



Regional Ministerial-level Conference on Statelessness in West Africa

Concept note

1. Introduction

Statelessness is not a new phenomenon. It is as old as the concept of nationality. Statelessness is a vast problem that affects at least 10 million people worldwide in both developed and developing countries. In West Africa, statelessness is due to many factors including the decolonization process, historical and contemporary migration, and gaps in nationality legislation and administrative practices.

Statelessness has a grave impact on the lives of individuals and on the harmony of communities. Possession of nationality is essential for full participation in society and a prerequisite for the enjoyment of the full range of human rights. Furthermore, statelessness may have a direct impact on a country's or a region's stability. Tensions and conflict may arise where groups of people are denied access to nationality and where stateless populations are not afforded minimum standards of treatment.

In 2014, the United Nations High Commissioner for Refugees (UNHCR) launched a Global Campaign to End Statelessness within 10 Years. It is grounded in a Global Action Plan which provides a blueprint of 10 actions that need to be undertaken to resolve existing situations and prevent new cases of statelessness from arising. To address these issues in more depth in the West African context, UNHCR and the Economic Community of West African States (ECOWAS) are organizing a regional conference on statelessness from 23 to 25 February 2015 in Abidjan, Côte d'Ivoire. Partnerships to resolve statelessness will be a key theme of the conference, which will include participation from a number of civil society organizations, national human rights institutions, international experts, United Nations agencies and international organizations, namely the International Organization for Migration (IOM), the Office of the High Commissioner for Human Rights, the United Nations Children's Fund, and the United Nations Office for West Africa.

This conference is the first of its kind in West Africa. It will provide a timely opportunity and a solid platform for promoting the development of strategies in a region that has proven to be active and willing to address statelessness. It will address the identification and protection of stateless persons as well as the prevention and reduction of statelessness, exploring the steps required to end statelessness in the region.

2. Key issues affecting statelessness in West Africa

Identification of stateless persons

In the absence of State policies to measure the phenomenon, the number of stateless persons in West Africa is not known. Côte d'Ivoire is the only country that produces such statistics and it estimates that about 700,000 individuals are stateless or of undetermined nationality.

Nationality legislation and statelessness

Inadequate rules for the attribution of nationality and discrepancies between various national legislations on who is entitled to nationality and on what basis, constitutes a permanent source of statelessness in West Africa. There are many examples of gaps in nationality laws that can cause statelessness from birth. They include discriminatory laws that deny mothers the ability to transmit their nationality to their children; laws that exclude people from nationality on the grounds of their race; and laws that do not confer citizenship to foundlings. Furthermore, most of the countries in the region do not grant nationality to all children born on their territory who do not acquire any other nationality at birth.

Administrative practices and statelessness

Another factor leading to the risk of statelessness is the weakness of administrative procedures regarding the attribution of civil status to an individual. Birth registration rates remain low in West Africa in general, and without a birth certificate it becomes difficult to prove identity and nationality. In addition, procedures, including burden and level of proof, for confirmation of acquisition of nationality are not always clear and consistent. Furthermore, many civil status records were damaged during the wars and crises that affected some countries in the region. In such a context, it becomes difficult for individuals to access proof of their identity and nationality, therefore the risk of statelessness increases.

Strengthening territorial control and statelessness

Many of the borders in West Africa are porous. As a result, crossing borders may not always require formal documentation, particularly for populations residing in border areas. Similarly, access to some services within a community does not systematically require proof of identity. With the rise in threats of terrorism, many States are strengthening their border controls and measures to identify and document the population in their territory. The result is that individuals increasingly need personal identity documents. It is usually when individuals apply for such documentation that they realize that their link with the country of their birth and residence cannot be proven, or that they do not satisfy the criteria for nationality set out in law, and therefore are not considered to be nationals.

Migration and statelessness

West Africa has always been a region prone to migration. Many refugees and migrant workers have moved within the region and settled in countries for long periods of time. Having few or no ties with their country of origin and having never acquired the nationality of the country to which they migrated or sought refuge, these individuals risk becoming stateless, as do their children. In addition, conflicts in nationality laws may also become an impediment to the acquisition of nationality by their children. For example, children whose parents are nationals of a country which limits acquisition of nationality by descent will become stateless if they are born in another country which only allows nationality to be transmitted by descent and which lacks adequate legal safeguards to prevent statelessness at birth. Statelessness may also become a cause of conflict, as illustrated by the situation in Côte d'Ivoire as it was previously.

3. Context

The number of States parties to the Statelessness Conventions in the region is quite high compared to other regions in Africa. As of 1 January 2015, nine States in West Africa were parties to the 1954 Convention relating to the Status of Stateless Persons¹ and eight were parties to the 1961 Convention on the Reduction of Statelessness.²

Despite this relatively favourable international legal context, States in the region have not developed concrete strategies to identify people living in their territory who never acquired nationality. Without reliable information about the size of the problem and demographics of stateless persons in a country, it is challenging to plan for the reduction of statelessness, implement protection initiatives and find solutions for stateless persons.

Nonetheless, there have been a number of developments in the region that demonstrate the interest and engagement of stakeholders in addressing statelessness:

- In 2011 during the ministerial conference in Geneva organized in the context of the commemoration of the 50th anniversary of the 1961 Statelessness Convention, ECOWAS States made the largest number of pledges related to statelessness of any sub-region in Africa.³ This level of commitment demonstrates the importance given by the West African community to the struggle against statelessness.
- Regional and sub-regional organizations are increasingly consolidating their efforts in the fight against statelessness and the promotion of the right to a nationality in their priorities and advocacy programmes. The African Union and its institutions, ECOWAS and the Mano River Union have all adopted recommendations in the field of statelessness. A milestone engagement is that of

¹ Benin, Burkina Faso, Côte d'Ivoire, the Gambia, Guinea, Liberia, Niger, Nigeria and Senegal.

² Benin, Côte d'Ivoire, the Gambia, Guinea, Liberia, Niger, Nigeria and Senegal.

³ Six States pledged to reform their legislation and seven States pledged to accede to one or both of the conventions. Additional pledges were made during the Universal Periodic Review (UPR) process, where several States agreed with recommendations related to accession.

the African Commission on Human and Peoples' Rights, which adopted resolutions on the right to a nationality in 2013 and 2014.⁴

- Participants in the December 2013 Roundtable on Statelessness in West Africa adopted the *Banjul Appeal*, which calls for a more resonant and articulated engagement from States and other stakeholders in West Africa. Signatories to the Appeal comprise authoritative human rights actors, including the national Human Rights Commissions from West African countries and the quasi-judicial and judicial institutions of the region and sub-region.
- The holding of the regional ministerial-level event on statelessness in February 2015 reflects the required momentum to consolidate achievements and develop a comprehensive regional strategy.

4. Objectives and outcomes of the conference

Against this background and building on good practices, the conference aims to:

- Provide a common understanding of the root causes of statelessness in West Africa;
- Consider the potential consequences of statelessness in the region if left unresolved;
- Develop recommendations for the identification of stateless populations, and devise solutions for stateless populations with a rights-based approach;
- Foster comprehensive strategies in the field of prevention and the reduction of statelessness by using a collaborative approach and building on strong partnerships among States in the region, regional and international organizations and civil society;
- Cultivate a common approach to information exchange and cross-border coordination of responses that involve two or more governments;
- Promote best practices in addressing common challenges in the area of statelessness;
- Share lessons learned from international experts outside the region, who can provide information on how similar challenges have been addressed elsewhere;

⁴ Resolution 234 on the right to nationality of the African Commission on Human and Peoples' Rights, 53rd Ordinary Session, 9-23 April 2013, Banjul, the Gambia; and Resolution 277 on the drafting of a Protocol to the African Charter on Human and Peoples' Rights on the Right to Nationality in Africa, African Commission on Human and Peoples' Rights, 55th Ordinary Session, 28 April to 12 May 2014, Luanda, Angola (available from: <http://www.achpr.org/sessions/53rd/resolutions/234/> and <http://www.achpr.org/sessions/55th/resolutions/277/>).

- Enhance cooperation, including data-sharing and dialogue, among partners to avoid overlap and ensure complementarity of action;
- Identify areas where States require more targeted support from UNHCR and other organizations to develop and implement responses.

5. Expected outcomes

- A declaration by all ECOWAS Member States on the right to nationality and a commitment to ending statelessness in the foreseeable future.
- A set of recommendations of experts to prevent and end statelessness in ECOWAS countries.

6. Participation

The conference will bring together high-level government officials from the ECOWAS States, as well as representatives of regional organizations such as the African Union, the Organization of the Islamic Conference, and the Mano River Union. International organizations, including relevant UN agencies and the IOM; representatives of civil society; national human rights institutions and international experts will also be invited.

7. Proposed agenda

On 23 and 24 February, experts will take part in a technical meeting to exchange information, experiences and views and come up with concrete recommendations on how statelessness can be ended in West Africa. It will be followed on 25 February by a ministerial-level conference, during which ECOWAS Member States will take stock of the situation of statelessness in the region and renew their commitment to address the issue. ECOWAS Member States will endorse the recommendations put forward by the experts to end statelessness in ECOWAS countries.

Technical meeting of experts (23-24 February)

In addition to thematic presentations in the plenary, breakout sessions will be held in smaller, more informal groups so as to ensure an open dialogue among participants. The breakout groups will deliberate separately and report back to plenary. The main conclusions and recommendations of the conference will be shared with all participants, and the presentations will be made publicly available.

Suggested topics for discussion in the breakout groups:

- **Preventing new cases of statelessness through law reform** (identifying and closing legal gaps leading to statelessness, with particular attention to the situation of children of refugees and migrants; identifying regional standards relating to the prevention of statelessness)

- **Preventing statelessness through civil status registration and access to nationality documents** (reviewing the main challenges to birth registration; reviewing individual data and document management/record-keeping in post-conflict countries; identifying administrative hurdles to nationality findings; reviewing processes for nationality eligibility/confirmation)
- **Political commitment, partnerships and information-sharing in the region** (ensuring that statelessness issues are prioritized in governments' agendas; developing information strategies to promote registration and documentation; developing community-based initiatives to raise awareness of statelessness; developing multi-partner strategies; strengthening State/civil society dialogue and cooperation among States, regional and international organizations)
- **Identification of stateless persons** (reviewing procedures for the identification of stateless persons; strengthening data and information-sharing, including cooperation among governments, international agencies and non-governmental organizations with adequate expertise in nationality and migration laws; using national population censuses to capture information on statelessness; undertaking specific surveys on statelessness)
- **Protection of stateless persons** (defining national protection frameworks for stateless persons and disseminating related information; streamlining stateless persons' protection in existing regional processes)
- **Solutions for stateless persons and risk of statelessness** (examining the acquisition and confirmation of nationality by former refugees, returnees, nomadic populations and other minority groups, including those who are undocumented; reviewing the situation of long-term migrants; reviewing mechanisms for reducing statelessness)

Ministerial conference (25 February 2015)

- Statements by ministers and representatives of regional and international organizations
- Endorsement of recommendations of experts to prevent and end statelessness in ECOWAS countries
- Adoption of the conference declaration

8. Interpretation

Simultaneous translation will be provided in English, French and Portuguese.

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