



Original Article

The Ethiopian Legal Frameworks for the Protection of Stateless Persons

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Abstract

This paper examines the legal protections available to stateless persons in Ethiopia, highlighting the significant challenges posed by the absence of specific laws addressing their rights. The paper explores international and regional legal instruments, which outline the rights and protections afforded to stateless persons; although Ethiopia is a signatory to some of these instruments, the effectiveness of their implementation at the national level remains limited. It further analyzes Ethiopia's national legal framework, including the FDRE Constitution, the Ethiopian Nationality Proclamation No. 378/2003, and other related laws. This paper aims to pinpoint the gaps in the existing legal frameworks, particularly how these laws address (or fail to address) the rights of stateless persons, identifying gaps such as the lack of clear procedures for acquiring nationality, insufficient protections against statelessness arising from birth, and the absence of targeted legal provisions for stateless individuals. It also attempts to fill existing legal gaps, enhance the protection of stateless persons, and contribute to reducing statelessness in Ethiopia. By highlighting these issues and proposing concrete legal reforms, the article seeks to improve the legal environment for stateless persons in Ethiopia. The paper concludes by advocating for the enactment of specific legislation tailored to protect stateless persons in Ethiopia.

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Acronyms

ACRWC: African Charter on the Rights and Welfare of the Child
CEDAW: Convention on the Elimination of All Forms of Discrimination against Women
CERD: Convention on the Elimination of All Forms of Racial Discrimination
CRC: Convention on the Rights of the Child
CRPD: Convention on the Rights of Persons with Disabilities
CRSSP: Convention Relating to the Status of Stateless Person
ENP: Ethiopian Nationality Proclamation
FDRE: Federal Democratic Republic of Ethiopia
ICCPR: International Covenant on Civil and Political Rights
ICESCR: International Covenant on Economic, Social, and Cultural Rights
ICMW: International Convention on the Protection of the Rights of All Migrant Workers
IDPs: Internally Displaced Persons
UDHR: Universal Declaration of Human Rights

Introduction

Statelessness is the worst possible result of the violation of the right to a nationality.¹ It is clear that the synonyms, nationality and citizenship serves as a crucial link connecting an individual to a specific state.² The laws governing nationality, along with the principles that underpin these laws, contribute to the phenomenon of statelessness.³ Although, the issue of statelessness is not a recent development, it has recently attracted global attention as nations adopt policies that strip individuals of their citizenship to sanction those deemed undesirable.⁴ Stateless individuals are those who do not hold citizenship in any nation.⁵ This situation arises from their exclusion from nationality, leading them to feel as though they do not belong anywhere.⁶ For example, in 2024, around 12 million peoples were known as stateless globally.⁷ While some are born without nationality, others may become stateless later in life.⁸ Notably, a person may become stateless as a result of the following factors: discrimination of minority groups,⁹ emergency

¹ R.P. Choudhary, “Causes of Statelessness”, *Pramana Research Journal*, Volume 8, Issue 3, (2018), pp.154-156

² Samuel Bizen Abraha, ‘The protections of Stateless persons in the African Human Rights Systems’, University of Pretoria, (31 October, 2012), p.10, available at: <https://repository.up.ac.za/server/api/core/bitstreams/f2f19423-7b5d-4f8e-b7c2-6d2c8f2add60/content> [accessed on 15 April, 2025]

³ Ibid

⁴ Aimée-Noël Mbiyozo, “Statelessness: an Old Problem with new Threats” *Institute of Security Studies*, (13 November 2019), available at: <https://issafrica.org/iss-today/statelessness-an-old-problem-with-new-threats> [accessed 20 April, 2025]

⁵ Samuel Bizen Abraha, *supra* note 3

⁶ Ibid

⁷ UNHCR, ‘Protecting the Rights of Stateless Persons: The 1954 Convention relating to the Status of Stateless Persons’, (2024), available at: <https://www.unhcr.org/wp-content/uploads/sites/91/2024/01/ENUNHCR-Protecting-the-Rights-of-Stateless-Persons.pdf> [accessed on 25 April, 2025]

⁸ UNHCR, ‘The #IBelong Campaign was launched in November 2014 with the goal of ending statelessness within 10 years’, (2024), available at: <https://www.unhcr.org/ibelong/about-statelessness/> [accessed on 29 May, 2025]

⁹ Factsheet: How does someone become stateless? *Peter McMullin Centre on Statelessness*: Melbourne Law School, (February 2023), pp. 1-3. <https://law.unimelb.edu.au/centres/statelessness/education/factsheet/how-does-someone-become-stateless> [accessed on 29 May, 2025]

of new state,¹⁰ decolonization,¹¹ gaps in nationality laws or conflicts of law between countries,¹² denationalization/deprivation of nationality,¹³ and lack of birth registrations to prove a person's place of birth and parentage.¹⁴ More importantly, the majority of the world population is unaware of statelessness and the problem related to it.¹⁵ That is why stateless persons are mostly considered as forgotten, and their identification remains a series challenge.¹⁶ In essence, a person's nationality gives them a sense of identity, and grants them a number of rights, but due to lack of nationality they cannot exercise their rights under the operation of the law.¹⁷ Consequently, stateless persons are more susceptible to human rights violations, and they face legal challenges primarily related to access to birth registration, identity documentation, education, health care, legal employment, property ownership, political participation, and freedom of movement.¹⁸ In order to address the problem of statelessness international community has been working for a long time.¹⁹ Accordingly, some international Conventions affirmed that all types of statelessness should be put an end, and the right

to nationality has been protected under various international and regional instruments.²⁰

However, based on international law of statelessness definition it is not possible to provide statics on how many peoples are stateless in the horn of Africa²¹ including Ethiopia. A research revealed that there are potential stateless individuals/groups at risk of statelessness in Ethiopia,²² but due to lack of continuous assessment of the condition, the level of the problem remains unknown.²³ For instance, the conflict between Ethiopia and Eritrea from 1990 to 2000 created more than 75,000 stateless persons (people of Eritrean descent and of mixed Eritrean-Ethiopian descent living in Ethiopia) due to mass expulsion and being stripped of their civil status.²⁴ In this case, Ethiopia deprived their nationality rights due to unclear nationality status, and lax laws against statelessness following Eritrea's formation.²⁵ Nowadays, even if there is high tension between Ethiopia and Eritrea, there is a fear that history repeats itself.

The recent forcibly displaced high number of Internally Displaced Persons (IDPs) situation in Ethiopia also challenges the right to

¹⁰ R.P. Choudhary, *supra* note 2

¹¹ Factsheet, *supra* note 10

¹² Ibid

¹³ USA for UNHCTR, (August 22, 2023), available at: <<https://www.unrefugees.org/news/statelessness-explained/>> [accessed on 29 May, 2025]

¹⁴ R.P. Choudhary, *supra* note 2

¹⁵ Samuel Bizen Abraha, *supra* note 3, p.1.

¹⁶ ISL Qatar Model United Nations, 'Humans Rights Commission: Measures to Eradicate and Prevent Statelessness', Fourth Annual ISLMUN Conference (12-13 January 2018), p.3

¹⁷ Samuel Bizen Abraha, *supra* note 3

¹⁸ Ibid

¹⁹ Petter Danckwardt, 'Statelessness and the Rewriting of Rights: The Legal Development in Sweden as a Case inPoint', (16 April, 2025), available at:

<<https://www.ejiltalk.org/statelessness-and-the-rewriting-of-rights-the-legal-development-in-sweden-as-a-case-in-point/>> [accessed on 30 May, 2025]

²⁰ Ibid

²¹ UNHCR, 'Citizenship and Statelessness in the Horn of Africa', (December 2021), p.1

²² Ibid

²³ Ibid

²⁴ Human Rights Watch (HRW), The Horn of Africa War: Mass Expulsions and the Nationality Issue, A1503, (30 January 2003), available at:

<<https://www.refworld.org/reference/countryrep/hrw/2003/en/18587>> [accessed 22 June 2025]

²⁵ 'Ethiopia-Eritrea: Statelessness and State Succession', available at: <<https://www.fmreview.org/southwick/>> [accessed 22 June 2025]

nationality that can lead to statelessness.²⁶ Similarly, for refugees in protracted situation documentation is difficult for those who fled into Ethiopia and never registered as refugees.²⁷ In this case, when the nationality of the refugees was not determined for long period of time, there may be a chance of statelessness. Other groups at risk of statelessness in Ethiopia are cross-border populations, such as nomadic and pastoralist communities, as well as those affected by border disputes.²⁸ Thus, the aforementioned facts show the seriousness of statelessness in Ethiopia that needs more attention. In addition, B Manby affirms that stateless persons are among the most vulnerable category of persons in the African society, as they cannot vote, stand for governmental office, enroll their children in schools, travel free, or own property, etc.²⁹ This indicates that like refugees, women, disabled persons, children, IDPs, and others, stateless persons are in need of special protection. However, in Ethiopia there is no specific law that prohibits all forms of statelessness, and even in the existing laws there is no single provision that explicitly protect the rights of stateless persons. The purpose of this article is examining the protection against stateless persons in Ethiopia.

Section one explores the definition of Stateless Persons. Section two examines Stateless Person's Protection under International/Regional Law. Section three dealt with Protecting Stateless Persons at National Level. The Federal Democratic Republic of Ethiopia Constitution, Ethiopian Nationality Proclamation No.378/2003, and other related laws briefly discussed in this section. The article finalized with the conclusion.

1. Definition of Stateless Person

Today, the absence of uniform definition over who specifically is to be considered as "stateless person" remains a key problem.³⁰ This is because statelessness varies from state to state.³¹ The term stateless person is for the first time defined under Article 1 of the 1954 Convention Relating to the Status of Stateless Persons (CRSSP) as a person who is not considered as a national by any state under the operation of its law.³² This definition being considered as part of Customary International Law,³³ hence no state can deny the existence of stateless people, or have an opposing definition.³⁴ According to this provision the person concerned is not considered as a national by any State ... under the operation of its law, and by any State,³⁵ even though the term is not used in the Convention, the person

²⁶ UNHCR, 'Ethiopia Refugees and Internally Displaced Persons', (31 January, 2025)

²⁷ UNHCR, 'Statelessness and Citizenship in the East African Community', (September 2018)

²⁸ For example, the "Ilemi triangle" on the Kenya-South Sudan-Ethiopia border was never clearly delineated during the colonial period and is claimed by all three countries.

²⁹ B Manby, *Citizen Ship Law in Africa: A Comparative Study*, (2010), p.1

³⁰ Bianchini, K, "Protecting Stateless Persons: The Implementation of the Convention Relating to the Status of Stateless Persons across EU States", Brill/Nijhoff, (22 Mar 2018). DOI: https://doi.org/10.1163/9789004362901_010.

³¹ Ibid

³² The 1954 Convention Relating to the Status of Stateless Persons, (1954), Article 1 (1) (CRSSP)

³³ International Law Commission (ILC), Draft Articles on Diplomatic Protection with Commentaries, as contained in Report of the International Law Commission: Fifth-English Session, UN Doc A/61/10,1 (Oct 2006),pp.48-49

³⁴ The Rights of Non-Citizens: Refugees and the Stateless, available at: <<https://shapesea.com/wp-content/uploads/2016/02/HR-Textbook-Ch-6-Refugees-and-Stateless-Ed-1.pdf>> [accessed on 25 April 2025]

³⁵ Amsterdam International Law Clinic, the Concept of 'Stateless Persons' in European Union Law: Final Report Sponsored by the Euro-Mediterranean Human

who fall within the scope of Article 1 (1) are sometimes referred to as *de jure*.³⁶ Accordingly, the person who qualifies under this definition is referred as *de jure* stateless. As a result, the appraisal of the term *de jure* dependent on a point of law, or the existence (absence) of a formal bond of nationality without pausing to consider the quality or effectiveness of citizenship.³⁷ Commonly, *de jure* stateless persons are persons who are not nationals of any State, either at birth or subsequently they were not given any nationality, or during their lifetime they lost their own nationality and did not acquire a new one.³⁸

Besides, *de facto* statelessness occurs when the rights protection that the state provides for its nationals is ineffective.³⁹ As a result, *de facto* stateless persons are those who, after having left the country of which they were nationals, are no longer protected and assisted by their national authorities. This is because either those authorities refuse to provide them assistance and protection, or they themselves reject the protection and assistance of their home countries of which they are nationals.⁴⁰ Consequently, *de facto* stateless persons are

persons outside the country of their nationality who are unable or, for valid reasons are unwilling to avail themselves of the protection of that country.⁴¹ Persons who have more than one nationality are *de facto* stateless only if they are outside all the countries of their nationality and are unable, or for valid reasons, are unwilling to avail themselves of the protection of any of those countries.⁴² In sum, since the definition under CRSSP considered as part of Customary International Law, Ethiopia cannot deny their existence, and has the duty to accept the definition.

2. Stateless Person's Protection under International/Regional Law

Basically, after World War II the need for international action to protect stateless persons became apparent.⁴³ The 1954 Convention Relating to the Status of Stateless Persons (CRSSP), which Ethiopia not state party is the only international treaty particularly regulating the standards of treatments for stateless persons.⁴⁴ It plays a crucial role in ensuring the protection of susceptible stateless persons.⁴⁵ According to Article 1 (1) of CRSSP stateless person is a person not considered as national under the law of any state.⁴⁶ In addition, the

Rights Monitor (August 2017), pp.9-10, available at: <<https://euromedmonitor.org/uploads/reports/Stateless-EN.pdf>> [accessed on 25 April 2025]

³⁶ UNHCR, Guidelines on Statelessness No.1: The definition of "Stateless Person" in Article 1(1) of the 1954 Convention Relating to the Status of Stateless Persons, HCR/GS/12/01, (20 February 2012)

³⁷ Van Waas, L.: 'Nationality matters: *Statelessness under International Law*', (2008) p. 20

³⁸ A Study of Statelessness United Nations, Lake Success - New York E/1112; E/1112/Add.1 (August 1949), p.7, available at: <<https://www.unhcr.org/media/study-statelessness-united-nations-august-1949-lake-success-new-york>> [accessed on 17 April 2025]

³⁹ Kun-Feng Tu, 'The Right of Stateless Peoples-Reconsidering Statelessness, Rightlessness, and the Right to Have Rights' A Thesis submitted in Partial

Fulfillment of the Requirement for the Degree of Doctor of Philosophy in Politics and International Studies *University of Warwick*, Department of Politics and International Studies (June 2022), p.27

⁴⁰Eric Fripp and Katia Bianchini, 'Statelessness', available at: <<https://rightsine exile.org/special-issues/statelessness/>> [accessed on 17 April 2025]

⁴¹UNHCR, 'Expert Meeting-UNHCR and 'De facto' Statelessness', (2010), available at: <<http://www.unhcr.org/4bc2ddeb9.html>> [accessed on 16 April, 2025]

⁴² Ibid

⁴³ UNHCR, Handbook on Protection of Stateless Persons, under the 1954 Convention Relating to the Status of Stateless Persons, Geneva, (2014), P.3

⁴⁴ CRSSP, *supra* note 33

⁴⁵ UNHCR, *supra* note 37

⁴⁶ Id, p.11

Convention under Article 1 (2) outlined that the conditions under which a person who fit the definition of stateless person are excluded from the protection of this treaty.⁴⁷ According to this provision, the Convention does not apply to persons there are series reasons they have committed against peace, war crime or crime against humanity,⁴⁸ or they have committed a series nonpolitical crime outside their country of residence prior to their admission to that country,⁴⁹ or they have been guilty of acts contrary to the purpose and principles of United Nations.⁵⁰

Bestowing to the CRSSP, those who meet the definition are entitled to certain rights and obligations contained there.⁵¹ It also does not cover *de facto* stateless persons; however they are entitled to protection under international human rights law.⁵² Additionally, CRSSP delineates the minimal set of human rights to which stateless persons are entitled. These include but are not restricted to the right to education,⁵³ shelter,⁵⁴ work,⁵⁵ association,⁵⁶ access to courts,⁵⁷ freedom from religion,⁵⁸ the right to administrative assistance,⁵⁹ a right to identity,⁶⁰ travel document,⁶¹ freedom of movement,⁶² the right to exempt from reciprocity requirement,⁶³ etc. the CRSSP also

obliges all stateless individuals to obey the laws and rules of the country in which they are located.⁶⁴ Likewise, some obligations are imposed on state parties to the convention in relation to facilitating assimilation and naturalization of stateless persons.⁶⁵

The 1961 Convention on the Reduction of Statelessness (CRS) is also the other main international instrument that aims to prevent and reduce statelessness by ensuring every individual's right to nationality.⁶⁶ According to Article 1 of the CRS contracting state shall grant its nationality to a person born on its territory who would otherwise be stateless.⁶⁷ This means that a child is entitled to the nationality of the country where they are born if that child does not have any other nationality or is not able to acquire any other nationality. States are required "to grant their nationality to children who would otherwise be stateless and have ties with them through either birth in the territory or descent" However; as guaranteed under Article 1 (2) of the CRS contracting states are permitted to set certain optional conditions before granting nationality to a person born in the territory who would otherwise stateless.⁶⁸

⁴⁷ CRSSP, *supra* note 33, Article 1 (2)

⁴⁸ Id, Article 1 (2) (a)

⁴⁹ Id, Article 1 (2) (b)

⁵⁰ Id, Article 1 (2) (c), See also Article 1 (2) (I and ii), circumstances that led the Convention does not apply to specific persons.

⁵¹ UNHCR, 'Protecting the Rights of Stateless Persons: The 1954 Convention relating to the Status of Stateless Persons', Geneva (September 2010),p.3, available at: <<https://www.unhcr.org/wp-content/uploads/sites/91/2024/01/ENUNHCR-Protecting-the-Rights-of-Stateless-Persons.pdf>> accessed on 25 April 2025

⁵² Ibid

⁵³ CRSSP, *supra* note 33, Article 22

⁵⁴ Id, Article 21

⁵⁵ Id, Article 17, 18, and 19

⁵⁶ Id, Article 15

⁵⁷ Id, Article 16

⁵⁸ Id, Article 4

⁵⁹ Id, Article 25

⁶⁰ Id, Article 27

⁶¹ Id, Article 28

⁶² Id, Article 26

⁶³ Id, Article 7

⁶⁴ Id, Article 2

⁶⁵ Id, Article 32

⁶⁶ The 1961 Convention on the Reduction of Statelessness, (1961) (CRS)

⁶⁷ Id, Article 1(1)

⁶⁸ Id, Article 1 (2) (a-d), these requirements include:

Furthermore, CRS establish the circumstances in which loss and deprivation of nationality are bearable.⁶⁹ According to this convention an individual should not lose or be deprived of his/her nationality, if that led to stateless.⁷⁰ However, there are two circumstances where contracting states are allowed to withdraw nationality or loss of nationality is permitted: if a person resides abroad for at least seven consecutive years⁷¹ and where persons who were born abroad and are not resident in the State when they attain majority.⁷² Similarly, there are some limited exceptions whereby contracting states may lawfully deprive a person's of nationality, even where it may render statelessness, such as where the person obtained their nationality by misrepresentation or fraud,⁷³ and when a person show disloyalty to the state.⁷⁴

In addition, the CRS prohibits deprivation of a person or group of person of their nationality based on racial, ethnic, religious, or political grounds.⁷⁵ Unlike the above provisions, there are no exceptions to this prohibition as

enshrined under Article 9. Lastly, the convention describes measures to avoid statelessness in the event of state succession, including the cession of territory from one state to another and the creation of new states.⁷⁶ Essentially, disputes between states concerning the interpretation or application of the convention, which cannot be settled by other means, are to be submitted to the International Court of Justice.⁷⁷

Furthermore, international human rights instruments also safeguarded human rights for every person, including stateless persons. In this context, the right to stateless persons can be protected through the right to nationality guaranteed as a fundamental right in the each treaty.⁷⁸ At United Nation's level the first effort to address the problem of statelessness is the Universal Declaration of Human Rights (UDHR).⁷⁹ According to Article 15 of the UDHR, every state has the rights to nationality⁸⁰ and that no one shall be arbitrary neither deprived of their nationality nor denied the right to change their nationality.⁸¹ This

That the person has always been stateless, and/or the person has habitually lived in the territory of the state for up to five years, or/and that the person has not been convicted of an offence against national security nor been sentenced to imprisonment for 5 or more years on a criminal charge.

⁶⁹ UNHCR, Guidelines No.5, (2020), para.101

⁷⁰ CRS, *supra* note 67, Article 7 and Article 8 (1)

⁷¹ Id, Article 7 (4)

⁷² Id, Article 7(5)

⁷³ Id, Article 8 (2)

⁷⁴ Id, Article 8 (3) provides that:

Notwithstanding the provisions of paragraph 1 of this Article, a Contracting State may retain the right to deprive a person of his nationality, if at the time of signature, ratification or accession it specifies its retention of such right on one or more of the following grounds, being grounds existing in its national law at that time: (a) that, inconsistently with his duty of loyalty to the Contracting State, the person (i) has, in disregard

of an express prohibition by the Contracting State rendered or continued to render services to, or received or continued to receive emoluments from, another State, or (ii) has conducted himself in a manner seriously prejudicial to the vital interests of the State; (b) that the person has taken an oath, or made a formal declaration, of allegiance to another State, or given definite evidence of his determination to repudiate his allegiance to the Contracting State.

⁷⁵ Id, Article 9

⁷⁶ Id, Article 10 (2)

⁷⁷ Id, Article 15

⁷⁸ The Institute on Statelessness and Inclusion (ISI), 'The World's Stateless: Deprivation of Nationality', (March 2020), p. 19, available at: <https://files.institutesi.org/WORLD'S_STATELESS_2020.pdf> [accessed on 25 April 2025]

⁷⁹ Universal Declaration of Human Rights (adopted 10 December 1948) UNGA res 217 A(III) (UDHR)

⁸⁰ Id, Article 15 (1)

⁸¹ Id, Article 15 (2)

shows statelessness, or the condition of having no legal or effective citizenship is a critical problem.⁸² At this juncture, as the term citizenship and nationality are synonymous, these words can be used interchangeably.⁸³ According to Monica Gancer, the UDHR at the same time recognizes both the right to one's nationality and the right to change one's nationality, and the prohibition of arbitrary deprivation of these rights.⁸⁴ Similarly, the 1957 Convention on the Nationality of Married Women⁸⁵ repeated the right to a nationality and the right not to be deprived of a nationality guaranteed under UDHR.⁸⁶ Thus, despite certain limitations, the UDHR attempts to grant the right to acquire a nationality to stateless persons.⁸⁷

Afterward, several international human rights instruments contain provisions targeted to protect stateless persons. Principally, the International Covenant on Civil and Political Rights (ICCPR)⁸⁸ that Ethiopia is state party⁸⁹ recognize additional and specific rights of the child.⁹⁰ The ICCPR in Article 24 (1)

specifically prohibits discrimination against stateless children or born from stateless parents on any ground. It also safeguards the right of every child including stateless child for registration immediately after birth. State parties are obliged to ensure that all children born in their territory are registered that protect them from statelessness. Similarly, the ICCPR under Article 24 (3) protects the rights of every child to obtain nationality aiming to prevent them from stateless. Similarly, the Convention on the Rights of the Child (CRC)⁹¹ to which Ethiopia is member state⁹² protects every child from being stateless. It asserts that every child has the right to acquire a nationality,⁹³ and right to be registered immediately after birth.⁹⁴ The CRC under Article 7 (2) highlights the obligation of States Parties to guarantee that no child is stateless. Pursuant to Article 8 of the CRC, states are required to respect the child's right to preserve his or her identity, including nationality, name, and family relations as recognized by law without unlawful

⁸² David Weissbrodt and Clay Collins, 'The Human Rights of Stateless Persons', *Human Rights Quarterly*, Vol. 28 (2006) 245-276, P. 246, available at: <http://www.mcrg.ac.in/RLS_Migration/Reading_List/Module_E/5.%20The%20Human%20Rights%20of%20Stateless%20Persons.pdf> [accessed on 16 April 2025]

⁸³ Ibid

⁸⁴ Mónica Gancer, 'The Right to a Nationality as a Human Right', (2014), p.15, available at: <<https://doi.org/10.5553/HYIEL/266627012014002001002>> [accessed on 25 April 2025]

⁸⁵ UN General Assembly, Convention of the Nationality of Married Women, A/RES/1040, UN General Assembly, (29 January 1957), available at: <<https://www.refworld.org/legal/resolution/unga/1957/en/7204>> [accessed 16 June 2025]

⁸⁶ UNHCR, 'Nationality and Statelessness: A Handbook for Parliamentarians', *Inter-Parliamentary Union*, (2005), P. 13, available at: <<https://peacemaker.un.org/sites/default/files/document/files/2022/07/nationalitystatelessnesshandbookenglishunhcr2005j0.pdf>> [accessed on 20 April 2025]

⁸⁷ Mónica Gancer, *supra* note 85. See also Convention on the Nationality of Married Women (1957)

⁸⁸ International Covenant on Civil and Political Rights (adopted 16 December 1966 and entered into force 23 March 1976) 999 UNTS 171 (ICCPR)

⁸⁹ Ethiopia acceded to ICCPR on 11 June 1993

⁹⁰ ICCPR, *supra* note 89, Article 24 state that:

1) every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State. 2) Every child shall be registered immediately after birth and shall have a name. 3) Every child has the right to acquire a nationality.

⁹¹ Convention on the Rights of the Child (adopted on 20 November 1989 entry into force 2 September 1990) (CRC)

⁹² Ethiopia acceded to CRC on 14 May, 1991

⁹³ CRC, *supra* note 92, Article 24 (3)

⁹⁴ Id, Article 7 (1)

interference,⁹⁵ and deliver appropriate assistant and protection to illegally deprived child to re-establish his/her identity.⁹⁶

In addition, Convention on the Rights of Persons with Disabilities (CRPD)⁹⁷ under Article 18 affirms the right to a nationality for persons with disabilities⁹⁸, Convention on the Elimination of All Forms of Racial Discrimination (CERD)⁹⁹ under its Article 5 (d) (iii) guarantees the right to a nationality to all people including stateless persons, regardless of race, color, or national, or ethnic origin,¹⁰⁰ International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICMW)¹⁰¹ under Article 29 also provides the right to a nationality for children of migrant workers,¹⁰² and Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)¹⁰³ under Article 9 grants women the same rights as men to acquire, change, or retain their nationality, as well as with regard to the

nationality of their children.¹⁰⁴ The International Covenant on Economic, Social, and Cultural Rights (ICESCR),¹⁰⁵ Ethiopia acceded on 11 June, 1993 safeguards everyone's rights including stateless persons, irrespective of citizenship, the right to work (Article 6), the right to labor under just and favorable conditions (Article 7), the right to form trade unions (Article 8), the right to receive social security (Article 9), the right to enjoy an adequate standards of living (Article 11), the right to health (Article 12), the right to education (Article 13), and the right to engage in cultural activities (Article 15).

Outstandingly, the protection for stateless individuals further promised during armed conflict. For instance, the Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War¹⁰⁶ specifically under Article 44 states that “in applying the measures of control mentioned in the present Convention, the Detaining Power shall not treat

⁹⁵ Id Article 8 (1)

⁹⁶ Id, Article 8 (2)

⁹⁷ Ethiopia acceded to CRPD on 7 July, 2010

⁹⁸ Convention on the Rights of Persons with Disabilities (adopted on 13 December 2006 and entered into force on 3 May 2008) (CRPD), Article 18 states that:

“(1) States Parties shall recognize the rights of persons with disabilities to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others, including by ensuring that persons with disabilities: (a) Have the right to acquire and change a nationality and are not deprived of their nationality arbitrarily or on the basis of disability; (b) Are not deprived, on the basis of disability, of their ability to obtain, possess and utilize documentation of their nationality or other documentation of identification, or to utilize relevant processes such as immigration proceedings, that may be needed to facilitate exercise of the right to liberty of movement; (c) Are free to leave any country, including their own; (d) Are not deprived, arbitrarily or on the basis of disability, of the right to enter their own

country. (2) Children with disabilities shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by their parents.”

⁹⁹ Ethiopia acceded to CERD on 23 June, 1976

¹⁰⁰ Convention on the Elimination of All Forms of Racial Discrimination (adopted in the 1965 and entered into force in 1969) (ICERD)

¹⁰¹ Ethiopia is state party to ICMW

¹⁰² International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Adopted on 18 December 1990 and entered into force on 1 July 2003) (ICMW)

¹⁰³ Ethiopia acceded to CEDAW on 10 September, 1981

¹⁰⁴ Convention on the Elimination of All Forms of Discrimination against Women (adopted on 18 December 1979 and entered in to force on 3 September 1981) (CEDAW)

¹⁰⁵ International Covenant on Economic, Social, and Cultural Rights (adopted on 16 December 1966 and entered into force on 3 January 1976) (ICESCR)

¹⁰⁶ Ethiopia acceded to ICESCR on 2 October, 1969

as enemy aliens exclusively on the basis of their nationality *de jure* of an enemy State, refugees who do not, in fact, enjoy the protection of any government.”¹⁰⁷ This shows that in times of armed conflict, stateless persons are entitled to very limited protection. The 1977 Protocol I Additional to the 1949 Geneva Convention¹⁰⁸ under Article 73 identify protected persons are only those who were before the beginning of hostilities regarded as stateless persons or refugees.¹⁰⁹ In this context, stateless persons are entitled to very limited protection in time of war or other armed conflict. In addition, Ethiopia is a State Party to the 1951 Refugee Convention¹¹⁰ and its 1967 Protocol¹¹¹ protect the rights of stateless persons who are refugees, but not all stateless persons/some stateless persons are refugees. Thus, stateless persons who are not refugees benefited from international human rights treaties.

Moreover, at regional level there are also instruments that protect the rights of stateless persons either explicitly or impliedly.¹¹² For instance, in the African Human Rights System there are also treaties that deal with the issue of statelessness. The Protocol to the African Charter on Human and People’s Rights Relating to the Specific Aspects of the Right to a Nationality and the Eradication of Statelessness in Africa is one among others adopted in 2024¹¹³ strive for solution to legal gaps that make stateless persons exercise their right to nationality and enable to access other fundamental human rights. On the other hand, the African Charter on Human and People’s Rights (African Charter) adopted in 1981 and entered in to force in 1986¹¹⁴ does not infer any specific provision on right of nationality. However, the African Charter contains numerous provisions that can be applied to protect the right to nationality that can be engaged to protect the right of stateless

¹⁰⁷ Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War (adopted on 12 August 1949 and entered in to force on 21 October, 1950)

¹⁰⁸ Ethiopia ratified Geneva Convention IV on 8 April, 1994

¹⁰⁹ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol 1) (adopted on 8 June 1977 and entered in to force on 7 December 1979), Article 73 states that:

Persons who, before the beginning of hostilities, were considered as stateless persons or refugees under the relevant international instruments accepted by the Parties concerned or under the national legislation of the State of refuge or State of residence shall be protected persons within the meaning of Parts I and III of the Fourth Convention, in all circumstances and without any adverse distinction.

¹¹⁰ Convention Relating to the Status of Refugees (adopted 28 July 1951 and entered into force 22 April 1954) 189 UNTS 137, Article 1 (A) (2) states that it includes in the refugee definition “those not having a nationality and being outside their country of former

habitual residence” who are unable or, due to their fear of persecution, unwilling to return to their former residence.

¹¹¹ Protocol Relating to the Status of Refugees (adopted 31 January 1967 and entered into force 4 October 1967) 606 UNTS 267

¹¹² European Convention on Nationality, ETS 166–Convention on Nationality, 6.XI.1997, European Treaty Series- No. 166, Strasbourg, (November, 1997), Article 5 (acquisition of nationality), Article 7 (loss of nationality), and Article 4 (four principles of rules of nationality), See also The American Convention on Human Rights, adopted at San Jose Costa Rica on 22 November 1969. Entry into force: 18 July, 1978, Article 20 (2) (right to nationality), and Article 20 (3) (prohibits arbitrary deprivation of nationality).

¹¹³ The Protocol to the African Charter on Human and People’s Rights Relating to the Specific Aspects of the Right to a Nationality and the Eradication of Statelessness in Africa, (18 February, 2024)

¹¹⁴ African (Banjul) Charter on Human and People’s Rights, (Adopted 27 June 1981 and entered into force 21 October 1986) (African Charter)

persons. For example, the charter under Article 12 prohibit mass expulsion of non-nationals based on discriminatory grounds such as national, racial, ethnic, or religious.¹¹⁵ According to this provision, non-nationals including stateless persons are prohibited from expulsion based on any grounds. The right human dignity (Article 5), the African Commission on Human and People's Rights also interpreted Article 5 of the African Charter under which the right to nationality is recognized.¹¹⁶ The right not to be discriminated (Article 2), the right to equality before the law (Article 3), the right to due process of law and fair trial (Article 7) are also recognized to protect the right of stateless persons in the African Charter. Thus, any state party to the African Charter including Ethiopia shall respect and ensure the rights assured for stateless persons there.

African Charter on the Rights and Welfare of the Child (ACRWC or Children's Charter)¹¹⁷ is regional human rights instrument that has been ratified by all African Union member states including Ethiopia also assured the right of stateless children. The ACRWC similar to

CRC recognizes for every child the right to be registered immediately after birth (Article 6 (2), and the right to nationality (Article 6 (3). It also stipulates that state parties to the Charter are required to ensure their constitutional legislation acknowledges the principles according to which a child shall obtain the nationality of the State in which he/she are born, provided that, at the time of the child's birth, they are not conferred nationality by any other State in accordance with its laws.¹¹⁸

Moreover, Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol) which was adopted in July, 2003 and entered in to force in 2005 that deals only with rights of women¹¹⁹ under Article 6 recognized women's shall have equal rights to nationality with men which provides that a woman shall have the right to retain her nationality or to acquire the nationality of her husband,¹²⁰ and a woman and a man shall have equal rights with regard to the nationality of their children, unless it against a provision in national legislation or is contrary to national security interests.¹²¹ The rights of stateless persons are also safeguarded in the

¹¹⁵ Id, Article 12

¹¹⁶ Id, Article 5 provides that: "every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited." See also Communication No. 97/93 *John Modise v. State of Botswana*, in which it concluded that Botswana, confining Mr Modise in a no man's land for years simply to deny nationality violated Article 5 of the African Charter. See also Communication No. 212/98 *Amnesty International v. State of Zambia*, in which it says that "in forcing the plaintiffs (William Banda and John Chinula) to live as stateless in degrading conditions, the Zambian government ... deprived them of affection from their families and deprived families the support of these men, and that this constitutes a violation of the dignity of the human person, in violation of Article

5 ". See also Communication No. 211/98 *Legal Resources Foundation v. State of Zambia* which states the famous constitutional amendment Zambian government which required anyone wishing to run for the presidency he proves that both his parents are Zambians by birth or descent (amendment clearly intended to prevent former President Kenneth Kaunda to run for re-election) contrary to Articles 2, 3 and 13 of the African Charter.

¹¹⁷ African Charter on the Rights and Welfare of the Child (adopted July 1990 and entered in to force on 29 November, 1999 (ACRWC)

¹¹⁸ Id, Article 6 (4)

¹¹⁹ Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, (adopted on 11th July 2003 and entered into force on 25 November, 2005)

¹²⁰Id, Article 6 (g)

¹²¹ Id, Article 6 (h)

African Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)¹²² to which Ethiopia member state, but yet not fully domesticated.¹²³ Ethiopia is a state party to the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa that protect the rights of stateless refugees.¹²⁴ Moreover, African Commission on Human and Peoples' Rights adopted two resolutions on the right to nationality, specifically Resolution 234: Resolution on the Right to Nationality¹²⁵ adopted in 2013 which assigned the task of carrying out an in-depth study on issues relating to the right to nationality to the Special Rapporteur on Refugees, Asylum Seekers, Migrants and IDPs in Africa.¹²⁶ The second one is Resolution 277: Resolution on the drafting of a Protocol to the African Charter on Human and Peoples' Rights on the Right to Nationality in Africa¹²⁷ adopted in 2014 which the final version of the study on The Right to Nationality in Africa was presented and assigned the Special Rapporteur the task of drafting a Protocol to the African Charter on the right to a Nationality and the eradication of Statelessness.¹²⁸ Overall, every stateless persons as right holders in the Ethiopian territory have right to benefit from the above aforementioned international and regional human right treaties, and Ethiopia as state duty

bearer shall respect, protect, and fulfill all the duties incorporated in the above instruments.

3. Protecting Stateless Persons at National Level

3.1.The Federal Democratic Republic of Ethiopia Constitution

After the down fall of Derg regime, the 1995 Federal Democratic Republic of Ethiopia (here after FDRE Constitution) was adopted on the 8th day of December, 1994 and entered into force as of the 21st day of August, 1995.¹²⁹ It adopted with 106 Articles, most of the provisions under chapter three of fundamental rights and freedoms are entitled to every person including foreigners (or stateless persons), except a few provisions that provides specific rights only to Ethiopian citizens. The FDRE Constitution does not explicitly indicate the term 'statelessness', but it does mention only nationality without defining it. However, the protection against statelessness can be addressed through interpreting the provisions that deals with the nationality. The FDRE Constitution explicitly guaranteed the right to nationality under Article 6. According to this provision:

- (1) Any person of either sex shall be an Ethiopian national where both or either parent is Ethiopian.
- (2) Foreign nationals may acquire Ethiopian nationality.
- (3)

¹²² African Convention for the Protection and Assistance of Internally Displaced Persons in Africa (adopted 23 October, 2009 and entered in to force on 6 December, 2012) (Kampala Convention)

¹²³ Ethiopia ratified Kampala Convention on February 2020

¹²⁴ Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, (adopted on 10 September 1969 and entered in to force 20 June,1974)

¹²⁵ ACHPR/Res.234 (LIII) 2013: Resolution on the Right to Nationality, The African Commission on Human and

Peoples' Rights, Meeting at its 53rd Ordinary Session held in Banjul, Gambia (9 to 23 April 2013)

¹²⁶ Ibid

¹²⁷ ACHPR/ Res.277 (LV) 2014 : 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 in Luanda, Angola (28 April to 12 May 2014)

¹²⁸ Ibid

¹²⁹ Constitution of the Federal Democratic Republic of Ethiopia Proclamation No.1/1995 (FDRE Constitution)

Particulars relating to nationality shall be determined by law.

According to sub article 1 any person, regardless of gender who has born from Ethiopian mother or/and father in Ethiopia or abroad shall be considered as an Ethiopian national. This indicates that any person shall be an Ethiopian national by descent, wherever both or either of his/her parent is Ethiopian, and their nationality shall not be deprived arbitrarily. However, it does not prohibit dual citizen ship. It also permits foreign nationals to acquire Ethiopian nationality through naturalization, and the details relating to nationality is left to be determined by law. The FDRE Constitution under sub article 2 simply confirms that foreigners have the right to obtain Ethiopian nationality, but the conditions under which they can acquire Ethiopian citizen ship not identified. However, as indicated under sub article 3 the specific law with respect to nationality was enacted as per Ethiopian Nationality Proclamation No.378/2003.

The FDRE Constitution in addition recognized the right to nationality under Article 32 as any Ethiopian or foreign national lawfully in Ethiopia has, within the national territory, the right to liberty of movement and freedom to choose his residence, as well as the freedom to leave the country at any time he wishes to.¹³⁰ Likewise, the right to nationality is stipulated under Article 33 of the FDRE Constitution. According to this provision:

(1)No Ethiopian national shall be deprived of his or her Ethiopian nationality against his or her will. Marriage of an Ethiopian national of either sex to a foreign national shall not annul his or her Ethiopian

nationality. (2) Every Ethiopian national has the right to the enjoyment of all rights, protection and benefits derived from Ethiopian nationality as prescribed by law. (3) Any national has the right to change his Ethiopian nationality. (4) Ethiopian nationality may be conferred upon foreigners in accordance with law enacted and procedures established consistent with international agreements ratified by Ethiopia.

The FDRE Constitution under Article 33 (1) strongly prohibits involuntary deprivation of Ethiopian nationality. This means every Ethiopian national has the right to renounce his/her citizen ship, but it should be based on their consent. It also affirms that marriage to a foreign national does not annul Ethiopian nationality. The FDRE Constitution under sub article 3 also allows anyone can change their Ethiopian nationality. According to Article 33 (4) Ethiopian nationality may be conferred upon foreigners in accordance with the law enacted and procedures established consistent with international agreements ratified by Ethiopia. Similarly, under Article 36 FDRE Constitution also ensures that every child has the right to nationality.¹³¹ However, there is no single provision in the FDRE Constitution that provide protection against stateless children born with in territory of Ethiopia. In addition, the rights of stateless persons are guaranteed under provisions of the constitution principally the rights assured for every person, non-discrimination (Article 25), the right to life (Article 15), the right of the security of person (Article 16), right to liberty (Article 17), prohibition against inhuman treatment (Article 18), etc.

¹³⁰ Id, Article 32 (1)

¹³¹ Id, Article 36 (1)

Overall, with respect to stateless person's protections assumed in the FDRE Constitution there are two possible limitations come across. First, the Constitution does not explicitly mention or provide protections specifically for stateless children born within Ethiopia. Second, it lacks provisions ensuring the prevention of statelessness, especially for children born to parents who are themselves stateless, or whose nationality is undetermined.

Moreover, to scrutinize the legal protection of stateless persons under FDRE Constitution, several international and regional treaties those provide legal standards with respect to statelessness and nationality/citizen ship to which Ethiopia is state party can be used. According to Article 9 of the FDRE Constitution all international/regional/agreements ratified by Ethiopia are part and parcel of the law of the land.¹³² In addition, as stipulated under Article 13 fundamental rights and freedoms including the right to nationality specified under chapter three of the FDRE Constitution shall be interpreted in accordance with international human rights instruments adopted by Ethiopia, such as ICCPR, CEDAW, CERD, CRC, ICESCR, ACWRC, African Charter, etc.

3.2.Ethiopian Nationality Proclamation No.378/2003

The Ethiopian Nationality Law of 1930 (as amended) for the first time repealed in 2003 by the Ethiopian Nationality Proclamation No.378/2003 (here after Ethiopian Nationality Proclamation or ENP)¹³³ as per FDRE

Constitution which was entered into force as of the 23rd of December, 20023. It was enacted to provide a clear legal framework regarding Ethiopian citizenship and nationality. It also provides all inclusive frame work for individuals to acquire Ethiopian nationality. Ethiopian nationality can be acquired in two ways, namely acquisition by descent, and by law.

3.2.1. Acquisition of Ethiopian Nationality by Descent

Acquisition by Descent is known as nationality acquired by birth right which is typically practiced in Ethiopia. As provided under Article 3 of the ENP any one can acquire Ethiopian nationality automatically by birth in case he/she born everywhere from at least one parent who is an Ethiopian national.¹³⁴ Bronwen Manby asserts that nationality by descent is when an individual acquires nationality on the basis of his/her father's and/or mother's nationality, regardless of place of birth.¹³⁵ This reflects the principle of *jus sanguinis* (right of blood), born to parents with Ethiopian nationality.¹³⁶ However, ENP does not address an individual who born in Ethiopia from non-Ethiopians, that leads to otherwise stateless.

The ENP also insists that an infant found abandoned in Ethiopia is presumed to have been born to an Ethiopian parent and is granted nationality by descent, unless proved to be a foreign national.¹³⁷ According to this provision abandoned infant discovered in the Ethiopian soil (*jus soil*) whose parents are unknown presumed to have been born to an Ethiopian

¹³² Id, Article 9 (4)

¹³³ Ethiopian Nationality Proclamation No.378/2003, Article 25 (ENP)

¹³⁴ Id, Article 3 (1)

¹³⁵ Bronwen Manby, 'Citizen ship law in Africa: A Comparative Study', *Open Society Foundations*, (January 2016)

¹³⁶ Ibid

¹³⁷ ENP, *supra* note 134, Article 3 (2)

parent and automatically granted Ethiopian nationality.¹³⁸ The only protection against statelessness is provided for children of unknown parents. However, ENP do not protect the child born in Ethiopia of parents who themselves are stateless, or their nationality unknown, or who cannot transmit nationality to their children because of gender discrimination in the law of countries of origin.¹³⁹ Therefore, in order to fill such gaps the Ethiopian government must amend the ENP in considering the child who is not protected before.

Further, it does not define the upper age of infant, as far as the presumption of Ethiopian nationality linked to infant.¹⁴⁰ The higher age of the infant must be defined in the proclamation. As a result, ENP is inconsistent with Article 7 (2) of the CRC, and Article 24 (3) of the ICCPR that obliges state party including Ethiopia to respect the rights of every child to acquire a nationality, where the child would otherwise stateless. In addition, it is also against Article 6 (4) of the ACRWC which provides that Ethiopia should ensure the right to nationality of children in the national legislation specifically in the ENP. In order to overcome such problems ENP should be amended in line international human rights instruments (e.g., CRC, ICCPR, and ACRWC) that require states to grant nationality to children to prevent statelessness.

3.2.2. Acquisition of Ethiopian Nationality by Law

Acquisition by law means an individual those who born not in an Ethiopian nationality (foreigners) can acquire an Ethiopian

nationality in line with Article 5-12 of the ENP.¹⁴¹ Based on these provisions, foreigners can acquire Ethiopian nationality through marriage, adoption, or special contributions, provided they meet certain conditions. Accordingly, any foreigner who applies to acquire Ethiopian nationality by law must fulfill the following requirements:¹⁴² have attained the age of majority and capable under Ethiopian law, have established domicile in Ethiopia in accordance of Ethiopian Civil Code and lived in Ethiopia for at least four years before applying, be able to communicate in anyone of the languages of the nations/nationalities in Ethiopia, have sufficient and lawful source of income to maintain himself/herself and his/her family, be a person of good character, have no criminal record, be able to show that he has been released from his previous nationality or the possibility of obtaining such a release upon the acquisition of Ethiopian nationality or that he is a stateless person, and be required to take the oath of allegiance stated under Article 12 of ENP.

Indeed, acquisition of Ethiopian nationality by law can be obtained through three ways: first, acquisition of Ethiopian Nationality by Marriage: pursuant to Article 6 of the ENP, a foreigner women or men who are married to Ethiopian national may acquire Ethiopian nationality by law if: the marriage is concluded in accordance with the Ethiopian laws or in accordance with the laws of any other country where the marriage is contracted, at least two years of lapse since the conclusion of the marriage, lived in Ethiopia for at least one year

¹³⁸ UNHCR, 'Citizenship and Statelessness in the Horn of Africa', (December 2021), P.21

¹³⁹ Ibid

¹⁴⁰ Ibid

¹⁴¹ ENP, *supra* note 134, Article 4

¹⁴² Id, Article 5

before applying, and fulfilled other conditions mentioned in Article 5 particularly legal capacity, release from prior nationality, and the oath.

Second, acquisition of Ethiopian Nationality by adoption: according to Article 7 of the ENP, any child adopted by Ethiopian may acquire Ethiopian nationality by law if: he/she has not attained the age of majority (minor),¹⁴³ he/she lives in Ethiopia together with his/her adopting parent,¹⁴⁴ Where one of his/her adopting parents is a foreigner, such parent has expressed his/her consent in writing,¹⁴⁵ and be able to show that he has been released from his previous nationality or the possibility of obtaining such a release upon the acquisition of Ethiopian nationality or that he is a stateless person.¹⁴⁶ Third, acquisition of Ethiopian Nationality by Special case: a foreigner who has made an outstanding contribution in the interest of Ethiopia may be conferred with Ethiopian Nationality by law in exceptional circumstances without any language and domicile requirements. In this case, however it is intended for specific group of foreigners who made an exceptional involvement in the Ethiopian interest and cannot be given to stateless person not contributed to Ethiopian interest.

Similarly, pursuant to Article 9 of the ENP, any naturalized Ethiopian can request for their minor child living with him/her in Ethiopia to acquire Ethiopian nationality. On the other hand, in cases when the applicant is the only parent who has obtained citizenship, the child's

naturalization will require the approval of both parents. In this case to be eligible the child must be released from his/her previous nationality or the possibility of such release.¹⁴⁷

Certainly, the ENP under Article 14 recorded the rights of Ethiopian nationality as: the protection given by State,¹⁴⁸ in which the Ethiopia has the duty to protect and ensure the rights and legitimate interests of its nationals residing in Ethiopia and abroad.¹⁴⁹ Next, the right not to be extradite by foreign state to any other third country.¹⁵⁰ The right to change nationality¹⁵¹ is also the other right guaranteed in the ENP. However, it must be subject to Article 19 of the ENP that deals with renunciation. The other right is non-deprivation of nationality, which stipulates that every Ethiopians have the right not to be deprived their nationality by decision of any government authorities, save as in case of renunciation and acquisition of another nationality as per Article 19 and 20 of the ENP respectively.¹⁵² To end, the right to equality of nationals which is recognized as notwithstanding the manner the nationality acquired, all Ethiopian nationals has equal rights and obligations of citizen ship.¹⁵³ However, the rights listed in the ENP are not exhaustive; there are several rights of Ethiopian nationals other than enumerated above. More importantly, the ENP prohibits dual nationality in unequivocal manner.

On the other hand, the ENP acknowledged the Modes/ways of Loss of Ethiopian Nationality. There are different modes of loss of nationality in the world, since different states apply it

¹⁴³ Id, Article 7 (1)

¹⁴⁴ Id, Article 7 (2)

¹⁴⁵ Id, Article 7 (3)

¹⁴⁶ Id, Article 7 (4)

¹⁴⁷ Id, Article 9 (2)

¹⁴⁸ Id, Article 14

¹⁴⁹ Id, Article 14 (1) and (2)

¹⁵⁰ Id, Article 15

¹⁵¹ Id, Article 16

¹⁵² Id, Article 17

¹⁵³ Id, Article 18

differently, for example, nullification, deprivation/withdrawal, lapse/expiration, renunciation, release, etc.¹⁵⁴ The FDRE Constitution and ENP are essential in order to identify the ways of losing nationality in Ethiopia. Essentially, the FDRE Constitution under Article 33 (3) unequivocally stated any Ethiopian national has the right to change his/her Ethiopian national. Similarly, ENP under Article 16 recognized the right to change Ethiopian nationality as stipulated under Article 19 of the proclamation. As a result, according to the ENP, Ethiopian nationality lose through two ways, particularly renunciation¹⁵⁵ and up on acquisition of other countries nationality.¹⁵⁶

Lose of Ethiopian nationality via renunciation is simply the voluntary way of losing nationality. As indicated under Article 16 above no Ethiopian national is prohibited from changing his/her citizen ship, but it must consider the conditions stated under Article 19 of the Proclamation. The person who has the right to renounce Ethiopian nationality must fulfill the following requirements:¹⁵⁷ If he/she renounces his/her Ethiopian nationality, an Ethiopian who intends to renounce his/her nationality shall in advance inform the authority in the form prescribed by the authority, the renunciation of the nationality of a minor child shall be effected by the joint decision of his/her parents or, where one of his/her parents is a foreigner, by the decision of the Ethiopian parent, an Ethiopian who has declared his/her intension to renounce his/her nationality may not be released until: he/she

has discharged his outstanding national obligations, and he/she has been accused of or convicted of a crime, he/she has been acquitted or served the penalty, the Authority shall issue the applicant with a certificate stating the effective date of his/her release, and any Ethiopian who is not issued with a certificate of release shall have the right to appeal to the competent court.¹⁵⁸

Modes of acquisition of other countries nationality is also the other approaches of loss of Ethiopian nationality assured in the ENP. Normally, in Ethiopia the acquisition of another nationality results in the loss of Ethiopian nationality. According to the ENP, any Ethiopian who voluntarily acquires another nationality is considered to have voluntarily renounced his/her Ethiopian nationality.¹⁵⁹ This shows any Ethiopian up on acquisition of another country nationality lose simultaneously his/her Ethiopian nationality, unless specific provisions are made to retain Ethiopian nationality under certain conditions. According to Article 22 (1) (a-c) of the ENP, a person who was an Ethiopian national, but acquired foreign nationality by law may readmit to Ethiopian nationality when the following conditions in existence: he/she returns to domicile in Ethiopia, renounces his/her foreign nationality, and he/she applies to the authority for re-admission.

The ENP plainly clarified, even though an Ethiopian national changes his/her nationality, the nationality of both the spouse and children remains as it is. Undoubtedly, the proclamation prohibits double nationality stating that an

¹⁵⁴ Luuk Van der Baaren and Maarten Vink, "Modes of Acquisition and Loss of Citizenship around the World: Comparative Typology and Main Patterns in 2020," *European University Institute*, (November 2021), P.14.

¹⁵⁵ ENP, *supra* note 134, Article 19

¹⁵⁶ Id, Article 20

¹⁵⁷ Id, Article 19 (1-6)

¹⁵⁸ Ibid

¹⁵⁹ Id, Article 20 (1)

Ethiopians who acquire another nationality may lose the Ethiopian national. Similarly, a person who was an Ethiopian national, but obtained foreign national may lose his/her foreign citizen ship when re-acquired Ethiopian nationality. To end with, the ENP imposed two restrictions: first, prohibits dual nationality and considers acquisition of another nationality as a form of voluntary renunciation, which may lead to statelessness if not carefully managed. Second, it emphasizes the importance of releasing from previous nationality, which can be problematic if the individual's previous nationality is unknown or stateless.

3.3.Other Laws

In Ethiopia there are certain laws that safeguard the rights of stateless persons, while other laws failed to do so. For instance, the Ethiopian Civil Code under Article 1 essentially asserts that human beings are subjects of rights from its birth to death. This indicates that all children have rights including stateless children. Therefore, any provision of the Ethiopian Civil Code that deals with the rights of every human being is also applicable for any stateless persons. In addition, in 2019 Ethiopia passed a new refugee Proclamation¹⁶⁰ by repealing Refugee Proclamation No.409/2004.¹⁶¹ In this proclamation Article 42 provides that every recognized refugee or/and asylum seeker who fulfills the necessary conditions guaranteed in the relevant provisions of Ethiopian Nationality law particularly Proclamation

378/2002 relating to naturalization can apply to obtain Ethiopian Nationality through law. Thus, refugee or asylum seekers in considering ENP they have the right to acquire Ethiopian nationality. The Ethiopian Employment Proclamation No.1156/2019¹⁶² further ensure that every person in Ethiopia including stateless persons without nationality requirement has the right to participate in any employment contract, except employment of foreign nationals as enshrined under Article 176. It also prohibits exploitation of all workers/employees including stateless one.¹⁶³ On the other hand, there are various Ethiopian laws lacks to safeguard stateless persons. For example, in 2002 Ethiopia enacted Proclamation for Providing Foreign Nationals of Ethiopian Origin with certain Rights to be exercised in their Country of Origin¹⁶⁴ desire to strength their tie,¹⁶⁵ and to contribute development in their country of origin,¹⁶⁶ but it plainly excludes people who forfeited Ethiopian nationality and acquired Eritrean nationality.¹⁶⁷ In this context, the proclamation excludes majority of Ethiopians of Eritrean descent who are regarded by the Ethiopian authorities as Eritrean nationals.¹⁶⁸ In 2004, interestingly Ethiopian government enacted Directive Issued to Determine the Residence Status of Eritrean Nationals Residing in Ethiopia.¹⁶⁹ The objective of this Directive is to provide the means to every person of Eritrean descent who lived in Ethiopia when Eritrea became an independent and who has remained

¹⁶⁰ Ethiopian Refugee Proclamation No.1110/2019, Federal Negarit Gazette No.38, 27th February, 2019

¹⁶¹ Id, Article 45 (1)

¹⁶²Ethiopian Labour Proclamation No.1156/2019, Federal Negarit Gazette No. 89, 5th September, 2019

¹⁶³ Ibid

¹⁶⁴ Providing Foreign Nationals of Ethiopian Origin with certain Rights to be exercised in their Country of Origin

Proclamation No. 270/2002, Federal Negarit Gazette No. 17, 5th February, 2002

¹⁶⁵ Id, Preamble para.1

¹⁶⁶ Id, Preamble para.2

¹⁶⁷ Id, Article 2 (1)

¹⁶⁸ Id, Article 2 (1)

¹⁶⁹ Directive Issued to Determine the Residence Status of Eritrean Nationals Residing in Ethiopia, (January 2004)

a permanent resident of Ethiopia until this Directive is issued to verify whether they have obtained Eritrean nationality and to ascertain their status of residence in Ethiopia.¹⁷⁰ Some believe that the directive, which seeks to ascertain the residency status of Eritrean nationals living in Ethiopia, could result in arbitrary deportations, the denial of citizenship rights, and the creation of stateless people.

Besides, the Ethiopian Digital Identification Proclamation was passed in 2023¹⁷¹ without bearing in mind their vulnerability that leads to protection. As enshrined under Article 9 (2) of this proclamation the Digital Identification System must comprise Nationality Demographic Data,¹⁷² but which is impossible for stateless persons. Thus, in order to overcome this particular issue, it is better to accept stateless persons without nationality criteria as an exception.¹⁷³ Likewise, stateless persons are not protected in the Proclamation for the Prevention and Suppression of Trafficking in Persons and Smuggling of Persons which was enacted in 2020.¹⁷⁴ Pursuant to Article 24 it stipulates that victims must receive necessary protection and support by taking in to account the vulnerability and special needs of women, children, persons with mental health problems, and persons with disability.¹⁷⁵ This provision shows those stateless peoples are forgotten or deliberately left during the enactment of this proclamation. Moreover, stateless persons are not protected under some particular laws such as Ethiopian

Private Organization Employees' Proclamation, Ethiopian Federal Civil Servant Proclamation, Vital Events Registration and National Identity Card Proclamation (amendment),¹⁷⁶ etc. Several other laws do not recognize, or safeguard the rights of stateless persons, leaving a significant legal protection gaps.

4. Conclusion

Statelessness remains a pressing issue globally, and particularly in Ethiopia, where a significant number of individuals are at risk of losing their nationality due to various factors, including historical conflicts and inadequate legal frameworks. The lack of a clear definition of statelessness, coupled with gaps in national laws and insufficient awareness, exacerbates the plight of stateless persons. While international and regional treaties provide a foundation for protecting the rights of stateless individuals, Ethiopia's legal framework falls short in explicitly addressing the needs of these vulnerable populations.

Moreover, the historical context of conflict, discrimination, and inadequate birth registration systems has exacerbated the statelessness problem, leaving many individuals vulnerable to human rights violations and exclusion from essential services. The FDRE Constitution and the Ethiopian Nationality Proclamation No. 378/2003 offers some avenues for acquiring nationality, but fails to adequately address the needs of children born in Ethiopia who would

¹⁷⁰ Id, Article 2

¹⁷¹ Digital Identification Proclamation No. 1284/2023, Federal Negarit Gaze No. 19, 18th April, 2023

¹⁷² Id, Article 9 (2)

¹⁷³ Ibid

¹⁷⁴ Prevention and Suppression of Trafficking in Persons and Smuggling of Persons Proclamation No. 1178/2020, Federal Negarit Gazette No. 31, 1st April, 2020

¹⁷⁵ Id, Article 24 (1)

¹⁷⁶ Vital Events Registration and National Identity Card Proclamation (Amendment) Proclamation No. 1049/2017, Federal Negarit Gazette No. 74, 7th August, 2017

otherwise be stateless. Both the constitution and the proclamation do not sufficiently safeguard against arbitrary deprivation of nationality or ensure that all children born in the territory acquire a nationality, particularly those at risk of statelessness (for children born to stateless parents or those with undetermined nationality). Furthermore, the prohibition of dual nationality and the stringent requirements for naturalization can lead to further instances of statelessness, particularly among vulnerable populations such as refugees and internally displaced persons. Moreover, the absence of specific laws prohibiting all forms of statelessness, and the lack of provisions for the rights of stateless persons further highlight the need for reform.

To effectively combat statelessness and ensure the protection of rights for all individuals within its borders, Ethiopia must take concrete steps to align its national laws with international human rights standards. This includes amending existing legislation to provide clearer pathways to nationality acquisition, ensuring that all children born in the territory are granted nationality, implementing measures to prevent discrimination based on ethnicity or nationality, and establishing procedures for identifying and regularizing the status of stateless persons and those at risk.

To end with, addressing statelessness in Ethiopia requires a multifaceted approach, involving legal reform, increased awareness, and commitment from the government and civil society to recognize and protect the rights of all stateless individuals, regardless of their nationality status. By doing so, Ethiopia can not only fulfill its international obligations, but also work towards fostering a more inclusive society where every individual has a

recognized identity and the ability to exercise their fundamental rights. Only through concerted efforts at the national and international levels can Ethiopia hope to eradicate statelessness and uphold the fundamental right to a nationality for all its residents.