



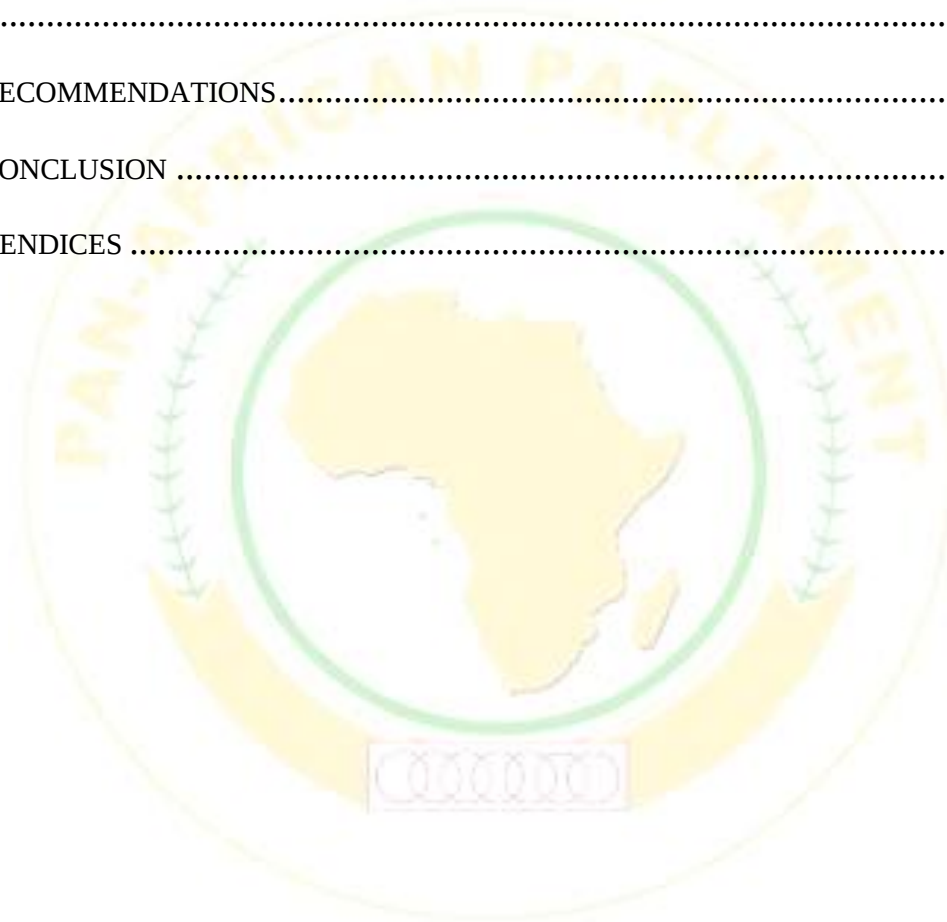
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REPORT ON THE WORKSHOP ON THE RIGHT TO NATIONALITY IN AFRICA

09 AUGUST 2017

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1.0. INTRODUCTION

On the 9th of August 2017, the PAP Committees on Justice & Human Rights and the Committee on Rules, Privileges & Discipline held a workshop on the Right to Nationality in collaboration with the South African Lawyers for Human Rights. The workshop received presentations from representative of the African Commission on Human & Peoples' Rights and United Nations High Commissioner of Refugees (UNHCR).

2.0. UNHCR PRESENTATION: THE RIGHT TO A NATIONALITY AND THE PREVENTION OF STATELESSNESS

Mr Matthais Reuss of the UNCHR gave the first presentation of the morning entitled "The Right to Nationality and the Prevention of Statelessness". In his presentation, Mr Reuss gave a brief background and overview about the concept of statelessness and nationality under the definitions of the UNHCR which in Article (1) of the 1954 Convention on the Status of Stateless Persons define a Stateless Person as "A person who is not considered as a national by any state under the operation of its law". The objectives of the presentation were:

- i. To create a common understanding amongst Members of the legal notions as well as the consequences of statelessness and the right to nationality
- ii. To clarify the international human rights framework in relation to this topic.
- iii. To highlight regional developments and identify opportunities for Members to explore.
- iv. To clarify the UNHCR's role and mandate in relation to this topic.

Governments were encouraged to focus on eliminating the risks that lead to statelessness through the implementation of several initiatives such as ensuring compulsory issuance of birth certificates at every medical facility at the time of birth, or, where individuals did not give birth in a medical facility due to access or financial constraint, mobile clinics should be set up to allow unregistered babies to be registered. Furthermore, concise laws and procedures should be defined for dealing with individuals who are found to have: no hospital record; mixed parentage; have been born outside the country of nationality of either of their parents; have links to

more than one country or are perceived to have such links and; are in a particular country under irregular migration conditions

Members were reminded that it is up to each State to determine by law who its nationals are before actions can be taken to eliminate the risk factors identified above, provided that such determination is consistent with its obligations under international law, including with respect to non-discrimination. Guidelines for granting nationality were presented as follows:

3.0. AN AFRICAN CASE STUDY: THE MAKONDE COMMUNITY OF KENYA

A documentary on the successful naturalisation of the Makonde Community that migrated to Kenya in 1930 was screened for the Members to appreciate. The Makonde originated from Mozambique and were brought to Kenya to work on sisal and sugar plantations at the coast of the country. The documentary chronicled the journey of the Makonde from statelessness to official registration and recognition as Kenyan citizens under the Government of Pres. Uhuru Kenyatta in Feb 2017.

After years of fighting for naturalisation, the Makonde managed to get the attention of President Uhuru Kenyatta by embarking on a 400 kilometre trek to the capital city in October 2016 where they were formally addressed by the President upon arrival. The President agreed to grant the Makonde Community citizen status and the government went on to issue them with nationality registration certificates and I.Ds in the following months.

This win for the Makonde Community can be used to encourage other stateless Africans to take action towards fighting for a nationality.

4.0. PRESENTATION BY THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

A second presentation was shared by Mr. Ibrahim Kane of the African Commission on Human and Peoples' Rights. Mr. Kane began by sharing a few words on the documentary that was screened and agreed that it sufficiently demonstrates that nationality is indeed an instrument of consolidation that unites people. He further encouraged members to fight for stateless individuals by making use of the aid provided by various organs who are available to assist.

The presentation was made on a Draft Protocol to the African Charter on Human and Peoples Rights particularly on the right to nationality and the eradication of statelessness which aims to ensure that every African's dignity is protected.

His presentation referenced the Draft Protocol to the African Charter on Human and Peoples Rights particularly on the right to nationality and the eradication of statelessness which aims to ensure that every African's dignity is protected. He encouraged members to campaign for the ratification and domestication of this protocol in their countries.

He further explained that loss and deprivation of nationality are two different processes that lead to the same results, namely that the individual concerned is no longer considered a national by the state. While loss of nationality is an automatic procedure that requires no intervention by the state, deprivation of nationality is always an administrative or judicial measure taken in compliance with national law to withdraw the nationality of an individual.

He pointed out that there are states that do not withdraw a person's nationality against his or her will. In some states it is possible for an individual to lose citizenship. The reasons for taking away that citizenship vary from one country to another and may entail circumstances where the citizen participated in acts that are deemed injurious to the state.

5.0. RECOMMENDATIONS

1. Member States should adopt the Protocol of the African Charter on Human and People's Rights on the Right to Nationality.
2. African States should include a provision in their national legislation stating that all individuals have a right to nationality.
3. Nomadic individuals should be granted nationality in at least one of the countries in which they operate.
4. Member States should provide gender equitable laws which allow females to transfer their nationality to their spouses and their children.

5. African States are bound to register the birth of all children, whether or not their parents are nationals or stateless.
6. African States should recognise multiple nationality in their legislation. Dual citizenship for children with parents of different nationalities as well as for spouses of non-nationals who, residing in their spouse's state, express the wish to acquire that nationality without losing their nationality of origin.
7. African states should ratify and domesticate the 1954 Convention on the Status of Stateless Persons in order to help with the reduction of phenomenon of statelessness.
8. African countries should subscribe to the UNHCRs Global Action Plan for 2014-2024 as well as the *#IBelong* campaign which both focus on resolving existing situations of statelessness.

6.0. CONCLUSION

The Right to nationality is still not fully recognised in Africa despite the various charters and protocols that have been formulated to combat this issue. This is because the current legal framework does not allow individuals to effectively protect themselves in the exercise of their right to nationality. As the persons responsible for crafting their nations laws, Members should advocate for the elimination of statelessness and ensure that the rights of stateless persons are protected. Members must not only encourage their governments to adopt laws that conform to international standards, but they must also win the support of their constituents.

7.0 APPENDICES

ATTENDANCE LIST:

Name:	Country:
Hon. Zelly Nzoungou-Massanga	Congo
Hon. Ignatienne Nyirarukundo	Rwanda
Hon. Sinya Ahmed Nah	Saharawi
Hon. Ali Awadalla Ali	Sudan
Hon. Mephato Reatile	Botswana
Hon. Alhaji Sankung Jammeh	Gambia
Hon. Randriana Solo Jean Nicola	Madagascar
Hon. Evelyne Butoyi	Burundi
Hon. Wavel John Charles Ramakalawan	Seychelles
Hon. Toolsyraj Benydin	Mauritius
Hon. Djantoun Traore	Guinea
Hon. Jaynet D. Kabila	DRC
Hon. Eyeghe-Ndong Jean	Gabon
Hon. Elsayed A.A. Flefil	Egypt
Hon. Liesl Muller	RSA
Hon. Joseph Mbah-Ndam	Cameroon
Hon. Salah Afifi Abdel	Egypt
Hon. Ibrahim Kane	Senegal
Hon. Ncengencenge	Swaziland
Hon. Martin Niteretse	Burundi
Hon. Fernando	Angola
Hon. Ali Joul��	Djibouti
Hon. Ndebo Akada Ignace	DRC