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Note on statelessness

Summary

This Note discusses implementation of UNHCR's stateless mandate and covers the two-year period from June 2011 to June 2013. It includes discussion of progress stemming from the Ministerial Intergovernmental Event and the enhancement of UNHCR's operational response to prevent and reduce statelessness.

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I. Introduction

1. This Note covers the period since the last update in June 2011. It reviews progress made in relation to the prevention and reduction of statelessness, as well as the identification and protection of stateless persons. It provides an overview of the activities undertaken in the context of the 50th anniversary of the 1961 Convention on the Reduction of Statelessness in 2011, together with their impact, and reviews the status of the pledges made at the December 2011 Ministerial Intergovernmental Event¹. The Note also discusses a number of areas where the international response to statelessness has been weak. It sets out how these areas can be addressed and, in this context, indicates the relevance of the activities planned for the 60th anniversary of the 1954 Convention relating to the Status of Stateless Persons in 2014. Unless otherwise specified, all documents cited in this Note may be accessed from <http://www.refworld.org/statelessness.html>.

II. Background

2. The Office continued to enhance its operational response to statelessness situations, addressing areas highlighted by a number of Executive Committee Conclusions on International Protection related to statelessness, including No. 106 (LVII) on the Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons² adopted in 2006.

3. UNHCR's four pillar budget structure (which is broken down by particular population groups including pillar II for stateless persons), global strategic priorities and results-based framework for planning and reporting have permitted field offices to establish specific objectives and set budgets for activities relating to statelessness which are visible and distinct from those for refugees and other persons of concern. This has ensured that responses to the statelessness problem are given due attention in relevant operations.

4. Progress made in this regard may be measured by the number of UNHCR operations which set objectives relating to statelessness: from 28 operations in 2009, the number rose to 51 in 2010 and 60 in 2011, remaining at this level in 2012. A similar rise occurred in budgets and expenditure. In 2009, the last year before UNHCR introduced the four pillar budget structure, global expenditure on statelessness activities was approximately US\$ 12 million. Upon introduction of the new budget structure in 2010, the statelessness budget approved by the Executive Committee was US\$ 38.5 million. This subsequently increased to US\$ 62.8 million in 2011, US\$ 56 million in 2012 and US\$ 79.2 million in 2013. Actual expenditure under pillar II rose from US\$ 29.1 million in 2010 to US\$ 33.5 million in 2011, and subsequently remained at approximately that level in 2012 at US\$ 34.7 million.

5. UNHCR has strengthened its global response to statelessness, both in terms of reach and also the quality of its interventions, through increased staffing capacity. The High Commissioner's protection capacity initiative of 2011-2012 led to the creation of five dedicated regional statelessness posts covering Asia and the Pacific, Europe, West Africa, the Americas and the Middle East and North Africa. These posts were filled in 2012 and 2013, and they have significantly bolstered the capacity of field offices in these regions.

¹ This refers to the Intergovernmental event at the ministerial level of Member States of the United Nations on the occasion of 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, which was held in Geneva, Switzerland in December 2011 (see www.unhcr.org/ministerial).

² Available from <http://unhcr.org/conclusions>.

III. Progress and ongoing challenges

A. Ministerial Intergovernmental Event

6. The anniversary of the 1961 Convention on the Reduction of Statelessness in 2011 proved to be a breakthrough in UNHCR's efforts to achieve progress on statelessness around the world. At the Ministerial Intergovernmental Event, 61 States made a total of 105 specific and measurable pledges relating to statelessness. These pledges included: 32 on accession to the 1961 Convention; 22 on accession to the 1954 Convention; 12 to reform nationality laws; 12 to improve civil registration to prevent and reduce statelessness; 12 to conduct studies or awareness-raising campaigns; 11 to establish statelessness determination procedures; and 4 to address the problem through foreign policy initiatives. In large measure, these pledges resulted from efforts at the regional and country level to promote action on statelessness, including a series of bilateral and multilateral dialogues with governments in locations as diverse as Benin, Costa Rica, Croatia, Georgia, Indonesia, Kazakhstan, Mexico, Mozambique, the Philippines, Senegal, South Africa and Spain. A number of States also took measures in the lead-up to the Ministerial Intergovernmental Event, including eight accessions to the 1954 and 1961 Conventions. UNHCR continues to work with States on follow up to the pledges made. For example, a regional statelessness course for governments in Latin America held in 2012 and 2013 was used to provide technical training for implementation of the pledges. Currently, 22 per cent of the pledges made have been implemented. Significantly, there were 26 accessions to the 1954 and 1961 Statelessness Conventions during the two years covered by this report.

B. Strengthened operational responses

7. There was a clear trend toward greater engagement by UNHCR on statelessness in the following areas:

(a) Improving baseline data on stateless populations

8. The identification of stateless populations continues to be a priority. Stateless populations are notoriously difficult to measure, however, and establishing accurate baselines remains a challenge. During the reporting period, UNHCR worked in 61 countries to support, or undertake directly, studies, surveys and population censuses. This included studies on statelessness undertaken by UNHCR and partners in Belgium, Canada, the Netherlands, the United Kingdom of Great Britain and Northern Ireland, and the United States of America. These studies offered detailed recommendations on the establishment of status determination procedures and standards of treatment of stateless persons. Surveys on stateless populations were undertaken in a range of countries including Belarus, Kyrgyzstan, Libya, Serbia and the Philippines. UNHCR organized a workshop in Kuala Lumpur, Malaysia to train staff on measuring statelessness in the region. More broadly, training on the identification of stateless populations was mainstreamed into various learning tools. Field offices also benefited from a guidance document on measuring stateless populations which was issued in 2011. The impact of these efforts was a slight increase in UNHCR data coverage of stateless populations: statistics from 72 States were reported at the end of 2012, up from 65 at the end of 2011. This increase results primarily from the inclusion of questions relating to nationality in the latest global round of national population censuses.

9. In addition to a number of initiatives being undertaken by UNHCR, nine States made pledges at the Ministerial Intergovernmental Event to take steps to identify stateless populations. Thus far, only Burundi has implemented its pledge in this area.

(b) Promoting accession

10. The relatively low number of States party to the 1954 and 1961 Statelessness Conventions has been a major weakness of the international legal framework on statelessness. As reported in the previous Note on Statelessness, at the beginning of 2011 there were 65 parties to the 1954 Convention and 37 parties to the 1961 Convention. Promotion of accession to the two Conventions has thus remained a major focus. The Office actively promoted accession to the 1954 Convention in 67 States, up from 39 during the previous two-year period. UNHCR also intensified efforts to promote the 1961 Convention: It did so in 86 countries, up from 55 during 2009-2011. In addition to advocacy letters to selected governments and widespread dissemination of brochures on the content of the Conventions, UNHCR's promotion activities included analysis of compatibility between national legislation and the Conventions, roundtable meetings with governments to discuss the impact of accession and facilitation of information-gathering visits to States which were already parties.

11. Resolutions of the United Nations General Assembly, the Human Rights Council, the General Assembly of the Organization of American States, and the Assembly of the Inter-Parliamentary Union, all called upon States to consider accession. At the 2012 United Nations General Assembly High-level Meeting on the Rule of Law, European Union Member States which had not yet done so pledged to become parties to the 1954 Convention and to consider accession to the 1961 Convention. The UN Human Rights Treaty Bodies made frequent recommendations to States to accede in the context of State reporting procedures. In addition, an increasing number of States which are already party to one or both Conventions are calling upon others to become parties. This was most evident in the context of the Universal Periodic Review of the UN Human Rights Council, whereby a total of 31 recommendations to accede were made to specific States. Five States accepted these recommendations.

12. The result of these developments was an unprecedented increase in the number of States parties to the two Conventions. There were 26 accessions by 17 States during the two-year period covered by this report, with 14 accessions to the 1961 Convention and 12 to the 1954 Convention. This is more than twice as many accessions as during any previous two year period since the treaties were adopted. These developments underline a fundamental shift in attitude towards the issue of statelessness.

13. This trend is also demonstrated by the number of pledges relating to accession made by States during the Ministerial Intergovernmental Event, during which 32 States pledged to accede to the 1961 Convention and 22 to the 1954 Convention. There were pledges made by States in all regions of the world, albeit in lower numbers in Asia and in the Middle East and North Africa region. As of May 2013, 15 (or 28%) of these pledges had been implemented.

(c) Promoting law reform and providing technical advice

14. Inadequate legislative provisions continued to create new cases of statelessness and posed obstacles to solutions. In numerous instances, nationality and related legislation were not compliant with either the 1961 Convention or with United Nations and regional human rights standards. The Office has therefore established a global strategic priority on the adoption of nationality laws that prevent and reduce statelessness. During 2011-2012 it promoted reform of nationality laws in 71 States and provided technical advice to 41 States, up from 23 in the previous reporting period. Notably, UNHCR provided technical advice on the drafting of nationality legislation for newly independent South Sudan and contributed to constitutional and law reform processes in a number of countries such as Belgium, the Czech Republic, Kenya, Latvia, Nepal, Tajikistan and Zambia. During the reporting period, a total of 14 States amended their nationality legislation to strengthen safeguards against statelessness. UNHCR observed several broad trends in nationality laws during this period, including removal of legal provisions leading to loss of nationality for residence

abroad, removal of requirements to renounce nationality before applying for naturalization, and inclusion of safeguards to prevent statelessness owing to voluntary renunciation of citizenship.

15. Consultations with governments in the lead-up to the Ministerial Intergovernmental Event provided an opportunity to discuss problematic elements of nationality laws and possible amendments to address them. Twelve governments made pledges on law reform to prevent and reduce statelessness. Only one of these pledges, made by the Russian Federation, had been implemented by May 2013. While law reform is often a slow process, UNHCR hopes that further progress will be made on implementation of these pledges.

16. UNHCR bolstered its capacity to identify gaps in legislation through the development of a global analytical database of nationality laws, additional country and regional studies and research on discrimination against women in nationality laws. When reviewing legislation, governments, staff and partners are benefiting from the publication of the following guidelines issued by UNHCR in 2012: *Ensuring Every Child's Right to Acquire a Nationality through Articles 1-4 of the 1961 Convention on the Reduction of Statelessness*.

(d) Preventing statelessness through birth registration, documentation and legal aid

17. The Office intensified efforts to prevent statelessness through support to civil registration and documentation procedures as well as the delivery of information and legal aid to affected populations. It undertook such activities in 35 countries, a significant jump from 27 during the previous two-year period.

18. For example, UNHCR worked with the NGO Lawyers for Human Rights in South Africa to deliver legal advice to individuals from across Southern Africa who were affected by conflicting laws and complex administrative requirements for confirmation of nationality. In the Americas, legal aid and civil registration programmes for persons of Haitian origin who are at risk of becoming stateless were established in the Dominican Republic and the Bahamas and were complemented by efforts to reform nationality legislation and improve civil registration in Haiti. UNHCR collaborated with the Ombudsman and Government of Serbia to train judges, civil registration officials, social workers and police officers on the implementation of new procedures designed to facilitate the registration and issuance of identity documentation to Roma, as well as on procedures for confirmation of citizenship.

(e) Reducing statelessness

19. There was slow but steady progress in reducing statelessness in a number of countries, though no breakthrough that led to a major reduction in the global population. The data available to UNHCR showed that more than 115,000 people acquired a nationality or had it confirmed in 2011 and approximately 94,600 in 2012. This was similar to the progress achieved during the previous reporting period.

20. The largest reduction in the number of stateless people took place in the Syrian Arab Republic, where nationality was offered in 2011 to one sector of the stateless Kurdish population (the "Ajanib") who had been stateless since 1962. According to government figures, approximately 79,000 people were issued with citizenship documents, mainly during 2011. In Turkmenistan, citizenship was granted to more than 3,300 stateless people who had been identified through a Government registration exercise in 2007. With support from UNHCR, a second registration drive by the Government in 2011 collected data on an additional 8,300 individuals whose cases are now being processed.

21. The Office continued to advocate for solutions to a number of protracted statelessness situations. The anniversary of the 1961 Convention again allowed for significant consultations with governments on solutions. One encouraging development was the willingness of a small number of States to discuss their own successful efforts to

resolve statelessness situations, thereby encouraging others to follow their example. There was also an increased understanding among States that prolonged statelessness can lead to displacement and unrest. This was underlined by the continuing outflows of Rohingya refugees without nationality from Myanmar and the spike in departures following communal violence there in 2012.

(f) Establishing protection regimes for stateless persons in the migration context

22. Most stateless people live in the country where they were born or in a successor State. A minority have migrated, often because they have been forced to leave for reasons linked to their statelessness or because they lost or were deprived of their nationality while abroad. Like asylum-seekers and refugees, these stateless persons travel within broader migratory movements, and migration-control procedures need to take into account their protection needs. The 1954 Convention, complemented by international human rights law, provides a framework for their protection. A number of States have developed specialized determination procedures to identify stateless migrants on their territory and ensure that they are treated in accordance with the Convention and related standards.

23. UNHCR intensified its work in this area, which had received limited attention in the past. The Office promoted adoption of statelessness determination procedures in 47 States (up from 29 during the previous period) and provided technical advice to 21 governments. As a result, while relatively few States had dedicated statelessness determination procedures, an increasing number began designing them during the past two years. Four States introduced procedures and two of these began to adjudicate cases. When promoting adoption of statelessness determination procedures and providing advice to governments, UNHCR field offices were able to draw on the findings of studies conducted in numerous countries. For example, the studies on statelessness in Belgium, the Netherlands, and the United Kingdom of Great Britain and Northern Ireland examined in detail how the absence of effective determination procedures left some stateless individuals without protection. In order to support these processes, the Office issued guidelines in 2012 on *Procedures for Determining whether an Individual is a Stateless Person* and *The Status of Stateless Persons at the National Level*. UNHCR also promoted government-to-government information sharing both through regional meetings, such as one focused on determination procedures for European governments, and through information visits by interested governments to countries with procedures in place.

24. Despite these advances, the existence of a fair and efficient statelessness determination procedure at the country level is the exception rather than the rule. UNHCR will continue to promote adoption or improvement of determination procedures in 2013 and beyond, focusing in particular on the eight remaining States which pledged at the Ministerial Intergovernmental Event to create procedures. In tandem, UNHCR will develop its own internal guidelines for statelessness determination which may be applied in the broader migration context for cases of stateless persons with protection needs and no prospect for return to their States of former habitual residence.

(g) Developing international legal standards and doctrinal guidance

25. One impediment to progress on statelessness is related to doubts among some States regarding the scope and content of their obligations under the 1954 and 1961 Conventions. In 2010, UNHCR commenced a multi-year process to develop guidelines on a number of key issues of legal interpretation arising under the Conventions and to clarify certain provisions. Following a series of expert meetings, which included individuals from governments, the judiciary, international human rights bodies, non-governmental organizations (NGOs), academia and international organizations, guidelines were issued in 2012 on a number of key issues relating to the Conventions, including on *The definition of a "Stateless Person" in Article 1(1) of the 1954 Convention relating to the Status of Stateless Persons* and *Ensuring Every Child's Right to Acquire a Nationality through*

Articles 1-4 of the 1961 Convention, as well as guidelines for determination procedures and for status at the national level (see paragraph 23 above). UNHCR also worked closely with States on developing relevant resolutions of the Human Rights Council and with the Organization of American States on the adoption of a resolution by its General Assembly.

(h) Providing operational guidance and training

26. Significant effort was made to bolster the capacity of staff through training and the provision of additional operational guidance. UNHCR continued to run a Thematic Protection Learning Programme in one region per year, benefiting approximately 60 staff and partners in Africa and in the Middle East and North Africa region. Statelessness workshops were organized in four regions for over 110 field staff, while workshops at headquarters reached more than 100 staff. Statelessness was also included as a topic in other courses, such as one on human rights and refugee law held by UNHCR and the United Nations Educational, Scientific and Cultural Organization in 2011 in Cotonou, Benin. In late 2012, the Office launched an e-learning programme which is available to all staff and the affiliate workforce, as well as a publicly available *Self-study Module on Statelessness*. The e-learning programme was completed by more than 200 staff members in the six months after its launch and will be made available for external audiences in late 2013. With the goal of reaching a higher number of staff and partners, and with a related objective of building institutional capacity, the Office supported short courses organized by external actors, including Oxford University, Tilburg University, the Asia Pacific Refugee Rights Network, Mahidol University and the European Network on Statelessness.

(i) Bolstering partnerships

27. The Office worked to expand its partnerships and benefited from the increased interest in statelessness generated by the anniversary of the 1961 Convention in 2011. It supported a major symposium of the African Union in Nairobi, Kenya, which explored a range of statelessness issues and adopted a number of recommendations. This was followed by the adoption of a resolution on statelessness and the right to nationality by the African Commission on Human and People's Rights. UNHCR also undertook two workshops with the Association of Southeast Asian Nations (ASEAN) Inter-Governmental Human Rights Commission on issues relating to the nationality of women and children and birth registration. In the Americas, UNHCR supported a workshop on statelessness for staff and permanent missions of the Organization of American States, as requested by its General Assembly. The Office briefed the Parliamentary Assembly of the Council of Europe and provided background information on statelessness to the Commissioner of Human Rights of the Council of Europe. It also worked more intensively with the High Commissioner on National Minorities of the Organization for Security and Co-operation in Europe, including on the organization of the Zagreb Conference on the Provision of Civil Status Documentation and Registration in South Eastern Europe, which took place in October 2011. To promote action on statelessness by parliamentarians, UNHCR provided a number of briefings to the Inter-Parliamentary Union.

28. Efforts were made to increase the number of NGOs working with UNHCR in the area of statelessness. A small but growing number of national NGOs helped UNHCR implement operational responses, while a handful of international NGOs and universities collaborated on research and advocacy initiatives.

29. In 2012, UNHCR organized a session to promote information exchange, joint strategizing and coalition-building among NGOs. Twenty-six organizations from 13 countries attended, and a follow-up event will be held in 2013. The Office supported Tilburg and Oxford universities in organizing short courses on statelessness. It worked with the universities of Tilburg, Maastricht and New South Wales as well as the Open Society Foundations to develop a global analytical database of nationality laws. Together with Plan International, UNHCR published a brochure on childhood statelessness and

organized a side event on birth registration in New York during the 67th Session of the United Nations General Assembly. In 2011 in the Middle East and North Africa region, UNHCR worked with the Collective for Research & Training on Development – Action, an NGO based in Beirut, Lebanon, to organize a dialogue with women and families affected by gender discrimination in nationality laws.

30. The *Guidance Note of the Secretary-General on the United Nations and Statelessness* provided a framework for the overall efforts of the United Nations system in responding to statelessness. It describes the lead role of UNHCR under its mandate and “affirms that all UN entities system-wide must increase their efforts to address statelessness. The UN should tackle both the causes and consequences of statelessness as a key priority within the Organization’s broader efforts to strengthen the rule of law.”

(j) Raising awareness

31. Major strides were made to address the low level of awareness about the problem of statelessness and address certain misconceptions. For the anniversary of the 1961 Convention, UNHCR organized a media campaign which highlighted the impact of statelessness on people around the world through individual accounts. News items on statelessness appeared in a wide range of print, broadcast and digital media, including hundreds of stories in English-language print media alone. In parallel, a photo exhibition featuring stateless people was shown in numerous locations around the world, including at the United Nations headquarters in New York. The Office produced two testimonial “storytelling” videos to demonstrate the human impact of the phenomenon on stateless individuals, as well as a number of other advocacy films. In addition, UNHCR increasingly made use of social media to disseminate information on statelessness issues.

IV. Outlook

32. The efforts described above have collectively contributed to significant progress in the area of statelessness over the past two years. To build on this progress, UNHCR has developed an agenda for action on statelessness in a number of States. Implementation of the pledges made in 2011 will remain a particular focus and, when realized, will reinforce the legal framework across the globe. In the long-term, the Office will continue working with governments and other partners to ensure that statelessness problems are addressed. Law reform, improvements to civil registration and documentation systems, and accessions formalities are however often lengthy processes.

33. Nonetheless, these developments fall short of what is needed to make a real impact in the lives of most stateless persons around the world. UNHCR is concerned that there has been insufficient progress made in resolving protracted statelessness situations. During the Sixty-third Session of the Executive Committee in 2012, the High Commissioner called on “all States to make a firm commitment to ending statelessness within the next decade”. Achieving this will require advancing on multiple fronts. Firstly, UNHCR will need to work more actively with States to resolve protracted situations, many of which have persisted for several decades. Fortunately, policy makers in affected countries can draw on the positive examples set by other States during the past decade in reducing statelessness. Secondly, the risks of statelessness due to State succession need to be responded to decisively through diplomatic action and operational responses. Finally, the gaps remaining in numerous nationality laws and constitutions need to be addressed through intensified advocacy efforts and technical advice, in particular to address statelessness that begins at birth.

34. The 60th anniversary of the 1954 Convention relating to the Status of Stateless Persons in 2014 offers an opportunity to build on the momentum of recent years and to realize these objectives. UNHCR will raise the profile of the statelessness problem and

promote responses by governments and civil society through a series of activities that relate to the theme of “The Human Face of Statelessness.” These activities will include a series of dialogues with stateless persons which will also provide information on UNHCR’s statelessness mandate. The Office will enable stateless persons to share their stories through social media and web-based platforms. In addition, UNHCR will highlight specific statelessness problems in high-level international and regional intergovernmental meetings. Building on the successful approach adopted in 2010-2011, UNHCR will organize a series of meetings with governments, regional organizations and other partners to promote accessions; the establishment of statelessness determination procedures and other measures to protect stateless persons; reform of nationality laws and related procedures; and resolution of protracted situations. In 2014, the Office will launch a compilation of good practices on the identification, prevention and reduction of statelessness and the protection of stateless persons. UNHCR will also launch a handbook on the definition of a stateless person, determination procedures and status at the national level, based on the three sets of guidelines issued in 2012. In collaboration with Tilburg University, the Office will hold the First Global Forum on Statelessness at which up to 300 representatives of academic and international institutions, governments NGOs and statelessness populations from around the world will present their research, responses and experiences related to statelessness.

V. Conclusion

35. UNHCR’s activities under its statelessness mandate were enhanced during the two years covered by this report. This was in part due to the organization-wide focus on statelessness during the anniversary of the 1961 Convention in 2011, but it also reflects a longer-term trend. There was an unprecedented impact in terms of action by States, including a significant number of accessions and the adoption of new determination procedures. The number of pledges made by governments at the 2011 Ministerial Intergovernmental Event suggests further progress will be made in the coming years. While impressive, these developments pale in comparison to the magnitude of the problem. There was only limited progress toward resolution of protracted situations. If the international community is to be successful in meeting the challenges posed by statelessness globally, the momentum of the past two years must be maintained and channeled towards acquisition of nationality by stateless persons.
