Media Backgrounder: Millions Are Stateless, Living in Legal Limbo

In recent months Croatia, Panama, the Philippines and Turkmenistan have all made the historic decision to become party to one or both of the international treaties on statelessness. Why have these countries chosen to act now? The phenomenon of statelessness has been with us since World War II when prominent stateless refugees such as Nobel laureates Albert Einstein, Aleksandr Solzhenitsyn and Elie Wiesel became human faces for this issue. In subsequent decades statelessness faded from public attention, surfacing rarely, sometimes in the form of fictionalized accounts such as the 2004 Tom Hanks movie 'The Terminal'. However, statelessness is real and instead of disappearing new situations have developed – contributing to a problem that by some estimates now affects up to 12 million people worldwide. Faced with this reality, the international community is coming to grips with the size of the problem and realizing it's time to act.

Because stateless people are not citizens of the country where they live (or of any other country), they are often denied basic rights and access to employment, housing, education, health care and pensions. They may not be able to own property, open a bank account, get married legally or register the birth of a child. Some face long periods of detention, because they cannot prove who they are or where they are from.

"It is the worst possible thing to happen to a human being. It means you are a non-entity, you don't exist, you're not provided for, you count for nothing. In Kenya if you don't have an ID card you don't exist. I have children and grandchildren and I want them to be able to manage their future. Everybody should feel that they can realize their dreams in the future.'' – Nubian elder, Kibera, Kenya.

"These people are in desperate need of help because they live in a nightmarish legal limbo," says António Guterres, the UN High Commissioner for Refugees. "This makes them some of the most excluded people in the world. Without addressing statelessness and making efforts to prevent it, the problem becomes self-perpetuating because stateless parents cannot pass a nationality to their children. Apart from the misery caused to the people themselves, the effect of marginalizing whole groups of people across generations creates great stress in the societies they live in and is sometimes a source of conflict."

"I just had one simple hope: that when I died I could get a death certificate, to prove that I ever existed." – Former Cambodian refugee, stateless for 35 years in Viet Nam, who received Vietnamese citizenship in July 2010.

The UN High Commissioner for Refugees (UNHCR), the UN organization mandated with helping stateless people, finds that the scale of the problem fluctuates over the years, with improvements in some regions offset by new problems in others. The large numbers at the beginning of the 1990s were gradually reduced as the successor states to the Soviet Union granted citizenship to several hundreds of thousands of people, but the numbers

increased again with developments in other parts of the world. The population data that UNHCR produces [every June](#) includes available official statistics or estimates, but these are not yet available for all countries.

While the full scope of statelessness across the globe is only just becoming known, UNHCR has found that the problem is particularly acute in South East Asia, Central Asia, Eastern Europe, the Middle East and various countries in Africa, with pockets of stateless people throughout the world. Because most of the countries of Latin America grant citizenship to all born on their territory, that region has the lowest incidence of people with no nationality.

Countries with the greatest numbers of stateless people, for which estimates are known, are Estonia, Iraq, Kenya, Latvia, Myanmar, Nepal, Syria and Thailand.

"Putting precise figures on the numbers of stateless people is inherently difficult because few countries have procedures to identify the stateless," explains Mark Manly, UNHCR's chief expert on statelessness. UNHCR estimates are based on census counts, surveys and other sources, including government estimates.

> "All I want is to have a green light to get a job, something I'm qualified for. I want to provide for my family. To be stateless just demonizes me. It takes the human out of me and makes me feel I have no value at all." – Mohammed, stateless in the United States for 25 years. He managed to go to college, and speaks five languages. The United States has proposed legislation to provide a legal status to stateless people. If adopted, the new legislation will mark the first time that the rights of the stateless have been addressed in the US.

Why People Become Stateless

Statelessness has several causes, some easier to fix than others.

Break-up of States. In the early 1990s, more than half of the world's stateless lost their nationality because of the break-up of states. The turbulent dissolution of the Soviet Union and the Yugoslav Federation caused internal and external migration that left hundreds of thousands stateless throughout Eastern Europe and Central Asia. Twenty years later, tens of thousands of people in the region remain stateless or at risk of statelessness.

> "If I had papers, I would be able to sustain my family, but now I'm a burden for them. I haven't been able to visit them for 14 years." – Damir, who emigrated from Tajikistan to Ukraine in 1997 and later lost his expired Soviet passport.

Abandonment after the post-colonial formation of a state is another cause of statelessness. Large populations have remained without citizenship as a result of such state-building processes for decades in Africa and Asia.

> "We never want to live in a camp any more. We don't want to live like this. We want to live with dignity." – Hasan, medical worker in a camp for Biharis, Bangladesh.

Complex Laws. Although international law places limits on the powers of states to give nationality, states do have the right to determine whom they consider to be a citizen. They have adopted a wide range of approaches. With this complex international maze of citizenship laws, many people find that they fall through the cracks between them. In some countries, citizenship is lost automatically after prolonged residence in another country.

> "I just want to go home. I want my own walls, to be able to close my door. I don't care where it is anymore - even if it is the middle of the Atlantic. I just want to go home." – Woman originally from the Soviet republic of Ukraine who is now stateless in the Netherlands.

Simple Obstacles. Failure or inability to register children at birth, a pervasive problem in many developing countries, leaves many children without proof of where they were born, who their parents were or where their parents were from. Not having a birth certificate does not automatically indicate the lack of citizenship, but in many countries, and in today's increasingly mobile world of migrants, not having proof of birth, origins or legal identity increases the risk of statelessness.

Discrimination against Women. While a number of countries in sub-Saharan and North Africa, the Middle East and Asia have started to reform legislation to address this, in at least 30 countries only men can pass their citizenship on to their children. The children of women from these countries who marry foreigners can end up stateless.

> "If you look at everything around it, it is about who is considered to be a real citizen, who does the state consider to be a citizen. What affiliation means, what identity means. In our case, affiliation is male affiliation, identity is male identity, and a citizen is a male citizen. This is an issue which requires a change of mindset. This is an issue which requires states to consider all citizens are equal, to consider that all human beings are equal. This is about states taking responsibility." – Lina Abou Habib, Director, Collective for Research and Training on Development – Action Campaign for Arab Women's Right to Nationality, Beirut, Lebanon.

Racial and Ethnic Discrimination. An underlying theme of most situations of statelessness is ethnic and racial discrimination that leads to exclusion, where political will is often lacking to resolve the problem. Via decree, Iraq's former President Saddam Hussein stripped the Faili Kurds of their Iraqi citizenship in one day (in 1980). While most Roma and other minority groups do have citizenship of the countries where they live, thousands continue to be stateless in Europe. Since states gained independence or boundaries were established, groups such as the Muslim residents (Rohingya) of northern Rakhine state in Myanmar, some hill tribes in Thailand, the Bidoon in the Gulf States and various nomadic groups have been excluded from citizenship in the only countries they have lived in for generations.

Often, such groups have become so marginalized that even when legislation changes to grant access to citizenship, they encounter huge obstacles and bureaucratic red tape. Often the cost of actually obtaining citizenship and documentation is almost insurmountable.

> "None of my children have any official documents. Nor do I. I cannot take them to a hospital or doctor; I do not get any medical aid and my children are often sick. When I gave birth, I could not get the birth certificates for my children, because I am stateless. Next year, my daughter will go to school, if I can get official documents and a passport." – Stateless mother in Kyrgyzstan

Two Conventions to Aid the Stateless

After World War II, international treaties on statelessness were developed by the international community to resolve statelessness of the millions who were deprived of their nationality and, in many cases, forced to flee their homes. The 1954 Convention relating to the Status of Stateless Persons defines who is to be considered stateless and establishes that stateless people are entitled to certain minimum standards of treatment. The 1961 Convention on the Reduction of Statelessness provides principles and a legal framework to help states prevent and reduce statelessness through safeguards in their nationality laws.

To date, only 66 states are parties to the 1954 Convention and 38 to the 1961 Convention.

"After 50 years, these Conventions have attracted only a small number of states,'' says Guterres, who is urging more countries to become parties to the Conventions. "It's shameful that millions of people are living without nationality – a fundamental human right. The scope of the problem and the dire effects it has on those concerned goes almost unnoticed. We must change that. Governments must act to reduce the overall numbers of stateless."

Some Success Stories

UNHCR works closely with legislators and civil society to eliminate the legal barriers that, indirectly or directly, create statelessness.

"In some cases, the solution to statelessness can be quite straightforward and inexpensive," explains Manly. "Frequently, all that is required to have a major impact on a population of stateless people is a tweak in national legislation or a change in policy."

On the other hand, if the core cause of statelessness is political, inter-ethnic friction or an international dispute, it can take years or generations to find solutions. "Each situation must be examined individually," says Manly.

Here are some of the successes over the last decade:

Bangladesh. The Urdu-speaking Bihari minority of Bangladesh remained stranded in Bangladesh without nationality for three decades following independence. The Biharis were unrelenting in taking their right to citizenship to court. A landmark ruling of the Bangladesh High Court in 2008 confirmed the Bangladeshi citizenship of the Biharis. The government has since issued national identity cards and registered Biharis to vote.

> Israt has lived his entire adult life without a nationality. Now, at age 60, he finally feels he belongs somewhere: "Before getting the identity card, I felt like an orphan. Now I realize the card is a big supporting hand for me. I can call myself a Bangladeshi." While most Biharis still live below the poverty line, getting citizenship has given the community hope that the next generation will have a better future.

Brazil has amended the national constitution to remove a clause that had left an estimated 200,000 children stateless. Brazil legislation formerly required that children born to Brazilians living abroad must reside in Brazil to obtain citizenship. This created problems of statelessness for children who were born in countries that do not provide citizenship to

those born on their territory. The strong Brazilian expatriate community formed a special movement (Brasileirinhos Apátridas) to lobby successfully for reform. In 2007, Brazil passed a constitutional amendment that allows children born to Brazilians abroad to get citizenship. The law applies retroactively and resolved the 200,000 cases of statelessness.

Iraq. The Iraq constitution of 2005 allows those who have been stripped of their citizenship, like the Faili Kurds, to apply for it to be restored. A nationality law adopted one year later created specific mechanisms to assist the Faili Kurds to regain citizenship. According to the Iraqi Ministry of Displacement and Migration, about 20,000 families, or 100,000 individuals, have reacquired Iraqi citizenship as a result of these measures.

> "After years of living in limbo, finally I have the feeling that I belong to a country. . . My children, my people and I regained the nationality and we feel again part of this great nation." – Sheik Al-Numani, representative of the Faili Kurds in Iraq.

Viet Nam recently amended its citizenship law to address a source of statelessness among Vietnamese women. As a growing number of Vietnamese married foreign men, many renounced their citizenship at the time of marriage to acquire that of their husbands. But some of these marriages ended through death or divorce before Vietnamese women acquired the nationality of their husbands, making these women stateless. In 2009, the government addressed this problem. Through public information campaigns, more Vietnamese women are learning how to reclaim their citizenship.

Indonesia. A nationality law passed in 2006 by the Indonesian government resolved the stateless status of hundreds of thousands of Indonesians who lost their citizenship after living abroad for more than five years, because they did not register at an Indonesian Embassy. The new law permits these people to reacquire their citizenship. Indonesian officials undertook a massive outreach effort in neighbouring Malaysia, benefiting 100,000 people who obtained Indonesian passports. The same law has also made it easier for some 1 million ethnic Chinese who have been living in Indonesia for generations to become Indonesian citizens. They were stateless or at risk of statelessness because of prior restrictions on granting citizenship.

Work in Progress

In some countries legislative or other changes have been introduced, but much has to be done still to implement them and ensure the stateless people concerned actually benefit, acquiring nationality and obtaining documentation to prove it.

North Africa and the Middle East. With Tunisia leading the way almost 20 years ago, Egypt, Algeria, Iraq and Morocco have reformed their laws over the last decade, granting women the right to pass their citizenship on to their children. Saudi Arabia and Yemen have recently introduced measures to allow children to acquire the nationality of their mothers in certain circumstances. Algeria grants women the right to extend citizenship to foreign spouses. Both the United Arab Emirates and Bahrain recently pledged before a UN human rights body to consider reforming legislation in this direction.

States from the former Yugoslavia. While most Roma and some other minority groups have citizenship of the countries they live in, many do not have identification documents and are at risk of statelessness. To prevent this, UNHCR and its partners have undertaken a civil registration and legal assistance campaign in Bosnia, Croatia, Macedonia, Montenegro and Serbia.

Kyrgyzstan adopted significant reforms in 2007 that allow thousands to acquire Kyrgyz citizenship. Almost two decades after Kyrgyz independence, about 25,000 people, including many ethnic minorities who had migrated to the area when it was part of the Soviet Union, remained stateless, because they did not acquire Kyrgyz citizenship under the country's first nationality law.

> "I live a poor life; I have no home of my own, and live with three children in this one room. I still have a Soviet passport, which is no longer valid. I don't have money to get a new Kyrgyz passport. I have to feed my children."
> Emira, stateless mother in Kyrgyzstan

Prominent civil society groups promoted the passing of the new citizenship law in 2007. The law was accompanied by new procedures for granting citizenship. Since then, UNHCR, in partnership with the Kyrgyz government, has conducted surveys in several regions to identify thousands of stateless people and help them secure proof of citizenship. Despite the changes in laws and procedures, many stateless persons are not aware of the changes and cannot afford the small administrative fees.

Kenya. Of several groups affected by statelessness, the Kenyan Nubians are the best known. They are descendants of Sudanese soldiers recruited by the British to fight for them in East Africa during the colonial period. They also fought in both world wars as part of the King's African Rifles. After independence in 1963, the Nubians remained in Kenya where they had lived for generations, but lacked the rights of full citizenship.

The well-organized Kenyan Nubian community has led a strong campaign to redress their plight. For the first time, the 2009 Kenyan census included Nubians as a recognized ethnic group. The Nubians also have improved access to identification documents, which has a direct impact on their access to other essential rights, such as education and employment. Moreover, Kenya's new constitution (2010) has brought positive reforms that will hopefully reduce statelessness in general, including granting gender equality in citizenship laws.

Counting Legal Ghosts

Greater efforts must be made to better identify the scale and scope of statelessness around the world. UNHCR officials say measuring statelessness is difficult at best, because those affected have no legal identity and remain hidden.

It is not simply a matter of counting. The first question to ask is: "Who should be counted?" A thorough analysis of a country's citizenship laws and how they are applied is necessary, as well as a parallel examination of the laws and practice of other relevant countries.

UNHCR recognizes it has insufficient data on stateless populations and is taking steps to address this problem by raising awareness of the international legal definition to determine who qualifies as a stateless person, says Manly. The organization is working to improve the guidelines it uses to determine how statistics and qualitative information on relevant stateless populations can be gathered.

A Global Problem

By any measure, statelessness is a multifaceted problem that affects people across the world.

The post-election stalemate and violence in late 2010/early 2011 in Côte d'Ivoire demonstrate the dangerous relationship between statelessness and conflict. The citizenship status of a significant portion of the Ivorian population has been subject to political dispute and has helped spark tensions and conflict that led to a large-scale displacement of the population. Citizenship issues continue to fuel ethnic and political tensions, as well as land conflicts. These remain important issues to be resolved in Côte d'Ivoire's peace-building process.

Heightened attention to national security concerns over the last decade has also unearthed new cases of statelessness. "With increased concerns about terrorism and more emphasis on border control, more individuals are being uncovered who cannot prove their identity and do not have citizenship," says Manly. "Many of these cases have been discovered through immigration detention. These stateless persons can't be deported because no state recognizes them or wants to take them in."

The world welcomed the birth of South Sudan in July, but it remains to be seen how new citizenship laws in both the north and south will be implemented.

What happens to the citizens of low-lying island states that vanish as waters rise due to global warming? Of which country will they be citizens?

The positive impact of resolving statelessness is enormous, on individuals and the societies they live in.

> "I have lived illegally for almost 17 years… it was really terrible, but it is so nice to know it is over!'' – Olga, who moved from Uzbekistan to Crimea and was finally given Ukrainian citizenship.

The dangers of doing nothing and allowing large groups of people to fester in legal limbo are evident from the existing examples of statelessness situations. "Without many more countries helping to prevent and reduce statelessness – by signing up as parties to the Conventions and taking concrete steps such as law reform – significant progress won't be made," says Manly.

August 30, 2011 marks the 50th anniversary of the 1961 Convention on the Reduction of Statelessness. UNHCR has redoubled its efforts to resolve the ongoing plight of the statelessness. With increased awareness of the phenomenon other states are following the lead of Panama, the Philippines, Croatia and Turkmenistan and taking action on the issue. In December 2011 UNHCR will hold a ministerial-level meeting in Geneva and it is hoped that this venue will present an opportunity for more states to join together to resolve the problem of statelessness.

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