

Addressing situations of statelessness

Even though statelessness remains a cause of much suffering, more effective responses to it were found in 2007, with major breakthroughs in Asia.

Nationality is a legal bond between a State and an individual, and statelessness refers to the condition of a person not considered a national by any State under its law. Nationality facilitates the enjoyment of all human rights, and is essential for full participation in society. It entitles an individual to political rights; to obtain and travel on a national passport; and to the unrestricted right to enter and reside in his or her country.

In some countries, stateless populations enjoy most basic human rights, but this is the exception rather than the rule. In general, stateless people are “invisible,” frequently living at the margins of society and the economy. They are often not registered at birth and do not possess personal identity documents. Even when they do have papers, their statelessness may make it difficult, if not impossible, to buy property, sign contracts or register marriages. The stateless may be detained because of their status, denied access to education and health services, or blocked from obtaining employment.

The best means of addressing the problem is prevention. Statelessness can be avoided through safeguards at the time of State succession by ensuring that women can pass on nationality to their children, and by upholding the prohibition under international law against the deprivation of nationality on discriminatory grounds.

UNHCR’s activities and impact

Under the terms of its mandate, UNHCR both protects the rights of stateless people and focuses on preventing statelessness. Where statelessness does occur, the Office works to end it, particularly in protracted situations. In this regard, UNHCR’s Executive Committee Conclusion No. 106 on the identification, prevention and reduction of statelessness and protection of stateless people provides a blueprint for action by States, international organizations and NGOs.

A specialized unit within UNHCR’s Department of International Protection Services (DIPS) provides guidance on the Office’s mandate as it relates to



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Dhaka, Bangladesh. Many Biharis still live in poverty-stricken conditions in urban settlements, 36 years after the civil war that made them stateless.

statelessness. Most activities to address statelessness are undertaken by field offices directly.

In 2007, UNHCR made significant progress in achieving greater consistency in its responses to statelessness throughout the world. Notably, activities to prevent and resolve statelessness are one of the four pillars which will support UNHCR's proposed new budget structure. Furthermore, UNHCR's responses to statelessness, as well as its accountability for implementing its mandate, will be facilitated by adoption of the new Results-Based Management Framework. This includes objectives relating to the prevention and reduction of statelessness and the protection of stateless people. These reforms, which will be fully implemented by 2010-2011, will have a significant impact in the Field.

Global Strategic Objective 2.3: Addressing situations of statelessness more effectively

The first step towards addressing statelessness is to identify stateless populations and determine how they became stateless. UNHCR has improved its statistical analysis, with 49 countries reporting 5.8 million stateless persons at the end of 2006, as compared with 48 countries reporting 2.4 million the previous year. Figures for 2007 show a drop to just under three million stateless people in 51 countries due to achievements of Nepal and Bangladesh.

Additional work needs to be done, though. UNHCR is not yet in a position to provide definitive statistics on stateless persons in a number of countries around the world. The total number of stateless persons worldwide is likely as high as 12 million.

Common standards between States are essential to prevent new cases of statelessness from arising and to guarantee minimum standards of treatment for stateless persons. To achieve greater harmonization of procedures and regulations, UNHCR continued to promote accession to the relevant United Nations conventions. In 2007, Brazil acceded to the 1961 Convention on the Reduction of Statelessness, bringing the total number of States parties to the Convention to 34. The number of States parties to the 1954 Convention relating to the Status of Stateless Persons stood unchanged at 62.

Adequate legislation is also of crucial importance in helping to resolve existing situations of statelessness. UNHCR has long provided States with technical advice on nationality and related legislation and its application; in 2007 it did so for a range of countries including Angola, Mexico and Ukraine. Furthermore, UNHCR trained officials in Kazakhstan, Kyrgyzstan, Tajikistan and Turkmenistan in measures to prevent and reduce statelessness. The training was supported by the European Union.

The joint UNHCR/Inter-Parliamentary Union publication, *Nationality and Statelessness: A Handbook for Parliamentarians*, remained a vital tool in UNHCR's efforts to promote legislative reform and was widely disseminated in 2007. The Handbook was also translated into Bulgarian, German, Hungarian, Nepali, Polish, Slovak and Slovene, bringing the total number of translations to 12. In Nepal, Hungary and Slovakia ceremonies were held to launch the Handbook in conjunction with the national authorities.

Statelessness frequently arises when individuals cannot avail themselves of procedures for birth registration and documentation. People who are not documented at birth or cannot obtain or replace identity documents later in life may be unable to prove their identity or links to a State and may be left *de facto* stateless. Côte d'Ivoire and Serbia are among the countries UNHCR helped to resolve this problem.

To resolve individual cases, UNHCR works with stateless persons, States, NGOs and lawyers. UNHCR has also increased its cooperation with other UN agencies on the issue of statelessness. Indeed, the involvement of additional actors in statelessness issues has improved the capacity of the international community to find concrete solutions to the problem.

UNHCR's cooperative efforts in 2007 included briefing the Office of the High Commissioner for Human Rights (OHCHR) and a number of the special procedures of the Human Rights Council on statelessness issues. An editorial by High Commissioner António Guterres and High Commissioner for Human Rights Louise Arbour on the challenges of addressing statelessness was published in newspapers around the world. UNHCR also provided inputs on statelessness and birth registration for UNICEF's Child Protection Strategy. A Memorandum of Understanding signed by UNHCR and the Organization of American States (OAS) includes a focus on statelessness, and the Office has supported the OAS Universal Birth Registration Programme.

Nonetheless, more coordination of activities with UN agencies at the field level, especially with UNICEF, UNFPA and UNDP was needed.

UNHCR's close links with key NGOs made more effective advocacy possible. Of particular note was the work with the Campaign for Arab Women's Right to Nationality. The Campaign's coordinator participated with the High Commissioner in a Panel Discussion on Statelessness organized by the Government of the United States in New York.

Addressing statelessness depends in large measure on awareness and political will, so the Office stepped up its public information activities related to statelessness. A special edition of *Refugees Magazine* underlined the human dimension of the issue. Coverage of UNHCR's

activities in major media also helped to raise public awareness of the subject.

Global Strategic Objective 2.2: Strengthening host country capacity to undertake refugee status determination, provide quality asylum and offer durable solutions

The regional bureaux and DIPS worked closely with field offices in all five regions to develop and implement strategies to tackle statelessness. The greatest impact was felt in relation to UNHCR's goal of resolving protracted statelessness situations. While the decision to confirm or grant nationality lies with States alone, UNHCR had a positive influence in a number of countries.

In Bangladesh, the Government confirmed that the country's Urdu-speakers are citizens. This group of 300,000 people, also known as Biharis, became stateless as a result of the separation of what is now Bangladesh from Pakistan in 1971. The Government's decision, which follows years of advocacy by UNHCR and civil society groups in the country, will lead to the resolution of one of Asia's longest-running statelessness situations.

In the former Yugoslav Republic of Macedonia, UNHCR has worked since 2000 with a network of NGOs to provide free legal advice to long-term residents who lack an effective nationality as a consequence of the break-up of the former Yugoslavia in the 1990s. The Office also worked with the Government to address the problem through legal reform. Acquisition of nationality for these people has been facilitated by more flexible criteria included in a 2004 law. UNHCR also provides legal advice for children who were not registered at birth or who face other problems acquiring documentation and may, therefore, be at risk of statelessness. In 2007, UNHCR assisted 330 people to avail themselves of administrative and judicial procedures. In total, 836 long-term residents acquired nationality of the former Yugoslav Republic of Macedonia in 2007, and more than 4,600 people since the more flexible criteria were introduced in 2004.

A new amendment to the Constitution of Brazil, supported by UNHCR, permits a child born to a Brazilian parent abroad to receive Brazilian nationality automatically. By requiring only that a child be registered at a Brazilian consulate, the amendment paves the way for the acquisition of Brazilian nationality by the large number of children with a Brazilian parent who are estimated to be stateless. Statelessness resulted in such cases where children did not acquire the nationality of the country where they were born, but

were also unable to acquire Brazilian nationality because of the constitutional provisions previously in force.

Nepal mounted a massive campaign to issue citizenship certificates, benefiting some 2.6 million people throughout the country. This extraordinary feat of logistics stemmed from the Nepal Citizenship Act of November 2006, adopted as part of the peace process in the country. Statelessness as a result of ineffective or undocumented citizenship has been a long-standing problem in Nepal. The poorest and most marginalized communities were generally the most affected. Many people were unaware of their right to citizenship, or of the importance of possessing a certificate. Other factors resulting in a lack of documentation included discrimination against women, the perception of some groups as "non-Nepali", and insufficient State infrastructure to carry out the paperwork.

The new law includes a temporary two-year provision allowing for citizenship by birth (instead of solely by descent). Under this provision, individuals born before April 1990 who prove they have spent their entire lives in Nepal qualify for citizenship.

To document the citizenship status of as many people as possible, hundreds of mobile teams criss-crossed Nepal's 75 districts during the first few months of 2007, visiting even the remotest of mountain villages. Between February and August, UNHCR conducted a survey of the situation, including a series of field missions to monitor progress and identify populations which did not benefit from the campaign. This survey revealed that members of disadvantaged communities, the elderly and women were among those left out. The survey paved the way for follow-up measures to be undertaken together with the Government of Nepal during 2008.



Bihari refugee child in Dhaka, Bangladesh.