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Section 4.13. Statelessness in the context of asylum

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Statelessness is a legal anomaly which affects people who are not considered a national by any state. Lacking any state's protection means stateless persons may not be able to fully exercise their fundamental rights, including access to education, health care, housing, employment, social welfare and documentation.

The 1954 UN Convention relating to the Status of Stateless Persons defines a stateless person as someone "who is not considered as a national by any state under the operation of its law".1028 Nationality is the legal bond between a person and a state, and international law establishes the right of every person to a nationality. States are free to regulate nationality, but this must be within the limits of international law, for example by being non-discriminatory and non-arbitrary, avoiding statelessness and ensuring gender equality. Nationality is generally acquired at birth by descent (jus sanguinis) and/or place of birth (jus soli), or later in life based on residence, marriage or adoption. A stateless person does not have a nationality of any country, whether born stateless or having become stateless later in life.

Stateless persons and refugees are two distinct categories in international law, but a person can be both a refugee and stateless. In the context of asylum, statelessness may be relevant to the determination process for an asylum application. It is important that both claims are assessed and both statuses addressed explicitly. In instances where refugee status ceases without the person having acquired a nationality, this may necessitate international protection as a stateless person.

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4.13.1. Changing legislation

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