

# Data Collection on Stateless Persons in Canada

Canadian Centre on Statelessness



## Acknowledgements

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## List of Terms

CBSA	Canada Border Services Agency
CIC	Citizenship and Immigration Canada (as of Nov 2015 Immigration, Refugees and Citizenship Canada, IRCC)
IRB	Immigration and Refugee Board of Canada
IRCC	Immigration, Refugees and Citizenship Canada (formerly Citizenship and Immigration Canada, CIC)
ISI	Institute on Statelessness and Inclusion
StatsCan	Statistics Canada
UNHCR	United Nations High Commissioner for Refugees
<i>Jus sanguinis</i>	The 'right of descent', referring to citizenship by descent
<i>Jus soli</i>	The 'right of the soil', referring to birthright citizenship

## Executive Summary

International law holds that a person is deemed stateless if no state considers her or him to be a citizen under the “operation of its law”. This is manifested in two ways: *de jure* statelessness, when no state law recognizes the person as a citizen, and secondly, *de facto* statelessness, when the person is, in theory, entitled to citizenship but is not recognized as such under the application of state law.

Statelessness affects an estimated 10 million people worldwide, and can occur in myriad ways including ethnic and gender discrimination in nationality law, the exclusion of certain groups in post-secession or post-conflict nationality law, the complexity of naturalisation law, and the absence of birth registration.

Statelessness is addressed in international law and several regional treaties. Notably, article 15 (1) of the *Universal Declaration of Human Rights* states “everyone has the right to a nationality”. There are currently two international treaties expressly dealing with the subject of statelessness: the 1954 *Convention Relating to the Status of Stateless Persons* and the 1961 *Convention on the Reduction of Statelessness*. These Conventions stipulate the rights and responsibilities of stateless persons and the states in which they reside.

Stateless persons in Canada are made up of a complex and diverse group of people and statuses. Those who are not refugees do not have a clear path to legal status and are largely not protected by Canada’s legislation or policy. Stateless persons in Canada remain vulnerable to removal and do not qualify for settlement programs or social services, and are likely to be living in limbo.

Data collection is essential to understanding the full scope of the problem of statelessness in Canada. This is necessary in order to ascertain who is stateless in Canada and to work to protect those who are vulnerable. It is also imperative to adhere to international norms, and engage in national solutions that can be used as models for other countries looking to improve their practices on statelessness. Recent research has found that Statistics Canada, Immigration and Refugee Board of Canada, Citizenship and Immigration Canada, and Canadian Border Services Agency do not collect or report adequately data on stateless persons with respect to their demographic information, detention, entry or removals.

This report is a follow up study to the 2012 UNHCR report *Statelessness in the Canadian Context* and investigates the statelessness data collection practices of Statistics Canada, Immigration and Refugee Board of Canada, Citizenship and Immigration Canada, and the Canada Border Services Agency. Access to Information requests were submitted to these government agencies, and follow-up interviews with key government agency informants were conducted via telephone and email.

Despite improvements in data collection practices made since 2012, notably on the part of the Immigration and Refugee Board of Canada and the Canada Border Services Agency, this report finds that, overall, data collection and reporting practices are poor and in need of significant improvement in four broad ways:

- defining statelessness;
- collection practices;
- reporting practices; and
- adherence to the 2012 UNHCR recommendations.

This study makes a series of recommendations for each agency:

Statistics Canada should:

1. As 'stateless' is not predefined for the Census user and is open to interpretation, Statistics Canada must include a definition of 'stateless', in accordance with international law, in the citizenship section of the National Household Survey.
2. Leave all self-reported 'stateless' data in the citizenship category unprocessed.
3. Cease considering political activity as a relevant factor in regrouping data as the nature of the statelessness also concerns non-political activity such as gender biased nationality law; and secondly, political activity, though a cause of statelessness, should not be considered an appropriate indicator of resolution of discrepancies in citizenship or stateless status.
4. Commit to implementing recommendations in advance of the execution of the 2021 National Household Survey.

The Immigration and Refugee Board should:

1. The IRB must define 'stateless' according to international law and include that definition in the Basis of Claim form.
2. Implement reporting on whether statelessness is a factor in decisions made.

Immigration, Refugees and Citizenship Canada (IRCC) should:

1. IRCC must define 'stateless' persons according to international law and remove 'stateless persons' from the category of 'foreign national'.
2. Clarify and include notes on the point at which data on stateless persons is collected, and the organisations involved.
3. Clarify whether the 'stateless' category comprises those with 'unknown nationality'.
4. Implement reporting mechanisms that capture whether statelessness was a primary or significant ground for acceptance in humanitarian and compassionate applications.
5. Implement reporting mechanisms that capture whether establishment in Canada or best interests of affected Canadian citizen children are grounds by which cases are assessed in humanitarian and compassionate applications.
6. Report whether stateless individuals are granted permanent residency in Canada via humanitarian and compassionate grounds or private or government sponsorship.
7. Report the change in status of those stateless persons who acquire Canadian citizenship, so as to accurately report the number of stateless persons in Canada.
8. Include data on stateless individuals in the Citizenship data table.

Canada Border Services Agency should:

1. CBSA must define 'stateless' persons according to international law.
2. Collect and report data on the number of stateless persons detained.
3. Use both detention days and number of individual stateless persons as indicators when reporting data.

4. Collect and report data on the legal status and detention of stateless persons in the countries to which they have been removed.
5. Clarify what is meant by 'none' in its reporting of reasons for removal orders issued against stateless individuals.
6. Implement UNHCR recommendation #3 and collect and report data on detainee age and length of detention.
7. Implement UNHCR recommendation #4 and collect and report data on the country of last habitual residence in addition to citizenship.

## I. Introduction

International law holds that a person is deemed stateless if no state considers her or him to be a citizen under the “operation of its law”.<sup>1</sup> This is manifested in two ways: *de jure* statelessness, when no state law recognizes the person as a citizen, and secondly, *de facto* statelessness, when the person is, in theory, entitled to citizenship but is not recognized as such under the application of state law.<sup>2</sup> Statelessness affects an estimated 10 million people worldwide, and “although stateless people may sometimes also be refugees, the two categories are distinct”.<sup>3</sup> Statelessness can occur in myriad ways. These include ethnic and gender discrimination in nationality law, the exclusion of certain groups in post-secession or post-conflict nationality law, the complexity of naturalisation law, and the absence of birth registration.

How statelessness is addressed nationally is guided by principles in international law. Statelessness is addressed in international law and several regional treaties. Article 15 (1) of the *Universal Declaration of Human Rights* states “everyone has the right to a nationality”.<sup>4</sup> There are currently two international treaties expressly dealing with the subject of statelessness: the 1954 *Convention Relating to the Status of Stateless Persons* and the 1961 *Convention on the Reduction of Statelessness*. These Conventions stipulate the rights and responsibilities of stateless persons and the states in which they reside.

In November 2014, the 60<sup>th</sup> anniversary of the 1954 Convention, the UNHCR unveiled the global campaign IBELONG to end global statelessness by 2024. In the months since, several countries have made efforts to address statelessness through domestic legislation and policy, including acceding to one or both of the statelessness Conventions, implementing statelessness determination procedures, and committing to awareness raising campaigns and programming.

In light of these global initiatives, the Canadian Centre on Statelessness has endeavoured to investigate the statelessness data collection practices of four Canadian government agencies: Statistics Canada, Immigration and Refugee Board of Canada, Citizenship and Immigration Canada<sup>5</sup>, and the Canada Border Services Agency. This report finds data collection practices are poor and in need of significant improvement in four broad ways: defining statelessness, collection practices, reporting practices, and adherence to the 2012 UNHCR recommendations. This report makes several recommendations to each agency to improve their practices.

## II. Statelessness in the Canadian Context

Of the two statelessness Conventions, Canada is a party to only the 1961 *Convention on the Reduction of Statelessness*. Though Canada is not a signatory to the 1954 Convention, stateless persons are protected under the *Canadian Charter of Rights and Freedoms*. Canada’s *Citizenship Act* provides for access to citizenship for a stateless person in the following ways:

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<sup>1</sup> UNHCR 1954, 1

<sup>2</sup> CCR 2009, 2

<sup>3</sup> UNHCR 2013

<sup>4</sup> UN 1948

<sup>5</sup> Data for this study was requested and received from Citizenship and Immigration Canada (CIC) from June 2015 – June 2016, during which time CIC was changed to Immigration, Refugees and Citizenship Canada (IRCC). For the purposes of this report we will refer to this agency as Citizenship and Immigration Canada (CIC) when discussing data received, but Immigration, Refugees and Citizenship Canada (IRCC) in our recommendations.



- Section 5 (4) – a stateless person in Canada can submit an application for a Ministerial discretionary grant of citizenship to alleviate special and unusual hardship;<sup>6</sup>
- Section 5 (5) – second generation born abroad children born on or after April 17, 2009, who would otherwise be stateless, can apply for Canadian citizenship if they are under the age of 23 and have resided in Canada for three of the four years preceding their application;<sup>7</sup> and
- Non-refugee stateless persons and stateless refugees who are permanent residents can apply for citizenship providing they fulfil the relevant residency and language requirements.

Canada grants citizenship based on principles of *jus soli*, *jus sanguinis*, and through naturalisation law, yet despite Canada’s liberal citizenship policy, those who “have no nationality and are not recognized as refugees or protected persons, remain very vulnerable”.<sup>8</sup> Brouwer (2012) outlines the series of gaps in Canadian legislation and policy in which stateless persons fall:

- Canada’s *Citizenship Act* creates the possibility for statelessness by imposing a limit on the ability of parents to pass on Canadian citizenship to their children at the first generation. Second generation children born abroad can apply for Canadian citizenship through s. 5(5), however, they are at risk of statelessness if they do not meet the age and residency requirements;
- statelessness, distinct from stateless refugees, is not a path to legal status. In other words, a stateless person who is *not* a refugee cannot be admitted to Canada, *because* s/he is stateless;
- Canada does not include non-refugee stateless persons in its resettlement programs;
- Canadian immigration and nationality legislation does not acknowledge “the unique situation and vulnerability of stateless persons” (37);
- no provisions are made for stateless persons in the context of removal. For example, there are no provisions that take into consideration “the likely status of a stateless person in the receiving country” (54);
- statelessness is not recognized as a category eligible for humanitarian and compassionate (H&C) applications for status. Stateless applicants must, therefore, meet the normal requirements for being granted H&C consideration, and prove their establishment in Canada, posing difficulty because of precarious status; and
- Statistics Canada, Immigration and Refugee Board of Canada, Citizenship and Immigration Canada, and Canadian Border Services Agency do not collect adequate data on demographic information, detention, and deportations.

The realities that stateless persons face in Canada are unlike those faced by any other group. Stateless persons are ineligible to leave Canada and ineligible to enter any other country. In special circumstances, if stateless persons are able to leave Canada they have no right of return.<sup>9</sup> Stateless persons are also ineligible to bring their children and spouses to Canada, cannot access health care or education, have difficulties in obtaining legal and legitimate employment, and are often forced to live in sub-standard housing. In addition, stateless persons in Canada are often subject to lengthy detention.<sup>10</sup> For Brouwer, “If there is one overarching conclusion to be drawn from this review of international and Canadian law and policy with respect to statelessness, it is that the stateless person remains essentially

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<sup>6</sup> *Citizenship Act*, R.S.C, 1985, c. C-29, s. 5(4)

<sup>7</sup> *Citizenship Act*, R.S.C, 1985, c. C-29, s. 5(5)

<sup>8</sup> Brouwer 2012, 9

<sup>9</sup> Brouwer 2012, 13

<sup>10</sup> Brouwer 2012, 38

invisible. Canada's laws and policies read as if statelessness does not exist outside the refugee context".<sup>11</sup>

Since Confederation in 1867, Canadian citizenship law has been directly based upon and modeled after British nationality and citizenship law, resulting in several provisions that have left thousands stateless in Canada and elsewhere. Over the years, Canadian legislation and policy have contributed to statelessness in several ways, including:

- limiting Canadian citizenship to first generation children born abroad;
- denying Canadian citizenship to "minors, lunatics, and idiots" as classified 'under a disability';
- children caught in gaps between Canadian and foreign adoption law;
- children whose births are not registered in Canada (e.g., many indigenous children fleeing residential schools, and non-indigenous children born close to the American border);
- children born to military service people abroad who fail to register their births abroad;
- children born in Canada to those working in the service of foreign diplomats or their offices who, as a result, are ineligible for Canadian citizenship; and
- those who are convicted of specific criminal activity and either possess, or who are perceived to possess, dual nationality, may be stripped of their Canadian permanent residency or citizenship.<sup>12</sup>

Stateless persons in Canada are made up of a complex and diverse group of people and statuses including Canadian born indigenous persons, refugee claimants, protected persons, and permanent residents. They may reside in communities whilst an investigation into their citizenship and/or immigration claims is conducted; they may be detained temporarily while awaiting either resolution of their immigration issues or deportation; or worse, they may be detained indefinitely whilst the Canadian government deliberates about how it should proceed. Regardless of their circumstances and legal statuses, which are often fluid and precarious, stateless persons in Canada can largely be described as living in limbo.

### III. Research Problem

Two major investigations have been conducted into statelessness in the Canadian context. In 2003 UNHCR Canada commissioned a report by Andrew Brouwer titled, *Statelessness in the Canadian Context*, and an updated version of the paper was published in 2012. Brouwer analysed Canadian legislation with respect to avoiding statelessness, determining statelessness, naturalization and immigration processes, and the detention and removal of stateless persons. Brouwer concluded that Canadian federal legal mechanisms "are insufficient to protect stateless persons in Canada."<sup>13</sup>

In 2015, Gregg Erauw conducted for the UNHCR an investigation into the compatibility of Canada's legal framework with the 1954 *Convention on the Status of Stateless Persons*. The report took aim at Canada's contention that "there is no need for it to accede to the 1954 Convention because Canadian law contains all the necessary safeguards to cover adequately the situation of stateless persons."<sup>14</sup> It found that the "Canadian legal framework does not appear to safeguard all the rights of stateless persons in

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<sup>11</sup> Brouwer 2012, 64

<sup>12</sup> CCS 2016

<sup>13</sup> Erauw 2015, 3

<sup>14</sup> Erauw 2015, 115

the 1954 Convention.”<sup>15</sup> The report further illustrates that Canada, as a State Party to other international human rights instruments, has an obligation to address identified legal gaps in order to protect the rights of stateless persons.

These UNHCR Canada reports both found that data collection is essential to understanding the full scope of the problem of statelessness in Canada. In 2003, Brouwer found that practices with respect to data collection on stateless persons in Canada, on the parts of Statistics Canada (StatsCan), Immigration and Refugee Board of Canada (IRB), Citizenship and Immigration Canada (CIC), and Canada Border Services Agency (CBSA), were poor and in need of improvement in many areas. In 2012, Brouwer outlined areas where these Canadian government agencies had improved their data collection practices, and where gaps in data collection remained. He made several recommendations to the four agencies and called for additional research into this phenomenon.<sup>16</sup> Erauw echoed Brouwer's call for more research into statelessness in Canada. He observed that

there is little reliable research on stateless persons in Canada, their demographic profile, their status and their legal histories. Substantial quantitative and qualitative research is required to know more of their experiences and whether the Canadian legal framework is compatible with the 1954 Convention and Canada's international human rights obligations.<sup>17</sup>

Furthermore,

since there is no “stateless person status” or formal statelessness determination procedure in Canada, there is little information on the extent of statelessness in Canada. This includes a lack of information on how many people are stateless, who is stateless, how foreign nationals are identified as stateless, and how government officials are trained to identify foreign nationals as stateless. [ ... ] Without reliable information on the extent of statelessness in Canada it is easy for Canada to ignore a potentially serious policy issue by dismissing it as irrelevant and insignificant.<sup>18</sup>

Understanding the full extent of this phenomenon requires collecting and reporting data on the part of governments and civil society alike. This is necessary in order to ascertain who is stateless in Canada and to work to protect those who are vulnerable. It is also imperative to adhere to international norms, and engage in national solutions that can be used as models by other countries looking to improve their practices on statelessness. It is essential that Canadian immigration and border security agencies accurately report on how many stateless people in Canada are being protected, detained, and/or prepared for removal, and it is equally important that the Canadian public have access to this data so as to take part in designing appropriate responses.

This study seeks to understand where improvements have been made in these areas since the 2012 UNHCR Canada report, and where gaps still remain. UNHCR recommended in 2012, that

Following the improvement in the collection of statistics since 2003, additional work should be undertaken by government agencies to improve their data management and reporting systems [...] to ensure that comprehensive, accurate

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<sup>15</sup> Erauw 2015, 115

<sup>16</sup> Brouwer 2012, 62

<sup>17</sup> Erauw 2015, 6

<sup>18</sup> Erauw 2015, 9

and timely data on statelessness are available. In particular, gaps in data collection still exist with respect to:

- Refugee determination of stateless persons, including their country of former habitual residence, age, gender, and whether statelessness was a factor in the decision.
- Humanitarian and compassionate cases including an assessment of whether or not statelessness was considered as a positive factor, and disaggregated data on the country of former habitual residence, age and gender.
- Detention under the *Immigration and Refugee Protection Act (IRPA)* of stateless persons including country of former habitual residence, age, gender, and length of detention.
- Removal of stateless persons including the country of former habitual residence and legal status in the country of destination.<sup>19</sup>

It is necessary to follow up on the recommendations made in the 2012 UNHCR report, and ensure that their implementation is monitored. This may require changes in policy and legislation and can take a significant amount of time and effort from several stakeholders.

#### **IV. Literature Review**

Stateless persons are among the most vulnerable people in the world. Without legal identity of any kind stateless people often live in a limbo that relegates them to the periphery of society. The UNHCR maintains it is important to collect data on stateless persons in order to

1. highlight where protection gaps exist for stateless populations and what these might be. This will help to encourage uniformity about the problem within countries and between regions;
2. facilitate greater recognition of the issue through awareness raising among stakeholders such as governments and NGOs as well as among stateless individuals and communities themselves;
3. determine the better allocation of resources to deal with statelessness; and
4. inform advocacy for government target setting to facilitate the prevention and reduction of statelessness in the longer-term.<sup>20</sup>

Data collection exercises around the world have been commenced on the part of non-governmental organisations, government, media, and academia<sup>21</sup>, though the UNHCR “remains the only organisation which systematically collates statistics and regularly reports on the number of stateless persons in the world.”<sup>22</sup> The Institute on Statelessness and Inclusion (ISI) states “much of this data is already in the public domain, but it is not easy to navigate, or verify for reliability, accuracy, authenticity or being up-to-date. As such, there is varying information (of varying quality) available on the situations of

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<sup>19</sup> Brouwer 2012, 68

<sup>20</sup> UNHCR 2011, 4

<sup>21</sup> ISI 2014, 39

<sup>22</sup> ISI 2014, 37

statelessness which are not fully ‘counted’ in UNHCR statistics.”<sup>23</sup> Despite global non-governmental efforts at calculating the global population of stateless people, states remain the primary party responsible for identifying stateless persons on their territory.<sup>24</sup>

### *Challenges in collecting data on statelessness*

There are several challenges in the course of collecting data on stateless persons and populations. States collect data on stateless persons in myriad of ways, and navigating these strategies can be complex.

States tend to collect data on residents within their borders by administering voluntary or compulsory censuses. A respondent can be required to reveal their citizenship status, ethnicity, or country of former nationality. Respondents’ self-identification of citizenship status may not always be reliable, thus potentially resulting in skewed figures on the number of stateless persons.<sup>25</sup> Data gathered “through profiling exercises often needs to be carefully analysed and cross-checked before it can be concluded that the individuals identified are stateless.”<sup>26</sup> In addition, stateless people may wish to keep their status hidden and avoid responding to a census that “could unintentionally expose them to undesired government interference”<sup>27</sup> or subject them to discrimination or denationalisation practices.<sup>28</sup>

The definition of statelessness “is not as straightforward as it appears to be.”<sup>29</sup> Several states either do not define statelessness in their domestic law, or “maintain a definition – or an interpretation – that diverges from that understood under international law, such that it is not applied uniformly across all jurisdictions.”<sup>30</sup> Definitional clarity of statelessness is important when considering who is and is not stateless within a country, but also to understand the implications of statelessness as a distinct form of status accompanied by specific legal recourse.<sup>31</sup> Appropriate categorisation of stateless persons is important, whether in a migratory or *in situ* context<sup>32</sup> so as to “address each situation, whether individual or protracted, in a technically appropriate way.”<sup>33</sup>

Data collection initiatives can be complex and resource intensive. Major data collection undertakings can leave out entire segments of populations because of definitional issues and methodological flaws. It is within this context that this study seeks to understand how Canada collects and reports data on stateless persons.

## **V. Research Questions**

There are two main research questions this study seeks to explore. Firstly, what are the data collection and reporting practices of Statistics Canada, Immigration and Refugee Board of Canada, Citizenship and Immigration Canada, and the Canada Border Services Agency concerning statelessness? Secondly, have

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<sup>23</sup> ISI 2014, 39

<sup>24</sup> ISI 2014, 37

<sup>25</sup> UNHCR 2011, 9

<sup>26</sup> UNHCR 2011, 4

<sup>27</sup> UNHCR 2011, 4

<sup>28</sup> UNHCR 2011, 9

<sup>29</sup> ISI 2014, 6

<sup>30</sup> ISI 2014, 40

<sup>31</sup> Kane 2013, 80

<sup>32</sup> ISI 2014, 43

<sup>33</sup> Kane 2013, 80

these agencies improved their data management and reporting systems since the UNHCR made recommendations in 2012 with respect to

- Refugee determination of stateless persons;
- Humanitarian and compassionate cases;
- Detention under the *IRPA* of stateless persons, and
- Removals of stateless persons?

## **VI. Methodology**

The approach used in this study consists of two steps. Firstly, a literature review was carried out, followed by the submission of several Access to Information (ATI) requests to the four Canadian government agencies. Secondly, in order to follow up on the data received and clarify findings, interviews with key government agency informants were conducted via telephone and email.

In order to discover whether recommendations made in 2012 have been implemented, CCS filed Access to Information requests with Statistics Canada, Citizenship and Immigration Canada, and Canada Border Services Agency on June 22, 2015. We conducted a telephone interview with representatives from the Immigration and Refugee Board of Canada on July 16, 2015. Access to Information requests were filed electronically to the aforementioned agencies, and responses were provided by individual agency officers who acted as points of contact once responses were delivered. Follow up phone calls and emails were made in the fall and winter of 2015 and spring of 2016 in order to clarify any concerns in initial responses.

## **VII. Findings**

### **Statistics Canada**

#### *Defining Stateless*

Statistics Canada defines 'stateless' in the National Household Survey on the basis of the responses received for Question # 10 '*Of what country is this person a citizen?*' 'Stateless' is a separate citizenship category in the National Household Survey distinct from countries of origin. Other examples of responses coded to 'stateless' include: 'not a citizen of any country', 'no citizenship', and 'no country'.

In the 2011 National Household Survey, the Citizenship question was the only one capturing the stateless status. On the questionnaire, two check-boxes allow the type of Canadian citizenship (by birth or by naturalization) to be reported and a write-in line is provided for other citizenships. Respondents are instructed to provide more than one citizenship if applicable. No further instruction nor definition is provided with regard to stateless as a status.

#### *Reporting on Statelessness*

Statistics Canada reports that the 'stateless' category in the citizenship variable includes persons who give responses of 'stateless' or 'Western Sahara' to Q 10, with the following exception – persons who

reported 'Hong Kong' as their place of birth and who also reported 'stateless' as their citizenship. These persons were not included in the 'stateless' category, but in the category 'People's Republic of China'.

The attribution of the Peoples Republic of China category to those who reported 'Hong Kong' as place of birth and 'stateless' as the citizenship was implemented following the cessation of Hong Kong to China. The rule was implemented in the 2001 Census to avoid the overestimation of the stateless population in Canada following the transition in 1997.

With respect to other disputed territories, Western Sahara is the only country from Statistics Canada's Standard List of Countries and Areas of Interest included in the 'stateless' category. West Bank and Gaza Strip (Palestine) have their own category given the analytical interest in that particular group and the fact that there are sufficient numbers to disseminate them separately (which is not the case for Western Sahara).

### *Assessment*

Statistics Canada does not provide its own definition of 'stateless' in the National Household Survey, but instead uses survey responses to establish a grouped category of 'stateless', comprising several types of responses. It appears Statistics Canada's process of attribution of citizenship to country of birth does not involve an adequate testing process. Statistics Canada makes assumptions about citizenship based on country of birth and political activity. Depending on that political activity, Statistics Canada groups stateless persons into other citizenship categories. Statistics Canada does so to avoid overestimating the stateless population in Canada, but does so in the absence of a testing or confirmation mechanism. The 2011 National Household Survey reported figure of 1,690 people classified as 'stateless' is therefore not reliable.

### *Recommendations*

Statistics Canada should:

1. As 'stateless' is not predefined for the Census user and is open to interpretation, Statistics Canada must include a definition of 'stateless', in accordance with international law, in the citizenship section of the National Household Survey.
2. Leave all self-reported 'stateless' data in the citizenship category unprocessed.
3. Cease considering political activity as a relevant factor in regrouping data as the nature of the statelessness also concerns non-political activity such as gender biased nationality law; and secondly, political activity, though a cause of statelessness, should not be considered an appropriate indicator of resolution of discrepancies in citizenship or stateless status.
4. Commit to implementing recommendations in advance of the execution of the 2021 National Household Survey.

## **Immigration and Refugee Board of Canada**

### *Collecting Data*

'Stateless' is included as a citizenship category in the IRB Basis of Claim form. On the Basis of Claim (BOC) form under the section "Your Citizenship," applicants are requested to list each country of which they are or have been a citizen, and the status of their citizenship in the listed countries. The IRB's case management system allows for claimants' citizenship to be defined as 'stateless'.

The IRB receives and records country of persecution information for all claims, and since December 15, 2012, the IRB has been receiving and recording country of citizenship data. As statelessness relates to claimant citizenship and not to countries of persecution, the IRB has only been able to report on stateless claimants under the new system, since December 15, 2012. Age and gender information as well as countries of alleged persecution can also be provided for claims decided under the new system.

The IRB receives citizenship data from its partners at intake and also determines and records this information at the time of decision. As a result, statistics on stateless individuals can be provided on claims referred to the IRB and/or claims decided by the IRB.

The IRB does recognize that the country of reference, from which the person is claiming protection, may not be their country of citizenship. In support of their claim, claimants are asked to identify their country or countries of citizenship as well as the country or countries where they are at risk of serious harm. Where the claimant does not have a nationality (i.e. stateless), IRB members will assess the claim against the claimant's country of former habitual residence.

With respect to testing for statelessness, or the absence of citizenship documents, presiding IRB Refugee Protection Division (RPD) decision-makers determine the steps that are taken in order to obtain the information required to assess the elements of the claim, including if the claimant has a nationality or is stateless. For example, the IRB decision-maker may request additional claimant-specific information, such as foreign status verifications or biometric information.

### *Reporting Data*

Information on citizenship (including statelessness) in all cases is recorded in the IRB case management system, including verbal and written decisions. The IRB does not generate routine reports on positive decisions, but can produce reports on acceptance rates.

In their decisions (positive or negative), decision-makers "regularly" state the country of nationality of the claimant, or if the claimant is stateless, their country of former habitual residence. This data is collected in the IRB case management system and can be reported. However, the RPD does not report on the reason(s) for which claims are accepted. The determining factors in each individual case are explained by the decision-maker in their decision.

### *Assessment*

The IRB states that 'stateless' is included as a citizenship category in the IRB Basis of Claim form, and that the IRB's case management system allows for claimants' citizenship to be defined as 'stateless', however, the IRB did not state whether they define 'stateless' in a specific way.



The IRB did not clarify who its “partners” at intake are. It is presumed that partners at intake refers to the Canada Border Services Agency. The IRB has implemented UNHCR recommendation #1 and does in fact collect and record information on individual stateless persons’ country of former habitual residence. The IRB has mechanisms in place for testing for stateless status that include foreign status verifications and biometric information, however, the IRB neither explained these mechanisms nor provided examples.

It is not clear what the IRB means when they “regularly” state the country of nationality of the claimant, or whether “regularly” implies ‘consistent by way of regulation’, or ‘frequently’.

When asked whether the IRB has developed any new policies on statelessness, or stateless persons following the 2012 UNHCR report, the IRB responded that it had not implemented any new policies. Some data collection procedures have changed, however, following the coming into effect of legislation on December 15, 2012, in that the IRB now collects and reports citizenship data. Demographic data including age, gender, ethnicity and countries of former residence is available since the implementation of Bill C-37, however this data was not requested in this study.

### *Recommendations*

The Immigration and Refugee Board should:

1. The IRB must define ‘stateless’ according to international law and include that definition in the Basis of Claim form.
2. Implement reporting on whether statelessness is a factor in decisions made.

## **Citizenship and Immigration Canada<sup>34</sup>**

### *Collecting and Reporting Data*

‘Statelessness’ is not defined in the *Immigration and Refugee Protection Act* but is included as a sub-category in the group defined as ‘foreign national’. Section 2(1): ‘foreign national’ means a person who is not a Canadian citizen or a permanent resident, and includes a ‘stateless person’.

To the following questions, CIC responded: “the information requested is excluded from the *Access to Information (ATI) Act*, but is available at a cost”:

1. Of the refugees selected for settlement under Canada's government sponsored resettlement programs, how many are recorded as stateless persons for the years 2003 - 2014?
2. Does CIC keep data on unsuccessful stateless refugee applicants to these programs?
3. If so, how many stateless persons are recorded as unsuccessful for the years 2003 - 2014?

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<sup>34</sup> Data for this study was requested and received from Citizenship and Immigration Canada (CIC) from June 2015 – June 2016, during which time CIC was changed to Immigration, Refugees and Citizenship Canada (IRCC). For the purposes of this report we will refer to this agency as Citizenship and Immigration Canada (CIC) when discussing data received, but Immigration, Refugees and Citizenship Canada (IRCC) in our recommendations

4. If CIC does not keep data on unsuccessful stateless refugee applicants to these programs, please explain why, and whether there are efforts underway to do so.
5. How many stateless individuals filed applications for permanent residence on humanitarian or compassionate grounds for the years 2003 - 2014?

We requested clarification on the cost and processes for accessing this information. CIC referred us instead to the Open Data Portal where we consulted 48 publicly available data tables<sup>35</sup>. These tables yielded data on stateless persons in Canada but did not yield data on the initial ATI questions above.

These tables included data on stateless persons who are foreign worker permit holders, refugees, permanent residents, temporary residents including students, and categorised by processing office, category, gender, age, destination province or territory, applications received abroad, source country and humanitarian and compassionate purposes.

Stateless persons were reflected in the following data:

- From 2005 to 2014 there were 1,558 stateless persons who claimed refugee status in Canada.<sup>36</sup> This table relates to claimants only, and does not confirm granted claim figures or denied claim figures.
- From 1981 to 2015 the total number of stateless persons granted permanent resident status in Canada was 316,882.<sup>37</sup> This figure is not broken down into refugee, humanitarian and compassionate grounds, or whether permanent resident status was granted after the stateless persons had obtained a work or student visa.
- From 2010 to 2015, the number of applications received from stateless persons for temporary residency was 12,289.<sup>38</sup>
- From 2010 to 2015, the number of visas, permits, and extensions issued for stateless, temporary residents was 7,968.<sup>39</sup>
- From 2010 to 2015, the number of applications received from stateless persons for permanent residency was 5,206.<sup>40</sup>
- From 2010 to 2015, the number of authorizations and visas issued for stateless, permanent residents was 5,497.<sup>41</sup>
- The number of stateless persons who held work permits for humanitarian and compassionate purposes in 2014 and 2015 was 212.<sup>42</sup>

<sup>35</sup> Government of Canada. Open Data Portal.

<http://open.canada.ca/data/en/dataset?organization=limit=0&organization=cic&ga=1.38136163.132259988.1460826098> Accessed 2 February 2016

<sup>36</sup> Government of Canada. Open Data Portal. Facts & Figures 2014: Immigration Overview - Temporary Residents, Refugee claimants by top 50 countries of citizenship, 2005 to 2014. <http://open.canada.ca/data/en/dataset/052642bb-3fd9-4828-b608-c81dff7e539c> Accessed 2 February 2016

<sup>37</sup> Government of Canada. Open Data Portal. Canada - Permanent Residents by Country of Citizenship, 1980 - 2015.

<http://open.canada.ca/data/en/dataset/40fe637b-c7e7-4454-88b5-78530f220cba> Accessed 2 February 2016

<sup>38</sup> Government of Canada. Open Data Portal. Source Countries - Applications Received for Temporary Residents (in Persons).

<http://open.canada.ca/data/en/dataset/0744df07-142d-4c4d-8f99-87500eaa39d3> Accessed 2 February 2016

<sup>39</sup> Government of Canada. Open Data Portal. Source Countries - Visas, Permits and Extensions Issued for Temporary Residents (in Persons).

<http://open.canada.ca/data/en/dataset/db0ab81f-7932-43dd-a7b3-e67e00026e67> Accessed 2 February 2016

<sup>40</sup> Government of Canada. Open Data Portal. Source Countries - Applications Received for Permanent Residents (in Persons).

<http://open.canada.ca/data/en/dataset/59b5b7cc-66cf-41b6-a2e0-8d38b3f3d977> Accessed 2 February 2016

<sup>41</sup> Government of Canada. Open Data Portal. Source Countries - Authorizations and Visas Issued for Permanent Residents (in Persons)

<http://open.canada.ca/data/en/dataset/b79454a9-a20c-48d9-ba9d-a6f22bd218ff> Accessed 2 February 2016

<sup>42</sup> Government of Canada. Open Data Portal. Canada - Work permit holders for H&C purposes by country of citizenship and year in which permit(s) became effective, 2014 to 2015. <http://open.canada.ca/data/en/dataset/cc180cea-a2be-42e9-9810-76bcd061ee1a> Accessed 2 February 2016

- From 2014 to 2015, the number of stateless International Mobility Program work permit holders was 30.<sup>43</sup>
- From 2014 to 2015, the number of stateless temporary foreign worker program work permit holders is 4.<sup>44</sup>
- From 2001 to 2015, the number of stateless international students who received study permits is 2,141.<sup>45</sup> From 2000 to 2015, the number of stateless international students whose study permits were valid on December 31 is 3,422.<sup>46</sup>

### *Reporting Data*

CIC reporting mechanisms do not capture the specific reasons for an approved humanitarian and compassionate application. There are no efforts underway to change current reporting mechanisms to include statelessness as a primary or significant ground for acceptance in humanitarian and compassionate applications, or to include establishment in Canada or best interests of affected Canadian citizen children as grounds by which cases are assessed. Furthermore, the assessment of an application for permanent residence under humanitarian and compassionate grounds is a global assessment of factors presented by the applicant, whereby statelessness would be one factor for consideration in this assessment. CIC would not clarify what is meant by a 'global assessment of factors'.

### *Assessment*

With respect to the data reported on stateless refugee claims from 2005 – 2014, it is not clear at which point this data was collected. This data could have been collected from CBSA based on eligibility interviews at Points of Entry, the Refugee Protection Division on receipt of referrals, Basis of Claim forms filed by stateless persons, or from decisions of the Refugee Protection Division or the Refugee Appeal Division.

From the data tables it is not evident whether CIC records data on stateless individuals granted permanent residency through private or government sponsorship. No data tables reported these data categories.

CIC reports that the total number of stateless persons granted permanent resident status in Canada since 1981 is 316,882, but does not report how many of those stateless individuals have been granted citizenship since 1981. It is also not clear if CIC groups persons whose nationality has not been accurately recorded into the stateless category, thereby inflating this figure. CIC did not respond to CCS' attempts to clarify this figure, or to provide clarification on the categorisation of stateless persons.

Data on stateless persons is not collected for every migration category. Data on stateless persons was also not included in the Citizenship table.

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<sup>43</sup> Government of Canada. Open Data Portal. Canada - International Mobility Program work permit holders by country of citizenship and year in which permit(s) became effective. <http://open.canada.ca/data/en/dataset/e992dffe-606c-450c-9830-d4748a93559b> Accessed 2 February 2016

<sup>44</sup> Government of Canada. Open Data Portal. Canada - Temporary Foreign Worker Program Work Permit Holders by Countries of Citizenship. <http://open.canada.ca/data/en/dataset/80070fb0-fc34-4543-b28c-913cd2600fa7> Accessed 2 February 2016

<sup>45</sup> Government of Canada. Open Data Portal. Canada - International students by country of Citizenship and year in which permit(s) became effective. <http://open.canada.ca/data/en/dataset/96634702-31fd-41c0-b0f8-4e5a8ca27ad4> Accessed 2 February 2016

<sup>46</sup> Government of Canada. Open Data Portal. Canada - International students with a valid permit on December 31st by country of citizenship. <http://open.canada.ca/data/en/dataset/cdc14bcf-d9b1-4130-b743-6830f25c9b64> Accessed 2 February 2016

Given the inability of most stateless persons to travel, figures for the temporary and permanent residency application, work permits for humanitarian and compassionate grounds, International Mobility and temporary foreign worker program permit holder, and international student categories need to be further qualified by IRCC.

### *Recommendations*

Immigration, Refugees and Citizenship Canada (IRCC) should:

1. IRCC must define 'stateless' persons according to international law and remove 'stateless persons' from the category of 'foreign national'.
2. Clarify and include notes on the point at which data on stateless persons is collected, and the organisations involved.
3. Clarify whether the 'stateless' category comprises those with 'unknown nationality'.
4. Implement reporting mechanisms that capture whether statelessness was a primary or significant ground for acceptance in humanitarian and compassionate applications.
5. Implement reporting mechanisms that capture whether establishment in Canada or best interests of affected Canadian citizen children are grounds by which cases are assessed in humanitarian and compassionate applications.
6. Report whether stateless individuals are granted permanent residency in Canada via humanitarian and compassionate grounds or private or government sponsorship.
7. Report the change in status of those stateless persons who acquire Canadian citizenship, so as to accurately report the number of stateless persons in Canada.
8. Include data on stateless individuals in the Citizenship data table.

## **Canada Border Services Agency**

### *Collecting and Reporting Data*

At the point of interaction with the CBSA, that is, at the Canadian border, the Agency collects "a variety of biographical information" that is inputted into three data management systems, and includes citizenship and whether a person is stateless. These data management systems record 'stateless' and 'unknown nationalities' separately.

The CBSA confirmed it does not have a definition of 'statelessness' but stated "the *Immigration and Refugee Protection Regulations* section 241 does refer to removal to any country that will authorize entry, which does not have to be of [the country of] citizenship".

### *Inadmissibility*

CBSA reported that 3,378 stateless people were inadmissible to Canada from the years 2003 – 2014. Furthermore, stateless persons deemed inadmissible at the United States border numbered 1,565; those deemed inadmissible at an (unspecified) airport numbered 294; and stateless persons deemed inadmissible inland numbered 1,499. From 2003 – 2014, 2,368 stateless males were inadmissible to Canada and 1,010 females were inadmissible to Canada. CBSA did not provide details on the reasons for inadmissibility.

## *Detention*

Within their detention database, CBSA only has access to citizenship and not the country of last habitual residence. It is not clear whether CBSA collects data on country of last habitual residence, or whether this data is collected but not reported in the detention database.

The total number of days in detention that stateless persons spent from 2003 – 2014 is 43,214.<sup>47</sup> The total number of stateless detainees from 2003 – 2014 was 530. Based on the total number of detainees and total number of detention days for the period of 2003-2014, the average length of detention for a stateless individual is 81 days.<sup>48</sup>

The number of days in detention for stateless persons in Canada declined steadily from 5,120 in 2003 to 1,759 in 2014.

The majority of stateless persons detained in Canada were detained in the GTA for 27,343 days, or 64% of all detention days in Canada from 2003 – 2014. Stateless persons were detained for the following number of days in other regions in Canada: 88 days in Atlantic Region, 2,953 days in Quebec Region, 3,900 days in Northern Ontario, 636 days in Southern Ontario, 5,913 days in Prairie Region, and 2,083 days in Pacific Region.<sup>49</sup>

Detention was initiated for stateless persons either inland or at a port of entry. A third category, Missing/Invalid refers to information that does not exist for this category, however, reported cases in this category have been 0 since 2010 – perhaps a reflection of better case management. The majority of detentions of stateless persons from 2003-2014 was initiated inland with 38,423 detention days - 89% of total.<sup>50</sup>

The majority of those stateless persons detained from 2003 – 2014 were detained because of a Removal Order, at 336 or 63% of stateless persons. Other reasons for detention include:

- admissibility hearing (107 stateless persons)
- examination (108 stateless persons)
- inquiry (2 stateless persons)
- minister's proceeding (25 stateless persons)
- missing/invalid (5 stateless persons)

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<sup>47</sup> CCS received two different documents from CBSA with different figures for the same period: 43,214 and 42,916 detention days for 2003-2014.

<sup>48</sup> Based on 43,214 figure

<sup>49</sup> Based on 42,916 figure

<sup>50</sup> Based on 43,214 figure

Stateless persons released from detention spent the following number of days in detention from 2003 - 2014:

<b>Total Number of Days on Immigration Hold</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>Total</b>
Active Detention	0	0	0	0	0	0	0	0	0	0	19	443	<b>462</b>
Release for Departure – No Order	7	2	1	0	0	1	1	1	1	0	0	2	<b>16</b>
Release for Removal	1159	1687	1231	773	510	744	677	898	1077	1347	643	3	<b>10749</b>
Released for Removal by Non-HCMS office	0	0	0	0	0	0	0	0	0	0	1	0	<b>1</b>
Release from Imm. Hold	400	175	0	0	0	0	0	0	0	0	0	0	<b>575</b>
Released on Bond	1246	1502	1294	1151	1253	1481	824	326	712	133	93	286	<b>10301</b>
Released on Conditions – no bond	266	504	773	1176	1295	1931	979	654	427	1108	623	543	<b>10279</b>
Transfer to serving sentence – ineligible for Day Parole	0	0	0	0	0	12	0	0	0	0	0	0	<b>12</b>
Transfer to serving sentence – S59 Notice	3	0	86	0	0	0	0	0	0	0	0	0	<b>89</b>
Transferred for Examination	8	25	12	15	20	11	6	10	3	0	2	2	<b>114</b>
Transferred to another facility	1760	481	550	242	926	595	502	898	1067	334	708	425	<b>8488</b>
Transferred to court hold	261	556	53	5	129	90	92	265	1	10	0	57	<b>1519</b>
Unconditional Release	10	124	3	10	34	1	2	0	4	0	108	313	<b>609</b>
<b>Immigration Release / Transfer Disposition</b>	<b>5120</b>	<b>5056</b>	<b>4003</b>	<b>3372</b>	<b>4167</b>	<b>4866</b>	<b>3083</b>	<b>3052</b>	<b>3292</b>	<b>2932</b>	<b>2197</b>	<b>2074</b>	<b>43214</b>

## Removals

CBSA removed 493 stateless persons from Canada to 60 countries from 2003 – 2014. The following are the top 5 countries to which stateless individuals were removed within this period:

- United States of America (156 stateless persons)
- Socialist Republic of Vietnam (115 stateless persons)
- Lebanon (28 stateless persons)
- Hong Kong SAR (13 stateless persons)
- Syria (12 stateless persons)

CBSA provided details on 189 records of removal orders issued from 2003 – 2014 detailing the following criteria:

document date	refugee claim indicator	high risk orders-exclusions
removal order sign date	refugee claim date	removed under escort (y/n)
removal date	AVRR	detained (y/n)
originating CBSA office desc.	ref. claim decision	criminality (y/n)
port of exit	ref. claim decision date	carrier desc.
CBSA office involved desc.	RAD decision	liability type
removal type	RAD decision date	travel document type
removal cause	ARC application/decision	danger opinion issued (y/n)
destination country	ARC decision date	contrary to National Interest (y/n)
removed within 365 days	high risk allegation	

Of this criteria the following data was reported for destination country, refugee claim indicator, whether the stateless individual was detained, travel document type, and whether the stateless individual was considered 'contrary to the national interest':

### Destination Country

- Socialist Republic of Vietnam (111 stateless persons)
- United States of America (16 stateless persons)
- Democratic Republic of Sudan (8 stateless persons)
- Cambodia (6 stateless persons)
- Hungary (5 stateless persons)

Of these 189 records, the Refugee Claim Indicator was 'no' for 155 records, and 'yes' for 34 records. There were 62 stateless individuals who were not detained at the time of removal and 127 who were detained. There were 171 stateless individuals who were not considered 'contrary to the national interest' and 18 who were considered 'contrary to the national interest'.

Travel document types for stateless individuals removed from Canada included:

- certificate of identity (62 stateless persons)
- passport (38 stateless persons)
- other (34 stateless persons)

- single journey form (33 stateless persons)
- no travel document (11 stateless persons)
- alien registration (7 stateless persons)
- facilitation visa (2 stateless persons)
- permanent resident card (1 stateless person)
- seaman's book (1 stateless person)

Of removal orders issued against stateless persons from 2003-2014, the following reasons were provided:

- criminality – serious (157 stateless persons)
- non-compliance (39 stateless persons)
- none (28 stateless persons)
- criminality – lesser (6 stateless persons)
- misrepresentation (4 stateless persons)
- organised crime (3 stateless persons)
- human rights violations (1 stateless person)

It is not clear what is meant by 'none', however, it is clear that serious criminality is the main reason stateless individuals are issued removal orders by CBSA.

The CBSA does not record the legal status or detention of removed stateless persons in the countries to which they have been removed.

### *Assessment*

While the CBSA does collect and record data on 'unknown nationality' and 'statelessness' separately, CBSA does not define 'statelessness'.

It is not clear whether CBSA collects data on country of last habitual residence, or if this data is not reported in the detention database.

The number of days in detention for stateless persons in Canada declined steadily from 5,120 in 2003 to 1,759 in 2014. As these figures refer only to the number of days in detention and not the number of stateless persons in detention, this decline can be misleading as it does not indicate whether more stateless persons were detained in 2003 for shorter periods, or whether fewer stateless persons were detained for a longer period in 2014.

The utilization of the number of detention days as the basis upon which other detention indicators are grouped is problematic. Detention day statistics can be misleading as they do not identify data for individual stateless persons, but instead only the collective number of days stateless persons are in detention. Additionally, it is impossible to decipher where individual stateless persons are detained in Canada, where their detention was initiated, or the exact periods of time for which they are detained. In addition, conditions for release data that reflect detention days instead of number of persons masks the accurate number of persons in detention and the periods of time they spent in detention prior to their release.



It appears the data collection practices of the CBSA are improving. CBSA has not, however, implemented UNHCR recommendations #3 and #4, which refer to the collection of age, length of detention, country of former habitual residence, and legal status in country of destination, respectively.

### *Recommendations*

Canada Border Services Agency should:

1. CBSA must define 'stateless' persons according to international law.
2. Collect and report data on the number of stateless persons detained.
3. Use both detention days and number of individual stateless persons as indicators when reporting data.
4. Collect and report data on the legal status and detention of stateless persons in the countries to which they have been removed.
5. Clarify what is meant by 'none' in its reporting of reasons for removal orders issued against stateless individuals.
6. Implement UNHCR recommendation #3 and collect and report data on detainee age and length of detention.
7. Implement UNHCR recommendation #4 and collect and report data on the country of last habitual residence in addition to citizenship.

## **VIII. Conclusion**

Findings from this investigation into the statelessness data collection practices of Statistics Canada, Immigration and Refugee Board of Canada, Citizenship and Immigration Canada, and Canada Border Services Agency paint a disappointing picture. Though some improvements in data collection practices have been made since 2012, notably on the part of the IRB and CBSA, overall the data collection practices are poor and in need of significant improvement in four broad ways: defining 'statelessness', collection practices, reporting practices, and adherence to the 2012 UNHCR recommendations.

### *Definitions are Poor*

The absence of a clear definition of 'stateless' in the National Household Survey leaves the 'stateless' category of citizenship in need of clarity. There is no standard against which survey users are able to, albeit informally, compare their understanding of statelessness. The IRB allows for refugee claimants to report their citizenship status, and, by way of its mandate, is able to test that citizenship status through its investigatory processes. CIC (IRCC) does not provide a definition in its policies or data tables. CBSA also does not define a 'stateless person' and relies on the *Immigration and Refugee Protection Act's* inclusion of a 'stateless person' in the definition of a 'foreign national'.

Effectively collecting and reporting data on stateless persons in Canada requires a baseline definition of 'stateless person' in Canadian legislation, both in the *Immigration and Refugee Protection Act*, and in the *Citizenship Act*. Without a consistent definition enshrined in legislation, government agencies are left to rely upon their internal definitions with no basis upon which to streamline collection and reporting practices, or to implement other related policies. In the absence of legislative change to reflect such a definition, all four government agencies must define a 'stateless person' according to international law,

specifically the 1954 *Convention on the Status of Stateless Persons* which holds a person is stateless when no state considers her or him to be a citizen under the operation of its law.

#### *Collection is Unsubstantiated*

StatsCan's data is self-reported and untestable, rendering the data unreliable. IRB data collection has improved since 2012 and appears thorough. CIC did not respond to questions pertaining to stateless refugees within Canada's government sponsored resettlement program and the humanitarian and compassionate grounds stream, or on success rates of applicants. CIC did not provide a response as to whether this data is recorded or what the 'stateless' category comprises. CIC would not clarify the data it collects within its 'global assessment of factors'. CBSA appears to have a streamlined collection process however, the Agency does not collect data pertinent to the stateless experience including country of last habitual residence, and the legal status and detention of stateless persons in the countries to which they have been removed.

#### *Reporting is Misleading*

StatsCan's grouping of data into categories that align with their Standard List of Countries is misleading. StatsCan's manipulation of data for the sake of reporting contributes to the unreliability of the National Household Survey data. IRB's practice of not reporting on reasons for positive decisions contributes to gaps in the contextualisation and analysis of cases of statelessness. CIC's reporting practices within the Open Data tables are in need of clarification, specifically how the unique circumstances of statelessness are accounted for, for example, the inability to travel, and whether reported stateless persons are also refugees. Qualification of figures is essential, for example, as Statistics Canada reported in its National Household Survey in 2011 that there were 1,690 stateless persons in Canada and CIC reported in 2015 that there have been 316,882 stateless persons in Canada since 1981. CBSA's practice of using detention days as an indicator in reporting other sets of detention data is misleading and raises further questions about the real number of stateless persons in detention and their circumstances. There is also no explanation of why detention days is used to report detention data rather than the number of stateless individuals in detention, raising concerns about the value of the data.

#### *UNHCR Recommendations*

The IRB has implemented UNHCR recommendation #1 and does collect and record information on country of former habitual residence, age, gender, but not whether statelessness was a factor in decisions. It is not clear whether the IRCC has implemented recommendation #2, reporting on whether statelessness was a factor in humanitarian and compassionate cases, and data on former habitual residence, age, and gender in these cases. It appears the data collection practices of the CBSA are improving, however, CBSA has not implemented UNHCR recommendations #3 and #4, which refer to the collection of age and length of detention, and country of former habitual residence and legal status in country of destination, respectively.

In addition to highlighting data collection and reporting practices of stateless persons in Canada, this study has demonstrated the importance of the need for accurate and contextualised data. This study raises further questions with respect to the experiences of stateless persons in this country. This study is a point of departure from which future researchers can explore, for example, the detention of stateless persons, how decisions are made with respect to their claims for asylum, how stateless persons define themselves, the cooperation between government agencies, and how Canada understands, both legally and discursively, the nature of statelessness. Such research would enhance the understanding of

statelessness in Canada and contribute to its eradication both in Canada and elsewhere, and most importantly, enhance the lives of stateless persons.

## Summary of Recommendations

Statistics Canada should:

5. As 'stateless' is not predefined for the Census user and is open to interpretation, Statistics Canada must include a definition of 'stateless', in accordance with international law, in the citizenship section of the National Household Survey.
6. Leave all self-reported 'stateless' data in the citizenship category unprocessed.
7. Cease considering political activity as a relevant factor in regrouping data as the nature of the statelessness also concerns non-political activity such as gender biased nationality law; and secondly, political activity, though a cause of statelessness, should not be considered an appropriate indicator of resolution of discrepancies in citizenship or stateless status.
8. Commit to implementing recommendations in advance of the execution of the 2021 National Household Survey.

The Immigration and Refugee Board should:

3. The IRB must define 'stateless' according to international law and include that definition in the Basis of Claim form.
4. Implement reporting on whether statelessness is a factor in decisions made.

Immigration, Refugees and Citizenship Canada (IRCC) should:

9. IRCC must define 'stateless' persons according to international law and remove 'stateless persons' from the category of 'foreign national'.
10. Clarify and include notes on the point at which data on stateless persons is collected, and the organisations involved.
11. Clarify whether the 'stateless' category comprises those with 'unknown nationality'.
12. Implement reporting mechanisms that capture whether statelessness was a primary or significant ground for acceptance in humanitarian and compassionate applications.
13. Implement reporting mechanisms that capture whether establishment in Canada or best interests of affected Canadian citizen children are grounds by which cases are assessed in humanitarian and compassionate applications.
14. Report whether stateless individuals are granted permanent residency in Canada via humanitarian and compassionate grounds or private or government sponsorship.
15. Report the change in status of those stateless persons who acquire Canadian citizenship, so as to accurately report the number of stateless persons in Canada.
16. Include data on stateless individuals in the Citizenship data table.

Canada Border Services Agency should:

8. CBSA must define 'stateless' persons according to international law.
9. Collect and report data on the number of stateless persons detained.
10. Use both detention days and number of individual stateless persons as indicators when reporting data.

11. Collect and report data on the legal status and detention of stateless persons in the countries to which they have been removed.
12. Clarify what is meant by 'none' in its reporting of reasons for removal orders issued against stateless individuals.
13. Implement UNHCR recommendation #3 and collect and report data on detainee age and length of detention.
14. Implement UNHCR recommendation #4 and collect and report data on the country of last habitual residence in addition to citizenship.

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<sup>51</sup> For individual table sources see pages 17-18.