Don Deya, Chief Executive Officer, PALU

Mr. Deya's presentation was on the role of the Civil Society and the African International Courts and Tribunals in the promotion of the right to a nationality as a way to eradicate statelessness in Africa.

The role of the Civil Society was discussed from the perspective of the different levels civil society organisations operate in. He presented the general role of the Civil Society in the promotion of the right to a nationality as:

1. Practical solidarity and primary care. This role was more so for civil society organisations operating at a community/grassroots level;
2. Building the evidence base by using known social science research methods to ensure that they get the right statistics;
3. Raising awareness on the issue of statelessness. Most people do not yet recognise statelessness as problem;
4. Advocacy for reform of Treaties, Constitutions, laws, policies, strategies & budgets. Advocacy for reform of Constitutions, laws, policies and budgets was the role of national level civil society organisations. Mr. Deya emphasised that if there is no budget for implementation then no advocacy reform will happen.
5. Monitoring and evaluation to ensure proper implementation of laws and policies.

He noted that Regional and Continental civil society could work around formulating regional law and policy on this issue. They can also advocate for reform with regional 'Executive', Legislative/ Consultative/ Advisory bodies, Judiciary (litigation).

At a global level, Mr. Deya said that NGOs could be engaged in ratification campaigns as well as Universal Periodic Review

He then discussed the role of African International Courts and Tribunals. He discussed Courts of Regional Economic Communities (RECs), The African Committee of Experts on the Rights & Welfare of the Child (ACERWC), The African Commission on Human & Peoples' Rights (AComHPR) and the African Court on Human & Peoples' Rights (AfCHPR).

Mr. Deya said that the role of the African Commission of Human and Peoples' rights is to undertake studies and make necessary recommendations. He noted that the Commission had made good progress and had already passed a resolution on the Right to Nationality. The

Commission is currently working on the 5th Protocol to the Charter and is set to finalise it within the next 12 months. He called on the Civil Society and other stakeholders to support the work of the Commission and engage in ratification campaign even after the Protocol is passed. He also called on relevant stakeholders to develop further soft law to provide guidance on how the protocol should be implemented.

He stated that African Regional Courts have both an advisory and litigation jurisdiction. Litigation will be based on the relevant Treaties' linkages with the African Charter on Human & Peoples' Rights. He said that the African Charter on Human and Peoples Rights is unique in that it implicates not just states but also citizens and has provisions for both rights and duties.

He acknowledged that a lot had already been said about the role of the Child Rights Committee. He emphasised on the need to have further soft law guidance on the issue of children and their Right to Nationality.

With regard to the role of the African Court, Mr. Deya stated that the issues of statelessness and a Right to Nationality had not yet been brought to the attention of the court. The Court can give guidance in terms of interpreting the African Charter and giving advisory opinions.

Plenary Discussions on Presentations of Afternoon Session

The following questions and comments were asked after the presentations of the afternoon session:

1. There was a comment on the need for the participants present to consider how they can work together and be more efficient and effective.
2. There is also a need to raise funds to help in organising strategic meetings. The strategic meetings would help in developing a strategy action plan and identifying 3 to 4 action points such as communication, research and developing knowledge on key issues such as discrimination, legal action e.t.c
3. There is a need to take measures on the eradication of statelessness within the EAC. We should consider developing a centre for Nationality & Statelessness with an overall task of creating a database and providing direct information of people who are victims of statelessness.
4. The Kampala Convention on IDPS is something participants of the meeting need to learn from and borrow best practices from it.

In response to the questions and comments the presenters and the general plenary noted the following:

1. Mr. Olabisi Dare responded by stating that the plan is to adopt a similar strategy on the Kampala convention with regards to the current AU protocol and its promotion. He said there is a need to establish linkage between nationality and statelessness. This then needs to be highlighted clearly to member States.

2. Mr. Ibrahima Kane responded by explaining that issues of nationality and statelessness are not new but it is the level of information that is lacking. He gave the example of Tanzania which has hosted very many refugees, however many have been in camps for close to 30 years because of national legislation. Getting nationality has been next to impossible. Many Tanzanians that live abroad are at a risk of losing nationality because Tanzania does not permit dual Citizenship and proposals for it were rejected because of the issue in Zanzibar where there is fear that Arab land owners would return to claim their citizenship and land back. In Tanzania, if born on Tanzanian soil, you are entitled to citizenship except if you are a refugee. Furthermore, only 60% of Tanzania births are registered.
3. Mr. Don Deya stated that the use of ICTs is important. Kenya has developed a government portal for E. citizens where you can renew and apply for documents online. Rwanda has been using E-visas where you can apply for a visa online. He concluded by saying that with an electronic system, it will be easier to keep a track of people entering and leaving the country. On the establishment of a centre on nationality and statelessness: the costs involved in doing this would not be worth it. It would probably be better to explore non -traditional partnerships. We need to see which partners exist but are in the dark that we could work with. He stressed the need to introduce compulsory teaching of African history in schools with Pan Africanism as a project.

10. Next Steps

Presented by: Ibrahima Kane, AU Advocacy, AfRO OSF

Mr. Ibrahima Kane started by saying that the objective of the meeting was to raise awareness on Right to Nationality with the Civil Society Organisations working in the East Africa Region. The main question was how the Civil Society could work with relevant partners to ensure that they can minimize the cost of statelessness and come up with new rules and policies on the issue.

The Civil Society Organisations in the East Africa region need to support the African Commission in the development and eventually the implementation of the draft protocol. Mr. Kane asked the members present in the meeting to take advantage of the year of Human Rights, 2016 to push for the Right to Nationality agenda. Mr. Kane stated that the help of the members was needed at the level of specialised technical experts and with advocating for political goodwill. He proposed that this could be done in the following ways:

1. **Having direct contact with the state.** He stated that the Civil Society should start lobbying for the “observance” of the Right to Nationality. People at national level should be aware of what is in the draft protocol;
2. **Reaching out to the East African Community as a group.** He stated that if the partners work together they could reach the EAC community in a more efficient and effective way. He noted that the group effort and momentum could be very helpful

because the East African Community could then put pressure on the government as well;

3. **EAC should convene a specialised technical committee meeting to discuss the issue of Right to Nationality.** Mr. Kane noted that at the specialised technical committee some Civil Society Organisations could be invited even though they would not get an opportunity to present their opinion. He however said that they could influence the results of the meeting on the sidelines. If this is done the remaining part is adoption by the executive committee;
4. **Joint collaboration between the East Africa Community and the Civil Society;**
5. **Sharing of good practices to convince states.** He asked Civil Society to use the good standards in their region to push for the Right to Nationality;
6. **Need to show solidarity among all the five regions in Africa.** He emphasized on the need to work together and speak in one voice.