

Study Guide

for the

United Nations High Commissioner for Refugees

on the topic of

Ending Statelessness



Chairs:

Daria Kisseleva

Alexander Dietz

Table of Contents

WELCOME LETTER	3
INTRODUCTION TO COMMITTEE	3
KEY TERMS	5
STATISTICS	5
PAST ACTIONS	6
CAUSES OF STATELESSNESS	8
<i>State succession</i>	9
<i>Statelessness at birth</i>	9
<i>Discrimination and denationalization</i>	9
<i>Statelessness upon a change in civil status</i>	10
<i>Statelessness in the context of displacement</i>	10
IDENTIFICATION OF STATELESS PERSONS	10
ACTIONS BY THE UNITED NATIONS	10
<i>A Global Action Plan: “#IBelongCampaign”</i>	11
WORK OF OTHER INTERNATIONAL ORGANIZATIONS	11
THE ROLE OF NATIONAL GOVERNMENT IN ENDING STATELESSNESS	11
PROTECTING THE RIGHTS OF STATELESS PERSONS	12
PROBLEMS IDENTIFICATION	12
<i>Administrative rights</i>	12
<i>Right to health</i>	13
<i>Right to non-discrimination</i>	15
<i>Right to education</i>	15
<i>Access to Freedom</i>	17
BLOC POSITIONS	18
<i>European Union</i>	18
<i>United States of America</i>	18
<i>African Union</i>	18
<i>ASEAN</i>	19
QUESTIONS A RESOLUTION MUST ANSWER:	20
BIBLIOGRAPHY	21

1. Welcome Letter

What is the connection between Anne Frank, Friedrich Nietzsche, and Mikheil Saakashvili? All of them were or still are stateless. Stateless people represent some of our most vulnerable members of society and are often overlooked in policy-making, but also in our daily life, as they live in the shadow of society.

UNHCR data suggests that 10 million people in the world today are stateless, meaning they do not hold the nationality of any country. Without a nationality, stateless people are often denied their fundamental rights, from access to education, health care, and economic opportunities, to freedom of movement and protection from abuse. The vulnerability created by these human rights violations can result in higher rates of exploitation and incarceration of stateless people, putting them at greater risk of gender-based violence and mental health issues. These phenomena spread beyond the individual scale, as they are often root causes of widespread poverty, social unrest, displacement, and conflict, making statelessness a scourge on society.

Furthermore, the complexity of this topic is increased by the variety of root causes for statelessness. The risk of becoming stateless is present for every individual and does not rely merely on discrimination against certain groups. Especially in our modern and globalized society, contradicting laws of different states can lead to statelessness without any prior action of the affected person.

The challenge awaiting UNHCR delegates will be twofold, as their mission will consist in finding solutions to both eradicate statelessness and protect the rights of stateless people in the process. In order to address those weighty issues, delegates will be expected to come up with innovative, long-lasting solutions, finding the right balance between creativity and viability. From changing laws that create statelessness in the first place to protecting the social and economic rights of stateless people, the challenges of this committee will be manifold and require the support of local and international actors. Hopefully, the delegates will be up to that daunting task!

2. Introduction to Committee

The Office of the High Commissioner for Refugees (UNHCR) was established in 1950 by the General Assembly through the UN General Assembly Resolution 319 (IV) and began its work

on January 1, 1951. UNHCR succeeded the prior United Nations Relief and Rehabilitation Administration. The office is commanded to lead and coordinate global activity to protect displaced people and resolve exile issues around the world. Its main role is to protect the rights and prosperity of refugees, displaced people, and stateless persons. It endeavors to guarantee that everybody can practice the right to look for safe places and discover safe asylum in another state, with the alternative to coming all the way back willfully, incorporating locally or resettling in a third nation.

The UNHCR's mandate, established by its statute in 1950, defines that the organization's core mission focuses on providing refugees with access to different durable solutions and working with states to ensure access to protection from persecution.¹ Durable solutions for refugees, according to the UNHCR, include voluntary return, integration in the host country, or resettlement in a third country. The UNHCR's work also includes managing shelters and refugee camps. Today, the UNHCR operates humanitarian assistance programs for refugees, internally displaced persons, and returnees in 132 countries and employs more than 17,878 personnel.² Since its founding, UNHCR has helped more than 50 million people and was twice awarded the Nobel Peace Prize for its efforts in 1954 and 1981.³

The UNHCR is a part of the UN Programs and Funds and reports annually to the General Assembly and the Economic and Social Council (ECOSOC). It is governed by its administrative body, the Executive Office, which has 85 members (2018) and meets annually. The executive office sets its strategy and oversees the UNHCRs activities worldwide, and ensures accountability. It is also responsible for advising the High Commissioner in the exercise of their functions, authorizing the High Commissioner to make appeals for funds, to approve the proposed budget and set the UNHCRs strategy.⁴ The Executive Office includes the High Commissioner, Deputy High Commissioner, Deputy High Commissioner for Operations, Deputy High Commissioner for Protection, and the Head of Cabinet, as well as their staff. It liaises directly with high-level donors and States to ensure UNHCR's political and financial support. The UNHCR has its headquarters in Geneva, Switzerland, and is currently employing more than 17,324 staff members in 135 Countries. The office of the High Commissioner,

¹ U.N.H.C.R. (n.d.) *Statute of the Office of the United Nations High Commissioner for Refugees*. [online] UNHCR.

² U.N.H.C.R. (2020). *Figures at a Glance*. [online] UNHCR.

³ NobelPrize.org. (n.d.). *The Nobel Peace Prize 1954*. [online]

⁴ U.N.H.C.R. (2022) *Executive Committee*. [online] UNHCR.



elected by the General Assembly for a five-year term, is currently held by Filippo Grandi⁵ and has previously been held by now secretary General of the UN, António Guterres.⁶

3. Key terms

Nationality: A legal relationship involving allegiance on the part of an individual and usually protection on the part of the state⁷

Stateless person: Someone who is not considered as a national by any State under operation of its law⁸

Jus Sanguinis: The determination of a person's nationality on the basis of the nationality of their parents (or one parent or one particular parent) at the time of the target person's birth and at the time of acquisition of nationality by the target person (the two points in time are different in cases of acquisition after birth).⁹

Jus Soli: The principle that the nationality of a person is determined on the basis of their country of birth.¹⁰

4. Statistics

The UNHCR currently estimates the number of stateless persons to be above 10 million¹¹. Statelessness is a global phenomena and not only focused on specific regions or geopolitical conditions. Yet, currently Côte d'Ivoire and Bangladesh lead the statistics for the number of stateless people in their respective states as seen in the following table.

Ten countries with highest reported stateless populations reported in UNHCR Global Trends data:

End of 2019	End of 2018	End of 2017	End of 2016
Côte d'Ivoire (955,399)	Bangladesh* (906,635)	Bangladesh* (932,204)	Myanmar (925,939)
Bangladesh* (854,704)	Côte d'Ivoire (692,000)	Côte d'Ivoire (692,000)	Côte d'Ivoire (694,000)
Myanmar* (600,000)	Myanmar* (620,939)	Myanmar* (621,763)	Thailand (487,741)
Thailand* (475,009)	Thailand (478,843)	Thailand (486,440)	Latvia (242,736)
Latvia (216,851)	Latvia (224,844)	Latvia (233,571)	Syria (160,000)
Syria (160,000)	Syria (160,000)	Syria (160,000)	Kuwait (93,000)
Malaysia* (108,332)	Kuwait (92,000)	Kuwait (92,000)	Russia (90,771)
Uzbekistan (97,346)	Uzbekistan (79,942)	Uzbekistan (85,555)	Uzbekistan (86,524)
Kuwait (92,020)	Estonia (77,877)	Russia (82,148)	Estonia (82,585)
Estonia (75,599)	Russia (75,679)	Estonia (80,314)	Saudi Arabia (70,000)

* Figures includes stateless Rohingya displaced from/in Myanmar.

12

⁵ United Nations High Commissioner for Refugees (2016). *The High Commissioner*. [online] UNHCR.

⁶ U.N.H.C.R. *António Guterres (Portugal): 2005-2015*. [online] UNHCR.

⁷ Merriam-webster.com. (2019). *Definition of NATIONALITY*. [online]

⁸ Un.org. (1954). *UNTC*. [online]

⁹ home-affairs.ec.europa.eu. (n.d.). *ius sanguinis*. [online]

¹⁰ home-affairs.ec.europa.eu. (n.d.). *ius soli*. [online]

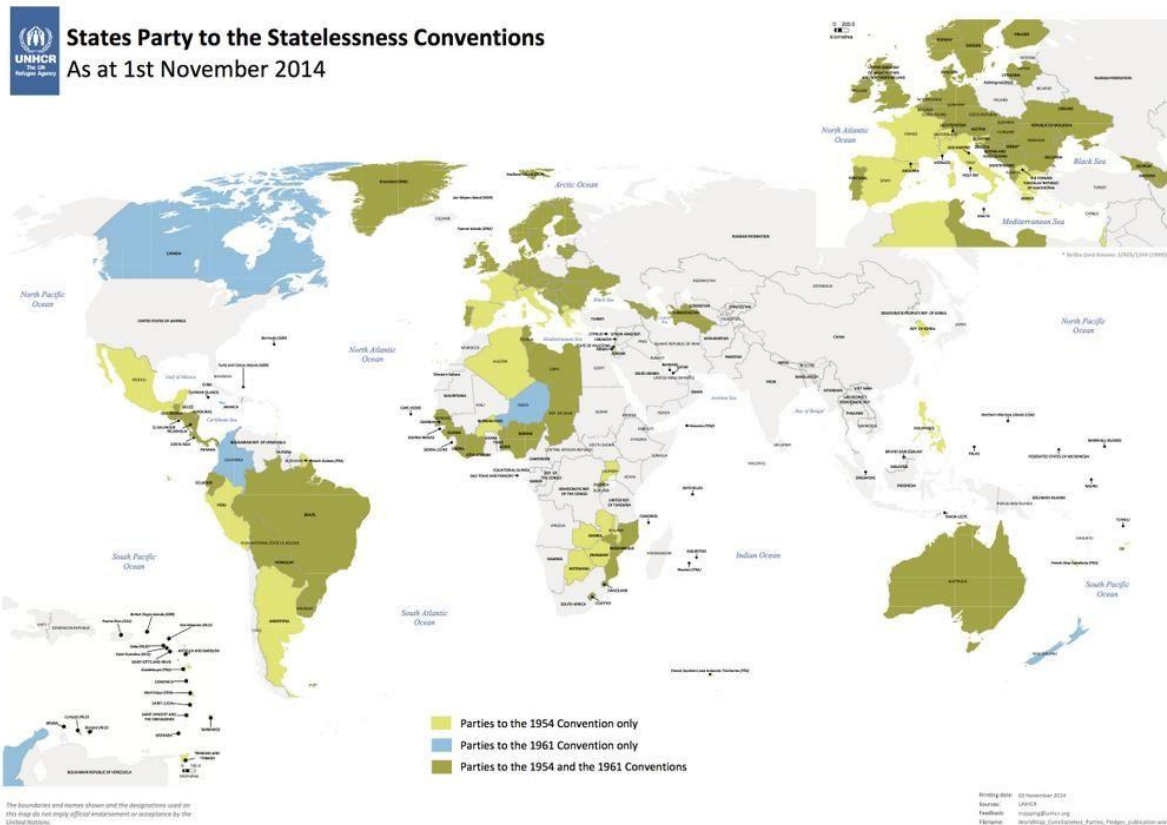
¹¹ U.N.H.C.R. » *Statelessness around the world*. [online]

¹² Statelessness in numbers: 2020 An overview and analysis of global statistics Summary of key findings. (2020). [online]

The Rohingya are still the largest group of stateless and hence, lead to the high numbers in Bangladesh and Myanmar. They account for up to 1.5 mio people across multiple countries.

5. Past Actions

The Convention relating to the Status of Stateless Persons provides a framework for states to assist stateless people, allowing them to live in security and dignity until their situation can be resolved. Yet, very few states are currently parties to this instrument.



13

The minimum standards of the 1954 Convention are however complemented by the provisions of international human rights treaties that guarantee the enjoyment of basic human rights by everyone regardless of nationality or lack thereof.

¹³ UNHCR (2014). [online]

Name of treaty	Year of adoption and number of parties	Key Achievements
Convention relating to the Status of Refugees ¹⁴	Adopted in 1951. 146 parties.	protects asylum seekers and stateless persons against penalization and detention
Convention relating to the Status of Stateless Persons ¹⁵	Adopted in 1954 96 parties	- establishes the definition of a stateless person -core principle: no stateless person should be treated worse than any foreigner who possesses a nationality. - provides a framework for States to assist stateless people
International Convention on the Elimination of All Forms of Racial Discrimination ¹⁶	Adopted in 1965 182 parties	the centerpiece of the international regime for the protection and enforcement of the right against racial discrimination
International Covenant on Economic, Social, and Cultural Rights ¹⁷	Adopted in 1966 171 parties	describes legal obligations to respect the right to health by refraining from denying or limiting equal access to health services for all persons, including prisoners or detainees, minorities, asylum seekers, and illegal immigrants
International Covenant on Civil and Political Rights ¹⁸	Adopted in 1976 173 parties	includes the right to a nationality into fundamental civil and political rights of individuals
Convention against Torture and Other Cruel, Inhuman or	Adopted in 1984 173 parties	includes stateless persons in its scope (article 6)

¹⁴ United Nations (1951). *Convention and Protocol Relating to the Status of Refugees*. [online] UNHCR.

¹⁵ Un.org. (1954). *UNTC*. [online]

¹⁶ Mcdougall, G. (n.d.). *THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION*. [online]

¹⁷ United Nations (1966). *International Covenant on Economic, Social and Cultural Rights*. [online] OHCHR.

¹⁸ UNITED NATIONS (1966). *International Covenant on Civil and Political Rights*. [online] OHCHR.

Degrading Treatment or Punishment ¹⁹		
Convention on the Rights of the Child ²⁰	Adopted in 1989 196 parties	reaffirms the right to education for every child, including stateless children
UNESCO Universal Declaration on Bioethics and Human Rights ²¹	Adopted in 2005 by acclamation.	establishes that "the enjoyment of the highest attainable standard of health" is a fundamental human right

6. Causes of Statelessness

To fully understand the ongoing struggle of statelessness, one first has to know the working definitions of a few terms. A stateless person is legally defined as "a person who is not considered as a national by any State under the operation of its law"²². This situation violates a fundamental right to a nationality declared by the UN Declaration of Human Rights.

The first attempts to address the causes of statelessness can be found in the early twentieth century in the aftermath of the first World War. During that time, the international community was looking for specific solutions, such as the Armenian refugees²³.

The United Nations initially addressed the issue in the 1950s and 1960s with two conventions focusing on identifying and reducing statelessness. In 1954 the Convention to the Status of Stateless Persons aimed at ways to identify people as stateless and provided rights and protections for those. The 1961 Convention on the Reduction of Statelessness identifies measures to minimize the incidence of statelessness. For example, it promotes the jus soli principle as a default.

In order to address the issue and bring up sustainable solutions, delegates need to understand the root causes of statelessness. Here we will illustrate a few, and delegates are invited to extend their research on various other causes. An aspect that makes the topic of ending statelessness extremely challenging is the various root causes.

¹⁹ OHCHR. (1984). *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. [online]

²⁰ United Nations (1989). *Convention on the Rights of the Child*. [online] OHCHR.

²¹ Unesco.org. (2019). [online]

²² Un.org. (1954). *UNTC*. [online]

²³ Jaeger, G. (2001) On the history of the international protection of refugees. *Revue Internationale de la Croix-Rouge/International Review of the Red Cross*, 83(843), pp.727–738.

a) State succession

One of the most common causes of statelessness is the fall of a state. Most other causes of statelessness are triggered by an action of an individual (emigration, birth, marriage). However, there is nothing an individual can do against statelessness after state succession.

There are multiple situations in which state succession can become relevant. For example, a territory can be transferred from one state to another (such as the 2008 cession of the Bakassi Peninsula from Nigeria to Cameroon)²⁴. Moreover, two or more states can unify (Germany 1990). A large state could dissolve into multiple smaller states (USSR 1991)²⁵. An area of a state becomes independent and forms a new state (South Sudan becoming independent from the Republic of Sudan 2011).

All these scenarios bring up various questions of who should be a citizen, how one can obtain citizenship, and how one might lose it. These scenarios will likely bring in novel legislation that might discriminate against a specific population group.

b) Statelessness at birth

States determine the nationality of an individual at birth. Most common are either nationality through blood (jus sanguinis) or through the soil (jus soli). However, these concepts can lead to conflicts leading to statelessness. For example, a child born in a country with jus sanguinis and with parents who are nationals of a jus soli state will be born stateless.

Additional complications can arise from unknown or unclear situations of the parents. If countries apply jus sanguinis only through the paternal bloodline, it makes children dependent on the father to acquire a nationality. In multiple countries, legislation becomes more restrictive if the parents are unmarried. Suppose an area lacks facilities to register births or parents decide not to register the newborn. In that case, it will later be complicated for the child to provide any proof to acquire a nationality. The rate of non-registration is also higher among children of minorities, leading to further potential discrimination.

c) Discrimination and denationalization

As the citizenship of an individual is such a vital requirement to take an active part in society and be granted essential rights in a state, it is also often used as a tool to discriminate against specific groups or persons.

States can denationalize an individual and make them de facto stateless. One of the most prominent examples is the case of Kenneth D. Kaunda, the former ruler of Zambia.²⁶ Kaunda ruled Zambia for 27 years, yet, his parents were born in Malawi. While living in Zambia, he renounced his Malawian citizenship as he was living in Zambia and was a Zambian citizen. However, in 1999 the country's High Court decided that he had no right to hold Zambia's

²⁴ www.justiceinitiative.org. (n.d.). *Stateless in Bakassi: How a Changed Border Left Inhabitants Adrift*. [online]

²⁵ European Network on Statelessness. (n.d.). *Joint steps to end statelessness in the Commonwealth of Independent States*. [online]

²⁶ Jr, D.G.M. (1999). Founder of Zambia Is Declared Stateless In High Court Ruling. *The New York Times*. [online]



citizenship as his parents were not born there. With this decision, the court made him effectively stateless. The ruling was part of a bigger political conflict between Kaunda and the then-opposite ruling party.

Multiple legal frameworks try to address this cause by using the principle of non-discrimination. Yet, discrimination by denationalization is still witnessed in modern society.

d) Statelessness upon a change in civil status

States have different regulations concerning marriage, divorce, and adoption that can leave an individual stateless. Most states simplify the naturalization process for married or adopted individuals by a national, yet, other countries deprive individuals if they marry someone of another nationality.

e) Statelessness in the context of displacement

Individuals emigrate from one territory to another due to various reasons. This can have an impact on the individual's nationality. For one, multiple states automatically withdraw citizenship if an individual stays multiple years outside of the country. The new host state might provide the respective citizenship through naturalization after multiple years, yet, this process is neither standardized nor without an enormous bureaucratic effort. This situation can potentially lead to an individual losing their nationality but will never be eligible to obtain it in another country.

The effects can be even more urgent for families with children. If the country does not provide nationality *jus sanguinis*, children are especially vulnerable to given situations.

7. Identification of stateless persons

Governments and international organizations must first identify stateless people to assist them effectively. The identification process is essential to help with prevention, reduction, and protection.

By 2011, only 64 countries provided statistics on statelessness hence, making any estimation of the total global number difficult and vague.

8. Actions by the United Nations

The various causes of statelessness illustrated the importance and necessity of the international community to take action. The main organization of the UN addressing the topic of statelessness is the UNHCR, as being stateless and being a refugee can often be interlinked. Hence, the UNHCR can profit from using similar approaches toward refugees by raising awareness and helping states build capacity to implement preventive measures.

One of the main issues of previous UN initiatives is the low number of participating states in the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

A Global Action Plan: “#IBelong Campaign”

In 2014, 60 years after the 1954 Convention on Stateless Persons, the UNHCR launched the #IBelongCampaign²⁷, their biggest campaign to address the issue by proposing 10 action points that should be tackled in the following 10 years.

1. Resolve existing major situations of statelessness
2. Ensure that no child is born stateless
3. Remove gender discrimination from nationality laws
4. Prevent denial, loss or deprivation of nationality on discriminatory grounds
5. Prevent statelessness on cases of state succession
6. Grant protection status to stateless migrants and facilitate their naturalization
7. Ensure birth registration for the prevention of statelessness
8. Issue nationality documentation to those with entitlement to it
9. Accede to the UN Stateless conventions
10. Improve qualitative and quantitative data on stateless populations.

The goal is to “seek greater political commitment to resolve protracted situations of statelessness and to prevent new situations of mass statelessness due to state succession or arbitrary deprivation of nationality”.

9. Work of other international organizations

Due to the complexity and the global level of the phenomena, the UNHCR cannot tackle the issue alone and ,thus, relies on cooperation with other international organizations and individual governments.

For example, the UNHCR cooperates with the International Law Commission (ILC) for the development of standards relating to statelessness. Moreover, the Office of the High Commissioner for Human Rights (OHCHR) incorporates the situation of stateless persons in the UN human rights framework. UNGA declared that coupled with the birth registration process, there must be a system in place that is designed to “fulfill his or her right to acquire [...] a nationality”

10. The role of national government in ending statelessness

So far, the UN cannot provide any kind of nationality. Hence, stateless people rely on the jurisdiction of individual countries. As a result, the UNHCR supports and urges individual governments to take action. So far, the biggest obstacle to ending statelessness has been the ignorance of governments and the international community towards the topic. For most causes, a state's actions or inaction result in statelessness. Ultimately, states are also responsible for enforcing the protection of affected people's rights. So what are the measures that a government can take?

²⁷ U.N.H.C.R. <https://www.unhcr.org/ibelong/>. [online]

As a direct measure that would resolve urgent situations, governments can grant citizenship or some kind of legal status to individuals or a group of individuals. This measure is often used in the aftermath of a war or in countries with changing borders, as these situations can lead to high numbers of statelessness.

A more sustainable solution would be to change the respective laws. Unfortunately, there is no single law that would need to be added or edited, but legislators have to look at different laws for different root causes and the individual setting of the respective nation. Thus, a global approach is quite challenging.

Multiple regional legal frameworks, such as *The American Convention on Human Rights*, *the Arab Charter on Human Rights*, and *the African Charter on the Rights and Welfare of the Child*, were set in place to state the right to nationality as a human right.

11. Protecting the Rights of Stateless Persons

Having a recognized national identity is essential for people to realize their human rights. Stateless people often cannot access the most basic rights, such as education, employment, property ownership, and healthcare, forcing them to live in the shadows of society, unprotected and without basic social safety nets. These challenges also put stateless people at greater risk of further violations of their rights, such as gender-based violence, incarceration and exploitation, sometimes leading to mental health complications. These basic rights violations also affect society more broadly, as they can be a root cause of poverty, social unrest, displacement and conflict. Furthermore, statelessness is often inherited, which leads to a phenomenon of intergenerational transmission of rights deprivation and to the enduring marginalization of stateless individuals across generations.

However, a key challenge for the protection of stateless people lies in the fact that they are a diverse group about whom little data exists to inform policy and practice. Their experiences and identities intersect with those of other marginalized and minoritized groups. Nevertheless, focusing on specific categories of rights violations can help the delegates shape an effective roadmap and bring innovative solutions to the table in order to protect stateless people.

12. Problems identification

a) Administrative rights

The right to administrative assistance is guaranteed to stateless persons by the 1954 Convention (Article 25), alongside the right to identity and travel documents (Articles 27 and 28). These provisions are designed to deal with the particular difficulties faced by stateless persons due to their absence of nationality, for instance by providing for a mutually-recognised travel document for stateless persons to function in lieu of a passport. These matters are not regulated elsewhere in international law and are among the core legal benefits for stateless persons under the 1954 Convention.

More specifically, all stateless persons have the right to be issued an identity document granted to foreigners with permanent residence in the country. They are also entitled to a permit for permanent residence for themselves and their family members. All stateless persons who are lawfully staying in the territory are also entitled to be issued travel documents for the purpose of travel outside and re-entry into the country. Finally, the signatories of the 1954 Convention are supposed to provide administrative assistance to stateless persons whose exercise of a right would normally require the assistance of authorities from a foreign country to whom they cannot have recourse. In other words, the national authorities of the stateless person's country of residence shall issue them any needed documents or certifications as would normally be issued to aliens by or through their national authorities.

However, despite all those regulations, loopholes still exist. In fact, in practice, the quest for recognition, status, and therefore administrative rights and assistance can be a lengthy, debilitating struggle. Stateless persons face major obstacles trying to navigate the procedures, difficulties obtaining the required evidence, and suffer prolonged periods in limbo, which they report to be a stressful, expensive, and frustrating experience overall²⁸. Frustration and distress often lead to a deterioration of their mental health. Moreover, most of the time it is impossible for stateless people to obtain a work permit while they are waiting for documentation, which plunges them and their families into a loop of poverty and vulnerability²⁹.

Quite evidently, the violation of stateless persons' administrative rights prevents them from fulfilling their potential and may have severe knock-on effects on societal cohesion and stability. Ensuring stateless people's straightforward access to their administrative rights, finding solutions to foster the employment of stateless persons, enabling them to open a bank account, or get married, are a few means to respond to such concerns.

b) Right to health

The "right to health", including access to basic healthcare, has been recognized as a universal human right through a number of international agreements. Attempts to protect this ideal, however, have relied on states as the guarantor of rights and have subsequently ignored stateless individuals, or those lacking legal nationality in any nation-state. While a legal nationality alone is not sufficient to guarantee that a right to healthcare is accessible, an absence of any legal nationality is almost certainly an obstacle to it.

Stateless people have shorter-than-average life spans as a result of vulnerabilities associated with a lack of legal status, and their enjoyment of the right to health varies significantly from country to country. For instance, stateless minorities who have lived in the same place for generations, such as ethnic Russians in the Baltic States, may have access to healthcare in line with nationals. Others, including many Roma, who lack documentary proof of their nationality, face multiple violations of their right to health³⁰. Overall, stateless people report a

²⁸ U.N.H.C.R. *Many stateless in UK face a tortuous road to recognition*. [online] UNHCR.

²⁹ Refugees, U.N.H.C. for (n.d.). *'A whole new world has opened in front of me'*. [online] UNHCR.

³⁰ European Network on Statelessness. (n.d.). *Why the health rights of stateless people must be a priority beyond the COVID-19 pandemic and what needs to change to achieve this*. [online]

range of barriers to accessing healthcare, which have been amplified and brought to light by the covid-19 pandemic, as access to services became more challenging for everyone and health systems were overwhelmed. The scope of obstacles between stateless persons and access to healthcare ranges far beyond the lack of legal status and identity documentation - and de facto health insurance. In fact, stateless groups also face institutional mistrust and fear of data sharing with immigration authorities, coupled with their experiences of discrimination, as well as financial, language, and other practical barriers³¹.

The lack of documentation also plays a significant role in childhood deaths from preventable diseases, which impact millions of children each year from birth to age five. Stateless children may be denied services, including subsidized vaccination programs, or may be required to pay more than patients with citizenship, a circumstance that often erects insurmountable financial barriers. Currently, children without birth certificates cannot be legally vaccinated in at least 20 countries, and more than 30 states require documentation to treat a child at a health facility³².

During the COVID-19 pandemic, testing and treatment have been out of reach for many stateless groups, with identity documents being required in some countries as a condition for access to those services or with charges being applied. In some places where exemptions from those requirements were put in place specifically for for COVID-19-related care, those information were poorly communicated to marginalized groups, such as refugees or stateless persons³³.

Some positive practices were observed, however, in Malaysia, which has a significant stateless population and which had committed not to arrest people without documents who came forward for testing³⁴. Similarly, in Ireland a firewall has been created between health services and immigration authorities during the crisis, allowing undocumented migrants to access services without fear their information will be shared³⁵.

The invisible nature of statelessness and lack of population data make it difficult to evidence and inform public health policy, let alone target health messages to stateless communities. But solutions are not out of reach. Information and services are often only available in a country's main language(s) and digital exclusion further hinders access. NGO and community-led initiatives, in some cases supported by international organizations like UNHCR, have responded to this gap, operationalising public health information, translating main messages, sharing information in different formats, and setting up mobile health units. More remains to be done to ensure stateless people and representatives of communities affected by statelessness participate in the planning and decision-making that affects their lives so that public health information is accessible and relevant.

³¹ European Network on Statelessness. (n.d.). *Protecting the rights of stateless people*. [online]

³² Lynch M (2008) *Futures Denied: Statelessness Among Infants, Children, and Youth* | Refugees International.

³³ European Network on Statelessness. (n.d.). *Why the health rights of stateless people must be a priority beyond the COVID-19 pandemic and what needs to change to achieve this*. [online]

³⁴ Harrington, C. (n.d.). *DHRRRA Malaysia Statement on the Impact of COVID19 on Stateless Persons in Malaysia*. [online] equalnationalityrights.org.

³⁵ European Network on Statelessness. (n.d.). *Why the health rights of stateless people must be a priority beyond the COVID-19 pandemic and what needs to change to achieve this*. [online]

c) Right to non-discrimination

The relationship between statelessness and discrimination is double-ended. On the one hand, statelessness often occurs as a result of direct discrimination, that is, less favorable treatment of a person because of characteristics, such as their race, ethnicity, or religion. On the other hand, once stateless, a person is especially vulnerable both to direct and indirect discrimination, that is, being put at a disadvantage by a particular provision, criterion, or practice which cannot be objectively justified.

The Declaration of Principles on Equality³⁶ identifies the right to nondiscrimination as “a free-standing, fundamental right, subsumed in the right to equality”. Accordingly, discrimination is prohibited on many grounds including race, colour, ethnicity, descent, gender, civil, family status, language, religion or belief, nationality, or a combination of any of these grounds.³⁷

In practice, statelessness often exacerbates the exclusion faced by minority groups who have already been discriminated against before obtaining their stateless status.

The discrimination faced by stateless persons, either within or outside their country of habitual residence, is often linked to race, ethnicity, and nationality (or the lack thereof)³⁸. Thus, as stateless persons are denied their nationality and left unable to fully integrate into society, there is a feeling of alienation that remains with stateless individuals throughout their lives. With discrimination of ethnic origin, the eventual granting of citizenship or nationality does not necessarily facilitate their complete acceptance into that society. Therefore, statelessness can somehow result in the marginalization of certain groups. Moreover, stateless persons can also become subjects of overwhelming forms of discrimination, such as harassment, which could take the form of excessive use of immigration control which go beyond the threshold of justified differential treatment³⁹.

Therefore, work remains to be done for both the state and the civil societies in order to minimize the series of discrimination stateless persons already face in their daily lives. Although the authorities shall guarantee the free and full exercise of all rights, as recognised in the 1954 Convention, to the stateless person or applicant for recognition of such status without any discrimination, solutions remain to be found in order to apply this principle in practice. At the civilian level, although initiatives have been conducted to raise awareness about the situation of stateless persons, international human rights organizations are hoping for innovative and efficient approaches to emerge.

d) Right to education

Although the right to education is a fundamental universal right of all children as per Article 28 of the United Nations Convention on the Rights of the Child (CRC), many stateless children

³⁶ Equal Rights Trust. (2015). *Declaration of Principles on Equality*. [online]

³⁷ Equalrightstrust.org. (2010). *Unravelling Anomaly: Detention, Discrimination and the Protection Needs of Stateless Persons*. [online]

³⁸ Ohchr.org. (n.d.). *Background Non-Paper on Equality and Non-discrimination in Nationality Matters to End Statelessness*. [online]

³⁹ STATELESS PERSONS IN DETENTION A tool for their identification and enhanced protection. (n.d.). [online]

are still denied access to education. The denial of the right to education, resulting in the absence of opportunities for further studies and employment, eventually leads them to poverty.

Though countries such as the United Kingdom, Italy, Malaysia, Austria, and Thailand, act on the belief that every child has the right to education and have opened their doors to children with an unidentifiable status, it is far from being a one size fits all approach and some countries still require documentation to allow children to enroll in their schools⁴⁰. Furthermore, access to education becomes more challenging as children seek to pursue higher forms of education, as in some areas travel is required, and with no identification documents, children are unable to freely move around.

Despite the principle that all children, regardless of documentation, have a right to education, stateless families often report that they encounter problems keeping children in school due to the lack of documents requested by school officials or their documents being not accepted. For children who are stateless or at risk of statelessness, requests for documentation may occur at specific points in elementary, secondary, and tertiary education, as well as in some cross-cutting situations that may occur at any level. In some cases these requests are based on official policy, but in many they are the result of the arbitrary application of law and policies⁴¹. In practice, school officials are often instructed to check for documents and to encourage children to obtain birth certificates, at minimum. In some countries, while some school districts may try to help families seek national or foreign documents, such possibilities are not widely advertised, sometimes in order to avoid too high demand for assistance. Nonetheless, although parents are often aware of efforts by schools and the government to help document children, they often are worried that if they come forward, the documents they have may be taken away or that their children will be registered as foreigners and deported. Unfortunately, those concerns are far from being groundless, as in recent years several states - including the Dominican Republic - have sometimes been accused of confiscating and destroying documents, a practice noted with concern by the UN. Committee on the Elimination of All Forms of Racial Discrimination⁴².

Apart from the evident difficulties that come with the lack of documentation, there are also indirect barriers, such as societal pressures to drop out, which are triggered by statelessness and in turn affect a child's ability to stay in school. A lack of educational prospects and professional employment opportunities may also pressure children who are stateless or at risk of statelessness to drop out of school and can affect their sense of self-worth.

In many cases, alternatives to the public education system for stateless children include private schools - which can be costly - or those established by NGOs. However, more needs to be done to ensure primary, secondary and higher education for stateless children and break the circle of poverty and rejection many of them suffer from.

⁴⁰ Actfordisplaced.org. (2021). *Stateless children's right for education*. [online]

⁴¹ Concluding observations of the Comm. on the Elimination of Racial Discrimination: Dom. Rep.,16, U.N. Doc. CERD/C/DOM/CO/12 (May 16, 2008); see amneSty internatiOnal, dOminican republic: Fear FO R SaFety/deatH tHreatS (2008)

⁴² Ibid.

e) Access to Freedom

Another plight surrounding stateless persons has to do with the violation of their right to freedom and can be referred to as arbitrary detention. When a country has no statelessness determination procedure (SDP), stateless people are at particular risk of arbitrary immigration detention, as they end up caught between having no country to return to and no route to regularize their stay. By putting in place a SDP, improving the identification of statelessness, and ensuring access to effective remedies to challenge immigration detention, arbitrary and unlawful detention can be avoided.

The administrative immigration detention of stateless persons outside their country of habitual residence is the most visible form of restriction of liberty from an international human rights perspective. This is also the area in which international human rights law can potentially have the greatest impact. Such detention is usually imposed on persons in order to guarantee that an administrative procedure can be implemented. The predominant purpose behind administrative detention in this context is to prevent persons from disappearing during the course of a procedure which may result in their deportation⁴³. Despite the Article 31 of the 1951 Convention relating to the Status of Refugees, calling for protection against penalizing asylum seekers who have illegally entered into a country's territory, the legal framework of many nations allows for the detention of such persons whilst their asylum application is being processed⁴⁴. Whilst there are strong human rights concerns with administrative detention in general, the administrative detention of stateless persons including those refused asylum, is particularly problematic as states often wrongly resort to indefinite detention due to the non-existence of a nation to deport such persons to.

The vulnerability of stateless persons in detention is heightened by the fact that they do not benefit from such consular protection. Indeed, a significant problem faced by stateless persons in immigration detention, is that there is no authoritative party which would exclusively represent their interests. The role of embassies and consulates – representing the needs and interests of their citizens in foreign countries is essential to the fine balance of international law. Indeed, the 1963 Vienna Convention on Consular Relations provides that if so requested, the competent authorities of the receiving state shall without delay, inform the consular post of the sending state that its national has been deprived of his or her liberty⁴⁵

Furthermore, the conditions of detention for stateless persons are also a topic of acute concern. Many human rights violations exposed in extreme detention facilities - such as Guantanamo Bay - highlighted the difficulty faced even by national governments in securing rights protection for their citizens who, having suffered extraordinary rendition at the hands of unseen forces, were then illegally detained for indeterminate amounts of time⁴⁶. The plight of

⁴³ STATELESS PERSONS IN DETENTION A tool for their identification and enhanced protection. (n.d.). [online]

⁴⁴ UNESCO. "People on the move: Handbook on selected terms and concepts", The Hague/Paris (2008), p.24

⁴⁵ treaties.un.org. (n.d.). *United Nations Treaty Collection*. [online]

⁴⁶ Equalrightstrust.org. (2010). *Unravelling Anomaly: Detention, Discrimination and the Protection Needs of Stateless Persons*. [online]

stateless persons in such facilities is much worse, as they do not have a sovereign state negotiating their release on their behalf.

Therefore, whilst UNHCR guidelines explicitly state that statelessness should not lead to indefinite detention, the general practice in many countries does result in people being indefinitely detained or restricted of their liberty simply on the basis of them being stateless, and there being no nation willing to take them in. According to the UNHCR, There are numerous cases of persons held in indefinite detention because they have no nationality, or their nationality status is unclear. Thus, the problem of detention for those without an effective nationality appears to be a global one⁴⁷.

13. Bloc Positions

a) European Union

The European Union counts up to 600,000 stateless persons in its/her member states.⁴⁸ Most EU member states signed the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. Furthermore, the 1997 European Convention on Nationality standardized the general agreements between member states on related matters.

After the migration crisis in 2015, the European Migration Network (EMN) established a platform to exchange information and good practices in dealing with stateless persons.

b) United States of America

On the one hand, the United States did not sign the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness and did not adopt implementing legislation and regulations.

On the other hand, does everyone born in the United States automatically get US citizenship, hence, addressing the cause of place of birth.

As a global leader and a country of vast cultural diversity, the United States is facing the challenges of stateless persons on a regular basis. The United States is the largest single donor to the UNHCR and supports the #IBelong Global Campaign.

c) African Union

Stateless persons represent some of the most vulnerable people on the African continent exposed to discrimination and human rights violations. Many African states cannot maintain and extend an effective civil status register and are challenged by various migration movements across the continent. There is no African convention governing nationality and statelessness, hence, focusing on implementing adequate measures on the individual states⁴⁹.

⁴⁷ UNHCR. "Brief on Statelessness and Detention Issues", para.2

⁴⁸ home-affairs.ec.europa.eu. (n.d.). *Platform of Statelessness*. [online]

⁴⁹ THE AFRICAN UNION APPROACH TO THE RIGHT TO NATIONALITY IN AFRICA'Statelessness Impact on Africa's Development and the Need for its Eradication' Department of Political Affairs African Union Commission. (n.d.). [online]

d) ASEAN

Southeast Asia is home to large groups of stateless. For example, more than 1 million stateless Rohingyas are now displaced across Bangladesh and Myanmar. The region has low accession rates to the statelessness conventions of 1954 and 1961 and the lack of regional frameworks forces individual countries to bring up sustainable solutions. Previous policies have been “focused on identifying affected persons, improving civil registration, law reforms, and facilitating naturalization”⁵⁰.

⁵⁰ Globalcit. (2021). *Statelessness in Southeast Asia: Causes and Responses*. [online]

14. Questions a Resolution Must Answer

- How can stateless people be better included in education, healthcare, and the economy?
- What measures can be taken to raise awareness about the situation of stateless people?
- What actions should be taken to protect stateless people from arbitrary detention?
- How can member states facilitate the access of stateless persons to health care?
- What can be done to ensure the access of stateless children to primary, secondary, and higher education?
- What steps should be taken by the member states to consolidate the administrative rights of stateless people?
- How to curb the discrimination faced by stateless groups?
- What further steps need to be taken to accomplish the goals of the I Belong campaign by 2024?
- How can we better identify stateless persons?
- What role does technology play in addressing the causes of statelessness?
- What actions can the UNHCR take to motivate states to pass laws that simplify the process of granting citizenship to stateless persons?
- How can statelessness be resolved in cases of state succession?

15. Bibliography

U.N.H.C.R. (n.d.) *Statute of the Office of the United Nations High Commissioner for Refugees*. [online] UNHCR. Available at: <https://www.unhcr.org/3b66c39e1.html>

U.N.H.C.R. (2020). *Figures at a Glance*. [online] UNHCR. Available at: <https://www.unhcr.org/figures-at-a-glance.html>.

NobelPrize.org. (n.d.). *The Nobel Peace Prize 1954*. [online] Available at: <https://www.nobelprize.org/prizes/peace/1954/refugees/facts/>.

U.N.H.C.R. (2022) *Executive Committee*. [online] UNHCR. Available at: <https://www.unhcr.org/executive-committee.html>.

United Nations High Commissioner for Refugees (2016). *The High Commissioner*. [online] UNHCR. Available at: <https://www.unhcr.org/the-high-commissioner.html>.

U.N.H.C.R. *António Guterres (Portugal): 2005-2015*. [online] UNHCR. Available at: <https://www.unhcr.org/antonio-guterres-portugal-2005-2015.html>

Merriam-webster.com. (2019). *Definition of NATIONALITY*. [online] Available at: <https://www.merriam-webster.com/dictionary/nationality>.

Un.org. (1954). *UNTC*. [online] Available at: https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-3&chapter=5&Temp=mtdsg2&clang=_en.

home-affairs.ec.europa.eu. (n.d.). *ius sanguinis*. [online] Available at: https://home-affairs.ec.europa.eu/pages/glossary/ius-sanguinis_en

home-affairs.ec.europa.eu. (n.d.). *ius soli*. [online] Available at: https://home-affairs.ec.europa.eu/pages/glossary/ius-soli_en

U.N.H.C.R. » *Statelessness around the world*. [online] Available at: <https://www.unhcr.org/ibelong/statelessness-around-the-world/>

Statelessness in numbers: 2020 An overview and analysis of global statistics Summary of key findings. (2020). [online] Available at: https://files.institutesi.org/ISI_statistics_analysis_2020.pdf.

UNHCR (2014). [online] Available at: <https://i.pinimg.com/originals/fe/ce/38/fece38219eab556eac4d8fddd497e382.jpg>

United Nations (1951). *Convention and Protocol Relating to the Status of Refugees*. [online] UNHCR. Available at: <https://www.unhcr.org/3b66c2aa10>.

Un.org. (1954). *UNTC*. [online] Available at: https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-3&chapter=5&Temp=mtdsg2&clang=_en.

Mcdougall, G. (n.d.). *THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL*

FORMS OF RACIAL DISCRIMINATION. [online] Available at:
https://legal.un.org/avl/pdf/ha/cerd/cerd_e.pdf.

United Nations (1966). *International Covenant on Economic, Social and Cultural Rights*.

[online] OHCHR. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>.

UNITED NATIONS (1966). *International Covenant on Civil and Political Rights*. [online] OHCHR. Available

at:<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

OHCHR. (1984). *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. [online] Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>.

United Nations (1989). *Convention on the Rights of the Child*. [online] OHCHR. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

Unesco.org. (2019). [online] Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000146180>.

Un.org. (1954). *UNTC*. [online] Available at:
https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-3&chapter=5&Temp=mtdsg2&clang=en.

Jaeger, G. (2001). On the history of the international protection of refugees. *Revue*

Internationale de la Croix-Rouge/International Review of the Red Cross, 83(843), pp.727–738.

www.justiceinitiative.org. (n.d.). *Stateless in Bakassi: How a Changed Border Left Inhabitants Adrift*. [online] Available at:
<https://www.justiceinitiative.org/voices/stateless-bakassi-how-changed-border-left-inhabitants-adrift>

European Network on Statelessness. (n.d.). *Joint steps to end statelessness in the Commonwealth of Independent States*. [online] Available at: <https://www.statelessness.eu/updates/blog/joint-steps-end-statelessness-commonwealth-independent-states>

R, D.G.M. (1999). Founder of Zambia Is Declared Stateless In High Court Ruling. *The New York Times*. [online] 1 Apr. Available at: <https://www.nytimes.com/1999/04/01/world/founder-of-zambia-is-declared-stateless-in-high-court-ruling.html>

U.N.H.C.R. <https://www.unhcr.org/ibelong/>. [online] Available at:
<https://www.unhcr.org/ibelong/#:~:text=Launched%20in%20November%202014%2C%20the>.

U.N.H.C.R. *Many stateless in UK face a tortuous road to recognition*. [online] UNHCR. Available at: <https://www.unhcr.org/news/stories/2021/4/608abdcd4/stateless-uk-face-tortuous-road-recognition.html>

Refugees, U.N.H.C. for (n.d.). 'A whole new world has opened in front of me'. [online] UNHCR. Available at: <https://www.unhcr.org/news/stories/2021/1/600800b84/whole-new-world-opened.html>

European Network on Statelessness. (n.d.). *Why the health rights of stateless people must be a priority beyond the COVID-19 pandemic and what needs to change to achieve this*. [online] Available at: <https://www.statelessness.eu/updates/editorial/why-health-rights-stateless-people-must-be-priority-beyond-covid-19-pandemic-and>

European Network on Statelessness. (n.d.). *Protecting the rights of stateless people*. [online] Available at: <https://www.statelessness.eu/issues/protecting-rights-stateless-people>

Lynch M: Futures Denied: Statelessness Among Infants, Children, and Youth | Refugees International. 2008, (7/1/2009). [online] Available at: <http://www.refintl.org/policy/in-depth-report/futures-denied-statelessness-among-infants-children-and-youth>

European Network on Statelessness. (n.d.). *Why the health rights of stateless people must be a priority beyond the COVID-19 pandemic and what needs to change to achieve this*. [online] Available at: <https://www.statelessness.eu/updates/editorial/why-health-rights-stateless-people-must-be-priority-beyond-covid-19-pandemic-and>

Harrington, C. (n.d.). *DHRRRA Malaysia Statement on the Impact of COVID19 on Stateless Persons in Malaysia*. [online] equalnationalityrights.org. Available at: <https://equalnationalityrights.org/news/104-dhrra-malaysia-statement-on-the-impact-of-covid19-on-stateless-persons-in-malaysia>

European Network on Statelessness. (n.d.). *Why the health rights of stateless people must be a priority beyond the COVID-19 pandemic and what needs to change to achieve this*. [online] Available at: <https://www.statelessness.eu/updates/editorial/why-health-rights-stateless-people-must-be-priority-beyond-covid-19-pandemic-and>

Equal Rights Trust. (2015). *Declaration of Principles on Equality*. [online] Available at: <https://www.equalrightstrust.org/content/declaration-principles-equality>.

Equalrightstrust.org. (2010). *Unravelling Anomaly: Detention, Discrimination and the Protection Needs of Stateless Persons*. [online] Available at: <https://www.equalrightstrust.org/ertdocumentbank/UNRAVELLING%20ANOMALY%20small%20file.pdf>

Ohchr.org. (n.d.). *Background Non-Paper on Equality and Non-discrimination in Nationality Matters to End Statelessness*. [online] Available at: <https://www.ohchr.org/sites/default/files/2022-01/Background-Nonpaper-Statelessness-Discrimination.pdf>

STATELESS PERSONS IN DETENTION A tool for their identification and enhanced protection. (n.d.). [online] Available at: <https://www.refworld.org/pdfid/598adacd4.pdf>.

Actfordisplaced.org. (2021). *Stateless children's right for education*. [online] Available at: <https://actfordisplaced.org/2021/01/09/stateless-childrens-right-to-education/>

Concluding observations of the Comm. on the Elimination of Racial Discrimination: Dom. Rep., 16, U.N. Doc. CERD/C/DOM/CO/12 (May 16, 2008); see Amnesty International, Dominican Republic: Fear For Safety/death Threats (2008), available at <http://www.amnesty.org/en/library/asset/AMR27/002/2008/en/eb8b550f-5977-11dd-bc96-55b5ccea4018/amr270022008eng.html>.

STATELESS PERSONS IN DETENTION A tool for their identification and enhanced protection. (n.d.). [online] Available at: <https://www.refworld.org/pdfid/598adacd4.pdf>.

UNESCO. "People on the move: Handbook on selected terms and concepts", The Hague/Paris (2008), p.24, available at: <http://www.thehagueprocess.org/upload/pdf/PDFHandbookWEBSITE.pdf>

treaties.un.org. (n.d.). *United Nations Treaty Collection*. [online] Available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=III-6&chapter=3&clang=_en

Equalrightstrust.org. (2010). *Unravelling Anomaly: Detention, Discrimination and the Protection Needs of Stateless Persons*. [online] Available at: <https://www.equalrightstrust.org/ertdocumentbank/UNRAVELLING%20ANOMALY%20small%20file.pdf>.

UNHCR. "Brief on Statelessness and Detention Issues", para.2, available at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=search&docid=4410638fc&skip=0&query=UNHCR%20Brief%20on%20Statelessness%20and%20Detention%20Issues>

home-affairs.ec.europa.eu. (n.d.). *Platform of Statelessness*. [online] Available at: https://home-affairs.ec.europa.eu/pages/page/platform-statelessness_en.

THE AFRICAN UNION APPROACH TO THE RIGHT TO NATIONALITY IN AFRICA' Statelessness Impact on Africa's Development and the Need for its Eradication' Department of Political Affairs African Union Commission. (n.d.). [online] Available at: https://www.achpr.org/public/Document/file/Any/presentation_approach_on_statelessness_in_africa_dpa_auc.pdf.

Globalcit. (2021). *Statelessness in Southeast Asia: Causes and Responses*. [online] Available at: <https://globalcit.eu/statelessness-in-southeast-asia-causes-and-responses/>