

STATELESSNESS:
PREVENTION AND REDUCTION OF STATELESSNESS AND
PROTECTION OF STATELESS PERSONS

I. INTRODUCTION

1. UNHCR has a statutory function of providing international protection for stateless refugees. The activities of the Office relating to stateless refugees have significantly contributed to acquisition or restoration of citizenship within the framework of voluntary repatriation, local integration or resettlement. In addition, UNHCR has been given a specific and global mandate to prevent and reduce statelessness and protect non-refugee stateless persons by the United Nations General Assembly in 1974 and 1976.¹ This mandate was further elaborated upon by various other General Assembly resolutions, as well as through Conclusions on International Protection of the Executive Committee of the High Commissioner's Programme. By way of examples, General Assembly Resolution A/RES/50/152 of 9 February 1996 states that the General Assembly:

“Concerned that statelessness, including the inability to establish one's nationality, may result in displacement, and stressing, in this regard, that the prevention and reduction of statelessness and the protection of stateless persons are important also in the prevention of potential refugee situations (...); 15. Requests the Office of the High Commissioner, in view of the limited number of States party to these instruments, actively to promote accession to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, as well as to provide relevant technical and advisory services pertaining to the preparation and implementation of nationality legislation to interested States; 16. Calls upon States to adopt nationality legislation with a view to reducing statelessness, consistent with the fundamental principles of international law, in particular by preventing arbitrary deprivation of nationality and by eliminating provisions that permit the renunciation of a nationality without the prior possession or acquisition of another nationality, while at the same time recognizing the right of States to establish laws governing the acquisition, renunciation or loss of nationality.”

2. Millions of persons continue to be denied the right to enjoy an effective nationality. At its 55th session, taking into account the findings of the final report of UNHCR's first global survey on statelessness,² the Executive Committee requested UNHCR³ to continue to provide technical and operational support to States and to pay more attention to protracted statelessness situations:

¹ Resolutions 3274 (XXIX) of 10 December 1974 and 31/36 of 30 November 1976.

² Final Report concerning the Questionnaire on Statelessness pursuant to the Agenda for Protection, March 2004.

³ A/AC.96/1003, para. 21.

“(aa) Welcomes the publication in March 2004 of the final report of UNHCR's global survey on statelessness as an important step towards establishing a common understanding of a problem affecting all regions of the world; and calls on UNHCR to continue to provide technical and operational support to States with the aim of avoiding and resolving statelessness and furthering the protection of stateless persons, in particular in view of the limited number of States Parties to the 1961 Convention on the Reduction of Statelessness;

(bb) Notes with concern that many situations of statelessness are of a protracted nature and invites UNHCR to pay particular attention to them and to explore with concerned States measures that would ameliorate those situations and bring them to an end.”

This was fully consistent with the repeated stance of ExCom elaborated for example during the October 2004 panel discussion on statelessness organized in commemoration with the 50th Anniversary of the 1954 Convention on the Status of Stateless Persons.

II. FUTURE DIRECTIONS

3. In its 2005 Progress Report on activities in the field of statelessness to the Standing Committee,⁴ UNHCR outlined recommended future directions for States, international organizations and UNHCR, to prevent and reduce statelessness and to further protect stateless persons. These, among other recommendations, are summarized below and could form the basis of a future Conclusion of the Executive Committee on this topic.

A. Identification of Statelessness

4. In the identification of statelessness, some important initiatives could include:
- a) renewed efforts by States to identify stateless populations residing in their territory with the assistance of UNHCR and other United Nations agencies (such as UNFPA) and to provide yearly statistics on stateless persons or individuals with undetermined nationality to UNHCR;
 - b) an increase in UNHCR's capacity to undertake research in partnership, where appropriate, with relevant academic institutions, so as to assist States to better identify and profile stateless populations, as a basis for crafting strategies to assist them to acquire an effective citizenship or, at a minimum, to have access to basic rights as stateless persons;
 - c) UNHCR to promote a common understanding of the problem of statelessness and a platform for dialogue between States;
 - d) cooperation with the Inter-Parliamentary Union (IPU) in the field of nationality and statelessness, including to further disseminate the 2005 *Nationality and Statelessness: A Handbook for Parliamentarians*⁵ in national and regional parliaments to raise awareness and build capacity among State administrations and civil society.

⁴ EC/55/SC/CRP.13.

⁵ *Nationality and Statelessness: A Handbook for Parliamentarians*, UNHCR / Inter-Parliamentary Union, Geneva, 2005.

B. Prevention of Statelessness

5. With regard to the prevention of statelessness, initiatives could include:
- a) States to ensure systematic birth registration and issuance of birth certificates as a means to provide a legal identity and an effective nationality to children; UNHCR and UNICEF to cooperate to assist interested States in such registration and documentation at birth;
 - b) States to review legislation with a view to amending provisions which impose an automatic change in nationality status by virtue of marriage or dissolution of marriage;
 - c) States to review legislation to ensure equality between men and women in passing on nationality as means to combat the occurrence of statelessness;
 - d) States to ensure the adoption and systematic use of safeguards in national legislation protecting against statelessness arising as a result of arbitrary deprivation, renunciation or loss of nationality and UNHCR to provide technical and advisory support to this end;
 - e) further efforts by States, in cooperation with UNHCR and other concerned organizations, to promote the adoption of national systems with consistent and clearly identifiable mechanisms aimed at the avoidance of statelessness in the event of State succession.

C. Reduction of Statelessness: Finding solutions to protracted situations of statelessness

6. One of the main challenges faced by the international community remains how to bring to an end protracted statelessness situations which prevent millions of people from enjoying an effective citizenship, and how to prioritize situations where stateless persons are absolutely destitute. Some of these longstanding situations have recently been able to be resolved, due to strong political commitment to do so and the underpinning of State action by operational support from UNHCR, with the active engagement of civil society, mainly local NGOs.⁶

⁶ The following recent examples demonstrate that solutions can be found to protracted situations of statelessness: a) Persons of Indian Origin in Sri Lanka: In 2004 in Sri Lanka 190,000 stateless persons acquired citizenship on the basis of the "Grant of Citizenship to Persons of Indian Origin Act", unanimously approved by the Parliament in October 2003. This benefited persons who were brought to Sri Lanka (formerly 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. 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 total of 50 mobile centers were set up in the tea plantation area where people could apply for citizenship. b) Crimean Tatars in Ukraine: Thanks to the efforts of Parliament, governmental and non-governmental organizations, with UNHCR support, the legal framework enabled progress for acquisition of citizenship in Ukraine by the formerly deported Crimean Tatars and their descendants. In 2005, more than 3,000 returnees from Uzbekistan were able to acquire Ukrainian citizenship under the provisions of the new Citizenship Law. The number of Crimean Tatars who still need to obtain Ukrainian citizenship has now reached an all-time low. Hundreds of thousands were able to acquire Ukrainian citizenship during the last decade. c) Citizenship campaigns in The former Yugoslav Republic of Macedonia: Amendments to the citizenship law adopted in 2004 allowed long-term habitual residents to regularize their citizenship. The Ministry of Interior, in cooperation with UNHCR and the OSCE, organized a citizenship information campaign to disseminate information on the procedures enabling interested persons to regularize their status. Based on an analysis of the main populations at risk of statelessness, the campaign included dissemination of brochures and TV spots in Albanian and Roma.

7. Possible initiatives in this area might be:
- a) UNHCR to promote a consistent United Nations inter-agency response to protracted statelessness situations, particularly in cooperation with the United Nations Office of the High Commissioner for Human Rights, UNICEF and UNIFEM, as well as to assist, where necessary, concerned States to integrate or reintegrate marginalized communities by developing programmes in the field of education, housing, and income-generation, in partnership with UNDP and ILO;
 - b) States to ensure the grant of citizenship at birth or provide access to citizenship through legislation to children born on their territory who would otherwise be stateless, as foreseen by Article 7 of the Convention on the Rights of the Child (CRC); UNHCR to cooperate with UNICEF to promote full implementation of this CRC provision;
 - c) UNHCR to assist States to organize citizenship campaigns and other measures enabling stateless persons to acquire citizenship;
 - d) States to cooperate in the establishment of identity and nationality status of victims of trafficking, many of whom, especially women and children, are rendered effectively stateless due to an inability to establish such status, so as to facilitate appropriate solutions to their situations, respecting the internationally recognized human rights of the victims.

D. Protecting Stateless Persons

8. The 1954 Convention on the Status of Stateless Persons is the international instrument which provides a definition of a stateless person and sets out a set of minimum rights and obligations for stateless persons. Despite UNHCR's efforts to promote the accession to the 1954 Convention, only 58 States have done so. There is a need for renewed efforts to ensure stateless persons are able to access the rights to which they are entitled in their country of residence, even before they are enabled to acquire an effective citizenship such efforts should be built around:

- a) States giving renewed consideration to acceding to the 1954 Convention on the Status of Stateless Persons;
- b) UNHCR actively disseminating information and training government counterparts on appropriate mechanisms for identifying, recording, and resolving cases of statelessness and furthering the protection of stateless persons;
- c) UNHCR implementing programmes, as necessary, which contribute to protecting and assisting stateless persons;
- d) UNHCR assisting stateless persons to access legal remedies to redress statelessness, in particular statelessness 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;
- e) States reviewing nationality legislation with a view to facilitating access to nationality for habitual and lawfully resident stateless persons;
- f) State Parties to the 1954 Convention reviewing national legislation and administrative practice so as to ensure full implementation of this instrument; and,
- g) UNHCR providing guidance to States on the implementation of the 1954 Convention and promoting a consistent understanding of its provision.