

Eradicating statelessness in the Americas

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Considerable progress has been made towards eradicating statelessness in Latin America and the Caribbean since 2014 but there is still work to be done if it is to become the first world region to eradicate statelessness.

With the adoption of the Brazil Declaration and Plan of Action in 2014,¹ 28 countries and three Latin American and Caribbean territories committed themselves to eradicate statelessness in the region following the guidelines of the UN Refugee Agency (UNHCR) Global Action Plan to End Statelessness.² To this end, countries agreed that no new cases of statelessness must originate in the region, all stateless persons must acquire or regain their nationality, and

people at risk of statelessness need to be enabled to surmount any legal or practical barriers to prove that they are nationals of a specific country. They also agreed that until stateless persons are able to obtain a nationality, they must be protected. Hence, while the Brazil Plan of Action recognises that the primary approach to ending statelessness is one of solutions, it proposes that States adopt measures in all three areas: prevention, protection and resolution.

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Progress in the region since 2014

Prevention: With regard to preventing statelessness, the Brazil Plan of Action proposes that States accede to the 1961 Convention on the Reduction of Statelessness,³ harmonise their domestic nationality regulations with international standards, and facilitate birth registration.

At present, out of the 35 Member States of the Organization of American States, only 16 are States Parties to the 1961 Convention. Three of these – Argentina, Belize and Peru – have become parties to the Convention since 2014, while Haiti has recently decided to accede to the Convention (and will become the 17th Member State). Meanwhile, Colombia and Chile have introduced reforms to limit the scope of constitutional exceptions to the principle of *jus solis*,⁴ thus reducing the possibility of cases of statelessness occurring on their territories, and Panama has changed its registration policy to facilitate registration of births of children born in Costa Rica to Panamanian parents.

Protection: To protect stateless persons, the Brazil Plan of Action asks States to accede to the 1954 Convention relating to the Status of Stateless Persons, adopt domestic protection frameworks, and establish procedures for determining statelessness. To date, 19 of the 35 member countries of the OAS are States Parties to the 1954 Convention. Of these, after 2014, El Salvador acceded to the Convention, and Mexico removed its reservation to Article 31 on the expulsion of stateless persons. Also, the parliament in Haiti approved accession, and President Bachelet in Chile promised to move towards accession to both statelessness conventions. Regarding the procedures for determining statelessness, the Inter-American Court issued an advisory opinion stating that, in a migration context, States must determine the nationality status or statelessness of any child on their territory; to this end, they should establish or strengthen appropriate procedures, recognising the varying needs of children and adolescents.

In 2016, Costa Rica adopted regulations that allow for the comprehensive protection

of stateless persons. Elsewhere, Ecuador's Organic Law of Human Mobility and Brazil's migration law – both adopted in 2017 – regulate the rights of stateless persons and require statelessness determination procedures to be established. In addition, Argentina, El Salvador, Panama, Paraguay and Uruguay are currently drawing up regulations to address the issue, while Colombia, Guatemala and Peru have all expressed interest in doing so.

Resolution: In relation to confirmation of nationality, Chile (through its 'Chile reconoce' project⁵), Costa Rica and Panama (through the Chiriticof project⁶) have implemented projects to verify or review people's birth registration and ensure appropriate registration and access to documentation proving nationality. Moreover, Bolivia, Brazil and Ecuador have introduced regulations to facilitate the naturalisation of stateless persons, while Argentina, El Salvador and Paraguay are drafting similar laws.

Lessons learned

The Cartagena +30 process – that led to the Brazil Declaration and Plan of Action – allowed States to recognise that statelessness is a human rights issue not just in the world at large but also in the Americas, and that its eradication generally requires the investment of few resources. Cartagena+30 favoured States' assumption of ownership towards the goal of ending statelessness and promoted the identification of appropriate actions to achieve this goal.

Stateless persons can play a key role in sensitising state officials and raising awareness of the problem within society at large. Following the adoption of the Brazil Plan of Action, training courses and regional meetings organised by UNHCR had a greater impact when they included stateless persons – such as Maha Mamo, a stateless refugee in Brazil⁷ – who could explain the humanitarian impact of statelessness and why solutions such as naturalisation are needed. In addition, given that statelessness is a relatively new issue for many officials who had traditionally focused only on asylum and refugee



Maha Mamo, a refugee in Brazil, was born stateless in Lebanon and is still without a nationality at the age of 28. Read her story at www.unhcr.org/ibelong/maha-mamo/.

protection issues, the 'novelty' of statelessness proved to be a useful point of entry for talking about the subject and raising awareness.

Bi-national projects can bring about not only a reduction in statelessness but also a strengthening of cooperation between countries. The traditionally cordial relations between Costa Rica and Panama favoured the implementation of the joint Chiriticos project which sought to determine the nationality of migrants temporarily residing in border areas and of any of their descendants born in Costa Rica. In implementing the project, cooperation between the two States increased, through exchange of information, fieldwork and bilateral cooperation.

Improving access for stateless persons to naturalisation contributed to a similar improvement in access to this solution for non-stateless refugees. Article 32 of the 1954 Convention and Article 34 of the 1951 Convention establish the same standard of treatment for non-refugee stateless persons as for non-stateless refugees as regards naturalisation. States should endeavour to facilitate naturalisation in both cases. Although it has been easier for States to understand and empathise with the idea of facilitating naturalisation for stateless persons, countries such as Argentina and Paraguay are developing dedicated protection frameworks for stateless persons that also include facilities for naturalisation of non-stateless refugees, while Bolivia has already

passed a regulation to that end. In this sense, the goal of solving statelessness has had a spillover effect that may benefit refugees.

Remaining challenges

Three years after the adoption of the Brazil Plan of Action, significant progress has been made towards the eradication of statelessness. Likewise, important lessons have emerged that will be useful in the continuing implementation of the Brazil Plan of Action at the national level.

In terms of challenges, however, it should be noted that, despite Belize's accession to the 1961 Convention and the recent approval of accession to both statelessness conventions by Haiti, the number of Caribbean countries that are States Parties to the conventions remains low. Similarly, in the Americas, it is in the Caribbean that there are still nationality laws that discriminate on the basis of gender, where the largest number of people are at risk of statelessness, and where there are thousands of people who have been arbitrarily deprived of their nationality. In 2020 UNHCR will undertake another evaluation of the implementation of the Brazil Plan of Action. If the Americas is to become the first world region to eradicate statelessness – as UNHCR hopes⁸ – it will be necessary to redouble efforts in these Caribbean countries over the next three years.

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- www.refworld.org/docid/5487065b4.html
- UNHCR (2014) *Global Action Plan to End Statelessness: 2014-2024* <http://bit.ly/UNHCR-stateless2014-ActionPlan>
- www.refworld.org/docid/3ae6b39620.html
- 'Right of the soil', commonly referred to as birthright citizenship, meaning the right of anyone born in the territory of a state to nationality or citizenship of that state.
- 'Chile recognises' <http://chilereconoce.cl>
- <https://youtu.be/SwrQXGEwTBU>
- www.unhcr.org/ibelong/maha-mamo/
- António Guterres, former High Commissioner for Refugees, speaking at 'Out of the Shadows: Ending Statelessness in the Americas', November 2014 www.youtube.com/watch?v=VAf3MV8Hxf8