

The link between refugees and statelessness

Introduction

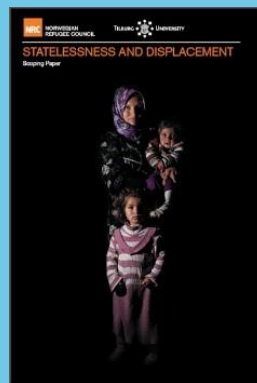
Globally, at least 1.5 million refugees are also affected by statelessness. Many more face the risk that they will be left without a nationality as a result of their displacement.

This part of the toolkit looks at the interaction between statelessness and displacement. It aims to help anyone working in the field of refugee assistance to learn more about what statelessness is and how it might be relevant to their work. Information is given about:

- **What statelessness is, how it happens and why it is a concern**
- **How statelessness can be a cause, or a consequence, of displacement**
- **Which international standards can help to address statelessness**
- **Why it is important to have an understanding of statelessness when working on refugee issues – illustrated through short case study**

Further reading

On the nexus between statelessness and displacement:



[Statelessness and displacement. Scoping paper, NRC and Tilburg University, 2015](#)

On stateless refugees worldwide:

The World's Stateless



[The World's Stateless, Institute on Statelessness and Inclusion, 2014 \(chapter 3.VIII\)](#)

What is statelessness?

Stateless person: “a person who is not considered as a national by any state under the operation of its law”

Article 1, 1954 Convention relating to the Status of Stateless Persons

Situations of statelessness arise in different contexts and in all continents across the globe. Some people are born without a nationality and others become stateless later in life. There are as many as 15 million stateless people worldwide and many more are at risk of statelessness because of problematic nationality laws and practices.

Who is a “stateless person”?

Under international law, a **stateless person is someone “who is not considered as a national by any state under the operation of its law”**. This definition is set out in article 1 of the [1954 Convention relating to the Status of Stateless Persons](#). It is considered to be customary international law, which means that even if a country has not become a party to the 1954 Convention, this definition should still form the foundation for identifying and dealing with situations of statelessness.

“Nationality”, in this context, means a legal bond between an individual and a state. It is a form of membership that results in rights and duties (e.g. the right to vote or the duty to pay certain taxes). In some countries, the term “citizenship” is more commonly used to refer to this legal bond. Lacking any nationality means that a person cannot enjoy the rights provided for nationals, often leaving them in a vulnerable and marginalized position.

Clarifying concepts

- **Undocumented persons** are not stateless per se. Identity documents serve as an instrument to prove a person's nationality. The inability to provide proof of nationality does not make a person stateless. Yet, without identity documents it becomes more difficult for a person to establish his or her bond with a state, which can leave a person at risk of statelessness.
- To be a **refugee** is not the same as being stateless. A refugee is a person who has fled his or her country owing to well-founded fear of being persecuted, for instance on the basis of race, religion or political opinion. He or she

often holds a nationality, but is not safe in that country. However, since statelessness can be both a cause and consequence of displacement, some refugees are also stateless (see further [Nexus with displacement](#))

- To be an **irregular migrant** is also not the same as being stateless. Whether a person is “irregularly” (or “illegally”) in a country depends on whether they have complied with the immigration rules and procedures of that country. This is not related to a person’s nationality. Irregular migrants are another vulnerable category of non-citizens and some may be stateless, but the two concepts are distinct.
- **At risk of statelessness:** this is a term used to describe situations in which people are vulnerable to being left without a nationality. For instance, a refugee child who is born in exile and whose birth has not been registered may be at risk of statelessness because of the difficulties this can create for proving his or her entitlement to nationality. This term can help in talking about where preventative action is needed to protect people at risk of statelessness from actually being left stateless.

Why does statelessness occur?

Every country sets its own rules for the acquisition and loss of nationality. These rules should comply with certain [international standards](#), but otherwise States are free to decide who is or is not a national. For instance, some countries grant nationality at birth to children born on their territory (*jus soli*) while others grant nationality to children born to parents who hold that nationality (*jus sanguinis*). Statelessness occurs when a person falls between the cracks in the operation of these different laws, failing to obtain any nationality or losing his or her only nationality. Reasons for statelessness include:

- A conflict of nationality laws
- Discrimination, including against women
- State succession
- Administrative barriers and lack of documentation
- Inheritance of statelessness

For more on these and other causes of statelessness, click [here](#).

Why is statelessness a problem?

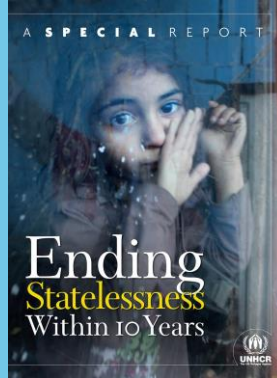
Nationality offers people protection, a sense of belonging and access to rights. Statelessness renders people invisible and pushes them to the margins of society. It can act as a catalyst for further human rights violations, including obstructing the enjoyment of basic socio-economic rights such as to education and health. Statelessness also blocks access to justice and can render people vulnerable to exploitation and abuse. In some cases, stateless persons are subjected to such severe treatment that this forces them to flee to another country to find safety and security. Addressing statelessness, including by working to avoid and reduce cases of statelessness, is an important way to protect and fulfil individuals’ human rights. It can also help to prevent forced displacement.

Further reading

On statelessness situations globally:



On the human impact of statelessness:



[Ending statelessness within 10 years: A special report, UNHCR, 2014](#)

Nexus with displacement

“We recognize that statelessness can be a root cause of forced displacement and that forced displacement, in turn, can lead to statelessness”.

New York Declaration for Refugees and Migrants UN General Assembly, September 2016

Not all refugees are stateless and not all stateless persons are refugees. Most stateless persons have never been displaced. However, more than [1.5 million people are both stateless and refugees](#). Stateless persons may also be among the world's Internally Displaced Persons and many more displaced persons are at risk of statelessness.

The nexus between statelessness and displacement exists on several levels:

- [Statelessness can lead to forced displacement](#)
- [People can be at risk of becoming stateless as a result of displacement](#)
- [Being stateless can increase people's vulnerability in displacement](#)

Statelessness as a cause of displacement

Statelessness is often the result of discrimination and leaves people in an extremely vulnerable position. The denial or deprivation of nationality may be only one component of a larger policy of oppression or even persecution. When stateless populations find themselves subject to systematic human rights violations, they can be forced to flee their country. Often risking their lives – migrating through unlawful and dangerous routes because they lack travel documents – stateless people seek safety and security elsewhere.

In some cases, stateless communities have been directly encouraged to leave their country and, in extreme situations, even forcibly deported by the government. For example, in 1989 an estimated 75,000 black Mauritians were denationalized and a significant number deported across the borders into Senegal and Mali where they lived for years as refugees. In situations of political turmoil, natural disaster or conflict, stateless persons may have less resources and opportunities to fall back on and this can also make them more prone to becoming displaced, including across international borders.

Refugees at risk of statelessness

The unstable and uncertain circumstances that come along with forced displacement can increase the risk of statelessness – even for those who held a nationality prior to displacement. Refugees may lose their identity documents and be unable to prove the bond with their home country. Being undocumented does not equate to being stateless, but it makes it challenging to prove nationality and increases the risk of statelessness. This is particularly the case in protracted situations of displacement, when it becomes even harder to maintain legal links with the country of origin over time and as new generations grow up in exile.

Children born abroad to refugee parents can be at risk of statelessness, for instance due to conflict of nationality laws between the host country and the country of origin. These children become stateless when parents cannot fulfil the conditions for nationality set out in their country of origin's nationality law (e.g. by producing identity documents, a marriage certificate or registering the child's birth) and the host country does not provide for [a safeguard in their law to ensure that stateless children born on their territory acquire a nationality](#). More on the risk of statelessness, especially for children born in exile, in the Syria refugee context can be found [here](#).

Why proof of links to a country is so important

Whether a person is considered as a national or not is a mixed question of law and fact. Sometimes an objective reading of the nationality law would lead to the conclusion that a person is a national (i.e. because the requirements to acquire nationality have been met), but the state nevertheless considers him or her to be a foreigner. Only the competent body of the country in question has the authority to interpret the law and recognise a person as a national. This is why evidence of a person's links with a state can be so critical: if he or she cannot demonstrate to the competent body that the conditions for acquiring the nationality have been met (for instance, there is no evidence of the link to a father who holds nationality), this can result in the person not being considered a national. Birth registration plays a particularly important role in helping people to establish their nationality. In situations of displacement, ensuring that every child's birth is registered is a key way to help prevent cases of statelessness.

Vulnerabilities of stateless refugees

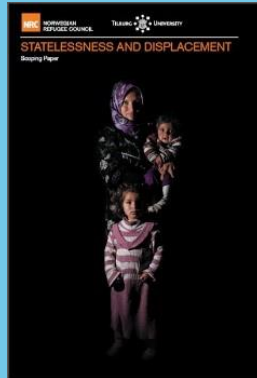
Being a refugee and stateless can make people more vulnerable to harm and less likely to seek or benefit from support. The conventional humanitarian response may not adequately identify, understand and respond to the uncommon situation of stateless people who are forcibly displaced. This leaves them at increased risk compared to non-stateless refugees. For example:

- Stateless persons may be prevented from seeking refuge in other countries due to lack of documentation or neighbouring States' unwillingness to allow stateless persons to enter
- Stateless persons who are displaced are at increased risk of being detained or forcibly returned due to lack of identity documents
- A person's statelessness may result in greater limitations on freedom of movement and difficulties accessing financial aid or humanitarian assistance because of lack of documentation
- Unlike other refugees, once the fear of persecution ceases, stateless people may not be able to return to their country of origin because they are not nationals (and so do not have an absolute right to enter and remain in that (or any other) country).

More on the situation of stateless refugees, displaced by the conflict in Syria, can be found [here](#).

Further reading

On the nexus between statelessness and displacement:



[Statelessness and displacement. Scoping paper, NRC and Tilburg University, 2015](#)

On identity documents in displacement contexts:



[Identification in the context of forced displacement, B. Manby for the World Bank, 2016](#)

International standards

“Everyone has the right to a nationality. No one shall be arbitrarily deprived of nationality”

– Universal Declaration of Human Rights

International law provides a framework for protecting the rights of stateless persons and refugees – including stateless refugees – and for preventing and reducing cases of statelessness. All states have taken on relevant obligations under international human rights law. There are also treaties which establish a specific legal framework to protect refugees and address statelessness.

UN Conventions on refugees and statelessness

Three treaties have been adopted to address problems of displacement and statelessness: the [1951 Convention relating to the Status of Refugees and/or its 1967 Protocol](#), the [1954 Convention relating to the Status of Stateless Persons](#) and the [1961 Convention on the Reduction of Statelessness](#).

A non-refugee stateless persons enjoys protection under the 1954 statelessness Convention, while a stateless refugee qualifies for protection under both the 1954 statelessness and 1951 refugee Conventions. In these cases, he or she will usually be classified and treated primarily as a refugee. The refugee Convention provides more comprehensive protection for stateless refugees, including the non-penalisation of unlawful entry and the prohibition of refoulement. To avoid “double counting”, stateless refugees are reported within the refugee statistics of the United Nations High Commissioner for Refugees (UNHCR), while only non-refugee stateless persons are accounted for in the statelessness statistics.

A stateless refugee may, nevertheless, continue to face problems once the fear of persecution no longer exists and he or she is expected to return to the country of origin. Stateless persons may be unable to return because they are not recognized as nationals. Then, international protection as a stateless person may be necessary.

The 1961 Convention on the Reduction of Statelessness aims to help states to avoid statelessness and provides for acquisition or retention of nationality in various circumstances. It is equally applicable to non-refugee stateless persons and stateless refugees.

1951 Convention relating to the Status of Refugees	1954 Convention relating to the Status of Stateless Person	1961 Convention on the Reduction of Statelessness
Establishes the definition of a “refugee” in international law and provides for a minimum set of rights (e.g., right to employment, housing, education, identity documents and travel documents). Also prohibits refoulement.	Establishes the definition of a “stateless person” in international law and provides for a minimum set of rights (e.g., right to employment, housing, education, identity documents and travel documents).	Prescribes safeguards to be introduced in their laws and regulations in cases of statelessness and provides for the granting of nationality to stateless persons who otherwise be stateless. It also provides for the granting of nationality if it would result in statelessness.

The human right to a nationality

Key to resolving statelessness is to ensure that all people enjoy a nationality. Article 15 of the Universal Declaration of Human Rights recognizes the right to a nationality for everyone and prohibits the arbitrary deprivation of nationality. Many binding human rights treaties have enshrined the right to a nationality as well, including the International Covenant on Civil and Political Rights (Article 24(3)) and the Convention on the Rights of the Child (Article 7). It is also protected in many regional human rights instruments, including the Arab Charter on Human Rights (Article 29) and the Covenant on the Rights of the Child in Islam (Article 7).

Under the Convention on the Elimination of All forms of Discrimination against Women (Article 9), states must grant women equal rights with men to acquire, change or retain their nationality, as well as to transfer nationality to their children. The Convention on the Elimination of All forms of Racial Discrimination (Article 5) prohibits discrimination on the grounds of race or ethnicity in respect of nationality rights.

The UN Human Rights Council has passed resolutions to help clarify states’ responsibilities in fulfilling the right to a nationality. The UN Treaty Bodies and Universal Periodic Review process provide fora in which issues relating to statelessness and the right to a nationality are increasingly receiving attention.

Every child has the right to acquire a nationality

The Convention on the Rights of the Child (CRC) is the most widely ratified human rights convention in the world and obliges states to ensure every child's right to acquire a nationality in its article 7. It requires states to implement measures to ensure that children are not left stateless. The CRC also protects the right of all children – including stateless and refugee children – to be registered immediately after birth and to a birth certificate. This is an important means to ensure that children have evidence of their links to the country of their parents and of their birth, helping to prevent statelessness. The right of every child to a nationality and the right to birth registration are also enshrined in many other instruments, including the Covenant on the Rights of the Child in Islam.

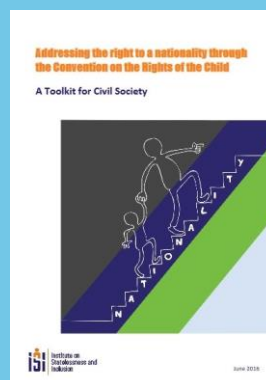
Further reading

On the identification and protection of stateless persons:



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

On the right of every child to a nationality:



[Addressing the right to a nationality through the CRC, Institute on Statelessness and Inclusion, 2016](#)

Examples from around the world

“I feel so bad and disappointed that I cannot protect my children [...] Because they don't have a nationality, they face a lot of problems in school and with their friends. They feel so bullied and are always put to shame.”

– Georgia, a Liberian former refugee whose children are stateless because they were born in exile (UNHCR, 2014)

Forced displacement and statelessness are interconnected phenomena on many levels. Statelessness can be both a root cause and a product of displacement. Moreover, the circumstances and consequences of statelessness also add additional layers of insecurity and vulnerability for those who have been uprooted from their homes. It is critical for organisations working on refugee issues or providing assistance to forcibly displaced populations to be aware of the ways in which statelessness can interact with displacement.

Statelessness as a root cause of displacement: The Rohingya

The Rohingya are an ethnic and religious minority in Myanmar. They are not considered to belong to Myanmar, despite having lived there for centuries. They are not recognized as nationals under the current nationality law, adopted in 1982. They have suffered from extreme and targeted human rights abuses for decades, leaving many Rohingya with no other choice than to flee the country and seek refuge abroad. Without identity papers or travel documents, the Rohingya often resort to dangerous and illicit routes to escape Myanmar. In exile, despite being in need of international protection as refugees, in many host countries the Rohingya also find themselves facing harsh conditions. Known as one of the most persecuted communities in the world, the Rohingya is an example of how persecution and violence against stateless populations can trigger forced displacement. It also illustrates that displacement does not resolve the vulnerability of stateless people – this remains with them in exile, where they await a solution. The photo essays “[The Disowned and the Denied](#)” by Saiful Huq Omi and “[Exiled to Nowhere](#)” by Greg Constantine give some insight into the plight of stateless Rohingya refugees.



Huq Omi

Photo © Saiful

Statelessness as a result of displacement: Liberia's refugee children

Under the nationality law of Liberia, a child can only inherit nationality from his or her mother if born inside Liberian territory. For a child born outside of Liberia, the only way to acquire Liberian nationality is through the father. Conflict displaced hundreds of thousands of people from Liberia in the early 1990s and a second wave of refugees poured out as a result of a second civil war in the early 2000s. Liberian refugee women who had children in exile were not able to pass on their nationality. Children born to a Liberian refugee mother and an unknown father, or a foreign father who was unable or unwilling to pass his nationality on, were left stateless. In 2015, UNHCR estimated that there were more than 7,000 children who had been left without a nationality as a result of this. To resolve their situation, those children who managed to return home with their Liberian mother have to wait until they are 18 and then try to meet the costs of an expensive naturalisation process. [UNHCR's photo-essay tells the story of some of these children.](#)

Statelessness in mixed migration flows: Europe's "refugee crisis"

Over the course of 2015, over 1 million asylum seekers asked for protection in Europe. The largest group came from Syria, but there were a wide variety of countries of origin. According to Eurostat data, almost 20,000 of these asylum applicants were stateless and more than 22,000 were of "unknown citizenship". Moreover, among the top 30 countries of origin were 12 countries that have either a large, existing stateless population, or a law that limits the right of women to pass nationality to their children, or both. Asylum seekers from Syria and Iraq accounted for 37.5% of all applications and both of these countries have both an existing statelessness problem and a gender discriminatory nationality law. Issues of statelessness, and the risk of statelessness for children born in displacement, are therefore part of the reality of Europe's "refugee crisis" and may present additional challenges to ensuring an appropriate protection response.

Tenuous citizenship: Burundian refugees in Tanzania

Protracted situations of displacement can lead to loss of connection with the country of origin and increased risk of statelessness. Burundian refugees displaced by conflict in the 1970s have spent decades in exile, mainly in Tanzania. Children have been born in Tanzania, who have themselves grown into adults and had children – a second generation born as refugees. [Some 162,000 refugees found themselves with an increasingly tenuous connection to their country of origin and an uncertain nationality status.](#) Finally, to provide a durable solution to refugees who have been kept in limbo for so long, Tanzania offered the possibility of naturalisation. The vast majority were eager to take up this offer and applied for nationality, receiving notice that they had been accepted for naturalization. To comply with the prohibition of dual nationality, they renounced their Burundian nationality but the formalization of their acquisition of Tanzanian nationality was delayed and citizenship documents were not issued. Several more years of limbo followed in which the population were no longer refugees but not yet citizens and only recently are steps being taken to resolve this issue.