



Guide to preparing a citizenship application for a stateless person under s.5(4) of the *Citizenship Act*

NOTE: Immigration and citizenship law changes frequently. This guide is current as of June, 2019. The content in this Guide is provided for general information purposes only and does not constitute legal advice. Links to content provided by third parties are offered for informational purposes only and CCS does not assume responsibility for the accuracy or currency of the contents.

The Canadian Government can grant a stateless person Canadian citizenship under s.5(4) of the *Citizenship Act*. There is currently no specific application form for citizenship grants under s.5(4). This guide will outline how to create a s.5(4) citizenship application using existing citizenship forms, combined with information specific to the reality of stateless people.¹ This guide is for stateless people who have a claim to Canadian citizenship be it by birth on Canadian soil, having a Canadian parent, or who have already been recognized as a permanent resident of Canada.

Stateless people without a claim to citizenship through birth location or a Canadian parent, and who have not achieved permanent residency, should take the initial step of applying for permanent residency on humanitarian and compassionate grounds (<https://www.canada.ca/en/immigration-refugees-citizenship/services/application/application-forms-guides/humanitarian-compassionate-considerations.html>), or apply for permanent residency following a successful refugee claim (if applicable), before they can apply for citizenship.

The guide is divided into the following sections:

- 1) Who is stateless?
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- 4) Processing times
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This guide will show a stateless applicant the forms they need to fill out to apply for citizenship under s.5(4) of the *Citizenship Act*, what documents to submit along with the appropriate form, what to do if they can't get certain documents, and guidance and tips about providing an explanation letter (submissions) in support of the s.5(4) application.

¹ Immigration, Refugees and Citizenship Canada (IRCC) has stated that they are in the process of creating a comprehensive Program Delivery Instruction (PDI) for s.5(4) applications.

The case law provided will help lawyers, immigration consultants and other advocates make submissions on behalf of their stateless clients. It is also useful to stateless applicants themselves to see points that judges have found persuasive and to elaborate on those points in their explanation letter (e.g. why getting certain documents is so difficult when you have no identification, the hardship of living in limbo, not being accepted by Canada, but having no other country that will accept you, etc.)

1) Definition of “stateless”

Canada’s *Citizenship Act* does not define a stateless person, nor has it adopted a procedure to determine whether a person is stateless.

Article 1 (1) of the *1954 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.” This definition is part of customary international law and has been authoritatively interpreted by the United Nations High Commissioner for Refugees (UNHCR) as requiring “a careful analysis of how a State applies its nationality laws in an individual’s case in practice and any review/appeal decisions that may have had an impact on the individual’s status. This is a mixed question of fact and law.”²

NOTE: This guide is only for people who are stateless. If a person has a nationality, even if they are unable to return to their home country, they are not stateless.

2) The Law

S. 5(4) of the *Citizenship Act*

In 2017 the *Citizenship Act* was amended to include statelessness as grounds for special relief under s.5(4)

5 (4) Despite any other provision of this Act, the Minister may, in his or her discretion, grant citizenship to any person to alleviate cases of statelessness or of special and unusual hardship or to reward services of an exceptional value to Canada.³

S. 5(5) of the *Citizenship Act*

s. 5(5) has a special citizenship application form (CIT 0497) and is a specific category for stateless applicants born outside Canada after 2009, who have a Canadian parent, and who meet residency requirements among other criteria

- Statelessness — bloodline connection

5(5) The Minister shall, on application, grant citizenship to a person who

- (a) is born outside Canada after the coming into force of this subsection;
- (b) has a birth parent who was a citizen at the time of the birth;
- (c) is less than 23 years of age;

² Canadian Centre on Statelessness & the Institute on Statelessness and Inclusion, *Joint Submission to the Human Rights Council at the 30th Session of the Universal Periodic Review*, Canada: 5 October, 2017, available at:

http://www.statelessness.ca/uploads/3/1/9/0/31903945/isi_-_upr_submission_canada.pdf

³ <https://laws-lois.justice.gc.ca/eng/acts/c-29/section-5.html>

(d) has been physically present in Canada for at least 1,095 days during the four years immediately before the date of his or her application;

(e) has always been stateless; and

(f) has not been convicted of any of the following offences:

(i) a terrorism offence, as defined in section 2 of the *Criminal Code*,

(ii) an offence under section 47, 51 or 52 of the *Criminal Code*,

(iii) an offence under subsection 5(1) or any of sections 6 and 16 to 22 of the *Security of Information Act*, or

(iv) a conspiracy or an attempt to commit, being an accessory after the fact in relation to, or any counselling in relation to, an offence referred to in subparagraph (ii) or (iii).⁴

3) The Process to apply for citizenship under s.5(4) of the *Citizenship Act*⁵

The application to use for a s.5(4) application depends on the particular situation of the stateless applicant. All the application forms referenced below can be found on Immigration, Refugees and Citizenship Canada's (IRCC) website: <https://www.canada.ca/en/immigration-refugees-citizenship/services/canadian-citizenship/become-canadian-citizen/apply.html>

Applicant Profile	Application & Form	Notes
Person 18 years or over who has never been a CDN citizen	s.5(1) Adult application, CIT 0002 form	The application must be fully completed, signed and dated
Person under 18 and has never been a CDN citizen	s.5(2) Minor application, CIT 0003 form	The application must be fully completed, signed by the responsible parent or legal guardian, dated and co-signed by the minor if the minor is between 14 and 17 years of age
Person with Canadian parent who meets s.5(5) criteria (see criteria on previous page)	s.5(5) application, CIT 0497 form	The application must be fully completed signed and dated. If applicant is under 18 then it must be signed by the responsible parent or legal guardian. It must also be signed by the minor if the minor is between 14 and 17 years of age
Person 18 years or over, was a CDN citizen, but may have lost this status (<i>resumption application</i>)	s.11(1 or 2), CIT 0301 form	See here for instructions: https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/canadian-citizenship/acquisition-loss/resumption-canadian-subsection-11-1.html

NOTE: Some of the questions in the above mentioned forms are not applicable to a stateless applicant (e.g. if you don't have a passport you can't provide passport info). If a question does not apply, mark "n/a - Please see enclosed s.5(4) submissions." The explanation letter is where the applicant explains why they cannot answer the question.

⁴ <https://laws-lois.justice.gc.ca/eng/acts/c-29/section-5.html>

⁵ Information provided by IRCC

Documentation in addition to forms

For an adult application including a resumption application, the applicant must submit the following documents. NOTE: If you cannot provide certain documents below due to statelessness you MUST explain why in an explanation letter, otherwise your application will be considered incomplete:

- On-line physical presence calculator printout, or the form How to Calculate Physical Presence (CIT 0407) fully completed, signed and dated;
- Photocopies of biographical pages of passports and or travel documents covering the five years immediately before the date of application;
- Photocopy of proof that demonstrates adequate knowledge of English or French;
- Photocopy of personal identification, it must have one's name, photo and date of birth on it;
- Two citizenship photos;
- Fees - \$630 Canadian dollars per applicant that is 18 years of age or older; \$530 for a resumption application. The application must include a copy of the receipt showing the amount paid [NOTE: Some applicants do not have to pay the fee or will get a refund. See here for details of eligibility: https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/fees/refunds/remission.html#remission_under_subsection_1; also if you cannot afford the fee you can make submissions about financial hardship. There is no guarantee that you will be exempted from paying the fee, but in cases of serious financial difficulties it is worth trying]
- Translation of documents that are not in English or French with an affidavit from the translator;
- Completed Residence outside Canada form, fully completed, signed and dated and supporting documents (if applicable);
- Original police certificates or clearances from each country where one is present for a total of 183 days or more in the four years immediately before the date of application;
- Completed Use of Representative form (IMM 5476), if applicable;
- If the individual resides outside Canada, they are required to submit with the Residence outside Canada form coloured photocopies with translations (if applicable) of their complete passports (valid and expired) covering the five year period immediately before the date of application.

For a minor's application, the applicant must submit the following documents. NOTE: If you cannot provide certain documents below due to statelessness you MUST explain why in an explanation letter, otherwise your application will be considered incomplete:

- Photocopies of biographical pages of passports and/or travel documents;
- Photocopy of two pieces of personal identification, one of which must have a photo on it;
- Two citizenship photos;
- Photocopy of the child's birth certificate or Adoption order;
- Fees - \$100 Canadian dollars per applicant under the age of 18. The application must include a copy of the receipt showing the amount paid;
- Photocopy of the parent's proof of Canadian citizenship;

- Photocopy of legal documentation proving guardianship, if a legal guardian is applying on behalf of the child;
- Translation of any documents that are not in English or French and an affidavit from the translator;
- Completed Use of Representative form (IMM 5476), if applicable;
- Original police certificates or clearances from each country where the child was present for 183 days or more while 14 years of age and over in the four years immediately before the date of the child's application.

What do I need to include in a s.5(4) application explanation letter explaining statelessness?

"Statelessness" is not necessarily enough on its own for a grant of citizenship under s. 5(4) of the *Citizenship Act*. It is one factor in the s.5(4) analysis, and a factor that interconnects with other factors. Although s.5(4) now explicitly includes statelessness, a s. 5(4) grant of citizenship remains discretionary. In the explanation letter the applicant should state at the beginning of the letter that they are applying for citizenship under s.5(4) of the *Citizenship Act* to relieve their statelessness. The letter should also include the following:

- Explanation and reference to evidence establishing identity. Both the applicant and the government have the onus of proving identity.⁶ The onus is first on the applicant to make their best efforts to establish identity and statelessness, and then the government must try to ascertain identity;
- Explanation/proof of statelessness with reference to supporting documentation;
- Explanation of "special and unusual hardship" that the applicant has faced and faces because of their situation;
- Explanation of any exceptional service to Canada (if applicable) (e.g. volunteering, awards, etc.)
- Explanation as to why the applicant cannot submit the standard documents requested for their citizenship application (see list of documents above) and explanation of why the applicant could not answer a particular question on the required citizenship form;
- Explanation of all previous attempts to be recognized as a national of a particular country;
- Evidence of the individual's connection to Canada such as documents and/or letters from friends, colleagues, neighbours etc. which would verify that the person has lived in Canada, attended school in Canada, worked in Canada and filed income taxes in Canada;
- Any other supporting documents that the applicant believes may be relevant to their request for discretionary consideration.

Evidence to help establish statelessness

IRCC's *The Humanitarian and Compassionate assessment: Statelessness* provides the following direction for proving statelessness:⁷

- Documents from a relevant state authority (e.g., the country of origin or country of former habitual residence) certifying that the individual concerned is not a national;

⁶ Canada (Public Safety and Emergency Preparedness) v. Rooney, [2017] 2 FCR 375 at para. 43

⁷ IRCC, *The Humanitarian and compassionate assessment: Statelessness, 2017*, available at: <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/permanent-residence/humanitarian-compassionate-consideration/processing/stateless.html>

- Evidence of correspondence with the relevant authorities of the country of origin or country of former habitual residence indicating their refusal to issue certified documents attesting that the person is a national;
- If a state refuses to confirm that a person is its national, the refusal, in itself, is a form of evidence, as countries normally would extend diplomatic protection to their citizens. If documentation from the country of origin is unavailable, some other elements of proof may be sufficient, such as reviews of relevant nationality laws and declarations made by witnesses and other third parties, including the United Nations High Commissioner for Refugees (UNHCR);
- Indication from the Canada Border Services Agency (CBSA) that they are unable to obtain travel documents for the applicant from the applicant's country of origin or country of habitual residence. Officers may contact the CBSA removals unit for information on why the applicant does not have a travel document, if and how they have cooperated with the Government of Canada with regard to obtaining travel documents, or if they intentionally lost or destroyed travel documents;
- Any other relevant documentation that can support the applicant's claim of being stateless.

Records speaking to identity or lack of records speaking to identity

The *UNHCR Statelessness Handbook* also includes the following non-exhaustive list of types of evidence that may be useful to proving statelessness:⁸

- Testimony of the applicant (e.g., written application, interview);
- Response(s) from a foreign authority to an enquiry regarding nationality status of an individual;
- Identity documents (e.g., birth certificate, extract from civil register, national identity card, voter registration document);
- Travel documents (including expired ones);
- Documents regarding applications to acquire nationality or obtain proof of nationality;
- Certificate of naturalization;
- Certificate of renunciation of nationality;
- Previous responses by States to enquiries on the nationality of the applicant;
- Marriage certificates;
- Military service records/discharge certificates;
- School certificates;
- Medical certificates/records (e.g., attestations issued from hospital upon birth, vaccination booklets);
- Identity and travel documents of parents, spouse, and children;
- Immigration documents, such as residence permits of country(ies) of habitual residence;

⁸ UNHCR, *UNHCR Statelessness Handbook*, available at: https://www.unhcr.org/dach/wp-content/uploads/sites/27/2017/04/CH-UNHCR_Handbook-on-Protection-of-Stateless-Persons.pdf, at pages 32 and 33

- Other documents pertaining to countries of residence (e.g., employment documents, property deeds, tenancy agreements, school records, baptismal certificates); and
- Record of sworn oral testimony of neighbors and community members.

Stateless people commonly lack identity documents and because of statelessness have lived lives at the margins of society. Statelessness for some means having no 'legal existence' because they have none of the usual "I exist" paperwork. For establishing identity it is important to provide as many supporting documents as possible, but when those documents do not exist, an explanation as to 'why' is necessary so the lack of documents isn't cause for misplaced suspicion.

Other useful documents

News articles, reports from human rights organizations like Amnesty International and Human Rights Watch, reports from UN High Commission for Refugees (UNHCR), academic paper or any other published writing about stateless people in a similar situation to applicant

In cases where the individual has provided documentation that they are not recognized as a citizen or national by any country of state under its domestic law, the following are examples of circumstances which may warrant s.5(4) consideration on the basis of statelessness:

- The individual is living in Canada (physically present) at the time of the application
- The individual has submitted the appropriate application [5(1), 11(1) or (5(2) form] with all corresponding fees and requested special consideration as a result of being stateless
- The individual has attempted to regularize their status in Canada (e.g. explored other immigration or asylum avenues and been unsuccessful)
- The Individual has not voluntarily renounced his other citizenship
- The individual does not have a concurrent immigration application in process.

Where to submit the application

Applicants requesting discretionary consideration under subsection 5(4) of the *Citizenship Act* can send their completed applications and supporting documentation to the Case Processing Centre in Sydney, Nova Scotia.

By regular mail:

Case Processing Centre – Sydney Case Processing Centre - Sydney
 Box 7000
 Sydney, Nova Scotia
 B1P 6V6

You may also submit their completed applications with supporting documentation directly to the IRCC Case Management Branch in Ottawa, Ontario:

By regular mail or courier:

Immigration, Refugees and Citizenship Canada
 Case Management Branch JETN 12th floor
 300 Slater St.
 Ottawa, ON

4) Processing Times

IRCC does not provide processing times for applications requesting discretionary consideration under subsection 5(4) of the *Citizenship Act* because these cases are considered non-routine and are assessed on a case-by-case basis. Current processing times for applications requesting 5(4) consideration range from 12 to 24 months from the date of application.

Applications may be delayed or returned if they are deemed to be incomplete or if there are concerns with respect to immigration, criminal and security clearances.

Like a regular adult grant of citizenship, valid criminal and security clearances and prohibitions apply to 5(4) grants.

Applicants granted under this provision who are 14 years of age and older are required to take the Oath of Citizenship in order to become a Canadian citizen or resume Canadian citizenship.

5) Helpful case law and resources

Statelessness is a factor for consideration in both applications for citizenship under s.5(4) of the *Citizenship Act* and in applications for permanent residency on Humanitarian and Compassionate (H&C) grounds <https://www.canada.ca/en/immigration-refugees-citizenship/services/application/application-forms-guides/humanitarian-compassionate-considerations.html>

NOTE: Full text of case decisions can be accessed at <https://www.canlii.org/en/> Numbers refer to paragraph numbers in the decision.

[Kanthasamy v. Canada \(Citizenship and Immigration\), 2015 SCC 61](#)

The more holistic approach to humanitarian and compassionate consideration advanced by the SCC [Supreme Court of Canada] supports statelessness not being considered as a factor in isolation, but as part of a broader analysis of H & C factors.

In [Abeleira v. Canada \(Immigration, Refugee and Citizenship\), 2017 FC 1008](#), Madam Justice Elliott states:

[54] The record supports the negative factors attaching to statelessness that were identified by Mr. Abeleira. A five page letter dated July 9, 2013 from Amnesty International [Amnesty] specifically addresses Mr. Abeleira's situation as a stateless person in Canada. It summarizes reports by Asylum Aid and the UNHCR regarding the precarious nature of statelessness. It notes that the UNHCR names statelessness as a human rights issue. It explains that being a non-refugee stateless person in Canada means that such a person:

- is in a condition of legal limbo;
- is in an extremely precarious situation: vulnerable and marginalized;
- cannot leave Canada to relocate permanently;
- has no standing to enter another country;
- if they manage to leave Canada, the stateless person has no right to return;
- is subject to removal from Canada and may be detained pending removal;
- may find that removal is impossible and short-term detention may become indefinite

[57] Mr. Abeleira is a stateless person with no ability to apply for permanent residence to Canada from abroad and no country to which he can be removed. He faces an indefinite period of legal limbo in Canada. While that situation may or may not warrant H&C relief, the Officer failed to examine it. Instead, he looked at individual issues of establishment and hardship or risk without acknowledging the elephant in the room – it is likely impossible to deport Mr. Abeleira.

[58] Taken cumulatively, it is not at all clear that the Officer truly gave Mr. Abeleira's H&C Application the analysis and thought it deserved. As Justice Brown put it in *Marshall*, I find that I do not have some reason to believe that the Officer considered not just hardship, but humanitarian and compassionate factors in the broader sense. It is my view that the Officer failed to consider important factors, overlooked key evidence and made findings contrary to the evidence.

Canada (Public Safety and Emergency Preparedness) v. Rooney, [2017] 2 FCR 375

[46] Imposing an obligation to prove a negative in these circumstances may give rise to a Catch-22 situation for the stateless, nameless, mentally ill, and other vulnerable individuals who may not be able to establish identity. While I do not contest the Member's finding that the Respondent may not be *de jure* stateless as understood by international instruments, the issue of statelessness and persons unable to establish nationality merits comment.

[47] In a 2010 paper on *de facto* statelessness, Senior Legal Adviser to the United Nations High Commissioner for Refugees [UNHCR] Hugh Massey explains that the inability to prove nationality may be linked to a number of causes, including the fact that "[s]ome people may have never been registered in the civil registration system of the country of their nationality." Mr. Massey further notes the difficulty to establish nationality in the case of unaccompanied children, especially if the "child is so young as to be unable to provide any information at all about his or her origins, e.g. if the child is a foundling" (Hugh Massey, "UNHCR and De Facto Statelessness" (2010) United Nations High Commissioner for Refugees Legal Protection Policy Research Paper at 41-42).

[48] And in a 2012 discussion paper written for UNHCR, referenced at pages 543-544 of the Respondent's Record, author Andrew Brouwer highlights the consequent difficulties created by the dilemma:

In Canada, as elsewhere, stateless persons who do not have authorization to stay in the country live in a condition of legal limbo. Some stateless persons are refugees and, once recognized as such, enjoy the full set of rights which attach to refugee status. However, non-refugee stateless persons are in an extremely precarious situation. These are persons who are not recognized as nationals by any country but also do not have a well-founded fear of persecution in any country [...] Whether they were stateless before arrival or lost their nationality while in Canada [...], it is this group of individuals, albeit small, who face the greatest problems in Canada and elsewhere. They are vulnerable and marginalized. [emphasis added] (Andrew Brouwer, "Statelessness in the Canadian Context" (2012) United Nations High Commissioner of Refugees Discussion Paper at 12).

[49] Mr. Brouwer goes on to explain at page 14 of his paper the impact of being caught in this "legal limbo" on persons unable to establish nationality, which, as the Respondent's case demonstrates, is so intimately linked to identity:

[...] non-refugee stateless persons in Canada who cannot acquire a legal status are subject to removal from the country, and may be detained pending removal. However, because removal is often impossible what should be short-term detention in preparation for removal may become long-term or even indefinite, as Canadian officials try to convince another country to accept a non-national. The issue of lengthy detention,

particularly for administrative reasons is a key concern for UNHCR, which could be avoided if alternative protection mechanisms for this group were to be put in place.

[50] Under subsection 2(1) of IRPA, a “foreign national means a person who is not a Canadian citizen or a permanent resident, and includes a stateless person.” This is the only mention of the word “stateless” in the Act; the Regulations also offer few provisions addressing the notion, without any definition of statelessness. There is an equal dearth of guidance in the jurisprudence regarding stateless persons or persons such as the Respondent, who are unable to establish nationality or are of undetermined nationality, whether found to be stateless in fact (*de facto*) or in law (*de jure*).

[51] As currently constructed, Canada’s immigration framework provides minimal, if any, legal guidance for those who are in Canada, but do not know who they are or where they come from. This legislative void can result in what has happened in the Respondent’s case, namely a reality where someone unable to prove legal status is told that he does not belong in Canada, but is also unwanted abroad, and as a result remains in detention for a prolonged period. Neither the Act nor Regulations assist in a situation akin to the Respondent’s, who finds himself betwixt and between Canadian and foreign nationality, caught by the factual and legal complexities of his situation.

Court direction on the meaning of “special and unusual hardship” under s.5(4) of the Citizenship Act

Ayaz v. Canada (Citizenship and Immigration), 2014 FC 701

[50] The jurisprudence on “special and unusual hardship” under s. 5(4) of the Act is not as well developed as, for example, the jurisprudence on the meaning of hardship under s. 25(1) of the Immigration and Refugee Protection Act, SC 2001, c 27. While there is no firmly established test for “special and unusual hardship” under s. 5(4) of the Act, in my view, the following remarks by Justice Walsh in *Re Turcan* (T-3202, October 6, 1978, FCTD), as quoted by him in *Naber-Sykes (Re)*, [1986] 3 FC 434, 4 FTR 204 [*Naber-Sykes*] remain valid and serve as a good starting point:

The question of what constitutes "special and unusual hardship" is of course a subjective one and Citizenship Judges, Judges of this Court, the Minister, or the Governor in Council might well have differing opinions on it. Certainly the mere fact of not having citizenship or of encountering further delays before it can be acquired is not of itself a matter of "special and unusual hardship", but in cases where as a consequence of this delay families will be broken up, employment lost, professional qualifications and special abilities wasted, and the country deprived of desirable and highly qualified citizens, then, upon the refusal of the application because of the necessarily strict interpretation of the residential requirements of the Act when they cannot be complied with due to circumstances beyond the control of the applicant, it would seem to be appropriate for the Judge to recommend to the Minister the intervention of the Governor in Council...

[51] Thus, it is not purely or even primarily a question of whether the individual in question would make a desirable citizen, or has good reasons (perhaps even, as in the present case, laudable reasons) for not being able to comply with the requirements of the Act strictly read. Rather, the Court has to consider as well whether the effect of applying those requirements strictly and thus denying citizenship would impose some hardship on the applicant or their family beyond the delay in citizenship itself. For example, in *Naber-Sykes*, the applicant, who had lived, studied and worked in Canada for nearly a decade but had only recently become a permanent resident, could not become licensed to practice her profession (law) without

citizenship. Justice Walsh found that the citizenship judge had failed to properly consider the hardship this would impose.

6) **Stateless First Nations clients**

It is possible to have Indian Status, but not Canadian citizenship. There are special provisions in section 5(1) and 5(2) of the *Citizenship Act* on how the usual permanent resident requirements are considered in this situation. See: *Processing a grant or resumption of citizenship for registered Indians*
<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/canadian-citizenship/grant/residence/verifying-conditions-requirements/processing-grant-resumption-registered-indians.html>

If the client should be registered under the *Indian Act*, but has been denied registration in the past due to historic sexism in the Act, see recent *Bill S-3 An Act to amend the Indian Act* in response to the Superior Court of Quebec decision in *Descheneaux c. Canada (Procureur général)*, 2015 QCCS 3555
<https://www.canlii.org/en/qc/qccs/doc/2015/2015qccs3555/2015qccs3555.pdf>

7) **Tips**

- DNA tests can be helpful in the absence of other documents, along with affidavit evidence and country condition documents supporting the applicant's assertions regarding statelessness and lack of identity documents.
- The immigration file from an Access to Information Request (<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/transparency/access-information-privacy/requests-information-act.html>) may contain useful information re IRCC's and CBSA's own attempts to establish identity and nationality.
- Once identity is established enough to satisfy the immigration official (you may determine this from seeing the results of the Access to Information request or through correspondence with IRCC), ask for a letter or identification document waiver so that you or your client can show the designated medical practitioner when going to get a medical exam.
- When a stateless person applies for citizenship under s.5(4) they can request an exemption from the residency requirement (have lived in Canada for 3 of the last 5 years before applying for citizenship).

8) **Helpful Resources and allies**

- The Canadian Centre on Statelessness has compiled a list of reports about statelessness in the Canadian context. See: <http://www.statelessness.ca/reports.html>
- UNHCR Canada: <https://www.unhcr.ca/>. An applicant can ask UNHCR to make a determination as to whether or not they are stateless. This determination is not legally binding, but can be very useful as an authoritative opinion in support of a finding that the person is indeed stateless.
- UNHCR guide "Representing Stateless Persons Before U.S. Immigration Authorities: A Legal Practice Resource from the United Nations High Commissioner for Refugees (First Edition, August 2017). This is a U.S. guide, but has helpful information regarding statelessness.
- Sympathetic MPs and journalists can be key bringing awareness to a stateless person's plight and put pressure on the government to decide cases in a more timely fashion.

Canada's International obligations

Canada is not a party to the *1954 Convention relating to the Status of Stateless Persons*, but is a party to the following that have provisions related to statelessness, arbitrary detention and nationality:⁹

- *1961 Convention on the Reduction of Statelessness*
- *UN Universal Declaration of Human rights (art. 15 right to a nationality)*
- *1951 Convention Relating to the Status of Refugees + 1967 Protocol*
- *International Covenant on Civil and Political Rights (ICCPR, 1976)*
- *International Covenant on Economic Social and Cultural Rights (ICESCR, 1976)*
- *Convention on the Elimination of all Forms of Racial Discrimination (CERD, 1970)*
- *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1981)*
- *Convention on the Rights of the Child (CRC, 1991)*
- *Convention on the Rights of persons with disabilities*

⁹ Canadian Centre on Statelessness and Institute on Statelessness and Inclusion, *Joint Submission to the Human Rights Council at the 30th Session of the Universal Periodic Review*, 5 October, 2017 available at: [http://www.statelessness.ca/uploads/3/1/9/0/31903945/isi - upr_submission_canada.pdf](http://www.statelessness.ca/uploads/3/1/9/0/31903945/isi_-_upr_submission_canada.pdf), paras. 7-11.