

Statelessness: a forgotten human rights crisis

by Bill Frelick and Maureen Lynch

Stateless persons do not register on the international community's radar screen. Recent research suggests that 11 million people lack citizenship or effective nationality. This is a gross violation of Article 15 of the Universal Declaration of Human Rights, which holds that every person "has a right to a nationality".

Citizenship or nationality is the essential link between an individual and the State. Establishing and preserving an individual's right to nationality is a necessary prerequisite for the expansion and enforcement of all other human rights. Stateless persons have an equal right to protection before the law, not to be arbitrarily arrested, subjected to inhumane treatment or torture, denied due pro-

cess, subjected to forced labour or returned to a place where they would be persecuted. International human rights instruments accord to stateless persons equal rights to marriage, freedom of belief, expression, religion and most other economic, social and cultural rights.

Nevertheless, in practice, statelessness is often accompanied by the deprivation of a host of basic rights

and discriminatory treatment, particularly with respect to labour rights, freedom of movement and property rights. According to the former UN Special Rapporteur on the Rights of Non-citizens:

There is a large gap between the rights that international human rights laws guarantee to non-citizens and the realities they must face. In many countries there are institutional and endemic problems confronting non-citizens. The situation, however, has worsened as several countries have detained or otherwise violated the rights of non-citizens in response to fears of terrorism. Continued discriminatory treatment of non-citizens demonstrates the need for clear, comprehensive standards governing the rights of non-citizens,

their implementation by States, and more effective monitoring of compliance.¹

An indication of how little attention the international community accords to non-citizens generally, or stateless persons in particular, is that the mandate of the UN Special Rapporteur on Non-citizens was not renewed when it expired in April 2004, largely because the Special Rapporteur had completed his study and renewal of his mandate would have meant creating a more active, monitoring role.

States are often reluctant to acknowledge the presence of stateless persons on their territories. They are rarely counted in official government statistics as a resident category. More often, they are counted as undifferentiated "aliens", if their presence is recognised at all. While the exact number of stateless people is not known, research by Refugees International (RI) found:

- In Bangladesh, more than 250,000 Biharis (also called 'stranded Pakistanis') live in 66 squalid camps established more than 33 years ago: both Pakistan and Bangladesh refuse to offer them citizenship.
- More than 140,000 of the Russian-speaking minority residents left behind when Estonia entered the European Union are finding it hard to obtain citizenship due to difficulties passing stringent language requirements.
- In Thailand around two million people, half the population of the so-called 'hill tribes', lack Thai citizenship and are denied the right to vote, buy land, seek legal employment or travel freely - despite having been born in Thailand.
- Millions of Palestinians are not only refugees but also stateless.
- In Kuwait, Bahrain, Saudi Arabia and the United Arab Emirates large numbers of *bidoon* - primarily Arabs from neighbouring countries or belonging to tribes in dispute with ruling elites but also non-Arabs whose families settled in the Gulf generations ago - are trapped in a system that allows them no protection.

The list goes on. Stateless persons are also found among the Bhutanese

in Nepal; Muslim minorities in Burma and Sri Lanka; European Roma who fled conflict in the Balkans; ethnic minorities such as the Batwa 'Pygmy' and Banyarwanda of the Great Lakes Region of Africa; Rohingya in Bangladesh; Kurdish populations; persons of Haitian ancestry in the Bahamas and elsewhere in the Caribbean Basin; some Meskhetian Turks and Zimbabweans of Indian descent or with links to Malawi and Mozambique.

The 1954 Convention Relating to the Status of Stateless Persons² identifies a stateless person as someone who does not have the legal bond of nationality with any state. Unlike refugees and internally displaced people, stateless individuals generally do not benefit from the protection and assistance of governments, aid agencies and the UN, despite its mandate over stateless persons. They are essentially international orphans. At present, only two staff people at the headquarters of UNHCR are employed to focus on this large and growing population.

Statelessness is not an unsolvable problem. Amnesty International USA and Refugees International recommend that:

- governments respect the basic human right of all individuals to have a nationality, adhere to international standards to protect stateless people, reduce statelessness by facilitating acquisition of nationality, allow non-citizens equal access to rights and entitlements within their borders and ensure every child is registered at birth
- the UN and NGOs define agency mandates and outline concrete operational objectives, provide relief for immediate needs of stateless persons and organise a global survey to better identify stateless populations

- the international community strengthen UNHCR as the lead agency on statelessness issues and advocate for the establishment of a dedicated department within the agency
- the Human Rights Commission appoint a Special Rapporteur on Statelessness
- donors require and evaluate protection of stateless populations and provide new funding to support UN and NGO work on behalf of stateless people.

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1. David Weissbrodt, 'Final report on the rights of non-citizens', UN Doc. E/CN.4/Sub.2/2003/23 (2003), www1.umn.edu/humanrts/demo/noncitizensrts2003-add3.html

2. www.unhcr.ch/html/menu3/b/o_c_sp.htm

Stateless woman in Bangladesh.

