

# Stateless Transnational Migrant Children in South Africa: Implications and Opportunities for Social Work Intervention

*Ajwang' Warria\**

*\* University of the Witwatersrand, Johannesburg*

*Email: [ajwang.warria@wits.ac.za](mailto:ajwang.warria@wits.ac.za)*

Migrant children who are vulnerable to statelessness are a growing at-risk population worldwide, and in South Africa. Migrant children often travel unaccompanied or become separated from their families during the journey, thus increasing their vulnerability. These children are often denied their rights in countries of transit and resettlement and might even be detained due to lack of documentation. They are subject to high levels of violence and status-exclusion within the migratory process. This paper considers statelessness in migrant children in South Africa, and undertakes a review of the literature to understand this phenomenon. The results show that a considerable number of migrant children in South Africa are at risk of statelessness. While all children may have roots that can be traced, situations and technicalities arise within the migration and registration framework that result either in children becoming stateless or at risk of becoming such. These children's childhoods fall through the gaps as they lack a sense of belonging. They also have limited rights and none of the protection that goes with being recognized as nationals. Social workers are able to play a significant role in assessing and determining if migrant children are either stateless or at risk of becoming stateless and offer appropriate intervention to help them realize their rights, potential and contributions.

Keywords: children; migration; rights; statelessness

## INTRODUCTION

Mixed migration is on the rise globally and in Africa. The presence of many undocumented migrants crossing different international borders is straining immigration, child protection and citizenship legislation and policies, and a sense of balance is required between inclusion and exclusion (Van Waas, 2007: 437). Statelessness is when a person is not recognized by any country as a citizen, and they cannot call any country their own. According to Art. 1 of the 1954 Convention relating to the Status of Stateless Persons, a stateless person is an individual “who is not considered as a national by any state under the operation of its law.”

South Africa is reported to have many undocumented migrants, who are either stateless or vulnerable to becoming stateless. A part of this population includes children and young people under the age of 18. Due to lack of country affiliation and subsequent protection, stateless persons have been referred to as “outcasts from the global political system of states” (UNHCR, 2001) and as “legal ghosts” (UNHCR, 2004). Stateless adults and children experience challenges when they try to access fundamental rights and services and they are at risk of marginalization, discrimination and insecurity (Van Waas, 2007: 439). The worldwide growth in the number of children who are migrants and stateless and the associated risks are increasing concerns among scholars and practitioners (Bhabha, 2009, 2011; Lynch, 2010). Empirical research in this area is scant and there is a call to increase the voices of local actors to help fill the gaps to further understand statelessness and responses to it (Ball et al., 2014). In addition, Sustainable Development Goal (SDG) 16.9 requires “providing legal identity for all, including birth registration, by 2030” – a key factor in preventing statelessness.

Childhood statelessness in South Africa is reported to be an increasing phenomenon, which, though preventable, is often overlooked (LHR and ISI, 2016). The Lawyers for Human Rights (LHR) have been instrumental in providing assistance to stateless persons in South Africa. However, the lack of a social work response to childhood statelessness means that its guiding ethics and principles are not being fully exercised (Edwards and Mika, 2017). Despite social work being a global profession that is committed to social change and social justice, little attention has been devoted to this challenge in the social work discourse in South Africa. The paucity of attention in social work to the issue of childhood statelessness is concerning in light of the opportunities for social work engagement and support. Indeed, several reports have singled out and suggested that social workers can play a critical role in addressing this issue. However, information relevant to helping social workers to address this challenge in South Africa is largely absent.

The goal of this paper is to help social work practitioners assist stateless migrant children and migrant children at risk of becoming stateless. The expressions irregular migrant, undocumented or non-documented migrant refer to the same basic situation, i.e. when a non-national in South Africa is in contravention of South African immigration laws. These terms also include people who entered the country

illegally and legally but subsequently broke or dishonored the conditions of their stay. This paper reviews the literature on childhood statelessness and identifies the role that social workers in South Africa can play. Firstly, it presents an overview of the methodology used, followed by a discussion of the nature of statelessness. Next, it introduces the general pathways to statelessness, and discusses the nexus between statelessness and transnational migration. The author then presents an overview of childhood statelessness in general, highlighting statelessness in South Africa. Lastly, the paper identifies implications for social work practice and suggests avenues for future research.

## METHODOLOGY

This paper is based on a desk-study of the available literature on statelessness. The reference period was June to November 2018. The initial search for material used keywords such as ‘statelessness\*’, ‘statelessness migrant children\*’, ‘statelessness South Africa\*’ and ‘statelessness AND social work’. A further search was conducted in March 2020 with a specific focus on South Africa and southern Africa. The researcher also conducted a grey literature search. The databases that were used included Social Work Abstracts, PsychINFO, and Social Services Abstracts (SSA). The selection criteria required the journal articles to be under 15 years old, peer-reviewed, and written in English. In addition, reports commissioned by international organizations such as the United Nations Children’s Fund (UNICEF), the Institute on Statelessness and Inclusion (ISI), and the United Nations High Commissioner for Refugees (UNHCR) were included and key websites and online resource libraries including Google Scholar were searched. A manual search in different documents led to the identification of additional articles and reports which were included. Despite efforts to reduce bias in this review, methodological limitations exist. For example, the articles which were included were reviewed by one person, i.e. the author of the article. In addition, the review did not include articles which were written in languages other than in English and available online.

## DEFINING STATELESSNESS AND SCOPE

A stateless person is an individual who does not have a nationality. Such persons cannot enjoy the protection of any country, and although they might identify with a certain country, they cannot call any country their own. According to Ball et al. (2014: 3), stateless people lack a legal bond of nationality with any country. In other circumstances, they may have a valid claim to citizenship, but they cannot prove citizenship, or governments have refused to grant them citizenship. Children who are undocumented because of lack of registration at birth end up subsequently not being recognized as citizens. Indeed, statelessness also affect children born in South Africa.

According to Foster and Lambert (2016), careful analysis is crucial of a country’s application of domestic laws to individual cases to determine who is awarded

nationality. The position under national law is what is relevant and applicable as it is based on principles of sovereignty and self-determination.

Statelessness can be caused by various complex, multi-dimensional and multi-systemic factors. According to Menz (2016: 505), statelessness can be “caused by expressed or implied discriminatory nationality laws, mass displacement from conflicts, or ineffective or non-existent birth registration systems, which makes it an unfortunate by-product of citizenship gaps”. This is echoed in an earlier paper by Fokala and Chenwi (2014), analyzing the decision by the African Committee of Experts in the Rights and Welfare of the Child (ACERWC) on Nubian children, in addition to conflict in and failure to implement nationality laws, and a lack of effective naturalization procedures by African countries. In as much as both publications conflict on the cause of statelessness, it should be noted that it is an indirect cause, and protracted displacement is what places a person at-risk of statelessness.

Although a country has the freedom to regulate its conferring of nationality to children born in its territory, it is unfortunate that children are often excluded by the discriminatory application of laws or policies on birth registration and immigration. Manby (2016: 2) reports that dual nationality regulations can be misinterpreted and can be “used to deny a child born to one citizen parent the right to nationality in the country of their birth, even when in principle the child is eligible for that nationality.” Denationalization is when countries continuously deny recognition to certain persons within their borders or strip them of their right to citizenship despite legal reforms, personal ties to the country, economic benefits or diplomatic interventions. For example, when World War II ended, Germany stripped Jewish survivors of the Holocaust of their citizenship and recent incidents of denationalization are tied to security threats as counterterrorism responses (Pillai and Williams, 2017).

The number of people who are stateless worldwide is unknown. Nahmias (2020) reports that although UNHCR has data for 3.9 million stateless people, there are millions of additional people who are stateless. The 2020 World Statelessness Report (ISI, 2020) indicates that the ISI continues to use the 15 million global statelessness estimates based on existing statistical information. The varied statistics indicate the difficulty in estimating the actual number since only few countries report these statistics – even if there are known stateless populations in their countries (Mbiyozo, 2019). According to the UNHCR (2015: 8) report, 1,021,418 people are considered to be stateless in just six African countries, and “at least 70,000 stateless children are born each year in the countries hosting the 20 largest statelessness situations.” Though South Africa is considered to have a significant number of stateless persons, the figures are unknown because they are simply not counted. This lack of acknowledgment increases the risks of marginalization and discrimination (Menz, 2016; Thompson, 2017) and protection of rights (Bhabha, 2009; Goris et al., 2009; Manby, 2011, 2016; Van Waas, 2014).

Menz (2016: 505) argues that the figures provided of stateless persons are “speculative, because stateless persons are by definition outside of any legal regime

and must live in the shadows on the outermost margins of society.” This supports earlier assertions by Ball et al. (2014) that estimates of stateless persons vary because of heterogeneity, the situations that led to them being stateless and challenges involved in calculating people who are legally excluded. This paucity of information has been attributed to the lack of serious attention it has been accorded. In addition, stateless people are “often undocumented...ignored by authorities and not counted in national administrative registries and databases or in population censuses” (Foster and Lambert, 2016: 568). A further challenge in collecting information on stateless people is their unwillingness to be identified because of their immigration status and their unconscious vulnerability.

## OVERVIEW OF GENERAL PATHWAYS TO STATELESSNESS

According to Ball et al. (2014), there are different pathways to statelessness, and therefore varied approaches and interventions are required to address the issue. The following are some wide-ranging pathways to statelessness: (i) political change; (ii) expulsion from territory; (iii) discrimination; (iv) descent-based nationality; (v) withdrawal of nationality; and (vi) laws on birth registration. These pathways may vary from country to country.

Being undocumented can act “as a possible protection against state surveillance, control and persecution” (Ball et al., 2014: 6). This can be so especially in areas or countries where there have been incidents of discrimination and massacres based on ethnic and/or religious affiliations. In addition, lack of documentation may benefit working children, who due to family circumstances are able to work and contribute to family resources and income because their status cannot be confirmed, and their age cannot be proven by labor inspectors. On the other hand, this also opens up the prospects of exploitation and trafficking (Warria, 2017b).

There are also different pathways to child statelessness. Some include: (i) inability to register a child’s birth even though they might be entitled to citizenship; (ii) when children are born in one country and they travel with their parents to live in another country without documentation; (iii) unaccompanied or separated children in country of resettlement without documentation; (iv) trafficked children; (v) foundlings, i.e. abandoned children whose parents cannot be identified; (vi) unregistered children or children without birth records who are left under the care of relatives; and (vii) children born in countries where discriminatory provisions exist in nationality laws based on gender, race, ethnicity, religion, etc. Whichever way one looks at it, “understanding determinants and consequences of birth registration is critical to gaining insight into how migration can affect child protection” and their rights (Ball et al., 2017: 310). However, it should be noted that not all unregistered children at birth become stateless. Lack of registration merely increases their risk of being unable to claim nationality at a later stage.

## TRANSNATIONAL MIGRATION AND STATELESSNESS

Previously, young men were the ones who often migrated. This has changed and women, children and the elderly now form part of recent migration trends. Notably, the feminization of migration has been on the increase. In addition, due to pre-migration situations in their home countries, migrants show a willingness to take “the unpopular 3D jobs – dirty, difficult and dangerous...though a valuable asset to the national economy, it also means that the number of irregular migrants will continue to grow, remain un-deportable and states continue to concede to the demand for 3I labor – inexpensive, imported and irregular” (Van Waas, 2007: 442-443). As time progresses, the child migrants grow up, and adult male and female irregular migrants find partners (either fellow migrants or local nationals) and get married. This results in the inevitable expansion of the family. Given that states are signatories to international human rights conventions, these migrants remain in a state of irregularity and cannot be returned due to humanitarian reasons, i.e. non-refoulement. On the other hand, though controversial and no country will readily admit this, countries turn a blind eye and do not return migrants due to the economic benefits that the country derives from migrant labor – legal or illegal. This is partly what Bourdieu (1998 in Ball et al. 2014: 7) referred to as “flexploitation” – flexible exploitation of vulnerabilities in varying forms including low pay and unsafe working conditions. Furthermore, several studies have noted that undocumented migrants often remain invisible to authorities in their country of settlement either by choosing to do so or simply out of necessity (Van Waas, 2007). Without legal identity documents that enable children of undocumented migrants access to entitlements associated with citizenship, their options are fewer, their futures are bleak, (Lynch, 2010) they end up as products of inter-generational statelessness and they may follow in their parents’ footsteps of doing low-skilled exploitative wage work (Ball et al., 2017). Even in death, stateless people are invisible people (Lynch and Teff, 2009).

Statelessness and undocumented migration are on the increase (Ball et al., 2014). Stateless people sometimes find that their predicaments in their own home countries are untenable and they resort to migration as their only option (Foster and Lambert, 2016; Menz, 2016). Migration itself can also cause statelessness such as when migrants lose their documentation during the journey. Depending on their circumstances especially as linked to loss of all identity records and evidence of nationality, the migrants are unable to establish citizenship with a particular country and prove their nationality. Migration can also create confusion in cases where one cannot tell if the individuals are stateless or if they simply have challenges proving their nationality. Therefore, it is crucial to ensure the protection of stateless people within the migration framework. As such, the Abidjan Declaration as adopted in 2015 by the Economic Community of West African States (ECOWAS) member states, on the eradication of statelessness in West Africa, encouraged countries to tackle migration as a factor that leads to statelessness. Effectively identifying and addressing the issue of statelessness within a mixed migration context has been largely ignored and war-

rants more attention in future studies.

## CHILDHOOD STATELESSNESS

Statelessness is a major concern for countries “with mandates to reinforce national borders, promote national security and prevent ‘aliens’ from making claims on citizen services including social protection, education and healthcare” (Ball et al. 2014: 2). A high risk of childhood statelessness has been observed in relation to (i) children of cross-border migrants without official documents; (ii) children who are in a country without legal status; (iii) unaccompanied and separated children; (iv) children born in another country that is not their parent’s country of origin; (v) children left in the care of relatives when parents migrate or in residential care facilities; and (iv) children fending for themselves when parents leave their country of origin to become (economic) migrants.

Lack of birth registration by irregular migrants can also contribute to their children’s state of statelessness. In light of this, the UN Human Rights Council (UNHRC) acknowledged the right to nationality as a fundamental right and that all children must be registered at birth irrespective of their parent’s immigration status, nationality, statelessness, disability or gender status. Despite this, the obstacles to birth registration by irregular immigrants include the lack of knowledge and understanding of the relevant legislation and policies by and attitudes of officials; ignorance of migrants regarding knowledge on the necessary requirements and processes; lack of vital resources, such as time, money (transport, time off work etc.); lack of consideration for future benefits vs current or immediate costs; fear of consequences emanating from irregular immigration status, such as arrest, deportation, family separation; and physical location and restrictions of movement (Ball et al., 2014; Van Waas, 2007). A further study by Bhabha (2011) report that the main challenges associated with birth registration are “timely, affordable, friendly, linguistically appropriate access to birth registration process”. Ball et al. (2014) agree that the challenges transcend the mere awareness of benefits and reasonable access to facilities.

If parents are not residing in their country of origin during the birth of the child, it is less likely that the child would be registered, thus increasing the child’s vulnerability (Ball et al., 2017). In their respective research studies, Van Waas (2007) and Ball et al. (2014) found that the perks that come with citizenship might rank lower on the priority list of undocumented transnational migrants. Maslow’s hierarchy of needs indicates that they would first try to meet a child’s basic needs in order to ensure the child’s survival, including psychosocial security and social protection. However, this debate is more complex than it seems, and more insights and research are needed in this area.

It is crucial to consider the consequences of statelessness through a human rights lens. This is because statelessness has been linked to discrimination in relation to accessing basic rights and it could render the individual vulnerable to other human rights violations (Foster and Lambert, 2016). Children whose births go un-

registered are at increased risk of identity fraud (Ball et al., 2017) and gender-based violence (Menz, 2016) and are vulnerable to being trafficked and exploited (Warria and Chikadzi, 2018). Statelessness can be linked to criminal activities, for example, in the fraudulent use of another's documents such as when (undocumented) parents borrow identity documents to access healthcare. The individual insecurity of disempowered, voiceless, stateless people can also be a destabilizing factor leading to collective/international insecurity especially when individuals feel unjustly targeted and singled out (Van Waas, 2007; Warria, 2016). According to the recently released Stateless Report (ISI, 2020: 12), "the securitisation and instrumentalisation of citizenship policy has led to a wider resurgence of denationalisation, with national security or counter-terrorism arguments" as reasons. According to Paulussen and Scheinin (2020: 226), "...revoking the citizenship of individuals is not conducive to the public good...it is a measure that is problematic from both an international law and (thus also) a security perspective and may sometimes even turn out to be a condition conducive to terrorism." Links between statelessness and early or forced marriages have often been overlooked (Ball et al., 2014; Menz, 2016; Warria, 2017a). Parents have been found to lie about their daughter's age in order to meet the minimum marriage age requirements. Moreover, many young girls themselves seek marriage in order to address the instability brought about by statelessness in countries like Jordan, Nepal and Malaysia. Statelessness can thus perpetuate child marriages and vice versa and attempts to fight one implicates the other (Menz, 2016).

Challenges linked to statelessness include lack of contact with healthcare and social practitioners and legal protection (Ball et al., 2014). In addition, stateless people have poor prospects – they often lack access to education, do not have a national identity, and are subjected to social stigma and discrimination, violence and harassment (Bhabha, 2017; Lynch and Teff, 2009; UNHCR, 2015). Adults have poor job prospects, often face labor rights violations and rarely have the opportunity to own property (Ball et al., 2014). Statelessness can result in dysfunctional home environments and family separation – both key child development factors (Lynch and Teff, 2009). Both children and adults have been known to be subjected to travel restrictions (Ball et al. 2014).

The UNHCR's study in 2015 is the first study to seek the views of 250 children on what it is like to be stateless. The study was conducted in Côte d'Ivoire, the Dominican Republic, Italy, Malaysia, Jordan, Thailand and Georgia. Children's testimonies show that statelessness can impair children's development, create insurmountable barriers and psychological distress impacting the child, their family and the community as well. Childhood statelessness affects children's self-esteem and future prospects as they are growing up, even if they eventually acquire nationality in adulthood. In the *Nubian Children v Kenya* case, the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) found the practice of waiting for children to be 18 years old before they can apply for and acquire nationality to be discriminatory. This is because childhood statelessness denies children their right

to be a child, and it threatens their freedom to play and freedom to feel secure. Furthermore, stateless children tend to grow up too soon, resulting in working from an early age or getting married, having troubled relationships with law enforcement, falling prey to exploitation and abuse, and being harassed for documents. After attaining citizenship upon turning 18, one young person in the study remarked: “Being stateless stays inside you – like a permanent mark”. Nothing can compensate for the rights, care and protection these children would have had if they had a nationality.

While children do not have and are not entitled to some rights, such as the right to vote, it does not negate the importance of nationality (Bhabha, 2017). In this light, it is crucial to understand the relational benefits for children which are linked to safe childhoods. Childhood development impacts on well-being and functioning in adulthood and thus childhood stages should be taken seriously. Statelessness also has consequences for a child’s sense of belonging (Bhabha, 2017). Lack of a sense of belonging to a place affects psychological well-being (Kohli and Mather, 2003). A sense of belonging to a community often comes with being a member of a nation. It is crucial to note that although nationality on its own does not guarantee well-being, its absence is correlated with rights violations and pain for children (Bhabha, 2017).

## STATELESSNESS IN SOUTH AFRICA

South Africa has ratified major international human rights instruments containing birth registration as a universal right. This means that South African laws and regulations should be compatible with these international obligations. However, South Africa is not a signatory to the two statelessness conventions, i.e. the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, which are key international conventions specifically tackling statelessness.

According to the South African Births and Deaths Registrations Act (BDRA) (88 of 1995), all children born alive in the country must be registered within 30 days of their birth, regardless of their parents’ status in the country. Although either of the child’s parents can register the birth, guardians and caregivers are not allowed to do so unless both biological parents are dead. According to Sec. 12 of the BDRA, only the mother is allowed to register the birth of a child born out of wedlock. However, an unmarried father is also allowed to register the birth of his child but only if the child’s mother has made a statutory declaration acknowledging him as the father of the child, or if he brings along a parental responsibility agreement or a court order.

The biometrics of the person registering the birth are also captured and the child’s parents are required to produce a valid identity document or passport with a valid permit in order to register a child’s birth. This is often not possible for many migrants who lost their documents during their journey to South Africa. Proof of (national) identity, usually a birth certificate, links the person to a country and they are then able to access rights, protection, services and other opportunities (Ball et al., 2017; UNHCR, 2016).

In cases of children not born in recognized marriages, the BDRA allows children's mothers to register the births of these children in situations only when the child's father is documented. This, therefore, means that the children born of all undocumented mothers are undocumented and vulnerable to statelessness. Fathers need to acknowledge paternity and get the mother's consent in order to be recorded as the father of the child and to pass on his nationality to the child where the child is born outside of wedlock. According to Van Waas (2007: 446), children do not gain individual citizenship, but rather they inherit their parents' immigration status which results in them being referred to as 'irregular migrants' despite being born in South Africa. This is the case in countries such as Australia, where permanent illegality is facilitated from generation to generation. "An illegal person cannot produce a legal person", was what Manuel E. Polanco said on the citizenship of Haitian children born in the Dominican Republic (cited in Bhabha, 2011:12)

Communities in South Africa construct meanings of nationality, citizenship and rights. Children born to non-nationals at home are required to produce an affidavit from a South African citizen who witnessed the birth of the baby in order to get a birth certificate. Most non-nationals live in migrant communities and it may not always be possible to get a South African citizen to witness the birth. A further complicating factor is the sporadic xenophobic violence in various South African townships where some migrants live. Due to the sense of distrust for each other, migrant mothers giving birth at home might not call a South African to witness the birth.

The BDRA requires the registration of children who are abandoned or orphaned and have not been registered before. Given the process that is required when recording an adoption in the South African birth register, it becomes a challenge for a child in South Africa without a birth certificate to be adopted. The BDRA also does not make specific provision for the re-registration of foreign adopted children, even though the Children's Act requires it.

In South Africa, in relation to foreign children, citizenship is acquired:

- i) By birth – if one of the child's parents is a South African citizen, even in circumstances where the child is born outside of South Africa (Sec. 2(1)(b) of RSA Citizenship Act 88 of 1995) (RSA, 1995); if the child is born and registered in South Africa and would otherwise be stateless; or if the child's parents are permanent residents (Sec. 2(3) of RSA Citizenship Act). The last is not automatic: an application is required, and it is non-discretionary. In 2016, the judgment in the South African Supreme Court of Appeal, in *DGLR and Another v Minister of Home Affairs and Others*, affirmed the right of a stateless child born in South Africa to acquire nationality.
- ii) By descent through one's parents – if the child is adopted by a South African citizen and their birth was registered (Sec. 3 of RSA Citizenship Act) (RSA, 1995).
- iii) By declaration – through birth registration and/or declaration of loyalty,

for example, children born out of wedlock to South African mothers who are unmarried.

- iv) By naturalization or upon application (discretionary) – after a long-term legal residence, children with refugee status can apply for citizenship, based on the Refugee Act. Sec. 4(3) of the RSA Citizenship Act (RSA, 1995), which allows a child born in South Africa to parents with no citizenship or permanent status to apply for South African citizenship when they turn 18, but only if their birth was registered. Children can apply for naturalization after permanent residency.

## IMPLICATIONS AND OPPORTUNITIES FOR SOCIAL WORK INTERVENTION

According to Edwards and Mika (2017: 695), “the profession of social work has a mandate to serve vulnerable populations, effect positive social change, and strive for justice on a local, national and global level.” It is within this area that social work and statelessness intersect. There is no ‘one-size-fits-all’ social work intervention guide for individual stateless children (and their families), although similarities may exist in cases. However, “effective interventions to reduce children’s risks of becoming stateless, must take into account the social, cultural, economic, historical and political contexts involved in transnational migration” (Ball et al., 2014: 2). An understanding of these contexts can provide greater insights into factors influencing statelessness.

Children in South Africa can get nationality only under the conditions set out in the various pieces of legislation. In addition, they must also be able to demonstrate their entitlement (Van Waas, 2007: 447). Documentary evidence showing birthplace or parentage is required for birth registration in South Africa. Other forms of evidence such as DNA and hospital records can be used in place of the birth certificate, but these can be problematic, expensive or impossible to get and government officials can always challenge them and their process of acquisition. In certain instances, stateless, stateless-migrant and migrant children are looked at through the ‘human security’ lens and not the human/child rights lens. Thus, “social workers need to be informed of the discourses that shape the issue in policy and practice” (Edwards and Mika, 2017: 696). This calls for social workers to reframe the language of human rights so that stateless people, including children, can join this debate with policy-makers and implementers and can be heard (Ife, 2008). This social work voice is needed during policy development, as social workers bear witness to the stateless child in the oppressive system. The actualization of human rights for migrant stateless children must be at the core of policy development. The practice knowledge shared by social workers can subsequently be translated into effective policy, and the separation between micro and macro work is lessened (Cox and Pawar, 2013; Perdue et al., 2012; Warria and Chikadzi, 2018).

According to Ball et al. (2014), parents’ own life trajectories can influence birth registration as they relate to child birth circumstances. These trajectories include, the child being born in or out of marriage, the child’s father being the mother’s partner,

the wife status of the child's mother, the child born at home or in a health facility, the presence of a midwife during birth, the child's conception through rape or other violence, and other complexities intersecting with other issues, traditions, codes of conduct and relationships. Ball's (2009) study in Canada on family and community influence on the accuracy of indigenous children's birth records points out to cultural determinants of decision-making in birth registration. Therefore, from a socio-cultural perspective, this impacts the positioning of the parent(s) and children in relation to the greater hierarchical or collective systems. Social work with stateless children (and their families) must include a recognition of both present and historical cultural patterns and determinants within the given (migratory or resettlement) context and not premised on stability (Ball and Moselle 2016). Social workers can help parents by facilitating birth registration for children who are eligible for registration under South African national laws such as those born into statelessness because of parents' arrogance, inadequate information and lack of time or money. An example includes the provision of mobile registration teams in rural areas or in areas where many migrant families live and by combining birth registration with other crucial issues where benefits and risks will not support non-registration. Social workers can also advocate for statelessness or lack of birth registration not preventing children from accessing crucial childhood-related services such as immunization and early childhood education.

Sec. 2(2) of the RSA Citizenship Act (RSA, 1995) provides citizenship to children who are born stateless in South Africa. However, it is impossible for stateless children to make citizenship applications using this provision because there is no regulation for the provision of forms to complete. In addition, there are no guiding principles in the Act, defining who a stateless child is. This is an oppressive structure that subsequently leads to the denial of rights of stateless children. A policy implication of this review is the need for the development of a minimum quality of care and protection standard in South Africa where this is non-existent. Social workers in partnership with legal experts should, therefore, include multidimensional analyses of structural drawbacks and lobby for the regulation to be formulated and forms to be made available at the relevant offices. According to Blitz and Otero-Iglesias (2011: 661), "support organizations can work to mitigate the effects of social exclusion and deprivation by forming social bridges especially in situations where they have restrictive policy development." Given that this role is being abandoned because organizations are struggling to survive in hostile policy environments, it is in children's best interest and that of the country to address statelessness at birth or soon thereafter (UNHCR, 2015).

The recognition and promotion of every child's right to a nationality is critical and is emphasized in the recent 2020 World Statelessness Report (ISI, 2020). This must, therefore, be prioritized by both the human rights and development sectors, including psychosocial practitioners such as social workers who work in these sectors. This report calls for further urgent measures to address intergenerational state-

lessness, which would then ensure access to opportunities to the children who would have been born stateless (ISI, 2020). These are aspects that social workers can intervene in as they fight towards social justice and human rights for everyone.

The pseudo-statelessness of children is precarious, as exclusion often happens when they turn 18 and are no longer covered and protected by the child protection system (Blitz and Otero-Iglesias, 2011). Sec. 4(3) of the RSA Citizenship Act (RSA, 1995) means that such a child will remain stateless until (s)he is an adult, and, even then, the application can be approved only by the Minister of Home Affairs. Application of this section is currently interpreted to be limited to children born after the enactment of the provision in 2013 (Read: Ali and Others v the Minister of Home Affairs). A social worker can help these children make sense of their situation, identify and make use of their capabilities and give support as they navigate the system as young adults and make application for citizenship. Psychosocial support from social workers that is practical, nurturing and informative and weaves the children back into the context can sustain and generate a sense of belonging.

Stateless children experience life with great fragility. Like refugee children, they seem to have strengths similar to those of older children, but the vulnerability of younger children. They have a bleak sense of the future that makes it challenging for them to plan (Kohli and Mather, 2003: 203). It is crucial that social workers recognize that they are children first, who have needs and capabilities that all vulnerable children harbor; that they are children in need of care and protection and not just as stateless children. Social workers should assist them to balance resilience with vulnerability and guide them towards the achievement of psychological well-being. Despite the relative powerlessness of children in many societies, social work rights-based work with children is powerful because space is created for their agency and voice (CPC Learning Network, 2018). Future social work research could focus on how to amplify the voices of young migrant children identified and who have been classified as stateless in South Africa.

The children's parents might be left traumatized by their own statelessness and therefore the children feel the need and responsibility to represent themselves and apply for citizen status. Once they obtain this status, the young adult might still harbor worries about the stateless members of his or her family, experiencing guilt at achieving sanctuary or being the one to carry the hopes of the family. This dual sense of honor-punishment pressure is complex, and a social worker can help the young person navigate this situation by reweaving of narrative threads, thus giving rise to opportunities that see them thrive. Social workers can also help build agency and assist them manage distressing experiences. This involves helping the children feel they can make active choices to help shift helplessness. These young people can also be trained by social workers to act as peer-helpers by assisting others in similar situations. This has been known to contribute to the sense of well-being derived from doing valuable acts for others (Kohli and Mather, 2003).

Children do not choose to be stateless. In addition, being stateless does not

stop any of them from establishing ties and contributing to their societies of resettlement. Therefore, social workers should not rescue stateless children, but should learn to be therapeutic witnesses, by holding, containing and bearing witness. This requires them to be still, unafraid, and emotionally strong to bear the pain of listening to stateless children's real, heartfelt and complex stories as they emerge, rather than hastening to be action-oriented. This stillness provides space to the children to be agents of their own recovery. However, this does not release the social worker from the obligation of engaging with practical work and support. It also means that social workers need to intervene and document these interventions towards building an evidence base for practice with stateless children and their families (Muraya and Fry, 2015).

Children's agency in birth registration should also be considered as a possible intervention. Children decide to migrate with or without documentation. Children are often assumed to be passive, although recent studies indicate that children can be proactive and have a sense of agency in matters affecting them. Approaches that focus on children's sense of agency give recognition to their capacity to participate and make decisions. When social workers, researchers and other practitioners solicit children's views, this can optimize their capacity to understand what is going on and to be dynamic contributors to decision-making. Research by Huijsmans (2011) reports that unregistered children tried to facilitate their individual birth registration as they inched closer to adulthood and when they faced certain glitches, such as the inability to travel or get employment. Social workers can assist with this process of birth registration. In relation to birth registration after turning 18 years, future studies from a socio-legal perspective could explore how stateless children understand their statelessness, as children and as adults living in South Africa.

## CONCLUSION

This study considered the causes of and circumstances leading to statelessness among migrant children in South Africa, noting that these are linked to the following factors: (i) the challenges related to birth registration; (ii) children born to stateless or undocumented parents; (iii) unfair laws; and (iv) children not knowing their nationality. The review further highlighted the gaps in policy, social services and research addressing social aspects of childhood statelessness.

The value of this study is its contribution to the literature and debates on childhood statelessness and its identification of the possible role of social workers in addressing this crucial phenomenon. It showed how transnational migration and national legislation can lead to statelessness and put children at risk. This is the first study on statelessness in South Africa from a social work perspective. A stateless child's access to social services and support can lead to better psychosocial outcomes, and social workers can contribute immensely in this area. They can also draw upon the basic social work practice skills which they are already familiar with as a starting point for thinking through possible responses (Cox and Pawar, 2013).

As social workers expand their services to include stateless children and children at risk of statelessness, and conduct research on this challenge, the profession will be better positioned to be champions of human rights, enhancing the voices of the silenced, and building a foundation of empowerment. It is not an easy road that lies ahead. There are numerous questions, concerns and debates that will arise, but social workers should rise to the occasion and not feel daunted by these challenges.

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