



# Good Practices

## Addressing Statelessness in South East Asia

Report of the *Regional Expert Roundtable on Good Practices for the Identification, Prevention and Reduction of Statelessness and the Protection of Stateless Persons in South East Asia*, Bangkok, 28 to 29 October 2010



**Professor Amara Pongsapich**

Chairperson of the National Human Rights Commission of Thailand

*"Human rights are inalienable rights of all peoples regardless of who they are or where they live. But in reality, human rights are guaranteed and effectively protected only when a person is legally recognized by a state. Unfortunately, a number of people are denied their inherent rights because they do not belong to any state.*

*Statelessness is a common problem for countries in the Southeast Asian region. Each country has undertaken measures to address the problem and has made some good progress. This Roundtable provides a forum for academicians, experts and practitioners in the region to share their experiences in reducing and preventing statelessness and learn from one another some good practices which they can borrow, adapt and apply in their own countries. It is also an opportunity for us to identify remaining challenges and appropriate responses, as well as possible areas for cooperation at the regional level.*

*The discussion at the Roundtable was very optimistic and its outcome has been encouraging as participants saw the need to work individually and collectively to address the issue of statelessness. I hope the enthusiasm created at the Roundtable will be carried forward and contribute to the solution of statelessness in the region."*



**Mr. Jean-Noël Wetterwald**

UNHCR Regional Coordinator for South East Asia

*"Across South East Asia and around the world, states' interest in statelessness and their commitment to finding solutions is growing. This was in evidence at the Regional Expert Roundtable on statelessness held in October 2010. With thirty years of experience working in the region, it was with great pleasure that I took part in this significant event.*

*The good practices presented at the Roundtable were rich in terms of both the variety and the inventiveness of initiatives. It is particularly encouraging to see the steps being taken to better identify problems of statelessness in the region. This is a necessary foundation for an informed and effective response. We hope that the Roundtable itself will have played a part in furthering the understanding of this phenomenon and inspiring further action.*

*UNHCR's mandate covers not only protecting refugees but also addressing statelessness. As we enter a year of commemorative activities relating to the international statelessness conventions, it is clear that statelessness is already very much on national and regional agendas. The sense of a shared vision and a shared commitment that came to light through the Roundtable discussions puts us in good stead in South East Asia for 2011 and beyond. We will redouble our efforts to support states and other stakeholders as they build upon the existing good practices and work together to address this important issue."*

**Photographs**

**Cover:** A young girl in Cambodia who has just received a birth certificate, providing her with proof of her identity, place of birth and parentage for the first time. Birth registration plays a critical part in preventing statelessness. [Plan Cambodia]

**Current page:** Pictures taken during the Roundtable discussions. [UNHCR/Somkiat Insawa]

**Contents page** (right): New Vietnamese citizen is surrounded by other formerly stateless people who all received their Vietnamese nationality in July 2010. They now have the all-important red "family books" and are keen to hear from him – a longtime community leader – about exactly what rights these confer. [UNHCR/K. McKinsey]



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## Introduction

Statelessness is a global phenomenon, affecting all regions, including South East Asia. Indeed, it has emerged as one of the most pressing problems facing states today, as the devastating impact that it can have on the lives of individuals and the fabric of communities comes into focus. At the same time, good practices are also surfacing as states and other stakeholders take steps to address statelessness.

In order to exchange experiences from the region, an Expert Roundtable was held in Bangkok on the 28<sup>th</sup> and 29<sup>th</sup> of October 2010 to discuss initiatives in South East Asia in the field of statelessness. The meeting was convened by the United Nations High Commissioner for Refugees (UNHCR) and the National Human Rights Commission of Thailand, with funding provided by donors, including the European Commission.

This publication serves as a report of the Roundtable and provides an insight into some of the region's good practices. In accordance with the agenda of the meeting itself, good practice examples are included from each of the four pillars of response: the identification, prevention and reduction of statelessness and the protection of stateless persons. The publication also presents some overarching observations that surfaced during the Roundtable and can be valuable in shaping further efforts to address statelessness.

### A “stateless person”

A stateless person is “a person who is not considered as a national by any State under the operation of its law”. This definition is considered to be part of customary international law. As such, it forms the cornerstone for identifying and responding to problems of statelessness. The definition can also be found in article 1 of the 1954 *Convention relating to the Status of Stateless Persons*, an instrument that confers rights and duties on people who meet the definition.

**A stateless person is someone who is not considered as a national by any state under the operation of its law.**

When applying the definition of a stateless person in practice and deciding if a person is considered as a national by any state under the operation of its law, it is important to look not only at the content of relevant nationality law. How the legal provisions are interpreted and applied by the state in a particular case also needs to be taken into account. In some cases, but certainly not always, a stateless person may *also* be undocumented, hold an irregular immigration status and/or be a refugee. The fact that a stateless person's circumstances can also be characterised through the use of other terms has no bearing on the finding of statelessness.



*A staff member from Thailand's Bureau of Social Development interviews a hill tribe villager in Chiang Mai about her nationality, legal status and access to social services.*

[UNESCO/P. Sidonrusmee]

**“I had just one simple hope: that when I died I could get a death certificate, to prove that I ever existed.”**

*Sentiment expressed by a middle-aged formerly stateless resident of Viet Nam who acquired Vietnamese citizenship by naturalisation in July 2010. Now he will be able to get a death certificate, when the time comes.*

## Concerns

Stateless people will find that their lack of any nationality has an impact on many aspects of their lives. Statelessness can obstruct access to work, education and healthcare as well as the ability to travel, own property or get married. Statelessness often leads to the political, social and economic marginalisation of the individuals concerned. This can also be detrimental to a person’s sense

of identity and worth. Moreover, the immediate impact of statelessness extends beyond the stateless people themselves, to affect their families. For instance, without appropriate safeguards in place, statelessness and its accompanying hardships can be transmitted from parent to child. Statelessness can also have a broader impact on society as a whole, in particular because excluding an entire sector of the population may create social tension and significantly impair efforts to promote economic and social development. Moreover, statelessness may lead to forced displacement.

A recent discussion with some of the formerly stateless residents of Viet Nam illustrates the true human impact. One young man, now 29 years of age, spent the first 27 years of his life without a nationality. Born in Viet Nam to a stateless father and Vietnamese mother, he described what life was like when he was stateless: “when I wanted a girlfriend and met her parents, they asked me who I was, why my name was strange and where my ID card was. Finally I met a girl I loved and her parents didn’t care about the ID card, but we couldn’t legally marry because I didn’t have the ID card”. Since acquiring citizenship two years ago through his mother, things have changed for him. “After I got citizenship, I could go for further study, I could get social insurance, I got promoted from accountant to chief accountant (in a private company) and I got a big raise. I was offered the promotion earlier, but under Viet Nam’s licensing regulations, non-citizens can’t be a chief accountant”.

## Building a response

To build an effective response to statelessness, it is helpful to differentiate between four types of activity: *identification*, *prevention*, *reduction* and *protection*. Each of them has a different objective. This four-pillar approach greatly facilitated discussions at the Roundtable, although participants also rightly pointed out that there can be many linkages between the different pillars. This is not least because identification serves as an important foundation for constructing an effective response in terms of prevention, reduction and/or protection.



- > **Identification:** What methods can be used to “map” the situation of stateless persons?
- > **Prevention:** What can be done to avoid *new* cases of statelessness?
- > **Reduction:** What measures can be taken to resolve *existing* cases of statelessness?
- > **Protection:** What is needed to ensure that stateless persons enjoy their fundamental rights?

## Identification: Mapping statelessness and populations at risk

By the conclusion of the Roundtable, two basic facts had come clearly to the fore: diligent mapping of statelessness and populations at risk lies at the heart of a truly effective response, yet considerable gaps remain in information about statelessness in South East Asia. A particular concern expressed is the current shortage of reliable statistical data on the scale of the problem across the region. Nevertheless, through the good practices shared by participants, it became apparent that there have been significant efforts to identify statelessness, using of a variety of mapping mechanisms.

### Legal analysis

Domestic law can help states to identify statelessness by transposing the international definition of a stateless person into the national legal framework, thereby encouraging the relevant authorities to put the term to use. Both Viet Nam and Lao PDR provide a definition in their respective laws – an important acknowledgement that a finding of statelessness is relevant to the implementation of other legal standards, such as measures to avoid perpetuating statelessness from one generation to the next or norms for the protection of stateless people.

#### GOOD PRACTICE

Lao PDR and Viet Nam have both included a definition of “stateless person” in their nationality laws. This will help with the identification of statelessness and application of relevant standards.

A closer look at domestic legal provisions will also help with the actual mapping itself. The simple failure to include adequate safeguards in a nationality law, or a conflict between the nationality laws of different states in their operation in an individual case, can be enough to create statelessness. It is therefore possible to develop a profile of both stateless and at risk populations on the basis of legal analysis. For instance, where nationality can automatically be lost following long-term residence abroad, members of migrant communities may find themselves stateless. The straightforward process of assessing nationality regulations can provide a first piece of the puzzle in the identification of statelessness. Indeed, in Africa, a comparative analysis of countries’ nationality laws conducted by the Open Society Institute has made policies transparent and can be used to identify problems of statelessness. At the Roundtable it was suggested that a similar project could be beneficial to South East Asia.

### Some principal components of identification

- > **Scale and demographic profile** – the statistical makeup of the population, including by age, gender, language, etc.
- > **Location** – detailed mapping of where the people reside in the country
- > **Causes** – the reason that the group is stateless or at risk of statelessness, including analysis of legal framework
- > **Status** – the present legal status of the population, including whether they are recognised as stateless
- > **Protection concerns** – the difficulties faced in terms of access to rights and services
- > **Stakeholders** – the actors, within the domestic and international framework, that (can) play a part in addressing the situation
- > **Capacity** – the extent to which the affected group and other stakeholders can contribute to resolving the situation
- > **Attitudes** – the extent to which the perception of the situation, by different parties, may influence finding a solution

*For more guidance on the identification of statelessness, see the tool “Statelessness: An Analytical Framework for Prevention, Reduction and Protection”, which was developed by UNHCR in 2008 and can be found at <http://www.refworld.org>*

## Mapping through outreach

If potential problems have been uncovered through a legal analysis exercise or another method, outreach work can help to build a better picture of the situation. Or, indeed, it may be through an organisation's involvement in other activities – such as a community development programme or unrelated legal assistance project – that cases of statelessness are first identified. The issue can then be mapped through the further gathering of information.

When the problem of statelessness came to the attention of the NGO community in Malaysia, the need for a mapping exercise was quickly identified. A 10,000-household survey was launched, but respondents were reluctant to participate. "They were concerned about what would happen if they revealed their nationality status" explained Ms. Nanthini Ramalo of ERA Consumer, an organisation involved in the initiative. "So we looked for a different approach. We decided to work to build awareness and trust by setting up 'legal literacy trainings' and offering legal advisory services". This outreach work helped identify the causes and consequences of statelessness – creating a profile of not just which groups are affected, but also how their situation might be addressed.

### GOOD PRACTICE

After encountering difficulties collecting data through a household survey, Malaysian NGOs changed tack and started an awareness raising and outreach programme to sensitise the affected population and gather information.

The Cambodian Human Rights Action Committee also followed a casework approach to get a better sense of how statelessness is affecting communities in Cambodia. The issue surfaced in the context of documenting the claims of people seeking to participate as civil parties before the Extraordinary Chambers in the Courts of Cambodia. When several individuals indicated that they had difficulty acquiring recognition of their citizenship following their return to Cambodia after the war, additional outreach was pursued in order to study the problem further.

## Population data

Some government planning tools can be tapped for information about statelessness. A periodic population census may capture data about access to nationality that can be used to identify statelessness and populations at risk. Consequently, UNHCR and the UN Population Fund (UNFPA) concluded an agreement to strengthen their cooperation and provide further technical assistance to states on how to tailor questions in their census questionnaire in order to permit the identification of statelessness. A particular focus is to ensure that data on nationality collected through a population census is reliable and verifiable. During the Roundtable, several participants expressed a keen interest in pursuing the mapping of statelessness through the next national census. Other relevant population data sources were also referenced, including civil registers and electoral lists.

*UN High Commissioner for Refugees António Guterres and UNFPA Executive Director Thoraya Ahmed Obaid after the signing of an agreement in April 2008, under which the agencies would broaden their cooperation to include statelessness.*

[UNHCR/S. Hopper]



## Surveys

A direct way to gather data on statelessness is through a survey that specifically seeks to uncover individuals who are stateless or at risk of statelessness. With tailor-made questionnaires, it is possible to build a detailed demographic profile of the population and collect extensive statistical or even qualitative data. This methodology has already proven to be very effective in some of the good practice examples from the region that were discussed at the Roundtable.



*A formerly stateless brother and sister hold up the all-important certificates that show they have acquired Vietnamese nationality. An extensive survey contributed to the design and implementation of a policy for the naturalisation of many more long-term residents who are stateless, like they once were.*

*[UNHCR/K. McKinsey]*

In Viet Nam, a survey facilitated the development of the state's policy on the naturalisation of stateless former-Cambodian refugees by providing current and accurate data on the group concerned. In Thailand, a survey of the hill tribe population in the border region enabled the quantification of problems of statelessness in that area, while also presenting a picture of how the lack of Thai nationality is affecting access to services. Furthermore, in many countries, surveys conducted by UNICEF and others have helped to illuminate the extent of birth registration coverage. Findings from such survey exercises can inform the design of projects to address gaps.

## Some considerations when planning a survey

- **Objectives** – Clarify what you want to know. Are you setting out just to identify who is stateless or also to gather information about their situation, capacities, etc?
- **Capacity** – Conducting surveys can be labour intensive. Researchers must establish data collection, entry/compilation, processing and analysis capacities. A diverse range of funding sources may be explored to boost capacity.
- **Focus** – Take into account available capacity and focus your survey to maximise its impact. Identify your target demographic and the locations where canvassers will distribute questionnaires. Survey questions need to be carefully crafted, and thoroughly tested, in order to capture desired information.
- **Practicalities** – Plot out the practical obstacles unique to each survey and possible responses. For example, account for environmental limitations such as weather and terrain. Interpreters and/or translated surveys may be required to deal with language as well as cultural differences. Time the distribution of questionnaires to ensure adequate access to respondents - avoid distribution during working hours or busy work seasons.



## Surveying hill tribe communities in Thailand

In 2005-2006, the Thai Ministry of Social Development and Human Security and UNESCO conducted a large-scale survey studying the prevalence and impact of statelessness on northern hill tribe communities. Information on close to 65,000 individuals from over 12,000 households in 192 villages in Chiang Mai, Chiang Rai and Mae Hong Son was captured by the survey.

The project had to overcome several logistical hurdles. Ms. Amanda Flaim (UNESCO Thailand) noted that the group exercised great care in designing the survey: “testing the questions thoroughly beforehand was very important. We needed to be sure that the survey gathered all relevant information, but did not raise people’s hopes since it was a data collection exercise only”. She added that “another major consideration was language. Our target community, Thailand’s hill tribe groups, is very diverse so we needed to have interpreters ready to assist with translation of the questions into many different languages”.



*Survey-taking by candlelight, since many respondents were only available in the evenings, being out at work during the daytime. [UNESCO/Peerayot Sidonrusmee]*

The survey confirmed the extent of the issue of non-citizenship among hill tribe members, with 38% of respondents lacking Thai nationality. In addition to legal restrictions—non-citizens may not, for instance, vote in government elections—the survey points to persistent problems non-citizens face when trying to access basic services. The survey showed that, compared to Thai nationals, non-citizens were 99% less likely to access public healthcare and 25% less likely to access financial credit. Regarding education, non-citizens were 73% less likely to enter primary school and 98% less likely to progress to higher education. However, education rates among hill tribe members steadily improved across generations.

According to Mr. Madi Suwansiri (Thai Bureau of Social Development), “the information gathered through the survey can help with policy-making at the local, district and national level. We can now use the data to create a programme to help improve the living conditions of these communities”. In 2010, a second survey revisited previous respondents and expanded coverage to include an additional 89 villages in the Tak and Kanchanburi provinces. The results, expected to be released in the course of 2011, will provide an insight into the effectiveness of ongoing government initiatives to address statelessness and its consequences.

## Recognising the cross-cutting nature of statelessness

The Roundtable brought together participants with a common interest in statelessness - a core human rights issue and one worthy of attention through such a meeting. However, participants also came armed with their own independent insight into how statelessness manifests itself and how it affects people and communities. Over the course of the discussion, many different nuances and subtleties came to light. This can be summarized with the observation that the cross-cutting nature of statelessness is significant. It is a women's issue, a children's issue, a migration issue, a trafficking issue, a community development issue and even a national security issue.

Recognising the links between statelessness and the plethora of intersecting concerns can add value in the search for an effective response. It may present an opportunity to raise the issue in a new forum, such as through the ASEAN Commission on the Rights of Women and Children, where fresh ideas may surface. It can allow for a highly focused debate about a particular aspect of the issue, helping to break down the concerns to a level of detail at which more progress could be achieved. Plus, it could help to attract funding for projects by identifying where initiatives related to statelessness fit into relevant programmatic areas of interest of potential donors.

Exploring statelessness from an innovative angle may provide a chance to present the story in a novel way or to a different audience. This can help in the effort to raise awareness of the problem of statelessness or to engender public support for a particular response. Finally, as evidenced by the meeting itself, recognising the cross-cutting nature of statelessness brings to the table a variety of organisations, with different strengths and capacities. Information exchange and cooperation between such diverse actors can contribute significantly to building an effective response.



*A number of women became stateless after their marriages with foreign men fell apart. They struggled after returning to Viet Nam due to their statelessness. Some have now recovered their Vietnamese nationality and secured citizenship for their children, making life easier. These cases illustrate how statelessness interacts with issues like migration and women and children's rights. [UNHCR/K. McKinsey]*

## Prevention: Addressing the root causes of statelessness – with special attention to migrants, women and children

Everyone knows that prevention is better than cure. In the context of statelessness, prevention means addressing root causes to ensure that no one is left without a nationality. Often, a few simple legal or procedural safeguards may be all that is needed to avoid statelessness, making prevention the most straightforward way to tackle the issue. It is also the most desirable, because effective prevention means no one has to face, even temporarily, the detrimental consequences of statelessness.

Across South East Asia, laws have been amended and policies reformed to take on the root causes of statelessness. Several groups can be identified as being at particular risk of statelessness, including migrants, women and children. Targeted measures have been introduced accordingly, to address their vulnerability.

### Migrants

There have been numerous successful initiatives in the region for the avoidance of statelessness in the context of migration. Indonesia reformed its nationality law in 2006 such that citizenship can no longer be lost by Indonesian migrants who spend more than five years abroad if this would render them stateless. This is a critical safeguard against statelessness, especially for countries that are significant sources of migrant labour.

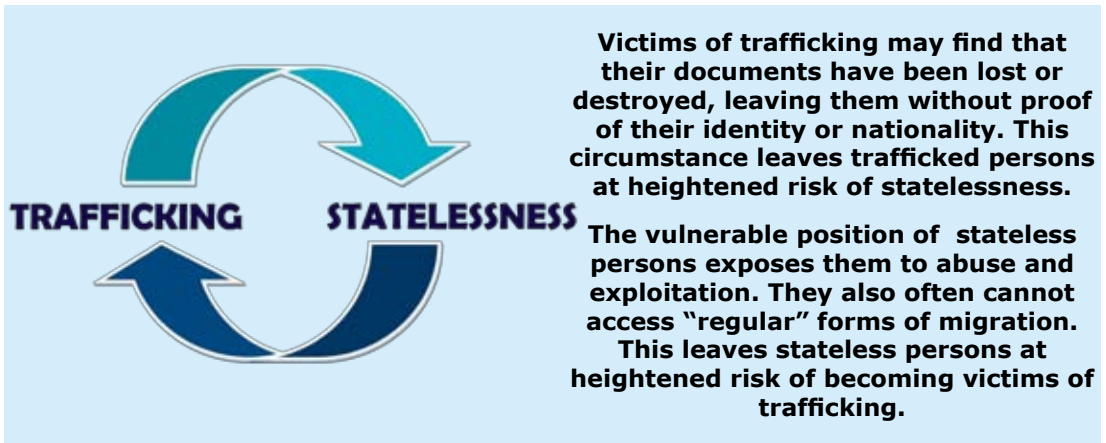
If migrants decide that they would, in fact, like to change their nationality they may apply for naturalisation in the receiving state. In that case they could be asked to renounce their original nationality so that dual nationality is avoided. However, in order to prevent statelessness from arising in this context, most states in the region will now only allow the renunciation of nationality if the individual has already successfully acquired a new nationality.

In Thailand, a programme has been put in place to verify the nationality of undocumented migrants. Thanks to procedures implemented under Memoranda of Understanding with the principal labour sending countries – Lao PDR, Cambodia and Myanmar – these migrants are able to receive confirmation and documentation of their (foreign) nationality. This kind of measure can help to prevent statelessness by ensuring that migrants hold proof of their nationality, which in turn will help to promote the enjoyment of nationality by their children.

#### GOOD PRACTICE

Around 400,000 migrants in Thailand have received confirmation and documentation of their nationality, thanks to an ongoing nationality verification exercise in cooperation with Cambodia, Lao PDR and Myanmar.

On the sidelines of this official nationality verification process, other cooperative projects are emerging. Law faculties in Thailand and Lao PDR are working together to identify further migrants who may benefit from the confirmation of nationality and raise this directly with the relevant government bodies. During the Roundtable, participants exchanged ideas on the possibility of expanding this programme to include a study of the situation of migrants from Myanmar.



The specific context of trafficking poses its own challenge to the prevention of statelessness, since it will often leave people without any evidence of their nationality. Verification procedures such as those put in place for undocumented migrants in Thailand can offer the answer. South East Asian states have expressed their overall commitment to cooperation in the verification of identity and nationality of trafficking victims through their participation in the *Bali Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime*, as well as under the terms of the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children*.

## Women

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) has been universally ratified by South East Asian states. In accordance with this instrument, gender discrimination in the enjoyment of nationality rights has been progressively abolished. Today, most women in the region can pass nationality to their children on equal terms with men. This has dramatically reduced the risk of statelessness among children.

States have also taken measures to ensure that women are not left stateless following marriage or divorce. In Viet Nam, there has been an upward trend in marriages between Vietnamese women and foreign nationals. In the past, this led to some cases of statelessness where women renounced their Vietnamese nationality in order to take up their husband's, but subsequently failed to complete those procedures. In response, the Vietnamese Nationality Law was amended in 2008 to prevent this situation and enable women who had previously lost their nationality to re-acquire it.

*In accordance with CEDAW, gender discrimination in the enjoyment of nationality rights has been progressively abolished with several countries in the region having amended their nationality laws. As a result, some women have regained their citizenship.*

[UNHCR/C. Doan]





**“The easiest and most effective way to deal with statelessness is to prevent it from occurring in the first place. One of the surest methods is to guarantee that individuals born on a state’s territory have the right to that state’s nationality if they would not obtain any other.”**

*Joint statement by UN High Commissioner for Refugees António Guterres and UN High Commissioner for Human Rights Louise Arbour in “The hidden world of the stateless”, 2007*

## Children

Ensuring that every child starts out life with a nationality is a particular focus of states in the region as they seek to prevent statelessness. A good example is the explicit safeguard in the majority of nationality laws to ensure that foundlings (children whose parentage is unknown) acquire a nationality. Several states in the region also grant nationality to children born on their territory if the parents are stateless, of undetermined nationality, are permanent residents or were also both born in the country. This helps to ensure that statelessness will not be perpetuated from one generation to the next.

These provisions will not, however, guarantee that no child born in the region will be stateless. To achieve this, states could adopt a principle found in the Malaysian constitution, whereby nationality is granted to any child born on state territory who would otherwise be stateless. This is a widely-adopted state practice globally and 100 states have accepted this principle through their international legal obligations.

### GOOD PRACTICE

According to the Federal Constitution of Malaysia, any person born on the territory of the state “who is not born a citizen of any country” is a citizen of Malaysia by operation of the law.

Promoting access to birth registration is another straightforward and highly effective measure that can help to prevent statelessness among children. Birth registration vouches for a child’s legal identity and provides official recognition of certain facts -including place of birth and parentage - that are key to determining the position of the child under applicable nationality laws. According to UNICEF, approximately 51 million children are born worldwide each year without having their birth registered. Given its importance, there has been a major push globally, including in South East Asia to improve birth registration coverage over the past few years. This, in turn, is contributing significantly to the prevention of childhood statelessness.

## Birth registration successful approaches

- **Conducive legal framework** – Legal reform in the Philippines addressed a sociological obstacle to birth registration by allowing children born out of wedlock to be registered using the father’s name, regardless of marital status.
- **Simple and accessible procedures** – In Cambodia, birth registration is now free of charge during the first 30 days after birth with only a nominal fine for those reporting later.
- **Adequate capacity** – Thailand’s computerisation of its civil register has made processing birth registration quicker and easier, also opening new avenues for cooperation with hospitals to further promote registration for all.
- **Direct outreach to vulnerable communities** – Brunei Darussalam has been commended by the Committee on the Rights of the Child for its use of “flying doctor teams” to register births in remote areas of the country.

## Legal reform guarantees birth registration for vulnerable groups in Thailand

Access to birth registration is often uneven – with varied coverage rates not just between countries but also within the same country. Certain groups are more likely than others to neglect registration procedures or to be overlooked by them. Among those who are commonly found to be vulnerable to non-registration are minority groups, remote or isolated communities and migrant or refugee populations. To achieve *universal* birth registration, the situation of such groups may demand special attention.

Such was the case in Thailand, where the government’s commitment to birth registration was reaffirmed in 2008 with the adoption of a new Civil Registration Act (No.2, 2008, B.E. 2551). Implementation of the country’s previous civil registration law left certain children without birth registration – notably those born to parents with an irregular or unclear immigration status. The principal groups affected were the country’s large community of undocumented migrant workers and displaced persons living in temporary shelters along the Thai-Myanmar border.

The revised law guarantees that *all* children born in Thailand, regardless of the nationality or the legal status of their parents, have access to formal birth registration procedures and birth certificates. On this basis, the issuance of official birth certificates to children who were previously excluded, including those born into displaced families, has now begun.

The adoption of the new Civil Registration Act is part of a broader effort to revitalise Thailand’s civil registration system and provide for inclusive birth registration. Another important step was the enactment of a new nationality law in 2008 which allows children to inherit nationality from a Thai father, even if the child is born out of wedlock. These reforms paved the way for the government’s withdrawal in December 2010, of its reservation to article 7 of the Convention on the Rights of the Child. This is the provision that deals with both the child’s right to birth registration and to acquire a nationality.

**“Birth registration is an inalienable right for all children, and is of fundamental importance given that it provides official and permanent proof of name, age, place of birth and parentage. It can also help to prevent child statelessness - when provided in a universal, immediate, and systematic manner - given that most states confer nationality according to who the child’s parents are and/or where a child is born.”**

*Amalee McCoy, Child Protection Specialist, UNICEF East Asia and Pacific Regional Office*



*A staff member at the delivery room in Udon Thani Hospital (Thailand) writes down information of each newborn on a delivery certificate. The parents or relatives of the newborn bring the delivery certificate to the local civil registrar’s office so that the birth can be officially recorded and a birth certificate issued.*

[UNICEF Thailand/Athit Perawongmetha]

## Cambodia's campaign for Universal Birth Registration

At the start of the 21<sup>st</sup> century, just 5% of the population of Cambodia held a birth certificate. The rest were missing this crucial piece of evidence of their identity and nationality. To address the problem, the Ministry of the Interior passed a sub-Decree (No. 103) which established a new framework for civil registration. A target was also set: Universal Birth Registration – 100% coverage countrywide – by the year 2005.

To meet this ambitious target, the Government teamed up with the Asian Development Bank, Plan International and UNICEF. With their technical and financial support, a mobile registration campaign was launched. Around 13,000 people were trained and deployed in registration teams across the country. Thanks to this huge push, more than 7 million adults and children were registered during just the first 10 months of the national programme. Today, the Asian Development Bank has estimated that over 90% of the Cambodian population is registered.



According to Mr. Yim Sam Ol, Chief of Statistics and Civil Registration Office (Cambodian Ministry of the Interior), one success factor for this impressive campaign was creating an incentive for birth registration: "certificates were issued free of charge throughout the mobile outreach programme and awareness-raising activities helped the public to understand the importance of birth registration". In the past, people did not adequately prioritise civil registration, especially in remote areas. During the campaign though, "people could no longer ignore birth registration as the mobile teams visited them directly in their homes". Meanwhile, the Asian Development Bank provided a small financial reward to the mobile registration volunteers for every 100 people registered.



[Top: UNICEF Cambodia; Bottom: Plan Cambodia]

## Building broad partnerships to address statelessness

The Roundtable itself demonstrated the potential that exists for addressing statelessness in partnership - participants represented a great variety of organisations, governmental and non-governmental, all sharing an interest in statelessness. The Roundtable was also illustrative of the wide range of expertise that already exists in this field, from experts on nationality law to people skilled in survey techniques and others who are experienced in providing services to stateless populations.

To develop a fully encompassing response to statelessness in the region, broad partnerships need to be established that take full advantage of the complementary capacities and expertise offered by each individual actor. Cooperation can be pursued through the framework of existing networks, but may take shape along new and innovative lines.

### Relevant networks

Statelessness is an issue that intersects with the field of interest of many existing networks in South East Asia. As a human rights concern, statelessness may feature in the work of frameworks such as the ASEAN Intergovernmental Commission on Human Rights, the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children, the network of National Human Rights Commissions and Asian Forum for Human rights and Development. As a problem with a distinct legal dimension, Roundtable participants pointed to a possible role for the ASEAN Law Association in seeking solutions to individual cases of statelessness. In order to further the understanding of the issue and better elucidate the regional dimensions, universities could be encouraged to cooperate in undertaking and disseminating additional research, for instance through the Southeast Asian Human Rights Studies Network.

The Inter-Parliamentary Union has already shown an interest in addressing statelessness, cooperating with UNHCR to produce a "Handbook for Parliamentarians" on the issue and devoting a panel at its 2010 assembly to discussing approaches to universal birth registration. Continuing to raise the issue through this forum provides an opportunity for a broader exchange of ideas and good practices with countries outside the region. Meanwhile, at the *Fourth Asia Regional Conference on Birth Registration* in 2006, it was decided that a Civil Registrars Network for the Asia Pacific would be set up. One suggestion that gained widespread support at the statelessness Roundtable was to reinvigorate the Civil Registrars Network and call upon the group to specifically consider the prevention of statelessness in its work. Similarly, it was also proposed that statelessness be put on the agenda when other relevant groups are convened, such as ASEAN meetings of Departments of Statistics and of Interior Ministers.

Aside from the possibility of cooperating *within* these existing networks, it is also valuable to look at establishing or strengthening partnerships *between* such networks. An example already cited elsewhere is the cooperation between law faculties of Lao PDR and Thailand and consular authorities in establishing a "diplomatic channel" for nationality verification of migrants who cannot access the equivalent formal process.



## A role for AICHR

According to the ASEAN Charter, *promoting and protecting human rights* is one of the purposes of this regional institution. To help pursue this aim, the ASEAN Intergovernmental Commission on Human Rights (AICHR) was inaugurated in 2009. This body will spearhead the development of a regional human rights framework and play a significant role in supervising and advising on human rights issues in ASEAN countries.

Recognising that statelessness is one of the human rights challenges facing the region, two representatives from AICHR participated in the Roundtable. “It was a very ennobling exercise which convinces us to help stateless people protect their human rights”, says Ambassador Rosario Manalo, Philippine Representative to AICHR. “It has become clear that there is a desire to act on statelessness as a region. AICHR can play an important part in this by studying the issue and encouraging other ASEAN bodies to also take it up in their work” she added.

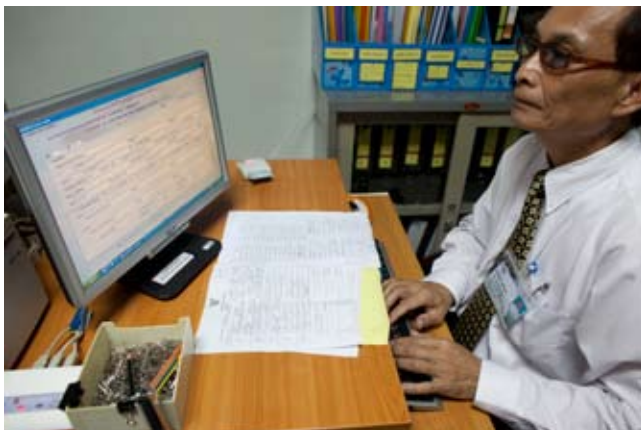


[UNHCR/Somkiat Insawa]

## Innovative partnerships

Discussions at the Roundtable also brought to light the need to look further than the usual players and explore less traditional forms of partnership to address statelessness. One good practice example raised in this context was the cooperation established in Thailand between hospitals and civil registry offices to promote access to birth registration. After a reproductive health survey showed that more than 90% of children in Thailand are born in a hospital, a pilot project was initiated at six major hospitals to encourage the timely registration of births. Supported by UNICEF, this project allows data to be entered on site at the hospital, then linked online to the state’s civil register. Registrars can access the information directly and follow up with families whose data was entered at the hospital but who have not since come forward to process the formal registration of the child’s birth. Civil registrars are also stationed at some hospitals to provide one-stop official birth registration. This programme is helping to prevent statelessness by ensuring that children have proof of their place of birth and parentage, key facts in the determination of nationality.

Given the cross-cutting nature of statelessness, opportunities abound for developing innovative partnerships such as the one described above. Schools, cultural groups, orphanages, community development organisations, radio stations, bar associations, religious leaders and even national celebrities – all these and others could play a part in identifying, preventing or reducing statelessness and protecting stateless persons.



*Prayong Uppakot, Head of the Registration Department at Udon Thani Hospital, keys in information of each newborn at Udon Thani Hospital in which the information is now linked to the civil registration system.*

[UNICEF Thailand/  
Athit Perawongmetha]

## Reduction: Promoting access to a nationality for stateless individuals and groups

There are several million stateless people dispersed across the globe, including a significant number in South East Asia. This means that it is important to find ways, not just to prevent new cases from arising, but also to resolve these existing situations of statelessness. Promoting access to a nationality for stateless people, also referred to as *reduction*, is an area in which impressive strides have been made in recent years. Worldwide, between 2004 and 2008, approximately 3.5 million stateless people were able to confirm or acquire a nationality.

Encouraged by this progress, UNHCR has set a further reduction target for the world: to grant or confirm nationality for at least 500,000 stateless people during 2010 and 2011. States in South East Asia have an important role to play in meeting this target and a number of good practices have already emerged.

### Legal reform

The adoption of a new or amended nationality law can offer a pivotal opportunity for reducing statelessness. The reformed law may introduce stronger safeguards against statelessness, helping to avoid the creation of new cases in the future and potentially also to solve existing problems. This was the case in Indonesia, where the nationality law passed in 2006 established gender equality in the enjoyment of nationality rights. Women can now transmit their Indonesian nationality to their children on the same terms as men, lowering the risk of childhood statelessness. A transitional clause allows children born before the new law entered into force to benefit from the new provisions, i.e. to inherit Indonesian nationality from their mother. Providing for retroactive effect in this manner is a very simple way to extend the impact of the new law to address existing situations of statelessness, as well as prevent future problems. Moreover, reference to “indigenous” or “non-indigenous” groups was removed with the 2006 nationality law reform, helping to reduce statelessness among Indonesia’s ethnic minorities.



Following the 2006 nationality law reform, many people have been able to acquire certificates confirming that they hold Indonesian nationality. [Indonesian Citizenship Institute, IKI]

Another way that legal reform can reduce statelessness is by establishing a procedure for the recovery of nationality. This approach was adopted by Viet Nam in its recent reform. Vietnamese nationality can now be reacquired in the event that it was renounced for the purposes of taking up a foreign nationality, but the new nationality was never acquired, often leaving the individual stateless.

#### GOOD PRACTICE

Viet Nam's 2008 nationality law creates a pathway for *restoration* of Vietnamese nationality that may benefit thousands of stateless women who previously lost their citizenship when they married a foreign man.

In Thailand, the approach was somewhat different again. The country's 2008 nationality law sought to redress problems that arose for a specific group under previous legislation – those whose nationality was revoked by a Decree passed in 1972. They and their children may be entitled to Thai nationality under the terms of the new nationality act, which will help to resolve any enduring cases of statelessness among this group.

## Facilitated naturalisation

Individual cases of statelessness can also be resolved through regular naturalisation channels. Given the importance of ensuring that everyone enjoys a nationality, international law calls for the naturalisation of stateless people to be *facilitated*. In other words, stateless people should be helped to naturalise, for instance by simplifying procedures or removing any obstacles they face in seeking to naturalise.

**“The Contracting States shall as far as possible facilitate the assimilation and naturalisation of stateless persons. They shall in particular make every effort to expedite naturalisation proceedings and to reduce as far as possible the charges and costs of such proceedings.”**

*Article 32 of the 1954 Convention relating to the Status of Stateless Persons*

Facilitated naturalisation is the solution developed by Viet Nam for the situation of a group of stateless people who were long-term residents of the country: special provision was made under the 2008 nationality law for the naturalisation of anyone who was stateless and had already been living in Viet Nam for over 20 years. Among the ways in which naturalisation was facilitated for this group was the waiving of related fees. Several hundred people have already acquired Vietnamese nationality and it is expected that at least 2,000 stateless people in all will benefit. This initiative may inspire other states in the region to also relax the conditions for naturalisation of stateless residents, laying a framework that will help to reduce statelessness over time.

## Other steps towards nationality

Even without reforming the rules relating to the acquisition of nationality, various measures can be taken to promote access to a nationality by stateless people. For instance, working with existing nationality law in Thailand, DNA testing projects have been introduced in order to prove the link between parent and child, or between siblings, helping to build a case for recognition of nationality.

More generally, initiatives that promote the enjoyment of rights by stateless people help to foster inclusion and may lay the groundwork for acquisition of nationality in the future. Such efforts can boost the capacity of the affected population to pursue a solution and build public support for a policy change that redresses their situation.

## Resolving statelessness under Indonesia's new nationality law

In 2006, Indonesia passed a new nationality law. According to Eddy Setiawan of the Indonesian Citizenship Institute (IKI), this move was sparked because the previous legislation was deemed to be “no longer in line with the development and demands of the Indonesian people, as part of the international community and global society, who demand equality before the law”. The 2006 nationality law abolished the discriminatory provisions of the past and introduced some important changes to the country's citizenship policy that will help to address statelessness.

Firstly, reference to “indigenous” or “non-indigenous” groups was removed from the law, facilitating the confirmation of nationality for Indonesia's ethnic minorities. Previously, many individuals of Chinese and Indian descent faced difficulties asserting their claim to Indonesian nationality, despite having been settled in the country for several generations. This exposed them to statelessness. The new nationality law is race and ethnicity neutral, quashing any confusion over the entitlements of these communities. “More than three and a half thousand people (3,574) have already benefited from the confirmation programme that has been put in place”, Setiawan reports. “People complete an application form which is signed by their village head, attesting to their identity and long-term ties to the state. This is processed by the Ministry of Law and Human Rights and then the Ministry of Home Affairs issues an ID card documenting the person as an Indonesian national”.

A second major reform introduced in 2006 is full gender equality in the enjoyment of nationality rights, bringing Indonesia in line with its CEDAW commitments. Children can now inherit Indonesian nationality from either their father or their mother – whereas in the past only men could transmit nationality. This change of policy significantly lowers the risk of childhood statelessness. Moreover, a transitional clause added to the new law addresses existing problems: a child born before the entry into force of the law, whose mother is Indonesian, could register for Indonesian nationality. Some sources reported that several hundred children of Indonesian mothers and non-national fathers were granted nationality within just the first few months after the new law was passed. While the full impact of this transitional clause requires further study now that the registration deadline has elapsed, this approach may have resolved many cases of statelessness.

Finally, the 2006 nationality law provides critical protection against statelessness for Indonesians abroad. Under the old law, people who resided abroad for more than 5 years would lose their nationality if they did not declare their intention to remain a citizen. Given the large numbers of Indonesian migrant workers dispersed around the world, the threat of statelessness under this provision was very real. The new law specifies that nationality will not be lost in this manner *if a person would thereby become stateless*. Again, transitional clauses were added to help resolve existing problems. “A person who lost their nationality due to long-term residence abroad under the old law could apply for reacquisition of Indonesian citizenship within three years after the entry into force of the 2006 law” Eddy Setiawan explains. He has also been following the impact of this provision, reporting that “over 125,000 migrant workers in Malaysia alone have regained their Indonesian nationality thanks to the 2006 law. These three developments add up to a major achievement in terms of the reduction of statelessness in the region”.



Eddy Setiawan, Indonesia Citizenship Institute, explaining the 2006 legal reform during the Roundtable [UNHCR/ Somkiat Insawa]



## A nationality for Viet Nam's stateless long-term residents

It is a special and memorable day when a stateless person acquires a nationality. It can mean a new beginning for them and their family as they are embraced as full members of the community. On 19 July 2010, a citizenship ceremony marked just such a new beginning for 287 people in Ho Chi Minh City. They were the first to benefit from the country's policy of facilitated naturalisation for long-term stateless residents, introduced under the 2008 reform of the nationality law.



*A group of stateless long-term residents of Viet Nam awaiting receipt of their naturalisation certificates at a ceremony in Ho Chi Minh City. [Ho Chi Minh City Department of Justice]*

This group of 287 is part of a total population of around 2,300 former-Cambodian refugees who have lived for decades as stateless people in Viet Nam and will now be helped to naturalise. As Ms. Ngo Thi Hong Loan of Vietnam's Department of Foreign Affairs explains: "Our regular naturalisation procedures proved too burdensome for this group, with both legal and practical obstacles blocking access to nationality. They had difficulty acquiring the necessary language proficiency certificate and finding the resources to pay the high application fee for naturalisation. The biggest challenge was that the law required applicants to provide proof of renunciation of their former nationality. This was impossible for this group, because any record that they previously held Cambodian nationality had been destroyed in the country's civil war and they were already stateless. All of these problems were addressed when a new procedure for facilitated naturalisation was established through the 2008 nationality law".

Under the new nationality law and its implementing regulations, stateless people who had already resided in the country for over 20 years at the time the law was adopted can apply for naturalisation free of charge. They are exempt from the requirement of a Vietnamese language certificate. Moreover, in accessing this procedure, which is dedicated to the naturalisation of stateless people, applicants are recognised as stateless and do not need to provide evidence that they have renounced their previous nationality.

"The Vietnamese Government is committed to human rights, including the right to a nationality which is laid down in the Universal Declaration of Human Rights" says Ms. Loan. "As such, one of the explicit aims of our 2008 nationality law is to prevent and reduce statelessness. After discovering the difficulties that stateless people encountered when they tried to naturalise in the past, it was clear that more needed to be done". Establishing a channel for facilitated naturalisation provided the answer and it is clear from the citizenship ceremonies that this is already changing lives. One recipient of the all-important naturalisation certificate summed up the general sentiment with the simple words "I'm so happy".

## Engaging stateless and at-risk communities

The Roundtable brought a wide range of actors together to think about how to address statelessness. However, participants pointed out that one voice was not well represented at the meeting: that of stateless people themselves. It was suggested that in future discussions on the issue, a distinct effort be made to include representatives from affected communities. The value of this inclusive approach has already been illustrated in several activities in the region in which stateless and at-risk communities have been directly engaged.

### Exploring existing capacity

By reaching out to affected populations and discussing their situation with them, it may be possible to identify existing capacities within the community that can be tapped into in order to develop an effective response. People may be able to present their case very effectively to the relevant authorities, once procedures have been explained. Simple workshops can be sufficient to empower whole communities to take up their own cause, without the need to invest in extensive and often labour-intensive legal assistance projects.

#### GOOD PRACTICE

The Mae Ai Legal Clinic in Thailand was established by a group of individuals who were themselves affected by statelessness. The clinic does individual casework and offers workshops to empower people to present their own claims to the relevant authorities.

*At a workshop organised by Development of Human Resources for Rural Areas (DHRRA) in Malaysia, community leaders are learning how to handle legal documentation issues and access procedures for confirmation of nationality.*

*[DHRRA, Malaysia]*



### Awareness raising

Through direct engagement with affected communities, constraints may also be identified in terms of the population's capacity. A common impediment is that the people themselves lack an understanding of the importance of resolving their situation. This is where awareness-raising comes in. Again, existing capacity should be explored. If they can be identified, then leaders from within the affected community will also often be the most powerful advocates. In Cambodia, for example, teachers, monks and community leaders played a vital part in spreading the word on the importance of birth registration and building trust so that people came forward for registration.

## Protection: Advancing the enjoyment of human rights by stateless persons

Stateless people, like everyone else, are entitled to enjoy a broad range of human rights under international law. Their situation however, as non-nationals *everywhere*, can present a challenge to guaranteeing the enjoyment of those rights in practice. Ensuring the protection of stateless people may therefore require special attention and additional measures.

In South East Asia, a wide variety of actors can play a part in advancing the enjoyment of human rights by stateless people. As highlighted at the Roundtable, ongoing initiatives range from information campaigns to ensure that affected populations are aware of their rights to the direct provision of services to stateless people.

**“The UN Charter binds states to respect the fundamental rights of all human beings, without discrimination. Stateless persons are as entitled to enjoy these rights as anyone else.”**

*Homayoun Alizadeh, Regional Representative for South East Asia, Office of the High Commissioner for Human Rights (OHCHR)*

### Protection frameworks

States in South East Asia are committed to the promotion and protection of human rights. This is evident in the ratification of relevant conventions, including such core instruments as the *Convention on the Rights of the Child* to which all countries in the region are a party. It is reaffirmed by the creation of human rights machinery within the ASEAN context, including the ASEAN Intergovernmental Commission on Human Rights and the ASEAN Commission on the Rights of Women and Children.

Protecting the rights of stateless people is part and parcel of broader human rights protection. As such, further guidance on the treatment to be accorded to stateless people is already emerging within the abovementioned frameworks. The Universal Periodic Review mechanism and the UN Treaty Bodies have, for instance, issued recommendations relating to the protection of stateless people. ASEAN’s human rights bodies may also contribute to this guidance in the future. Moreover, a broad range of actors at the domestic level, including National Human Rights Commissions, academics and NGOs, have taken up the cause of protecting the rights of stateless people. This was evidenced by their active participation in the Roundtable.



*Jocelyn Reyes speaking at the Roundtable  
[UNHCR/Somkiat Insawa]*

### A role for National Human Rights Commissions

To date, four countries in South East Asia have established National Human Rights Commissions (NHRCs): Indonesia, Malaysia, Thailand and the Philippines. All were represented at the Roundtable, which was co-hosted by Thailand’s NHRC. As national watchdogs, these bodies can offer significant support in protecting the rights of stateless people.

Jocelyn Reyes explained that the Philippines Constitution has mandated the country’s NHRC to “provide appropriate legal measures for the protection of human rights of *all persons within the Philippines*”. As such, the NHRC can monitor the human rights situation of stateless people in the country, investigating complaints and advocating for solutions.

## Access to documentation

A common practical impediment to the enjoyment of rights by stateless people is the lack of personal documentation. The reality is that schools, hospitals, banks and other service providers will usually ask for proof of identity from the person who approaches them. During a police check or at a security control point, people may also be asked to produce an identity document. Failure to do so in such contexts, will clearly have an impact on the way the person is treated and can result in denial of rights or services.

Roundtable participants suggested that as further effort is made to map stateless populations around the region, such identification exercises could be coupled with a procedure for the issuance of basic documents, as needed.

While identity documents are critical to exercising rights within a state's borders, international travel can also play a part in the enjoyment of rights – for instance where appropriate medical care can only be found abroad. Travel documents then become a necessity. The difficulty encountered by stateless people is that travel is usually facilitated by a passport issued by the country of nationality. Without travel documents, stateless people may resort to use of irregular migration channels.

In order to help stateless people to travel and combat irregular migration, several countries in the region have, as a special measure, issued travel papers to stateless people. For instance, under the Philippines Passport Act of 1996, a travel document can be granted to a stateless person who has permanent residence. Brunei Darussalam issues stateless permanent residents with an “International Certificate of Identity” (ICI) allowing them to travel abroad and return to the country.

In Thailand, Mong Thongdee, a twelve-year-old stateless boy, used the passport he was issued to travel to Japan and compete in an international origami contest. Coming in third place in the contest, Mong said that he was proud to have been given the chance to represent Thailand. The simple issuance of a document made this possible.

### GOOD PRACTICE

Several countries in South East Asia have issued travel documents, in lieu of national passports, to stateless individuals to enable them to travel abroad. This is one of the special measures provided for in the 1954 Convention relating to the Status of Stateless Persons.

## Access to social and economic rights

Another area in which Roundtable participants pointed to regional good practices was in the promotion of access to social and economic rights by stateless people. Many human rights or community development inspired NGOs have developed assistance programmes that include stateless groups. In Malaysia, for instance, there are two aspects to civil society's approach: advocating for the inclusion of stateless people in government development programmes and offering direct services to stateless groups.

In particular in the fields of education and healthcare, there is a growing sense of the importance of securing access to services for stateless people. In Thailand, *Education for All and Universal Health Care* programmes have been initiated with a specific focus on access for people without nationality. In this context, Surapong Kongchantuk, Member of a Thai Senate Committee that examines the problem of status and rights of persons in Thailand, pointed out at the Roundtable that investing in, for instance, education for stateless people is a cost effective measure – if they are not included, the social and economic costs to the country in the future may be far greater.



## Protection of stateless children in Malaysia

Statelessness can have a particularly dramatic impact on children. They may be left without any documentation of their age and identity, as well as denied access to education, healthcare and a range of other services. These circumstances leave them marginalised and vulnerable to abuse. It is a problem that NurSalam, an NGO working with children in Malaysia, has witnessed first hand. NurSalam's founder, Ms. Hartini Zainudin pointed out: "our objective is to promote a culture of inclusiveness in which stateless children have access to the same opportunities as Malaysian children, since all children have the right to protection and care".

Through its outreach activities, NurSalam has documented dozens of cases of neglect and abuse involving stateless children, who can find themselves excluded from the state's regular protection framework. The organisation then steps in by presenting cases to the relevant ministries – such as those responsible for women, health, education or welfare. "By presenting individual cases in this way, we have developed a strong relationship with the various government agencies", explains Ms. Zainudin. "We have discovered that we share the common cause of protecting children".

NurSalam also offers direct assistance to stateless children, including alternative education and health services, food and clothing initiatives, counseling and job placement assistance and a peer mentoring project. "These programmes have an immediate and very real effect on the lives of children, but we must not lose sight of the fact that, ultimately, we would like to ensure that all children enjoy a nationality and do not need this kind of special assistance". According to Ms. Zainudin, the obstacles to a more comprehensive solution include a lack of public awareness of the issues and insufficient collaboration between the actors involved. "It can be a slow process, but we need to encourage further cooperation and be ready to get creative to move the issue forwards. Exploring good practices in other countries may be a good way to gather ideas and build a model for protecting stateless children and promoting the right to a nationality in Malaysia".



[NurSalam]

Education is an area in which some very promising steps are already being taken. Thanks to the establishment of strategic partnerships between the Malaysian Education Ministry, UNICEF, other government bodies such as the Federal Special Task Force and civil society, a dedicated education policy for stateless children is now being developed. The Education Minister has commented in the Malaysian press that the cost of educating stateless children is minimal, while a flexible and inclusive education policy will help to generate valuable human capital for the state.

## Tools for tackling statelessness under international law

In 1948, the Universal Declaration of Human Rights established the right of everyone to a nationality. As international and regional human rights frameworks developed over the decades that followed, the right to a nationality was reaffirmed, again and again. As participants at the Roundtable acknowledged, these developments within international law mean that states are now obliged to do what they can to avoid statelessness.

The Roundtable discussions also reaffirmed the fact that international law confers to everyone a broad range of fundamental rights. These rights are to be respected by states regardless of whether a person holds a nationality or not. As such, stateless people are also entitled to them.

In sum, international law offers states the basic tools that are needed to identify, prevent and reduce statelessness, as well as to protect stateless people.

### Human rights law

The right to a nationality is a central element of human rights law. In particular, states should ensure that every child acquires a nationality – i.e. that childhood statelessness is avoided. This norm is widely accepted by South East Asian states, all of which have ratified the *Convention on the Rights of the Child (CRC)*.

Also widely accepted in the region, is the principal that nationality rights should be enjoyed by women and men on equal terms. All South East Asian countries are parties to the *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)* and most have now amended their nationality law to bring it in line with this standard. As mentioned earlier, states now commonly allow women to pass on their nationality to their children on the same terms as men. In amending their laws in this way, states have significantly lowered the risk of statelessness, for instance among children of mixed-nationality parentage, or where the father is absent.

The CEDAW and CRC conventions elaborate a comprehensive catalogue of human rights. So do a number of other human rights instruments that have been widely ratified in the region, such as the *International Covenant on Civil and Political Rights*. States must respect and protect the rights recognised in these conventions for all people under their jurisdiction, including non-nationals.

There are a few exceptions, where rights are specifically ascribed to “citizens” under international law, such as in the case of political participation. Stateless people may be excluded from these rights. However, stateless people should enjoy all other human rights without discrimination. For example, stateless children are entitled to access birth registration, education and healthcare. And stateless people enjoy the right to life and can exercise their freedom of religion.

#### The right to a nationality can be found in all major human rights instruments, including...

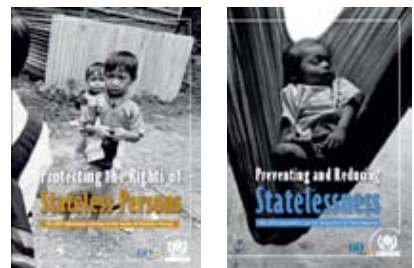
- > Universal Declaration of Human Rights (article 15)
- > Convention on the Rights of the Child (articles 7 & 8)
- > Convention on the Elimination of All Forms of Discrimination Against Women (article 9)
- > International Covenant on Civil and Political Rights (article 24)
- > Convention on the Elimination of All Forms of Racial Discrimination (article 5)

## Statelessness-specific instruments

There are also two international conventions that focus specifically on the issue of statelessness. The 1954 *Convention relating to the Status of Stateless Persons* provides for a number of important special measures to help protect the rights of stateless people. For instance, it guarantees stateless people a right to identity and travel documents, which can significantly help access other rights. These matters are not regulated elsewhere in international law and are among the core benefits for stateless people under this convention.

The 1961 *Convention on the Reduction of Statelessness* prescribes detailed safeguards for states to incorporate into their nationality law to avoid statelessness. The convention boosts legal transparency and predictability in states' response to the threat of statelessness through the promotion of common safeguards, without impinging on state's sovereignty to regulate nationality.

Although yet to attract any state parties in the region, these two instruments were acknowledged by Roundtable participants as offering valuable guidance to complement the human rights framework. Moreover, policy discussions on statelessness and a review of the domestic legal framework are currently underway in the Philippines with a view to pursuing the state's accession to both statelessness conventions (having already signed the 1954 Convention). This could lead the way for other countries in the region to give the instruments renewed consideration.



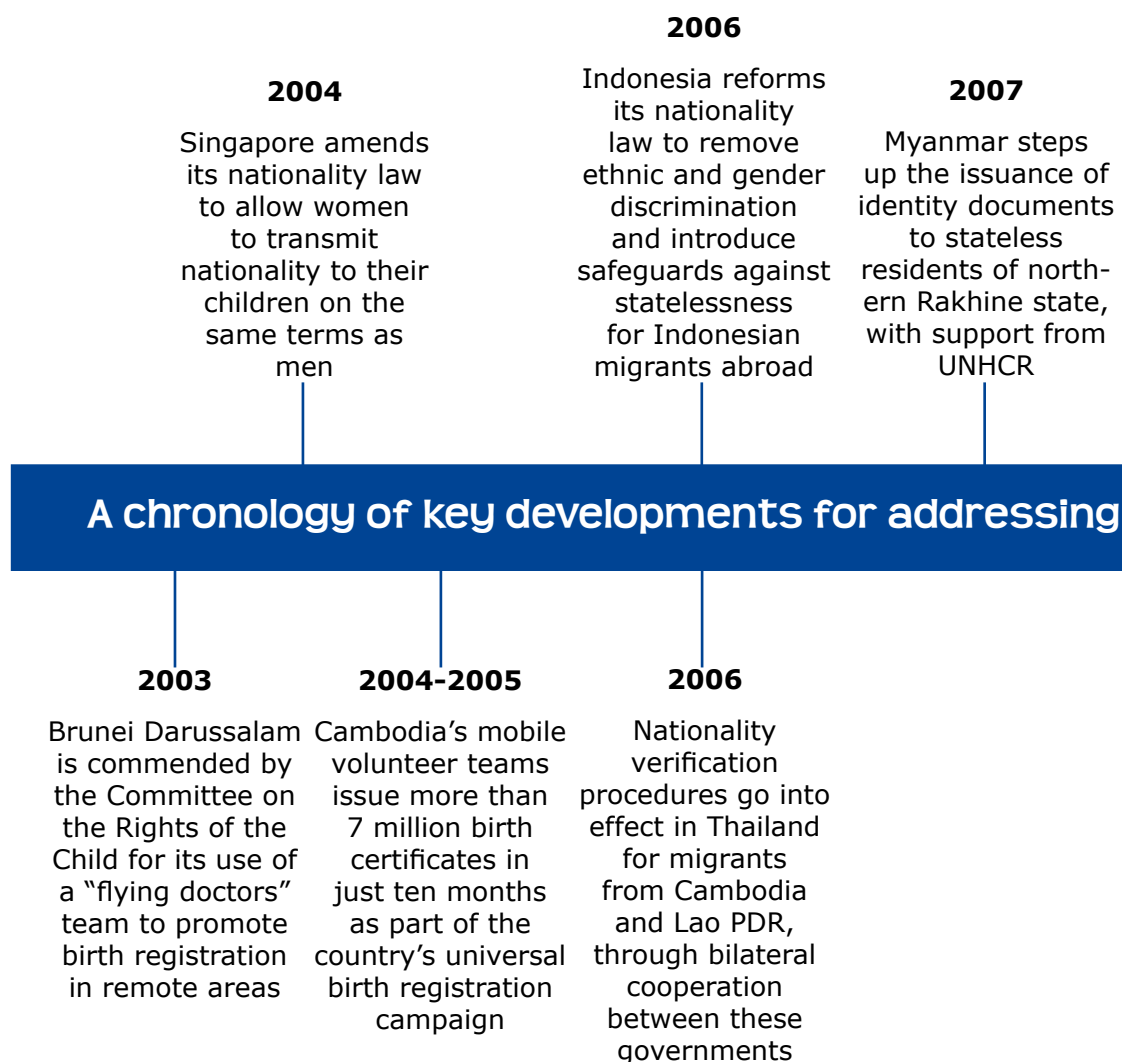
UNHCR Brochures published in 2010 explain the statelessness conventions in detail. These can be found at <http://www.refworld.org>.

## 2011 as a year of action on statelessness

The year 2011 marks exactly 50 years since the 1961 Convention on the Reduction of Statelessness was adopted. This anniversary is an opportune occasion to reflect on what has been achieved to date in terms of the identification, prevention and reduction of statelessness and the protection of stateless persons. It is also a chance to look to the future and renew efforts to tackle this issue – which was, in fact, the very purpose of the South East Asia Roundtable. Numerous additional activities have been planned over the course of 2011 to raise awareness of the plight of stateless people and discuss ways to more effectively address the issue, within the region and globally.

As the UN agency with a mandate for both refugees and stateless people, UNHCR is taking the lead on the commemorative activities for the 50<sup>th</sup> anniversary of the 1961 Convention on the Reduction of Statelessness, as well as the 60<sup>th</sup> anniversary of the 1951 Convention relating to the Status of Refugees. UNHCR will convene a ministerial-level meeting in December 2011 for states parties to the Conventions – with non-state parties invited as observers. At this meeting, states will be encouraged to make commitments for further action. For instance, states could pledge to amend their nationality law to include safeguards against statelessness, to improve access to economic and social rights for stateless people or to work towards universal birth registration as a means of preventing statelessness. States may also make commitments to collective action, for example by pledging to cooperate in order to identify cases of statelessness within the region.

The same meeting will also provide an opportunity for states to announce progress that has already been achieved in tackling issues of statelessness, such as their recent accession to one of the statelessness instruments or withdrawal of a relevant human rights treaty reservation. South East Asian countries are invited to showcase their good practices and participate actively in the commemorations activities.



## Recommendations for further action to address statelessness in the region

During the Regional Expert Roundtable, a number of concrete suggestions were raised for further action, at the national and regional levels, to address statelessness in South East Asia. These included to:

- **Renew efforts to identify stateless populations** and gather comprehensive information on the magnitude and circumstances of statelessness in the region;
- **Conduct a regional legal analysis** in order to make nationality laws transparent and comparable, including for the purposes of the nationality verification of migrants and victims of trafficking;
- **Convene a regional meeting of civil registrars** to facilitate further exchange of good practices on birth registration and specifically look at issues relating to the prevention of statelessness in this context;



**2008**

Viet Nam reforms its nationality law to provide for facilitated naturalisation of its long-term stateless residents and simplify the recovery of nationality for women who previously lost their citizenship when marrying a foreign man

**2009**

Nationality verification procedures go into effect in Thailand for migrants from Myanmar, through bilateral collaboration between the two governments

**2010**

The Philippines take the first steps towards accession to the 1954 Convention relating to the Status of Stateless Persons

## statelessness in South East Asia


**2008**

Thailand amends its nationality and civil registration laws, reaffirming the right of all children to birth registration and strengthening the framework for the avoidance of statelessness

**2010**

First groups of stateless former-Cambodians residing in Viet Nam are naturalised

**2010**

Malaysia launches special education initiative for stateless children

- **Issue documentation to stateless populations**, for instance as part of a mapping exercise, to ensure that all have proof of identity;
- **Pursue further bilateral and regional opportunities for cooperation**, while recognising that there is no one-size-fits-all response and tailoring domestic approaches accordingly;
- **Encourage AICHR to take up the issue** including in the Commission's work on migration and on the ASEAN Declaration of Human Rights;
- **Include stateless persons in follow up discussions** at national and regional levels to ensure that their voice is included in the design of strategies that affect them;
- **Do more to raise public awareness of the issue**, including by putting a "human face" to the problem of statelessness;
- **Continue to explore good practice examples** in the region to inform constructive discussions on ways forward to address statelessness.



Roundtable participants gathered for a group photo, 28 October 2010 [UNHCR/Somkiat Insawa]

## Roundtable Participants

### Cambodia

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ASEAN Intergovernmental Commission  
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**Tehna Bana SITEPU**  
Ministry of Law and Human Rights

### Lao PDR

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### Philippines

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### Thailand

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National Human Rights Commission  
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### Viet Nam

**Hoang Thi Huong LAN**  
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Department of Foreign Affairs  
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### Regional Civil Society

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**Amanda FLAIM**  
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### Chayanich THAMPARIPATTRA

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**South East Asian countries included in this report**



For more information about statelessness, please visit  
[www.unhcr.org/statelessness](http://www.unhcr.org/statelessness) or [www.refworld.org](http://www.refworld.org)

“My message I would like to send to people who have nationality is that life as a stateless person is very difficult. You can’t get a job. Your children don’t have a future. You can’t own property, nothing from a motorbike to a house. You have no career opportunities. You can’t dream of leaving the country because you can’t get a passport”

*A 51-year old formerly stateless resident of Viet Nam, who received Vietnamese citizenship in July 2010*

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