



## The Potential Impact of COVID-19 on Stateless Persons

*The COVID-19 pandemic is having a serious impact on people all over the world, particularly the most vulnerable. This includes stateless people, who face disproportionate risks in relation to the virus.*

A stateless person is defined under international law as a person ‘not considered as a national by any state under the operation of its law.’<sup>1</sup> In simple terms, this means that a stateless person is someone who does not have the nationality of any country. The number of stateless people around the world is estimated to number in the millions; a child is born into statelessness every ten minutes.<sup>2</sup> There are a number of stateless people, including children, in Australia – however exact numbers are unknown.<sup>3</sup>

Lack of nationality documents means stateless people are often prevented from accessing basic services including healthcare and other social welfare services. This means that many are without crucial safety nets to support them during this global health crisis.

### **1. What are the specific risks of COVID-19 to stateless persons in immigration detention centres – including in Australia?**

Stateless persons are at high risk of being placed in immigration detention all over the world because they often lack identity documents or valid residence permits. The confined and crowded conditions within immigration detention centres create a high-risk environment for the transmission and spread of COVID-19.

The most recently available Australian government statistics show that there are currently 45 stateless people in Australian immigration detention facilities. The Australian Government’s own health advice identifies people in detention facilities as one of the groups most at risk of contracting the virus.

Doctors and peak medical bodies have raised concerns about the potential risk of spread of COVID-19 within these centres.

In March, The Australasian Society for Infectious Diseases and the Australian College for Infection Prevention and Control released a statement urging the Commonwealth Government to consider releasing people held in detention into suitable housing in the community. The peak professional bodies note that people held in crowded conditions in detention cannot practice adequate social distancing or self-isolation.

More than 1,100 doctors, psychiatrists and healthcare professionals co-signed a letter in April to Home Affairs Minister Peter Dutton demanding the immediate release of people in Australia's immigration detention centres into community-supported accommodation. The letter written by Professor David Isaacs, clinical professor in paediatric infectious diseases, states that, 'failure to take action to release people seeking asylum and refugees from detention will not only put them at greater risk of infection and possibly death... It also risks placing a greater burden on wider Australian society and the health care system.'

The Refugee Council of Australia (RCOA) – along with people held in immigration detention – has also raised concerns about insufficient protections available inside detention centres to protect people from the virus, noting some detainees have compromised immune systems and chronic medical conditions, placing them at higher risk of serious infection.

Indeed, research has found that those detained in Australian immigration facilities for more than 24 months have particularly poor health. The average period of time people currently spend in detention is 513 days, with 23% of people having been detained for more than 730 days, or 2 years. In Senate Estimates in 2019, the government revealed that the average period of detention for stateless persons currently in a detention facility is 574 days.<sup>4</sup>

The Australian Human Rights Commissioner has also publicly called on the Australian Government to urgently remove people from immigration detention centres and place them in residential community detention locations where safe to do so.

Shortages of basic hygiene items including soap and hand sanitiser inside Australian detention facilities have been reported.

In March, a security guard at a Brisbane hotel being used as a place of detention for approximately 80 people tested positive for the virus, increasing fear amongst people held in detention facilities that they are very vulnerable to a potential COVID-19 outbreak.

## **2. Why are stateless persons in the Australian community potentially vulnerable to COVID-19?**

In addition to the 45 stateless persons held in immigration detention in Australia, we know that in Australia there are at least 107 stateless persons living in community detention and approximately 1,060 stateless persons living in the Australian community on temporary Bridging Visas.

RCOA has identified the heightened vulnerability of people living in the community on temporary visas, stating that, 'people seeking asylum who are living in the community without access to financial support and Medicare are some of those at greatest risk for the COVID-19 and also those that cannot adhere to public health requirements like self-isolation'.

RCOA is calling on the federal government to ensure all people seeking asylum can access

Medicare and financial support as a public health measure to protect them, and by connection, the broader Australian community in this pandemic.

### **3. Internationally, what are the risks for stateless persons?**

Medical and human rights experts are particularly fearful about the situation of the nearly one million stateless Rohingya people living in refugee camps in the Cox's Bazar district in Bangladesh. In early April, Bangladesh imposed a lockdown on the district, prohibiting entry and exit and only permitting emergency food supply and medical services to continue working in the camps. Crowded living conditions and lack of sanitation, including severely limited access to clean water, present serious challenges to preventing COVID-19 transmission in the event of an outbreak, which could have catastrophic consequences. There are currently no health facilities in the camps to manage positive cases.

Overcrowding, the impossibility of basic preventive measures and insufficient health infrastructure are complexities in refugee camps all over the world. For example, the Moria refugee camp in Lesbos, Greece, was built for 3,100 people and now hosts nearly 20,000 people; Medecins Sans Frontieres/Doctors Without Borders states that there is one water tap for every 1,300 people, no soap available and families of five or six share a space of no more than three square metres.

The Global Campaign for Equal Nationality Rights published a statement in April revealing that COVID-19 is magnifying the injustices of gender discriminatory nationality laws. Twenty-five countries deny women the right to pass nationality to their children on an equal basis as men, which can leave children stateless. Fifty countries deny women the right to confer nationality on a non-citizen spouse on an equal basis as men. As countries close their borders to non-citizens to contain the pandemic, family members who are currently living overseas, for example for work or study, risk being separated from their families, or not being able to return to their home country. Furthermore, non-citizen members of women's families may be denied access to social services, including healthcare.

### **4. What actions are international organisations recommending?**

#### **a. *Ensure universal access to healthcare***

On 31 March, the United Nations High Commissioner for Refugees (UNHCR) issued a joint statement with the Office of the High Commissioner for Human Rights, International Organization for Migration and the World Health Organization urging governments to ensure that all people – including refugees, migrants and stateless persons – are afforded healthcare in the face of this global challenge.

The Institute on Statelessness and Inclusion is urging states that impose restrictions on access to medical assistance based on citizenship or legal status to immediately lift them. They note that stateless persons will be particularly vulnerable to contracting and transmitting COVID-19 and may be denied treatment unless governments around the world address this issue as a matter of priority.

**b. Release refugees, migrants and stateless persons from immigration detention**

The joint statement by the UN agencies calls on governments to release people held in formal and informal places of detention without delay.

The United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment has issued advice recommending that authorities, ‘Review the use of immigration detention and closed refugee camps with a view to reducing their populations to the lowest possible level’.

As noted above, the Australian Human Rights Commissioner has also publicly called on the Australian Government to urgently remove people from immigration detention centres and place them in residential community detention locations where safe to do so.

There is already a range of alternative measures to keeping people in immigration detention centres readily available to the Australian Government.

These include community detention, which was introduced 15 years ago and allows a person to live in designated housing with ample room for self-isolation, while ensuring immigration authorities can maintain checks and balances on community safety.

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1. Convention Relating to the Status of Stateless Persons, opened for signature 28 September 1954, 360 UNTS 117 (entered into force 6 June 1960) art 1(1).
  2. UNHCR, ‘I Am Here, I Belong: The Urgent Need to End Childhood Statelessness’ (November 2015) <<https://www.unhcr.org/ibelong/the-urgent-need-to-end-childhood-statelessness/>>.
  3. The Australian Government reported 132 stateless people to the UNHCR in 2018: see UNHCR, Global Trends – Forced Displacement in 2018 (2019) 65 <<https://www.unhcr.org/statistics/unhcrstats/5d08d7ee7/unhcr-global-trends-2018.html>>. However, Australian government immigration statistics as available at April 2020 indicate at least 3,291 stateless persons in Australia (including in immigration detention). See Department of Home Affairs, Visa Statistics <<https://www.homeaffairs.gov.au/research-and-statistics/statistics/visa-statistics/live>>.
  4. As at 31 August 2019. See 2019-2020 Supplementary budget estimates, 21/10/2019, Question 167, (Senator Nick McKim) available at <[https://www.aph.gov.au/Parliamentary\\_Business/Senate\\_estimates/legcon/2019-20\\_Supplementary\\_Budget\\_Estimates](https://www.aph.gov.au/Parliamentary_Business/Senate_estimates/legcon/2019-20_Supplementary_Budget_Estimates)>.