

Irina was stateless until she was 9 years old. After her birth in 1998 in Switzerland, her Brazilian mother learned that a change in Brazil's legislation in the 1990s prevented the granting of Brazilian citizenship for children born abroad. Irina was able to go to Brazil with her mother but was effectively stateless until 2007 when the law was changed and she could eventually acquire Brazilian citizenship.



Addressing Statelessness

UNHCR estimates that there are at least 10 million stateless people in the world today. A stateless person is someone who is not considered a citizen of any State. Statelessness may occur for a variety of reasons, including discrimination against particular ethnic groups or on the basis of gender; the break-up of States or change of borders (State succession); and conflict of nationality laws. Whatever the cause, statelessness has serious consequences for people in almost every country and in all regions of the world. Stateless persons are often denied enjoyment of a range of rights, such as identity documents, education and health services, and legal employment.

Recent years have seen growing awareness of the plight of stateless individuals and more action to prevent and respond to statelessness. A turning point was the ministerial-level meeting of United Nations Member States to mark the 60th anniversary of the 1951 Convention relating to the Status of Refugees and the 50th anniversary of the 1961 Convention on the Reduction of Statelessness. The event, held in Geneva in December 2011, saw more than 60 States make pledges to address statelessness, including by: acceding to the statelessness conventions; reforming nationality legislation; strengthening civil registration and documentation systems; establishing statelessness determination procedures; mapping statelessness; and spreading awareness of the phenomenon. ●●●

PROMOTING INTERNATIONAL STANDARDS

The 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention guide States in their efforts to address statelessness. While the purpose of the 1954 Convention is to ensure protection for stateless persons, the 1961 Convention seeks to prevent people from becoming stateless in the first place.

The year 2012 saw five States accede to the 1954 Convention and seven to the 1961 Convention. Bulgaria, Honduras, Portugal, and the Republic of Moldova acceded to both statelessness conventions, while Ecuador, Paraguay and Turkmenistan acceded to the 1961 Convention, and Burkina Faso to the 1954 Convention. This meant that 25 per cent of the accession pledges made by States at the December 2011 ministerial meeting were fulfilled by the end of 2012.

To ensure consistent implementation of the statelessness conventions among States, in 2012 UNHCR published four sets of guidelines on key doctrinal issues. Three of these address implementation of the 1954 Convention: the definition of a stateless person; determination procedures; and the legal status stateless individuals should be granted at the national level. The fourth set of guidelines concerns the interpretation of the first four Articles of the 1961 Convention, which aim to prevent statelessness among children.

In 2012, UNHCR and Plan International also published an advocacy brochure, *Under the Radar and Under-Protected*, to raise awareness of childhood statelessness. This global advocacy effort was reinforced by the UN Human Rights Council's adoption of the first resolution on the right to a nationality for women and children (A/HRC/RES/20/4 of 16 July 2012).

MAPPING STATELESSNESS

Mapping the scope of statelessness and the situation of stateless people is indispensable for developing adequate protection responses. However, there is still a serious shortage of reliable information on the number of stateless people and

the protection issues they face in many States.

To bridge this gap, UNHCR has initiated and supported a number of quantitative and qualitative mapping initiatives. These include surveys on stateless populations in Kyrgyzstan, Libya and the Philippines. In Europe and North America, UNHCR has focused on conducting qualitative studies on statelessness. Reports on statelessness in Canada, and the United States of America were published in 2012, and research was underway on the situation in the Nordic and Baltic States, as well as in Belgium.

In fulfilment of a pledge made in 2011, the Government of Burundi worked with UNHCR to map the situation of some 1,300 potentially stateless persons of Omani origin in the country through registration and a series of focus-group discussions. Following the registration exercise, temporary residence permits were issued by Burundi for all members of this group who registered, until their nationality is clarified.

In Turkmenistan, a country-wide registration exercise carried out by the authorities with support from UNHCR found that approximately 8,300 people lacked valid nationality documents. Since the completion of the exercise in 2011, UNHCR has helped the Government verify the nationality status of registered individuals through contact with other countries with which they have links. This is a time-consuming process: by the end of 2012, approximately half of those identified were determined to be stateless or to possess a nationality, while the remainder were waiting to have their status determined.

PREVENTING STATELESSNESS

Statelessness can be prevented if nationality legislation incorporates key safeguards and administrative frameworks facilitate the issuance of birth certificates and documents that serve as proof of nationality.

UNHCR continued to provide technical advice to States on nationality legislation. Comments were shared with governments on nationality laws in a range of States, including Lithuania,

A meeting to assess protection needs of people at risk of statelessness in South Cotabato.

UNHCR / F. T. TEMPORADA



UNHCR LAUDS PHILIPPINES FOR LANDMARK MECHANISM TO PROTECT REFUGEES AND THE STATELESS

UNHCR MANILA

MANILA, PHILIPPINES, NOVEMBER 2012 | The UN refugee agency on Tuesday hailed the Philippines for being the first country in the Asia-Pacific region to establish a procedure to protect both refugees and stateless people. The Department of Justice of the Philippines recently published a circular that enhanced its current system of determining refugee status and put in place a procedure to ascertain whether a person is stateless. The new procedure takes effect today and is an important step to ensure the Philippines meets its obligations under the 1954 Convention relating to the Status of Stateless Persons, which it ratified last year, the first ASEAN (Association of South-East Asian Nations) member State to do so.

“The new mechanism is a testament to the genuine humanitarian spirit in the Philippines,” said Bernard Kerblat, UNHCR’s representative in the Philippines. “This unified approach provides the widest possible protection net for refugees and the stateless in the most effective way. Refugees and stateless people are protected under Philippine law.”

With the new procedure, there is a way to unify refugees with extended family members such as grandparents. Asylum-seekers have the right to a lawyer and interpreter during the process, and they cannot be deported while undergoing the procedure, ensuring respect for international law.

Other safeguards to protect asylum-seekers and refugees were integrated in the procedure, such as special measures for unaccompanied

children. “The refugees and stateless people are the most vulnerable,” Philippine Justice Secretary Leila de Lima said in a statement. “They fall easily through the cracks of our system. Consider the challenge of having no government to safeguard your rights. You have no government that will ensure your and your family’s physical security,” she added.

The procedure to ascertain if a person is stateless adopted key recommendations of UNHCR. Focusing on stateless migrants, the procedure allows applications to be made regardless of immigration status, and guarantees the right to an interview, lawyer and interpreter. It shares common features with the refugee process.

The 1954 Statelessness Convention establishes a legal status for stateless people to ensure that

they can live in safety and dignity until they acquire a nationality. It is particularly useful for addressing the situation of stateless migrants who might otherwise be bounced from one country to another and end up in long-term detention or destitution.

The Philippines became the first state in the region to create such a mechanism, joining Moldova and Georgia as the third in the world to fulfil its pledge, made during a meeting of states last year, to establish a statelessness determination procedure.

The government also formed a unit dedicated to protecting both refugees and stateless people with its own budget resources and allowing it to coordinate with agencies to reduce and prevent statelessness. A former group handled asylum claims only. ■

Birth registration is distinct from the process of nationality acquisition, and lack of registration does not automatically make a person stateless. However, birth registration establishes a legal record of where children were born and who their parents are. The following are some examples of progress with the issuance of birth certificates for people of concern to UNHCR.

ISSUANCE OF BIRTH CERTIFICATES

Chad saw a significant rise in the number of birth certificates issued to refugees from the **Central African Republic**, from less than 30 per cent in 2011, to 85 per cent in 2012, with two camps reaching 100 per cent registration. At the start of the year, the refugee population had shown little interest in seeking birth certificates for children of parents born outside Chad. The Chadian Government had only limited resources to deal with birth certificates, so for refugees, acquiring the proper documentation was a slow and complex process. These factors had prevented many children from receiving certificates.

In 2012, UNHCR and partners carried out sensitization programmes to explain the importance of birth registration, and started to compile lists of new births with the support of birth attendants. The Office also worked with the Government to simplify the registration process, and collaborated with UNICEF to provide registration booklets. As a result of these initiatives, parents from the Central African Republic are now coming forward to request certificates for their children born in Chad. In addition, the Government has promised to introduce a new, simplified registration process in 2013.

Thailand has also seen a dramatic rise in the issuance of birth certificates, from 50 per cent in 2011, to almost 70 per cent in 2012. Under the revised law, all children born in the country are entitled to birth registration even if their parents are not Thai nationals. This represents an important step towards ensuring protection and preventing statelessness among a new generation of refugees. Since 2010, UNHCR has been assisting the Royal Thai Government with the implementation of its revised Civil Registration Act. This revised Act is designed to address a massive backlog of birth registration cases regarding refugee children born in Thailand whose parents are from Myanmar.

In **Bosnia and Herzegovina**, the issuance of birth certificates to undocumented former Yugoslav citizens, mainly Roma, reached only 16 per cent in 2012. Although this represents an increase from the 3 per cent in 2011, the Office was unable to reach its target by the end of the year for a variety of reasons. These included: the high birth-rate amongst the stateless population; the complex nature of the cases in 2012; and the introduction of new legislation that transferred registration responsibilities to municipal authorities. UNHCR and partners provided technical assistance on the legislation changes. Many suggestions were incorporated, including recognition of the responsibility of the authorities when a birth is not registered, and the waiving of fees for vulnerable persons. UNHCR also ran training courses on the new provisions once the law had been passed. It is expected that these interventions will help increase the number of birth certificates issued in the years to come. ●

Luxembourg, Nigeria, the Republic of Korea, Senegal, Thailand, and Zambia. To address the issue of statelessness arising as a result of gender discrimination in nationality laws, UNHCR published an overview for International Women's Day which showed that 29 countries around the world retain provisions that limit the right of women to transmit nationality to their children.

UNHCR is aware of law reform initiatives undertaken in six countries in 2012: Armenia, Belgium, Haiti, Kazakhstan, Mexico, and Poland – which resulted in the incorporation of important safeguards against statelessness into Constitutions and nationality laws. In Serbia and Bosnia and Herzegovina, legislative changes introduced measures to facilitate the registration of births – including late registration – which is fundamental to the prevention of statelessness.

Historically, the break-up of States and transfer of territory from one country to another have generated the largest numbers of stateless people. The most recent example involves the secession of South Sudan from Sudan in 2011. Thanks to the inclusion of a broad definition of a citizen in the South Sudanese citizenship legislation at independence, the risk of generating stateless populations was greatly reduced. To ensure that all individuals affected by the State succession possess nationality, UNHCR supported the deployment of South Sudanese nationality officers to Sudan, as well as to the capital Juba and another four States in South Sudan.

To bring nationality legislation in line with the international standards for the prevention of statelessness, UNHCR cooperated with the European Union Democracy Observatory (EUDO) Citizenship Observatory, the universities of Maastricht and Tilburg in the Netherlands, the University of New South Wales in Australia and the Open Society Foundations on the development of a global analytical database of nationality legislation. The database will aid in the examination of legislative gaps that could result in statelessness. This project started in 2012 with an analysis of legislation in 36 European States, which can be accessed through the EUDO

website (eudo-citizenship.eu/databases/protection-against-statelessness/data).

UNHCR provided information, legal and documentation assistance to individuals at risk of statelessness in over 34 countries. In the Dominican Republic, the Office worked with partners to ensure access to documentation procedures in order to mitigate the risk of statelessness among Haitian migrants and those of Haitian descent; as a result, almost 2,500 birth certificates and other identity documents were actually delivered.

REDUCING STATELESSNESS

The only solution to statelessness is for stateless people to acquire citizenship. Some States have granted citizenship to entire stateless populations through amendments to nationality legislation or changes in policy. Others have opted to grant stateless persons an opportunity to acquire citizenship through facilitated naturalization.

The most important development in 2012, with the potential to benefit a significant number of stateless persons, was an amendment by the Russian Federation of its citizenship law. The amendment, which corresponded to a pledge made in 2011, seeks to address the situation of former citizens of the Soviet Union who have lived in the Russian Federation without nationality since 2002 and do not have a right to reside in another State. Significantly, the amendment does not require applicants to submit proof of temporary or permanent residence. Persons who lack the appropriate identity documents will be issued with a document that is valid for the period during which the citizenship application is considered.

Initial statistics indicate that approximately 94,600 stateless persons acquired citizenship or had it confirmed during the year in 24 countries around the world. This figure is lower than in previous years, largely due to the fact that there were no breakthroughs in resolving statelessness in 2012. The largest decrease known to UNHCR was in Côte d'Ivoire, where more than 50,000 individuals had Ivorian nationality confirmed. At the 63rd session of UNHCR's

Executive Committee in October 2012, the High Commissioner emphasized that decisive action was needed to resolve the situation of millions of people around the world who have been stateless for generations, with profound implications for their human rights. “These protracted statelessness situations are not a problem to be addressed at some future date. Solutions are needed now, and I call on all States to make a firm commitment to ending statelessness within the next decade,” he said.

PROTECTING STATELESS PEOPLE

It is essential that stateless people be granted a legal status until such time as they can acquire a nationality. States may adopt a dedicated procedure to determine who is stateless.

Significant progress was made in 2012 in the implementation of pledges relating to the establishment of formal statelessness determination procedures. With UNHCR’s support, Georgia, the Philippines and the Republic of Moldova – a quarter of the States which had pledged to do so in 2011 – adopted such procedures. UNHCR also provided technical advice on determination procedures to Brazil, the United Kingdom, and Uruguay, among others. Several of these governments have benefited from study visits to countries which already have procedures in place, such as France, Hungary and Spain.

In some cases, the inability of stateless people to enjoy fundamental rights has triggered conflict. This may have contributed to the inter-communal violence that flared up in Rakhine State in Myanmar in 2012, leading to large-scale displacement. UNHCR provided assistance as part of the humanitarian response to the emergency, and stands ready to assist the Government in achieving a solution for nationality issues in Myanmar. The Government has given encouraging signs of its willingness to address the issue.

WORKING IN PARTNERSHIP

The creation of a global movement to eradicate statelessness requires cooperation among all stakeholders. This includes not only governments and affected communities, but also UN partner agencies, regional organizations, NGOs and academic institutions.

UNHCR has worked for several years to put statelessness on the agenda of UN human rights bodies. As a result, UNHCR has observed a significant increase in the number of statelessness-related recommendations made to States through the Universal Periodic Review (UPR), which is undertaken by the Human Rights Council to assess the human rights records of all UN member States. The last UPR session in 2012 saw 20 recommendations on statelessness made to eight of the 14 States under review; whereas in the first year of the UPR in 2008, as few as one recommendation on statelessness was made per session.

UNHCR continued to promote greater engagement by regional organizations on statelessness. A Symposium on “Citizenship in Africa: Preventing Statelessness, Preventing Conflict” was organized by the African Union (AU), with UNHCR’s support, to follow up on the pledges made by the African Union Commission at the ministerial meeting. The symposium resulted in a series of recommendations to States, including calls for the development of a regional instrument on statelessness; reform of nationality laws; and accession to the statelessness conventions. UNHCR also supported events organized by the Organization of American States, the Council of Europe and co-hosted with the ASEAN Intergovernmental Commission on Human Rights.

A growing number of non-governmental organizations (NGOs) are involved in statelessness issues. To promote networking and strategizing among them, these NGOs were brought together for the first time by UNHCR for a half-day meeting on the sidelines

of UNHCR’s annual consultations with NGOs in 2012. Twenty-six representatives of NGOs from 13 countries participated in the meeting.

DEVELOPING TRAINING AND TOOLS

In 2012, opportunities to learn more about statelessness were offered to UNHCR staff through the publication of an online self-study module on statelessness, followed by the launch of an e-learning programme. By the end of the year, 145 staff had completed the programme.

A Thematic Protection Learning Programme on Statelessness was run for UNHCR staff and partners in the Middle East and North Africa. A short course on statelessness was also organized for staff and partners in Central Asia, and a workshop was held on statelessness determination for staff from 12 UNHCR operations in Asia and the Pacific.

Several training sessions covering statelessness issues were also organized by UNHCR for governments and civil society. For example, officials from 17 Central and South American States participated in a workshop on statelessness in Quito.

There was also an increase in the number of external learning opportunities on statelessness available to staff in 2012. UNHCR supported the first Statelessness Summer Course at the University of Tilburg Law School and the Oxford University Short Course on Statelessness. The Office also co-facilitated and co-funded the inaugural seminar of the European Network on Statelessness, which saw the participation of 30 representatives of civil-society organizations from 26 countries. ■