

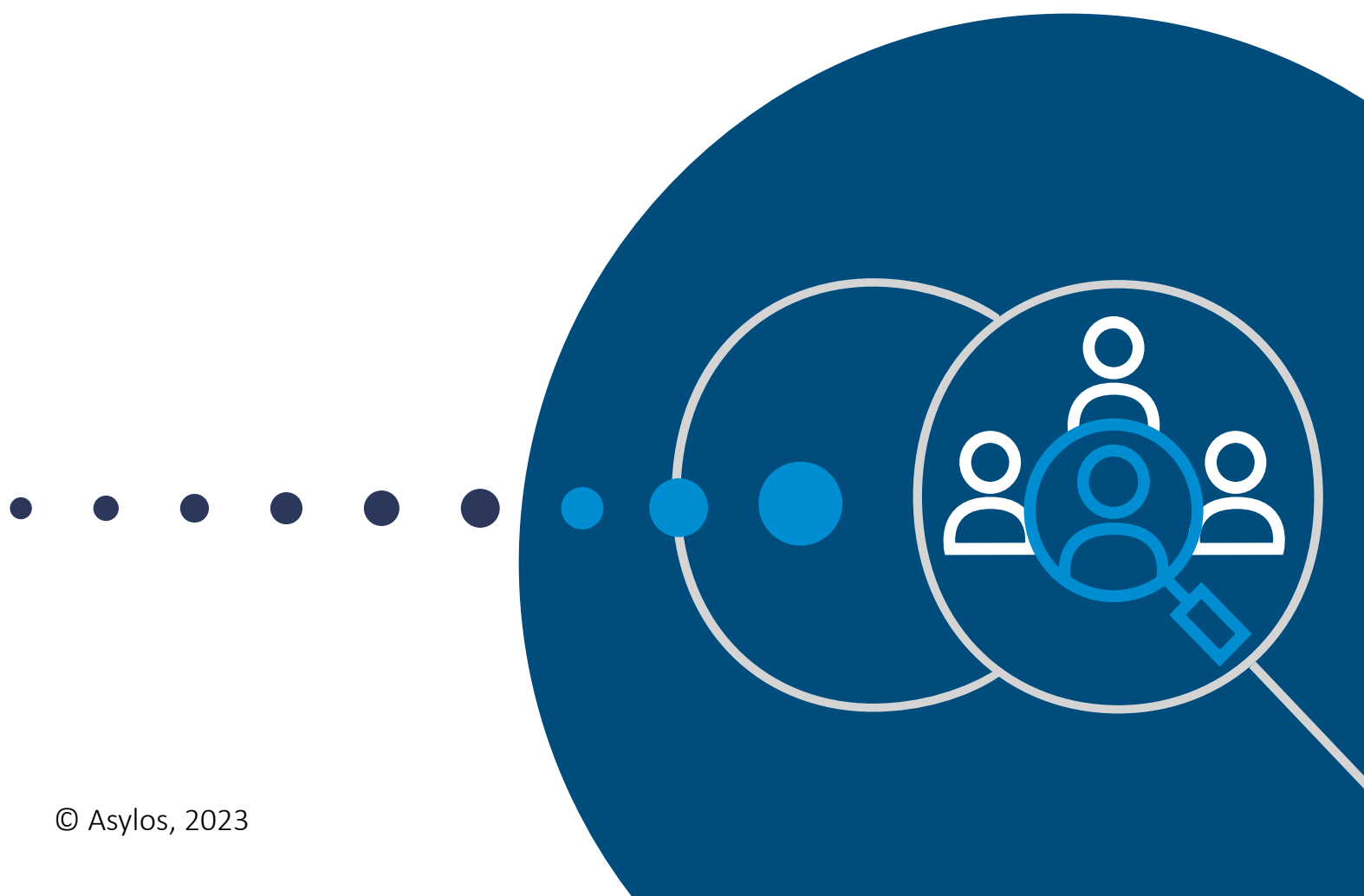


Asylos | Principles Series



Principles

**For Conducting Country of Origin
Information Research on Statelessness**



Acknowledgements

Background

Through consultations with legal representatives and charities in the UK, Asylos has become aware of the absence of relevant Country of Origin Information (COI) about stateless persons and simultaneously, the low awareness of statelessness issues in the immigration and asylum legal sector.

In response, we have launched a project that intends to address information gaps about stateless persons who are seeking international protection, or applying for stateless status, by:

1. Producing **a country report on the situation of Stateless Palestinians in Lebanon** combining interviews with individuals with authoritative knowledge on the topic alongside excerpts from country information available in the public domain;
2. Developing a principles document (this document), handbook and training module (forthcoming) to guide those conducting Country of Origin Information research on statelessness related issues.

More information on the project, and its outputs, is available on our website:

www.asylos.eu/Lebanon-report

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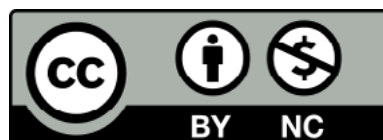


Who we are

Asylos is a global network of volunteers providing free-of-charge Country of Origin Information (COI) research for lawyers helping people seeking international protection with their claim. Asylos works to ensure that people seeking international protection and their legal counsel have access to crucial sources and data to substantiate their claim. Asylos volunteers use their research and language skills to access detailed information. More information can be found on [Asylos' website](#).

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Feedback and comments

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Rationale

Better quality Country of Origin Information (COI) on stateless people is urgently needed for use in international protection and statelessness procedures in the UK and beyond. A scoping exercise undertaken by Asylos, including unpublished review of UK governmental COI, revealed a significant need for improvement in the coverage and quality of COI on statelessness. Concerns about the adequacy of COI on statelessness have been raised by actors in the field of COI in recent years, including the UNHCR, which stated the need for ‘*Relevant Home Office COI reports [to] include a section on “nationality and citizenship”*’,¹ and by ARC Foundation, which found inconsistencies and information gaps on statelessness in COI reports produced by the US Department of State.² Current inconsistencies in the coverage of COI on statelessness, along with inadequacies in the COI that does exist, raise the risk that protection or statelessness claims may not be properly recognised, dealt with through appropriate procedures and fairly adjudicated.

The meaning of statelessness is set out in the 1954 Convention relating to the Status of Stateless Persons (the 1954 Convention): ‘[...] the term “stateless person” means a person who is not considered as a national by any State under the operation of its law.’³ This definition is considered to be international customary law. However, only 96 countries⁴ have acceded to the 1954 Convention, and as such, not all states apply this definition.

The reasons for inadequacies in the available COI on statelessness are complex. As stateless people do not have legal status, they lack visibility in societies, often being excluded from formal documentation processes and from access to institutions and public services such as healthcare, education and housing. This lack of visibility in societies contributes to a lack of information on the situation of stateless people, including the difficulty of estimating how many people are affected by statelessness. Furthermore, although statelessness is defined in international customary law, the law can be interpreted and applied differently, which can give rise to conflicting perspectives regarding whether groups are considered to be stateless. An understanding of such complexities is required to navigate and identify relevant COI on particular stateless groups among the information that exists.

The principles outlined below are intended to encourage COI researchers, legal counsel, and decision-makers to approach international protection or statelessness claims involving stateless persons in a more comprehensive and informed manner, which will improve the quality of COI research on statelessness, and support the fair adjudication of international protection and statelessness claims.

1. UNHCR, **Stateless Determination in the UK: A UNHCR audit of the Home Office approach to decision-making in the Statelessness Determination Procedure**, see p.10, 2020
2. ARC Foundation, **Thematic Review: U.S. Department of State’s Country Reports on Human Rights Practices (2016-2020)**, see p.14, September 2021
3. UNHCR, **Convention relating to the Status of Stateless Persons**, 1954, Article 1(1).
4. UN General Assembly, 1954 Signatory States, **Declarations and Reservations on the Reduction of Statelessness**, 28 September 1954, available at: <https://www.refworld.org/docid/4fa368052.html> | 1954 Signatory States, Declarations and Reservations on the Reduction of Statelessness. In Europe, there were 25 signatories as of 2021. The European Network on Statelessness (ENS), **Thematic Briefing: Statelessness determination and protection in Europe**, 2021, p.4

In understanding who may be affected by statelessness, it is also important to recognise that statelessness and refugeehood are intertwined, as Colin Yeo noted in his most recent work, *Refugee Law*:

“[...] one of the major problems faced by a refugee is that they are de facto (effectively) stateless. A refugee is, by definition, outside their country of origin and has lost the protection of that country, leaving them without ‘the right to have rights’ in a system of sovereign nation-states.¹⁹⁷ But, formally, a refugee will often retain the nationality of their country of origin. Some refugees may also be de jure (in law) stateless, as is recognized in the definition itself in the reference to a person ‘who, not having a nationality and being outside the country of his former habitual residence’. However, it is not necessary for a refugee to also be stateless. As the preamble to the Convention Relating to the Status of Stateless Persons 1954 (‘Stateless Persons Convention’) observes, there are many stateless persons who are not refugees. Indeed, many are stateless within the country in which they were born and still reside.”⁵

¹⁹⁷ Arendt, H. (2017), **The Origins of Totalitarianism**, London: Penguin, p.388

At the same time, the fact that many stateless people are both stateless and at risk of persecution as defined by the Refugee Convention can obscure the fact that stateless people are rights-holders under international law, by virtue of their statelessness alone. Less attention has been paid to the protection needs – and the rights under international law – arising out of statelessness itself. COI therefore often focuses on the extent to which stateless people are at risk of persecution or serious harm, rather than on whether individuals are stateless and why.

Important for COI research, as outlined in the UNHCR Handbook on Protection of Stateless Persons, is a combination of factual and legal information, which will be necessary for statelessness determination.⁶ Evidence about the person's circumstances and evidence pertaining to the laws and other conditions in the relevant country are the two types of evidence that may be relevant in this process. If a person is unable to demonstrate that the prerequisites for acquisition of the nationality have been met, the competent authority may refuse to consider them as a national (for example, a law that requires evidence of a parent's nationality in the past). At the same time, COI researchers should consider how this impacts a person's unique circumstances. For instance, the future is uncertain for many kids who lack legal documentation and identifying documents and may become stateless.

Statelessness has a variety of root reasons, such as discrimination against specific racial or religious groups, or on the basis of gender; the creation of new States and the transfer of territory between existing States; and historical and current deficiencies in nationality laws. In order to increase awareness of the causes of statelessness, which can overlap with those of being a refugee, COI should take these root causes into account.

5. Colin Yeo: **Refugee Law**, 2022 pgs.78-79

6. UNHCR, **‘Handbook on Protection of Stateless Persons’** 2014, paras. 83-87

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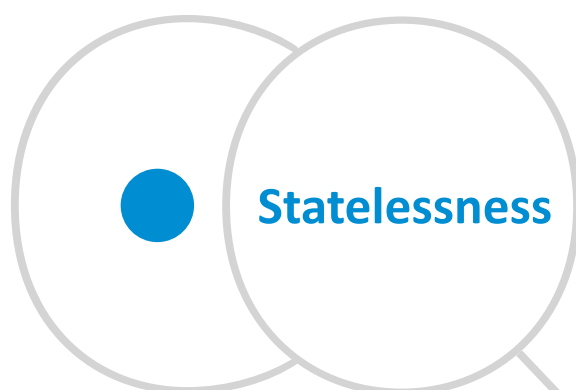
Principle 1:

No single response to statelessness

The 1954 Convention relating to the Status of Stateless Persons (the 1954 Convention) may provide a helpful baseline definition of statelessness when beginning to research an individual's background. However, as noted above, not all states are signatories to the 1954 Convention, and as highlighted by the European Network on Statelessness' (ENS) 2021 Thematic briefing,⁷ not all countries have a specialised statelessness determination procedure. Indeed the ENS briefing observes that a relatively small number of countries in Europe have established statelessness determination procedures, the UK being one of them. Given the diverse responses to statelessness that exist among states, it is crucial to build an accurate picture of how the status of statelessness is understood and ascribed (or not) to different groups in the country of habitual residence. In particular, it is important to know whether the country of habitual residence is a signatory to the aforementioned 1954 Convention, whether and how it defines statelessness in its own domestic law, which stateless groups, and groups at risk of statelessness, exist in the country and whether they are recognised as such by the authorities. Furthermore, it is important to be aware that stateless persons may not themselves identify as stateless, either because they choose to define their situation differently, or due to a lack of awareness of such terminology.

People conducting COI research should:

- establish whether a country of habitual residence is a signatory to the 1954 Convention on the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness
- seek information on whether and how statelessness is defined in the domestic law of the country of habitual residence
- seek to understand whether and how different stateless groups, or groups at risk of statelessness, within a country are recognised as stateless by the authorities, and if they are not recognised as stateless, why not
- establish whether members of a stateless group identify themselves as stateless, and if not, why not
- set out which groups of stateless, and/or groups at risk of statelessness may be relevant to include within the scope of the research.



7. The European Network on Statelessness (ENS), **Thematic Briefing: Statelessness determination and protection in Europe**, 2021, p.4

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Principle 2: History and root causes matter

The difficulties that people affected by statelessness experience today are often the result of a combination of historical circumstances – or root causes – that have evolved over time and are perpetuated by current laws, policy frameworks and practices in the country of habitual residence. Identifying the root causes of statelessness in an individual's case – be that state succession, gender discriminatory laws, or discriminatory citizenship laws and policies – is crucial to understanding why the person is affected by statelessness in the first place, and can highlight evolutions in law, policy and practice that may have perpetuated their specific situation.

People conducting COI research should:

- seek to understand the root cause(s) of statelessness in individual cases
- explore how laws, policy frameworks and practices have evolved over the relevant time period and illustrate how changes may have affected the situation of a stateless individual.

Principle 3: Terminology is key

It is crucial to establish the relevant terminology, who it refers to and what it means. However, it is also important to note that terminology can be used inconsistently, and therefore a researcher should pay attention to the context in which it is used.

Relevant terms may be in a language spoken in the country of habitual residence. For example, this could include a term that conveys statelessness in a generic manner, and/or terms that carry highly specific meanings relating to the status of particular stateless groups in a geographical area, with (or without) particular documentation and with (or without) specific types of recognition from the authorities.

For instance, findings set out in **Asylos' report on Palestinians in Lebanon** revealed that statelessness is not defined in Lebanese law. Additional terms relating to both documented and undocumented non-Palestinian people also exist. The latter are frequently referred to as Maktoumi al-Qaid (those who are not registered with the Lebanese authorities), whereas the former are known as Qaid a-dars, which roughly translates to "under study", indicating that the authorities are currently looking into their status and that they have special legal status in terms of residency and rights.⁸ These statuses may change over time according to the authorities' treatment or categorisation of them, so a person may hold different statuses during their lifetime, and close family members may hold different statuses from each other.

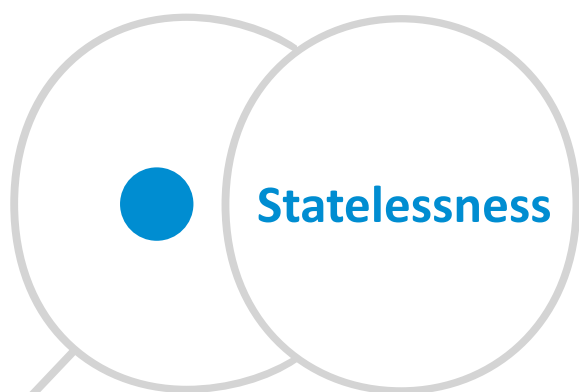
8. Frontiers Ruwad Association, *Invisible citizens (Humiliation and a Life in the Shadows)*, 2011, pgs 12-13.

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Principle 3: Terminology is key (continued)

People conducting COI research should:

- develop an understanding of relevant terminology, including the word(s) used to describe statelessness in the country of habitual residence, the designations of different stateless groups in relevant languages and the meanings that these terms carry
- use specific terminology designating the relevant stateless group(s) in information searches
- set out the relevant terminology clearly in reports
- recognise and acknowledge the limits of terminology in a particular context, and that many people may be stateless or at risk of statelessness even in the absence of relevant terminology.



Principle 4: No single experience of statelessness

People are affected by statelessness across the world, in different contexts, and for different reasons. Even those within the same community are likely to experience statelessness in different ways due to multiple and intersecting identities that mean they may be subject to cumulative and/or intersecting forms of discrimination.⁹ For example, other aspects of a stateless person's identity, such as their sexual orientation or gender identity, class, age, and physical or mental ability will also play a role in the level and types of discrimination that they may experience. In conducting research on stateless persons, it is important to interrogate how different aspects of a person's identity intersect and interact, in order to better understand the discrimination they may face and the protection gaps they may experience and how these factors may change over time.

People conducting COI research should:

- seek out and illustrate how a person's statelessness intersects with other aspects of their identity and other potential sources of social disadvantage
- contextualise information collated, including with reference to the socioeconomic and political context, governance, policy, and cultural and societal values and norms.

9. 'Cumulative discrimination', sometimes known as 'additive discrimination', arises when two or more separate and unrelated forms of discrimination are experienced at the same time, meanwhile 'intersectional discrimination' occurs when two or more forms of discrimination interact in a way that renders them inseparable.

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Principle 5: Understanding what the law says, and what happens in practice

Relevant laws and policies – including on nationality acquisition, citizenship, documentation, free movement and labour – provide useful insight into the frameworks that govern the situation of people affected by statelessness. As laws and policies can be subject to change, it is important to seek up to date information on relevant laws and how they may have evolved over time, affecting the situation of a stateless individual. Alongside establishing information on the relevant laws and policies, it is also important to seek information on how those laws and policies are implemented in practice, as law, policy and practice can sometimes diverge. For example, while laws and policies may have changed in favour of a stateless group to allow them greater rights in a country, those positive changes may not have been realised in practice due to lack of awareness of the changes in law, or societal prejudices.

People conducting COI research should:

- seek and include up to date COI on relevant laws and policies, and where salient, historical information on how laws and policies have evolved
- seek out and illustrate how relevant laws and policies are implemented in practice.

“

“The needs of the stateless person are being excluded. They are not being heard adequately, if at all.”

– Sirazul Islam, Youth Director of British Rohingya Community UK (BRC) ¹⁰

10. This quote comes from an ENS video, titled ‘Ending statelessness is possible, but we cannot do it without the people affected by it’. 16 September 2020

11. The European Network on Statelessness (ENS), **External Community Speaker Policy**, 2022

Principle 6: Including the voices of stateless people

Stateless people have knowledge and insight into their experiences that are not available to people who have not experienced statelessness. However, the voices of stateless people are often marginalised, depriving COI researchers as well as legal representatives and decision-makers of a credible source of knowledge and information that is informed by lived experience. An excellent example of how to incorporate the voices of people with lived experience is European Network on Statelessness’s (ENS) External Community Speaker Policy,¹¹ which is a policy co-designed with persons affected by statelessness and offers best practice advice on how to engage and work with community speakers. Much of the best practice outlined in the ENS policy can be applied in the context of COI researchers who are seeking to engage with stateless people for the purposes of carrying out research.

Additionally, In order to understand the laws and customs of the relevant State, UNHCR advises consulting a variety of sources, including perhaps expert testimony. Asylos would also advise taking into account consulting those who have first-hand knowledge of statelessness in the respective state.

People conducting COI research should:

- seek out and prioritise the inclusion of relevant sources that draw on the voices of people with lived experience of statelessness
- proactively reach out to stateless people or organisations working on statelessness in the relevant region, to improve their understanding of the issues and gain access to information and perspectives that would not otherwise be available to them.