

GUIDANCE NOTE OF THE SECRETARY-GENERAL

The United Nations and Statelessness

November 2018

SUMMARY

The present Note provides guidance to the UN system on addressing statelessness by outlining guiding principles and policy framework for action. The UN engagement in addressing statelessness is guided by seven principles that support the development, promotion and implementation of international norms relating to statelessness.

In addition to the seven guiding principles, four concrete interrelated approaches on how the UN system can improve its coordinated response to statelessness are outlined. In conclusion, the Note suggests required institutional arrangements for various actors within the UN system. A list of resources on statelessness is attached to assist UN colleagues engaged on this issue.

The policy framework for action presented in the Note is the result of an assessment of international legal standards and the experience of the UN in addressing statelessness to date, including through the UNHCR-led #IBelong Campaign to End Statelessness by 2024, the UNICEF-UNHCR Coalition on Every Child's Right to a Nationality, and other relevant initiatives.

A. Guiding Principles

1. Base action on international norms and standards related to nationality and statelessness
2. Recognize the central role of States and work with affected populations and civil society
3. Promote and support action to prevent statelessness
4. Respect, protect and help ensure enjoyment of the human rights of stateless persons and provide for their specific protection needs
5. Promote the acquisition of nationality as the primary solution
6. Recognize and redress discrimination as a common cause and consequence of statelessness
7. Guarantee gender equality in nationality laws and their implementation to prevent statelessness

B. Addressing Statelessness

1. Identification of stateless persons
2. Prevention of statelessness
3. Reduction of statelessness
4. Protection of stateless persons

C. UN System Arrangements

The UN General Assembly has entrusted the Office of the United Nations High Commissioner for Refugees (UNHCR) with a mandate relating to the identification, prevention, and reduction of statelessness and protection of stateless persons. However, all UN entities system-wide have an important role to play in achieving these objectives and must increase their efforts to address this important issue. The UN should tackle both the causes and consequences of statelessness as a key priority within the Organization's broader efforts to strengthen the rule of law and promote human rights, taking advantage of early momentum provided by the #IBelong Campaign to End Statelessness by 2024.

INTRODUCTION

It is estimated that there are millions of stateless persons worldwide. A stateless person is defined as someone who is “not considered as a national by any State under the operation of its law,”¹ and is thus someone without *any* nationality or citizenship.²

Addressing statelessness is a foundational and integral part of UN efforts to strengthen the rule of law.³ The causes and consequences of statelessness undermine the rule of law. It often arises from discrimination and arbitrary laws or practices, and stateless persons cannot enjoy full equality with citizens.

Statelessness results in widespread denial of human rights and the phenomenon of statelessness itself violates the universal human right to a nationality. Statelessness often leads to limits on access to identity documentation education, health care, legal employment, property ownership, political participation and freedom of movement. Women and members of minority groups are at heightened risk of statelessness, rendering them particularly susceptible to a range of abuse. Stateless children also suffer acute vulnerabilities; deprived of their rights in childhood as a result of their status diminishes their chances for better futures. The cycle of statelessness and marginalization is difficult to break. Statelessness has a detrimental impact not only on individuals but also on societies more generally, in particular, because excluding entire sectors of a population can create social and political tensions and significantly impair efforts to promote economic and social development.

Action by the UN to address the causes and consequences of statelessness is an essential component of both conflict prevention efforts as well as social, economic, and legal development agendas. Statelessness is also often closely related to discrimination against specific groups, including women and racial, ethnic, religious and linguistic minorities, or on the basis of perceived national origin. Acquisition of nationality by individuals who have strong links to a State based on factors such as birth on the territory, descent and residence is a key means of giving them a stake in society. Where statelessness has been a contributing factor to conflict, initiatives to grant nationality to stateless populations should be incorporated into programmes to restore justice and the rule of law, including effective public administration.

Reduction of statelessness can bolster national reconciliation and help prevent a return to conflict. When linked with efforts to address underlying societal discrimination, UN action to resolve statelessness may also form the basis for poverty reduction and sustainable, inclusive development. The 2030 Agenda for

¹ As defined in article 1(1) of the 1954 Convention relating to the Status of Stateless Persons, a definition considered by the International Law Commission to form part of customary international law. International Law Commission, Draft Articles on Diplomatic Protection with Commentaries, 2006, p.49. For the purposes of this Guidance Note, all references to “stateless persons” denote those who meet the international definition of a stateless person in article 1 of the 1954 Statelessness Convention.

² In this Guidance Note, the terms nationality and citizenship are used interchangeably to describe the legal bond between an individual (the national or citizen) and a State. While both terms are often used interchangeably in public international law, it should be noted that on the national level, these terms are often given distinct meanings.

³ The Secretary General of the UN defines the rule of law as “a principle of governance in which all persons, institutions and entities, public or private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards.” *Report of the Secretary General: The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, para. 6 (2004).

Sustainable Development presents new opportunities to frame statelessness as a development issue and to address it as such, as a number of the Sustainable Development Goals are directly relevant to the prevention and reduction of statelessness.⁴ The overarching objective of the 2030 Agenda to “leave no one behind” has particular relevance for those who are stateless or lack proof of legal identity and are at risk of statelessness, as too often they are among the furthest left behind.

The UN should tackle both the causes and consequences of statelessness as a key priority within the Organization’s broader efforts to strengthen the rule of law and promote human rights. Given the magnitude and complexity of the problem and the damaging impact on human lives, efforts would need to be redoubled to prevent statelessness and to address statelessness wherever it occurs. The UN, particularly UNHCR, needs to provide leadership in this regard and work with States, international and regional organizations, and non-governmental organizations. This Guidance Note outlines guiding principles and a policy framework for action to address statelessness, including concrete activities to be undertaken and required institutional arrangements.

A. GUIDING PRINCIPLES

UN engagement in addressing statelessness should be guided by a number of principles that support the development, promotion and implementation of international norms relating to statelessness. The policy framework set forth below enunciates this set of guiding principles and is the result of an assessment of international legal standards and the experience of the UN in addressing statelessness to date.

1. Base action on international norms and standards related to nationality and statelessness

Internationally agreed rules relating to the prevention and reduction of statelessness and standards of treatment of stateless persons address many of the challenges faced by stateless individuals. Such rules are provided by an inter-related set of norms found in two international conventions on statelessness, a range of standards contained in universal and regional human rights and other instruments, and customary international law.⁵

The prerogative of States to determine the rules for acquisition, change and loss of nationality is framed by international law, in particular human rights law. The Universal Declaration of Human Rights (article 15) establishes the universal right of every individual to a nationality, a right which has been reaffirmed by a number of universal and regional human rights instruments, including the American Convention on Human Rights (article 20) and the European Convention on Nationality (article 4). As a corollary to this right, States must make every effort to avoid statelessness through legislative, administrative and other measures.

Moreover, international law, including the universal prohibition against discrimination on account of race, colour, or national or ethnic origin as enunciated in the Convention on the Elimination of All Forms of Racial

⁴ For more information see *The Sustainable Development Goals and Addressing Statelessness*, March 2017, available at: <http://www.refworld.org/docid/58b6e3364.html>.

⁵ An overview of the international legal framework is provided in UN Human Rights Council, Human rights and arbitrary deprivation of nationality: report of the Secretary-General, 14 December 2009. 2009, A/HRC/13/34, available at: <http://www.unhcr.org/refworld/docid/4b83a9cb2.html>.

Discrimination (article 5), prohibits States from discriminating in nationality matters. Likewise, the Convention on the Elimination of All Forms of Discrimination against Women (article 9) guarantees that States parties must grant women equal rights as men with respect to nationality. The International Covenant on Civil and Political Rights (article 24) and the Convention on the Rights of the Child (article 7) require that States parties ensure that children are registered immediately after birth and acquire a nationality. The latter principles related to children's rights are also affirmed in the African Charter on the Rights and Welfare of the Child (article 6).

Two international conventions dedicated to statelessness complement international human rights law. The 1954 Convention relating to the Status of Stateless Persons ("1954 Convention") lays the cornerstone of the international protection regime for stateless persons in providing the universally accepted legal definition of a stateless person, thereby establishing an internationally-recognized status for stateless persons, extending to them specific rights, for instance, relating to administrative assistance and issuance of identity and travel documents. The 1961 Convention on the Reduction of Statelessness ("1961 Convention") sets forth practical obligations that States parties must undertake to prevent and reduce statelessness.

One reason that efforts by the UN to address statelessness have been hampered is the relatively low number of States parties to the 1961 Convention and the 1954 Convention.⁶ The UN must promote ratification/accession of these and other relevant international treaties, including at the regional level. One important entry point for such advocacy is the Universal Periodic Review (UPR) process, which all Member States participate in on a cyclical basis. UN Country Teams should engage strategically with this process as a tool for encouraging accessions to the UN Statelessness Conventions and for strengthening Member States' commitments to address statelessness generally.

Additional action is also required to ensure full implementation of treaty and other standards relating to the right to a nationality and the human rights of stateless persons. This should include the issuance of authoritative guidance on interpretation of key international standards, particularly by relevant treaty bodies or other supervisory mechanisms of relevant international instruments, and UN Country Team integration of relevant recommendations from the UN human rights mechanisms (UPR, treaty bodies and special procedures) into Common Country Assessments and UN Development Assistance Frameworks.

2. Recognize the central role of States and work with affected populations and civil society

The UN must take into account that States determine the rules for acquisition, change and loss of nationality, even if State sovereignty and prerogatives on nationality matters are limited by international human rights norms. States generally provide for automatic acquisition of nationality at birth based on *jus sanguinis* (birth to a national) or *jus soli* (birth on the territory), a combination of these two principles, or later in life on the basis of other links to the State such as residence. States can therefore prevent statelessness through legislative and other measures to ensure that all children acquire a nationality at birth and that

⁶ At the time of publication, the 1954 Convention had 91 States parties while the 1961 Convention had 71. Lists of States parties can be found at <http://treaties.un.org/Pages/Treaties.aspx?id=5&subid=A&lang=en>.

individuals do not become stateless in adulthood. Similarly, States can reduce statelessness through changes to legislation or government policy regarding who is to be considered a national. Facilitated naturalization for stateless persons is another means of reducing statelessness.

While recognizing the central role of States, it should be borne in mind that the affected individuals and populations must be part of all efforts to address statelessness. First-hand information on situations is only accessible through consultation with affected stateless persons. In some cases, stateless populations also have the capacity to play a role in redressing their situation. For instance, provided there is an adequate legal and administrative framework in place, stateless persons may be able to initiate procedures to acquire a nationality. In other cases, it is not possible for affected populations to take initiative on their own behalf without negative, even life-threatening, repercussions.

Many activities to address statelessness require outreach to affected populations, advocacy with all sectors of society, training and capacity-building. Civil society can make critical contributions in this respect and partners for UN action can come from among a broad swathe of actors, such as government offices, legal-aid networks, women's rights groups, national human rights institutions, NGOs which provide development assistance as well as academia.

Although advocating for and advising on reforms of legal, administrative, and practical obstacles that create statelessness is the primary avenue for the UN system to address statelessness, there are situations and circumstances where States do not express the political will to resolve the stateless status of individuals or populations on their territory, or might even take deliberate actions to exclude stateless individuals or populations from integrating into their citizenries. Furthermore, the increasing focus on State sovereignty with respect to protecting national security has in turn tightened some States' positions with respect to integrating migrants and other non-citizens into their respective body politics. Where faced with such political obstacles for addressing statelessness, the UN will need to pursue its role in promoting the respect for human rights and other international legal obligations related to combating statelessness and supporting civil society and other groups to achieve that end.

3. Promote and support action to prevent statelessness

The UN should promote action by States and civil society to prevent statelessness, as doing so offers the most effective solution by preventing the phenomenon from occurring in the first place. Once statelessness occurs it is generally more difficult to resolve and raises additional protection needs. Identifying potential causes and targeted, timely action can prevent statelessness. In many instances, statelessness is the result of foreseeable events: most importantly, gaps in legislation or regulations that lead to statelessness at birth, such as women not being able to register the birth of their child without a father named or present, and failure to ensure all persons retain or acquire a new nationality at the time of State succession. At other times, statelessness is a result of deliberate distinctions with respect to the application of nationality laws and policies towards certain groups or individuals. The UN should engage with States to address both technical and political causes of statelessness. The UN should also encourage States to grant citizenship to those on their territory who would otherwise be stateless following State succession as well as children born on their territory who would otherwise be stateless at birth.

Where persons have difficulties furnishing relevant proof to establish their nationality, they are at risk of not being considered nationals by a State. These persons and/or their descendants may therefore be at risk of statelessness. Necessary forms of proof may relate to the question of whether a person is a national (for instance a birth certificate, national identity document or passport), or to the legal requirements needed to be met in order to be considered a national. Such requirements generally refer to links a person has with the State.

The most important proof thus relates to place of birth and to parentage. These facts are recorded through birth registration, underscoring the reason why universal birth registration is crucial in realizing the right to a nationality.⁷ The UN should therefore work with States to ensure that universal birth registration, civil registration and national identity systems are linked at the country level and strengthen national capacity for a life-cycle approach to identity management, effective public administration and accountability in this regard, thereby permitting individuals to prove their identity and links to one or more States.

4. Respect the human rights of stateless persons and provide for their specific protection needs

Universal human rights standards apply irrespective of possession of a nationality, with only a very limited set of rights reserved for citizens.⁸ But stateless persons have protection needs distinct from those of other non-citizens. Stateless persons are uniquely vulnerable to prolonged detention and States should be sensitized to respect the rights of stateless persons to be free from arbitrary detention as a result of their stateless status. Stateless persons require support in areas where a State of nationality would generally take action, for instance in relation to the issuance of identity and travel documents. Stateless persons who do not enjoy the right to return to and reside in another State should be granted residency and concomitant civil, political, social, economic and cultural rights and have a realistic prospect of acquiring the State's nationality in the future.

A prerequisite for the protection of stateless persons is ensuring that the State can identify who is stateless and who is not. States are encouraged to establish formalized statelessness determination procedures with due process safeguards for individuals to claim protection as a result of their statelessness status. This is particularly relevant in the context of cross-border movements, where stateless individuals are outside of their country of habitual residence.

Most stateless persons reside in the country of their birth or a successor State. But statelessness might result in forced displacement, in particular where it results from arbitrary deprivation of nationality, and many stateless persons do in fact cross an international border and become refugees.⁹ Forced displacement, in turn, may also result in statelessness. When stateless persons are simultaneously refugees, they must be treated as such and afforded the protection foreseen under international refugee law, specifically under the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol and the prohibition of non-refoulement in customary international law.

⁶ See CRC, Article 7.

⁷ See OHCHR, *The Rights of Non-citizens*, 2006.

⁹ See, *New York Declaration for Refugees and Migrants*, A/RES/71/1 (19 Sept 2016), at para 72 (recognizing that "statelessness can be a root cause of forced displacement and that forced displacement, in turn, can lead to statelessness." A/RES/71/1).

The grant of leave to reside within a State and related rights to stateless persons as set out above do not resolve their situation entirely as they are unable to enjoy rights reserved for nationals. Consequently, these protections should be viewed as a temporary solution until such time as the individuals concerned are able to acquire a nationality.

5. Promote the acquisition of nationality as the primary solution

The acquisition of a nationality is the only solution to statelessness as full enjoyment of all human rights is generally only possible when an individual possesses a nationality. In particular, nationality brings with it access to political participation, the full right to residence within a State's territory, and also a sense of identity. Stateless people can overcome many of the problems they face once they possess a nationality. Enabling stateless persons to acquire a nationality is a foundational step towards legal empowerment to pave the way for their full enjoyment of all civil, political, economic, social, and cultural rights.

Solutions to statelessness generally depend on political will and capacity. This flows from the fact that only States can grant nationality. The will to act may be a significant challenge where statelessness is linked to discrimination. Attitudes which have led to the exclusion of a population must be overcome. Decision makers need to be convinced that the integration of stateless populations will be a positive step. Lack of capacity can play a role where State authorities wish to address problems related to statelessness but do not have the expertise or resources to do so. The UN should therefore highlight the positive effects for States to reduce statelessness by granting citizenship to stateless persons, stressing the detrimental impact statelessness has on individuals, communities and society as a whole. To address capacity deficits, the UN must stand ready to provide technical and practical assistance to States which decide to take action on statelessness.

6. Recognize and redress discrimination as a common cause and consequence of statelessness

Discrimination on the basis of gender and on racial, ethnic, religious, linguistic and presumed national origin is often a root cause of statelessness. Given that possession of nationality generally brings with it political rights, governments or political parties may question whether certain individuals or groups "belong" to the country, notably in the context of political tension or upcoming elections. While not all persons who lack documentation are stateless or at risk of statelessness, where persons lack documentation to prove their nationality, discrimination can be a decisive factor in leading the State to the conclusion that the person is not a national.

Marginalization and discrimination in turn, tend to be further aggravated because of statelessness. The UN needs to take action to resolve the social and economic exclusion of stateless persons by, for example, including such persons in education, health and poverty reduction programmes. Socio-economic integration of stateless persons enhances opportunities for legal integration through acquisition of a nationality.

7. Guarantee gender equality in nationality and civil registration laws and their implementation to prevent statelessness

Further work is necessary to overcome persistent obstacles for women to enjoy equal rights in citizenship matters. Contrary to international human rights standards such as those set out in the ICCPR and CEDAW, the laws of numerous States continue to contain gender-discriminatory provisions and this renders women and their children more susceptible to statelessness. For example, statelessness can result where women do not have equal rights with men to acquire, change, transfer or retain their nationality, or to register the birth of their child.¹⁰ Even when they are gender neutral, the application of nationality laws can result in statelessness among women as a result of patterns of discrimination in society which negatively impact access to nationality procedures, access to the justice system and issuance of relevant documentation. Gaps in nationality laws which may lead to statelessness upon change of nationality also have a disproportionate impact on women because they are more likely to renounce their previous nationality and seek to acquire the nationality of their spouse upon marriage.

Furthermore, the nationality laws of at least 25 States retain provisions which discriminate against women with regard to conferral of nationality upon their children.¹¹ In the absence of any safeguard, statelessness results from such provisions when the father is a non-national and he is stateless himself, cannot confer nationality under the law of his State, or is unable or unwilling to fulfil any bureaucratic requirements for acquisition of nationality by his children.

To break the cycle of statelessness, the UN should increase efforts to guarantee gender equality in nationality laws and protect against the particular vulnerabilities of women and children to statelessness as a foundational part of its efforts to combat statelessness and to promote the rule of law. International human rights instruments offer specific guarantees for women to have equal nationality rights as men and obligations to prevent statelessness among children.¹² Concerted efforts by the UN system should be undertaken to realize these rights and respond to the specific protection needs of stateless women and children.

B. ADDRESSING STATELESSNESS

The UN system can improve its coordinated response to statelessness by action undertaken on four interrelated action approaches, including:

- (1) identification of stateless persons;
- (2) prevention of statelessness;
- (3) reduction of statelessness; and
- (4) protection of stateless persons.

¹⁰ As a result, article 9(1) of the CEDAW establishes that “States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband”.

¹¹ This is addressed by article 9(2) of the CEDAW which sets out that “States Parties shall grant women equal rights with men with respect to the nationality of their children”. For additional information, see Background Note on Gender Equality, Nationality Laws and Statelessness at <http://www.refworld.org/docid/58aff4d94.html>.

¹² CRC, Article 7; 1961 Convention, articles 1 and 4; African Charter on the Rights and Welfare of the Child, article 6; American Convention on Human Rights, article 20; European Convention on Nationality, article 6.

These avenues of action derive from guidance issued by the UNHCR's Executive Committee¹³ and are endorsed by the UN General Assembly. Though specifically directed at States and UNHCR, this structured approach to addressing statelessness serves as a useful point of reference for other UN entities. Each of these actions is described in further detail below.¹⁴

1. Identification of statelessness

The identification of statelessness is a prerequisite for any response strategy. Successful identification involves a comprehensive analysis of a given statelessness situation, through the following activities:

- Analysis of legal and political frameworks related to nationality and statelessness of the State to which the relevant stateless person has links (e.g. through descent, birth, territory or residence);¹⁵
- Support for data collection through census, surveys or administrative records (e.g. civil status registries) so that information on statelessness can be captured;
- Gathering and analyzing data directly from stateless populations or those at risk of statelessness, e.g. problems related to documentation, education, health or security (taking into account diversity within a population, notably age and gender), and capacities of the community to tackle such problems; and
- Awareness-raising on the definition of statelessness and assistance to State institutions to devise and implement statelessness determination procedures.

2. Prevention of statelessness

Statelessness can be prevented by effectively addressing its causes in the following areas:

- ***Strengthening the international legal framework:*** The UN should increase efforts to promote ratification/accession to the 1961 Convention. Relevant resolutions of the General Assembly have repeatedly “encourage[d] States that have not done so to give consideration to acceding” to this Convention.¹⁶ States should also be encouraged to ratify or accede to and improve implementation of other international and regional human rights instruments that affirm the right to a nationality and a child's right to be registered immediately after birth and to acquire a nationality.
- ***Correcting gaps in nationality legislation:*** The UN must proactively identify gaps in legislation and propose necessary amendments. The standards contained in the 1961 Convention, international human rights

¹³ Executive Committee of the High Commissioner's Programme, Conclusion No. 106 (LVII) – 2006 on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons of 2006.

¹⁴ Additional guidance can be found in *UNHCR Action to Address Statelessness: A Strategy Note*, available at <http://www.unhcr.org/4b960ae99.html>.

¹⁵ A 2008 UNHCR publication provides guidance for such analyses, *Statelessness: An Analytical Framework for Prevention, Reduction and Protection*, 2008, available at: <http://www.unhcr.org/refworld/docid/49a28afb2.html>.

¹⁶ See General Assembly Resolution 71/1, 64/127, 63/148, 62/124, 50/152 and 49/169. See also numerous Conclusions of UNHCR's Executive Committee including Nos. 106, 102, 99, 95, 90, 87, 85 and 78. Human Rights Council resolutions on human rights and arbitrary deprivation of nationality 32/5, 26/14, 20/5, 13/2, 10/13 and 7/10.

laws and regional treaties should be promoted. This is particularly important when new or revised nationality legislation is introduced, notably upon State succession. Comprehensive guidance on the attribution of nationality in situations of State succession is contained in the Articles on the Nationality of Natural Persons in Relation to the Succession of States of the International Law Commission.¹⁷ Constitutions may also contain relevant provisions with respect to nationality, and the Guidance Note of the Secretary-General on United Nations Assistance to Constitution-Making Process¹⁸ should be used as a guide.

Legal advice can help States transpose international standards into national legislation.¹⁹ The key standards to prevent statelessness include:

- Grant of nationality to children born in territory if they would otherwise be stateless;²⁰
 - Grant of nationality to children born to a national abroad if they would otherwise be stateless;²¹
 - Presumption that foundlings are nationals;²²
 - Providing that, as a general rule, loss and deprivation of nationality should not result in statelessness;²³
 - Providing that voluntary renunciation of nationality shall not be permitted if it results in statelessness;²⁴
 - Equality between men and women with regard to acquisition, change and retention of nationality and conferral of nationality on children.²⁵
- ***Improving institutional capacity to document the civil status of individuals:*** Where persons are at risk of statelessness due to lack of evidence of nationality, support for the development of national capacity to provide effective public administration, in particular, national civil registration and documentation services, should be offered. Creative approaches, such as through mobile registration units, or registering births and civil status in conjunction with other national campaigns, such as public-health inoculation drives, school enrollment, and social support grants have all been proven to markedly increase birth registration coverage. Through capacity-building and training, competent courts and administrative authorities are in a position to accurately confirm whether a person is a national, ensuring that all those who have acquired a nationality under the legislation of a State are recognized as nationals in

¹⁷ Articles on Nationality of Natural Persons in Relation to the Succession of States (With Commentaries), 3 April 1999, Supplement No. 10 (A/54/10), available at: <http://www.refworld.org/docid/4512b6dd4.html>.

¹⁸ UN Secretary-General, Guidance Note of the Secretary-General: United Nations Assistance to Constitution-making Processes, April 2009, available at: <http://www.refworld.org/docid/4b8648b52.html>.

¹⁹ When doing so, it is important to note that these standards neither require a generalized grant of nationality based on birth in the territory (*jus soli*) nor the acceptance by States of dual/multiple nationality.

²⁰ 1961 Convention on the Reduction of Statelessness, article 1, African Charter on the Rights and Welfare of the Child, article 6, American Convention on Human Rights, art. 20, European Convention on Nationality, article 6.

²¹ 1961 Convention on the Reduction of Statelessness, article 4.

²² 1961 Convention on the Reduction of Statelessness, article 2.

²³ 1961 Convention on the Reduction of Statelessness, articles 7 and 8.

²⁴ 1961 Convention on the Reduction of Statelessness, article 7.

²⁵ CEDAW, article 9 and ICCPR articles 23(4), 24(3) and 26.

practice. Working with the judiciary can also enhance the interpretation and application of nationality legislation in line with international standards so as to prevent statelessness.

- ***Empowering individuals:*** People must be aware of their rights and related procedures on acquisition of nationality by their children, protection against loss and deprivation of nationality and access to identity and nationality documentation. Public information and education campaigns are important activities and some individuals may require legal assistance in order to avail themselves of such rights and procedures. Civil society plays a critical role, for instance, by highlighting the importance of birth registration and assisting parents to secure birth certificates for their children through subsequent registration. Civil society actors can also assist individuals with procedures for confirming their nationality with administrative authorities or courts, for instance with the filing of applications, obtaining supporting documentation or paying direct and indirect costs.
- ***Combating discrimination:*** A critical step is to promote international standards on non-discrimination, and to raise awareness of the consequences of statelessness, both for the individual and society as a whole. Such activities can also be closely linked to conflict prevention and peace building.

3. Reduction of statelessness

Activities for the reduction of statelessness primarily aim at promoting the acquisition of a nationality. This can be through large-scale citizenship campaigns or individualized naturalization procedures. The following activities are relevant in this context:

- ***Advocating for access to citizenship for stateless populations:*** Political will is a decisive factor in finding a solution to statelessness situations, in particular those of a protracted nature. Raising awareness of statelessness, its consequences, and the right to a nationality in addition to offering advice and support are key to generating such political will. While decisions on nationality are generally taken at a high political level, advocacy should be directed at all stakeholders who influence, or are affected by, political decisions. The stronger the public support, and the lower the resistance, integration of stateless people within the broader population of citizens is easier for political leaders to support.
- ***Implementing legislative solutions:*** Acquisition of nationality by stateless persons may require amending nationality legislation in order to establish inclusive rules on who is considered a national. Such legislation can be applied by operation of law, thereby avoiding costly procedures which may serve to exclude certain individuals. Similarly, legislation on naturalization should foresee facilitation of requirements for stateless persons, for instance through reduced residence requirements and lower fees. Expert advice on comprehensive and just solutions may be needed and national capacity strengthened to formulate and implement legislative solutions.

- ***Supporting institutional responses:*** Capacity-building and training assist States to reform administrative practices that impede the acquisition of a nationality. This can relate to discrimination against certain applicants in proceedings or lack of awareness of statelessness and existing methods to facilitate acquisition of nationality. Citizenship campaigns should be undertaken once legal or political reforms are achieved. Such campaigns help identify individuals who qualify for acquisition of nationality, process their applications and issue nationality documentation.
- ***Empowering individuals:*** The establishment of legal services for poor and marginalized stateless persons, as well as public information and education campaigns, are essential to ensure that stateless persons are aware of nationality and documentation procedures and are able to avail themselves of them. For example, NGOs can assist stateless persons in completing applications for acquisition of nationality, gathering relevant supporting documentation and also providing financial support for fees or necessary travel.
- ***Promoting social and economic inclusion of formerly stateless populations:*** Acquisition of nationality cannot undo the effects of statelessness overnight. Where efforts to reduce statelessness are successful, further action should be taken to ensure that new citizens are aware of their rights and responsibilities and of the procedures to avail themselves of services which had not been accessible to them before. Issuance of nationality documentation is critical to the enjoyment of rights attached to nationality. Development programmes in relevant countries should consider including formerly stateless populations among the groups requiring specific attention. Depending on the situation, activities in various sectors could be needed, for instance: vocational training where stateless people had been barred from formal employment or access to housing where they were not able to acquire property or obtain a construction permit. Lastly, there may be a need for peace-building activities between communities if there was strong resistance by some segments of society to integration of the formerly stateless population.

4. Protection of stateless persons

Protection of stateless persons comprises all the activities that address problems stateless persons face in their daily lives.²⁶ Stateless persons are marginalized and often face difficulties in accessing education, health care or formal employment. They are also subject to abuse, discriminatory treatment, arbitrary detention, and risk falling victim to crimes like trafficking. Whenever possible, interventions to protect stateless persons should be undertaken within a broader strategy to prevent and reduce statelessness, in particular since acquisition of a nationality empowers stateless persons to improve their daily lives on their own.

- ***Strengthening the international legal framework:*** The UN should increase efforts to promote ratification or accession to the 1954 Convention which has only 91 States parties at the time of publication. In doing so, reference may be made to relevant resolutions of the General Assembly which has repeatedly “encourage[d] States that have not done

²⁶ As understood in the context of UNHCR’s Executive Committee Conclusion No. 106.

so to give consideration to acceding” to this Convention.²⁷ Furthermore, States should be encouraged to accede to and improve implementation of other international and regional human rights instruments that enhance the protection of the rights of stateless persons.

- ***Developing national legal frameworks and supporting institutions:*** Irrespective of whether or not the State is party to the 1954 Convention, the UN should encourage States to incorporate a definition of statelessness in line with the international definition into national legislation. Legislation governing the entry and residence of non-citizens should take into consideration the specific situation of stateless persons, particularly those who are outside their country of habitual residence. The UN should also promote and provide advice on laws and regulations establishing a formalized procedure, and where applicable, the creation of institutions, for determining who is stateless on a territory. States should grant the individuals, who are confirmed to be stateless through such determination procedures, the right to stay on their territory, as well as concomitant civil, political, social, economic and cultural rights if they do not have the right to return to and reside in another State.
- ***The UN should promote respect of international human rights standards vis-à-vis stateless persons:*** While some distinctions between nationals and non-nationals are permissible under international law, authorities must be made aware of their duty to guarantee the human rights of all persons within their territory or under their jurisdiction, including stateless persons. Training should inform authorities dealing with stateless persons about statelessness, situations where it might arise (e.g., marriages between nationals and foreigners, irregular migration, etc.) and its consequences and the importance of non-discrimination. Training of law enforcement agencies and courts helps to ensure that rights of stateless persons are respected and enforced where necessary, for instance to prevent trafficking of stateless persons. Exchanges between stateless people and public authorities can be organized to highlight specific difficulties that stateless people face in a country. UN agencies should ensure that their own and their partners’ policies and programmes reflect that some persons in the country of operation have no nationality and may therefore need specific attention and should generally not be excluded on the basis that they are foreigners.
- ***The UN should assist with capacity-building and training to assist authorities to be able to identify stateless persons and extend treatment in accordance with international standards:*** Authorities dealing with assessing the nationality of persons within the territory must be made aware of the existence and consequences of statelessness and the importance of accurately assessing nationality status. Good cooperation between countries facilitating exchange of information with full respect for the rights of the individual is essential. Training on determining nationality should also extend to courts deciding nationality claims. Authorities and courts responsible for decisions on the status of aliens should be made aware of how the situation of stateless persons can be addressed in the national legal system in a manner consistent with international standards.

²⁷ See resolutions referred to in footnote 13, above.

- ***Empowering stateless persons through legal assistance and integration programmes:*** Stateless persons must be aware of their rights and may require practical or legal assistance with, for example, nationality verification processes. Any programmes to assist local populations with access to education, health care or income-generation should, where possible, also include stateless populations. Such socio-economic integration of stateless persons helps to create political will for achieving full integration through the acquisition of a nationality by lowering the political stakes for such a decision. Where possible, activities should also consider how integration can promote acquisition of a nationality, for instance by helping stateless persons to fulfil requirements for naturalization. For example, language classes not only help stateless persons improve their interactions with authorities generally but also to pass language tests which may be pre-requisites to the acquisition of nationality. Similarly, livelihood generating activities not only improve the daily lives of stateless persons and their families, but also help them meet naturalization requirements related to a stable income.

C. UN SYSTEM ARRANGEMENTS

The UN supports Member States in addressing situations of statelessness as integral to its efforts to strengthen the rule of law at the national and international levels. The expertise and activities of numerous UN departments, offices, funds, agencies and programmes are relevant to address situations of statelessness, including its causes and consequences. Involvement of a broad range of UN entities is required to address the problem effectively together with States, other international and regional organizations, NGOs, and community-based organisations.

As noted above, UNHCR has a specific mandate entrusted to it by the General Assembly in 1995 to prevent and reduce statelessness and protect stateless persons. This global mandate complements UNHCR's role as the UN agency responsible for assisting individuals and States to resolve the situation of individuals under the 1961 Convention on the Reduction of Statelessness.

At the same time, effectively addressing statelessness requires a collaborative effort, and the mobilization and coordination of the requisite expertise. All UN agencies that work with stateless populations can address protection concerns in their respective sectors. Below is a non-exhaustive list of such areas as well as an indication of some of the relevant agencies, apart from UNHCR:

- creating political will to address statelessness (Department of Political Affairs (DPA)/Department of Peacekeeping Operations (DPKO)/UN Country Teams);
- procedural and substantive advice in peace negotiations and electoral systems and processes, to seize opportunities to reform relevant nationality laws and policies (DPA/DPKO);
- promoting the prevention and reduction of statelessness as an element of good governance, the rule of law, and access to justice (United Nations Development Programme);
- ensuring that national laws and policies on citizenship respect international law;

- ensuring that national laws and policies respect international human rights related to nationality (Office of the High Commissioner for Human Rights, including human rights treaty bodies and special procedures);
- child protection, including the improved respect for the right of every child to be registered at birth and to acquire a nationality (United Nations Children's Fund);
- gender equality to ensure that women enjoy equal rights as men with respect to nationality laws and policies (UN Women);
- collection and analysis of population data to improve identification of stateless persons and populations (United Nations Population Fund, United Nations regional economic commissions);
- promotion of enhanced public information and awareness campaigns to address statelessness (Department of Public Information); and
- assistance to support undocumented migrants and their children to obtain documentation, including supporting emergency consular assistance, and promotion of good governance with respect to migration (International Organization for Migration).

At the Headquarters level, cooperation between UN entities can be coordinated in an inter-agency framework, led by UNHCR, with the support of the Executive Office of the Secretary-General.

At the country level, the UN Country Teams provide the appropriate framework for coordination between UN entities dealing with statelessness with a lead responsibility exercised by UNHCR under its mandate. Cooperation and coordination under the Common Country Assessment (CCA), the UN Development Assistance Framework (UNDAF) and *Delivering as One* initiatives as well as host government-led national development strategy frameworks (e.g. Poverty Reduction Strategy Papers (PRSP's), Post-Conflict Needs Assessments (PCNAs), etc.) are of relevance, particularly because addressing statelessness is frequently linked to development programmes.

ATTACHMENTS

1. Key Messages on statelessness
2. Information about country-specific issues/priority countries
3. UN High Commissioner for Refugees (UNHCR), *What is Statelessness?*, 2018, available at: <http://www.refworld.org/docid/5829c3514.html>
4. UN High Commissioner for Refugees (UNHCR), *Global Action Plan to End Statelessness, 4 November 2014*, available at: <http://www.refworld.org/docid/545b47d64.html>
 - a. UN High Commissioner for Refugees (UNHCR), *Good Practices Paper - Action 1: Resolving Existing Major Situations of Statelessness*, 23 February 2015, available at: <http://www.refworld.org/docid/54e75a244.html>
 - b. UN High Commissioner for Refugees (UNHCR), *Good Practices Paper - Action 2: Ensuring that no child is born stateless*, 20 March 2017, available at: <http://www.refworld.org/docid/58cfab014.html>
 - c. UN High Commissioner for Refugees (UNHCR), *Good Practices Paper - Action 3: Removing Gender Discrimination from Nationality Laws*, 6 March 2015, available at: <http://www.refworld.org/docid/54f8377d4.html>
 - d. UN High Commissioner for Refugees (UNHCR), *Good Practices Paper – Action 6: Establishing Statelessness Determination Procedures to Protect Stateless Persons*, 11 July 2016, available at: <http://www.refworld.org/docid/57836cff4.html>
 - e. UN High Commissioner for Refugees (UNHCR), *Good Practices Paper - Action 7: Ensuring birth registration for the prevention of statelessness*, November 2017, available at: <http://www.refworld.org/docid/5a0ac8f94.html>
 - f. UN High Commissioner for Refugees (UNHCR), *Good Practices Paper – Action 9: Acceding to the UN Statelessness Conventions*, 28 April 2015, available at: <http://www.refworld.org/docid/553f617f4.html>
5. UN High Commissioner for Refugees (UNHCR), *Campaign Update, December 2017*, December 2017, available at: <http://www.refworld.org/docid/5a3cc6d74.html>
6. UN High Commissioner for Refugees (UNHCR), *Background Note on Gender Equality, Nationality Laws and Statelessness 2017*, 8 March 2017, available at: <http://www.refworld.org/docid/58aff4d94.html>
7. UN High Commissioner for Refugees (UNHCR), *The Sustainable Development Goals and Addressing Statelessness*, March 2017, available at: <http://www.refworld.org/docid/58b6e3364.html>
8. European Network on Statelessness, *Birth registration and statelessness*, November 2017, available at: <http://www.refworld.org/docid/5a54943c4.html>

9. UN General Assembly, *New York Declaration for Refugees and Migrants : resolution / adopted by the General Assembly*, 3 October 2016, A/RES/71/1, available at: <http://www.refworld.org/docid/57ceb74a4.html>
10. UN High Commissioner for Refugees (UNHCR), *Statelessness and the Rohingya Crisis*, 10 November 2017, available at: <http://www.refworld.org/docid/5a05b4664.html>
11. Refugee Studies Centre, *Forced Migration Review No. 32 - No legal identity. Few rights. Hidden from society. Forgotten. Stateless*, April 2010, ISSN 1460-9819, available at: <http://www.refworld.org/docid/4c6cefb02.html>
12. UN High Commissioner for Refugees (UNHCR), *Stateless Persons in Detention: A tool for their identification and enhanced protection*, June 2017, available at: <http://www.refworld.org/docid/598adacd4.html>