

ACHPR Resolutions on Nationality

234: Resolution on the Right to Nationality

The African Commission on Human and Peoples' Rights, meeting at its 53rd Ordinary Session held from 9 to 23 April 2013 in Banjul, The Gambia;

Recalling the provisions of Article 45(1) (b) of the African Charter on Human and Peoples' Rights which provides that the Commission shall "formulate and lay down, principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms upon which African governments may base their legislation";

Recalling Article 6 of the African Charter on the Rights and Welfare of the Child which provides that every child shall have the right from birth to a name, to be registered immediately after birth and to acquire a nationality, and that State Parties to the Charter shall "undertake to ensure that their Constitutional legislation recognize the principles according to which a child shall acquire the nationality of the State in the territory of which he has been born if, at the time of the child's birth, he is not granted nationality by any other State in accordance with its laws";

Noting that the provisions of Article 2 of the African Charter and Article 6 (g) and (h) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa establish the equal right of men and women to acquire their partner's nationality;

Further recalling Article 15 of the Universal Declaration of Human Rights which stipulates that everyone has the right to a nationality and that no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality;

Noting the provisions of other international human rights treaties relating to nationality, including Article 5 (d)(iii) of the International Convention on the Elimination of All Forms of Racial Discrimination, Article 24(3) of the International Covenant on Civil and Political Rights, Articles 7 and 8 of the UN Convention on the Rights of the Child, Articles 1 to 3 of the UN Convention on the Nationality of Married Women, Article 9 of the Convention on the Elimination of All Forms of Discrimination against Women, and the UN Convention on the Reduction of Statelessness;

Recalling that persons arbitrarily deprived of nationality are protected by the Convention Governing the Specific Aspects of Refugee Problems in Africa, the UN Convention relating to the Status of Stateless Persons, the UN Convention relating to the Status of Refugees and the Protocol thereto;

Expressing its deep concern at the arbitrary denial or deprivation of the nationality of persons or groups of persons by African states, especially as a result of discrimination on grounds of race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status;

Regretting the failure of African states to ensure that all children are registered at birth;

Convinced that it is in the general interest of the people of Africa for all African States to recognise, guarantee and facilitate the right to nationality of every person on the continent and to ensure that no one is exposed to statelessness;

Reaffirms that the right to nationality of every human person is a fundamental human right implied within the provisions of Article 5 of the African Charter on Human and Peoples' Rights and essential to the enjoyment of other fundamental rights and freedoms under the Charter;

Calls upon African States to refrain from taking discriminatory nationality measures and to repeal laws which deny or deprive persons of their nationality on grounds of race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status, especially if such measures and laws render a person stateless;

Calls upon African States to observe minimum procedural standards so that decisions concerning the recognition, acquisition, deprivation or change of nationality do not contain any elements of arbitrariness, and are subject to review by an impartial tribunal in accordance with their obligations under Article 7 of the African Charter;

Also calls upon African States to adopt and implement provision in their constitutional and other legislation with a view to preventing and reducing statelessness, consistent with fundamental principles of international law and Article 6 of the African Charter on the Rights and Welfare of the Child, article 6 (g)(h) in particular by:

- a. Recognising that all children have the right to the nationality of the State where they were born if they would otherwise be stateless;
- b. Prohibiting arbitrary denial or deprivation of nationality;
- c. Reaffirming the equal rights of men and women and persons of any race or ethnic group in respect of nationality; and

Calls upon African States to ratify all relevant international and African human rights treaties, including the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness;

Requests African States to take the necessary measures to strengthen civil registration services to ensure the prompt registration of the births of all children on their territory, without discrimination;

Requests African States to include information on the recognition, respect and implementation of the right to nationality in their periodic reports presented to the Commission under Article 62 of the African Charter and Article 26 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;

Considering the necessity to carry out an in-depth research on issues relating to the right to nationality:

- ***Decides*** to assign the task to the Special Rapporteur on Refugees, Asylum seekers; Displaced and Migrants in Africa;
- ***Calls upon*** civil society and other stakeholders to give full support to the mandate of the Special Rapporteur.

Banjul, The Gambia, 23 April 2013

277: Resolution on the drafting of a Protocol to the African Charter on Human and Peoples' Rights on the Right to Nationality in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 55th Ordinary Session held from 28 April to 12 May 2014 in Luanda, Angola;

Recalling the provisions of Article 45(1) (b) of the African Charter on Human and Peoples' Rights which stipulates that the Commission shall "formulate and lay down principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms upon which African Governments may base their legislation";

Bearing in mind its Resolution ACHPR/Res.234 (LIII) 13 on the Right to Nationality adopted at its 53rd Ordinary Session held from 9 to 23 April 2013 in Banjul, The Gambia;

Considering the roadmap for the implementation of Resolution ACHPR/Res.234 (LIII) 13 adopted in May 2013 in Addis Ababa, Ethiopia, and the meeting of various stakeholders held in Midrand, South Africa, in April 2014;

Considering the adoption of the Study on the Right to Nationality in Africa by the Commission during its 55th Ordinary Session held from 28 April to 12 May 2014 in Luanda, Angola;

Stressing the need to take new decisive steps towards identifying, preventing and reducing statelessness and protecting the right to nationality;

Considering the need to prepare a Protocol to the African Charter on Human and Peoples' Rights on the Right to Nationality in Africa:

- ***Decides*** to assign the task of drafting a Protocol to the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa;
- ***Calls upon*** civil society organisations and other stakeholders to support the mechanism.

Adopted at the 55th Ordinary Session of the African Commission on Human and Peoples' Rights held from 28 April to 12 May 2014 in Luanda, Angola