

Stateless person definition

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Key points

- Asylum seekers, refugees, IDPs and migrants may also be stateless. Identification of stateless people is therefore important both in the context of cross-border flows and in IDP situations.
- Take steps to identify and flag asylum seekers who are potentially stateless at the registration stage.
- Bear in mind that most stateless persons have never crossed a border 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.
- In the case of stateless refugees, it is important that both their refugee and statelessness status are explicitly recognized. In emergency settings, however, it is important to prioritize the recognition of a person's refugee status, unless authorities in the country examine refugee and statelessness in parallel. In the post-emergency phase, efforts can focus on supporting authorities in recognizing stateless status and establishing statelessness determination procedures where relevant.
- 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.
- To prevent risks of statelessness among displaced populations, UNHCR should promote access to civil registration services, including by advocating with relevant authorities to address barriers to civil registration.

1. Overview

The UN General Assembly has mandated UNHCR to prevent and reduce statelessness, as well as to identify and protect stateless persons. During the emergency phase, the pillars of identification, prevention, and protection are particularly critical.

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'. 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.

2. Relevance for emergency operations

Statelessness is often intertwined with various types of discrimination and human rights violations and can also be a cause of displacement. While most stateless people remain in the country of their birth, some migrate or become refugees. Stateless persons who qualify as refugees under the 1951 Convention are entitled to protection under that instrument. In cases where an individual is both a refugee and a stateless person, it is important for both statuses to be explicitly recognized.

Although the 1951 Convention generally provides more comprehensive 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. In emergency settings, however, it is important to prioritize the recognition of a person's refugee status, unless authorities in the country examine refugee and statelessness in parallel. In the post-emergency phase, efforts can focus on supporting authorities in recognizing stateless status. However, it is crucial to identify and refer potentially stateless individuals during the registration stage.

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 the 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 for follow-up.

During the first phases of an emergency, it will usually not be feasible for States to adopt or conduct statelessness determination procedures (SDPs). However, in a small number of countries, refugee and stateless status are considered simultaneously.

It is also important to identify individuals who may be nationals of the 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.

In the emergency phase it is also important to promote and, wherever needed, facilitate access to civil registration services, including birth, death and marriage registration. Efforts early on to register and certify vital events can prevent risks of statelessness for concerned populations. Operations should advocate with relevant authorities to address barriers to civil registration.

Post emergency phase

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 identifying stateless persons and – where appropriate – 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.

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.

4. Policies, Guidelines and Useful Links

[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](#)

5. Learning and field practices

[Statelessness Learning Series II - Identifying stateless people](#)

6. Links

[UN Conventions on Statelessness](#)

7. 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.