

UNHCR's ACTIVITIES IN THE FIELD OF STATELESSNESS:
PROGRESS REPORT

I. INTRODUCTION

1. The purpose of this update is to outline various activities and developments in the field of statelessness since the last progress report.¹ They have taken place against the background of ongoing problems. As was underlined once again in the panel discussion on current challenges in protecting stateless persons and reducing statelessness held in October 2004, millions of people continue to be denied the right to enjoy an effective nationality. This is despite the development of international law and practice relating to nationality. The first global survey on steps taken by United Nations member States to avoid or reduce statelessness and to protect stateless persons² highlights that serious legislative and policy gaps remain, both at the international and the national level.

2. UNHCR continues to be engaged in activities in keeping with the terms of Conclusion No. 78 (XLVI) (1995) on the Prevention and Reduction of Statelessness and the Protection of Stateless Persons. A main focus has been on providing technical and advisory services related to nationality legislation, including through training of staff and government officials. In addition, the Office has strengthened its efforts to promote accessions to and implementation of the Statelessness Conventions, to provide international protection to stateless persons, and to enhance cooperation with other interested organizations. Taking into consideration the persistence of the phenomenon of statelessness, the Executive Committee, in its Conclusions No. 95 (LIV) (2003) and No. 99 (LV) (2004), included specific provisions encouraging States, in cooperation with UNHCR, to work more actively on resolving statelessness, including through considering the possibility of resettlement for stateless persons in particularly precarious situations. UNHCR and concerned States were specifically requested to explore measures that would ameliorate or bring to an end protracted situations of statelessness. That such situations can be solved was, for example, demonstrated in 2004 in Sri Lanka, where hundreds of thousands of stateless persons gained citizenship as a result of a new citizenship law, backed up by a citizenship campaign (see para. 21 below).

¹ UNHCR reports biennially on statelessness activities under Conclusion No. 78 (XLVI) (A/AC/96/860) and General Assembly resolution A/RES/50/152. Four progress reports have been presented to the Standing Committee at its 8th, 15th, 21st and 27th meetings respectively.

² Conducted by UNHCR pursuant to the Agenda for Protection.

II. ACTIVITIES CONCERNING STATELESSNESS

A. Implementation of the Agenda for Protection

3. The Agenda for Protection refers to statelessness as one of the root causes of displacement and refugee flows. Statelessness can also be a factor leading to internal displacement. Addressing issues of statelessness is recognized as playing a direct role in avoiding forced displacement and ensuring the realization of the right to a nationality, consistent with Article 15 of the Universal Declaration on Human Rights. The Agenda for Protection requested UNHCR to seek information from States on steps they have taken to reduce statelessness and to meet the protection needs of stateless persons, and to report to the Executive Committee on the issue, together with providing recommendations which might assist to improve the situation.³

4. UNHCR released its Final Report on Steps taken by States to reduce Statelessness and protect Stateless Persons, prepared on the basis of replies given by States to a questionnaire on statelessness, during the last Standing Committee in June 2004. The questionnaire summarized information received on: experiences with cases of statelessness; approaches to the acquisition and loss of citizenship; approaches to issues concerning family unity; women and children; mechanisms for the identification and protection of stateless persons; steps taken concerning accession to and implementation of the 1954 and 1961 Statelessness Conventions.

5. Some 74 States replied out of a total of the 191 States to which the questionnaire was sent. Close to half of the responses came from States in Europe (46 per cent), followed by the Americas (23 per cent), Asia and the Pacific (18 per cent), the Africa and the Middle East (15 per cent). One general finding of the survey is that no region is free of problems leading to statelessness. In this regard, while it is positive to note the adoption of measures to address statelessness in many States, the survey indicates that these measures are inconsistent, with each State adopting its own independent approach. This leads to gaps which continue to create statelessness and to make the resolution of individual cases difficult to achieve in concrete terms. Many States do not have mechanisms which effectively identify cases of statelessness, so the actual magnitude of the problem remains largely unknown. Most States which responded indicated that they grant nationality to children born on their territory who would otherwise be stateless. Likewise, most States grant nationality to children born abroad to a national, in cases where the child would otherwise be stateless, except those States whose nationality legislation does not authorize women to pass on their nationality if married to foreigners. Many States indicated they had constitutional, legislative and judicial safeguards in place to protect against arbitrary deprivation of nationality, as well as renunciation or loss of nationality resulting in statelessness. Of particular concern is the fact that only 40 per cent of the responding States indicated they have at least one mechanism in place to address cases of statelessness in instances of state succession. Half of the participating States replied that they had cooperated with UNHCR on issues related to statelessness and 88 per cent requested further information on UNHCR's role and activities in the field of statelessness.

³ A/AC.96/965/Add.1, Goal 1, Objective 12, Action 6.

6. A comprehensive set of recommendations drawn from an analysis of the responses, was included in the final report. The following chapters deal with those where follow-up has already taken place as well as, to some extent, those for follow-up action in the future.

B. Technical and advisory services

7. Several States replying to the questionnaire on statelessness indicated that awareness raising and capacity building among State administrations and civil society, including NGOs and the public in general, constitute a challenge in addressing statelessness both at the national and international levels. During the reporting period, UNHCR directly participated in the drafting of international instruments relating to nationality and to the prevention and reduction of statelessness, as well as provided extensive comments to States on new nationality laws or amendments to such laws. In addition, UNHCR continued to make its expertise available to States, organizations, legal aid societies, courts and to stateless persons themselves. Advice was provided in an effort to resolve cases of statelessness or to protect stateless persons, for example in situations involving unclear status, prolonged administrative detention or a denial of rights provided for by the 1954 Convention. Counselling was also provided in the context of cessation of refugee status, voluntary repatriation or return of rejected cases.

8. At the international level, UNHCR contributed to the drafting of a *Resolution on Human Rights and Arbitrary Deprivation of Nationality*, adopted on 14 April 2005 by the Commission on Human Rights, calling on all States inter alia to adopt and implement nationality legislation with a view to preventing and reducing statelessness, consistent with fundamental principles of international law, in particular by preventing arbitrary deprivation of nationality. UNHCR also actively contributed, within the Committee of Experts on Nationality of the Council of Europe, to elaborate a *Protocol on the Avoidance of Statelessness in relation to State Succession*, containing a comprehensive set of principles and rules applicable in situations of state succession to avoid the creation of statelessness and to promote the application of an option for the individuals concerned.

9. At the national level, UNHCR provided comments to more than 40 States in relation to the enactment of new nationality laws and the revision of old laws. In particular, UNHCR provided comments on constitutional provisions or nationality legislation in States where large segments of the population are stateless or have undetermined nationality. By way of example, comments were provided to the Democratic Republic of the Congo which enacted a new citizenship law in December 2004 and to the relevant Iraqi authorities with regard to the reacquisition of nationality by persons or groups who had been arbitrarily deprived of their nationality by the previous regime. A useful dialogue with Bosnia and Herzegovina, in liaison with the Council of Europe, focused on naturalization of refugees and stateless persons, and how to avoid statelessness in situations of state succession, acquisition and loss of citizenship. In-depth discussions also took place in 2004 and 2005 with Serbia and Montenegro, which enabled a new Law on Citizenship of the Republic of Serbia to be adopted in December 2004 and which served to prepare the adoption of a new Law on Citizenship of the Republic of Montenegro. In Mexico, a draft law containing favourable provisions towards prevention of statelessness and protection of stateless persons is currently under review.

C. Promotion of Statelessness Conventions

10. The 50th Anniversary of the 1954 Convention relating to the Status of Stateless Persons in 2004 provided an additional opportunity for UNHCR to promote the 1954 and 1961 Statelessness Conventions which, despite the steady increase of accessions in the last ten years, have still not been ratified by a sufficient number of States for them to have a truly significant effect on reducing statelessness and protecting stateless persons.

11. Three additional accessions to the 1954 Convention have been recorded since the last reporting period, bringing the total of States parties to 57.⁴ UNHCR published a *Report on the Implementation of the 1954 Convention within the European Union Member States* and formulated recommendations for harmonization. Although recommendations were made in the context of the European Union (at that time there were 15 Member States, of which 13 had ratified the 1954 Convention), many of them are of a general character. All States, in particular those considering becoming parties to the 1954 Convention, are encouraged to review the recommendations. The study showed that most States have not put in place specific mechanisms which will allow the identification and recognition of stateless persons. Asylum procedures substitute for this lack of specialized procedures, which not only makes it impossible to determine the magnitude of the problem of statelessness within the EU, but also creates humanitarian difficulties of some severity. The possibility for a stateless person to secure residence will often be the necessary prerequisite for him or her to exercise the rights provided for by the Convention, which for the most part are only applicable to persons lawfully staying in the country. States are therefore invited to introduce mechanisms to promote the acquisition of lawful stay in appropriate cases for recognized stateless persons, in particular for those who have no other option.

12. Three additional accessions to the 1961 Convention on the Reduction of Statelessness have also been registered since the last reporting period, bringing the total of States parties to 29.⁵ Many States, despite not having acceded to the 1961 Convention, are however progressively incorporating its provisions in their domestic legislation. Most of the provisions of the 1961 Convention have also been incorporated in regional instruments such as the 1997 European Convention on Nationality. UNHCR is pursuing the parallel tasks of continuing to seek State accession to the 1961 Convention, while at the same time monitoring that its provisions are reflected in relevant domestic legislation. In addition, UNHCR systematically promotes the implementation of specific provisions referring to nationality and prevention of statelessness in key international instruments which have been ratified by a very large number of States, such as the International Covenant on Civil and Political Rights (Art. 24), the Convention on the Elimination of All Forms of Racial Discrimination (Art. 5), the Convention on the Elimination of All Forms of Discrimination Against Women (Art. 9), the Convention on the Rights of the Child (Art. 7), as well as regional instruments such as the American Convention on Human Rights and the African Charter on Human Rights and People's Rights. Particular reference is made to the importance of implementing Article 7 of the Convention on the Rights of the Child, which incorporates one of the strongest means to prevent statelessness: that is, the

⁴ Albania (23 June 2003), the Czech Republic (19 July 2004) and Uruguay (2 April 2004).

⁵ Albania (9 July 2003), Lesotho (24 September 2004) and Liberia (22 September 2004).

requirement of systematic registration of children at birth and ensuring that those found stateless are granted nationality at birth or through legislation. UNHCR welcomes campaigns recently initiated by UNICEF and Plan USA to promote universal application of registration of births as a mean of preventing and reducing statelessness.⁶

D. Collaboration with interested partners

13. UNHCR has been encouraged to assume a lead role in efforts to reduce statelessness, through various resolutions of the United Nations General Assembly. UNHCR has therefore been steadily reinforcing its cooperation with the various treaty monitoring bodies, such as the Human Rights Committee, the Committee on the Rights of the Child, as well as with United Nations entities such as the Office of the High Commissioner for Human Rights, UNICEF and UNIFEM. UNHCR has also been exploring ways to involve less traditional partners, such as UNDP and ILO, more actively in addressing protracted statelessness situations. UNHCR welcomes initiatives underpinned by the Human Security Advisory Board to support, through the UN Trust Fund for Human Security, the funding of United Nations efforts to deal with denial of citizenship.⁷

14. UNHCR and the Inter-Parliamentary Union (IPU) are extending their cooperation on statelessness, which will shortly lead to a new Handbook for Parliamentarians on Citizenship and Statelessness. The launch of the handbook is planned during the next Assembly of the Inter-Parliamentary Union in Geneva in October 2005.

15. The Office continued its cooperation on prevention of statelessness with other interested actors such as the Council of Europe and the OSCE as well as IOM, with whom UNHCR organized a High-Level Review Meeting on “Refugees, Migration and Protection” within the framework of the Follow-up to the 1996 Geneva Conference on the Problems of Refugees, Displaced Persons, Migration and Asylum Issues (also known as the “CIS Conference Process”) in Minsk in 2004. Participating States agreed to develop cooperation in the field of nationality, with the aim of avoiding statelessness, notably as a result of State succession. Participating States particularly welcomed the expert assistance from international organizations to bilateral or multilateral mechanisms charged with renunciation or acquisition of nationality in States not accepting dual citizenship. As earlier mentioned, UNHCR worked with the Committee on Nationality of the Council of Europe in the preparation of a draft Protocol on Avoidance of Statelessness in relation to State Succession, which should be opened for ratification very soon. UNHCR also contributed to various activities initiated by the Council of Europe, such as the Third Conference on Nationality focusing on Nationality and the Child, as well as various joint missions addressing nationality and statelessness in Europe, in particular in Ukraine and in various countries in south-eastern Europe.

⁶ Plan USA’s Global Campaign for all children to be registered at birth was launched by Archbishop Desmond Tutu in February 2005.

⁷ One of the recommendations of the informal expert meeting on denial of citizenship chaired by Ambassador Lakdhar Brahimi organized by the European Policy Centre and supported by the Ford Foundation was held on 25 February 2005 in Brussels.

16. Pursuant to encouragement to widen the geographic scope of its statelessness activities further, UNHCR reached an agreement with the Asian African Legal Consultative Organization (AALCO) to cooperate on an in-depth mapping of problems of statelessness from the African, Asian and Middle Eastern perspective. The study should determine the magnitude and scope of the problem of statelessness in the Africa, Asia and Middle Eastern regions; determine linkages between statelessness and migration, displacement, and trafficking; outline particular vulnerabilities for individuals, including women and children; and identify approaches, or best practices, adopted by States to address such cases and to fill any gaps. In Africa, UNHCR was requested by the Regional Preparatory Commission established by the Heads of State and Government of African States who signed the Dar-es-Salaam Declaration, to contribute to the preparation of a plan of action to address statelessness in the context of the International Conference on the Great Lakes Region, to be held in November-December 2005. UNHCR is supportive of new initiatives such as the audit citizenship project developed in more than fifteen African States by the Open Society Justice Initiative. The project aims to produce a series of reports that analyse existing citizenship laws, and propose necessary reforms specific to each national context. It may also serve as a foundation for necessary training and capacity building for local NGOs and judicial institutions on these issues.

E. Training and Dissemination of Information

17. Statelessness-specific training sessions were organized for UNHCR staff in South-Eastern Europe, the Middle East, Central Asia, South East Asia, and the Americas (United States). Efforts also continued to streamline statelessness issues into more general UNHCR training programmes such as the Protection Learning Programme, as well as into numerous UNHCR training and policy documents, including self-study modules and thematic handbooks.

18. Awareness sessions on statelessness and UNHCR activities were held with selected NGOs. The terms of reference of Surge protection officers deployed in the field now include the statelessness problem. The webpage devoted to statelessness on UNHCR's website, where easy access is provided to related documents from ExCom conclusions to statelessness surveys and publications, has been much improved. Another innovation is the statelessness section of the newly launched French version of UNHCR's website. The Office has produced information material such as the brochure entitled "World's Stateless People: questions and answers" in English, French, Russian and Arabic language versions, which are now disseminated widely at conferences, meetings, seminars. UNHCR published a collection of citizenship laws of twelve States from Eastern Europe and Central Asia. This collection of instruments, in the Russian language, also includes various bilateral treaties of direct relevance to acquisition of citizenship. UNHCR is constantly updating the UNHCR Refworld: a collection of legal instruments which also includes national provisions related to citizenship and prevention of statelessness.

19. UNHCR's efforts have been complemented by the activities of NGO partners, in particular Refugees International which published an extensive report on statelessness in 2004 entitled *Lives on Hold: the Human Cost of Statelessness*.

F. Addressing and solving statelessness situations

20. The Executive Committee in its General Conclusion on International Protection in 2004 expressed its concern that many situations of statelessness are of a protracted character and requested UNHCR to explore with concerned States how to ameliorate them or bring them to an end. On the occasion of the 50th anniversary of the 1954 Convention relating to the Status of Stateless persons, UNHCR organized a panel on current challenges in protecting stateless persons and reducing statelessness during the annual plenary session of the Executive Committee. The panel, chaired by the then High Commissioner, focused on solutions to protracted situations of statelessness, taking as a basis concrete examples.

21. One positive example is offered by Sri Lanka in 2004 when 190,000 stateless persons acquired citizenship on the basis of the “Grant of Citizenship to Persons of Indian Origin Act”, which had been unanimously approved by the Parliament in October 2003. This benefited persons who were brought to Sri Lanka (Ceylon) from India to work on the tea and coffee plantations introduced under British colonial rule. Despite numerous agreements between India and Sri Lanka, a substantial number of persons had not settled their citizenship in either of the two countries following independence 57 years ago. After the Act was approved, the Office of the Commissioner General, UNHCR and the Ceylon Workers Congress started to work together to disseminate information on the new law and inform stateless persons on how to apply for citizenship. Together with the relevant Sri Lankan authorities, an information campaign was designed to ensure that stateless persons could apply for citizenship in a fair and transparent manner, without requiring long or complicated administrative procedures. UNHCR supported the campaign financially and monitored the process to ensure that any decision taken by applicants was well informed and voluntary. A media campaign in all newspapers in the Tamil language, the main English and Sinhalese newspapers, radio stations, and Shakti TV was launched. The media campaign was focused on disseminating information about the new law, and informing potential beneficiaries about the 50 mobile centres set up in the tea plantation area where people could apply for citizenship.

22. Other positive developments have taken place in Kyrgyzstan and more recently in Turkmenistan, where thousands of stateless refugees from Tajikistan who have been living for many years in both countries were or are about to be granted citizenship. UNHCR field offices have been closely associated to ensure that refugees are fully informed of their options either to return voluntarily to Tajikistan and reacquire citizenship there or to opt for citizenship in the host country. Also noteworthy is progress made in States confronted by situations of statelessness, such as the Democratic Republic of the Congo (DRC) where citizenship legislation adopted in December 2004 clarifies the initial body of citizens constituting the DRC. Ethiopia also enacted new citizenship legislation in December 2003 which should enable persons earlier deprived of Ethiopian citizenship and still living in the country to reacquire it. Timor-Leste and Indonesian authorities, in cooperation with UNHCR, have engaged in a verifying exercise to grant either of the two nationalities to persons originating from Timor-Leste presently residing in Indonesia. Thailand has positively embarked on a process to identify the scope of statelessness within that country, and has already been granting Thai citizenship to thousands of persons found to be stateless in various different provinces. In The former Yugoslav Republic of Macedonia, the Ministry of the Interior, in cooperation with UNHCR and OSCE, organized a citizenship information campaign with the aim of informing long-term habitual residents of their right to

regularize their citizenship status, as well as of the procedures to follow. The campaign included two TV spots in Albanian and Roma languages, based on an analysis of the main populations at risk of statelessness.

23. Despite these positive developments, millions of persons still remain stateless throughout the world. UNHCR is also strengthening its interventions on behalf of individuals and groups at risk. In this connection, the Office has for example deployed Surge protection officers to specific countries to engage in activities exclusively relating to stateless persons. UNHCR bureaux have been integrating prevention and handling of statelessness problems in their main objectives for 2006-2007. The Department of International Protection is exploring how to realize more resources (staff and financial) for its Statelessness Unit.

III. OUTLOOK

24. There are a number of ideas for future activity to reduce statelessness and address the protection needs of stateless persons which would benefit from reflection by the Standing Committee and endorsement of the Executive Committee. The 2004 Executive Committee Panel on Statelessness set out directions that UNHCR and other relevant organizations might pursue to reduce statelessness, based on its clear appreciation that persistence of statelessness situations is not inevitable. Recommendations in important areas, which UNHCR is pursuing, are outlined in the following paragraphs.

25. With regard to prevention and reduction of statelessness, UNHCR should:

- (a) increase its capacity to undertake research, in partnership, where appropriate, with relevant academic institutions, so as to better identify and profile stateless populations, as a basis for strategies to assist them to acquire an effective citizenship;
- (b) publish and disseminate a handbook on nationality and prevention of statelessness in cooperation with the Inter-Parliamentary Union to raise awareness about statelessness, and organize regional and national parliamentary launches with a view to promoting accession to and implementation of the Statelessness Conventions, in part to lay the basis for progress in revision of citizenship laws;
- (c) promote a consistent UN inter-agency response to protracted statelessness situations, in particular with the Office of the United Nations High Commissioner for Human Rights, UNICEF and UNIFEM, as well as assist concerned States to integrate or reintegrate marginalized communities by developing programmes favouring education, housing, and income-generating projects, in particular in partnership with UNDP and ILO.

26. With regard to protection of stateless persons, UNHCR should:

- (a) assist States to put in place specific procedures to identify stateless persons and grant them a secure status, as envisaged in the 1954 Convention relating to the Status of Stateless Persons, as well as to provide specific training to persons and entities administering these procedures;

- (b) assist stateless persons to access legal remedies to redress statelessness, in particular that which results from deprivation of nationality, by inter alia ensuring the availability of legal counselling, including through tangible support to NGOs providing this legal advice.

27. These, among other recommendations, could form the basis of future conclusions of the Executive Committee on this topic.