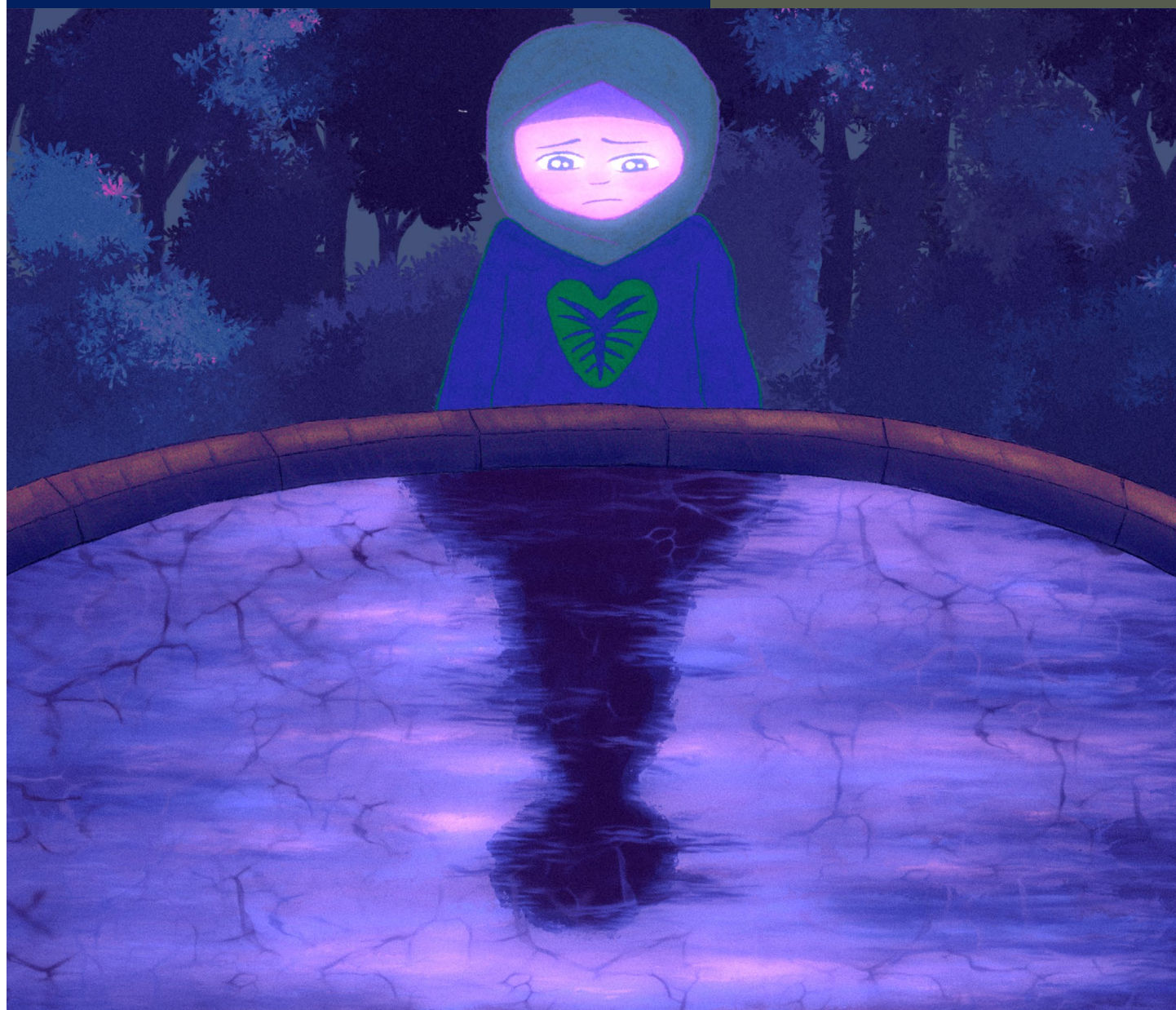


Understanding Statelessness in Australia

A study on statelessness
in Australia

Michelle Foster, Katie Robertson
and Amelia Walters

Peter
McMullin
Centre on
Statelessness



About the Peter McMullin Centre on Statelessness

The Peter McMullin Centre on Statelessness (PMCS) is an expert centre at the University of Melbourne's Law School that undertakes research, teaching and engagement activities aimed at reducing statelessness and protecting the rights of stateless people in Australia, the Asia Pacific region, and as appropriate more broadly.

PMCS is home to the Australian Stateless Legal Clinic (SLC), a unique service that partners with the community legal sector and Australian legal industry to provide legal education and support to stateless children and adults in Australia, offering Melbourne Law School students the opportunity to gain legal work experience.

PMCS acknowledges Aboriginal and Torres Strait Islander people as the Traditional Owners of the unceded lands on which we work, learn and live.¹ PMCS pays respect to Elders past, present and future and acknowledges the importance of Indigenous knowledge in the Academy at Melbourne Law School and the University of Melbourne.

PMCS acknowledges the Australian stateless community's lived expertise on issues discussed throughout this report which directly informs our recommendations.

Cover artwork: 'My Shadow' by Asma, formerly stateless artist, 2026.

'My Shadow' is a representation of a woman without a state, her identity rejected and isolated by the world around her. This rejection warps her self-perception, causing her shadow to take on a life of its own, radiating a vibrancy that eclipses her physical form.

Photo credits: All images are courtesy of Katie Robertson unless otherwise noted.

Contents

Acknowledgements	5	Chapter 4:	
Executive summary	6	The protection gap for	
Chapter 1:		stateless people in Australia	33
Introduction and methodology	9	4.1 Statelessness is not well understood,	
1.1 Methodology	10	acknowledged or visible in Australia	33
1.1.1 Statistical research	11	4.1.1 Statelessness is defined and understood	
1.1.2 Doctrinal research	12	in different ways by different stakeholders,	
1.1.3 Empirical research and thematic analysis	12	particularly in the absence of a statutory	
Chapter 2:		definition of statelessness	33
Legal framework	17	4.1.2 There is a lack of data about statelessness	
2.1 International framework for addressing statelessness	17	(often resulting in services approximating	
2.2 Domestic legal framework for addressing		or attempting to triangulate statistics from	
statelessness in Australia	17	unverified sources)	34
2.2.1 Legal framework for nationality	17	4.1.3 Statelessness is not well understood within	
2.2.2 Visa status of stateless people	18	government agencies and relevant service providers	35
2.2.3 Immigration policy context	18	4.1.4 Stateless people are not visible in policy	
2.2.4 Viewing citizenship through the lens of		and programs	36
migration rather than as a tool of inclusive		4.2 Stateless people experience multiple, complex	
‘nation building’	19	and interrelated legal issues	37
Chapter 3:		4.2.1 Stateless peoples’ legal journeys through	
Profiles of stateless people in Australia	21	Australian courts and tribunals is complex	38
3.1 Introduction	21	4.2.2 ‘Proving’ statelessness in the absence of a	
3.2 Current available information about stateless		statutory framework is challenging	38
people in Australia	22	4.2.3 A ‘relentless’ reassessment of a stateless	
3.2.1 Number of stateless people in Australia	22	person’s identity with real and detrimental impacts	41
3.2.2 Number of stateless people currently in		4.2.4 Consequences of findings about statelessness	43
Australia on a visa	24	4.2.5 Access to justice issues and barriers to	
3.2.3 Profile of stateless people in Australia	25	legal assistance	43
3.2.4 Stateless children and young people	27	4.2.6 The Migration Act as a ‘further tool of family	
3.2.5 Stateless people in detention including		violence.’ The system places stateless victims of	
stateless children	27	family violence at increased risk of harm	43
3.2.6 Stateless people who have obtained		4.2.7 Lengthy delays in processing applications	
Australian citizenship	29	for visas and citizenship with no mandated	
		timeframes or updates provided to applicants	44

4.3 The predicament of stateless people in Australia varies, but is often shaped by the type of visa a person is placed on 45

4.3.1 The experience of statelessness in Australia is heavily influenced by visa category and the entitlements (or lack thereof) that accompany them 45

4.3.2 Statelessness is a secondary consideration after refugee protection 47

4.3.3 Stateless people on bridging visas and ‘transitory persons’ face particular legal uncertainty that impacts multiple aspects of a person’s life 48

4.3.4 Different members within the same stateless family and/or community are subjected to different visas and conditions 49

4.3.5 Stateless people are disproportionately impacted by visa cancellations and refusals 49

4.3.6 Stateless people face a disproportionate risk of being detained for lengthy periods 50

**Chapter 5:
Living stateless in Australia** 52

5.1 Parallels in the lived experience of statelessness prior to Australia 54

5.1.1 Freedom of movement 54

5.1.2 Access to education 55

5.1.3 Access to healthcare and disability support 57

5.1.4 Access to employment and the dignity of work 57

5.1.5 Exclusion from belonging 58

5.1.6 Access to housing 59

5.2 A feeling of “stuck-ness:” Lost time and lost lives 59

5.2.1 Family separation and impact on family life 61

5.3 Mental health impacts of trauma and long-term uncertainty, including on young people 62

5.4 Statelessness as intrinsically linked to concepts of ‘belonging’ 65

5.5 Complex and varied relationships with the term ‘stateless’ 66

5.6 ‘After the honeymoon’: Citizenship is not the complete answer to statelessness but holds significant weight and meaning for stateless people 67

**Chapter 6:
Conclusion** 69

**Annex 1:
List of terminology and abbreviations** 72

Terminology 72

Abbreviations 73

**Annex 2:
Stakeholder interview participants** 74

**Annex 3:
Extract of behavioural code of conduct for community detention** 75

**Appendix:
Stories of statelessness in Australia** 78

Yasmin* 79

Amira* 81

Nasir* 83

Nur* 85

Fadi 86

Asma 89

Kareem* 92

Amir 94

Hassan* 97

Endnotes 99

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Artwork Title: "Fecire 1: The photos of Xece and Gulo of Dersim — My Grandmothers" by Ufuk (Seramiken Dersim), formerly stateless artist and activist. Collage – ceramics and photography.

Artist note:

"Rare photographs of them still exist. In those images, they stand on their land. A land to which they belonged — long before the state claimed it. Long before borders renamed it. Long before displacement scattered their descendants across distances measured not only in kilometres, but in memory. They were in my mind when I created this vessel. The ceramic piece, titled Fecire, holds a fragment of an amulet left to me. One small remnant of what survived seizure, exile, and silence. It is both container and witness.

A form and glaze shaped by memory, absence, and inheritance. The vessel stands upon the photograph of two displaced grandmothers and their grandchild, far from their homeland — in a place with no ancestral connection. The image and the object speak to one another across time. One captures what was taken. The other holds what remains.

The piece stands on their photograph and belonging, as memory stands on history."

Executive summary

“I don’t have a country. I am trying to find a country to belong to.”

— Hassan*

To be stateless means that no country in the world recognises your right to legally belong. Millions of people are stateless globally, leaving them vulnerable to discrimination and exclusion. Without nationality many stateless people struggle to access basic human rights such as access to education and healthcare. Despite the fact that stateless people have for decades sought protection in Australia—in some years in considerable numbers—they are for the most part not officially ‘counted’ or recognised by government agencies. Not only does this suggest a protection gap for stateless people in Australia, but it presents a serious challenge to robust, transparent and principled public administration.

This Report documents the findings and recommendations of the first comprehensive study of statelessness in Australia. It rests on the hypothesis that the failure officially to account for stateless people does not obviate the need to acknowledge, assess and otherwise respond to their arrival and/or presence and that it is both necessary and possible to develop a coherent framework to address statelessness in Australia. Understanding the nature and scope of the challenge in Australia is a crucial first step towards developing such coherence.

Our comprehensive approach, involving analysis of hundreds of tribunal and court decisions, and 94 interviews with a range of stakeholders including with lawyers, health workers, policy experts, community workers, the UNHCR Multi-Country Office Canberra officers, government department officers and people with lived experience of statelessness, represents one of the most comprehensive studies of statelessness globally. It thus provides a rich source of insight into and understanding of statelessness in Australia and ensures that our findings and recommendations are robust, considered and defensible.

Overview of key findings identified:

The following key findings were identified through a thematic analysis of the data. A complete summary of all findings identified in this Report can be found in the Conclusion.

1. There are numerous stateless people in Australia, however statelessness is not well understood, acknowledged or visible. Better systems are required to adequately identify stateless people and understand and respond to their protection needs.
2. The experience of stateless people in Australia is not homogenous: Stateless people’s experience is significantly shaped by their visa category.
3. Stateless people experience multiple, complex and interrelated legal issues.
4. Stateless people are not adequately protected in Australia.
5. Statelessness has a profound and detrimental impact on people’s lives.
6. Many stateless people experience systemic exclusion in Australia.
7. Australia is failing to successfully facilitate resettlement for stateless people.
8. Australia’s inadequate protection framework for stateless people is dysfunctional and places an undue burden on support services.
9. Australia’s legal framework for protecting and assessing stateless people is inadequate, fragmented and reactive. It requires immediate reform.
10. Adequate and accessible naturalisation processes for stateless people are essential for meaningfully addressing the protection gap that exists in Australia.

All names marked with an asterisk () indicate a pseudonym.

Key recommendations

1. Australia should adopt a Statelessness Determination Procedure (SDP) to transparently, fairly and correctly identify stateless people

Australia should adopt a procedure within its legislative framework to identify and protect stateless people that is consistent with international best practice. A Statelessness Determination Procedure (SDP) would provide a formal mechanism for better identifying who is stateless, thereby ensuring stateless people in Australia have access to adequate protection, support services, documentation and rights and entitlements.

The SDP should be fair, effective and accessible to all people in Australia, regardless of their legal status or the mode or date of their arrival in Australia and should include funded access to interpreting services and legal support. It should comply with international standards of due process and follow the procedural safeguards outlined in UNHCR's Handbook on Protection of Stateless Persons.

An SDP should be adopted in conjunction with a permanent pathway to naturalisation (Recommendation 2).

2. Australia should adopt a permanent visa category or naturalisation pathway for stateless people that includes a clear and accessible pathway to citizenship within a reasonable timeframe

A specific visa category or naturalisation pathway should be established for all recognised stateless people, irrespective of their mode of arrival to Australia, providing for permanent protection with a pathway to citizenship within a reasonable and mandated timeframe.

3. Australia must adopt measures to address statelessness that are informed by impacted communities, experts in the field and members of professional services working closely with impacted communities

Measures introduced to address and respond to statelessness identified in this Report must be informed by stateless people in Australia in recognition of their status as experts. Measures should further be informed by professional experts in the field including members of professional services (such as those interviewed as part of this research) working closely with impacted communities.

4. The Australian government should refine data collection to more accurately identify stateless people in Australia, particularly those in immigration detention and immigration categories

Evidence demonstrates inconsistent and unreliable collection of data on stateless people within Australia's immigration system, including in immigration detention. The Australian government should refine data collection, informed by best practice and informed understandings of statelessness to identify stateless people in Australia. This process will be supported by the introduction of an SDP.

5. Citizenship procedures for stateless people in Australia should be simplified and streamlined including mandated timeframes for processing

The process for applying for Australian citizenship for stateless people in Australia—regardless of whether they were born onshore or offshore—is overly complex and administratively burdensome. Without mandated timeframes for processing, many are waiting years for a determination of their application. Measures should be adopted to make the process more accessible to stateless people, application fees for stateless people should be abolished (or at a minimum, means-tested) and transparent, reasonable timeframes for processing applications should be introduced. Culturally appropriate training and resources should be developed to support stateless people throughout the application process (including materials to support stateless people to prepare for the citizenship test) and government funding provided for free legal support to assist stateless people throughout the process.

6. The mandatory immigration detention of stateless people (including children) should be abolished, and mandated maximum timeframes introduced

Evidence indicates that despite relatively recent developments in the law rendering indefinite detention in Australia unlawful, stateless people continue to experience disproportionate and overly lengthy periods of detention. The Australian government should end the mandatory detention of stateless people and utilise alternatives to detention that are humane and comply with international law to protect against arbitrary detention in all circumstances.

Legislated maximum timeframes and an independent review mechanism for immigration detention (including alternatives to detention) should be introduced, in compliance with international law.

7. The removal of stateless people within Australian territory to Regional Processing Centres, including the Republic of Nauru, should be discontinued

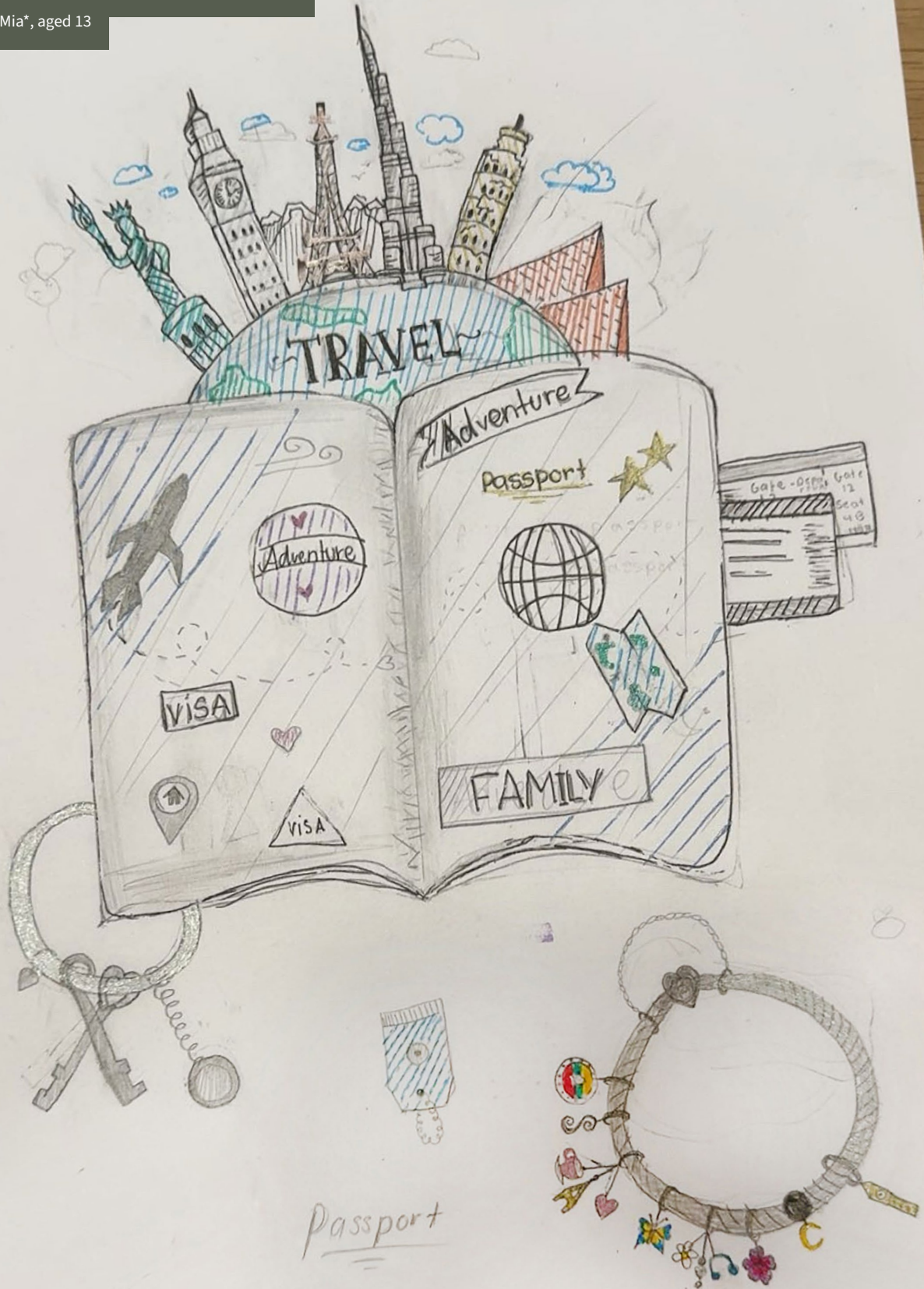
Stateless people should be assessed under an SDP (Recommendation 1) and provided with a permanent visa and pathway to naturalisation in Australia regardless of their mode of arrival in Australia (Recommendation 2). They should not be removed to Regional Processing Countries including the Republic of Nauru, noting that Nauru is not signatory to either of the Statelessness Conventions and that the practice of removing people to Regional Processing Countries is unlawful under international law.

8. The Australian government should protect everybody's right to a nationality

The Australian government must ensure that national laws comply with international obligations prohibiting the arbitrary deprivation of nationality and discrimination, while ensuring the avoidance of statelessness.

'I dream of adventure and travel'

— Drawing by Mia*, aged 13



Chapter 1: Introduction and methodology

“Being stateless is like not belonging, not having somewhere to reside completely — not having that right. A feeling of limbo, the feeling of hanging in the air.”

— Amir

Although it is not a new phenomenon, statelessness has received unprecedented global attention in recent years, as the serious human rights implications for individuals without nationality have been increasingly acknowledged by the international community. The causes of statelessness are many and varied, including discrimination, persecution, state succession, and gaps in citizenship laws, but at its core, statelessness involves what German philosopher Hannah Arendt famously described as the denial of a person’s ‘right to have rights’². Denial or deprivation of nationality can have widespread, often intergenerational implications for an individual’s ability to live a dignified life. Despite recognition by the United Nations High Commissioner for Refugees (UNHCR) and many state and non-state actors of the imperative to reduce statelessness, the number of affected people—conservatively estimated at 4 million people globally—continues to rise.

Australia has received stateless people since at least the Second World War and is home to thousands of stateless people today. Australia has signalled a strong commitment to reducing statelessness and protecting stateless people by ratifying both of the key international treaties on this issue; the *1954 Convention relating to the Status of Stateless Persons* (**1954 Convention**) and the *1961 Convention on the Reduction of Statelessness* (**1961 Convention**).³ Indeed, Australia was one of the first states to ratify the 1961 Convention and implemented one of its key articles into Australian domestic law.⁴ Furthermore, in 2011 Australia pledged to ‘better identify stateless persons and assess their claims’,⁵ and in 2023 reaffirmed its commitment to addressing statelessness and protecting stateless people at the UNHCR Global Refugee Forum.⁶

Yet, notwithstanding these commitments, there is little debate, knowledge or public awareness of statelessness in Australia. Despite the fact that stateless people have for decades sought protection in Australia—in some years in considerable numbers—they are for the most part not officially ‘counted’ or recognised by government agencies. Not only does this suggest a protection gap for stateless people, but it presents a serious challenge to robust, transparent and principled public administration. Decision makers lack a clear framework for determining firstly whether a person is stateless, and secondly what institutional responses should flow to the individual from such a finding.

This Project, the first comprehensive study of statelessness in Australia, responds to this lacuna in knowledge and understanding. It rests on the hypothesis that the failure to officially account for stateless people does not obviate the need to acknowledge, assess and otherwise respond to their arrival and/or presence and that it is both necessary and possible to develop a coherent framework to address statelessness in Australia. Understanding the nature and scope of the challenge in Australia is a crucial first step towards developing such coherence.

1.1 Methodology

The international legal definition of statelessness is found in the 1954 Convention, which provides that a stateless person is a “person who is not considered as a national by any State under the operation of its law.” This definition informs the scope of this research study. While this Project is accordingly focused on *de jure* statelessness, we acknowledge the documented difficulties and limitations that arise in the application of the international definition.⁷ Furthermore, as our research in this study indicates, experiences of statelessness are diverse and complex. Not all people living in Australia who identify as stateless may meet the international legal definition. Bureaucratic labels governing who is and who is not considered ‘stateless’ can be fraught, and indeed harmful to those who may identify as stateless outside the scope of the legal definition. Equally, those who meet the international legal definition may reject it as an inaccurate representation of their identity and connection to community and sense of identity.⁸ While limiting the scope of our research in this instance to the international legal definition, we acknowledge the complexity and nuance of the lived experience of statelessness and the concept more broadly.

The research undertaken for this study consisted of three components:

- 1** **Statistical analysis**
of the available numerical data on stateless people in Australia.
- 2** **Desk-based doctrinal analysis**
- 3** **Interviews**
with key informants from relevant government, judicial and non-governmental entities (‘stakeholders’) and interviews with a sample of affected individuals in Australia (‘stateless participants’).

A stateless person is a “person who is not considered as a national by any State under the operation of its law.”

This comprehensive approach was adopted not to identify the precise number of stateless people in Australia but to uncover and highlight current practices, challenges and gaps regarding the legal and institutional protection framework for stateless people in Australia. We sought to understand how service providers, agencies and decision makers respond to the predicament of stateless people in the absence of a legislative framework and to understand the experiences of stateless people who navigate a system not explicitly designed to respond to their protection needs.

Our comprehensive approach, involving analysis of hundreds of tribunal and court decisions, and 94 interviews with a range of stakeholders including with lawyers, health workers, policy experts, community workers, the UNHCR Multi-Country Office Canberra officers, government department officers and people with lived experience of statelessness⁹ represents one of the most comprehensive studies of statelessness globally. It thus provides a rich source of insight and understanding of statelessness in Australia and ensures that our findings and recommendations are robust, considered and defensible.

1.1.1 Statistical research

The statistical research involved an extensive review of Australian government databases to extract, sort and analyse statistics reported on stateless people in Australia. This is the first project to review and unify statelessness statistics in Australia from all government databases.

Data sources

By reviewing Australian government databases to ascertain which of them include the data variable 'stateless', we identified the following primary data sources:

- Administrative Appeals Tribunal Caseload Report
- Immigration Detention and Community Statistics Summary (monthly update)
- Senate Estimates
- 'UMA Legacy Caseload' Reports on Processing Status and Outcomes
- Onshore processing statistics: Department of Home Affairs
- UNHCR statistics
- Humanitarian Program Statistics reported on the website of the Department of Home Affairs
- Temporary entrant statistics reported on the website of the Department of Home Affairs

Secondary data source includes:

- Freedom of Information Request(s) to the Department of Home Affairs
- Statistics reported by the Refugee Council of Australia (collated from government statistics and Senate Estimates Hearings)
- Access to past reports of the Administrative Appeals Tribunal
- Questions and responses from officials at the Citizenship Policy and Legislation Branch, Department of Home Affairs
- Department of Immigration and Multicultural and Indigenous Affairs Annual Report
- Humanitarian Program Statistics on the website of the Department of Home Affairs
- Settlement Reports
- Yearbook Australia

The research also reviewed national census data, and state and local and non-government databases. However, no statelessness statistics were reported in these sources.

Data extraction

Having reviewed Australian government databases to ascertain which include the data variable 'stateless', we recorded, in spreadsheets, the names of databases, how 'stateless' is defined in the data dictionary, and how data is extracted from this database. Then we extracted 'stateless' data from databases and, when possible, disaggregated data by variables of interest. During the process, when the data was not publicly available but known to exist, or any clarification needed, we sent requests to the relevant source or applied for access to data under relevant Freedom of Information legislation or guidelines.

Data presentation and visualization

Following data extraction, we performed descriptive analysis to summarize the key characteristics of the information and provided an overview of stateless people in Australia. Visualizations include tables, columns and stacked column charts, bar charts, line graphs, area charts and choropleth map. All visualizations were created in the program Datawrapper.

1.1.2 Doctrinal research

The doctrinal component of the project sought to systematically examine how applications for protection brought by stateless people are assessed across a range of administrative contexts and at all levels of Australia's immigration and judicial system over the course of a decade, including applications for protection visas, visa cancellations on identity or other grounds, and applications for citizenship.

A case law review of almost 800 decisions from tribunals (primarily the Administrative Review Tribunal in its various iterations over this period)¹⁰ and federal courts, primarily the Federal Circuit and Family Court of Australia (**Federal Circuit Court**) and Federal Court of Australia (**Federal Court**) over a ten-year period from 2011–2022 sought to examine how decision makers engage with claims made by stateless people and develop an understanding of:

- the contexts in which statelessness is relevant to an administrative decision;
- the methods used to make a finding about a person's statelessness status;
- the evidentiary standards and decision-making methods adopted, and;
- the relevance, or consequences, of decision makers' findings in relation to the statelessness status.

Decisions and cases were included if they concerned applicants who were stateless, were at risk of statelessness or had made a claim to be stateless. Given significant legislative changes since the review period, key cases from later years were also incorporated in the doctrinal analysis.

A person's nationality status or risk of statelessness may impact their case, either:

- a. directly, in the case of assessments for protection, visa cancellations on the basis of contravening section 101(b) of the *Migration Act 1958* (Cth) (**Migration Act**)¹¹ and citizenship applications under section 21 (8) of the *Australian Citizenship Act 2007* (Cth) (**Citizenship Act**)¹²; or
- b. indirectly, in the case of visa cancellations generally or adult citizenship applications.

Statelessness is directly relevant to decision-making when it is central to assessments for refugee or complementary protection or citizenship applications under s 21(8) of the Citizenship Act. It may also be a direct consideration in the weighing of factors as to whether there is a compelling reason to overturn a visa cancellation decision because of the potential for indefinite detention (before the High Court's decision in *NZYQ v Minister for Immigration, Citizenship and Multicultural Affairs & Anor* [2023] HCA 32 (*NZYQ*) (discussed in section 2.2.2 of this Report) or when the reason for a purported contravention of s 101(b) of the Migration Act (providing false information) is that the visa holder claimed to be stateless.

Alternatively, statelessness may indirectly affect administrative decisions when stateless people are unable to access documents to prove their identity, which often prevents them from being granted Australian citizenship.

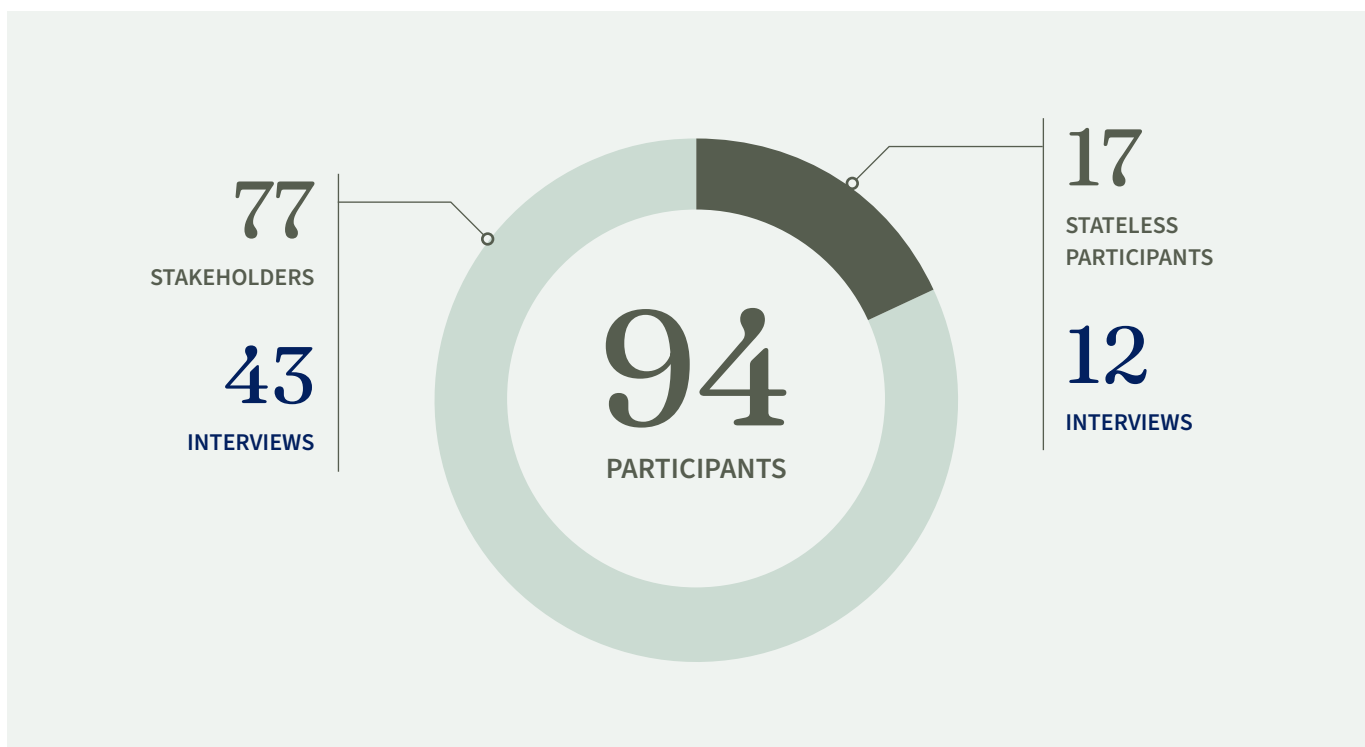
Stateless people navigating the legal system, as well as judges and tribunal members, must also respond to a consistently shifting legislative and policy landscape. During the review period, where courts have tempered the harsh impact of legislation—particularly on stateless people enduring indefinite detention—further legislative change has undermined protections and compromised rights of stateless people guaranteed by the Statelessness Conventions.

1.1.3 Empirical research and thematic analysis

Our qualitative research involved interviews with two key groups: stakeholders and stateless participants and was conducted pursuant to research ethics approval at the University of Melbourne¹³. The stakeholder interviews involved individuals who work with stateless people in Australia and/or on policy relevant to stateless people, and whose perspectives thereby offered insight into current practices, challenges and gaps regarding the legal and institutional protection framework. These participants were informed about the Project initially through contacting organisations with which the project team had an existing relationship, including members of the Stateless Children Australia Network. Once stakeholders were identified, we then invoked the 'snowball method' whereby each participant was invited to offer recommendations as to other suitable participants.

The second element of our qualitative research comprised interviews with stateless participants, which was critical to grounding the research in the lived experiences and concerns of the people who the protection frameworks are meant to serve. However, given that the lack of research and general absence of information on stateless individuals in Australia means that they are a somewhat 'hidden' population, this research was necessarily exploratory in nature. From the limited available information, we knew of the existence of certain groups in Australia with a higher prevalence of statelessness, including Rohingya, Palestinians, Bidoon from the Gulf States and Feyli Kurds. The Project therefore relied largely on access through intermediaries (including the 'stakeholders' identified earlier) and snowballing techniques to identify research participants.

While all interviews with stakeholders were conducted in English, interpreters were sometimes engaged to assist in interviews with stateless people for whom English is not their first language. This was to ensure that non-English-speaking participants provided informed consent for participation in the Project. We were careful to ensure that each participant fully understood the topic of the research and consent process. Interpreters were provided by a nationally accredited and independent interpreter service.



Ultimately, we interviewed a total of 94 participants: twelve interviews with seventeen stateless participants and forty-three interviews with seventy-seven stakeholders, at least five of whom have lived experience of statelessness. As this indicates, interviews were mostly conducted individually but, in some cases, in a group setting. In addition to the stateless populations discussed in this Report, stakeholders also spoke of working with other groups who identified as stateless, including people from Sri Lanka and South Sudan. Of note, some of the interviewees who agreed to participate as ‘stakeholders’ revealed during the interview that they had their own experience of statelessness, thereby adding a layer of depth to their insights. Those with lived experience represented in this project include people with Rohingya, Palestinian, Kurdish, Syrian/Lebanese, Tibetan and Ethiopian/Eritrean background. They included people within a wide range of age brackets, between ages 18 to 65 years old. Stateless participants had all migrated to Australia through either the onshore or offshore humanitarian program, or the skilled migration program, and most remained on a temporary or permanent visa, with few granted Australian citizenships at the time the interviews occurred (December 2023 – August 2024). Some stateless people interviewed for this Report have since been granted permanency and/or citizenship, but not all. Quotes from these interviews used in this Report, and the ‘Stories of Statelessness’ included in the Appendix to this Report reflect the stateless person’s status at the time of the interview.

The stakeholder sectors represented in this Project included legal, health, mental health, torture and trauma services, state government, policy/advocacy/research NGOs, community organisations, community and social service providers, and the Commonwealth Department of Home Affairs. Interviews were conducted in Victoria, New South Wales, the Australian Capital Territory, Queensland, South Australia and Western Australia in person or via zoom. In some cases, the project team provided a brief introductory presentation to members of an organisation (on request) given the lack of knowledge and understanding of statelessness. This enabled individual participants to understand the project in more depth before agreeing to participate. Exploratory scoping of relevant organisations and individuals in Tasmania and the Northern Territory was conducted at the outset of this Project to ascertain research participants, however researchers were either advised by peak stakeholder organisations in these states and territories that stateless people were not present and/or the snowball method revealed no suitable participants present and/or willing to be interviewed.

The qualitative empirical research involved semi-structured interviews, a format that enabled us to capture the views and attitudes of key informants. We relied on an interview template prepared in advance; however, we adopted a flexible approach that permitted the interview to be guided by the participants. In addition to the interviews, in limited cases, we received a written response to a list of questions with permission to rely on the written response.

All interviews were recorded, then transcribed by an accredited transcription service, and all quotes in this report were approved for use in this Report either at the time of the interview, or, where requested, were sent at a later date to the participant for cross-checking and verification. All quotes from stateless people used in this Report were cross-checked in person to ensure the participant was comfortable with the content of the quote and its public use. Interpreters were used for this cross-checking process where required or requested. Some interviewees preferred to remain anonymous and use a pseudonym. They either chose their own pseudonym or asked the project team to assign them one. An asterisk has been used to indicate where a person has elected to use a pseudonym.

Transcripts of the interviews with stateless participants were used to draft first person 'stories' of that person's experience of living stateless, which were then closely checked and reviewed by participants in a further one on one meeting (or meetings) with the research team, using interpreters where required or requested. The aim of these stories was to provide a platform for stateless participants to tell their story, in their own words. These stories can be found in the Appendix to this Report.

Coding and initial analysis

The research team used the NVivo database to organise data, codes, and other memos/notes. Initial and line-by-line coding was undertaken in NVivo for 17 interviews with stateless people and 77 interviews with other stakeholders. Coding and developing themes was a manual process undertaken by the researchers.

The purpose of the initial coding stage was to become familiar with the data set and identify items of potential relevance to the research. This involved reading through each data item individually, noting items of interest, and aiming to be as inclusive as possible. Line-by-line coding then involved reviewing the data line by line, digging deeper, refining codes and assigning additional codes to each line. Coding was an iterative process with researchers moving between the different interviews (the data set) to ensure that the codes have been applied consistently.

Thematic analysis

Themes were generated following a thematic analysis approach and generated from the NVivo codes using static sets.

Themes were then defined according to their central organising concept, boundaries and contribution to the overall analysis in order to determine their uniqueness, to avoid overlap of codes and ensure data saturation. As such the thematic analysis shown in Figure 1: Thematic Analysis Map reflects deep engagement with a rich data set.

Drawing on the comprehensive statistical, doctrinal and qualitative research undertaken for this study we identified a very large number of themes that consistently emerged from an analysis of the various sources of data. The Thematic Analysis Map depicts the multiplicity of observations and insights that we divined from the qualitative research and case law analysis.

In order to test our findings and themes, particularly in relation to our doctrinal research and analysis of gaps in Australia's legal framework, the project team hosted a one-day workshop at Melbourne Law School in November 2025. Workshop participants were legal experts from Victoria, New South Wales, Queensland, Western Australia and the Northern Territory. Experts from Tasmania and the Australian Capital Territory were also invited but were unable to attend.

Further analysis was then undertaken to refine the multifaceted and numerous findings depicted in Figure 1 into core thematic areas which informed our recommendations. Before outlining the Project's key findings, we first outline the legal framework- international and domestic- which governs the prevention of statelessness and protection of stateless people.

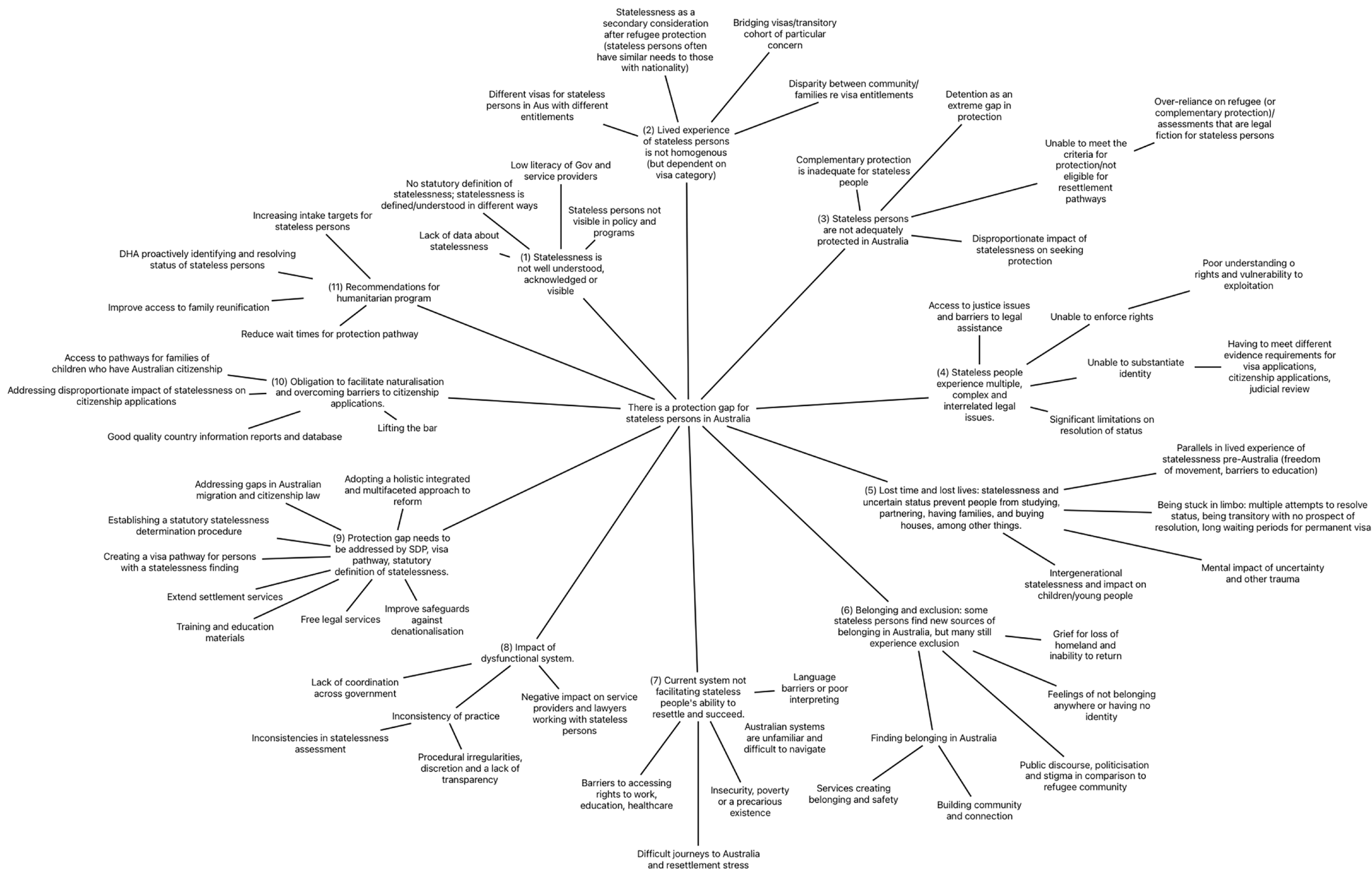


Figure 1: Thematic Analysis Map

'Our dream family home'

— Drawing by Sam*, aged 11



Chapter 2:

Legal framework

2.1 International framework for addressing statelessness

As outlined above, the 1954 Convention and the 1961 Convention are the two key international instruments that address the issue of statelessness. The 1954 Convention defines statelessness and establishes a protection framework for stateless individuals. A stateless person is defined in Article 1(1) of the 1954 Convention as “a person who is not considered as a national by any State under the operation of its law.” This definition has been held to be part of customary international law by the International Law Commission.¹⁴ Persons who meet the Article 1(1) definition are entitled to the protections guaranteed under the 1954 Convention which include the obligation on contracting States to facilitate naturalisation for stateless people lawfully within the territory.

While the 1954 Convention protects stateless people, the 1961 Convention’s objective is the reduction of statelessness by requiring states to establish safeguards aimed at reducing and preventing statelessness. As stated above, Australia ratified both the 1954 Convention and the 1961 Convention in 1973 without reservation.

Australia is also party to several international treaties that ensure the right to nationality and protect the rights of stateless people. These include:

- a. The International Covenant on Civil and Political Rights (**ICCPR**)¹⁵: *Article 24(3) provides that every child has the right to acquire a nationality.*
- b. The International Convention on the Elimination of All Forms of Racial Discrimination (**ICERD**)¹⁶: *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.*
- c. The Elimination of All Forms of Discrimination against Women (**CEDAW**)¹⁷: *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.*
- d. The Convention on the Rights of the Child (**CRC**)¹⁸: *Articles 7 and 8 provide that a child will have the right, from birth, to acquire and preserve their nationality.*
- e. The Convention on the Rights of Persons with Disabilities (**CRPD**)¹⁹: *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.*

The UNHCR has the mandate to identify and protect stateless people and to prevent and reduce statelessness. Through its #IBelong Campaign from 2014–2024 the UNHCR sought to raise awareness and mobilise international action on addressing statelessness. A new initiative, the Global Alliance to End Statelessness, was launched in 2024 to continue this important work.

2.2 Domestic legal framework for addressing statelessness in Australia

2.2.1 Legal framework for nationality

Citizenship is not defined under the Australian Constitution nor does Australia have a National Bill of Rights.²⁰ The Citizenship Act provides the legal framework for nationality in Australia. Under this legislation, citizenship can be obtained by automatic acquisition,²¹ or by application.²²

Automatic acquisition of citizenship for people born in Australia is limited to certain criteria stipulated in Section 12(1) of the Citizenship Act:

- a. a parent of the person is an Australian citizen, or a permanent resident, at the time the person was born; or
- b. the person is ordinarily resident in Australia throughout the period of 10 years beginning on the day the person is born.

Australia has no formal statelessness determination procedure and there is no legislative definition of ‘statelessness’ under Australian law. However, statelessness assessment processes are relevant in key areas of Australian law. In the citizenship context the most significant is in relation to section 21(8) of the Citizenship Act, which provides that a person born in Australia who is not, has never been, and is not entitled to acquire citizenship or nationality of a foreign country, is eligible for Australian citizenship. The intention of the Australian Parliament in including s 21(8) was to ensure Australia’s obligations under the 1961 Convention were met by ensuring that no-one born in Australia remains stateless.²³

However, the legislative framework does not account for stateless people who were not born in Australia, or who previously possessed citizenship from any country which has been revoked or otherwise lost. Furthermore, even when a person has a strong *prima facie* entitlement to Australian citizenship under s 21(8), they are likely to experience significant delays and administrative barriers throughout the application process.²⁴ This is because there are no mandated timeframes for the acquisition of citizenship even when all criteria are met, and the final determination is based on the discretion of the Minister for Immigration and Citizenship (**the Minister**).²⁵

The Department of Home Affairs (**DHA**) has internal guidelines providing guidance and policy instructions aligned with the relevant provisions outlined in the *Citizenship Act 2007*, designed to support citizenship processing officers and decision makers. The ‘Citizenship Processing Instructions’ (**CPI**) outline three pillars (biometrics, documents, life story) that guide the identity assessment. These pillars are not to be addressed in isolation but are intended to allow for a comprehensive evaluation of the applicant’s claims about their identity. CPI 16 provides an overview of what it means to reach a state of satisfaction as to a person’s identity, grounded in an exercise

of informed judgment, which has been subsequently expanded upon through Tribunal decisions. While the general citizenship policy is strict in requiring documentary evidence for citizenship applications, it does note that statelessness can significantly impact upon a person's ability to provide documents attesting to their identity. Consequently, CPI 16 directs:

“There may be cases where one pillar may be given more weight than the others. For example, cases where the applicant claims they are stateless and therefore undocumented. In such cases, the available pillar (for example, life story) may become more significant when assessing the person's identity.”²⁶

Our review of almost 800 cases concerning stateless people however (discussed in 4.2.2 below) shows that there are very few instances where a consistent and credible life story has been able to overcome a stateless person's lack of documentation.

2.2.2 Visa status of stateless people

Australia's legal framework for migration is primarily governed by the Migration Act, which regulates the entry, detention, and removal of non-citizens. While it contains provisions for refugee protection, the Act does not provide a dedicated mechanism for identifying or protecting stateless people. Those who are stateless but do not meet the requirements for citizenship can only reside, study and work in Australia (and exercise other relevant rights) if they are eligible for a visa.

The Minister is empowered under the Migration Act to grant a visa to remain in Australia for non-citizens from a prescribed list (section 31). Once a valid visa application has been lodged, the Minister must consider the application and grant the visa if the relevant criteria have been satisfied. For a protection visa, the non-citizen must either be recognised as a refugee who is owed protection obligations (s 36(2)(a)), be eligible for complementary protection because removal to a receiving country would risk significant harm (s 36(2)(a)) or be a member of a family unit of a protection visa holder (ss36(2)(c),(d)).

Although statelessness is not an independent ground for protection, it is closely tied to many applicants' protection claims and a finding about a person's nationality (or lack thereof) can significantly impact their prospects of success in a protection visa application.²⁷ Overall, the case review conducted for this Project has revealed that stateless people are 'falling through the gaps' of Australia's humanitarian protection system.²⁸

In addition to statelessness arising at the visa application stage, it is also relevant where a decision to cancel a visa is considered. Visa cancellation can occur mandatorily or because the Minister or delegate of the Minister exercises their discretion to cancel a visa.²⁹

Generally, people who are unsuccessful in obtaining a visa, or who have their visas cancelled, are expected to return to their country of origin. As stateless individuals are not nationals of their countries of origin, they are unable to 'return' or be returned by the Australian Government. This leaves stateless individuals who do not qualify for a visa at risk of prolonged periods of immigration detention. Indeed, statistics reveal that even after the High Court of Australia found in *NZYQ* that indefinite immigration detention (that is where there is no reasonable prospect that a detained non-citizen will be released) is unlawful, stateless people experience a disproportionately higher risk of detention.³⁰ As of 29 February 2024, 881 people remained in immigration detention, including 11 stateless individuals.³¹ The average length of detention for stateless people was 624 days with 95 people having spent between 5-10 years in detention and six individuals having been detained for more than six years.³²

As the statistical and empirical research in this study demonstrates, the vast majority of known stateless people in Australia were not born on Australian territory and arrived seeking asylum under Australia's refugee protection framework. Many stateless participants interviewed for this project arrived in Australia by boat after significant changes to Australia's migration framework, driven by political policy.

2.2.3 Immigration policy context

The past two decades have marked a particularly punitive approach to how Australia responds to people seeking asylum (including stateless people) who arrive by sea, with pathways to permanent protection extremely limited—and until recently, in the majority of cases, prohibited.³³ In 2014 the Australian Government reintroduced temporary refugee visas in the form of the Temporary Protection Visa ('TPV') and Safe Haven Enterprise Visa ('SHEV') limiting the length of protection available to refugees and prohibiting them from accessing a range of essential services.³⁴

The reintroduction of temporary visas followed the reinstatement of Australia's policy of offshore processing in August 2012, and then mandatory offshore processing in July 2013, whereby refugees (including stateless people) arriving by boat were taken to the remote Pacific island of the Republic of Nauru, Papua New Guinea and other countries for offshore processing and resettlement programs and prohibited from ever applying for any form of protection in Australia under law.³⁵ Between 19 July 2013 and 27 February 2017, 248 stateless people (including children) were transferred by the Australian government to the Regional Processing Centre on Nauru.³⁶ Conditions of detention in both Nauru and Manus Island raised serious human rights concerns and were subject to extensive examination and condemnation by the Australian Human Rights Commission, an independent Australian Senate Legal and Constitutional Affairs References Committee Review and various UN bodies.³⁷ The majority of people detained offshore were eventually

transferred back to Australia for critical medical treatment under court orders or threat of legal action in a spate of urgent litigation known as the ‘Medevac’ cases between 2017 and 2020. As a result, the majority of refugees, including stateless people who were detained offshore, now reside on a temporary basis in Australia, where they have existed in a state of legal limbo since they were returned to Australia.³⁸

Stateless people within Australia’s broader refugee cohort who have been permitted to apply for a temporary visa have for the most part spent the past decade living a life characterized by uncertainty; despite being recognised as refugees they have been required to reapply for temporary protection every three to five years. Those transferred to Nauru or Manus Island then subsequently returned to Australia exist either in immigration detention, under a ‘Residence Determination’ (community detention orders), or on a series of rolling Bridging Visas (usually 6 months in length) and are prohibited from ever applying for permanent protection in Australia. Many of these stateless families, including those interviewed for this Report, have children born in Australia who are now Australian citizens, while the parents remain on short-term rolling temporary visas with no prospects of permanency or naturalisation, simply due to the fact they spent time (however short) detained offshore.

In February 2023, a newly elected Australian Labor Government announced that it would move TPV and SHEV holders onto permanent visas, offering essential security to many in Australia’s refugee population, including eligible stateless people also recognised as refugees.³⁹ While the introduction of this permanent ‘Resolution of Status Visa’⁴⁰ (**RoS visa**) is a welcome development, many asylum seekers, including stateless people, currently living in Australia remain ineligible to apply for any form of Australian visa (temporary or otherwise). They remain living in Australia in a state of legal limbo on a ‘transitory’ basis and remain at risk of removal to Nauru at any time, with little notice, discussed further below.⁴¹ Any new arrivals of stateless people entering Australia by sea also remain ineligible for any form of visa in Australia.⁴² The Australian Government has maintained its practice of turning boats back at sea, thus making it very difficult for stateless asylum seekers to arrive in Australia by such means.

On 29 August 2025 an MOU was signed between the Australian and Nauruan governments reinstating a third country resettlement reception arrangement. The MOU has not been made public, raising concerns about transparency and the agreement’s compliance with Australia’s domestic and international human rights obligations.⁴³

Nauru is not signatory to either of the two key Statelessness Conventions or other core international human rights instruments, such as the *International Covenant on Civil and Political Rights*, *International Covenant on Economic, Social, and Cultural Rights* and the *International Convention on the Elimination of all Forms of Racial Discrimination*.⁴⁴

In the absence of binding international obligations specific to statelessness, there are no guaranteed safeguards for the recognition, protection, or resolution of stateless status in Nauru. This will have real and significant implications for stateless individuals transferred by the Australian Government to Nauru. Stateless people may face prolonged legal limbo, lack access to identity documentation, and be excluded from pathways to citizenship or durable solutions. Unlike refugees, whose status may be formally assessed and protected under Nauruan law, stateless people risk being indefinitely marginalised without legal recognition or recourse, raising serious concerns under international human rights law.⁴⁵

Of further concern is the Australian Government’s arrangement with Nauru to issue 30-year residence visas to individuals removed from Australia. Nauruan President David Adeang recently stated that ‘the long-term goal’ for people removed to Nauru ‘remains the eventual repatriation of these individuals to their home countries.’⁴⁶ For stateless individuals repatriation is not a safe or feasible option, as they lack a country of nationality to which they can return.

2.2.4 Viewing citizenship through the lens of migration rather than as a tool of inclusive ‘nation building’

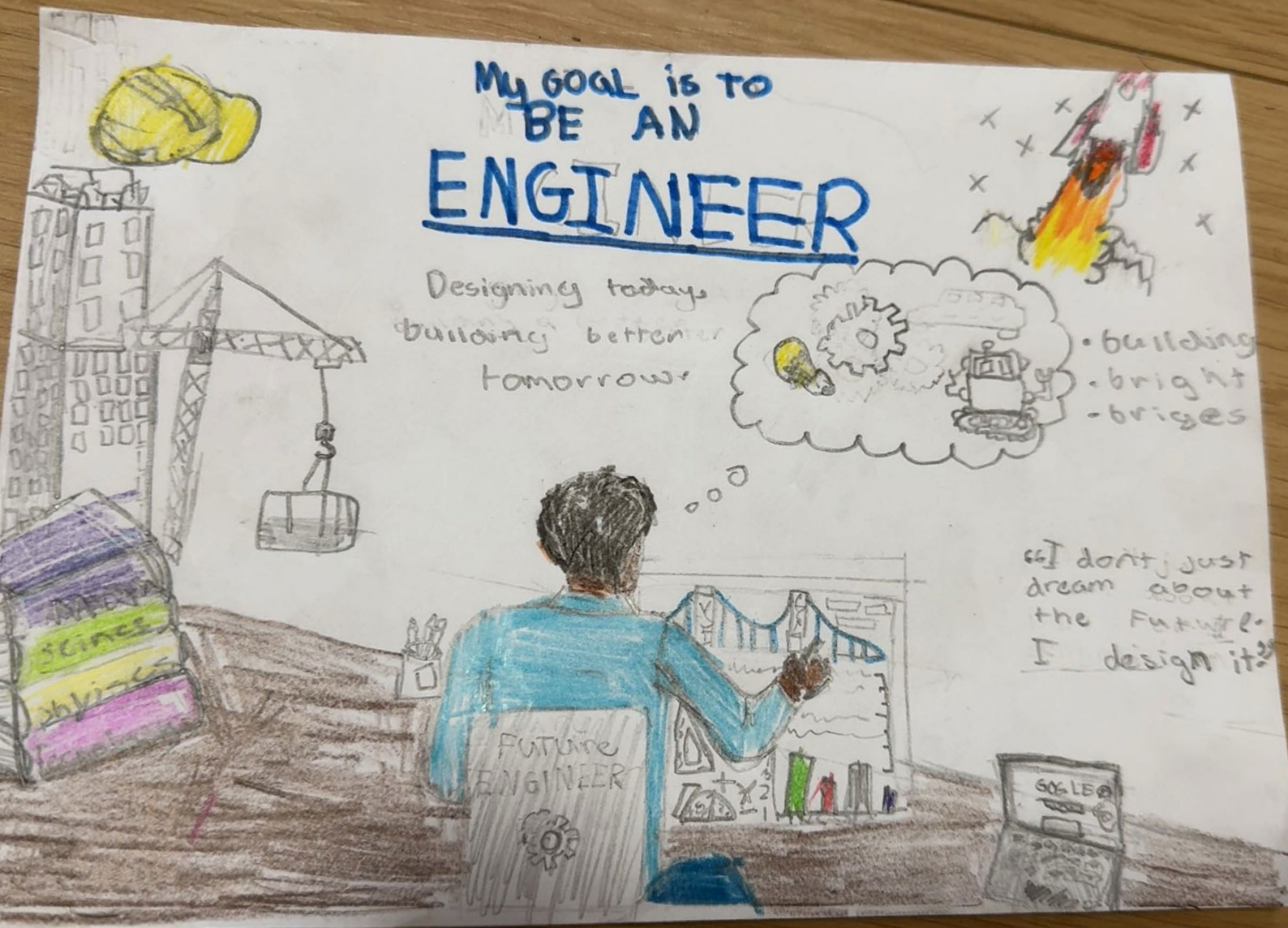
Our research indicated a broader structural and conceptual issue underpinning how statelessness and citizenship are conceptualised and understood within the Australian legal framework, as one based on exclusion rather than inclusion. This issue was identified and articulated by leading constitutional and citizenship academic Professor Kim Rubenstein:

‘Citizenship has always been conceived of in Australia through the lens of migration rather than through the lens of social cohesion, nation building, self-identity and it goes back really to the framing of the Constitution....around a White Australia Policy and the whole motivation for Federation was to work out a unified way of keeping out non-white Australians... So, the fact that the very underpinning of our Constitution has framed citizenship through migration rather than through national identity, nation building, who we are as a people...

(T)he flow-on from that is that we have a framework of thinking about citizenship as exclusion. It’s a frame in order to determine who we can keep out rather than it being a frame for inclusion. So, if the framework was changed to think about citizenship as inclusion, about strengthening our community through both human rights protection for those who are vulnerable but also the value add...

(I)f your premise was that we err on the side of inclusion rather than erring on the side of exclusion, we would see better decision making.”

– Professor Kim Rubenstein



‘When I grow up, I want to be an Engineer’

— Drawing by Sam*, aged 11

Chapter 3: Profiles of stateless people in Australia

“All my life I have belonged nowhere.
I am getting old and yet I still have no country.
One day I hope I may be considered Australian –
to be given a chance here.”

— Kareem*

3.1 Introduction

One of the key aims of this study was to understand the profile of stateless people in Australia. With no coordinated approach to collecting information about stateless people however, difficulties exist in accurately and comprehensively identifying and researching the population of stateless people in Australia.⁴⁷ This is especially the case given that Australia lacks a formal statelessness determination procedure; even where stateless people appear as a category within government data, the basis upon which somebody has been identified (or whether they have self-identified) is unclear. Indeed, unreliable and unverified data collected by government bodies regarding stateless people is a common issue facing attempts to ‘quantify’ statelessness in other countries where statelessness mapping has also been conducted.⁴⁸

Key findings indicate that:

- 1.1 There is a discrepancy between annual data concerning the number of stateless people in Australia reported by UNHCR and publicly available government statistics (3.2.1);
- 1.2 Given that Australia lacks a formal process for identifying stateless people (i.e. an SDP) figures published concerning the number of stateless people in Australia cannot be considered a true or reliable estimate (3.2.1 and 3.2.2);
- 1.3 Based on the most recent publicly available UNHCR data, there were 7,503 stateless people in Australia as at 30 June 2025,⁴⁹ **however this number cannot be considered as comprehensive or reliable** (3.2.1 and 3.2.2);
- 1.4 There is a paucity of data about the different population groups of stateless people in Australia (3.2.3);
- 1.5 There is a significant gap in data collection regarding the ethnicity of stateless people in Australia (3.2.3);
- 1.6 Children account for a significant proportion of stateless people on visas in Australia (29% as at 30 September 2025) (3.2.4);
- 1.7 Stateless people spend on average 287.2 days longer in immigration detention than non-stateless people in Australia (3.2.5);
- 1.8 The rate of grants of Australian citizenship to stateless people has steadily increased over the past decade, however many stateless people continue to have their application for citizenship refused (3.2.6);
- 1.9 Stateless people usually require legal assistance to navigate the citizenship application process (3.2.6); and
- 1.10 Stateless people face longer wait times for Australian citizenship depending on their mode of arrival in Australia; on average, stateless people who arrive by boat face longer processing times (3.2.6).

3.2 Current available information about stateless people in Australia

3.2.1 Number of stateless people in Australia

As a party to the 1954 Convention, Australia is expected to report data on the number of stateless people in its territory annually to the UNHCR (the UN body mandated to identify, prevent and reduce statelessness) while protecting the rights of stateless individuals. Australia has historically routinely not provided data to the UNHCR, or reported 'zero' stateless people in Australia. In 2017, for the first time, Australia reported '52' stateless people in Australia.⁵⁰ In 2018 Australia reported '132' stateless people to the UNHCR.⁵¹ Publicly available Australian government statistics for the same periods clearly suggest higher numbers of stateless people known to the Australian government within the immigration system.⁵² For example, government statistics indicate that as at 31 December 2017, there were a minimum of 4,567 stateless people known to immigration authorities within the population cohorts of immigration detention (52 stateless people in community detention), the 'Illegal Maritime Arrival Legacy Caseload' (2,221 stateless people with a visa application submitted to the Department of Immigration) and 'Illegal Maritime Arrivals on a Bridging Visa E' (2,294 stateless people).⁵³ This does not include potential stateless populations within the 'Onshore

Protection Visa Processing' cohort, the 'Onshore Humanitarian Program' cohort, 'Offshore Humanitarian Program' cohort or 'Asylum Seeker' cohort (publicly available statistics for each of these cohorts in unavailable for the 2017 period), or the 2017 'Migration Program' (statelessness statistics not specified in the Department of Immigration's Report for this period).⁵⁴

The discrepancy between the number of stateless people in Australia as at 31 December 2017 reported to UNHCR (52), and publicly available government data (4,567) therefore indicates two key findings –

- There were considerably more than 52 stateless people in Australia in 2017 (as reported to UNHCR);
- It is highly likely that there were more than 4,567 stateless people (as recorded by the Australian government in various reports) in Australia in 2017, given that numerous relevant statistical reports do not provide a breakdown of data by nationality / statelessness.

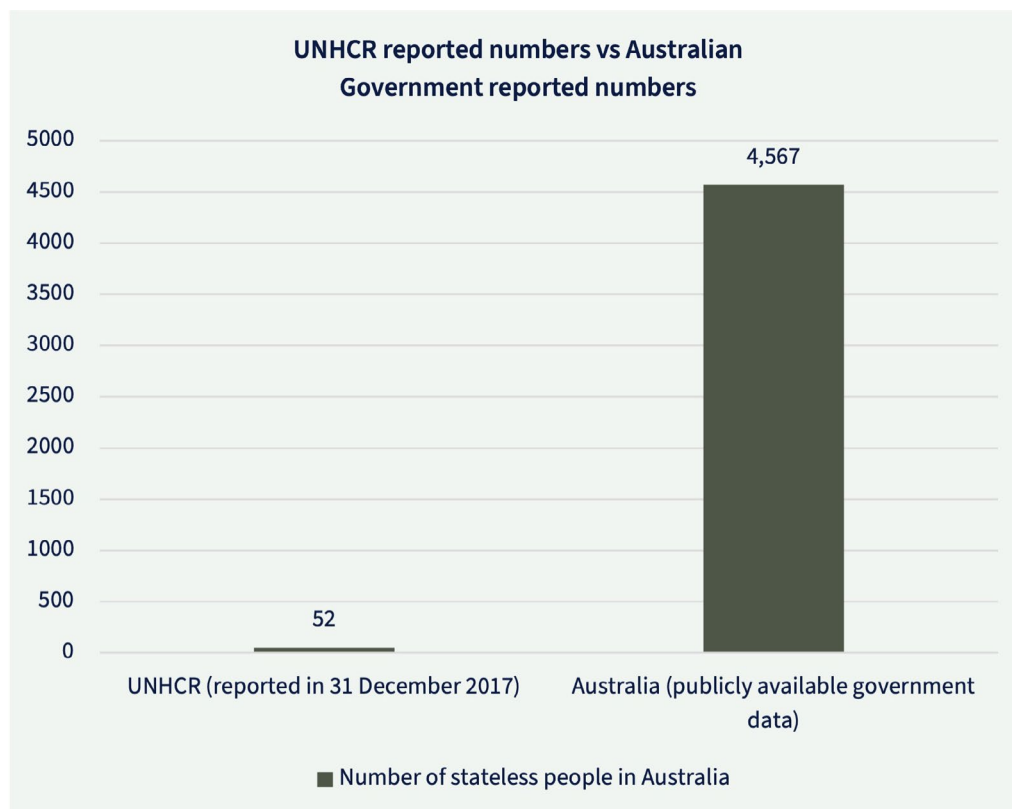


Figure 2: Number of reported stateless people in Australia in 2017 UNHCR statistics compared to Australian Government Immigration and Migration report statistics

More comprehensive reporting has been undertaken in recent years, with the most recent UNHCR Global Trends Report identifying 7,503 stateless people in Australia in mid-2025.⁵⁵ This follows the recording of 6922 stateless people in Australia in 2024, 8,073 in 2023 and 8,313 in 2022.⁵⁶

UNHCR cautions however that given Australia lacks a process for identifying stateless people (i.e. an SDP) **these figures do not capture all stateless people in Australia and cannot be considered a true estimate.**⁵⁷

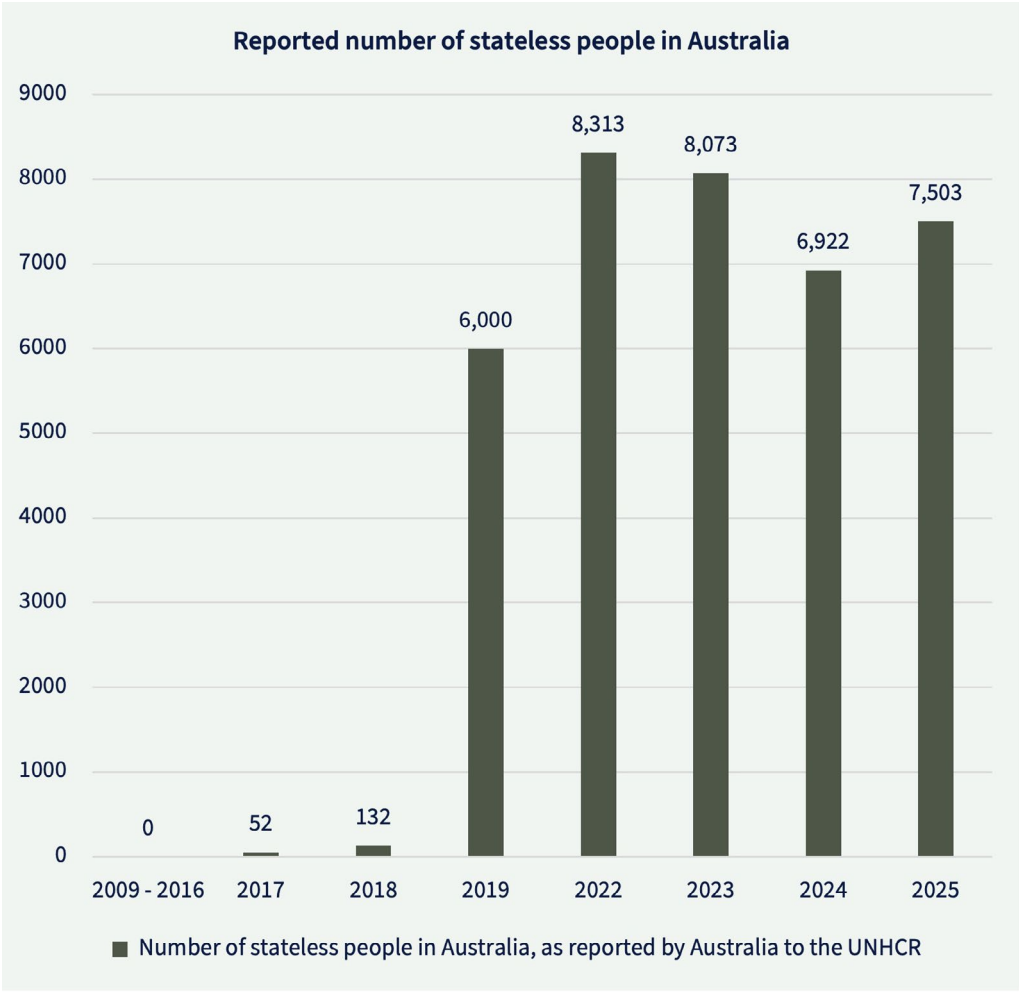


Figure 3: Total number of stateless people including forcibly displaced stateless people in Australia recorded by UNHCR by financial year 2009–2025

Legal and policy experts interviewed for this study frequently raised concerns about the inadequacy and unreliability of publicly available government statistics concerning stateless people in Australia, as highlighted in Chapter 4 of this Report.⁵⁸

Overall, the inconsistency in data on statelessness in Australia suggests that the correct identification of stateless people is problematic and by association, the recording of information about the numbers and profile of stateless people in Australia. This is exacerbated in the absence of a uniform procedure for identifying stateless people (such as an SDP). It is unclear if those recorded as stateless in the UNHCR statistics or Australian government figures have self-identified as stateless, or been ascribed that label by a government authority. For example, DHA has confirmed that in some instances, people in immigration detention who have self-identified as ‘stateless’ have subsequently been found not to be stateless by the Department.⁵⁹ This suggests multiple definitions of statelessness may be informing known statistics and underscores the urgent need for Australia to implement a consistent and uniform system for correctly identifying statelessness.

3.2.2 Number of stateless people currently in Australia on a visa

There are numerous visa sub-types under the broad categories of ‘Bridging Visa’, ‘Migration Program’ visas, ‘Refugee and Humanitarian Program’ visas, ‘Resident Return and Australian Declaratory Visa’ visas, and ‘Temporary Visa Program’ visas.

Based on publicly available data, there were 5,692 ‘stateless’ people on visas in Australia as at 30 September 2025. As discussed above, however, we note that in the absence of an SDP, this number cannot be considered as comprehensive or reliable.

Most stateless people in this cohort fall within the Refugee and Humanitarian Program:

- 21% on a 202 Global Special Humanitarian Visa (1,236);
- 19% were on a 200 Refugee Visa (1,138); and
- 4% on a 866 Protection Visa.

There has been a steady increase in the granting of permanent visas to stateless people since 2023, with:

- 7% on a 851 Resolution of Status Visa (403) (RoS); and,
- 11% on a Legacy Residence Status Visa (667).

A very small percentage of stateless people are recorded as holding Bridging Visas.⁶⁰

Figure 4: Visa holders by citizenship in Australia as at 30 September 2025



3.2.3 Profile of stateless people in Australia

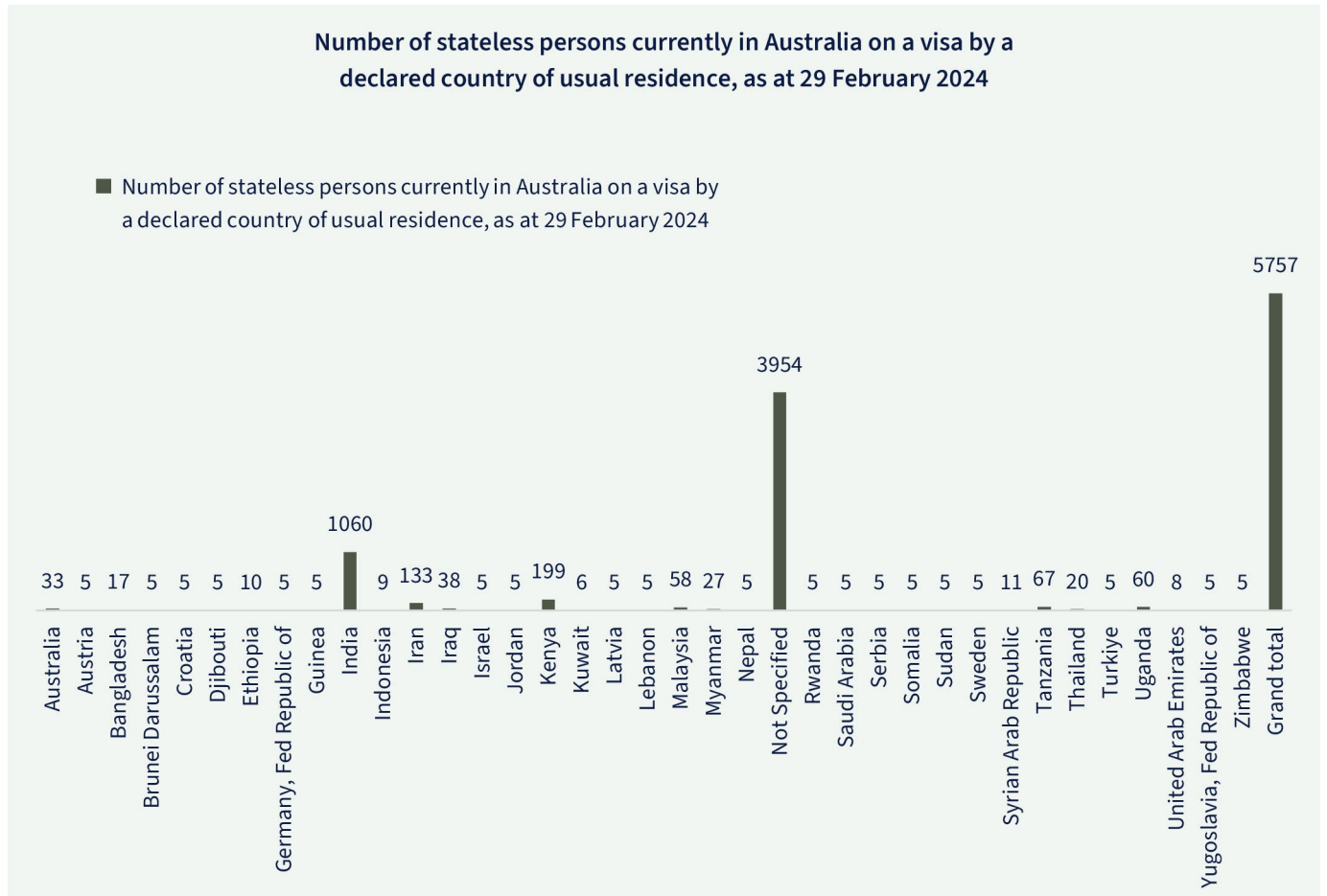
There is a paucity of data about the different population groups of stateless people in Australia, particularly regarding their ethnicity and country of former habitual or usual residence. As the figures below demonstrate, data regarding a stateless person’s country of ‘usual’ residence is not routinely specified.

As at 29 February 2024, 5,757 stateless people were recorded in Australia on visas by DHA. The four main ‘countries of usual residence’ for stateless people were identified as:

1. ‘Not Specified’: 78% (4,589)
2. ‘Rohingya (Burma)’: 8% (480)
3. ‘Kurdish’: 7.5% (437)
4. ‘Arab (no further detail)’: 1% (77)

Given that 78% of stateless people included in this data do not have their country of usual residence specified, better and more specific data collection for stateless people is clearly required—beginning with a system that clearly, fairly and transparently identifies stateless people according to law.

Figure 5: Number of stateless people currently in Australia on a visa by declared country of usual residence, as at 29 February 2024.⁶¹

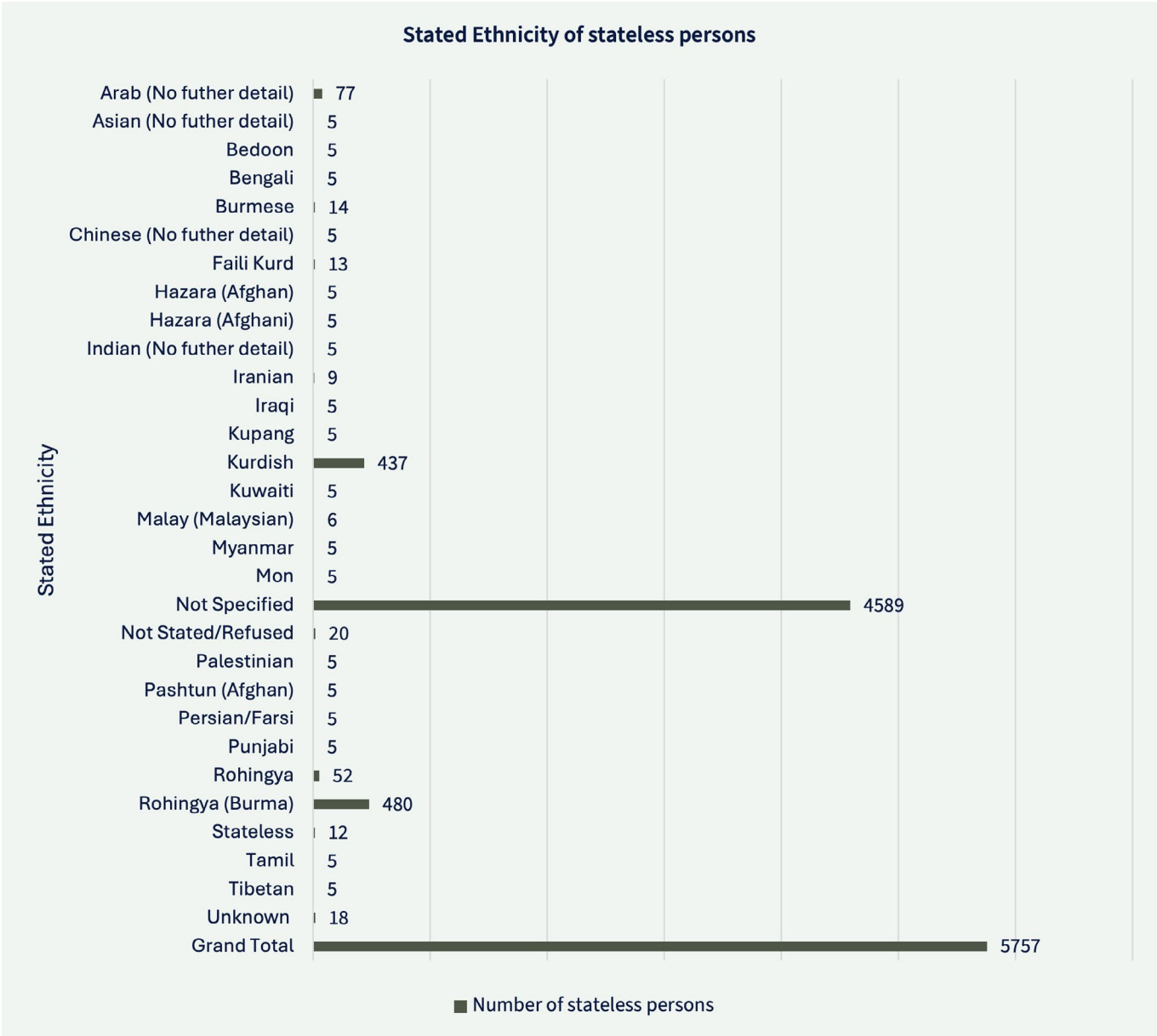


Similarly, there is a significant gap in data collection regarding the ethnicity of stateless people in Australia. As the figure below demonstrates, data regarding a stateless person’s ‘Stated Ethnicity’ is usually not specified. As at 29 February 2024, 5,757 stateless people were recorded in Australia on visas by the Department of Home Affairs. The four main ‘Stated Ethnicities’ for stateless people were identified as:

1. ‘Not Specified’: 80% (4,589)
2. ‘Rohingya (Burma)’: 8% (480)
3. ‘Kurdish’: 7.5% (437)
4. ‘Arab (no further detail)’: 1% (77)

Again, the fact that 80% of stateless people included in this data do not have their ethnicity specified underscores the need for better and more specific data collection for stateless people in Australia.

Figure 6: Number of stateless people in Australia on a visa by Stated Ethnicity, as at 29 February 2024⁶²



3.2.4 Stateless children and young people

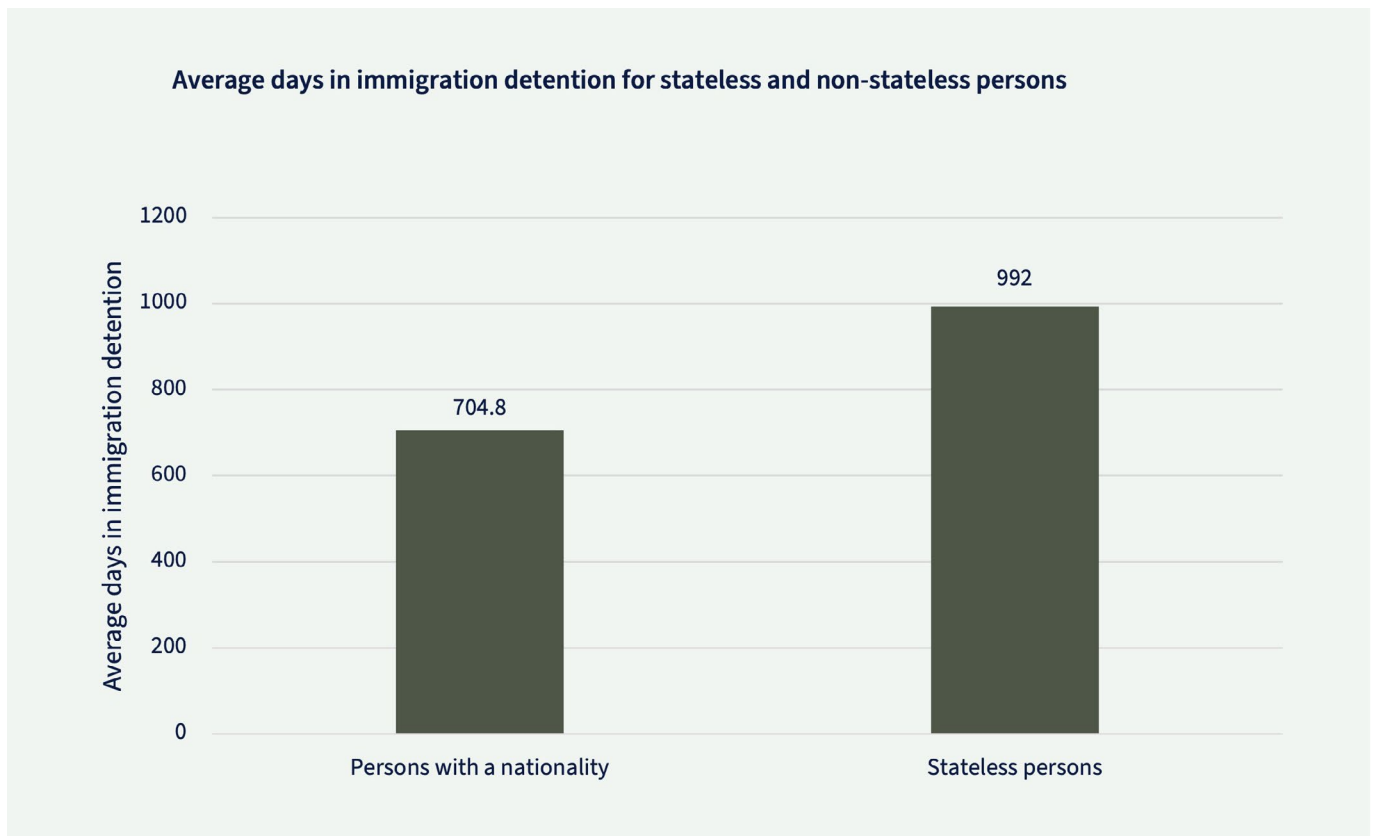
As of 30 September 2025, there were 628 stateless children on visas in Australia; 29% of the overall known stateless population. The majority of these stateless children were on visas within the Refugee and Humanitarian Program (374 on 200 Refugee visas and 100 on 202 Global Special Humanitarian).⁶³ 48 had been granted an 851 permanent Resolution of Status visa.

3.2.5 Stateless people in detention including stateless children

As at 31 August 2025, 9 people in immigration detention were recorded as 'stateless';⁶⁴ six of whom had not applied for a visa or were not engaged in merits or judicial review processes.⁶⁵

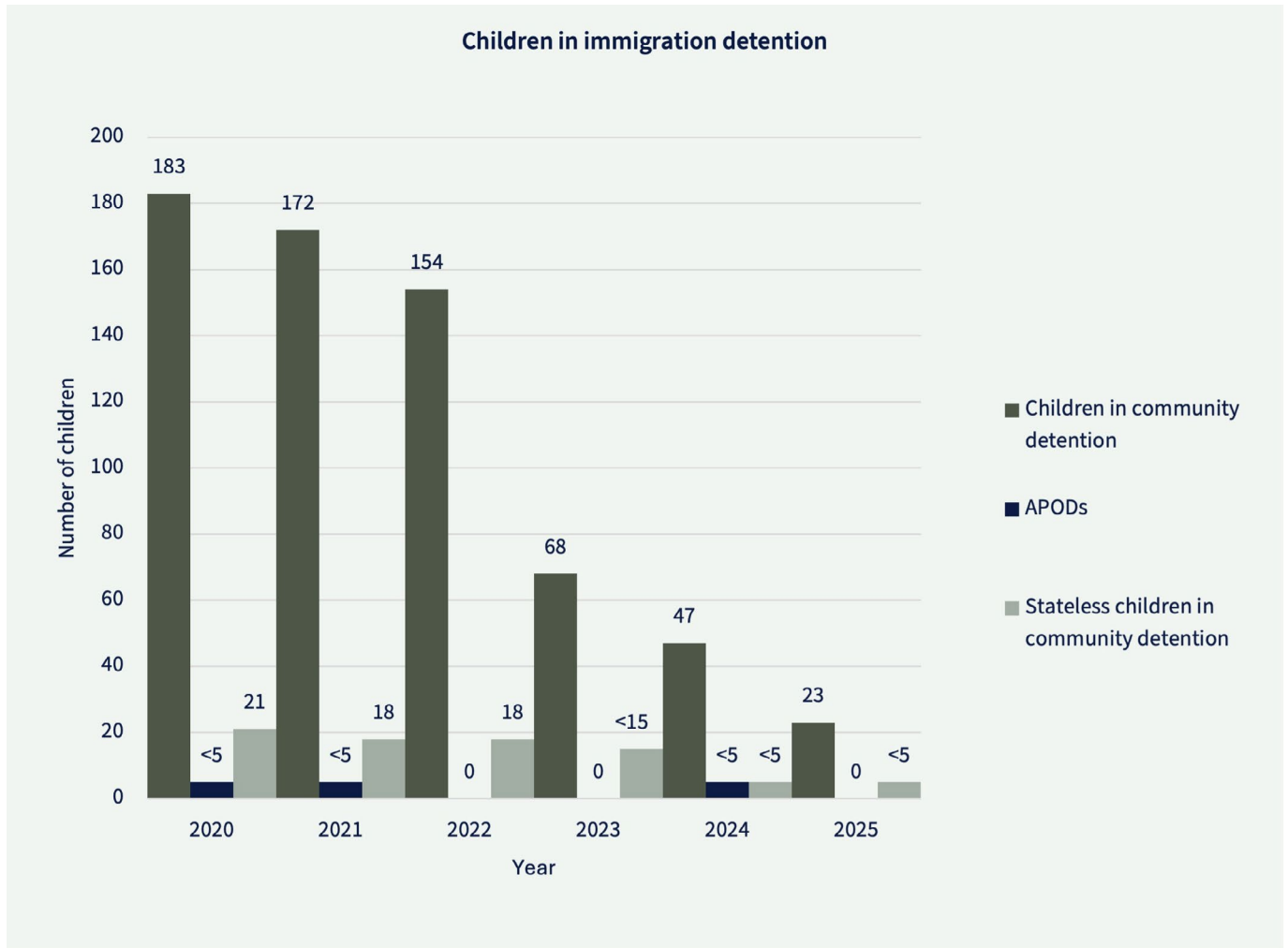
Stateless people spend on average 287.2 days longer in immigration detention than non-stateless people in Australia.

Figure 7: Average length of time in immigration detention for stateless people compared to non-stateless people



Stateless children consistently account for a significant number of minors held in immigration detention.

Figure 8: Number of children in immigration detention: stateless children compared to non-stateless children, 2020–2025



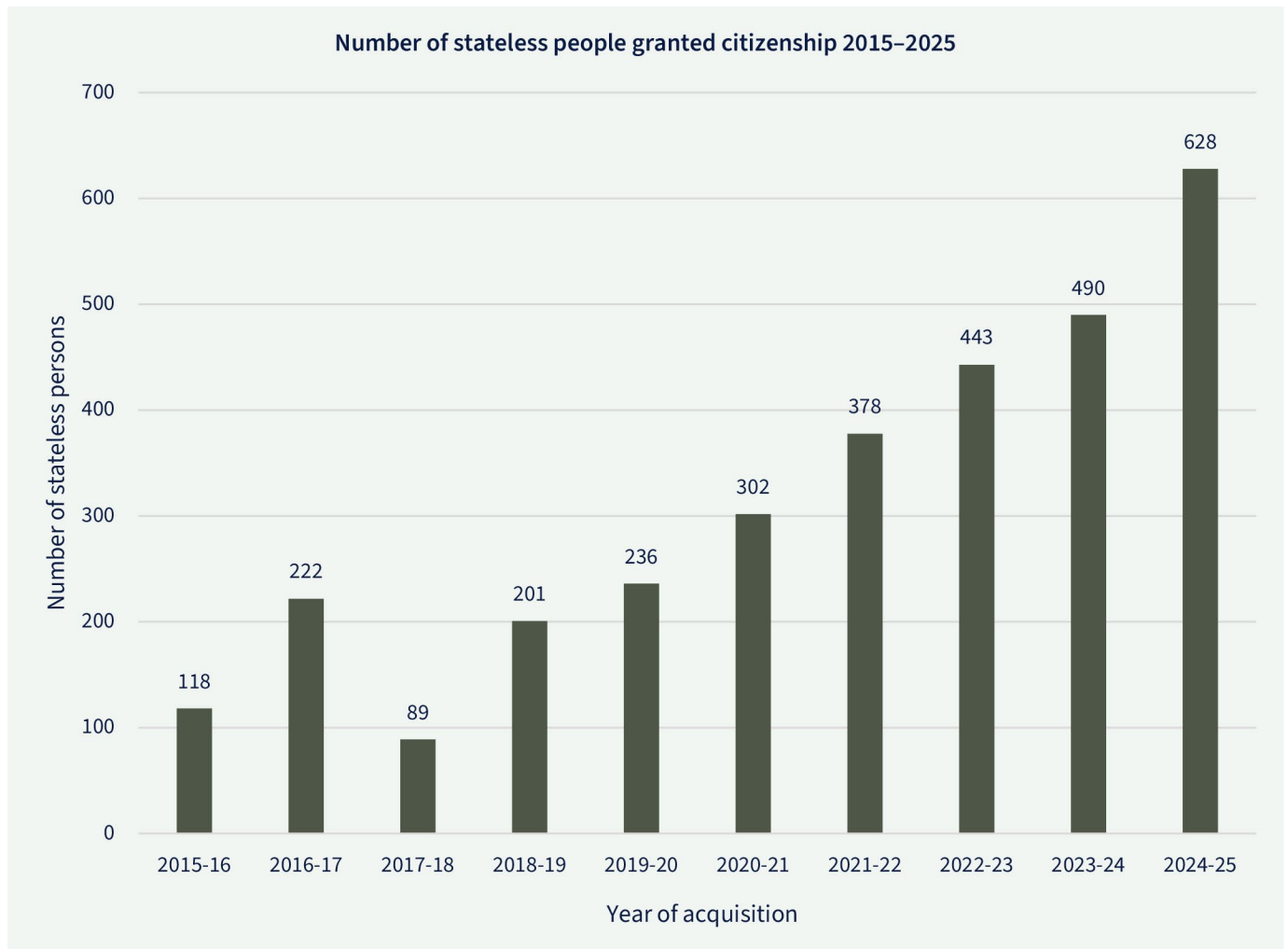
Note: APODs refers to ‘Alternative Places of Detention’ approved in writing by the Minister or their delegate.⁶⁶ APODs were originally devised as a more sensitive alternative for certain population groups with specific needs such as children and families however many such facilities replicate the closed and punitive physical environments of regular immigration detention centre facilities. In recent years, the Australian Government has utilised some hotels as APODs for primarily adult men returned from Manus Island, PNG, however the Commonwealth Ombudsman and Australian Human Rights Commission have found that hotels have been used for reasons unrelated to the needs of detainees, including to address overcrowding in government detention facilities.⁶⁷

Community detention refers to a form of immigration detention under the Migration Act 1958 (Cth) where a person resides at a specified address in the community while remaining in legal detention, as opposed to being held in a detention facility. Conditions may include regular reporting to authorities and nightly curfews.

3.2.6 Stateless people who have obtained Australian citizenship

In a positive development, the rate of grants of Australian citizenship to stateless people has gradually increased sixfold over the past ten years:

Figure 9: Number of stateless people granted Australian citizenship, 2015–2025



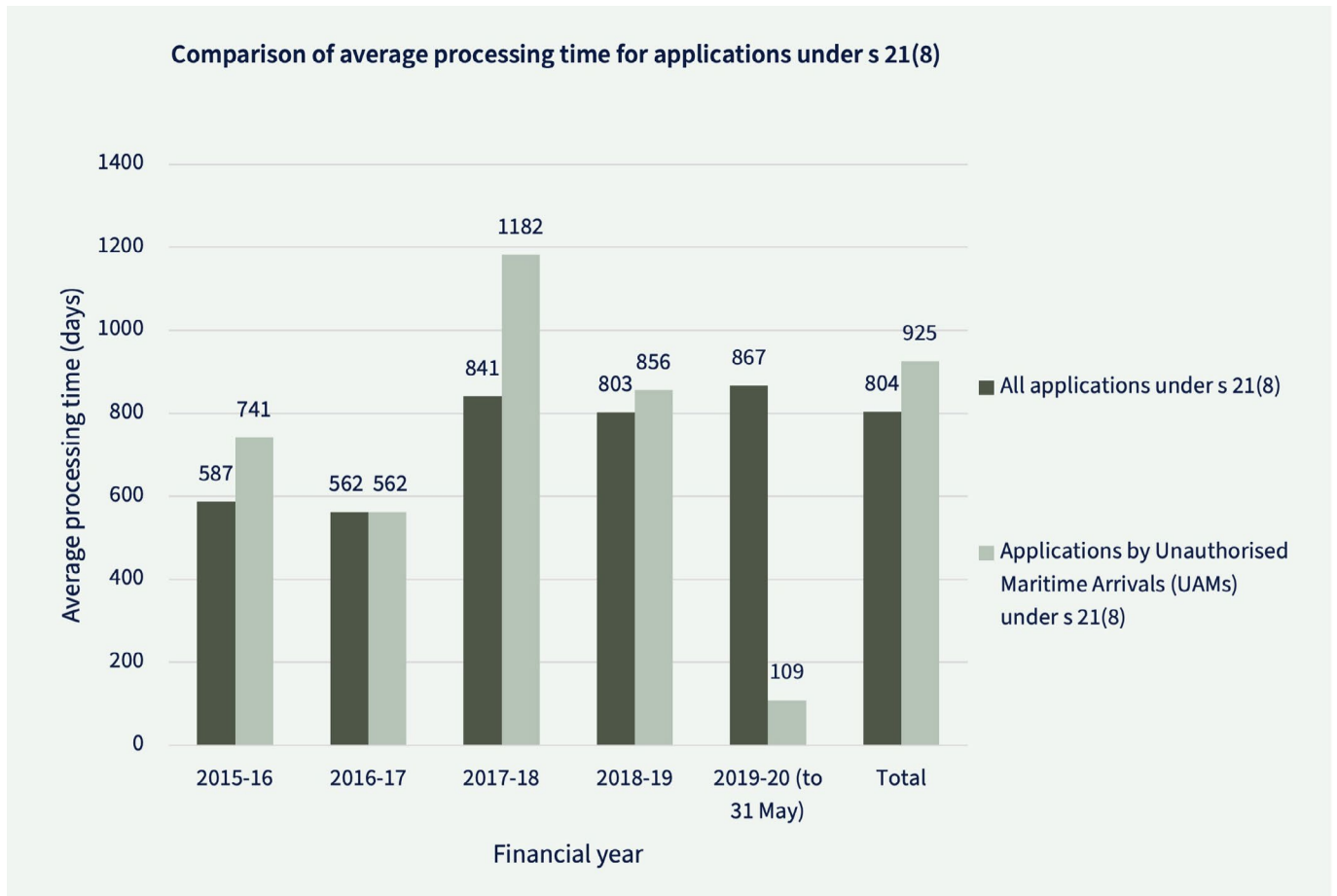
Many stateless people continue to have their application for citizenship refused, however. This is usually on the basis that the Minister is not satisfied as to the identity of the applicant, as per section 24(3) of the Citizenship Act. This is not surprising when we consider that our research showed that stateless people encounter significant challenges in substantiating their identity in citizenship applications due to inadequate or unavailable identity documentation in their possession. Our research also shows that stateless people usually require legal assistance to navigate the citizenship application process.

Table 1: Number of Australian citizenship by conferral applications lodged by stateless people refused from 2018–19 to 2023–24 (to 29 February 2024)

Number of Australian citizenship by conferral applications lodged by stateless people refused from 2018–19 to 2023–24 (to 29 February 2024), by refusal reason and year of decision (as at 29 February 2024)				
Year of decision	Character-related	Citizenship test-related	Other	Total
2018–19	7	13	125	145
2019–20	<20	<5	447	467
2020–21	16	42	105	163
2021–22	18	60	64	142
2022–23	14	75	26	115
2023–24 (to 29 Feb)	<5	<40	51	90
Total	75	229	818	1,122

Significantly, stateless people applying for citizenship face different processing wait times, depending on their mode of arrival in Australia. On average, stateless people who arrive by boat face longer processing times—between 2015 and May 2020, children born in Australia to parents without nationality (who arrived in Australia seeking asylum by boat) faced an average processing time that was 121 days longer than children born to stateless parents who arrived by air.⁶⁸ This is consistent with the punitive migration policy adopted by the Australian government against people seeking asylum who arrive by boat, discussed in Chapter 2: Legal Framework above; although it is significant to see it impact children born in Australia. Such delays suggests that discrimination against stateless people who arrived by boat carries across to their Australian born children.

Figure 10: Average processing time for applications for Australian citizenship under s 21(8): All applicants compared to applications by 'Unauthorised Maritime Arrivals', 2015–2020



In summary, while the available statistics are not systematic, comprehensive or coherent they do reveal that stateless people are present in Australia in significant numbers. As outlined above and elsewhere in this Report, it is also unclear if those identified as 'stateless' in these various data sets have self-identified as stateless or been assigned this status, underscoring the unreliability and limited nature of this data and further highlighting the critical need for a transparent and uniform mechanism for identifying statelessness in Australia, such as an SDP.

The statistics alone suggest real and significant protection gaps for stateless people in Australia, an observation that was borne out in depth in the doctrinal and qualitative research, to which we now turn.

my dream
one day
is to
become
a dentist

From Kitty

I Love



Dentist!

Kitty

'When I grow up, I want to be a Dentist'

— Drawing by Kitty*, aged 9

Chapter 4:

The protection gap for stateless people in Australia

“The hardest part is that Myanmar says we don’t belong. I come here and the Australian government say slowly, slowly, step-by-step. So where do I go? What can I do? No country says I belong.”

— Nasir*

The lack of awareness of and knowledge about statelessness in Australia, combined with the lack of legal protections for stateless people, means that stateless people are not adequately protected in Australia.

4.1 Statelessness is not well understood, acknowledged or visible in Australia⁶⁹

“Statelessness for the average person is a very unknown concept. It’s not an everyday term, and for people who have had the luxury and privilege of not even having to think about their citizenship status, like most Australians or many Australians, it’s a very foreign concept.”

— Social Worker

Research conducted across this study (empirical, statistical and doctrinal) clearly indicates that statelessness is not well understood in Australia within government, professional service sectors and the general community. The absence of a statutory definition of statelessness and formal SDP, combined with limited institutional understanding and awareness of the issue means that stateless people are consistently overlooked in policy development, data collection and service provision. The ‘invisibility’ of the needs of stateless people in policy and targeted service provision has a profound and significant impact on stateless people in Australia. They are often excluded from legal protections and social services and exist in a state of legal limbo and uncertainty regarding their ability to build a life in Australia.

4.1.1 Statelessness is defined and understood in different ways by different stakeholders, particularly in the absence of a statutory definition of statelessness

The absence of an SDP that includes a statutory definition of ‘statelessness’ in Australian law means that there is limited understanding of the issue and inconsistent decision-making pertaining to stateless people.

“Because the Department doesn’t screen or identify stateless people, I think we’re ill equipped (to identify and assist them) in a lot of ways...I think it’s one of those things that just gets ignored or people don’t quite know when somebody’s stateless. The Department identify people as having a nationality.”

— Australian Legal Practitioner

The need for greater understanding of statelessness, and relevant expertise pertaining to assisting stateless people within the Australian legal profession was also observed.

“(T)he problem is that not everyone encounters a stateless person all the time. And so, when you encounter them for the first time, even as a legal representative, you may not really understand what that means. And so, never mind just training (on statelessness) for Departmental officers or decisionmakers who are making decisions on these cases; it is also needed for legal representation. I think there needs to be a better understanding of what it means to be stateless and to help stateless people navigate that process across the board.”

— Ahmad Sawan, Australian Legal Practitioner, Refugee Advice Casework Service

Key findings indicate that:

- 1.1 Statelessness is defined and understood in different ways by different stakeholders, particularly in absence of a statutory definition of statelessness (4.1.1);
- 1.2 There is a lack of data about statelessness (often resulting in services approximating or attempting to triangulate statistics from unverified sources) (4.1.2);
- 1.3 Statelessness is not well understood within government agencies and relevant service providers (4.1.3); and,
- 1.4 Stateless people are often completely overlooked in policy development (4.1.4).

The failure to correctly identify statelessness at the outset of somebody's claim or arrival in Australia means it is often not recognised until the late stages of somebody's legal proceedings. Australian legal practitioners describe how statelessness often only becomes apparent during litigation (including removal proceedings), revealing a reactive rather than proactive approach by government agencies.

The absence of a formal mechanism for identifying statelessness according to law means that many individuals are not identified as stateless until they are facing significant legal and humanitarian challenges.

“Often, it only becomes apparent that someone is de facto stateless when litigation has been started, and when there’s a discovery process, or if we’re successful in a mandamus proceeding, for example, to compel the Department to do something to affect someone’s removal. Then, in the course of that, the Department might start taking action to remove someone to a country, and then it becomes apparent that there’s nowhere to remove that person to, or the government of that person’s nationality or former habitual residence doesn’t recognise them. And so, it becomes apparent that they’re in fact de facto stateless, but that only comes out through litigation.”

— Natalie Young, Australian Legal Practitioner, Victoria Legal Aid

The lack of a definition of statelessness under law further undermines Australia's ability to meet its obligations under the 1954 and 1961 Statelessness Conventions. A statutory definition and legislative mechanism for identifying and recognising statelessness would provide clarity, consistency, and a foundation for developing proactive legal and policy frameworks for adequately protecting and supporting stateless people in Australia.

“There’s quite an ad hoc, and very messy, and very...mixed process of assessing people’s statelessness. There’s no one consistent process. And so it’s quite an arbitrary process of whether someone will be considered to be stateless, and therefore, given a visa, or if not returned back to another country, et cetera. So there needs to be consistency there, and I don’t think there is any consideration of that at the Department level at the moment.”

— NGO Policy Officer

Several legal practitioners interviewed highlighted how a failure by the Department to correctly identify someone as stateless upon their arrival in Australia complicated and hampered their ability to obtain protection throughout the entirety of their engagement with Australia's migration framework, in most cases, for years.

“At the very outset there’s no identification of stateless people... not identifying them as stateless follows them through the whole process. So they (the Department) don’t understand it...they clearly don’t understand the different types of statelessness or how it can manifest...and don’t look at the possible ramifications of being stateless.”

— Australian Legal Practitioner

Practitioners also report similar challenges when representing stateless clients before the Administrative Review Tribunal, with Tribunal Members having varying understandings of and expertise regarding statelessness, which influences their level of engagement with the issue as it pertains to a claim for protection or citizenship.

“I think the Tribunal, it’s a real mixture, and obviously we know that from other sources that the Tribunal members have varying levels of legal expertise and experiences that come from all different backgrounds. So I think some of them engage better with statelessness than others. Some of them are really happy to be guided by us...others are very much like, ‘Well we don’t have evidence, we don’t have evidence’ (of statelessness) and that’s the whole point, you can’t have evidence! It’s a similar mindset to the Department (about) things needing to be proved, you need to be able to prove that you can’t get documents.”

— Australian Legal Practitioner

Participants also highlighted the importance of more resources being available to decision makers pertaining to statelessness.

4.1.2 There is a lack of data about statelessness (often resulting in services approximating or attempting to triangulate statistics from unverified sources)

Accurate data on the number of stateless people in Australia is essential for ensuring that there are adequate policies and procedures in place to meet their protection and support needs. Without this data, they are often overlooked and their needs are not visible.

Several service providers interviewed for this research reported that although their organisations had been working with stateless people for years, identifying exact numbers was problematic, due to a failure by their data information systems to capture these statistics.

Self-identification of statelessness

Data pertaining to statelessness in Australia comes primarily from people self-identifying as lacking a nationality. In the absence of formal mechanisms for identifying statelessness, it is possible that individuals who are stateless are not being correctly identified (and not self-identifying) or that their identification of statelessness is being inadvertently overwritten by Department officers and/or decision makers due to a lack of knowledge and understanding of the issue.

“There are assumptions, and it probably comes from a kind of an administrative perspective at the very beginning that people are identified as a certain nationality. I’m thinking of examples of children that are just noted as whatever nationality their parents are, and that includes instances in my experiences where I’ve listed them as stateless on their application, but the Department just say, ‘No.’ And they just don’t even engage with it.”

— Australian Legal Practitioner

The process by which a person is identified as stateless was described by a Department employee interviewed as:

“(A)ll data on ‘stateless’ persons, is based on a person’s ‘nationality’ as recorded in departmental systems. This does not mean that a statelessness assessment has been undertaken, but instead it is often based on self-declaration in application forms and/or at interview.”

— Department of Home Affairs Officer

The UNHCR Multi-Country Office Canberra noted the challenges of a self-identification approach to determining statelessness in statistics because, quite often, stateless individuals identify their country of origin in their visa application but do not have their statelessness status listed on their visa. This means they are not captured in Australia’s statelessness statistics.

Self-reported statistics concerning statelessness in Australia are further problematic, as somebody’s ‘country of origin’ may be confused with their ‘nationality.’ As noted by one policy expert interviewed for this study:

“(A) lot of people who are stateless, might not know that they are legally stateless. They might say (in their initial interview with the Department), ‘I’m from Burma.’ It might be a misunderstanding or a mistranslation, et cetera. I’m sure the statistics on statelessness, because they are mostly self-reported, are going to be very inaccurate.”

— NGO Policy Officer

Over recent years, the UNHCR Multi-Country Office Canberra has made a concerted effort to improve data collection and analysis of stateless people in Australia for the annual UNHCR Global Trends Reports, by drawing on Australian government statistics. UNHCR notes, however, that these statistics cannot be considered as reliable and/or comprehensive in absence of a Statelessness Determination Procedure, something that they have long highlighted the need for in Australia.

Self-reporting can also contribute to a perception within government agencies and by decision makers that somebody may be lying about their statelessness. Legal practitioners interviewed for this study further identified particular ‘trends’ or ‘views’ held by the department about particular groups, based on assumptions about the legitimacy of their self-identification as stateless.

4.1.3 Statelessness is not well understood within government agencies and relevant service providers

“I don’t think we hear the voices of stateless people as distinct from refugees. We would recognise that they are part of the refugee population but not necessarily hear a distinctive voice.”

— Refugee Support Worker

Multiple stakeholders interviewed for this research consistently identified limited understandings of statelessness and stateless people’s needs within government agencies and/or relevant service providers. This included a conflation between statelessness and refugee status, despite them being distinct legal statuses and concepts.

“The concept of statelessness is often conflated with the concepts of seeking protection or being a refugee...(T)hose issues don’t always go hand in hand and in fact, those two concepts present their own sets of barriers or their own sets of problems that you’d hope that a decision maker would take into account.”

— Ahmad Sawan, Australian Legal Practitioner, Refugee Advice Casework Service

Research indicated that many officials, decision makers and professionals conflate statelessness with refugee status or assume that stateless people are automatically covered by existing protection frameworks.

“I think the Department see statelessness as an additional limb to the process of assessing protection as opposed to its own standalone issue that needs addressing.”

— Ahmad Sawan, Australian Legal Practitioner, Refugee Advice Casework Service

This lack of understanding affects decision-making, service provision, and advocacy efforts, as statelessness-specific needs are often overlooked or misunderstood. Lack of knowledge and information about statelessness, including accurate country-specific information pertaining to stateless groups can contribute to a reluctance by decision makers to engage in questions of statelessness or determinations of statelessness.

“You’d think it would be easier to try and determine whether they were stateless based on the laws of the countries, but ... perhaps they feel like it’s such a loaded decision to make that someone’s stateless—they (the Department) might not want to go there because of the lack of understanding around it and the lack of guidelines around it.”

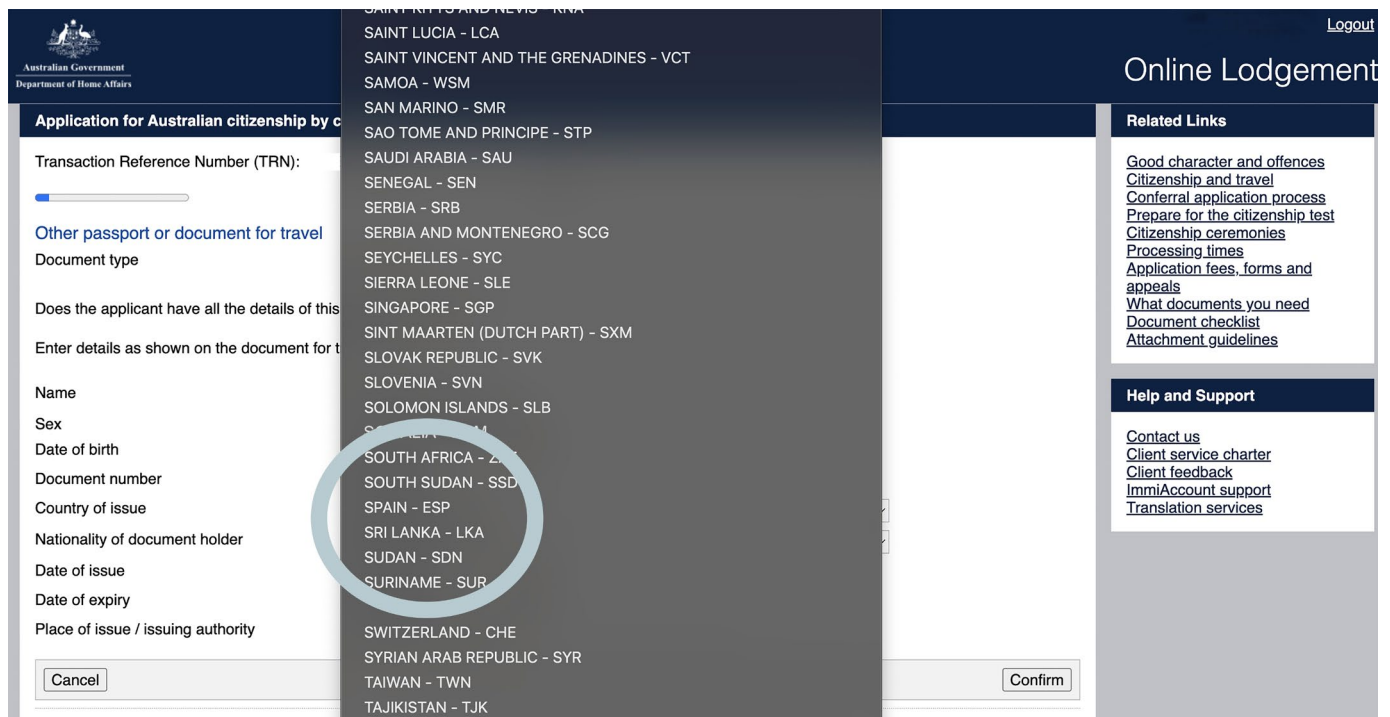
— Australian Legal Practitioner

4.1.4 Stateless people are not visible in policy and programs

Statelessness is rarely addressed explicitly in Australian migration policy or service delivery program guidelines. Support for stateless people often inadvertently sits under the umbrella of refugee service provision despite the fact statelessness is distinct from refugee status and that stateless people may have distinct vulnerabilities and needs.

Administrative invisibility and barriers

Stateless people (and those assisting them) often experience administrative barriers in instances where government forms require an applicant to list their nationality, yet the category of ‘stateless’ is not recognised or available. This is compounded in instances where the Australian government requires a person to complete an application using an electronic, rather than paper application form. For example, stateless adults applying for Australian citizenship are required to complete a ‘1300t Application for Australian Citizenship’ form online, through their Immiaccount. The application requires a certain number of identification documents to be uploaded to the application portal (and assumes the applicant is technologically literate, something stakeholders interviewed for this Project identified as a challenge for many older stateless people in Australia who have lacked any formal education). Once uploaded, each document requires that the applicant state their ‘nationality’ as listed on the identification document, by choosing from a mandated ‘drop down’ selection of nationality categories. No category is provided for ‘stateless,’ ‘other’ or ‘miscellaneous’. The applicant is prohibited by the application software from proceeding to the next stage of the application form until they select a nationality from the list provided. There is no space or option for providing information as to why the list of ‘nationalities’ provided is not applicable to the applicant.



Screenshot of online adult application for Australian citizenship (form 1300t) indicating no category for ‘Stateless’ in the mandatory ‘nationality’ drop down box required to be completed when identity document is uploaded to application. No category for ‘unknown’ or ‘Misc’ is available—applicants must select a nationality regardless of not having one, potentially jeopardising their claim of statelessness.

This means that, by way of example, a stateless Rohingya applicant cannot enter 'stateless' for his or her nationality and must select a listed nationality, such as 'Burmese.' Selecting the nationality of 'Burmese' is likely to create problems for the applicant once reviewed by the Department, which may seek to use the selection of the nationality of 'Burmese' as evidence that the applicant is not actually stateless and has previously lied about their identity. This is despite the fact the Department may have previously found the applicant to be stateless. The Department may use the selection of Burmese to both reject the application for citizenship on a credibility basis and potentially cancel the visa of the applicant, on the grounds that, through providing information that is inconsistent with data they have previously given the government, they are not credible.

“So this paperwork, it’s very tiring, it gives a lot of stress to the individual. There’s no way to go there because it’s not available for the stateless person...every time when we fill those forms, that’s the hardest part to do it.”

— Social Worker

Healthcare and social service providers

Research indicated a gap in policies and procedures for stateless people within the Australian settlement services.

“The settlement service providers don’t acknowledge statelessness at all. So they don’t factor that in as anything that may be impacting people who are stateless differently to those who have citizenship. Which I think is quite an oversight.

In the resettlement context, working for a big organisation that is supposed to be aware of issues relating to refugees and people seeking asylum, statelessness was never discussed. It was never even sort of acknowledged. So that just shows the oversight in that general day to day sort of case management.”

— Social Worker

Understandings of, and awareness of the unique needs of statelessness were also reported to be lacking in the Australian health sectors.

“I don’t think, from a refugee and asylum seeker health and broader multicultural health policy perspective, that we think about statelessness as part of the portfolio of work.... statelessness is typically not the way in which we’re conceptualising the issues. It’s probably more so about people’s eligibility for health services, or social services, at a state level and at a commonwealth level across different visa categories, and that’s how we’d be seeing it.”

— State Government Healthcare Provider

Without acknowledgement or visibility in health and social service policy or procedural frameworks, stateless people lack tailored support, which may compound existing health problems.

“(Lack of recognition) makes it very challenging and very difficult for people to access health services. And they’re already traumatised and stressed...(E)very time a door is closed or every time access is denied, it’s like a wound that keeps constantly being opened up and it compounds their stress, the distress for the person, trying to access care. And then what does that lead to in terms of their long-term mental health or physical health?”

— Refugee Health Worker

4.2 Stateless people experience multiple, complex and interrelated legal issues

This section explores the legal complexity and precarity experienced by stateless people in Australia. Stateless people often face multiple, overlapping legal challenges that compound their exclusion and vulnerability. Systemic gaps in Australia’s legal frameworks exacerbate these challenges as does the lack of a stand-alone mechanism for identifying statelessness.

Key findings indicate that:

- 1.1 Stateless people’s legal journeys through Australian courts and tribunals is complex (4.2.1);
- 1.2 Proving statelessness in the absence of a statutory framework is challenging (4.2.2);
- 1.3 Stateless people experience a ‘relentless’ reassessment of their identity which has a real and detrimental impact on them (4.2.3);
- 1.4 A finding that a person is stateless carries distinct consequences across Australian administrative decision making (4.2.4);
- 1.5 Stateless people experience significant access to justice issues and barriers to legal assistance (4.2.5);
- 1.6 The Migration Act functions as a ‘further tool of family violence’ placing stateless victims at increased risk of harm (4.2.6); and
- 1.7 Lengthy delays in processing applications for visas and citizenship with no mandated timeframes or updates provided to applicants is detrimental to stateless people (4.2.7).

4.2.1 Stateless peoples' legal journeys through Australian courts and tribunals is complex

“There has to be a cut-off. We must say, “Okay, these people have suffered for 10-15 years. Enough is enough. Let’s stop their suffering here and give them their dignity and recognise their identity. Let them feel they belong.” Many of these people have partners they haven’t seen for 10-12 years. They haven’t seen their family for many years. They have siblings in different countries. It is just the right thing to do. Give them a visa so they can get on with their life.”

— Amir

Fact-finding about a person’s statelessness status is undertaken from the moment a person arrives in Australia. A stateless person’s identity is questioned at every stage of their journey through the Australian immigration system, with increasingly demanding standards of proof from visa to citizenship applications. The level of engagement with the question of statelessness varies across decision-making bodies, most often assessed by the Tribunal, as does what constitutes and is accepted as evidence. An identity threshold is central to all areas of administrative decision-making, with the height of the threshold varying according to the rights attached to a visa or citizenship status: The standard for being satisfied of an applicant’s identity is significantly higher for citizenship than for visas.

This creates long-term insecurity for stateless people, with a risk that a visa might be revoked, a risk that persists for years even if protection is granted in Australia, including after individuals have become eligible and applied for Australian citizenship. Because there is no single authoritative point at which a person’s statelessness is determined (as would be provided by an SDP), stateless people describe repeated attempts to resolve their status, often over many years, with no clear pathway to permanency. If a stateless person’s visa application is refused or their visa is cancelled, they are at risk of being stranded in Australia and subjected to prolonged immigration detention. This dilemma was expressed poignantly in one recent tribunal decision:

‘The sheer absurdity of this case from its very beginnings is an embarrassment to the rule of law in Australia, whereby a stateless Bidoon was repeatedly required to prove the tragic nullity of the statelessness of himself and his fellow Bidoons, when there was no reliable evidence that he, personally, was ever anything other than a stateless Bidoon.’⁷⁰

4.2.2 ‘Proving’ statelessness in the absence of a statutory framework is challenging

Our research has highlighted that the lack of a definition of statelessness in Australian legislation (and absence of an SDP) does not mean that determinations about statelessness are not being made. On the contrary, our research revealed almost 800 tribunal decisions, and decisions of the Federal Circuit Court and Federal Court, concerning stateless people over a 10-year period, including:

- 365 cases involving failed protection visa applications;
- 265 cases involving visa cancellations, and;
- 135 cases involving citizenship applications.

Of course, these cases do not represent all determinations given that not all adverse determinations at the delegate stage are appealed, and of those that are appealed to the tribunal stage, not all decisions are made publicly available.

An analysis of the identified cases revealed that in the absence of a legal framework for making a statelessness determination, the majority of Tribunal decisions we examined recorded Members’ inability to make a finding about the person’s statelessness status. Assessment of statelessness is often dealt with in the negative, with decision makers *not* being satisfied that an applicant is not a citizen of or would not be eligible for citizenship in their country of former habitual residence.⁷¹ In many instances, a decision-maker is unable to reach a requisite level of satisfaction that an applicant is stateless because of a lack of documentary evidence⁷², including evidence specific to the individual applicant⁷³. While there is very little guidance for decision makers assessing statelessness in the context of visa applications, policy in relation to citizenship outlines three pillars (biometrics, documents, life story) as relevant to an assessment (as discussed further in section 2.2.1 of this Report). Nonetheless, there are very few instances where a consistent and credible life story has been able to overcome a lack of documentation.

This points to an inherent challenge for a person making a claim to be stateless in that they are assumed to bear the burden of proving a negative—that no country in the world recognises them as a national - a challenge that is compounded in Australia by inconsistent evidentiary standards, limited access to reliable nationality information and a lack of knowledge and/or understanding of statelessness by decision makers.

The reliance placed on formal legal documentation in Australian legal and administrative systems is often problematic for stateless people, who may have been excluded from obtaining basic documents (such as birth registration documents) that citizens may take for granted. Proving statelessness is therefore akin to ‘proving a negative’.

“You can’t prove something that doesn’t exist. You’re stateless, you’re without a nationality and the proof is that you do not have those documents that you are meant to have if you’re a citizen of a country.”

— Ahmad Sawan, Australian Legal Practitioner, Refugee Advice Casework Service

The absence of a statutory definition or SDP has meant that not only a person’s statelessness status but also their identity may be contested. The connection between statelessness and identity is highlighted in internal Department guidelines for decision-making, which state that:

‘[s]tatelessness is not defined in the Migration Act and there is no legislative basis for making a determination of whether an applicant is stateless. Instead, assessing claims of statelessness is an administrative process closely linked to establishing identity ...’

Consistent with this, case law reveals a trend of a disavowal of a stateless person’s identity to justify visa cancellations or refusal decisions, reflecting a conflation of independent issues.

“Our administrative systems are heavily built on documentation, particularly to support identity, and in many cases they (stateless people) won’t necessarily have it.”

— Policy Worker

One of the most persistent legal challenges experienced by stateless people is the difficulty they have in proving or substantiating their identity due to a lack of documentation (or recognised documentation).

“The administrative side of any visa process is so heavily based on, “Do you have a driver’s licence? Do you have a passport? Do you have traditional Australian style documents that we can provide for this police clearance?” and if you don’t have that, it’s really difficult for them (stateless people).”

— Australian Legal Practitioner

The value placed on identity documentation was also highlighted by stateless people interviewed for this report.

“No matter how confident you are about who you are, people still won’t see you the way you want them to see you because you don’t have all the right documents and papers. That’s what’s frustrating. ... For me, it’s very important to always be represented properly on paper. Not just by word. I need it in documentation, because this is what they don’t want me to have in Burma. They want to erase us not just from the country, but also from papers, history, and from anything where it shows our existence. If I have papers saying I existed during this time. It proves something at least. I at least existed in this one context. This is who I am.”

— Asma

Interviewees described how individuals are required to meet different evidentiary standards across visa applications, citizenship processes, and judicial review processes. These standards are often inconsistent across government departments and change over time, meaning a person may satisfy one test but not another and may be reassessed at various points in time. This was observed as having a significant negative impact on stateless people in Australia, often exacerbating trauma.

“Just going back and reading through all of the response to the request for information and the persistent questioning by Home Affairs about her citizenship and having to go over that story again and again and again, it would just be exhausting and if it’s combined with trauma, just reliving that every single time you have to go to your lawyer’s office or every time that you have to respond to something, that impact is just extraordinary.”

— Australian Legal Practitioner

The consequences of perceived false statements concerning identity or the provision of invalid or forged documents are severe, including visa refusal or cancellation.

“I guess that ties into discussions around evidentiary requirements for stateless people, and that onus. And these are people that have already got their visa, so it’s putting them through a whole other process of requiring documents, and often the Department will ask them all the same questions again in citizenship, and ask for all these things that they’ve already got. And it’s like, “Well, I’ve told you five years ago—I’ve given you what I’ve got, and now you’re taking a thousand days to look at what I’ve got.” So, and it’s really punitive....it’s really, really punitive for stateless people.”

— Natalie Young, Australian Legal Practitioner, Victoria Legal Aid

Identity requirements also vary across the resettlement pathway, leading to a consequence where stateless people whose identity was not contested when applying for protection can have their Australian citizenship applications refused on the basis of not having sufficient identity documents.

“... I had one person who has permanent residency talk to me about the fact that he is now eligible for citizenship and he applied for citizenship. And now at the citizenship stage, they’re asking him to prove his Rohingya identity. So they didn’t ask him when he was released from immigration detention and given a temporary visa. They didn’t ask him when he got on a permanent visa to prove his Rohingya identity. But now, right at this final stage, they need—for some reason, they need this proof. And his family list, which as you know, in the Rohingya context, is the only written identity document. It’s just a list of people’s names and attached to an address, which they use to monitor people, the military government in Burma. His family list got destroyed in the 2017 mass violence, and so he doesn’t have his Rohingya identity anymore, in terms of that documentation. And his citizenship was rejected as a result.”

— Social Worker

Challenges in assessing a stateless person’s identity in the context of citizenship due to a lack of documentation was also identified by members the Department interviewed for this research.

“Like other humanitarian visa holders, stateless citizenship applicants may not be well documented and this can make assessment of identity more challenging.”

— Department of Home Affairs officer

Indeed section 24(3) of the Citizenship Act provides that the Minister:

‘must not approve the person becoming an Australian citizen unless the Minister is satisfied of the identity of the person’

While ‘identity’ is not defined, the Citizenship Act requires positive satisfaction of identity and places the onus on the applicant.⁷⁴ When exercising power under the Citizenship Act, a decision-maker may be guided by government policy. The Australian Citizenship Policy (Chapter 13 — Identity) (**Citizenship Policy**) provides that the concept of identity should be understood according to the Attorney-General’s Department’s National Identity Proofing Guidelines. Para 2.1.1 of the Guidelines provides that:

‘A person’s identity is not a fixed concept; it is highly dependent on context. It is some combination of characteristics or attributes that allow a person to be uniquely distinguished from others within a specific context.

In the context of the Department’s functions, identity integrity is essential in maintaining Australia’s national security, law enforcement, and economic and social interests.’

Statelessness significantly impacts upon an applicant’s ability to demonstrate their identity and indeed by far the majority of cases grappling with statelessness in the context of citizenship concern s 24(3) of the Citizenship Act. In the majority of cases where a person claims to be stateless the tribunal ‘cannot be positively satisfied of his identity to the degree implicit in the requirements of the Act.’⁷⁵ The statutory meaning of ‘satisfied’ is that the Tribunal is ‘persuaded to a degree of reasonable satisfaction’ that a purported fact is actually the case.⁷⁶ There is a higher bar to establish identity in citizenship applicants than that required for the purposes of humanitarian/complementary protection because of the significance of the grant of citizenship.⁷⁷

Despite statements in the Citizenship Policy about alternative ways of ascertaining identity for people that are potentially stateless, being unable to provide any documentation in support of a person’s life story has prevented the Tribunal from making a positive finding about a person’s identity.⁷⁸ The onus rests on the applicant to have taken positive steps to ‘prove’ their identity.⁷⁹ Further, unexplained gaps in a life story have also prevented the Tribunal from being satisfied about a person’s identity.⁸⁰ Some Tribunal Members have been tolerant of some discrepancies in a stateless applicant’s recollections of their life story, although this is aided by having multiple identity documents available.⁸¹ Legal status as a citizen/stateless person is not determinative of identity.⁸² The *Explanatory Memorandum to the Australian Citizenship Bill 2005* (Cth) makes it explicit that in cases where an applicant’s identity is ‘unclear or cannot be satisfactorily ascertained’ the Minister cannot approve their application for citizenship. This appears to be borne out in practice.

The lack of guidance and coherence in relation to statelessness determination is not just a problem for stateless people in Australia. It also presents a challenge for first instance decision makers and administrative tribunals which are required to undertake fact-finding in a legislative void. Notwithstanding a lack of clarity, administrative decision makers are nonetheless required to make lawful decisions. As such, judicial review of protection visa refusals in the Federal Court are clear that jurisdictional error can be made out in cases involving statelessness. This includes, for example, where it is established that decision makers have:

- i. failed to consider a statelessness claim⁸³;
- ii. made errors in determining nationality or misapplying nationality laws⁸⁴;
- iii. made errors in the treatment of evidence or legal reasoning in relation to an assessment of statelessness,⁸⁵ and;
4. failed to afford procedural fairness.⁸⁶

This again speaks to the urgency and compelling nature of the case for legislative reform.

4.2.3 A ‘relentless’ reassessment of a stateless person’s identity with real and detrimental impacts

As the above suggests, perhaps the most challenging and arguably dysfunctional aspect of the current administrative system is the fact that there is no single point of determination of statelessness, meaning that stateless people are required to repeatedly prove their statelessness throughout their engagement with the DHA and/or legal process. This is particularly the case where people have been found to be stateless by DHA during the refugee protection visa process, but are then required to prove their stateless status anew when they come to apply for Australian citizenship.

“Obviously, they (stateless applicants for citizenship) understand the futility of it, or they’re like, “We already did that, so why are you asking me again?” So, that’s frustrating for them...but I imagine it makes them feel like the legitimacy of who they are is not accepted. “Prove to us again that you have no nationality,” but it’s like trying to prove something that’s it’s an absence of something – like there’s nothing – the only way you can prove that is by showing that you don’t have any documents. So...it’s this cyclical thing of, “I don’t have anything to show you. All I can show is that I speak this language, and I’m from this country, and I’ve already done that, and you’ve given me a permanent visa. And now, I’m trying to get citizenship, and you’re making me do it again.” It’s just a waste of resources.”

— Natalie Young, Australian Legal Practitioner, Victoria Legal Aid

Consistent with the above, several legal practitioners provided examples of cases where clients were found to be members of a stateless group, but upon resubmitting an application or engaging in a different legal process, have had subsequent decision makers identify perceived inconsistencies in identity information provided or make a credibility finding which results in the previous finding of statelessness being overturned.

The constant monitoring of a stateless person’s identity—in a manner described by one Australian legal practitioner interviewed as ‘relentless’—whereby their statelessness can be re-examined or questioned again and again, has real and detrimental impacts on people.

“Imagine how disheartening it is to have a Rohingya identity and that is your identity, that’s what you grew up with, that’s the language you speak, that’s the culture you know, that’s all your parents raised you on, and I remember when we told them he was like “Well, how can you just say I’m Bangladeshi out of nothing?” And he said “I’ve never lived in Bangladesh. I don’t know what Bangladeshi culture’s like. I don’t know how to speak Bangladeshi, so how can you just”—it’s almost like a stripping away of someone’s life.”

— Ahmad Sawan, Australian Legal Practitioner, Refugee Advice Casework Service

Case study:

“(My client) came by boat, he’s been detained all up about eight years, we’ve been through the AAT...and then we’ve finally got it all sorted after 13 years, his visa is ready to be granted, when I received an email from (the Department).

I thought it was regarding his medical checks but it was a delegate investigating his identity. After having been detained for eight years, been through multiple different refugee status determination processes; I think about three different types where they’ve considered his identity, where the latest Tribunal decision summarised the entire background and made a finding that he was stateless, now the Department are asking, ‘You may not be who you say you are, can you please provide comments on why you don’t have identity documents?’ When it says in the decision that the Tribunal accepts why he doesn’t have identity documents— because he’s stateless. So that’s what I’m dealing with at the moment, and what I’m worried about, (because) if we’re granted the visa, then they might move to cancel it later.”

— Australian Legal Practitioner

Case study:

“The main thing that stands out to me was that this was someone who from the moment he arrived claimed to be a Rohingya man from Burma.

And throughout his first seven years of being in Australia he was assessed as such, had an identity interview that confirmed his Rohingya ethnicity, had engaged with Rohingya interpreters his whole time in Australia, has family members in Australia who are, again, found to be Rohingya. And then because of an issue where he had to resubmit an application and therefore had to reengage the process, the second officer who’s now taking a fresh look at his case - eight to nine years after he arrived- all of a sudden decides that because of a few inconsistencies in the story, decides that it’s an acceptable thing to all of a sudden determine that he’s actually a Bangladeshi national without having presented any Bangladeshi ID documents, without having made mention to links to Bangladesh but just rather because of a perceived lack of credibility.

And the problem is that because there’s no finalised, or really set in stone ‘statelessness’ finding, that officer was able to do that, was able to manipulate those facts because the identity assessment can continue to occur through that process until that final decision.”

— Ahmad Sawan, Australian Legal Practitioner, Refugee Advice Casework Service

The issue of visa cancellation as a real risk for stateless people in Australia arose frequently in the qualitative research and is also strongly supported by the case law research.

“We have a lot of calls about people who have then applied for citizenship, and then the Department do another whole investigation into their identity and then cancel their visa.”

— Australian Legal Practitioner

Under s109 of the Migration Act, the Minister may cancel a visa for non-compliance with s101, the latter provision requiring ‘visa applications to be correct’ including (b) ‘no incorrect answers are given’. Subsection 101(b) appears to uniquely impact stateless people: over a third⁸⁷ of all sub-s101(b) Protection Visa (PV) cancellations that we identified were because the Minister subsequently decided the PV holder (that is a person already granted a Protection Visa) had falsely claimed to be stateless in their original application. Visa cancellation under s109 risks a stateless person being placed into immigration detention pending removal. Despite changes in legislation following *NZYQ* (discussed in section 2.2.3 of this Report), this cohort is still vulnerable to prolonged immigration

detention,⁸⁸ particularly where the former visa holder maintains they are stateless and the Department’s position is that they are not cooperating with their removal or their purported country of origin does not accept involuntary returnees.⁸⁹ If family members hold visas as part of the family unit of the first visa holder, their visas will also be cancelled by operation of law.⁹⁰ This was observed by Australian legal practitioners interviewed for this Project as having resulted in particularly detrimental consequences for children.

Our analysis of 193 tribunal decisions and 27 Federal Court cases (Federal Circuit and Federal Court) concerning applicants alleged not to have complied with sub-s101(b) in claiming to be stateless revealed that, on review, the Tribunal made significant efforts to correct the harshness of the Department’s approach to applying ss109 and 101(b). First, the Tribunal will consider whether there was non-compliance in the way described by the Department. If the Tribunal finds that a person was stateless at the time of the PV application, it will set aside the cancellation.⁹¹ Indeed the high proportion of Tribunal decisions setting aside cancellations suggests the Minister and delegates are not properly discharging their duty to reach a high level of satisfaction that facts exist to prove that applicants did not comply with sub-s101(b). This includes not properly considering nationality laws⁹² or country practices around identity documents;⁹³ conflating eligibility for citizenship with being a citizen;⁹⁴ and making conceptual jumps using a particular religion or ethnicity as indicative of citizenship.⁹⁵ Second, if the Tribunal is satisfied there was non-compliance, it has discretion as to whether to cancel the visa. In most cases, the Tribunal has decided not to cancel the PV.

Particularly concerning is the impact sub-s101(b) has on visa holders self-identifying as stateless who do not realise they are eligible for a nationality or describe themselves as stateless because their country of origin has persecuted them. This has constituted grounds for visa cancellation by the Department. However, the Tribunal gives consideration to how persons come to identify as stateless. For example, in the case of a Bidoon from Kuwait who moved to Iraq and held an Iraqi Civil Status Card suggesting eligibility for Iraqi citizenship,⁹⁶ the Tribunal recognised the status of Bidoons as a stateless people and the applicant being ‘not treated as a full citizen’ in accepting why he had incorrectly stated he was stateless.⁹⁷

Ultimately in almost all cases we analysed, the Tribunal decided to overturn a cancellation decision. This raises serious questions about the purpose of the policy of PV cancellations and its disproportionate impact on people identifying as stateless, particularly where they are owed protection under international law independently of their statelessness. It also raises again the issue of administrative dysfunction- a consistent theme that emerged throughout our research.

4.2.4 Consequences of findings about statelessness

A finding that a person is stateless carries distinct consequences across Australian administrative decision-making. Its most substantial and positive legal effect arises in citizenship applications under s 21(8) of the Citizenship Act, where a finding of statelessness for parents of children born in Australia entitles children to be granted Australian citizenship where they would otherwise be stateless (discussed further at 2.2.1).

Understanding the impact of statelessness also plays a critical role in identity-related visa refusals and cancellations (discussed at 4.2.3 above), where recognising how statelessness affects a person's ability to establish identity has been central to overturning decisions—particularly in visa cancellations under s 101(b) of the Migration Act for providing incorrect information (including mistaken or false claims of being stateless), and in citizenship refusals where the decisionmaker is not satisfied of an applicant's identity (s 24(3)) or good character due to a possible false identity claim (s 21(2)(h)).

However, a finding of statelessness does not provide access to protection or a permanent visa under Australian law, as statelessness alone is not sufficient to meet the statutory criteria for refugee or complementary protection. Our case law review highlighted that stateless people are 'falling through the gaps' most obviously where a finding of statelessness is made, but the applicant is nonetheless ineligible for protection.⁹⁸ This results in a significant gap between Australia's domestic framework and the rights owed to stateless people under international law.

4.2.5 Access to justice issues and barriers to legal assistance

Participants described significant barriers for stateless people in accessing legal assistance in general, including expert and free advice tailored to stateless individuals and communities. Barriers to education commonly imposed on stateless people as children mean that many may struggle with filling in administrative forms that may seem straightforward to others due to a lack of (or poor) computer and/or language literacy. The consequences of inadvertently citing inconsistent identity information are extremely serious, for reasons outlined in 4.2.1 and 4.2.2 above, and include the very real possibility that a person's visa may be cancelled and/or citizenship refused. As this Report has further detailed (see 3.2.5 and 4.3.6), stateless people are at increased risk of immigration detention, and on average are detained for periods longer than non-stateless people. As such, stateless people in Australia are in particular need of legal support.

Although there are a small number of Australian legal practitioners—primarily those working within the refugee and migration sectors—who have experience assisting stateless people, research indicated that statelessness is not well understood generally with the Australian legal profession. Practitioners recommended the development and provision of targeted professional development training on statelessness to lawyers and decision makers (including Department officials and members of the Tribunal and judiciary) to address this.

“Obviously, that’s the first step... to make sure that the legal representative is also trained or at least well versed in statelessness issues”.

— Ahmad Sawan, Australian Legal Practitioner, Refugee Advice Casework Service

Trauma and psychological distress was observed by lawyers to be a significant barrier to access to justice for stateless people.

“Most (stateless clients) have PTSD, severe depression, anxiety. A lot find it—I guess, linked to the depression and anxiety—really difficult to engage in basic tasks, to stay on top of deadlines, to be able to engage in legal appointments or health appointments or basically anything else that’s going on in their life. It’s quite debilitating.”

— Michaela Rhode, Australian Legal Practitioner, Asylum Seeker Resource Centre

4.2.6 The Migration Act as a ‘further tool of family violence:’ The system places stateless victims of family violence at increased risk of harm

Research indicates that stateless women face additional legal barriers under Australian law. Legal practitioners reported cases in which stateless mothers had been abandoned by the Australian father of their child; in many cases, there was a history of family violence. In situations where the father is listed on the child's birth certificate but had abandoned the child, the mother faced significant barriers obtaining Australian citizenship for the child (by virtue of descent from the father) due to the government imposing extremely high burdens of proof.

“The children are particularly impacted in terms of if the father isn’t stateless and the stateless mother wants to assert the citizenship of the child through the father, but there’s family violence, it’s really hard for them to do so because there’s either apprehended violence orders in place, it’s unsafe for them to reach out to their partner or ex-partner, etc. So effectively children are being rendered stateless because fathers are perpetrating family violence and then absconding or denying any responsibility for the child. And so, then the child is left stateless if their mother is also stateless or if she’s from one of the several countries that don’t allow women to pass down citizenship.”

— Michaela Rhode, Australian Legal Practitioner, Asylum Seeker Resource Centre

Victims of family violence are being required by the Department to contact the child's father, placing them and their children at serious risk.

“You have to establish either through a DNA test that the father is the father of the child, or you need to provide evidence that at the time of the birth of the child there was a parent-child relationship between the father and the child. In either of those scenarios, you generally need to make contact with the father. Often, they will refuse to do a DNA test and are effectively using the migration process as a further tool of family violence and will sometimes put conditions on it and say, “I’m only going to do the DNA test if you come back to me”, etc... It’s a pretty high threshold (of evidence) to meet.

There’s just been hurdle after hurdle.”

— Michaela Rhode, Australian Legal Practitioner, Asylum Seeker Resource Centre

The logistics and considerable expense of obtaining DNA testing was observed to be extremely challenging for stateless mothers.

“There’s a lot of paperwork that needs to be filled in and it’s quite difficult when there’s an Intervention Order in place, even arranging for all of them to attend the DNA process because there’s only a few that the Department have provided as being authorised to take these DNA tests. And so even the logistics of organising for the three of them to attend because they’ll also ask the mother to do a DNA test at the same time.”

— Michaela Rhode, Australian Legal Practitioner, Asylum Seeker Resource Centre

Legal practitioners noted that many mothers that they had assisted in this situation did not have work rights and are required to cover the considerable costs of the DNA testing. In many cases, children were in urgent need of having their Australian citizenship confirmed so they could access essential medical care and services unavailable to them on a temporary visa. Overall, the process was observed as exacerbating the trauma experienced by the mothers a result of family violence. This was particularly the case in instances where the government sought to challenge and appeal initial decisions by lower courts to grant citizenship.

“Quite a few children in the situation needed almost NDIS-type assistance and weren’t able to get any support from the government, in terms of having autism or another disability. But yeah, the mothers in these cases, are generally in a very heightened state throughout the entire process. A lot of them don’t have work rights, so haven’t been able to support themselves at all, are relying on organisations completely, haven’t really had the opportunity to be able to heal or recover from the violence that they’ve suffered, the children included in that. And it’s just a very harrowing, arduous experience.”

— Michaela Rhode, Australian Legal Practitioner, Asylum Seeker Resource Centre

4.2.7 Lengthy delays in processing applications for visas and citizenship with no mandated timeframes or updates provided to applicants

“If I don’t have permanency, citizenship, I have no future. So still, I wait.”

— Nasir*

As discussed elsewhere in this report (5.3), stateless people experience significant anxiety over the wait periods for determinations about visas, exacerbated by a lack of clear and transparent timeframes for decision making and an absence of communication by DHA regarding the status of their application.

For those able to apply for citizenship, stateless people reported experiencing anxiety over the unknown timeframe for processing and the lack of updates provided by the DHA concerning the status of their application. In the absence of mandated timeframes for decision making, Australian legal practitioners interviewed for this Report observed significant and often unexplained delays in their stateless clients’ processing times, with some children waiting up to six years for an initial determination. One Australian legal practitioner suggested that a lack of awareness on the part of government decision makers about how to process applications by stateless people might be contributing to the delay:

“I feel like in the citizenship space that there’s a real reluctance to make decisions in difficult matters such as stateless applications. The Department often, when things get difficult, rather than process they tend to go on hold.”

— Carina Ford, Australian Legal Practitioner, Carina Ford Immigration Lawyers

Greater understanding on the part of the Department of Home Affairs of the challenges obtaining documentation that stateless people experience, and the need for some administrative flexibility was suggested as a way to overcome these barriers.

“Processing applications is important. Rather than sitting on the process. Flexibility and understanding that someone may not always be able to prove their exact date of birth and name. For some reason, that’s what sometimes happens when people arrive by boat. They get allocated a name and a number and a date of birth. It all seems fine then, and then that person ends up using that identity often. But then when it comes to citizenship you’re asking them to prove something that they couldn’t prove when they arrived. So I think it’s just having flexibility so that people can understand that they won’t necessarily have the documentation that you may have, say in a western country where you’re born in a hospital and are educated.”

— Carina Ford, Australian Legal Practitioner, Carina Ford Immigration Lawyers

4.3 The predicament of stateless people in Australia varies, but is often shaped by the type of visa a person is placed on

The lived experience of statelessness varies significantly between impacted individuals and communities in Australia, but is invariably shaped by visa status and/or naturalisation.

Key findings indicate that:

- 1.1 The experience of statelessness in Australia is heavily influenced by visa category and the entitlements (or lack thereof) that accompany them (4.3.1);
- 1.2 Statelessness is a secondary consideration to refugee protection (4.3.2);
- 1.3 Stateless people on Bridging Visas and ‘Transitory persons’ face particular legal uncertainty that impacts multiple aspects of a person’s life (4.3.3);
- 1.4 Different members within the same stateless family and/or community are subjected to different visas and conditions (4.3.4);
- 1.5 Stateless people are disproportionately impacted by visa cancellations and refusals (4.3.5);
- 1.6 Stateless people face a disproportionate risk of being detained for lengthy periods (4.3.6).

4.3.1 The experience of statelessness in Australia is heavily influenced by visa category and the entitlements (or lack thereof) that accompany them

Participants with lived experience of statelessness interviewed for this study consistently emphasised that their visa status played a key role in shaping their experience in Australia. This was further observed by stakeholders working with members of the stateless community, particularly the marked difference between the rights and entitlements enjoyed by a stateless person on a permanent visa compared to those on a temporary visa.

DHA acknowledges that access to services and pathways to permanent residency and citizenship are based on visa type, not statelessness status. This creates a fragmented administrative system whereby individuals with similar backgrounds may have vastly different experiences and access to entitlements depending on their visa class.

“Like other lawful non-citizens in Australia, stateless individuals have access to services and pathways to permanent residency and citizenship based on the type of visa they hold, rather than their nationality or statelessness status.”

— Department of Home Affairs Officer

Depending on the mode and date of arrival, often just by chance, stateless people’s experiences in Australia can vary greatly because of the visa pathway they are placed on.

“There’s a massive difference between somebody who’s a permanent resident in Australia and has access to all the government services that that entails, as opposed to someone who is on some sort of visa that doesn’t provide those services or alternatively doesn’t have a visa at all or a bridging visa.”

— Refugee Health Worker

Different visa allocations for individuals within the same stateless cohort, based on often arbitrary distinctions such as mode or date of arrival or location of previous immigration (i.e. onshore or offshore) detention create confusion and fracturing within family and social groups. For example, stateless participants interviewed for this study reported simultaneously feeling happiness for friends granted visas with greater entitlements than their own, alongside sadness and confusion as to why they were excluded from the ability to do essential, basic activities like work or study. People spoke of arriving on the same boat as other members of the same stateless community who now had citizenship, while they themselves remained ineligible for any form of permanency in Australia.

“Eventually we were put into community detention. We weren’t allowed to work or move around anywhere. To go anywhere we had to ask our case officer for permission. Just like in Burma really. We were in community detention for five years. Not being able to work, to study, to have any freedom really took a toll. The stress made us sick. We couldn’t talk to anyone. Over time we saw other people we were in detention with get visas and begin to build a life. They can work, they can go anywhere, they are free. But not us. Because we were taken to Nauru and they weren’t, we continue to be punished. Even people who arrived on the same boat—they now have a visa. I feel happy for my friends, but sad for us. It’s like a mantle around our necks weighing us down all the time. It makes us sad.”

— Yasmin*

The impact for people subjected to different visas with different applicable conditions was also observed by legal practitioners.

“It’s really mixed....some have had work rights and then through that have been able to get Medicare, but without work rights you’re not entitled to Medicare. So a lot of people don’t have work rights, don’t have study rights and they’re effectively languishing and have no access to any support services. And that impacts what services will engage with them around housing as well. If you’re without a Bridging Visa a lot of places won’t support you.”

— Michaela Rhode, Australian Legal Practitioner, Asylum Seeker Resource Centre

Confusion as to different visa pathways within stateless community groups was further observed by research participants.

Case study:

“I’ll just give a story about a woman who I’m representing at the moment around capturing people’s everyday experiences on Nauru. She keeps calling me—it’s just an example of how difficult it is to explain these concepts. So, she’s a Rohingya lady, and she keeps calling me, saying that she knows some of her friends in the community with kids that have gotten citizenship, and she doesn’t understand why her family hasn’t. But none of the kids or her were born in Australia, and I keep explaining it again and again, but understandably, she gets really upset each time she calls me, and she just doesn’t understand the discrepancy, and keeps asking for legal advice and legal assistance. And we just keep repeating the same thing, and have passed her onto various other services, but obviously, they give her the same advice. So, I’ve just noticed that within the community, there seems to be some sort of confusion ...(people are) really unclear what their long-term status is.”

— Australian Legal Practitioner Nicki Lees, Maurice Blackburn

Varying rights and entitlements for stateless people in Australia, as ascribed by the various types of temporary protection visa they are on, was observed to increase the risk of exploitation for stateless people, particularly in employment settings.

“So either in terms of being underpaid, being paid as little as \$12 a day for eight hours of manual labour work. I’ve seen women experience sexual exploitation in the workplace. I’ve seen—what else happens? I mean at the very extreme end of things people’s documents being taken and being held in regional areas, working in farm work and being—their wages are deducted to cover their rent and their food, etc. So they’re actually not getting paid anything and they’re locked in rooms when they’re not at work.”

— Michaela Rhode, Australian Legal Practitioner, Asylum Seeker Resource Centre

Visa insecurity has a marked detrimental impact on the mental health of stateless people.⁹⁹ Mental Health professionals interviewed for this study observed how visa uncertainty can inhibit a stateless person’s ability to process trauma, plan for the future, or achieve stability.

“(For) my asylum seeker clients in particular who are stateless, until a visa situation is resolved, it’s really hard to resolve those trauma symptoms and process that trauma because they’re not fully safe yet.”

— Psychologist, Torture and Trauma Rehabilitation Provider

The urgency of securing a particular visa to overcome barriers to essential rights and entitlements was a recurring theme in several interviews for this study. Citizenship was also cited as critical mechanism for resolving statelessness.

“Reducing statelessness is only going to be achieved by someone achieving citizenship, and that would give them a state that accepts responsibility for them as one of their citizens.”

— Refugee Support Worker

As discussed elsewhere in this Report, however, access to citizenship for stateless people is often complicated due to lack of documentation and language barriers. Lengthy processing times for applications (in the absence of mandated decision making time-frames) further compound stateless people’s feelings of limbo and uncertainty.

“We got her daughter her Australian citizenship certificate and it was like, “Okay.” There was an end in sight but that took 10 years so that’s 10 years of limbo for not only Mum but also a child and that can have a big impact on them. I think just the relentlessness of it.”

— Australian Legal Practitioner

As noted, access to visa categories is shaped by how Australia identifies and treats different individuals within the same communities, with reference to factors such as mode and date of arrival and detention history. This underscores the structural inequities embedded in Australia’s migration system, where chance factors, such as date, or even time of arrival, or birth in detention—can lead to radically different outcomes for stateless people, fostering feelings of injustice and fragmentation within communities.

In contrast, one (formerly) stateless participant interviewed for this Report had arrived in Australia on a skilled visa pathway, something that remains extremely rare due to challenges stateless people have in proving their identity, connecting with sponsors and funding their relocation. Arriving on a permanent visa with a clear path to naturalisation, along with support for resettlement made for a much more positive experience of living stateless in Australia.

“I think before coming to Australia I never fit in any bucket. I could never find any pathway, process, policy, law, that includes me or talks about people in my situation. And all of that changed the minute I landed in Australia, so it was a complete change. And so it’s almost as if I was born the day I landed here, legally speaking...

As someone who grew up (stateless in Lebanon), and lived for the majority of their life there, coming to Australia and seeing a different approach was absolutely amazing. I couldn’t describe the happiness I felt, the security I felt. I felt welcomed, I felt seen, and I felt respected as a human being, for the first time in my life, from a legal perspective, of course.”

— Fadi

Fadi credits his positive experience to the dedicated non-government program that supported him to come to Australia, Talent Beyond Boundaries (TBB). Beyond that, he was keen to stress that his experience is not the norm, and that even with programs like that offered by TBB, his resettlement in Australia through the skilled migration visa program as a stateless person involved a combination of being linked with ‘good’ people willing to support him, a committed and creative legal team (willing to look at various ways to address identity documentation challenges) and ‘sheer luck’.

“But again—and you find that this is a very recurring theme in my story—there is a good person, a good Samaritan, who just looked at my situation and made an exception to include me, or help me. Otherwise, I wouldn’t be here.

So that’s, I think, why my story is so unique: it’s not about me, as a person, it’s about me coming across exceptional people who are willing to make an effort and actually try to find a solution to my problem...

I think it happened by sheer luck. So there was a bit of luck and a lot of—again—good people involved.”

— Fadi

Even with the support of his employer and TBB the resettlement process in Australia was challenging, indicating the importance of ensuring stateless people without these supports are adequately provided for as they establish themselves within the Australian community.

“Well, I think from my perspective, I would say it (resettlement in Australia) was very, very smooth and seamless. I mean, there were challenges...

Some of the challenges were English. I’ve spoken English professionally before, and I was fluent, but I’ve never used English from dusk till dawn, 24/7 at work and at home, and everywhere. So, that really took a toll on me in the first couple of months. I really struggled with that. I was getting really drained, just trying to translate everything and then speak it. So, that was a big struggle.

And where the key struggle for me, as a stateless person, came with all the things I never had access to—so applying for a driver’s licence, learning how to drive. I drove maybe once or twice with a couple of friends—illegally—in Lebanon, but I was a 27-year-old on his Ls, because I never drove before. So just getting through all of that was—I’ve never used a train before, I’ve never used a train ticket or a bus ticket...

Bank accounts: I’ve never had a bank account before... I kept forgetting my wallet everywhere, because I never carried a wallet before. I never had a driver’s licence or a bank account... I never had cards with my name on it, so I wasn’t used to holding them, so I’ll just forget them everywhere. I’ve went through maybe two debit cards in the first year, because I just misplaced them and lost them. I wasn’t used to carrying all of that.

So on top of learning all of that, and the English, I had a job as a consultant. And so I hit the ground running, I was facing the clients, so trying to cope with that as well. On top of all of that, trying to find a place to live—well, I had a place to live...

So trying to work all of that at the same time, I think, was a bit overwhelming. Looking back, the first six/seven months were very challenging.”

— Fadi

4.3.2 Statelessness is a secondary consideration after refugee protection

“We have a young man we are assisting who is stateless. He is the victim of child trafficking. I say stateless because the country he comes from has no record of him and we’ve confirmed that with the relevant authorities. So now we have to find these creative legal mechanisms to try and get his case in front of the Minister to say, “he is stateless, he can’t be returned anywhere...” So it (the legal system) causes significant issues for people who stateless but aren’t refugees. If you are just stateless....it’s a square peg in a round hole.”

— Alison Battison, Australian Legal Practitioner

Where a person has access to a protection visa under Australian law, statelessness is often treated as a secondary consideration to refugee protection. This is largely because addressing a person’s statelessness under the existing domestic migration framework does not provide any additional immediate support to a visa applicant. To date, the perception of statelessness as a secondary issue to refugee status has made it difficult for advocates to meaningfully engage the Government in law reform on the issue.

“I think statelessness is really a secondary consideration. The main consideration is if they have protection concerns, if they are a refugee, and then only in the context of detaining them or deporting them, does statelessness really come up as an issue... (I)t’s not an area that the Department talks about as a priority issue, or as an agenda item.”

— Refugee Policy Expert

Service providers report difficulty in distinguishing between the needs of stateless people and refugees, especially when both groups face resettlement challenges such as language barriers, trauma, and family separation. However, some service providers interviewed did note that stateless people may have unique vulnerabilities (distinct from refugees), including inability to return to any country, risk of prolonged detention, and difficulty substantiating identity due to lack of documentation (discussed further below).

The overreliance on refugee protection visas for stateless people was identified as problematic by numerous research participants, resulting in legal practitioners essentially having to mould the unique characteristics and needs of their stateless clients to fit within the refugee protection framework. Considerations of a stateless person’s “country of former habitual residence”, required as part of the refugee determination process, were highlighted as a particular way in which the existing legal framework is not suitable for assessing statelessness.

“When you’re doing a refugee claim and the person is stateless, you’re (required to) address their country of former habitual residence. It’s entire fiction, because you are talking about what would happen to them if they go back to this place that they have no right to return to. So, we’re going through this process, and everybody knows that what you’re talking about is just legal fiction, but it carries such huge consequences if you don’t tell the story right, in a way that the decision maker imagines is right, and it’s just imaginary.”

— Ben Carrick, Australian Legal Practitioner, Refugee and Immigration Legal Service

Australia’s complementary protection framework was also identified as inadequate for protecting stateless people. In 2012 ‘complementary protection’ was introduced into the Australian legal framework. Complementary protection allows people seeking asylum who do not meet the ‘refugee’ definition, but are still at risk of significant harm, to claim protection in Australia on the basis of Australia’s international human rights obligations.¹⁰⁰ However to date, it has proved to be an inadequate basis of protection for stateless people in Australia.¹⁰¹ Trying to fit stateless people into existing criteria is not adequate or appropriate; a stand-alone legal framework for correctly identifying, protecting and naturalising stateless people in Australia is needed.

4.3.3 Stateless people on bridging visas and ‘transitory persons’ face particular legal uncertainty that impacts multiple aspects of a person’s life

Stateless people on bridging visas or classified as ‘transitory persons’ under Australian migration law face heightened vulnerabilities and challenges. These individuals often have limited access to welfare and/or social support services, live in legal uncertainty and are subject to ministerial discretion for visa outcomes.

“So, the (stateless) transitory people on bridging visas, we do their bridging visas. We’ve got about 180 on our books; not all are stateless but some of this cohort are. And we’ve done a small number of “Ministerials” (requests to the Minister to exercise their personal discretion under legislation to intervene in favour of the stateless applicant) for really, really exceptional situations, without much hope that they will go anywhere.”

— Ben Carrick, Australian Legal Practitioner, Refugee and Immigration Legal Service

This cohort of stateless people in Australia are often excluded from welfare support and access to various services. Depending on the type of short term “Bridging Visa” they are on, they may be prohibited from working and/or studying. The legal cases for this cohort are usually prolonged and complex because of the legislative regime they are subjected to. They either exist on a series of rolling six month Bridging Visas or are subjected to detention (including in the community) with no ability to apply for any form of visa. Without a clear pathway to permanent status they remain in limbo, unable to establish themselves in Australia, support their family or access basic rights.

“So even though I work full time, I contribute to the community, to the economy, I pay taxes, all these things, I don’t have any robust thing in return. I’m allowed to stay here legally because of the bridging visa, but I don’t have access to the rights or services that Australian citizens would have access to...I’m trying to be grateful that I have this opportunity to stay in a safe country. But the other thing is I’m not allowed to travel either...I haven’t seen my family or anyone overseas since I came to Melbourne in 2020.”

— Amira*

4.3.4 Different members within the same stateless family and/or community are subjected to different visas and conditions

Factors such as mode of arrival in Australia, date of arrival, whether a child was born while his or her parents were in immigration detention, and the timing of visa grants can result in family members having different visa statuses, leading to relationship fragmentation and distress. This highlights the human cost of policy inconsistency, where families are separated and distinguished from one another by bureaucratic boundaries, resulting in members of the same family experiencing inconsistent and unequal access to rights.

Parents interviewed for this study experience the disparity of legal statuses imposed on stateless family units firsthand (see, for example, the story of Yasmin* in the Appendix to this Report: Stories of Statelessness in Australia). In one case, although a stateless couple's children enjoy Australian citizenship (by virtue of being born in Australia), the mother and father remain prohibited from applying for any sort of visa whatsoever, by virtue of the fact they were briefly detained in Nauru many years ago. The family have been living in Australia consistently for more than a decade. The parents were initially placed under community detention orders and have since been living on revolving six-month Bridging Visas. The mother would love to study but is prohibited from doing so. The father works as an uber driver 6 days a week—he would like to seek different employment but has struggled to find employers willing to take him on for the limited length of his six-month visa.

“Even though our children are Australian citizens, the government won’t let my husband and I apply for a permanent visa and keeps telling us we need to leave ... But how can we do this? My daughter says to me, “I was born here. I grew up here, I like it here. I don’t want to leave. This is a safe country.”

— Yasmin*

People like Yasmin also experience limited rights and entitlements, including on their freedom of movement. While the minors in the family unit are theoretically free to travel within Australia, the parents are not, meaning the whole family suffers. This was identified in interviews as problematic in instances where extended family units might live in different states, or children are offered opportunities to travel for sporting events but their parents are unable to accompany them.

“We needed to request permission for the parents to travel which the Department denied. So, we had a situation where we had two Australian citizen children that were allowed to travel but effectively unable to—because their parents weren’t granted the right to travel... So, you just have these really unforeseen consequences (where) the kids have certain rights ... but they (the Department) need to extend that to the whole family unit.”

— Nicki Lees, Australian Legal Practitioner, Maurice Blackburn

The existing legal framework for stateless children also creates disparities between children born in Australia and those who were not (see, for example, the story of Hassan* in the Appendix to this Report: Stories of Statelessness in Australia). While those born in Australia may be able to claim Australian citizenship, older siblings born in the parent's country of origin, or *en route* to Australia are left without a pathway to permanency in Australia by virtue of being detained offshore (however briefly) after arrival. This is particularly problematic as the older children approach the end of high school, as many face serious barriers to accessing higher education (see for example, the story of Nur* in the Appendix to this Report: Stories of Statelessness in Australia).

“Our youngest child—he recently was granted Australian citizenship. It took nearly three years for his application to be approved. He could get citizenship because my wife and I are stateless and he was born here. But this is not the case for our other children. Sometimes this causes tension—they ask us ‘why does he get citizenship and we don’t? We are all siblings, what is the difference?’”

— Kareem*

4.3.5 Stateless people are disproportionately impacted by visa cancellations and refusals

Stateless people who are not found to be owed protection under Australia's refugee protection framework, or have their visa cancelled face a heightened risk of prolonged immigration detention given that they have no country to be 'returned' to. Nor is there any visa category or pathway they can be placed on to naturalisation by virtue of their statelessness (with the exception of children born in Australia to stateless parents).

“For stateless detainees it’s all the more hopeless, where they can’t even do what others are doing, which is saying, “Okay, fine, I’ll just agree to be removed (from Australia).”

— Natalie Young, Australian Legal Practitioner, Victoria Legal Aid

The disproportionate risk stateless people face concerning visa refusal or cancellation reveals a critical gap in Australia's immigration framework, whereby stateless people are assessed within the same procedural frameworks as other non-citizens, despite the fundamental difference in their legal status and ability to be returned to their country of origin.

“I think the plight of stateless people is heartbreaking because it’s like the constant conversation around people making plans to return, if they’re on what is usually described as a “negative pathway” where people have got nowhere to return, is really challenging.”

— Refugee Health Worker

4.3.6 Stateless people face a disproportionate risk of being detained for lengthy periods

“In detention, we were not treated like humans.”

— Amir

The disproportionate risk stateless people experience of being detained was consistently identified by research participants, an issue discussed throughout this Report. As demonstrated in Chapter 3, statistics show that stateless people also spend longer periods of time in immigration detention than non-stateless people (3.2.5). The length of detention is exacerbated by a lack of visa pathways for stateless people in Australia, and the fact that there is no country they can be sent back to. As noted by one Australian legal practitioner interviewed for this Report, ‘the consequences for stateless persons (of being detained)... are heightened because they cannot be returned.’

“I left Iran because of this discrimination and intimidation. Around 2012, I flew to Indonesia and travelled by boat to Christmas Island. I was jailed for two years by the Australian government. This didn’t make sense to me because Australia has a reputation for supporting human rights. I don’t know what they achieved by keeping a blind person in detention for two years other than wasting over a million dollars.”

— Amir

Despite fundamental legal requirements that immigration detention in Australia be administrative in nature and ‘non-punitive’, qualitative data consistently indicated otherwise. More than one stateless person interviewed for this research who had experienced immigration detention likened it to imprisonment.

“I felt like we were in a prison, and we were, basically. But I just couldn’t understand why we were in a prison. People kept saying, “Detention is a prison for people who did bad things.” As a 10-year-old, I was confused. I would ask, “But what did we do?”

— Asma

Other stateless people spoke of the way protracted periods of detention and the restrictions and conditions imposed on them made them feel less than human.

“All these rules they put on us in community detention make me feel like I’m not human. Like I don’t feel like I’m supposed to be human looking at those rules.”

— Nur*

The lack of mandated timeframes for detention was identified as a particular risk factor for stateless people, with stateless people waiting for months without any news about their case.

“In Darwin in detention, sitting there thinking, nearly crazy, you know. Every day, no news. I ask the Immigration Department about my family, how are they? They say no news. Minister say no news, no news. Waiting, waiting, so long. So long waiting.”

— Hassan*

Concerns about the conditions, length and impact of immigration detention on stateless people in Australia was also consistently identified by professionals working with stateless communities, particularly legal practitioners.

“(It’s) shockingly bad. There’s no way to put any spin on it, other than it is a very slow death sentence. So, for refugee clients, sometimes it’s a terrible choice but they have a choice between going back to their country of origin and dying, or dying in detention here. Stateless people can’t even exercise that limited amount of power.”

— Alison Battison, Australian Legal Practitioner

The dangerous and detrimental health impacts—including mental health—of immigration detention are well documented.¹⁰² Several service providers also shared anecdotal evidence about the detrimental impact caused by immigration detention on the health of stateless people.

“If you’re detained long-term, your physical health as well obviously deteriorates, and our clients get divided between going obese and then going very, very skinny. But also, interestingly, and this is completely anecdotal, a lot of our clients are starting to get what I would term very rare illnesses. So, Addison’s disease, we’ve had two clients with Addison’s disease, which is an endocrine illness that is incredibly rare and is very difficult to diagnose, and yet 2% let’s say of the people of ours that have been released have had it. Now, that’s a really large number. So, I think the stress illnesses and hopelessness illnesses are really building up.”

— Alison Battison, Australian Legal Practitioner

'When I grow up, I want to be a lawyer'

— Drawing by Mia*, aged 13

• Confidence
• Logic
• Education
• Speech
• Fairness
"I will be the voice for those who can't be heard!"

Educate yourself
Empower yourself
Elevate others

Justice
Integrity
Compassion

MY DREAMS



I'm not just a little girl with a dream.
But a young woman with a promise

Chapter 5:

Living stateless in Australia

“Because we came by boat and spent time in detention on Nauru, we are not allowed to apply for a visa. We live in limbo.”

— Nur*

This chapter explores the everyday lived experience of stateless people in Australia, focusing on how an uncertain or unresolved legal status and a lack of formal legal recognition shapes the lived experience of statelessness. Many participants interviewed for this Report spoke to the inhibitions experienced by stateless people to establish a new life in Australia. Restrictions placed on a person’s ability to work, study, travel, be reunited with family members and buy a home in Australia resonated with stateless people’s experience of discrimination in their country of origin.

“Within my community in Australia, I see so many stateless people who haven’t been given visas. For more than 13 years they have been on Bridging Visas—without having the chance to be interviewed and state their case. This limbo; it plays with their mind and causes many of them to have mental health problems. That makes me feel incredibly sad.”

— Amir

The impact that uncertainty and a precarious legal status has on the lives of stateless people in Australia was echoed by professionals working with stateless communities.

“(T)he limbo that these individuals are living in and particularly for stateless people, they’ve never had a place that truly accepts them and then when they’re in this cohort, they’re still living that life in Australia and that’s completely unacceptable.”

— Nicki Lees, Australian Legal Practitioner, Maurice Blackburn

Stateless people interviewed commonly reported feeling ‘stuck’ or existing in a state of limbo, particularly when they have a ‘transitory’ or temporary legal status with no prospect of naturalisation. Stateless parents spoke of the sacrifices they willingly made coming to Australia in the hope that their children will enjoy a better life, while also expressing fear that their children’s futures will be negatively impacted by their statelessness and precarious legal status in Australia.

“I am old now, and I am still not a citizen. It has been too long to wait. My time is finished now, I only care about my children. The future is about my children.”

— Hassan*

Legal practitioners interviewed for this Report spoke of the various systemic and bureaucratic processes that have delayed the processing of refugee visas over the years as exacerbating the wait times and challenges experienced by stateless people.

“The Unauthorised Maritime Arrival cohort is the best example of administrative and political incompetence that I’ve ever seen in my time of working. Applications were meant to be a fast-track process. Over 12 years later, there has finally been a change in government position to finally simplify the process for residency, which left many children not holding a visa or holding necessary citizen documents of any other country.”

— Carina Ford, Australian Legal Practitioner, Carina Ford Immigration Lawyers



Key findings indicate that:

- 1.1 Conditions and restrictions imposed on stateless people in Australia can effectively replicate those experienced by people in their country of origin (5.1), including in relation to restrictions on freedom of movement (5.1.1), access to education (5.1.2), access to healthcare and disability support (5.1.3), access to employment (5.1.4) in terms of exclusion from belonging (5.1.5) and access to housing (5.1.6);
- 1.2 Stateless people live in limbo, particularly when they have a ‘transitory’ legal status with no prospect of resolution. This impacts every aspect of their life, including their family life (5.2);
- 1.3 Delays in processing and restrictions imposed on stateless people in Australia are having a negative impact on family life, with stateless families separated across borders for lengthy periods and people reluctant to start families while they await a decision on permanency (5.2.1);
- 1.4 The mental health impacts of statelessness are profound and exacerbated by protracted periods of legal uncertainty in Australia (5.3);
- 1.5 Parenting newborns and small children in immigration was observed to have a long-term detrimental impact on the mental health of stateless parents (particularly mothers), children and the family unit (5.3);
- 1.6 Stateless young people experience high rates of mental health challenges, compounded by the inter-generational trauma they witness their parents and grandparents struggle with (5.3);
- 1.7 A person’s statelessness status is intrinsically linked to the concept of ‘belonging’ (5.4);
- 1.8 Stateless people experience a complex and varied relationship with the term stateless; while some identify with the term, others strongly reject it while others only discovered the term later in life (5.5); and
- 1.9 Citizenship is not the complete answer to statelessness but holds significant weight and meaning for many stateless people (5.6).

5.1 Parallels in the lived experience of statelessness prior to Australia

Research suggests that the conditions and restrictions imposed on stateless people in Australia can effectively replicate those experienced by people in their country of origin. In this way, Australian government restrictions are exacerbating the harm experienced by stateless people prior to their arrival in this country.

Parallels between discriminatory measures imposed on stateless people in their country of origin, then replicated in Australia, include in the areas of freedom of movement, access to education, access to healthcare, access to employment, and exclusion from belonging.

5.1.1 Freedom of movement

Many stateless people spoke of experiencing government imposed restrictions on their freedom of movement in their country of origin (particularly Rohingya in Myanmar), and those imposed by their experience in detention or their visa (or lack thereof) in Australia.

“Eventually we were put into community detention. We weren’t allowed to work or move around anywhere. To go anywhere we had to ask our case officer for permission.

Just like in Burma really....

Sometimes, our lack of freedom—the restrictions we have on us—makes it feel like we are living in a jail. Like we don’t have a future.”

— Yasmin*

Restrictions on movement were found to have a detrimental effect on family groups separated across state borders.

“My husband’s mother arrived on the same boat as us, but she is living in community detention in a different state. She was detained in Nauru with us. She’s been in community detention in Australia now for almost ten years...Worst of all, she can’t travel to see us—and we can’t go to her. She doesn’t know her grandkids. We came all this way together, and now we are separated by a short difference but unable to see each other.”

— Yasmin*

Restrictions on travel was also observed to have significant impacts on stateless people in Australia with family members overseas.

“I’m not allowed to travel; it’s a condition of my visa. I haven’t seen my family or anyone since I came to Australia. I try to ignore this—to shut it out. My mum and brother are in Gaza strip. My sisters and I are spread out all over the world, so far apart. But my mother and my brother are in Gaza. It’s too unbearable to talk about.

(I) will marry in a few months...I’m so happy but also sad, knowing my family won’t be able to be here for it. The wedding planning is challenging. Sometimes I feel excited and then at other times I think—“what am I doing? How can I get married now?” I got to the point a couple of months ago where I wanted to cancel the wedding.

Two of my sisters are married and both got married in the same way I will be forced to—without family there...So I feel like I’m following in this family trend.”

— Amira*

Restrictions on freedom of movement were observed to be particularly hard for young adults who were unable to participate in many of the ‘normal’ activities such as sleepovers and travel of their peers.

“We live in community detention. We aren’t allowed to move around or work. We have lots of conditions applied to us. We have to sign an agreement that controls the way we are allowed to live while in community detention. It says I’m not allowed to have sleepovers with my friends which I find weird. It sets out how we are allowed to interact with our neighbours. We have a curfew.... I’d love to travel around Australia. And overseas. I’d love to go everywhere! See the whole world....

I’d love to fly away.”

— Nur*

5.1.2 Access to education

“The majority of people in my family—in my community—never had the opportunity to go to school. Because that’s how persecution works. First they take your right to education, your right to employment, your citizenship, your birth certificate. They strip away all your documents. After that, slowly, slowly, you lose awareness of what your rights are. Even if you think what’s happened to you is unfair, you don’t actually understand the extent of all those terrible things that are being done to you until you come to a place where you see everyone’s getting access to all these things and you start to understand.

You start to understand that these are the rights you should have had all along.”

— Asma

In many of the family groups we spoke to, parents reported receiving only limited (or in some cases, no) formal education in their country of origin, only to now witness their children unable to access higher education in Australia. Stateless young people without visas and on temporary visas can only access higher education by applying as ‘international students.’ A lack of documentation and extremely high tuition fees (noting parents in most cases have been prohibited from working for many years) make this impossible. Young people in this situation are instead able to apply for a small number of scholarships offered at the discretion of individual universities.

“I had access to education in primary school and high school. That’s it. For me, a lot of my problems when it comes to education started in year 12. All my friends were worried the HSC and their ATAR score. For me, I wasn’t just worried about my marks. I was worried about the fact that I was on a temporary visa. For around 12 years, I was on a temporary visa, me and my family. I didn’t have access to HECS loans or any support. The only way I could go to university was with a full scholarship, which is very, very hard to get. Having high grades is not enough. You have to prove that you’re worth this thing.”

— Asma

The unfairness of young stateless people being unable to access higher education due to their immigration status, despite having spent years in Australia, was observed by policy and advocacy experts interviewed for this research.

“Australia, I think, understands its obligations to people who are under the age of 18. If you’re under the age of 18 and you’re a transitory person, you can go to primary school and high school... but the day they turn 18, they will be told by the Department, ‘No, you are not allowed to study anymore.’ It’s so strict, that even people who want to get a forklift license or something like that, couldn’t do that sort of TAFE study for vocational training. So we have tried, on many occasions in the last 12 months or so, to say, ‘What is the point of this, when somebody has clearly done well in high school, they’ve got the marks, they’ve got a place, they’ve got a scholarship, they’ve got funding, why would you not let a young person access higher education?’ Sadly, we haven’t been able to shift the government on this policy. They’ve said, ‘If they want to study, then they should sign up to go to New Zealand.’

— Refugee Policy Advisor, Community Sector



An inability to continue education was observed to be very socially isolating for stateless young people in Australia.

“I was allowed to go to school, but I can’t go to University or do any further study....My final year of school was really hard because all of my friends were looking forward to going to university and choosing courses and stuff. But I couldn’t do any of that, so I felt really left out. It was confusing—how come they could do that but I couldn’t?”

Now I’ve finished school I find it hard to fill my days. I feel like I have too much time. It’s not normal for somebody my age to have so much time. I try to keep myself busy with painting. I like reading. But sometimes there’s just nothing to do and I sit at home.”

— Nur*

Support for stateless young people applying for higher education in Australia, even in instances where scholarships are available, was shown to be unavailable or inadequate, in part because of a lack of understanding of the issue and the unique barriers that stateless people face.

“There are so many things I was worrying about in high school that my friends didn’t really have to worry about. They weren’t taking care of their siblings and helping their parents with interviews and filling out documents, managing their emails and cleaning up the house while also studying and worrying about the applications to university with scholarships and getting rejected.

I missed a whole year of education after the HSC because although I got offers to study bachelor’s degrees, I didn’t have the money part sorted. I was getting half scholarships, which was not enough. It wouldn’t cover one semester. I emailed so many universities. I called so many people and no one could help me.

My high school career advisor was completely useless. They’re the first person you go to for guidance, but every time I told them my problems they weren’t invested. They didn’t understand—they refused to understand my situation. They treated me the same as they did the normal students who are born here, who are Australian citizens, permanent residents. They were treating me like them, but I wasn’t them. I was on a temporary visa. I’m stateless. I have no birth certificate.”

— Asma

Financial barriers on accessing higher education were observed to be complicated by the caring responsibilities shouldered by young people in stateless families, who often have more advanced English than their parents.

“All the young kids in my community are going to school now and can speak English much better than our parents. They can communicate much better when it comes to going to the doctors or speaking with immigration or calling Centrelink. For me, I had to start translating for my parents when I was 10 years old; legal documents, communication with the government. I barely knew

English myself. I was still learning. I didn’t have any education until the last semester of year five. I lost a lot of critical years of education. But I’m still expected to help my parents because if I don’t do it, who will? ...

That is a big load to carry as a kid. It’s like having the responsibilities of an adult.”

— Asma

The barriers regarding access to higher education in Australia were described by a policy expert we interviewed as a ‘policy that’s deliberately separating families’ in some instances.

“We’ve had horrible situations where young women—the mother is married here, so doesn’t want to leave her husband...But the adult girls have applied to go to New Zealand, because it’s the only way that they can get to university. So it’s a policy that’s deliberately separating families. The mother’s saying, ‘Well, am I ever going to see my daughters again?’ We hope that once the girls become.... permanent residents of New Zealand, or even citizens, they’ll be able to travel back to Australia, but in the meantime, the mother’s trapped. Because if she wants to stay with her husband, she has to be in this limbo state forever.”

— Refugee Policy Advisor, Community Sector

Stateless adults also reported experiencing barriers in accessing education.

“When I got my scholarship, I was still on a temporary protection visa and wanted to pursue my studies. I applied to Deakin College as an international student because that was the only way I was allowed to apply. I didn’t know what was going to happen; I didn’t realise how expensive it would be. I couldn’t afford to pay the fees. I went to the University, met with the school manager, and said, “You know I don’t have money.” And they said, “Why are you here?” I said, “I love education. I come as someone, as a human who is passionate about education and learning.” Luckily I was able to secure a scholarship.”

— Amir

Stateless people interviewed expressed sadness at being prohibited from seeking study as adults in Australia, in an attempt to make up for lost time and opportunities they were excluded from as young people in their country of origin.

“I was allowed to go to school until Year 8. After that my mother would have had to pay a lot of money and we couldn’t afford to keep me in school. The fees only applied to Rohingya students... There are restrictions on everything for Rohingya people in Myanmar. On work, study, moving around. Often we didn’t feel safe...

My dream is to study. But the visa doesn’t allow me to do this. I’d love to study computer studies. And improve my English. But I’m not allowed to in Australia.”

— Yasmin*

Significantly, stateless children were also found to have missed crucial education while held in immigration detention.

“My kids missed lots of their education while we were in detention. While we were detained in Queensland they weren’t able to go to school. There was another family in the detention centre—their children would go out to school each day. But my kids couldn’t—I didn’t understand the difference. I asked the Department officer “Please let my son and daughter go to school.” But they didn’t. I didn’t understand why. This made me feel so sad. Because when we were living in Malaysia they also couldn’t go to school. I wasn’t allowed to go to school when I was a kid either and now this was happening to my children.”

— Hassan*

5.1.3 Access to healthcare and disability support

The short-term nature of temporary visas; particularly ‘Bridging Visas’ with a usual length of six months, were found to be a particular barrier to consistent and stable access to healthcare.

Many stateless participants interviewed for this Report reported experiencing a ‘gap’ in their ability to access funded healthcare (including Medicare) for weeks at a time in between one temporary visa expiring and the new one being issued. Some people interviewed had been on a series of rolling short-term temporary visas for almost ten years.

“Every time the Bridging Visa would expire, our Medicare card would expire. This was especially hard for my wife who has diabetes. The Medicare card would expire and I’d have to go to the Centrelink office, sort out all this paperwork because my wife needed medical treatment. The constantly expiring visas made it hard for my wife to get medical treatment when she needed it.”

— Hassan*

For one stateless participant interviewed, financial restraints means that family members simply cannot access medical care when they are between temporary visas.

“Every time our visa expires there is a gap until the next one is issued. Sometimes it is days, sometimes weeks before the next one comes. We don’t have Medicare in this time—which means we simply don’t see a doctor. Every six months it is the same. The visa ends and we reapply.”

— Yasmin*

Barriers to healthcare were observed to be particularly restrictive where family members (including children) had complex needs stemming from disability.

“My youngest child has Australian citizenship because he was born here. But my two older children were born in Malaysia. They can’t get citizenship. This is particularly hard for my daughter. She has complex needs requiring support. Her teacher suggested we access support through National Disability Insurance Scheme. But without citizenship we can’t. And we can’t afford to pay for the support she needs.”

— Hassan*

Amir, another (formerly) stateless adult interviewed for this Project spoke about the additional challenges he faced accessing critical disability support due to the temporary nature of his visa.

“Some of the difficulties I faced as a blind, stateless person in Australia include not being able to access government-funded disability support services like half-price taxis and guide dogs. As someone seeking asylum, you’re not eligible for any equipment to enable your independence. Luckily, Guide Dogs Victoria helped me get a guide dog, Lainie through their philanthropic program. However, Lainie’s training and expenses were not funded by the government.

Because of the lack of disability support when I was on my temporary visa, I experienced additional barriers in pursuing work and education. I had a scholarship to study and didn’t have a Braille laptop. I didn’t have a software called JAWS that made computer documents accessible for me. Luckily, I had people donate some of these things to me so I could study.”

— Amir

5.1.4 Access to employment and the dignity of work

“(Working) allows me to keep my dignity, in a nutshell. And for someone like me—maybe it’s my cultural background—when you take that away from me, you might as well kill me.”

— Fadi

Stateless people interviewed for this research reported having prohibitions placed on their ability to work or more recently expiring severely restricted opportunities for employment due to the short-term nature of their temporary visa.

“Eventually we were given a bridging visa. My husband is allowed to work. He drives for Uber. He has to drive long hours, seven days a week just to keep us afloat. It means we don’t have time together as a family. But he works hard to provide for our family. Getting something more permanent is too hard, as his visa expires every six months. Employers don’t want to take him on as there is too much paperwork, and the visa is too short term.”

— Yasmin*

One stateless participant interviewed found that despite being allowed to work, it was practically easier to gain the work experience and build the professional relationships he needed by volunteering, given the short-term nature of his temporary visas made it too hard to seek employment.

“Eventually I was given a Bridging Visa. I was allowed to work and a kind man took me on as a mechanical volunteer. He helped me learn English. I now work as a machine operator. The Bridging Visa was hard though, because it would expire all the time, every six months. So even though I could work, it was easier to volunteer at the mechanics.”

— Hassan*

For one participant, discrimination in seeking employment was compounded by both his disability and statelessness.

“In addition to studying, I wanted to work. I applied for 117 jobs. I went to over 50 interviews. I knew the issue was not me. The main issue was unconscious bias. You step into the interview, and the interviewee would say, “Wow.” They would say amongst themselves, “If I was blind, I wouldn’t be able to do this job.” Perhaps it wasn’t always out loud, but they would say that in their head. When I was in the interview, they focused on my disability rather than my ability to do the job.”

— Amir

For another stateless person interviewed, even volunteering proved too difficult, due to a lack of documentation and excessive regulations placed on her by the Department of Immigration.

“I’m not allowed to work. It’s also hard for me to volunteer—I want to be useful and do something with my time. I tried volunteering for a large charity, but I couldn’t get a police check because I don’t have enough documents. I also need to get permission from my case manager to volunteer. I feel like they control every aspect of my life.”

— Nur*

Stateless participants interviewed for this research spoke strongly about their desire to work to support themselves, so as not to be reliant on government welfare.

“I don’t want to be a liability. I’ve been taking care of myself and my mother since I was 16; I’ve been paying the bills and putting food on the table. So the last thing I want is to come to this country and sit on government relief, and rely on them to feed me and feel useless. I’ve always hated feeling useless....

... (working after arrival in Australia) allowed me to keep my pride, and keep my dignity. I know sometimes they speak about it negatively, but I feel proud that I came here with a job, that from day one I’m earning and paying my taxes and I’m contributing, and I’m being productive. It’s just so empowering, I cannot tell you. And if you ask every single refugee, or person who’s struggling, that’s what they

want; no-one wants to be a liability and feel useless....

It just allows me to keep my dignity, in a nutshell. And for someone like me—maybe it’s a cultural background, I’m not sure—when you take that away from me, you might as well kill me. I mean, the worst periods of my life were when I couldn’t provide for my family, when I couldn’t take care of my mother, where I just felt useless as a man. So giving me that power back is priceless. It’s almost you’ve given me a second lease on life.”

— Fadi

By contrast, another stateless participant spoke of her confusion regarding her work ethic and contribution to the Australian economy not allowing her to in turn, fully integrate into the Australian community due to restrictions on her visa.

“I had such limited options. Here I was, working, paying taxes, and yet the only options for me was to apply for a refugee protection visa. I suspect many others walk this path too. There was no other option for me, no other pathway available. I expected to have more rights, especially given how I’m contributing to the economy. I’m not a burden on the government. I’d expect that I’d be allowed to visit my sisters in other safe parts of the world, and come back to my job, my life here.”

— Amira*

Overall, the desire to work, to contribute, and the dignity that comes from that was a strong theme across interviews.

“I look at all my friends from the community. They become workaholics because they identify with that and feel they need to appreciate this country. But as soon as they are not working, their mental health gets worse because they haven’t got their visa situation sorted. And they feel their life is in limbo. It’s kind of a journey where you never know where you are.”

— Amir

5.1.5 Exclusion from belonging

“The hardest part is that Myanmar says we don’t belong. I come here and the Australian government say slowly, slowly, step-by-step. So where do I go? What can I do? No country says I belong.”

— Nasir*

Both stateless people and stakeholders interviewed for this Report spoke to the devastation of stateless people fleeing a place where they were not accepted, only to experience exclusion in Australia.

“Just the personal, or human, experience of people who are coming to Australia, they’ve not been accepted by any country, and then this next country is not accepting them; it’s a very emotional thing for a lot of my clients, if not every practitioner’s client.”

— Australian Legal Practitioner

5.1.6 Access to housing

Stateless people interviewed for this Project spoke of their longing to buy a house, with property viewed as a measure of security. Some stateless people interviewed spoke of their inability to own land in their country of origin, and their prohibition from buying a home in Australia (in some cases, despite working hard to save a deposit) due to their visa conditions.

“My family can’t buy any house or land to live on in Bangladesh because they say we – the Rohingya people – don’t belong there. Yet I can’t buy a home here in Australia either as I’ve only ever held a temporary visa. I’ve been saving money but it is no use. I long to buy a home for my family here.”

— Nasir*



5.2 A feeling of “stuck-ness:” Lost time and lost lives

Stateless people interviewed for this Report spoke of feeling “stuck” or like they live in limbo, particularly when they have a ‘transitory’ legal status with no prospect of resolution. Stateless participants described engaging in multiple attempts to resolve their status (often over many years) with no clear pathway to permanency or naturalisation in what one interviewee described as ‘visa insecurity’. This feeling of limbo and uncertainty is exacerbated by the constant assessment and reassessment of somebody’s statelessness status, in the absence of an SDP. Those on bridging visas or in the “transitory cohort” reported experiencing these feeling acutely.

“Everyone needs a clear pathway and plan; some form of certainty. When you are stateless, you’ve always been uncertain about your life. You are looking for certainty. Uncertainty makes you feel unwell. People seeking asylum and waiting for the outcome of their protection application need to have some sort of positive engagement with the government. We’re still human. We have dignity, we can learn. We are not ‘less than.’”

— Amir

Australian legal practitioners interviewed for this Project also reported witnessing this sense of ongoing legal limbo with their clients, over many years.

“I mean it’s a very harrowing experience even when you do have work rights or study rights. The visa insecurity is top of mind for most clients. It really impacts their mental health, their ability to engage in all of the aspects of their life to settle down here.”

— Michaela Rhode, Australian Legal Practitioner, Asylum Seeker Resource Centre

Other legal practitioners observed the impact delays and uncertainty have on stateless people’s decisions to delay starting families.

“I think it’s held them back because they haven’t had the same opportunities as others that have been able to obtain citizenship quickly. And it’s clearly also a lot of males now that are in their late 30’s/early 40’s who haven’t even been able to have a family or marry or anything like that as a result.”

— Carina Ford, Australian Legal Practitioner, Carina Ford Immigration Lawyers

‘Transitory people’ are prohibited from applying for any form of visa in Australia. The only way they can overcome this prohibition is if the Minister exercises his or her personal discretion to allow them to do so—something that happens very rarely. As at 31 August 2025, there were 807 ‘transitory persons’ in Australia including 126 children.¹⁰³

The Australian government has engaged in bilateral agreements to send these ‘transitory persons’ to external countries such as New Zealand and the United States and appears reluctant to engage in consideration of an Australian pathway to settlement until these agreements are exhausted. The majority of the ‘transitory cohort’ however have now been living in Australia for more than a decade—some have had children born in this time who know no other country. As such, many are understandably reluctant to relocate. What results is essentially an ongoing ‘stalemate’ between the government and the ‘transitory’ person facing removal, who, through lack of alternatives, is placed on rolling Bridging Visas and/or experiences recurring periods of immigration detention.

“Even though our children are Australian citizens, the government won’t let my husband and I apply for a permanent visa and keeps telling us we need to leave—that they can arrange for us to go to America or New Zealand. But how can we do this?”

I don’t want to leave. This is a safe country.”

— Yasmin*

In the absence of available permanent visas or pathways to naturalisation for stateless people under existing Australian legislation, a significant number of stateless people are placed on short-term Bridging Visas. One example is the Bridging Visa (BE E (subclass 050) (**the BE E Visa**). The BE E Visa is described by DHA a visa that ‘lets you stay lawfully in Australia while you make arrangements to leave, finalise your immigration matter or wait for a immigration decision.’¹⁰⁴ As has been established for stateless people, making arrangements to ‘leave’ and go elsewhere is not possible.

“I’ve definitely spoken to at least a couple of clients who are stateless ... who are saying, “I had enough with the Australian Government’s treatment (of me) not being allowed to apply for a Visa here. And I would, as the Australian Government has asked me several times, like to go back to where I came from. So you can send me back”.

But then the problem is that they can’t be sent back. There is nowhere to send them back to and we’ve tried contacting the International Organisation for Migration, who helps facilitate these transfers to ask them about this particular issue of “Is there any way, or do you have processes in place to assist the stateless returnees?”; and they said, “No”.

So now you have stateless person ... not being able to return anywhere, unable to seek any sort of permanency here and are just in this absolute state of limbo.”

— Ahmad Sawan, Australian Legal Practitioner, Refugee Advice and Casework Service

Some stateless participants interviewed for this study had been on Bridging Visas for years, highlighting that a ‘decision’ regarding their immigration status is not possible, as (with the exception of Ministerial discretion) there is simply no visa pathway available to them under existing legislation.

As of 31 December 2025, there were 7,035 ‘Unauthorised Maritime Arrival’ Bridging Visa E holders in the Australian community.¹⁰⁵ Almost 9% (at least 628) were recorded as stateless, indicating a significant number of people experiencing uncertain legal statuses within this cohort are without a nationality.¹⁰⁶

People on Bridging Visas may be prohibited from working or studying, opening a bank account or buying a house.¹⁰⁷ Behavioural conditions can also be placed on people through this visa (See Annex 3: Extract of Behavioural Code of Conduct for Community Detention), including a requirement to –

- ‘not to be disruptive to the Australian community;’¹⁰⁸
- report to the Department at specified times and dates;¹⁰⁹
- Continue to live at the address specified before the visa was granted;¹¹⁰
- Abide by a specified code of behaviour.¹¹¹

DHA can also require a person to pay for the costs of their detention.¹¹²

Legal practitioners interviewed for this Project reported witnessing a sense of ongoing ‘unsettledness’ with their clients.

“I mean they’re never settled, right? That’s the big one; they’re just never settled. And although they’re happy for their child to have citizenship they’re just never settled because they’re also worried about “How can I consistently provide for my family?” or “How can I really raise my family with this almost voice in the back of my head saying, “This isn’t going to last” or “This isn’t forever”.

And I think that’s a problem that all stateless people have; they’ve never had an experience where they can be like “This is forever” or “This can be our forever”. And so, the problem is that they’re always in that state of unsettledness.”

— Ahmad Sawan, Australian Legal Practitioner, Refugee Advice and Casework Service

Being ‘stuck’ in Australia with no possibility of returning to a home country also means stateless people are presented with no choice but to endure the challenges of an Australian migration policy that is not designed to accommodate or support them.

“So some of the main issues is just this feeling of “stuck-ness”. Where going home is not an option and so they’re really having to endure whatever the government’s throwing at them.”

— Social Worker

5.2.1 Family separation and impact on family life

“It’s been more than ten years since I was with my family. I can’t bear to think about it. It is too painful to talk about...”

My youngest child was a few months old when I first left to come to Australia. Now she is almost 11. My son is a teenager.

I have missed their childhoods waiting on a better life for us all in Australia.”

— Nasir*

Without opportunities to study, work, or buy a home, stateless people reported being reluctant to start families or put down roots. In some cases, anxieties experienced by stateless people about their ability to settle and build a life in Australia mirrored their experience in their country of origin.

“My dream is to buy a home for my family. For my family to live in safety. I’ve been here for ten years now and I still don’t have permanent protection. It is a long time.”

— Hassan*

The uncertainty imposed on stateless people by the existing migration legal and policy framework was observed by lawyers as impeding their client’s ability to build a life in Australia.

“... it often leads to a result that clients who are unable to prove their identities are just stuck, some can’t be let out of detention for years, some are let out on bridging visas with very limited ability to settle, limited ability to technically start a life at all, in all the ways that word means. They’re reluctant to start families, they’re reluctant to build any sort of life for themselves after fleeing a certain country because they’re not sure if they’re able to settle.”

— Australian Legal Practitioner

Family separation, and prohibitions on the ability to sponsor loved ones to come to Australia was observed to have a devastating impact on stateless people interviewed for this study.

“My mother and siblings are in a refugee camp. One is in Bangladesh, some are in Thailand. I’m desperate to visit my mother. She is getting very old now. But I’m not allowed to travel. I haven’t been able to contact her since I was in detention in 2014.

I’m worried about her, I need to see her.”

— Hassan, stateless father

Family reunion under Australia’s existing legal framework was identified as particularly challenging for stateless people. This is particularly the case where parents may be separated from children (see, for example, Nasir’s* story in Appendix: Stories of Statelessness in Australia).

“My main hope is to bring my family here to Australia. Over the years I’ve talked to my wife and kids. I try and be strong. I tell them, slowly change will come, there is a process. As soon as I can get the permanent visa, I will sponsor them. Thinking of this keeps us going, it gives us hope. The idea of being together again makes us happy. I want to be with my family. Families belong together.”

— Nasir*

“(For) family reunification, everything’s just harder and longer, trying to obtain documents for identity for family members if they’re also stateless. And ImmiCards need to be issued. That takes a really long time. They’re just at another disadvantage in their life, trying to reunite family.”

— Carina Ford, Australian Legal Practitioner, Carina Ford Immigration Lawyers

Family separation was further observed to have a serious and detrimental impact on stateless people in Australia by those who work closely with them.

“Oh, they’re so, so sad, and then, often their families are stuck in really awful situations, either in country, or like the poor Rohingyas in Cox’s Bazaar in Bangladesh—their families are stuck in these horrible situations, and all they want to do is bring them here, and they can’t, and they can’t visit them, and it’s just miserable—awful.”

— Natalie Young, Australian Legal Practitioner, Victoria Legal Aid.



The psychological impacts of family separation were also highlighted by mental health experts who work closely with stateless people in Australia.

“So particularly my stateless clients who don’t have permanent residency, who are still seeking asylum and potentially who’ve been knocked back as well, so are quite far along in their protection seeking journey and are sort of—yes, had lots of knockbacks, they don’t have a lot of support in terms of services, then money is a real difficulty, food insecurity is another one, separation from family is one that I think I’ve seen more in stateless clients and in asylum seeker clients, so family’s often overseas still, so there’s a lot of isolation in that sense, a lot of worry for family overseas. Whether they’re still in dangerous or difficult situations, or just—even a client thinking about an elderly parent overseas, and “Will I see them again before they die?”

— Psychologist, Torture and Trauma Rehabilitation Service

5.3 Mental health impacts of trauma and long-term uncertainty, including on young people

“I struggle so much with my identity as a Rohingya. I advocate for it, but, to be honest, I struggle with it a lot. Out of anything else I could’ve been, why am I part of a group that’s persecuted so heavily in the world? I could’ve been somebody else and lived a normal life, never had to worry about all this legal stuff, all this racism. It’s very complicated, and I wish I wasn’t so deeply traumatised by everything, because now I—I barely live. I’m alive. I’m existing, but I’m not really living, because of all the trauma that’s happened over the years.”

— Asma

The mental health impacts of statelessness exacerbated by protracted periods of legal uncertainty in Australia are profound. Research participants described experiencing anxiety, depression, and trauma, often compounded by long-term uncertainty and a lack of control over their daily lives and futures. The inability to plan for the future, secure employment, or access education contributed to feelings of hopelessness and despair.

Confusion about the visa system and a lack of updates from the Department regarding somebody’s status were identified across a range of interviews with stateless participants as contributing to mental health issues and a general sense of hopelessness.

“I arrived in Australia over ten years ago. For more than a decade I have been worrying, waiting. Worrying and waiting.”

— Kareem*

The lack of mandated time frames for decision making regarding visa applications was identified by stateless people as particularly detrimental to their mental health.

“My main request of the Department is they just deal with my visa application in the same way they deal with other visa categories—at least have a mandated timeframe within which I can expect a decision. For this protection visa, I’m in a state of limbo. You have no idea what is happening and you can’t get hold of anyone. You can’t follow up on the status of your application. So some sort of mandated time frame for decision making is the least they could do.”

— Amira*

Prolonged periods of immigration detention—in Australia and offshore in Australia’s regional processing centres—was also observed to have a distressing impact on the mental health of stateless people

“A lot of the experience of detention didn’t hit me until after I left. Back then, it was just a bunch of cloudy questions I pushed to the back of my head to get through it. It was all just happening, happening, happening, but I really wasn’t processing it, intellectualising it. It didn’t make sense to me. It was when we left detention in Darwin and came to Sydney that things really hit me. Once I started school and got to know the local community. High school is when it hit me the most.”

— Asma

Parenting newborn babies and young children in detention—particularly for first time mothers was also observed to be highly stressful for stateless people interviewed for this research.

“Having a small baby in detention—our first baby—was hard. I was always crying. When she was a few months old, we got a knock on the door. It was immigration telling us we were being taken to a new detention camp. They didn’t tell us where. They took us to this place behind wire while we waited to be moved. It felt like jail. My daughter was crying, I was crying. My daughter was very unwell at the time and I had an appointment to see somebody in the detention centre, but they wouldn’t let me wait. A lawyer was coming to see me the next day but again, they said I couldn’t wait. We were taken to Nauru. Nauru was like a hell fire. It was a very bad place. It was too hot, my daughter was sick every day. Each night she had a high fever and was vomiting. We had to get permission to go to the doctor which was a 30 minute drive away. We had to take her every couple of days, always at nighttime. The guards would take us. It was very scary.”

— Yasmin*

The challenges of immigration detention were also highlighted by stateless participants who recalled being detained as children.

“I arrived in Australia in 2013, when I was 10. I arrived by boat with my siblings and parents. Unfortunately, I remember it all very well, especially the detention centre in Darwin where we were held. It all felt very foreign—I felt like an alien. We weren’t referred to by name. We were referred to by numbers.”

— Asma

Family separation between detention centres around Australia and between Australia was also observed as traumatic for parents and children.

“My son became very unwell on the boat journey. As soon as we got off the boat at Christmas Island he was taken to hospital. My wife was also very unwell, she was bleeding and we were worried about the baby. We told the guards and they dismissed her – said ‘just go have a lie down.’ Then the next day without notice, they came and took her. Took her away from me and the children, didn’t tell us where she was going or why. Didn’t tell us when she would be back. They didn’t tell her either – she didn’t know she was going to be taken to hospital. She begged to take our little one – our youngest child. But they said no.

They took her to Darwin – alone. They left us behind. She was all alone, in a new country, without us, unsure if her baby had survived. We didn’t know where Darwin was, how far, when we would see her again. I was left in detention on Christmas Island – one son in hospital, my other children crying for their mother. They didn’t understand what was happening – how could they? Our youngest daughter was two at the time. Still in nappies. She needed her mum.”

— Kareem*

The ongoing trauma of parents seeing their children in immigration was observed to be strongly felt in stateless parents interviewed for this research.

“Detention in Darwin with a young child and a newborn was very hard... My daughter’s earliest memories are of this time. Sometimes she will say to me, “I grew up in a detention centre.”

— Yasmin*

Family separation between detention centres in Australia and offshore facilities was also observed to be highly traumatic for stateless people, with immediate family members being classified by the Australian government as ‘single adult men’ and transferred offshore accordingly, despite arriving within a family unit.

“My brother came with us. When we arrived, he was taken to Nauru. The guards said he was a single man so must go to Nauru. They wouldn’t recognise that he was part of our family. Every day I would ask the guards on Christmas Island – ‘Where is he? Where is my brother?’ They told me nothing.”

— Kareem*

The protracted periods of uncertainty imposed on stateless people by the existing migration legal and policy framework was observed by health professionals as negatively impacting the mental health of stateless people in Australia.

“The protracted nature of those applications, the constant or the protracted time they spend in limbo, not knowing what’s happening. That brings about a whole other set of health complexities around mental health and access to health services.”

— Refugee Health Worker

Mental health professionals interviewed for this Project spoke to the fact that although stateless people might be physically safe in Australia (compared to trauma experienced in their countries of origin or in transit to Australia) this does not mean that they experience psychologically safety.

“These clients often, even if they’re physically safe in Australia, they’re not living in necessarily a psychologically safe state with the uncertainty, the worry for the future, the re-experiencing of the trauma that they’re going through, they’re often in fight or flight, so (treatment) is about safety, stabilisation, regulation, emotional regulation, getting them a bit more involved in the community, whether that’s their community or just the community in general.”

— Psychologist, Torture and Trauma Rehabilitation Service

Feelings of psychological unsafety in Australia, despite being physically safe from the persecution or trauma they may have experienced prior to their arrival was also observed in the experiences of stateless people we spoke to for this study. One participant identified a lack of knowledge as to the experience of stateless refugees by the medical profession as an exacerbating cause of mental health issues within the community.

“When you get to a safer place, people think your problems are over. They’re not. We have family back home who are constantly being killed, trying to escape, and pleading for help. We feel helpless, unable to do anything. We’re already struggling ourselves here.

The lack of awareness about mental health when it comes to refugees and their health being neglected is huge. Every time I go to a doctor, I’m always gaslighted. When I have issues I bring up, they’re like, “It’s fine. Just drink water. Just take this medication. Don’t worry about it. You’re still young.”

I had one doctor who said to me, to my face. “You’re in Australia. Why are you depressed?” Despite him knowing. Despite him knowing I’m a Rohingya and all I have experienced. I have a long, long history of persecution in my family.

I’ve completely given up on going to the doctors.”

— Asma

Ongoing legal uncertainty was identified by mental health experts interviewed for this research as actively impeding a stateless person's ability to address existing mental health issues or trauma.

“The truth is when clients are in such an uncertain and I guess unresolved situation, it feels like they’re in limbo a lot of the time, trauma processing can be really hard because they’re not actually in a safe place overall because they don’t know if their future is certain. So we can certainly work on reducing those trauma symptoms, but I do find that...until a visa situation is resolved, it’s really hard to really resolve those trauma symptoms and process that trauma because they’re not fully safe yet.”

— Psychologist, Torture and Trauma Rehabilitation Service

Mental health issues are further exacerbated by restrictions placed on stateless people in Australia through their visa status.

“Speaking generally from what I hear from families who are not permanent residents or citizens, it is the sense of hopelessness they endure, often for years, as they are unable to participate in the community through employment, and therefore unable to feel they are settling in and improving things for their family. Many families are completely reliant on charities to cover every single expense, so they live in a state of constant anxiety. The mental and physical health impacts of living like this are huge, on top of the trauma they already experienced before coming to Australia. I have had many families so depressed by the conditions they are living under that they have started to think that they are better off in their own country— a country which they have fled for reasons of persecution and are, realistically, unable to return to. This is the impact of the Australian system on them.”

— Health Worker

Mental health was identified as a particular issue for young people in the stateless community, compounded by the inter-generational trauma they witness their parents and grandparents struggling with.

“I see so many young people in my community struggling with their mental health. I’d say 90% of the people I know are around my age or even younger. I’ve even seen kids as young as eight or nine years old already struggling with symptoms I didn’t develop until late in high school.

We experience the effects of intergenerational trauma; even my siblings who were born here after we came. They grow up in a family where everyone’s traumatised, so they observe that, they wear that. It’s in their DNA.”

— Asma

Uncertainty about the future has an especially negative impact on young people, in part because there is no possibility of further education or work without a visa pathway. The inability to access further education was observed by policy experts as compounding the overall mental health challenges experienced by stateless young people in Australia.

“Well, it destroys their whole future, because kids will say, ‘What’s the point of going to high school? What’s the point of studying in high school, because I can’t get a university degree, I can’t get a job in Australia. There’s no future for me, there’s no point in trying.’ It’s quite detrimental in a number of ways, and it’s a wasted potential in terms of their own personal potential, potential to benefit Australia. Mental health implications for that and them, yeah, it’s breaking people.

The study part is one part of it, but also the uncertainty of not knowing where you’re going to be. If you have to be uprooted again after you’ve, maybe gone through high school in Australia, now you have to uproot yourself and got to the US, or New Zealand, or a whole new country, start again. After they’ve spent years in detention as well, and in another country. Yeah, the whole process is, yeah, has really broken people, and families, and especially young people.”

— Refugee Policy Expert

Research indicated that for young people, there was a sense of having lost their lives, first to immigration detention, and then due to being prevented from pursuing a future for themselves.

“And the other thing I see a lot of is kids—kids who are now in their twenties, who were real kids on the island (Nauru) 10-12 years ago, they’re all in a really bad state, because they just feel like they’ve lost their lives. Like the best years of their life have been spent detained somewhere, or in just this really hopeless position in Australia with no clear future. And especially when they leave school, and all their friends from school go onto further study or whatever, and they can’t do anything that they want to do.

So, almost all of the sort of late teens, early twenties are in a really bad way. To the point where they can’t engage with us, we have to speak to their parents. They can’t even take a phone call from us, because they’re spending all day in bed, in their room with the door shut sort of thing. And their parents are just frantic with worry, but there’s nothing they can do, which is the whole problem. They have no power over anything in their lives.”

— Ben Carrick, Australian Legal Practitioner, Refugee and Immigration Legal Service

5.4 Statelessness as intrinsically linked to concepts of ‘belonging’

“The legal part of citizenship aside, to be called a citizen of a country is something I’ve always wanted. I wanted to belong somewhere.

.. It’s like being an orphan your entire life and never being adopted. That’s what it feels like. Getting a passport is one of these countries finally adopting you and saying, “You are my son or my daughter. Legally, I’m going to take care of you.”

— Fadi

A key finding of the qualitative research conducted for this study indicates that experiences of statelessness are intrinsically tied to concepts of belonging. Notions of ‘belonging’ and ‘exclusion’ are central to peoples lived experience of statelessness and inform and shape self-identity.

“Being stateless is like not belonging, not having somewhere to reside completely – not having that right. A feeling of limbo, the feeling of hanging in the air. A while ago, someone said, “The only place I feel I belong in is the airplane. Between two places, fully existing in neither.”

— Amir

Belonging can mean a lot of different things to different people; stateless people are no different. For some stateless people we interviewed for this Project, being outside one’s country of origin means being able to celebrate and connect with their community and culture for the first time. For others, there is a sense of being rejected by their home country while not feeling accepted or like they ‘belong’ in Australia either.

“The identity documents I have been given in Australia list me as ‘stateless.’ Because we have no country. Now, if I was to go back, they would put me in jail. Straight away. Because I am Rohingya... I don’t have a country. That’s why I came to Australia.”

— Hassan*

The inherent importance of feeling like one ‘belongs’ was further highlighted by Australian health professionals who work with stateless people.

“I think of it as kind of attachment relationship with the country and identify, “Someone’s claiming me. In claiming me, that validates my worth.” That’s a huge part of the trauma for them, I think.”

— Health Worker



5.5 Complex and varied relationships with the term ‘stateless’

“I don’t see myself as stateless because I know where I belong. I know where I am from—but I’m not accepted there. Back there, everybody says, ‘You’re not from here. You’re an illegal immigrant from another country. Your ancestors are from elsewhere—go back there.’ But I know where I am from.”

— Asma

Different stateless people we interviewed for this research spoke about having varying, and at times, contrasting relationships with the term ‘stateless.’ This included differing views and experiences within the same broad cohort of stateless communities.

For example, one Palestinian person interviewed pushed back against being labelled as stateless.

“I’ve heard of this term ‘stateless’ before but not until I came to Australia.

When I came here I found out that because I’m Palestinian, I’m considered ‘stateless’ in this country....I didn’t know that because, as far as I’d ever known, I was like—“Well, there’s a state called Palestine, it’s a country, how come I’m stateless?” I have a Palestinian passport, it’s a country. But apparently I’m stateless.

I was a bit surprised about this and felt like “what the hell?” I don’t consider myself stateless, but others do. In Australia I’m stateless.”

— Amira*

Similar sentiment was echoed by one of the Rohingya participants we interviewed.

“I feel very frustrated being called “stateless” because I’m like, “I am Rohingya from Burma.” And my parents, my grandparents, my great-grandparents, everyone’s always been there. That’s the only thing they know. They don’t know anything else. When people tell us we don’t belong there—that we actually come from Bangladesh, I wonder, ‘What do you mean?’ I know nothing of this other country.

...That’s why I don’t understand it when people call me “stateless”. I’m not stateless. I was forced to become stateless because of the military.”

— Asma

This contrasted with the experience of another Palestinian stateless participant we spoke with, who described identifying with the term ‘stateless’ from an early age.

“I am a Palestinian man born in Syria as a refugee. All my life people would tell me—

“You are Palestinian. You don’t belong here. Go back to where you are from.” But I can’t go to Palestine because I don’t have anything there.

...When I think back to leaving Syria, I think, it is one thing for me to feel in danger. But when I have children—when I am their father—I have to find safety. For them. For me, I can manage it. But when I see my kids crying, afraid, I must act. And because I am Palestinian, where can I go?

Wherever I go they will catch me and say “You are Palestinian, go back to where you came from.” But I have no country—where can I go?

People ask me—“Do you feel Syrian or Palestinian?” Honestly, I don’t know. I don’t know where I belong.

All my life I have belonged nowhere.”

— Kareem*

Not hearing about the term ‘stateless’ or relating it to one’s own experience until later in life was a common experience reported by stateless people interviewed for this study.

“After coming to Australia, the terms ‘refugee’ and ‘asylum seeker’ were thrown at us a lot. But I never really considered the term ‘stateless.’ It wasn’t until much later, when my mum and I started advocating for refugees, attending protests and community events, that I first heard about it.”

— Asma

Another research participant, Fadi, spoke about not realising he lacked citizenship and documentation until he was twelve years old.

“I came across the fact that I don’t have citizenship, and the impacts of it, when I was maybe 12 years old.

At 12 years old I remember I used to play basketball with my village team, and I wasn’t the best but I was good, and I enjoyed the sport. And then what happened is we needed to participate in the state-wide championship, but—to prevent cheating—kids playing need to show an ID or a birth certificate, because otherwise if someone is two metres long and saying, “Yeah, I’m 13,” that’s a bit dodgy. And I didn’t have a birth certificate. I didn’t have any passports, no ID, so I couldn’t prove my age, which means I wasn’t eligible to play. And that really broke my heart, because I was practising with this team all summer long, just for me to watch them play from the sidelines during the winter campaign. And that’s when I came across this plight of a problem that basically has been haunting me ever since.”

— Fadi

5.6 ‘After the honeymoon’: Citizenship is not the complete answer to statelessness but holds significant weight and meaning for stateless people

It is important to state that although obtaining citizenship means somebody is no longer considered legally stateless, this does not resolve many of the ongoing challenges a person may experience by virtue of their previous statelessness status, such as family separation, a sense of exclusion from their new community, separation from one’s land, country and culture, socio economic barriers stemming from their previous visa restrictions (such as a prohibition on working, and therefore saving money for many years) and ongoing mental health challenges.

“After I got my citizenship, I felt that after 30-something years, I belonged somewhere. I can actually have a life without having issues. Not without having any issues—there are always issues for everyone—but without having the basic issues. But after the honeymoon, you realise where you live now is still far from the perfect world. So I feel happy. I feel I belong somewhere. At the same time, I feel sad about being out of my own land. Yeah, there is a mixture of happiness and growth in me. It reminds me of the season of autumn. When you see the colourful leaves floating from the branches to the ground. The beauty of walking through the colours of these leaves, the crunch as you walk across them. But also the sadness, because the leaves are leaving the tree. Winter will come, but then it will be followed by Spring—there is hope coming.”

— Amir

The unexpected challenges that can continue once a stateless person finally obtains some form of legal certainty (such as a visa, permanent residency or citizenship) were noted by members of the mental health profession.

“There’s almost like a honeymoon period after they get their visa, but then they realise that isn’t actually the fix to all their problems. They still then are starting their life in Australia, all those lost years, all that trauma then can often—you know, they’re finally able to almost land and then all the trauma symptoms that they’ve kept at bay and they’ve been in fight or flight, they crash.”

— Psychologist, Torture and Trauma Rehabilitation Service

The powerful role, however, that citizenship can play in relation to a stateless person’s sense of ‘belonging’ in Australia was also highlighted by mental health professionals.

“Citizenship is very significant obviously for a lot of people of refugee backgrounds, getting the passport enabling them to travel, et cetera. But particularly for stateless people, its recognition, it’s belonging to a community which they’ve never had.”

— Mental Health Worker

The significance of citizenship was emphasised consistently in many of the interviews we conducted with stateless people for this Project.

“(Obtaining citizenship) means I’ve finally cracked it. It’s almost felt like this quest that I’ve been on for as long as I could remember...

For me, citizenship is critical. And forget the legal part of it; to be called a citizen of a country, I mean, that’s something I’ve always wanted. I wanted to belong somewhere...

Oh, I can’t even describe what (obtaining Australian citizenship) is going to be like. It’s going to be 33 years in the making, and lots of good people tried their best and unfortunately they’re not here anymore to celebrate it. It’s going to feel, I think, overwhelming. Because I feel I’ll be the one receiving that citizenship, or that certificate, but that’s the combination or the accumulation of the effort of so many amazing people—including my family—over 30 years, three decades, that helped me get to this point. So really, it should be around 30 people standing on that stage receiving that, with me, but I’ll try to make the best out of it and make the best out of this opportunity, because a lot of people paid a great price for me to get here.”

— Fadi

This extended to the sense of relief stateless parents reported feeling by seeing their children become Australian citizens, even in situations where they were unable to access any pathway to naturalisation for themselves.

“When my youngest child got Australian citizenship I felt like crying. I am so happy. I don’t believe it really. I feel relief. All my life hardships are worth it to see my son okay. After more than a decade of limbo here, that is enough. Enough time to wait.”

— Kareem*

“Both our children have citizenship. I can’t tell you how happy this makes me feel. So very happy for the kids and what this means for their future. When I came here we had nothing. We are happy for the kids because their life is here now. They are Australian.”

— Yasmin*



Chapter 6: Conclusion

“How can anyone say to us, “*You’re nothing. You are stateless.*” How can anyone be stateless? We all come from somewhere. You are someone, regardless of whether you have the documentation or not. No matter what.”

— Asma

This research project, the first comprehensive study of statelessness in Australia, sought to respond to a clear gap in knowledge about and understanding of statelessness in Australia. The findings rest on a robust analysis of statistics, doctrinal research and substantial qualitative research. The findings clearly support the Project’s hypothesis that the failure to officially account for stateless people does not obviate the need to acknowledge, assess and otherwise respond to their arrival and/or presence in Australia. Indeed, this study clearly establishes that stateless people are present in Australia in considerable numbers, and that there is a general lack of understanding or knowledge about statelessness. The lack of a formal system to recognise or determine statelessness, combined with a failure to provide permanent pathways to protection and naturalisation for stateless people has serious consequences primarily for stateless people but also the many stakeholders who encounter stateless people in their work.

The *status quo* is clearly failing to protect stateless people in Australia and facilitate their ability to resettle within a reasonable timeframe with dignity. Indeed, our research highlights that for some stateless people, their experience in Australia mirrors the discrimination and exclusion they endured in their country of origin from where they have fled. Moreover, our research reveals that the lack of any legal recognition of statelessness in Australia has produced a dysfunctional administrative system, whereby decision makers across a range of contexts are forced to conduct fact-finding in relation to statelessness within a legislative void. This, in turn, is placing undue pressure on the service providers that support stateless people in Australia, including lawyers and health workers. Most significantly, however, it is detrimentally impacting the lives of stateless people, to whom Australia owes protection. It is further resulting in inconsistent and opaque government decision-making that is inconsistent with good public administration and ultimately undermines the rule of law.

It is imperative that Australia adopts a fair, transparent and coherent framework to address statelessness in Australia. Understanding the nature and scope of the challenge in Australia as has been achieved in this report is the crucial first step towards developing such coherence.

Summary of key findings

1	There is a discrepancy between annual data concerning the number of stateless people in Australia reported by UNHCR and publicly available government statistics (3.2.1).
2	Given that Australia lacks a formal process for identifying stateless people (i.e. an SDP) figures published concerning the number of stateless people in Australia cannot be considered a true or reliable estimate (3.2.1 and 3.2.2).
3	Based on the most recent publicly available UNHCR data, there were 7,503 stateless people in Australia as at 30 June 2025, however this number cannot be considered as comprehensive or reliable (3.2.1 and 3.2.2).
4	There is a paucity of data about the different population groups of stateless people in Australia (3.2.3).
5	There is a significant gap in data collection regarding the ethnicity of stateless people in Australia (3.2.3).
6	Children account for a significant proportion of stateless people on visas in Australia (29% as at 30 September 2025) (3.2.4).
7	Stateless people spend on average 287.2 days longer in immigration detention than non-stateless people in Australia (3.2.5).
8	The rate of grants of Australian citizenship to stateless people has steadily increased over the past decade, however many stateless people continue to have their application for citizenship refused (3.2.6).
9	Stateless people usually require legal assistance to navigate the citizenship application process (3.2.6).
10	Stateless people face longer wait times for Australian citizenship depending on their mode of arrival in Australia; on average, stateless people who arrive by boat face longer processing times (3.2.6).
11	Statelessness is defined and understood in different ways by different stakeholders, particularly in absence of a statutory definition of statelessness (4.1.1).
12	There is a lack of data about statelessness (often resulting in services approximating or attempting to triangulate statistics from unverified sources) (4.1.2).
13	Statelessness is not well understood within government agencies and relevant service providers (4.1.3).
14	Stateless people are often completely overlooked in policy development (4.1.4).
15	Stateless people's legal journeys through Australian courts and tribunals is complex (4.2.1).
16	Proving statelessness in the absence of a statutory framework is challenging (4.2.2).
17	Stateless people experience a 'relentless' reassessment of their identity which has a real and detrimental impact on them (4.2.3).
18	A finding that a person is 'stateless' carries distinct consequences across Australian administrative decision making (4.2.4).

19	Stateless people experience significant access to justice issues and barriers to legal assistance (4.2.5).
20	The Migration Act functions as a 'further tool of family violence' placing stateless victims at increased risk of harm (4.2.6).
21	Lengthy delays in processing applications for visas and citizenship with no mandated timeframes or updates provided to applicants is detrimental to stateless people (4.2.7).
22	The experience of statelessness in Australia is heavily influenced by visa category and the entitlements (or lack thereof) that accompany them (4.3.1).
23	Statelessness is a secondary consideration to refugee protection (4.3.2).
24	Stateless people on Bridging Visas and 'Transitory persons' face particular legal uncertainty that impacts multiple aspects of a person's life (4.3.3).
25	Different members within the same stateless family and/or community are subjected to different visas and conditions (4.3.4).
26	Stateless people are disproportionately impacted by visa cancellations and refusals (4.3.5).
27	Stateless people face a disproportionate risk of being detained for lengthy periods (4.3.6).
28	Conditions and restrictions imposed on stateless people in Australia can effectively replicate those experienced by people in their country of origin (5.1), including in relation to restrictions on freedom of movement (5.1.1), access to education (5.1.2), access to healthcare and disability support (5.1.3), access to employment (5.1.4), in terms of exclusion from belonging (5.1.5) and access to housing (5.1.6).
29	Stateless people live in limbo, particularly when they have a 'transitory' legal status with no prospect of resolution. This impacts every aspect of their life, including their family life (5.2).
30	Delays in processing and restrictions imposed on stateless people in Australia are having a negative impact on family life, with stateless families separated across borders for lengthy periods and people reluctant to start families while they await a decision on permanency (5.2.1).
31	The mental health impacts of statelessness are profound and exacerbated by protracted periods of legal uncertainty in Australia (5.3).
32	Parenting newborns and small children in immigration was observed to have a long-term detrimental impact on the mental health of stateless parents (particularly mothers), children and the family unit (5.3).
33	Stateless young people experience high rates of mental health challenges, compounded by the inter-generational trauma they witness their parents and grandparents struggle with (5.3).
34	A person's statelessness status is intrinsically linked to the concept of 'belonging' (5.4).
35	Stateless people experience a complex and varied relationship with the term 'stateless'; while some identify with the term, others strongly reject it, while others only discovered the term later in life (5.5).
36	Citizenship is not the complete answer to statelessness but holds significant weight and meaning for many stateless people (5.6).

Annex 1:

List of terminology and abbreviations

Terminology

Asylum Seeker	An asylum seeker is a person who has left their country and is seeking protection from persecution in another country, but who hasn't yet been legally recognised as a refugee and is waiting to receive a decision on their claim for protection.
Bridging visas	A temporary visa permitting a non-citizen to live in the community while their immigration status is resolved. There are various Bridging Visa types in Australia, each with different conditions.
De facto statelessness	A situation where a person has a nationality under law but resides outside their country of nationality and cannot or will not (for valid reasons) seek the protection of that country. In practice, they are effectively stateless even though the 1954 Convention legal definition does not apply.
De jure statelessness	An individual is <i>de jure</i> stateless when they meet the international legal definition of statelessness: they do not have a nationality under the laws of any country.
Citizenship	'Citizenship' is the term used to describe an individual's link to the state (or 'country') in the context of domestic law. The term 'citizenship' is often used interchangeably with the term 'nationality.'
Complementary protection	Protection available under Australian law to people who do not meet the refugee definition in the 1951 Convention but face a real risk of significant harm if removed to another country, including arbitrary deprivation of life, torture, cruel or inhuman treatment, or degrading treatment or punishment.
Community detention	A form of immigration detention under the <i>Migration Act 1958</i> (Cth) whereby a person resides at a specified address in the community while remaining in legal detention, as opposed to being held in a detention facility. Conditions may include regular reporting to authorities and nightly curfews.
Foundling	An abandoned child whose parents cannot be identified.
Human Rights	Human rights are rights inherent to all human beings regardless of race, sex, nationality, ethnicity, language, religion or any other status.
Immigration Detention Centre	Facility where people are forcibly held. Since 1992, Australia has had a system of mandatory immigration detention. Under Australian law, any non-citizen who is in Australia without a valid visa must be detained.
Jus Sanguinis citizenship	Citizenship acquired by descent, through a person's parents.
Jus Soli citizenship	Birthright citizenship; citizenship acquired automatically by birth on a country's territory, regardless of the parents' nationality.
Nationality	'Nationality' is a term used to describe an individual's link to the state (or 'country') in the context of international law. The term 'nationality' is often used interchangeably with the term 'citizenship.'
Naturalisation	The legal act or process through which somebody becomes a national (or 'citizen') of a state (or 'country').
Non-refoulement	A fundamental principle of international human rights and customary law that prohibits states from transferring or removing a person from their jurisdiction where there are substantial grounds to believe that person would face irreparable harm, including persecution, torture, ill-treatment, or other serious human rights violations.
Repatriation	The process of returning a person to their country of origin, nationality, or former habitual residence.

Refugee	An individual who has been forced to flee their home and has crossed an international border to seek safety in another country. The term ‘refugee’ is defined under international law as ‘someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.’
Statelessness	An individual who does not have nationality of any country. This means they are not recognised as legally ‘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.’
Statelessness Determination Procedure	A formal process for identifying a stateless person.
Transitory person	Per section 5 of the <i>Migration Act 1958</i> (Cth) and for the purposes of this Report, a transitory person is someone who arrived in Australia seeking asylum, was then taken to a regional processing centre and is then subsequently returned to Australia for a ‘temporary’ purpose (e.g., for medical treatment) who must be returned offshore and cannot apply for an Australian visa. Currently, there are many stateless people in Australia within the category of ‘transitory persons’ who have been in Australia for upwards of seven years, and are unlikely to be returned to a regional processing centre, but have no ability to apply for a permanent visa in Australia. As such, they live in a state of legal limbo.

Abbreviations

AAT	Administrative Appeals Tribunal	FOI	Freedom of Information
ADV	Australian Declaratory Visas	ICCPR	International Covenant on Civil and Political Rights
APOD	Alternative Place of Detention	ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ART	Administrative Review Tribunal	NDIS	National Disability Insurance Scheme
BVE	Bridging Visa E	PV	Protection visa
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women	RoS Visa	Resolution of Status visa
CPI	Citizenship Processing Instructions	SHEV	Safe Haven Enterprise visa
CRC	Convention on the Rights of the Child	TBB	Talent Beyond Boundaries
CRPD	Convention on the Rights of Persons with Disabilities	TPV	Temporary Protection visa
DHA	Department of Home Affairs	UMA	Unauthorised Maritime Arrival
FCA	Federal Court Australia	UNHCR	United Nations High Commissioner for Refugees
FCCA	Federal Circuit and Family Court of Australia		

Annex 2:

Stakeholder interview participants

Individuals/representatives from the below listed organisations were formally interviewed for research for this study.

Please note: some organisations and/or individuals elected to remain anonymous and are therefore not named below. This list should not be considered as exhaustive.

- AMES Australia
- Asylum Seeker Resource Centre
- Australian Rohingya Women's Development Organisation
- Carina Ford Immigration Lawyers
- Circle Green Community Legal
- Department of Home Affairs
- Foster Care Association of Victoria
- Foundation House
- Human Rights 4 All
- Human Rights Law Centre
- Maternal Child and Health Services
- Maurice Blackburn
- Prof Kim Rubenstein
- Refugee Advice Casework Service
- Refugee and Immigration Legal Service
- Refugee Legal
- Rohingya Ma'iyafu'inor Collaborative Network
- Royal Children's Hospital
- Save The Children
- Talent Beyond Boundaries
- United Nations High Commissioner for Refugees
- Victoria Legal Aid

Annex 3:

Extract of behavioural code of conduct for community detention

SCHEDULE A

CONDITIONS FOR COMMUNITY DETAINEES

Background Information

The Minister has made a decision, known as a 'residence determination', to enable you to live in community detention. In signing these conditions you are entering into an agreement with the department to live in community detention.

The conditions listed below are very important and you are required to comply with them. The Minister may cancel his decision to allow you to live in community detention if you fail to comply with these conditions.

Before signing this agreement, you should read the conditions. You can ask questions of your departmental Case Manager if you are unsure what they mean. A copy of these conditions is also available in your language on request.

CONDITION 1 – Address

- a) You must live at the address specified by the Minister in your residence determination letter.
- b) You must seek prior approval from the department if you wish to temporarily stay at a different address from the one specified by the Minister.

CONDITION 2 - Visitors

- a) You must have prior consent from the department for visitors to stay overnight.
- b) Your visitors must behave in ways that are respectful of neighbours, other residents and children and do not endanger themselves or anyone else.

CONDITION 3 – Your behaviour in community detention

- a) You must obey all Commonwealth, State, Territory and Council laws that apply to the place where you live.
- b) You must behave in peaceful ways and try to resolve any conflicts in a calm and respectful manner. Do not act violently or make threats of violence towards any individual or group in Australia.
- c) You must not become involved in activities which threaten harm or are disruptive to any individual or group within the Australian community.
- d) You must not intentionally cause damage to Commonwealth property.
- e) You and your visitors must not engage in any form of commercial activity such as trading or gambling at your accommodation.
- f) You must comply with any reasonable direction and rules imposed by the department, Service Provider, Caseworker or Carer.
- g) You and your visitors are not permitted to bring alcohol or cigarettes into a house that is occupied by a person who is under 18 and in the care of a Carer employed or engaged by a Service Provider. You should be aware that it is against Australian law for people under the age of 18 years to purchase or consume alcohol and cigarettes.
- h) You must not purchase or use illegal substances such as drugs.

CONDITION 4 – Safety in community detention

- a) You are responsible for your safety while in community detention and the welfare and safety of any children in your care.
- b) You must contact your Caseworker or Carer as soon as possible, if you or any children in your care are involved in a medical or other emergency that may endanger the health or safety of any person in the accommodation.
- c) You must follow any safety procedures given to you by your Caseworker, Carer or departmental Case Manager.

CONDITION 5 – Work and Study

- a) You must not engage in work, or any other activity, which would normally receive an income or salary.
- b) You must not engage in any vocational studies or training.
- c) You must not engage in unpaid work, such as volunteering, unless it is approved by the department.
- d) You must ensure that any school-aged children in your care attend school, in accordance with the requirements of the State/Territory government where you reside. In case of difficulties, you must discuss this with your Caseworker immediately.
- e) If you are under 18 years of age you must attend school or participate in some other educational program (for example English language training), as approved by the department. You must abide by the lawful rules of your school or education facility at all times.

CONDITION 6 – Compliance

- a) You must comply with all instructions and requests from the department relating to resolving your immigration status. This includes, but is not limited to, providing information or documentation and attending interviews with departmental officers when requested to do so.

Agreement:

I, _____ acknowledge the above conditions and agree to abide by these conditions while I am in community detention. I understand that if I breach any of these conditions the Minister may cancel his decision to allow me to live in community detention.

Signed:

_____ Date:/...../.....

Departmental Witness:

_____ Date:/...../.....

Interpreter:

_____ Date:/...../.....

TIS number:

CONDITION 7 - Reporting

(a) You must report to your departmental Case Manager at a time or times and in a manner specified in writing by your departmental Case Manager.

Agreed reporting requirements between community detainee and the department

Case Manager

<input type="checkbox"/> Phone reporting	<input type="checkbox"/> Once a week	<input type="checkbox"/> Twice a week	Other:
<input type="checkbox"/> Meeting in person	<input type="checkbox"/> Once a week	<input type="checkbox"/> Once a month	Other:

Description of reporting arrangements (to be completed by the departmental Case Manager)

***Note:** If these reporting requirements are changed, the agreement needs to be re-signed.

Agreement:

I, _____ acknowledge the above reporting conditions and agree to abide by these conditions while I am in community detention. I understand that if I breach any of these conditions the Minister may cancel his decision to allow me to live in community detention.

Signed:

_____ Date:/...../.....

Departmental Witness:

_____ Date:/...../.....

Interpreter:

_____ Date:/...../.....

TIS number:

Appendix: Stories of statelessness in Australia

“When I tell my story, I’m in charge”¹¹³



Artwork Title: “Fecire 2: The photos of Xece and Gulo of Dersim — My Grandmothers” by Ufuk (Seramiken Dersim), formerly stateless artist and activist. Collage – ceramics and photography.

Yasmin*

“Sometimes, our lack of freedom—the restrictions we have on us—makes it feel like we are living in a jail. Like we don’t have a future.”

I was born in Myanmar. I am Rohingya. Because we lived in a big city, I was allowed to go to school until Year 8. After that my mother would have had to pay a lot of money and we couldn’t afford to keep me in school. The fees only applied to Rohingya students.

Living in Myanmar was hard. You couldn’t go anywhere, move around. If they catch you, you could be put in jail for many years. When you get out of jail you would have to go back and live in your village—you can’t choose where you want to live.

There are restrictions on everything for Rohingya people in Myanmar. On work, study, moving around. Often we didn’t feel safe. You wouldn’t go out after dark; sometimes even in the day. You always make sure you walk around with someone, never alone. When we found out I was pregnant, we knew we had to leave because we didn’t want our child growing up where they weren’t safe. We risked our life to come to Australia, but we had to do it for our daughter. I was eight months pregnant when we came on the boat. I was very tired, I was very scared. There was nowhere on the boat to rest and I felt very unwell. Our boat broke down out at sea and started taking on water. It was nighttime, dark. We had to try remove the water coming onto the boat by hand. I started bleeding. We were picked up by the Australian Navy and taken to Christmas Island where we were put in detention. After a few weeks, our baby was born in Darwin. Then we were sent back to detention on Christmas Island.

Having a small baby in detention—our first baby—was hard. I was always crying. When she was a few months old, we got a knock on the door. It was immigration telling us we were being taken to a new detention camp. They didn’t tell us where. They took us to this place behind wire while we waited to be moved. It felt like jail. My daughter was crying, I was crying. My daughter was very unwell at the time and I had an appointment to see somebody in the detention centre, but they wouldn’t let me wait. A lawyer was coming to see me the next day but again, they said I couldn’t wait.

We were taken to Nauru. Nauru was like a hell fire. It was a very bad place. It was too hot, my daughter was sick every day. Each night she had a high fever and was vomiting. We had to get permission to go to the doctor which was a 30 minute drive away. We had to take her every couple of days, always at nighttime. The guards would take us. It was very scary.

On Nauru we lived in tents. It was extremely hot. There was no safe space for my daughter to sit and learn to crawl, no toys or books for children. Nothing for us to do in the day.

About a year later I became pregnant again. The hospital on Nauru wasn’t set up for childbirth so we were sent back to Darwin. They said as soon as I had the baby we would have to go back to Nauru.

Detention in Darwin with a young child and a newborn was very hard. But anything was better than Nauru. Nauru is the hellfire. But it still felt like a jail. Our lawyer helped us apply for Australian citizenship for our kids when our son was born. This meant we weren’t sent back to Nauru, but we spent almost another year in detention in Darwin. My daughter’s earliest memories are of this time. Sometimes she will say to me, ‘*I grew up in a detention centre.*’

Eventually we were put into community detention. We weren’t allowed to work or move around anywhere. To go anywhere we had to ask our case officer for permission. Just like in Burma really.

We were in community detention for five years. Not being able to work, to study, to have any freedom really took a toll. The stress made us sick. We couldn’t talk to anyone. Over time we saw other people we were in detention with get visas and begin to build a life. They can work, they can go anywhere, they are free. But not us. Because we were taken to Nauru and they weren’t, we continue to be punished. Even people who arrived on the same boat—they now have a visa. I feel happy for my friends, but sad for us. It’s like a mantle around our necks weighing us down all the time. It makes us sad.

Eventually we were given a Bridging visa. My husband is allowed to work. He drives for Uber. He has to drive long hours, seven days a week just to keep us afloat. It means we don’t have time together as a family. But he works hard to provide for our family. Getting more permanent employment is too hard, as his visa expires every six months. Employers don’t want to take him on as there is too much paperwork, and the visa is too short term.

My dream is to study. But the visa doesn’t allow me to do this. I’d love to study computer studies. And improve my English. But I’m not allowed to in Australia.

Every time our visa expires there is a gap until the next one is issued. Sometimes it is days, sometimes weeks before the next one comes. We don’t have Medicare in this time—which means we simply don’t see a doctor. Every six months it is the same. The visa ends and we reapply.

Both our children have citizenship. I can’t tell you how happy this makes me feel. So very happy for the kids and what this means for their future. When I came here we had nothing. We are happy for the kids because their life is here now. They are Australian.

Even though our children are Australian citizens, the government won’t let my husband and I apply for a permanent visa and keeps telling us we need to leave—that they can arrange for us to go to America or New Zealand. But how can we do this? My daughter says to me, “*I was born here. I grew up here, I like it here. I don’t want to leave. This is a safe country.*”

Despite being Australian, our status as temporary makes it hard for them. We can't go anywhere and their dad has to work, work, work all the time. In school holidays they tell us about their friends going away to different places. We aren't allowed to go anywhere or ever take a small break with them. I feel like saying, *'sorry kids, your mum and dad have nothing here, we can't go anywhere.'* It's like a jail here in that sense.

Sometimes, our lack of freedom—the restrictions we have on us—makes it feel like we are living in a jail. Like we don't have a future.

My husband's mother arrived on the same boat as us, but she is living in community detention in a different state. She was detained in Nauru with us. She's been in community detention in Australia now for almost ten years. This is hard on her as an older person. She has lots of medical problems. Worst of all, she can't travel to see us—and we can't go to her. She doesn't know her grandkids. We came all this way together, and now we are separated by a short distance but unable to see each other.

Australia is a safe country—our kids have a good future here. Australians are kind people. It was different in the country we came from. There was tension, we weren't safe.

We are happy to live here, but we have nothing. That's why we worry about the future. Our kids have citizenship and we are happy to support them. But we have nothing. We are here for our kids, that's what matters.

(May, 2024)



Amira*

“I don’t know when a decision will be made. I have no timeframe. The uncertainty—it makes things very unknown. It’s like you are being ignored—you aren’t recognised.”

I was born and raised in Gaza—in Palestine. So much of my life was there.

I came to Australia to study, just before the Covid-19 lockdowns. It was disappointing in a way. I’d come all this way and then I was isolated at home, studying remotely. But I worked hard, and after graduation I secured full time work in my field.

I arrived in Australia on a scholarship from the Australian Government. The main condition was that I would leave as soon as my studies were complete. And for me, this wasn’t an option for obvious reasons. I couldn’t go back to Gaza yet I had nowhere else to go. All I could do was stay put. But because of my scholarship conditions the only pathway I had was to apply for a Protection visa. The Asylum Seeker Resource Centre helped me apply in July 2022. I’m still waiting for a decision. In the meantime, I’ve been on a Bridging Visa A. I’m told I’m on this visa as the Department still haven’t made a decision about my Protection visa. It’s been over two years with no communication whatsoever from the Department. When the war started in Gaza my lawyer tried to contact the Department to ask that they speed up my application but there was no response from them at all.

My main request of the Department is they just deal with my visa application in the same way they deal with other visa categories—at least have a mandated timeframe within which I can expect a decision. For this Protection visa, I’m in a state of limbo. You have no idea what is happening and you can’t get hold of anyone. You can’t follow up on the status of your application. So some sort of mandated time frame for decision making is the least they could do.

I had such limited options. Here I was, working, paying taxes, and yet the only option for me was to apply for a refugee protection visa. I suspect many others walk this path too. There was no other option for me, no other pathway available. I expected to have more rights, especially given how I’m contributing to the economy. I’m not a burden on the government. I’d expect that I’d be allowed to visit my sisters in other safe parts of the world, and come back to my job, my life here.

I don’t know when a decision will be made. I have no timeframe. The uncertainty—it makes things very unknown. It’s like you are being ignored—you aren’t recognised. There’s no communication. Even though I work full time and gladly contribute to the Australian community and the economy—I pay taxes—all these things, I don’t have anything robust to hold onto in return. I don’t have access to the rights or services that Australian citizens have access to. But I’m grateful that I am safe in this country.

I started my second job here just a few weeks before the war started in Gaza. I was just beginning, just learning; getting to know the organisation and what my role was. Then with what happened, it was just shocking. Completely overwhelming. But I am so grateful for the level of support my colleagues gave me—I don’t think I would get this in many other places. I don’t think it is just because I am their colleague. They watch the news; they know the truth and are engaged with the history of my people.

I’m not allowed to travel; it’s a condition of my visa. I haven’t seen my family or anyone since I came to Australia. I try to ignore this—to shut it out. My mum and brother are in Gaza strip. My sisters and I are spread out all over the world, so far apart. But my mother and my brother are in Gaza. It’s too unbearable to talk about.

A simple thing the government could do is provide more pathways for family members stuck in Gaza. Initially the government said people in Gaza could apply for a tourist visa to come to Australia, if they had a family member here. When I first heard about this, I was like “*Yeah, let me apply for my mum and brother.*” My mum got her visa granted. But they rejected my brother. And the funny thing is, when they rejected his visa, they said it was because he “*didn’t satisfy the requirements of a tourist visa.*” Of course. He’s not coming for a holiday! But this is all they offered. The government offers a tourist visa, but people aren’t wanting to come for a visit. They’re coming because it’s a way for them to seek safety. I know many people that were granted visas but remained stuck in Gaza—some were killed.

I also heard that in order to get family here from Gaza, I should contact the Department of Foreign Affairs, give them my brother’s details and they will help to facilitate getting them out. Yet when I contacted them, they said they couldn’t help me because I’m not an Australian citizen.

I’ve heard of this term ‘stateless’ before but not until I came to Australia. When I came here I found out that because I’m Palestinian, I’m considered ‘stateless’ in this country. I didn’t know that because, as far as I’d ever known, I was like—“*Well, there’s a state called Palestine, it’s a country, how come I’m stateless?*” I have a Palestinian passport, it’s a country. But the Australian government doesn’t recognise Palestine as a state so apparently I’m stateless. I was a bit surprised about this and felt like “*what the hell?*” I don’t consider myself stateless, but others do. In Australia I’m stateless.

Not long after I met my partner he bought a house. We had an investment plan for it to build two townhouse units on the property. We were excited and planned to do it together. But first we needed to apply for a loan from the bank. But because I'm on a Bridging visa and not a citizen, there were limited options in terms of which bank would meet with us—only one or two. This was really challenging. I earn a good salary and have proof of my income. But because I'm not a citizen, this was so challenging. We didn't give up, and eventually we secured the loan but it wasn't easy.

We will marry in a few months. My partner is Palestinian Australia—he is a citizen here. He came here with his family when he was little. I'm so happy but also sad, knowing my family won't be able to be here for it. The wedding planning is challenging. Sometimes I feel excited and then at other times I think—“*what am I doing? How can I get married now?*” I got to the point a couple of months ago where

I wanted to cancel the wedding. Two of my sisters are married and both got married in the same way I will be forced to—without family there. My mum and brother were unable to leave Gaza to travel for the weddings. So I feel like I'm following in this family trend.

My sense of being 'Palestinian' has become stronger since I came to Australia. Being Palestinian is my identity, it's my culture. Australians offer a nice community, people are friendly, but I don't want to lose my identity. Being Palestinian represents something bigger than just a nation.

(August 2024)



Nasir*

“My hope is to one day live together with my family and to have a good life with my children. I have a dream to see my children get an education.”

I was born in Myanmar. Yet they don't accept me as a citizen because my family and I are Rohingya. They say, “*you don't belong here.*” But we do. We have lived there for generations. My parents. My parents' parents. Their parents.

It was hard growing up in Myanmar. I remember my parents taking me to the local school to try and enrol me. They were asked so many questions and eventually, they had to pay a bribe. It wasn't like this for the other children. Only the Rohingya. So many questions. So many difficulties. I couldn't go to high school. This wasn't permitted for the Rohingya children in my village.

The government of Myanmar says we don't belong. They make it very hard to go anywhere. As a child and young person I had restrictions on my movement. We had to get this special form to go anywhere. And even then, the authorities would check this form, then check it again. Everywhere we go, they want to see it. I would have to seek permission in advance of going to the next valley for a short visit. When I arrived, the first thing I would have to do is report to the local authority to let them know I was there and how long I was staying. It's not like this for everyone – just the Rohingya people.

Even when my wife and I got married they made it difficult. To obtain our marriage certificate we had to pay a bribe to the local authority. When this document was later checked they told us we had been sold a fake.

To live life as a Rohingya in Myanmar – this is very challenging. My family and I always had a very poor life due to discrimination – we were not accepted as belonging. We didn't have full rights. Coming to Australia, I was struck by the equal rights citizens here enjoy compared to the situation in Myanmar – it doesn't matter what religion or ethnicity you are. There is a respect given to people in Australia by virtue of their common humanity. But in my country I am not equal. I don't have any rights.

After a long life of discrimination in Myanmar I couldn't take it anymore. When I became a father, I knew my children deserved a better life. I didn't want them to experience the hardship I had suffered all of my life. So I said farewell to my wife and young children in search of better life for us all – for our children. I thought, perhaps at most, we might be apart for a few years – no more than five - while I got myself settled and sent for them.

I was wrong.

When I arrived in Australia I spent a few weeks in detention on Christmas Island, then time in detention in Darwin. I was then sent to Sydney where I spent time in detention in a hotel. When I was finally free to live in the community I was put on a Bridging visa. I wasn't

allowed to work on this visa which was hard. But I stayed focused and as soon as I was allowed to, I registered for a Tax File Number and got to work. Initially I worked as a labourer; I did scaffolding work. I spent some time working in a warehouse. I now work in a factory.

Eventually I was able to apply for a three year Temporary Protection Visa, and shortly after that, a five year SHEV. A condition of the SHEV was that I had to live in a regional area so I relocated again.

My SHEV expired in early 2021. Since then, I have been waiting, waiting, waiting. I have not had my visa renewed. They told me it is because, with the new government, I will now be automatically considered for a permanent visa, a RoS. But I've heard nothing from the government and still I wait. No information passes to me. I have nothing; no knowledge. It makes me very anxious.

For years I've been waiting and applying to stay, waiting and applying. I hear of others in my situation who now have the permanent visa – why not me? Have I done something wrong? Do they need more information? If there is something they need I can tell them! But I am told nothing. So still I wait.

Waiting for so long makes me feel very upset. All I can think about is my visa. But they give me nothing.

It has been more than ten years since I was with my family. I can't bear to think about it. It is too painful to talk about.

When I left them, they were living in our village in Myanmar. After the violence broke out they fled to Bangladesh with my brother and his family. My wife was worried to leave Myanmar as she feared I wouldn't know where she had gone or how to contact her. They have been living in a refugee camp since 2017.

Recently, I was granted special permission to travel briefly to Bangladesh to see my family. I delayed going initially because I worried I might be punished – that it may delay the granting of my permanent visa in Australia. But after nearly ten years of not seeing them, I couldn't wait any longer.

When I saw my family, I was so happy. My youngest child was a few months old when I first left to come to Australia. Now she is almost 11. My son is a teenager. I have missed their childhood waiting on a better life for us all in Australia. I was worried, when I saw them, “*will they even know me?*” My son said he recognised me from photos. It was so good to be together. But now I am back. Without them. Waiting.

I worry for my family in the refugee camp. It is not safe there. There is violence. This is very hard because I am here. I can't protect them.

My main hope is to bring my family here to Australia. Over the years I've talked to my wife and kids. I try and be strong. I tell them, slowly change will come, there is a process. As soon as I can get the permanent visa, I will sponsor them. Thinking of this keeps us going, it gives us hope. The idea of being together again makes us happy. I want to be with my family. Families belong together.

My family can't buy any house or land to live on in Bangladesh because they say we – the Rohingya people – don't belong there. Yet I can't buy a home here in Australia either as I've only ever held a temporary visa. I've been saving money but it is no use. I long to buy a home for my family here.

The Australian government knows that my family are in Bangladesh and I am here. Alone. They know we are apart. And yet nothing changes.

The hardest part is that Myanmar says we don't belong. I come here and the Australian government say slowly, slowly, step-by-step. So where do I go? What can I do? No country says I belong.

My hope is to one day live together with my family and to have a good life with my children. I have a dream to see my children get an education. My daughter wants to be a doctor. My son has a brain for business – he's always thinking up ideas, his brain is always busy. But they don't get a proper education in the refugee camp. What is their future there?

I tell my wife we need to be patient. Wait. I tell her to talk to God.

If I don't have permanency, citizenship, I have no future. So still, I wait.

(December 2023)



“Now I’ve finished school I find it hard to fill my days. I feel like I have too much time. It’s not normal for somebody my age to have so much time.”

I came to Australia with my family as a child. We are Rohingya.

Because we came by boat and spent time in detention on Nauru, we are not allowed to apply for a visa. We live in limbo.

We live in community detention. We aren’t allowed to move around or work. We have lots of conditions applied to us. We have to sign an agreement that controls the way we are allowed to live while in community detention. It says I’m not allowed to have sleepovers with my friends which I find weird. It sets out how we are allowed to interact with our neighbours. We have a curfew.

I was allowed to go to school, but I can’t go to University or do any further study.

My teachers at school knew this and arranged for me to sit Year 12 twice. We hoped that the government might change things the second year I sat year 12, and possibilities might open up for kids like me.

Nothing changed.

My final year of school was really hard because all of my friends were looking forward to going to university and choosing courses and stuff. But I couldn’t do any of that, so I felt really left out. It was confusing—how come they could do that but I couldn’t?

Now I’ve finished school I find it hard to fill my days. I feel like I have too much time. It’s not normal for somebody my age to have so much time. I try to keep myself busy with painting. I like reading. But sometimes there’s just nothing to do and I sit at home.

I’d love to travel around Australia. And overseas. I’d love to go everywhere! See the whole world.

All these rules they put on us in community detention make me feel like I’m not human. Like I don’t feel like I’m supposed to be human looking at those rules.

I remember being on Nauru as a kid. We were there for more than two years. It was so hot and so hard to sleep. We had to stay in tents. But it was too hot to stay in the tents in the day. You have to be outside. And the tents would get mouldy inside—it was black mould. And we all had to stay in a tent together—there weren’t any separate rooms. In one tent there would be five or six families. There’s no privacy. There was one playground in the detention centre where I’d spend most of my time. But it got pretty boring.

If I could say anything to the Prime Minister, it would be to ask for a document—to be a permanent resident or a citizen so that I can at least do something. Go to university and work.

I’m not allowed to work. It’s also hard for me to volunteer—I want to be useful and do something with my time. I tried volunteering for a large charity, but I couldn’t get a police check because I don’t have enough documents. I also need to get permission from my case manager to volunteer. I feel like they control every aspect of my life.

If I couldn’t study, I’d love to learn about biology. Or medicine. Or I’d like to be a pilot. At our last house, we were right near the airport and I’d watch planes take off and fly over our house.

I think the view from a plane must be nice.

I’d love to fly away.

(June 2024)



Fadi

“The legal part of citizenship aside, to be called a citizen of a country is something I’ve always wanted. I wanted to belong somewhere.”

Before coming to Australia I never fit in any bucket. I could never find any pathway, process, policy, or law that included me or talked about people in my situation. And all that changed the minute I landed in Australia. It’s almost as if I was born the day I landed here, legally speaking.

Unfortunately, there’s a big gap in countries like Lebanon, where they haven’t signed the United Nations Statelessness Conventions. People have no rights, and no legal pathway exists for them. As someone who grew up and lived most of my life stateless in Lebanon, seeing Australia’s different approach was absolutely amazing. I cannot describe the happiness and security I felt. I felt welcomed, I felt seen, and I felt respected as a human being for the first time in my life.

I managed to get a driver’s licence, open a bank account, and get my name on a lease. I leased my own apartment within the first five months of coming here. And yet, if you look back, for 28 years in Lebanon, I had no birth certificate, no driver’s licence, no bank account, no last name, no legal presence of any kind; I didn’t exist anywhere.

After more than 20 years of living as a stateless person in Lebanon, I couldn’t find a way out of statelessness, and every road was a dead end. At first, because I was born in Lebanon and my mother was Lebanese, I tried the Lebanese pathway, and all roads were blocked. And then, because I was half Syrian, I tried the Syrian pathway; all roads were blocked. Then I went to the UNHCR, and again, unfortunately, I didn’t tick any of their boxes for resettlement because I was a healthy single male who had a roof over his head. I had a mother who looked after me. I also had a couple of good Samaritans along the way who helped me get access to education and work. Because of that, I wasn’t eligible for resettlement. So basically, I’d exhausted every option whilst in Lebanon. Naturally, I started to look for other options overseas.

I started reaching out to international NGOs, and this was when I came across Talent Beyond Boundaries (TBB). Initially, I was out of their scope as well because they were only targeting skilled Syrian refugees who escaped the war in Syria. The first conversation with TBB was—surprise, surprise—*“Oh, I’m sorry, you’re not a Syrian refugee, you’ve not escaped the war, you were born in Lebanon.”* But again—and you find that this is a recurring theme in my story—there is a good person, a good Samaritan, who just looked at my situation and made an exception to include me or help me. Otherwise, I wouldn’t be here.

So that’s, I think, why my story is so unique. It’s not about me as a person; it’s about me coming across exceptional people who are willing to make an effort and actually try to find a solution to my problem. The local office of TBB in Beirut was very sympathetic to my situation.



Fadi as a baby with mother Hiam. Photo supplied by Fadi.

In my case, I was offered and accepted a job at a consulting company in Australia. A TBB employee contacted their connection at a consulting company to let them know they had a prime candidate: *“He has the skills. He just needs your support to get out of Lebanon.”* This is how I was matched with the consulting company; from there, it was a very straightforward interview process. Eventually, I ticked all the boxes and got a job offer. That’s when the real fun began because, I had a job offer but no legal documents.

This was when the full strength of TBB’s legal team, the consulting company’s legal team, and a couple of lawyers who joined in from a *pro bono* perspective huddled together to try and figure out, *“How do we legally get this person, who never legally existed, transferred onto this visa from Beirut to Sydney?”* I think that took more than a year to solve.

TBB had secured a small number of Subclass 482 Temporary Skill Shortage visas from the Australian government to pilot the program. This temporary visa lets employers sponsor a suitably skilled worker to fill a position they can’t find a suitably skilled Australian to fill. I still needed to meet the visa requirements, which was a lot of work. I cannot speak more highly of how I was treated.

I needed a legal identity document to leave Lebanon and fulfil the criteria for the Australian visa. Our only option was a Lebanese travel document. This is where the lawyers came in exceptionally handy. We built an application using my letters of recommendation and my job offer from the consulting company, among other things. We applied and held our breath. Two or three months later, I got my Lebanese travel document.

After arriving in Australia, I would say it was very smooth and seamless. There were challenges, but they were general challenges faced by anyone who migrated halfway across the world and barely knew anyone. One of the challenges was English: I've spoken English professionally before, and I was fluent, but I've never used English from dusk till dawn, 24/7 at work, at home, and everywhere. So, that really took a toll on me in the first couple of months. I was getting really drained, translating everything and then speaking it.

As a stateless person, my key struggle came with acquainting myself with everything I never had access to. For example, applying for a driver's license and learning to drive. I'd never used a train before, and I'd never used a train ticket or a bus ticket, so I had to learn. I've never had a bank account before. I kept forgetting my wallet everywhere because I never had to carry a wallet. I'd never had cards with my name on them, so I wasn't used to holding them, so I'd forget them everywhere. I went through maybe two debit cards in the first year because I misplaced and lost them. I wasn't used to carrying all of that.

After two years with the consulting company, they sponsored me for my permanent residency, which I got. After four years, I was eligible to apply for citizenship, which I did. Around three months ago, I passed my citizenship test, and now I'm just waiting for them to tell me when the ceremony is. I'll make my pledge, and then I'll become an official Australian citizen. So it's gone pretty well.

I can't even describe what the citizenship ceremony will be like. It has been 33 years in the making, and many good people have tried their best to get me to this point. Unfortunately, they're not here anymore to celebrate it. It's going to feel, I think, overwhelming. I feel I'll receive that citizenship certificate, which is the accumulated effort of so many amazing people—including my family—over 30 years, three decades, that helped me reach this point. There should be around 30 people standing on that stage receiving it, along with me. Still, I'll try to make the best out of it and out of this opportunity because a lot of people paid a great price for me to get here. It almost feels like this quest I've been on for as long as I can remember, and I've finally cracked it.

I came across the fact that I don't have citizenship and the impacts of this when I was about 12 years old. At 12 years old, I remember playing basketball with my village team. I wasn't the best, but I was good and enjoyed the sport. We were invited to participate in a state-wide championship, but—to prevent cheating—kids playing need to show an ID or a birth certificate. I didn't have a passport or ID, so I couldn't prove my age, which meant I wasn't eligible to play. That broke my heart because I was practising with this team all summer and had to watch them play from the sidelines during the winter campaign. That's when I encountered this problem, which has haunted me ever since.

It is such a relief to finally know that I never have to deal with this again, and my children will never have to deal with it. One of the things that always haunted me growing up was that I would never want this for my children. If I fathered children in Lebanon, they would have had the same status as me. Recently, I said to my wife who is pregnant, "*My daughter might be a citizen before me.*"

The legal part of citizenship aside, to be called a citizen of a country is something I've always wanted. I wanted to belong somewhere. The UNHCR #IBelong campaign failed to get the message across. They missed an opportunity to echo what it means to be stateless and not have a place to call home. It's like being an orphan your entire life and never being adopted. That's what it feels like. Getting a passport is one of these countries finally adopting you and saying, "You are my son or my daughter. Legally, I'm going to take care of you."

And so I am counting the days until I become a citizen, and I will never settle for permanent residency. After everything I've gone through, for me to settle just when the citizenship is close, it's almost spitting in the face of everything I've gone through over the years. I would never settle for anything less than a passport. I owe it to myself and everyone who believed in me.

I wanted to go on a honeymoon with my wife. I couldn't leave the country, so I applied for a certificate of identity, a travel document used by stateless people. And kudos to the Australian Government; I met the requirements. However, when I tried to access these so-called more advanced humanitarian European countries, they rejected the certificate of identity, except for the UK. I basically gave up on Europe.

I think there is this misconception that the Australian Government doesn't do enough. In reality, ever since I came to this country, the Government has done nothing but help me on my pathway, provide me with all the help I need, and provide me with every document I've ever applied for. I just wanted to highlight that because, coming to Australia, I heard a lot of noise, I heard a lot of news, and I was almost afraid of applying for documentation when, in fact, I couldn't have had a smoother experience. That could be just me, as an exception, but that's what I have experienced so far.

Looking back now at what may have been helpful in that first year in Australia is a basic orientation: "*Here's an Opal card, and here's how you set it up.*" Or, "*Here's a bank account. Here's what you do with it.*" Trying to navigate all that was very tricky at first.

I highly recommend the pathway I took with TBB. I don't want to be a liability. I've been taking care of myself and my mother since I was 16; I've been paying the bills and putting food on the table. The last thing I want is to come to this country and sit on government payments and rely on them to feed me and feel useless. I've always hated feeling useless. This program allowed me to maintain my pride and dignity. I feel proud that I came here with a job. From day one, I have been earning money and paying my taxes. I was contributing and being productive. It's just so empowering, I cannot tell you. And if you ask every refugee or person struggling, that's what they want; no one wants to be a liability and feel useless.

I couldn't recommend it enough. It just allows me to keep my dignity, in a nutshell. And for someone like me—maybe it's my cultural background—when you take that away from me, you might as well kill me. I mean, the worst periods of my life were when I couldn't provide for my family, when I couldn't take care of my mother, where I just felt useless as a man. Giving me that power back is priceless. It's almost like you've given me a second lease on life.

(May 2024)

Asma

“I don’t see myself as stateless because I know where I belong. I know where I am from—but I’m not accepted there.”

I arrived in Australia in 2013, when I was 10. I arrived by boat with my siblings and parents. Unfortunately, I remember it all very well, especially the detention centre in Darwin where we were held. It all felt very foreign—I felt like an alien. We weren’t referred to by name. We were referred to by numbers. The guards would check up on us in the middle of the night by shining a torch in our eyes. I felt like we were in a prison, and we were, basically. But I just couldn’t understand why we were in a prison. People kept saying, “*Detention is a prison for people who did bad things.*” As a 10-year-old, I was confused. I would ask, “*But what did we do?*” I was the eldest, so I felt the duty to care for my siblings.

A lot of the experience of detention didn’t hit me until after I left. Back then, it was just a bunch of cloudy questions I pushed to the back of my head to get through it. It was all just happening, happening, happening, but I really wasn’t processing it, intellectualising it. It didn’t make sense to me. It was when we left detention in Darwin and came to Sydney that things really hit me. Once I started school and got to know the local community. High school is when it hit me the most.

Back in 2013, 2014, there were a lot of negative stereotypes and stigma around refugees—and as a kid, I didn’t know anything about it. Everything I learnt about ‘refugees’ came about after I arrived in Australia. Before then, it was just my family and me trying to go somewhere safe. Then coming here, a lot of things hit me in the face at the same time, which shouldn’t happen to a kid.

After coming to Australia, the terms ‘refugee’ and ‘asylum seeker’ were thrown at us a lot. But I never really considered the term ‘stateless.’ It wasn’t until much later, when my mum and I started advocating for refugees, attending protests and community events, that I first heard about it. A few years ago, I travelled to Malaysia for a conference on statelessness, which was probably the first time I found out exactly what it means. It’s not specific to one type of group. It could happen to anyone. Before I went to that conference, I felt very alone. I thought it was just something my community experienced. But I now know that anyone could be stateless at any point in their life.

I don’t see myself as stateless because I know where I belong. I know where I am from—but I’m not accepted there. Back there, everybody says, “*You’re not from here. You’re an illegal immigrant from another country. Your ancestors are from elsewhere—go back there.*” But I know where I am from.

People like to categorise other people. “*You look like this, so that means you are this.*” People don’t understand how diverse humans are. Just because you look a certain way, speak a certain language, it doesn’t mean that is what you are. Anyone can learn a language.

I feel very frustrated being called “stateless” because I’m like, “*I am Rohingya from Burma.*” And my parents, my grandparents, my great-grandparents, everyone’s always been there. That’s the only thing they know. They don’t know anything else. When people tell us we don’t belong there—that we actually come from Bangladesh, I wonder, “*What do you mean?*” I know nothing of this other country. Even the Burmese military uses the word ‘Bengali’ as a slur when speaking to us. I have many Bengali friends, and I love and respect them. It makes me frustrated, because not only am I not Bengali, but the military is disrespecting both my community and the Bengali people when they do this. They look down on us because the majority of us have dark skin. And a lot of us are Muslim. So there’s a lot of Islamophobia and racism. There are a lot of things I didn’t know before that, after coming here and being educated and learning about the effects of colonialism and history, made me realise this runs deeper than we thought.

There’s the intergenerational trauma our ancestors faced, this long persecution. The fact that it has been happening for so many years, but people barely know about it. That’s why I don’t understand it when people call me “stateless”. I’m not stateless. I was forced to become stateless because of the military. Ethnic cleansing, genocide. Some people still don’t accept that it’s happening. People call it ‘fake news.’ There’s so much propaganda saying the Rohingya people are bad, they’re like animals.

I’m kind of exhausted of explaining who I am. I am Rohingya. Everywhere I go—University, work, meeting new friends, trying a sport—people ask me “*Where are you from?*” Assuming I’m from here, assuming I’m from there. Or having a strong opinion of me the first time they see me.

I struggle so much with my identity as a Rohingya. I advocate for it, but, to be honest, I struggle with it a lot. Out of anything else I could’ve been, why am I part of a group that’s persecuted so heavily in the world? I could’ve been somebody else and lived a normal life, never had to worry about all this legal stuff, all this racism. It’s very complicated, and I wish I wasn’t so deeply traumatised by everything, because now I—I barely live. I’m alive. I’m existing, but I’m not really living, because of all the trauma that’s happened over the years.

When you get to a safer place, people think your problems are over. They're not. We have family back home who are constantly being killed, trying to escape, and pleading for help. We feel helpless, unable to do anything. We're already struggling ourselves here. The lack of awareness about mental health when it comes to refugees and their health being neglected is huge. Every time I go to a doctor, I'm always gaslighted. When I have issues I bring up, they're like, *"It's fine. Just drink water. Just take this medication. Don't worry about it. You're still young."* I had one doctor who said to me, to my face. *"You're in Australia. Why are you depressed?"* Despite him knowing. Despite him knowing I'm a Rohingya and all I have experienced. I have a long, long history of persecution in my family. I've completely given up on going to the doctors.

I see so many young people in my community struggling with their mental health. I'd say 90% of the people I know are around my age or even younger. I've even seen kids as young as eight or nine years old already struggling with symptoms I didn't develop until late in high school. We experience the effects of intergenerational trauma; even my siblings who were born here after we came. They grow up in a family where everyone's traumatised, so they observe that, they wear that. It's in their DNA.

All the young kids in my community are going to school now and can speak English much better than our parents. They can communicate much better when it comes to going to the doctors, speaking with immigration or calling Centrelink. For me, I had to start translating for my parents when I was 10 years old; legal documents, communication with the government. I barely knew English myself. I was still learning. I didn't have any education until the last semester of year five. I lost a lot of critical years of education. But I'm still expected to help my parents because if I don't do it, who will? We had access to interpreters when we were first getting set up. But my parents had trust issues. It's hard to trust just anyone, out of the blue. So it fell on me. That is a big load to carry as a kid. It's like having the responsibilities of an adult.

The majority of people in my family—in my community—never had the opportunity to go to school. Because that's how persecution works. First, they take your right to education, your right to employment, your citizenship, and your birth certificate. They strip away all your documents. After that, slowly, slowly, you lose awareness of your rights. Even if you think what's happened to you is unfair, you don't actually understand the extent of all those terrible things that are being done to you until you come to a place where you see everyone's getting access to all these things, and you start to understand. You start to understand that these are the rights you should have had all along.

There are many things the Australian government could do to actually make a difference. The policies we've been subjected to are very inhumane. They've been made by people who don't know what we've experienced, who don't actually understand what is really going on. It's like asking a doctor to make laws about gardening. It's two different things. It's the same with refugee health and all the issues that we're facing, the laws.

For example, I had access to education in primary and high school. That's it. For me, many of my problems with education started in Year 12. All my friends were worried about the HSC and their ATAR scores. For me, I wasn't just worried about my marks. I was worried about being on a temporary visa. For about 12 years, I was on temporary visas with my family. I didn't have access to HECS loans or any support. The only way I could go to university was with a full scholarship, which is very, very hard to get. Having high grades is not enough. You have to prove that you're worth this thing. I've had interviews I wasn't well prepared for because no one really wants you until the last minute. They're like, *"Yeah, you should've done this. Should've done that."* I'm like, *"Where was this advice five years ago? Why didn't you tell me?"*

There were so many things I worried about in high school that my friends didn't really have to. They weren't taking care of their siblings, helping their parents with interviews and filling out documents, managing their emails, and cleaning up the house, while also studying and worrying about university applications, scholarships, and rejections.

I missed a whole year of education after the HSC because, although I got offers for bachelor's degrees, I didn't have the financial part sorted out. I was getting half scholarships, which were not enough. It wouldn't cover one semester. I emailed so many universities. I called so many people, and no one could help me. My high school career advisor was completely useless. They're the first person you go to for guidance, but every time I told them my problems, they weren't invested. They didn't understand—they refused to understand my situation. They treated me the same as they did the normal students who are born here and are Australian citizens or permanent residents. They were treating me like them, but I wasn't them. I was on a temporary visa. I'm stateless. I have no birth certificate.

Whenever I applied to a university, they would ask for a birth certificate or a passport. I don't have these things. All I had was an expired ImmiCard, and even then, I didn't know how to apply for a new one. They would say, "Sorry, we can't help you." Even when my siblings and I are trying to book a driver's licence test, we are required to show our passports or birth certificates. They wouldn't accept my expired Immicard. Getting rejected by the bank, by NSW Services, and by universities. Even when I get a job, they're like, "Oh." We have to reapply for our Medicare card every six months. Even then, it takes a long time, and sometimes there is a gap in between cards. You can't guarantee I won't be sick during that gap. There were so many times when my family was sick, but we were still waiting on the new Medicare card to arrive, so we had to pay the full medical fee out of pocket.

For the past decade, so many things like this could have been prevented if the government had made laws that actually worked, that allowed us to live like human beings rather than trapped animals. Because even though we aren't in the detention centre anymore, it's the same treatment. It's like being treated as an alien. No matter how confident you are about who you are, people still won't see you the way you want them to see you because you don't have all the right documents and papers. That's what's frustrating. I would always think, "I'm more mature than half of these government officials that I meet, immigration agents, Centrelink agents, university people." These people, you know, they're educated. You expect them to have some common sense, but as one of my high school teachers would say, "Common sense is not as common as you think".

What the Burmese military wants to do is try to get rid of us, completely erase us from history. They've completely erased us from legal documents, from government papers, from parliament, from everything. Then we come to these new countries, and the same thing still happens. The majority of us continue to experience these struggles. It's frustrating for me. They're succeeding. They've succeeded. That's what they want, for us to be completely erased.

For me, it's very important to always be represented properly on paper. Not just by word. I need it in documentation, because this is what they don't want me to have in Burma. They want to erase us not just from the country, but also from papers, history, and from anything where it shows our existence. If I have papers saying I existed during this time. It proves something at least. I at least existed in this one context. This is who I am. For me, it is very important to be represented properly and to make people respect that. I'm a Rohingya. You have to write Rohingya on my documents. Don't write—for example, 'unspecified nationality', like what was recorded on a document issued to my mother once.

How can anyone say to us, "You're nothing. You are stateless." How can anyone be stateless? We all come from somewhere. You are someone, regardless of whether you have the documentation or not. No matter what.

(August 2024)



Kareem*

“We just want to get citizenship, to know we are ok in this country – to know we are safe. This is my country now. It is a good country.”

I am a Palestinian man born in Syria as a refugee. All my life people would tell me – *“You are Palestinian. You don’t belong here. Go back to where you are from.”* But I can’t go to Palestine because I don’t have anything there. All my life I have belonged nowhere. I am getting old and yet I still have no country. One day I hope I may be considered Australian – to be given a chance here.

My wife is Syrian. We met in Syria. It wasn’t easy – Palestinians in Syria do not have the same rights as citizens. Some people don’t like Palestinians, they tell us we don’t belong. We married and had our first child there. Then the war started.

It was terrible in Syria. The bombing. The fear. We were not safe.

It was no longer safe in the only country I had ever known. And yet, as a Palestinian, I have no other country I can go to. Who will accept me, my family? Who will keep us safe?

We fled to Thailand and eventually made our way to Australia by boat. It was six days at sea with our four children, and my wife was pregnant with our fifth. Can you imagine how scary that was? How we feared for our children? But what choice did we have? We came with nothing – just the clothes we were wearing.

My brother came with us. When we arrived, he was taken to Nauru. The guards said he was a single man so must go to Nauru. They wouldn’t recognise that he was part of our family. Every day I would ask the guards on Christmas Island – *“Where is he? Where is my brother?”* They told me nothing. After almost one year of pressuring him to return to Syria, he was taken back. But of course, he could not go back – he is a refugee! We fled because we are not safe. So after the Australian government tried to return him to danger, he made his way to Europe where he now lives.

My son became very unwell on the boat journey. As soon as we got off the boat at Christmas Island he was taken to hospital. My wife was also very unwell, she was bleeding and we were worried about the baby. We told the guards and they dismissed her – said *“Just go have a lie down.”* Then the next day without notice, they came and took her. Took her away from me and the children, didn’t tell us where she was going or why. Didn’t tell us when she would be back. They didn’t tell her either – she didn’t know she was going to be taken to hospital. She begged to take our little one – our youngest child. But they said no.

They took her to Darwin – alone. They left us behind. She was all alone, in a new country, without us, unsure if her baby had survived. We didn’t know where Darwin was, how far, when we would see her again. I was left in detention on Christmas Island – one son in hospital, my other children crying for their mother. They didn’t understand what was happening – how could they? Our youngest daughter was two at the time. Still in nappies. She needed her mum.

My wife was held in detention for one month in Darwin.

In this time, things were so hard- seeing my kids without their mother, worrying for my family left behind in Syria, being in detention, not knowing where they had taken my brother. I don’t know what to say. I felt, almost as though I was dreaming – surely it wasn’t real? Why have they put us in detention when we came asking for help?

But I must keep going. Always, I keep going.

Christmas Island is a very harsh place for children. There was nowhere to play; they were not allowed to go to school. The guards would force open the door on our cabin unannounced at 4am and shine the torch on our faces. My children felt scared. They would lie awake, crying. At night, the guards would take people to Nauru. No warning – just a knock on the door. We were scared we would be next.

After my wife came back we spent 3 months in detention on Christmas Island. Then one day, a guard came to our door and demanded we put our clothes into a plastic bag and follow him. We didn’t know where we are going. The guards – they act like they are police officers. We were taken to a detention centre in Darwin. We wondered – is this where we will stay now? But the next day the guards come again and tell us to come. I asked them – *“Where are we going?”* but they didn’t answer me. We were taken to a detention centre in another part of Australia. That is where our youngest child was born. He was born in hospital. I was allowed to go with my wife, but the guards refused to let our older kids come. They were unable to see their mother. After the first separation this was very distressing for them. They cried every day.

Our baby spent almost the first year of his life in detention. Having a newborn baby in detention is very hard. We weren’t allowed phones in detention or cameras. We have no photos of the first year of his life. Except one. There was one kind guard who took a photo of us and gave it to us. This is our only record.

After nearly two years in detention, we were put into community detention in another city. This was a hard time – we might as well have stayed in immigration detention; it felt the same. I couldn’t work, or study. We had a 9pm curfew. We must stay inside – nobody is allowed to visit us after this time. The whole time the government caseworkers would tell us – *“Do one thing wrong and you will go back to detention.”* I told them – *“I came here, to Australia, to be safe. I don’t want to cause any problems. I like this country.”* All we wanted to do was learn English but we weren’t allowed. Not allowed to do anything, contribute to the community in any way.

After more than one year we were placed on Bridging visas and told we had to leave our home and find a new place to live. Finding a place to rent in a big city is not easy – we don't have connections, rental referees, a history. Thankfully, an Australian friend helped me and eventually, we were given a 5 year temporary visa. But again, the visa meant we have to move. I finally had a friend – had established some links in the community - and we had to leave again, to move to a regional location. It was so hard – another new life to start again. But at least on this visa we were allowed to work and study. My wife has always dreamed of becoming a nurse. First she had to study English and just as she finished this and was about to start nursing, Covid-19 restrictions came into place and she had to give it up to look after the kids.

All this time I am waiting for something good to come to my family. But we followed the rules. We lived regionally in Victoria for four years before we were allowed to move back to the city; allowed to decide where we want to live our lives.

Not long ago we were able to finally apply for a permanent visa, and we have now applied to become Australian citizens. We are waiting, hoping. Our youngest child – he recently was granted Australian citizenship. It took nearly three years for his application to be approved. He could get citizenship because my wife and I are stateless and he was born here. But this is not the case for our other children. Sometimes this causes tension – they ask us *“Why does he get citizenship and we don't? We are all siblings, what is the difference?”*

When I think back to leaving Syria, I think, it is one thing for me to feel in danger. But when I have children – when I am their father – I have to find safety. For them. For me, I can manage it. But when I

see my kids crying, afraid, I must act. And because I am Palestinian, where can I go? Wherever I go they will catch me and say *“You are Palestinian, go back to where you came from.”* But I have no country – where can I go?

People ask me – *“Do you feel Syrian or Palestinian?”* Honestly, I don't know. I don't know where I belong.

I know my kids have memories of the detention centres. They were there for 2 years. Behind bars. After fleeing a war. After living in transit on the way to Australia. But I encourage them to forget, to focus on their new future here. We have to look to the future.

I arrived in Australia over ten years ago. For more than a decade I have been worrying, waiting. Worrying and waiting. Even though we are permanent visa holders, we still worry. We just want to get citizenship, to know we are ok in this country – to know we are safe. This is my country now. It is a good country. How can I explain this? You can do whatever you like here. It is not the same where we come from. Our children have a future of freedom we have never known.

When my youngest child got Australian citizenship I felt like crying. I am so happy. I don't believe it really. I feel relief. All of my life's hardships are worth it to see my son okay. After more than a decade of limbo here, that is enough. Enough time to wait.

(August 2024)



Amir

“Everyone needs a clear pathway and plan; some form of certainty. When you are stateless, you’ve always been uncertain about your life. You are looking for certainty.”

My name is Amir. I am Kurdish, now Kurdish-Australian. Before becoming an Australian citizen, I would say I was Kurdish-Iranian. I was born in the Kurdistan region of Iran in 1988. Growing up in Iran, I had a simple life, as my parents lived in a village and were first-generation settlers. Previously, my family were nomads. They travelled from south to north or west to east, following the fertile land for their sheep and animals to eat better food and to find a better place to stay. From winter to summer, they kept changing places.

In the village I grew up in a community where families built their own homes with their hands using stone from the mountains. My dad built our home which still stands today. Many people have since rebuilt their homes using bricks, but my family’s home remains original.

In the village, they work from morning to night; they live day by day. Now the older people like my parents and others in the village are struggling. There is no retirement plan—no superannuation. These are foreign concepts for them. When they are old, who will take care of them? The government won’t support them.

When I was growing up, we all spoke Kurdish in my village. Persian came later from the capital. People were brought to the village to teach us Persian, and they destroyed lots of things about Kurdish culture and our way of life. Many of us can speak Persian, but we’re more articulate in Kurdish.

When I was a child the elders in my family would tell me about our Kurdish culture and history. Since World War I and II, when they were creating the borders in the Middle East, they put lines through the middle of the Kurdish region. They created Iran, Iraq, Syria and Türkiye. So you have Kurdish people from Iran, Kurdish people from Türkiye, Kurdish people from Syria, and Kurdish people from northern Iraq. Kurdish people also live in other places. I’m told that there are about 40 million Kurdish people in the world.

There was a time when all these people were all the same, living in the same area. And over the last 80 to 100 years, the host country influenced the language. The Iranian-Kurdish is closer to Persian. Syrian-Kurdish is closer to Arabic. Iraqi-Kurdish is closer to Arabic. Turkish-Kurdish is closer to Turkish.

Growing up, I heard stories about how in Türkiye, the government tried to go one step further to eliminate the Kurdish people through mass murder. The terms ‘Kurd’ and ‘Kurdish’ were prohibited in Türkiye; instead, Kurdish people were referred to as ‘Mountain Turks’. Many Kurdish people from Türkiye now live in Melbourne. They don’t speak Kurdish because they were punished if they spoke Kurdish in Türkiye. So they have forgotten. When the older generation died out, the younger generation only spoke Turkish. But they still identify as Kurdish-Turkish.

In Iran, there are many Kurds, and they have rights. The Iranian government says they have the same rights as other citizens. Some Kurdish people in Iran do well. But many people face discrimination. We face discrimination because of the way we look, how we talk, and how we live our lives. Kurdish people are highly educated. We prefer pens over guns; we don’t like violence. Kurdish people started learning languages such as English, Arabic, Japanese and so on. And they started to go further with their education. We rarely get far, but when we get far, we want to make a positive difference.

I was studying in a blind school, and I was playing sports. And life was just passing by. But this changed as I was heading to university. By the time I arrived at university, I knew too much. There was a demonstration—if you know more, you get more involved. We were told in 1979-80 by the constitution that any government department with over 100 employees had to employ 3% of people with disability. Unfortunately, this was not followed. People with disability were being pushed around, and many people, including people with disabilities, thought that this was acceptable. The basic rights of people with disabilities had been eroded, and people were just accepting it. If you talk, the only good place for you is the jail. If you protest, sometimes you disappear, and no one can find you. I was protesting about these basic rights that would enable me to have a job and a simple life. Other things also happened that I prefer to not talk about.

I left Iran because of this discrimination and intimidation. Around 2012, I flew to Indonesia and travelled by boat to Christmas Island. I was jailed for two years by the Australian government. This didn’t make sense to me because Australia has a reputation for supporting human rights. I don’t know what they achieved by keeping a blind person in detention for two years other than wasting over a million dollars. They moved us from Christmas Island to Darwin and then to Melbourne. In the detention centres, there were some nasty people; they were calling themselves ‘case workers’. There were also a few officers in the detention centre we got friendly with, and they smuggled some coffee in for us. So, they made me a coffee drinker. I’d never drank coffee before coming to Australia. I managed to convince one of the kind officers to let me make a phone call. He gave me a couple of precious minutes to talk to a friend in Tehran. And that friend called my family to say, “*He is safe.*”

It was a dark time of my life. One of the darkest. Because I realised there is no such thing as human rights. And those who say there are human rights are just living a fantasy life. And still today, where are we? Looking at Ukraine, looking at Palestine, looking at Israel, looking at the Middle East and Syria, look at Iran—all this. A few years ago, the earthquake happened in Türkiye. So many Kurdish people disappeared under the rubble and died. No one cares. The few people who do care don’t have much power. That’s the life of the Kurdish people.

In detention, we were not treated like humans. How long does it actually take to assess someone for a visa? How many tests do you have to do? The whole assessment shouldn't be more than four or five months, surely.

Within my community in Australia, I see so many stateless people who haven't been given visas. For more than 13 years they have been on Bridging visas—without having the chance to be interviewed and state their case. This limbo; it plays with their mind and causes many of them to have mental health problems. That makes me feel incredibly sad.

Everyone needs a clear pathway and plan; some form of certainty. When you are stateless, you've always been uncertain about your life. You are looking for certainty. Uncertainty makes you feel unwell.

People seeking asylum and waiting for the outcome of their protection application need to have some sort of positive engagement with the government. We're still human. We have dignity, We can learn. We are not 'less than.' I look at all my friends from the community. They become workaholics because they identify with that and feel they need to appreciate this country. But as soon as they are not working, their mental health gets worse because they haven't got their visa situation sorted. And they feel their life is in limbo. It's kind of a journey where you never know where you are.

There has to be a cut-off. We must say, *“Okay, these people have suffered for 10-15 years. Enough is enough. Let's stop their suffering here and give them their dignity and recognise their identity. Let them feel they belong.”* Many of these people have partners they haven't seen for 10-12 years. They haven't seen their family for many years. They have siblings in different countries. It is just the right thing to do. Give them a visa so they can get on with their life.

After getting out of detention, I had over 10 years of temporary visas, including Bridging visas and Safe Haven Enterprise Visas (SHEVs). The Australian government recognised me as a refugee but would not give me a permanent protection visa. I am a Paralympian, and I wanted advice about accessing a Distinguished Talent visa. I went to my lawyer, who said, *“You've got a half a per cent chance.”* That's what I was looking for. I achieved my goal with the hope created by 'half a per cent chance' and four years of advocacy.

During this time, I represented Australia in Thailand in the goal ball competition. I still remember when we came home, I was passing the airport security gate. When my Australian mate went through it, there wasn't anyone there; as soon as my name came up, seven big people came to check me out. I was quite sad when my friend pointed this out to me. What did I do wrong other than seeking asylum in this country? And now the country is benefiting from me.

I got a permanent residency visa because of my special talent in blind sports. The government issued me a visa that recognised my special talent as a sports person. They said, *“You are the first.”* Then I remember one of them said, *“Hopefully, the last.”* I had my permanent residency visa for three months and got my citizenship.

After I got my citizenship, I felt that after 30-something years, I belonged somewhere. I can actually have a life without having issues. Not without having any issues—there are always issues for everyone—but without having the basic issues. But after the honeymoon, you realise where you live now is still far from the perfect world. So I feel happy. I feel I belong somewhere. At the same time, I feel sad about being out of my own land. Yeah, there is a mixture of happiness and growth in me. It reminds me of the season of autumn. When you see the colourful leaves floating from the branches to the ground. The beauty of walking through the colours of these leaves, the crunch as you walk across them. But also the sadness, because the leaves are leaving the tree. Winter will come, but then it will be followed by Spring—there is hope coming.

Being stateless is like not belonging, not having somewhere to reside completely—not having that right. A feeling of limbo, the feeling of hanging in the air. A while ago, someone said, *“The only place I feel I belong in is the airplane. Between two places, fully existing in neither.”*

Before citizenship, I was quite depressed and anxious. I had so much trouble making a life in the new country because of my short-term visas. It made it hard to integrate. Everyone feels pity towards you. The feeling right after you get citizenship is also interesting. You ask yourself, *“Are these people helping me genuinely my friend?”* Many times, I doubted—I questioned my friendships. I asked one of my friends, *“Now what? Are you going to still be my friend?”* And I remember she said, *“You're stuck with me.”* You know? It's a genuine question because you think these people just feel pity for you, and they're helping you get out of this hardship. Unfortunately, I ruined some friendships because of this thinking. The mental health impacts are significant.

I was very lucky to have had some good people come my way. And I bumped into good people. When you bump into good people, they explain things to you and help you shape your perspective. My understanding of what has happened to this country, how this country became a country; I felt connected to the First Nations people, to the first people who were here before white settlers. And I felt a sadness for them.



Some of the difficulties I faced as a blind, stateless person in Australia include not being able to access government-funded disability support services like half-price taxis and guide dogs. As someone seeking asylum, you're not eligible for any equipment to enable your independence. Luckily, Guide Dogs Victoria helped me get a guide dog, Lainie through their philanthropic program. However, Lainie's training and expenses were not funded by the government.

Because of the lack of disability support when I was on my temporary visa, I experienced additional barriers in pursuing work and education. I had a scholarship to study and didn't have a Braille laptop. I didn't have a software called JAWS that made computer documents accessible for me. Luckily, I had people donate some of these things to me so I could study.

When I got my scholarship, I was still on a temporary protection visa and wanted to pursue my studies. I applied to Deakin College as an international student because that was the only way I was allowed to apply. I didn't know what was going to happen; I didn't realise how expensive it would be. I couldn't afford to pay the fees. I went to the University, met with the school manager, and said, *"You know I don't have money."* And they said, *"Why are you here?"* I said, *"I love education. I come as someone, as a human who is passionate about education and learning."* Luckily, I was able to secure a scholarship.

Another issue I faced was when I was on the SHEV, was the Department of Immigration said, *"You have to go regional to be eligible for a pathway to a permanent visa."* But it was too hard to move to a regional area. It was not easy for a blind person. There weren't any resources there for someone like me. I'd actually love to live in a regional area. Still, if the region doesn't have disability support services for me, it would be too hard for me there. I didn't have an NDIS package.

In addition to studying, I wanted to work. I applied for 117 jobs. I went to over 50 interviews. I knew the issue was not me. The main issue was unconscious bias. You step into the interview, and the interviewee would say, *"Wow."* They would say amongst themselves, *"If I was blind, I wouldn't be able to do this job."* Perhaps it wasn't always out loud, but they would say that in their head. When I was in the interview, they focused on my disability rather than my ability to do the job.

I started a job at one organisation, and after a week, they said, *"We have to terminate you—you have to resign."* I said, *"I don't want to resign."* And I never resigned. They just terminated me. I was on a Bridging visa then, and the workplace could not access government funding - Job Access- to subsidise the equipment and software I needed to do my job.

I've now had a job for four years. I feel well respected.

(May 2024)

Hassan*

“I am old now, and I am still not a citizen. It has been too long to wait. My time is finished now, I only care about my children. The future is about my children.”

I was born in Myanmar. When I was young, my father was conscripted and was killed in combat. My mother was left to work on the farm where we grew rice. It wasn't our farm—we weren't allowed to own it. My parents rented it.

I remember as a kid, it was not a good thing to say *“I am Muslim. I am Rohingya.”* People don't like you. The government doesn't like you. You don't have any documents. No citizenship, no birth registration. No nothing. It was very hard to move around. To move between areas you would have to pay a bribe to the local official. If you didn't want to do this, you couldn't go.

Detention was very hard on us. We were in detention for 16 months—first my wife and our two kids, then eventually, our baby as well. Christmas Island, Nauru, Brisbane, then Darwin. My wife was pregnant with our third child when we arrived. It felt like the government was punishing us, for political reasons. Not just me, all the people who arrived.

My daughter had health problems while we were in detention on Christmas Island. I told the Immigration Department but nobody would listen to me. I was also worried about my wife's health because she was pregnant. The day they came to take us to Nauru I begged the interpreter—*“Please, tell them, my wife is pregnant, Please don't send us there.”* The officer didn't listen. We didn't understand English, we didn't know what was happening to us, where we were being sent. It was very challenging.

Detention is very hard. I remember being in detention in Darwin, sitting there thinking, nearly going crazy. We didn't know how long we would be there. Everyday, no news. I'd ask for an update from the Department and be told nothing. Waiting, waiting, so long waiting.

My kids missed lots of their education while we were in detention. While we were detained in they weren't able to go to school. There was another family in the detention centre—their children would go out to school each day. But my kids couldn't—I didn't understand the difference. I asked the Department officer *“Please let my son and daughter go to school.”* But they didn't. I didn't understand why. This made me feel so sad. Because when we were living in Malaysia they also couldn't go to school. I wasn't allowed to go to school when I was a kid in Myanmar either and now this was happening to my children.

Eventually I was given a Bridging Visa. I was allowed to work and a kind man took me on as a mechanical volunteer. He helped me learn English. I now work as a machine operator. The Bridging visa was hard though, because it would expire all the time, every six months. So even though I could work, it was easier to volunteer at the mechanic.

Every time the Bridging visa would expire, our Medicare card would expire. Sometimes every three months, sometimes every six months. This was especially hard for my wife who has diabetes. The Medicare card would expire and I'd have to go to the Centrelink office, sort out all this paperwork because my wife needed medical treatment. The constantly expiring visas made it hard for my wife to get medical treatment when she needed it.

My youngest child has Australian citizenship because he was born here. But my two older children were born in Malaysia. They can't get citizenship. This is particularly hard for my daughter. She has complex needs requiring support. Her teacher suggested we access support through NDIS. But without citizenship we can't. And we can't afford to pay for the support she needs.

My mother and siblings are in a refugee camp. One is in Bangladesh, some are in Thailand. I'm desperate to visit my mother. She is getting very old now. But I'm not allowed to travel. I haven't been able to contact her since I was in detention in 2014. I'm worried about her, I need to see her.



The identity documents I have been given in Australia list me as 'stateless.' Because we have no country. Now, if I was to go back, they would put me in jail. Straight away. Because I am Rohingya. We are born in Burma but we have no documents. Before I left I would be put in jail. Sometimes for 10 hours. Because I had no documents.

I don't want trouble. I'm tired of trying to understand what is happening, of talking to the government, of trying to understand Centrelink. They ask me so many questions. I don't understand. I just want to go to work, support my family and come home. I want a simple life.

I don't have a country. That's why I came to Australia by boat. Twice we tried before we got here. Because I lost my family, I don't have any country. And my wife was pregnant with our third child. What choice did I have? The journey was hard. I was put in jail when we were transiting in Indonesia. For three months. My wife and kids didn't know where I was, they weren't told anything.

When we arrived in Australia, Immigration asked me *"Why did you try two times to come here by boat?"*

"Why?" I responded. *"I don't have a country. I am trying to find a country because I don't have a country."*

I am old now, and I am still not a citizen. It has been too long to wait. My time is finished now, I only care about my children. The future is about my children.

My dream is to buy a home for my family. For my family to live in safety. I've been here for ten years now and I still don't have permanent protection.

It is a long time.

(December 2023)

- 21** *Australian Citizenship Act 2007* (Cth) s 12(1).
- 22** *Ibid* s 16.
- 23** Michelle Foster, Jane McAdam and Davina Wadley, 'Part Two: The Prevention and Reduction of Statelessness in Australia: An Ongoing Challenge' (2016) 40(2) *Melbourne University Law Review* 456, quoting Revised Explanatory Memorandum, Australian Citizenship Bill 2005 (Cth) 38.
- 24** Katie Robertson and Sarah Dale, *A Place to Call Home: Shining a Light on Unmet Legal Need for Stateless Refugee Children in Australia* (March 2021) 2, 12 (*A Place to Call Home*).
- 25** *Ibid*.
- 26** Department of Home Affairs, 'Revised Citizenship Procedural Instructions (CPIs) - Australian Citizenship Procedural Instruction, *LEGENDcom* (Web Page, 2026) <legend.online.immi.gov.au/legend_current_c/2026-08-05-2026/policy/Pages/_document00000/document000015.aspx>.
- 27** *CQI18 v Minister for Home Affairs* [2021] FCA 1168 [113]. For a thorough global analysis of the capacity (and limits) of the Refugee Convention to protect stateless persons see Michelle Foster and Helene Lambert, *International Refugee Law and the Protection of Stateless Persons* (Oxford University Press 2018).
- 28** *BZADW v Minister for Immigration and Border Protection* [2014] FCA 541; *SZUNZ v Minister for Immigration and Border Protection* [2015] FCAFC 32; *Szvcn v Minister for Immigration & Anor* [2016] FCCA 431; *BRH16 v Minister for Immigration & Anor* [2016] FCCA 2920; *AXL16 v Minister for Immigration & Anor* [2017] FCCA 1687; *CIY15 v Minister for Immigration & Anor* [2017] FCCA 1696; *MVLW and Minister for Immigration and Border Protection (Migration)* [2017] AATA 1557; *DSO17 v Minister for Immigration & Anor* [2018] FCCA 1238.
- 29** *Migration Act 1958* (Cth) s 501, s 116, s 133C.
- 30** Peter McMullin Centre on Statelessness (PMCS) (n 20).
- 31** Australian Government Department of Home Affairs, *Freedom of Information Request—FA 24/03/00245* (29 February 2024) <<https://www.homeaffairs.gov.au/foi/files/2024/fa-240300245-document-released.PDF>>.
- 32** *Ibid*.
- 33** See: Katie Robertson (n 7) 14; *Migration Amendment (Temporary Protection Visas) Regulation 2013* (Cth) reg 2.08H(2)(d) ('Temporary Protection Visas Regulation 2013'); *Migration Act 1958* (Cth) s 46A(1).
- 34** Refugee Advice and Casework Service, *An Overview of the Current Legal Situation for People Seeking Asylum in Australia* (Factsheet, November 2019) 3 <<https://www.racs.org.au/s/101-An-Overview-of-the-Current-Legal-Situation-for-People-Seeking-Asylum.pdf>>; Refugee Advice and Casework Service, *Fact Sheet: Temporary Protection Visas (TPV) and Safe Haven Enterprise Visas (SHEV)* (Factsheet, November 2019) 2 <<https://www.racs.org.au/s/202-TPV-and-SHEVS-Boat-Arrivals.pdf>>.
- 35** Katie Robertson (n 7) 14; *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014* (Cth) sch 6 pt 1 cl 1, 7.
- 36** Katie Robertson, 'The Right to Belong—Childhood Statelessness in Australia: International and Domestic Legal Measures to Reduce Statelessness at Birth' (forthcoming) *UNSW Australian Journal of Human Rights*, for more discussion see: <<https://www.melbourneasiareview.edu.au/stateless-refugees-australia-nauru/>>; Available statistics do not include a breakdown between adults and children, see Australian Senate, 'Question Taken on Notice: IMA Offshore Management – Transferees sent to offshore detention' (Additional Estimates Hearing, Immigration and Border Protection Portfolio, AE17/170, 27 February 2017). <https://www.aph.gov.au/~media/Committees/legcon_ctte/estimates/add_1617/DIBP/QoNs/AE17-170.pdf>.
- 37** Senate Standing Committees on Legal and Constitutional Affairs, 'Serious Allegations of Abuse, Self-Harm and Neglect of Asylum Seekers in Relation to the Nauru Regional Processing Centre, and Any Like Allegations in Relation to the Manus Regional Processing Centre', *Parliament of Australia* (Web Page, 2016) <https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/NauruandManusRPCs>; Australian Human Rights Commission, *Human Rights Issues Raised by the Transfer of Asylum Seekers to Third Countries* (Report, 15 November 2012) <https://humanrights.gov.au/__data/assets/file/0029/44687/Transfer_third_countries.pdf>; UNHCR, 'Australia Responsible for Arbitrary Detention of Asylum Seekers in Offshore Facilities, UN Human Rights Committee Finds', *OHCHR* (Web Page, 9 January 2025) <<https://www.ohchr.org/en/press-releases/2025/01/australia-responsible-arbitrary-detention-asylum-seekers-offshore-facilities>>.
- 38** *Home Affairs Legislation Amendment (Miscellaneous Measures) Act 2019* (Cth) s 198C. Australia's 'Medevac' laws (formally the Home Affairs Legislation Amendment (Miscellaneous Measures) Act 2019) were introduced to Parliament in December 2018 and passed in February 2019. The laws gave medical professionals the final say on the temporary transfer of critically ill asylum seekers from offshore detention centers on Nauru and Papua New Guinea to mainland Australia for urgent medical treatment.
- 39** Katie Robertson (n 7) 14; Susan Love, 'Resolving the Status of Temporary Protection Visa Holders: a Quick Guide', *Parliament of Australia* (Web Page, 16 May 2023) <https://www.aph.gov.au/About_Parliament/Parliamentary_departments/Parliamentary_Library/pubs/rp/rp2223/Quick_Guides/ProtectionVisaHolders>.
- 40** Subclass 851 Resolution of Status Visa. See: Australian Government Department of Home Affairs, 'Subclass 851 Resolution of Status', *Immigration and Citizenship* (Web Page, 2023) <<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/resolution-of-status-851>>.
- 41** See: Katie Robertson (n 7) 14. As of 22 May 2023, there were 1,152 people in Australia ineligible for any form of visa. Classified as 'transitory persons' under the *Migration Act 1958*, these are refugees and asylum seekers who were initially transferred to a regional processing country (Nauru or PNG) then returned to Australia for a 'temporary purposes' such as medical treatment under s 198B of the Migration Act. Although the Australian government considers their stay in Australia temporary, majority in this cohort have now been in Australia for years with no clear indication they will be removed. An application for a visa is not considered a valid application under the Migration Act if it is made by a 'transitory person' who is in Australia and who is either an unlawful non-citizen or a person who holds a bridging visa, a temporary protection visa, or certain other prescribed temporary visas: s 46B(1). Further, if a transitory person, who has been present in Australia for a temporary purpose, no longer needs to be in Australia for that purpose, then the person must be removed from Australia as soon as reasonably practicable: s 198(1A).
- 42** See: Katie Robertson (n 7) 16; *Migration Act 1958* (Cth) s 46A.
- 43** Australian Human Rights Commission, *Human Rights Commissioner Calls for Transparency in Nauru Deportation* (Media Release, 29 October 2025) <<https://humanrights.gov.au/about/news/media-releases/human-rights-commissioner-calls-transparency-nauru-deportation>>.
- 44** Statelessness Encyclopaedia Asia Pacific (SEAP), *Nauru Country Overview* (Web Page, Nationality for All) <<https://seap.nationalityforall.org/region/regional-overview/the-pacific/nauru/>>.
- 45** Andrew & Renata Kaldor Centre for International Refugee Law, *Protection and Accountability in the Nauru Refugee Context: A Legal Analysis of Refugee Status Determination and Complementary Protection* (Kaldor Centre Research Brief, August 2018) <https://www.unsw.edu.au/content/dam/pdfs/unsw-adobe-websites/kaldor-centre/2023-09-research-briefs/2023-09-Research-Brief_NauruRSD_Aug2018.pdf>.

- 46** Ben Doherty, 'NZYQ Cohort Could Face "Potentially Hostile" Reception on Nauru, Government Warns' *The Guardian* (online, 3 September 2025) <<https://www.theguardian.com/australia-news/2025/sep/03/nzyq-cohort-potentially-hostile-reception-nauru>>.
- 47** Michelle Foster, Jane McAdam and Davina Wadley (n 23) 505, n 6.
- 48** UN High Commissioner for Refugees, *Mapping Statelessness in the United Kingdom* (n 7).
- 49** Please note that the statistics for the 2025-2026 financial year were not yet available at the time of completing this Report.
- 50** UN High Commissioner for Refugees, *Global Trends: Forced Displacement in 2017* (Report, 2018) 64 <<https://digitallibrary.un.org/record/3966219?v=pdf>>.
- 51** UN High Commissioner for Refugees, *Global Trends: Forced Displacement in 2018* (Report, 2019) 65 <<https://www.unhcr.org/media/unhcr-global-trends-2018>>.
- 52** See, for example: Department of Home Affairs, *Immigration Detention and Community Statistics Summary* (See the monthly reports of 2017 and 2018) <<https://www.homeaffairs.gov.au/research-and-statistics/statistics/visa-statistics/live/immigration-detention#content-index-9>>.
- 53** For immigration detention statistics, see Department of Home Affairs, *Immigration Detention and Community Statistics Summary* (Report, 31 December 2017) 8 <<https://www.homeaffairs.gov.au/research-and-stats/files/immigration-detention-statistics-31-december-17.pdf>>; for IMA legacy caseload numbers (2,221) see Department of Home Affairs, *IMA Legacy Caseload Report on the Processing Status and Outcomes* (Report, 31 December 2017) 4 <<https://www.homeaffairs.gov.au/research-and-stats/files/ima-legacy-caseload-december-2017.pdf>>; for 'Illegal Maritime Arrivals on BE' see *Illegal maritime arrivals on Bridging E visa* (Report, 31 December 2017) <<https://www.homeaffairs.gov.au/research-and-stats/files/illegal-maritime-arrivals-bve-dec-2017.pdf>>. The national figure of 2,294 is derived from NSW (999), Queensland (161), SA (106), Victoria (1002) and WA (26).
- 54** The Migration Program includes the 'Skill' stream, 'Family' stream, 'Child' visa stream and 'Special Eligibility' stream. See Department of Immigration and Border Protection, *2016-17 Migration Programme Report* (Report, 30 June 2017) <<https://www.homeaffairs.gov.au/research-and-stats/files/report-on-migration-program-2016-17.pdf>> and Department of Home Affairs, *2017-18 Migration Program Report* (Report, 30 June 2018) <<https://www.homeaffairs.gov.au/research-and-stats/files/report-migration-program-2017-18.pdf>>.
- 55** UN High Commissioner for Refugees, 'Forced Displacement in 2025', *UNHCR Refugee Statistics* (Web Page, 2025) annex table 4 <<https://www.unhcr.org/refugee-statistics/insights/annexes/trends-annexes.html?situation=4>>.
- 56** *Ibid.* See also: UN High Commissioner for Refugees, *Global Trends: Forced Displacement in 2024* (Report, 2024) <<https://www.unhcr.org/global-trends-report-2024>>; UN High Commissioner for Refugees, *Global Trends: Forced Displacement in 2023* (Report, 2023) <<https://www.unhcr.org/global-trends-report-2023>>; UN High Commissioner for Refugees, *Global Trends: Forced Displacement in 2022* (Report, 2022) <<https://www.unhcr.org/global-trends-report-2022>>.
- 57** UN High Commissioner for Refugees (n 55) annex table 4.
- 58** For example, one Australian Legal Practitioner interviewed for this research identified that information about *de facto* stateless persons is not captured in Australian government statistics, particularly those in immigration detention, which is only established on an individual basis through litigation.
- 59** The Department of Home Affairs have noted in senate estimate questions on notice answers that 'Where citizenship is recorded in departmental systems as 'stateless', this includes detainees whose claimed statelessness was self-identified and later not accepted by the Department of Home Affairs. See Senate Standing Committee on Legal and Constitutional Affairs, *Supplementary Estimates October 2025: Home Affairs Portfolio, Department of Home Affairs, Program 2.3: Refugee Humanitarian, Settlement and Migrant Services — SE250379 Detention/Offshore – Stateless persons not currently engaged in processes* (Parliament of Australia, October 2025).
- 60** This includes: 030 Bridging C (<5) 070 Bridging R (5); and 010 Bridging A (<5).
- 61** See: Senate Standing Committee on Legal and Constitutional Affairs, *Supplementary Estimates 29 February 2024*. The question 'How many stateless persons are currently in Australia on a visa?' was also answered with visa subclass breakdowns on 31 October 2023, 31 May 2023, 28 February 2023, 31 January 2022, 31 October 2022, 31 October 2021 and 31 May 2021.
- 62** *Ibid.*
- 63** Senate Standing Committee on Legal and Constitutional Affairs, *Supplementary Estimates October 2025: Home Affairs Portfolio, Department of Home Affairs, Program 2.2: Visas — SE250462 Stateless persons – stateless persons currently in Australia who are under 18* (Parliament of Australia, October 2025).
- 64** Senate Standing Committee on Legal and Constitutional Affairs, *Supplementary Estimates October 2025: Home Affairs Portfolio, Department of Home Affairs, Program 3.5: Onshore Compliance and Detention — SE250464 Stateless persons – stateless persons currently in held detention* (Parliament of Australia, October 2025).
- 65** Senate Standing Committee on Legal and Constitutional Affairs, *Supplementary Estimates October 2025: Home Affairs Portfolio, Department of Home Affairs, Program 2.3: Refugee Humanitarian, Settlement and Migrant Services — SE250379 Detention/Offshore – Stateless persons not currently engaged in processes* (Parliament of Australia, October 2025).
- 66** *Migration Act 1958* (Cth) s 5(1) (definition of 'immigration detention' sub-paragraph (b)(v)).
- 67** Commonwealth Ombudsman and Australian Human Rights Commission, 'Joint Statement on the Use of Hotels as Alternative Places of Detention', *Australian Human Rights Commissions* (Web Page) <https://humanrights.gov.au/__data/assets/file/0027/46782/Joint_statement_on_hotel_apods.pdf>.
- 68** Information obtained by the researchers in a response to a *Freedom of Information Act 1982* (Cth) application (copy on hand with the researchers).
- 69** This theme focuses particularly on services and government perspectives. Lived experience perspectives are included with reference to self-identity and the fact that data collection about stateless persons is predominantly driven by self-identification as stateless (in absence of an SDP).
- 70** 2206200 (Refugee) [2023] AATA 3557 (26 October 2023), [76].
- 71** See for example: *Asaad v Minister for Home Affairs* [2019] FCA 921 [66].
- 72** *TVT v Minister for Home Affairs (Migration)* [2019] AATA 824; *Jokic v Minister For Immigration, Citizenship, Migrant Services and Multicultural Affairs (Migration)* [2020] AATA 279, [11]; *Cynq v Minister For Immigration, Citizenship, Migrant Services and Multicultural Affairs (Migration)* [2020] AATA 545, [166]; *LRMM v Minister for Immigration, Citizenship and Multicultural Affairs (Migration)* [2022] AATA 2731, [117].

- 73** *Perera v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2021] FCA 403.
- 74** *El Ayeed v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Citizenship)* [2022] AATA 4381 [49].
- 75** *Rezaei v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Citizenship)* [2021] AATA 3884.
- 76** *Ibid* [88].
- 77** *Ibid* [95]; *Hossin v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Citizenship)* [2020] AATA 3783; *Kahzadi and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Citizenship)* [2021] AATA 1137 [12], citing *Gjura v Minister for Home Affairs (Citizenship)* [2018] AATA 4222 [32].
- 78** *Rezaei v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Citizenship)* [2021] AATA 3884 [114]-[116].
- 79** *ZJCV v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Citizenship)* [2021] AATA 2238 [150].
- 80** *Khairillah v Minister for Immigration, Citizenship and Multicultural Affairs (Citizenship)* [2023] AATA 154.
- 81** *El Ayeed v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Citizenship)* [2022] AATA 4381.
- 82** *John v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Citizenship)* [2021] AATA 77 [98]: '(d) Matters of the Applicant's legal status as a citizen of either Kuwait or Iraq, or as a stateless person, considered alone, are not determinative in the establishment of his identity.'
- 83** *MZYEG v Minister for Immigration and Citizenship* (2009) 112 ALD 595 [9].
- 84** *BNZ18 v Minister for Immigration* [2020] FCCA 1614 [56]; *WZAQH v Minister for Immigration* [2013] FCCA 182 [29]; *AEH16 v Minister for Immigration* [2019] FCCA 34 [55].
- 85** *BNZ18 v Minister for Immigration* [2020] FCCA 1614 [67]-[68]; *AEH16 v Minister for Immigration* [2019] FCCA 34 [58], [60].
- 86** *BRJ20 v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2021] FEDCFAMC2G 157 [49].
- 87** Lexis+ Australia, n = 27 of 65; AustLII, n = 221 of 592.
- 88** 2113055 (Refugee) [2022] AATA 888 (15 March 2022), [80]; 1901883 (Refugee) [2021] AATA 3216 (2 September 2021), [84], although the Tribunal in this case identified that voluntary return may constitute refoulement where the person returns 'out of despair due to his prolonged detention' [114], citing *XDJD v Minister for Immigration and Border Protection (Migration)* [2021] AATA 2882, [101].
- 89** *ASF17 v Commonwealth of Australia* [2024] HCA 19.
- 90** *Migration Act* ss 140(1), 137T.
- 91** *Saleem v MRT* [2004] FCA 234, [49], [60]-[63].
- 92** Statelessness must be determined according to the relevant country's municipal laws, *ACA16 v Minister for Immigration* [2017] FCCA 2074, [40]; *R v Burgess; Ex parte Henry* (1936) 55 CLR 608; *Sykes v Cleary (No 2)* (1992) 176 CLR 77.
- 93** 1810282 (Refugee) [2019] AATA 5814 (21 June 2019), [37]-[38], [56].
- 94** 2001485 (Refugee) [2023] AATA 1353 (16 February 2023), [95].
- 95** 2102390 (Refugee) [2022] AATA 4547 (4 October 2022), [51].
- 96** 1831526 (Refugee) [2019] AATA 5963 (26 June 2019) [22], [28], [42].
- 97** 1831526 (Refugee) [2019] AATA 5963 (26 June 2019) [44], [66]. See also: 1731415 (Refugee) [2019] AATA 5962 (26 June 2019).
- 98** *BZADW v Minister for Immigration and Border Protection* [2014] FCA 541; *SZUNZ v Minister for Immigration and Border Protection* [2015] FCAFC 32; *Szvcn v Minister For Immigration & Anor* [2016] FCCA 431; *BRH16 v Minister For Immigration & Anor* [2016] FCCA 2920; *BRH16 v Minister For Immigration & Anor* [2016] FCCA 2920; *AXL16 v Minister For Immigration & Anor* [2017] FCCA 1687; *CY15 v Minister For Immigration & Anor* [2017] FCCA 1696; *MVLW and Minister for Immigration and Border Protection (Migration)* [2017] AATA 1557; *DSO17 v Minister for Immigration & Anor* [2018] FCCA 1238.
- 99** See, for example: Elizabeth A Newnham, April Pearman, Stephanie Olinga-Shannon and Angela Nickerson, 'The Mental Health Effects of Visa Insecurity for Refugees and People Seeking Asylum: A Latent Class Analysis' (May 2019) 64 *International Journal of Public Health* 763-72; Angela Nickerson et al, 'The Association between Visa Insecurity and Mental Health, Disability and Social Engagement in Refugees Living in Australia' (2019) 10(1) *European Journal of Psychotraumatology*.
- 100** Andrew & Renata Kaldor Centre for International Refugee Law, *Complementary Protection* (Factsheet, August 2019) <https://www.unsw.edu.au/content/dam/pdfs/unsw-adobe-websites/kaldor-centre/2023-09-factsheet/2023-09-Factsheet_Complementary-protection_Aug2019.pdf>.
- 101** Michelle Foster, Jane McAdam and Davina Wadley (n 23) 441.
- 102** See, for example: Bafreen Mohammad Sherif, 'The Mental and Physical Health Impacts of Immigration Detention on Asylum Seekers and Refugees in an Australian Context' (PhD Thesis, Monash University, 2026) <<https://doi.org/10.26180/32003733.v1>> and Immigration Detention Coalition, 'The hidden mental health crisis unfolding behind the walls of detention', *Invisible scars: immigration detention and mental health* (Web Page, 9 October 2024) <https://idcoalition.org/news_features/the-long-term-mental-health-impact-of-immigration-detention/>.
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- 106** *Ibid*.
- 107** Department of Home Affairs, 'Check Visa Details and Conditions', *Immigration and Citizenship* (Web Page) <<https://immi.homeaffairs.gov.au/visas/already-have-a-visa/check-visa-details-and-conditions/see-your-visa-conditions?product=050>>.
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- 109** *Ibid*.
- 110** *Ibid*.
- 111** *Ibid*.
- 112** *Ibid*.
- 113** Rachel Ball, *When I Tell My Story, I'm in Charge: Ethical and Effective Storytelling in Advocacy* (CLC Fellowship Report, Victoria Law Foundation, 2013) <https://www.hrlc.org.au/app/uploads/2025/04/VLF-CLC-final-report-12-13_Final_web.pdf>.



THE UNIVERSITY OF
MELBOURNE

Peter McMullin Centre on Statelessness

Melbourne Law School

The University of Melbourne

185 Pelham Street

Carlton Victoria

Australia

Email: law-statelessness@unimelb.edu.au