

## UNHCR Overview - Statelessness in Southern Africa

Statelessness refers to the situation where a person has no nationality. It is a legal situation affecting both adults and children that results from gaps in legislative and administrative frameworks relating to nationality. The World Bank estimates that over 137 million people<sup>1</sup> in Southern Africa are undocumented – a telling indicator of the risk of statelessness in the region.

A stateless person cannot obtain an identity document or a passport, and often cannot register the birth of his/her child. Because they have no nationality, their children will most likely also end up stateless. Because they do not legally exist, stateless people are excluded from accessing and exercising a wide range of fundamental rights, including the right to health care and education. They are not able to work, open a bank account or vote in an election. This has a devastating impact on the lives of people who - because they lack a nationality - are forced to live in precarious situations on the margins of society.

Other factors leading to statelessness include long-term migration and lengthy periods of forced displacement. The risk of statelessness is heightened for individuals without birth registration which, according to the World Bank, is approximately 50 per cent in the Southern Africa region.

In 2019, States in Southern Africa made an unprecedented number of pledges towards the #IBelong Campaign at the *High-Level Segment on Statelessness* and again at the *Global Refugee Forum*. A total of 53 pledges to end statelessness were made by 13 member States in Southern Africa, placing the region in second place worldwide, in terms of the number of pledges made.

“This clearly demonstrates a political will to ensure that all citizens and inhabitants are included in social, economic and political spheres. One year later, states have made great progress in the implementation of their pledges, despite the COVID-19 pandemic,” said Valentin Tapsoba, Director of UNHCR’s Bureau for Southern Africa. “UNHCR is committed to working closely with governments in Southern Africa to continue to implement the pledges and other concrete activities to end statelessness.”

Countries including the Republic of the Congo and Eswatini have adopted clear action plans to fight statelessness, and the governments of Madagascar, the Democratic Republic of the Congo, Namibia and Zambia have also developed action plans for which official endorsement is anticipated by year’s end or next year.

To strengthen access to birth registration, in May 2020, a high court in South Africa confirmed the right of unmarried fathers to register the births of their children born out of wedlock, equal with the mother’s right. This was in response to the *Birth and Death Registration Act of South Africa* stipulating that a child born out of wedlock can only be registered by the mother or with her consent. Not only does this provision in its current form generate inequality between the parents, but it can also lead to a risk of statelessness when mothers are unable to register the birth of their child.

The Republic of the Congo conducted a census for the purpose of identifying anyone without birth registration with the aim of registering births and issuing birth certificates to unregistered people throughout the country. The Government has also started regularizing birth registration for the indigenous population, who are disproportionately affected by the lack of civil documentation.

The Republic of Congo, Namibia and Zambia have pledged to become party to the two UN Conventions on statelessness, the 1954 Convention on the Status of Stateless Persons and the 1961 Convention on

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the Reduction of Statelessness. Accordingly, these countries have initiated procedures to accede to the Conventions, with the Republic of Congo having almost finalized its formalities in 2020.

Madagascar, Eswatini, Lesotho, Malawi, Namibia and Zimbabwe pledged to reform their nationality laws to safeguard children, born or abandoned on their territories, against statelessness.

In 2019, Eswatini embarked on a law reform process to end gender discrimination and afford women equal rights to pass on nationality to their children. As a first step, several consultations with traditional chiefs have been held throughout the Kingdom. This week (9-13 November), consultations will take place with the Parliament.

Similarly, the lack of mechanisms to capture data on statelessness is being addressed by UNHCR and governments through qualitative studies that were initiated in 2020 in Eswatini, Madagascar, Namibia and Malawi. The objective of the studies is to pinpoint sources of statelessness and estimate the size of the population affected by statelessness in each country.

The efforts undertaken by UNHCR and governments in Southern Africa to address birth registration and statelessness have faced serious obstacles this year. The Covid-19 pandemic has had a serious impact, not least delaying the implementation of national action plans.

In addition, the pandemic has left stateless people further behind. Some States have taken a citizen-first approach, which resulted in excluding stateless people from emergency food relief, shelter and health interventions during these difficult times. Civil society organizations have stepped in to assist where they can. For instance, FOCUS development association, an NGO that partners with UNHCR in Madagascar, has delivered essential products to the most vulnerable stateless families.

While the COVID-19 pandemic has delayed the implementation of the pledges, political will remains resolute. States remain committed, as illustrated by the fact that about 40 per cent of their pledges are being implemented in 2020.

“In 2014, statelessness was characterized as one of the most forgotten human rights crises. Today, six years after the launch of the #IBelong campaign, States in Southern Africa have shown leadership and commitment to ending statelessness. I am confident that together we can eradicate this scourge by 2024,” said Valentin Tapsoba.

The Global Action Plan to End Statelessness was developed by UNHCR in consultation with States, civil society and international organizations and launched in November 2014. The UN Refugee Agency, in partnership with governments around the world, aims to end statelessness by 2024 – a decade after its launch.

<sup>1</sup> <http://id4d.worldbank.org/global-dataset>