

BRAZIL PLAN OF ACTION

“Eradicating Statelessness” Programme Evaluation and Follow-up Mechanism Towards Zero Statelessness



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PROGRAMME
Eradicating
Statelessness



EVALUATION MECHANISM
Towards Zero
Statelessness



Index

- Executive Summary**_____ 1
- 1. Statelessness in the Americas**_____ 2
- 2. Strategic Frameworks to End Statelessness** _____ 3
 - 2.1. Global Action Plan to End Statelessness 3
 - 2.2. Brazil Plan of Action 3
- 3. “Towards Zero Statelessness”**
Evaluation and Follow-up Mechanism _____ 7
 - 3.1. Objectives. 8
 - 3.2. Benefits. 8
 - 3.3. Participation. 10
 - 3.4. Methodology and Evaluation Steps. 11
 - 3.5. Country Operations Plan (UNHCR).
Project Design and Funding. 14
 - 3.6. Role of civil society and stateless persons. 15
 - 3.7. Results. 15
 - 3.8. Certification. 16
- Annex**_____ 17

Executive Summary

“Towards Zero Statelessness” is an evaluation mechanism of the “Eradicating Statelessness” programme of the Brazil Plan of Action, which helps States to determine the extent to which they have progressed towards eradicating of statelessness at the national level.

The United Nations High Commissioner for Refugees (UNHCR) proposes this evaluation mechanism to interested countries in Latin America and the Caribbean to support to progress evaluation and acknowledge those countries that do not generate new cases of statelessness (prevention), effectively protect stateless persons (protection), and have mechanisms in place to solve cases of statelessness (resolution).

The mechanism promotes a better understanding of the statelessness problem, helps to identify challenges and the necessary measures to address them. It is also a tool that allows interested countries, UNHCR, civil society organizations and stateless persons to work jointly in the design and implementation of projects, ensuring sufficient fund allocation at national level.

The tool also contributes to the development of the annual UNHCR Country Operations Plan, strategies and projects at national level as well as to give visibility and recognition to achievements by States.

“Towards Zero Statelessness” is, therefore, an evaluation mechanism and a tool to focus the planning and implementation of projects to eradicate statelessness within the framework of the Brazil Plan of Action.



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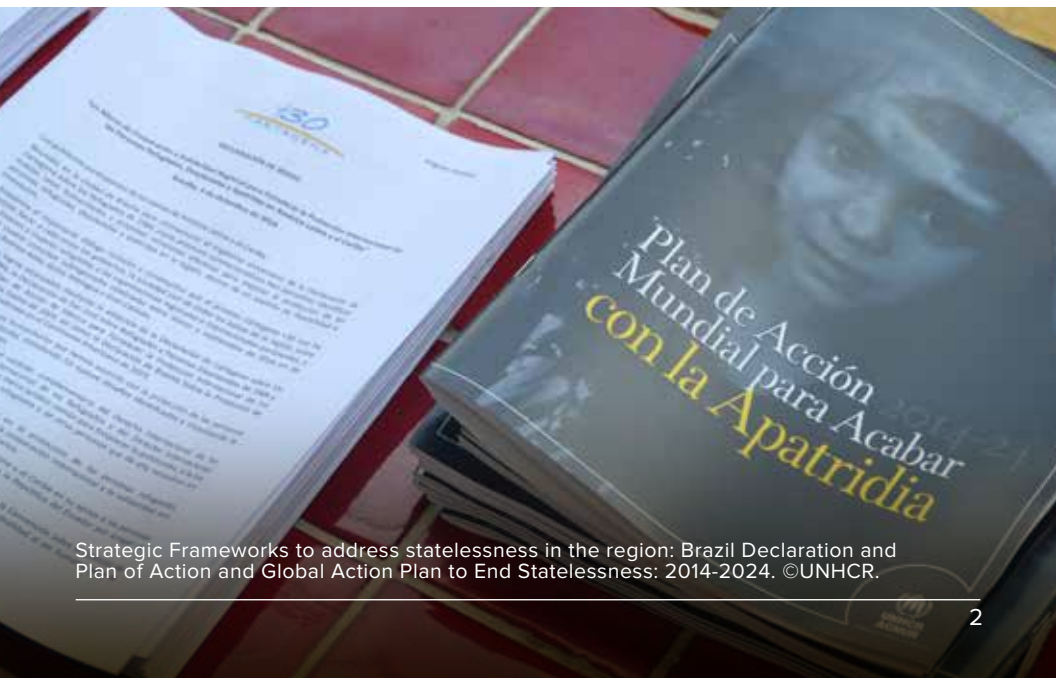
MECANISMO
Towards Zero
Statelessness

1. Statelessness in the Americas

A stateless person is someone who is not considered as a national by any State under operation of its law¹. Statelessness is a human rights problem that affects more than 10 million people around the world and has a devastating impact on their lives and on the development of the communities and countries in which they live. In the case of children, statelessness often negatively affects their right to access to an identity, education, and health, and makes them more vulnerable to smuggling and trafficking of human beings.

In the Americas, there is a conducive environment to eradicating statelessness. Many countries have generous nationality laws that combine the principles of *ius soli* and *ius sanguinis* to ensure that nationality is acquired at birth. In recent years, several countries have become State Parties to the statelessness conventions, have reformed their political constitutions or internal legislations to eliminate gaps in their nationality laws, and have adopted legislations or submitted draft bills to protect stateless persons and establish statelessness determination procedures. For these reasons, UNHCR expects the Americas to be the first continent to end statelessness.

1. Article 1, Convention Relating to the Status of Stateless Persons of 1954.



Strategic Frameworks to address statelessness in the region: Brazil Declaration and Plan of Action and Global Action Plan to End Statelessness: 2014-2024. ©UNHCR.

2. Strategic Frameworks to End Statelessness.

2.1. Global Action Plan to End Statelessness.

In November 2014, UNHCR launched the #IBelong² campaign with the aim of eradicating statelessness in the world by 2024. With this purpose, and in consultation with States, civil society and international organizations, UNHCR developed the Global Action Plan to End Statelessness ("Global Action Plan")³, proposing a comprehensive strategic framework of ten actions to resolve the existing situations of statelessness, prevent new cases from emerging, and better identify and protect stateless populations⁴.



Adoption of the Brazil Declaration and Plan of Action. Brasilia, December 2014. ©UNHCR/B.Barata.

2.2. Brazil Plan of Action.

In December 2014, 28 countries and three territories of Latin America and the Caribbean adopted by acclamation the Brazil Declaration and Plan of Action, thereby establishing a regional strategic framework to address the problems related to statelessness.

2. UNHCR, Campaign to end statelessness launched in the 60 anniversary of the 1954 Convention Relating to the Status of Stateless Persons, February 2014.

3. UNHCR, Global Action Plan to end Statelessness: 2014-2024, November 2014.

4. The ten actions to end statelessness are: 1) resolve the existing major situations of statelessness; 2) ensure that no child is born stateless; 3) remove gender discrimination from nationality laws; 4) prevent denial, loss or deprivation of nationality on discriminatory grounds; 5) prevent statelessness in cases of State succession; 6) grant protection status to stateless migrants and facilitate their naturalization; 7) ensure birth registration for the prevention of statelessness; 8) issue nationality documentation to those with entitlement to it; 9) accede to the UN statelessness conventions; 10) improve quantitative and qualitative data on stateless populations.



Chirricos Project. San Vito de Coto Brus, Costa Rica. April 2016.
©UNHCR/Lucas Iturriza.

The Brazil Declaration highlights that every person has the right to a nationality and that statelessness is a violation of that individual right when the prerogative of the State to regulate nationality violates the limits set by international law. It also recognizes that important regional challenges persist in this area.

Chapter Six of the Brazil Plan of Action⁵ sets out the "Eradication of Statelessness" programme and recommends States to: (a) accede to statelessness conventions, (b) promote the harmonization of internal regulations and practices on nationality with international standards, (c) facilitate universal birth registration, (d) establish fair and effective procedures to determine statelessness, (e) adopt internal protection regulations that guarantee the rights of stateless persons, (f) facilitate the naturalization of stateless migrants; (g) confirm nationality by issuing appropriate documentation; and (h) facilitate the automatic restitution of nationality as a remedy for the arbitrary deprivation of nationality, as well as the adoption of inclusive legislation and policies for the recovery of nationality⁶.

5. UNHCR. Brazil Plan of Action. "A Common Roadmap to Strengthen Protection and Promote Sustainable Solutions for Refugees, Displaced and Stateless Persons in Latin America and the Caribbean within a Framework of Cooperation and Solidarity". Brasilia, December 2014.

6. Ibid, Chapter Six.



Regional Preparatory Meeting for the High-Level Meeting on Statelessness (2019) and Presentation of the Evaluation and Follow-up Mechanism "Towards Zero Statelessness". June 2018. ©UNHCR/Eugenia Paz.

3. “Towards Zero Statelessness” Evaluation and Follow-up Mechanism.

The Brazil Plan of Action also establishes in its Chapter Eight that, once States define their priority programs and actions, they will elaborate specific projects to implement these actions and explore the possibility of creating evaluation and follow-up mechanisms.

Hence, when a country determines which actions of Chapter Six are relevant to end statelessness at the national level, it should, in accordance with Chapter Eight, follow up and evaluate the impact of these actions. The Brazil Plan of Action proposes that each State:

- a. Defines which program is relevant at national level (e.g. Eradicating Statelessness programme);
- b. Determines which actions are relevant at national level (e.g. accession to the statelessness conventions) and, if there are several, prioritizes actions (e.g. accession to conventions in 2018, and development of a legal framework in 2019);
- c. Designs specific projects to implement activities to achieve the set goals / actions (e.g. training and awareness-raising workshops);
- d. Follows up and evaluates progress at national level.

Chapter Eight further outlines that States may rely on UNHCR to produce triennial regional progress reports and a final report in 2024. As a result, in 2017, UNHCR and the Institute of Public Human Rights Policies of MERCOSUR (IPPDH) designed the "Measurement Indicators for the 2017 Triennial Progress Report of the Brazil Plan of Action", which were later discussed and approved by the Meeting of National Commissions for Refugees (CONAREs) or equivalent bodies of the MERCOSUR States Parties and associates. Based on these indicators, during 2017, several States shared with UNHCR information on national level progress registered between 2015 and 2017.

"Towards Zero Statelessness" is a tool proposed by UNHCR for interested States to continuously monitor, evaluate and report in a systematic and regionally uniform manner on their progress in implementing the "Eradicating Statelessness" programme.

The mechanism was developed based on the UNHCR - IPPDH progress indicators and seeks to highlight and report on national and regional developments, tracking the extent to which the goals proposed by the Brazil Plan of Action have been reached. As an example, the tool would highlight the achievement of a State that has adopted a regulatory framework establishing a statelessness determination procedure, while at the same time allowing to determine whether the procedure meets a series of standards that would make it "fair and effective".

3.1. Objectives.

- a. Promote the eradication of statelessness at regional and national level, through the implementation of relevant actions outlined in the Brazil Plan of Action;
- b. Promote inter-institutional work, joint planning and the development of low-cost and quick-impact projects, with technical and financial support from UNHCR and through international cooperation;
- c. Conduct joint, systematic and continuous monitoring at national level of the “Eradicating Statelessness” programme, evaluating progress and remaining challenges.

3.2. Benefits.

UNHCR encourages States to join the "Towards Zero Statelessness" evaluation and follow-up mechanism, since it:

- a. Provides a participatory evaluation mechanism of the “Eradicating Statelessness” programme with a role for State authorities, civil society, stateless persons and UNHCR;
- b. Ensures international recognition as "champion countries" for those committed to the eradication of statelessness;



Launch of the #Chilereconoce Project. Santiago, May 2017. ©UNHCR.

Maha Mamo. Stateless woman and human rights activist. Buenos Aires, November 2017.
©UNHCR/Alturo Almenar.



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- c. Provides common indicators to all countries of the Americas for the evaluation of progress and results achieved towards the goal of eradicating statelessness. During the evaluation process, the recommendations made by UNHCR can serve as guidance to States on how to improve their regulations and public policies on nationality and statelessness;
 - d. Improves the understanding of the current problems in each country (baselines);
 - e. Makes it easier for States to identify actions to eradicate statelessness at national level and to define priority activities;
 - f. Promotes the design and implementation of joint projects (government, civil society, UNHCR), multiplying the opportunities of obtaining technical and financial support from international cooperation;
 - g. Provides government inputs to UNHCR for the design of its Country Operations Plan (COP), as well as for the elaboration of the triennial progress reports, and for the 2024 final Brazil Plan of Action implementation report;
 - h. Supports state efforts aimed at achieving the Sustainable Development Goals, especially in relation to providing access to a legal identity for all through births registration⁷.

3.3. Participation.

To join "Towards Zero Statelessness", the State shall officially communicate its intention to the national or regional UNHCR office and agree to provide the required information to carry out the evaluation. The State will then designate an institution (e.g. CONARE) or a responsible focal point for follow-up.

The evaluation will include analysis of the legislation, State policies and practices on nationality and statelessness, such as those related to birth registration and the issuance of identity documents. In this sense, it will require cooperation between the different government offices concerned.

7. In 2015, countries adopted a set of goals to end poverty, protect the planet and ensure prosperity for all as part of a new sustainable development agenda. Each goal has specific targets to be achieved over the next 15 years. Goal 16 is to "[p]romote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels 16.1 Significantly reduce all forms of violence"; Target 16.9 states "[b]y 2030, provide legal identity for all, including birth registration". Report of the Inter-Agency and Expert Group on Sustainable Development Goal Indicators, Note by the Secretary-General, E/CN.3/2016/2/Rev.1, February 29, 2016. See <http://www.un.org/sustainabledevelopment/es/>.

3.4. Methodology and Evaluation Steps.

Upon communication of intent to join the evaluation mechanism, the State will provide UNHCR with information on the indicators in the ANNEX within a period of three months from the date of the official notification. The deadline may be extended if required in order to gather more information. During this period, the United Nations agencies (UNDP, UNICEF, UNFPA, etc.), interested international and regional organizations, civil society organizations, academia and persons of concern to UNHCR may submit additional information.

The State, together with UNHCR, will determine the best way to carry out the initial assessment at the national level. Some States may benefit from UNHCR's support by hiring a national consultant; others may be willing to receive support from a UNHCR regional consultant or from regional bodies with technical expertise (e.g., IPPDH). Similarly, a country may want to constitute an inter-agency working group or to implement an alternative approach or methodology for collecting information.



Beneficiaries of the #Chilereconoce Project. Iquique, Chile. ©UNHCR/David Alarcón.

"Towards Zero Statelessness" is a flexible tool that can be adapted at national level. Although the indicators (ANNEX) can be reviewed with the aim to improve their design, they will always be common indicators to all the participant countries. Countries that participate in the "Towards Zero Statelessness" initiative will carry out the evaluation using a set of indicators common to all States in the region.

UNHCR will then carry out a preliminary review and, where necessary, ask the State for clarifications or additional information. The State is expected to respond to the queries within a month.

Upon response, UNHCR will evaluate the information and issue a preliminary report with its findings on progress against the indicators and a narrative part with conclusions and recommendations. The State may submit comments on UNHCR's report. Finally, UNHCR will review the State's observations and the content of the report, as appropriate, before publishing.

The evaluation mechanism can be continuously applied until 2024. The re-evaluation of progress against indicators will be done at least every three years and the results will be considered as inputs for the UNHCR Triennial Progress Reports of 2020 and 2023. At the request of the State, the evaluation may be annual to better reflect and update the progress achieved.

Maha and Souad Mamo, first persons that were recognized as stateless in Brazil through the new statelessness determination procedure. Brasilia, July 2018. © UNHCR/Isaac Amorim.





First stateless migrant woman that was naturalized in Costa Rica. June 2018.
©"La Nación" Journal/ Diana Mendez

3.5. Country Operations Plan (UNHCR). Project Design and Funding.

The results of the evaluation report are expected to contribute not only to design-specific follow-up projects at national level, but also to the respective UNHCR COP. State authorities and UNHCR may, indeed, reflect in the COP or in National Plans the identified priority goals and actions as well as the necessary financial resources for implementation.

For example, the evaluation report may recommend accession to the statelessness conventions to a State that has not done so yet. If the State accepts the recommendation and sets this action as a priority at national level, the UNHCR COP will reflect this priority as well and identify the necessary activities and financial resources. The priority goal could also be included in the country's National Human Rights Plan. Regardless of the chosen methodology, authorities and UNHCR will define the actions and resources needed for implementation (e.g. trainings and dissemination workshops, participation in international courses, etc.).



I Regional Meeting of the Americas Network on Nationality and Statelessness (ANA Network). San José, July 2015. ©UNHCR.

At the same time, participating countries will be better placed to access additional dedicated UNHCR resources and, in general, from international cooperation efforts.

Under "Towards Zero Statelessness", the Regional Legal Unit, will give technical support to design low-cost and high-impact projects that can be quickly implemented. The Regional Legal Unit can also support with the identification of internal or external financial resources (e.g. search for funds with interested donor countries, etc.).

3.6. Role of civil society and stateless persons.

During the phase of information gathering, interested civil society organizations and stateless persons may submit information based on the indicators.

3.7. Results.

UNHCR will share the conclusions and recommendations of the evaluation with the State authorities for their comments and observations. At an appropriate time, UNHCR will release the report as a public document.

The findings about indicators will feed into the draft triennial evaluation reports of the Brazil Plan of Action, through the respective national or regional UNHCR office, with the technical support of the Regional Legal Unit.

3.8. Certification.

As part of the evaluation report, all States that participate in the evaluation mechanism "Towards Zero Statelessness" will receive a certification indicating the level of accomplishment of the proposed standards and indicators (see ANNEX).

As an example, in relation to the establishment of a fair and efficient statelessness determination procedure, the certification would indicate whether a given State has fully complied with the proposed standard (100%); whether it has a procedure with advanced standards in place; or whether the procedure is not yet in place.

The periodic certification (annual or triannual) will reflect a country's overall achievements and represent UNHCR recognition of the high standards reached by "champion countries". The aspiration is to have the largest number possible of countries in the region that reach, at a national level, the global goal of eradicating statelessness by 2024.

UNHCR

Bureau for the Americas

Regional Legal Unit

San Jose, Costa Rica

January 2018



XIV Meeting of the Latin American and Caribbean Council of Civil Registry, Identity and Vital Statistics (CLARCIEV). Buenos Aires, November 2017. ©CLARCIEV

INDICATORS

Global Action Plan		Brazil Plan Of Action	
		Actions	Impact Indicator
Protection	9. Accede to the UN Statelessness Conventions.	a) Accede ... to the 1954 Convention relating to the Status of Stateless Persons ("1954 Convention")...	• The State is party to the 1954 Convention.
	6. Grant protection status to stateless migrants and facilitate their naturalization.	d) Establish effective statelessness status determination procedures...	• There is a fair and efficient procedure to determine statelessness.
		e) Adopt legal protection frameworks that guarantee the rights of stateless persons, in order to regulate issues such as their migratory status, identity and travel documents and, more generally, ensure full enjoyment of the rights protected by the 1954 Convention and other human rights treaties.	• Internal legislation guarantees the effective protection of stateless persons.
Prevention	9. Accede to the UN Statelessness Conventions.	a) Accede ... to ... the 1961 Convention on the Reduction of Statelessness ("1961 Convention").	• The State is party to the 1961 Convention.
	2. Ensure that no child is born stateless; 3. Remove gender discrimination from nationality laws; 4. Prevent denial, loss or deprivation of nationality on discriminatory grounds.	b) Promote the harmonization of internal legislation and practice on nationality with international standards.	• The legislation and practice on nationality are aligned with international standards on the prevention of statelessness and human rights.
	7. Ensure birth registration for the prevention of statelessness.	c) Facilitate universal birth registration and the issuance of documentation, implementing the activities proposed in Conclusion No. 111 of UNHCR's Executive Committee, promoted by Latin America and the Caribbean. These activities may include, among others: i) the adoption of simplified administrative procedures; ii) the periodic organization of awareness campaigns and community outreach activities; iii) the application of appropriate measures to ensure that rural or remote areas are reached, for example through mobile registration units.	• There are no persons at risk of statelessness due to the lack of birth registration.

INDICATORS

	Global Action Plan	Brazil Plan Of Action	
	Actions		Impact Indicator
Solution	6. Grant protection status to stateless migrants and facilitate their naturalization	f) Facilitate naturalization in accordance with article 32 of the 1954 Convention.	<ul style="list-style-type: none"> • Stateless migrants have access to facilitated naturalization
	8. Issue nationality documentation to those with entitlement to it	g) Confirm nationality, for example, by facilitating late birth registration, providing exemptions from fees and fines and issuing appropriate documentation for this purpose. Given that cases of people who may require having their nationality confirmed frequently arise in situations of irregular migration or when people live in border areas, achieving this goal may require the strengthening of bilateral or multilateral dialogue and cooperation, as appropriate, between civil registration authorities, as well as binational civil registration and documentation projects.	<ul style="list-style-type: none"> • Nationals can prove their nationality through appropriate documentation, and stateless persons who have the right to acquire nationality can access the procedures to request it and obtain nationality documentation.
	1. Resolve existing major situations of statelessness	h) Facilitate the restoration or recovery of nationality through legislation or inclusive policies, especially the automatic restoration of nationality as a solution for cases in which the person had been arbitrarily deprived of nationality.	<ul style="list-style-type: none"> • Persons who renounce, lost, or who were arbitrarily deprived of their nationality can recover it



In Colombia, the migratory categories that demonstrate the requirement of 'domicile' for children born within the territory to acquire the Colombian nationality was extended. Also a mechanism that grants the Colombian nationality to the stateless children that are born within the territory was established. Cuba eliminated the requirement of "avecindamiento" (residency) for children to Cuban parents that are born abroad to acquire the Cuban nationality. ©UNHCR.



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