

# The Deportation of Stateless People

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## I. Introduction

In 2014, Iyad el-Baghdadi, a stateless Palestinian, was abruptly arrested and deported by the UAE without charge. He was sent not to his homeland, to which he had no legal claim, but to a country he had never lived in. Held for a month in a Malaysian airport, his experience became emblematic of how stateless people can vanish into the gaps of the global systems, subjected to indefinite confinement and political exile without the protection of any state<sup>2</sup>.

Stateless individuals often find themselves suspended in legal uncertainty, unable to move freely, under constant scrutiny, and permanently excluded from any path to citizenship. With no state to claim them, they face the continuous threat of indefinite detention or forced removal to unfamiliar places they may have never seen, let alone called home. Their legal invisibility renders them uniquely vulnerable, falling outside the protections typically guaranteed to citizens or even refugees, and raising urgent questions of legality, ethics, and international human rights.

This article argues that the deportation of stateless persons fundamentally conflicts with international legal standards, including those

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<sup>2</sup> Sophia Jones, "Meet the Arab Spring Activist Deported by the UAE Who Is Now Speaking Out," Noema Magazine, November 1, 2014, <https://www.noemamag.com/meet-the-arab-spring-activist-deported-by-the-uae-who-is-now-speaking-out/>.

articulated in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the 1954 and 1961 Conventions on Statelessness. Through a comparative analysis of legal systems in Brazil, the United Arab Emirates, and the United States, this article examines how domestic laws either uphold or undermine the rights of stateless persons. Ultimately, it advocates for the recognition of statelessness not merely as a jurisdictional failure, but as a human rights emergency requiring legal reform.

## II. Defining Statelessness and the Challenge of Deportation

According to Article 1 (1) of the 1954 Convention Relating to the Status of the Stateless Persons, a stateless person is defined as a “a person who is not considered as a national by any State under the operation of its law.”<sup>3</sup> This definition has become a prevailing standard in both academic literature and by key international bodies, such as the UN High Commissioner for Refugees, which oversees the protection of stateless populations. Statelessness can result from a range of causes: discriminatory nationality laws, state dissolution, administrative failures, or the stripping of citizenship by governments. While statelessness is often viewed as a legal anomaly, it is in fact a widespread and persistent issue affecting millions of people globally.

Legal scholars often distinguish between two forms of statelessness: *de jure* and *de facto*. *De jure* statelessness applied to individuals who are, “not recognized as national by any state under the operation of its law,” captured by the 1954 convention<sup>4</sup>. *De facto* stateless persons, by contrast, may technically hold a nationality, but in practice, are unable to access the rights and protections associated with it, often due to bureaucratic, political, or practical barriers.<sup>5</sup> These

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<sup>3</sup> United Nations, Convention Relating to the Status of Stateless Persons, September 28, 1954, Article 1(1) [https://www.unhcr.org/ibelong/wp-content/uploads/1954-Convention-relating-to-the-Status-of-Stateless-Persons\\_ENG.pdf](https://www.unhcr.org/ibelong/wp-content/uploads/1954-Convention-relating-to-the-Status-of-Stateless-Persons_ENG.pdf).

<sup>4</sup> *Ibid.*

<sup>5</sup> Laura van Waas, *The Situation of Stateless Persons in International Law*, UNHCR Legal and Protection Policy Research Series, PPR/2008/01 (Geneva: UNHCR, 2008), pages 4-8

categories are not mutually exclusive and often overlap in practice. Laura van Waas, a leading expert on statelessness law, has emphasized that this overlap reflects the broader exclusion many stateless people experience where formal recognition of nationality does little to ensure actual legal or social belonging.<sup>6</sup>

Many populations around the world face both formal and functional exclusion from nationality and citizenship rights. The UNHCR (The United High Commissioner for Refugees) has reiterated this view, warning that some may suffer from legal rigidity; while technically recognized as nationals, they still face conditions similar to statelessness due to their lack of access to rights and protections.<sup>7</sup> In many contexts, especially where ethnicity, religion, or descent shape access to citizenship, this overlap becomes particularly pronounced.

#### **A. Stateless by Law, Stateless by Life: De Jure and De Facto Exclusion in Myanmar**

Understanding the distinction between the de jure and de facto statelessness becomes clearer when examined through the lived experiences of real-world communities. Across the globe, various populations embody these legal classifications, none more starkly than the Rohingya peoples of Myanmar. Among the most widely documented and harrowing cases of statelessness, The Rohingya, an ethnic Muslim Minority group in Myanmar, have suffered systematic exclusion from nationality rights, violent persecution, and ongoing displacement.<sup>8</sup> Stripped of citizenship under the 1982 Myanmar Citizenship Law, the Rohingya were not recognised among the 135 “official” ethnic groups, despite their long

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[https://migrant-integration.ec.europa.eu/sites/default/files/2009-08/docl\\_9176\\_670180930.pdf](https://migrant-integration.ec.europa.eu/sites/default/files/2009-08/docl_9176_670180930.pdf).

<sup>6</sup> Ibid.

<sup>7</sup> Hugh Massey, UNHCR and De Facto Statelessness, Legal and Protection Policy Research Series No. 2010/01 (Geneva: United Nations High Commissioner for Refugees, 2010), 12. <https://www.unhcr.org/sites/default/files/legacy-pdf/4bc2ddeb9.pdf>

<sup>8</sup> International Crisis Group, the Rohingya Crisis: Ethnic Cleansing in Myanmar, Asia Report No. 292 (December 2017), <https://www.crisisgroup.org/asia/south-east-asia/myanmar/292-myanmars-rohingya-crisis-enters-dangerous-new-phase>

standing presence in Rakhine State.<sup>9</sup> Even those with valid birth documents or residency claims could not qualify for legal recognition, leaving generations of Rohingya de jure stateless within their own country. In contrast, de facto stateless persons may technically hold a nationality on paper but are unable to access the rights or protections associated with citizenship, such as consular assistance, documentation, or safe return. These categories frequently overlap, particularly in cases involving protracted displacement, discrimination, or non-functioning states.<sup>10</sup>

This legal erasure has facilitated an environment of extreme human rights violations. In 2017, Myanmar's military launched a brutal campaign in Rakhin State marked by mass killings, widespread sexual violence, and the destruction of entire villages, forcing over 200,00 Rohingya to flee to Bangladesh.<sup>11</sup> The United Nations Office of the High Commissioner for Human Rights described the campaign to have "genocidal intent," and the events have since spurred investigations by both the International Criminal Court and the International Court of Justice.<sup>12</sup>

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<sup>9</sup> Human Rights Watch, *An Open Prison without End: Myanmar's Mass Detention of Rohingya in Rakhine State*, October 8, 2020, <https://www.hrw.org/report/2020/10/08/open-prison-without-end/myanmars-mass-detention-rohingya-rakhine-state>.

<sup>10</sup> Laura van Waas, "Nationality and Rights," in *Statelessness and Citizenship: A Comparative Study on the Benefits of Nationality*, ed. Brad K. Blitz and Maureen Lynch (Cheltenham: Edward Elgar, 2011), 23–44, <https://research.tilburguniversity.edu/en/publications/nationality-and-rights>.

<sup>11</sup> United Nations Human Rights Council, *Report of the Independent International Fact-Finding Mission on Myanmar*, A/HRC/39/64 (September 12, 2018), <https://www.ohchr.org/en/hr-bodies/hrc/myanmar-ffm/index>

<sup>12</sup> *Gambia v. Myanmar* (Application of the Convention on the Prevention and Punishment of the Crime of Genocide)," International Court of Justice, <https://www.icj-cij.org/case/178>

International Criminal Court, "Statement of ICC Prosecutor on allegations of crimes under the Rome Statute in Myanmar" (Sept. 2018); International Court of Justice, "Application of the Genocide Convention (*Gambia v. Myanmar*), Order" (Jan. 2020)

Even after fleeing Myanmar, they remain stateless, unrecognized as citizens by any state, including the countries hosting them. In Bangladesh, they are confined to densely populated refugee camps, denied formal refugee status, and barred from work, education, or mobility.<sup>13</sup>

The experience of the Rohingya people encapsulates the full scope of statelessness: the denial of nationality, the failure of legal protection, and the absence of a place to call home. As one UN report described, the Rohingya live in a state of, “open-air imprisonment,” trapped not only by borders, but by law.<sup>14</sup>

### **III. Foundational Treaties and Legal Norms on Statelessness**

The international legal system offers a complex yet incomplete set of protections for stateless persons. While several core treaties recognize the right to nationality and safeguard the rights of those without one, these often lack the proper enforcement mechanisms, selectively adopted, or simply ignored. Such pitfalls in the system leave stateless individuals to navigate lives shaped by systemic exclusions, legal precarity, and vulnerability.

The foundational articulation of the right to nationality appears in the 1948 Universal Declaration of Human Rights (UDHR). Article 15 affirms that, “everyone has the right to a nationality” and that “no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.”<sup>15</sup> This language definitively supports both moral and legal grounding for the international community’s condemnations of statelessness. However, the UDHR is not a binding legal document, and enforcement relies on the political will of

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<sup>13</sup>*Ibid.*

Amnesty International, *We Will Destroy Everything: Military Responsibility for Crimes Against Humanity in Rakhine State*, June 2018, <https://www.amnesty.org/en/documents/asa16/8630/2018/en/>.

<sup>14</sup> United Nations Human Rights Council, *Report of the Independent International Fact-Finding Mission on Myanmar*, A/HRC/39/64

<sup>15</sup> United Nations General Assembly, *Universal Declaration of Human Rights*, December 10, 1948, 217 A (III), Article 15, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

nation-states, allowing for avoidance in responsibility (especially in cases where statelessness is rooted in ethnic discrimination or national security rhetoric.)

More legally robust protections are found in the 1954 Convention Relating to the Status of Stateless Person, which defines who qualifies as stateless under international law and outlines a set of minimum rights for such individuals within host countries. These include access to identity documentation, education, employment, and freedom from arbitrary detention.<sup>16</sup> Yet, key countries like the United States have not ratified this convention, and even among signatories, implementation varies widely. In practice, the convention provides a framework but not a guarantee.

In order to prevent statelessness from arising in the first place, the 1961 Convention on the Reduction of Statelessness imposes positive obligations on states. These include granting nationality to children born on their territory who would otherwise be stateless, and restricting withdrawal of nationality in cases that would render individuals stateless.<sup>17</sup>

Human rights treaties further support the framework. The International Covenant on Civil and Political Rights (ICCPR) of 1996 contains several articles directly applicable to stateless populations.

Article 9 prohibits , “arbitrary arrest or detention,” and affirms that anyone deprived of liberty must be informed of the reasons and entitled to challenge their detention.<sup>18</sup> Article 12 guarantees the right to liberty of movement and to leave

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<sup>16</sup> United Nations, Convention Relating to the Status of Stateless Persons, September 28, 1954, [https://www.unhcr.org/ibelong/wp-content/uploads/1954-Convention-relating-to-the-Status-of-Stateless-Persons\\_ENG.pdf](https://www.unhcr.org/ibelong/wp-content/uploads/1954-Convention-relating-to-the-Status-of-Stateless-Persons_ENG.pdf).

<sup>17</sup> United Nations, Convention on the Reduction of Statelessness, August 30, 1961, <https://www.unhcr.org/en-us/protection/statelessness/3bbb286d4/convention-reduction-statelessness.html>

<sup>18</sup> United Nations, International Covenant on Civil and Political Rights, December 16, 1966, Article 9 <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

the country, including one's own, rights that are fundamentally denied to most stateless persons

While Articles 12 and 9 address freedom of movement and protection from arbitrary detention, respectively, article 13 specifically highlighted the right of due process as a safeguard in relation to the expulsion of "aliens",

Article 13 of the ICCPR stipulates that:

"An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority."<sup>19</sup>

This legal statute reinforces the principle that deportation is not a discretionary political act; it is a legal action requiring process, justification, and fairness. The 1989 Convention on the Rights of the Child (CRC) expands on this principle further. Article 7 declares that a child shall be registered immediately after birth and shall have the right (from birth) to a name, the right to acquire a nationality, and the right to know and be cared for by their parents.<sup>20</sup> The provision acts as a critical tool in preventing the intergenerational transmission of statelessness: a common phenomenon among displaced or marginalized populations whose children are born outside of any formal nationality system. Article 7 not only affirms the right to acquire a nationality but also implies a duty on the party of states to ensure that no child is left without legal identity.

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<sup>19</sup> United Nations, International Covenant on Civil and Political Rights, December 16, 1966, Article 13,

<sup>20</sup> United Nations, *Convention on the Rights of the Child*, November 20, 1989, Article 7 <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

While regional in scope, the 1997 European Convention of Nationality offers one of the most comprehensive legal frameworks addressing the causes and consequences of statelessness. Adopted by the Council of Europe, the Convention affirms that, “everyone has the right to a nationality” and requires states to avoid statelessness at birth, ensure gender equality in nationality laws and prohibit arbitrary deprivation of citizenship.<sup>21</sup> The Convention also mandates that nationality-related decisions comply with the rule of the law and guarantee procedural protections such as the right to appeal. Although its enforceability is limited to Council of Europe member states, and implementation remains uneven, it remains a valuable legal model.

### **A. The Dilemma of Deporting a Stateless Person**

Deportation presumes the existence of a state willing to accept the individual. Stateless persons, by definition, have no such country of return. Their lack of recognized nationality renders deportation orders practically unenforceable, leaving them suspended in legal limbo. Nonetheless, many governments continue to pursue removal proceedings against stateless individuals, despite knowing there is nowhere for them to go. The result is often indefinite detention and systemic rights violations that contradict both domestic and international legal norms.<sup>22</sup>

One of the most pressing concerns is prolonged immigration detention.<sup>23</sup> When deportation is not feasible, detention becomes arbitrary and unlawful. The International Covenant on Civil and Political Rights (ICCPR) prohibits arbitrary detention and guarantees that anyone deprived of liberty must

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<sup>21</sup> Council of Europe, European Convention on Nationality, November 6, 1997, European Treaty Series No. 166, <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/166>

<sup>22</sup> UNHCR, Handbook on Protection of Stateless Persons (Geneva: UNHCR, 2014), paras. 112–115. <https://www.unhcr.org/wp-content/uploads/sites/27/2017/04/CH-UNHCR-Handbook-on-Protection-of-Stateless-Persons.pdf>

<sup>23</sup> *Ibid.*, 40

be informed of the reasons and have access to judicial review.<sup>24</sup> The 1954 Convention Relating to the Status of Stateless Persons similarly restricts expulsion and requires that removal be lawful and non-discriminatory, especially for those lawfully in the host state.<sup>25</sup>

In the United States, this dilemma was directly addressed in *Zadvydas v. Davis* (2001). The Supreme Court ruled that non-citizens could not be detained indefinitely after a removal order if no country would accept them. To avoid a due process violation, the Court imposed a six-month limit: if removal is not reasonably foreseeable within that time, detention must end.<sup>26</sup> The petitioner, a stateless man born in a displaced persons camp, had no viable country of return. His detention, therefore, lacked a lawful basis under the Due Process Clause.<sup>27</sup> Although *Zadvydas* prevents indefinite detention, it does not provide legal status to stateless persons, many of whom remain on removal orders and under supervision without a path to regularization.<sup>28</sup>

The European Court of Human Rights (ECHR) has reiterated this principle in several decisions. In *Mikolenko v. Estonia* (2009), the Court ruled that detention became unlawful when Estonia could not secure a receiving country for a stateless man.<sup>29</sup> Similarly, in *Kim v. Russia* (2014), the Court found that keeping a stateless individual in custody for 18 months without realistic

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<sup>24</sup> International Covenant on Civil and Political Rights, arts. 9 and 13, Dec. 16, 1966, 999 U.N.T.S. 171

<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights/>

<sup>25</sup> Convention Relating to the Status of Stateless Persons, art. 31, Sept. 28, 1954, 360 U.N.T.S. 117.

1(1)[https://www.unhcr.org/ibelong/wp-content/uploads/1954-Convention-relating-to-the-Status-of-Stateless-Persons\\_ENG.pdf](https://www.unhcr.org/ibelong/wp-content/uploads/1954-Convention-relating-to-the-Status-of-Stateless-Persons_ENG.pdf).

<sup>26</sup> *Zadvydas v. Davis*, 533 U.S. 678 (2001), 701.

<https://supreme.justia.com/cases/federal/us/533/678/>

<sup>27</sup> *Ibid.*, 684–86

<sup>28</sup> Human Rights First, “Submission to the Human Rights Council: United States Universal Periodic Review,” Oct. 2020, <https://humanrightsfirst.org>

<sup>29</sup> *Mikolenko v. Estonia*, App. No. 10664/05, Eur. Ct. H.R. (2009).

<https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-94863%22%5D%7D>

deportation prospects violated Article 5 of the European Convention on Human Rights, affirming that detention for removal must be proportionate, time-bound, and based on actual prospects of removal.<sup>30</sup>

European Union law further reinforces this principle. The EU Returns Directive mandates that immigration detention cease if removal is not feasible and caps the maximum duration of such detention at 18 months.<sup>31</sup> This approach reflects a regional consensus that indefinite detention particularly of stateless individuals is incompatible with human rights obligations.

### **B. Discounting The Right to Enter, Remain, and Not Be Arbitrarily Expelled**

Deportation assumes a basic legal fiction: that the receiving country consents to accept the deportee. For stateless individuals, no receiving state exists. With no recognized nationality, no right of return, and no guaranteed admission elsewhere, stateless people face removal orders that lack a lawful or feasible destination, rendering deportation functionally meaningless.<sup>32</sup> Despite this, many immigration systems continue to initiate deportation proceedings against them.

The international legal framework attempts to temper state power in this domain. The 1954 Convention and the ICCPR require that expulsion occur only under lawful conditions, with procedural safeguards including notice, representation, and a fair hearing. Article 13 of the ICCPR affirms that aliens lawfully present in a state's territory may only be expelled through a lawful process

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<sup>30</sup> Kim v. Russia, App. No. 44260/13, Eur. Ct. H.R. (2014)  
[https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-145584%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-145584%22]}) .

<sup>31</sup> European Union, Directive 2008/115/EC (EU Returns Directive), art. 15.  
<https://eur-lex.europa.eu/eli/dir/2008/115/oj>

<sup>32</sup>Laura van Waas, "The Situation of Stateless Persons in International Law," in *Statelessness and Citizenship: A Comparative Study on the Benefits of Nationality*, ed. Brad K. Blitz and Maureen Lynch (Cheltenham, UK: Edward Elgar, 2011), 25–49.

that affords the right to submit arguments, obtain legal representation, and appear before a competent authority.<sup>33</sup>

Yet these obligations are often treated as discretionary rather than binding. In practice, the burden of legal impossibility falls not on the state initiating the removal, but on the stateless person forced to prove that no state will receive them. This effectively inverts the logic of due process: it is the individual (devoid of documentation, diplomatic protection, or legal identity) who must challenge the state's assumption of removability.

Deportation becomes not a means of relocation but of erasure as an administrative gesture signaling that a person is no longer entitled to remain anywhere. In such cases, international law functions less as a shield than a deferred promise.

#### **IV. Comparative Analysis: Divergent Approaches for Brazil and the U.S**

##### **A. Brazil**

Among the countries examined, Brazil stands out for aligning domestic law with international norms, while the United States lags behind. Brazil's recent legal reforms and administrative practices offer a noteworthy model of how international legal obligations such as those outlined in the 1954 and 1961 Conventions can be effectively translated into national protections for stateless individuals.

In 2017, Brazil became the first country in South America to establish a dedicated legal framework for identifying and protecting stateless persons, aligning themselves as a country with the 1954 and 1961 conventions, both of which the government has ratified.<sup>34</sup> This legal shift came with Brazil's Migration

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<sup>33</sup>United Nations, International Covenant on Civil and Political Rights, December 16, 1966, Article 13.

<sup>34</sup>United Nations High Commissioner for Refugees (UNHCR). *Brazil: Good Practices in the Protection of Stateless Persons*, 2019. <https://www.refworld.org/docid/5e5e6b6f4.html>.

Law<sup>35</sup>, which replaced the country's outdated Alien Statute and introduce comprehensive procedures for determining statelessness status, issuing legal identity documents, and facilitating naturalization.<sup>36</sup>

Under Article 2 of the new Migration Law, Brazil explicitly recognizes the principle of non-discrimination and the right to nationality, codifying key provisions from article 15 of the UDHR and Article 7 of the CRC.<sup>37</sup> The law mandates that stateless individuals residing in Brazil may request recognition of their status and apply for facilitated naturalization after two years, significantly shorter than typical residence-based requirements.<sup>38</sup>

Brazil's commitment has yielded concrete results. By 2021, Brazil has officially recognized over 300 stateless individuals, offering them documentation, social inclusion programs, and legal status.<sup>39</sup> In 2018, Brazil granted nationality to an individual born in the Dominican Republic to Haitian parents, who was rendered stateless due to nationality-revoking status in the Dominican Republic.<sup>40</sup>

Notably, Brazil operationalized these commitments through Normative Resolution No. 5/2017, which created a Statelessness Determination Procedure (SDP) under the Ministry of Justice. The SDP shares the burden of proof between applicant and state and ensures access to legal documentation and social inclusion

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<sup>35</sup>Brazil. Law No. 13,445 of May 24, 2017 (Migration Law). Translated by the Special International Advisory Project of the Ministry of Justice and Public Security. Brasília: Ministry of Justice and Public Security, 2017. [https://www.gov.br/mj/pt-br/acao-informacao/atuacao-internacional/legislacao-traduzida/lei\\_n\\_13-445\\_de\\_24\\_de\\_maio\\_de\\_2017\\_eng-docx.pdf](https://www.gov.br/mj/pt-br/acao-informacao/atuacao-internacional/legislacao-traduzida/lei_n_13-445_de_24_de_maio_de_2017_eng-docx.pdf).

<sup>36</sup> *Ibid.*, art. 2; see also Universal Declaration of Human Rights, G.A. Res. 217 (III), U.N. Doc. A/810, art. 15 (Dec. 10, 1948).

<sup>37</sup> United Nations High Commissioner for Refugees (UNHCR), Brazil: Good Practices in the Protection of Stateless Persons, 2019.

<sup>38</sup> United Nations High Commissioner for Refugees (UNHCR), Brazil: Good Practices in the Protection of Stateless Persons, 2019.

<sup>39</sup> UNHCR. "Brazil Makes Dream of Belonging Come True for Stateless Activist." June 27, 2018. <https://www.unhcr.org/news/stories/brazil-makes-dream-belonging-come-true-stateless-activist>

<sup>40</sup> *Ibid.*

programs.<sup>41</sup> By 2021, over 300 individuals had been recognized as stateless under this framework.<sup>42</sup> Brazil's approach has since been praised by the UNHCR and other international observers as a model of best practice.<sup>43</sup>

## **B. United States**

Although the United States does not deliberately create statelessness, it lacks any formal mechanism to identify or protect stateless individuals. No statute defines the term “stateless person,” no administrative body determines such status, and protections depend heavily on ad hoc relief mechanisms such as prosecutorial discretion or deferred removal. According to the Global Human Rights Clinic, “stateless people are unrecognized, unprotected, and invisible before any law” in the United States, leaving them at risk of prolonged detention and other human rights violations.<sup>44</sup> Stateless individuals may remain in detention for years with no receiving country willing to accept them; as was the case with Hisham Shaban Ghalia, a stateless Palestinian who endured nearly four years of ICE detention until a federal court ordered his release due to the legal impossibility of removal.<sup>45</sup> The Supreme Court’s decision in *Zadvydas v. Davis*

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<sup>41</sup>Brazil. *Law No. 13,445 of May 24, 2017 (Migration Law)*. Translated by the Special International Advisory Project of the Ministry of Justice and Public Security. Brasília: Ministry of Justice and Public Security, 2017. [https://www.gov.br/mj/pt-br/acao-informacao/atuacao-internacional/legislacao-traduzida/lei\\_n\\_13-445\\_de\\_24\\_de\\_maio\\_de\\_2017\\_eng-docx.pdf](https://www.gov.br/mj/pt-br/acao-informacao/atuacao-internacional/legislacao-traduzida/lei_n_13-445_de_24_de_maio_de_2017_eng-docx.pdf).

<sup>42</sup> UNHCR, “Brazil Makes Dream of Belonging Come True for Stateless Activist,” June 27, 2018.

<sup>43</sup> European Network on Statelessness, “Breaking the Mold: Brazil’s Progressive Approach...,” 2020 <https://www.statelessness.eu/updates/blog/breaking-mold-brazils-progressive-approach-granting-nationality-and-reducing#:~:text=Breaking%20the%20Mold%3A%20Brazil%27s%20Progressive,Granting%20Nationality%20and%20Reducing%20Statelessness>

<sup>44</sup> Global Human Rights Clinic, “More Than 200,000 People in US Are Stateless and At Risk of Abuse in Violation of US, International Law, GHRC Report Says,” University of Chicago Law School, November 7, 2022, <https://www.law.uchicago.edu/news/more-200000-people-us-are-stateless-and-risk-abuse-violation-us-international-law-ghrc-study>.

<sup>45</sup> Charlotte Silver, “Gaza Refugee Finally Freed from Arizona Immigration Jail,” *The Electronic Intifada*, May 28, 2016, <https://electronicintifada.net/blogs/charlotte-silver/gaza-refugee-finally-freed-arizona-immigration-jail>

reaffirmed that indefinite detention of noncitizens violates constitutional due process when removal is not reasonably foreseeable.<sup>46</sup>

However, release does not mean protection: stateless persons are often left without legal status, work authorization, or a path to citizenship. In 2023, the Department of Homeland Security issued new internal guidance instructing USCIS officers to identify potentially stateless individuals and consider discretionary relief such as deferred action or parole in place.<sup>47</sup> Yet this guidance excludes individuals in removal proceedings or those with final orders of removal, and does not create any new status or durable protection.<sup>48</sup>

In response to these limitations, the Stateless Protection Act of 2024 (S.3987) was introduced in Congress to formally define “stateless person” under U.S. law and establish a new protected status that would grant eligible individuals protection from removal, work authorization, and a path to permanent residence and citizenship.<sup>49</sup>

While these proposals represent meaningful steps, statelessness in the United States remains legally undefined, and without statutory reform, most affected individuals continue to live in legal limbo.

## **V. Case Studies**

### **A. Hisham Shaban Ghalia, Legal Limbo in the United States**

Hisham Shaban Ghalia, a stateless Palestinian man originally from Gaza Strip, found himself trapped in the web of American immigrant enforcement. Shabaan was detained for nearly four years despite being legally un-deportable.

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<sup>46</sup> *Zadvydas v. Davis*, 533 U.S. 678 (2001).

<sup>47</sup> U.S. Department of Homeland Security, “DHS Issues Guidance on Stateless Noncitizens in the United States,” August 1, 2023 <https://www.dhs.gov/archive/news/2023/08/01/dhs-issues-guidance-stateless-noncitizens-united-states>

<sup>48</sup> *Ibid.*

<sup>49</sup> Stateless Protection Act of 2024, S.3987, 118th Cong. (2024) <https://www.congress.gov/bill/118th-congress/senate-bill/3987>

<sup>50</sup>After crossing the U.S-Mexico border in 2018 and requesting asylum, Ghalia was held in detention as authorities attempted to deport him; yet no country, including Israel, Egypt, or the Palestinian Authority would accept him. ICE continued to issue removal warrants despite acknowledging the impossibility of a successful deportation.<sup>51</sup>

Without a defined legal mechanism to recognize statelessness, the United States subjected Chalia to indefinite detention. He was denied asylum with no path to legal status, even after ICE conceded that his deportation could not proceed. A federal judge ultimately ordered his release in 2021, citing violations of constitutional and international protections against arbitrary detention.<sup>52</sup>Ghalia's detention persisted under the premise that ICE was attempting removal claiming it was, "imminent,"<sup>53</sup> while understanding that there was no viable destination for him. Legal advocates emphasized that Ghalia was trapped in a bureaucratic paradox: "[Ghalia] was not held for a crime, but for the failure of other states to accept him."<sup>54</sup>

Yet, Ghalia remains in the U.S without legal status, employment authorization, or pathway to citizenship; he is merely a civil ghost suspended in legal uncertainty under a barrage of legal contradictions and state neglect.<sup>55</sup> Ghalia's case exposes the structural deficiencies in the U.S immigration regarding the identification and protection of stateless persons. The absence of a formal statelessness determination procedure leaves individuals like Ghalia in prolonged legal limbo, unable to regularize their status despite the acknowledged

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<sup>50</sup>Charlotte Silver, "Gaza Refugee Finally Freed from Arizona Immigration Jail," *The Electronic Intifada*, May 28, 2016, [h](#)

<sup>51</sup>*Ibid.*

<sup>52</sup>U.S. District Court for the District of New Mexico, *Ghalia v. ICE*, No. 1:20-cv-00762, Order of Release (Feb. 2021).

<sup>53</sup>John Washington, "The US Wants to Deport This Palestinian—but First It'd Have to Recognize Palestine," *The Nation*, March 28, 2016

<https://www.thenation.com/article/archive/can-you-be-deported-if-you-are-stateless/>

<sup>54</sup> *Ibid.*

<sup>55</sup> *Ibid.*

impossibility of deportation. The U.S's failure to implement procedural safeguards consistent with its obligations under the International Covenant on Civil and Political Rights (ICCPR), specifically Article 9 (prohibiting arbitrary detention) and Article 1 (ensuring due process in expulsion proceedings) leaves stateless people invisible under the law.

### **B. Maha Mamo, Recognition and Inclusion in Brazil**

Maha Mamo was born in Beirut, Lebanon, in 1998, to Syrian parents whose interfaith marriage was not legally recognized by Syrian authorities. Under Syria's patrilineal citizenship laws, the state refused to register her birth, therefore, denying her Syrian nationality.<sup>56</sup> Lebanon, where she was born and lived, does not provide citizenship through *jus soli*, and its laws prohibit mothers from passing nationality to children in most cases.<sup>57</sup> Consequently, Mamo grew up stateless; she was unable to attend university, vote, travel, or hold a job legally.

Her legal status began to shift when she was granted a humanitarian visa by Brazil in 2014. Though initially granted refugee status in 2016, this recognition provided her only a temporary legal status, not a nationality. The Brazilian government began to take further steps. With the passing of Lei N° 13.445/2017 (the Migration Law), Brazil created a formal Statelessness Determination Procedure administered by the Ministry of Justice and Public Security, and operationalized through Normative Resolution No. 5/2017.<sup>58</sup>

Brazil acceded to the 1954 Convention Relating to the Status of Stateless Persons in 1996, thereby committing to its international obligations.<sup>59</sup> However,

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<sup>56</sup> UNHCR, "Maha Mamo, a stateless refugee in Brazil, talks about the challenges of a life without nationality," #IBelong Campaign, December 13, 2016 <https://www.unhcr.org/ibelong/maha-mamo/>.

<sup>57</sup> Equality Now, *The State We're In: Ending Sexism in Nationality Laws*, 2016 <https://www.equalitynow.org/resource/the-state-were-in-ending-sexism-in-nationality-laws/>.

<sup>58</sup> Brazil, Law No. 13,445 of May 24, 2017 (Migration Law), trans. Ministry of Justice and Public Security,

<sup>59</sup> United Nations Treaty Collection, *Convention Relating to the Status of Stateless Persons*, Ratification by Brazil, June 25, 1996, <https://treaties.un.org>.

the domestic implementation of these protections including the legal definition of a stateless person and access to identity documents, residency, education, and naturalization was formalized much later through Law No. 13.445/2017 and Normative Resolution No. 5/2017.<sup>60</sup>

After applying through Brazil's SDP, Mamo was officially recognized as stateless and became the first person to acquire a Brazilian citizenship under this determination in October 2018.<sup>61</sup> Mamo's naturalization was granted under Article 12, sec. 2 of the Migration Law, which reduces barriers to citizenship for stateless persons. Brazil waived language and residence requirements, recognizing that statelessness is a form of legal vulnerability requiring affirmative restructuring.<sup>62</sup>

Mamo's case not only established legal precedent but also marked a turning point in Latin America's engagement with statelessness. The Brazilian government and UNHCR's regional office have since promoted the Mamo case as a model of best practice for implementing #IBelong Campaign to end statelessness.<sup>63</sup> Her successful naturalization was not merely a personal triumph but a legal milestone: it marked the first time Brazil operationalized its statelessness determination procedure to confer full citizenship. Beyond legal milestones, Mamo's case shows the importance of administrative commitment and coordinated action among the Ministry of Justice, civil society groups, and international institutions in turning legal obligations into concrete rights and protections.

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<sup>60</sup> Ministry of Justice and Public Security (Brazil), Normative Resolution No. 5/2017 on the Procedure for the Recognition of Statelessness, via UNHCR Brazil

<sup>61</sup> UNHCR, "Brazil Makes Dream of Belonging Come True for Stateless Activist," UNHCR News, October 4, 2018,

<sup>62</sup> Ministry of Justice and Public Security (Brazil), "Normative Resolution No. 5/2017 on the Procedure for the Recognition of Statelessness," translated summary accessed via UNHCR Brazil,

<sup>63</sup> European Network on Statelessness, "Breaking the Mold: Brazil's Progressive Approach to Granting Nationality and Reducing Statelessness,"

## **VI. Statelessness As a Tool of Suppression in The United Arab Emirates**

The United Arab Emirates (UAE) has increasingly utilized the revocation of citizenship as a means to suppress political dissent and silence activists. This practice not only contradicts international human rights standards but also serves as a strategic tool to instill fear and deter opposition within civil society.<sup>64</sup>

Iyad el-Baghdadi, a Palestinian born writer and human rights activist who gained prominence during the Arab Spring for his pro-democracy advocacy, was deported with no due process. Born in Kuwait and raised in UAE, el-Baghdadi was effectively stateless, as Palestinians in the diaspora often lack formal citizenship. Despite his stateless status, he resided in the UAE until 2014 when he was abruptly detained and given the ultimatum of indefinite imprisonment or immediate deportation, without formal charges or legal processes. Opting for deportation, he was sent to Malaysia, a country he had never lived in and which initially refused to recognize him where he faced further challenges due to his lack of recognized nationality; he became trapped in legal limbo at Kuala Lumpur Airport for nearly a month.<sup>65</sup> Eventually, he was granted asylum by Norway, recognizing his statelessness and persecution risk.<sup>66</sup>

The UAE's treatment of el-Baghdadi represents a flagrant breach of international law including Article 15 of the Universal Declaration of Human

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<sup>64</sup>MENA Rights Group, *Citizenship Stripping in the United Arab Emirates: Statelessness as a Tool of Crackdown*, July 2, 2024, <https://menarights.org/en/documents/citizenship-stripping-united-arab-emirates-statelessness-tool-crackdown>.

Jenan al-Marzooqi, Estelle Allemann, and Alexandra Tarzikhan, "How the UAE Crushes Dissent by Arbitrarily Revoking Citizenship," *Middle East Eye*, August 26, 2024, accessed April 12, 2025, <https://www.middleeasteye.net/opinion/how-uae-crushes-dissent-arbitrarily-revoking-citizenship>.

<sup>65</sup> Sophia Jones, "Meet The Arab Spring Activist Deported By The UAE Who Is Now Speaking Out," *Noema Magazine*, November 1, 2014, <https://www.noemamag.com/meet-the-arab-spring-activist-deported-by-the-uae-who-is-now-speaking-out>

<sup>66</sup> *Ibid.*

Rights, which prohibits arbitrary deprivation of nationality.<sup>67</sup>The UAE has increasingly employed citizenship stripping as a tool of political control, often extending punitive measures to the families of targeted individuals, violating the UDHR.<sup>68</sup>

The United Arab Emirates (UAE) is not a party to the 1954 Convention Relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness.<sup>69</sup> Emirati law provides no formal mechanism to assess statelessness, nor does it offer meaningful legal safeguards against arbitrary deprivation of nationality.<sup>70</sup> Under Federal Law No. 17 of 1972, the government may revoke citizenship by executive decree. Such a decision, by law, “cannot be contested” in court.<sup>71</sup>

Human rights organizations have documented repeated cases in which the UAE has arbitrarily stripped dissidents and their families of nationality, often without prior notice or legal recourse, rendering them effectively stateless.<sup>72</sup> In practice, there is no judicial review or independent appeals process to challenge these actions.<sup>73</sup> Furthermore, while the UAE signed the Rome Statute of the International Criminal Court on November 27, 2000, it has never ratified the

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<sup>67</sup> United Nations General Assembly, Universal Declaration of Human Rights, G.A. Res. 217A (III), Article 15, December 10, 1948<sup>hts</sup>. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

<sup>68</sup> Emirates Leaks, "UAE Citizenship Stripping: Suppressing Civil Society and Dissidents," Emirates Leaks, July 2024 [https://emiratesleaks.com/uae-citizenship-stripping-suppressing-civil-society-and-dissidents/?lang=en.&#8203;contentReference\[oaicite:1\]{index=1}](https://emiratesleaks.com/uae-citizenship-stripping-suppressing-civil-society-and-dissidents/?lang=en.&#8203;contentReference[oaicite:1]{index=1})

<sup>69</sup> Migrants and Refugees Section, United Arab Emirates Country Profile (Vatican City: Dicastery for Promoting Integral Human Development, 2022), <https://migrants-refugees.va/country-profile/united-arab-emirates/>.

<sup>70</sup> Institute on Statelessness and Inclusion, Submission to the Human Rights Council at the 43rd Session of the Universal Periodic Review: United Arab Emirates (2022), 4, [https://files.institutesi.org/UPR43\\_UAE.pdf](https://files.institutesi.org/UPR43_UAE.pdf).

<sup>71</sup> *Ibid.*, 5.

<sup>72</sup> Human Rights Watch, "UAE: Free Blogger Activist," May 28, 2012, <https://www.hrw.org/news/2012/05/28/uae-free-blogger-activist>.

<sup>73</sup> Institute on Statelessness and Inclusion, *Submission to the Human Rights Council*, 6.

treaty.<sup>74</sup> As a result, the country is not subject to the ICC's jurisdiction, thereby shielding it from potential scrutiny over the systematic use of denationalization as a tool of political repression.<sup>75</sup>

Human rights groups describe this tactic as part of a broader authoritarian model that transforms citizenship from a legal right into a conditional reward.<sup>76</sup> Activists who speak out, as well as their families, are often cut off from identification services, health care, education, and employment.<sup>77</sup>

The lack of judicial oversight, combined with executive dominance over nationality policy, has enabled the state to revoke citizenship through opaque and politically motivated procedures.<sup>78</sup> The absence of transparent legal procedures and the concentration of power within the executive branch facilitate the use of deportation as a means of suppressing political opposition, deterring individuals from exercising rights to free expression and association.

## **VII. Conclusion: Reframing Statelessness as a Human Rights Emergency**

Statelessness is not simply a technical glitch in legal systems, rather, it is a profound human rights crisis with daily, often lifelong consequences for millions of individuals. From the systematic erasure of Rohingya identity in Myanmar to the indefinite detention of Hisham Ghalia in the United States, and the weaponization of citizenship revocation in the UAE, statelessness manifests in patterns of exclusion, vulnerability, and institutional neglect. Although international treaties like the 1954 and 1961 Statelessness Conventions and

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<sup>74</sup> United Nations Treaty Collection, *Rome Statute of the International Criminal Court: United Arab Emirates*,

[https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-10&chapter=18&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-10&chapter=18&clang=_en).

<sup>75</sup> *Ibid.*

<sup>76</sup> MENA Rights Group, *Citizenship Stripping in the United Arab Emirates: Statelessness as a Tool of Crackdown*, July 2, 2024

<sup>77</sup> *Ibid.*

<sup>78</sup> *Ibid.*

human rights frameworks such as the ICCPR and UDHR lay out foundational protections, implementation remains fragmented and insufficient.

Brazil offers a promising model of how national policy can align with international norms through transparent determination procedures and pathways to naturalization. Ultimately, recognizing statelessness as a human rights emergency requires reframing it not as an exception, but as a crisis that demands immediate, coordinated, and legally binding action.