

Brazil Plan of Action
Thematic Consultations for the Elaboration of a Triennial Progress Report
Programs on Quality of Asylum and Eradication of Statelessness
Buenos Aires, 2 - 3 November 2017

Introduction

On 3 December 2014, 28 States and three overseas territories of Latin America and the Caribbean unanimously adopted the Brazil Plan of Action (BPA) as the conclusion of the process commemorating the 30th anniversary of the 1984 Cartagena Declaration on Refugees. The BPA represented a way to address new international protection challenges and to identify solutions for refugees, displaced and stateless persons in Latin America and the Caribbean in the next ten years.¹ Chapter Two of the BPA establishes the “Quality of Asylum” program with the objective of improving eligibility procedures, strengthening capacities of asylum authorities, as well as proposing ideas to enhancing efficiency in the management of refugees status determination procedures (RSD). Likewise, Chapter Six of the BPA includes a program on the “Eradication of Statelessness” focused on the Prevention, Protection and Solution of cases of statelessness. Chapter Eight provides that States should elaborate specific projects to implement programs and actions according to their priorities, explore the possibility of creating mechanisms for the evaluation and follow-up of the BPA and work with UNHCR in the preparation of triennial progress reports and a final report in 2024.

Within the framework of the BPA evaluation and monitoring mechanism, two thematic consultations were held with a view to preparing the first progress report (2015-2017) on the programs of “Quality of Asylum” and “Eradication of Statelessness”. In the two consultations held in Buenos Aires, Argentina, the following countries participated: Argentina, The Bahamas, Brazil, Canada (observer), the Cayman Islands, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Mexico, Panama, Paraguay, Suriname, and Uruguay. The meetings included contributions from international organizations² and civil society organizations³ (CSOs), as well as from persons of concern to UNHCR.

The objectives of the consultations were: 1) Assessing the progress made, at national and regional level, in the implementation of the BPA programs “Quality of Asylum” and “Eradication of Statelessness”; 2) encouraging the exchange of good practices and lessons learned among countries; 3) identifying remaining challenges, priorities and areas where greater international cooperation is required for the implementation of the BPA. The discussion was built around three guiding questions: What good practices or lessons learned could countries share in relation to progress registered? Which are the persisting challenges? What kind of actions requires greater cooperation and technical advice from UNHCR, or international funding?

The first day was dedicated to the evaluation of the program on “Quality of Asylum”. The discussions focused on three thematic pillars: 1) Access to procedures; 2) Registration and documentation; and 3) Protection and access to asylum for children and adolescents. The second day the consultation focused on the progress and challenges related to the “Eradication of Statelessness”.

The following topics, good practices, challenges and recommendations were addressed in the two consultations.

1. The “Quality of Asylum” program

The Quality Assurance Initiative (QAI) began in 2012 as a pilot project in a few countries of the region, and it was then progressively extended to other countries (see below). The QAI program aims to improve and harmonize national norms and procedures for the protection of refugees in Latin America and the Caribbean, towards simpler, more efficient and faster processing of asylum applications, based on the principles of due process and humans rights standards. The QAI initiative also includes an evaluation of all RSD stages, from the arrival of the applicant to the conclusion of the procedure, including the final decision, the appeal, and the potential judicial review.

¹ Brazil Plan of Action, “A Common Roadmap to Strengthen Protection and Promote Sustainable Solutions for Refugees, Displaced and Stateless Persons in Latin America and the Caribbean within a Framework of Cooperation and Solidarity.” December 2014.

Available at: <http://www.acnur.org/t3/fileadmin/Documentos/BDL/2014/9865.pdf>

² International Organizations: IPPDH and UNPFA.

³ Civil Society Organizations: Red ANA, Norwegian Refugee Council (NRC), AA (GAR-PAB); La Salle, Clínica Jurídica UARM, Clínica Jurídica CAREF/CELS; Clínica Jurídica Alaide Foppa.

At the beginning of the meeting, States highlighted the importance of regional and sub-regional cooperation in the implementation of the BPA, including the contribution of international organizations and CSOs, as well as the need to interact with regional and universal human rights systems to ensure systematic focus on human rights and promote CSOs' regular participation. Similarly, participants emphasized the neutral, non-political and humanitarian nature of asylum, particularly in a context of exponential increase in the number of applications throughout the region, as well as the need to analyze to what extent RSD procedures are apt to meet this increase.

Legislative progresses were made at national level, particularly in respect to migration issues (new migration laws in Ecuador, Brazil, Guatemala, Peru and Chile). It was emphasized that nine countries are already part of QAI and that other countries are interested in joining it (Ecuador and Paraguay). Recent commitments at the regional level were also highlighted, including the New York Declaration on Migrants and Refugees (September 2016), the Declaration of Action of San José (July 2016), and the Declaration of San Pedro Sula (October 2017). It was reiterated that the outcome of the thematic consultations carried out in the framework of the evaluation of the BPA will provide a contribution for the Global Compact on Refugees and Migrants that is expected in 2018.

1.1. Access to procedure

Participants agreed that the right of access to procedure - the set of elements that facilitate and guarantee the enjoyment and exercise of the right to seek and be granted asylum - should be exercised in full respect of the principle of due process. It was reiterated that the QAI program represents a fundamental tool that offers a clear and practical guide to implement concrete, measurable and achievable changes at a structural level in the RSD procedures.

Special emphasis was placed on legislative developments in Argentina, with respect to enhanced RSD procedures. In particular Argentina stressed the good practices of adapting the QAI methodology to the national reality, with specific progress on the differentiated approach upheld by the CONARE for LGBTI applicants, as well as the possibility of transforming this methodology into a protocol. Costa Rica shared the achievements related to the establishment of the Administrative Migratory Tribunal (TAM for his acronym in Spanish). The TAM is a quasi-judicial, right-based specialized and independent body that exhausts the administrative remedies, which follows the Canadian judicial review model. Costa Rica also shared the good practice of organizing *in-loco* visits in countries of origin for the members of its Committee on Refugee and Restricted Visa, in order to sensitize and build capacity about the difficult conditions experienced by refugees. In addition, Costa Rica illustrated the successful exchange visit of Canadian judges to the TAM, highlighting the need to promote good practices exchanges, through "twinning" programs.

Uruguay highlighted national developments regarding the recognition of refugee status based on the impossibility of accessing health services in the country of origin, including the lack of access to anti-retroviral treatment, or denied access to medical attention as part of political persecution.

Several persistent challenges were also identified, as well as areas where further dedication is required.

Participants identified common challenges and concerns, in particular related to: access to procedures at the border; lack of free and ex-officio legal representation; cases of expedited and summary proceedings for fraudulent or manifestly unfounded applications with little respect to the due process safeguards; extremely tight deadlines for the submission of applications; the need for an institutionalized and systematic quality interpretation service; and the need to ensure independence in the second instance review. Lastly, it was highlighted the need to continue to improve the interpretation of the extended definition included in the Cartagena Declaration for those countries that have incorporated it in their national legislation and ensure its effective implementation.

Based on the good practices and the challenges discussed, the participants of the consultation recommended to:

- Promote the respect of just and efficient due process in RSD procedures, in terms of certainty of times of response and respect for individual guarantees throughout the whole process;
- Balance the need for more efficient and sustainable procedures based on due process safeguards, in a context of exponential increase in the number of applications, without necessarily a corresponding increase in response capacity;
- Intensify efforts in providing guidance and free legal advice to refugees, ensuring individual and confidential interviews as well as informed decisions, within a reasonable timeframe;
- Strengthen access to procedure at the border, particularly at airports, as well as in decentralized areas of capital cities; launching systematic programs of quality interpretation;

- Enhance trainings for officials, legal representatives, and members of judicial and second instance review bodies, with the support of CSOs and UNHCR;
- Increase south-south technical cooperation, including spaces for the exchange of good practices and “twinning” programs among competent authorities, within the framework of shared responsibility;
- Establish criteria for the differentiation of various categories of persons in need of international protection, including refugees under the classic and extended definition, or other migratory measures of complementary protection, to maintain the integrity of the asylum system while ensuring the protection of people in need;
- Improve mechanisms of appeal, ensuring their suspensive effect, and guaranteeing effective access to second instance procedures through a specialized and independent authority;
- Continue promoting and recognizing the principle of extraterritoriality of refugee status, guaranteeing non-refoulement.

1.2. Registration and documentation system

The delegates emphasized the importance of promoting an efficient registration system - as a fundamental tool for protection and case management - through documentation, verification and updating of the information on asylum seekers and refugees, including the disaggregation of data by age, gender, diversity and type of vulnerability. It was pointed out that registration represents the most direct and closest contact that institutions have with asylum seekers and refugees, underscoring that documentation is crucial for protection purposes in order to guarantee access to basic socio-economic rights and services (such as health, education and employment). Participants reiterated the fundamental role that individual registration has in the protection of refugees against refoulement and in the identification of vulnerabilities, attention to special needs, including unaccompanied children and adolescents, victims of human trafficking, LGBTI persons, or people with disabilities.

The consultation created a space to share good practices and progress achieved in several countries, and in particular:

- Within the framework of the QAI program, Brazil created a unified registration system for the CONARE and the Federal Police, which is the relevant migratory body. According to this system, called SISCONARE, asylum seekers complete an online form, which they will subsequently validate with the Federal Police. On the one hand the SISCONARE allows asylum seekers to obtain online information about their application, on the other hand it ensures a more expedite, clearer and efficient process within CONARE. Besides helping saving resources and guiding the process, the SISCONARE facilitates centralized mapping of information on persons of concern, ensuring reliability and better quality of the information generated.
- In Ecuador, the new Human Mobility Law separates the issues of asylum, refugee status and statelessness. The law differentiates refugee status from other migratory categories. A free humanitarian visa is granted to applicants for refugee status as well as for victims of natural or environmental disasters. Refugees are registered in the civil registry and are given Ecuadorian identity card that guarantees full access to rights for a period of two years, automatically renewable, and after three years they are granted permanent residency, opening the way to naturalization.
- In Chile, the creation of the Registration Unit helped increase efficiency and clarity in handling cases, through the strengthening of the structure and the coordination of all actors concerned. In addition, the Registration Unit ensures closer contact with asylum seekers and refugees, clarity and better identification of special needs and vulnerabilities.
- Guatemala pointed out its efforts in improving the registration system for persons in transit and the importance of identifying the vulnerabilities in contexts of mixed migratory movements. It was emphasized the need for highlighting protection elements for children and adolescents, as well as the importance to involve regional processes such as the Regional Conference on Migration, with the collaboration of UNHCR, IOM and UNICEF.

Notwithstanding the acknowledgment of the achievements and the efforts that several States have made, the consultation pointed out the persistence of concerns in the field of registration and documentation. In general, in a number of countries of the region, documentation remains one of the greatest challenges for persons of concern, especially in proceedings and when documents issued are inadequate and lead to discrimination of the applicant, sometimes even including a mention of their status, preventing access to basic rights and services. Concerns were raised about the delays in the proceedings, which, coupled with high costs, cause an increase in the abandonment of the application. This has an impact on the entire asylum system, the protection of people, as well as in the right to documentation. It was emphasized that in several countries the role of registration units

remains marginal and needs further strengthening to ensure better coordination in the management of cases and closer contact with people of concern, to cope with the challenge of new mixed migratory flows and the need to identify people in need of international protection. Finally, participants stressed the importance of developing registration systems that increase efficiency and quality of asylum systems.

Based on the challenges and good practices discussed, the consultation made the following recommendations:

- Strengthen registration and case management systems, including in border areas, in a situation of exponential increase in asylum applications, as a tool close to the needs of persons of concern and at the same time as a coordination platform for case management;
- Promote institutional strengthening by investing in registration units, enhancing their dynamic role in the interaction with persons of concern, improving capacity for early identification of cases that need immediate response. Foster individual and detailed registration system, with registration forms in different languages;
- Take concrete steps to promote interoperability among existing systems of various governmental actors, including at the borders, to ensure efficiency of the registration system and full protection of the persons of concern, avoiding duplications in procedures, guaranteeing individual follow-up, and identifying cases of persons in need of international protection in shelters and detention centers;
- Ensure that documentation is delivered upon application, without prejudice to the date of the interview for status determination;
- Ensure the documentation process is expedited, individualized, free of charges, without any reference to refugee status, renewable in the long-term, possibly through registration in the civil registry. Above all, it was emphasized the need for documentation that ensures the same entitlements of nationals, in full respect of the principle of non-discrimination.

1.3. Differentiated approach for children and adolescents in the asylum proceeding

Despite the advances in adopting a comprehensive and differentiated approach in terms of Age, Gender and Diversity (AGD), the consultation highlighted the need to enhance efforts in implementing the BPA to ensure appropriate access to asylum procedures and effective protection of children and adolescents, survivors of sexual and gender-based violence, LGBTI persons with special protection needs. In this context, it should be taken into account that 50 percent of UNHCR persons of concern in the Americas are women, for a total amount of more than nine million people. It is also important to emphasize that these persons are more vulnerable to Sexual and Gender-Based Violence (SGBV), exploitation, abuse and neglect. In the same vein, it should be noted that SGBV is a cause and consequence of forced displacement in the region.

Participants highlighted the importance of analyzing data in the applications, recognitions and refusals of refugee status grounded on persecution based on gender, sexual orientation, gender identity, as well as applications from children and adolescents. It also reiterated the importance of preventing child detention based on migration status and of identifying family-based care alternatives, as well as the need to implement procedures to determine the best interests of the child, defined as a clear responsibility of *ad hoc* bodies and institutions that should guide all decisions and actions that affect children. Likewise, any procedures that involve children must respect their rights, including their participation, development and survival, and non-discrimination. Child-friendly procedures, with personnel trained in interviewing techniques and communication with minors, should also be promoted.

The consultation highlighted positive developments in several countries, such as the participation and consultation of children in the admissibility procedure, and the progress made to prevent child detention and that of their parents, as well as to guarantee legal advice and access to justice to women survivors of SGBV who are sometimes forced to flee their countries with incomplete custody and care procedures.

Brazil shared the good practice of establishing a protection registry for children at the border as part of an inter-institutional coordination that provides mechanisms for early identification, care and protection of children who are unaccompanied or separated from their families at border points. This includes the prioritizing and expediting of their applications, the determination of the best interest of the child, the application of the principles of non-refoulement and non-criminalization, and the prevention of child detention, as well as children's consultation, participation and information throughout the procedures for determining refugee status.

Argentina emphasized the value of a Protocol adopted to ensure access to protection and assistance as well as to look for durable solutions for unaccompanied children or children separated from their families through procedures that determine the child's best interest, child's participation, the appointment of a guardian or legal representative of the National Ombudsman's Office, reunification and foster care, including in the process of seeking durable solutions or other complementary forms of protection.

Among the challenges discussed, participants highlighted the difficulties related to the identification of possible victims of trafficking and unaccompanied or separated children within mixed migratory flows. In particular, it was pointed out the need to establish clear criteria to interpret and identify “accompanying adults”. It was highlighted the importance to improve procedures for the assessment and determination of the best interests of the child, to prevent and address cases of human trafficking and other risks. As a specific concern, it was mentioned the limited participation of CSOs and the need to strengthen their involvement in the participation of children and adolescents in RSD procedures, ensuring children are treated as principal applicants of their case.

Based on good practices, challenges and lessons learned discussed, participants made the following recommendations:

- Establish specific protocols for action - for accompanied and unaccompanied children (including appointment of guardians) and for SGBV survivors - which facilitate both access to RSD procedures and specialized case management in manner that should be: coordinated, sensitive to specific needs, based on AGD criteria and on the principle of the best interests of the child, with a specific focus on the survivors.
- Enact procedures of evaluation and determination of the best interests of the child, for unaccompanied or separated children or for children with other kinds of protection risks, in particular in border areas, with special attention to family reunification processes that imply the return of the child to the country of origin.
- Prevent detention and encourage the establishment of alternative family care systems.
- Promote policies for early identification of risks, which ensure the principle of the benefit of the doubt in cases where the age of the child concerned cannot be determined.
- Ensure the participation of children in the admissibility processes, and treat them as the principal applicant, for protection purposes;
- Promote inter-institutional collaboration of all relevant bodies, involved in the protection of children, women and other SGBV survivors, promoting coordination among key institutions and CSOs to ensure adequate response, based on different individual needs.
- Ensure that the staff involved at all stages of RSD processes are trained and sensitized on differentiated needs related to child protection, SGBV survivors, and persecution based on sex, sexual orientation and gender identity.
- In relation to gender-based persecution, pay special attention to cases of domestic violence and ensure free legal advice and access to justice for women in need of international protection, leaving their country of origin with children without the legal authorization of the father.
- Tailor national regulations in order to include persecution based on gender, sexual orientation or gender identity as a ground for obtaining refugee status.

2. Eradication of Statelessness

The program “Eradication of the Stateless” of the BPA states the objective of ending statelessness before the year 2024 in the Latin American and Caribbean region, promoting national laws and practices that do not generate potential or actual cases of statelessness (prevention), protecting stateless persons in the territory during the process of resolution of their cases (protection); as well as resolve existing cases of statelessness (resolution).

It is worth remembering that several Latin American and Caribbean States are already endowed with adequate legislative frameworks, consistent with international standards and that, with some complementary efforts, this region could reach the goal of being the first in the world to become a “statelessness free” territory by 2024, representing a worldwide model, leading the global fight to eradicate statelessness. The meeting promoted the development and consolidation of “champion countries”, as a way to endorse the fight to eradicate statelessness both regionally and globally. In this respect, participants highlighted the need to promote joint efforts and strengthen alliances among Latin American and Caribbean countries and request UNHCR to coordinate a regional meeting at the margins of the next 2018 OAS General Assembly, to promote consistency with the statelessness Conventions. The delegates also emphasized that the eradication of statelessness is associated with the commitment to achieve the UN 2030 agenda’s sustainable development goals, as well as the promotion of legal security, social development and peace in the region.

Despite the progress made, persistent challenges remain in the region in respect to prevention, protection and resolution of cases of statelessness, and the possibility of the occurrence and recurrence of new cases has not yet been completely eliminated. States recalled that statelessness is a violation of the human right to nationality,⁴ enshrined in various regional and international human rights instruments.

The consultation on the “Eradication of Statelessness” was divided into three parts: 1. Prevention of statelessness; 2. Protection of stateless persons; 3. Resolution of cases of statelessness. The meeting included the valuable testimony of Ms. Maha Mamo, a stateless person living in Brazil, who shared her experience, challenges and achievements, and thus contributing in a substantial way to enrich the discussions and recommendations made.

2.1. Prevention of statelessness

With respect to the prevention of statelessness, the consultation reiterated that the 1961 Convention on Reduction of Statelessness offers detailed and simple safeguards to prevent and reduce cases of statelessness, at little or no cost. States can prevent the emergence of new cases of statelessness by implementing these safeguards, ensuring citizenship to those who might otherwise become stateless. In this sense delegates emphasized the human-rights-based approach of the provisions of the Conventions on Statelessness, underlining the humanitarian and apolitical content of the protection of stateless persons. There was a collective call to accede or ratify - depending on the specific case - these Conventions, highlighting the importance of ensuring legal and substantial certainty to the existence of these people, from a holistic human-rights perspective, based on interconnected, interdependent, and interrelated rights.⁵

With regard to the prevention of statelessness, the consultation also insisted on recalling the importance of universal birth registration as a fundamental measure to prevent statelessness and to ascertain nationality, although the lack of registration does not lead, in itself, to statelessness.

Participants presented some good practices in relation to the acquisition and confirmation of nationality, for cases where - for example - the irregular migratory status of parents prevented the child registration as a national, as well as for cases where the child, entitled to acquire the nationality, was not registered at birth. The meeting also emphasized the importance of conducting mappings of persons who are stateless or at risk of statelessness, of promoting information campaigns to regularize the situation of stateless persons, of implementing creative ways to ensure universal birth registration and ensuring that the documentation that proves nationality, is free of charge, without legal or practical obstacles, or other major requirements.

Chile shared as a good practice its project “Chile Recognizes”, related to the importance of restricting the interpretation of the concept of foreigner “in transit”, which has a concrete and direct impact on the inclusion or exclusion of people in the process of granting nationality, with risks of statelessness. In the past, the concept of a foreigner “in transit” included children of parents with irregular migratory status. In recent years, the Supreme Court, in its interpretations, clarified that the concept of foreigner “in transit” should only apply to those “passing through” Chile without manifesting a “residency will”, such as tourists or crew members. Consequently, due to

⁴ Article 15 of the Universal Declaration of Human Rights: “(1) Everyone has the right to a nationality. (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.”

⁵ Besides the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness: The International Convention on the Elimination of All Forms of Racial Discrimination (Art. 5, iii); The Convention on the Rights of the Child (Art. 7 and 8); The Convention on the Elimination of All Forms of Discrimination Against Women (Art. 9), as well as other regional instruments.

the exceptional nature of this concept, it must be interpreted restrictively, preventing that irregularities in the migratory status of parents affect the determination of the nationality of the minor. Starting from 2014, the new interpretation has made it possible to resolve, in a simple manner, cases of nationality of hundreds of migrants' children, in an irregular migratory situation, taking into account that the application for the rectification of status can be done online or by a third person with power of attorney.

Costa Rica presented the project "Chiriticos" as a good practice for confirming nationality and preventing statelessness, through late birth registration of Ngäbe-Buglé indigenous peoples. The Ngäbe-Buglé people move habitually and seasonally in areas around the border between Costa Rica and Panama, to work on banana and coffee plantations in Costa Rican territory. These peoples are at risk of statelessness due to lack of registration at birth. The "Chiriticos" project is a joint initiative of the Civil Registry of the Supreme Electoral Tribunal of Costa Rica, the Government of Panama and the UNHCR. The project ensured support in facilitating civil procedures for late birth registration and nationality documentation of Ngäbe-Buglé people. Under this initiative the nationality of about 500 people was determined.

In spite of the progress, participants highlighted persisting challenges related to gender-based discrimination in nationality laws leading to statelessness or the risk of statelessness. Concerns were also raised about residency requirements in the host country for the acquisition of nationality for nationals' children born abroad. Other concerns related to gaps in different nationality laws and lack of consistency with international standards. Finally, participants pointed out that – although diminished in numbers - cases of lack of birth registration, with the subsequent risk of statelessness, persist in the region.

The consultation agreed on the following recommendations:

- Promote accession and ratification, depending on the specific case, to the Conventions on statelessness;
- Review national legislation on nationality to ensure consistency with international standards on statelessness and human rights, with particular attention to the gender dimension of the phenomenon, to cases of foundlings, and to the cases of children of nationals born abroad. Abolish the residency requirement or, at least, ensure that it never applies to stateless persons. Adopt the restrictive interpretation of the concept of foreigner domiciled or "in transit";
- Promote universal birth registration, including late registration, through concrete measures, such as mobile units, that reach the most isolated and rural areas of the country;
- Enact measures to identify cases at risk of statelessness, along with fast and efficient systems to confirm nationality;
- Promote a regional mapping to assess the extent of the phenomenon of stateless or risks of statelessness in the Americas, in order to effectively address them.

2.2. Protection of stateless persons

Regarding the protection of stateless persons, the consultation reiterated that the lack of nationality and documentation prevents the effective enjoyment of rights and the exercise of individual freedoms, underlining the importance of upholding a human-rights-based approach that includes an AGD focus.

Emphasis was placed on the situation of extreme vulnerability experienced by stateless persons, recalling the risks associated with the lack of nationality, such as the potential expulsion from the country, detention, discrimination, trafficking in persons and violence. At the same time, stateless persons encounter barriers or limitations to the enjoyment of a series of fundamental rights, including the right to security, identity and recognition as persons before the law, documentation, marriage, education (particularly higher education), and access to health services and to the labor market. In addition, the consultation stressed that the feeling of "non-belonging" has psychological, social and human impacts that go beyond the simple denial of access to basic services and the exercise of rights.

During the last three years, positive changes were observed in the field of statelessness in the regulatory frameworks of a number of countries. In particular, participants highlighted the importance of setting up national mechanisms to determine statelessness, recalling new regulations on procedures for determining the status of statelessness, adopted by decree in 2016 in Costa Rica, and in 2017 in Ecuador and pointing out regulatory projects in Argentina, Paraguay, Uruguay, and Panama to ensure protection and facilitate the process for naturalization.

Brazil presented the main elements on the protection of stateless persons incorporated into the new migration law. The procedure for recognition of statelessness is provided in the new 2017 Migration Act, enforced on 21 November 2017, which facilitates the simplified naturalization (ordinary naturalization) as a result of the recognition of the stateless status, following two years of residence and granted within 45 days from the request.

Based on the challenges and progress achieved, the consultation recommended:

- Setting up fair and efficient procedures for the determination of statelessness, based on the “Draft Articles on the Protection of Stateless Persons and the Facilities for their Naturalization” prepared by UNHCR (2017);
- Ensure the systematic and permanent application of fundamental principles of protection, such as non-refoulement, non-criminalization for illegal entry and stay, equality and non-discrimination, due process, confidentiality, differentiated approach, as well as family unit;
- Inform applicants about their rights and obligations in a language they can understand; ensure that identity documents issued are fully recognized and include work permit;
- Ensure special protection with a focus on AGD, and special attention for children in situations of extreme vulnerability; in this respect, promote close coordination with competent institutions, including for psychosocial support;
- Promote inter-institutional, inter-sectorial, and international coordination.

2.3. Resolution of cases of stateless persons

With regard to the resolution of cases of statelessness, participants reiterated the importance of providing solutions to the stateless persons, together with determining their status and granting them legal residence. It was also underlined the need to facilitate the naturalization of stateless persons and to ensure a favorable treatment in the procedures of confirmation or restitution of nationality to resolve cases of statelessness. In this respect, Ecuador illustrated its system that sets up an exceptional mechanism of naturalization for stateless persons who have resided in the country for at least two years. Ecuador also put in place a (summary) procedure to retrieve Ecuadorian nationality.

The consultation emphasized the importance of the confirmation of nationality as a measure to prevent and resolve cases of statelessness, such as late birth registration included in consular services, the strengthening of inter-institutional coordination and international cooperation. In relation to this, Mexico illustrated the legislative developments on late birth registration for nationals living abroad. Mexico used to face a problem of under-registration that particularly affected people born in Mexico who lived abroad. To solve the problem, the Consulates were granted the competence to register not only the children of Mexicans born abroad, but also those Mexicans born in Mexico and never registered, irrespective of their age at the time of the request of registration.

Despite the above-mentioned positive developments, concerns were raised with respect to a number of persistent challenges related to the reduction of statelessness, such as lack of information on existing cases of statelessness that need resolution, limitations of material and human resources, regulatory gaps and conflicting legislation, particularly in case of renouncing, depriving, and retrieving nationality. Besides these, it was also mentioned the lack of training of relevant institutions as well as the need to improve inter-institutional and bilateral coordination.

Based on the discussion and exchanges on challenges and good practices, the consultation recommended:

- Enact effective, favorable, and low-cost systems and procedures to confirm nationality, including late birth registration, and ensure favorable treatment in procedures for the restitution of nationality;
- Set up effective procedures that facilitate the acquisition of nationality for recognized stateless persons as well as for stateless refugees protected under the 1951 Convention;
- Harmonize national legislation with international standards, eliminate discriminatory criteria related to the acquisition of nationality, identify and remove cases of conflict of laws and regulatory gaps;
- Promote training for relevant authorities, as well as inter-institutional coordination and international cooperation.