



August 1, 2023

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Policy Alert

SUBJECT: Statelessness

Purpose

U.S. Citizenship and Immigration Services (USCIS) is issuing policy guidance in the [USCIS Policy Manual](#) to address stateless noncitizens present in the United States.

Background

On December 15, 2021, DHS announced its commitment to adopt guidance on determining who may be considered stateless for immigration purposes and enhance protections for stateless noncitizens living in the United States.¹ DHS recognizes that a significant number of stateless noncitizens reside in the United States and may face serious challenges and obstacles because they have no officially recognized nationality. Stateless noncitizens often lack access to basic documentation, such as birth certificates, as well as documentation or evidence of their statelessness, and may have entered the United States while stateless or become stateless after arrival.²

As part of fulfilling these commitments, USCIS is now issuing guidance to further clarify statelessness generally for immigration purposes. Through this Policy Manual guidance, USCIS is establishing a specialized internal process for examining statelessness generally. The internal process preserves officer discretion to determine: (1) whether a specific applicant or beneficiary is stateless; and (2) how statelessness may be relevant to eligibility or the exercise of discretion for purposes of the immigration benefit or action being sought.

Upon an adjudicating officer's request, USCIS will produce reports on statelessness to advise such officers of information pertinent to the benefit request being adjudicated. Officers may use these reports to assist them in making factual determinations regarding statelessness where it is relevant to the underlying immigration application, petition, or request.

By issuing Policy Manual guidance on this topic, USCIS also aims to clarify some of the immigration benefits or requests that stateless individuals may be able to access, as well as the evidence that stateless individuals may provide to assist USCIS in determining whether they should be considered stateless for immigration purposes. Stateless noncitizens may be unaware of their potential eligibility

¹ See DHS News Release, [DHS Announces Commitment to Enhance Protections for Stateless Individuals in the United States](#), issued December 15, 2021.

² See DHS News Release, [DHS Announces Commitment to Enhance Protections for Stateless Individuals in the United States](#), issued December 15, 2021.

for certain immigration benefits or their ability to request consideration for certain other immigration actions, including deferred action and parole in place, or of the potential relevance of statelessness to such requests. As noted in the Policy Manual guidance, the reports on statelessness may be requested at the discretion of a USCIS officer where the officer believes statelessness may be relevant to the adjudication of an immigration benefit or consideration of a request for immigration action, such as deferred action or parole in place.

Further, the new internal process articulated in the Policy Manual better facilitates USCIS' ability to gather more comprehensive data on the number of stateless noncitizens residing in the United States to better understand barriers they may face in obtaining immigration relief or benefits. This information allows USCIS to better assist this vulnerable population.

This guidance, contained in Volume 3 of the Policy Manual, is effective October 30, 2023, and applies to applications, petitions, or requests pending on or filed on or after that date. The guidance contained in the Policy Manual is controlling and supersedes any related prior guidance.

Policy Highlights

- Clarifies what statelessness is generally for USCIS immigration purposes.
- Explains the relevance of a determination that a noncitizen may be considered stateless for immigration purposes to various immigration benefit requests or requests for action.
- Clarifies the circumstances under which an adjudicating officer may request a report on statelessness through the specialized internal process.
- Explains how USCIS may analyze available documentation and other evidence for purposes of producing reports, which may be used by officers adjudicating immigration benefit requests or requests for action.
- Describes examples of documentation and other evidence a noncitizen may provide USCIS to support their claim of statelessness.
- Provides examples of situations where an officer may request an updated report on statelessness.

Summary of Changes

Affected Section: Volume 3, Humanitarian Protection and Parole

- Adds new Part K (Statelessness).

USCIS may also make other minor technical, stylistic, and conforming changes consistent with this update.

Citation

Volume 3: Humanitarian Protection and Parole, Part K, Statelessness [[3 USCIS-PM K](#)].

Additional Considerations

USCIS considered possible reliance and retroactivity interests with the issuance of this policy and applying it to pending applications, petitions, or requests. Nationality, or the fact that a noncitizen has no nationality, is relevant to all immigration benefits or actions, and has been a factor considered across a variety of applications, petitions, or requests. While individual directorates had some guidance on assessing statelessness, prior to the issuance of this policy, USCIS did not have agency-wide statelessness guidance. This policy utilizes existing agency expertise to foster greater consistency, accuracy, and efficiency. Accordingly, USCIS does not believe this policy adversely impacts reliance or retroactivity interests.

This policy is effective on October 30, 2023, and will be incorporated into the Policy Manual accordingly.

Chapter 1. Purpose and Background

A. Purpose

Under recognized principles of international law, countries have jurisdiction to determine which persons are considered to hold nationality or citizenship of that particular country. Nationality, or the lack of an officially recognized nationality, is a relevant factor in many USCIS adjudications. Stateless persons, like any other noncitizens, may pursue a variety of immigration benefits or actions with USCIS. During the course of adjudicating an immigration benefit or reviewing an immigration request, USCIS may determine that a noncitizen is stateless, and may consider statelessness as a factor in determining whether a noncitizen has met eligibility requirements,¹ or merits a favorable exercise of discretion for an immigration benefit or other action.

A USCIS officer may request an internal report to analyze whether the evidence provided by the noncitizen and available information about country conditions or foreign law suggests that the noncitizen is stateless for immigration purposes. The report does not constitute a determination of eligibility for any immigration benefit or request. Rather, the report is intended to assist the officer to understand the circumstances surrounding the noncitizen's nationality (or lack of nationality), which may be a relevant factor in the underlying adjudication.

B. Background

DHS Commitment on Statelessness

On December 15, 2021, DHS announced its commitment to adopt a definition of statelessness for immigration purposes and enhance protections for stateless noncitizens living in the United States.² DHS recognizes that a significant number of stateless noncitizens reside in the United States and may face serious challenges and obstacles because they have no officially recognized nationality.³ They often lack access to basic documentation, such as birth certificates, as well as documentation or evidence of their statelessness. A noncitizen who does not possess a birth certificate for themselves or for their children may not be able to: obtain legal identity documents; secure an immigration status to apply for U.S. permanent residence or naturalization; or access employment, travel, or government services.⁴

¹ USCIS has the general authority to administer the Immigration and Nationality Act (INA), including the authority to take and consider evidence on any matter material and relevant to administration of the INA. See [INA 103\(a\)](#).

² See DHS News Release, [DHS Announces Commitment to Enhance Protections for Stateless Individuals in the United States](#), issued December 15, 2021.

³ See DHS News Release, [DHS Announces Commitment to Enhance Protections for Stateless Individuals in the United States](#), issued December 15, 2021.

⁴ See the United Nations High Commissioner for Refugees and Open Society Justice Initiative's report, [Citizens of Nowhere: Solutions for the Stateless in the U.S.](#) (2012).

Background Information on Causes of Statelessness and Resulting Vulnerabilities

While there is no form of immigration benefit or relief where eligibility is based solely on a requestor's statelessness, USCIS may consider this particular circumstance as a relevant factor in the adjudication of certain immigration benefits or other requests.

The determination of whether a person is a citizen or national of a particular country sometimes involves interpreting complex issues in foreign law. However, USCIS recognizes that stateless persons—those who lack a nationality by virtue of the laws or policies of a country—may face obstacles in applying for and obtaining immigration benefits or other relief or actions.

There are a number of common causes of statelessness, including but not limited to:

- Lack of birth registration and birth certificates;
- Birth to stateless parents;
- Political change and transfer of territory, which may alter the nationality status of citizens of the former state or states;
- Administrative oversights, procedural problems, conflicts of law between two countries, or destruction of official records;
- Alteration of nationality during marriage or the dissolution of marriage between couples from different countries;
- Targeted discrimination against minorities;
- Laws restricting acquisition of citizenship;
- Laws restricting the rights of women to pass on their nationality to their children;
- Laws relating to children born out of wedlock or during transit; and
- Loss, revocation, or relinquishment of nationality without first acquiring another.⁵

Without an officially recognized nationality, stateless individuals often have no right to vote, and they often lack a variety of legal protections; lack access to education, employment, health care; lack the ability to register birth, marriage, or death; and lack property rights. Stateless individuals may also encounter travel restrictions, social exclusion, and heightened vulnerability to sexual and physical violence, exploitation, trafficking in persons, forcible displacement, and other abuses.⁶

⁵ See [INA 349](#). Officers should contact the Office of the Chief Counsel in the event of potential loss of U.S. nationality through domestic renunciation or other loss of citizenship.

⁶ See the U.S. Department of State's [Statelessness](#) webpage.

C. International Recognition of Statelessness as a Serious Problem

Numerous international instruments reflect the concern of the international community about the problem of statelessness:

- Article 15 of the [1948 Universal Declaration of Human Rights](#)⁷
- Article 24 of the [1966 International Covenant on Civil and Political Rights](#)⁸
- [1967 Protocol relating to the Status of Refugees](#)⁹

In addition, the [1954 Convention Relating to the Status of Stateless Persons](#) and [1961 Convention on the Reduction of Statelessness](#) are dedicated to this issue.¹⁰ Although the United States is not a state party to either of these conventions, the U.S. government has recognized the importance of the principles enshrined in them.¹¹

Chapter 2. USCIS Preparation of Statelessness Reports

A. Overview

A stateless person is generally not considered a national by any state under the operation of its laws.¹² In simple terms, this means that a stateless person does not have a nationality¹³ of any country.

USCIS may generally consider a person to be stateless for purposes of considering immigration benefits or other requests when the available evidence¹⁴ indicates that the person is not a national of any country under the operation of its law.

While being stateless does not in itself establish eligibility for any immigration benefit, an applicant's statelessness may be relevant in determining eligibility for a variety of immigration benefits or may be considered a factor in the exercise of discretion. In order to address this factor, USCIS is establishing procedures to analyze whether a noncitizen may be considered stateless for immigration purposes. These

⁷ The Universal Declaration is an aspirational U.N. General Assembly document.

⁸ The United States is a party to the Covenant, with reservations, but the Covenant is not self-executing.

⁹ See 1967 Protocol, Art. 1. The United States is a party to the 1967 Protocol, which incorporates Articles 2 through 34 of the 1951 Convention Relating to the Status of Refugees, but the Protocol is not self-executing.

¹⁰ See [1954 Convention Relating to the Status of Stateless Persons](#). See [1961 Convention on the Reduction of Statelessness](#).

¹¹ See U.S. Department of State's [Statelessness](#) webpage. See DHS News Release, [DHS Announces Commitment to Enhance Protections for Stateless Individuals in the United States](#), issued December 15, 2021.

¹² See the [USCIS Glossary](#) webpage. See the U.S. Department of State's [Statelessness](#) webpage (defining a stateless person as "someone who, under national laws, does not enjoy citizenship – the legal bond between a government and an individual – in any country"). See Article 1 of the 1954 [Convention Relating to the Status of Stateless Persons](#) (describing a stateless person as someone who is "not considered as a national by any State under the operation of its law").

¹³ See [INA 101\(a\)\(21\)](#) (defining "national").

¹⁴ See Chapter 3, Individualized and Case-by-Case Consideration, Section A, Documentation and Evidence [3 USCIS-PM K.3(A)].

procedures include the examination of evidence and the production of an advisory report that provides the adjudicating officer with information about the noncitizen's potential statelessness.

The information contained in a report does not, however, compel the officer to take any specific course of action. It merely provides streamlined information about this often complex issue that may help the officer determine whether a noncitizen may be considered stateless for immigration purposes, which may be relevant to eligibility or the exercise of discretion for purposes of the immigration benefit or action being sought.

This process also assists DHS in better identifying the number of stateless persons living in the United States and better understand the barriers stateless individuals may face in obtaining immigration relief or benefits.

USCIS is centralizing this consideration of statelessness to promote efficiency and effective use of agency resources. Through centralization, USCIS can:

- Provide specialized training to promote consistency in analyzing statelessness;
- Inform officers of the circumstances where statelessness may arise in immigration adjudications; and
- Reduce the impact of potentially burdensome research and analysis on this often complex issue for officers who are adjudicating the various immigration benefit requests or actions to which statelessness may be relevant.

B. Process for Examining Statelessness

In the interest of ensuring consistent and accurate reports of statelessness, USCIS is dedicating specialized resources to examine whether a person may be stateless. Taking into account the evidentiary issues and complex questions of foreign law and practices involved in analyzing issues of statelessness, USCIS examines individual cases of potential statelessness and issues a report that the adjudicating officer may consider when adjudicating an immigration benefit request or deciding any other immigration request.

The officer may consider this report in situations where statelessness may be relevant to determining eligibility or whether to exercise discretion for the immigration benefit or action being sought. Specific vulnerabilities or hardships that an applicant would face as a result of statelessness could be factors relevant to a favorable exercise of discretion for some benefits or other requests, as could the impracticability of removing a stateless applicant.

Where a noncitizen seeking an immigration benefit or action indicates they are stateless in their application, request, or during an interview,¹⁵ or where an adjudicating officer believes statelessness may be relevant in making a decision, the officer may, in their discretion, request a report to assist in determining whether to consider the noncitizen stateless for purposes of the immigration benefit or other request. Only a USCIS officer can request a report to address whether a noncitizen is stateless.

¹⁵ For example, noncitizens may indicate potential statelessness by writing "stateless" when asked about nationality on their relevant petition, application, or request.

The report only addresses the issue of statelessness and does not mandate any factual findings or the issuance of a specific decision on the underlying immigration benefit or request. The adjudicating officer ultimately makes the final determination of eligibility for the benefit sought, including whether the evidence presented warrants a favorable exercise of discretion, if applicable.

Officers may only consider requesting a statelessness report where the noncitizen has a pending application, petition, or other request for action with USCIS.

Chapter 3. Individualized and Case-by-Case Consideration

Through this specialized internal process, USCIS examines evidence such as documentation, relevant country conditions information, and foreign law. Research may also be conducted on any of these topics, including citizenship laws affecting the noncitizen, as needed. Reports are then provided to the adjudicating officer for requested cases. The report addresses whether the evidence supports a factual finding that the noncitizen is stateless for purposes of the immigration benefit or other request.

A. Documentation and Evidence

1. Standard of Proof: Preponderance of the Evidence

As with any factual determination, USCIS determines whether a noncitizen may be considered stateless for immigration purposes by the preponderance of the evidence standard.¹⁶ USCIS may consider any credible evidence that can assist in determining the noncitizen's country of origin and may attempt to corroborate the noncitizen's testimony and any documentary evidence submitted.

2. Country Conditions Information

USCIS may consider any relevant country conditions information or foreign law in determining whether the noncitizen may be considered stateless for immigration purposes. This includes whether the noncitizen's country of origin has a pattern or practice of denying nationality to certain individuals under the operation or effect of its nationality laws or practices. USCIS may conduct its own research to consider country condition information and may contact the U.S. Department of State as appropriate. USCIS may also review any country conditions information submitted by the noncitizen.

3. Written Statement or Testimony from the Noncitizen

Noncitizens may submit a written statement when filing their application, petition, or other request, that identifies their country of origin and country of last habitual residence and explains the circumstances which are relevant to their potential statelessness. Some common circumstances resulting in statelessness include laws restricting acquisition of citizenship or restricting the rights of women to pass on their nationality to their children, lack of birth registration and birth certificates, birth to stateless parents, or political change and transfer of territory among states. While USCIS may consider any written statement, statements that are confirmed by oath or affirmation generally carry more weight. USCIS may also issue Requests for Evidence and inquire about information relating to these issues during an interview.

¹⁶ See Volume 1, General Policies and Procedures, Part E, Adjudications, Chapter 4, Burdens and Standards of Proof, Section B, Standards of Proof [[1 USCIS-PM E.4\(B\)](#)].

4. Additional Evidence

Noncitizens may submit additional evidence when filing their application, petition, or other request, to corroborate their written statements to identify the circumstances that are relevant to the USCIS officer's examination of statelessness. Primary evidence includes birth certificates, marriage certificates, school records, official travel documents, official residency documents, court documents, medical reports, vaccination records, police reports, and other official documents.¹⁷

USCIS recognizes that stateless noncitizens may have difficulty obtaining primary evidence; therefore, USCIS may also consider secondary evidence, such as employment records, property records, or birth or baptismal records maintained by religious or faith-based organizations.¹⁸ This may also include affidavits submitted by third parties which corroborate the noncitizen's written statements. Noncitizens may, but are not required, to provide affidavits from more than one person.

USCIS may conduct its own inquiries with the noncitizen's country of origin while adhering to policy and confidentiality requirements. USCIS may also consult with sources such as the U.S. Department of State or the Law Library of Congress to determine whether the government of the noncitizen's country of origin can verify whether the noncitizen is a national of that country.

While not required for issuance of an internal USCIS report, USCIS may also accept timely-received additional evidence from international organizations, such as the United Nations High Commissioner for Refugees, the International Organization for Migration, and the International Committee of the Red Cross, which have mandated roles with respect to various aspects of statelessness.

B. Findings

USCIS reviews and analyzes the evidence related to whether the noncitizen may or may not be stateless for purposes of immigration benefits or other requests and drafts an internal report. The noncitizen cannot appeal or otherwise challenge the report because it does not represent an adjudicative decision. Rather, the internal process simply examines the relevant evidence and provides a report relevant to whether the noncitizen should or should not generally be considered stateless for immigration purposes.

Following consideration of the report, the officer may make a factual determination relating to statelessness and may memorialize those findings in a Memo to File or in the decision on the underlying application, petition, or requested action. The officer also makes the decision on the underlying application, petition, or requested action, taking into account the applicability of their statelessness finding. While the noncitizen cannot appeal or challenge the report analyzing statelessness, the noncitizen may file a motion or appeal, when permissible under applicable standards, to challenge an unfavorable decision on the underlying benefit or other request, or request to inspect the record of proceedings pursuant to [8 CFR 103.2\(b\)\(16\)](#).¹⁹

¹⁷ See Volume 1, General Policies and Procedures, Part E, Adjudications, Chapter 6, Evidence, Section B, Primary and Secondary Evidence [[1 USCIS-PM E.6\(B\)](#)].

¹⁸ See Volume 1, General Policies and Procedures, Part E, Adjudications, Chapter 6, Evidence, Section B, Primary and Secondary Evidence [[1 USCIS-PM E.6\(B\)](#)].

¹⁹ See [8 CFR 103.3](#) and [8 CFR 103.5](#). See the instructions for Notice of Appeal or Motion ([Form I-290B](#)).

C. Continued Relevance of Statelessness Report

The advisory report may be considered in any other relevant adjudication in addition to the one for which it was originally requested.²⁰ Equally, however, the officer adjudicating those applications is not bound by the report and may also consider other information or evidence provided by the noncitizen. Nor is the report binding on any other component of DHS charged with administering and enforcing the immigration laws, including U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection.

The officer may also request an updated report under circumstances including, but not limited to:

- Discovery of evidence that a noncitizen may be a national of a third country;
- Information provided by the noncitizen about a change in nationality or circumstance;
- Receipt of information that suggests the information provided in the request was fraudulent or materially inconsistent;
- Changes in country conditions information; and
- Availability of primary or secondary evidence that was not available at the time of the prior report.

Chapter 4. Applicability of Statelessness in Adjudicative Review

Stateless persons are part of a vulnerable population and may encounter unique difficulties while applying for immigration benefits. USCIS may consider statelessness, depending on the circumstances, as a favorable factor in the exercise of discretion. It may also be a relevant factor in rendering a decision on various immigration benefit requests or other actions including, but not limited to, deferred action, parole in place, asylum and refugee status, U and T nonimmigrant statuses, and temporary protected status (TPS). Where a noncitizen is stateless, it is the country of last habitual residence that must be considered in determining eligibility for refugee status, asylum,²¹ or TPS.²²

The officer may request a statelessness report during the adjudication of any relevant immigration application, petition, or request or when considering any other action or request where information on statelessness may be useful in determining identity or may serve as a factor in rendering a final decision.

A. Relevance to Deferred Action Requests

²⁰ A past finding of statelessness may have relevance in certain limited circumstances, even if the applicant is no longer stateless. For example, an asylum applicant's past statelessness may be relevant to a determination of past persecution in their country of last habitual residence. See [INA 101\(a\)\(42\)\(A\)](#).

²¹ This policy clarifies when USCIS generally considers a noncitizen to be stateless for purposes of an immigration benefit or other request. Neither the agency's internal process of considering statelessness, nor an adjudicator's decision that an applicant may be considered stateless for purposes of an immigration benefit or other request, create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

²² See [INA 101\(a\)\(42\)\(A\)](#).

Deferred action is an act of prosecutorial discretion to delay or defer the removal of a noncitizen. During a period of deferred action, DHS does not remove a noncitizen from the United States. Deferred action does not constitute a lawful immigration status and does not excuse any past periods of unlawful presence.

DHS considers deferred action requests on a case-by-case basis and the decision whether to grant such a request is a matter of discretion. Statelessness may be a relevant factor when reviewing a deferred action request. Because stateless individuals may have no means to provide evidence of nationality, and since it may be impracticable to remove a stateless noncitizen from the United States, there may be both humanitarian concerns and other relevant factors associated with statelessness to consider when reviewing a deferred action request.

Employment Authorization

If USCIS approves the deferred action request, noncitizens may request employment authorization by properly filing an Application for Employment Authorization ([Form I-765](#)). In general, employment authorization for noncitizens granted deferred action is only provided at USCIS' discretion and only if the individual "establishes an economic necessity for employment."²³

B. Relevance to Parole in Place Requests

Parole may be granted, on a case-by-case basis, to noncitizens present in the United States who are applicants for admission.²⁴ This use of parole is referred to as "parole in place."²⁵ A noncitizen who is present in the United States without admission is considered an applicant for admission.²⁶ Parole in place may be granted only on a case-by-case basis for urgent humanitarian reasons or a significant public benefit, and where the noncitizen demonstrates that they merit a favorable exercise of discretion.²⁷

²³ See [8 CFR 274a.12\(c\)\(14\)](#). For more information, see Volume 10, Employment Authorization, Part A, Employment Authorization Policies and Procedures [[10 USCIS-PM A](#)].

²⁴ The basic authority for parole in place is provided at [INA 212\(d\)\(5\)\(A\)](#), which expressly grants discretion to parole "any alien applying for admission to the United States."

²⁵ See legacy Immigration and Naturalization Service (INS) General Counsel Opinion 98-10, 1998 WL 1806685. This legacy INS General Counsel's opinion was later endorsed by the then-INS Commissioner. See Eligibility for Permanent Residence Under the Cuban Adjustment Act Despite Having Arrived at a Place Other than a designated Port-of-Entry, issued April 19, 1999. In 2007, the then-DHS General Counsel concurred with the 1998 INS General Counsel's opinion in relevant part. See Clarification of the Relation Between Release under Section 236 and Parole under Section 212(d)(5) of the Immigration and Nationality Act, issued Sept. 28, 2007. The same DHS General Counsel's opinion rejected a conclusion that the 1998 General Counsel had reached on a separate issue related to release from detention under [INA 236\(a\)\(2\)\(B\)](#) (so-called "conditional parole"). See *Matter of Castillo-Padilla*, 25 I&N Dec. 257 (BIA 2010) (agreeing with DHS that "conditional parole" under [INA 236\(a\)\(2\)\(B\)](#) does not constitute parole under [INA 212\(d\)\(5\)\(A\)](#)). This chapter only addresses noncitizens present in the United States without inspection and admission. It does not address those who were previously authorized parole when overseas to come to the United States as a parolee. Noncitizens who apply for parole from outside the United States (a process generally referred to as humanitarian or overseas parole), who then travel to the United States and are paroled in by U.S. Customs and Border Protection may seek an additional parole period while in the United States. This request for an additional parole period is sometimes referred to as a request for re-parole. See the [Humanitarian or Significant Public Benefit Parole for Individuals Outside the United States](#) webpage for more information on parole issued to noncitizens living abroad.

²⁶ See [INA 235\(a\)](#) (expressly defining an applicant for admission to include "an alien present in the United States who has not been admitted").

²⁷ See [INA 212\(d\)\(5\)\(a\)](#).

A noncitizen granted parole in place meets the “inspected and admitted or paroled” requirement for INA 245(a) adjustment of status purposes and parole is considered a “lawful immigration status” solely for purposes of INA 245(c)(2).²⁸ However, a grant of parole in place does not relieve the noncitizen from meeting all other eligibility requirements for adjustment of status, including that they warrant the favorable exercise of discretion.²⁹

Statelessness may create unique vulnerabilities and difficulties for a noncitizen located in the United States who may otherwise be at risk of return. This may be relevant to the exercise of discretion in the officer’s consideration of the noncitizen’s parole in place request.

Employment Authorization

A grant of parole generally does not automatically confer employment authorization in the United States.³⁰ If USCIS approves the parole in place request, the parolee may request work authorization by properly filing [Form I-765](#).³¹

C. Relevance to Asylum and Refugee Processing

USCIS may approve refugee classification or grant asylum to noncitizens who have been persecuted or fear they will be persecuted on account of race, religion, nationality, membership in a particular social group, or political opinion and are otherwise eligible for those benefits. Statelessness creates specific vulnerabilities that may be relevant in these humanitarian adjudications.

Refugee classification is a determination that an applicant is eligible for a form of protection that may be granted to noncitizens who meet the definition of refugee, who are of special humanitarian concern to the United States, who are not firmly resettled, and who are not subject to or granted a waiver of any applicable grounds of inadmissibility. Generally, refugees are persons living outside of their country of nationality (or, if stateless, outside their country of last habitual residence) who are unable or unwilling to return to that country because they were persecuted in the past or fear persecution in the future or both. Noncitizens may seek a referral for refugee classification from outside of the United States.³²

Asylum is a form of protection that may be available to noncitizens who meet the definition of refugee and are either already in the United States or are seeking admission at a port of entry. Noncitizens may apply for asylum in the United States regardless of their country of origin or their current immigration status.³³

²⁸ See [8 CFR 245.1\(d\)\(1\)\(v\)](#). See Volume 7, Adjustment of Status, Part B, 245(a) Adjustment, Chapter 3, Unlawful Immigration Status at Time of Filing (INA 245(c)(2)) [[7 USCIS-PM B.3](#)].

²⁹ See Volume 7, Adjustment of Status, Part B, 245(a) Adjustment, Chapter 2, Eligibility Requirements, Section A, “Inspected and Admitted” or “Inspected and Paroled,” Subsection 3, Parole [[7 USCIS-PM B.2\(A\)\(3\)](#)].

³⁰ There are some limited exceptions. For example, effective November 21, 2022, Ukrainian and Afghan parolees, and their qualifying family members, with certain classes of admission are considered employment authorized incident to parole, which means that they do not need to wait for USCIS to approve their Form I-765 before they can work in the United States. See News Alert, [Certain Afghan and Ukrainian Parolees Are Employment Authorized Incident to Parole](#), issued November 21, 2022.

³¹ For more information, see Volume 10, Employment Authorization, Part A, Employment Authorization Policies and Procedures [[10 USCIS-PM A](#)].

³² See the [Refugees and Asylum](#) webpage.

³³ See [INA 208\(a\)\(1\)](#). See the [Refugees and Asylum](#) webpage.

As part of the asylum and refugee processes, USCIS officers consider whether a noncitizen may be stateless, as it may be a relevant factor in identifying place of last habitual residence for purposes of analyzing past and future persecution and in establishing identity.

Employment Authorization

Applicants for asylum may apply for employment authorization in the United States after their asylum application has been pending for 150 days but are not eligible to receive employment authorization until the asylum application has been pending for another 30 days, for a total of 180 days.³⁴ A noncitizen granted asylum is immediately authorized to work, even if such grant occurs before USCIS makes a decision on their application for employment authorization.

Noncitizens admitted to the United States as refugees are employment authorized incident to status and are authorized to work for the duration of status.³⁵ Upon admission, refugees are provided with an Arrival-Departure Record (Form I-94), which serves as an acceptable receipt establishing both identity and employment authorization for 90 days.³⁶ Following arrival and admission, refugees receive an Employment Authorization Document with a Notice of Action (Form I-797C).

D. Relevance to U and T Nonimmigrant Status Processing

T nonimmigrant status is an immigration benefit that enables certain victims of a severe form of trafficking in persons to remain in the United States for an initial period of up to 4 years if they have complied with any reasonable request for assistance from law enforcement in the detection, investigation, or prosecution of human trafficking, or qualify for an exemption or exception.³⁷ Crime victims may also be eligible for U nonimmigrant status, which is a status for victims of certain crimes (including trafficking) who have suffered mental or physical abuse and are helpful to law enforcement or government officials in the investigation or prosecution of certain criminal activity.³⁸

Stateless noncitizens may be at increased risk of being trafficked. Officers handling T visa and certain U visa claims often consider whether a noncitizen may be considered stateless for immigration purposes, as it may be a relevant factor in analyzing the underlying circumstances surrounding the trafficking, establishing identity, and determining whether other eligibility requirements have been met.

Employment Authorization

By statute, USCIS has discretion to provide employment authorization to noncitizens with pending, bona fide U nonimmigrant status petitions.³⁹ U petitioners placed on the waiting list are also eligible for deferred

³⁴ See [8 CFR 274a.12\(c\)\(8\)](#). For more information, see Volume 10, Employment Authorization, Part A, Employment Authorization Policies and Procedures [[10 USCIS-PM A](#)].

³⁵ See [8 CFR 274a.12\(a\)\(3\)](#).

³⁶ See [Handbook for Employers \(M-274\)](#), 6.3 Refugees and Asylees.

³⁷ See [INA 101\(a\)\(15\)\(T\)](#). For more information, see Part B, Victims of Trafficking [[3 USCIS-PM B](#)].

³⁸ See [INA 101\(a\)\(15\)\(U\)](#). For more information, see Part C, Victims of Crime [[3 USCIS-PM C](#)].

³⁹ See [INA 214\(p\)\(6\)](#).

action and employment authorization.⁴⁰ Principal U and T nonimmigrants are authorized to work incident to status and do not need to file a separate [Form I-765](#).⁴¹

E. Relevance to Temporary Protected Status

The Secretary of Homeland Security may designate a foreign country for TPS due to an ongoing armed conflict, environmental disaster, epidemic, or other extraordinary and temporary conditions.⁴² USCIS may grant TPS to noncitizens who are already in the United States and are eligible nationals of designated countries (or parts of countries), or to noncitizens having no nationality who last habitually resided in the designated foreign country.⁴³ Therefore, statelessness is a relevant factor in determining eligibility for TPS where the noncitizen claims or appears to have no nationality and last habitually resided in a TPS-designated country.

Employment Authorization

Applicants for TPS may apply for employment authorization concurrently with their TPS application or may choose to apply for employment authorization separately at a later date by filing [Form I-765](#).⁴⁴ TPS applicants may receive employment authorization before USCIS makes a final decision on their TPS application if they demonstrate that they are prima facie eligible for TPS.⁴⁵

⁴⁰ See [8 CFR 214.14\(d\)\(2\)](#).

⁴¹ For more information, see Volume 10, Employment Authorization, Part A, Employment Authorization Policies and Procedures [[10 USCIS-PM A](#)].

⁴² See [INA 244\(b\)](#).

⁴³ See [INA 244\(a\)](#).

⁴⁴ For more information, see Volume 10, Employment Authorization, Part A, Employment Authorization Policies and Procedures [[10 USCIS-PM A](#)].

⁴⁵ See [8 CFR 274a.12\(c\)\(19\)](#).