

**High Commissioner’s Dialogue on Protection Challenges
“Protection Gaps and Responses”
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Breakout Session 3: Reduction of Statelessness and Protection of Stateless Persons

Report by the Co-Chairs:

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The session highlighted the very dramatic situation of stateless persons in various parts of the world. Participants highlighted the uncertainty caused by statelessness and what it means when people have no legal identity. A particularly revealing example was the case of people who purchase false passports because they believe that even false documents and possible criminal prosecution are better than having no legal identity at all.

How increased accessions to the statelessness conventions can be achieved to strengthen the protection framework for stateless persons:

- The 1954 Convention relating to the Status of Stateless Persons and 1961 Convention on the Reduction of Statelessness form the foundation of the international legal framework to address statelessness. It is necessary to promote increased accessions to the statelessness conventions given their “declaratory importance,” so as to broaden the number of States Parties who affirm their commitment to preventing and reducing statelessness, as well as protecting stateless persons.
- But, as several participants stressed, the statelessness conventions “are not a panacea.” They complement, and are complemented by, international human rights law. The experience of many governments, NGOs and UNHCR is that much can be done to prevent statelessness and address the situation of stateless persons even when states are not parties to the 1954 and 1961 Conventions.
- In many cases States have not looked at the possibility of accession because they are unaware of the value of the conventions. However, some States have been reluctant to accede because:
 - In some instances, they are concerned that it will be necessary to undertake legislative amendments.
 - In other instances, they are concerned about opening the citizenry and giving civil and political rights to new ethnic and religious groups.

- As for how to encourage States to accede:
 - The *Philippines* provides an example of a creative campaign to promote accessions to the statelessness conventions. UNHCR and the Philippines Ministry of Justice are undertaking the “adopt my sister” campaign. As the Philippines is a State Party to the 1951 Refugee Convention, this campaign highlights the parallel protection needed for stateless persons and refugees. It was suggested that this approach could be used in other States that are party to the 1951 Refugee Convention to promote accessions to the statelessness conventions.
 - It was also suggested that responsibility to encourage States to accede to the statelessness conventions is shared:
 - UNHCR has a role to play in working directly with governments to raise their awareness of these conventions and providing guidance on the necessary measures that States should take to harmonize legislation with the safeguards contained in the conventions.
 - It is also important that civil society and community-based grassroots movements join in encouraging States to accede to the statelessness conventions.

Good practice examples that have led to the resolution of statelessness situations and contributed to the improved implementation of the statelessness conventions:

- Influence of the statelessness conventions:
 - Despite the low accession rate, the influence of the statelessness conventions is felt beyond those States that are party to them. Safeguards against statelessness at birth are also found in other international instruments, regional treaties and domestic nationality laws.
- Good practice examples where concrete measures were undertaken to address statelessness:
 - *France* and *Hungary* were highlighted as good practice examples among the States Parties to the statelessness conventions. In France, a specific procedure to identify and grant a legal status to protect stateless persons has been in place for over 50 years. Hungary only recently acceded to the statelessness conventions, but has also created a formal statelessness determination procedure with a view to identifying stateless persons and providing them with the standards of treatment set forth in the 1954 Convention relating to the Status of Stateless Persons.
 - *Kyrgyzstan* was identified as a good practice example where national initiatives have made a significant contribution to reducing statelessness, even in a country that is not party to the statelessness conventions. Kyrgyzstan recently amended its nationality law and, with assistance from

UNHCR and the OSCE, was able to reduce the cases of statelessness. *Viet Nam*, another non-State Party to the statelessness conventions, also changed its nationality law in 2008. These amendments have allowed for the naturalization of the stateless former Cambodian refugees and also address the situation of Vietnamese women who became stateless when they attempted and were unable to acquire the nationality of foreign husbands.

- Effect of national initiatives
 - Much progress depends on efforts made at the national level. Major breakthroughs at the national level occur when there is:
 - *Realization* of the fact that there is a problem;
 - *Political will* to resolve the statelessness situation; and
 - Resolution through a *situation-based solution*.
- It was suggested to create a community of “champions,” as States should learn more from each other’s successes in addressing statelessness.
- The importance of grassroots movements and community-based organizations was stressed, such as the example of the Serbian NGO *Praxis* that provided legal assistance to several thousand persons without legal documentation in order to prevent and reduce statelessness.

How can the international human rights framework be used to fill some of the protection gaps for stateless persons?

- There are some limitations to the statelessness conventions, and international human rights law must be used to increase action on statelessness.
- In particular, it was emphasized that there are important human rights guarantees in the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, and the Convention on the Elimination of All Forms of Discrimination Against Women, that affirm the right of every child to acquire a nationality and the right of women to have equal rights as men with respect to nationality laws.
- The point was made that not possessing documents does not mean not having a nationality. Nevertheless, the importance of birth registration and civil registration to provide identity documents to individuals is critical in preventing and reducing statelessness. UNHCR and other actors should collaborate further on birth registration and other civil registration campaigns.
- UNHCR should increase collaboration with other UN agencies, such as the United Nations Children’s Fund and the Office of the High Commissioner for Human Rights. Statelessness concerns should be more systematically monitored through the UN treaty body mechanisms.

- Regional human rights mechanisms should also be used to address statelessness. For example, to address the problem of stateless children in Asia, it was suggested that national human rights commissions could be approached on this issue and that advocacy should be undertaken with various ASEAN mechanisms, such as the ASEAN Inter-Governmental Commission on Human Rights, the ASEAN Plan of Action for Children and the ASEAN Commission on the Protection and Promotion of the Rights of Women.
- Public interest and strategic litigation can also be used at the national and regional levels to reinforce legal norms upholding the rights of stateless persons.

The importance of raising public awareness on statelessness issues to create a constituency of stakeholders committed and engaged to address statelessness:

- A human face should be put on the statelessness problem by using photography, video and testimonies of stateless persons. As one of the Co-Chairs put it, these people may be stateless, but they should not be faceless.
- Story-telling individual accounts of statelessness will galvanize States and other stakeholders to take action to address the problem.

Additional measures that should be undertaken to address statelessness:

- Baseline data and statistics on statelessness:
 - The inherent difficulty of identifying stateless populations was emphasized and there was a great deal of interest in the size of stateless populations. It is critical to know how many stateless persons there are, and where they are, to better encourage States to take action to address their concerns. Work is needed to improve information gathering in this regard, and UNHCR should play a leading role in improving the statistics on statelessness.
- UNHCR action at the field level:
 - UNHCR is now far more operational than it used to be, as evidenced by the recent document *UNHCR Action to Address Statelessness: A Strategy Note*. But there was recognition of the need for action on statelessness to be stepped up at the field level.
- Civil society engagement:
 - There is still a relatively low level of civil society engagement with issues of statelessness. The absence of a prominent and coherent international movement to tackle statelessness hinders the dissemination of information and the promotion of campaigns to prevent and resolve situations of statelessness.