

# Stateless person definition

06 December 2023

## Key points

- Always bear in mind that some asylum seekers, refugees, IDPs and migrants may also be stateless. In addition, there are stateless persons who have never crossed borders and find themselves in their 'own country'. Their predicament exists in situ, that is in the country of their long-term residence, in many cases the country of their birth. For these individuals, statelessness is often the result of problems in the framing and implementation of national laws
- UNHCR can provide technical assistance to States to identify individuals of undetermined nationality and establish statelessness determination procedures. Where appropriate, UNHCR may also examine a person's nationality claims and present them to the appropriate State authority, while advocating their naturalization
- Take steps to identify asylum seekers who are stateless at the registration stage; flag also cases of possible statelessness
- In the case of stateless refugees, it is important that both their refugee and statelessness status are explicitly recognized. However, refugee protection should be prioritized as the 1951 Convention relating to the Status of Refugees (1951 Convention) entitles individuals to more rights than the 1954 Convention to the Status of Stateless Persons (1954 Convention). Most importantly, this includes protection against refoulement
- Always bear in mind that cross border flows may include nationals of the receiving country. Where such individuals are not able to confirm and document their nationality, facilitate their timely identification and assist them to be recognized and documented as nationals by the relevant authorities

## 1. Overview

Article 1 (1) of the 1954 Convention relating to the Status of Stateless Persons defines a stateless

person as 'a person who is not considered as a national by any State under the operation of its law'.

This definition is binding on all States parties to the Convention and also applies to other States because the [International Law Commission](#) has concluded that the definition is part of international customary law. With the exception of persons who are excluded under [Paragraph 7 of UNHCR's Statute](#) and [Article 1\(2\) of the 1954 Convention](#), persons who meet this definition are of concern to UNHCR under its mandate.

To establish whether a person is stateless under the definition, it is necessary to analyse the nationality laws of States with which the individual has relevant links, how these States apply their nationality laws in practice and any review/appeal decisions that may be relevant to the individual's case. The reference to 'law' in the definition should be read broadly to encompass legislation, but also ministerial decrees, regulations, orders, case law (in countries with tradition of precedent), and, where appropriate, customary practice

## 2. Relevance for emergency operations

Statelessness is often intertwined with various types of discrimination and human rights violations. Additionally, statelessness can be a cause of displacement. While most stateless people remain in the country of their birth, some leave and become migrants or refugees. Stateless persons who are refugees under the 1951 Convention are entitled to protection under that instrument. When an individual is both a refugee and stateless, both types of status should be explicitly recognized. Though the 1951 Convention generally entitles individuals to more rights than the 1954 Convention (including protection against *refoulement*), a person whose refugee status ceases may not always have acquired a nationality and may continue to require international protection under the 1954 Convention. Recognition as a stateless person by the State authorities can also facilitate exercise of other rights, such as facilitated naturalization.

In emergency contexts, population movements from one country to another may include people who are nationals of the receiving country, such as returning refugees and migrants. They may have been abroad for a prolonged period or even born abroad. When displacement is due to armed conflict, the situation of such individuals may resemble that of refugees. They may not have proof of nationality and lack a social support network to assist them on arrival. It is therefore essential to identify nationals of a receiving country when they arrive and assist them to acquire documentary proof of their nationality under UNHCR's mandate to prevent statelessness.

## 3. Main guidance

Steps should be taken (whenever possible) to facilitate the identification of stateless persons in emergencies by ensuring that the country of origin is captured at registration (REG) and nationality is recorded as 'none/stateless'. It is possible to identify stateless persons or persons at risk of statelessness on a *prima facie* group determination basis. This could be appropriate where there is readily apparent, objective information about the lack of nationality of members

of a group such that they would *prima facie* meet the stateless person definition in Article 1(1) of the 1954 Convention. Where there are reasonable grounds for believing that a person is *prima facie* stateless (for example, because he or she belongs to a stateless minority population), the person's nationality is to be recorded as 'none/stateless'. Where a person's nationality is unclear, this should be flagged to facilitate follow-up.

With respect to individual determinations of whether a person is stateless under the definition in Article 1(1) of the 1954 Convention, UNHCR's primary role is to provide technical assistance to States in establishing statelessness determination procedures (SDPs). UNHCR can advise on both the establishment of new SDPs to be conducted by States and contribute to the enhancement of existing ones. UNHCR may also support States in establishing whether or not a person is stateless by facilitating enquiries with authorities of other States and can act as an information resource on nationality laws and practices. Under Article 11 of the 1961 Convention on the Reduction of Statelessness (1961 Convention), UNHCR can play a role in examining a person's nationality claims and presenting them to the appropriate State authority.

During the first phases of an emergency, it will usually not be feasible for States to conduct SDPs. However, when implementation of an individual refugee status determination (RSD) procedure is considered necessary and feasible, procedures for identifying stateless persons or persons at risk of statelessness should also be considered, including procedures for flagging such cases during the first stage of registration. Further investigation of whether an individual is stateless or at risk of statelessness may be conducted during RSD or, for individuals who are found not to be refugees, subsequent to RSD. Where it is feasible for SDPs to be implemented by the State, UNHCR should provide all necessary technical assistance in this regard.

It should be noted that SDPs are only relevant procedures for stateless migrants or stateless refugees and not for *in situ* stateless persons. SDPs for the purpose of obtaining status as stateless persons are not optimal because of their long-established ties to these countries. Depending on the circumstances of these populations, States are encouraged to undertake targeted nationality campaigns or nationality verification efforts rather than to establish statelessness status through use of an SDP.

It is important to identify individuals who may be nationals of a receiving country as early as possible and, when required, to assist them to be recognized and documented as nationals by the relevant authorities. Incorrect registration of these individuals as refugees may in some situations be detrimental to their recognition as nationals of the receiving country, and may put them at risk of statelessness.

## **Annexes**

[UNHCR, Handbook on Protection of Stateless Persons, 2014](#)

[UNHCR, Global Action Plan to End Statelessness 2014 - 2024](#)

[UNHCR, Good Practices Paper Action 6 - Establishing Statelessness Determination Procedures for the Protect of Stateless Persons, July 2020](#)

## 4. Links

[UN Conventions on Statelessness](#)

## 5. Main contacts

**CONTACT** The first port of call is the UNHCR Deputy Representative (Protection), the UNHCR Assistant Representative (Protection), or the Senior Protection Officer in the country. Contact may also be made with the UNHCR Regional Assistant or Deputy Representative (Protection), with regional statelessness officers, or with the Senior Regional Legal Advisor in the respective UNHCR Regional Bureau, covering the respective country region. He or she will liaise as required with the Statelessness Section in DIP in HQ.