Statelessness in Southern Africa
Time to end it, not promote it

Aimée-Noël Mbiyozo

Statelessness in Southern Africa is driven primarily by colonial history, border changes, migration, poor civil registry systems, and discrimination on the basis of gender, ethnicity and religion. There are concerning signs that states are using statelessness as a tool for managing migration. To the benefit of all involved, governments must act against statelessness instead of promoting it.

Key findings

▶ Many hundreds of thousands of Africans do not have access to a nationality – or their nationality is in doubt or in dispute.

▶ Statelessness across Southern Africa is primarily linked to colonial history, border changes, migration, poor civil registry systems, and discrimination based on gender, ethnicity and religion.

▶ Four of the nine Africa countries with the biggest stateless populations are in Southern Africa: Zimbabwe, South Africa, Madagascar and the Democratic Republic of Congo.

▶ The costs are substantial and vast. Statelessness is a source of insecurity and displacement and threatens national and regional stability.

▶ Rising nationalism and anti-migrant sentiments are threatening to undo hard-won gains in the fight against statelessness.

▶ Statelessness is among the tools being applied to exclude and deter migrants.

▶ Many states resist international laws and conventions, claiming their sovereign rights to determine their own nationality laws.

▶ Even where legal provisions are in place, they are often ignored in practice, leaving men, women and children stateless.

▶ A substantial proportion of the world's stateless people are victims of forced displacement.

▶ There are laws in 25 countries preventing women from passing their nationality on to their children, although men are allowed to do so. Eight of the 25 countries are in Africa.

▶ Birth registration is the key life event that determines nationality.

Recommendations

▶ There is a strong moral imperative to avoid statelessness, but there are strong development, public health and security motivations as well. States should strive to reduce statelessness for the benefit of all of society.

▶ Restricting nationality as a deterrent or punitive measure is not an effective strategy for managing migration.

▶ States in the region should sign and ratify the international conventions on statelessness to increase the relevance of these conventions.

▶ Increased effort should be made at the regional level to assign responsibilities to countries.

▶ Consular services must be improved within the region and provide pragmatic and accessible services that reflect the real situations that people face.

▶ Statelessness is still widely unexplored in fields outside of human rights law. More awareness should be raised among other disciplines about the issues, consequences and prevalence of statelessness.

▶ Gender discrimination should be eliminated from all aspects of citizenship law where it still exists.

▶ Nations in the region should urgently improve procedures for civil registration and vital statistics and ensure that they are equally accessible to all people, without discrimination.

▶ Registration of births should be provided unconditionally and to all children born inside a territory, irrespective of the parents' immigration status or any other factor. Countries cannot deny a child's rights to birth registration in order to punish their parents.

Introduction

Nationality is the legal bond between a person and a state. The rights people possess are determined largely by the country they belong to. People without nationalities have no official connection to a state and so they have neither protection from and nor responsibilities to a country. A person's nationality is the central right that determines how he or she is treated – the right to have rights.[1] Statelessness has very serious ramifications for individuals and states alike.

The lack of a nationality has a profoundly negative effect on the fulfilment of any other human rights. People without a nationality – stateless people – are some of the most vulnerable in the world.[2] Nationality serves as the basis for virtually all other rights – education, health care, employment, voting, access to justice and government services. The consequences of statelessness can be far reaching and impact the ability to work or go to school, get a driver's licence, have a bank account, own property, travel or register birth, marriage and death.

> States have pursued stripping citizenship as a sanction for people they want to exclude as undesirable

Stateless people also go uncounted in registries or databases. They are unable to lead normal lives and struggle to access basic rights. Statelessness exposes people to persecution and exploitation and is often passed from one generation to the next.[3]

Most examinations of statelessness focus on the human rights implications; however, the costs to society are substantial and vast. Statelessness poses serious threats to development, public health, security and international relations. It is not only a source of human insecurity and a cause of forced displacement; it poses real threats to national and regional stability. The withdrawal of nationality or a refusal to grant nationality has led to conflicts on the continent that have caused severe human rights violations.[4]

The very nature of statelessness – that people are undocumented and unaccounted for – makes it impossible to know how many people in the world, or in any region or country, are affected.[5] Statelessness is a major issue across Africa. Hundreds of thousands, possibly millions, of Africans do not have access to a nationality.[6] The status of many others is in doubt or in dispute.

While the problem of statelessness is not new and it is impossible to ascertain whether it is growing, there are concerning signs that states are instrumentalising statelessness as a migration management tool. Rising nationalism and anti-migrant sentiments are threatening to undo gains in the fight against statelessness.

> Damaging forms of nationalism and the manipulation of anti-refugee and migrant sentiment – these are powerful currents internationally that risk putting progress [towards tackling statelessness] into reverse.
>
> **Antonio Guterres, UN Secretary-General[7]**

In parts of Africa, as in other regions, we are seeing an increase in nationalism and in restrictive and repressive migration responses aimed at preventing migrants from arriving or integrating into societies. Governments are intentionally framing migrants and even refugees as threats to society. This is paving the path for punitive responses to migration, including putting people at risk of, or creating, statelessness.

Statelessness has risen as a topic on the international agenda in recent years as states have pursued stripping citizenship as a sanction for people they want to exclude as undesirable.

> Citizenship deprivation and statelessness are very much back in fashion. States increasingly resort to such measures to deal with those returning from foreign wars, or as a sanction for those otherwise deemed undesirable and unwanted.
>
> **Dr Guy S Goodwin-Gill, Acting Director, Kaldor Centre for International Refugee Law[8]**

In this environment, statelessness is at serious risk of both increasing and intensifying. The costs will

be high for stateless individuals, nation states and regions altogether.

Despite having profound political, development and social impacts, statelessness is rarely prioritised in policy agendas, as it is most often superseded by other linked issues including migration, asylum seekers, refugees and internally displaced persons and a larger undocumented population. The study of statelessness had been primarily conducted by legal experts. One of the results is that literature on the subject is relatively technical.

This report examines statelessness in Southern Africa from a migration perspective. It provides important definitions and background, while describing the key components and drivers of statelessness in the region. It examines how statelessness intersects with migration and gender discrimination and why birth registration is a focal point of statelessness doctrines. It provides summaries of four key statelessness case studies in the region. Finally, it warns against the costs to society as a whole – including profound impacts on development, public health, security and international relations – if states continue to pursue statelessness as a method of managing migration instead of working to reduce it.

What is statelessness?

The international definition of a stateless person is 'a person who is not considered a national by any State under the operation of its law.'[9] This report uses the terms citizenship and nationality interchangeably. In some other contexts, citizenship can constitute distinct legal status and membership of a 'nation' is often used with respect to a cultural, ethnic or historic community.[10]

As of 2017, approximately 70 countries reported 3.9 million stateless individuals,[11] but the United Nations High Commission for Refugees (UNHCR) estimates this number could be 12 million.[12] Other estimates are as high as 15 million.[13] One-third are children.[14] Aside from the difficulty in estimating the actual number, only a fraction of countries report statelessness statistics. In 2004, only 30 countries reported statistics on stateless people. By 2017, this has grown to approximately 70. Many of the countries (approximately 20) with known stateless populations do not report statistics.[15]

In Africa, the stateless population overlaps with an even larger undocumented population. Many people face

severe restrictions in accessing documentation whether or not their nationality is contested.

Historically, it was far less necessary to prove where one lived or belonged. People who were habitually resident in a country were typically considered citizens.[16] Today, identification and documentation are essential to all forms of social and civic participation, including proving nationality. Even residents of the most remote and isolated communities now have to establish their identity and nationality.[17]

> ## Naturalisation is so low in Africa that most countries don't publish corresponding statistics

Efforts to document people – such as the World Bank's ID4D campaign that seeks to ensure every person on the planet has identification by 2030 – are working. A growing number of people are able to access identification, particularly digital and biometric.[18] Paradoxically, these efforts are exposing more people to risk as most people learn their nationality is questioned while trying to access documents.[19] Similarly, the push to document more people runs the risk of leaving undocumented people even further left behind. In some cases, people who were previously treated as citizens are being refused nationality documents.

There are two principal doctrines for the attribution of nationality at birth:[20] *jus sanguinis* (law of blood) – grants citizenship to those born in the territory; and *jus soli* (law of soil) – grants citizenship based on descent from a national of that territory. Some states apply jus soli, while others apply *jus sanguinis* and most states apply a hybrid of the two.

Naturalisation, a third widely applied common ground that allows someone to gain or change citizenship at a time other than birth, is typically conditional on long-term residence.

While all African countries allow for naturalisation, in principle, naturalisation is so low in Africa that most countries do not even publish corresponding statistics. In the countries where they do exist, the numbers are very low.[21] In most cases, procedures are lengthy, costly

or difficult to access. Across the continent, naturalisation laws also grant high levels of executive discretion, meaning applications can be refused without reasons and cannot be challenged in court. There are also often distinctions between the rights granted to naturalised citizens and those who acquire citizenship at birth.[22]

International doctrines and conventions

International customary and treaty laws have emerged since the second world war to establish standards that limit states' ability to apply nationality-related decisions if they cause statelessness, and ultimately help prevent and reduce statelessness.[23] Additional human rights and anti-discrimination doctrines that prevent discrimination include stateless people and oblige states to protect them from discrimination.

Originally, norms addressing statelessness were supposed to be included in the 1951 Convention Relating to the Status of Refugees. These provisions were delayed because of the urgency relating to the large number of post-war refugees at the time, so the Convention was passed without protocols relating to statelessness.[24]

During the Cold War, statelessness was considered a relatively minor problem that only impacted a small number of people. As a result, it did not attract a lot of attention from multilateral or humanitarian organisations. Even UNHCR, which was entrusted with related responsibilities, devoted little time or efforts to this part of its mandate.[25]

Statelessness rose on the international humanitarian and security agenda largely as a result of a rise of ethnic consciousness, increased communal conflict, border changes, fear of large-scale migration movements and the tightening of immigration controls in large parts of the world.[26] Some of the key international doctrines addressing statelessness are noted below.

Article 15 of the Universal Declaration of Human Rights states that 'everyone has the right to a nationality' and that 'no-one shall be arbitrarily deprived of his nationality.'[27] While the declaration declares nationality as a right, it provides no guidelines for granting it.

The 1954 Convention Relating to the Status of Stateless Persons affirms that the fundamental rights of stateless persons must be protected. It establishes a set of minimum standards of treatment for stateless people

in respect to a number of rights, including education, employment and housing. It also guarantees stateless people a right to an identity, travel documents and administrative assistance.[28] Only seven Southern African Development Community (SADC) states have acceded to the 1954 Convention (Botswana, Lesotho, Malawi, Mozambique, Swaziland, Zambia and Zimbabwe).[29]

The 1961 Convention on the Reduction of Statelessness aims to prevent statelessness and reduce it over time. It provides a framework ensuring every person can access a nationality. It requires states to establish safeguards in their nationality laws to prevent statelessness at birth and later in life.

The 1961 convention establishes that children should acquire the nationality of the country where they are born if they do not acquire any other nationality, and provides safeguards to prevent statelessness in the case of state succession or renunciation of nationality. It further limits situations in which states can deprive a person of his or her nationality if this would leave them stateless.[30] Only three SADC States have acceded to the 1961 Convention – Lesotho, Swaziland and Mozambique.[31]

> Statelessness exposes people to persecution and exploitation and is often passed from one generation to the next

To date, none of the statelessness conventions have been as widely ratified as the 1951 Refugee Convention. These conventions perform important functions in establishing norms and practices related to statelessness. However, they contain a number of weaknesses and fall short of establishing procedures and criteria for nationality. As such, there remain significant gaps in both law and implementation.[32]

In 2014, UNHCR launched a ten-year-long global campaign – the UNHCR #IBelong Campaign – aimed at eradicating statelessness globally by 2024. This campaign reflects its growing focus on statelessness and recognition that the right to citizenship is central to other human rights.

In 1974, the UN General Assembly designated the UNCHR as the authority to assess and determine

statelessness and assist in presenting claims to state authorities.[33] Up until that point, no specific body was responsible for supervising and promoting the 1954 and 1961 Conventions.[34] The campaign has been acknowledged for raising the visibility of statelessness on the international agenda.[35]

Since the launch of the campaign in November 2014, 20 states have acceded to the statelessness conventions. As of November 2018, 91 states had acceded to the 1954 Convention and 73 states to the 1961 Convention. More than 166 000 stateless people have acquired or confirmed nationality.[36]

> **Many states cling to the position that decisions around nationality are a matter of national sovereignty**

The UN's Sustainable Development Goals Target 16.9 establishes the goal of providing legal identity for all,[37] including registration of birth, by 2030 and recognises the connection between proof of identity and access to rights and services. The development community has recognised that identification and nationality are critical in reaching the most marginalised populations and for measuring progress towards development targets.[38]

Objective 4 of the Global Compact for Orderly Migration (Global Compact) sets out to ensure that all migrants have proof of legal identity and adequate documentation. It includes proof of nationality and civil registration documents including birth, marriage and death certificates.[39] The landmark first inter-governmental global framework for cooperation on international migration includes specific references to the rights of all migrants to both documentation and nationality.

Article 6(2) of the African Charter on the Rights and Welfare of the Child provides that every child shall be registered immediately after birth.[40] Article 6(3) provides that every child has the right to acquire a nationality. Article 6(4) requires state parties to grant nationality to an otherwise stateless child born in their territory.

Article 6(7) of the Protocol to the African Charter on the Rights of Women in Africa confirms that women in Africa have the right to acquire a nationality and to acquire their husband's nationality.[41] Article 6(8) provides that a woman and a man shall have equal rights with respect to the nationality of their children except where this is contrary to a provision in national legislation or is contrary to national security interests.

In 2014, The African Committee of Experts on the Rights and Welfare of the Child further issued a general comment on Article 6 on the Rights and Welfare of the Child (General Comment). It is a comprehensive comment by a panel of experts that addresses the causes of statelessness and low birth registration in African states.[42]

In 2016, the Parliamentary Forum adopted the SADC Resolution on the Prevention of Statelessness.[43] Some of the proposed measures included: reviewing and renewing legislative frameworks and administrative practices, addressing gaps that lead to discrimination, ensuring gender equality, granting nationality to children otherwise stateless, establishing functional birth and civil registration systems and acceding to the 1954 and 1961 Conventions. In 2016, the South African Migration Dialogue for Southern Africa followed up by producing conclusions and recommendations on statelessness.[44]

States determine statelessness

States have the sovereign right – and duty – to determine nationality. Nationality has proven to be a particularly sensitive topic for countries that has often led to intractable disputes, tension and conflict.[45] Many states have resisted international laws and obligations – including those they have agreed to – on the grounds of defending their sovereign rights.[46] Many states jealously cling to the position that decisions around nationality are a matter of national sovereignty and that it is up to the state to bestow or withhold nationality from any individual living within its territory.[47]

There are several international laws that attempt to protect stateless people and reduce the incidence of statelessness but these are enforced by states. Consequently, stateless people lack enforceable rights because they do not have the corresponding protection of any state.[48]

Human rights and multilateral organisations have rarely challenged nations on this point. Due to the political sensitivities, they have avoided focusing on the right to nationality except in particularly egregious cases of

denationalisation where other forms of discrimination are often also present.[49]

Law vs practice

In many countries in Africa, even where the legal provisions are in place to protect against statelessness, the practice is very different.[50] Strong legal and policy frameworks are important, but practice is where outcomes are determined – whether the law will be applied, and applied equally.[51]

Even where legal provisions exist, due process is often not respected in the application of nationality laws, resulting in arbitrary decision-making.[52] In many cases across the region, regardless of what the law technically allows, attempts to access documentation to prove or gain nationality are denied or intentionally frustrated. This leads to a vicious circle where authorities wilfully refuse to recognise valid claims.[53] Often, maladministration reflects wilful discrimination; however, cases do exist where poor procedures merely reflect incompetence or a lack of resources.

> ## The practicalities of obtaining documents are more common barriers than a legal denial of nationality

While many legal gaps remain in Southern Africa, effective civil registration is almost as important as the laws themselves. The practicalities of obtaining documents are more common barriers than a legal denial of nationality.[54] Most people who learn that their nationality is contested do so while seeking documents, including birth certificates, ID cards or passports. Documents require administrative understanding and cooperation.

> Chronic inefficiency, incomplete geographical coverage, and temporary or prolonged suspension in access to civil registry services affect many countries across the [Southern Africa] region.
>
> **Dr Bronwen Manby[55]**

In many countries, for example, women do have gender equality before the law but are discriminated against widely in policies and practice and struggle to gain birth certificates or identification for their children.[56]

> I went to Home Affairs to get a passport for my child. Only my name is on the birth certificate and I am the only parent. They told me they required a father's name and permission. When I replied that my child does not have a father, they replied "every child must have a father." I asked them to please go and find him.
>
> **South African single mother[57]**

Furthermore, it is easier to analyse the legal frameworks and identify gaps in the law that contribute to statelessness than it is administrative and procedural constraints.[58] The rights that are guaranteed in the law are not always realised in practice.

Rare help from consuls

Consular assistance is a crucial component of combatting and reducing stateless. Consuls have pivotal roles in ensuring migrants have legal identity and documentation, as well as providing assistance with detention, returns and other protections.[59]

However, in practical terms, the scope of services provided by consuls ranges substantially and does not necessarily reflect international legal obligations. Very few countries with high emigration levels provide full services that are accessible to their nationals, largely due to resource constraints.[60] Despite their significant role in protecting migrant rights and preventing statelessness, consuls are rarely pressured to improve their offerings.

> There is often an inverse relationship between the number of a country's migrants and the presence of consulates in the countries where the most vulnerable are to be found.[61]
>
> **Stefanie Grant, Chair, the Institute on Statelessness and Inclusion**

Objective 14 of the Global Compact is to enhance consular protection, assistance and cooperation throughout the migration cycle.[62] Notably, the Global Compact specifically calls for consuls to 'safeguard the rights and interests of all migrants at all times', including countries of origin, transit and destination. This language has been welcomed to indicate a wider population than a country's own nationals.[63]

With respect to statelessness specifically, the Global Compact calls on states to strengthen consular capacities in order to assist vulnerable people, including children, those encountering human and labour rights violations, victims of crime, of traffickers or smugglers and more.

The Global Compact's inclusion of consular services is an important call to action for consuls. Some advocates are hopeful that the Global Compact's wording and agreements will lead to better consular services for a wider population.

Causes of statelessness

Individuals can end up stateless for a number of reasons including displacement, discrimination, differences in citizenship laws between countries, lack of documents, laws allowing only one nationality, or laws preventing women from passing their nationality on to their children. Some people are born stateless, but others become stateless. In many cases, statelessness is used intentionally as a tool of political persecution and exclusion.

Statelessness is often driven by rapid political change and a lack of preparedness by countries to adapt to them.[64] According to the UNHCR, the four key causes of statelessness are:[65]

- Gaps in nationality laws. Each country has its own laws that determine how people acquire or lose citizenship. These laws – or their application – often contain gaps that exclude people, sometimes intentionally and at other times unintentionally. Examples include children of unknown parentage in a country whose citizenship is based on *jus sanguines* laws.

- Displacement. A person moving from the country they were born in – for any number of reasons – can risk losing their nationality. Children and spouses in many

countries are prohibited from acquiring nationality from their parents or spouses. Other countries discriminate against specific ethnicities or backgrounds.

- State secession. The emergence of new states and changes to borders are a major cause of statelessness. In some cases, discrimination is intentional. In other cases, people – particularly among ethnic, racial or religious minorities – struggle to prove their links to countries.

- Deprivation of nationality. It is possible for someone to renounce, lose, change or be deprived of his or her nationality under certain circumstances.[66] These can include having lived out of the country for too long or being suspected of terrorism or crime. Some states have changed nationality laws to intentionally discriminate against some population groups and deprive them of citizenship.

More than 75% of the world's known stateless populations belong to minority groups.[67] A lack of nationality often exacerbates the exclusion that minorities already face and lends a sense of legitimacy to the discrimination against them.

Migration is on the increase

The focus on nationality has increased in the globalisation era. As absolute migration continues to grow, it has become an increasingly important tool for classifying people.[68] While most stateless people are stateless in the country where they were born, statelessness is linked to migration. It applies to people who – by at least some interpretation – are considered not in their home country. For the purposes of this section, 'migration' encompasses all forms of migration including asylum seekers, refugees, regular and irregular migrants.

More than 75% of the world's known stateless populations belong to minority groups

The Global Compact recognises the clear link between statelessness and migration. One of its 23 objectives is to ensure all migrants have proof of legal identity and adequate documentation. It further includes specific commitments related to reducing statelessness.[69]

A substantial proportion of the world's stateless people are also victims of forced displacement.[70] In some cases, populations are deprived of or denied nationality and subsequently expelled. In other situations, stateless people are forced to flee persecution and discrimination.[71] The UNHCR highlights three key connections between statelessness and displacement:[72]

• Displacement as a cause of statelessness

• Displacement as a consequence of statelessness

• Statelessness as an obstacle to the resolution of refugee problems

Due to the conditions that they leave under, refugees and asylum seekers often leave their documents and belongings behind or destroy them.[73] Many who have fragile or non-existent relationships with their home states do not have any documents to begin with. By their very definition, they have lost the protection of their original state. Across Africa, the three population groups most negatively impacted by citizenship laws are:[74]

• Migrants – both historical and current – and their descendants, including refugees and returnees

• Border populations, including nomadic and pastoralist groups

• Orphans and other vulnerable children, including victims of trafficking

In Southern Africa, many laws in principle provide for pathways to citizenship for refugees. However, very few refugees are able to achieve citizenship. In many cases, this results from very lengthy processes to determine their status or to resettle them. In South Africa, for example, many asylum seekers have carried this status for up to 15 years without having their cases finalised.[75] Most asylum seekers and refugees remain citizens of their original country for a protracted duration.

Even if refugee status is granted, permanent residency and citizenship are very hard to achieve in practical terms, leaving refugees at an elevated risk for statelessness. Some countries, including Botswana, prevent refugees from applying for naturalisation.[76]

Statelessness can also severely impact returnees. Refugees or asylum seekers returning to their home countries have been known to find their nationalities

challenged or revoked.[77] Africa, in particular, has a large number of protracted refugee situations that puts many people at risk of returning to statelessness. For example, hundreds of Mozambicans who fled to Zimbabwe during their civil war and returned once it ended have struggled to access nationality for either country and have been identified as stateless.[78]

> ## 25 countries still have nationality laws that prevent women from passing on nationality on an equal basis with men

Children of migrants are at a particularly high risk for statelessness, particularly irregular migrants or asylum seekers in protracted situations. Children born to migrants are often – and increasingly – excluded from citizenship or registration of birth and are at a high risk of statelessness.

Gender discrimination

There remain 25 countries worldwide with nationality laws that prevent women from passing on nationality to their children on an equal basis with men.[79] Eight of these countries are in Africa – Burundi, Liberia, Libya, Mauritania, Somalia, Sudan, eSwatini and Togo.[80] An additional three countries do not allow for fathers to confer nationality to children born out of wedlock– Bahamas, Barbados and Malaysia.[81]

Gender discrimination was a common feature at the time of independence, not only in Africa but worldwide. Historically, women in many countries have been unable to pass citizenship to children and/or spouses. Reversing gender discrimination is one area that has progressed tremendously internationally, including in Southern Africa.[82]

Gender discrimination is a root cause of child statelessness, most commonly when children cannot obtain citizenship from their mothers. Some examples include:

• A child is born to a stateless father and cannot receive his or her mother's nationality.

• A child is born outside the father's country and that country does not allow nationality to be granted outside the country.

- The father is unknown, absent, or deceased.

- The father does not have the correct administrative documents to establish his nationality.

Most countries with unequal rights also discriminate if children are born out of wedlock, mostly providing citizenship rights to the mother in such a case. In practice, many children of mixed nationality parentage in Southern Africa struggle to obtain nationality, even if the laws provide for it.[83]

Gender discrimination also extends to spouses. Some countries in Southern Africa, including Lesotho, Malawi and eSwatini, prevent women from passing citizenship to their husbands. eSwatini, meanwhile, has signed both international statelessness Conventions.[84] Gender discrimination in spousal nationality laws goes less challenged than birth rights.

Zimbabwe provides a peculiar example where advocacy to remove gender discrimination has led to more regressive – but equal – laws. Prior to 1996, Zimbabwean women could not confer citizenship to their non-Zimbabwean spouses or to children born of non-Zimbabwean fathers, unless out of wedlock.[85] In plain terms, Zimbabwean mothers could only pass citizenship to their children if there was no way to establish a clear link to a foreign father. In a marriage between a foreign father and a Zimbabwean mother, the child could not be Zimbabwean.

A strong advocacy effort by the women's movement to remove gender and marital discrimination resulted in Zimbabwean men also being blocked from conferring citizenship to their children or spouses. Instead of women receiving more rights, rights were stripped from men to match the status of women.[86]

Gender discrimination as an area of nationality laws has improved considerably in recent decades. Compared to other topical areas, in this category, countries are more willing to act towards gender equality.

Problems in registering births

Statelessness doctrines focus attentively on birth registration and provide children the most specific protections. This is because birth is the key life event that determines nationality and children are the most vulnerable and have the highest need for state protection.

One of the most prominent causes of statelessness in Southern Africa is lack of birth registration. While birth registration does not confer citizenship, all identity documents rely on proof of birth. It is impossible to claim nationality needed for legal recognition without a birth certificate. Identity documents are a fundamental feature of life and social and civic participation.

The General Comment focuses specifically on the issues related to birth registration across Africa. It claims, 'The right to birth registration is one of the rights that consistently appears not to be fully implemented by States parties.'[87]

According to the Africa Programme for Accelerated Improvement of Civil Registration and Vital Statistics, more than half of the children born in Africa are not registered at birth.[88] The United Nations Development Programme (UNDP) has noted that more than half of all children in the SADC region are still unregistered at age five.[89]

> One of the most prominent causes of statelessness in Southern Africa is lack of birth registration

Barriers to birth registration in Africa include poverty, lack of education, gender discrimination, ethnic discrimination or membership of a vulnerable group, such as refugees or irregular migrants. A lack of decentralised, properly managed civil registrations also contributes.[90]

In some regions, birth certificates are not issued immediately and take weeks or months to be issued. In other cases, the issuing of birth certificates requires administrative processes or costs that are not accessible to all parents. This puts many children at risk of statelessness, including those born in 'home' countries to non-migrant parents.

In a 2015 publication on child statelessness, the UNHCR claims that more than 700 000 stateless children are born each year in the countries with the top 20 stateless populations. It further describes the severe impediments statelessness creates with respect to education, health, and employment prospects, as well as the psychological and emotional toll it takes on children.[91]

In many cases, countries deny education and healthcare to non-nationals. In others, non-nationals are charged high fees, denied certificates or scholarships. Many stateless women are forced to give birth at home because hospitals will not admit them. Many children told the authors of the UNHCR study about the severe stigma and discrimination they experienced at very young ages. Some were exposed to insecure living situations including exploitation and abuse. Most respondents in the study focused on the lack of employment pathways available to people without citizenship and lamented the prospect of a future without prospects that matched their ambitions or skills.[92]

The children most affected by statelessness also typically belong to already vulnerable groups – they were abandoned children, refugees or members of ethnic or religious minorities.[93] Many African states further do not have safeguards guaranteeing nationality to children born in their territory who would be otherwise stateless.[94]

Statelessness in Southern Africa

Among the nine African countries where the UNHCR recognises that there are major populations at risk of statelessness, four are in the SADC region: Zimbabwe, South Africa, Madagascar and the Democratic Republic of Congo (DRC).[95] The major driver of statelessness in the DRC is linked to the Banyarwanda people, whose nationality is disputed as Rwandan. As such, this case is considered outside the scope of Southern Africa and has not been included in this report.

Statelessness across Southern Africa is primarily linked to colonial histories, border changes, migration, gender, ethnic and religious discrimination, and poor civil registry systems.[96] Colonial occupiers across Africa established arbitrary borders that frequently divided communities. Their need for labour and their policy of land dispossession resulted in the movement of unprecedented numbers of people.[97]

Under British conquest, authorities encouraged – even forced – labour migration, primarily to work on farms and mines. Throughout most of the colonial period, people could move relatively freely throughout the British colonies of Southern Rhodesia (Zimbabwe), Northern Rhodesia (Zambia) and Nyasaland (Malawi).[98] Labour migrants from non-British or non-colonised countries including Mozambique, eSwatini and Lesotho were also recruited.

At its peak in 1956, 300 000 migrant labourers were working away from their homes within the 'Central African Federation' (Southern Rhodesia, Northern Rhodesia and Nyasaland). Under independent white minority rule, South Africa and Zimbabwe continued similar recruitment practices.

Under British colonialism and white minority rule, only European settlers had full citizenship rights. The citizenship system, like all other aspects of society, was based on ethnic exclusion, exploitation and discrimination. In Portuguese colonies, some indigenous people were granted full citizenship rights under special circumstances. Settlers were simultaneously offered full citizenship benefits in their 'home' countries. Indigenous Africans were forced into legal subordination with very limited rights that were superseded by those of white settlers.[99]

In some cases, particularly South Africa, documentation was used as a means to control populations. Under colonial and apartheid rule, indigenous people were denationalised and allocated to 'homelands' under the poorly-veiled guise that these areas were independent. Large numbers of indigenous populations were documented and provided with 'passes' to control their movement. High levels of documentation were used to control populations and reduce their rights.

> Children most affected by statelessness also typically belong to already vulnerable groups

In post-colonial transitions, strong resentment lingered toward colonial powers for their legacies of extreme inequality and dispossession. In many cases, this appeared in post-colonial citizenship laws.

While most Southern African countries adopted nationality laws at independence based on the models of their former colonial rulers, many made efforts to reverse the system of discrimination, at least to some level. Some countries, such as Mozambique, established citizenship rules offering preference to people who had participated in the liberation and punishing those who fought against it.[100]

Countries with the largest histories of labour migration and land dispossession have encountered the most issues with citizenship laws since the end of colonialism, primarily where populations of 'foreigners' have remained since independence.[101] Efforts to redress the inequalities via nationality laws have had the strongest impacts on unintended populations. The most powerful example of this is Zimbabwe, where questions of 'true' nationality and rules cracking down on dual nationality ostensibly targeted at European settlers have disproportionately impacted long-term migrants from other neighbouring African countries.

In some other parts of the region, nationality laws discriminate explicitly according to ethnicity, favouring people belonging to groups whose ancestral origins are within the territories. Malawi restricts citizenship to children born to at least one parent who is not only a Malawian citizen, but also of the 'African race', eSwatini has similarly included nationality provisions that make it difficult for non-ethnic Swazis to obtain citizenship.

Recently in South African communities, vernacular and accent 'tests' have been applied by citizens to determine if someone is local or foreign.[102] Overall, however, Southern Africa has not widely followed this pattern, unlike other regions in Africa where it has been a leading cause of statelessness.

Case studies

Zimbabwe: statelessness as a tool of repression

Zimbabwe has been labelled the site of the main citizenship crisis in Southern Africa.[103] When the country gained majority rule in 1980, citizenship was immediately highly politicised in the wake of colonialism and white minority rule that had severely disenfranchised the majority population.

The 1979 Constitution allowed for dual nationality. This was negotiated on behalf of the defeated white settlers, almost all of whom retained British nationality, to protect their interests in the country. The ruling ZANU (now ZANU-PF) opposed this provision and by 1983 the new majority government had already amended the Constitution to prohibit dual citizenship. The spirit of this amendment was directed at white settlers who were able to hold both Zimbabwean and British citizenship.[104]

In 1984 the government passed a new citizenship law prohibiting dual citizenship and requiring Zimbabweans to renounce any other citizenship they were entitled to. Approximately two-thirds of the one million white residents left Zimbabwe, while 20 000 renounced entitlement to foreign citizenship to keep their Zimbabwean one. Thousands more held foreign passports but remained residents.[105]

> Many people lost citizenship based on their inability to satisfy difficult – or non-existent – criteria

Meanwhile, in 1980, a large percentage of farmworkers were of foreign African origin, although most had been born in Zimbabwe. Many more were in mining and commercial sectors. The government was suspicious about farmworkers with foreign origins, based mostly on their association with white farm owners.[106] They were dramatically impacted by the dual nationality ban, even though most had never accessed, or had any desire to access, another citizenship they hypothetically had rights to. Furthermore, many of these people were unaware that they had to renounce their entitlement and failed to submit a declaration to the authorities.

The 1979 Constitution also discriminated by gender, limiting the transfer of citizenship by birth to children born of Zimbabwean fathers, or to mothers if out of wedlock.[107] Only foreign wives of Zimbabwean husbands were able to access citizenship. Women could not pass on citizenship to their children by non-Zimbabwean fathers or to their non-Zimbabwean husbands. Similar to the dual nationality debate, where the target was supposed to be 'elite' women with foreign husbands, the most affected populations were poor rural women living in border regions.

The rise of the Movement for Democratic Change (MDC) as political opposition to ZANU-PF in 1999 led to further restrictions on both citizenship and voting rights. Hundreds of thousands of farmworkers of foreign descent were considered to be anti-government political opponents.[108] In January 2000, an estimated 30% of the two million farm workers and their families who lived on commercial farms were of foreign descent.[109]

The subsequent decades were marked by state-sponsored violence and repression against political opponents. Many efforts were made to restrict voting rights, including denationalisation, with the clear goal of prohibiting political participation.

The government increased requirements on people with potential claims to foreign nationality. Rules requiring people to submit a declaration renouncing potential citizenship were ratcheted up. People now had to produce foreign documentation establishing that they were not entitled to citizenship, and the government imposed strict deadlines for the submission of these documents.[110] The majority of the people affected by these laws were people born, or whose parents were born, in neighbouring countries.

This proved virtually impossible to do in even the best of cases. In 2001, the Mozambican High Commission in Zimbabwe announced it was overwhelmed with applications and was unwilling to supply documentation proving people were not eligible for citizenship.[111] The Malawian High Commission could not provide documents to people who were unable to provide sufficient detail – meaning they did not have enough documentation to renounce the citizenship that they supposedly had a claim to.[112] Many people lost citizenship based on their inability to satisfy extremely difficult – and in some cases non-existent – criteria. It proved impossible for many to renounce what they had never possessed.

> Zimbabwe is a clear example of a country that uses citizenship laws to achieve political ends

Zimbabwe's neighbouring countries were impacted by these efforts. Hundreds of individuals moved from Zimbabwe to Mozambique where they were 'from' but were not able to satisfy citizenship requirements for either country. Similarly, Malawi received an unknown number of returnees who had to undergo expensive and lengthy processes to prove their citizenship. Hundreds of thousands – possibly even millions – fled to neighbouring South Africa. Some received refugee status while others migrated illegally. The South African government has responded to major flows through three sequential

regularisation processes allowing Zimbabweans to receive special dispensation permits if they have been able to satisfy specific requirements.[113]

Pressure from neighbouring countries led to concessions in 2003 allowing people born in Zimbabwe who are descendants of farmworkers, mineworkers, domestic employees or other unskilled labourers to apply for confirmation of their citizenship.[114] Very few were able to access this because they had already lost their citizenship and the administrative burden was too high.

When the unity government began in 2009, citizenship laws were among the many battlegrounds between the MDC and ZANU-PF. The MDC successfully fought for expanded citizenship provisions in the new 2013 Constitution, including allowing dual citizenship for those who acquired more than one at birth.[115]

To date the Citizenship Act has not been amended to reflect these changes. Many people began re-applying for confirmation of citizenship with hopes of voting, crossing borders, and getting a bank account or a job, but their applications were denied. As recently as August 2019, the Zimbabwe Human Rights Commission has called for assistance for border communities in obtaining identification documents, noting that the Registrar-General is commanding high fees, non-existent documents and wrongly recording information on documents.[116]

Zimbabwe is a clear example of a country that uses citizenship laws to achieve political ends. Political exclusion has led to statelessness and hardship for some of the most vulnerable people. The government has been careful about following the law, including altering it, and has long insisted that it is not creating statelessness because applicants have another citizenship.

South Africa: child statelessness to deter migration

South Africa has an unknown number of stateless people and does not report any statelessness statistics.[117] However, it is believed to be a substantial problem in South Africa and threatens to grow as the country appears to be on a path to continue weaponising nationality and deepening xenophobia.

Most of the stateless population in South Africa are believed to be migrants, asylum seekers and refugees

from neighbouring countries.[118] Orphaned or abandoned children and children born to undocumented or irregular migrants are also at risk of increasing statelessness.

A 2019 study conducted by the Scalabrini Centre of Cape Town found that 40% of foreign children in youth and care centres faced statelessness, while an additional 47% were at considerable risk of it. The report found that 34% of the foreign youth in care had no documentation at all. In the Limpopo province, near the borders of Mozambique, Zimbabwe and Botswana, 82% had no documents. A further 23% of children held documentation as dependants under the Refugees Act but many were no longer in contact with the principal applicant whose presence is required to extend and finalise asylum claims.[119]

South Africa is the primary economic hub in Southern Africa and receives high flows of mixed migrants. Most come from neighbouring African countries and arrive under a wide range of circumstances – some seeking asylum, some irregularly seeking work, some with permits seeking education or otherwise. Much of South Africa's immigration and citizenship laws were established at the end of apartheid and encompass progressive measures.[120]

South Africa's proposed regulations put children born to foreign parents at risk of statelessness

In recent years, however, immigration sentiments and policies have become increasingly restrictive.[121] Local populations have become frustrated that unemployment, crime, health and education have not improved markedly under democracy as promised. Foreigners have become an easy target for both public and political scapegoating. Expressions of xenophobic sentiments have increased sharply and have led to sporadic riots, looting, destruction, violence and death. Politicians have homed in on exclusion as an expedient political tool – promising to remove foreigners wins political favour and votes.[122]

The Department of Home Affairs has been focused on applying a self-styled 'risk-based' approach to immigration legislation. Policy reforms have focused on implementing restrictive measures set to reduce low-skilled immigration from neighbouring countries.

In South Africa there is a substantial gap between legislative provisions and administrative practice. Although they are becoming increasingly restrictive, South Africa's legal immigration frameworks remain relatively progressive. This is not reflected administratively. Migrants in South Africa struggle to access their respective rights and report rampant xenophobia and corruption within the department. Home Affairs has widely been accused of wilfully creating administrative barriers to frustrate and deter irregular migrants.[123]

In July 2019, Medecins Sans Frontières opened a project in Tshwane specifically targeting migrants, asylum seekers and refugees for health interventions. At the opening, the Southern Africa Migration Coordinator labelled bureaucratic hurdles as a specific source of trauma for clients:

> Behind the restrictive policies and bureaucratic hurdles lies a huge amount of trauma and suffering among those who seek safety or survival within South Africa's borders. For many, this only adds to previous traumas, of losing their families, possessions or livelihoods.[124]

Home Affairs has also litigated against citizenship cases, typically on the grounds that 'illegal' migrants are seeking legal loopholes that would compromise the country's security. In a 2019 case related to a former orphan of (presumed) eSwatini origin whose children have been rendered stateless despite having a South African father, the Home Affairs director of travel documents and citizenship, Richard Sikane, disputed statelessness itself, claiming 'I seriously dispute that any person can be born stateless'.[125]

In 2018, Home Affairs proposed new regulations for the Births and Deaths Registration Act (BDRA) calling to replace birth certificates for children of foreign parents with 'birth confirmations.' Human rights advocates have argued against the proposed birth confirmations, claiming that – by Home Affair's own admission – birth confirmations do not amount to birth certificates. They argue that several legal frameworks, including the South African Constitution itself, provide every child the right to be registered immediately after birth regardless of the parents' immigration status.[126]

The proposed regulations put children born to foreign parents at risk of statelessness. It inaccurately presumes that children can have their births registered at an embassy. Children of refugees and asylum seekers cannot approach embassies without jeopardising their status or, in some cases, exposing themselves to actual harm. High costs are an additional barrier – the DRC's embassy in Pretoria charges ZAR4 000 for identifying documents.[127]

Even in cases where migrants should, in principle, be able to access consular services, humanitarian and refugee organisations have indicated that they see 'no evidence' that migrants are accessing consular services.[128] This indicates that, even where available, a lack of information about procedures, high costs related to travel and document administration or fear of interacting with authorities make consular services unattainable for many migrants.

In South Africa there is a substantial gap between legislative provisions and administrative practice

The proposed BDRA excludes stateless children from birth certificates altogether as they do have an embassy to approach. This contradicts existing citizenship law that claims that stateless children born in South Africa can be recognised as citizens, but only if their births are registered. Orphaned and abandoned children are unlikely to be able to prove a link to a country. The lack of a birth certificate will prevent them from being adopted.

A parliamentary submission made by the Centre for Child Law and Lawyers for Human Rights and endorsed by 22 civil society organisations claims:

> The amendment serves no legitimate purpose. It serves only to exclude foreign children and deprive them of basic rights. It creates an arbitrary distinction between foreign children and the children of South African citizens.[129]

Prior to proposing these regulations, South Africa's birth registration practices were already widely criticised for putting children at risk of statelessness. Human rights advocates have long observed and commented on the significant legal and administrative barriers to birth registration and nationality that perpetuate childhood statelessness for both South Africans and foreigners.[130]

In particular, the existing laws only allow for modified birth certificates where one parent does not have valid proof of identification. Many cases have been documented where children of at least one South African parent have been denied birth certificates and citizenship for a lack of documentation.[131]

> I have a list of 50 babies whose births are unregistered because their parents' asylum permits had lapsed or they had not been able to register in the first place.[132]
>
> **Sindisiwe Moyo, Scalabrini Centre**

South African law poses further barriers to children born of unmarried fathers unless the mother is present. These children are unable to have their births registered.

Madagascar: statelessness of an ethnic and religious minority

Madagascar has a sizeable population of Muslims of Indo-Pakistani origin, often referred to as 'Karana'.[133] Many arrived from pre-partition India in the 19th century but are stateless despite having been in the country for multiple generations. Most are Muslim. When Madagascar gained independence from France in 1960, the nationality laws distinguished between those who were automatically Malagasy at birth and those required to apply. Non-French foreigners in the country were not granted citizenship and were left stateless.

The Karana were not considered ethnically Malagasy so were generally not given citizenship. Most of the estimated 20 000 Karana are believed to be stateless despite being born in Madagascar and never knowing any other homes.[134] The US Department of State indicated up to 5% of the country's two million Muslims are stateless.[135] Madagascar has a total population of approximately 26 million.[136] Other ethnic and religious minorities are similarly affected including people of Chinese, Comorian and mixed descent.

Many have attempted to gain citizenship but have been denied or have faced discriminatory administrative

practices. Even those who legally qualify, in practice face many obstacles in accessing nationality and are not considered nationals. Reports have emerged that Muslim-sounding names have been sufficient to deny a citizen application. People have claimed that officials will arbitrarily request non-existent proof that an individual is Malagasy, despite the presentation of all required documents, if their names 'sound' foreign or if they suspect a person of not being Malagasy.[137] Statelessness has been passed on through generations among the Karana.[138]

> Most of the 20 000 Karana are believed to be stateless despite being born in Madagascar

Karana living in Madagascar are forced to pay for, obtain and maintain residency permits that describe their nationality as 'undetermined'. People have also cited high levels of corruption, a lack of access, a lack of awareness and limited judicial oversight as barriers to gaining documents, even if they qualify.

While a lack of documentation has led to exclusion, hardship and poverty for some, the Karana are still considered wealthy and powerful and contribute substantially to Madagascar – close to one-third of GDP.[139] Preventing them from citizenship stymies economic development for the whole country as it discourages these same people from investing in growth.

Until 2017, only children born to Malagasy fathers were granted citizenship. Mothers were unable to confer citizenship to their children. Children born in marriage to Malagasy mothers and non-Malagasy fathers were not granted citizenship and had to apply, unless statelessness could be proven, which was exceptionally difficult to prove. Married women were only allowed to pass on nationality in very limited circumstances. Therefore, many couples have avoided marriage as a means of conferring citizenship to their children.[140]

Madagascar fell under international pressure, including being subjected to Universal Periodic Review by the Human Rights Council. The review included recommendations from several countries, including Germany, Spain, Brazil and the United States, who called on Madagascar to 'reform its nationality law to ensure that all citizens have equal right to confer nationality to their children and the children born to citizen mothers are no longer at risk of statelessness.'[141]

Madagascar, along with Sierra Leone, became the first country since the launch of the UNHCR #IBelong campaign to eliminate gender discrimination in their laws. In 2016, Madagascar promulgated a new nationality law that removed gender discrimination regarding the conferral of nationality to children.[142] Since 2017, children born to either a Malagasy mother or father are to be recognised as citizens.

The law also has retroactive application, so that children born before the reform are covered by it. By April 2018, 1 361 families had benefitted from the law.[143] However, the law still prohibits Malagasy women from passing their nationality to their spouses while men are able to pass their nationality on to their wives.[144]

The 2017 amendment to bring gender quality to the nationality law in Madagascar is a welcome change. UNHCR has labelled it an 'encouraging and important step in preventing and reducing statelessness'.[145] However, further reform is necessary in two areas:

• Madagascar must remove remaining gender discrimination provisions prohibiting women from conferring nationality to spouses on an equal basis with men.

• The country has not addressed its on-going Karana situation and the country's continued denial of the right to nationality. There are no signs to date of improvement for the Karana people.

Madagascar is not party to the 1951 Refugee Convention, 1954 or 1961 Statelessness Conventions.

Angola: refugees no longer

Angola produced many refugees within Southern Africa during its long civil war between 1975 and 2002. It has since returned to political and economic stability. In 2011, the UNHCR declared that conditions were safe for Angolan refugees to return. In May 2013, South Africa declared the cessation of refugee status for Angolan refugees, citing a rapidly growing economy,

impressive developmental statistics and a commitment to putting its past behind it.

Before the UNHCR's cessation declaration an estimated 400 000 refugees had returned to Angola, mostly from Zambia, DRC, Congo Brazzaville, Zambia, Namibia, Botswana and South Africa through repatriation programmes. Despite this, in 2011 more than 100 000 Angolans remained in exile in several countries. Following cessation, more refugees have returned home to Angola. During the voluntary repatriations, over 17 000 more individuals repatriated to Angola.[146]

In 2012, 16 529 Angolan nationals were known to be living in South Africa; 3 100 had refugee status. South Africa's cessation included offers for three options – assisted voluntary return, a two-year temporary visa to remain in South Africa provided an Angolan passport had been obtained from diplomatic authorities, and a refugee exemption provision for people who felt they needed to retain their status. Approximately 2 200 were given two-year temporary visas to remain. Only 38 opted to repatriate to Angola.[147]

> ## Many Angolans in South Africa are living with temporary status and in fear they will be forcefully returned or forced to live illegally

In a Scalabrini Institute of Human Mobility study that included 131 of the Angolans who refused repatriation and opted to remain in South Africa, none expressed a desire to return permanently to Angola.[148] Participants expressed a variety of reasons, including political, social, and economic.

Many were intent on remaining in South Africa because they had strong family or social ties in the country. Twenty-five percent of married respondents had South African spouses. Many had children born and raised in South Africa and enrolled in schools and they did not want to abandon their children's education. Some did not speak any Portuguese. Some participants indicated that they identified as South African.

I came to South Africa in 1996. I first spent some years in DRC but I had an Uncle who said I should come to Cape Town instead. We came here then and were given refugee papers without any problems. We have been here ever since. Our children were born here and this is the only home that they have ever known. They have never been to Angola and do not even know Portuguese. None of our family is in Angola anymore. Some are in DRC and some are here. They say that there are jobs there but we do not know if this is true. Now they tell us that we must leave. I do not want to leave, but what can I do if they force us? Our son is 18 and he refuses to leave. He will not do it. But if his permit expires, what then? He will be illegal. And if he has children of his own they will have nothing and belong nowhere.

Angolan, age 58, refugee status ceased

In this case, Angola has cooperated closely with South Africa in providing consular services and documentation to Angolans and facilitating the safe return of refugees.

In 2018, about 1 300 were granted four-year Angolan Special Permits (ASP) that are valid until 2021.[149] They had approached the minister of home affairs for permanent residence through an exemption aspect of the Immigration Act that allows the minister to grant permanent residence under special circumstances.

Additionally, parents without current legal status are unable to register their children's births in South Africa. Angolan former refugees awaiting the ASP permits have not been able to register their children's births. Instead, they were provided handwritten birth confirmations. In principle, they should be able to register late births once their permits arrive, but this is not always possible in practice. This exposes children to statelessness.[150]

The Angolans in South Africa are living with temporary status and in fear that they will be forcefully returned or forced to live illegally. Most of them have been living with legal status for their whole lives and are now looking at the possibility of crossing into illegality or returning to a country they no longer know.

Angolans in other countries, including the DRC, Namibia and Botswana, have faced similar situations. In many cases, refugees have struggled to have their nationality or their children's nationalities recognised by Angola. Some children of mixed Angolan and Congolese descent have been denied citizenship by both countries.[151] Even internally displaced Angolans have struggled to access documentation and have been put at risk of statelessness. Some long-term Angolan refugees in Botswana have been able to access citizenship there.[152]

Since 2003, Angola itself has conducted routine mass expulsions of hundreds of thousands of irregular migrants, predominantly from the DRC.[153] Between September 2018 and September 2019, Angola expelled over 500 000 migrants, mostly Congolese, under a programme to reduce illegal diamond smuggling.[154] Authorities claimed irregular migrants have been driving and controlling illegal mining but there is no evidence to support this claim. Angolan security forces have been accused of major human rights violations against undocumented Congolese migrants, including stateless people. These include sexual abuse and exploitation of women and children, beatings, torture, lootings, arbitrary detention and murder.[155]

Costs to society

Statelessness has severe impacts on individuals and societies alike. While most examinations of statelessness focus on the human rights implications, the costs to society are substantial and vast. Statelessness is not only a source of insecurity and displacement; it has the potential to threaten national and regional stability.[156]

Development

Statelessness is a direct threat to development. It deepens inequality and creates challenges to achieving development goals. Nationality is a key element of all development goals including economic growth, peaceful and inclusive societies, the achievement of equality and access to education.[157]

Statelessness further threatens our ability to measure progress in each of these areas. States are under growing pressure to demonstrate results and promote accountability.[158] It is impossible to assess how well we are achieving development goals locally or regionally without accurate statistics that preclude large numbers of undocumented people. Properly informed statistics and measurements are key to development.

No country or population within the region can develop independently. Regional cooperation is required. Most stateless people in Southern Africa are from the region and are not leaving. Subjugating and exposing fellow Africans to statelessness and preventing them from reaching their full potential hampers national and regional development.

Health

Poor living conditions, displacement, and lack of access to services makes stateless populations particularly vulnerable to health issues, including communicable disease. People living outside the scope of state-sponsored health services and/or in subpar conditions have low rates of immunisation and are vulnerable to infectious diseases – tuberculosis, sexually transmitted infections, HIV/Aids, viral hepatitis, measles, mumps, rubella, and polio, gastroenteritis, and acute respiratory infections. Stateless populations also suffer high rates of maternal and child mortality and psychological issues that can escalate due to lack of access to healthcare. The prevalence of these illnesses in stateless and refugee populations often fuels stigmatisation.[159]

> Most studies of statelessness focus on human rights, but the costs to all of society are substantial

Denying nationality can also cause new health threats to emerge. In many cases, prevention from accessing hospitals or healthcare leads to more travel and more spreading. If people are forced to travel long distances to seek refuge or healthcare, the risk of spreading diseases increases, even if not crossing international borders.[160] It is in the public health interest of everyone to provide healthcare to all residents, regardless of citizenship status.

As with development statistics, there has been a surge in health interventions seeking to better track vital events – including both births and deaths.[161] Comprehensive information about vital events makes government planning easier. Immunisations and the

prevention of communicable diseases are in everyone's best interests.

Security

While citizenship debates in Southern Africa have not escalated to state conflict, multiple global examples exist where these disputes have contributed to violent conflicts.[162] Tensions among states in the region have occurred due to nationality debates and processes. These will increase if statelessness continues to be weaponised against people from neighbouring countries.

Documentation and nationality are also necessary for civic participation. Without them, people cannot access passports, driving licences, business permits, tax identification or the ability to vote or run for public office.[163] Lack of representation in civil and political affairs, lack of pathways for upward mobility, disenfranchisement and economic insecurity are driving forces of unrest and insecurity.

Statelessness exposes vulnerable people, including children, to harmful practices including child trafficking, child labour, sexual exploitation, early marriage, illegal adoption and child military conscription.[164]

As evidenced in South Africa where xenophobic violence has led to major destruction and spikes in crime, exclusion and xenophobia pose very real security threats and inspire crime and insecurity. Furthermore, statistics have routinely demonstrated there is no correlation between crime and immigration status. 'Foreignising' criminality distracts from real criminal and security issues and inhibits states' abilities and willingness to address crime.[165]

Strong civil registration contains inherent security properties, with respect to both crime and terrorism. Governments benefit substantially from better documenting their populations. A state does not have knowledge of or jurisdiction over people if they are undocumented and unaccounted for. People without names, nationalities or birth dates are difficult to investigate and bring to justice, if necessary. National security improves when governments are able to document their populations effectively.

Notes

Disclaimer: This report is not a legal analysis of citizenship and nationality laws in Southern Africa nor is it an expert legal opinion.

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About the author

Aimée-Noël Mbiyozo is a Senior Research Consultant at the Institute for Security Studies. She works on migration and related issues, researching and implementing responses in high-flow regions including Africa, the Middle East and Asia. Her expertise focuses on understanding migration drivers and behaviour, particularly in high-risk and fragile environments.

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