



# TOGETHER WE CAN

THE COVID-19 IMPACT  
ON STATELESS PEOPLE  
& A ROADMAP FOR CHANGE



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# MESSAGES

Statelessness does not only exist in history but is ongoing, in real time and in practically every corner of the world. Even though statelessness intersects with every other human rights violation, it remains largely unknown and misunderstood. The large statelessness knowledge gap, even among prominent development, migration, humanitarian and human rights actors, is a challenge and burden for stateless people like me, globally. We are not just a collection of stories. We are our own advocates and experts through our lived experiences. This report recognises stateless people as leaders who must shape the vision and make decisions about the priorities that directly affect our lives, our families and our communities. The roadmap offers a way forward for our allies to check their statelessness blind-spots, centre us in their actions and be accountable to us when delivering their mandates. We cannot end statelessness by ourselves. Together we must work to envision a world where nobody is deprived of nationality based on their race, ethnicity, sex, gender, or religion. A world where everyone's human right to nationality is protected and upheld, and where statelessness is truly relegated to the history books.



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Letting nationality determine access to services, including healthcare and vaccination, is detrimental to everyone's right to life and is a threat to public health as a whole. This report demonstrates why prioritizing the integration and inclusion of the furthest behind is crucial for international relations and public health. It highlights the consequences of statelessness on health and wellbeing, bringing us closer to promoting and achieving health for all. By providing a snapshot of the challenges associated with statelessness, the report and roadmap greatly contribute to the conversation and global efforts to make the vulnerabilities and needs of some 15 million stateless persons, and tens of millions whose nationality is under threat, visible and heard, during the pandemic and always.

This report reminds us that stateless people were among the most vulnerable before COVID-19 hit the world, and remain so during the pandemic, as their conditions worsen. This, once more, should move us to action. If we want to truly leave no one behind, we ought to work closely with countries and territories to expand global and regional capacities to meet the needs of stateless people and make inclusion and integration a reality for everyone.

Injustice, inequality, and exclusion drive and perpetuate the marginalisation of vulnerable and stigmatised populations, including stateless communities. These factors have led to devastating consequences during the COVID-19 pandemic, as stateless people, the majority of whom live in poverty, are forced to work in unsafe environments without access to health care, testing or vaccines. All of us in the public health and human rights community have a duty to protect the right to health care for all populations, irrespective of their citizenship or immigration status. Thus, it is crucial that we understand and respond to the ways in which the pandemic has aggravated the already grave statelessness crisis. This report and roadmap provide an excellent guide to more inclusive approaches to addressing the crisis incumbent on multiple stakeholders, and they are an important starting point for all health and human rights actors dedicated to an equitable, inclusive, and effective response to the pandemic.



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While we knew that COVID-19 would have a disproportionate impact on stateless people, we did not anticipate the devastating extent to which the pandemic and its secondary effects could have exacerbated inequality for this population. As the CESF Consortium has outlined in this comprehensive report, the crises that stateless communities are currently facing demonstrate the extent to which the pandemic has further jeopardized their rights such as access to health and to vital documentation essential to accessing crucial government support schemes; all while rising authoritarianism around the world threatens to cause even more harm. Although it is very apparent that statelessness is a human rights issue that intersects with the most pressing humanitarian issues of our time, INGOs and donors continue to largely overlook this population. It is imperative that funders and implementers alike, take up the clear and holistic calls to action and roadmap for change put forth by the CESF Consortium in this report and fulfill our obligation to support stateless populations around the world.

**This is an enormously important report. It highlights the structural causes of statelessness, focuses a sharp human rights and anti-discrimination lens on its consequences, and shows how the COVID-19 pandemic heightens risks for the most vulnerable, even though there are possibilities of change. The report's great value is in bringing together the larger drivers with the mid-level factors, made tangible through rich data from a host of countries and contexts.**



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**COVID-19's disproportionate impact on marginalized groups around the world has highlighted how structural inequities across societies shape and influence the enjoyment of all human rights, including the right to health. Nowhere is this more true than in the context of stateless persons. This excellent and timely report carefully documents how challenges around access to health are magnified for stateless people, and it shows us the way forward through programming that is grounded in the words and perspectives of stateless persons themselves. This valuable addition to the field will help advance our understanding of how to effectively address the rights and needs of this particularly vulnerable group.**

**As a CESF Committee Member, I have noted great initiatives undertaken by Consortium members around the world. These include paralegal community outreach, door-to-door awareness raising, radio shows educating people of their rights, podcasts and interviews targeting stateless communities, documentaries showcasing the exclusion of stateless people and direct support through providing food rations and other emergency relief. These innovative projects have been driven by community-led organisations to speak directly to affected communities and support them to raise their voices. Further, the research undertaken by Consortium members on the impact of COVID-19 on communities affected by statelessness underpins this important report. The roadmap for change has also emerged from the experiences of Consortium members. It is a great example of a bottom-up approach to pursuing change and is grounded in the realities and experiences of stateless people. I hope that UN agencies, states, donors and other actors will rise to the challenge and respond to the roadmap. All of this has been possible due to ISI's efforts to secure funds and constitute a panel of great minds from different fields. I am honored that I was invited to serve on the committee that supported these great community outreach initiatives.**



**MUSTAFA MAHMOUD YOUSIF**  
SENIOR PROGRAM MANAGER,  
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# EXECUTIVE SUMMARY

The COVID-19 pandemic and state responses to it have had a significant negative impact on the lives, wellbeing, and rights of the approximately 15 million stateless people around the world who have been denied a nationality, as well as tens of millions whose nationality is at risk. The devastating impacts of exclusion and denial of fundamental rights, including healthcare, during the pandemic relate to much deeper structural problems – the historic and systemic exclusion, deprivation and marginalisation of communities that have been made stateless as part of wider discriminatory political acts, or pursuant to dominant, discriminatory ideologies. This **report** documents these impacts, providing an evidence base for further action.

COVID-19 has shone a light on these challenges and also presents a **unique opportunity** to raise visibility, address the structural causes of statelessness, and secure lasting change, through working directly with stateless people and being accountable to them. The report also proposes a practical 3-step **Roadmap** for relevant stakeholders, to protect the right to nationality and the rights of stateless people, during times of COVID-19 and beyond.

Below, is a summary of the **Roadmap** in Part 1 of the report, the key findings of the **five thematic chapters** in Part 2, and **ten calls to action**. This Executive Summary does not cover the findings or calls to action of the CESF country chapters in Part 3 of the report.

## TOGETHER WE CAN: A ROADMAP TO ADDRESS THE COVID-19 IMPACT ON STATELESS PEOPLE

This practical 3-step Roadmap serves as a framework for resolving and addressing the structural discrimination and exclusion of stateless people, during times of COVID-19 and beyond. The starting point is the belief that change is within our grasp, and can be achieved through creative, committed and courageous action. **Together we can** and **together we must** address the structural discrimination underlying statelessness, protect the rights of stateless people and meet their emergency needs.

Drawing on the experiences and expertise of CESF Consortium members in their COVID-19 work, the Roadmap aims to **inform and guide** the necessary inclusive responses of multiple stakeholders: governments, parliamentarians and political parties, professional bodies, NHRIs, regional organisations, UN agencies and experts, diplomats, donors, international organisations, NGOs, grassroots groups, activists, the media and concerned members of the general public.

### 1 CHECK FOR INSTITUTIONAL BLIND-SPOTS

We invite states, UN actors, humanitarian groups and other stakeholders to engage in careful **introspection**, check for **institutional blind-spots**, and **review and reform** policies and practices to **ensure that stateless people are prioritised, their particular contexts and needs are understood and addressed and they are not excluded or left behind** through:

- **strengthening awareness** of the issue at all levels;
- **acknowledging** historical failures;
- **collecting and sharing information** on statelessness and nationality rights deprivations; and
- **resourcing** the enhancement of capacities, collaborations and funding.

### 2 INCLUDE, CONSULT & ENGAGE IN DIALOGUE

We invite activists and NGOs to **make their expertise available** and those in positions of power, to have **open consultation** and **meaningful and constructive dialogue** with affected communities, and commit to **including stateless people on equal terms** by:

- **consulting** with activists and affected communities;
- **building trust** and strengthening solidarity with stateless communities;
- **meeting the needs and priorities** of affected communities and ensuring their meaningful participation; and
- **facilitating wider discourse** within society and institutions on equality, inclusion and the right to nationality.

**THE REPORT IS GROUNDED IN THE EXPERIENCES AND EXPERTISE OF MEMBERS OF THE COVID-19 EMERGENCY STATELESSNESS FUND (CESF) CONSORTIUM, A GLOBAL CONSORTIUM OF NGOS AND CITIZENSHIP RIGHTS ACTIVISTS, INITIATED BY THE INSTITUTE ON STATELESSNESS AND INCLUSION (ISI) IN JUNE 2020 TO RESPOND TO THE IMPACT OF COVID-19 ON STATELESS POPULATIONS. IT CARRIES A SIMPLE MESSAGE THAT TOGETHER WE CAN ACHIEVE CHANGE, PROTECT THE RIGHT TO NATIONALITY FOR ALL AND PROTECT THE RIGHTS OF ALL STATELESS PEOPLE. THE REPORT DRAWS ON A MIX OF DESK RESEARCH AND THE FINDINGS FROM RESEARCH-BASED ACTION ADVOCACY PROJECTS BEING IMPLEMENTED BY CESF CONSORTIUM MEMBERS IN 13 COUNTRIES. IT COMPRISES THREE PARTS:**

#### PART 1

INTRODUCTION, CESF CONSORTIUM AND ROADMAP TO ADDRESS THE COVID-19 IMPACT ON STATELESS PEOPLE.

#### PART 2

THEMATIC FOCUS ON THE RIGHT TO NATIONALITY, DOCUMENTATION AND LEGAL STATUS; EQUALITY AND NON-DISCRIMINATION; THE RIGHT TO HEALTH; SOCIOECONOMIC RIGHTS AND CIVIL AND POLITICAL RIGHTS.

#### PART 3

CESF COUNTRY FOCUS CHAPTERS ON BANGLADESH, CENTRAL ASIA, THE DOMINICAN REPUBLIC, INDIA, KENYA, MALAYSIA, MONTENEGRO, NEPAL, NORTH MACEDONIA AND ON THE ROHINGYA.

We invite all actors to learn the hard lessons that the pandemic has taught us and invest in **future-proofing**, ensuring a **lasting commitment to breaking down the pervasive injustice, indignity, inequality, deprivation and exclusion that stateless people face**, focusing on:

- **implementing reforms** to address discriminatory laws, policies and practices;
- **redressing** the intergenerational disadvantage and legacy of statelessness;
- **being accountable** to stateless communities and activists;
- **monitoring** the performance and progress of states;
- **ensuring access to justice and reparations** for stateless people; and
- **sustainably investing** in inclusive societies.

## KEY THEMATIC FINDINGS

Below, are the key **thematic findings** of this report, with regard to the COVID-19 impact on the rights and wellbeing of stateless people. Of the five thematic areas addressed, the **right to nationality, documentation and legal status** and **equality and non-discrimination** represent the main structural challenges which have a cyclical and inter-generational impact on stateless people. People are more likely to be deprived of other rights because they lack nationality, documentation or legal status. Without ready solutions, their children are more likely to inherit the same (lack of) status. Similarly, discrimination on the basis of race, sex and other grounds can cause and perpetuate statelessness, and statelessness in turn can lead to more discrimination. The other three thematic issues - the **right to health, socioeconomic rights** and **civil and political rights** - relate to some of the main rights deprivations that stateless people endure, which have been further exacerbated due to the pandemic. These challenges are all interrelated and mutually reinforcing, heightening the cost of statelessness, generating new risks of statelessness and stifling efforts to promote the right to nationality and the rights of stateless people.

### THE RIGHT TO HEALTH

The right to health should have universal application regardless of race, religion, legal status or other criteria. A year into the pandemic however, healthcare related challenges faced by stateless people have only heightened. The **cost of healthcare** continues to be an insurmountable hurdle for many stateless people, including in Central Asia, the Dominican Republic, India, Indonesia, Kenya, Malaysia, Montenegro, Nepal, North Macedonia and South Africa. This is because stateless people are excluded from healthcare plans, subsidies, insurance schemes and free healthcare that citizens are entitled to. In countries such as Sweden, to procure a COVID-19 test, a **digital ID** is required which many stateless people do not have; the **lack of documentation** has further prevented access to healthcare in Central Asia, India, Kenya, Libya and Thailand. **Fear of arrest, detention and harassment** by police or officials has also cultivated a culture of fear around accessing healthcare, preventing stateless people in countries including Kenya and Malaysia from seeking potentially life-saving treatments. The inability to carry out effective preventative measures including **social distancing** and wearing PPE, as well as lack of **access to sanitation and hygiene products** and facilities due to living and working conditions, also places stateless communities at great risk. Many communities of stateless people and those whose nationality is at risk live in densely populated camps and settlements including the Rohingya, the Urdu speaking community in Bangladesh, Nubians in Kenya and Roma communities in the Western Balkans. The **mental health impacts** of lockdowns, loss of livelihoods, exposure to health risks and starvation and exclusion from state relief measures, are also significant.

There is an urgent need to ensure inclusivity in the roll out of **COVID-19 vaccines**, rising above vaccine nationalism. Unfortunately, we are already seeing a 'citizens first' approach to vaccine distribution and worrying initiatives including vaccine passports which would further exclude stateless people. In Central Asia and Kenya, stateless communities have not been included in the vaccine roll out. There have been no announcements of vaccine allocations for the Rohingya communities in Bangladesh, India and Malaysia. Further, in India it is mandatory to show a government issued ID card to receive the vaccine; in Israel and the Occupied Palestinian Territory, five million Palestinians have been intentionally excluded from the vaccine plan; and in Cameroon, stateless people are excluded with their lack of documentation reported as the barrier to access. According to official discourse in the Dominican Republic those deemed 'illegal migrants' and stateless people, who lack Dominican documentation, are denied access to vaccines. However, at the local level, arrangements have been made with decentralised public health services for these groups where representations by affected parties have been met with positive responses. In a show of good practice, the Montenegrin government has changed its policy, and has placed the Roma as a priority group for vaccination, and confirmed that all Montenegrin residents regardless of citizenship can receive the vaccine.

## SOCIO-ECONOMIC RIGHTS

When the pandemic took hold in early 2020, state responses prioritised citizens to the exclusion and detriment of migrants, refugees and stateless people. Over a year into the crisis, there has been hardly any shift in the approach to social and economic support by states and other actors. The **lack of documentation has resulted in exclusion from state relief** in the Dominican Republic, France, Kenya, Lebanon, Malaysia, Montenegro, Nepal, North Macedonia, South Africa and the United States. This is further compounded by reports of discriminatory exclusion of stateless people from state relief in Bangladesh and Central Asia. Further, the stateless in Montenegro and North Macedonia have been **excluded from humanitarian relief efforts**. There has been a significant impact on **employment and income** and consequently the **loss of livelihoods** amongst the stateless and those at risk of statelessness. CESF Consortium members from Bangladesh, Central Asia, the Dominican Republic, India, Malaysia, Montenegro and North Macedonia as well as Rohingyas in Bangladesh, India and Malaysia all cited the inability to access formal employment as a significant factor to the loss of income. Jobs are mainly found in the informal sector which have been brought to a standstill with the implementation of lockdowns and curfews. In Malaysia, North Macedonia, the Dominican Republic and Thailand there are further **barriers to education** during lockdowns due to the nature of online classes and the need for access to equipment and the internet.

## CIVIL AND POLITICAL RIGHTS

In order to address the threat to public health, most States implemented restrictions which limit civil and political rights. Most states have implemented COVID-19 restrictions in order to protect public health. Some states have also introduced more permanent restrictions to rights. Stateless communities and those whose nationality is at risk continue to face ongoing restrictions and rights violations which, due to pre-existing conditions are having a disproportionately devastating impact. In the CESF Consortium Project focus countries, **arbitrary detention, the risk of arrest and fear of harassment** by officials has impacted stateless populations and those whose nationality is at risk in India and Malaysia as well as Rohingya communities in their country of refuge. For those in detention during the pandemic, there is an increased risk of infection due to the inability to adequately social distance or self-isolate. Reports of such issues have come from countries including Australia, Malaysia and Thailand. Specific to Rohingya refugees, in the context of COVID-19, access to UNHCR or asylum procedures on arrival in their host country is limited, heightening their risk of arrest and arbitrary detention. During the pandemic, countries including Malaysia and Thailand have pushed boats of Rohingya back out to sea, using **COVID-19 as an excuse to deny entry and protection**. Restrictions on **freedom of movement** have exacerbated the impacts of COVID-19 including for those trying to seek healthcare outside of refugee camps in Greece; and in Abkhazia, with many ethnic Georgians residing in Abkhazia being prevented from crossing into Georgia to access healthcare, livelihoods, education or family reunion.

## THE RIGHT TO NATIONALITY, DOCUMENTATION AND LEGAL STATUS

COVID-19 related measures have impacted the right to nationality, documentation and legal status in deeply concerning ways. Disruptions to crucial **civil registration procedures** have resulted in delays and backlogs leaving stateless people and those whose nationality is at risk in limbo, completely vulnerable to the multiple effects of COVID-19. The report looks at the impacts of such disruptions in Central Asia, the Dominican Republic, Israel and the Occupied Palestinian Territory, Kenya, Montenegro, Nepal, North Macedonia, South Africa and Zimbabwe. Such documentation and registration challenges also subject people to longer-term risks of statelessness i.e. **unregistered births** and subsequent non-issuance of IDs can heighten the risk of statelessness, particularly among minority and border communities and those with migrant heritage. There have been disruptions to other procedures that provide legal status and access to basic rights to people with protection needs. **Asylum and statelessness determination procedures** have been disrupted in countries including Bulgaria, Germany, Ukraine, South Africa and Colombia. Rohingyas' access to UNHCR has been greatly restricted, diminishing their chances of being registered and receiving documentation, and correspondingly heightening the risk or arrest and detention. A number of countries have also had disruptions to permanent residence applications, visa processes and other consular services, particularly impacting stateless migrants and families affected by gender discriminatory nationality laws.

## EQUALITY AND NON-DISCRIMINATION

Discrimination continues to be an underlying and entrenched driving force behind statelessness worldwide. The research looks more closely at various manifestations and consequences of discrimination in the context of the pandemic, including the increase in **hate speech and intolerance** particularly targeting Roma communities in Bulgaria, Ireland, Montenegro and North Macedonia and Muslims in India. There has also been a rise in **xenophobia and racism** against communities including the Rohingya in Myanmar and their countries of refuge, those declared foreigners in Assam India, the Urdu speaking 'Bihari' community of Bangladesh, Nubians of Kenya, Dominicans of Haitian descent in the Dominican Republic and refugees, migrants and stateless people in South Africa. These minority and migrant communities have been vilified in populist political narratives and used as scapegoats for the spread of infection, including to distract from the failings of political leaders. Gender discrimination has also had a significant impact. In Malaysia, for example, where **gender discriminatory nationality laws** deny Malaysian nationality to children born to Malaysian mothers outside of Malaysia, there has been a sharp increase in the number of children denied access to citizenship because their mother was unable to re-enter Malaysia to give birth. Increased cases of **gender-based violence** have also been reported, including in Eswatini and Nepal, where particularly in the context of gender discriminatory nationality laws, women are unable to extract themselves from unsafe situations.

## TEN CALLS TO ACTION

Ultimately, it is states that have the responsibility, human rights obligations and the resources to address statelessness, protect the rights of all stateless people and protect everyone's right to a nationality. The below **Call to Action** therefore primarily applies to states and governments. It also applies to other stakeholders targeted by this report: MPs and political parties, professional bodies, NHRIs, regional organisations, UN agencies and experts, diplomats, donors, international organisations, NGOs, grassroots groups, activists and the media. It sets out our recommendations in relation to the **Roadmap** and **thematic challenges** identified in the report. Most action points directly build off recommendations in ISI's 2020 Impact Report '**Stateless in a Global Pandemic**',<sup>2</sup> an indication that concerns raised a year ago remain largely unaddressed and many situations have in fact worsened. All stakeholders are invited to consider how each individual call to action would apply to their own context, obligations and mandate. Additional **country-specific calls to action** are set out in each country chapter in Part 3. The CESF Consortium stands available to engage and support stakeholders as they take on board and respond to this **Call to Action**.

### THE ROADMAP

1

Reflect on, engage and act to internalise and implement the **Together We Can: Roadmap to Address the COVID-19 Impact on Stateless People**; appoint focal points with the responsibility and necessary resources to mainstream statelessness, ensure that statelessness and the right to nationality is duly considered in all programming and collaborate with external partners and stakeholders.

2

Engage with the **Roadmap** as a tool to inform, shape and guide institutional responses to statelessness in the context of COVID-19 and the longer term, by promoting and supporting dedicated, intersectional and joined-up action to protect the rights of all vulnerable groups, including stateless people; take steps to centre stateless activists, communities and NGOs, draw on their expertise and insights, involve them in finding solutions, support their independent work and remain accountable to them at all times.

### RIGHT TO NATIONALITY, DOCUMENTATION AND LEGAL STATUS

3

Treat civil registration, refugee and statelessness determination, naturalisation, consular and other services as essential; ensure that such services operate during the pandemic and that any backlogs are expeditiously dealt with; extend the validity of nationality and residency documentation, protection status and interim measures to protect those impacted by the closure or slowing down of services; combat intergenerational statelessness; and when encountering undocumented people, desist from penalising them, but instead, provide them with documentation and nationality.

### EQUALITY & NON-DISCRIMINATION

4

Recognise that discrimination is the primary driver of statelessness and that stateless people face additional discrimination; desist from unfairly targeting or scapegoating minorities, migrants, stateless and other groups; prosecute and penalise instigators of hate speech; ensure that stateless people and those who lack documentation are not discriminated against in access to healthcare, relief and other COVID-19 measures; combat gender discrimination and sexual and gender-based violence impacting stateless women and girls; and acknowledge and dismantle root causes of structural discrimination that undermine the right to nationality.

### RIGHT TO HEALTH

5

Ensure that access to healthcare is equal and universal, and not based on nationality, documentation or legal status; remove all fees and other barriers to healthcare; ensure that public health imperatives take precedence over immigration enforcement and other motives; strengthen initiatives to address the mental health impacts of COVID-19 on stateless people; invest in measures to address environmental determinants of health, including poor sanitation and inability to socially distance; and ensure that public health measures and advice are effectively communicated to stateless people, taking into account location, language and literacy.

6

**Taking into consideration the moral and public health imperative to protect everyone from COVID-19, and given that the only sustainable way of doing so is through achieving universal vaccination, while also considering the heightened vulnerability of many stateless people due to structural challenges; ensure that all necessary positive steps – including mobile clinics, awareness campaigns and incentives - are taken to ensure that stateless people have equal vaccine access, and that all barriers such as lack of nationality, documentation or legal status, as well as technological and financial barriers are anticipated and addressed in vaccine roll out.**

## **SOCIOECONOMIC RIGHTS**

**7**

Protect the livelihoods of stateless people and ensure that undocumented people and those engaged in informal labour are equally covered by COVID-19 relief measures; ensure that stateless people and other vulnerable groups can work safely; ensure that stateless children have equal access to education and are supported to attend online lessons through the provision of relevant tools, internet access and language support; and provide a robust safety net for all stateless people who face poverty, starvation and homelessness as a result of COVID-19 and its wider societal impacts.

**8**

Strengthen institutional awareness of statelessness, to ensure that humanitarian relief also covers stateless and undocumented people; extend emergency support packages to all, on the basis of need (and not other criteria); distribute relief regardless of legal status, prioritising the furthest left behind; and take special measures to mitigate the transmission of COVID-19 in densely populated areas, such as camps, collective shelters and informal settlements.

## **CIVIL AND POLITICAL RIGHTS**

**9**

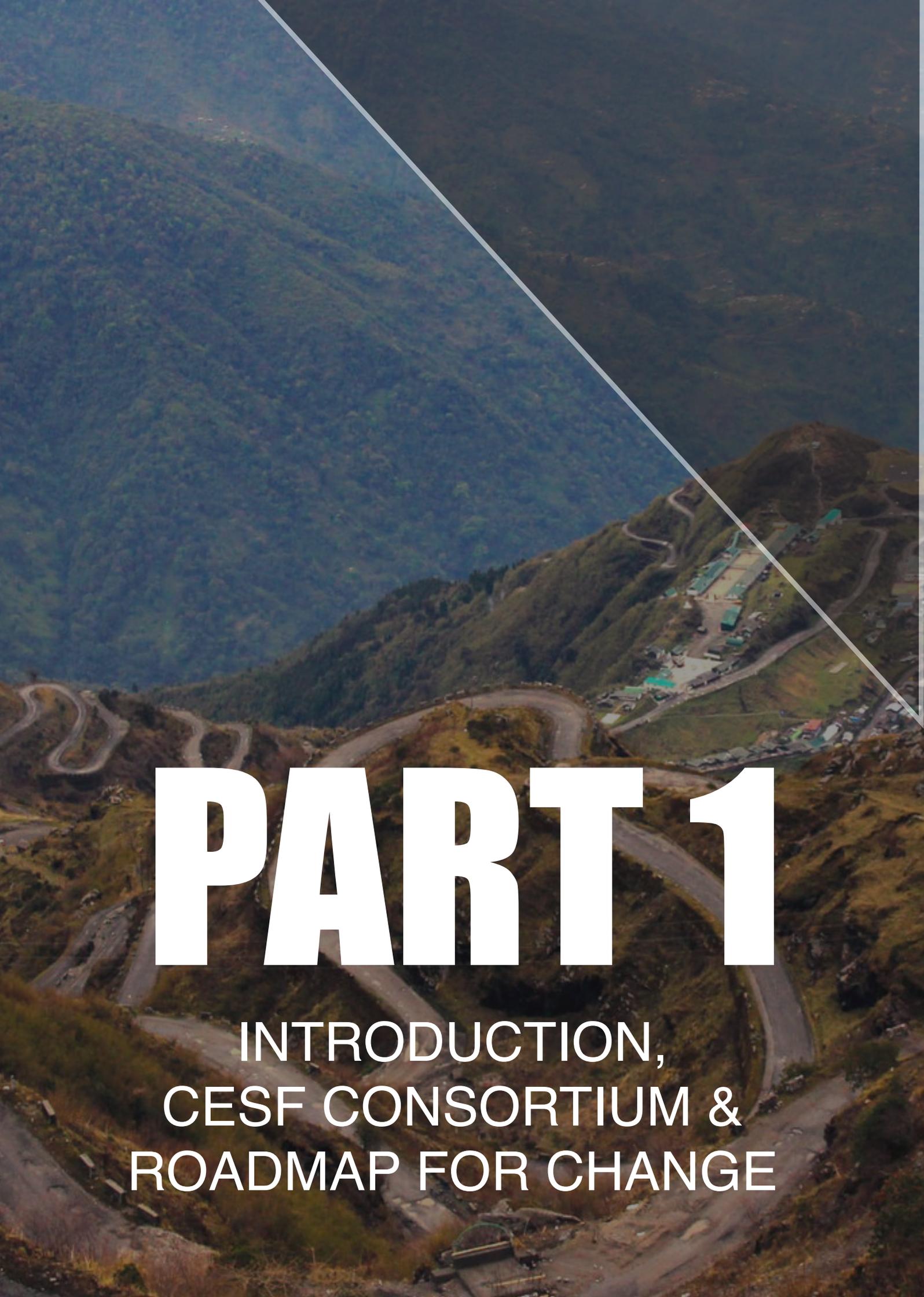
Ensure that border closures do not result in family separation, including by allowing non-citizen spouses and children to re-enter countries; ensure that stateless people with residence status or strong ties to a territory are allowed to return; provide legal status and protection to those deemed to be irregularly on the territory; and ensure that where livelihoods are damaged by the imposition of movement restrictions, those affected are adequately compensated.

**10**

Ensure that increased policing powers are proportionate and do not result in stateless people being arbitrarily targeted; that immigration detainees are released with adequate status and support, and are not subject to burdensome reporting requirements; that stateless people, migrants and others are not detained as part of COVID-19 responses; that COVID-19 measures are not used to clamp down on the freedom of expression and assembly of stateless people and their allies and that stateless people have equal and effective access to justice to challenge rights deprivations in times of COVID-19.

<sup>1</sup> For more information about the CESF Consortium, see: [https://files.institutesi.org/CESF\\_Brochure\\_2021.pdf](https://files.institutesi.org/CESF_Brochure_2021.pdf).

<sup>2</sup> Institute on Statelessness and Inclusion, 'Stateless in a Global Pandemic: Impact Report,' (2020), available at: [https://files.institutesi.org/Covid19\\_Stateless\\_Impact\\_Report.pdf](https://files.institutesi.org/Covid19_Stateless_Impact_Report.pdf).

An aerial photograph of a mountainous landscape. The foreground shows a winding asphalt road that curves through a valley. In the middle ground, there is a small settlement or farmstead with several buildings, some with green roofs, and a parking area. The background consists of steep, forested hillsides under a clear sky. A white diagonal line runs from the top left corner towards the middle right of the image.

# PART 1

INTRODUCTION,  
CESF CONSORTIUM &  
ROADMAP FOR CHANGE

# INTRODUCTION

**“Far from being “great equalizers,” diseases reflect and reinforce preexisting hierarchies. Structural inequalities in wealth, housing, health care, employment and social capital place the poor and the socially vulnerable at a higher risk of infection and death. At the same time, the fear and suspicion engendered by epidemics exacerbate the vulnerabilities of those perceived as “other” or “outsiders,” populations whose survival and dignity are already compromised by social exclusion mechanisms such as legal invisibility, geographic ghettoization, and social ostracism.”<sup>1</sup>**

The COVID-19 pandemic and state responses to it have had a significant negative impact on the lives, wellbeing and rights of stateless people around the world. This report documents this impact, providing an evidence base for further action. It also proposes a practical 3-step **Roadmap** for change, which provides a framework for resolving and addressing the structural discrimination and exclusion of stateless persons, during times of COVID-19 and beyond. The report is grounded in the experiences and expertise of members of the **COVID-19 Emergency Statelessness Fund (CESF) Consortium**,<sup>2</sup> a global consortium of NGOs and citizenship rights activists, established by the Institute on Statelessness and Inclusion (ISI) in June 2020 to respond to the impact of COVID-19 on stateless populations. It carries a simple message that **Together We Can** achieve the change that is so desperately needed. However, the simplicity of this message is not meant to simplify the scale of the task ahead.

As the report will show, many of the challenges identified, including lack of documentation, exclusion from relief, denial of healthcare and vaccinations, increased exposure to the pandemic, loss of livelihoods, ratcheting up of racism and hate speech and heightened risks of arbitrary arrests and detention, relate to much deeper **structural problems**: the historic and systemic exclusion, deprivation and marginalisation of communities that have been made stateless as part of wider political acts, or pursuant to dominant, discriminatory ideologies. Many of these structural challenges: discriminatory and arbitrary laws, policies and practices; the racism, sexism and xenophobia which underpin them; and their damaging consequences have been brought more to light as a result of the pandemic. Therefore, a meaningful response must respond to emergency needs and also address the structural challenges. This will only be possible through significant shifts in attitudes and priorities, and a willingness to engage in introspection and pursue change. Ultimately, the virulent nature of the COVID-19 pandemic should teach us that **no one is safe until everyone is safe**. This is a learning that must be taken and applied at all times.

A **stateless person** is someone who has no nationality,<sup>3</sup> even though every person has the right to a nationality under international law.<sup>4</sup> Statelessness is therefore, perhaps the most acute violation of the right to nationality, impacting an estimated 15 million people worldwide.<sup>5</sup> Further, the nationality of tens of millions remains at risk, with COVID-19 adding to existing precarities. Even though from an international law perspective, most other human rights are not contingent on nationality, in practice, nationality has evolved into a gateway right, which often serves as a prerequisite to access other basic rights and to challenge other rights deprivations. Those denied their right to nationality face greater barriers and challenges related to their enjoyment of civil and political rights, such as the right to vote and to political participation, freedom of movement, freedom from detention, freedom of expression, freedom of assembly, equality before the law and access to justice; as well as socioeconomic rights, such as the right to healthcare, food and water, education, right to work and to social security. During a global pandemic, the consequences of deprivation of the right to nationality are particularly hard hitting, and for many, irreversible.

In June 2020, 12 months before the publication of this report, ISI announced the establishment of the **CESF**, a dedicated, timebound initiative to support a **Consortium** of NGOs and citizenship rights activists at the frontline of the COVID-19 crisis.<sup>6</sup> The Fund was created to respond to the **“life threatening marginalisation, with potentially disastrous consequences”**, that stateless people faced in the context of COVID-19, as warned of in the joint civil society statement **In Solidarity with the Stateless**, issued by 84 organisations in June 2020.<sup>7</sup> Many of the concerns articulated in the joint statement were in turn documented and evidenced in ISI’s **2020 Impact Report Stateless in a Global Pandemic**, also published in June 2020. As set out in the report:

*The ability of states and the international community to deal effectively with the global health threat posed by the COVID-19 pandemic and its wider fall-out for the economy, peace and security is bound up in the ability to include everyone, just as a successful humanitarian response relies on reaching everyone on the basis of need...By design and default, many stateless communities face devastating consequences in relation to health and wellbeing; survival and livelihoods; hate speech, racism and xenophobia; border closures and movement restrictions; insecurity and detention; and new risks of statelessness. There are also concerns about wider impacts on sustaining engagement on statelessness and the right to nationality, as the structural underpinnings of statelessness remain in place and in some instances have been further entrenched as COVID-19 continues to spread.<sup>8</sup>*

This report serves as a follow up, sister publication to the 2020 Impact Report. It is grounded in the information and experiences documented by Consortium members, highlighting in particular, the

## THE REPORT COMPRISES THREE PARTS AS FOLLOWS:

### PART 1

COMPRISES THIS INTRODUCTION, AN OVERVIEW OF THE CESF CONSORTIUM AND ITS WORK, THE ROADMAP TO ADDRESS THE COVID-19 IMPACT ON STATELESS PEOPLE AND A RELATED CALL TO ACTION.

### PART 2

IS MADE UP OF FIVE THEMATICALLY ORGANISED CHAPTERS WHICH PROVIDE A DEEPER DIVE INTO SOME OF THE MAIN GLOBAL CHALLENGES FACED BY STATELESS PEOPLE IN THE CONTEXT OF COVID-19: THE RIGHT TO NATIONALITY, DOCUMENTATION AND LEGAL STATUS; EQUALITY AND NON-DISCRIMINATION; THE RIGHT TO HEALTH; SOCIOECONOMIC RIGHTS AND CIVIL AND POLITICAL RIGHTS. EACH CHAPTER INCLUDES SPECIFIC CALLS TO ACTION.

### PART 3

COVERS THE CHALLENGES FACED IN THE CONTEXT OF EACH CONSORTIUM PROJECT, THE IMPACTS OF SUCH PROJECTS AND RELATED CALLS TO ACTION. MOST PROJECTS FOCUS ON SPECIFIC COMMUNITIES WITHIN INDIVIDUAL COUNTRIES, WHILE SOME HAVE A MULTI-COUNTRY APPROACH. AS SUCH, THESE CHAPTERS DO NOT PRESENT COMPREHENSIVE OVERVIEWS OF COUNTRY SITUATIONS, BUT DEEPER DIVES INTO THE IMPACTS AND OPPORTUNITIES IN RELATION TO PARTICULAR COMMUNITIES. THERE ARE TEN CHAPTERS IN PART 3 ON BANGLADESH, CENTRAL ASIA, THE DOMINICAN REPUBLIC, INDIA, KENYA, MALAYSIA, MONTENEGRO, NEPAL, NORTH MACEDONIA AND ON THE ROHINGYA.

THE REPORT HAS BEEN STRUCTURED SO THAT EACH CHAPTER SPEAKS TO EACH OTHER, BUT ALSO SERVES AS A STANDALONE PIECE. THEREFORE, FOR EXAMPLE, THOSE INTERESTED ONLY IN THE RIGHT TO HEALTH, OR ONLY IN THE SITUATION IN THE DOMINICAN REPUBLIC, CAN READ THESE CHAPTERS ALONE. HOWEVER, WE URGE READERS TO READ AS MUCH OF THE REPORT AS POSSIBLE, AS A MORE COLLABORATIVE RESPONSE TO THIS CHALLENGE IS SO URGENTLY NEEDED. WE PARTICULARLY URGE READERS TO ENGAGE WITH THE **ROADMAP**, IN ADDITION TO THEMATIC OR COUNTRY CHAPTERS OF INTEREST. ALL ACRONYMS USED ARE LISTED AT THE END OF THE REPORT.

## FIVE THINGS YOU SHOULD KNOW ABOUT STATELESSNESS AND COVID-19

1. STATELESS PEOPLE ARE MORE LIKELY TO BE EXCLUDED FROM COVID-19 RESPONSES, RELIEF, HEALTHCARE AND VACCINATIONS.

2. STATELESS PEOPLE ARE DENIED RIGHTS, ARBITRARILY DETAINED AND SUBJECT TO XENOPHOBIA AND HATE SPEECH AT HIGHER RATES IN THE COVID-19 CONTEXT.

3. COVID-19 BRINGS TO LIGHT (INVISIBLE) STRUCTURAL DISCRIMINATION THAT STATELESS PEOPLE HAVE ALWAYS ENDURED.

4. STATE RESPONSES TO COVID-19 ARE CREATING NEW RISKS OF STATELESSNESS AS REGISTRATION AND OTHER KEY ACTIVITIES ARE STALLED.

5. COVID-19 PRESENTS A UNIQUE OPPORTUNITY TO RAISE VISIBILITY, ADDRESS THE STRUCTURAL CAUSES OF STATELESSNESS, AND SECURE LASTING CHANGE, THROUGH WORKING DIRECTLY WITH STATELESS PEOPLE AND BEING ACCOUNTABLE TO THEM.

countries in which they operate. In addition to documenting challenges, the report identifies emerging positive practice and concrete examples from the CESF project countries, which can be learnt from and which also inform the Roadmap. It also draws on information from other countries, solicited through an open call for information which ISI shared with partners and publicised on its website, regular tracking of news and information on COVID-19 and statelessness by the ISI team, as published in ISI Monthly Bulletins,<sup>9</sup> interviews and conversations with relevant partners, and dedicated desk-based research conducted for this report. All desk research reflects public information available at the time of writing. While we have made efforts to verify the ongoing nature of practices identified, this was not always possible, and we welcome any updates or corrections from relevant stakeholders. All information in this report, is up-to-date as of **25 May 2021**. The report also complements a **Joint Civil Society Statement issued in June 2021**,<sup>10</sup> which has been endorsed by all CESF Consortium members and articulates many of the concerns and calls to action also presented here.

<sup>1</sup> R. Chakraborty and J. Bhabha, 'Fault Lines of Refugee Exclusion: Statelessness, Gender, and COVID-19 in South Asia' Health and Human Rights Journal (16 May 2021), available at: <https://www.hhrjournal.org/2021/05/fault-lines-of-refugee-exclusion-statelessness-gender-and-covid-in-south-asia/>.

<sup>2</sup> For more information about the Consortium see [https://files.institutesi.org/CESF\\_Brochure\\_2021.pdf](https://files.institutesi.org/CESF_Brochure_2021.pdf).

<sup>3</sup> According to Article 1.1. of the 1954 Convention Relating to the Status of Stateless Persons, "a stateless person is a person who is not considered as a national by any State under the operation of its law."

<sup>4</sup> See for example, Article 15 of the Universal Declaration of Human Rights. See also, ICCPR Art 24(3), CERD Art. 5(d)(iii), CEDAW Art. 9, CRC Arts. 7 and 8, ACHR Art. 20, ECN Art. 4, Arab Charter on Human Rights Art. 24, Covenant on the Rights of the Child in Islam Art. 7, ASEAN Human Rights Declaration para. 18, and CIS Convention on Human Rights and Fundamental Freedoms Art. 24.

<sup>5</sup> There are considerable gaps in available statistical information on statelessness. According to UNHCR's most recent statistics, there are 4.2 million recorded stateless people in the 76 countries for which statistics are available. Many countries with known large stateless populations do not report statistics and UNHCR has previously conservatively estimated the world's stateless population to be around 10 million. This estimate excluded stateless Palestinians under the UNRWA mandate and stateless refugees (other than Rohingya refugees in certain countries). Thus, ISI has estimated the total stateless population to be at least 15 million (including stateless refugees and stateless Palestinians). For more analysis, see: [https://files.institutesi.org/ISI\\_statistics\\_analysis\\_2020.pdf](https://files.institutesi.org/ISI_statistics_analysis_2020.pdf).

<sup>6</sup> We are grateful to the donors who supported the establishment of the Fund and who have contributed to it since. All donors are listed in the Acknowledgements of this report.

<sup>7</sup> Joint Statement, 'In solidarity with the stateless' (2020), available at: <https://www.institutesi.org/resources/joint-statement-in-solidarity-with-the-stateless>.

<sup>8</sup> Institute on Statelessness and Inclusion, 'Stateless in a Global Pandemic: Impact Report,' (2020), available at: [https://files.institutesi.org/Covid19\\_Stateless\\_Impact\\_Report.pdf](https://files.institutesi.org/Covid19_Stateless_Impact_Report.pdf).

<sup>9</sup> ISI Monthly Bulletins and other key resources can be viewed here: <https://www.institutesi.org/resources>

<sup>10</sup> Available at: [www.institutesi.org](http://www.institutesi.org)

# THE COVID-19 EMERGENCY STATELESSNESS FUND CONSORTIUM

Over the year that has passed since the publication of the 2020 Impact Report 'Stateless in a Global Pandemic', the CESF has been drawn on to implement research-based action advocacy, towards the realisation of structural solutions, to challenge the exclusion of stateless people from COVID-19 responses, and to recognise and break down the barriers they face. The CESF Consortium covers all regions and has been the basis for innovative and life-saving work which can and must be built upon.<sup>1</sup> Further, it serves as a pivotal evidence base on the impact of COVID-19 on stateless populations and through its work, has helped identify key steps that can be taken to strengthen protection and inclusion of stateless people. These experiences have all informed the roadmap for change.



## BANGLADESH

Setting up a rights advocate system to address community exclusion.  
**Community outreach; Advocacy for law and policy**

## BANGLADESH/MYANMAR/ INDIA/MALAYSIA

Raising awareness on COVID-19 amongst Rohingya refugees.  
**Community outreach**  
**Publications:** [COVID-19 Protection monitoring and advocacy Rohingya refugees in India](#)

## INDIA

Creating a [civil society nationality rights network](#) in the context of mass nationality deprivation and disenfranchisement in Assam.  
**Paralegal support; Advocacy for law and policy change**  
**Publications:** [Marginalised and Impoverished in Assam](#)

## NEPAL

Raising awareness on citizenship rights and supporting mental health of stateless communities through a dedicated podcast.  
**Community outreach; Research and Mapping**

Through the work of the CESF Consortium, we have gained invaluable comparative insights into the way COVID-19 continues to disproportionately impact stateless communities and those whose nationality is at risk. We have also seen how existing structural discrimination has increased and come to light as a result of the pandemic, how state responses have either directly or indirectly discriminated against the stateless and how the every-day deprivations that stateless people face, now have life and death implications.

## MALAYSIA

Advocating for evidence-based policy reform to end discrimination against Malaysian transnational families.  
**Advocacy for law and policy change; Community outreach**

## MONTENEGRO

Storytelling and awareness raising for the Roma community through a documentary.  
**Research & Mapping; Advocacy for inclusion of stateless persons in COVID-19 relief efforts, and other services**

## NORTH MACEDONIA

A help desk for excluded Romaduring the pandemic.  
**Research and Mapping; Community outreach**

## CENTRAL ASIA (KAZAKHSTAN, KYRGYZSTAN, TAJIKISTAN, UZBEKISTAN)

Understanding the exclusion of stateless minorities in order to provide evidence for reform.  
**Research and Mapping; Advocacy for inclusion of stateless persons in COVID-19 relief efforts, and other services**

**UNDER THE CONSORTIUM, PROJECTS HAVE BEEN IMPLEMENTED IN 13 COUNTRIES, ADDRESSING THE COVID-19 IMPACT ON STATELESS PEOPLE'S RIGHT TO NATIONALITY, DOCUMENTATION AND LEGAL STATUS, EQUALITY AND NON-DISCRIMINATION, RIGHT TO HEALTH, SOCIOECONOMIC RIGHTS, AND CIVIL AND POLITICAL RIGHTS, THROUGH VARIOUS STRATEGIES INCLUDING:**

**COMMUNITY OUTREACH:** AWARENESS RAISING THROUGH INTERVIEWS, FOCUS GROUPS, PODCASTS, RADIO PROGRAMMES, DOCUMENTARIES ETC.

**PARALEGAL SUPPORT** TO NAVIGATE ACCESS TO DOCUMENTATION AND COVID-19 RELIEF MEASURES.

**RESEARCH AND MAPPING** STATELESS COMMUNITIES, HUMAN RIGHTS ABUSES AND THE IMPACT OF COVID-19.

**ADVOCACY FOR INCLUSION** OF STATELESS PERSONS IN COVID-19 RELIEF EFFORTS AND OTHER SERVICES.

**ADVOCACY FOR LAW AND POLICY CHANGE** TO ADDRESS STRUCTURAL DISCRIMINATION AND EXCLUSION.

**EMERGENCY HUMANITARIAN SUPPORT** AS AN INTERIM RELIEF MEASURE.

## KENYA

Providing legal and psychosocial support to minority communities who risk further exclusion through a digital ID scheme.  
**Paralegal support; Community outreach**

## DOMINICAN REPUBLIC

Empowerment and demonstration of capacities of the stateless through supporting stateless entrepreneurs.  
**Advocacy for law and policy change; Paralegal support**



The CESF Consortium also stands as a powerful testament to the change that can be achieved – both big and small – through community-based action, resilience and solidarity. The impacts that various Consortium members have made through their work, have contributed to changes in law and policy, better documentation and services for their communities, better awareness and acknowledgment of the challenges faced by government authorities and UN agencies and stronger community organisation. They have also given us insight into how the pandemic has unfolded over the course of a year, how states and societies have responded, and how stateless communities and those whose nationality is at risk, have been affected. **As such, the work of Consortium members collectively serves as a rich source of information and evidence, through which to document and better understand the impacts of the pandemic, as well as a testing ground of ideas and innovations, of what can and must be done in response.**

The work of the Consortium over the course of the last year has been carried out in extremely challenging and at times dangerous contexts, with many Consortium members being exposed to real risks as they operated at the frontline of the crisis. Despite taking available precautions, a number of Consortium members themselves contracted COVID-19, as a result of exposure through their work, or had to adapt their plans due to serious community outbreaks and related lockdowns. Many others faced risks that were not directly related to COVID-19, but which further complicated their operations. The following are all examples of different challenges and risks faced:

- Two Consortium members endured targeted hate speech campaigns, both online and offline, as a direct result of their activism on women’s rights and against racism respectively.
- Two Consortium members faced police intimidation in relation to their work to protect minorities and refugees, and in particular, for exposing arbitrary arrests, detentions and efforts to deport stateless persons.
- One community supported by a Consortium member endured state-sponsored evictions and the destruction of their property, while another was targeted in a similar manner, by thugs who acted with impunity.
- One Consortium member had its office vandalised and damaged, in response to its work to promote the equality and inclusion of a minority group at risk of statelessness.
- One Consortium member was personally targeted by local gangs and had to go into hiding, for the role they played in assisting community members to report gang violence and intimidation.
- A number of Consortium members had to find ways around increasingly repressive state legislation, aimed at cracking down on civil society space making it more difficult for NGOs and community groups to operate independently.
- One Consortium member went into hiding due to the breakout of war, and another had to adapt plans due to a military coup.

Many of these experiences are illustrative of the types of risks that citizenship rights activists and stateless communities can be exposed to. The challenge presented by COVID-19 is layered on top of existing ones; there has been no respite or ‘amnesty’ to deal with COVID-19, before returning to the everyday problems people face. This is also why for any response to be sustainable, it must be cognisant of the bigger picture – the histories of injustice and exclusion, the everyday violence, the intergenerational disadvantage and discrimination that contextualise the lived experience of the stateless and those whose nationality is at risk. Piecemeal ‘solutions’ which do not address the real problems, or only address part of them, may make for good headlines, but will not have a lasting impact.

There has been widespread recognition that the pandemic – through all its devastation – has given humanity a moment to **build back better**. In the context of statelessness, this requires among other things, concerted efforts to address exclusive, discriminatory laws, policies and practices, dismantle unjust and unequal structures, centre stateless activists and communities in all discourse and action related to the issues that impact them, ensure greater accountability and a stronger focus on building truly inclusive societies.

The notion of building back better, is in part, based on the realisation that **no one is safe until everyone is safe**, and it is therefore **in everyone's interest to include everyone**. It is not just the pandemic, but also other pressing global challenges like the **climate crisis** and the threat of **rising authoritarianism** that must push us to do better for current and future generations. However, there is deep scepticism by many, that those who hold power will not change their ways, and the cries of those far from sites of power will not be heard. The experience of the CESF Consortium leads us to believe that **together we can** make the change that is needed, and indeed, **together we must**. But this will not be easy and will require creative, committed and courageous action to overcome likely resistance to any change that is viewed as counter to the interests of political power, profit and institutional agendas.

A starting point towards such change is recognising and addressing **institutional blindness** towards statelessness. Statelessness has often been described as an 'invisible' issue. The perception of 'invisibility' derives from a position of institutional privilege. The prevalence or impacts of statelessness are certainly not invisible to those who have been subjected to statelessness through the denial and deprivation of their right to nationality. A more appropriate descriptor, which places responsibility in the right place, would be of institutional blindness (at best) and erasure (in extreme circumstances). Many institutions and individuals holding positions of power have historically been blind to statelessness or have found it in their political interest to ignore statelessness.

This report, and the **Roadmap** set out next, are a contribution towards the discourse of building back better, drawing attention to the issue of statelessness, that continues to be a blind-spot for institutions, agencies and actors who wield responsibilities and obligations to respect, promote and fulfil rights, achieve sustainable development and provide protection and benefits to all.

## **FIVE COMMON CHALLENGES ACROSS CESF FOCUS COUNTRIES**

**1. THE INSIDIOUS IMPACT OF 'LACK OF DOCUMENTATION' ON ALL AREAS OF LIFE – FROM ACCESS TO RELIEF, HEALTHCARE AND VACCINATIONS, TO THE ABILITY TO WORK IN SAFE AND NON-EXPLOITATIVE JOBS AND ACCESS JUSTICE WHEN DENIED RIGHTS.**

**2. THE REHASHING OF 'LAZY AND CYNICAL NARRATIVES' TO SCAPEGOAT AND BLAME MINORITIES FOR THE SPREAD OF THE VIRUS AND TO IMPOSE PUNITIVE AND DISCRIMINATORY LOCKDOWN MEASURES WHEN THE VIRUS MANIFESTS IN SETTLEMENTS, SLUMS AND CAMPS INHABITED BY SUCH COMMUNITIES.**

**3. THE COMBINED IMPACT THAT HIGH COSTS AND FEAR OF AUTHORITIES HAVE ON STATELESS COMMUNITIES ACCESSING LIFE-SAVING HEALTHCARE, AND THE KNOCK-ON DETRIMENT TO PUBLIC HEALTH.**

**4. THE GENERAL FAILURE BY GOVERNMENTS, UN AND OTHER AGENCIES, TO RECOGNISE THE SPECIFIC CHALLENGE OF STATELESSNESS AND TAILOR POLICIES TO ADDRESS THIS CHALLENGE AND PRIORITISE STATELESS COMMUNITIES.**

**5. LIFE GOES ON, DESPITE COVID-19, IN BOTH THE POSITIVE, AND NEGATIVE SENSE. THE PANDEMIC HASN'T GIVEN STATELESS COMMUNITIES ANY RESPITE WITH REGARD TO THE CHALLENGES, COMPLICATIONS AND INSECURITIES THEY FACE REGULARLY. IT HAS ADDED A NEW SET OF CHALLENGES ON TOP OF THE EXISTING ISSUES THEY DEAL WITH ON A DAILY BASIS.**

## **FIVE EXAMPLES OF ACHIEVABLE CHANGE FROM CESF CONSORTIUM PROJECTS**

**1. BY SUPPORTING PARALEGAL WORK AND COMMUNITY ORGANISERS, AFFECTED GROUPS CAN RECEIVE MUCH NEEDED ASSISTANCE AND INFORMATION IN THEIR OWN LANGUAGE, TO ACCESS DOCUMENTATION, RIGHTS AND SERVICES AND HEALTHCARE, AND TO CHALLENGE DEPRIVATIONS.**

**2. PRACTICAL REFORMS TO IMMIGRATION REGULATIONS AND IMPROVEMENTS TO CONSULAR SUPPORT CAN FACILITATE FAMILY UNIFICATION, ENSURE LEGAL STATUS AND PROTECT EQUAL RIGHTS.**

**3. PROVIDING MICRO-FINANCE LOANS AND OTHER FORMS OF ASSISTANCE TO MEMBERS OF STATELESS COMMUNITIES DENIED GOVERNMENT RELIEF, CAN STRENGTHEN RESILIENCE WHILE ALSO COUNTERING NEGATIVE STEREOTYPES AND NARRATIVES ABOUT THESE COMMUNITIES.**

**4. COVID-19 HAS SHOWN THE IMPORTANCE OF TAKING MENTAL HEALTH SERIOUSLY, BREAKING SILENCES AND STIGMAS AND GIVING STATELESS COMMUNITY MEMBERS ACCESS TO MENTAL HEALTH PROFESSIONALS. THE MENTAL HEALTH IMPACT OF THEM WITH THE DOCUMENTS THEY SHOULD HAVE. LOCKDOWNS ON WIDER SOCIETY ALSO CREATES AN OPPORTUNITY TO GENERATE EMPATHY BETWEEN NON-STATELESS AND STATELESS PERSONS, AS THE LATTER OFTEN ENDURE SUCH RESTRICTIONS EVEN IN 'NORMAL' TIMES.**

**5. INSTEAD OF VIEWING THE LACK OF DOCUMENTATION AS A BARRIER TO ACCESSING RIGHTS AND SERVICES, THOSE WHO HAVE BEEN DEPRIVED OF DOCUMENTATION CAN BE GRANTED ACCESS AT THE POINT OF CONTACT, WHILE ALSO USING SUCH CONTACT WITH RELEVANT AUTHORITIES, AS AN OPPORTUNITY TO PROVIDE THEM WITH THE DOCUMENTS THEY SHOULD HAVE.**

<sup>1</sup> For a list of Consortium members, see the Acknowledgements at the end of this report.

# TOGETHER WE CAN: A ROADMAP TO ADDRESS THE COVID-19 IMPACT ON STATELESS PEOPLE

The exclusion or marginalisation of the stateless in COVID-19 responses is characteristic of how they have always been treated. Historically, stateless relationships have ranged between enforced invisibility and indifference, bureaucratic violence and exclusion and targeted persecution or even genocide. Unless the status quo is urgently challenged, the COVID-19 impacts on the stateless will be immense, and for many, irreversible. **The challenge is ensuring continued engagement on longer-term structural causes, while recognising and addressing the COVID-19 crisis and its immediate (and lasting) impact on the stateless.**

The pandemic also presents a unique opportunity to raise visibility, address the causes of statelessness and secure lasting change, through working directly with stateless people and being accountable to them. In many areas of life, we have seen innovations and improvements spurred by the crisis, which have the potential to enhance equality and the quality of life in the longer term.

The Roadmap has been drafted for this purpose and draws on the experiences and expertise of CESF Consortium members in their COVID-19 work and longer-term research, advocacy, activism and engagement on the right to nationality and rights of stateless people. It aims to inform and guide the responses of multiple stakeholders who have responsibilities, obligations and mandates, which will remain unfulfilled as long as statelessness exists and stateless people are marginalised and excluded. Ultimately, it is states that are obligated to and have the resources to address statelessness, protect the rights of all stateless people and protect everyone's right to a nationality. Other stakeholders include MPs and political parties, professional bodies, NHRIs, regional organisations, UN agencies and experts, diplomats, donors, international organisations, NGOs, grassroots groups, activists and the media. The Roadmap challenges stakeholders to think beyond institutional priorities and push beyond comfort zones.

The starting point is the belief that change is within our grasp, and can be achieved through creative, committed and courageous action. Together we can and together we must address the structural discrimination underlying statelessness, protect the rights of stateless people and meet their needs arising from the COVID-19 emergency. Importantly, this requires a centring of communities and individual activists directly affected by statelessness in the conversations, consultations and actions that relate to their interests.

In line with the logic and purpose behind the CESF Consortium, this Roadmap is not restricted to the COVID-19 response, but rather, is about addressing structural discrimination and achieving change for stateless persons and those whose nationality is at risk, in the context of COVID-19. The change we seek must be meaningful and sustainable, strengthening the right to nationality and rights of stateless persons, but also improving the ways we

## WHAT COVID-19 SHOWS US IS POSSIBLE

THE PANDEMIC HAS EXPOSED THE LIMITATIONS OF CONVENTIONAL WISDOM AND THE INJUSTICES OF THE STATUS QUO. WE HAVE SEEN WHAT CAN BE, IF ONLY THERE IS POLITICAL WILL TO MATCH:

- THE UNPRECEDENTED SPEED AT WHICH MEDICAL RESEARCHERS DEVELOPED, TESTED AND MADE AVAILABLE FOR MASS-PRODUCTION, A NUMBER OF HIGHLY EFFECTIVE COVID-19 VACCINES, WAS ONLY POSSIBLE DUE TO THE SHARING OF GENOME SEQUENCES AND THE STREAMLINING AND EXPEDITING OF VARIOUS STAGES OF THE PROCESS. IT APPEARED THAT THE PUBLIC HEALTH IMPERATIVE TRUMPED THE PROFIT MOTIVE, THOUGH SUBSEQUENT RESTRICTIVE MEASURES RELATED TO PATENTING ETC., HAVE EXCLUDED MOST PEOPLE IN THE GLOBAL SOUTH FROM THE BENEFITS.
- THE GENEROSITY OF SERVICE PROVIDERS TO PUT PROFITS ON HOLD AND PROVIDE FREE INTERNET AND MOBILE DATA FOR CHILDREN TO ACCESS ONLINE SCHOOLS, GAVE US A GLIMPSE OF A FUTURE IN WHICH EVERYONE HAS FREE ACCESS TO INFORMATION AND COMMUNICATION TECHNOLOGY.
- EXTENSIVE STATE RELIEF PACKAGES TO UNDERWRITE INDUSTRIES AND PROTECT JOBS SHOWED THAT IT IS NOT ONLY POSSIBLE, BUT ALSO ECONOMICALLY SOUND TO ENSURE ROBUST SOCIAL WELFARE SAFETY NETS.
- MORATORIUMS ON IMMIGRATION DETENTION UNDERScoreD THE VIABILITY OF COMMUNITY-BASED ALTERNATIVES TO DETENTION, AS BEING FAIRER, RIGHTS-RESPECTING AND MORE ECONOMICAL THAN THE MASS-SCALE DETENTION INDUSTRY THAT IS TAKING ROOT AROUND THE WORLD.
- THE NEGOTIATION OF NUMEROUS CEASEFIRES IN LIGHT OF THE PANDEMIC SHOWED THAT IT IS STILL POSSIBLE TO PUT THE COMMON GOOD ABOVE ENTRENCHED DIFFERENCES AND POLITICAL INTERESTS.
- THE ENFORCED CHANGES TO WORK AND TRAVEL PRACTICES SHOWED THAT WE CAN REDUCE OUR COLLECTIVE CARBON FOOTPRINT AND EFFICIENTLY WORK ACROSS GEOGRAPHIES AND TIME ZONES, IN WAYS THAT ARE MORE INCLUSIVE AND COST-EFFICIENT.
- WE LEARNT – OFTEN THROUGH RESISTANCE AND ROBUST EXCHANGES – THAT WE MUST CONSTANTLY STRIVE TO REACH A BETTER BALANCE BETWEEN INDIVIDUAL LIBERTIES AND THE COMMON GOOD, THAT THESE TWO CONCEPTS ARE BOTH MUTUALLY REINFORCING AND IN TENSION WITH EACH OTHER, AND THAT MOST PEOPLE ARE WILLING TO MAKE COMPROMISES IF THEY RECEIVE INFORMATION AND EVIDENCE BEHIND WHY CERTAIN PUBLIC POLICY MEASURES ARE TAKEN.
- AUTHORITARIAN LEADERS WHO CAME TO POWER THROUGH POLITICS OF HATE WERE EXPOSED FOR NOT HAVING THE ANSWERS OR CAPABILITIES TO DEAL WITH COMPLEX CHALLENGES, WHILE POLITICAL LEADERS WHO PUT PEOPLE FIRST, HAVE PERFORMED SIGNIFICANTLY BETTER.

WHILE WE CAN DRAW INSPIRATION FROM THE ABOVE, AS THIS REPORT EVIDENCES, THE OVERWHELMING PICTURE HAS BEEN MUCH DARKER. FURTHER, THERE ARE SIGNS THAT THESE IMPROVEMENTS WILL NOT BE PERMANENTLY IMPLEMENTED OR INSPIRE LONG-TERM CHANGES, AS SHORT-TERM POLITICAL GAIN AND MARKET DYNAMICS RECALIBRATE AND PUSH FOR A RETURN TO THE STATUS QUO.

**FOR MANY – INCLUDING THE WORLD'S STATELESS – THE IDEA OF 'RETURNING TO NORMALCY' IS NOT ACCEPTABLE BECAUSE THE 'NORMAL' HAS ALWAYS BEEN RIDDLED WITH INJUSTICE, INDIGNITY, INEQUALITY, DEPRIVATION AND EXCLUSION. WE MUST BUILD BACK BETTER, BUT WHAT DOES THIS MEAN FOR THE WORLD'S STATELESS, AND WHAT NEEDS TO HAPPEN, IN ORDER TO MAKE THIS A MORE REALISTIC AND ACHIEVABLE PROSPECT?**

work with each other and are accountable to each other. This is a call to action for governments, UN agencies, NGOs, donors, affected communities and others to find new ways of working together, because the old ways are not adequate and we have so far failed to rise to meet the immense challenges before us. CESF members remain available and willing to directly engage and support any stakeholders interested in responding to the crisis of statelessness, through sharing our technical expertise, perspectives, information and networks. We hope this roadmap, will help catalyse action to address the structural discrimination and exclusion of stateless persons, during times of COVID-19 and beyond:

# THE ROADMAP

There are three components to the **Roadmap**. However, it does not require a sequential or linear approach. Simultaneous action across all areas is needed. Depending on the specific context, some aspects may be more important than others, or require greater attention.

## 1 CHECK FOR INSTITUTIONAL BLIND-SPOTS

We invite states, UN agencies and experts, humanitarian groups and all other stakeholders with obligations and responsibilities to monitor and respond to the impact of COVID-19, protect the right to nationality and uphold the rights of stateless people, to engage in careful **introspection**, check for **institutional blind-spots**, and **review and reform** policies and practices to ensure that stateless people and those whose nationality is at risk are prioritised, their particular contexts and needs are understood and addressed and they are not excluded or left behind.

*This report documents how statelessness continues to be a blind-spot for institutions, agencies and actors who wield responsibilities and obligations to respect, promote and fulfil rights, achieve sustainable development and ensure protection to all. This was the case before COVID-19 and it is a reality that permeates the response to the pandemic. The starting point for change in this context, must be:*

- **strengthening institutional awareness** of statelessness, its impacts and manifestations;
- **acknowledging** historical failures to prioritise and address the issue, or contributions to creating and perpetuating statelessness and associated disadvantages;
- **collecting and sharing** information on the histories and socio-political contexts behind statelessness and nationality rights deprivations, the scale of the problem, causalities and statistics;
- **resourcing a cohesive response** by enhancing capacities, strengthening collaborations and increasing funding.

## THE ROLE OF UN AGENCIES AND MANDATE-HOLDERS

SINCE THE OUTSET OF THE PANDEMIC, THE UNDERSTANDING THAT IT IS IN EVERYONE'S INTEREST TO INCLUDE EVERYONE HAS PERVADED THE UN RESPONSE. REACHING VULNERABLE GROUPS HAS BEEN A CONSIDERATION OF UN EFFORTS TO CONTAIN THE SPREAD OF THE VIRUS, MITIGATE THE SOCIO-ECONOMIC IMPACT OF LOCKDOWNS, ADDRESS FOOD INSECURITY AND SUPPORT THE ROLL-OUT OF VACCINES. UN SPECIAL RAPORTEURS WHO HAVE MONITORED AND ISSUED GUIDANCE IN RELATION TO STATE RESPONSES HAVE ALSO PAID CLOSE ATTENTION TO WHO IS BEING LEFT BEHIND. YET STATELESSNESS REMAINS A BLIND SPOT. WHILE UNHCR HAS BEEN ENTRUSTED WITH A MANDATE IN RELATION TO STATELESSNESS, THE UN SECRETARY GENERAL HAS AFFIRMED THAT "ALL UN ENTITIES SYSTEM-WIDE HAVE AN IMPORTANT ROLE TO PLAY IN TACKLING THE CAUSES AND CONSEQUENCES OF STATELESSNESS." ENSURING THAT STATELESS PEOPLE ARE PRIORITISED IN THE COVID-19 RESPONSE IS THEREFORE A SHARED RESPONSIBILITY OF MAY UN AGENCIES AND MANDATE HOLDERS, WHO SHOULD ALSO SCRUTINISE WHETHER THEIR WORK PAYS SUFFICIENT ATTENTION TO THE SPECIFIC CHALLENGES ASSOCIATED WITH STATELESSNESS.

## THE POWER OF COMMUNITY ACTION

IN **KENYA**, CESF CONSORTIUM MEMBER NRF HAS BEEN USING A WEEKLY RADIO SHOW TO DISSEMINATE INFORMATION ABOUT COVID-19 AMONG THE NUBIAN POPULATION. THROUGH SOCIAL MEDIA, NRF ALSO REACHES THOUSANDS OF PEOPLE ON PLATFORMS INCLUDING FACEBOOK AND TWITTER.

IN **BANGLADESH**, CESF CONSORTIUM MEMBER, COM, HAS DIRECTLY HELPED REGISTER PEOPLE ONLINE FOR VACCINATIONS AND ACCOMPANIED THEM TO THEIR APPOINTMENTS. SUCH COMMUNITY-BASED INITIATIVES HOLD THE POWER TO REACH GROUPS THAT RISK BEING LEFT BEHIND IN THE PANDEMIC RESPONSE BECAUSE OF THEIR CITIZENSHIP STATUS. THEY ARE ALSO A DIRECT SOURCE OF CRITICAL INFORMATION AND EVIDENCE ABOUT GAPS IN COVERAGE OR BARRIERS TO INCLUSION FOR STATELESS PEOPLE AND OF GOOD PRACTICES AND CREATIVE SOLUTIONS.

## 2 INCLUDE, CONSULT & ENGAGE IN DIALOGUE

We invite activists and NGOs to make their expertise available and those in positions of power, including states, UN agencies, donors and IGOs to have open consultation and meaningful and constructive dialogue with affected communities, and commit to including stateless people on equal terms in shaping and directing their response.

*This report shows the powerful impact of initiatives developed by CESF Consortium members, who belong to stateless communities or have direct access to them and enjoy their trust. Their deep, localised insight is a critical source of knowledge. History teaches us that sustainable change almost always comes with meaningful input and buy-in from the communities at the forefront. Relevant stakeholders have obligations towards:*

- **consulting** with activists and affected communities, to better understand their experiences, perspectives, priorities and recommendations for change;
- **building trust and strengthening** solidarity with stateless communities, through honest engagement;
- **meeting the needs and priorities** of affected communities as articulated by them, and ensuring their meaningful participation;
- **facilitating wider discourse** within society and relevant institutions on the moral, legal, political and socio-economic imperative of equality, inclusion and the right to nationality for all, and the benefits of these for all.

We invite all actors to learn the hard lessons that the pandemic has taught us and invest in future-proofing, to ensure that as 'normalcy' returns, there is a lasting commitment to breaking down the pervasive injustice, indignity, inequality, deprivation and exclusion that stateless people face.

*In many ways, this report shows us nothing new. Stateless people have long faced injustice and exclusion, but as the report documents, the impact that this has on people's lives has been magnified by COVID-19 and related measures. Any stopgap measures to protect and include stateless people in the context of the pandemic, will be rendered meaningless if not followed by long-term structural reforms and changes. This requires:*

- **implementing reforms** to address the discriminatory impacts of laws, policies and practices: in particular, those which create and perpetuate statelessness through discrimination on the basis of race, religion, ethnicity, sex, sexual orientation, disability, national origin and other characteristics protected by law;
- **redressing** the historical and intergenerational disadvantage and legacy of statelessness through positive action and other targeted measures;
- **being accountable** to stateless communities and activists, by ensuring regular direct communications with communities, opportunities for dialogue and information sharing, and forums through which actions can be scrutinised;
- **monitoring the performance and progress** of states through international human rights and development oversight mechanisms;
- **ensuring access to justice and reparations**, to compensate stateless people for past injustices and denials of the right to nationality and other rights; and
- **sustainable investment** in a vibrant civil society community, dedicated to promoting the right to nationality and the rights of stateless people.

### PLACING STATELESS PEOPLE AT THE CENTRE

WHEN EVIDENCE FIRST STARTED TO EMERGE THAT, IN THIS TIME OF CRISIS, THE RIGHT TO A NATIONALITY CAN MEAN THE DIFFERENCE BETWEEN LIFE AND DEATH, A NUMBER OF PHILANTHROPIC ORGANISATIONS CAME TOGETHER IN **SOLIDARITY WITH STATELESS PEOPLE** BY SUPPORTING THE ESTABLISHMENT OF THE CESF.

OVER THE PAST YEAR, THE WORK OF THE CESF CONSORTIUM HAS PROVEN CRITICAL TO THE CONTINUED EFFECTIVENESS OF CIVIL SOCIETY ACTION ON STATELESSNESS IN LIGHT OF EVOLVING NEEDS. THE CESF HAS ALSO HELPED SUSTAIN WORK ON THE RIGHT TO A NATIONALITY IN CONTEXTS WHERE THIS WAS THREATENED BY RECEDED DONOR SUPPORT OR SHRINKING CIVIC SPACE. IN A SHORT TIME-SPAN AND AN EXCEEDINGLY CHALLENGING ENVIRONMENT, THE CESF CONSORTIUM HAS DELIVERED IMPORTANT **LESSONS FOR THE FUTURE**. STEPPING UP SUPPORT FOR LOCALLY DESIGNED AND DRIVEN, BUT INTERNATIONALLY CONNECTED INITIATIVES THAT PLACE THE REAL NEEDS AND PRIORITIES OF STATELESS PEOPLE AT THE CENTRE, WILL BE KEY TO **BUILDING BACK BETTER**.

## CALL TO ACTION

The CESF Consortium stands available to engage and support stakeholders as they take on board and respond to this Road Map and makes the following Call to Action towards its implementation:

- 1** REFLECT ON, ENGAGE AND ACT TO INTERNALISE AND IMPLEMENT THE **TOGETHER WE CAN: ROADMAP TO ADDRESS THE COVID-19 IMPACT ON STATELESS PEOPLE**; APPOINT FOCAL POINTS WITH THE RESPONSIBILITY AND NECESSARY RESOURCES TO MAINSTREAM STATELESSNESS, ENSURE THAT STATELESSNESS AND THE RIGHT TO NATIONALITY IS DULY CONSIDERED IN ALL PROGRAMMING AND COLLABORATE WITH EXTERNAL PARTNERS AND STAKEHOLDERS.
- 2** ENGAGE WITH THE **ROADMAP** AS A TOOL TO INFORM, SHAPE AND GUIDE INSTITUTIONAL RESPONSES TO STATELESSNESS IN THE CONTEXT OF COVID-19 AND THE LONGER TERM, BY PROMOTING AND SUPPORTING DEDICATED, INTERSECTIONAL AND JOINED-UP ACTION TO PROTECT THE RIGHTS OF ALL VULNERABLE GROUPS, INCLUDING STATELESS PEOPLE; TAKE STEPS TO CENTRE STATELESS ACTIVISTS, COMMUNITIES AND NGOS, DRAW ON THEIR EXPERTISE AND INSIGHTS, INVOLVE THEM IN FINDING SOLUTIONS, SUPPORT THEIR INDEPENDENT WORK AND REMAIN ACCOUNTABLE TO THEM AT ALL TIMES.

<sup>1</sup> A. de Chickera, 'As the world washes its hands of the stateless, they risk facing COVID-19 alone', Open Democracy (27 April 2020), available at: [https://www.opendemocracy.net/en/world-washes-its-hands-stateless-they-risk-facing-covid-19-alone/?mc\\_cid=1e3463bb60&mc\\_eid=28e52effdb](https://www.opendemocracy.net/en/world-washes-its-hands-stateless-they-risk-facing-covid-19-alone/?mc_cid=1e3463bb60&mc_eid=28e52effdb).



# PART 2

THEMATIC OVERVIEW

# RIGHT TO NATIONALITY, DOCUMENTATION & LEGAL STATUS

**“The right to nationality is a fundamental human right, and in this time of crisis it can mean the difference between life and death.”<sup>1</sup>**

*UN High Commissioner for Refugees, Filippo Grandi*

**“EVERYONE HAS THE RIGHT TO NATIONALITY. NO ONE SHALL BE ARBITRARILY DEPRIVED OF HIS NATIONALITY NOR DENIED THE RIGHT TO CHANGE HIS NATIONALITY.”**

UDHR, ARTICLE 15

In 2020, we reported on the numerous ways in which the pandemic was affecting access to nationality and legal identity. Civil registration and other identification and protection procedures were put on hold; as were civil society efforts to promote the right to nationality, with many organisations suffering from funding cuts,

staff shortages and lockdown related challenges.<sup>2</sup> As such, we called for a renewed commitment to realising the right to a nationality for all, and recommended that relevant stakeholders:

*Treat registration services as essential, and ensure that birth registration and documentation services continue to operate during the pandemic; extend the validity of nationality and residency documentation even if people cannot apply at this time; combat intergenerational statelessness; and when encountering persons without documentation, desist from penalising them for this (through detention, denial of relief and access to health-care etc.), but instead, provide them with documentation and nationality.*

A year later, we are seeing the ramifications of disruptions to crucial civil registration procedures. Delays and backlogs have had a knock-on effect on families and have left stateless people in limbo, completely vulnerable to the multiple effects of COVID-19. Of the CESF Consortium Project focus countries, disruptions to civil registries have disproportionately impacted stateless populations and those whose nationality is at risk, in Central Asia, the Dominican Republic, Kenya, Montenegro, Nepal and North Macedonia. Curfews and lockdowns have also impacted access to documentation and registrations in the Dominican Republic, Kenya, Montenegro and Nepal. Such documentation and registration challenges not only exacerbate immediate problems in relation to

the pandemic, but also subject people to longer-term risks of statelessness. When births go unregistered and ID cards are not issued, this can heighten the risk of statelessness, particularly among minority and border communities and those with migrant heritage, who already face barriers to establishing their nationality. Groups, such as Dominicans of Haitian Origin, Nubian Kenyans or Nepalais from the Terai Belt region are disproportionately

**CESF CONSORTIUM PROJECTS HAVE HAD POSITIVE IMPACTS ON CIVIL REGISTRATION AND OTHER BUREAUCRATIC PROCEDURES. IN MALAYSIA,<sup>3</sup> NON-CITIZEN SPOUSES AND THEIR CHILDREN – WHO PREVIOUSLY WERE DENIED ENTRY OR RISKED DETENTION AFTER THE EXPIRATION OF THEIR VISAS, ARE NOW ABLE TO RENEW OR APPLY FOR VISAS AND PERMITS WITHOUT HAVING TO LEAVE THE COUNTRY, WITH ONLINE APPLICATION PROCESSES BEING SET UP TO FACILITATE THEIR APPLICATIONS.**

THIS CHAPTER LOOKS MORE CLOSELY AT THE IMPACT ON BIRTH REGISTRATION AND OTHER PROCEDURES, AND MAKES THE FOLLOWING CALL TO ACTION:

**TREAT CIVIL REGISTRATION, REFUGEE AND STATELESSNESS DETERMINATION, NATURALISATION, CONSULAR AND OTHER SERVICES AS ESSENTIAL; ENSURE THAT SUCH SERVICES OPERATE DURING THE PANDEMIC AND THAT ANY BACKLOGS ARE EXPEDITIOUSLY DEALT WITH; EXTEND THE VALIDITY OF NATIONALITY AND RESIDENCY DOCUMENTATION, PROTECTION STATUS AND INTERIM MEASURES TO PROTECT THOSE IMPACTED BY THE CLOSURE OR SLOWING DOWN OF SERVICES; COMBAT INTERGENERATIONAL STATELESSNESS; AND WHEN ENCOUNTERING UNDOCUMENTED PEOPLE, DESIST FROM PENALISING THEM, BUT INSTEAD, PROVIDE THEM WITH DOCUMENTATION AND NATIONALITY.**

impacted. In the Dominican Republic, the outgoing and incoming Presidents have authorised the naturalisation of a total of 799 Dominicans of Haitian ancestry but there is no clear administrative path for this to be materialised.<sup>4</sup>

Asylum procedures, statelessness determination procedures and visa renewals have also been impacted, along with access to other forms of documentation, due to the closure of consulates and embassies, and delays in naturalisation ceremonies. Further Rohingya refugees, have faced greater restrictions in access to UNHCR registration procedures.<sup>5</sup>

Even as the pandemic draws attention to the challenges that flow from these disruptions, there is also an opportunity to step-up engagement to promote the right to nationality and the rights of stateless people.

**“The pandemic has shown more than ever the need for inclusion and the urgency to resolve statelessness. A pandemic doesn’t discriminate between citizens and non-citizens. It is not in any state’s, society’s or community’s interest for people to be left stateless and living on the margins of society.”<sup>6</sup>**

*UN High Commissioner for Refugees, Filippo Grandi*

## BIRTH REGISTRATION

**“New risks of statelessness have emerged (as a result of the pandemic) such as lack of access to services, border closure, a shrinking protection space, the disruption of civil registration services, and rising xenophobia.”<sup>7</sup>**

*Associate Director and Global Chief of Child Protection for UNICEF, Cornelius Williams*

Birth registration legally establishes the place of birth, proof of age and parental affiliation, thereby serving as important documentary proof to acquire the parents' nationality or the nationality of the state in which the child is born. Providing birth registration for all children – regardless of the legal status of their parents – is an essential step towards preventing statelessness<sup>8</sup> and protecting child rights.

#### AFRICAN UNION & UNICEF: “NO NAME CAMPAIGN”

THIS CAMPAIGN AIMS TO ENCOURAGE RAPID IMPLEMENTATION OF COMMITMENTS BY THE AFRICAN UNION MEMBER STATES, TOWARDS **UNIVERSAL REGISTRATION OF CHILDREN AT BIRTH**. THE AFRICAN UNION COMMISSIONER FOR ECONOMIC AFFAIRS HAS STATED THAT: “THERE ARE CHALLENGES OF BIRTH REGISTRATION ON THE CONTINENT THAT HAVE BEEN WORSENERD BY THE CURRENT PANDEMIC. HOWEVER, THERE ARE IMMEDIATE AND LONG-TERM OPPORTUNITIES THAT WE COULD EXPLOIT IN THE MIDST OF THIS CRISIS. ONE SUCH OPPORTUNITY IS TO HAVE CIVIL REGISTRATION OFFICES PREPARE CONTINGENCY PLANS TO MEET POST-PANDEMIC DEMAND AND BACKLOG FOR BIRTH REGISTRATION.”<sup>19</sup>

vivors of the 1980s Gukurahundi massacres.<sup>10</sup> Although the Birth and Death Registration Act requires registration within 42 days of the birth, it was stated that no penalties would be applied for late registrations.<sup>11</sup> Following the relaxation of lockdown measures, the government announced the recommencement of the issuance of birth certificates, beginning with children born in March 2020.<sup>12</sup>

In **South Africa**, birth registration must be completed within 30 days, or risk incurring late registration penalties. COVID-19 has resulted in disruptions to birth registration for babies born just before, or during, the pandemic; but has also resulted in difficulties for the government to resolve cases of missed birth registration pre-COVID-19.<sup>13</sup> LHR have expressed their concerns in relation to a large number of clients whose births were not registered. Over the past five years, LHR's Statelessness Unit has received over 2,000 birth registration queries.<sup>14</sup> This has been significantly exacerbated by COVID-19. The lockdowns in South

**HAMOKED, AN ORGANISATION FIGHTING FOR THE RIGHTS OF PALESTINIANS IN THE OCCUPIED TERRITORIES**, TELLS THE STORY OF A WOMAN NAMED RANIA, WHO ARRIVED IN THE WEST BANK IN JANUARY, AND GAVE BIRTH TO A SON IN MARCH 2020. DUE TO THE PANDEMIC, SHE WAS UNABLE TO REGISTER THE BIRTH UNTIL AFTER THE PA HALTED ITS COORDINATION WITH ISRAEL. WHEN SHE TRIED TO LEAVE THE WEST BANK IN LATE JULY TO RETURN TO HER HUSBAND AND OTHER SON IN JORDAN, SHE WAS TURNED AWAY BY THE ISRAELI BORDER AUTHORITIES, AS HER BABY WAS NOT REGISTERED. SHE WAS NOT OFFERED ANY ASSISTANCE BY EITHER THE PA OR THE ISRAELI AUTHORITIES.

In the Occupied Palestinian Territory, a communication breakdown between the PA and Israel caused a disruption of services. The PA, which is normally responsible for coordination with Israel on civil matters, stopped all updates to Israel regarding the registration of births, marriages, and deaths in the **West Bank** and the **Gaza strip**.<sup>18</sup> This was further exacerbated by COVID-19, which had already resulted in a disruption of civil registries. As of September 2020, around 33,000

Suspension of birth registration during the pandemic has undermined the right to nationality of many children and has resulted in a **backlog of applications** in many countries. In **Zimbabwe**, the pandemic created a backlog of around 200,000 births as of August 2020, as birth registration services were not deemed 'essential' and therefore suspended. There are reportedly hundreds of thousands of stateless persons in the country – mainly descendants of migrant workers who settled in Zimbabwe pre-independence, as well as sur-

ivors of the 1980s Gukurahundi massacres.<sup>10</sup> Although the Birth and Death Registration Act requires registration within 42 days of the birth, it was stated that no penalties would be applied for late registrations.<sup>11</sup> Following the relaxation of lockdown measures, the government announced the recommencement of the issuance of birth certificates, beginning with children born in March 2020.<sup>12</sup>

Africa led to the slowing of an already massive backlog. From 26 March 2020, only essential services were allowed to operate. It was during this time that the DHA halted the birth registration process for three months.<sup>15</sup> On 1 June 2020, DHA re-opened services provided including birth registration,<sup>16</sup> but it was not a smooth transition. According to LHR, “a large number of clients have been pushed from pillar to post without assistance.” There are reports of people being turned away due to services operating at a slower pace with the DHA operating on a rotational basis.<sup>17</sup>

babies had been born in the West Bank and Gaza Strip since the halt in coordination in May 2020. This figure excludes those born before May, whose birth registration was delayed due to COVID-19.<sup>19</sup> This dispute resulted in many Palestinian families being stranded abroad. For example, Ahmed al-Kurdi, his wife and three children left the Gaza strip in 2020 to seek medical attention for one of the children. They were subsequently stranded in Jordan due to the dispute. “It’s very hard, not just for us but for the other Gazans in Jordan who want to go back and can’t,” said Ahmed. “This is a humanitarian situation. The political situation shouldn’t enter into it.”<sup>20</sup> At the time of writing this report, indiscriminate violence in Gaza and Israel have caused the deaths of over 200 Palestinians, including many children, and created a humanitarian catastrophe in Gaza. UN Human Rights experts have raised concern about Israel’s “indiscriminate and disproportionate attacks against civilians and civilian property” that “likely violate the laws of war and constitute a war crime”. They have highlighted that “in particular, Israel’s duties as the occupying power require it to allow humanitarian aid – including food, fuel and medical supplies – to enter unhindered into Gaza”. UN experts said that Palestinian armed groups firing rockets into Israel, also violate international law.<sup>21</sup>

In the **Dominican Republic**,<sup>22</sup> where those of Haitian ancestry suffer multiple forms of discrimination and denial of nationality, disruptions to civil registration further complicates access to nationality and can entrench statelessness.<sup>23</sup> Documentation renewal for migrant parents of stateless children and naturalisation procedures for stateless people were also affected. The economic impact of the pandemic exacerbated the poverty that Haitian migrants and stateless people are already living in, pushing civil registries further out of reach.<sup>24</sup>

COVID-19 has also created unexpected new barriers to birth registration. In **Malaysia**,<sup>25</sup> due to COVID-19, e-payment (debit or credit card) for registration became a requirement, with cash payments no longer accepted.<sup>26</sup> Many stateless people do not have internet access or bank accounts. Lack of access to technology resulting in difficulty navigating online registration systems has previously also been reported in both the **UK** and **France**.<sup>27</sup> Backlogs and severe delays to birth registration have also been reported in the **UK**, which has had a knock-on effect on families.<sup>28</sup>

#### DISRUPTION TO OTHER PROCEDURES

In some countries, the issuance of identity documentation has been suspended, affecting the confirmation of nationality, and extension or validity of documents.<sup>29</sup> In 2020, **Colombia** temporarily suspended services and procedures by national authorities affecting access to documentation and, consequently, access to rights, particularly for Venezuelan refugees and migrants. The Legal Clinic for Migrants reported that for Venezuelans, “their migratory status and the impossibility to access a regular status in Colombia are the first obstacles that we encounter in assisting them and responding to their legal and humanitarian needs”,<sup>30</sup> which has become more difficult during COVID-19. In early 2021, Colombia offered TPS for ten years to approximately 1.7 million Venezuelans, including residence, which also paves the way for access to vaccines, and, as a statelessness prevention measure, facilitates the access of children born to Venezuelans to Colombian nationality.<sup>31</sup>

Deadlines for examining claims have also been extended, causing further delays in decision-making. In several European countries, including **Ukraine**, **Germany** and **Bulgaria**, disruptions to asylum and statelessness determination procedures, the closure of courts or rescheduling of court hearings, and limited operations of competent authorities has been reported during the pandemic.<sup>32</sup> In **Austria**, the pandemic has resulted in an increase in discrimination, and impacted the ability of stateless persons to access legal aid and/or continue with legal proceedings.<sup>33</sup> In **India**,<sup>34</sup> the NRC process was suspended, FTs were temporarily halted, disrupting access to legal aid and leaving

“STATELESS PEOPLE OFTEN FACE MORE OBSTACLES TO FORMALLY ESTABLISH THEIR IDENTITY. THE COVID-19 CRISIS HAS HIGHLIGHTED HOW HARD-TO-REACH AND MARGINALIZED POPULATIONS NEED TO BE INCLUDED IN CIVIL REGISTRATION AND VITAL STATISTICS SYSTEMS IN ORDER TO BUILD RESILIENCE TO CRISES. UNIVERSAL CIVIL REGISTRATION IS A KEY BUILDING BLOCK FOR ENSURING NO ONE IS LEFT BEHIND.”

TANJA SEJERSEN  
STATISTICIAN,  
LEAD OF THE INITIATIVE  
“GET EVERYONE IN THE PICTURE,  
UN ESCAP

those declared foreigners in a state of limbo, with no forum for appeal.<sup>35</sup>

In **South Africa**, since March 2020, applications for **citizenship by naturalisation** and applications for **permanent residence** by exemption – a process through which those at risk of statelessness can receive documentation – have been halted, as have **refugee determination procedures**. As a result, many permits are expiring, and despite a blanket government extension, refugees and stateless people continue to be arrested and detained.<sup>36</sup> Further, those whose ID cards have been blocked cannot approach the Home Affairs office without the assistance of civil society groups.<sup>37</sup> **Citizenship by naturalisation** applications have not been processed during lockdown, severely impacting children born in South Africa to parents who are neither permanent residents or citizens, who have lived in South Africa their whole lives and have reached the age of majority. A large number of children born in South Africa of irregular migrants, refugees and asylum seekers as well as those at risk of statelessness rely on this provision in the law to obtain documentation.<sup>38</sup> This is further compounded by the halting of permanent residence by exemption applications, which allow for foreign children born outside South Africa to be granted **permanent residence** by exemption based on special circumstances, for example, children who have been abandoned by their parents, children of parents who have passed away and those who have no other ties with their parents' country of origin. In **Mauritania**, the lack of formal protection afforded to victims

of slavery including those who are stateless or at risk of statelessness increases barriers in access to legal status and hinders the ability to integrate into society. COVID-19 has exacerbated these difficulties due to the slowing of legal proceedings coupled with no set plan to help the judicial process recover from the effects of the pandemic.<sup>39</sup>

**Court hearings** regarding acquisition or confirmation of nationality have been suspended, or rescheduled, in some cases.<sup>40</sup> In the **US**, there are severe delays to naturalisation ceremonies. Non-citizens have been prevented from obtaining permanent status or US citizenship due to the refusal to enable them to complete certain requirements remotely.<sup>41</sup> In January 2020, the 'public charge' rule was implemented, allowing the Department of Homeland Security to refuse citizenship to immigrants who rely on monetary or nonmonetary government assistance.<sup>42</sup> This has prevented immigrants from accessing medical care for fear of deportation. The issuance of green cards was also temporarily halted<sup>43</sup> from June 2020, until the Biden administration reinstated it in February 2021.<sup>44</sup> Many **consulates and embassies** have suspended registration services. At the beginning of the pandemic, all 'routine visa services' at US embassies and consulates worldwide were suspended, including cancelling all visa appointments.<sup>45</sup> As of June 2020, there was a backlog of around 1.7 million people waiting for passports due to the closure of consular services.<sup>46</sup> As of April 2021, the US Embassy in Israel had a backlog of 15,000 passports and birth registration processes for around 1,000 babies born in Israel to US citizens during the pandemic.<sup>47</sup>

## GOOD PRACTICE

IN **ITALY**, STATELESSNESS APPLICATIONS CAN STILL BE SUBMITTED BY MAIL.<sup>48</sup>

<sup>1</sup> UNHCR, 'UNHCR warns stateless people risk being left behind in coronavirus response', UNHCR, (11 May 2020), available at: <https://www.unhcr.org/uk/news/press/2020/5/5eb95222ec/unhcr-warns-stateless-people-risk-behind-coronavirus-response.html>.

<sup>2</sup> Institute on Statelessness and Inclusion, 'Stateless in a Global Pandemic: Impact Report', (2020), available at: [https://files.institutesi.org/Covid19\\_Stateless\\_Impact\\_Report.pdf](https://files.institutesi.org/Covid19_Stateless_Impact_Report.pdf).

<sup>3</sup> See further Chapter on Malaysia in Part 3 of this report.

<sup>4</sup> Dominican@s por Derecho letter to President Abinader, (23 May 2021).

<sup>5</sup> See further Chapter on Rohingya in Refugee Situations in Part 3 of this report.

<sup>6</sup> UNHCR, 'UNHCR urges states to end limbo for stateless people by 2024', (11 November 2020), available at: <https://www.unhcr.org/en-us/news/press/2020/11/5faa51004/unhcr-urges-states-end-limbo-stateless-people-2024.html>.

<sup>7</sup> Institute on Statelessness and Inclusion, 'Webinar: Covid-19 and Childhood Statelessness. Promoting every child's right to nationality', YouTube, (28 August 2020), available at: <https://www.youtube.com/watch?v=AlqOxsKrpUE>.

<sup>8</sup> UNHCR, 'Good Practices Paper on Ensuring Birth Registration for the Prevention of Statelessness', (2017), available at: <https://www.unhcr.org/ke/wp-content/uploads/sites/2/2017/11/Good-Practices-Paper-on-Ensuring-Birth-Registration-for-the-Prevention-of-Statelessness.pdf>.

<sup>9</sup> African Union, 'COVID-19 threatens to reverse progress in birth registrations: strategies for counter-actions', (17 August 2020), available at: <https://au.int/ar/node/39108>.

<sup>10</sup> Amnesty International, 'Zimbabwe: Statelessness crisis traps hundreds of thousands in limbo', Amnesty International News, (16 April 2021), available at <https://www.amnesty.org/en/latest/news/2021/04/zimbabwe-statelessness-crisis-traps-hundreds-of-thousands-in-limbo/>.

<sup>11</sup> L. Dzenga, 'Zimbabwe: COVID-19 creates birth certificate backlog', AllAfrica, (31 August 2020), available at: <https://allafrica.com/stories/202008310870.html>.

<sup>12</sup> Centre for Innovation and Technology, 'Covid-19: Birth Certificate Seekers to be Vetted Online', Kubatana.net, (29 September 2020), available at: <https://kubatana.net/2020/09/29/covid-19-birth-certificate-seekers-to-be-vetted-online/>.

<sup>13</sup> wwP Rulashe, 'Birth registration gaps leave South Africans in limbo', UNHCR, (10 December 2020), available at: <https://www.unhcr.org/news/stories/2020/12/5fc43df4/birth-registration-gaps-leave-south-africans-limbo.html>.

<sup>14</sup> T. Mothapo, T. Fish-Hodgson, 'Human rights in jeopardy: Some SA born-frees are still denied their right to birth registration', (22 March 2021), available at: <https://www.dailymaverick.co.za/article/2021-03-22-human-rights-in-jeopardy-some-sa-born-frees-are-still-denied-their-right-to-birth-registration/>.

<sup>15</sup> M. Zuzile, 'Lockdown leaves thousands of newborns without birth certificates', TimesLive, (15 May 2020), available at: <https://www.timeslive.co.za/news/south-africa/2020-05-15-lockdown-leaves-thousands-of-newborns-without-birth-certificates/>.

<sup>16</sup> South African Government, 'Home Affairs on additional services during the COVID-19 Coronavirus Level 3 lockdown', (1 June 2020), available at: <https://www.gov.za/speeches/home-affairs-additional-services-during-covid-19-coronavirus-level-3-lockdown-1-jun-2020>.

<sup>17</sup> ISI Appeal for Information on Covid-19 and Statelessness (February 2021).

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<sup>20</sup> Ibid.

<sup>21</sup> OHCHR, 'Gaza-Israel escalation: End violence now, then work to end occupation, say UN experts', OHCHR Media Centre, (18 May 2021), available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27102&LangID=E>.

<sup>22</sup> See further Chapter on the Dominican Republic in Part 3 of this report.

<sup>23</sup> See further Chapter on the Dominican Republic in Part 3 of this report.

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<sup>36</sup> See further Chapter on Civil and Political Rights in Part 2 of this report.

<sup>37</sup> ISI Appeal for Information on COVID-19 and Statelessness (February 2021).

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<sup>40</sup> UNHCR, 'The Impact of COVID-19 on Stateless Populations: Policy Recommendations and Good Practices', (2020), available at: <https://www.refworld.org/docid/5eb2a72f4.html>.

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<sup>45</sup> J. Loweree, A. Reichlin-Melnick, and W. Ewing, 'The Impact of COVID-19 on Noncitizens and Across the U.S. Immigration System', (2020), available at: <https://www.americanimmigrationcouncil.org/sites/default/files/research/the-impact-of-covid-19-on-noncitizens-and-across-the-us-immigration-system.pdf>.

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<sup>47</sup> L. Harkov, 'US Embassy in Israel has 15,000 passport backlog due to COVID rules', The Jerusalem Post, (19 April 2021), available at: <https://www.jpost.com/israel-news/us-embassy-in-israel-has-15000-passport-backlog-due-to-covid-rules-665662>.

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# EQUALITY & NON-DISCRIMINATION

**“State policies responding to COVID-19 must guarantee equal and non-discriminatory treatment of all persons, irrespective of their immigration and citizenship status or the fact of their displacement.”**

*Principles of Protection for Migrants, Refugees, and other Displaced Persons, Article 1*

Although the causes of statelessness are complex and multi-faceted, in many cases, statelessness is not an accident; rather, it is the result of direct, or indirect, discrimination.<sup>1</sup> For many communities, statelessness arises from a long history of exclusion, marginalisation and targeting, whereby states use nationality as a tool to exclude those perceived as ‘other’.<sup>2</sup> Minority groups make up more than 75% of the known stateless population.<sup>3</sup> Discrimination causes and perpetuates statelessness, and stateless persons are subject to more discrimination in a vicious cycle.

In 2020, we reported on the increased indirect impacts of gender discriminatory nationality laws during the pandemic.<sup>4</sup> We also reported on the numerous ways in which the pandemic was being leveraged to scapegoat minority groups, such as the Roma or the Rohingya,<sup>5</sup> blaming them for the spread of the virus and instrumentalising COVID-19 to bolster certain discriminatory stereotypes associated with them. In this regard, we recommended that relevant actors:

*Desist from unfairly targeting or scapegoating minorities, migrants, stateless and other groups; prosecute and penalise those who perpetuate hate speech; and take steps to acknowledge and dismantle the root causes of structural discrimination.*

Sadly, a year later, we continue to see the same issues at play, leading UN High Commissioner for Human Rights Michelle Bachelet to call for greater equality as a ‘prerequisite’ for overcoming the global crisis of COVID-19,<sup>6</sup> and UN High Commissioner for Refugees, Filippo Grandi, to call on states to take active steps to combat racial discrimination.<sup>7</sup>

**“Political responses to the COVID-19 outbreak that stigmatize, exclude, and make certain populations more vulnerable to violence are inexcusable, unconscionable, and inconsistent with States’ international human rights law obligations.”<sup>8</sup>**

*UN Special Rapporteur on Contemporary forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, E. Tendayi Achiume*

Discrimination is the underlying driving force behind cases of statelessness in most CESF Consortium project countries. Malaysia and Nepal have large stateless communities as a result of gender discriminatory nationality laws.<sup>9</sup> Anti-Haitian rhetoric in the Dominican Republic underpins the ‘La Sentencia’ ruling<sup>10</sup> which stripped Dominicans of Haitian descent of their nationality.<sup>11</sup> Discrimination against the Rohingya, ‘legalised’ by the implementation of the 1982 Citizenship Law by the Myanmar State, has provided a framework which allows for State sanctioned exclusion, crimes against humanity and genocide.<sup>12</sup> The implementation of the arbitrary and nationalist NRC in India has deemed millions as ‘non-citizens’, predominantly targeting Muslims and Hindus of Bengali descent.<sup>13</sup> In Bangladesh, despite the Urdu speaking community being recognised as citizens of Bangladesh, deep rooted systemic discrimination prevents them from accessing their rights<sup>14</sup> and in Kenya members of the Nubian community are required to apply for citizenship through a discriminatory vetting process.<sup>15</sup> Discrimination and intolerance towards Roma communities is also prominent in Montenegro and North Macedonia,<sup>16</sup> and have been heightened in the context of the pandemic.

THIS CHAPTER LOOKS MORE CLOSELY AT HATE SPEECH, XENOPHOBIA & RACISM TARGETING MINORITIES AND GENDER DISCRIMINATION & GENDER-BASED VIOLENCE, AND MAKES THE FOLLOWING CALL TO ACTION:

**RECOGNISE THAT DISCRIMINATION IS THE PRIMARY DRIVER OF STATELESSNESS AND THAT STATELESS PEOPLE FACE ADDITIONAL DISCRIMINATION; DESIST FROM UNFAIRLY TARGETING OR SCAPEGOATING MINORITIES, MIGRANTS, STATELESS AND OTHER GROUPS; PROSECUTE AND PENALISE INSTIGATORS OF HATE SPEECH; ENSURE THAT STATELESS PEOPLE AND THOSE WHO LACK DOCUMENTATION ARE NOT DISCRIMINATED AGAINST IN ACCESS TO HEALTHCARE, RELIEF AND OTHER COVID-19 MEASURES; COMBAT GENDER DISCRIMINATION AND SEXUAL AND GENDER-BASED VIOLENCE IMPACTING STATELESS WOMEN AND GIRLS; AND ACKNOWLEDGE AND DISMANTLE ROOT CAUSES OF STRUCTURAL DISCRIMINATION THAT UNDERMINE THE RIGHT TO NATIONALITY.**

## HATE SPEECH, XENOPHOBIA & RACISM TARGETING MINORITIES

**“States should ensure that neither their actions nor the actions of others stigmatize or incite violence against persons on account of their actual or perceived health status, in particular when such stigmatization is linked to nationality or immigration status.”**

*Principles of Protection for Migrants, Refugees, and other Displaced Persons, Article 3*

In certain cases, COVID-19 has been weaponised and used to further target minority groups, or those perceived as ‘other’.<sup>17</sup> There have been widespread reports of an increase in xenophobia, racism and other forms of discrimination, particularly in relation to refugees, migrants and stateless people. Increased racism and related intolerance has also been fuelled by political rhetoric, mainstream media, and/or social media, blaming and scapegoating those perceived as carriers of COVID-19, further exacerbating intolerance towards these groups.<sup>18</sup> Those who are perceived as highly mobile, such as nomadic groups, are perceived to be at higher risk of contagion, which is cited as ‘justification’ for scapegoating and blaming.<sup>19</sup> According to the UN Special Rapporteur on Contemporary forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, E. Tendayi Achiume, “political rhetoric and policy that stokes fear and diminish the equality of all people is counterproductive. To treat and combat the spread of COVID-19 effectively, individuals must have access to accurate health advice and sufficient healthcare without fear of discrimination”.<sup>20</sup>

**“We have seen a rise in discriminatory and xenophobic attitudes... Even before the pandemic, we were witnessing a worldwide increase in negative stereotypes against certain groups.”**

*UN High Commissioner for Human Rights, Michelle Bachelet*

In various countries in Europe, minority groups have reported an increase in hate speech, racism, antigypsyism and discrimination. This has particularly been the case amongst Roma<sup>21</sup> and Irish Traveller communities, ethnic Russians, refugees and migrants. In **Ireland** and **Bulgaria** for example, hate speech against the Roma and traveller

communities has been reported, with politicians blaming these communities for the spread of the virus.<sup>22</sup> In **North Macedonia**,<sup>23</sup> a CESF Consortium member organisation which works to strengthen the capacity of the Roma community had their offices vandalised.<sup>24</sup> In **Croatia**, some migrants trying to cross the border from Bosnia-Herzegovina were spray painted with red crosses on their heads by the authorities, who claimed that this was the 'cure' against coronavirus.<sup>25</sup>

In **South Africa**, there has been a rise in xenophobia against refugees, migrants and stateless people, with several recent attacks in the Kwa Zulu Natal province motivated by xenophobic sentiment. Stateless persons also continue to be arrested.<sup>26</sup> In **India**,<sup>27</sup> a huge rise in Islamophobia, exacerbated by the pandemic, has been reported, with a series of online misinformation campaigns targeted at Muslims.<sup>28</sup> For the **Rohingya**<sup>29</sup> in India, fake news and information on the internet pose serious challenges.<sup>30</sup> After a gathering in Delhi organised by a Muslim organisation, numerous people tested positive for COVID-19, following which the Rohingya faced extensive government scrutiny, and some refugees were quarantined. False narratives led to forced evictions, threats and abuse.<sup>31</sup>

In the **Dominican Republic**,<sup>32</sup> anti-Haitianism has increased during the pandemic.<sup>33</sup> IOM Haiti reported over 200,000 spontaneous returns to Haiti by Haitian migrants in 2020 because of dire health and economic issues in the Dominican Republic.<sup>34</sup> Official figures from the Dominican authorities affirm over 20,000 deportation events by land in 2020, once deportations were resumed in September 2020.<sup>35</sup> Political scapegoating rhetoric targeting Haitians is not uncommon. They are blamed for many things including unemployment, social crises and diseases.<sup>36</sup>

Structural discrimination against **minorities** can also affect access to rights and services. In **Libya**, this has affected the Tabu and Tuareg communities. The Tabu are an ethnic minority who live in areas of Sudan, Niger, Chad and southern Libya. Many were denied documentation to prove their citizenship during the Mu'ammar al-Gaddafi rule, and have been subjected to forced evictions, arbitrary arrest and detentions. The Tuareg are an ethnic minority group living in southwest Libya, as well as Mali, Niger, Chad and Algeria. Some have reported barriers in accessing citizenship, which has created obstacles in accessing education, health and jobs. Many cities in the south of the country have been historically segregated based on tribal affiliation and ethnicity. Due to lack of documentation, these groups face barriers accessing medical care, with potentially fatal consequences in the context of COVID-19. Moreover, occasional outbursts of violence between different tribal militia groups hinders the movement of people, affecting access to healthcare when hospitals are in areas which are controlled by rival groups.<sup>37</sup>

## GENDER DISCRIMINATION & GENDER-BASED VIOLENCE

**“States must ensure the protection of the rights of displaced women, girls and gender-non-conforming people, and should identify and mitigate particular threats to their health, safety, and well-being in the context of the COVID-19 pandemic.”**

*Principles of Protection for Migrants, Refugees, and other Displaced Persons, Article 11*

Gender discrimination in nationality laws is a primary cause of statelessness, and results in a wide range of human rights violations.<sup>38</sup> The link between gender discrimination and gender-based violence has also been well-documented,<sup>39</sup> and women who are denied equal

nationality rights face hard-hitting consequences as a result of their unequal status in society. In such contexts, women who reside abroad with a foreign spouse can face insurmountable barriers when trying to leave abusive relationships, since their children's citizenship is dependent upon the abusive spouse's status. This has a knock-on effect on children denied of nationality, enhancing their vulnerability to **child marriage**, since legal status may be a pre-condition for marriage.<sup>40</sup>

Globally, gender-based violence has greatly increased during the pandemic.<sup>41</sup> Simultaneously, more abusive people (primarily men) are taking out frustrations on partners, and there is less scope for victims of abuse to escape. Lockdown measures and movement restrictions have confined people to their homes, as well as reduced community interaction and worsened socioeconomic conditions.<sup>42</sup> In line with discriminatory patriarchal structures, in most countries the caregiving responsibilities of women have increased significantly during the pandemic.<sup>43</sup> Survivors of violence are left even more vulnerable during lockdown due to reduced psychosocial support, and inability to report abuse or seek help. For the stateless, or undocumented, the impacts can be even worse, as many are denied access to crucial support, leaving them without a safety net during this time of crisis.<sup>44</sup>

**“We need to pay urgent attention to the protection of refugee, displaced and stateless women and girls at the time of this pandemic. They are among those most at-risk. Doors should not be left open for abusers and no help spared for women surviving abuse and violence.”<sup>45</sup>**

*UNHCR Assistant High Commissioner for Protection, Gillian Triggs*

In **Eswatini**, one of the 25 countries globally that deny women the equal right to confer nationality upon their children, domestic and gender-based violence has increased during the pandemic. Due to some children's inability to access their mother's nationality, women face barriers in extracting themselves from abusive relationships, which is further exacerbated by stay-at-home orders during lockdown.<sup>46</sup> There has also been an increase in **child marriage** during the pandemic, which can be attributed to school closures leaving children vulnerable to such harmful practices.<sup>47</sup> Those living close to the border areas are also at risk of human trafficking and sexual exploitation. The pandemic has also increased children's vulnerability to exploitation, abuse, neglect and violence by directly affecting their caregivers or causing the loss of their families' and communities' livelihoods.<sup>48</sup>

In **Lebanon**, which also denies women equal nationality rights, non-citizens are not entitled to COVID-19 relief. For example, Loyal el Hallak and her family were denied an aid package of 400,000 Lebanese lira (about \$267), as her husband is Palestinian. The family did also not receive any aid from UNRWA, the UN agency mandated to protect Palestinian refugees.<sup>49</sup> In the context of COVID-19, as well as the growing economic crisis, exacerbated by the Beirut explosion,<sup>50</sup> many families in urgent need have been denied vital aid, as a result of gender discrimination. In **Kenya**, GBV continues to be a huge challenge to many stateless communities. Stateless communities and communities at risk of statelessness face challenges as they cannot report cases of GBV due to their lack of legal identity. Women are vulnerable to unwanted pregnancies while others are at risk of contracting diseases such as HIV and AIDS. The fear of being detained in police custody is also a risk which results in many choosing not to report these cases. In **Nepal** there are increased incidences of domestic and sexual violence. With no access to legal aid or even legal remedy most of these cases have not been investigated and many women are forced to continue residing with their violent partners.<sup>51</sup>

<sup>1</sup> Institute on Statelessness and Inclusion, 'Citizenship and Statelessness: (in)equality and (non)discrimination', (2018), available at: <https://files.institutesi.org/Statelessness-and-discrimination.pdf>. See also Minority Rights Group International, 'Minority Stories: Introduction', available at: <https://stories.minorityrights.org/statelessness/chapter/introduction/>.

<sup>2</sup> UN HRC, 'Minority Issues: Report of the Special Rapporteur on minority issues', A/HRC/40/64 (2019), available at: <https://undocs.org/A/HRC/40/64>. See also A. Spítálszky, 'Denial and denigration: How discrimination feeds statelessness', ENS Blog, (31 October 2017), available at <https://www.statelessness.eu/updates/blog/denial-and-denigration-how-discrimination-feeds-statelessness>.

<sup>3</sup> UNHCR, 'This is Our Home' Stateless Minorities and Their Search for Citizenship', UNHCR, (2017), available at: <https://www.refworld.org/docid/59e46534.html>.

<sup>4</sup> Institute on Statelessness and Inclusion, 'Stateless in a Global Pandemic: Impact Report', (2020), available at: [https://files.institutesi.org/Covid19\\_Stateless\\_Impact\\_Report.pdf](https://files.institutesi.org/Covid19_Stateless_Impact_Report.pdf).

<sup>5</sup> Ibid.

<sup>6</sup> United Nations, 'Greater equality a 'prerequisite' for overcoming global crises: Bachelet', UNNews, (12 October 2020), available at <https://news.un.org/en/story/2020/10/1075212>.

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<sup>9</sup> See further Chapter on Malaysia and Chapter on Nepal in Part 3 of this report.

<sup>10</sup> SENTENCIA TC/0168/13, available at: <https://web.archive.org/web/20150812200410/http://tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>.

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<sup>12</sup> See further Chapter on Rohingya in Refugee Situations in Part 3 of this report.

<sup>13</sup> See further Chapter on India in Part 3 of this report.

<sup>14</sup> See further Chapter on Bangladesh in Part 3 of this report.

- <sup>15</sup> See further Chapter on Kenya in Part 3 of this report.
- <sup>16</sup> See further Chapter on Montenegro and Chapter on North Macedonia in Part 3 of this report.
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- <sup>42</sup> UNHCR, 'Displaced and stateless women and girls at heightened risk of gender-based violence in the coronavirus pandemic', UNHCR, (20 April 2020), available at [https://www.unhcr.org/news/press/2020/4/5e998aca4/displaced-stateless-women-girls-heightened-risk-gender-based-violence-coronavirus.html?mc\\_cid=1e3463bb60&mc\\_eid=28e52effdb](https://www.unhcr.org/news/press/2020/4/5e998aca4/displaced-stateless-women-girls-heightened-risk-gender-based-violence-coronavirus.html?mc_cid=1e3463bb60&mc_eid=28e52effdb).
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# RIGHT TO HEALTH

**“The spread and impact of COVID-19 have shown more than ever how rights are interdependent. The pandemic’s disproportionate impact on Black people, indigenous peoples and other racially persecuted groups, such as the Rohingya and Roma, specifically those located in the global South, is rooted in historical and current systems of oppression.”<sup>1</sup>**

*UN Special Rapporteur  
on the right of everyone to the enjoyment of  
the highest attainable standard of physical  
and mental health, Tlaleng Mofokeng*

**“THE RIGHT OF EVERYONE TO THE  
ENJOYMENT OF THE HIGHEST  
ATTAINABLE STANDARD OF  
PHYSICAL AND MENTAL HEALTH”**

ICESCR, ARTICLE 12

The right to healthcare is a fundamental human right, which is also interdependent upon other rights.<sup>2</sup> The right to healthcare should have universal application, with access to healthcare services ensured to everyone regardless of race, religion or other criteria, including legal status. However, most

national healthcare systems privilege citizens, undermining the right to health of stateless persons and those with insecure legal status, with particularly hard-hitting ramifications during the pandemic.

In 2020, we reported on the multifaceted ways in which COVID-19 has compounded the structural and discriminatory barriers to healthcare and related health risks faced by stateless persons. This report recommended that all relevant stakeholders:

*Ensure that access to healthcare is equal and universal, and not based upon nationality or legal status; that all fees and other barriers to access are removed; that public health imperatives take precedence over immigration and other motives which may place vulnerable communities at risk; and that all public health measures and related advice are communicated to all groups, including stateless persons and those at risk of statelessness, taking into account location, language, literacy and communication channels.<sup>3</sup>*

One year on, the challenges have heightened, with devastating consequences. Equal and universal access to healthcare is more important than ever – both from a human rights and public health perspective. Of the CESF Consortium focus countries, the cost of healthcare has proved a significant barrier to stateless communities in Central Asia, the Dominican Republic, India, Kenya, Malaysia, Montenegro, Nepal and North Macedonia. The lack of legal identity has prevented access to healthcare in Central Asia, India and Kenya, and the risk of detention or harassment by police, has deterred people from seeking healthcare in Kenya and Malaysia. Now, with the rollout of vaccines, and the possibility of controversial vaccine passports, the stakes are even higher, particularly as stateless populations are rarely explicitly included in vaccination plans, as is the case in, for example, Central Asia and India.

**“Understanding health as a human right creates a legal obligation on states to ensure access to timely, acceptable, and affordable**

**health care of appropriate quality as well as to providing for the underlying determinants of health, such as safe and potable water, sanitation, food, housing, health-related information and education, and gender equality.”<sup>4</sup>**

**CESF CONSORTIUM PROJECTS** HAVE ALSO HAD POSITIVE IMPACTS ON ACCESS TO VACCINATIONS. IN **BANGLADESH**, THE COUNCIL OF MINORITIES HAS BEEN RAISING AWARENESS ON COVID-19 VACCINATIONS, HELPING PEOPLE TO REGISTER ONLINE AND ACCOMPANYING THEM TO RECEIVE VACCINATIONS. 42 PEOPLE HAVE THUS FAR BEEN ASSISTED IN THIS MANNER.

*World Health Organisation*

THIS CHAPTER LOOKS MORE CLOSELY AT BARRIERS TO ACCESS TO HEALTHCARE, ENVIRONMENTAL DETERMINANTS OF HEALTH, MENTAL HEALTH IMPACTS, AND ACCESS TO VACCINATIONS, AND MAKES THE FOLLOWING CALL TO ACTION:

**ENSURE THAT ACCESS TO HEALTHCARE IS EQUAL AND UNIVERSAL, AND NOT BASED ON NATIONALITY, DOCUMENTATION OR LEGAL STATUS; REMOVE ALL FEES AND OTHER BARRIERS TO HEALTHCARE; ENSURE THAT PUBLIC HEALTH IMPERATIVES TAKE PRECEDENCE OVER IMMIGRATION ENFORCEMENT AND OTHER MOTIVES; STRENGTHEN INITIATIVES TO ADDRESS THE MENTAL HEALTH IMPACTS OF COVID-19 ON STATELESS PEOPLE; INVEST IN MEASURES TO ADDRESS ENVIRONMENTAL DETERMINANTS OF HEALTH, INCLUDING POOR SANITATION AND INABILITY TO SOCIALLY DISTANCE; AND ENSURE THAT PUBLIC HEALTH MEASURES AND ADVICE ARE EFFECTIVELY COMMUNICATED TO STATELESS PEOPLE, TAKING INTO ACCOUNT LOCATION, LANGUAGE AND LITERACY.**

**TAKING INTO CONSIDERATION THE MORAL AND PUBLIC HEALTH IMPERATIVE TO PROTECT EVERYONE FROM COVID-19, AND GIVEN THAT THE ONLY SUSTAINABLE WAY OF DOING SO IS THROUGH ACHIEVING UNIVERSAL VACCINATION, WHILE ALSO CONSIDERING THE HEIGHTENED VULNERABILITY OF MANY STATELESS PEOPLE DUE TO STRUCTURAL CHALLENGES; ENSURE THAT ALL NECESSARY POSITIVE STEPS – INCLUDING MOBILE CLINICS, AWARENESS CAMPAIGNS AND INCENTIVES – ARE TAKEN TO ENSURE THAT STATELESS PEOPLE HAVE EQUAL VACCINE ACCESS, AND THAT ALL BARRIERS SUCH AS LACK OF NATIONALITY, DOCUMENTATION OR LEGAL STATUS, AS WELL AS TECHNOLOGICAL AND FINANCIAL BARRIERS ARE ANTICIPATED AND ADDRESSED IN VACCINE ROLL OUT.**

## **(BARRIERS TO) ACCESS TO HEALTHCARE**

The 2030 Agenda for Sustainable Development and Universal Health Coverage<sup>5</sup> emphasises that those furthest behind must be prioritised in order to achieve greater health equity. IOM and UNHCR have also stated that COVID-19 underlines the urgent need for universal health coverage,<sup>6</sup> stressing that health services must be “inclusive of all people, including migrants, refugees and internally displaced and stateless people, if we are to build robust systems that protect us all.”

The right to healthcare includes the right to a system of health protection, equality of opportunity for everyone to enjoy the highest attainable level of health, and equal and timely access to basic health services. Non-discrimination and equality are fundamental human rights principles and critical components of the right to health.<sup>7</sup> However, in practice, there is significant inequality in access to healthcare, and the stateless are among the most disadvantaged. A report by the European Network on Statelessness has found that stateless persons in Europe face multiple barriers to accessing healthcare, including their lack of

documentation, identification or health insurance; are restricted only to accessing emergency medical care; and are unable to afford high fees. Other barriers include institutional mistrust, and discrimination by healthcare providers.<sup>8</sup> According to the WHO, undocumented migrants and Roma are denied certain health services in several countries and are only entitled to urgent medical care.<sup>9</sup>

## GOOD PRACTICE

IN IRELAND, THE GOVERNMENT CREATED A FIREWALL BETWEEN HEALTH SERVICES AND IMMIGRATION AUTHORITIES DURING THE CRISIS, ALLOWING UNDOCUMENTED MIGRANTS TO ACCESS SERVICES WITHOUT FEAR THAT THEIR INFORMATION WILL BE SHARED.<sup>10</sup>

During the pandemic, the reconfiguration of services to an online format, has caused **digital exclusion**. In **Sweden** for example, those requiring a COVID-19 test had to have a digital ID; excluding many stateless people who lack digital ID. Other barriers include **lack of access** to information. Many

stateless persons were not reached by the general public health guidance, heightening health risks, vulnerabilities, and social exclusion. Where language barriers, as well as digital barriers exist, many rely on NGO-led communication using remote technologies and mobile health units.<sup>11</sup>

**“Migrants, refugees, and other displaced persons have a right to information about COVID-19, including information related to symptoms, prevention, control of spread, treatment, and social relief. The internet is an indispensable source of information, and blocking or interfering with access during a pandemic is not justifiable.”**

*Principles of protection for migrants, refugees, and other displaced persons, Article 9*

**Fear of approaching the authorities** is also a barrier. In Malaysia, stateless individuals are reportedly too fearful of authorities to visit the doctor or hospital.<sup>12</sup> In some countries, the Roma have been cast as a health and safety threat. In **Slovakia**, the government sealed off entire Roma communities, and introduced military personnel to carry out testing.<sup>13</sup> In **Bulgaria**, the government imposed roadblocks and police checkpoints in several Romani neighbourhoods, despite no evidence of a COVID-19 outbreak.<sup>14</sup>

**Lack of documentation** presents a significant barrier. In **Thailand** the pandemic slowed the process of obtaining identity documentation, which in turn has limited access to health coverage.<sup>15</sup> In **Libya**, ethnic minority groups at risk of statelessness, such as the Tabu and Tuareg, face **discrimination** in access to healthcare. Moreover, some members of these groups lack identity documents or family identity booklets to prove Libyan citizenship, which is required to access the free public health system.<sup>16</sup> In **Indonesia**, the Ministry of Health included refugees in COVID-19 treatment and testing, but civil society groups reported that the costs are only covered if the individuals test negative.<sup>17</sup>

## ENVIRONMENTAL DETERMINANTS OF HEALTH

**“States must take effective measures to mitigate COVID-19 transmission among migrants, refugees, and other displaced persons living in camps, collective shelters, and settlements.”**

*Principles of protection for migrants, refugees, and other displaced persons, Article 8*

Crucial to the enjoyment of the right to health are the underlying determinants of health. These include a wide range of socio economic factors that promote conditions in which people can lead a healthy life, such as food and nutrition, housing, access to safe and potable water and sanitation, safe working conditions, and a healthy environment.<sup>18</sup>

Many stateless persons live in **densely populated areas**, including camps, collective shelters and informal settlements, while others have been detained,<sup>19</sup> in conditions conducive to the fast spread of the virus. In **Mauritania**, for example, the majority of the Haratine community, who are descendants of former slaves and at risk of statelessness, live in the capital in barracks, hangars or tents, without protection or space to socially distance. No specific measures have been taken to protect

this population during the pandemic.<sup>20</sup> The **Gaza Strip** also has high levels of COVID-19, due to the low quality of Gaza's health infrastructure, low resource security and widespread poverty.<sup>21</sup>

Many stateless persons are also refugees. The infrastructure in refugee camps is not conducive to housing large numbers of people in the long term, in a manner that allows for social distancing. In many refugee camps there is a lack of sanitation facilities and physical space.<sup>22</sup> In **Greece's** Moria camp, conditions have been described as having “one tap, with no soap for every 1300 migrants, and people living amongst rubbish with poor or no sewage systems.” Personal hygiene is also hard to maintain with up to “5000 people currently without any access to water, showers, toilets or electricity”.<sup>23</sup> In March 2021, a large fire broke out in Kutapulong camp in Bangladesh, home to hundreds of thousands of Rohingya. At least 15 people died and 45,000 were again displaced.<sup>24</sup> “[...] people in the camps are so scared. They cannot sleep at night for worrying. They are afraid because they are not sure how the fire started, how it spread so quickly and why there was no fire service that could control the fire”, said Khin Maung from the Rohingya Youth Association.<sup>25</sup>

## MENTAL HEALTH

COVID-19 has also had an acute impact on mental health, with UNHCR warning that COVID-19 is not just a physical health crisis, but is also now triggering a mental health crisis.<sup>26</sup> According to a 2020 survey of refugees and migrants conducted by the WHO, 50% of the respondents indicated that COVID 19 brought about greater feelings of depression, anxiety and loneliness. One in five respondents also reported increased drug and alcohol use.<sup>27</sup> Other studies have shown that lockdowns have resulted worldwide in deterioration in the mental health of vulnerable groups, coupled with a reduction in numbers of patients accessing mental health services due to COVID-19 related restrictions among populations who already have difficulty accessing healthcare.<sup>28</sup> In **Kenya**,<sup>29</sup> in the Dadaab refugee camp there are reports of deteriorating mental health and in **Nepal** the insurmountable restrictions faced by stateless people throughout their lives have resulted in mental health issues.<sup>30</sup>

## RIGHT TO VACCINATIONS

**“If 2020 has taught us something, it is that ill health is a universal issue that does not distinguish based on nationality; so, to be truly effective, neither should our health coverage, including in upcoming COVID-19 vaccination efforts.”<sup>31</sup>**

*IOM Director General,  
António Vitorino*

The WHO has warned that the world is on the brink of “catastrophic moral failure”<sup>32</sup> urging vaccines to be made available as a global public good, as “equity in access [to the vaccine] will lead to equity in health for all”.<sup>33</sup> This is a moral and public health imperative as the ramifications of exclusion are far reaching, no one is safe, until everyone is safe. IOM and UNHCR have urged governments to include migrants, refugees, IDPs and stateless people in vaccine rollout plans and ongoing health services.<sup>34</sup>

**“The inequitable distribution of vaccines is not just a moral outrage. It's also economically and epidemiologically self-defeating. Some countries are racing to vaccinate their entire populations — while other countries have nothing.”<sup>35</sup>**

*WHO Director General,  
Tedros Adhanom Ghebreyesus*

From the beginning of the vaccine roll-out in 2021, vaccine nationalism was apparent. Countries in the global north are more likely to be able to secure vaccines, and as of 17 February 2021, only ten countries had administered 75% of the world's vaccines.<sup>36</sup> Localised effects of vaccine nationalism can also be seen in many countries which prioritise nationals for vaccines. Stateless people are doubly impacted: the majority reside in countries where vaccines are less accessible, but even when acquired, they are deprioritised, forgotten, denied for lack of documentation or excluded on discriminatory grounds. These barriers predate the pandemic, since stateless persons generally experience lower levels of vaccination compared to citizens.<sup>37</sup>

IN 2020, THE WHO ESTABLISHED THE COVAX FACILITY, AIMED AT ADDRESSING GLOBAL INEQUALITY IN VACCINE PROCUREMENT BY ACCELERATING DEVELOPMENT, MANUFACTURE AND EQUALISING ACCESS.<sup>38</sup> PUBLIC HEALTH GROUPS HAVE BEEN LOBBYING COUNTRIES TO COMMIT A PORTION OF VACCINE SUPPLIES TO A 'HUMANITARIAN BUFFER', TO INOCULATE THOSE LIVING IN REBEL-HELD TERRITORIES, REFUGEE CAMPS AND OTHERS UNLIKELY TO RECEIVE VACCINATIONS FROM THEIR GOVERNMENTS.<sup>39</sup> THE WHO'S CAMPAIGN FOR #VACCINEEQUITY, PROMOTES EQUITABLE VACCINATIONS FOR STRUGGLING COMMUNITIES IN DEVELOPING NATIONS. BY DAY 100 OF THE #VACCINEEQUITY CAMPAIGN, 38 MILLION+ COVAX DOSES HAD BEEN SHIPPED TO MORE THAN 100 COUNTRIES. JORDAN WAS THE FIRST COUNTRY TO INCLUDE REFUGEES IN VACCINATION EFFORTS.<sup>40</sup> SINCE THEN, OTHERS HAVE FOLLOWED SUIT, INCLUDING RWANDA<sup>41</sup> AND NEPAL.<sup>42</sup> HOWEVER, IT IS STILL UNCLEAR IF THESE EFFORTS INCLUDE THE STATELESS.

**"Unfortunately, it seems that some Governments have secured vaccines for their citizens only. Health policies and procurement procedures that are isolationist in nature are inconsistent with international human rights standards."<sup>43</sup>**

*UN Special Rapporteur  
on the right of everyone to the enjoyment of  
the highest attainable standard of physical  
and mental health, Tlaleng Mofokeng*

The controversial 'vaccine passport' may leave those with unequal access to vaccines even further behind. Accessing documentation for the stateless and those at risk of statelessness is difficult during 'normal' times. Additional documentation – especially digital documentation – in the form of a vaccine passport, will widen pre-existing societal divides and inequalities. Professor of immunology at Imperial College London, Danny Altmann, stated vaccine passports will open "an enormous can of worms", as such documents may "create a tiered society of vaccinated, and unvaccinated."<sup>44</sup> Moreover, it could create further restrictions on movement for those who are unvaccinated.

In Kenya,<sup>45</sup> stateless communities have not yet been included in vaccine rollout plans. Lack of ID cards, poverty and distance to hospitals, also impact access to vaccines. In Cameroon, the stateless have been excluded due to lack of documentation.<sup>46</sup> In Europe, the Platform for International Cooperation on Undocumented Migrants is tracking inclusion of the undocumented in vaccine rollouts.<sup>47</sup> They have identified inclusion commitments from Belgium, France, Netherlands, Portugal, Spain, and the UK. It is unclear what strategies will be adopted to ensure undocumented populations are reached in practice.

THE GLOBAL 'APART TOGETHER' STUDY, CONDUCTED BY THE WHO, ON SELF-REPORTED IMPACTS OF COVID-19 ON REFUGEES, MIGRANTS, AND THE STATELESS FOUND THAT FOR 17.8% OF THOSE SURVEYED, NGOS WERE THE MAIN SOURCE OF COVID-19 INFORMATION. MOHIB, A ROHINGYA REFUGEE IN COX'S BAZAAR, BANGLADESH, REFLECTED ON NGO INVOLVEMENT IN INFORMATION PROVISION AND MEDICAL ASSISTANCE AT THE OUTSET OF THE PANDEMIC: "LOCAL NGOS USED TO PROVIDE US REMINDERS ABOUT PHYSICAL DISTANCING AND NATIONAL HEALTH GUIDELINES PROVIDED BY BANGLADESHI GOVERNMENT AGENCIES, BUT NOWADAYS, THE RATE OF PUBLICITY AND AWARENESS HAS DECREASED."<sup>48</sup>

Vaccine allocations for the Rohingya communities in India and Malaysia have also not been announced. In India, it is mandatory to provide an ID card to be vaccinated. Ali Johar of the Rohingya Human Rights Initiative stated "We are afraid that our community in India will be excluded from the vaccination process as we don't possess any

documents issued by Myanmar, the Indian Government does not recognise refugee cards issued by UNHCR as proof of identity. In this case, we will be completely dependent on the international community."<sup>49</sup> In Bangladesh, it was reported in March 2021 that Rohingya refugees would be included in the national vaccine rollout, although implementation of vaccinations for this community was not yet underway at the time of writing.<sup>50</sup>

Israel's vaccination programme excluded five million Palestinians living in the West Bank and Gaza Strip. In February 2021, more than half of Israel's citizens were fully inoculated while most Palestinians living in the West Bank and Gaza Strip were not.<sup>51</sup> By neglecting Palestinians, Israel violated international law, including the Geneva Convention (Article 56) which delegates occupying powers the responsibility to ensure public health and hygiene in occupied territories, to "combat the spread of contagious diseases and epidemics."<sup>52</sup> Physician and member of the Palestinian Parliament, Dr. Mustafa Barghouti, commented that "Israel is violating international law because it is denying its responsibility as an occupying power. This is a crime against Palestinians...a crime against the health of Israelis...it is a crime against medical ethics, which says nobody should be discriminated against."<sup>53</sup> Amnesty International also commented "The Israeli government must stop ignoring its international obligations as an occupying power and immediately act to ensure COVID-19 vaccines are equally and fairly provided to Palestinians living under its occupation in the West Bank and the Gaza Strip."<sup>54</sup> In January 2021, the WHO urged Israel to make vaccines available to Palestinian health workers. Israel did not comply citing shortages for their citizens<sup>55</sup> despite sending vaccines to allies. Heavy scrutiny led Israel to cease this practice in February 2021.<sup>56</sup> As of March 2021, Israel had vaccinated certain Palestinians – relatives of people in Jerusalem and Palestinian prisoners in Israeli jails and committed to vaccinating 110,000 Palestinian day laborers in Israel. Palestinian officials have faced obstacles including funding and infrastructure to launch their own vaccination campaign. As of May 2021, Gaza had received around 250,000 vaccine doses from other states, with some donated through the COVAX facility. However, as of 5 May 2021, only 3.6% of Palestinians had received at least one dose, and less than 1% were fully vaccinated, and these figures exclude Palestinians in Israel.<sup>57</sup> "Not only is vaccine availability a problem but we are worried about the skepticism and misinformation that is spreading in Gaza" said the Head of the ICRC office in Gaza, Ignacio Casares. At the time of writing, ICRC, in collaboration with the Palestinian Ministry of Endowments and Religious Affairs and the Ministry of Health in Gaza were conducting a campaign to encourage vaccine uptake.<sup>58</sup>

#### GOOD PRACTICE

IN MAY 2021, THE MINISTRY OF HEALTH IN MONTENEGRO, ORGANISED A VACCINATION CAMPAIGN IN SEVERAL LOCATIONS, WITHOUT THE REQUIREMENT OF AN APPOINTMENT, INCLUDING FOR THOSE WITH NO DOCUMENTATION.<sup>59</sup> IN A ROMA SETTLEMENT, KONIK, A PREVIOUSLY UNPLANNED VACCINATION CAMPAIGN WAS ALSO ORGANISED, FOR THE ROMA PEOPLE. ORGANISATIONS SUCH AS THE RED CROSS, AND HELP, FACILITATED THIS PROCESS AND AN ESTEEMED DOCTOR VISITED THE SETTLEMENT, TO RAISE AWARENESS ON THE BENEFITS OF VACCINATION.<sup>60</sup>

In early 2021, Dominican Republic President, Luis Abinader, stated that those deemed 'illegal immigrants' (those of Haitian origin and Venezuelans) will be denied vaccines. Amnesty International's Americas Director, Erika Guevara-Rosas, said that the statement is "alarming and irresponsible", highlighting "fears that migrants worldwide could be excluded by 'vaccine nationalism'". OBMICA Coordinator, Bridget Wooding, stated that barriers to vaccines include "negative statements from authorities on who is a priority, lack of information/misinformation regarding the danger of vaccines, and relative invisibility to the state".<sup>61</sup>

Mistrust of authorities is also a deterrent. The UK, for example, announced no checks on immigration status for the vaccine but reports show that hundreds of thousands of migrants still fear deportation stemming from the government's hostile policies and are less likely to seek the vaccine. Co-chair of the All-Party Parliamentary Group on Hate Crime warned that telling undocumented people they do not need a National Health Service (NHS) number to receive the vaccine "wouldn't allay any fears". 140 groups called for a 'firewall' to prevent patient information being shared with authorities, a public information campaign on right to vaccinations, as well as GPs registering everyone, regardless of legal status.<sup>62</sup> In the United States, stateless people fear

IN FEBRUARY 2021, THE UK ISSUED A DRAFT RESOLUTION TO THE UN SECURITY COUNCIL DEMANDING A GLOBAL CEASEFIRE ALLOWING FOR DISTRIBUTION OF THE VACCINE, URGING OTHER COUNTRIES TO ADMINISTER THE VACCINE TO "THOSE AT A HIGHER RISK OF DEVELOPING SEVERE COVID-19 SYMPTOMS, AND THE MOST VULNERABLE, INCLUDING [AMONGST OTHERS]... REFUGEES, INTERNALLY DISPLACED PEOPLE, AND STATELESS PEOPLE".<sup>64</sup>

approaching authorities, or being asked for IDs.<sup>63</sup>

In April 2021, the Malaysian government announced the eligibility of foreigners, undocumented workers and refugees for vaccination, pledging they would not face detention when seeking vaccines.<sup>65</sup> In 2020 however, when they encouraged undoc-

umented migrants to get tested for COVID-19 this was immediately followed by arbitrary immigration roundups causing fear and distrust. A Malaysian source stated "The government has done nothing for stateless people, and I would caution against praising them for inclusive vaccination rollout until it actually happens. Last year they received lots of praise for saying undocumented migrants would not face repercussions for seeking healthcare, but we saw no evidence of this being implemented and it was followed by mass raids and detentions of migrants. The government has actively hampered efforts by civil society to provide aid."<sup>66</sup> Despite promises of inclusion, the government has adopted a citizens first approach assuring Malaysian citizens "they would be prioritised for the vaccine...with undocumented migrants, refugees and the stateless possibly receiving their shots towards the end of the mass vaccination drive."<sup>67</sup> Further concerns include vaccines reaching stateless people<sup>68</sup> living in hard-to-reach areas including the migratory, maritime Bajau Laut native to Sabah. They have low levels of health literacy, are hesitant, distrustful towards the authorities and refuse to accept vaccines due to misinformation and disinformation.<sup>69</sup> In Lebanon, the pre-vaccination registration portal required inputting a nationality for vaccine registration. Stateless persons could therefore not register. Sami Haddad, a stateless Lebanese activist and his organisation Oummal, successfully advocated for a 'statelessness' option to be added to the portal, allowing stateless persons to register. However, it was also required to provide an ID number, and many stateless persons lack ID documents. These difficulties come on top of other barriers that

affect marginalised communities in the country, including low levels of awareness, and practical barriers such as inability to access the internet, in order to register for the vaccine. Sami's organisation has been further campaigning for equal access to the vaccine, including through advocating for the national hotline for vaccine enquiries to add an extension code, that will help stateless people register.

**Good Practice:** The Australian government announced the provision of free vaccines to all categories of visa holders, namely refugees, asylum seekers, temporary protection visa holders, and those on bridging visas. Those in detention are also eligible, including those with cancelled visas.<sup>70</sup> Parsu Sharma-Luitl JP, a formerly stateless refugee, who has subsequently acquired Australian citizenship, has been at the forefront of advocacy efforts towards the Australian government for inclusion within vaccination efforts. He shared the following reflection:

"During the first lockdown, I was part of the team from the Refugee Communities Association of Australia, delivering emergency food relief to asylum-seekers and refugees. Many were living without food for days on end, as they were wary to buy food, for fear of reprisal, or to accept food from unknown agencies. As a former refugee and stateless person, this has made me reflect on my own situation, where my family and I were dependent on receiving food aid from the refugee agency's food bank. I therefore took every opportunity to raise the lived experiences of refugees, asylum seekers, and stateless people in Australia with the government, and they have responded positively."

The South African government was initially silent on including stateless people and irregular migrants in vaccine roll outs. In February 2021, the President announced asylum seekers, refugees and undocumented migrants would be included. However, the first step of the registration process for the vaccine requires a permit number for those with asylum/refugee permits, an ID number for citizens and a passport number for other categories of migrants.<sup>71</sup> LHR accessed the portal and entered zeros in place of ID numbers to allow stateless persons to register. However, it is unclear if documentation will be required at the time of vaccination. LHR wrote an open letter questioning this, highlighting the lack of transparency in the process, and requesting a clearer vaccine strategy inclusive of stateless and undocumented people.<sup>72</sup>

<sup>1</sup> UN HRC, 'Minority Issues: Report of the Special Rapporteur on minority issues', A/HRC/40/64, (March 2019), available at: <https://undocs.org/A/HRC/40/64>.

<sup>2</sup> OHCHR, 'CESCR General Comment No. 14: Article 12 (The Right to the Highest Attainable Standard of Health)', available at: <https://www.refworld.org/pdfid/4538838d0.pdf>.

<sup>3</sup> Institute on Statelessness and Inclusion, 'Stateless in a Global Pandemic: Impact Report', (2020), available at: [https://files.institutiesi.org/Covid19\\_Stateless\\_Impact\\_Report.pdf](https://files.institutiesi.org/Covid19_Stateless_Impact_Report.pdf).

<sup>4</sup> WHO, 'Human Rights & Health', WHO Fact Sheets, (29 December 2017), available at: <https://www.who.int/news-room/fact-sheets/detail/human-rights-and-health>.

<sup>5</sup> Ibid.

<sup>6</sup> UNHCR, 'IOM and UNHCR chiefs stress that COVID-19 underlines the urgent need for universal health coverage', UNHCR, (11 December 2020), available at: <https://www.unhcr.org/news/press/2020/12/5fd35fc94/iom-unhcr-chiefs-stress-covid-19-underlines-urgent-need-universal-health.html>.

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# SOCIOECONOMIC RIGHTS

**“The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”**

ICESCR, Article 2

Under international law, “states must avoid different standards of treatment with regard to citizens and non-citizens that might lead to the unequal enjoyment of economic, social and cultural rights”.<sup>1</sup> In practice, denial of the right to nationality results in the denial of myriad socioeconomic rights. During the COVID-19 crisis, the consequences of such denials are disastrous. Many stateless people have lost livelihoods, been excluded from government support and humanitarian relief, while dealing with poor living conditions and impacts on their children’s education, cumulatively posing a threat to basic survival.

When the pandemic first took hold, states tended to adopt a ‘citizens first’ approach to the exclusion of the stateless and those with insecure legal status. Cognizant of the risks, ISI’s 2020 Impact Report recommended that stakeholders:

*Extend emergency support packages to all, on the basis of need (and not other criteria); distribute relief regardless of legal status, prioritising first, the furthest left behind; take special measures to mitigate the transmission of COVID-19 in densely populated areas, such as camps, collective shelters and informal settlements.*

Over a year into the crisis, there has been markedly little shift in the response by states and other actors. Of the **CESF Consortium** project focus countries, exclusion from state relief due to lack of documentation has been reported in the Dominican Republic, Kenya, Malaysia, Montenegro, Nepal and North Macedonia, with reports of exclusion from state relief due to discrimination in Bangladesh and Central Asia. Further, the Roma communities in Montenegro and North Macedonia have been excluded from humanitarian relief efforts. There has been a significant impact on employment, leading to lost livelihoods among the stateless and those at risk of statelessness. Consortium members from Bangladesh, Central Asia, the Dominican Republic, India, Malaysia, Montenegro, and North Macedonia, and Rohingyas in Bangladesh, India and Malaysia all cited the inability to access formal employment as a significant factor, as informal employment has been brought to a

standstill due to lockdowns and curfews. Partners in Malaysia and North Macedonia further reported barriers to education during lockdowns due to classes going online, compounded by inability to access internet and afford devices for online classes.

CESF CONSORTIUM PROJECTS HAVE ALSO HAD POSITIVE IMPACTS. IN NORTH MACEDONIA, BAIRSKA SVETLINA HAS DISTRIBUTED 100 HUMANITARIAN PACKAGES TO FAMILIES IN NEED AND FURTHER ASSISTED 130 FAMILIES TO SUCCESSFULLY APPLY FOR SOCIAL BENEFITS.

In spite of clear warnings that no one must be left behind if states are to successfully overcome the public health and wider socioeconomic impact of the pandemic,<sup>2</sup> a ‘citizens first’ approach is often still the default. In the meantime, the economic resilience of many people has been weakened, while their needs have only grown.

**“I am deeply concerned that decision makers will step away from their promises to reduce inequalities between and within countries during the current fight against the coronavirus pandemic, by**

THIS CHAPTER LOOKS MORE CLOSELY AT **LOST LIVELIHOODS, EXCLUSION FROM EMERGENCY RELIEF, FOOD INSECURITY AND DISRUPTED EDUCATION, AND MAKES THE FOLLOWING CALL TO ACTION:**

**PROTECT THE LIVELIHOODS OF STATELESS PEOPLE AND ENSURE THAT UNDOCUMENTED PEOPLE AND THOSE ENGAGED IN INFORMAL LABOUR ARE EQUALLY COVERED BY COVID-19 RELIEF MEASURES; ENSURE THAT STATELESS PEOPLE AND OTHER VULNERABLE GROUPS CAN WORK SAFELY; ENSURE THAT STATELESS CHILDREN HAVE EQUAL ACCESS TO EDUCATION AND ARE SUPPORTED TO ATTEND ONLINE LESSONS THROUGH THE PROVISION OF RELEVANT TOOLS, INTERNET ACCESS AND LANGUAGE SUPPORT; AND PROVIDE A ROBUST SAFETY NET FOR ALL STATELESS PEOPLE WHO FACE POVERTY, STARVATION AND HOMELESSNESS AS A RESULT OF COVID-19 AND ITS WIDER SOCIETAL IMPACTS.**

**STRENGTHEN INSTITUTIONAL AWARENESS OF STATELESSNESS, TO ENSURE THAT HUMANITARIAN RELIEF ALSO COVERS STATELESS AND UNDOCUMENTED PEOPLE; EXTEND EMERGENCY SUPPORT PACKAGES TO ALL, ON THE BASIS OF NEED (AND NOT OTHER CRITERIA); DISTRIBUTE RELIEF REGARDLESS OF LEGAL STATUS, PRIORITISING THE FURTHEST LEFT BEHIND; AND TAKE SPECIAL MEASURES TO MITIGATE THE TRANSMISSION OF COVID-19 IN DENSELY POPULATED AREAS, SUCH AS CAMPS, COLLECTIVE SHELTERS AND INFORMAL SETTLEMENTS.**

**adopting policies which may reinforce and exacerbate vulnerabilities that already exist.”**

*UN Special Rapporteur on the Right to Development, Saad Alfarargi<sup>3</sup>*

## LOST LIVELIHOODS

**“The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.”**

ICESCR, Article 6

The associated socioeconomic impacts of the pandemic on stateless people are far-reaching and intersectional. Country-wide lockdowns and movement restrictions have affected employment and incomes.<sup>4</sup> According to the Assistant High Commissioner for Operations at UN-HCR, Raouf Mazou, the loss of livelihoods has acted as a catalyst to a domino chain of ‘side-effects’ that “are pernicious and devastating – on education, mental and physical health, food security, gender-based violence, community relationships and beyond”.<sup>5</sup>

Even before the pandemic, stateless people struggled to obtain work permits and access formal employment, due to their insecure legal status presenting barriers – both bureaucratic and discriminatory. The ILO observed that informal economy workers have been the hardest

hit – as of April 2020, the ILO estimated a pandemic-related decline in earnings for informal workers of up to 82% in low and lower-middle-income countries, where most internally displaced people, refugees, and stateless communities are located. The ILO has continued to emphasise the disproportionate impact on low-paid jobs, including in the informal economy.<sup>6</sup>

In **Malaysia**, hundreds of refugees and stateless people living in Selangor were deprived of their only source of income as they were all workers at the local wholesale market (*Pasar Borong*).<sup>7</sup> They were left with no resources to sustain their basic needs such as food, healthcare and housing.<sup>8</sup> In **South Africa**, the lockdown exacerbated the unequal

treatment of asylum seekers, refugees and stateless people. Those working in the informal sector could no longer do so as only essential workers were only allowed to move around, particularly impacting irregular migrants and stateless persons, who rely on selling fruits, vegetables, and clothes on the side of the street for their income. Although the government included citizens, refugees, and later asylum seekers, within economic, poverty, and hunger alleviation schemes,

A BRIEFING PAPER BY THE INTERNATIONAL COMMISSION OF JURISTS SETS OUT HUMAN RIGHTS PRINCIPLES ON THE RIGHT TO WORK FOR STATELESS PEOPLE IN SOUTH AFRICA.<sup>9</sup> ACCORDINGLY: “EVERYONE, REGARDLESS OF CITIZENSHIP STATUS, HAS THE RIGHT TO WORK IN SOUTH AFRICA UNDER, AMONG OTHERS, THE INTERNATIONAL CONVENTION ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS AND THE AFRICAN CHARTER ON HUMAN AND PEOPLE’S RIGHTS.” FURTHER, “THE RIGHT TO WORK PROTECTS BOTH FORMAL AND INFORMAL WORKERS, INCLUDING NON-CITIZENS.”

stateless people were not included. Exclusion from national response safety nets may lead to negative coping strategies causing mental health and secondary health concerns.<sup>10</sup> While UNHCR has stepped in to provide assistance, this appears to have been limited to asylum seekers. Among stateless people, women have been most impacted, especially those who are the heads of households, who also had to find alternative ways to support their children as their work in the informal sector ground to a halt.

## EXCLUSION FROM EMERGENCY RELIEF

**“Millions of people around the world are denied a nationality and the legal rights endowed with it. At such a critical time, in the middle of a global pandemic, they now are at great risk of being left behind in the response.”<sup>12</sup>**

*UN High Commissioner for Refugees, Filippo Grandi*

Stateless people are often excluded from **state relief** efforts. Other key actors, such as UN agencies and **humanitarian actors**, may also exclude stateless people, particularly if they require identification to access humanitarian aid. In **North Macedonia**, for example, where the Red Cross acts as the official government conduit for humanitarian relief, undocumented members of the Roma community have been excluded.<sup>13</sup> In this way, stateless people who are already impacted by historical institutional blindness, now also suffer greater exclusion and vulnerability.

A report published by the European Network on Statelessness found very few examples of state aid packages being available to stateless communities in Europe; and no examples of active inclusion within financial assistance measures.<sup>14</sup> In most countries, assistance is conditional upon legal status, with aid being restricted to nationals, specific vulnerable groups with residence permits, or permanent residence holders. In **France**, for example, additional financial support was provided to lower income households and young people who were already receiving help from other financial services. Individuals who hold stateless status as per the *Office Français de Protection des Réfugiés et Apatrides* were included in this support system if they met certain criteria.<sup>15</sup> However, for the most part, these benefits did not extend to asylum seekers and communities of irregular migrants, which also include stateless people. In **Croatia**, there have been reports of hygiene

and sanitation measures reaching some stateless people as well as masks and sanitisers distributed to segregated Roma settlements.<sup>16</sup> In **Estonia**, stateless pensioners received face masks.<sup>17</sup> However, most have depended on community groups and NGOs to provide essential, lifesaving, support.<sup>18</sup>

In **Indonesia**, the government expanded the scope of welfare and unemployment benefits. While not explicitly limited to citizens, legal identity documents are required to receive these benefits, excluding many stateless people.<sup>19</sup> In **Lebanon**, the government excluded non-citizens from emergency support; and in some cases, Lebanese women with foreign spouses have also been denied emergency aid.<sup>20</sup> UN agencies, local and international NGOs have stepped in to provide assistance. However, these actors have been focusing on other marginalised groups like vulnerable Lebanese communities and refugees. Although these efforts have reached some stateless people – specifically Palestinian refugees – others have been mostly excluded. Many are not aware if they are entitled to these relief packages.<sup>21</sup> In **Bangladesh**, the Urdu speaking community living in camps – who have historically been impacted by statelessness and are still discriminated and denied equal access to documentation – did not receive government support throughout the pandemic, despite extra government support being provided to citizens.<sup>22</sup> In the **US**, stateless people who lack immigration status are generally excluded from federal, or state-funded insurance, and are also ineligible for COVID-19 relief stimulus payments.<sup>23</sup> Although undocumented immigrants may be able to qualify for certain relief programmes, undocumented stateless persons are unlikely to be able to access them.<sup>24</sup>

**“In the US, stateless persons - especially those who are completely undocumented, can be highly impacted by the pandemic. There is an assumption that everyone can have an ID, even an undocumented immigrant can provide one (from their respective country). ID requirements and their arbitrary enforcement is a potential barrier to accessing a vaccine for those of us who have no country, and consequently no embassy or consulate to ask for help. Also, despite being some of the most vulnerable, stateless persons are often ineligible for benefits or relief programs that are aimed at vulnerable populations.”**

*Founding member of United Stateless, Ekaterina E*

## FOOD INSECURITY

With sources of income drying up and food systems disrupted by COVID-19, the WFP estimated in November 2020 that 271.8 million people, across 79 countries, face acute food insecurity due to the compounding effects of COVID-19.<sup>25</sup> The prognosis for 2021 is bleak, with the expectation that “unemployment, wage loss and reduced remittances will continue to drive increased hunger throughout this period” and “vulnerable households will be disproportionately affected”.<sup>26</sup> Such vulnerable households are resorting to skipping meals, taking on more debt, selling assets and cutting short their children’s education.<sup>27</sup> Yet, discrimination against stateless people in access to food relief is all too common. Most often, the problem lies in **lack of legal documentation**, which results in denial of access to food packages. In other cases, it stems from deeper, systemic and targeted discrimination and sometimes persecution.<sup>28</sup>

In **Malaysia**, for the Bajau Laut community, lack of documentation has meant exclusion from government relief efforts.<sup>29</sup> In **India**, while the government created welfare packages for citizens, declared ‘foreigners’ in the controversial Foreigner Tribunals have had their ration cards cancelled and access to welfare packages removed.<sup>30</sup>

## DISRUPTED EDUCATION

When the pandemic initially broke out, many countries closed schools, affecting 1.6 billion children. In April 2020, UNESCO estimated that 91% of those enrolled in formal education had been affected.<sup>31</sup> As of January 2021, over 800 million students – more than half the world’s student population – still faced significant disruptions to their education.<sup>32</sup> Before the pandemic, schools in numerous countries “denied non-nationals entry to the classroom or demanded fees applicable to foreigners, rendering an education beyond reach [while] in others, stateless children were refused admission to final exams or had their diplomas and graduation certificates withheld”.<sup>33</sup> School closures have created new

problems, with many stateless children excluded from virtual learning programmes because they do not have access to the necessary electronic devices and online connectivity.

In **West and Central Africa**, all governments decided to temporarily close schools during the first stages of the pandemic. This impacted over 120 million children. The interruption of their education also meant the loss of a safety net that schools provide, leaving them exposed to a higher risk of neglect, violence, and exploitation. This may create a systemic problem, as the longer marginalised children are out of school, the less likely they are to return, increasing their risk of unemployment and poverty.<sup>34</sup> In **Malaysia**, remote and online learning became a barrier to accessing education for stateless and undocumented children.<sup>35</sup> In **Thailand**, the remote location of many stateless communities and children directly impacted their ability to access online education. Where children do have access to a computer or electronic device, language barriers of the children's parents can also undermine access. With limited proficiency in the Thai language, parents have been struggling to adequately support their children with virtual classes.<sup>36</sup> In **Lebanon**, the government provided a stipend to families with children in public schools, but this scheme only covered children of Lebanese nationality, excluding Syrian refugees and stateless children.<sup>37</sup> In **Bangladesh**, the lack of internet inside urban refugee camps has restricted access to classes for children from the Urdu speaking community.<sup>38</sup>

<sup>1</sup> OHCHR, 'The Rights of Non-Citizens', (2006), available at: <https://www.ohchr.org/documents/publications/noncitizensen.pdf>.

<sup>2</sup> A. Guterres, 'This is the moment to step up for the vulnerable', United Nations, (23 March 2020), available at: [https://www.un.org/en/un-coronavirus-communications-team/moment-step-vulnerable?mc\\_cid=a950ea47e8&mc\\_eid=%5BUNIQID%5D](https://www.un.org/en/un-coronavirus-communications-team/moment-step-vulnerable?mc_cid=a950ea47e8&mc_eid=%5BUNIQID%5D).

<sup>3</sup> UN HRC, "Leave no one behind" – Don't forget your commitments in your response to the COVID-19 crisis, UN expert urges States', Reliefweb, (9 April 2020), available at: <https://reliefweb.int/report/world/leave-no-one-behind-don-t-forget-your-commitments-your-response-covid-19-crisis-un>.

<sup>4</sup> UNHCR, 'Livelihoods, food, and futures: COVID-19 and the displaced', available at: <https://storymaps.arcgis.com/stories/4b999f79628644df84ccb7c10a9edd9e>.

<sup>5</sup> UNHCR, 'Data reveals impact of COVID-19 on livelihoods and futures', UNHCR, (02 February 2021), available at: <https://www.unhcr.org/news/stories/2021/2/6017c7744/data-reveals-impact-covid-19-livelihoods-futures.html>.

<sup>6</sup> ILO, 'ILO Monitor: COVID-19 and the world of work. Seventh edition', (2021), available at: [https://www.ilo.org/wcmsp5/groups/public/-/dgreports/-/dcomm/documents/briefingnote/wcms\\_767028.pdf](https://www.ilo.org/wcmsp5/groups/public/-/dgreports/-/dcomm/documents/briefingnote/wcms_767028.pdf).

<sup>7</sup> ISI Appeal for Information on Covid-19 and Statelessness (February 2021).

<sup>8</sup> See further Chapter on Malaysia in Part 3 of this report.

<sup>9</sup> International Commission of Jurists, 'Promoting Non-Citizens' Right to Work in South Africa', (2020), available at: <https://www.icj.org/wp-content/uploads/2020/04/South-Africa-Non-Citizens-Right-to-Work-Advocacy-Analysis-Brief-2020-ENG.pdf>.

<sup>10</sup> F. C. Mukumbang, A. N. Ambe, B. O. Adebisi, 'Unspoken inequality: how COVID-19 has exacerbated existing vulnerabilities of asylum-seekers, refugees, and undocumented migrants in South Africa', International Journal for Equity in Health, vol. 19(1), (2020), available at: <https://pubmed.ncbi.nlm.nih.gov/32819364/>.

<sup>11</sup> ISI Appeal for Information on COVID-19 and Statelessness (February 2021).

<sup>12</sup> UNHCR, 'UNHCR warns stateless people risk being left behind in coronavirus response' UNHCR, (11 May 2020), available at: <https://www.unhcr.org/en-us/news/press/2020/5/5eb95222ec/unhcr-warns-stateless-people-risk-behind-coronavirus-response.html>.

<sup>13</sup> See further Chapter on North Macedonia in Part 3 of this report.

<sup>14</sup> European Network on Statelessness, 'Situation assessment of statelessness, health, and COVID-19 in Europe', (2021), available at: [https://www.statelessness.eu/sites/default/files/2021-04/ENS\\_Health\\_Situation\\_Assessment\\_Europe.pdf](https://www.statelessness.eu/sites/default/files/2021-04/ENS_Health_Situation_Assessment_Europe.pdf).

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

<sup>19</sup> Internal survey conducted by Nationality for All in collaboration with Open Society Justice Initiative and Refugee Solidarity Network (2020)

<sup>20</sup> Met-Emma, 'Lebanese Women With Foreign Spouses Denied Coronavirus Aid', Met-Emma, (13 November 2020), available at: <https://met-emma.nl/lebanese-women-with-foreign-spouses-denied-coronavirus-aid/>.

<sup>21</sup> Collective for Research & Training on Development- Action, My Nationality is a Right for Me and my Family (Campaign), Ruwad alHoukouk Frontiers Rights, Salam for Democracy and Human Rights, Equality Now, Global Campaign for Equal Nationality Rights, Institute on Statelessness and Inclusion, 'Joint Submission to the Human Rights Council at the 37th Session of the Universal Periodic Review: Lebanon', (9 July 2020), available at: [https://files.institutesi.org/UPR37\\_Lebanon.pdf](https://files.institutesi.org/UPR37_Lebanon.pdf).

<sup>22</sup> Internal survey conducted by Nationality for All in collaboration with Open Society Justice Initiative and Refugee Solidarity Network (2020). See further Chapter on Bangladesh in Part 3 of this report.

<sup>23</sup> Internal Revenue Service, 'Questions and Answers about the First Economic Impact Payment – Topic A: Eligibility', available at: <https://www.irs.gov/newsroom/questions-and-answers-about-the-first-economic-impact-payment-topic-a-eligibility>.

<sup>24</sup> A. Hargett-Robinson, 'As COVID-19 relief vote nears, undocumented immigrants struggle with no aid', ABC News, (4 March 2021), available at: <https://abcnews.go.com/US/covid-19-relief-vote-nears-undocumented-immigrants-struggle/story?id=76141285>.

<sup>25</sup> WFP, 'WFP Global Update on COVID-19: November 2020', (2020), available at: <https://www.wfp.org/publications/wfp-global-update-covid-19-november-2020>.

<sup>26</sup> Ibid.

<sup>27</sup> UNHCR, 'Data reveals impact of COVID-19 on livelihoods and futures', UNHCR, (02 February 2021), available at: <https://www.unhcr.org/news/stories/2021/2/6017c7744/data-reveals-impact-covid-19-livelihoods-futures.html>.

<sup>28</sup> L. van Waas and O. Spearman, 'The life-or-death cost of being stateless in a global pandemic', Kaldor Centre for International Refugee Law, (9 July 2020), available at: <https://www.kaldorcentre.unsw.edu.au/publication/life-or-death-cost-being-stateless-global-pandemic>.

<sup>29</sup> See further Chapter on Malaysia in Part 3 of this report.

<sup>30</sup> See further Chapter on India in Part 3 of this report.

<sup>31</sup> UNHCR, 'Livelihoods, food, and futures: COVID-19 and the displaced', available at: <https://storymaps.arcgis.com/stories/4b999f79628644df84ccb7c10a9edd9e>.

<sup>32</sup> UNESCO, 'UNESCO figures show two thirds of an academic year lost on average worldwide due to Covid-19 school closures', UNESCO, (25 January 2021), available at: <https://en.unesco.org/news/unesco-figures-show-two-thirds-academic-year-lost-average-worldwide-due-covid-19-school>.

<sup>33</sup> UNHCR, 'I am here, I belong. The urgent need to end childhood statelessness', (2015), available at: [https://www.unhcr.org/ibelong/wp-content/uploads/2015/10-StatelessReport\\_ENG16.pdf](https://www.unhcr.org/ibelong/wp-content/uploads/2015/10-StatelessReport_ENG16.pdf).

<sup>34</sup> UNHCR, 'Impact of COVID-19 on the protection of displaced and stateless populations – West and Central Africa', (2020), available at: <https://reliefweb.int/report/world/impact-covid-19-protection-displaced-and-stateless-populations-west-and-central-africa>.

<sup>35</sup> Internal survey conducted by Nationality for All in collaboration with Open Society Justice Initiative and Refugee Solidarity Network (2020).

<sup>36</sup> Ibid.

<sup>37</sup> Collective for Research & Training on Development- Action, My Nationality is a Right for Me and my Family (Campaign), Ruwad alHoukouk Frontiers Rights, Salam for Democracy and Human Rights, Equality Now, Global Campaign for Equal Nationality Rights, Institute on Statelessness and Inclusion, 'Joint Submission to the Human Rights Council at the 37th Session of the Universal Periodic Review: Lebanon', (9 July 2020), available at: [https://files.institutesi.org/UPR37\\_Lebanon.pdf](https://files.institutesi.org/UPR37_Lebanon.pdf).

<sup>38</sup> Internal survey conducted by Nationality for All in collaboration with Open Society Justice Initiative and Refugee Solidarity Network (2020). See further Chapter on Bangladesh in Part 3 of this report.

# CIVIL AND POLITICAL RIGHTS

**“The ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights.”**

*Preamble to the ICCPR*

Civil and political rights include the right to freedom of movement, liberty and security, freedom of expression and freedom of assembly. Most states have imposed COVID-19 restrictions, including lockdowns, curfews and travel bans, which limit the enjoyment of these rights. According to Article 4 of the ICCPR, derogation from protection of these rights can occur in times of public emergency, but only if such derogation is in line with international standards and is non-discriminatory.<sup>1</sup> It is of deep concern that some states have deployed emergency powers with little consideration for the disproportionate impact upon vulnerable groups such as the stateless.

In 2020, we reported on the disproportionate impact that COVID-19 restrictions such as border closures, movement restrictions and detention, have on the stateless.<sup>2</sup> We recommended that key stakeholders:

*Ensure that border closures do not result in family separation, including by allowing non-citizen spouses and children to re-enter the territory; ensure that stateless persons with strong ties to a territory, including residence status, are allowed to return; provide legal status and protection to those deemed to be irregularly on the territory; and ensure that where livelihoods are damaged by the imposition of movement restrictions, those affected are adequately compensated.*

and

*Ensure that statelessness determination procedures and asylum processes continue to operate during the pandemic; that increased policing powers are proportionate and do not result in the arbitrary targeting of vulnerable groups including the stateless; that immigration detainees are released with adequate status and support; and less persons, migrants and others are not detained as part of the COVID-19 response.*

A year later, ongoing restrictions and rights violations continue to have a devastating impact on stateless people across the world who are confronted with the direct impact of these measures and must deal with weakened resilience as the crisis endures. Of the **CESF Consortium** Project focus countries, arbitrary detention, the risk of arrest and fear of harassment by officials has impacted stateless groups and those whose nationality is at risk in India, Malaysia and among Rohingya communities.

**“Emergency declarations based on the COVID-19 outbreak should not be used as a basis to target particular individuals or groups, including minorities. Measures taken must not involve prohibited discrimination on any grounds such as race, colour, sex, sexual orientation and gender identity, disability, language, religion, political or other opinion, national or social origin, property, birth or other status.”<sup>3</sup>**

*The Office of the United Nations  
High Commissioner for Human Rights*

## MOVEMENT RESTRICTIONS

The ICCPR affirms that everyone has the right to free movement, to leave any state and to return to their own country.<sup>4</sup> This right also extends to stateless people who, even in the absence of nationality, have a country that is their ‘own’.<sup>5</sup> Restrictions to free movement may be provided for by law, in times of public emergency and situations where these are necessary to protect national security, public order or public health, but only if such measures do not discriminate and are otherwise in line with international law.<sup>6</sup>

THIS CHAPTER LOOKS MORE CLOSELY AT MOVEMENT RESTRICTIONS, ARBITRARY DETENTION AND THE FREEDOM OF EXPRESSION AND ASSEMBLY, AND MAKES THE FOLLOWING CALL TO ACTION:

**ENSURE THAT BORDER CLOSURES DO NOT RESULT IN FAMILY SEPARATION, INCLUDING BY ALLOWING NON-CITIZEN SPOUSES AND CHILDREN TO RE-ENTER COUNTRIES; ENSURE THAT STATELESS PEOPLE WITH RESIDENCE STATUS OR STRONG TIES TO A TERRITORY ARE ALLOWED TO RETURN; PROVIDE LEGAL STATUS AND PROTECTION TO THOSE DEEMED TO BE IRREGULARLY ON THE TERRITORY; AND ENSURE THAT WHERE LIVELIHOODS ARE DAMAGED BY THE IMPOSITION OF MOVEMENT RESTRICTIONS, THOSE AFFECTED ARE ADEQUATELY COMPENSATED.**

AND

**ENSURE THAT INCREASED POLICING POWERS ARE PROPORTIONATE AND DO NOT RESULT IN STATELESS PEOPLE BEING ARBITRARILY TARGETED; THAT IMMIGRATION DETAINEES ARE RELEASED WITH ADEQUATE STATUS AND SUPPORT, AND ARE NOT SUBJECT TO BURDENSOME REPORTING REQUIREMENTS; THAT STATELESS PEOPLE, MIGRANTS AND OTHERS ARE NOT DETAINED AS PART OF COVID-19 RESPONSES; THAT COVID-19 MEASURES ARE NOT USED TO CLAMP DOWN ON THE FREEDOM OF EXPRESSION AND ASSEMBLY OF STATELESS PEOPLE AND THEIR ALLIES; AND THAT STATELESS PEOPLE HAVE EQUAL AND EFFECTIVE ACCESS TO JUSTICE TO CHALLENGE RIGHTS DEPRIVATIONS IN TIMES OF COVID-19.**

After a year of restrictive measures implemented by governments worldwide, it has become clear just how closely freedom of movement is linked to citizenship or legal status. The mobility prospects of groups with insecure legal status or who lack nationality, have been severely curtailed, in stark contrast to citizens, who have been prioritised by states in their COVID-19 responses.<sup>7</sup> In many cases, borders have remained open only for citizens; with mobility restrictions having an evidently differential impact on different categories of non-citizens.<sup>8</sup> The pandemic is changing our conception of citizenship,<sup>9</sup> with new movement restrictions widening the gap between ‘movers’ and ‘non-movers’ – i.e. between those with resources, opportunities and legal status who can move freely, and those whose movement is restricted by COVID-19-related or pre-existing travel and visa restrictions, and limited resources.<sup>10</sup> Now, with the controversial roll-out of ‘vaccine passports’ in some countries,<sup>11</sup> mobility may be further restricted for those who cannot access the vaccine – leaving vulnerable populations such as the stateless even further behind.<sup>12</sup>

Early on in the pandemic, border closures caused particular problems for families impacted by gender discriminatory nationality laws in **Malaysia**,<sup>13</sup> as non-citizen or stateless family members were unable to return to reunite with their families.<sup>14</sup> These discriminatory policies did not take into consideration other factors such as residence, strong (e.g. family) ties to the state or the long-standing denial of access to nationality. Those who previously moved to another country for work also face an increased risk of deportation. Over the course of the last year, the civil society has worked tirelessly to address this issue engaging in extensive lobbying and setting up online application portals for non-citizen spouses and children of Malaysians to appeal to enter Malaysia. Their work resulted in hundreds of family reunifications since June 2020.<sup>15</sup>

**“A state’s pursuit of legitimate health goals must respect the fundamental principle of non-refoulement, including non-return to a real risk of persecution, arbitrary deprivation of life, torture, or other cruel, inhuman, or degrading treatment.”**

*Principles of Protection  
for Migrants, Refugees,  
and Other Displaced Persons, Article 6*

Some COVID-19 management tools, such as border closures, travel restrictions, and bans on asylum,<sup>16</sup> can have potentially fatal consequences for vulnerable populations such as the stateless, migrants and refugees.<sup>17</sup> Reports of various countries, including **Malaysia** and **Thailand**,<sup>18</sup> pushing back boats of Rohingya refugees out to sea, is an example of states justifying stark failures to protect, on the basis of COVID-19.<sup>19</sup> In **Europe**, over 2,000 refugee deaths have been linked to illegal push backs by EU member states of those seeking protection, again, using COVID-19 as a ‘justification’ to deny entry.<sup>20</sup> Further, in **Greece**, mobility restrictions for those living in refugee camps or asylum centres, including the stateless, meant that the provision of health services was extremely limited, as people could not travel to access quality healthcare.<sup>21</sup>

**“In responding to the COVID-19 pandemic, states must respect the liberty of movement of all persons within their territory.”**

*Principles of Protection for Migrants, Refugees,  
and Other Displaced Persons, Article 5*

COVID-19 has also increased the socioeconomic vulnerabilities<sup>22</sup> of those who depend on movement for survival. This particularly affects stateless people with insecure legal status, who tend to work in informal sectors that are most impacted by lockdowns and movement restrictions.<sup>23</sup> In **Malaysia**,<sup>24</sup> for example, members of the Bajau Laut community, who depend on fishing for their livelihoods, are afraid of being detained and deported if they go to the sea to fish.<sup>25</sup> In some cases, the consequences of violating restrictions, even when necessity dictates, can be severe as states have also used COVID-19 as an excuse to justify stronger powers.<sup>26</sup>

Movement restrictions between the territory of **Abkhazia** and the territory of Georgia have caused multiple problems for ethnic Georgians residing in Abkhazia, many of whom have been denied documentation and whose nationality is at risk. Many have been attempting crossing into Georgia during the pandemic to access healthcare,<sup>27</sup> for livelihood

purposes, to access education, family reunification or to renew their Georgian social card, which enables access to IDP allowance.<sup>28</sup> However, due to the authorities in Abkhazia closing border checkpoints at the beginning of the pandemic, many have been forced to cross the border illicitly

by way of a dangerous river crossing. Several people have died while attempting this journey. In March 2021, authorities in Abkhazia partially lifted movement restrictions to allow socially vulnerable people to cross from Georgia to Abkhazia. However, those in Abkhazia also face restrictions put in place by Georgian authorities; and those travelling from Abkhazia are required to quarantine for five days.<sup>30</sup>

#### ARBITRARY DETENTION

**“Detention of migrants, refugees, and other displaced persons is impermissible where such detention would expose them to serious risks to their health and life due to the COVID-19 pandemic.”**

*Principles of Protection for Migrants, Refugees,  
and Other Displaced Persons, Article 7*

Article 9 of the ICCPR asserts that nobody should be arbitrarily detained.<sup>31</sup> Identifying stateless people and ensuring adequate protection are necessary prerequisites for the respect of their right to liberty and security.<sup>32</sup> Despite this, stateless people often face prolonged, or indefinite detention.<sup>33</sup>

Conditions in detention centres are of particular concern during a global pandemic. People in detention are at high risk of infection due to crowded conditions, inability to practice social distancing and limited access to preventive measures.<sup>34</sup> In **Australia**, stateless people in immigration detention risk being infected due to the lack of social distancing, inability to self-isolate and lack of protective equipment.<sup>35</sup> Many of those detained have pre-existing health conditions,<sup>36</sup> leaving them more vulnerable to contracting COVID-19; moreover, long-term detention also contributes to particularly poor health.<sup>37</sup> 38.3% of detainees have been detained for an average of two years.<sup>38</sup> The Commonwealth Ombudsman issued a statement in June 2020 expressing concern regarding the high numbers of people in detention.<sup>39</sup> In **Thailand**, many Rohingya are held in detention and many have tested positive due to overcrowded facilities, poor sanitation and hygiene.<sup>40</sup> In the **US**, stateless persons with no temporary protection, DACA, or any immigration status are vulnerable to detention. Many noncitizens have remained in detention in crowded conditions, unable to socially distance and self-isolate due to the authorities’ refusal to release them, despite alternatives being available.<sup>42</sup> In **South Africa**, repatriation centres and prison stations are prone to overcrowding and are now high-risk sites for the spread of disease.<sup>43</sup> Human rights groups have called for a moratorium on the detention and deportation of migrants.<sup>44</sup> LHR’s Detention Unit has identified the arrest of an undocumented stateless migrant during lockdown. South Africa does not have an SDP, so in cases of undocumented people being arrested, they are often referred to as ‘irregular migrants.’ There is therefore little data of the true extent of how many stateless people have been arrested and detained during COVID-19.

Due to concerns of overcrowding, and poor conditions, some European countries, such as Belgium, France, the Netherlands, Spain and Sweden, have released people from immigration detention. However, adequate support is not always provided to former detainees, who are not provided accommodation and risk homelessness and poverty.<sup>45</sup> Some countries have denied access to independent monitors to monitor detention conditions.<sup>46</sup> In **Malaysia**, more than 700 children were reported to be held in detention facilities, without access to UNHCR.<sup>47</sup> In the Netherlands, there was a reduction in medical care within refugee camps and immigration detention centres, where some stateless people reside, due to lack of NGO access.<sup>48</sup>

#### FREEDOM OF EXPRESSION AND ASSEMBLY

Everyone has the right of free speech and peaceful assembly, as set out in Articles 19 and 21 of the ICCPR. The pandemic has been used as an excuse to restrict these rights by cracking down on protests and silencing people. For

#### GOOD PRACTICE

ON 22 MAY 2021, **THE US** RE-DESIGNATED TPS FOR HAITIANS FOR A PERIOD OF 18 MONTHS, BECAUSE OF THE ADVERSE SECURITY SITUATION IN HAITI. THIS COULD POTENTIALLY HERALD A RECONSIDERATION FROM THE BIDEN ADMINISTRATION OF THE CONTINUED DEPORTATION REGIME FOR HAITIANS, REMEMBERING THAT AT LEAST ONE STATELESS PERSON WAS INCLUDED IN DEPORTATIONS TO HAITI FROM THE UNITED STATES IN EARLY 2021.<sup>41</sup>

#### GOOD PRACTICE

IN **CANADA**, THE CBSA RELEASED MORE THAN HALF OF ITS DETAINED MIGRANTS, WITH MANY RELEASED INTO ATDS.<sup>29</sup>

**“FREEDOM OF OPINION AND FREEDOM OF EXPRESSION ARE INDISPENSABLE CONDITIONS FOR THE FULL DEVELOPMENT OF THE PERSON. THEY ARE ESSENTIAL FOR ANY SOCIETY.”**

CCPR GENERAL COMMENT NO. 34:  
FREEDOMS OF OPINION  
AND EXPRESSION, ARTICLE 19

**“THE FUNDAMENTAL HUMAN RIGHT OF PEACEFUL ASSEMBLY ENABLES INDIVIDUALS TO EXPRESS THEMSELVES COLLECTIVELY TO PARTICIPATE IN SHAPING THEIR SOCIETIES.”**

CCPR GENERAL COMMENT NO. 37:  
THE RIGHT OF PEACEFUL ASSEMBLY,  
ARTICLE 21

example, in **Kyrgyzstan**,<sup>49</sup> the authorities reportedly used apps designed to track COVID-19 cases to also listen in on people's conversations.<sup>50</sup> In February 2021, the UN High Commissioner for Human Rights, Michelle Bachelet, recalled the importance of the UN Guidance Note on protecting and promoting civic space during the COVID-19 crisis.<sup>51</sup> However, ongoing restrictive measures have constricted civil society space for activism on the rights of stateless people and the right to a nationality. In **Kuwait**, the Bidoon, who have been arbitrarily denied access to Kuwaiti nationality, face human rights violations due to the impossibility of expressing themselves and meeting freely. In early 2021, two Bidoon activists were sentenced to ten years of imprisonment for organising a peaceful demonstration and publishing information on social media.<sup>52</sup>

<sup>1</sup> International Covenant on Civil and Political Rights, (1966), Article 4(1).

<sup>2</sup> Institute on Statelessness and Inclusion, 'Stateless in a Global Pandemic: Impact Report', (2020), available at: [https://files.institutiesi.org/Covid19\\_Stateless\\_Impact\\_Report.pdf](https://files.institutiesi.org/Covid19_Stateless_Impact_Report.pdf).

<sup>3</sup> OHCHR, 'Emergency Measures and COVID-19: Guidance', (2020), available at: [https://www.ohchr.org/Documents/Events/EmergencyMeasures\\_COVID19.pdf](https://www.ohchr.org/Documents/Events/EmergencyMeasures_COVID19.pdf).

<sup>4</sup> International Covenant on Civil and Political Rights, (1966), Article 12.

<sup>5</sup> OHCHR, 'CCPR General Comment No. 27: Article 12 (Freedom of Movement)', available at: <https://www.refworld.org/pdfid/45139c394.pdf>.

<sup>6</sup> International Covenant on Civil and Political Rights, (1966), Article 4.

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<sup>13</sup> See further Chapter on Malaysia in Part 3 of this report.

<sup>14</sup> Institute on Statelessness and Inclusion, 'Stateless in a Global Pandemic: Impact Report', (2020), available at: [https://files.institutiesi.org/Covid19\\_Stateless\\_Impact\\_Report.pdf](https://files.institutiesi.org/Covid19_Stateless_Impact_Report.pdf).

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<sup>50</sup> E. Lemon and B. Jardin, 'Across Central Asia, police states expand under the cover of COVID-19', World Politics Review, (14 July 2020), available at: <https://www.worldpoliticsreview.com/articles/28910/across-central-asia-police-states-expand-under-the-cover-of-covid-19>.

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# PART 3

COUNTRY OVERVIEW

# BANGLADESH

This chapter focuses on the COVID-19 impact on the Urdu speaking community commonly referred to as the 'Bihari', who experienced many decades of statelessness, the legacy of which endures to this day. Their situation is explored through the lens of the work of CESF Consortium Member, CoM. Please note that hundreds of thousands of stateless Rohingya refugees also live in Bangladesh.<sup>2</sup>

This community mostly fled to Bangladesh from Bihar, during the partition of the sub-continent in 1947. Many of this community chose to side with Pakistan in the 1971 Bangladesh Liberation War, leading to their loyalty to the new state being questioned. Bangladeshi authorities later recognised them as waiting to be 'repatriated' back to Pakistan. As a result, they were not recognised as Bangladeshi and most were rendered stateless. In 2008, Bangladesh's Supreme Court recognised Biharis' right to Bangladeshi citizenship and ordered the issuance of ID cards and their inclusion on voter rolls. However, they still face discrimination in access to citizenship rights, with many unable to access civil registration services or passports. The community still endures structural inequality and is subjected to prejudice which prevents its members from enjoying the rights and services they are entitled to. They face poor sanitation conditions, inadequate access to clean water, inadequate housing, high levels of poverty and unemployment and poor access to education.<sup>3</sup> At present, there are nearly 300,000 members from the Urdu-speaking community residing in Bangladesh, approximately 151,000 of them living across 116 urban 'refugee camps'<sup>4</sup> established after 1971.

The conditions within which the Bihari are forced to live have been aggravated by the COVID-19 pandemic. On 26 March 2020, Bangladesh implemented its first national lockdown which was later extended to 30 May.<sup>5</sup> The country has since gone through various waves of COVID-19 with the latest lockdown being implemented on 14 April 2021. Bangladesh has a high poverty rate, high population density, poor public health infrastructure and a lack of clean water and other life resources which increases the risk of COVID-19 transmission. The Urdu speaking community, in particular, those living in the 'refugee camps', are at heightened risk because of their living conditions and lack of access to services.

## EQUALITY AND NON-DISCRIMINATION

There has been a rise in discrimination and intolerance directed towards those living in the camps since the beginning of the pandemic. Pre-pandemic, the Bihari faced social alienation because of their ancestry, including mockery, harassment and discrimination. Many Biharis try to hide their identity by speaking only Bangla in public, but their national identification cards list their camp address. Employers often decline to employ Biharis, particularly for government jobs, or demand large bribes for positions and the difficulties in accessing formal employment often compel Bihari parents to remove their children from school so they can earn income.

**"In April, a COVID-19 positive case was identified in Hatikhana Camp, Saidpur. After that new, local people did not want to ride on Rickshaw of Ial Biharis camp dweller. Before [they] ride on the Rickshaw they ask "are you Bihari or Bengali"?"<sup>6</sup>**

*FGD Participant, Female,  
36, Hatikhana Camp, Saidur*

## RIGHT TO HEALTH

In the second week of April 2020 two residents of Geneva Camp<sup>7</sup> tested positive for COVID-19. They were not allowed to isolate in government quarantine centres.<sup>8</sup> Community leaders believe this is due to discrimination against this minority group. Further, neighbourhood hospitals have refused to admit COVID-19 patients. They have reportedly also denied healthcare to non-COVID-19 patients from the Geneva camp. As of July 2020, camp residents were granted access to government hospitals, however, they still do not have information or access to government run quarantine centres.

**"My 6-year-old daughter was suffering from a cold and severe ear pain. I went to government hospital for treatment, but I did not get the hospital ticket when I said my address was Mirpur Bihari camp. The registrar refused me and said, "camps and camp dwellers are most vulnerable for the corona virus".<sup>9</sup>**

*FGD participant,  
Female, 39, Mirpur*

## SOCIO-ECONOMIC RIGHTS

**Exclusion from Emergency Relief:** During the lockdown, Bihari camp residents were generally excluded from government relief schemes. For example, in April 2020 the government launched a cash distribution scheme for those living in poverty, but most in the 'refugee camps' were excluded on the basis of their camp address and being identified as members of the Urdu speaking community. The government implemented a low-cost food relief scheme for daily wage earners to purchase rice at reduced cost.<sup>10</sup> However camp residents reported that they did not benefit from this scheme.<sup>11</sup> The local Bengali and Diaspora Bengali and Bihari community, as well as a few NGOs, provided food support to the camp dwellers who were unable to provide it for themselves.

**Lost Livelihoods:** The disproportionately severe impact on Urdu-speaking people's livelihood during this pandemic has been in part, due to the discriminatory social and legal structures that confine them to the informal work sector. Many members of the community are barbers, butchers, rickshaw pullers, domestic workers, drivers and handicraft workers and a large number of the women work as housemaids outside of the camp. During the lockdowns the majority of those working as maids lost their jobs due to

THIS CHAPTER LOOKS MORE CLOSELY AT EQUALITY AND NON-DISCRIMINATION; RIGHT TO HEALTH AND SOCIO-ECONOMIC RIGHTS,<sup>1</sup> AND MAKES THE FOLLOWING CALL TO ACTION TO THE GOVERNMENT AND OTHER RELEVANT STAKEHOLDERS:

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**ENSURE EQUAL ACCESS TO COVID-19 VACCINATIONS TO ALL RESIDENTS, INCLUDING MEMBERS OF THE BIHARI COMMUNITY AND ALL OTHER STATELESS PEOPLE AND REFUGEES.**

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**ENSURE EQUAL ACCESS TO ALL HEALTHCARE - EMERGENCY AND ROUTINE, COVID-19 AND NON-COVID-19 - TO THE BIHARI COMMUNITY AND ALL OTHER STATELESS PEOPLE AND REFUGEES.**

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**ENSURE THE BIHARI COMMUNITY AND ALL OTHER STATELESS PEOPLE AND REFUGEES HAVE EQUAL ACCESS TO QUARANTINE FACILITIES IN CASES OF POSITIVE OR SUSPECTED CASES OF COVID-19 AND HAVE ADEQUATE ACCESS TO THE DISTRIBUTION OF PPE INCLUDING MASKS, SOAPS AND HAND SANITISER IN REFUGEE CAMPS ACROSS BANGLADESH.**

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**PROVIDE EQUAL ACCESS TO STATE RELIEF EFFORTS REGARDING FOOD SECURITY FOR THE BIHARI COMMUNITY AND ALL OTHER STATELESS PEOPLE AND REFUGEES.**

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**REVISE THE 2016 DRAFT CITIZENSHIP BILL TO ADDRESS ALL ISSUES REGARDING THE RIGHT TO NATIONALITY AND STATELESSNESS AND PRODUCE A BILL WHICH ALIGNS WITH ALL RELEVANT INTERNATIONAL STANDARDS.**

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a common perception among employers that the camps are high risk areas.<sup>12</sup> Others working in the informal sector also lost their jobs when the first cases were reported in the Geneva camp. Most people in the refugee camps live below the poverty line and continue to struggle to ensure basic necessities for survival including food and face a real risk of starvation.

**“I work as a handicraft worker in a boutique house along with three other local Bengali staff members. After the lockdown, the owner said to stop [coming to] work and [that she will] call [me] after the lockdown. After the lockdown she called the three local Bengali staff, but she did not call me. Then, I went to the workplace to join the work, she [told me to] get out and said [it was because] you are living in [the] camp and [the] camps are [the] most vulnerable areas of Corona virus”.<sup>13</sup>**

*FGD Participant,  
Male, 37, Mohammadpur*

**“The Bihari Urdu speaking camp dwellers are an extremely poor community in Bangladesh because they tend to work in the informal sector. Due to COVID-19 now they are living under the poverty line.”**

*CoM Chief Executive,  
Khalid Hussain*

**Disrupted Education:** One of the consequences of the lockdowns implemented as a result of COVID-19 is the move to remote online learning. In Bangladesh, the lack of internet inside camps means that children from the Urdu speaking community have limited access to online classes.<sup>14</sup>

## STATELESSNESS AND THE RIGHT TO NATIONALITY IN BANGLADESH

The laws governing citizenship and nationality in Bangladesh are the 1972 Constitution<sup>15</sup>, 1951 Citizenship Act,<sup>16</sup> and 1972 Bangladesh Citizenship Order<sup>17</sup> (later amended by the Bangladesh Citizenship Rule 1978).<sup>18</sup> Article 2B of the 1978 Citizenship Rule provides that an individual is not allowed to acquire citizenship if he ‘owes, affirms or acknowledges, expressly or by conduct, allegiance to a foreign state’, regardless of whether an individual was a resident of pre-1971 Bangladesh or not.<sup>19</sup> This provision was utilised to deny the Bihari community their right to nationality. In its landmark ruling in the 2008 case of *Md. Sadaqat Khan and others v. Chief Election Commissioner*, the Bangladesh Supreme Court affirmed the citizenship rights of the Urdu-speaking community. The judgment further ordered the Election Commission to include the community in the electoral rolls and provide them with National ID Cards. However, the community still faces difficulties in exercising their citizenship rights in practice. In February 2016, the Cabinet of Bangladesh presented a Draft Citizenship Bill which can cause statelessness as it clashes with the existing domestic legal framework, including the rights of citizens prescribed by the Constitution. The Draft Bill does not contain safeguards against childhood statelessness; children born abroad and not registered within two years are denied Bangladeshi nationality, and children can be denied nationality if a parent engages in an act of war or other activity against the state. For the

Urdu speaking community specifically, this Bill is viewed as a big threat to the 2008 judgment, as Section 3 stipulates that the Bill shall prevail if there are inconsistencies with any other legal instrument, decree, judgment etc.<sup>20</sup> If the 2008 judgment is overturned, the citizenship of the Bihari community will be, once again, under review.

## THE CESF CONSORTIUM PROJECT

This project, carried out by CoM, is working towards understanding the impact of COVID-19 on the Urdu speaking community. By conducting research through a baseline survey the project has gained a better understanding of the impact of COVID-19 on the community. The research findings are being used to train paralegals and volunteers to become ‘rights defenders.’ Rights advocates undertake casework in which they will assist community members through legal procedures, bridging the gap between the community and the government. Their work facilitates access to essential government services and provides support to the formerly stateless Bihari community, stateless persons or those at risk of statelessness through a variety of social challenges such as domestic violence. This project aims to collaborate with legal organisations, engage with key stakeholders including District Commissioners and representatives of local government, the National Human Rights Commission, the Ministry of Relief and Rehabilitation, Members of Parliament and relevant UN Agencies, including UNHCR and UNDP. By working with and advocating before such stakeholders, the project aims to promote the prioritisation of this community in COVID-19 relief and raise concerns regarding the 2016 Draft Citizenship Bill.

Council of Minorities (CoM) is a human rights organisation working towards helping different minority groups in Bangladesh to realise their human rights. Since 2013, the organisation has been advocating for the rights of the Urdu-speaking, formerly stateless people held in various detention centres across Bangladesh.

## Impact

The project thus far has appointed ten human rights defenders in Mohammadpur, Mirpur, Rangpur and Saidpur. They are tasked with daily door to door outreach inside the camps and disseminating information on COVID-19, for example how to protect against infection, using masks and PPE correctly and how to maintain social distancing where possible in the camps. To date, 24,970 camp residents have been reached through their efforts. To date they have further organised 50 community group meetings in the camps reaching 750 residents. They have further been raising awareness on COVID-19 vaccinations; helping to register people online so they can access the vaccine and subsequently have, to date, taken 42 residents to government hospitals to receive their vaccines.

## Case Study

In January 2021, Bangladesh began the roll out of the COVID-19 vaccine for those aged 40 and above. In order to secure a vaccination appointment one must register online. Mr. Mohammad Hashmat is a 55-year-old resident of Geneva Camp and a tailor by profession. He wanted to get the COVID-19 vaccine but did not know how to register online. As part of the CoM outreach activities, human rights defender, Mr. Sojib, visited Mr. Hashmat and helped him to register. Four days later, Mr. Sojib returned to take Mr. Hashmat to the hospital to receive his first dose of the vaccine.

**“Due to your work, we have learned how to protect ourselves, use masks and maintain social distance while we gather outside. I have even been able to get my first dose of the vaccine.”**

*CoM CESF project outreach recipient,  
Mohammad Hashmat*

<sup>1</sup> See further Chapter on Equality and Non-Discrimination, Chapter on Right to Health and Chapter on Socio-Economic Rights in Part 2 of this report.

<sup>2</sup> See further chapter on Rohingya in Refugee Situations in Part 3 of this report.

<sup>3</sup> Institute on Statelessness and Inclusion and Statelessness Network Asia Pacific, ‘Joint Submission to the Human Rights Council at the 30th Session of the Universal Periodic Review: Bangladesh’, (5 October 2017), available at: [https://files.institutiesi.org/UPR30\\_Bangladesh.pdf](https://files.institutiesi.org/UPR30_Bangladesh.pdf).

<sup>4</sup> Other commonly used terms for these camps are ‘refugee camps’, ‘Bihari camps’, ‘urban camps’, ‘urban settlements’.

<sup>5</sup> GardaWorld, ‘Bangladesh nation-wide lockdown extended until May 30 as COVID-19 spreads to Cox’s Bazar refugee camps / update 12’, GardaWorld, (15 May 2020), available at: <https://www.garda.com/crisis24/news-alerts/342516/bangladesh-nationwide-lockdown-extended-until-may-30-as-covid-19-spreads-to-coxs-bazar-refugee-camps-update-12>.

<sup>6</sup> K. Hussain, ‘Focus Group Discussion (FGD) COVID-19 Impact on The Bihari – Urdu Speaking Linguistic Minority of Bangladesh’, (2020), unpublished, on file with ISI.

<sup>7</sup> Geneva Camp is the largest refugee camp in Dhaka.

<sup>8</sup> Institute on Statelessness and Inclusion, ‘Stateless in a Global Pandemic: Impact Report’, (2020), available at: [https://files.institutiesi.org/Covid19\\_Stateless\\_Impact\\_Report.pdf](https://files.institutiesi.org/Covid19_Stateless_Impact_Report.pdf).

<sup>9</sup> K. Hussain, ‘Focus Group Discussion (FGD) COVID-19 Impact on The Bihari – Urdu Speaking Linguistic Minority of Bangladesh’, (2020), unpublished, on file with ISI.

<sup>10</sup> S. Mamun, ‘Rice at Tk10/kg: Will the real destitute get the benefit?’ Dhaka Tribune (3 April 2020), available at: <https://www.dhakatribune.com/bangladesh/2020/04/03/rice-at-tk10-kg-will-the-real-destitute-get-the-benefit>.

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<sup>12</sup> *Ibid*

<sup>13</sup> *Ibid*

<sup>14</sup> Internal Survey conducted by Nationality for All, Open Society Justice Initiative and Refugee Solidarity Network, (2020).

<sup>15</sup> The Constitution of the People’s Republic of Bangladesh, (1972), available at: <http://bdlaws.minlaw.gov.bd/act-367.html>

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<sup>17</sup> The Bangladesh Citizenship (Temporary Provisions) Order, (1972), available at: <https://www.refworld.org/docid/3ae6b51f10.html>.

<sup>18</sup> Bangladesh Citizenship (Temporary Provisions) Rules (1978), available at: [https://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=&p\\_isn=87973](https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=&p_isn=87973).

<sup>19</sup> R. Hoque, ‘Report on Citizenship Law: Bangladesh’, (2016), available at: [https://cadmus.eui.eu/bitstream/handle/1814/44545/EudoCit\\_2016\\_14Bangladesh.pdf](https://cadmus.eui.eu/bitstream/handle/1814/44545/EudoCit_2016_14Bangladesh.pdf).

<sup>20</sup> Institute on Statelessness and Inclusion and Statelessness Network Asia Pacific, ‘Joint Submission to the Human Rights Council at the 30th Session of the Universal Periodic Review: Bangladesh’, (5 October 2017), available at: [https://files.institutiesi.org/UPR30\\_Bangladesh.pdf](https://files.institutiesi.org/UPR30_Bangladesh.pdf).

# CENTRAL ASIA

**“In the context of a severe economic crisis aggravated by a pandemic and subsequent isolation both at the country level and at the level of the individual, each state tries to focus, first of all, on the needs of its citizens, and this is a reality that is reflected in the actions of governments. But the experiences of the pandemic have shown that, first of all, in order to effectively ensure human rights on the one hand, while combatting the pandemic and improve the situation on the other, each country needs measures aimed at creating an equitable mechanism for distributing equal assistance to everyone, regardless of the status of people.”**

*UNHCR Nansen Award Laureate,  
Coordinator of Central Asian Network on Statelessness, Azizbek Ashurov*

The dissolution of the Soviet Union in 1991 and consequent independence of the five Central Asian states led to an increase in migration and large-scale statelessness. After its dissolution, 280 million people lost their citizenship including 60 million in Kazakhstan, Kyrgyzstan, Turkmenistan, Tajikistan and Uzbekistan. The statelessness problem in the region is largely a result of state succession with thousands left stateless or with undetermined nationality after failing to acquire the nationality of the states with which they had ties through birth, decent or habitual residence. Also impacted were labour migrants, who, on trying to move back to their ethnic homelands were no longer considered citizens as they left these homelands when they were citizens of Soviet Russia with Soviet documentation and therefore were not considered citizens of / did not hold documentation of the territories as they were re-formed to be.<sup>2</sup>

Those with nationality issues in Central Asia have faced significant hurdles during the COVID-19 pandemic. They were excluded from relief measures, as governments adopted a citizens first approach.

## **RIGHT TO NATIONALITY, DOCUMENTATION AND LEGAL STATUS**

The imposed COVID-19 measures in Kazakhstan, Kyrgyzstan and Uzbekistan were introduced via states of emergency. This affected the public documentation system, leading to the closure or significant reduction of civil registration services in some regions. As a result of actions of the civil sector and foreign consular offices, positive steps were taken in Kazakhstan<sup>3</sup> and Kyrgyzstan<sup>4</sup> where measures were taken to simplify the registration of foreigners (including stateless, undocumented persons and those with underdetermined nationality etc.), exempting them from renewing registration during quarantine.

## **RIGHT TO HEALTH**

While the stateless, undocumented or those with undetermined nationality issues with resident status do have access to medical services if they have health insurance, the cost of medical services and products have risen significantly. They tend to work in the informal sector with a low income, the cost of healthcare was already a barrier to access pre-COVID-19. The lack of documentation excludes many from accessing health services except in emergencies. Even in emergencies, all follow-up medical care is inaccessible. This has remained the same during COVID-19 despite the increased need for access to medical services and the likelihood of

prolonged healthcare needs. Kazakhstani legislation does provide foreigners and stateless persons access to free medical care when afflicted with acute diseases which pose a threat to others.<sup>5</sup> Plans for universal vaccination in Central Asian countries have not yet been approved. Many people in Central Asia who have nationality issues are not currently included in the vaccination plan in Kazakhstan, Kyrgyzstan and Tajikistan, with civil society groups dedicating their focus to strengthen such campaigns. It is encouraging that the governments of Turkmenistan and Uzbekistan have already included asylum seekers, refugees and stateless people in their national vaccination plans against COVID-19 on an equal basis with citizens.<sup>6</sup>

## **SOCIO-ECONOMIC RIGHTS**

**Exclusion from Emergency Relief:** Due to a combination of deep-rooted structural discrimination, a lack of awareness and administrative problems, those without documentation are excluded from relief measures, including UN initiatives carried out via government bodies. Throughout the pandemic, governments have adopted a citizens first approach, excluding the stateless, those at risk of statelessness, the undocumented and those with underdetermined nationality from all forms of government help including food and financial support, protective measures, medical tests, social services and economic stimulus packages. Governments have not defined the categories of people who may need additional support during the pandemic and therefore by default, such support has been provided only to those who already benefit from social support, including for example, the disabled.

Central Asian states have set up various programmes to prevent the spread of COVID-19, but many with nationality issues have been excluded. Governments provided educational materials and tools for children of vulnerable groups when schools switched to distance learning models, but the children of stateless people were excluded. An exception should be noted in Uzbekistan, where low-income stateless families were also included. Stateless and undocumented people have generally received some assistance from NGOs in the form of legal advice, small grants and sanitary supplies.

**Lost Livelihoods:** As a result of COVID-19, those with nationality issues have been cast into an even more precarious economic situation. Lack of formal documentation means they do not have work permits and cannot access formal employment. They are more likely to work in the informal economy in construction, factories,

THIS CHAPTER LOOKS MORE CLOSELY AT **RIGHT TO NATIONALITY, DOCUMENTATION AND LEGAL STATUS; RIGHT TO HEALTH AND SOCIO-ECONOMIC RIGHTS,**<sup>1</sup> AND MAKES THE FOLLOWING **CALL TO ACTION** TO RELEVANT GOVERNMENTS AND OTHER RELEVANT STAKEHOLDERS:

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**ENSURE EQUAL ACCESS TO HEALTH CARE FOR ALL THOSE WITH NATIONALITY ISSUES AND EQUAL ACCESS TO SOCIAL SUPPORT PROGRAMMES IN RESPONSE TO COVID 19.**

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**IMPROVE STATELESSNESS DETERMINATION PROCEDURES TO EFFECTIVELY IDENTIFY AND DOCUMENT STATELESS PEOPLE. IN THE CASE OF KYRGYZSTAN, DEVELOP A STATELESSNESS DETERMINATION PROCEDURE TO LEGALISE STATUS AND ENSURE RIGHTS.**

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**ENSURE FULL AND EQUAL ACCESS TO ALL STATELESS AND UNDOCUMENTED PEOPLE AND THOSE WITH UNDETERMINED NATIONALITY IN COVID-19 VACCINATION PROGRAMMES.**

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**INTRODUCE PROVISIONS IN HEALTH LAWS THAT ENSURE THAT STATELESS AND UNDOCUMENTED PEOPLE AND THOSE WITH UNDETERMINED NATIONALITY ARE GUARANTEED FREE MEDICAL CARE ON AN EQUAL BASIS WITH CITIZENS AND REFUGEES.**

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public markets, agriculture etc. Due to lockdowns and quarantines, many lost their jobs, severely impacting their livelihoods and quality of life. Further, working in the informal economy precludes access to state benefits and support.

## STATELESSNESS AND THE RIGHT TO NATIONALITY IN CENTRAL ASIA

The primary mode of acquisition of citizenship in all Central Asian states is by descent. In Kazakhstan, Kyrgyzstan, Turkmenistan and Uzbekistan, a child born to stateless parents automatically acquires citizenship at birth, if the parents have permanent residence status.<sup>7</sup> In Tajikistan, a child born to stateless parents on Tajik territory will acquire citizenship regardless of the parents' residence status. Tajikistan is also the only state in the region to safeguard against statelessness in cases where a child is born to foreign parents, who cannot confer their nationality to the child.<sup>8</sup> In all five states, citizenship is automatically acquired by a child found in the state territory with unknown parents.<sup>9</sup> Citizens of the former USSR who have not yet acquired the citizenship of the Central Asian states, can access procedures to acquire nationality through restoration (determination).<sup>10</sup> This procedure is similar to naturalisation, requiring an application and presidential approval. In Kyrgyzstan, the procedure is further simplified and falls under the competency of local citizenship determination commissions. Below, are some further country specific details:

**Kazakhstan:** As of 2018, Kazakhstan was home to 7,690 stateless persons. In October 2020, the government with the help of UNHCR launched a country-wide campaign to identify stateless persons and address their situation through the confirmation of their nationality or registration as stateless.<sup>11</sup>

**Kyrgyzstan:** In July 2019, Kyrgyzstan became the first country to resolve all known cases of statelessness.<sup>12</sup> In 2014, the Kyrgyz Republic initiated the pilot campaign "Door-to-door" aiming to register and document all stateless persons. 13,707 stateless persons were identified, and 13,447 persons were granted citizenship and documentation.<sup>13</sup> Further, Civil Acts entered into force in the Kyrgyz Republic to ensure the right to birth registration and the provision of birth certificates, regardless of the parents' possession of documents.<sup>14</sup>

**Tajikistan:** In July 2014, the Tajik government in collaboration with UNHCR and civil society partners launched a project to address statelessness.<sup>15</sup> A campaign launched in November 2020 aims to raise awareness about a recently enacted Amnesty Law<sup>16</sup> which will facilitate the resolution of the most complex cases of statelessness, allowing thousands of stateless people to obtain residence permits, and providing a potential three-year route to citizenship. As of January 2021, 50,171 persons with undetermined nationality have been registered in three target regions (15 districts) of Sughd, Khatlon provinces and Districts of Republican Subordination (DRS).<sup>17</sup>

**Uzbekistan:** Uzbekistan has one of the largest known stateless populations in the world, with 97,346 documented cases. But, thanks to new legislation which came into effect in April 2020, those who had been granted permanent residency in Uzbekistan before 1995 are now eligible to become citizens.<sup>18</sup> Uzbekistan recently also amended its birth registration procedures

to ensure all children are registered, including those born to undocumented parents. In December 2020, President, Shavkat Mirziyoyev, announced that in 2021 the government would strengthen its efforts to end statelessness.<sup>19</sup> He reported on a new initiative which will enable around 20,000 people who moved to Uzbekistan before 2005, to become citizens.<sup>20</sup>

## THE CESF CONSORTIUM PROJECT

This project, carried out by the Central Asia Network on Statelessness, aims to document and understand the exclusion of stateless people within Central Asia in the context of COVID-19. The data collected will be used as an advocacy tool to engage decision makers and place statelessness on the political agenda. The findings will also be used to raise awareness within stateless communities and those without documentation about the importance of acquiring documentation and instructing them on what they can do. The data recorded will be utilised to raise public awareness on statelessness. Furthermore, this project will entail an international component, expanding the scale of dialogue and contributing to global conversations on addressing statelessness.

**"The outbreak of COVID-19 in the countries of Central Asia, has exposed the problem that along with officially recognised stateless persons, there are also many thousands of people who have difficulty confirming their citizenship who do not have official status and identity documents. While the Central Asian countries have official statistics on stateless persons, there is no information about de facto stateless people, and they remain invisible to the state systems. They remain excluded from COVID-19 emergency relief and measures. This raises great concerns about the fate of these vulnerable groups. We call on all parties to take a unified approach of "society is protected when everyone is protected." Do not leave stateless persons behind."**

*UNHCR Nansen Award Laureate,  
Coordinator of Central Asian Network on Statelessness, Azizbek Ashurov*

The project is led by FVLWB, a Kyrgyzstan based NGO and active member of CANS. CANS is a network of organisations within the Central Asia region that promotes dialogue for the exchange of information to prevent and reduce statelessness.

## Impact

The research component of this project focused on the exclusionary impact of government policies and COVID-19 relief measures. Research findings will be collated in a report that will be shared publicly in national-level advocacy efforts to raise awareness about statelessness and the impact of COVID-19 on vulnerable communities. The project has attracted wider public attention to the problem of statelessness and the impact of COVID-19 on stateless persons. During the research phase, relevant authorities were contacted in a bid to understand how stateless persons were being included in their respective COVID-19 responses. This outreach has raised the profile of statelessness and the specific issues impacting the stateless among these specific targets.

<sup>1</sup> See further Chapter on Nationality, Documentation and Legal Status, Chapter on Right to Health and Chapter on Socio-Economic Rights in Part 2 of this report.

<sup>2</sup> UNHCR, 'Statelessness in Central Asia' (2011), available at: <https://www.unhcr.org/4dfb592e9.pdf>.

<sup>3</sup> Ministry of Foreign Affairs of the Republic of Kazakhstan, 'Notice for foreign citizens residing in Kazakhstan', (22 March 2020) available at: <https://www.gov.kz/memleket/entities/mfa/press/news/details/o-voprosah-prebyvaniya-inostrannyh-grazhdan-na-territorii-ri-vo-vremya-chrezvychaynogo-polozheniya?lang=en>.

<sup>4</sup> Government of Kyrgyz Republic, 'Foreign citizens can leave the territory of Kyrgyzstan without registration of any documents', (28 March 2020), available at: <https://www.gov.kg/tu/post/s/chet-eldik-zharandar-ech-kanday-dokument-tarizdebesten-kyrgyzstandny-aymayman-chygyr-kete-alyshat>.

<sup>5</sup> Code of the Republic of Kazakhstan on Public Health and Healthcare System, Article 88(5), (2009), available at: <https://www.sabin.org/sites/sabin.org/files/docu-ments/PublicHealthLaw.pdf>.

<sup>6</sup> UNHCR, 'UN Refugee Agency expresses gratitude to Central Asian countries for providing asylum seekers, refugees and stateless persons with access to COVID vaccinations', UNHCR in Central Asia, (14 May 2021), available at: <https://www.unhcr.org/centralasia/14101-unhcr-commends-central-asia-for-providing-asylum-seekers-refugees-and-stateless-persons-with-access-to-covid-vaccination.html>.

<sup>7</sup> United Nations Country Team Kazakhstan, 'COVID-19 Socio-Economic Response & Recovery Plan', (2020), available at: [https://reliefweb.int/sites/reliefweb.int/files/resources/KAZ\\_Socioeconomic-Response-Plan\\_2020.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/KAZ_Socioeconomic-Response-Plan_2020.pdf).

<sup>8</sup> UNHCR, 'Statelessness in Central Asia' (2011), available at: <https://www.unhcr.org/4dfb592e9.pdf>.

<sup>9</sup> United Nations Country Team Kazakhstan, 'COVID-19 Socio-Economic Response & Recovery Plan', (2020), available at: [https://reliefweb.int/sites/reliefweb.int/files/resources/KAZ\\_Socioeconomic-Response-Plan\\_2020.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/KAZ_Socioeconomic-Response-Plan_2020.pdf).

<sup>10</sup> UNHCR, 'Statelessness in Central Asia', (2011), available at: <https://www.unhcr.org/4dfb592e9.pdf>.

<sup>11</sup> UNHCR, 'The 2019 – 2021 Regional Strategy for Central Asia', (2019), available at: [https://www.unhcr.org/centralasia/wp-content/uploads/sites/75/2019/09/Regional-Strategy\\_compressed.pdf](https://www.unhcr.org/centralasia/wp-content/uploads/sites/75/2019/09/Regional-Strategy_compressed.pdf).

<sup>12</sup> Institute on Statelessness and Inclusion, 'The World's Stateless: Deprivation of Nationality', (2020) available at: <https://www.refworld.org/pdfid/5f4e178c4.pdf>.

<sup>13</sup> A. Ashurov, 'Tackling Statelessness in Kyrgyzstan and the Wider Central Asia Region – The Importance of Networking', (28 February 2019), available at: <https://www.statelessness.eu/updates/blog/tackling-statelessness-kyrgyzstan-and-wider-central-asia-region-importance-networking/#:~:text=In%202014%2C%20the%20Fergana%20lawyers,a%20project%20in%20the%20region>.

<sup>14</sup> Institute on Statelessness and Inclusion, 'The World's Stateless: Deprivation of Nationality', (2020) available at: <https://www.refworld.org/pdfid/5f4e178c4.pdf>.

<sup>15</sup> UNHCR, 'Tajikistan: Fact Sheet February 2016', (2016), available at: <https://www.unhcr.org/uk/protection/operations/500017969/tajikistan-fact-sheet.html>.

<sup>16</sup> Law of the Republic of Tajikistan on Amnesty Related to Legalization of Stateless Persons and Foreign Nationals Illegally Residing in the Territory of Tajikistan (2019), available at: <https://www.refworld.org/docid/5e7086664.html>.

<sup>17</sup> UNHCR, 'Tajikistan: Fact Sheet March 2021', (2021), available at: <https://reporting.unhcr.org/sites/default/files/UNHCR%20Tajikistan%20fact%20sheet%20March%202021.pdf>.

<sup>18</sup> UNHCR, 'Uzbekistan to end statelessness for 50,000 people', (17 March 2020), available at: <https://www.unhcr.org/news/press/2020/3/5e70b9474/uzbekistan-end-statelessness-50000-people.html>.

<sup>19</sup> President of the Republic of Uzbekistan, 'President Shavkat Mirziyoyev's Address to the Oliy Majlis, President of the Republic of Uzbekistan', (29 December 2020), available at: <https://president.uz/en/lists/view/4057>.

<sup>20</sup> A. Pikulicka, 'A whole new world has opened in front of me', UNHCR, (20 January 2021), available at: <https://www.unhcr.org/en-us/news/stories/2021/1/600800b84/whole-new-world-opened.html>.

# DOMINICAN REPUBLIC

In the Dominican Republic, large-scale statelessness (affecting over 130,000 persons) has been caused by the denial and deprivation of nationality of Dominicans of Haitian descent. The watershed and discriminatory 2013 Constitutional Court decision known as *'La Sentencia'*, excluded citizens of foreign ancestry (mainly Haitian descent) from the *jus soli* system of citizenship acquisition with retroactive effect.<sup>2</sup> Law 169-14, adopted in 2014 to palliate the effects of the ruling, is inadequate in scope and has been implemented timidly. As reflected by Beneco Encia, "23 May 2021 sees the seventh anniversary of the so-called naturalisation law 169-14. Distressingly, under half of those eligible to have Dominican documents restored have achieved this. Despite 799 persons of Haitian ancestry being authorised for naturalisation, we are in the dark as to how this can happen."<sup>3</sup>

Deliberately working within a system of entrenched systemic **discrimination** perpetuating **inequality, racism and xenophobia** against Dominicans of Haitian descent, the government denies birth certificates and other essential documents to those of Haitian descent born on Dominican soil. Important but slow progress has occurred in that under half of eligible persons have regained their Dominican documents, but nobody has had their naturalisation materialised among the group of persons who were never registered. Birth certificates are required to get married, obtain school diplomas, start a business, get a driver's licence or passport, and a *'cédula'*, the national ID card essential for voting and banking. This has created a multi-generational problem, where entire families lack documentation. These circumstances confine Dominicans of Haitian descent to conditions of poverty and exclusion, with many living in isolated and impoverished *'bateyes'*.<sup>4</sup> Women and girls are especially vulnerable to violence and marginalisation, including forced prostitution, human trafficking and underage marriage. In recent years, racist and xenophobic rhetoric has grown within mainstream media and flourished on social media. Human rights defenders, journalists and groups who condemn *'La Sentencia'* face growing hostility and threats.

Exceptional COVID-19 measures inherited from the previous government continue under the Abinader administration which took power in August 2020. Lack of documentation is a barrier to social protection. Affected persons lack medical insurance and clean drinking water, while conditions are dire in impoverished communities. Many beneficiaries of Law 169 have their files in process and are unable to apply for government assistance.<sup>5</sup> Civil registry disruption has exacerbated barriers to birth registration.

**"Those who are stateless and at risk of statelessness in the Dominican Republic face a multitude of additional challenges that have been exacerbated by the COVID-19 pandemic due to their lack of documentation. Dominicans affected by the Constitutional Court ruling (CR 168-13) who have not been able to see their Dominican nationality confirmed or acquired, have also not been formally**

**included in the country's social protection programmes implemented to mitigate the negative effects of the pandemic."**

*UNHCR Representative for the US and the Northern Caribbean, Matthew Reynolds*

## RIGHT TO NATIONALITY, DOCUMENTATION AND LEGAL STATUS

In the Dominican Republic, civil registration services were suspended during the initial stages of the pandemic from March till May 2020, resuming in June 2020. This included civil registration offices in hospitals.<sup>6</sup> In October 2020, OBMICA conducted qualitative field research on the impact of COVID-19 on Haitian migrants and their descendants in the border region. It conducted 50 in-depth interviews with parents of stateless children and two focus groups, as well as consulting with key stakeholders. The findings show that lockdowns, curfews and other limitations on mobility prevented Haitian migrants and their descendants from being able to retrieve civil registration documents for themselves and their children. For example, the procedures for the renewal of regularisation documents for migrant parents, which could eventually favour the naturalisation of their stateless children, were cumbersome under the pandemic. Further, COVID-19 prevention measures limiting the number of people who can gather have complicated the process of delivering and receiving services. Haitian migrant parents reported difficulties in obtaining passports / renewing regularisation status due to pandemic-related office closures which not only puts them at risk but also impacts their ability to meet documentation requirements for registering their children's birth.

Civil registration services were suspended from March to June 2020, creating a backlog of birth registrations. Late declarations of birth increase the risk of statelessness, especially for a population whose belonging is already questioned, due to onerous and costly requirements for late birth declarations. The government is addressing the existing backlog by offering registration services in decentralised locations and extending operating hours;<sup>7</sup> and in an example of good practice the Dominican government extended the time allowed for registering vital events in a timely fashion. Presidential Decree 137-20 modified the time allotments so any vital events between 21 January and 3 July 2020 could be registered without a late penalty up to 60 days after 3 July 2020. Many report that financial constraints have continued to affect the possibility of obtaining overdue documents.

## EQUALITY AND NON-DISCRIMINATION

During the pandemic, anti-Haitianism has increased.<sup>8</sup> President Luis Abinader announced plans to build a wall along the Dominican-Haitian border, declaring that the 'dividing line' would put an end to "serious illegal immigration problems, drug trafficking and the transit of stolen vehicles", as well as achieving "protection

THIS CHAPTER LOOKS MORE CLOSELY AT RIGHT TO NATIONALITY, DOCUMENTATION AND LEGAL STATUS; RIGHT TO HEALTH AND SOCIO-ECONOMIC RIGHTS,<sup>1</sup> AND MAKES THE FOLLOWING CALL TO ACTION TO THE GOVERNMENT AND RELEVANT STAKEHOLDERS:

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**FACILITATE LEGAL CHANNELS TO ENSURE ACCESS TO NATIONALITY, BASED ON NON-DISCRIMINATORY POLICIES AND PRACTICES, WHICH PROMOTE MORE INCLUSION OF DOMINICANS AFFECTED BY SENTENCE 168-3.**

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**SHARE UP TO DATE INFORMATION ON THE GROUP A BENEFICIARIES OF LAW 169-14 WHO HAVE RECEIVED ID AND ELECTORAL DOCUMENTS, WITH OTHER STATE DATA BASES SUCH SIUBEN, TO GUARANTEE THAT THOSE ELIGIBLE TO BENEFIT FROM RELEVANT SOCIAL PROTECTION PROGRAMMES, ARE ACCORDINGLY INCLUDED.**

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**OFFER EQUAL ACCESS TO VACCINATIONS TO ALL RESIDING IN THE COUNTRY AS A STATE POLICY, INDEPENDENTLY OF THE DOCUMENTARY STATUS OF THE PERSON CONCERNED, TO CONTAIN AND CONTROL COVID-19.**

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**NATURALISE ALL DESCENDANTS OF HAITIAN MIGRANTS REGISTERED IN DUE FORM (GROUP B) WHO ARE ENTITLED TO NATURALISATION AFTER TWO YEARS OF OBTAINING A MIGRANT STATUS UNDER THE OPERATION OF LAW 169-14.**

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**ESTABLISH A GOVERNMENT-CIVIL SOCIETY WORKING GROUP TO EVALUATE AND PROVIDE SOLUTIONS FOR INDIVIDUALS EXCLUDED FROM THE CIVIL REGISTRY WHO ARE RECEIVING LEGAL ACCOMPANIMENT AND ASSISTANCE FROM NGOS.**

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of territorial integrity... sought since independence.<sup>9</sup> While facilities were available for Haitian migrants to renew or change their status under the pandemic, official messaging on this was opaque, services were centralised and affected persons had other priorities in a context of limited mobility given the health crisis. Moreover, there were some 200,000 spontaneous returns to Haiti during the pandemic in 2020. Sadly, the Dominican authorities restarted cross-border deportations of Haitians in late September after which, according to official figures, over 20,000 deportation events took place in 2020. Given the sluggish implementation of Law 169-14 for denationalised Dominicans of Haitian ancestry, intended for affected persons to regain Dominican documents, there is a danger of unwitting expulsions of stateless persons with the right to stay in 'their own country' where they were born. The very real dangers of this happening were demonstrated in the 2014 jurisprudence of the IACTHR.<sup>10</sup> Political scapegoating rhetoric targeting Haitians is not uncommon in the Dominican Republic. They are blamed for many things including unemployment, social crises and diseases.<sup>11</sup>

## RIGHT TO HEALTH

Stateless persons in the Dominican Republic have access to basic healthcare services free of charge, however, most are uninsured and live in poverty which means they lack the resources to pay for any prescribed medicines or treatment out of pocket. Many report discriminatory attitudes of healthcare staff and having to wait until insured citizens are treated first. Access to sexual and reproductive health services for women is hindered by nationalist, anti-Haitian rhetoric raising concerns about the cost to the state of providing service to 'Haitian migrant' women. This has led to a policy proposal of the Dominican Society of Obstetricians and Gynaecologists to charge for services.<sup>12</sup> In November 2020, President Luis Abinader claimed the Dominican health care system cannot sustain the cost of attending so many pregnant 'Haitian' women.<sup>13</sup> In recent years, there have also been military and border security inspections of hospitals in the border region, searching for pregnant women who may be 'illegally' using services. While there have been no reports of specific COVID-19 related abuse directed at migrants or stateless persons, the official discourse of excluding undocumented persons from the national vaccine campaign<sup>14</sup> is creating a hostile environment which is fostering vaccine hesitancy by those who may already have concerns about getting vaccinated.

## SOCIO-ECONOMIC RIGHTS

**Exclusion from Emergency Relief:** Migrants and stateless persons lacking Dominican documents have been excluded from the expanded programmes of social protection operated during the pandemic, including a stimulus to mitigate the loss of earnings from businesses and individuals, especially to protect employment, state subsidies for formal workers (*Programa 'FASE I y II'*) and informal workers (*'Quédate en Casa' y 'Pa' Ti'*). Inclusion in these measures depends on the documentation and legal status of the person or family member. Some of those who are ineligible, have received support from NGOs and international organisations. It appears that the government has shifted responsibility towards such groups and expects NGOs and international organisations to provide for them.

**Lost Livelihoods:** Stateless persons were already in a precarious economic situation prior to the pandemic. The lockdown and curfew measures have impacted their livelihoods in several ways. There is less work available (carpentry, construction, transportation, domestic work), and those in informal work such as itinerant sales (lottery tickets, food) are not able to make a living as there is less money circulating in the community. Domestic workers were sent home temporarily. Salaries have been cut for some working in agriculture and selling lottery tickets, though they are expected to work the same number of hours. Many families are unable to buy basic provisions.

## Case Study

Nadia,<sup>15</sup> a 25-year-old stateless woman and mother of three stateless children, laments the exclusion of undocumented people from government programmes to mitigate the economic impact of COVID-19. Despite having registered for naturalisation following the passage of Law 169-14 in 2014 and receiving a regularisation card, the government has yet to deliver on its promise to naturalise over 7,000 stateless descendants of Haitian migrants. Their regularisation card is now expired, with unclear procedures in place for renewal or naturalisation as Dominican citizens. She states:

**"In this pandemic the government has helped many people. Those who have an identity card are getting food and monthly deposits of funds. Any kind of help goes to those with documents, and those without get nothing. My [Dominican] mother-in-law and neighbours receive funds on their card [government social assistance programme]. Whenever they are going to distribute something, they say it's for people with documents and those without shouldn't come. I feel so bad. Sometimes it really weighs on me. Sometimes I say, look how the people with identity cards are getting food, and if I had gotten my ID, I would be getting funds and food for my children."**

## STATELESSNESS AND RIGHT TO NATIONALITY IN THE DOMINICAN REPUBLIC

Nationality and citizenship in the Dominican Republic are governed by the 2010 Constitution,<sup>16</sup> the Migration Law 295-04 (2004),<sup>17</sup> and the relevant constitutional case law. The descendants

of Haitian migrants risk being made stateless due to nationality deprivation and denial. Professor, Brad K. Blitz, summarises the dual problem *"...the problems of statelessness in the Dominican Republic are the result of both the denial and deprivation of citizenship and a deliberate lack of access – in this setting, requirements are imposed as a way to prevent access to nationality"*.<sup>18</sup>

The 1929 Constitution confirmed the right to nationality for Dominican-born descendants of migrants unless they were born to persons in transit. The former 1939 Migrant Law further stipulated that *'in transit'* meant persons in the state for ten days or fewer. The current 2004 Migrant Law expanded the definition of *'in transit'* to all non-residents. This has been reconfirmed in Article 18.3 of the 2010 Constitution, which states that children born to parents *'residing illegally in the Dominican territory'* are not entitled to nationality.

Over the past seven years, the Dominican government has re-written its Constitution, re-interpreted old laws and passed new ones. In 2013, *'La Sentencia'* was ruled by the Constitutional Court, which retroactively stripped the nationality of tens of thousands of Dominicans, primarily affecting those of Haitian descent. The judgment ruled that those whose parents were irregular migrants at the time of their birth shall be deprived of Dominican nationality regardless of whether their citizenship was recognised under the law between 1929 and 2007.<sup>19</sup> Following international and domestic outcry, Law 169-14, introduced in 2014, was enacted in an attempt to rectify some of the injustice caused by the 2013 *'La Sentencia'* ruling. The Law divides the affected persons into two groups, in which Group A have birth registration and Group B do not but had the right to Dominican nationality under the Constitution when born. Although Law 169-14 offered the chance of review, leading to the possible confirmation of nationality, for persons in Group A and the opportunity to naturalise for Group B, the Law has come under criticism for the lack of transparency in application procedures and the lack of clear solutions for part of Group B. The enshrining of these Laws and the ongoing cases of statelessness are not isolated events; rather, they are the consequences of a long legacy of systemic discrimination towards Dominicans of Haitian descent over multiple decades which have left many stateless and vulnerable to human rights abuses.<sup>20</sup>

## THE CESF CONSORTIUM PROJECT

The aim of this project, carried out by DxD is to document and map specific cases of those who have been excluded from state relief, in order to better understand the evolving needs of the stateless community and develop appropriate longer-term engagement strategies for the DxD platform.

DxD is a platform made up of civil society organisations with a long history of service in the Dominican Republic in human rights, education, health, sustainable development and strategic research and litigation. Notably since Sentence 168-14, this platform has helped Dominicans of Haitian descent advocate for social inclusion, community development and better working conditions as well as access to civil registration and the right to Dominican nationality.

Under the project, DxD is working with 250 individuals and families who have been excluded from emergency aid in order to better understand their circumstance and to gather concrete evidence of their exclusion. Mapping the impact of disruptions to civil registration during the pandemic, in the context of the broader exclusions faced, the platform is interviewing 50 people. This project is contributing to a wider study mapping the impact of disruption to civil registries during the pandemic. To alleviate some economic burden, the platform has also granted loans

to select stateless entrepreneurs to start small scale enterprises. The goal of this effort is to support their endeavours and to showcase their capacities, demystifying the claim that stateless people are a drain on the economy. This project is aiding key advocacy efforts with key stakeholders, including government officials and the UN to encourage more inclusive pandemic relief measures. In particular, the project aims to engage with:

- **Junta Central Electoral (Central Electoral Board)**, which operates the Civil Registry in the Dominican Republic. While it has been undergoing important modernisation in recent years, some argue that this led to greater discrimination against children born to Haitian migrants. As of February 2021, the CEB has circulated draft legislation intended to improve the operation of the Civil Registry in the Dominican Republic.
- **Ministerio de Interior y Policía (Ministry of Interior and Police)**, which is the umbrella ministry for the *Dirección General de Migración* (Migration Management). The Ministry has a particular role in facilitating the naturalisation of those who registered under Law 169-14. There have been calls for the MIP to take a lead in ensuring that the Presidential Decree (July 2020)<sup>21</sup> of outgoing President Medina and a subsequent decree by President Abinader in April 2021 to fast track the naturalisation of 799 affected persons are materialised.
- **Dominican Congress**, which is responsible for passing relevant laws such as the Anti-discrimination Law which has been circulating in draft form for several years.
- **Ministerio de Salud Pública (Ministry of Public Health)**, which has a key role in promoting and implementing the current national vaccine campaign. Dialogue between key civil society actors and hard to reach populations with the Ministry is necessary to ensure the widest possible outreach and effectiveness of the campaign.

### Impact

The project has helped support those Dominicans of Haitian ancestry eligible for naturalisation by keeping them informed of the Presidential Decrees of July 2020 and April 2021 respectively to fast track the naturalisation of some 799 persons, which should provide a precedent for the operation of Law 169-14 in this respect. Overtures have been made directly to the MIP with a view of materialising this. However, the situation is complicated to the extent that there has been little movement on the original 749 persons (mainly children) while a second decree has been issued covering a further 50 persons but with continued uncertainty on not just how this may be judicially materialised but, crucially, whether the political will exists to do so. Accompaniment of affected persons under the pandemic is providing the evidence base for re-establishing policy dialogue with the Dominican authorities, accounting for the extra layer of difficulty posed by the health crisis where both mobility constraints and economic problems have made it even more difficult to engage in civil registration processes on the part of affected persons. Those selected for small-scale economic initiatives are demonstrating the resilience possible even in strained circumstances, when due to lack of documentation, they are normally excluded from official loans.

<sup>1</sup> See further Chapter on Right to Nationality, Documentation and Legal Status, Chapter on Right to Health and Chapter on Socio-Economic Rights in Part 2 of this report.

<sup>2</sup> Institute on Statelessness and Inclusion, 'The World's Stateless: Deprivation of Nationality' (2020), available at: [https://files.institutesi.org/WORLD'S\\_STATELESS\\_2020.pdf](https://files.institutesi.org/WORLD'S_STATELESS_2020.pdf).

<sup>3</sup> Beneco Eneca, Coordinator of the Dominican@s por Derecho civil society Platform.

<sup>4</sup> 'Bateyes' is the name for the area between sugar cane fields where many of the DR stateless populations live.

<sup>5</sup> SICA-COVID-19 Regional Observatory, Decrees and measures adopted by the Dominican Republic, (2021), available at: <https://www.sica.int/coronavirus/observatorioSICACOVID19/medidas/republicadominicana>.

<sup>6</sup> UNHCR, OEA Más Derechos Para Más Gente, CLARCEV 'Emergency Response of Civil Registry and Identification Offices during the COVID-19 Pandemic: Good Practices, Mechanisms and Facilities Implemented in the Americas' (2020) available at: <http://www.oas.org/es/sap/dgpe/puica/docs/Respuesta-emergencia-RC-pandemia-COVID-19.pdf>.

<sup>7</sup> Ibid.

<sup>8</sup> M. C. Fumagalli and B. Wooding, 'Stranger than Fiction: Opportunities for a new narrative in Dominico-Haitian relations under Covid-19', Human Rights Centre Blog, (8 July 2020), available at: <https://hrcessex.wordpress.com/2020/07/08/stranger-than-fiction-opportunities-for-a-new-narrative-in-dominico-haitian-relations-under-covid-19/>.

<sup>9</sup> J. Pandian, 'Dominican Republic: a wall of division', Latin America Bureau, (20 April 2021), available at <https://lab.org.uk/dominican-republic-a-wall-of-division/>.

<sup>10</sup> Inter-American Court of Human Rights, Case of Expelled Dominicans and Haitians v The Dominican Republic, (2014), available at: [http://carteirdh.or.cr/docs/casos/articulos/seriec\\_282\\_ing.pdf](http://carteirdh.or.cr/docs/casos/articulos/seriec_282_ing.pdf).

<sup>11</sup> D. Shaw, 'Dominican Wall of Anti-Haitianism Keeps Neocolonial Inequity Alive', Council on Hemispheric Affairs (29 March 2021), available at: <https://www.coha.org/dominican-wall-of-anti-haitianism-keeps-neocolonial-inequity-alive/>.

<sup>12</sup> R. I. De León, 'Tomorrow the curfew will be from 7:00 pm and there is no grace for circulation' El Día, (30 December 2020), available at: <https://eldia.com.do/manana-el-toque-de-queda-sera-a-partir-de-la-700-p-m-y-no-hay-gracia-para-circulacion/>.

<sup>13</sup> La Republica 'Luis Abinader: "Dominican health cannot and does not support the number of Haitian (pregnant) women"' La Republica (25 November 2020), available at: <https://listindiario.com/la-republica/2020/11/25/645670/luis-abinader-la-salud-dominicana-no-puede-y-no-soporta-la-cantidad-de-parturientas-haitianas>.

<sup>14</sup> Agencia EFE 'Excluded from vaccines, Haitians suffer a new stigma in the Dominican Republic' Agencia EFE, (11 March 2021), available at: <https://www.efe.com/efe/america/sociedad/excluidos-de-las-vacunas-los-haitianos-sufren-un-nuevo-estigma-en-republica-dominicana/20000013-4485548>.

<sup>15</sup> A pseudonym of one of the interviewees in the research. See B. Wooding and A. Petrozziello, 'Research Brief: COVID-19 Impacts on Haitian migrants and their descendants on the southern border of the Dominican Republic', (June 2021), available at: <http://obmica.org/>.

<sup>16</sup> Dominican Republic Constitution, (2010), available at: [https://www.constituteproject.org/constitution/Dominican\\_Republic\\_2010.pdf](https://www.constituteproject.org/constitution/Dominican_Republic_2010.pdf).

<sup>17</sup> Ministerio de Interior y Policía Republica Dominicana, 'LEY General de Migración NO. 285-04: Reglamento de Aplicación Decreto No. 613-11' available at: [https://mip.gob.do/transparencia/imagenes/docs/Publicaciones\\_Oficiales/Libros\\_y\\_Revistas/LEY%20de%20Migraci%C3%B3n/LEY%20DE%20MIGRACION.pdf](https://mip.gob.do/transparencia/imagenes/docs/Publicaciones_Oficiales/Libros_y_Revistas/LEY%20de%20Migraci%C3%B3n/LEY%20DE%20MIGRACION.pdf).

<sup>18</sup> B. Blitz, 'Forced Migration Policy Briefing 3: Statelessness, protection and equality' (2009), available at: <https://www.refworld.org/pdfid/4e5f3d572.pdf>.

<sup>19</sup> SENTENCIA TC/0168/13, available at: <https://web.archive.org/web/20150812200410/http://tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%20168-13%20-%20C.pdf>.

<sup>20</sup> Dominican@s por Derecho, Institute on Statelessness and Inclusion, and CEJIL, 'Joint Submission to the Human Rights Council at the 32nd Session of the Universal Periodic Review: Dominican Republic, (12 July 2018), available at: [https://files.institutesi.org/UJPR32\\_DominicanRepublic.pdf](https://files.institutesi.org/UJPR32_DominicanRepublic.pdf).

<sup>21</sup> Institute on Statelessness and Inclusion, 'Monthly Bulletin', (September 2020), available at: <https://www.institutesi.org/resources/monthly-bulletin-september-2020>.

# INDIA

There is a crisis of statelessness in Assam, India. In August 2019, 1.9 million people were deemed 'non-citizens' and deprived of their nationality following the arbitrary and highly **discriminatory** NRC<sup>2</sup> which sought to remove the names of alleged undocumented migrants from the voters list and update the National Registry of Citizens, predominantly targeting Muslims and Hindus of Bengali ethnicity.<sup>3</sup> There has further been a significant rise in racist and Islamophobic sentiment exacerbated by the pandemic.<sup>4</sup>

Those excluded can appeal to quasi-judicial bodies or foreigner tribunals, tasked with determining the nationality of those with disputed citizenship<sup>5</sup> and have the ultimate power to declare a person a 'foreigner'. As of December 2019, more than 110,000 individuals had been declared foreigners and more than 1000 arbitrarily detained.<sup>6</sup> There are other cases of statelessness in India including the long-standing situation of the Chakma and Hajong communities who arrived in India as refugees from the CHT of Bangladesh in the 1960s. These communities have few resources and have been affected by the loss of employment due to the pandemic. It was only with intervention of highest authorities that the local administration included them in COVID-19 response, and they were given access to food.<sup>7</sup> There are also many Rohingya who have sought refuge in India after fleeing persecution in Myanmar.<sup>8</sup>

Stateless persons in India's Assam tend to live in poverty, in remote areas such as riverbanks and islands. Social distancing is difficult which increases the risk of exposure to COVID-19, putting an already vulnerable population at further risk. In Assam, most of those excluded from the NRC live in poverty and have been neglected and excluded from COVID-19 state relief and recovery efforts. By mid-April 2021, the second wave in India was reporting more than 300,000 cases everyday - the highest number of daily cases reported by any country. As of 25 May 2021, there have been a total of 27,157,795 cases and 311,421 deaths.<sup>9</sup>

## **RIGHT TO NATIONALITY, DOCUMENTATION AND LEGAL STATUS**

The NRC process has had devastating impacts on those living in Assam. After publishing the results of the NRC, the process has been put on hold. The government had announced that the NRC excluded can appeal their exclusion at the FTs, but this process has not yet started even after 22 months, leaving the 1.9 million excluded in a state of limbo, with no forum for appeal. Further, access to legal aid has also been disrupted due to the pandemic as the FTs stopped functioning from April-June 2020. However, from July onwards the FTs began sending notices to register new cases and re-action pending cases. During the second wave of April 2021, the FTs have also continued to issue notices. The combined consequences of COVID-19 with the requirement to appear before the FTs and the associated financial costs of this has resulted in huge difficulties for declared foreigners.

## **RIGHT TO HEALTH**

Access to vital public healthcare services have been hindered by movement restrictions and lack of documentation. Private healthcare services are inaccessible due to high costs and government hospitals which are farther from communities, are harder to access. Those declared 'foreigners' by the FTs in Assam, have limited access to healthcare, and the resources it takes to fight their cases in court means less ability to afford healthcare. Access to PPE is not possible for all,<sup>10</sup> and the stateless often avoid seeking medical attention from government hospitals or clinics for fear of contact with the authorities. The vaccination programme was rolled out in mid-January 2021. Initially, India used domestically produced vaccines but as the second wave hit the country there was an acute shortage and the government started importing vaccines. By 25 April, India provided more than 139 million persons with at least one dose of the vaccine. This amounts to 10% of the population, one of the lowest rates of vaccination distribution in the world.<sup>11</sup> To receive the vaccine, individuals must show their Aadhar ID card which is a barrier for refugees and stateless persons who often do not have these documents. Further, the stateless and those declared foreigners have also not been explicitly included in India's vaccination plan.

## **SOCIO-ECONOMIC RIGHTS**

**Exclusion from Emergency Relief:** The stateless in India have not received economic relief packages provided by the government for a number of reasons including not having a bank account or proof of citizenship. COVID-19 has intensified the challenges faced by those arbitrarily denied their right to citizenship through the NRC process and those declared foreigners by the FTs. While the Indian government created welfare packages for struggling low-income earners, farmers, the homeless and migrant workers, none of these initiatives apply to declared foreigners. Once a person is categorized as a 'declared foreigner' their ration cards are cancelled.

**Lost Livelihoods:** The pandemic induced lockdown and the subsequent economic crisis has severely impacted the livelihoods of stateless persons. The disenfranchised of Assam tend to work in the informal sector, but during the lockdowns, access to these types of employment has been severely restricted. Those who sell goods in markets for example were no longer able to trade resulting in the total loss of their income.<sup>12</sup>

## **CIVIL AND POLITICAL RIGHTS**

**Arbitrary Detention:** In order to curb the rapid spread of COVID-19 and prevent overcrowding in jails the Supreme Court<sup>13</sup> ordered the release of certain class of prisoners. In Assam through another order the Court ordered that those declared foreigners who had already completed two years of detention be released on bond, with weekly reporting requirements at the nearest police station.<sup>14</sup> Mandatory reporting

THIS CHAPTER LOOKS MORE CLOSELY AT **RIGHT TO NATIONALITY, DOCUMENTATION AND LEGAL STATUS; RIGHT TO HEALTH; SOCIO-ECONOMIC RIGHTS; CIVIL AND POLITICAL RIGHTS,**<sup>1</sup> AND MAKES THE FOLLOWING **CALL TO ACTION** TO THE GOVERNMENT AND OTHER RELEVANT STAKEHOLDERS:

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**ENSURE FREE AND EQUAL ACCESS TO COVID-19 VACCINATIONS TO ALL PEOPLE ON THE TERRITORY, INCLUDING STATELESS PEOPLE AND REFUGEES, WITHOUT REQUIRING A NATIONAL ID CARD.**

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**IDENTIFY AND REACH STATELESS PEOPLE AND OTHER VULNERABLE AND OVERLOOKED GROUPS, THROUGH ALL STATE AND HUMANITARIAN RESPONSES TO COVID-19, TO PROVIDE THEM WITH CRITICAL INFORMATION, HEALTHCARE AND RELIEF.**

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**IMMEDIATELY STOP THE NATIONAL REGISTRATION OF CITIZENS PROCESS, THE DETENTION OF THOSE DECLARED 'FOREIGNERS', BURDENSOME POLICE REPORTING PROCEDURES FOR RELEASED DETAINEES AND TAKE STEPS TO REMOVE BARRIERS TO THEIR INCLUSION IN SOCIAL WELFARE AND RELIEF PROGRAMMES.**

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**IMMEDIATELY CEASE EFFORTS TO DEPORT REFUGEES AND STATELESS PEOPLE.**

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**UN AGENCIES SHOULD QUESTION AND RESPOND TO HARMFUL AND DISCRIMINATORY PRACTICES WHICH VIOLATE HUMAN RIGHTS AND INCREASE THE RISK OF STATELESSNESS FOR CERTAIN GROUPS.**

to police stations from remote areas without transport facilities and loss of livelihoods has placed severe hardship on stateless people, exacerbated by government mandated restrictions on movement. Many released detainees found themselves having to walk long distances to report to police stations as per their bail terms which were not relaxed even during the lockdown. Stateless persons who are not yet identified by the Border Police live in constant fear of arrest and even though there are no formal restrictions, there is a fear of migrating for work in case of apprehension, detention or harassment by the police and vigilante groups, particularly if they have to migrate beyond Assam into neighbouring states. Those still in detention live in inhumane living conditions with inadequate medical facilities.

**“Despite the raging pandemic, the Assam Border Police Organisation continue to send persons declared as foreigners and at risk of statelessness to detention centres. The Supreme Court has acknowledged the risk detention centres pose to the spreads of the deadly COVID-19, so why is there still this pressing need to detain declared foreigners? There should be a complete ban on detention during the pandemic.”**

*Lawyer specialising  
in legal support to people at risk of  
statelessness in Assam, Aman Wadud*

**“I still live in the fear of being taken back to the detention camp. We have suffered a lot in these last 12 years and our struggle just got worse with the pandemic. I do not know how to rebuild my life now.”<sup>15</sup>**

**Case Study:** *Maijaan Nessa, 38, belongs to Assamese Muslim ethnicity. She is married to Momresh Al, a Bengali Muslim from the Barpeta District of Assam. She was marked as a doubtful voter and eventually had to appear before a FT which declared her a ‘foreigner’ in 2015. She was called to the police station to give her thumb print so that the case would be dismissed but instead was arrested and detained without any prior notice and without being allowed to inform her family. She was detained in Kokrajhar Detention Camp for four years and ten months.*

*Maijaan has three daughters and two sons. Her eldest son was 18 years at the time of her detention and unable to deal with the stress of his mother’s detention, the trauma of which led to his untimely death. Her other children were minors at the time. She and her husband are illiterate and from very poor socio-economic background. Her husband works odd jobs including as a rikshaw-puller, carpenter and daily wage worker. Fighting Maijaan’s legal battle has been traumatic and financially devastating for the family.*

**“My husband and my children even begged and borrowed for my sake to pay for our legal cases in the High Court and Supreme Court. It is not fair for us to go through this hardship. I am still seen as an illegal Bangladeshi by people in my village and this has affected not just me but my whole family.”**

*Maijaan was released from detention after the Supreme Court ordered the release of those who have been detained for two or more years. She must now report to the police station every week. Her husband migrates for work, but she cannot go with him because of this reporting requirement. This has significantly impacted her livelihood, placing the family in a very precarious situation as they have to repay the loan they took to fight her legal case.*

## **STATELESSNESS AND THE RIGHT TO NATIONALITY IN INDIA**

The 1949 Constitution of India<sup>16</sup> (rev. 2016) and the Citizenship Act 1955<sup>17</sup> (last amended 2019) set the rules for citizenship in India. According to the Citizenship Act, there are five ways of acquiring Indian Citizenship: birth, descent, registration, naturalisation and the incorporation of territories.<sup>18</sup> In 1986 the Citizenship Act was amended stating that a child born in India can only get Indian citizenship if at least one parent is an Indian citizen and the other is not an ‘illegal migrant’. Another amendment made in 2003 stated that a child born in India was eligible for citizenship acquisition only if both parents were Indian citizens at the time of the child’s birth. In 2003 the Act was amended again in Section 3(1)(b) stating that persons born after 1 July 1987 in India shall be a citizen if either parent is an Indian citizen. This does not however provide safeguards against stateless for

individuals born after 1 July 1987 to non-citizen parents.<sup>19</sup> Indian law also does not provide extra safeguards against new cases of childhood statelessness in such situations.

Another risk of statelessness is posed by Section 5 of the Citizenship Act. This provision provides for individuals without citizenship who are residing in India to acquire citizenship by registration if certain criteria are met.<sup>20</sup> However, this provision excludes those deemed as ‘illegal migrants’.<sup>21</sup> As a consequence, many residents without citizenship remain at risk of statelessness. In 2019, the government passed the contested Citizenship (Amendment) Act 2019, which facilitates citizenship to six specified communities from Afghanistan, Bangladesh and Pakistan that entered India before 31 December 2014. However, the Law is discriminatory on the basis of religion, excluding Muslims.<sup>22</sup> Consequently, Muslim migrants or refugees from the above-mentioned states face a greater risk of statelessness. The Act also discriminates against Sri Lankan refugees of all religions who have been in India for the last thirty years. In August 2019, the Supreme Court ruled that a child born after 3 December 2004 will not be included in the NRC if either parent is considered a ‘doubtful voter’ or declared a ‘foreigner’<sup>23</sup> thus making them ineligible for Indian citizenship and putting the child at risk of statelessness.

## **THE CESF CONSORTIUM PROJECT**

The aim of this project, carried out by DAJI, is to empower communities at risk of statelessness to access COVID-19 relief, social protection services and legal aid. At the state level, this project aims to increase access to COVID-19 relief measures and social services for people affected by FTs and the NRC in Assam. DAJI provides legal aid to those fighting cases in the FTs. At the national level, this project aims to strengthen the RNCN that aims to campaign and advocate for the right to nationality as a human right. RNCN-DAJI are undertaking several documentation, research and advocacy efforts related to COVID-19 response, detention and FTs. These include documenting the impact of FTs in the context of COVID-19 on individuals and families through engagement with clients and their lawyers. This project is currently pioneering three different advocacy campaigns: on the child’s right to nationality, inclusive COVID-19 responses and social security and on fair and just trial procedures in the FTs. As such, the project aims to engage and advocate before different stakeholders, including the Office of the NRC Coordinator in Assam, the National Human Rights Commission and UN agencies including UNHCR and UNICEF.

DAJI works with marginalised communities to empower them to realise their rights, access services and protect their freedoms. DAJI works with refugees, minorities, displaced people and people at risk of statelessness through community mobilisation, education, training and humanitarian support.

### **Impact**

The RNCN/DAJI report<sup>24</sup> on the exclusion of stateless people from COVID-19 response and social security provisions of the state has been disseminated to many national and international stakeholders. The report was launched in a webinar in February 2021. Highlights of the report were posted on RNCN social media accounts and reached over 500 followers. DAJI has further supported more than 600 families in Assam to reach out to authorities on birth registrations, particularly of children born during the pandemic, and reached out to government authorities and UNICEF in Assam to facilitate corrective steps. DAJI is also advocating for access to other social security provisions including subsidised food, pensions for the elderly and disabled persons. DAJI is currently supporting 40 stateless persons to challenge the charges against them in the FTs. Lawyers and paralegals associated with legal aid efforts have been trained and the community has been supported by them to address problems they are likely to face when challenging their exclusion from the NRC. The RNCN network is further being strengthened to include people with expertise of different disciplines related to citizenship.

- <sup>1</sup> See further Chapter on Right to Nationality, Documentation and Legal Status, Chapter on Right to Health, Chapter on Socio-Economic Rights and Chapter on Civil and Political Rights in Part 2 of this report.
- <sup>2</sup> Right to Nationality & Citizenship Network and DAJI, 'Marginalised and Impoverished in Assam: A study into the exclusion of those at risk of statelessness in COVID-19 responses and social security provision', (2021), available at: <https://drive.google.com/file/d/1DP5GRma4utgd250a61VuURVAMeMNg84x/view>.
- <sup>3</sup> Institute on Statelessness and Inclusion, 'The World's Stateless: Deprivation of Nationality', (2020), available at: [https://files.institutesi.org/WORLDS\\_STATELESS\\_2020.pdf](https://files.institutesi.org/WORLDS_STATELESS_2020.pdf).
- <sup>4</sup> Institute on Statelessness and Inclusion, 'Stateless in a Global Pandemic: Impact Report', (2020), available at: [https://files.institutesi.org/Covid19\\_Stateless\\_Impact\\_Report.pdf](https://files.institutesi.org/Covid19_Stateless_Impact_Report.pdf).
- <sup>5</sup> Right to Nationality & Citizenship Network and DAJI, 'Marginalised and Impoverished in Assam: A study into the exclusion of those at risk of statelessness in COVID-19 responses and social security provision', (2021), available at: <https://drive.google.com/file/d/1DP5GRma4utgd250a61VuURVAMeMNg84x/view>.
- <sup>6</sup> BBC News, 'Statelessness in Assam' BBC News, (16 December 2019), available at: <https://www.youtube.com/watch?v=veeJFuluaJ0&t=591s>.
- <sup>7</sup> S. Purkayastha, 'Before COVID, Chakma, Hajong tribes of Arunachal battled stormy migration', The Federal, (4 May 2020), available at: <https://thefederal.com/covid-19/before-covid-19-chakma-hajong-tribes-of-arunachal-battled-a-stormy-migration/>.
- <sup>8</sup> See further Chapter on Rohingya in Refugee Situations in Part 3 of this report.
- <sup>9</sup> Worldometer, 'India', Worldometer, (2021), available at: <https://www.worldometers.info/coronavirus/country/india/>.
- <sup>10</sup> Right to Nationality & Citizenship Network and DAJI, 'Marginalised and Impoverished in Assam: A study into the exclusion of those at risk of statelessness in COVID-19 responses and social security provision', (2021), available at: <https://drive.google.com/file/d/1DP5GRma4utgd250a61VuURVAMeMNg84x/view>.
- <sup>11</sup> J. Holder, 'Tracking Coronavirus Vaccinations Around the World', New York Times, (3 May 2021), available at: <https://www.nytimes.com/interactive/2021/world/covid-vaccinations-tracker.html>.
- <sup>12</sup> Right to Nationality & Citizenship Network and DAJI, 'Marginalised and Impoverished in Assam: A study into the exclusion of those at risk of statelessness in COVID-19 responses and social security provision', (2021), available at: <https://drive.google.com/file/d/1DP5GRma4utgd250a61VuURVAMeMNg84x/view>.
- <sup>13</sup> Business Today, 'Coronavirus: Supreme Court orders release of prisoners to decongest jails', Business Today, (23 March 2020), available at: <https://www.businesstoday.in/current/economy-politics/coronavirus-supreme-court-orders-release-of-prisoners-to-decongest-jails/story/398982.html>.
- <sup>14</sup> Express News Service, 'Coronavirus: SC orders release of those lodged in Assam detention centres for 2 yrs or more' The Indian Express, (14 April 2020), available at: <https://indianexpress.com/article/north-east-india/assam/coronavirus-supreme-court-orders-release-of-those-lodged-in-assam-detention-centres-for-2-yrs-or-more-6361305/>.
- <sup>15</sup> Mamiran Nessa, 43, mother of three, was detained in 2010 after an FT declared her a 'foreigner' despite lack of legal representation. Her daughter had to drop out of school to take care of the household in Mamiran's absence. Her youngest son was only three years old when she was detained. Mamiran was pregnant when she was sent to the detention camp and after torture at the hands of female police officers inside the detention camp, gave birth to a still born child. Her husband fought her legal battle but passed away two years before her conditional release. She was not informed about her husband's death and was not permitted to see him before he died or attend his funeral. The economic hardship of fighting the legal battle has had a long-standing impact on the family that they are still struggling with which has been exacerbated by the effects of the COVID-19 pandemic.
- <sup>16</sup> The Constitution of India (1949), available at: [https://www.constituteproject.org/constitution/India\\_2016?lang=en](https://www.constituteproject.org/constitution/India_2016?lang=en).
- <sup>17</sup> The Citizenship Act of India (1955), available at: [https://www.indiacode.nic.in/bitstream/123456789/4210/1/Citizenship\\_Act\\_1955.pdf](https://www.indiacode.nic.in/bitstream/123456789/4210/1/Citizenship_Act_1955.pdf).
- <sup>18</sup> Ibid.
- <sup>19</sup> S. Kakarala, D. Prakash, and M. Tiku, 'India and the challenge of statelessness: A review of legal framework to nationality', (National Law University, Delhi Press 2012), available at: <http://nlu-delhi.ac.in/download/publication/2015/India%20and%20the%20Challenges%20of%20Statelessness.pdf>.
- <sup>20</sup> Ibid.
- <sup>21</sup> Ibid.
- <sup>22</sup> Right to Nationality & Citizenship Network and DAJI, 'Marginalised and Impoverished in Assam: A study into the exclusion of those at risk of statelessness in COVID-19 responses and social security provision', (2021), available at: <https://drive.google.com/file/d/1DP5GRma4utgd250a61VuURVAMeMNg84x/view>.
- <sup>23</sup> Livelaw News Network, 'Assam: Children Born After Dec 3, 2004 Not To Be Included In NRC If Any Of The Parent Is A 'D' Voter, Declared Foreigner Or Pending Case', Livelaw News Network (13 August 2019), available at: <https://www.livelaw.in/top-stories/assam-nrc-children-born-after-december-3-2004-dv-df-pft-147161>.
- <sup>24</sup> Right to Nationality & Citizenship Network and DAJI, 'Marginalised and Impoverished in Assam: A study into the exclusion of those at risk of statelessness in COVID-19 responses and social security provision', (2021), available at: <https://drive.google.com/file/d/1DP5GRma4utgd250a61VuURVAMeMNg84x/view>.

# KENYA

**“It is so unfortunate to realise that the Nubians are still facing challenges on access to nationality and citizenship. This has limited them from accessing services such as healthcare, securing job opportunities or even ownership of land which has further increased their vulnerability both socially and economically.”**

*Member of Parliament Kisumu Town East,  
Hon. Shakeel Shabbir*

Kenya is home to an estimated 18,500 stateless persons and approximately five million Kenyans who face **discrimination** and barriers in accessing nationality documentation.<sup>2</sup> Various minority communities are impacted, including the Pemba, Galjael, Shona and those of Burundian, Congolese, Indian and Rwandan descent. Nubians and some Kenyan Somalis whose access to Kenyan identification documents is limited, also face challenges with documentation.<sup>3</sup> These minority communities experience **institutionalised discrimination** in the issuance of documents and are subjected to a vetting process, based on ethnicity, in order to acquire an identity card or passport.

Kenya's moves toward digital identification, brings with it, further threats to the inclusion of these excluded communities. Kenya recently introduced the National Integrated Identity Management System which has made access to public services conditional on access to a *HudumaNamba* (identification number). Those who are denied a *HudumaNamba* because they are undocumented or stateless, will be denied basic human rights including access to universal healthcare, education, employment and accessing government services.<sup>4</sup>

Kenya has been heavily impacted by the pandemic. This chapter focuses specifically on the Nubian community, who faced significant challenges before the pandemic, which have been greatly exacerbated by COVID-19. The Nubian community are denied their equal right to nationality, as they were not recognised as citizens at the time of independence,<sup>5</sup> meaning they were required to apply to register as citizens (through a highly **discriminatory** vetting process), rather than automatically acquiring it.<sup>6</sup> As a result, many remain without recognition or documentation of citizenship. Nubians reside in various parts of Kenya, such as Kisii, Mombasa, Eldama Ravin, Kakamega, Kilifi, Kisumu and Bungoma counties, but the majority live in Kibera, the largest slum in Nairobi, with a population of over 500,000 people.

## **RIGHT TO NATIONALITY, DOCUMENTATION AND LEGAL STATUS**

During lockdown, various registration and government offices closed, leaving a backlog of unregistered births, deaths, marriages and ID and passport applications. This prevented Nubians from beginning the process of obtaining IDs and resulted in pending applications being put on hold. Civil registration offices have since opened with limited capacity, but Nubians and other stateless communities continue to face challenges accessing and acquiring documentation because of the backlogs of applications which have built up during office closures. These challenges have been caused by the suspension of vetting which led to increased

number of applicants waiting to be vetted.

## **RIGHT TO HEALTH**

Kibera is a hotspot for the spread of COVID-19 due to overcrowding and unsanitary conditions (including lack of water and hygiene products including soap), where social distancing and good hygiene practices are difficult to follow. Stateless persons and those at risk of statelessness face many barriers in accessing healthcare services. The lack of legal identity is a barrier to accessing inpatient treatment from government and private hospitals, with high costs also preventing access to private healthcare. As a result, many are left to depend on herbal medicines. The fear of police harassment, arrests and detention due to lack of documentation further decreases the likelihood of seeking medical help. At the time of writing, the Nubian community living in areas where local NGO, NRF, operates had not been included in the national vaccination plan. Due to the limited number of vaccines available, lack of legal documentation, remote geographical location and poverty, those with nationality issues currently have very little access to the vaccine.

**Mental Health:** There are reports of deteriorating mental health in Dadaab refugee camp, a rise in suicides and a 50% rise in psychosocial consultations. Cash and food transfers have dropped by 10 to 30%, and refugees suffer from anxiety and uncertainty about the future, especially in the context of COVID-19.<sup>7</sup>

## **SOCIO-ECONOMIC RIGHTS**

**Exclusion from Emergency Relief:** The National Hygiene Programme, locally known as *KaziMtaani*<sup>8</sup> is designed to cushion the most vulnerable but able-bodied citizens living in informal settlements from the impact of COVID-19. The programme provides income generating opportunities by recruiting residents of these settlements to carry out projects aimed at improving the environment, service delivery and infrastructure development. In Nairobi, more than 12,000 Kenyans living in Mathare, Kibera, Mukuru and Korogocho have benefited from this initiative. Despite the reach of this programme, only those with ID cards are recruited, excluding many Nubians and stateless persons from its benefits. Further, to receive a weekly stipend of 1000 shillings under this programme, one must be in possession of a registered SIM card.<sup>9</sup>

**Lost Livelihoods:** Prior to COVID-19, the Nubian community experienced difficulties in accessing services due to lack of documentation which has been exacerbated by the pandemic. The community continues to face challenges accessing government aid such as food relief, medical care and PPE. The government offers basic services and cash transfers done

THIS CHAPTER LOOKS MORE CLOSELY AT RIGHT TO NATIONALITY, DOCUMENTATION AND LEGAL STATUS; RIGHT TO HEALTH AND SOCIO-ECONOMIC RIGHTS,<sup>1</sup> AND MAKES THE FOLLOWING **CALL TO ACTION** TO THE GOVERNMENT AND RELEVANT STAKEHOLDERS:

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**ENSURE THAT STATELESS COMMUNITIES ARE INCLUDED ON AN EQUAL BASIS IN THE COVID-19 VACCINATION PLAN.**

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**WORK WITH CIVIL SOCIETY, UNHCR, THE RED CROSS AND OTHER STAKEHOLDERS TO ENSURE THAT STATELESS COMMUNITIES ARE INCLUDED ON AN EQUAL BASIS IN THE COVID-19 ACTION PLAN AND ARE PROVIDED WITH FOOD AND OTHER RELIEF ACCORDING TO NEED**

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**RECOGNISE STATELESS COMMUNITIES IN KENYA, FACILITATE THEIR EQUAL ACCESS TO NATIONALITY AND REMOVE BARRIERS TO ACCESSING LEGAL DOCUMENTATION.**

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**IMMEDIATELY STOP FORCED EVICTIONS OF THE NUBIAN COMMUNITY, WHO FACE DISCRIMINATION IN ACCESSING NATIONALITY AND ARE AT HIGH RISK OF CONTRACTING COVID-19.**

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primarily through mobile phones which are inaccessible to many Nubians and stateless people, as they cannot register and use a SIM card without providing an ID card. As a result of lockdowns, job opportunities have been scarce and where work is available, the lack of documentation acts as a barrier to employment. This has resulted in an increase in poverty, malnutrition and the inability to acquire basic necessities. A general lack of awareness of the impact of COVID-19 and prevention measures among stateless communities and the general public, further heightens their risk.

## STATELESSNESS AND THE RIGHT TO NATIONALITY IN KENYA

The 2010 Constitution,<sup>10</sup> 2011 Kenya Citizenship and Immigration Act<sup>11</sup> and 2001 Children

Act<sup>12</sup> all contain provisions pertaining to citizenship in Kenya. Accordingly, citizenship is mainly acquired at birth on a *jus sanguinis* basis, if at the time of birth, one parent was recognised as a citizen of Kenya.

The causes of statelessness can be grouped into two broad categories – legal and administrative.<sup>13</sup> Legally, there are no adequate safeguards to prevent statelessness. The 2010 Constitution, for example, states that Kenyans acquire citizenship at birth; however, this only applies if at least one parent was registered as a Kenyan citizen at the time of birth.<sup>14</sup> The Constitution and the Kenya Citizenship and Immigration Act<sup>15</sup> both further contain provisions regarding the renunciation of citizenship and the deprivation of citizenship which do not safeguard against statelessness.<sup>16</sup> Administratively speaking, many Kenyans do not have access to

identification documents due to gaps in registration, identification and citizenship procedures.<sup>17</sup> This is compounded by a lack of awareness of the importance of birth registration.<sup>18</sup>

In practice, ethnic minorities including Kenyan Nubians, Kenyan Somalis and the Coastal Arabs are disproportionately threatened by the risk of statelessness.<sup>19</sup> Obstacles include difficulties in obtaining documents such as identity cards or passports.<sup>20</sup> Moreover, children from these communities face a higher risk of statelessness as birth certificates cannot be used as proof of citizenship.

## THE CESF CONSORTIUM PROJECT

This project, carried out by the Nubian Rights Forum, entails monitoring and responding to human rights violations, documentation issues and challenges faced by the Nubian community during the pandemic. Through evidenced based advocacy, the project aims to end the government-led vetting process that Nubians must undergo, which hinders their acquisition of identity documentation. This project aims to raise awareness about statelessness and the impact of COVID-19 through media outreach utilising local Kenyan TV and radio stations and social media. This project disseminates information about COVID-19 in the community; ensuring accurate information is accessible to all. The project focuses on building partnerships and networking to improve the situation. In collaboration with Kibera Food Drive, the project provides food relief assistance in the form of small food packages and sanitation supplies to those without access to COVID-19 state relief measures. Finally, the project provides legal support to Nubians applying for their identity documents and legal counselling and mental health support to those who have suffered human rights abuses during the pandemic.

NRF is a human rights organisation dedicated to promoting the rights of the Nubian community in Kenya by assisting stateless persons within the community with their applications for identity and citizenship documents. NRF trains and supports community-based paralegals who aim to empower those at risk of statelessness by navigating the Kenyan legal system.

### Impact

Through a weekly radio show, NRF has been spreading awareness about statelessness and disseminating information about COVID-19. Through dedicated social media work, NRF has grown their supporter base and are now reaching thousands of people on platforms including Facebook and Twitter. Through their radio show and social media presence they have been able to raise awareness within the Nubian community on COVID-19, its impacts and preventative, life saving measures. NRF has gathered information on how the pandemic has affected stateless Nubians so they can offer bespoke assistance and gather an evidence base to strengthen advocacy against the discriminatory identity documentation vetting process.

<sup>1</sup> See further Chapter on Right to Nationality, Documentation and Legal Status, Chapter on Right to Health and Chapter on Socio-Economic Rights in Part 2 of this report.

<sup>2</sup> The Institute on Statelessness and Inclusion, 'The World's Stateless: Deprivation of Nationality', (2020), available at: [https://files.institutesi.org/WORLD'S\\_STATELESS\\_2020.pdf](https://files.institutesi.org/WORLD'S_STATELESS_2020.pdf).

<sup>3</sup> UNHCR, 'Stateless Persons', available at: <https://www.unhcr.org/ke/stateless-persons>.

<sup>4</sup> K. Abuya, 'Huduma Bill 2019 Proposes Mandatory New Identity Issuance, Tied to All Gov't Services' Techweez (18 July 2019) available at: <https://techweez.com/2019/07/18/huduma-bill-2019/>.

<sup>5</sup> GLOBALCIT, 'Report on Citizenship Law: Kenya', (2020), available at: [https://cadmus.eui.eu/bitstream/handle/1814/66749/RSC\\_GLOBALCIT\\_CR\\_2020\\_7.pdf?sequence=1&isAllowed=y](https://cadmus.eui.eu/bitstream/handle/1814/66749/RSC_GLOBALCIT_CR_2020_7.pdf?sequence=1&isAllowed=y).

<sup>6</sup> Ibid.

<sup>7</sup> F. Nyasuguta, 'Covid-19 fuels mental health crisis in Dadaab', The Star, (13 October 2020), available at <https://www.the-star.co.ke/counties/north-eastern/2020-10-13-covid-19-fuels-mental-health-crisis-in-dadaab/>.

<sup>8</sup> Ministry of Transport, Infrastructure, Housing and Urban Development, KaziMtaani, (2020), available at: <https://housingandurban.go.ke/national-hygiene-programme-kazi-mtaani/>.

<sup>9</sup> Ibid.

<sup>10</sup> Constitution of the Republic of Kenya, (2010), available at: <http://www.kenyalaw.org/8181/exist/kenyalex/actview.xql?actid=Const2010>.

<sup>11</sup> Kenyan Citizenship and Immigration Act, (2011), available at: <https://admin.theiguides.org/Media/Documents/ImmigrationCitizenshipAct2011.pdf>.

<sup>12</sup> Children's Act, (2001), available at: <http://kenyalaw.org/8181/exist/kenyalex/actview.xql?actid=No.%208%20of%202001>.

<sup>13</sup> Kenya National Commission on Human Rights and UNHCR 'Out of the Shadows Towards Ensuring the Rights of Stateless Persons and Persons at Risk of Statelessness in Kenya', (2010), available at: <http://www.knchr.org/Portals/0/CivilAndPoliticalReports/Statelessness%20Report.pdf>.

<sup>14</sup> Kenya Human Rights Commission, 'The Status of Stateless Communities in Kenya', (2021). Available at: <https://www.youtube.com/watch?v=YHVIXcFfaQQ&t=306s>.

<sup>15</sup> Kenyan Citizenship and Immigration Act, (2011), available at: <https://admin.theiguides.org/Media/Documents/ImmigrationCitizenshipAct2011.pdf>.

<sup>16</sup> Kenya National Commission on Human Rights and UNHCR, 'Out of the Shadows Towards Ensuring the Rights of Stateless Persons and Persons at Risk of Statelessness in Kenya', (2010), available at: <http://www.knchr.org/Portals/0/CivilAndPoliticalReports/Statelessness%20Report.pdf>.

<sup>17</sup> M. Medi, 'A Call to Action to End Statelessness in Kenya' KHRC, (24 January 2019), available at <https://www.khrc.or.ke/2015-03-04-10-37-01/blog/675-a-call-to-action-to-end-statelessness-in-kenya.html>.

<sup>18</sup> Kenya Human Rights Commission, 'The Status of Stateless Communities in Kenya', (2021). Available at: <https://www.youtube.com/watch?v=YHVIXcFfaQQ&t=306s>.

<sup>19</sup> Children's Act, (2001), available at: <http://kenyalaw.org/8181/exist/kenyalex/actview.xql?actid=No.%208%20of%202001>.

<sup>20</sup> Ibid.

# MALAYSIA

**“The Impact of Statelessness can be seen through many facets; one being the most crucial is the dire need to earn a living without being discriminated through low wages, long hours and dangerous jobs. Other impacts are evident through the unavailability to get access to healthcare services while children are not allowed to enrol in schools. They are often denied basic rights and the reflection of many attitudes towards the stateless community results in them living in fear while making it almost impossible to earn a livelihood and survive.”**

*SUHAKAM, Children’s Commissioner,  
Professor Dato’ Noor Aziah Mohd Awal*

There are various groups who are stateless or at risk of statelessness in Malaysia. In 2010, it was estimated that 66,000 of a population of 2.6 million indigenous persons were stateless or undocumented in Sarawak.<sup>2</sup> Other groups at risk include members of the Indian Tamil community in West Malaysia,<sup>3</sup> and the Bajau Laut in Sabah, East Malaysia: a traditionally maritime migratory people.<sup>4</sup> There are also many Rohingya refugees in Malaysia.<sup>5</sup> Malaysian nationality law is gender discriminatory: women, as a result of systemic and nationalised discrimination do not have equal rights to confer citizenship to their children and spouses. Children born outside Malaysia to Malaysian mothers may only acquire Malaysian citizenship at the discretion of the government by registering at a Malaysian Consulate or the National Registration Department in Malaysia and applying via Article 15(2) – citizenship by registration – which is a process fraught with delays, repeated rejections without reasons and no guarantee of approval.<sup>6</sup> At the same time, men do not have equal rights to transmit nationality to their children who are born out of legal wedlock.<sup>7</sup> Stateless people in Malaysia are more likely to endure discrimination, marginalisation and xenophobia as a result of their exclusion from society, perpetuating their vulnerabilities and exacerbating the consequences of statelessness in time of pandemic and in times of ‘normality’.

The stateless and those at risk of statelessness were, prior to COVID-19, vulnerable to human rights abuses. In the wake of COVID-19, these vulnerabilities have been sharply exacerbated. The lack of access to documentation and inability to acquire Malaysian legal identity has heightened the precarity of stateless persons and non-citizens, during the pandemic. Non-citizen spouses and children continue to face barriers to entering Malaysia due to border closures and travel restrictions. Families with special circumstances have also not been allowed into the country, including families who lack financial resources, and those with family members with physical and mental disabilities. It is anticipated that there will be an increase in the number of children of Malaysian women without access to citizenship because of the inability of their mothers to return to Malaysia to give birth. Along with medical facilities being less accessible, civil registration offices have either closed or restricted services, making it much harder to register births.

## **RIGHT TO NATIONALITY, DOCUMENTATION AND LEGAL STATUS**

As a result of an increase in COVID-19 cases, the National Registration department switched to only allowing e-payment (debit or credit card) for registration, as opposed to cash payments.<sup>8</sup>

This is problematic as many stateless persons do not have access to the internet or a bank account.

## **RIGHT TO HEALTH**

Throughout the pandemic, healthcare services have been largely inaccessible to stateless communities in Malaysia. Increased medical fees and the risk of arrest faced by undocumented migrants who seek treatment from government health institutions, are significant barriers.<sup>9</sup> At the beginning of the pandemic, the Ministry of Health claimed all persons, regardless of status could and should seek testing and not fear arrest or detention, however, it subsequently failed to protect those rounded up during raids by the Ministry of Defence.<sup>10</sup> Non-citizen spouses and children of Malaysians who faced difficulties accessing immigration services during the national lockdown due to closure of offices, long delays in booking appointments, sometimes for many months and appointments being highly competitive also faced these risks associated with accessing healthcare, if their visas, passes or permits had expired as a result of these delays.

## **SOCIO-ECONOMIC RIGHTS**

**Exclusion from Emergency Relief:** Stateless persons and non-citizens have not been included in government relief measures. However, some faith groups and civil society organisations have provided humanitarian aid to refugees, migrants and stateless people. For the Bajau Laut community, for example, the lack of documentation has meant exclusion from government relief efforts. Government food baskets were only given to those with citizenship during the MCO in April 2020 and October – December 2020. This forced NGOs to step in, but navigating the MCO order presented challenges, further complicated by an order from the government that only allowed authorities to distribute aid. The MCO also interfered with the ability of the Bajau Laut people to acquire their own food, as they rely on fishing as their main source of sustenance, which they were prohibited from doing during the lockdown. The community further reported fear of detention and deportation if they were to fish. An organisation that works with Bajau Laut children in Sabah, Iskul Sama Dilaut Omdal, worked with the community to distribute food to families in need.<sup>11</sup>

**Lost Livelihoods:** Due to the lack of legal status, the stateless mainly have access to informal sector employment. As a result of lockdowns, many lost their jobs and incomes. There has also been an increase in socio-economic marginalisation faced by Malaysian binational families due to general restrictions on employment

THIS CHAPTER LOOKS MORE CLOSELY AT **RIGHT TO NATIONALITY, DOCUMENTATION AND LEGAL STATUS, RIGHT TO HEALTH, SOCIO-ECONOMIC RIGHTS AND CIVIL AND POLITICAL RIGHTS,**<sup>1</sup> AND MAKES THE FOLLOWING **CALL TO ACTION** TO THE GOVERNMENT AND OTHER RELEVANT STAKEHOLDERS:

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**IMPLEMENT TEMPORARY SPECIAL MEASURES TO ENSURE ALL CHILDREN HAVE EQUAL ACCESS TO MALAYSIAN CITIZENSHIP WHEN BORN OVERSEAS, PARTICULARLY IF TRAVEL TO MALAYSIA AND MARRIAGE REGISTRATION WAS NOT POSSIBLE DUE TO BORDER CLOSURES AS A RESULT OF COVID-19.**

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**ENSURE NON-CITIZEN SPOUSES AND CHILDREN OF MALAYSIANS ARE NOT DENIED ENTRY TO MALAYSIA, BEARING IN MIND THAT LONG-TERM FAMILY SEPARATION IS NOT IN THE BEST INTEREST OF CHILDREN AND UNDERMINES THE RIGHT TO FAMILY LIFE.**

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**GUARANTEE EQUALITY AND NON-DISCRIMINATION IN COVID-19 VACCINATION SCHEMES, TESTING AND TREATMENT TO NON-CITIZEN SPOUSES AND CHILDREN OF MALAYSIANS, MIGRANTS, REFUGEES, ASYLUM SEEKERS AND STATELESS PEOPLE.**

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**GRANT ALL NON-CITIZEN CHILDREN OF MALAYSIANS AS WELL AS STATELESS CHILDREN, ACCESS TO PUBLIC EDUCATION AND HEALTHCARE FACILITIES ON AN EQUAL BASIS TO MALAYSIAN CITIZENS.**

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**LISTEN TO AND CONSULT GRASSROOTS COMMUNITIES AND NGOS TO FIND SUSTAINABLE SOLUTIONS TO ADDRESS COVID-19 IMPACTS ON STATELESS COMMUNITIES AND MALAYSIAN BINATIONAL FAMILIES.**

of non-citizen spouses. With a recent rise in xenophobic sentiments there are greater restrictions to holding licenses to open and run businesses or access other employment opportunities. Hundreds of refugees and stateless people living in Selayang have been deprived of their only source of income as they were all workers at the local wholesale market (Pasar Borong). They are now left with no more resources to sustain basic needs such as food, healthcare and housing.<sup>12</sup> While some Malaysians have been allowed intermittently back to work, amidst multiple strict MCOs, refugees and stateless people were not allowed to return to work in markets. Anti-immigrant rhetoric has resulted in difficulty accessing work in wholesale markets, construction sites and some factories.

**“The COVID-19 pandemic has led to a devastating loss of livelihoods and income, threatening vulnerable communities with hunger and heightened risks for women and children in binational marriages with no blueprint for recovery. Sustainable solutions are required with the coming together of governments, communities and civil society to navigate successfully into the future of 2021 and beyond.”<sup>13</sup>**

**Disrupted Education:** Accessing education has also been impacted due to enhanced barriers for stateless and undocumented children. These challenges have been exacerbated by the shift to online and remote learning which requires access to the internet and IT equipment.<sup>14</sup>

## CIVIL AND POLITICAL RIGHTS

**Arbitrary Detention:** In May 2020, hundreds of undocumented immigrants were rounded up, arrested and detained, leading to condemnation by the UN.<sup>15</sup> As of December 2020, Malaysia's Ministry of Health reported at least 735 positive cases of COVID-19 in immigration detention centres nationwide. The high-risk nature of detention centres for the spread of COVID-19 was acknowledged by the Director General of Health.<sup>16</sup> In January 2021, prison overcrowding resulted in clusters of COVID-19 within detention facilities, exacerbated by the inability to social distance, causing cases to surge.<sup>17</sup> In October, more than 700 undocumented children were reported to be held in detention facilities, which the government did not allow UNHCR access to. Non-citizen spouses of Malaysians have also been detained, after initially being charged for non-immigration related offences; as seen in the case of the detention of a Vietnamese non-citizen spouse<sup>18</sup> and the prolonged detention of a Nigerian spouse, Simon Adavize Momoh.<sup>19</sup> Despite possessing valid visas, these non-citizen spouses were detained, raising concerns about the liberty of those who cannot renew, extend or apply for visas, due to disruptions caused by the pandemic.

## STATELESSNESS AND THE RIGHT TO NATIONALITY IN MALAYSIA

According to the Constitution, citizenship can be acquired by birth, registration or naturalisation.<sup>20</sup> The Constitution prohibits gender-discrimination while containing gender discriminatory provisions which increase the risk of statelessness. The Constitution does not allow legally married Malaysian women in binational marriages to confer their citizenship on their children born outside Malaysia, on an equal

basis as legally married Malaysian men in binational marriages,<sup>21</sup> leaving them with an unequal access to Malaysian legal status, and/or putting them at risk of statelessness. The Constitution also does not allow Malaysian men to confer citizenship where a child is born outside of a legally recognised marriage.<sup>22</sup> Even though there are a number of legal safeguards against statelessness, they are rarely strictly applied resulting in statelessness and the risk of statelessness being an ongoing issue.<sup>23</sup>

## THE CESF CONSORTIUM PROJECT

While there are numerous groups affected by statelessness in Malaysia who all face deprivations as a result of COVID-19, the CESF Malaysia project focuses on the impact of Malaysia's gender discriminatory Citizenship Law. The project aims to mobilise the reform of gender-discriminatory citizenship laws, policies and practices to address both the unequal treatment of Malaysians in binational marriages (the rights of Malaysian women to confer citizenship to their spouses and their children born overseas) and inequality faced by non-citizen spouses during COVID-19.

The project initially gathered evidence on bureaucratic inconsistencies and challenges faced by Malaysians, their non-citizen spouses and children during COVID-19, especially due to the lack of access to a Malaysian legal identity among non-citizen spouses and children. Through evidence-based engagement with policymakers and strategic litigation, the project makes the case for law reform and increased awareness among policymakers. The project will build on research findings to also increase awareness within affected communities, the public and key stakeholders. Further, the project creates alternative avenues to address the increased need for support and information as a result of COVID-19.

## Impact

The project has successfully initiated engagement with policymakers and received acknowledgement from the offices of the Prime Minister, Home Minister, Minister of Women, Family and Community Development and the National Security Council. As a direct result of evidence-based engagement and constant media presence, the project has successfully lobbied for non-citizen spouses and their children to renew or apply for visas and permits without having to leave the country; non-citizen spouses and their children (including those without LTSVP) to enter Malaysia upon approval from Immigration; and the setting up of a systematic online application portal for non-citizen spouses and children of Malaysians to appeal to enter or exit Malaysia. Finally, as a direct result of these interventions, the campaign to bring home non-citizen spouses of Malaysians led to the Malaysian government allowing spouses to return, resulting in hundreds of family reunifications since June 2020.

<sup>1</sup> See further Chapter on Right to Nationality, Documentation and Legal Status, Chapter on Right to Health, Chapter on Socio-Economic Rights and Chapter on Civil and Political Rights in Part 2 of this report.

<sup>2</sup> Rosa Luxembourg Stiftung, 'Atlas of the Stateless: Facts and Figures about Exclusion and Displacement', (2020), available at: <https://www.rosalux.de/en/publication/id/43022/atlas-of-the-stateless>.

<sup>3</sup> Development of Human Resources in Rural Areas Malaysia, Voice of the Children, Yayasan Chow Kit, Global Campaign for Equal Nationality Rights, Statelessness Network Asia Pacific and Institute on Statelessness and Inclusion, 'Joint Submission to the Human Rights Council at the 31st Session of the Universal Periodic Review: Malaysia', (29 March 2018), available at: [https://files.institutiesi.org/UPR31\\_Malaysia.pdf](https://files.institutiesi.org/UPR31_Malaysia.pdf).

<sup>4</sup> R. M. Razali, 'Addressing Statelessness in Malaysia: New Hope and Remaining Challenges', (2017), Institute on Statelessness and Inclusion, Statelessness Working Paper Series No. 2017/9, available at: [https://files.institutiesi.org/WP2017\\_09.pdf](https://files.institutiesi.org/WP2017_09.pdf).

<sup>5</sup> See further Chapter on Rohingya in Refugee Situations in Part 3 of this report.

<sup>6</sup> UNHCR, 'Background Note on Gender Equality, Nationality Laws and Statelessness', (2020), available at: <https://www.refworld.org/pdfid/5f0d7b934.pdf>.

<sup>7</sup> Free Malaysia Today, 'Federal Court rules illegitimate child not entitled to citizenship', (28 May 2021), available at: <https://www.freemalaysiatoday.com/category/nation/2021/05/28/federal-court-rules-illegitimate-child-not-entitled-to-citizenship/>.

<sup>8</sup> K. Inus, 'COVID-19: It's appointments only now at Sabah NRD offices', The Star, (30 September 2020), available at: <https://www.thestar.com.my/news/nation/2020/09/30/covid-19-it039s-appointments-only-now-at-sabah-nrd-offices>.

<sup>9</sup> Internal Survey conducted by Nationality for All, Open Society Justice Initiative and Refugee Solidarity Network (2020).

<sup>10</sup> Institute on Statelessness and Inclusion, 'Stateless in a Global Pandemic: Impact Report', (2020), available at: [https://files.institutiesi.org/Covid19\\_Stateless\\_Impact\\_Report.pdf](https://files.institutiesi.org/Covid19_Stateless_Impact_Report.pdf).

<sup>11</sup> ISI Appeal for Information on Covid-19 and Statelessness (February 2021).

<sup>12</sup> Ibid

<sup>13</sup> Ibid

<sup>14</sup> Internal Survey conducted by Nationality for All, Open Society Justice Initiative and Refugee Solidarity Network (2020).

<sup>15</sup> FMT Reporters, 'UN warns police raids will push migrants into hiding', FMT Reporters, (2 May 2020), available at: <https://www.freemalaysiatoday.com/category/nation/2020/05/02/un-malaysia-warns-police-raids-will-push-migrants-into-hiding/>.

<sup>16</sup> Asia Pacific Refugee Rights Network, 'Malaysia must pursue alternatives to immigration detention for children immediately', (8 December 2020), available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/APRRN-Statement-on-Malaysia-Immigration-Detention-of-Children.pdf>.

<sup>17</sup> I. Lim, 'As COVID-19 sweeps through lock-ups, govt moves to temporarily house inmates at National service camps', Yahoo! News, (26 January 2021), available at: [https://malaysia.news.yahoo.com/covid-19-sweeps-lock-ups-075743896.html?guccounter=1&guce\\_referrer=aHR0cHM6Ly93d3cu229v22x1mNybS88-guce\\_referrer\\_sig=AQAAAlwY6APwxfhW0BGK9vo7iO1FkxR3rkHfjNkzVth2ck7fOowzaaQ0JG08sk2jMaqjXg3037-vYi2qM7PqJ4zTMAYJPbiifEFXnrgglBny:TEgWoznuVVKdzZ18RxlZlnWepCXWSlogHjplDbHwllAeU431fldwdf05V7Ppqu](https://malaysia.news.yahoo.com/covid-19-sweeps-lock-ups-075743896.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cu229v22x1mNybS88-guce_referrer_sig=AQAAAlwY6APwxfhW0BGK9vo7iO1FkxR3rkHfjNkzVth2ck7fOowzaaQ0JG08sk2jMaqjXg3037-vYi2qM7PqJ4zTMAYJPbiifEFXnrgglBny:TEgWoznuVVKdzZ18RxlZlnWepCXWSlogHjplDbHwllAeU431fldwdf05V7Ppqu).

<sup>18</sup> FMT Reporters, 'UN warns police raids will push migrants into hiding', FMT News, (2 May 2020), available at: <https://www.freemalaysiatoday.com/category/nation/2020/05/02/un-malaysia-warns-police-raids-will-push-migrants-into-hiding/>.

<sup>19</sup> I. Lim, 'Nigerian Simon Momoh files court challenge against Immigration Dept's deportation order, Malaysian wife appealing to home minister', Malay Mail, (21 April 2021), available at: <https://www.malaymail.com/news/malaysia/2021/04/21/nigerian-simon-momoh-files-court-challenge-against-immigration-depts-deport/1968195>.

<sup>20</sup> Federal Constitution of Malaysia, (1957), (Rev. 2007), available at: [https://www.constituteproject.org/constitution/Malaysia\\_2007?lang=en](https://www.constituteproject.org/constitution/Malaysia_2007?lang=en).

<sup>21</sup> Part II Section 1 of the Second Schedule of the Federal Constitution of Malaysia, (1957), available at: <http://www.commonlii.org/my/legis/const/1957/17.html>.

<sup>22</sup> Part II Section 17 of the Second Schedule of the Federal Constitution of Malaysia, (1957), available at: <http://www.commonlii.org/my/legis/const/1957/17.html>.

<sup>23</sup> Development of Human Resources in Rural Areas Malaysia, Voice of the Children, Yayasan Chow Kit, Global Campaign for Equal Nationality Rights, Statelessness Network Asia Pacific and Institute on Statelessness and Inclusion, 'Joint Submission to the Human Rights Council at the 31st Session of the Universal Periodic Review: Malaysia', (29 March 2018), available at: [https://files.institutiesi.org/UPR31\\_Malaysia.pdf](https://files.institutiesi.org/UPR31_Malaysia.pdf).

# MONTENEGRO

**"Our goal is clear: in times of COVID-19 aid should be distributed to all vulnerable groups, regardless of documentation, and we should reopen the public call to resolve legal status and simplify the entire procedure. These are not simple steps, but either way we have to do it, for the sake of people who over the last few decades have been denied basic human dignity."**

*Phiren Amenca Executive Director,  
Elvis Beriša*

Statelessness in Montenegro is underreported, and Montenegro has been criticised for its inadequate study of statistical data. The majority of stateless people in Montenegro belong to the Roma community who were disproportionality impacted by the fall of the Yugoslavian republic in the 1990s, the subsequent forced displacement from Kosovo in 1999,<sup>2</sup> changes in the determination of citizenship and the destruction of civil registers during the Kosovan Conflict.<sup>3</sup> Other minority groups at risk of statelessness in Montenegro include ethnic Egyptians.

Unresolved documentation is a decades-long problem that the people of the Roma community live with in Montenegro. Many Roma are without legal status as they missed the time-frame within which such applications could be made. Although the Strategy for Social Inclusion of Roma and Egyptians 2016-2020<sup>4</sup> aimed to register people with unresolved legal status and assist in this process, in reality, lack of realistic and credible data on statelessness, as well as inadequate steps to address it, mean that these schemes do not work in practice. As a result, the Roma are **discriminated** against, marginalised and face the threat of deportation to Kosovo and elsewhere. Lack of access to birth registration is a leading cause of statelessness and risk of statelessness in Montenegro. While the birth registration process has improved in recent years, the procedure to register births is diverse and complex among both the Roma and Egyptian communities. Very often, parents who do not have documentation must travel to Kosovo to register a child as a citizen of Kosovo, following which they can return to Montenegro. The procedure is costly and complicated, with burdensome evidentiary requirements.

In 2018, Montenegro introduced a statelessness determination procedure in a bylaw to the Law on Foreigners.<sup>5</sup> As of January 2021, only five people had secured stateless status through the procedure.<sup>6</sup> The consequences of the conditions they are forced to live in have been worsened by the COVID-19 pandemic and institutional blindness has resulted in an increase of their vulnerabilities, as well as a very real threat to health and safety.

## **RIGHT TO NATIONALITY, DOCUMENTATION AND LEGAL STATUS**

The Roma community faces significant challenges in accessing legal status, which disproportionately affect Roma children. To register a birth, an authorised person (generally parent or legal guardian) must attend the municipal registry office and provide official proof of the identity and civil status of both parents.<sup>7</sup> This can be an impossible requirement for Roma parents living with unresolved status. Further, often parents who do not have regulated citizenship must travel to Kosovo to register the child there.

During the pandemic, the ability to do this was significantly impacted by movement restrictions and the cost of COVID-19 testing prior to travel. Those Roma who do hold IDs are also at risk when their documents expire. It is common for the Ministry of Internal Affairs to put the individual 'on hold' without any further indication of when their documentation will be renewed. This impacts the ability to secure employment, ultimately impacting livelihoods. During COVID-19 there has been no official suspension of birth registration services. However, the services are slow and complicated, making it more difficult for Roma and Egyptian minorities to access them.

## **EQUALITY AND NON-DISCRIMINATION**

Ever since the pandemic began, public manifestations of antigypsyism have increased, as Roma and Egyptians have been perceived as carriers of the virus. The state reacted to news of one confirmed COVID-19 infection in the settlement of Vrela Ribnička, by strictly locking down the settlement for two weeks, with all movement prohibited.<sup>8</sup> Strong public reactions, including online hate speech, exemplified public approval of this discriminatory treatment. The lockdown segregated an already isolated community and disrupted much of the progress made in the last decade in combatting discrimination.

## **RIGHT TO HEALTH**

Discrimination in access to healthcare is common in Montenegro. The stateless and those at risk of statelessness are entitled to free emergency healthcare, but are often required to pay a fee. The stateless can access private healthcare, but the high costs make these services inaccessible to many. The National Immunization Strategy originally stated that stateless people will be the last people to receive the vaccine.<sup>9</sup> In a show of good practice, the new Montenegrin Government changed the policy and placed the Roma in a priority group, adding that they do not have to be insured by the Health Insurance Fund of Montenegro, and also that all Montenegrin residents, regardless of citizenship status, can receive the vaccine. The Institute of Public Health has clarified that this includes persons who are in the process of resolving their legal status and those who have no documents at all.<sup>10</sup>

**"Given low computer literacy as well as accessing electronic services, the implementation of immunisations in the Roma population is being carried out without prior appointment at all vaccination points. Work is being done to open vaccination centers to improve both health education and the healthcare of the Roma population."<sup>11</sup>**

THIS CHAPTER LOOKS MORE CLOSELY AT **RIGHT TO NATIONALITY, DOCUMENTATION AND LEGAL STATUS; EQUALITY AND NON-DISCRIMINATION; RIGHT TO HEALTH AND SOCIO-ECONOMIC RIGHTS,**<sup>1</sup> AND MAKES THE FOLLOWING **CALL TO ACTION** TO THE GOVERNMENT AND RELEVANT STAKEHOLDERS:

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**EXTEND STATE RELIEF, INCLUDING FINANCIAL RELIEF, FOOD RELIEF PACKAGES AND HYGIENE ITEMS TO STATELESS AND UNDOCUMENTED PEOPLE WHO ARE NOT REGISTERED AT THE CENTER FOR SOCIAL WORK AND CARE.**

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**PROVIDE EQUAL ACCESS TO FREE HEALTHCARE TO ALL MEMBERS OF THE ROMA AND EGYPTIAN COMMUNITY.**

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**PROVIDE DIGITAL TOOLS FOR ONLINE LEARNING, SUCH AS TABLETS AND FREE WI-FI, TO ALL ROMA AND EGYPTIAN CHILDREN, INCLUDING THOSE WHO ARE UNDOCUMENTED OR STATELESS.**

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**REOPEN THE 2015 PUBLIC CALL FOR APPLICATIONS TO PROVIDE A FACILITATED PATHWAY TO LEGAL STATUS AND NATIONALITY, FOR ALL PEOPLE WITH UNRESOLVED LEGAL STATUS.**

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**SIMPLIFY THE PROCEDURE TO ADDRESS UNRESOLVED LEGAL STATUS AND NATIONALITY, THROUGH REDUCING PAPERWORK, AND IMPROVING DIGITAL COOPERATION BETWEEN NEIGHBOURING COUNTRIES.**

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## SOCIO-ECONOMIC RIGHTS

**Exclusion from Emergency Relief:** During the COVID-19 pandemic, those without resolved legal status have not been able to benefit from government measures. The government rolled out four levels of financial help for Montenegrin citizens.<sup>12</sup> Each level only applied to Roma with documentation and did not sufficiently account for their needs. The first level of financial help was the distribution of €50 to persons who receive social assistance via the Center for Social Work; the second level was also €50 to assist those officially recorded as unemployed at the Labor Office within the Employment Bureau; the third and fourth instalments of €100 or €200 also applied to people on the records of the Center for Social Work. The increase in financial aid at the third level coincided with the Montenegrin general elections. Roma who lack documentation were denied access to these financial relief programmes. Those living in informal settlements were completely excluded because they do not have any official identity documents.

Undocumented Roma communities were also not fully reached by humanitarian organisations. For example, the official humanitarian organisation in Montenegro, the Red Cross, did not include those without documentation in its relief efforts, as it relies on government data, due to its role as the official conduit of the government relief fund. In cooperation with the Red Cross, the state provided aid packages, some of which did reach people with resolved legal status and in some cases, this type of assistance also went to people with unresolved legal status. However, this was only if they lived close to the areas where assistance was given, for example in Camps 1 and 2 in Vrela Ribničk. Such relief has only been provided once or twice since the pandemic started and has not been sufficient to alleviate its impacts.

**Lost Livelihoods:** The stateless, and those at risk of statelessness are generally unable to access formal employment due to their lack of legal documentation. They tend to therefore work in the informal economy. As a result of the lockdowns, many lost their sources of income pushing them further into poverty. The Roma community is very aware of the pandemic and the health risks. However, due to lack of government assistance and state failures to ensure food and clean water for all individuals, they are forced to continue working, if they can, to ensure survival.

## STATELESSNESS AND THE RIGHT TO NATIONALITY IN MONTENEGRO

The Constitution of Montenegro 2007,<sup>13</sup> Law on Montenegrin Citizenship 2008,<sup>14</sup> and Law on Foreigners 2018,<sup>15</sup> collectively set out the rules related to citizenship. The 2008 Citizenship Acts stipulates that Citizenship can be acquired via origin; birth on the territory; naturalisation and international agreements and treaties.<sup>16</sup> Due to the nexus between lack of birth registration and the risk of statelessness, in 2015, the Law on Non-Contentious Proceedings<sup>17</sup> was amended to establish a procedure to register the date and place of birth of those born outside the formal health system. This amendment has improved the situation of late birth registration in Montenegro and reduced the risk of statelessness.<sup>18</sup> By December 2020, Montenegro had also begun the implementation of new birth registration

practices for children abandoned by their mothers, or whose mothers are without ID.<sup>19</sup> Further, in 2018 a bylaw to the Law on Foreigners introduced an SDP<sup>20</sup> giving stateless people the opportunity to formalise their stateless status and thus acquire legal residence and access to basic rights.

## THE CESF CONSORTIUM PROJECT

The project “Learn My Name”, carried out by Walk With Us -Phiren Amenca, aims to tackle statelessness in Montenegro by documenting the exclusion of the Roma community within Podgorica via evidence-based research, and developing a better understanding of the impact of exclusionary COVID-19 relief policies on the stateless. The findings of this project will be used as a basis for advocacy, initiating dialogue with humanitarian and government actors, calling for the simplification of procedures and improving regional collaboration. In particular, the project will engage the Ministry of Interior Affairs, which is responsible for regulating the legal status of the Roma and Egyptian communities; the Ministry of Economic Development, which is responsible for the distribution of financial assistance; the Ministry of Finance and Social Welfare, which is responsible for the distribution of assistance packages, and the Red Cross.

Roma Youth Organization “Walk with us- Phiren Amenca” is a non-profit organisation that acts in the best interest of the Roma and Egyptian community in Montenegro, monitoring policies and actively improving conditions for this community in the areas of employment, education, housing, health, legal status, safety and equality. This organisation creates opportunities for non-formal education and dialogue in order to challenge prevalent stereotypes and antigypsyism. It aims to integrate and actively engage young Roma and Egyptian men and women into Montenegrin society, strengthen institutional capacities for the inclusion of Roma and Egyptian communities and reduce negative attitudes and discrimination against Roma and Egyptians in Montenegro.

### Impact

The impact of this project is primarily reflected in obtaining more accurate data on the number of people with unresolved legal status, as well as understanding how the distribution of COVID-19 aid took place and how many people were left out.<sup>21</sup> In discussions with relevant institutions, there have been visible shifts and sensitisation on the issue, as well as a clear intention and recognition of the necessity to reopen the public call to submit requests for the resolution of legal status in Montenegro, which originally closed in January 2015. The project has also placed additional pressure on the Montenegrin Government to honor its pledges to engage in European political activities to end statelessness.

<sup>1</sup> See further Chapter on Right to Nationality, Documentation and Legal Status, Chapter on Equality and Non-Discrimination, and Chapter on Right to Health and Socio-Economic Rights in Part 2 of this report.

<sup>2</sup> S. Baftijari ‘Bez dokumenata, bez budućnosti’, Roma Net, (29 June 2020), available at: <https://romanet.me/vijesti/bez-dokumenata-bez-buducnosti/>.

<sup>3</sup> Institute on Statelessness and Inclusion, European Network on Statelessness and the European Roma Rights Centre, ‘Roma Belong: Statelessness, Discrimination and Marginalisation of Roma in the Western Balkans and Ukraine, (2017), available at: [http://www.errc.org/uploads/upload\\_en/file/roma-belong.pdf](http://www.errc.org/uploads/upload_en/file/roma-belong.pdf).

<sup>4</sup> Montenegro Ministry of Human and Minority Rights ‘The Strategy for Social Inclusion of Roma and Egyptians in Montenegro 2016-2020’, (2016), available at: <https://www.rcc.int/romaintegration2020/files/admin/docs/516f4f38750495e5df7c9596503cf7e4.pdf>.

<sup>5</sup> Rulebook on the Procedure Initiated upon Request for Statelessness Determination, Bylaw to the Law on Foreigners (2018), available at: <https://www.refworld.org/docid/5c2f72804.html>.

<sup>6</sup> UNHCR, ‘The Campaign to End Statelessness January – March 2021 Update’, (2020), available at: <https://www.refworld.org/pdfid/607852747.pdf>.

<sup>7</sup> UNHCR offices in Bosnia & Herzegovina, Croatia, Former Yugoslav Republic of Macedonia, Montenegro, Serbia (and Kosovo: SCR 1244) – Bureau for Europe, ‘Report on Statelessness in South Eastern Europe’ (2011), available at: <https://www.refworld.org/pdfid/514d715f2.pdf>.

<sup>8</sup> Al Jazeera Balkans, ‘Marinović: U samoozlozici 23 zgrade u podgoričkom naselju Vrela Ribnička’, Al Jazeera Balkans, (6 April 2020) available at: <https://www.youtube.com/watch?v=BWylWdrE-Cj>; see also P. Milić ‘Montenegro: 201 people tested for coronavirus, infected and three police officers’, VOA, (4 April 2020), available at: <https://www.glasamerike.net/a/cna-gora-koronavirus-slu%C4%8Dajevi/5360221.html>.

<sup>9</sup> Institute of Public Health Montenegro, ‘Montenegro: National Strategy for the Introduction, Distribution and Administration of COVID-19 Vaccines’, (2020), available at: <https://www.jzcg.me/me/publikacije/nacionalna-strategija-za-uvodenje-distribuciju-i-prmjenu-covid-19-vakcina>.

<sup>10</sup> Aleksandar, ‘Immunization of the Roma Population: Mediators and new vaccination points for more accessible immunization of the community’, RomaNet, (28 April 2021), available at: <https://romanet.me/vijesti/medijatori-i-novi-vakcinalni-punktovi-za-pristupacniju-imunizaciju-re-zajednice/>.

<sup>11</sup> Institute of Public Health, Montenegro.

<sup>12</sup> Ministry of Economic Development, Measures to Support the Economy and Citizens for the II Quarter of 2021, (2021).

<sup>13</sup> The Constitution of Montenegro, (2007), available at: <https://www.wipo.int/edocs/lexdocs/laws/en/me/me004en.pdf>.

<sup>14</sup> Law on Montenegrin Citizenship, (2008), available at: [https://data.globalcit.eu/NationalDB/docs/Law%20on%20Montenegrin%20Citizenship%20\(consolidated%202016\)%20EN.pdf](https://data.globalcit.eu/NationalDB/docs/Law%20on%20Montenegrin%20Citizenship%20(consolidated%202016)%20EN.pdf).

<sup>15</sup> Foreign Nationals Law, (2018), available at: <https://www.refworld.org/docid/5552f8384.html>.

<sup>16</sup> J. Džankić, ‘Country Report: Montenegro’, European University Institute, Florence, Robert Schuman Centre for Advanced Studies, EUDO Citizenship Observatory, (2010), available at: <https://cadmus.eui.eu/bitstream/handle/1814/19627/Montenegro.pdf?sequence=1&isAllowed=y>.

<sup>17</sup> Law on Non-Contentious Proceedings, (2006), available at: <https://www.refworld.org/pdfid/5552036d4.pdf>.

<sup>18</sup> UNHCR, ‘Submission to the Human Rights Council at the 29th Session of the Universal Periodic Review: Montenegro, (January 2018), available at: <https://www.refworld.org/docid/5b0819d54.html>.

<sup>19</sup> UNHCR, ‘Montenegro Fact Sheet: February 2021’, (2021), available at: <https://reporting.unhcr.org/sites/default/files/Bi-annual%20fact%20sheet%202021%2002%20Montenegro.pdf>.

<sup>20</sup> Rulebook on the Procedure Initiated upon Request for Statelessness Determination, Bylaw to the Law on Foreigners (2018), available at: <https://www.refworld.org/docid/5c2f72804.html>.

<sup>21</sup> Walk with us - Phiren Amenca, ‘Roma without regulated legal status in the time of pandemic COVID-19’, (2021), available at: <http://phirenamenca.me/?content=doks&mod=publics&tip=single&id=303>.

# NEPAL

Due to gender discriminatory nationality laws, a patriarchal social structure and low birth registration rates, Nepal may have one of the largest stateless populations in the world.<sup>2</sup> Hundreds of thousands of persons who should be recognised as Nepali citizens, have no legal identity or status. Without status, Nepal's 'non-citizens' face disadvantage, exclusion and discrimination throughout their lives, forced to live in the margins of society. They cannot own or inherit land, travel freely, study, practice certain professions, open a bank account or even get a sim card.<sup>3</sup> Although there are no up-to-date and accurate statistics of statelessness in the country, the scale of the issue remains significant, with no significant progress being made to address it.<sup>4</sup> In Nepal it is projected that around 6.7 million people do not have citizenship certificates, of which, an unconfirmed number of the population are actually stateless.<sup>5</sup>

Statelessness and the risk of statelessness is caused and exacerbated by Nepal's gender-discriminatory Constitutional provisions and the Citizenship Act of 2063 (2006).<sup>6</sup> The Act was recently amended through an ordinance that has neither expanded nor restricted the constitutional provisions.<sup>7</sup> The law denies Nepali women equal rights in conferring nationality to their children. The Constitution of Nepal<sup>8</sup> states that a child born in Nepal to a Nepali mother whose father cannot be traced, can acquire citizenship by descent, however if it is later determined that the father is a foreigner, the child will lose their citizenship by descent and must become a naturalised citizen. The legal procedure requires the Nepali mother to submit a self-declaration stating that the father of the child cannot be traced and is not a foreigner. If the statement is later found to be untrue, the nationality of the child is cancelled. Additionally, street children and other foundlings who are not raised in an orphanage do not have legal means to apply for nationality and are stateless.

Statelessness is also a product of the xenophobic attitudes of the government officials and the jingoistic political agendas of the central political parties. The Madheshi community and in particular the Madheshi Dalits are most affected by this as they have the least access to citizenship certificates.<sup>9</sup> As Nepal shares an open border with India and there is a culture of cross-border marriage, there are a number of children born to such mixed nationality marriages who are at risk of statelessness because of the chauvinistic bureaucracy which is dominated by the hilly ethnic groups.

Other groups who are stateless or are at risk of statelessness include the 'Lhotshamps' who were deprived of their Bhutanese nationality and displaced from Bhutan to Nepal during the 1990s. The total number of displaced Lhotshamps is over 100,000; 19,573 of whom still reside in refugee camps in Nepal. Descendants of Tibetans exiled from Tibet in the 1950s are also at risk. Despite many being born in Nepal, they are still at risk of statelessness.<sup>10</sup>

The COVID-19 pandemic and subsequent lockdown policies have had a negative impact on the

livelihood of those who are stateless and at risk of statelessness in Nepal, exacerbating their pre-existing vulnerabilities as a result of their lack of nationality.

**"The statelessness issue is a very pressing issue even without the pandemic. This pandemic has hit us in two ways. First, we are stuck and have not been able to do any substantial lobbying at the policy making level. Second, it has hit us hard and caused a crisis of survival. The stateless have been pushed further into marginalisation. Survival has become a priority and has affected citizenship-less people at every angle."**

*CAPN Founder,  
Deepti Gurung*

## RIGHT TO NATIONALITY, DOCUMENTATION AND LEGAL STATUS

During the first lockdown (24 March to 21 July 2020), CDOs were closed, causing delays to citizenship application processes. Those with applications pending were further unable to reach out to government offices to follow-up on their cases.<sup>11</sup> Following the lockdown, civil documentation and other government offices reopened. During this time, people were able to register for citizenship certificates. This however was short lived – as the second wave of pandemic hit Nepal, all the government offices closed again.

**"Due to lockdown CDO offices are closed. I would have started my master's degree after getting citizenship and had plans to find a job. At this time of pandemic and lockdown, nothing can be done to pressure government regarding citizenship and waiting for things to get normal and stay at home doing nothing about my problems is actually very stressful. I wish the lockdown ends soon so that I can continue the procedures for the citizenship."**<sup>12</sup>

*CAPN Field Study Respondent,  
Bikash Mandal, 22*

## RIGHT TO HEALTH

Private healthcare in Nepal is available to those who are able to afford it. Those with citizenship issues tend to work in the informal economy and earn daily wages. Access to healthcare is therefore often limited as the financial cost is a barrier. Government hospitals are offering free healthcare for pandemic related treatment, however due to the rates of infection the hospitals are unable to cope with the number of people requiring care. Officially, proof of citizenship is not mandatory to receive vaccinations in Nepal. Any form of ID is acceptable and in situations where an individual has nothing to provide i.e., they do not have a workplace ID or a school ID, they can be issued a letter from a Ward Office with a simple directive that they can receive a vaccination. The acquisition of this letter from a Ward Office does not require documentation. Despite

THIS CHAPTER LOOKS MORE CLOSELY AT **RIGHT TO NATIONALITY, DOCUMENTATION AND LEGAL STATUS; RIGHT TO HEALTH AND SOCIO-ECONOMIC RIGHTS,** AND MAKES THE FOLLOWING **CALL TO ACTION** TO THE GOVERNMENT AND OTHER RELEVANT STAKEHOLDERS:

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**ENSURE EQUAL ACCESS TO FOOD AND ALL OTHER RELIEF MEASURES FOR THOSE WORKING IN THE INFORMAL ECONOMY AND THOSE WHO HAVE LOST THEIR INCOME DUE TO COVID-19.**

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**ENSURE EQUAL AND FREE ACCESS TO HEALTHCARE AND MENTAL HEALTHCARE SERVICES FOR STATELESS PEOPLE, THOSE AT RISK OF STATELESSNESS AND OTHER MINORITIES, INCLUDING BY ALLOCATING ADEQUATE SPACE IN GOVERNMENT HOSPITALS TO THOSE WHO CANNOT AFFORD PRIVATE HEALTHCARE.**

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**IMMEDIATELY REMOVE IDENTIFICATION REQUIREMENTS AND ASSOCIATED FEES TO RECEIVE COVID-19 AND NON-COVID-19 HEALTHCARE IN GOVERNMENT HOSPITALS, INCLUDING COVID-19 TESTING AND VACCINES.**

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**AMEND ARTICLES 11(3), 11(5) AND 11(7) OF THE NEPALI CONSTITUTION TO REMOVE GENDER DISCRIMINATORY PROVISIONS AND ENSURE WOMEN CAN CONFER CITIZENSHIP TO THEIR CHILDREN AND SPOUSES ON AN EQUAL BASIS AS MEN.**

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**IMMEDIATELY AMEND THE 2006 NEPAL CITIZENSHIP ACT TO ELIMINATE ALL GENDER DISCRIMINATORY PROVISIONS AND BRING IT INTO COMPLIANCE WITH INTERNATIONAL STANDARDS.**

this however, people are still being asked to present their citizenship certificates and Ward Offices are working at a limited capacity due to lockdowns, especially during the second wave. This has increased the difficulty for stateless persons and those without documentation to receive these letters from the Ward Offices, affecting their access to vaccinations.

**Mental Health:** The COVID-19 pandemic and lockdown are helpful tools to explain statelessness to those who do not understand or cannot comprehend the experiences of stateless persons. During lockdown, Nepali citizens are facing discomforts and restrictions, which have led to many people developing serious mental health issues that demand professional intervention; stateless people live in a state of perpetual lockdown with very limited (if any) access to equal rights and opportunities. The innumerable restrictions faced by stateless people throughout their lives (which extend past the parameters of the COVID-19 lockdowns) have resulted in mental health issues that have never been addressed, with prominence given to the legal aspect only. There has always existed an immense need to provide mental well-being services alongside legal services to those without citizenship certificates, but now, in the context of COVID-19 and in the context of lockdowns being lifted and restrictions eased, it is essential to provide referral services to those in need. Further, the continual delay of the proposed amendments to the Citizenship Act has led to increased stress and pressure on individuals with uncertain legal status due to the uncertainty of the incorporation of effective legal remedies into national legislation, which they hope, will increase their chances of acquiring citizenship.<sup>13</sup>

## SOCIO-ECONOMIC RIGHTS

**Exclusion from Emergency Relief:** Following the national lockdown imposed by the government in March 2020, the government made it mandatory for Nepalis to produce citizenship certificates in order to receive state relief packages, thereby excluding stateless persons from this relief. The impact on stateless persons was drastic and compounded by the adverse psychological impact of being ignored by their own government during a national emergency and global crisis. In response to this exclusion, Nepalese civil society litigation resulted in the Supreme Court of Nepal issuing an interim order to the government to grant relief regardless of citizenship or documentation. The court referred to the “right to live with dignity of every person” and stated that “there is no doubt relief should be provided without discrimination.” Despite this ruling, those without citizenship in Nepal continue to be largely excluded from relief and it is unclear to what extent the order is being adhered to.<sup>14</sup> There have been no recent government announcements regarding the distribution of relief packages.

## STATELESSNESS AND THE RIGHT TO NATIONALITY IN NEPAL

The Constitution of Nepal<sup>15</sup> and the 2006 Nepal Citizenship Act<sup>16</sup> are the relevant laws regarding citizenship. Citizenship can be obtained through birth or naturalisation. Article 10 of the Constitution recognises the right to citizenship as a fundamental right and states that no one “shall be denied the right to acquire citizenship.” Article 11(2) regulates who shall be deemed citizens of Nepal. It includes those “who have their

permanent domicile in Nepal” and “whose father or mother was a citizen of Nepal at the birth of such person” as citizens by descent. However, Article 11(3) of the Constitution confirms that children whose parents are both citizens are eligible to apply for citizenship by descent after becoming an adult. This limits the ability of women to confer citizenship independently. Secondly, Article 11(5) stipulates that children born in Nepal to Nepali mothers may acquire citizenship by descent if their fathers cannot be traced, but if later the father is confirmed as a foreign citizen, the citizenship of children will change to naturalised. This rule does not apply to children of Nepali fathers, which means their nationality will not change depending on the mother’s nationality. Thirdly, Article 3(1) of the 2006 Citizenship Act provides similar rights as Article 11(2) of the Constitution, however, Article 3(2) and Article 5(2) deem that children born “out of wedlock by a Nepali female to a foreign national” can only acquire citizenship through naturalisation, with extra criteria and a procedure to be followed. On 21 May 2021, an ordinance amending the 2006 Nepal Citizenship Act was passed. The ordinance offers nothing new and simply amends certain provisions in the Act to make it consistent with Article 11(3) and (5) of the Constitution. The passing of the Bill however means that children of Nepali mothers born in Nepal whose fathers cannot be traced can finally apply for Nepali citizenship. Without the amendment in the Act, this provision was limited to the constitution and the procedures were not laid down. The Act now stipulates that if the child and the mother present a self-declaration stating that the father cannot be traced, they will be able to acquire Nepali citizenship by descent.

## THE CESF CONSORTIUM PROJECT

Following an extensive research phase, this project carried out by CAPN aims to respond to the impacts of COVID-19 on stateless people in Nepal and spread awareness about statelessness among the public. To achieve this, CAPN is creating an audio-visual podcast series to engage in dialogue about how COVID-19 is impacting stateless people, while simultaneously raising awareness about statelessness and spreading accurate information about COVID-19. CAPN has also created a phonenumber offering a referral service that provides users with guidance and support on mental wellbeing, as well as legal advice and support. The project is designing several tools to raise awareness, including a programme on Nepal’s national radio FM station and social media accounts to expand outreach across national and global audiences. To boost further advocacy, a research report will be published and shared with relevant stakeholders in a strategic advocacy push for change.

The project is implemented by CAPN. Formed in 2015 by individuals severely affected by the discriminatory nationality law, CAPN was established prior to the promulgation of the new Constitution of Nepal in order to give a voice to affected people, facilitate dialogue, and lobby for equal citizenship rights. Over 1800 affected persons currently belong to CAPN, through which they find powerful ways to advocate for equal citizenship rights and the eradication of statelessness.

### Impact

When COVID-19 first hit, CAPN initially distributed humanitarian relief to 40 Musahar<sup>17</sup> families. Following this they carried out similar relief activities for a further 40 people including 2 post-natal cases. In the initial stages of their project, CAPN researched the impact of COVID-19 on stateless communities in Kathmandu, Pokhara and the Terai regions and the adverse effects on mental health as a result of being left out of government relief initiatives, through interviews and surveys. This research helps bridge a gap between Nepali citizens and the stateless regarding issues of equal citizenship laws and also enabled CAPN to identify and address the practical issues faced by stateless people, such as their mental health and legal needs. This in turn, has shaped follow up activities described above. Seven individuals with citizenship issues have reached out to CAPN for support. Due to the pandemic, pursuing legal action is not currently an easy avenue so the CAPN team provided direct support and three of the clients have been referred to the Forum for Women Law and Development for legal advice. As soon as court resumes two of these clients’ written petitions are ready to be filed in court.

<sup>1</sup> See further Chapter on Right to Nationality, Documentation and Legal Status, Chapter on Right to Health and Chapter on Socio-Economic Rights in Part 2 of this report.

<sup>2</sup> In 2015 the Forum for Women Law and Development estimated the number of people lacking citizenship certificates in 2011, 2012, 2013 and 2014 using the population growth rate determined by the 2011 census and the total number of citizenship certificates distributed each year. From this they were then able to project the amount of people without citizenship certificates in the forthcoming years. In 2021, their projection was 6.7 million, see Forum for Law, Women and Development, ‘Acquisition of Citizenship Certificate in Nepal: Estimation and Projection’, (2015), available at: <https://fwid.org/wp-content/uploads/2016/06/Acquisition-of-Citizenship-Certificate-in-Nepal-Estimation-and-Projection.pdf>.

<sup>3</sup> Institute on Statelessness and Inclusion, ‘Stateless in a Global Pandemic: Impact Report’, (2020), available at: [https://files.institutesi.org/Covid19\\_Stateless\\_Impact\\_Report.pdf](https://files.institutesi.org/Covid19_Stateless_Impact_Report.pdf).

<sup>4</sup> Citizenship Affected Persons Network, Community Action Centre Nepal, Dignity Initiative, Nepal Institute of Peace, Statelessness Network Asia Pacific, Global Campaign for Equal Nationality Rights and Institute on Statelessness and Inclusion, ‘Joint Submission to the Human Rights Council, at the 27th Session of the Universal Periodic Review: Nepal’, (9 July 2020), available at: [https://files.institutesi.org/UPR37\\_Nepal.pdf](https://files.institutesi.org/UPR37_Nepal.pdf).

<sup>5</sup> Forum for Law, Women and Development, ‘Acquisition of Citizenship Certificate in Nepal: Estimation and Projection’, (2015), available at: <https://fwid.org/wp-content/uploads/2016/06/Acquisition-of-Citizenship-Certificate-in-Nepal-Estimation-and-Projection.pdf>.

<sup>6</sup> Nepal Citizenship Act 2063, (2006), available at: <https://www.lawcommission.gov.np/en/archives/category/documents/prevaling-law/statutes-acts/nepal-citizenship-act-2063-2006>.

<sup>7</sup> R. K. Kamat, ‘President issues ordinance to amend citizenship act’, The Himalayan, (24 May 2021), available at: <https://thehimalayantimes.com/nepal/president-issues-ordinance-to-amend-citizenship-act-5185>.

<sup>8</sup> Nepal’s Constitution, (2015), available at: [https://www.constituteproject.org/constitution/Nepal\\_2015.pdf](https://www.constituteproject.org/constitution/Nepal_2015.pdf).

<sup>9</sup> Forum for Women, Law and Development, ‘Acquisition of Citizenship Certificate in Nepal: Understanding Trends, Barriers & Impacts’, (2014), available at: <https://fwid.org/wp-content/uploads/2016/06/Acquisition-of-Citizenship-Certificate-in-Nepal-Understanding-Trends-Barriers-and-Impacts.pdf>.

<sup>10</sup> Citizenship Affected Persons Network, Community Action Centre Nepal, Dignity Initiative, Nepal Institute of Peace, Statelessness Network Asia Pacific, Global Campaign for Equal Nationality Rights and Institute on Statelessness and Inclusion, ‘Joint Submission to the Human Rights Council, at the 27th Session of the Universal Periodic Review: Nepal’, (9 July 2020), available at: [https://files.institutesi.org/UPR37\\_Nepal.pdf](https://files.institutesi.org/UPR37_Nepal.pdf).

<sup>11</sup> Citizenship Affected Persons Network, ‘Field Study Report on Understanding and Responding to the COVID-19 Impact on Stateless People through a Dedicated Podcast Series’, (2020), unpublished, on file with ISI.

<sup>12</sup> Bikash Mandal, 22, in Citizenship Affected Persons Network, ‘Field Study Report on Understanding and Responding to the COVID-19 Impact on Stateless People through a Dedicated Podcast Series’, (2020), unpublished, on file with ISI.

<sup>13</sup> Citizenship Affected Persons Network, ‘Field Study Report on Understanding and Responding to the COVID-19 Impact on Stateless People through a Dedicated Podcast Series’, (2020), unpublished, on file with ISI.

<sup>14</sup> Institute on Statelessness and Inclusion, ‘Stateless in a Global Pandemic: Impact Report’, (2020), available at: [https://files.institutesi.org/Covid19\\_Stateless\\_Impact\\_Report.pdf](https://files.institutesi.org/Covid19_Stateless_Impact_Report.pdf).

<sup>15</sup> Nepal’s Constitution, (2015), available at: [https://www.constituteproject.org/constitution/Nepal\\_2015.pdf](https://www.constituteproject.org/constitution/Nepal_2015.pdf).

<sup>16</sup> Nepal Citizenship Act 2063, (2006), available at: <https://www.lawcommission.gov.np/en/archives/category/documents/prevaling-law/statutes-acts/nepal-citizenship-act-2063-2006>.

<sup>17</sup> Musahar are a Dalit community in the Terai region of Nepal.

# NORTH MACEDONIA

There is no accurate data on the number of stateless people in Macedonia. The main causes of statelessness are the dissolution of the former Yugoslavia, barriers to birth registration and unregulated civil status. The stateless and those most at risk of statelessness include persons of Roma, Albanian, Ashkaeli and Egyptian decent. Statelessness and the risk of statelessness disproportionality affects the Roma in the region who were minority citizens of the former Yugoslavia republic. As a result of the dissolution of Yugoslavia and the subsequent changes to citizenship laws, destruction of civil registers and conflict resulting in large-scale forced displacement in the 1990's, the Roma were viewed as outsiders, excluded and **discriminated** against by the newly established territories. The Roma and other stateless communities live in poverty and are routinely marginalised. Barriers to civil registration, including poverty, lack of awareness and discriminatory attitudes of registry officials, increase the prevalence of statelessness, especially among the Roma<sup>2</sup> as well as influencing public perceptions of this community perpetuating intolerance.

The vulnerabilities of the stateless have been exacerbated by COVID-19. The identified issues in this chapter were provided predominantly by Roma NGO 'Bairska Svetlina' operating in the southwest of North Macedonia. The information is therefore localised to the parameters of their operations. They cannot access state and humanitarian relief, experience significant difficulties accessing work, healthcare, education and civil registration services and are subjected to increased antigypsyism and related intolerance. 10% of Roma households do not have access to clean drinking water inside their home, and 18% do not have access to a sewer system. These poor conditions make them more susceptible to infection. Many Roma do not have access to or cannot PPE also increasing their risk of infection.<sup>3</sup>

## RIGHT TO NATIONALITY, DOCUMENTATION AND LEGAL STATUS

In February 2020, the Law on Unregistered Persons in the Birth Register was adopted, offering a solution for those who have been unable to obtain personal identification documents. The law provided for undocumented persons to submit applications within six months of the date of the adoption of the law (i.e. up until August 2020). Due to the pandemic, and the closure of services, this was not implemented and the institutions responsible for dealing with applications are still not equipped to register these people according to the law.<sup>4</sup>

## EQUALITY AND NON-DISCRIMINATION

As a consequence of the pandemic, there has also been a rise in hate crimes and general intolerance towards stateless persons and the Roma community. During a three-month period in 2020, there were four recorded instances of hate crimes committed against members of the Roma community. On one occasion, victims were beaten by police, and in the other cases, they were assaulted by Macedonians. The office

of Bairska Svetlina was extensively damaged with vandals breaking the doors and windows and graffitiing xenophobic slurs on the walls for their work with the Roma community.

## RIGHT TO HEALTH

The healthcare system in North Macedonia has collapsed under the pressure of COVID-19. Prior to the pandemic, stateless persons did not qualify for state healthcare, and this has generally remained the same throughout the pandemic. However, through Decree no. 92/20, the government declared that all persons that are not covered by health insurance will be able to receive health services in healthcare facilities related to the diagnosis and treatment of COVID-19 at the expense of the Health Insurance Fund of North Macedonia.<sup>5</sup> The stateless and undocumented are further able to access private healthcare, however, the cost makes it inaccessible to most. North Macedonia has not yet been able to procure vaccines. Without an established vaccination campaign, the entire population, including the stateless remain vulnerable to contracting COVID-19.

## SOCIO-ECONOMIC RIGHTS

**Exclusion from Emergency Relief:** On 18 March 2020, a state of emergency was declared. The government has received financial assistance of €160 million from the EU and €176 million from the International Monetary Fund.<sup>6</sup> Coordination bodies have been set up in all municipalities and at state level, to facilitate humanitarian actions to help vulnerable citizens.<sup>7</sup> The state also issued payment cards with which unemployed citizens could obtain groceries to the value of €150.<sup>8</sup> However, stateless persons and those at risk of statelessness, who are particularly vulnerable to COVID-19 in the southwest of North Macedonia have been excluded from these initiatives, as access is dependent on the provision of IDs. The government has also provided financial assistance to those financially affected by COVID-19, but these measures required access to a bank account, making them inaccessible to stateless persons who cannot open bank accounts without documentation.

The Roma community in the southwest of the country has also not been adequately reached by humanitarian actors, further heightening their vulnerabilities. While some have received food and hygiene products from the UNDP and Red Cross, there is insufficient coordination of such support and no register of people entitled to such relief. Consequently, one household may receive several packages from different organisations while others do not receive any. The first organisation to provide direct support to Roma communities, was OSF Macedonia, which provided hygiene packages and supplements to those affected by the pandemic. In cooperation with the Red Cross Skopje, by the end of 2020, 2,188 supplements were distributed to 11,000 Roma citizens.<sup>9</sup> These packages were distributed to people who were legally recognised by the state and already beneficiaries of state social assistance. They did not include stateless people and those without legal documentation.

THIS CHAPTER LOOKS MORE CLOSELY AT RIGHT TO NATIONALITY, DOCUMENTATION AND LEGAL STATUS; EQUALITY AND NON-DISCRIMINATION; RIGHT TO HEALTH AND SOCIO-ECONOMIC RIGHTS,<sup>1</sup> AND MAKES THE FOLLOWING CALL TO ACTION TO THE GOVERNMENT AND OTHER RELEVANT STAKEHOLDERS:

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**ENSURE THAT ALL STATELESS AND UNDOCUMENTED PEOPLE HAVE EQUAL ACCESS TO VACCINES AND CAMPAIGN TO RAISE AWARENESS OF THE IMPORTANCE OF COVID-19 VACCINATIONS.**

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**ENSURE EQUAL ACCESS TO HEALTH SERVICES FOR ALL STATELESS AND UNDOCUMENTED RESIDENTS.**

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**CREATE SPECIAL MEASURES TO ENSURE AN ECONOMIC SAFETY NET FOR THE ROMA COMMUNITY DURING COVID-19, INCLUDING THROUGH CREATING FURTHER OPPORTUNITIES FOR ENTREPRENEURSHIP.**

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**ENHANCE COOPERATION AND COLLABORATION BETWEEN GOVERNMENTS AND OTHER ACTORS IN THE WESTERN BALKANS, TO FIND DURABLE REGIONAL SOLUTIONS AND APPROACHES TO STRENGTHENING NATIONALITY RIGHTS, DOCUMENTATION AND LEGAL STATUS OF ROMA PEOPLE.**

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**DEVELOP CAMPAIGNS TO COMBAT DISCRIMINATION AND HATE SPEECH AGAINST ROMA PEOPLE AND TO PENALISE THE INSTIGATORS OF HATE SPEECH.**

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The biggest support for stateless persons in the southwest was provided by diaspora Roma and Roma NGOs, who through their donors and collaborators, were able to provide direct support.

**Lost Livelihoods:** Prior to the pandemic the rates of employment within stateless communities were very low. Those who did work tended to work in the informal economy in jobs such as waste collection and the collection of plastic bottles. As a result of lockdowns, many companies and enterprises closed or operated at a reduced capacity.<sup>10</sup> Some had to make significant reductions in their labour force and members of the Roma community were the first to be made redundant. Many lost their only sources of income as a result.

**Disrupted Education:** Many Roma children cannot access education due to the inability to attend online classes. Education in Macedonia has moved online but many stateless children have no access to the internet, computers, tablets etc.

### STATELESSNESS AND THE RIGHT TO NATIONALITY IN NORTH MACEDONIA

Deprivation of Macedonian citizenship is prohibited by Article 4 of the Constitution.<sup>11</sup> In 2004, Macedonia adopted a new Citizenship Law.<sup>12</sup> Accordingly, the criteria for acquiring citizenship include registered permanent residence in Macedonia at the time of independence, regular means of subsistence and at least 15 years of uninterrupted legal residence. These excessive requirements created barriers for the Roma community as they struggle to provide evidence of registration and residence. The law does however provide a safeguard against childhood statelessness, stipulating that a child who was found or born in the territory of Macedonia whose parents are unknown, have unknown citizenship or are stateless, may acquire citizenship. Despite this safeguard, the law has not been implemented consistently in practice, particularly with regard to children of Roma parents. Further, it does not safeguard against statelessness where parents cannot confer their nationality i.e. in cases of gender discriminatory nationality laws.<sup>13</sup>

In 2018, the Law on Foreigners<sup>14</sup> was adopted which provided that former citizens of Yugoslavia who continued to live in Macedonia after 8 September 1991 may apply for permanent residence if they register their stay within three years of adoption of the law. This development thus removed the costs and obligations to renew temporary residence permits for those who lost their citizenship due to state succession. This had previously been a problem for many as the burdensome requirements resulted in breaks in legal stay in Macedonia, which in turn, affected access to naturalisation.<sup>15</sup>

### THE CESF CONSORTIUM PROJECT

This project, carried out by Bairska Svetlina, aims to unpack and document the systemic exclusions of stateless persons or those at risk of statelessness in Macedonian society in the context of COVID-19. Bairska Svetlina is functioning as a Help Desk for the Roma community, offering information and legal advice to support people with applications for government food cards, help packages by the Ministry of Labour, understanding quarantine regulations and applying for documents. The project has launched a campaign to raise awareness, share information and promote the Help Desk office by using social media, printed materials and direct communication with community members. Specific cases of COVID-19 exclusion are documented through interviews, which function as a two-way information exchange. Data collected will be used as an advocacy tool to engage relevant stakeholders such as the government (in particular the Ministry of Justice), relevant parliamentarians including representatives of the Roma community, international organisations and hospitals to raise awareness of the issue and place statelessness on the agenda.

This project is implemented by Bairska Svetlina, an NGO that works towards strengthening the capacity of Roma communities, improving their socio-economic status, developing the skills of young Roma activists, and improving their quality of education. Bairska Svetlina aims to help the Roma community based in North Macedonia to enjoy their basic human rights while working on inclusion and integration into Macedonian society.

### Impact

**“The Roma community, NGOs and the authorities need to collaborate to raise awareness, identify needs and provide direct assistance to the Roma people. In the long run, greater effort is needed to ensure that Roma are included in society and have equal access to basic needs, improving infrastructure, access to healthcare, housing, employment and education. The vulnerabilities and needs of the Roma should be considered by the EU, the European Parliament, donors and all other stakeholders to ensure this community are able to cope with the effects of COVID-19.”**

*Bairska Svetlina President,  
Remzi Medik*

Thus far the project has raised awareness of the needs of the stateless in North Macedonia and identified approaches to solving their problems. Bairska Svetlina has functioned as a Help Desk to assist members of the Roma community to address issues they are facing during the pandemic. The Roma community and institutions have recognised the role of the Help Desk in contributing to the improvement of their situation. To date, 100 families have been supplied with humanitarian packages and 50 children were gifted with New Year packages donated by the mayor of Bitola. Further, 130 families have been successfully assisted in applying for social benefits.

<sup>1</sup> See further Chapter on Right to Nationality, Documentation and Legal Status, Chapter on Equality and Non-Discrimination, Chapter on Right to Health and Chapter on Socio-Economic Rights in Part 2 of this report.  
<sup>2</sup> Macedonian Young Lawyers Association, Institute on Statelessness and Inclusion, European Network on Statelessness, European Roma Rights Centre and Minority Rights Group International, 'Joint Submission to the Human Rights Council at the 32nd Session of the Universal Periodic Review: Macedonia', (12 July 2018), available at: [https://files.institutiesi.org/UPR32\\_Macedonia.pdf](https://files.institutiesi.org/UPR32_Macedonia.pdf).  
<sup>3</sup> European Policy Institute – Skopje, 'Challenges facing Roma during the crisis caused by COVID-19', (2020), available at: [https://epi.org.mk/wp-content/uploads/2020/06/roma\\_kovid-19\\_eng.pdf](https://epi.org.mk/wp-content/uploads/2020/06/roma_kovid-19_eng.pdf).  
<sup>4</sup> European Policy Institute – Skopje, 'Challenges facing Roma during the crisis caused by COVID-19', (2020), available at: [https://epi.org.mk/wp-content/uploads/2020/06/roma\\_kovid-19\\_eng.pdf](https://epi.org.mk/wp-content/uploads/2020/06/roma_kovid-19_eng.pdf).  
<sup>5</sup> Ibid. See also COVID-19 Health System Response Monitor, 'North Macedonia', (2021), available at: <https://www.covid19healthsystem.org/countries/northmacedonia/livinghit.aspx?Section=4.1%20Health%20financing&Type=Chapter>.  
<sup>6</sup> European Bank for Reconstruction and Development, 'Transition Report 2020-21 The State Strikes Back Country Assessments: North Macedonia', (2020), available at: <https://www.ebrd.com/news/publications/transition-report/transition-report-202021.html>.  
<sup>7</sup> Government of the Republic of Macedonia, 'Decision to Adopt a Coordination Headquarters during the COVID-19 Pandemic', (2020), available at: <https://koronavirus.gov.mk/wp-content/uploads/2020/05/%D0%9E%D0%B4%D0%BB%D1%83%D0%B%D0%81%D1%84%D0%BC%D1%80%D0%BC%D0%B8%D1%80%D0%B0%D1%9A%D0%B5%D0%BA%D1%80%D0%B8%D0%B7%D0%B5%D0%BD%D1%88%D1%82%D0%B0%D0%B1.pdf>.  
<sup>8</sup> Government of the Republic of North Macedonia, 'Economic measures for dealing with the consequences of COVID-19', (2020), available at: <https://koronavirus.gov.mk/merki/ekonomski-merki>.  
<sup>9</sup> Open Society Foundation Macedonia, 'The foundation open society macedonia donates humanitarian aid packages to roma families directly affected by the health crisis', Open Society Foundation Macedonia, (10 December 2020), available at: <https://fosm.mk/en/current-project/the-foundation-open-society-macedonia-donates-humanitarian-aid-packages-to-roma-families-directly-affected-by-the-health-crisis/>.  
<sup>10</sup> International Labour Organisation, 'Impact of pandemic requires massive state intervention in North Macedonia: ILO and EBRD advise government on labour market after coronavirus' ILONews, (28 May 2020), available at: [https://www.ilo.org/budapest/whats-new/WCMS\\_746165/lang-en/index.htm](https://www.ilo.org/budapest/whats-new/WCMS_746165/lang-en/index.htm).  
<sup>11</sup> North Macedonia (Republic of)'s Constitution, (1991), with Amendments through 2011, available at: [https://www.constituteproject.org/constitution/Macedonia\\_2011.pdf?lang=en](https://www.constituteproject.org/constitution/Macedonia_2011.pdf?lang=en).  
<sup>12</sup> Law on Citizenship of the Republic of Macedonia, (1992), available at: <https://www.refworld.org/pdfid/3f54916b4.pdf>.  
<sup>13</sup> Macedonian Young Lawyers Association, Institute on Statelessness and Inclusion, European Network on Statelessness, European Roma Rights Centre and Minority Rights Group International, 'Joint Submission to the Human Rights Council at the 32nd Session of the Universal Periodic Review: Macedonia', (12 July 2018), available at: [https://files.institutiesi.org/UPR32\\_Macedonia.pdf](https://files.institutiesi.org/UPR32_Macedonia.pdf).  
<sup>14</sup> North Macedonia: Law on Foreigners, (2019), available at: <https://www.refworld.org/pdfid/44b26684d.pdf>.  
<sup>15</sup> Macedonian Young Lawyers Association, Institute on Statelessness and Inclusion, European Network on Statelessness, European Roma Rights Centre and Minority Rights Group International, 'Joint Submission to the Human Rights Council at the 32nd Session of the Universal Periodic Review: Macedonia', (12 July 2018), available at: [https://files.institutiesi.org/UPR32\\_Macedonia.pdf](https://files.institutiesi.org/UPR32_Macedonia.pdf).

# ROHINGYA IN REFUGEE SITUATIONS

The Rohingya are an ethnic community belonging to Rakhine State Myanmar, whose histories in Rakhine, now on the borderlands of Myanmar, by far pre-date modern nation-states and borders. The arbitrary deprivation of nationality by Myanmar, which was initiated under military rule, is a key element in the decades-long persecution of Rohingya. The persecution of Rohingya in Myanmar and their lack of protection as refugees outside Myanmar are strongly linked to Myanmar's systematic production of Rohingya statelessness. Myanmar's 1982 ethno-centric and exclusionary Citizenship Law, together with the arbitrary implementation of citizenship rules, provided a domestic framework that sanctioned **discrimination**, persecution and expulsion. The clear exclusion of Rohingya from access to citizenship by right - as opposed to a highly discretionary and arbitrary naturalisation procedure - was a deliberate next step towards the ratcheting up of abuses against the group. As such, the Rohingya have fled **institutionalised discrimination** and persecution in Myanmar over decades resulting in a large and scattered refugee population world-wide. It is estimated that three quarters of the Rohingya population currently live outside Myanmar.<sup>2</sup>

There are now approximately three-quarters of a million Rohingya refugees in Bangladesh and hundreds of thousands of Rohingya in other countries such as Saudi Arabia and elsewhere in the Middle East; Pakistan, India and elsewhere in South Asia; Malaysia, Thailand, Indonesia and elsewhere in Southeast Asia. A smaller number of Rohingyas have settled in Australia and New Zealand, Europe and North America. Within the contexts of the Middle East, South and Southeast Asia, Rohingyas have experienced inter-generational statelessness and continue to live in situations of protracted displacement without access to legal status or the legal right to work. This has prevented children and youths from accessing education and skills training and has driven men and women into precarious work in the informal sectors of the economy with few safety standards and no social safety nets. In times of pandemic or other external shocks, Rohingya families are at heightened risk of hunger, illness and violence. Family members in Myanmar and elsewhere who rely on remittances from those working overseas are also increasingly vulnerable to these impacts.

## ROHINGYA IN MYANMAR

Myanmar's imposed statelessness on the Rohingya is related to restrictions on a range of fundamental human rights including freedom of movement, right to work, access to education and right to marry and have children. Since the mass expulsions of Rohingya in 2017, there are approximately half a million Rohingya remaining in Rakhine State Myanmar.<sup>3</sup> Most are contained in North Rakhine State, with others living in IDP or "detention camps" elsewhere in Rakhine State. Restrictions in Rakhine State have been further compounded by the conflict that has

escalated in the past two years between the Myanmar army and the Arakan army, an EAO operating in Rakhine State. Numbers of Rohingya elsewhere in Myanmar are hard to estimate since they are not allowed to self-identify as Rohingya. On 1 February 2021, a group of top generals seized absolute power in a military coup. Since then, the CDM has gained momentum across the country, with protestors, civilians and EAOs being targeted with violence, killings and arbitrary arrests. Internet shut down's, curfews and the closure of media outlets have been imposed. Myanmar has descended into escalating civil war and has been labelled a failed state.<sup>4</sup> Myanmar doctors and medical staff have also been at the forefront of the strikes and CDM movement. The result is a near shut down of the government health system.<sup>5</sup> Mobile COVID-19 vaccination centres have been converted into mobile hospitals. 139 doctors have been arrested and charged for participating in the CDM. Hospitals have been occupied by military forces. Concerns have been raised over the impact during a time of pandemic, but since there is little reporting of incidents of COVID-19 and deaths, the impact remains unreported and unclear.<sup>6</sup> This is particularly alarming due to the dramatic rise in COVID-19 cases in neighbouring India, Bangladesh and in the region generally.<sup>7</sup>

## RIGHT TO NATIONALITY, DOCUMENTATION AND LEGAL STATUS

**Asylum and Refugee Situation:** This chapter focuses on the countries where the CESF Consortium has a programmatic focus – Bangladesh, India and Malaysia. There are approximately 884,000 Rohingyas registered as refugees with UNHCR in Bangladesh, 18,000 in India and 103,000 in Malaysia.<sup>8</sup> Numbers of unregistered Rohingya refugees are harder to estimate. In Bangladesh refugees are largely contained in poor conditioned camp settings, whilst in Malaysia and India refugees are largely urban-based and scattered throughout the country. These camp and urban-based settings make for different challenges in COVID-19 responses. None of these countries are signatories to the 1951 Refugee Convention. Although UNHCR provides refugee registration processes in each of these countries, the governments do not formally recognise refugee status. As such, Rohingya refugees are officially categorised by governments as irregular or 'illegal' migrants. There are no opportunities to regularise legal status over time, so the precariousness of work, education, health and legal situations for stateless Rohingyas is experienced across multiple generations. As refugees, they have no access to work within the formal economies. There is very limited access to formal education and certification. However, non-formal religious and refugee schooling is accessed by some children. In Bangladesh, refugees access health care through NGOs working within the camps. In Malaysia and India, refugees are officially able to get discounted health care using their refugee cards. However, during the pandemic, Rohingya refugees have

THIS CHAPTER LOOKS MORE CLOSELY AT RIGHT TO NATIONALITY, DOCUMENTATION AND LEGAL STATUS, EQUALITY AND NON-DISCRIMINATION, RIGHT TO HEALTH, SOCIO-ECONOMIC RIGHTS AND CIVIL AND POLITICAL RIGHTS,<sup>1</sup> AND MAKES THE FOLLOWING **CALL TO ACTION** TO RELEVANT GOVERNMENTS AND OTHER STAKEHOLDERS:

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**ENSURE THAT ALL ROHINGYA ON THEIR TERRITORIES HAVE ACCESS TO COVID-19 TESTING, HEALTHCARE AND VACCINATION SCHEMES ON AN EQUAL BASIS TO CITIZENS.**

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**PROVIDE ALL ROHINGYA, REGARDLESS OF THEIR LEGAL OR IMMIGRATION STATUS, EQUAL ACCESS TO SOCIAL SAFETY NETS TO ADDRESS FOOD INSECURITY, HOMELESSNESS AND ILLNESS DURING COVID-19 AND BEYOND.**

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**CONSULT ROHINGYA COMMUNITY MEMBERS, ESPECIALLY WOMEN, WHEN CONCEPTUALISING COVID-19 RELIEF SCHEMES AND PUBLIC HEALTH INITIATIVES.**

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**WORK WITH UNHCR TO PROTECT ROHINGYA AND OTHER REFUGEES ON THEIR TERRITORIES, INCLUDING FROM ARBITRARY AND INDEFINITE DETENTION AND FORCED REPATRIATION.**

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**PROVIDE ROUTES FOR STATUS REGULARISATION FOR ROHINGYA AND ENSURE ACCESS TO FORMAL EDUCATION AND EMPLOYMENT.**

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reported increased and disproportionate difficulties in accessing essential work, education and healthcare.<sup>9</sup>

#### **Access to Asylum and Arbitrary Detention:**

Additional immigration measures and pandemic-related lockdowns have also left Rohingya in India and Malaysia vulnerable to arrest and detention on arrival and in the country. With limited access to UNHCR or asylum procedures for arrivals and increased difficulty in travelling to registration centres, there are concerns that COVID-19 measures are further eroding refugee rights. In the context of increased border controls and increased incidents of xenophobia and hate speech during the pandemic, Rohingya in these countries have been rounded up and detained without recognition of their refugee status. UNHCR provides refugee status determination and refugee cards that should provide some protection from arrest or can help to secure release when Rohingya are detained as irregular migrants.<sup>10</sup> However, during the pandemic it has been increasingly difficult for detainees to gain access to UNHCR in detention. COVID-19 regulations have also meant that UNHCR mobile registration facilities have been more limited. In Malaysia, as a direct response to COVID-19, immigration sweeps took place during Ramadan in 2020. Many Rohingya were arrested and detained. New arrivals that managed to disembark in Malaysia were also detained.<sup>11</sup>

Hundreds of Rohingya are detained in immigration detention centres, prisons, juvenile detention centres and other detention facilities in India and Malaysia. There are also Rohingya detained in Bangladesh and elsewhere.<sup>12</sup> Rohingya arrested on immigration charges or on other minor charges are often unable to secure release once they have served out their sentences. Considered “illegal immigrants” and unrecognised as citizens of Myanmar, most are not deported through formal channels either.<sup>13</sup> As such many remain in indefinite detention. In India and Malaysia, the detention of Rohingya has increased since the pandemic began, as they struggle to travel and gain access to refugee registration. In February this year, Rohingya in Jammu and Kashmir were told by Indian authorities to join a ‘verification’ exercise. During the exercise, over 170 Rohingyas were rounded up at random and detained. Many said they had faced difficulties updating their refugee registration during the pandemic. A Supreme Court ruling rejected a petition against their deportation, paving the way for deportations to Myanmar and prolonged detention.<sup>14</sup>

## **EQUALITY AND NON-DISCRIMINATION**

### **Gender Based Impact**

**“Women are often the primary carers in the family and involving women in health initiatives is crucial, so they can keep themselves and other household members safe from disease. Rohingya women in the camps need services delivered in their own Rohingya language, which is not the same as Chittagonian. This means involving the community in delivering health information and health services.”**

*Rohingya Community Worker in Bangladesh,  
Sabrina Chowdhury Mona*

Globally, there has been a rise in domestic and intimate partner violence during the pandemic.

There are already high levels of domestic violence within Rohingya communities and heightened concerns about the impact of lockdown and unemployment within households. The increased time spent at home together and stresses related to loss of work and income profoundly impact the mental health of family members, which in turn increases the levels of domestic violence. The lockdown prevents victims of domestic violence from leaving their homes to seek help either through their informal networks or through services.<sup>15</sup> Around the globe in times of food shortage or food insecurity, children and women within households tend to suffer disproportionately from hunger and malnutrition.

With more limited access to the public sphere, often with little mobility beyond the home, and more language barriers to overcome, women are disproportionately impacted by the restrictions.<sup>16</sup> Rohingya women are more likely than men to lack up-to-date and accurate health information in Rohingya language. As primary carers within the household it is vitally important that Rohingya women are not just reached, but centrally included and consulted in public health and health education initiatives. This will ensure that women are able to effectively protect themselves and their household from disease and are able to seek medical advice and services when needed.<sup>17</sup>

### **RIGHT TO HEALTH**

Camp environments in Bangladesh and India are densely populated, with limited access to sanitation. Sometimes families occupy a single room, with water and washing facilities shared between many households. Social distancing, handwashing and following other virus prevention measures have proved difficult. Such conditions leave people vulnerable to the spread of the virus and have created environments of anxiety and fear. In response to concerns about the spread of the virus, the Bangladeshi government and international aid agencies put in place important health measures, including making testing available and providing quarantine facilities.<sup>18</sup> The restrictions placed on mobile phone and internet access for refugees in Bangladesh in 2020, as well as lockdowns that limited camp access to NGO staff, made it difficult for all members of the Rohingya community to access health information and to engage in important community-based responses.<sup>19</sup> Rohingyas in India and Malaysia faced barriers to accessing healthcare prior to the pandemic, including a lack of Rohingya language interpreters and female interpreters, risks of arrest and health care costs for undocumented and refugee populations. The lockdowns and reduction in non-COVID related health services, together with the increase in xenophobia towards Rohingya has further impeded access to healthcare. This has particularly impacted Rohingya with pre-existing and long-term health conditions. It has also impacted pregnant women, who have more limited access to maternity care.

### **SOCIO-ECONOMIC RIGHTS**

#### **Lost Livelihoods and Food Insecurity:**

**“Since the arrival of COVID-19, xenophobia has increased. Rohingya in Malaysia are barred from Mosques and markets. They are systematically excluded from employment and evicted from their homes. We don’t**

## **Know what will happen to our community in Malaysia without work.”**

*Founder and Director  
of the Rohingya Women  
Development Network, Sharifah Shakira*

Lockdowns in both camp-based and urban refugee situations have resulted in the loss of livelihoods and food security within Rohingya households. This also has a knock-on impact on Rohingya in Myanmar and elsewhere who are reliant on remittances from their families abroad. Without legal status and work permits in Bangladesh, India and Malaysia, Rohingyas are only able to access precarious work in the informal economies. Without legal status, there are few social safety nets and no social security in situations of external shock. The COVID-19 pandemic and resultant lockdowns have hit Rohingya families hard, resulting in loss of income, loss of homes and food shortages.<sup>20</sup> Some Rohingya have been compelled to continue working despite the lockdown, putting themselves and their families at greater risk of infection.

In Malaysia, historically Rohingya have found a relatively safe refuge with some living there for 30-40 years. Since the start of the COVID-19 outbreak, Rohingya in Malaysia are facing unemployment and homelessness. Refugees in Malaysia live mostly in urban environments and, without humanitarian aid, they are reliant on work in the informal economy for household income. Malaysian employers stopped hiring foreigners and explicitly refused to hire Rohingya. The Malaysian Immigration Department placed banners in public places, threatening fines or imprisonment for anyone found to be hiring, protecting or renting properties to refugees. The rise of hate speech and xenophobia has led to attacks on Rohingya refugees in their workplaces or on the way to work. This has caused homeless Rohingya to move in with other families, creating conditions of overcrowding and thus increasing the risk of COVID-19.<sup>21</sup> In India, fake news and information on the internet pose a serious challenge for the community.<sup>22</sup> Following a gathering in Delhi organised by a Muslim organisation, where numerous people tested Covid-19 positive, the Rohingya in Delhi, Hyderabad, and Mewat faced extreme government scrutiny, and some refugees were quarantined based on discriminatory assumptions of them carrying COVID-19. False narratives led to forced evictions, threats and abuse.<sup>23</sup>

### **CIVIL AND POLITICAL RIGHTS**

**Border Closures and Dangerous Journeys:** The lack of security and protection, viable livelihood opportunities and a sense of hopelessness for the future, drives onward migration for Rohingya. Without access to documentation, there are no legal routes to cross borders either by sea or land. There are also few options for secure, safe and decent work. As a result, building family lives and supporting households can be a constant struggle.<sup>24</sup> The closure of borders due to COVID-19 has not halted cross-border movements. Instead, the restrictions have increased the human and financial costs for Rohingya attempting the journeys.<sup>25</sup> COVID-19 related border closures have left refugees stranded at sea and in a situation of acute humanitarian need, lacking food, water and fuel. Hundreds have lost their lives.<sup>26</sup> States have failed to cooperate to save lives and provide basic protections, leaving some Rohingyas stranded for indefinite

periods on boats in the sea.<sup>27</sup> Travellers and their families are also increasingly vulnerable to extortion and exploitation by brokers and traffickers. The lives of those onboard the boats were also threatened in order to extort money from their families.<sup>28</sup> Rohingya boat travellers who were turned back to Bangladesh, were initially detained on Bhasan Char island as a COVID-19 quarantine measure in 2020. Bhasan Char is a remote and unstable island off the coast of Bangladesh. However, they have not been allowed to return to their families in the refugee camps and have remained on the island despite protests. Bangladesh has continued to relocate Rohingyas from the camps to Bhasan Char.<sup>29</sup> Due to the adverse social and political situation in Bangladesh, in February 2021, a group of 90 Rohingya refugees, mostly women and children, have drifted to Andaman and Nicobar Island of India while allegedly fleeing to Malaysia to reunite with their family members on a fishing boat. The boat suffered an engine failure and was drifting on the sea for a week. Eight Rohingyas lost their lives on the boat, and others reported suffering from severe malnutrition and dehydration. The Indian navy approached the vessel with food, water and medical aid. However, no initiatives were taken by the government to disembark the refugees safely. As of now, the whereabouts of the Rohingya remain unknown, and no official statement has been released by the authorities.

## ABOUT THE CESF CONSORTIUM PROJECTS

There are **two CESF Consortium projects** focussed on the Rohingya community. The first is a regional project, and the second provides support to Rohingya communities in India:

The objective of the **first project**, carried out by RWDN is to strengthen the capacity of vulnerable Rohingya refugees by mobilising the community to engage in discussions and resolutions of challenges faced by the Rohingya as well as taking part in mitigating the spread of COVID-19. Under this project, refugees and stateless persons in 34 camps in Bangladesh are taking part in an on-the-ground COVID-19 awareness raising campaign which includes the distribution of hygiene and sanitation packages. This project further seeks to paint a complete picture of the impact of COVID-19 on vulnerable Rohingya communities by gathering data through small-scale interviews, case studies and testimonies from affected people. The ultimate goal is to amplify discussion at the national level on the current situation of the Rohingya community, engaging experts, researchers, scholars and leaders from within the Rohingya community to represent the group and work to increase dialogue about Rohingya human rights. Further, the project has a regional component, through which these discussions are also brought to Rohingya communities in other countries.

To date 24 volunteers from the community have been trained to carry out COVID-19 awareness raising trainings and 40 awareness raising sessions have been organised for women in groups of five-six. Participants of these training sessions receive hygiene kits which include soap, face masks and feminine hygiene products. The team has further reached out to 30 Mosques in the camps and distributed hygiene packages inclusive of soap, face masks, hand sanitisers and guidance on how to include COVID-19 safety information when addressing the crowds during times of worship. 1,300 informative COVID-19 posters combined with the Ramadan calendar have been distributed around the camps and two webinars have been carried out reaching approximately 15,000 people worldwide.

RWDN one of the first female, Rohingya led organisations was created to support the Rohingya community. Founded by Sharifah Shakirah in 2016, to empower women and grow female leadership in society, their mission is to strengthen and empower Rohingya communities through education, skills training and advocacy.

The **second project**, carried out by R4R, is centred around an awareness raising campaign targeting the Rohingya community in India. The main objective is to develop training and information materials on COVID-19 and its impact, access to healthcare, mental healthcare, and education as well as access to WASH in the Rohingya language. Through building the capacity of selected Rohingya trainees, the project supports the Rohingya community and raises awareness of these issues in Delhi, Haryana, Hyderabad and Jammu and Kashmir. The project aims to empower the Rohingya community by training representatives to carry out field work and educate them on COVID-19 related health and social distancing measures. These training workshops and informational products are accompanied by a small-scale distribution of hand sanitisers and PPE.

R4R is a local, non-governmental, non-profit organisation formed by young Rohingya activists in New Delhi in 2017. They are committed to promoting the human rights for all beings, especially people from the Rohingya community residing in Bangladesh, India and Myanmar. Their mission is to highlight human rights violations of minorities, especially among the Rohingya community. R4R operates in India while also closely monitoring the living conditions of Rohingyas all around the world.

<sup>1</sup> See further Chapter on Right to Nationality, Documentation and Legal Status, Chapter on Equality and Non-Discrimination, Chapter on Socio-Economic Rights, Chapter on Right to Health and Chapter on Civil and Political Rights in Part 2 of this report.

<sup>2</sup> UNHCR, 'Rohingya crisis needs lasting solutions', UNHCR, (21 August 2020) available at: <https://www.unhcr.org/uk/news/briefing/2020/8/5f3e60124/unhcr-rohingya-crisis-needs-lasting-solutions.html>.

<sup>3</sup> UNHCR, 'Global Focus: Myanmar, 2020-2021', UNHCR, (2021) available at: <https://reporting.unhcr.org/myanmar>.

<sup>4</sup> Financial Times, 'Economic collapse amid escalating conflict: Is Myanmar becoming a failed state?', Financial Times, (21 April 2021), available at <https://www.ft.com/content/6189a752-6f68-4d61-99ea-9e83137a1d3d>.

<sup>5</sup> A. Lalley, 'From Covid-19 to the coup, Myanmar doctors are risking their lives', The Diplomat, (15 March 2021), available at: <https://thediplomat.com/2021/03/from-covid-19-to-the-coup-myanmar-doctors-are-risking-their-lives/>.

<sup>6</sup> UN News, 'Myanmar: Attacks on healthcare jeopardising Covid-19 response, UN team says', United Nations, (5 May 2021), available at: <https://news.un.org/en/story/2021/05/1091312>.

<sup>7</sup> See further Chapter on Bangladesh and Chapter on India in Part 3 of this report.

<sup>8</sup> UNHCR, 'UNHCR Data', UNHCR, (2021), available at: <https://www.unhcr.org/uk/data.html>.

<sup>9</sup> Institute on Statelessness and Inclusion, 'Human Rights and Covid-19: What now for Rohingya?', (2020), available at: [https://files.institutiesi.org/Covid19\\_The\\_Rohingya\\_Briefing\\_Paper.pdf](https://files.institutiesi.org/Covid19_The_Rohingya_Briefing_Paper.pdf).

<sup>10</sup> D. Thomas and Y. Puteri Nor Ariane, 'The impact of Covid-19 on refugees and asylum seekers in Malaysia', LSE Blogs, (8 October 2020), available at: <https://blogs.lse.ac.uk/seac/2020/10/08/the-impact-of-covid-19-on-refugees-and-asylum-seekers-in-malaysia/>.

<sup>11</sup> See further Chapter on Malaysia in Part 3 of this report.

<sup>12</sup> One of five Rohingya households in the Bangladesh camps have a family member in prison. See X-Border Local Research Network, 'Beyond Relief: Securing Livelihoods and Agency for Rohingya Refugees in Bangladesh', (2020), available at: [https://asiafoundation.org/wp-content/uploads/2020/05/X-Border\\_Securing-Livelihoods-and-Agency-for-Rohingya-Refugees-in-Bangladesh\\_Brief.pdf](https://asiafoundation.org/wp-content/uploads/2020/05/X-Border_Securing-Livelihoods-and-Agency-for-Rohingya-Refugees-in-Bangladesh_Brief.pdf).

<sup>13</sup> The exception are three groups of Rohingya deported from India since 2018.

<sup>14</sup> P. Pillai, 'International Law Omissions: Rohingya deportation order of the Supreme Court of India', OpinioJuris, (19 April 2021), available: <https://opiniojuris.org/2021/04/19/international-law-omissions-rohingya-deportation-order-of-the-supreme-court-of-india/>.

<sup>15</sup> R4R, 'Covid-19 protection monitoring and advocacy for Rohingya refugees in India', (February 2021), on file with ISI. See also UNHCR, 'Covid-19's impact on Rohingya and Bangladeshi adolescents in Cox's Bazar', UNHCR Blogs, (21 December 2020), available: <https://www.unhcr.org/blogs/covid-19s-impact-on-rohingya-and-bangladeshi-adolescents-in-coxs-bazar/>.

<sup>16</sup> For analysis of women's mobility outside the home, see X-Border Local Research Network, 'Beyond Relief: Securing Livelihoods and Agency for Rohingya Refugees in Bangladesh', (2020), available at: [https://asiafoundation.org/wp-content/uploads/2020/05/X-Border\\_Securing-Livelihoods-and-Agency-for-Rohingya-Refugees-in-Bangladesh\\_Brief.pdf](https://asiafoundation.org/wp-content/uploads/2020/05/X-Border_Securing-Livelihoods-and-Agency-for-Rohingya-Refugees-in-Bangladesh_Brief.pdf).

<sup>17</sup> Institute on Statelessness and Inclusion, 'Human Rights and Covid-19: What now for Rohingya?', (2020), available at: [https://files.institutiesi.org/Covid19\\_The\\_Rohingya\\_Briefing\\_Paper.pdf](https://files.institutiesi.org/Covid19_The_Rohingya_Briefing_Paper.pdf).

<sup>18</sup> UNHCR, 'Bangladesh/Rohingya situation: COVID-19 Response', (December 2020), available: <https://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR%20COVID19%20Update%20December%20%20Bangladesh.pdf>.

<sup>19</sup> Institute on Statelessness and Inclusion, 'Human Rights and Covid-19: What now for Rohingya?', (2020), available at: [https://files.institutiesi.org/Covid19\\_The\\_Rohingya\\_Briefing\\_Paper.pdf](https://files.institutiesi.org/Covid19_The_Rohingya_Briefing_Paper.pdf).

<sup>20</sup> R4R, 'Covid-19 protection monitoring and advocacy for Rohingya refugees in India', (February 2021), on file with ISI. See also UNHCR 'Covid-19's impact on Rohingya and Bangladeshi adolescents in Cox's Bazar', UNHCR Blogs, (21 December 2020), available: <https://www.unhcr.org/blogs/covid-19s-impact-on-rohingya-and-bangladeshi-adolescents-in-coxs-bazar/>.

<sup>21</sup> Institute on Statelessness and Inclusion, 'Human Rights and Covid-19: What now for Rohingya?', (2020), available at: [https://files.institutiesi.org/Covid19\\_The\\_Rohingya\\_Briefing\\_Paper.pdf](https://files.institutiesi.org/Covid19_The_Rohingya_Briefing_Paper.pdf).

<sup>22</sup> ISI Appeal for Information on Covid-19 and Statelessness (February 2021).

<sup>23</sup> C. Kapoor, 'Hate campaign haunts Rohingya refugees in India', AA, (24 August 2020), available at <https://www.aa.com.tr/en/asia-pacific/hate-campaign-haunts-rohingya-refugees-in-india-/1951269>.

<sup>24</sup> X-Border Local Research Network, 'Beyond Relief: Securing Livelihoods and Agency for Rohingya Refugees in Bangladesh', (2020), available at: [https://asiafoundation.org/wp-content/uploads/2020/05/X-Border\\_Securing-Livelihoods-and-Agency-for-Rohingya-Refugees-in-Bangladesh\\_Brief.pdf](https://asiafoundation.org/wp-content/uploads/2020/05/X-Border_Securing-Livelihoods-and-Agency-for-Rohingya-Refugees-in-Bangladesh_Brief.pdf).

<sup>25</sup> ASM Suza Uddin and P. McPherson, 'Traffickers demand payments for Rohingya stranded at sea', Reuters, (15 June 2020), available at: <https://www.reuters.com/article/us-myanmar-rohingya-idUSKBN23M2BT>.

<sup>26</sup> Human Rights Watch, 'Malaysia/Thailand: Allow Rohingya refugees ashore', Human Rights Watch, (12 June 2020), available: <https://www.hrw.org/news/2020/06/12/malaysia/thailand-allow-rohingya-refugees-ashore>.

<sup>27</sup> S. Nagchowdhury, 'Fate of 81 Rohingya adrift at sea for weeks hangs in limbo, rights group says', Reuters, (25 March 2021), available at: <https://www.reuters.com/article/us-bangladesh-rohingya-boat-idUSKBN2BH30X>.

<sup>28</sup> ASM Suza Uddin and P. McPherson, 'Traffickers demand payments for Rohingya stranded at sea', Reuters, (15 June 2020), available at: <https://www.reuters.com/article/us-myanmar-rohingya-idUSKBN23M2BT>.

<sup>29</sup> Fortify Rights, 'Bangladesh: Halt relocation of Rohingya refugees to Bhasan Char', Fortify Rights, (3 December 2020), available: <https://www.fortifyrights.org/bgd-inv-2020-12-03/>.

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# LIST OF ABBREVIATIONS

## FULL REPORT

**1954 Convention** - 1954 Convention Relating to the Status of Stateless Persons  
**1961 Convention** - 1961 Convention on the Reduction of Statelessness  
**ATD** - Alternatives to Detention  
**CBSA** - Canada Border Service Agency  
**CCPR** - Human Rights Committee  
**CEB** - Junta Central Electoral (Central Electoral Board)  
**CESF** - COVID-19 Emergency Statelessness Fund  
**CANS** - Central Asia Network on Statelessness  
**CAPN** - Citizenship Affected Persons Network  
**CCPR** - Human Rights Committee  
**CDM** - Civil Disobedience Movement  
**CDO** - Civil Documentation Offices  
**CESF** - COVID-19 Emergency Statelessness Fund  
**CHT** - Chittagong Hill Tract  
**CoM** - Council of Minorities  
**COVID-19** - Corona Virus Disease 2019  
**CRC** - Convention on the Rights of the Child  
**DACA** - Deferred Action for Childhood Arrivals  
**DAJI** - Development and Justice Initiative  
**DHA** - Department of Home Affairs  
**DxD** - Dominican@s por Derecho platform  
**EAO** - Ethnic Armed Organisation  
**EU** - European Union  
**FT** - Foreigner Tribunal  
**FVLWB** - Ferghana Valley Lawyers Without Borders Association  
**GBV** - Gender based violence  
**IACtHR** - Inter-American Court of Human Rights  
**ICCPR** - International Covenant on Civil and Political Rights  
**ICESCR** - International Covenant on Economic, Social and Cultural Rights  
**ICRC** - International Red Cross and Red Crescent Movement  
**ID** - Identity Document  
**IDP** - Internally Displaced Person(s)  
**IFRC** - International Federation of Red Cross and Red Crescent Societies  
**IGO** - International Governmental Organisations  
**ILO** - International Labour Organisation  
**IOM** - International Organization for Migration  
**ISI** - Institute on Statelessness and Inclusion  
**LHR** - Lawyers for Human Rights  
**LTSVP** - Long-Term Social Visit Pass  
**MIP** - Ministerio de Interior y Policía (Ministry of Interior and Police)  
**MCO** - Movement Control Orders  
**NGO** - Non-governmental Organisation  
**NHS** - National Health Service  
**NRC** - National Registration of Citizens  
**NRF** - Nubian Rights Forum  
**OBMICA** - Caribbean Migrants Observatory  
**OHCHR** - Office of the UN High Commissioner for Human Rights  
**OSF** - Open Society Foundation  
**PA** - Palestinian Authority  
**PPE** - Personal Protective Equipment  
**R4R** - Rohingya Human Rights Initiative  
**RNCN** - Right to Nationality and Citizenship Network  
**RWDN** - Rohingya Women Development Network  
**SDP** - Statelessness Determination Procedure  
**SUHAKAM** - Human Rights Commission of Malaysia  
**TPS** - Temporary Protection Status  
**UDHR** - Universal Declaration of Human Rights  
**UN** - United Nations  
**UNDP** - United Nations Development Programme  
**UNESCO** - United Nations Educational, Scientific and Cultural Organisation  
**UNICEF** - United Nations Children's Fund  
**UNHCR** - United Nations High Commissioner for Refugees

**UN HRC** - United Nations Human Rights Council  
**UNRWA** - United Nations Relief and Works Agency for Palestinian Refugees in the Near East  
**US** - United States  
**USSR** - Union of the Soviet Socialist Republics  
**WASH** - Water, Sanitation and Hygiene  
**WFP** - World Food Programme

## PART 2: THEMATIC OVERVIEW

### RIGHT TO NATIONALITY, DOCUMENTATION AND LEGAL STATUS

**CESF** - COVID-19 Emergency Statelessness Fund  
**COVID-19** - Corona Virus Disease 2019  
**CRC** - Convention on the Rights of the Child  
**DHA** - Department of Home Affairs  
**FT** - Foreigner Tribunal  
**LHR** - Lawyers for Human Rights  
**NRC** - National Registry of Citizens  
**PA** - Palestinian Authority  
**TPS** - Temporary Protection Status  
**UN** - United Nations  
**UNHCR** - United Nations High Commissioner for Refugees  
**UNICEF** - United Nations Children's Fund  
**US** - United States

### EQUALITY AND NON-DISCRIMINATION

**CESF** - COVID-19 Emergency Statelessness Fund  
**COVID-19** - Corona Virus Disease 2019  
**GBV** - Gender-based Violence  
**NRC** - National Register of Citizens  
**UN** - United Nations  
**UNHCR** - United Nations High Commissioner for Refugees  
**UNRWA** - United Nations Relief and Works Agency for Palestinian Refugees in the Near East

### RIGHT TO HEALTH

**CESF** - COVID-19 Emergency Statelessness Fund  
**COVID-19** - Corona Virus Disease 2019  
**IOM** - International Organization for Migration  
**NHS** - National Health Service  
**IDP** - Internally Displaced Person  
**ID** - Identity Document  
**ICRC** - International Red Cross and Red Crescent Movement

### SOCIOECONOMIC RIGHTS

**CESF** - COVID-19 Emergency Statelessness Fund  
**COVID-19** - Corona Virus Disease 2019  
**ICESCR** - International Covenant on Economic, Social and Cultural Rights  
**OHCHR** - Office of the UN High Commissioner for Human Rights  
**IFRC** - International Federation of Red Cross and Red Crescent Societies  
**ICCPR** - International Covenant on Civil and Political Rights  
**UN HRC** - United Nations Human Rights Council  
**WFP** - World Food Programme  
**UNESCO** - United Nations Educational, Scientific and Cultural Organization  
**ILO** - International Labour Organisation

## CIVIL AND POLITICAL RIGHTS

**ATD** – Alternatives to Detention  
**CBSA** – Canada Border Service Agency  
**CCPR** – Human Rights Committee  
**CESF** – COVID-19 Emergency Statelessness Fund  
**COVID-19** – Corona Virus Disease 2019  
**DACA** – Deferred Action for Childhood Arrivals  
**EU** – European Union  
**ICCPR** – International Covenant on Civil and Political Rights  
**IDP** – Internally Displaced Person(s)  
**LHR** – Lawyers for Human Rights  
**NGO** – Non-governmental Organisation  
**SDP** – Statelessness Determination Procedure  
**TPS** – Temporary Protection Status  
**UN** – United Nations

## PART 3: COUNTRY OVERVIEW

### BANGLADESH

**CESF** – COVID-19 Emergency Statelessness Fund  
**CoM** – Council of Minorities  
**COVID-19** – Corona Virus Disease 2019  
**NGO** – Non-governmental Organisation  
**UNDP** – United Nations Development Programme  
**UNHCR** – United Nations High Commissioner for Refugees

### CENTRAL ASIA

**CANS** – Central Asia Network on Statelessness  
**CESF** – COVID-19 Emergency Statelessness Fund  
**COVID-19** – Corona Virus Disease 2019  
**FVLWB** - Ferghana Valley Lawyers Without Borders Association  
**NGO** – Non-governmental Organisation  
**UN** – United Nations  
**UNHCR** – United Nations High Commissioner for Refugees  
**USSR** – Union of the Soviet Socialist Republics

### DOMINICAN REPUBLIC

**CESF** – COVID-19 Emergency Statelessness Fund  
**COVID-19** – Corona Virus Disease 2019  
**DxD** - Dominican@s por Derecho platform  
**IACtHR** – Inter-American Court of Human Rights  
**CEB** - Junta Central Electoral (Central Electoral Board)  
**MIP** - Ministerio de Interior y Policía (Ministry of Interior and Police)  
**OBMICA** - Caribbean Migrants Observatory

### INDIA

**CESF** – COVID-19 Emergency Statelessness Fund  
**CHT** - Chittagong Hill Tract  
**COVID-19** – Corona Virus Disease 2019  
**DAJI** – Development and Justice Initiative  
**FT** – Foreigner Tribunal  
**NRC** – National Registration of Citizens  
**PPE** – Personal Protective Equipment  
**RNCN** – Right to Nationality and Citizenship Network  
**UNHCR** – United Nations High Commissioner for Refugees  
**UNICEF** – United Nations Children's Fund

### KENYA

**CESF** – COVID-19 Emergency Statelessness Fund  
**COVID-19** – Corona Virus Disease 2019  
**ID** - Identity Document  
**NRF** - Nubian Rights Forum  
**PPE** – Personal Protective Equipment  
**UNHCR** – United Nations High Commissioner for Refugees

## MALAYSIA

**CESF** – COVID-19 Emergency Statelessness Fund  
**COVID-19** – Corona Virus Disease 2019  
**NGO** – Non-governmental Organisation  
**LTSVP** – Long-Term Social Visit Pass  
**MCO** – Movement Control Orders  
**SUHAKAM** – Human Rights Commission of Malaysia

## MONTENEGRO

**CESF** – COVID-19 Emergency Statelessness Fund  
**COVID-19** – Corona Virus Disease 2019  
**ID** - Identity Document  
**SDP** - Statelessness Determination Procedure

## NEPAL

**CAPN** – Citizenship Affected Persons Network  
**CESF** – COVID-19 Emergency Statelessness Fund  
**CDO** – Civil Documentation Offices  
**COVID-19** – Corona Virus Disease 2019

## NORTH MACEDONIA

**CESF** – COVID-19 Emergency Statelessness Fund  
**COVID-19** – Corona Virus Disease 2019  
**EU** – European Union  
**OSF** – Open Society Foundation  
**NGO** – Non-governmental Organisation  
**PPE** – Personal Protective Equipment

## ROHINGYA

**CESF** – COVID-19 Emergency Statelessness Fund  
**CDM** – Civil Disobedience Movement  
**COVID-19** – Corona Virus Disease 2019  
**EAO** – Ethnic Armed Organisation  
**NGO** – Non-governmental Organisation  
**R4R** – Rohingya Human Rights Initiative  
**RWDN** – Rohingya Women Development Network  
**UNHCR** – United Nations High Commissioner for Refugees  
**WASH** – Water, Sanitation and Hygiene

