

Addressing situations of statelessness

Nationality is a legal bond between a State and an individual, and statelessness refers to the condition of an individual who is not considered a national by any State under its law. Statelessness may arise as a result of State succession; the denial of a woman's right to pass on her nationality to her children; automatic loss of citizenship from prolonged residence abroad; loss of nationality due to marriage to an alien; and deprivation of nationality as a result of discrimination.

Possession of nationality is essential for full participation in society and for the enjoyment of political rights, the right to obtain and travel on a national passport and the right to enter and reside in a country. In practice, nationality also facilitates enjoyment of the full range of human rights. Stateless people may be detained for the sole reason that they are stateless and denied access to education and health services, or prevented from obtaining employment.

Given the consequences of statelessness, the issue has long been on the agenda of the United Nations. Two international conventions contain provisions pertaining to the issue of statelessness: The 1954 Convention relating to the Status of Stateless Persons (1954 Convention) and the 1961 Convention on the Reduction of Statelessness (1961 Convention).

Since the mid-1990s the UN General Assembly has reinforced UNHCR's mandate in the field of statelessness, and UNHCR's Executive Committee has provided increasingly detailed guidance on how to implement that mandate.

Addressing statelessness

In recent years it has become evident to UNHCR and many States that the Office's statelessness mandate must be developed further. This is so because it is often necessary for UNHCR to help States prevent or reduce statelessness. It is also frequently necessary for UNHCR to protect stateless persons until their status can be resolved. Because of the importance of this issue, it was included in UNHCR's Global Strategic Objectives for 2006. Indeed, Global Strategic Objective No. 1.e indicates that UNHCR will address situations of statelessness more effectively.

In Europe, for instance, UNHCR has played an important role by providing technical advice in the drafting of

legislation and the setting of regional standards. The Office has also mounted successful operational responses to statelessness in the countries members of the Community of Independent States (CIS), the former Yugoslavia and Sri Lanka. However, a number of large yet poorly identified or understood situations of statelessness remain to be resolved, mainly in Asia, Africa and the Middle East.

In those countries where UNHCR has not yet addressed situations of protracted statelessness, a first step is to include baseline data and strategic plans in the annual country operations plans.

Addressing statelessness presents several challenges to UNHCR, including:

- **Identifying stateless individuals and groups.** This is a prerequisite to guaranteeing protection and resolving nationality status. However, identification is a major challenge in itself. Political sensitivities, lack of awareness, the absence of appropriate methodology in many countries and the sheer magnitude of the problem impede compilation of accurate data.
- **Enjoyment of fundamental human rights.** According to international law, an individual's enjoyment of human rights is not dependent on possession of nationality. In practice, however, stateless persons are often denied their fundamental rights. In addition, they may not even be able to register births and marriages, and often cannot sign contracts or open bank accounts. Such situations are of particular concern when they are perpetuated across generations. Though it is incumbent on States to protect the rights of stateless persons, such protection does not eliminate statelessness.
- **Prevention and reduction of statelessness.** Statelessness is often caused by, and results in, long-standing discrimination. For example, minority groups are often viewed as outsiders or foreigners, even though they have lived in a country for generations. Sometimes people may become stateless or are unable to acquire a nationality because procedures are unnecessarily complicated or expensive. Similarly, they may not have sufficient information on how to register births, or register at consulates in the event of prolonged stay outside the country of nationality. In many cases conflicts between the laws of different States can only be resolved through bilateral or multilateral treaties or other forms of State-to-State cooperation.



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Statelessness may result from prolonged exile. This was the case for 9,500 former Cambodian refugees in Viet Nam since the late 1970s.

especially with regard to identity and documentation. AALCO is also working with UNHCR on a study that will provide a better understanding of the problem.

The joint UNHCR/Inter-Parliamentary Union publication, *Nationality and Statelessness: A Handbook for Parliamentarians*, was widely disseminated in 2006. The handbook was translated into Arabic, Russian and Korean, and was officially launched in the national parliaments in Moscow and Seoul.

Civil society has become an important partner in efforts to address statelessness. In May 2006 UNHCR and the Open Society Justice Initiative co-organized a conference in New York that brought together NGO advocates from all over the world to discuss the causes of statelessness and gaps in international protection. The conference also sought ways to help stateless persons through legal means, advocacy and practical assistance.

To improve its capacity to identify stateless populations worldwide, UNHCR adopted a more systematic approach to statistical reporting. However, there are an estimated 15 million stateless persons worldwide, so the information now available remains incomplete. The improved statistical reporting confirmed a reduction in the number of stateless persons in some countries. For example, though large stateless populations remained in Estonia, Kuwait, Latvia and Ukraine, a significant number of individuals in these States were naturalized.

UNHCR stepped up its efforts to respond to statelessness at the regional and national levels. Regional bureaux covering Asia, the Middle East and North Africa and Europe included addressing statelessness in their regional objectives. As required by the Global Strategic Objectives, offices in Bangladesh, Myanmar, Romania and a number of the CIS countries planned to be more active in the field of statelessness in their 2007 country operations plans. These and other countries also began to take concrete action to address statelessness.

In **Bangladesh**, UNHCR had set progress towards ending the protracted stateless situation of approximately 300,000 Biharis (Urdu-speaking non-Bengalis) as one of its measurable performance targets for 2006. The Office completed a study on the Biharis and their legal status, which concluded that they are indeed citizens of Bangladesh.

The challenge for UNHCR is to support efforts by the authorities to guarantee that the Biharis are recognized as citizens in practice and integrated into Bangladeshi society. To this end, UNHCR negotiated the inclusion of the Biharis in UNDP programmes to combat poverty.

Activities and results

In 2006 the Office continued to encourage States to accede to the 1954 and 1961 Conventions. While seven States acceded to both instruments, the overall number of States party to the Conventions remained low. Only 62 States had acceded to the 1954 Convention, and 33 to the 1961 Convention (see map in Annex IV).

Following extensive consultations between Member States and the Office, in October 2006 UNHCR's Executive Committee adopted its most comprehensive conclusion yet on statelessness, with a sharp focus on the identification, prevention and reduction of statelessness and the protection of stateless persons. The conclusion provides detailed, action-oriented guidance to UNHCR and States. It also emphasizes the importance of an inter-agency approach in addressing statelessness, stressing collaboration with the OHCHR, UNICEF, UNFPA and UNDP.

The Office also kept up its long-standing practice of providing technical advice on nationality legislation and its application. In 2006, such assistance was provided to the Philippines, Georgia, Montenegro and Belgium. A number of countries, including Indonesia, Nepal, Bahrain, the Islamic Republic of Iran and Morocco, enacted amendments to citizenship legislation to prevent or reduce statelessness. UNHCR also gave guidance to stateless individuals, NGOs and members of the legal profession.

In a bid to generate more awareness and political will to address the issue of statelessness, the Office worked closely with the Asian-African Legal Consultative Organization (AALCO). This body passed a resolution which encouraged Member States to review nationality legislation with a view to reducing and avoiding statelessness, consider accession to the statelessness Conventions and cooperate among themselves,

Furthermore, a series of workshops was organized for civil society groups targeting the Bihari population, NGOs and policy makers. UNHCR also lobbied for the registration of all citizens in the electoral register.

In **Myanmar**, UNHCR worked with the Government to speed up the issuance of personal documents to more than 200,000 eligible stateless persons over ten years of age. In coordination with UNICEF, the Office promoted international standards applicable to birth registration and looked at ways to overcome existing obstacles with the relevant authorities. Myanmar assured UNHCR's Executive Committee meeting of October 2006 that the prevention of statelessness was an objective of the Government, but nationality legislation has yet to be revised.

There were solid achievements in resolving protracted statelessness situations elsewhere. Although the legal status of "Hill Country" Tamils in **Sri Lanka** was largely resolved by progressive legislation adopted in 2003 and a citizenship campaign supported by UNHCR, many Tamils in this group continued to find it difficult in practice to exercise their basic rights linked to nationality. UNHCR conducted workshops with local government officials, unions and NGOs in the Hill Country to emphasize that Hill Tamils must be treated like other citizens. An information campaign on citizenship rights will be launched in early 2007.

Political will is essential to resolve long-standing situations of statelessness, and UNHCR can play a key role in this regard. Following consultations with UNHCR, the Government of **Viet Nam** committed itself to addressing the situation of approximately 9,500 stateless former Cambodian refugees. UNHCR and the Government have taken steps to conduct a census of these people, which is essential if they are to acquire Vietnamese nationality and integrate fully into the country they have lived in for three decades.

The acquisition of personal identity documents is almost always a prerequisite for the effective exercise of nationality. In **Romania**, UNHCR worked with its partners to disseminate information about the amendments to the law on the issuance of such documents. The Romanian authorities made significant efforts to ensure identity documents were issued to undocumented Roma, who in many cases may be de facto stateless. The authorities also organised mobile teams to issue identity documents in remote locations and simplified the rules for acquiring them. UNHCR supported the UN Millennium Development Goals and the United Nations Development Assistance Framework by promoting the incorporation of refugees and stateless persons in existing development programmes.