



UNHCR
The UN Refugee Agency

I AM HUMAN

APRIL 2021

I AM HUMAN

I am a human being just like you all,
I have great moments and sometimes I stumble and fall.

I am merely a human being first and foremost,
Do not treat me like I am a number, I am not a ghost.

I have a family which I have not seen in years,
I try to wash away the pain but all I feel are tears.

Running down to the bottom of my face,
I may not have a document, but I am part of the human race.

I fight my battles inside and out, trying to prove I am worth much more,
I try to show you what I am all about, but you keep slamming the door.

I have worked hard for all that which I have achieved,
I am still human if only you will believe.

Believe, that I have a right to live and be free as everyone else,
My circumstances, my life in chaos, I am in a mess.
Through no fault of my own I find myself here stuck,
I am stuck in this injustice, riding extremely low on my hope and luck.

But I believe in all the good that still exists,
the truth will surface if I persist,
I will continue to raise my voice for those who cannot,
this choice I do not regret.

I am still a human being, lest you should forget.

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This poem was written by an interviewee in this study. UNHCR would like to thank him and all those who took part for bravely telling their stories and for giving their time. UNHCR would also like to thank all those who kindly assisted in arranging these interviews.

Please note names throughout this report have been changed to maintain the confidentiality of interviewees.

Images on front cover, back cover and this page: Recognised Stateless Person who spent over a decade in limbo, photographed in London during lockdown. © UNHCR/Katie Barlow.

INTRODUCTION

This report presents the findings of a Participatory Assessment on the situation of stateless persons in the United Kingdom (UK)

“I am human.”

These are the words of a stateless person living in the UK. For him and many stateless persons across the globe, it can be common to feel less than human and more like a ghost.

UNHCR estimates that millions of people worldwide are stateless. Based on available data, UNHCR reported that there were 4.2 million stateless persons including those of undetermined nationality in 76 countries at the end of 2019.¹ However, the number of stateless persons is estimated to be much higher as there is a lack of data.² Just like the data, stateless persons across the world are often invisible. Without a nationality, they may have difficulty accessing basic rights and often they aren't allowed to go to school, see a doctor, get a job, open a bank account, buy a house or even get married.

This is the unfortunate reality for many stateless individuals.

‘People don’t realise how frustrating it is to have a life without identification. It’s really a ridiculous thing – imagine you want to get a phone contract and you can’t get a phone contract. It’s something silly nobody thinks about.’ – Khalil

Providing protection for these stateless persons in the UK and around the world is a central concern for UNHCR. UNHCR has a global mandate for the identification, prevention and reduction of statelessness, and for the international protection

of stateless persons. In 2013, UNHCR called for the “total commitment of the international community to end statelessness”³ and developed a *Global Action Plan* in consultation with States, civil society and international organisations.⁴ UNHCR also launched its #iBelong campaign in 2014 which aims to end statelessness within 10 years.

As part of this mandate, UNHCR in the UK has sought to improve the protection situation of stateless persons in the country. In 2018, UNHCR undertook the first public audit⁵ into the UK Home Office’s approach to decision-making on applications for leave to remain as a stateless person, known as “statelessness leave”.⁶

UNHCR’s audit draws attention to good practice and key concerns in decision-making for statelessness leave and makes important recommendations. However, UNHCR also wanted to highlight who the people behind these applications for statelessness leave are. Therefore, to build upon the audit and shed light on the experiences of stateless persons and those applying for statelessness leave, between December 2019 and November 2020, UNHCR interviewed 12 individuals who had been recognised as stateless by the UK Government or who had an ongoing application for statelessness leave. We asked them about their experiences applying for statelessness leave in the UK and about their everyday life. This report presents what they shared.

‘We are human...we need to study and live. We are not allowed to do anything – basically, I am living in a prison.’ – Omar

1 UNHCR, *Global Trends 2019*, 2020, available from: <https://www.unhcr.org/uk/statistics/unhcrstats/5ee200e37/unhcr-global-trends-2019.html>

2 Fewer than half of all countries in the world submit any data and some of the most populous countries in the world with large suspected stateless populations do not report on statelessness at all.

3 High Commissioner’s Closing Remarks to the 64th Session of UNHCR’s Executive Committee, 4 October 2013, available from: <http://unhcr.org/525539159.html>

4 UNHCR, *Global Action Plan to End Statelessness 2014-2024*, November 2014, available from: <http://www.unhcr.org/uk/protection/statelessness/54621bf49/global-action-plan-end-statelessness-2014-2024.html>

5 UNHCR, *Statelessness Determination in the UK*, December 2020, available from: <https://www.unhcr.org/uk/publications/legal/5fd893304/stateless-determination-in-the-uk.html?query=statelessness%20determination>

6 Carried out under the Quality Protection Partnership, a longstanding UNHCR and UK Government collaborative endeavour aimed at improving the quality of Home Office decision-making. For further information see: <https://www.unhcr.org/uk/quality-initiative-and-integration.html>

WHAT IS STATELESSNESS?

A stateless person is someone who is “not considered as a national by any State under the operation of its law.”⁷ Simply put, this means that a stateless person is someone who does not have the nationality of any country.

Along with enacting the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, the international community has also enacted two international conventions that seek to address statelessness across the world: the 1954 Convention relating to the Status of Stateless Persons⁸ and the 1961 Convention on the Reduction of Statelessness.⁹

People can be stateless for many different reasons. Some (but not all) of the most common causes are:

Statelessness Leave Applicant photographed in London. © UNHCR/Katie Barlow.

■ NATIONALITY LAWS

A person can be stateless because of gaps in nationality laws in the country in which they were born or were habitually resident. These gaps may be administrative obstacles which mean they simply fall through the cracks in the system. Gaps may also be more intentional with either discriminatory nationality laws in place or discriminatory practices by competent authorities who implement the nationality laws. Discrimination may be based on sex, religion, ethnicity or race – and can therefore give rise to refugee status. For example, Rohingya populations in Myanmar have been refused nationality under the 1982 citizenship law. Forced to leave their homes, they are stateless and many are now refugees.

Further, some nationality laws do not grant women equality with men in conferring nationality to their children.¹⁰ In other words, women cannot confer nationality to their biological children. If children cannot acquire nationality from their mothers, they are stateless if they also cannot acquire nationality

from their fathers. For example, this can occur: (i) where the laws of the father’s country do not permit conferral of nationality in certain circumstances, such as when the child is born abroad; (ii) where a father is unknown or not married to the mother at the time of birth; or (iii) where a father has been unable to fulfil administrative steps to confer his nationality or acquire proof of nationality for his children because, e.g. he has died, has been forcibly separated from his family, or cannot fulfil onerous documentation requirements. According to UNHCR, 25 countries globally do not currently have equality between men and women relating to conferral of nationality upon children.¹¹ For example, the nationality law in Qatar does not permit Qatari mothers to confer their nationality on their children, without exception, even if this would result in statelessness.

Another cause of statelessness is conflict of laws. Statelessness can occur when persons move from the country in which they were born (country A) to

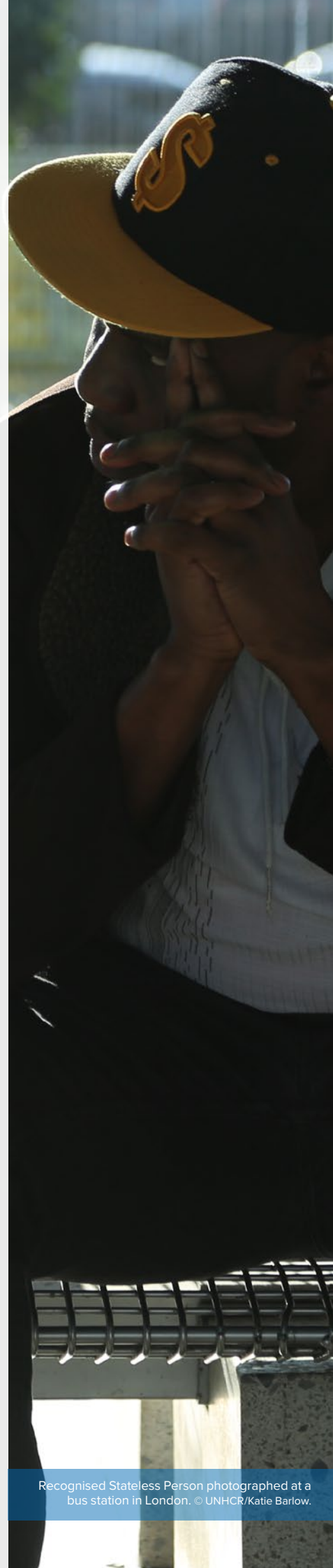
7 Article 1(1) of the 1954 Convention relating to the Status of Stateless Persons.

8 *UN Treaty Collection on Convention on the Status of Stateless Persons*; https://treaties.un.org/Pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-3&chapter=5&Temp=mtdsg2&clang=en

9 *UN Treaty Collection on Convention on the Reduction of Statelessness*; https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=V-4&chapter=5

10 For further information see UNHCR, *Background Note on Gender Equality, Nationality Laws and Statelessness 2020*, 14 July 2020, available from: <https://www.refworld.org/docid/5f0d7b934.html>

11 Ibid.



another country (country B). In such circumstances, it can be the case that if the individual from country A has a child in country B, that country B may not permit its nationality to be conferred to that child based solely on the child being born there. Simultaneously, country A may not allow a parent to pass on its nationality through family ties if the child is not born in country A. That child is therefore stateless or at risk of statelessness with no way to register their nationality. In this same way, risks of statelessness may also arise in situations of displacement.

■ NEW STATES & CHANGING ORDERS

Another important cause is the emergence of new States and changes in borders. Historic examples include the dissolution of the Soviet Union and the Yugoslav Republic. In many cases, specific groups can be left without a nationality as a result of the collapse of a State. Even where new countries purport to allow nationality for all ethnic, racial and religious minorities or persons outside the territory at the time of the formation of the new State, many frequently have trouble proving their link to the country.

■ LACK OF DOCUMENTS TO PROVE NATIONALITY

In some situations, a lack of identity documents results in statelessness. For example, where a person's birth was never registered, and especially where they have migrated to a new country (or countries), they may not be able to prove where they were born or that they are a national of any country. In this case, while theoretically entitled to a citizenship, they are unable to prove it, and therefore may end up stateless.

■ LACK OF RECOGNITION OF STATEHOOD

Persons from territories that are not recognised as States by some governments may be considered stateless. For example, the UK does not officially recognise the State of Palestine as a State, and therefore, the UK Government generally considers Palestinians to be stateless unless they have acquired another nationality.

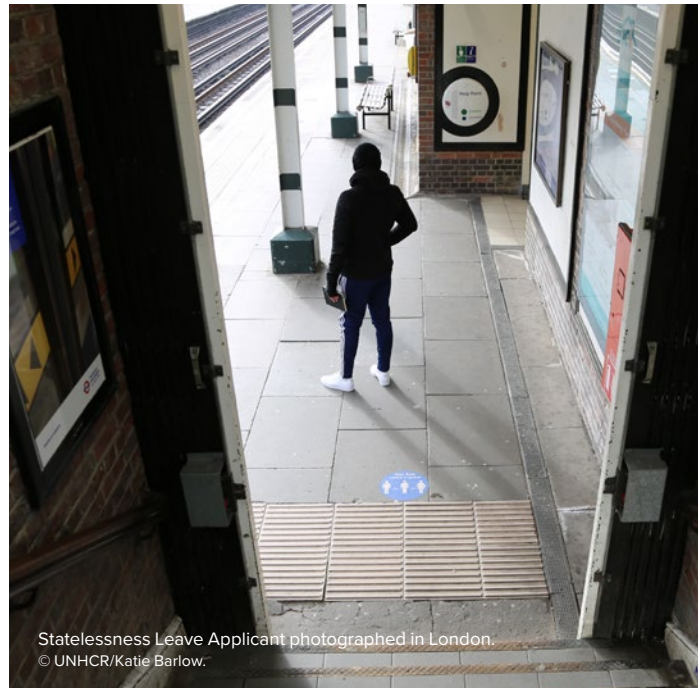
■ WITHDRAWAL AND DEPRIVATION OF NATIONALITY

Statelessness may also arise where individuals lose nationality (withdrawal of nationality that occurs automatically by operation of law) or they are deprived of nationality (where the withdrawal is initiated by the authorities of the State). In some countries, citizens can lose their nationality simply for having lived outside their country for a long period of time. States sometimes also deprive citizens of nationality through changes in law or arbitrary directives that leave whole populations stateless, using discriminatory criteria like ethnicity or race.

■ INTER-GENERATIONAL STATELESSNESS

In countries where nationality is only acquired by descent from a national, statelessness can be passed on to the next generation.

The causes of statelessness are complex, and every stateless person has a different story. This means that finding solutions is not always easy. However, solutions must be found to ensure that they can live in safety and dignity. States are the primary duty bearers of human rights and existing without belonging to a State often means living with the risk or reality that one's rights are violated with impunity. For example, stateless persons may not have identity documents, and statelessness often puts education, employment, healthcare, housing and other important rights out of reach for those it affects. Stateless persons are also typically unable to participate fully in political processes. They may even be subject to arrest and arbitrary detention in the countries in which they live. These challenges exist despite the international community having recognised that human rights are universal – regardless of one's nationality, citizenship or place of residence.



In 2014, UNHCR launched its #iBelong Campaign which aims to end statelessness within 10 years, by identifying and protecting stateless persons, resolving existing situations of statelessness and preventing the emergence of new cases. The campaign promotes 10 actions including removing gender discrimination from nationality laws, preventing denial, loss or deprivation of nationality on discriminatory grounds and ensuring birth registration for the prevention of statelessness. Examples of measures by States to reduce statelessness amongst their populations include a new law in Turkmenistan which recently came into force to help ensure that all children born in the country will have their births registered.¹² The new law is the latest in a series of significant developments taken by Turkmenistan to prevent and reduce statelessness in the country. Over the last 15 years, an estimated 23,000 refugees and stateless persons have been granted Turkmen nationality. In another example, Côte d'Ivoire amended its laws in 2013 to allow nationality to be acquired through a simplified application process that will allow many of the 700,000 stateless persons there to acquire citizenship.¹³ On 2 September 2020, Côte d'Ivoire became the first country on the African continent to adopt a statelessness determination process.¹⁴ These are key examples of measures that States have taken to provide visibility and solutions to this invisible population.

12 UNHCR, *More progress on statelessness in Central Asia as Turkmenistan becomes latest country to champion universal birth registration*, 14 August 2020, available from: <https://www.unhcr.org/news/press/2020/8/5f3652864/progress-statelessness-central-asia-turkmenistan-becomes-latest-country.html>

13 For further information see: Adjami, M, *Statelessness and Nationality in Côte D'Ivoire; A Report for UNHCR*, December 2016, available from: <https://www.refworld.org/docid/58594d114.html>

14 UNHCR, *Côte d'Ivoire adopts Africa's first legal process to identify and protect stateless people*, 4 September 2020, available from: <https://www.unhcr.org/uk/news/press/2020/9/5f51f33b4/cote-divoire-adopts-africas-first-legal-process-identify-protect-stateless.html>



STATELESSNESS AND THE UK

Statelessness Leave Applicant photographed shopping near his home in London.
© UNHCR/Katie Barlow.

The UK is a party to both the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. From 2010 to 2011, UNHCR and Asylum Aid undertook a mapping study to investigate the extent of statelessness in the UK.¹⁵ The study revealed that unrecognised stateless and ‘unreturnable’ persons “face the risk of a number of human rights challenges that are directly linked to their lack of immigration status.”¹⁶

As a result of this research and with accompanying advocacy, the UK Government introduced a Statelessness Determination Procedure (SDP)¹⁷ which came into force on 6 April 2013, enabling stateless persons to apply for recognition of their status and a grant of leave to remain. A grant of leave to remain confers some of the protections stateless persons are entitled to under the 1954 Convention (e.g. the right to work and access to most public funds). The Home Office also issued an instruction on applications for leave to remain as a stateless person. This instruction was amended in February 2016¹⁸ and in November 2019.¹⁹

In March 2019, the Home Office announced that persons granted leave to remain because they are stateless will normally be granted five years leave to remain.²⁰ This is a very welcome improvement over the previous grant of leave given (of two and a half years). The duration of statelessness leave is now the same as that given to persons with refugee status or humanitarian protection.

Reports on statelessness in the UK have highlighted ongoing concerns with the UK’s SDP. UNHCR’s audit found, inter alia, long delays in decision-making and issues with the quality of decision-making (approaches to credibility and failures to assist vulnerable applicants with collecting evidence in accordance with government policy, particularly with approaching national authorities). Importantly, it also found that the absence of legal aid for applicants for statelessness leave along with the lack of in-person interviews could contribute to a number of problems in the identification and assessment of evidence too, including a failure to submit all reasonably available evidence as part of the application. Similarly, research by the University of Liverpool has identified

There have been 184 persons recognised through the UK’s SDP since it began in 2013 up to 30 June 2020²¹

15 UNHCR, *Mapping Statelessness in The United Kingdom*, 22 November 2011, available from: <http://www.refworld.org/docid/4ecb6a192.html>

16 Ibid.

17 Immigration Rules part 14: Stateless persons, available from: <https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons>

18 Home Office, *Asylum Policy Guidance: Statelessness and applications for leave to remain*, 18 February 2016, available from: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/501509/Statelessness_AI_v2.0_EXT_.pdf

19 Home Office, *Stateless leave Version 3.0*, 30 October 2019, available from: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/843704/stateless-leave-guidance-v3.0ext.pdf

20 Home Office, *Explanatory Memorandum to the Statement of Changes to the Immigration Rules presented to Parliament on 7 March 2019*, 2019, available from: <https://www.gov.uk/government/publications/statement-of-changes-to-the-immigration-rules-hc-1919-7-march-2019>

21 UNHCR, *Mid-Year Trends Report 2020*, Annex Tables 1 and 2, available from: <https://www.unhcr.org/5fc504d44.pdf>

serious concerns regarding inconsistent and poor decision-making, lack of legal aid and lack of an appeal right.²² The SDP is discussed in more detail under 'Views of the statelessness determination procedure' below.

Reports have also drawn attention to some of the everyday challenges stateless persons in the UK face. Many find themselves without legal status and yet unable to be removed. This can put them at risk of arbitrary and prolonged immigration detention.²³ They are also at serious risk of destitution and exploitation as they are unable to find formal work and rent a home without a legal status in the country.

To further contribute to qualitative research relating to statelessness in the UK, UNHCR wanted to hear directly from stateless persons in the country through conducting a participatory assessment. This involves building a partnership through structured dialogue, explained in more detail in the chapter "Methodology".

The goal of this participatory assessment was to: i) develop an understanding of the experiences and challenges faced when applying for statelessness leave in the UK; and ii) provide insight into the everyday protection challenges faced by stateless persons or those at risk of statelessness. UNHCR also wanted to hear stateless persons' own proposals for solutions to their problems. To this end, the following chapters provide a brief overview of the backgrounds of the 12 interviewees, their experiences with the SDP and their insight into their own life in the UK. The report concludes with reflections on the interviews and recommendations for improvement. UNHCR hopes that this study can provide a human face to statelessness in the UK.

'For stateless people, to have a piece of card that has your name is a big deal – it's a big deal, it's a big deal.' - Khalil



WHAT IS A PARTICIPATORY ASSESSMENT?

A Participatory Assessment is a process employed by UNHCR that includes building partnerships with people in need of international protection of all ages and backgrounds by promoting meaningful participation in the design of programmes and advocacy efforts through structured dialogue. A participatory assessment may include holding separate discussions with women, girls, boys, and men, including adolescents, to better understand their specific concerns and challenges and involve them in finding solutions. The information gathered from different groups reflects a diversity of perspectives and viewpoints, minimising the risk of excluding certain groups in the design of programmes and advocacy efforts.

Recognised Stateless Person who spent over a decade in limbo, photographed in London during lockdown. © UNHCR/Katie Barlow.

22 Bezzano, J. and Carter, J., Liverpool Law Clinic at the University of Liverpool, *Statelessness in Practice: Implementation of the UK Statelessness Application Procedure*, 3 July 2018, available from: <https://www.gov.uk/government/publications/statement-of-changes-to-the-immigration-rules-hc-1919-7-march-2019>

23 European Network on Statelessness, *Protecting Stateless Persons From Arbitrary Detention*, 2016, available from: https://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_UK.pdf, British Red Cross, *Can't Stay. Can't Go*, 2017, available from: <https://www.refworld.org/docid/591965984.html>

JOURNEY TO THE UK

Although most stateless persons remain in their country of birth, some leave and become migrants or refugees. Conversely, some migrants or refugees can become stateless after leaving their country of origin. In both instances, whilst outside their country of origin, many are not recognised as stateless and face serious human rights problems such as prolonged or repeated detention and destitution. Often, the authorities of their country of origin will not re-admit them, and they struggle to find a State that will grant them legal residence.

Each person interviewed in the study had a very different story to tell about how they came to the UK and ended up applying for statelessness leave.

**Please note names below have been changed to maintain the confidentiality of interviewees. In addition, the information below is correct at the time of interviews which took place between December 2019 and November 2020.*

■ **Mohamad** moved to Lebanon from the State of Palestine with his father when he was around 10 years old. His father passed away not long after, and he had no form of identification in Lebanon. He left Lebanon in 2005 and arrived in the UK in March of that year. Mohamad made an application for asylum on arrival. He remained in the asylum process for nine years until his asylum application was finally refused. In early 2016, he was referred to an expert legal provider, and he submitted an application for statelessness leave on 31 March 2017. His statelessness leave was granted in December 2018.

■ Like Mohamad, **Khalil** was born in the State of Palestine and was living there before coming to the UK in 2007 with his father's friend. He left the State of Palestine following an increase in violence in 2000 and the death of close family members. On arrival in the UK, Khalil made an application for asylum which was subsequently refused. He found himself in the asylum system for seven years and in 2016, was referred to an expert legal provider. He submitted an application for statelessness leave in late 2016/early 2017. His statelessness leave was granted in early 2019.

■ **Abdulla** was born in Côte d'Ivoire and, when he was a child, out of fear for his safety during a period of political strife, his parents' friend arranged for him to travel to Mauritania. After being forced to work for the parents' friend in Mauritania and refused pay, eventually Abdulla arrived in the UK in 2003 with the help of a stranger who helped him escape his situation. He was a child at the time of his arrival. He claimed asylum shortly after arrival, but this was later refused. Unable to prove his nationality, Abdulla struggled for over seven years to regularise his stay in the UK or return to his country of origin. After eventually being referred to an expert legal provider, Abdulla made an application for statelessness leave in March 2017 and, following two administrative review decisions, his leave was granted in August 2019.

■ **Benjamin** was born in Namibia. His mother, who was born in Poland, was liberated from a concentration camp in Europe following the Second World War. Neither of his parents had citizenship or a right of permanent residency in Namibia when he was born, and he did not acquire Namibian citizenship at birth. Eventually, Benjamin's parents naturalised as South African citizens, but he was an adult by then, and he did not obtain South African citizenship. He wasn't aware he was not a citizen of either Namibia or South Africa until adulthood. An opponent of apartheid, he was detained on numerous occasions and he therefore left South Africa. Benjamin arrived in the UK in 1973, and in 2014, he was granted statelessness leave with a residence permit valid for 30 months. Benjamin renewed his statelessness leave in 2016, and in 2019, he received indefinite leave to remain in the UK as a stateless person.

■ **Farah** is a Kuwaiti Bidoun and came to the UK in 2018 on a temporary travel document issued by the Kuwaiti Government (but which does not confer Kuwaiti nationality). Farah applied for asylum in the UK. Farah's mother is Kuwaiti, but Farah states that she is unable to acquire Kuwaiti citizenship through her mother due to protection concerns resulting from her mother's ill-treatment of her. Farah's father has acquired Canadian citizenship since her birth, but as far as she is aware from legal advice the family has obtained, because she is over 18, she is not eligible for a visa or citizenship of Canada.

■ **John** was born in South Africa, and in May 2005 he travelled to the UK on a tourist visa using his South African passport. Not long after his arrival, he was imprisoned in the UK. As a foreign national offender, the UK Government sought to deport him to South Africa at the end of his sentence. However, the UK authorities misplaced his passport and other belongings during his time in prison. Since then, after making extensive enquiries with the South African Government in order to return, South Africa has failed to redocument him and so he remains in the UK with no way for him to go back. His legal provider initially made a request for a determination of statelessness in March 2016. Following a negative decision, a successful administrative review directed that the decision be revised and 10 months later, his application for statelessness leave remained pending.

■ **Paul** was born in Goa. He was treated as an Indian citizen from birth into adulthood and had an Indian passport. His parents were both British Overseas Citizens, and his father eventually acquired full British citizenship. Paul was issued a British passport by the British High Commission in India in 2007. In line with Indian citizenship laws, he subsequently surrendered his Indian citizenship, including his passport and other forms of identification, at the local police station. Paul travelled to the UK on his British passport in March 2009 to live and was later informed by the High Commission that the passport had been issued in error and that he was not in fact entitled to British nationality. Already in the UK and having surrendered his Indian citizenship, he has been searching for solutions for over 10 years. He is awaiting a decision on his second application for statelessness leave, which was submitted in early 2020.

■ **Karim**, an ethnic Bidoun, was born in Kuwait where he had no identification papers and was unable to receive any formal education.²⁴ He arrived in the UK in March 2016 and applied for asylum. His application for asylum was refused, and after receiving advice from the local Kuwaiti Bidoun community, in December 2019, he made an application for statelessness leave. He is currently awaiting a decision.

■ **Madhav**, a former Malaysian citizen, moved to India in 1986 to study. He arrived in the UK in 2003 after the Malaysian embassy in India lost his Malaysian passport and birth certificate. On the advice of an agent, he hoped that from the UK he would be able to get back to Malaysia. Unable to redocument with the Malaysian embassy, Madhav has been in the UK for 17 years. He is currently awaiting a decision on his statelessness leave application submitted in early 2019.

■ **Adam** arrived in the UK from Malaysia on a student visa in 2001 to study engineering. After he finished his degree, in 2006 he was advised by a solicitor to renounce his Malaysian citizenship and to apply for a UK passport as a British Overseas Citizen. Since realising that this advice left him in limbo, Adam has been unsuccessfully trying to re-document with the Malaysian authorities. He remains in the UK living off the help of his friends and is currently awaiting a decision on his second statelessness leave application submitted in April 2019.²⁵

■ **Omar** was born in Gaza in the State of Palestine. He arrived in the UK in 2013 on a student visa to study for a Masters in business. After the expiry of his student visa he claimed asylum which was refused in 2018. In early 2020, Omar submitted an application for statelessness leave and he is awaiting a decision.

■ **Eduardo** was born in Cuba and arrived in the UK in 2007. He claimed asylum on arrival at Heathrow Airport, and in 2008 his asylum application was refused. In 2011, he sought to redocument himself with the Cuban embassy so that he could return to Cuba; however, according to him, as he had been outside of the country for too long, he has not been able to return. Eduardo made an application for statelessness leave in 2015, which was refused. He currently has an ongoing application for asylum and is awaiting a decision.

²⁴ Ethnic Bidouns have their origins in the desert. Descended from nomadic tribes, they were not registered for nationality rights when Kuwait became independent in 1961. Although some have since been able to register in Kuwait, for some ethnic Bidouns, half a century later, their children and grandchildren continue to suffer the consequences.

²⁵ Many ethnic Chinese residents of Penang and Malacca were granted British Overseas Citizen status following Malaya's independence from Britain. The British Nationality Act 1981, section 4B, provides for British nationals (including British Overseas Citizens) to register as British citizens if they do not have any other form of citizenship or nationality. After immigration laws were toughened in 2002, there was confusion amongst this group and their ability to register as British citizens. It appears that many renounced their Malaysian nationality following receipt of incorrect legal advice. They were told that after renunciation they would subsequently be eligible to apply to be registered as British citizens under the British Nationality Act, section 4B. When the applications were refused, many found themselves left in limbo.



VIEWS ON THE STATELESSNESS DETERMINATION PROCEDURE

Statelessness Leave Applicant photographed in the UK. © UNHCR/Greg Constantine.

The procedure and policy for statelessness leave applications is set out in Part 14 of the Immigration Rules.²⁶ Applicants use an online form to make an application, for which there is no fee.

An applicant for leave to remain in the UK as a stateless person must provide sufficient evidence to demonstrate that, more likely than not, they are stateless. The Home Office guidance sets out that applicants should obtain and submit all reasonably available evidence. This includes evidence that they have sought and failed to obtain or re-establish their nationality with the appropriate authorities of the relevant country.²⁷

Applicants are not routinely interviewed regarding their applications for statelessness leave, in contrast to the asylum application process. In addition, legal aid is not generally available in England and Wales for advising, representing or assisting someone who wishes

to make an application for statelessness leave or for an administrative review of a refusal.²⁸ Legal aid exceptional case funding is potentially available for statelessness leave applications, but there are significant barriers to accessing it for most stateless persons.²⁹

If an application for statelessness leave is refused, there is no statutory right of appeal against the decision. Unsuccessful applicants can apply for an administrative review by the Home Office, or a review of any casework errors only.³⁰ It is possible that an applicant can be refused leave to remain, despite being determined to be stateless. This happens if the applicant is still deemed “admissible” to their country of former habitual residence or any other country. Current Home Office policy indicates that admissibility equates to the applicant having a right of “permanent residence” in the relevant country but is silent on what that means in practice.

26 Paragraphs 401 to 416.

27 Home Office, *Stateless leave Version 3.0*, 30 October 2019, available from:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/843704/stateless-leave-guidance-v3.0ext.pdf

28 See Legal Aid Sentencing and Punishment of Offenders Act 2012, Sec. 10(1), available from: <https://www.legislation.gov.uk/ukpga/2012/10/section/10/enacted>. In Scotland and Northern Ireland statelessness applications remain in the scope of legal aid.

29 UNHCR understands that relatively few solicitors are prepared to apply to the Legal Aid Authority for exceptional case funding because some of their work on such applications may not be funded, making it financially infeasible for them to work on these cases. Many legal aid practitioners struggle financially, as there are various aspects of legal aid work which are not covered by legal aid funding. Of the organisations known to specialise in statelessness cases, two are law clinics with university and/or other funding and the other two are charities that have special funding outside legal aid funding which allows them to continue their work on these cases. Legal aid may be available to investigate or to bring an application for judicial review of a decision to refuse a statelessness application, providing the merits and means tests for legal aid are met.

30 Administrative review will consider whether an ‘eligible decision’ is wrong because of a case working error and, if it is, correct that error.

During this research, UNHCR asked interviewees about how they learnt about the SDP and about the practicalities of making an application such as whether they were easily able to navigate the application form and whether they had any issues with submission of their application. Supporting evidence for the application was also discussed and the difficulties that they may have faced finding the appropriate evidence to submit. Interviewees were also asked whether they had legal representation and for their views on the administrative review process. Eleven out of 12 interviewees had made applications for statelessness leave. Four had been successful, six were awaiting a decision and one was refused and is now pursuing an asylum claim.

■ GENERAL AWARENESS OF THE SDP

Interviewees learnt about the SDP in different ways. A few were told about it through a lawyer or a caseworker helping them with their asylum claim or immigration status. Another was advised by the Home Office to submit an application after being in the UK for over 10 years and trying to regularise their stay. Two found out through their own research online. Three learnt about it through friends. For example, one who was in immigration detention for four years, was told through a friend in the centre about an expert legal provider who helps stateless persons. His friend gave him the provider's contact details.

'I kept looking for information about asylum and my situation...I found that information on the internet, on the Home Office website.' - Eduardo

■ THE APPLICATION FORM

Amongst the 11 interviewees who had made applications for statelessness leave, six had completed the application form directly themselves (one later submitted a second application with a solicitor). Most raised no concerns over the application form and their ability to navigate the process. One interviewee, who speaks fluent English, stated: *"It's online and pretty much straightforward."* Conversely another observed that the form does not guide the user, which can make it harder for someone without legal representation to know what information to include or evidence to gather. The remainder had legal representation when making

their application and so were not able to comment on the application form.

One interviewee explained that after submission of the form, he was required to travel from Peterborough to Birmingham to submit fingerprints. He had to borrow money from a friend to get there and explained that he found it stressful that he was not provided with assistance to fulfil this requirement.

■ LEGAL ADVICE AND LEGAL AID

Six interviewees had legal advice when submitting their most recent application. Five were assisted through free legal clinics or charities which specialise in statelessness applications. The remaining one paid for his legal advice. Some of those who had free legal advice when submitting their most recent application had previously paid for advice and felt that, because few solicitors deal with these types of cases, their previous solicitors were not well equipped to advise them. One described British citizenship law as a "maze".

Some had previously been advised by solicitors who did not fully understand nationality laws, the issue of statelessness or how best to collect evidence. At times, this further compounded the delays in their case. One interviewee acknowledged that: *"if we had the right people or the right help it could have been resolved quicker"*.

Five interviewees did not have legal advice when submitting their most recent application for statelessness leave and they explained that this was because they could not afford a solicitor. In one case, the interviewee chose not to have a solicitor for their second application for statelessness leave because they felt let down by many solicitors in the past.

■ DIFFICULTIES OBTAINING EVIDENCE

All those interviewed explained that obtaining evidence to support a statelessness leave application is hard. One described it as "mission impossible". Almost all had to approach the embassy of the country in which they were born or previously lived. A few also approached other embassies of countries to which their parents were connected but they/the applicant had never lived in. For example, in one case, the interviewee went to the respective embassies of his parents' countries of origin. However, he was unable to prove where his parents were born because: a) they were born in the 1920s/30s; and b) they had lost some documentation after the Second World War.

His situation was further complicated by the fact that borders had changed in Europe since his mother's birth, meaning his mother's birthplace was now in a different country. Therefore, he was not able to apply for citizenship in the countries of his parents' births.

Most interviewees spoke of having to go to the relevant embassy several times and of struggling to receive a response.

'The embassy did not give me any answer. So many emails and letters but no one answered me.' – Karim

A couple of interviewees had received a response from their embassy but were unable to fulfil the requirements to redocument with their country of origin. For example, in one case, the interviewee had to be living legally in their country of origin to make an application for registration or naturalisation. However, with no passport, there was no route for him to live in his country of origin legally to make the application. He is in a catch-22 situation. Another interviewee, who has no family in his country of origin, was told he could obtain a visa to return but he must have a family member to receive him.

Another who was in contact with the authorities from his country of origin, was asked to prove his citizenship by providing proof of his family there. However, he could not easily do this because he was in detention and had no funds to call his family. After he received news that the last member of his family passed away whilst he was still in detention, it was almost impossible to obtain death certificates. Therefore, his credibility was questioned.

It can be very costly to make applications to different embassies. One participant who approached the embassies of countries to which his father was connected paid over 1000GBP to apply for citizenship there. Another challenge several interviewees raised was how hard it can be to remember all aspects of their situation given that many of them have been in limbo for decades. One explained that it can be difficult to relay their story to their solicitor because so much time had passed.

In addition, their stories are so complex, with so many details that it is hard to recall everything.

Overall, it was clear from all the interviewees that the support of caseworkers and legal advisors was invaluable for them in the collection of this evidence. For example, one noted that they were aided financially by the British Red Cross to travel to London where they were able to visit their embassy to try and collect evidence.

■ ADMINISTRATIVE REVIEW

Three interviewees had applications which were refused, and they requested the internal Home Office administrative review. For one of them, their legal representative had to make the request, and the Home Office provided a second decision with almost identical wording to the first, which had to be reviewed again. The interviewee was granted statelessness leave on the third decision. For another, their legal representative also made the request and 10 months later, at the time of UNHCR's interview, the new decision remained pending.

■ DETENTION

Two interviewees experienced extended periods of detention. One of the interviewees was detained twice prior to making an application for statelessness leave. He was required to report regularly to the Home Office, and on two occasions he was detained upon reporting. The second time he was detained, the Home Office suggested that he apply for statelessness leave.

'I was told to go to signing. For a year, it was monthly, after that it was weekly. One day at signing, they told me I had an interview. So they asked me some questions such as my details and questions regarding my health condition. They said they would verify this information with the National Health Service and when they did not receive a confirmation from the National Health Service, they detained me. I was released after five weeks. Two months later, again, after going to report, I was detained for three months and a week in the same situation. They stated that they did not understand why I was undocumented.'

– Madhav



Statelessness Leave Applicant photographed during lockdown whilst waiting for the tube in London. © UNHCR/Katie Barlow.

The other interviewee who had been in detention for four years explained how difficult it can be to maintain a continuous relationship with a legal advisor whilst in detention. He explained that legal advisors do indeed come to the detention centre, however, it was very hard for him to get hold of them once instructed. After being refused bail approximately 35 times and after a bail hearing in court, he was finally released on bail.

■ SUGGESTIONS FOR IMPROVEMENT

All the interviewees shared their views on how the SDP could be improved. The main three things they all called for were shorter application processes, interviews as a routine part of the application process and legal aid.

All interviewees spoke of their frustration and distress at the length of the application process. Some spoke of themselves or their solicitor writing to the Home Office several times but receiving no response.

Some remarked that, had the Home Office interviewed them, their situation would have been resolved more quickly. Three had been interviewed as part of their statelessness leave application.

‘They need to look at each case separately and talk with people through their situations’. This may resolve situations much faster and also assist in establishing credibility. You’re never going to understand the case until you’re in front of that person and can see how it affects them. There is a perception of disingenuous people and that’s not right.’ – Paul

Finally, many interviewees mentioned the necessity of legal aid. They explained that good and robust legal advice is essential given the complexity of their situations. However, many of them remarked that often stateless persons can’t afford to pay for a solicitor, particularly if they have been in the UK for a prolonged period with no right to work.

‘One of the most difficult things is that most people who apply, apply by themselves. They don’t know how to fill in an application, don’t know the legal process, don’t know how to put their argument in a legal or professional way. And have no money to pay for the application.’ – Khalil



LIFE IN THE UK

Recognised Stateless Person photographed in London. © UNHCR/Katie Barlow.

The Home Office's stateless leave guidance explains that statelessness leave is granted in accordance with paragraphs 405 and 413 of the Immigration Rules which state that leave will normally be granted to the applicant and their family members (as defined in paragraph 410) for an initial period of no more than five years.³¹ If an individual with statelessness leave wishes to naturalise in the UK, there are no accelerated procedures within the UK's naturalisation procedure.

Those granted leave to remain have access to most public funds. This means that they may be eligible for Housing Benefit and Universal Credit subject to passing the habitual residence test.³²

Statelessness leave applicants are not eligible for the same type of support as asylum-seekers whilst they wait for a decision on their application. Some destitute applicants are potentially eligible for other types of support e.g. under Section 4(2) of the Immigration and Asylum Act 1999³³ (Section 4 Support) or Schedule 10 of the 2016 Immigration Act³⁴, but these and other potential categories of support can be difficult to access. Section 4 Support currently includes accommodation and £35.39 weekly per person on a payment card. Applicants for statelessness leave also generally do not have permission to work if they have no other permission to stay in the country which allows work.

■ FINANCIAL SUPPORT

In the research, four of the interviewees had statelessness leave and therefore had access to public funds. Two were receiving universal credit support and housing benefits. Another was studying as part of a National Health Service (NHS) programme that provided him with a grant to cover tuition fees and some living costs. He was homeless at the time of interview and on the waiting list for a home with the local authority. These three had been on Section 4 Support prior to their recognition as stateless because they had previously applied for asylum. The final one, who had not previously applied for asylum, was using personal savings to support himself.

For the six interviewees with ongoing statelessness leave applications, one was receiving Section 4

Support and one was awaiting the outcome of an application for the same. Out of the two with an outstanding asylum application, one was receiving asylum accommodation and financial support and the other's asylum support and accommodation were due to end soon.

All those who had received or were receiving Section 4 Support expressed gratitude that they were provided with some support but also expressed frustration that it was difficult to live on the small amount given to them, particularly for such long periods of time. Indeed, many of them were on Section 4 Support for over five years.

'It's difficult with the little money we have, we cannot properly look after ourselves.' - Eduardo

31 Home Office, *Stateless leave Version 3.0*, 30 October 2019, available from: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/843704/stateless-leave-guidance-v3.0ext.pdf

32 See The Allocation of Housing and Homelessness (Eligibility) (England) (Amendment) Regulations 2020, available from: <https://www.legislation.gov.uk/uksi/2020/667/contents/made>

33 Asylum Support Appeals Project, *Section 4 Support Factsheet*, April 2016, available from: <https://www.asaproject.org/uploads/Factsheet-2-section-4-support.pdf>

34 For further information see: <https://www.nrpfnetwork.org.uk/information-and-resources/rights-and-entitlements/support-options-for-people-with-nrpf/home-office-support/schedule-10-immigration-bail-support>

The three interviewees living in Section 4 or asylum accommodation at the time of this study raised concerns over the quality of the housing provided to them. They were interviewed during the COVID-19 pandemic lockdown and were extremely anxious, particularly as they reported that the communal areas (outside their apartments) were not cleaned and they were not able to afford extra cleaning products, soap, masks and hand sanitiser on approximately 35GBP per week.

Almost all interviewees, whether receiving immigration financial support or not, relied on friends, local communities or relatives to support them. Before living in Section 4 accommodation, one lived with friends for three years and then later stayed with someone he met through church for eight months. Another lived with the friends he met in his community for over two years; following that, he applied for asylum support. Another has relied entirely on friends for over seven years whilst trying to apply for leave in the UK. His friends also assisted him in paying for legal advice for his statelessness application. Three had worked informally in the UK prior to making an application for statelessness leave. During the periods they worked, they all paid UK taxes and described themselves as financially independent. In addition, at the time of interview, one was living on savings as he previously had permission to work whilst in the asylum system.

A couple of interviewees were living with relatives already in the UK (one with extended family who are British citizens and the other with his brother who had arrived in the UK before him and had successfully claimed asylum here).

■ EMPLOYMENT

No interviewees were working at the time of interview.

Of the four that had statelessness leave and hence permission to work, one was studying, another was still finding his feet and had yet to learn English, the third was searching for a job and the fourth was retired. One with several qualifications explained the difficulty in finding employment. He noted that he had been in the UK from a young age and was unable to work at any point during his nine years before gaining leave. He therefore had no work experience, which means employers were less likely to hire him.

‘I tried to apply for a few but it’s really hard to get [a job] with no experience and no proper or official practice.’ – Khalil

The rest did not currently have permission to work in the UK (two previously had permission in line with their previous visas). Many were volunteering or had volunteered during their time here. They volunteered in migrant centres, homeless shelters, charity shops, churches and with local sports teams. For example, after visiting a church’s foodbank several times, one was offered the ability to volunteer with them and the church helped him with food and clothes.

They all described volunteering as important to their mental health.

‘For me it’s an outlet to channel my energy and not be too negative, because I’m working toward something.’ – Paul.

One interviewee felt particularly frustrated at not being able to work, highlighting that he is extremely skilled with a UK degree in engineering. However, he has been barred from working. They all explained that they did not want to simply take from the UK Government and rather wanted to be able to contribute to society whilst trying to find a solution to their situation.

■ EDUCATION

For those interviewees who didn’t already speak English before coming to the UK, some had the opportunity to learn the language when they first arrived in the country, particularly those who had been asylum-seekers. For example, one initially received English classes through the British Red Cross and one through his local migrant centre. Similarly, another learnt English through speaking to various caseworkers at charities.

In terms of education outside of the English language, one interviewee, who now has statelessness leave, had received formal education through a university or college. As an asylum-seeker in Wales, he was entitled to free education grants up to Level 3 and therefore was able to train in several different subjects during his nine years in the asylum system. He obtained his English GCSE³⁵ and completed vocational courses such as exercise science and massage therapy. He explained that he spent most of his time moving between these courses until he was granted statelessness leave. Having received statelessness leave, he is currently studying healthcare science and hopes to become a cardiac physiologist.

Another interviewee with statelessness leave at the time of interview had college applications pending.

For those with ongoing applications for statelessness leave, one had applied for a PhD, however he was not permitted to start the university programme without leave to remain.

Another had studied a lot of different topics and had received certificates from a wide range of free courses or cheap courses that his friends helped him pay for. Some of these he completed in prison and in detention. As he explained, this kept him busy and improved his mental health by making him feel more useful during a decade with no status in the UK.

■ HEALTH

None of the interviewees reported significant difficulties registering with a General Practitioner (GP) or accessing healthcare. One participant explained that the first doctor's surgery he went to would not register him as he had no confirmation of receipt of benefits. Two interviewees described having issues accessing a dentist as those in their area were very busy and therefore they struggled to register.

However, some avoided registering with the NHS. Those who had been undocumented for a period of time described being constantly worried about falling ill because they did not want to come to the attention of the NHS and possibly other authorities. Therefore, at times, they avoided seeking medical advice.

“Believe me it’s very hard, very, very hard. The psychology is the hardest bit, not even the little money we get for food...It’s hard. You have to wait a long time for an answer so you experience more depression; you ask why they are taking a long time but even your solicitor can’t help. The Home Office just says that they are busy.” – Eduardo

■ MENTAL HEALTH

A common thread amongst all the interviewees was that their experiences had led to the deterioration of their mental health.

Nine interviewees had been in the UK without any leave to remain for over 10 years. One spoke of going through a period of deep depression and turning to his GP for help. Volunteering benefitted him as it gave him an outlet to keep busy. Another stated that he had a period of severe depression and turned to his religion to keep him grounded. Another spent some time in hospital due to suicidal thoughts.

■ GENERAL

All interviewees were grateful to their friends, family and other generous people who had supported them in the UK. As noted above, many had relied on kind people they met on their journey who helped them financially, emotionally or with finding the right legal advice and support.

‘British people are very kind people and they try to help.’ - Eduardo

Most interviewees explained that they felt safe and protected in the UK. Some did, however, express that they felt insecure with no proper status, as it is easy for authorities to treat them badly when they assume that they do not know their rights. One stated that he did not initially feel comfortable approaching the police here, but he would do so now because he is educated and is aware of his rights. Similarly, another recounted that one of his housemates in Section 4 accommodation called the police and was told “If you do not have documentation you are nothing”.

He elaborated: *“We came to understand that they treat people in different ways. If you do not have anything you are nothing. Sometimes you are scared to go to the police. If you are born here and you are British you will be treated differently. If you do not have any documentation and you are from abroad you are nothing.”*

Another, who had been in the UK without status for a long time, noted that undocumented people are constantly watching their backs and worried about being exploited. They are also worried about coming to the attention of the authorities. He recognised that he was able to easily live under the radar for many years because of his white racial identity. He noted discriminatory aspects of UK immigration law and that it is often assumed that all those who are undocumented are from Middle Eastern or African backgrounds. Therefore, overall, he felt safe in the UK but understood that this is not the case for many.

■ SUGGESTIONS FOR IMPROVEMENT

Some of the interviewees gave suggestions on how their everyday life could be improved and what could be done to improve the lives of stateless persons who are living in limbo in the UK.

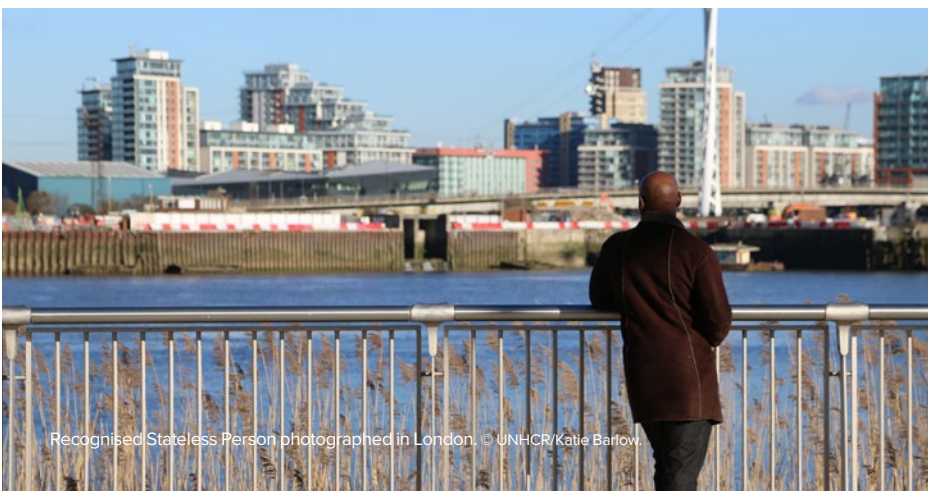
They all raised that they should have permission to work in the UK whilst awaiting a solution or outcome to their application. They felt that this would ensure that they are not a drain and that they are contributing to society. It would also keep them busy, which is positive for their mental health, and place them in a better financial position to find a solution to their problem. For example, they would be able to pay for legal advice and may be better able to gather evidence in their case. They also noted that, for those who are living in limbo, having the right to work could help ensure that they are not at the mercy of those who might exploit them and may even force them into criminal activity. Most recognised that this permission does not need to be granted automatically, but more flexibility should be given to those who have been in the country for a long time.

'I would say that some people have had the same issue for 20 years. Why don't they issue a work permit to let them work whilst they are waiting for documentation?' – John

'It's better they help us to go back or help us to work if they really cannot send us back...if you're taking so long to give me permission, 13 years, then give me the right to work. You see? Because it's hard and if you're working it's less stressful.' – Eduardo

In a similar vein, a few interviewees also explained that there should be better access to education so that they can learn vocational skills whilst in the UK. This would also have a beneficial impact on their mental health and would mean that, when granted leave, they would integrate more quickly and be able to find a job. Indeed, the interviewee who has been studying various courses in Wales whilst in the asylum system was able to join an NHS programme and enrol in university soon after he received statelessness leave.

The importance of having someone to help support them on recognition was also noted, particularly for those who are more vulnerable with no family and/or who did not speak English. One interviewee relied heavily on the local council to assist after he was granted leave and was grateful for the assistance they provided. He stated: *"I need someone to support me, there are so many things that I don't know. I don't know all my rights and duties etc."*



Recognised Stateless Person photographed in London. © UNHCR/Katie Barlow.



REFLECTIONS

Recognised Stateless Person who spent over a decade in limbo, photographed in London during lockdown. © UNHCR/Katie Barlow.

It was clear that there is no one face of statelessness in the UK. Interviewees were stateless for different reasons, such as being stateless from birth or having no ability to prove their identity due to lost identification documentation. They also found themselves in the UK for different reasons and a few did not initially have any intention of staying in the country long-term.

It was striking that many interviewees had been searching for so long for some kind of a solution. Nine had been in the UK for over 10 years with no leave to remain. They had mostly arrived before the existence of the SDP and therefore had been living in limbo, either in the asylum system or without any documentation.

One interviewee had been in the UK for 11 years with no resolution to his situation. According to the interviewee, the Home Office had significant

correspondence with his country of origin and the interviewee wanted to go back home but his country of origin would not accept him. He has truly been in limbo for most of his adult life and has been living in Section 4 accommodation on roughly 5GBP a day for this entire time.

Those who had been refused asylum, and were living without any documentation or with minimal support, were at particular risk. One interviewee had met a man when he was 25 years old and worked in his house for seven years. He stated he was rarely allowed to leave the home. Another noted that he was constantly at the mercy of others who were aware that he had no status and therefore tried to take advantage of him. He often had no choice but to do what he was told, out of fear. This highlights that many who are living undocumented and unable to prove their status can have serious protection concerns and may be living in dangerous

or exploitative situations. Indeed, a 2017 study by the British Red Cross highlighted that many unreturnable people with no status are vulnerable to exploitation.³⁶ A 2020 UNHCR Study on stateless persons in the Czech Republic also found that the absence of legal status for stateless persons made them prone to exploitation.³⁷ The existence of the SDP is therefore of crucial importance to protecting those who are stateless from harm within the UK and is not merely an administrative matter. And whilst the UK has demonstrated good practice in introducing it, further progress is needed.

UNHCR's recent audit has highlighted that there are still concerns with policy and decision-making in the SDP. This can result in stateless persons going unrecognised and can exacerbate the protection concerns they may be facing. In particular, UNHCR's audit highlights concern over the lack of a requirement to interview all statelessness leave applicants. This finding was also echoed in this study, and many of the interviewees explained that they felt that the authorities had forgotten the human face behind their applications for statelessness leave. They said they felt this because the Home Office had not given them a chance to present their story in an interview. The interviewees understood that there are some who may take advantage of the procedure, but they emphasised that if they just had the chance to talk to the Home Office in person about their situation, they could show that they are credible, which would hopefully speed up the process.

They therefore all suggested that interviews should be a standard part of the application process.³⁸ Their suggestions were in line with UNHCR's guidance which considers interviews to be a fundamental procedural guarantee which provide an important source of evidence in statelessness claims.³⁹ In this research, of the four with statelessness leave, two had an interview as part

of their application. One was amongst the first applicants to the SDP in 2014 and he described this interview as more of an interrogation rather than a joint effort to find a solution to his situation.

Some interviewees in this research felt let down by the UK Government. They felt that the Government was responsible for their predicament. For example, in one case the Home Office had lost his original passport and in another, the British High Commission abroad had issued him a British passport in error. One noted that *"the [Home Office] acknowledged the error but then didn't do anything to resolve it, and I don't think that's fair."* Another felt let down because he felt that he was intentionally given poor legal advice which led to his stateless situation, and the Government had not assisted him in rectifying it.

Interestingly, some of those interviewed were hoping to go home. One stated that he begged to go home. Another was even waiting at the airport for a plane to return but was stopped and was not allowed to board because his country of origin was not willing to accept him. He stated: *"I really needed to go back home...I went to the embassy and asked them why I cannot go back home. There is still no answer"*.

All interviewees seemed frustrated by their situations and explained that the problem was that they had nowhere to go.

'Not a lot of people appreciate what they have – there is so much taken for granted. If everything was sorted I could make so much of myself right now.' - Paul

36 British Red Cross, *Can't Stay. Can't Go*, 2017, available from: <https://www.refworld.org/docid/591965984.html>

37 UNHCR, *Faces of Statelessness in the Czech Republic*, December 2020, available from: <https://www.refworld.org/docid/5fcfc3234.html>

38 UNHCR is not aware of how many overall cases the Home Office interviews, however, in UNHCR's audit, of the 530 cases UNHCR were given to select from to audit, only 10 had interviews conducted, an interview rate of just under 2%.

39 See UNHCR, *Handbook on Protection of Stateless Persons, Part Two: Procedures on the Determination of Statelessness*, 30 June 2014, available from: https://www.unhcr.org/dach/wp-content/uploads/sites/27/2017/04/CH-UNHCR_Handbook-on-Protection-of-Stateless-Persons.pdf

Finding a solution to their situation has proved difficult for all of the interviewees. Most were not immediately aware that there is an SDP and they found out through caseworkers or through their own research online. It seems clear that those who already spoke English or were able to educate themselves on statelessness were best able to advocate for themselves, find a solicitor and show an understanding of their situation. However, the others who could not speak English and were more vulnerable were wholly reliant on their legal advisors, and, had it not been for them meeting the right people at the right time, would have slipped through the cracks.

The interviewees were all very grateful when they received valuable legal advice. However, it wasn't always easy to find. UNHCR encourages States to incorporate access to legal counsel in their determination procedures including offering free legal assistance to applicants without financial means.⁴⁰ However, in England and Wales there is generally no legal aid for statelessness leave applications and it was clear that this was a barrier to many of the interviewees finding legal advice. Although exceptional case funding may be available, research has highlighted that solicitors are reluctant to take on such cases because they are complex and remuneration is limited given the significant amount of work involved.⁴¹ Therefore, many of the interviewees felt that they didn't know where to turn, particularly when they had no funds. A few either submitted applications without a legal representative or relied on free expert legal clinics or providers which regularly deal with stateless cases. Three out of four interviewees with statelessness leave had been represented by an expert legal provider or clinic and they all said that a significant amount of preparation went into the application. However, such clinics or providers have limited funding and are not always able to take on cases.

It was also evident that, for those who were more vulnerable due to lack of funds or English language ability, obtaining the required evidence was more difficult. One participant living in Plymouth was grateful

to the British Red Cross for providing funds to travel to London to visit their embassy. This also highlights the importance of projects or initiatives which assist applicants in obtaining the evidence required.⁴² In line with this, UNHCR's audit recommends the Home Office considers supporting applicants in approaching and gathering evidence from embassies/consulates. This support could be provided for by the funding of an independent organisation.

With so many applicants living in limbo for many years, we spoke to them about how they spend their days. One explained that he enjoys learning and goes to the library often. He has obtained several certificates from free online courses or courses that his friends have helped him pay for. Others volunteer which keeps them busy and provides a sense of purpose. Prior to the COVID-19 pandemic, five of them were required to regularly report to the UK Government. While none objected to this requirement, all five stated that they were often asked when reporting why they don't go back home. One stated: *"the reporting centre made us fill out applications and tried to force us to sign declarations and separated us for interviews. The guy thought we were people who didn't understand our case and didn't have a head on our shoulders."* Another was taken to detention twice after going to report.

All interviewees explained the harm that the length of the process had on their mental health. It was evident that the length of the process and the years of waiting had taken a serious and devastating toll on each of them. Three interviewees who had statelessness leave reported that it took over 18 months to receive a decision. Similarly, a study by Liverpool Law Clinic highlighted that their single adult male clients typically waited over two years for a decision on their application. This waiting and the associated lack of socio-economic rights exacerbated their existing feelings of hopelessness.⁴³

Adverse impacts on interviewees' mental health were often compounded by family separation. A few had been separated from their family for several

40 See UNHCR, *Handbook on Protection of Stateless Persons, Part Two: Procedures on the Determination of Statelessness*, 30 June 2014, available from: https://www.unhcr.org/dach/wp-content/uploads/sites/27/2017/04/CH-UNHCR_Handbook-on-Protection-of-Stateless-Persons.pdf.

41 See Bezzano, J. and Carter, J., Liverpool Law Clinic at the University of Liverpool, *Statelessness in Practice: Implementation of the UK Statelessness Application Procedure*, 3 July 2018, available from: <https://www.liverpool.ac.uk/media/livacuk/law/4-liverpool-law-clinic/Statelessness,in,Practice.pdf> and British Red Cross, *Can't Stay. Can't Go*, 2017, available from: <https://www.refworld.org/docid/591965984.html>

42 For example, Refugee Action's Embassy Liaison Project ran from December 2015 – March 2017 and provided expert casework to help destitute people to gather the evidence from embassies to support statelessness or disputed nationality fresh claims.

43 Bezzano, J. and Carter, J., Liverpool Law Clinic at the University of Liverpool, *Statelessness in Practice: Implementation of the UK Statelessness Application Procedure*, 3 July 2018, available from: <https://www.liverpool.ac.uk/media/livacuk/law/4-liverpool-law-clinic/Statelessness,in,Practice.pdf>

years. One who had not seen his mother and siblings for 12 years, stated: “we’ve spoken over the phone and video calls but it’s not the same connection as what would’ve been had we been together all the time.” Despite these difficulties, many interviewees had made friends in the UK or had extended family who could provide them with financial and emotional support. However, all interviewees highlighted that having the right to work or better access to educational programmes would transform their lives, as they would be able to contribute to society. They would also be at less risk from exploitation. Many seemed conscious of having to rely on the Government or others for support and they were concerned by public narratives that they were only in the UK to abuse the welfare and asylum systems.

‘Statelessness can lead to a devastating cycle of deprivation and vulnerability.’

– Filippo Grandi, United Nations High Commissioner for Refugees

Overall, for all those interviewed, it was important that the UK authorities see the SDP as a way to protect them and keep them safe. They all raised the human rights challenges they have faced as a result of their precarious status. Those we spoke to experienced exploitation, detention and homelessness whilst in the

UK. One explained that the UK’s procedures should uphold their human rights and even quoted Article 1 of the Universal Declaration of Human Rights, which states: “All human beings are born free and equal in dignity and rights.”

The interviewees also all noted how a lack of identity made them feel less than human and as if they had no sense of belonging. The interviewees wanted people to spend a day in their shoes and imagine the sense of hopelessness, which they have felt much of their lives.

For the interviewees of this study, consideration of statelessness as a protection issue by UK authorities would mean that there would be: a) better access to the SDP through legal aid; and b) better decision making in the SDP, with mandatory interviews. It would also mean ensuring that decisions are made within a reasonable time frame and providing them with appropriate safeguards during the procedure such as access to financial support or the right to work. Indeed, this perspective is in line with international human rights standards and guidance on the 1954 Convention, which emphasise State obligations to recognise and protect the human rights of stateless persons and ultimately end their statelessness.

Those who had received statelessness leave were looking forward to being able to work and to becoming financially independent. They were optimistic about the future and were eager to advocate for more understanding in the UK of the many facets of statelessness and better protection of the people who experience this often-devastating situation.





RECOMMENDATIONS

UNHCR seeks to ensure that the human rights of stateless persons in the UK are protected and that they can live their lives in dignity and security. Statelessness leave is not simply an immigration status, but a way to ensure that a stateless person's basic human rights are protected. In light of the experiences and perspectives shared by the interviewees in this study, UNHCR makes the below recommendations to the UK Government. Many of these recommendations have been highlighted in UNHCR's audit, and UNHCR urges the Home Office to consider these recommendations together with the audit.

UNHCR recommends that:

- The Home Office should approach statelessness as a protection issue and statelessness leave as a protection route in the UK.
- Legal aid should be introduced in England and Wales for applications for statelessness leave. This would ensure that applicants not only have access to the SDP but should also reduce the number of applications made without appropriate supporting evidence and help ensure fewer unmeritorious applications.
- A stateless determination interview should be mandatory in all cases except where the Home Office grants leave to remain without the need for an interview. This would ensure that all statelessness leave applicants are given an opportunity for their voice to be heard and to address any issues that may result in adverse credibility findings.
- The Home Office should consider implementing policies that would ensure that most decisions are made within six months, and up to 12 months in exceptional circumstances.
- The Home Office should ensure that all statelessness leave applicants can access adequate support and accommodation whilst awaiting a decision on their application.
- The Home Office should consider providing applicants in the SDP with permission to work in the UK after their application has been outstanding for a period of 12 months or longer.
- The Home Office should take measures to safeguard applicants for statelessness leave where there are indicators of mental health concerns. This should include arranging free, confidential counselling where appropriate.

Image: Statelessness Leave Applicant photographed in London. © UNHCR/Katie Barlow.



METHODOLOGY

Recognised Stateless Person photographed in London. © UNHCR/Katie Barlow.

The study was grounded in UNHCR's participatory assessment methodology, and the standards contained within the UNHCR Tool for Participatory Assessment in Operations.⁴⁴ A participatory assessment is a process of building partnerships with persons of concern, service providers and local government through structured dialogue. This field-tested methodology entails holding separate discussions with different stakeholders, in order to gather accurate information on specific protection and integration concerns and the underlying causes of these, to understand the capacities of those involved and to listen to proposed solutions.

Given the participatory nature of the assessment, and the need to promote meaningful dialogue with stakeholders, the primary approach to data collection and analysis was qualitative.

■ INTERVIEWS & INTERVIEWEES

From December 2019 to November 2020, 12 individual semi-structured interviews were conducted. Some were conducted in person where the interviewees were living: two at UNHCR's

offices in London, two in Bradford and one in Wolverhampton. Owing to the COVID-19 pandemic, which prevented travel around the country, the remainder were conducted over the phone. The interviews were either conducted in English without an interpreter or with interpreter support for those who spoke Arabic.

The interviewees were identified through UNHCR's routine casework, legal providers who identified former or current clients and through UNHCR's network of community workers. We sought to interview adults who had ongoing applications in the SDP⁴⁵ and who had received statelessness leave, ideally within the last three years. UNHCR also ended up interviewing two individuals who currently had applications for asylum as one had strong indicators of statelessness and was considering applying for statelessness leave, and the second had previously applied for statelessness leave. With regard to the latter, it was considered important to hear from those who have been refused statelessness leave but face continuing challenges proving their legal status and in regularising their immigration status in the UK.

44 UNHCR, *The UNHCR Tool for Participatory Assessment in Operations*, May 2006, available from: www.refworld.org/docid/462df4232.html

45 This refers to those who have made a valid application to the Secretary of State for leave to remain as a stateless person under Part 14 of the Immigration Rules but where a decision has not yet been made by the Home Office.

■ ETHICS

Before every individual interview, interviewees were required to give informed consent by signing the information and consent sheet provided in English or Arabic. Where interviewees could not read the consent form, interpreters explained the contents to them. The research touched on several sensitive topics. Therefore, interviewers ensured that the confidential and voluntary nature of the process was clearly explained to all who took part. At the start of every interview, interviewees were informed that they did not have to talk about topics that they did not wish to discuss and that they were free to leave at any time should they feel uncomfortable.

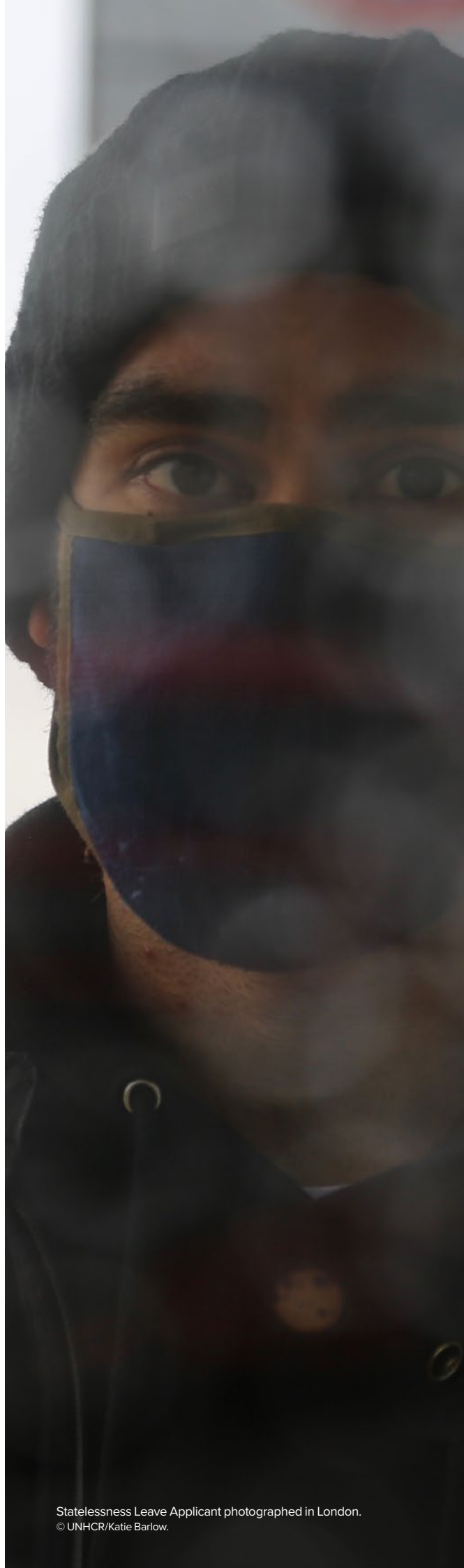
It was made clear to all interviewees that speaking to UNHCR would not impact their immigration status in the UK or entitlements to any benefits.

■ CHALLENGES & LIMITATIONS

The research relied on the perspectives of those who volunteered to take part in interviews. While every effort was made to reach a wide range of those with statelessness leave and outstanding statelessness leave applications, they were not easy to reach and some potential interviewees were not available or willing to participate. We had hoped to interview a larger number of women for the study, given the unique protection challenges that women can face based on their gender; however, it was a challenge to locate women who were within the remit of the research.

The number of persons who participated in the study is small. This may be indicative of the relatively small numbers of persons with statelessness leave or outstanding applications in the UK. Therefore, the findings and recommendations should be considered indicative rather than demonstrative of the broader situation.

With regard to these interviews, it should be noted that no extensive fact-check or legal review of each individual case was conducted. This report recounts the personal experiences of the interviewees, from their own perspectives.





**‘We are just like you, we have the same views,
perhaps you should try placing your foot in at
least one of my shoes.’**



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