



United Nations Statelessness Conventions: An Introduction

The Peter McMullin Centre has developed three factsheets that provide an overview of the two international treaties which specifically address the global issue of statelessness:

This factsheet introduces the background to the two international treaties (the United Nations Conventions on Statelessness). This factsheet should be read in conjunction with the following factsheets, also available on the [Resource Hub](#) on our website -

- *'The 1954 Convention relating to the Status of Stateless Persons'*; and
- *'The 1961 Convention on the Reduction of Statelessness'*.

a. Introduction to Statelessness

For a more detailed explanation of what statelessness is, see the Peter McMullin Centre on Statelessness factsheet: ['An Overview of Statelessness.'](#)

A person is considered stateless if they do not have a nationality of any country, meaning they are not recognised as belonging to any country.

The international legal definition of a stateless person is 'a person who is not considered as a national by any State under the operation of its law'.¹

Statelessness impacts millions of people in every continent in the world.

b. Introduction to the two United Nations Statelessness Conventions

The two United Nations ('UN') Statelessness Conventions were negotiated and agreed on by representatives of governments participating in a series of UN conferences convened for this purpose. The two Conventions set out the main international laws on statelessness.

The *1954 Convention relating to the Status of Stateless Persons* ('**the 1954 Convention**') defines who is a stateless person. A person who meets this definition is referred to as *de jure* stateless under international law. The 1954 Convention also establishes minimum standards for how *de jure* stateless persons should be treated.

The *1961 Convention on the Reduction of Statelessness* ('**the 1961 Convention**') sets out obligations on countries to prevent and reduce statelessness on their territory.

A person who has a nationality and is outside the territory of their country of nationality but is unable to seek the protection of that country is *de facto* stateless. As with people who are *de jure* stateless, people who are *de facto* stateless are unable to exercise the rights that flow from having a nationality. Refugees are therefore *de facto* stateless. The two UN Statelessness Conventions were intended to address the issue of *de jure* statelessness and not *de facto* statelessness.

c. When is a country legally bound by the UN Statelessness Conventions?

A country agrees to be legally bound by a treaty (also called a ‘**convention**’) when it ratifies or accedes to the treaty.

Ratification or accession is a process by which a state confirms its consent to be bound by the treaty.² Ratification is usually preceded by signing the treaty. Accession has the same legal effect as ratification and is when a state agrees to be bound by a treaty already negotiated and signed by other states. A state **succeeds** to a treaty when a ‘successor state’ (a state which replaces another state – for example, a newly independent state) expresses its consent to be bound by the treaty.³ States ratify, accede or succeed to the UN Conventions by depositing an instrument of ratification or accession, or notification of succession, with the Secretary-General of the UN.⁴

The instrument of ratification/accession can include **reservations**: this is a declaration made by a state that it wishes to exclude or alter the application of specific provisions of the treaty. Any state may make a reservation unless the reservation is prohibited by the treaty, or the reservation is incompatible with the object and purpose of the treaty.⁵ For example, article 38 of the 1954 Convention specifies that states may not make reservations to articles 1 (which sets out the definition of a stateless person), 3, 4, 16(1) and 33-42. On the other hand, article 17 of the 1961 Convention states that reservations may be made with respect to articles 11, 14 or 15 of that Convention, but no other reservations are permitted.

After ratification, the state becomes a **party to the treaty**.⁶ States which are party to a treaty which is in force are bound by it and must perform the treaty in good faith.⁷ States which are party to a particular treaty are referred to as ‘**contracting states**’.⁸

Ratification does not necessarily mean that the treaty has effect in domestic law. In some countries (for example, France), international law automatically becomes part of domestic law. In other countries (for example, Australia), the treaty is not automatically part of domestic law but must be incorporated through an executive, legislative or judicial procedure. This procedure is determined by each country’s domestic laws.

d. Is Australia bound by the UN Statelessness Conventions?

Yes. Australia is a party to the two UN Statelessness Conventions. Australia acceded to both Conventions in 1973 without reservations. This means Australia is bound to comply with the Conventions under international law. However, as described above, international treaties cannot be enforced under Australian law unless the Parliament of Australia has implemented them

through legislation. A number of core obligations under the UN Conventions have not yet been enacted in Australian law.

e. Why did the international community identify the need for a treaty on statelessness?⁹

The UN has recognised that ‘statelessness is a phenomenon as old as the concept of nationality.’¹⁰

The plight of stateless persons and refugees became a significant issue of concern to the international community in the aftermath of World War I. In the interwar period and aftermath of World War II, an unprecedented number of people were forced to leave their home country. In this context of mass forced displacement, changing borders and denationalisation, refugees and stateless persons were conceptualised as being victims of a shared plight: being without the protection of any government.

By the time the UN convened an Ad Hoc Committee on Statelessness and Related Problems in 1949, the majority of countries participating on the Committee agreed that the legal status of refugees and stateless persons were two distinct issues, and ultimately decided that the status of refugees was the more urgent issue. The treaty on statelessness therefore began its life as a draft protocol to the first draft of the convention on the status of refugees. Eventually, the Refugee Convention was adopted in 1951 and consideration of the draft protocol on stateless persons was deferred. Finally, a stand-alone Convention on the Status of Stateless Persons was adopted in 1954 at a United Nations Conference in New York. This was followed by the 1961 Convention.

f. Are there any other international laws which protect the right to nationality?

The UN Statelessness Conventions sit within a framework of international human rights laws. In addition to the two UN Statelessness Conventions, Australia is a party to a number of other international human rights treaties which impose binding obligations relevant to the right to a nationality, the protection of stateless persons and prevention of statelessness. These include -

- *The International Covenant on Civil and Political Rights* - Article 24(3) provides that every child has the right to acquire a nationality.¹¹
- *The International Convention on the Elimination of All Forms of Racial Discrimination* - Article 5(d)(iii) provides that States Parties undertake to prohibit and eliminate racial discrimination in all its forms and to guarantee equality before the law in the enjoyment of the right to nationality.¹²
- *The Convention on the Elimination of All Forms of Discrimination against Women* - Article 9 provides that parties shall grant women equal rights with men to acquire, change or retain their nationality and with respect to the nationality of their children.¹³
- *The Convention on the Rights of the Child* - Articles 7 and 8 provide that a child will have the right, from birth, to acquire and preserve their nationality.¹⁴
- *The Convention on the Rights of Persons with Disabilities* - Article 18 provides that persons with

disabilities have the right to acquire and change nationality and must not be deprived of their nationality arbitrarily or on the basis of disability.¹⁵

Suggested further reading:

Factsheet: The 1954 Convention relating to the Status of Stateless Persons, available on the [Peter McMullin Centre on Statelessness Resource Hub](#)

Factsheet: The 1961 Convention on the Reduction of Statelessness, available on the [Peter McMullin Centre on Statelessness Resource Hub](#)

Michelle Foster and Hélène Lambert, 'A Tale of Two Conventions' in Michelle Foster and Hélène Lambert (eds), *International Refugee Law and the Protection of Stateless Persons* (Oxford University Press, 2019) 15-49

[Australian Government Department of Foreign Affairs and Trade, 'Australia's Treaty-Making Process'](#)

[United Nations Treaty Collection Parties to the 1954 Convention \(as at 13th August 2020\)](#)

[United Nations Treaty Collection Parties to the 1961 Convention \(as at 13th August 2020\)](#) ❖

Last updated September 2020

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 ('1954 Convention').
2. Vienna Convention on the Law of Treaties, opened for signature 23 May 1969, 1155 UNTS 331 (entered into force 27 January 1980) art 2(b) ('Vienna Convention').
3. Vienna Convention on Succession of States in respect of Treaties, opened for signature 23 August 1978, 1946 UNTS 3 (entered into force 6 November 1996) art 2(d)-(g) ('Vienna Convention on Succession of States').
4. Vienna Convention art 16(b); 1954 Convention art 35; Convention on the Reduction of Statelessness, opened for signature 30 August 1961, 989 UNTS 175 (entered into force 13 December 1975) art 16.
5. Vienna Convention art 19.
6. *Ibid* art 2(g).
7. *Ibid* art 26.
8. *Ibid* art 2(f).
9. See Guy S Goodwin Gill, [Introductory Note: Convention Relating to the Status of Stateless Persons \(2017\)](#), United Nations Audiovisual Library of International Law; Michelle Foster and Hélène Lambert, 'A Tale of Two Conventions' in Michelle Foster and Hélène Lambert (eds), *International Refugee Law and the Protection of Stateless Persons* (Oxford University Press, 2019) 15-49.
10. [A Study of Statelessness, UN Docs E/1112/Add.1 \(August 1949\)](#)
11. International Covenant on Civil and Political Rights, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976).
12. International Convention on the Elimination of All Forms of Racial Discrimination, opened for signature 7 March 1966, 600 UNTS 195 (entered into force 4 January 1969).
13. Convention on the Elimination of All Forms of Discrimination against Women, opened for signature 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981).
14. Convention on the Rights of the Child, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990).
15. Convention on the Rights of Persons with Disabilities, opened for signature 30 March 2007, 2515 UNTS 3 (entered into force 3 May 2008).