



Note on Statelessness in the Context of the 2011 Commemorations

UNHCR Addendum to Commemorating 60 Years of the Refugee Convention: Commitments for Protection and Solutions in the OSCE Region

The past two years have witnessed increased momentum in efforts to prevent and reduce statelessness and protect those who are stateless. For example, an increasing number of States are currently considering acceding to the two universal statelessness treaties – the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. Other States have incorporated important standards from these treaties in their domestic legislation. Awareness of the plight of stateless persons has also grown, as demonstrated through the large number of media stories on statelessness published all over the world in connection with a recent UNHCR media campaign. Furthermore, UNHCR has been granted more resources to tackle statelessness, which has significantly enhanced its capacity to carry out its statelessness mandate.

Yet, despite the growing global attention and a number of positive developments, these efforts have not led to resolute action to address statelessness everywhere. UNHCR hopes to see States seize the opportunity of the 50th anniversary of the 1961 Convention on the Reduction of Statelessness to pledge to address statelessness in their countries through concrete measures.

This paper provides background information on facts, trends and developments concerning statelessness in the context of efforts to commemorate this anniversary. Ultimately, the objective is to increase international and national awareness and assist States in developing statelessness-related pledges to submit during the 7-8 December 2011 ministerial-level meeting in Geneva.

Overview

Fifty years after the adoption of the 1961 Convention on the Reduction of Statelessness, UNHCR estimates that up to 12 million people remain stateless worldwide. Accurate numbers of stateless populations are often hard to obtain, because stateless people in most States go unregistered and live on the margins of societies.

In many countries where stateless persons reside, laws and administrative procedures fail to adequately address their situation, for instance by enabling them to confirm or acquire a citizenship or to obtain stable, legal residence. The result is that affected populations often continue to experience serious difficulties, in many cases lacking access to basic rights and services most people take for granted, such as health care, education, legal employment, property rights, or identity and travel documents. Stateless persons are also at enhanced risk of arbitrary detention.

The 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness together form an international legal framework through which stateless persons enjoy a certain standard of treatment and the risk of future statelessness is minimized. The Conventions are complementary to universal human rights standards nearly every state in the world has signed up to, as well as to standards adopted at the regional level. Most significant among the latter are the European Convention on Nationality and the Council of Europe Convention on the avoidance of statelessness in relation to State succession.

Statelessness is not merely a technical legal issue but one which requires good governance and political determination to overcome. Experience from the past two decades shows that statelessness can often be prevented if international standards are consistently applied. An example is the universal obligation in the Convention on the Rights of the Child to ensure that every child has the right to acquire a nationality. Despite the fact that there are only two States worldwide that have yet to become party to this treaty, many States fail to guarantee that children avoid becoming stateless at birth. Some nationality laws also contain discriminatory provisions or are applied in a discriminatory manner. This has a particular impact on the sizeable number of the world's stateless persons who belong to ethnic, religious or linguistic minorities and who are stateless as a result of arbitrary denial or deprivation of nationality. Statelessness has moreover been found to have a disproportionate impact on women and children, among other things as a result of a number of States worldwide that continue to discriminate against women in their right to transmit nationality to their children.

The treatment of stateless persons is another area requiring decisive action. Too few States have adopted procedures to allow the determination of someone as a stateless person and the grant of a legal status to the person on this basis. As a result, many stateless persons are often unable to regulate their situation where they reside while being simultaneously unable to return to their country of former habitual residence. A related concern is the detention of stateless persons, often as a result of inability to identify a country willing to accept them and the lack of a legal status for these stateless persons where they find themselves. For these reasons, stateless persons frequently become subject to indefinite or repeated periods of detention. Such problems could be resolved through application of the 1954 Convention relating to the Status of Stateless Persons, and related human rights standards.

Trends relating to Statelessness in the OSCE Region

This year also marks the 20th anniversary of the break-up of the Soviet Union, which resulted in the emergence of 15 independent States. The dissolution of the Soviet Union rendered millions of people stateless. Statelessness also became a problem in the aftermath of the dissolution of Czechoslovakia and the Federal Republic of Yugoslavia. Since then, UNHCR, often in cooperation with the **OSCE** and the Council of Europe, has worked with the successor States to help ensure that stateless persons acquired a nationality and to minimize the risk that the nationality laws adopted by the newly independent States would result in new cases of statelessness.

Despite these efforts, UNHCR believes – on the basis of government registration data and census and survey results – that more than 600,000 stateless persons currently reside in OSCE participating States. The great majority of them became stateless as a result of the dissolution of the Soviet Union and Yugoslavia two decades ago and their status has not yet been resolved.

Through its work across the OSCE region, UNHCR has observed a number of positive trends relating to statelessness, which it would like to highlight in this paper. One is a trend towards increased compliance with standards set forth in the 1961 Statelessness Convention, including in many States that are not yet party to the treaty. They include an increasing number of States granting citizenship to children who would otherwise be stateless (art. 1 and 4 of the 1961 Convention) and to foundlings (art. 2 of the 1961 Convention); a declining number of States that deprive citizens of their nationality because they reside abroad (art. 7.3 of the 1961 Convention); and a growing number of countries that include safeguards against statelessness when persons renounce their citizenship and/or seek naturalization (art. 7.1 and 7.2 of the 1961 Convention).

In the past two years in the OSCE region, amendments to the nationality legislation in Georgia and Lithuania introduced a vital safeguard against statelessness when citizens renounce their citizenship. In Lithuania the reform also removed a provision according to which citizens resident abroad lost their citizenship if they failed to register with a consulate. UNHCR would encourage other OSCE participating States to follow such positive examples and to bring nationality legislation in line with international standards for the prevention of statelessness.

UNHCR also notes a positive trend among many OSCE participating States to identify who is stateless on their territory and to take measures to redress their situation by granting them access to citizenship or to legal residence. Particularly positive in this regard are efforts several of the States in the former Soviet space have undertaken to significantly reduce statelessness. Through the adoption of a new Citizenship Law in Kyrgyzstan in 2007, all stateless persons who had permanently resided in the Republic the last five years were granted citizenship. In Belarus, Estonia, Kazakhstan, Kyrgyzstan, Latvia, the Russian Federation, and Ukraine, significant numbers of stateless persons are naturalized on an annual basis, progressively reducing the numbers of stateless people in these countries.

In Turkmenistan, the Government and UNHCR have this year jointly completed a country-wide registration campaign of persons with undetermined nationality. The persons identified will be granted citizenship or legal residence, with 1,590 already granted citizenship through presidential decree on 8 July this year.

UNHCR is also currently carrying out studies to map more accurately the magnitude of statelessness and the situation of stateless persons in the United States, United Kingdom, Belgium and the Netherlands. Surveys of persons who are at risk of statelessness because they lack documentation were also completed in recent years in Bosnia-Herzegovina, FYRoM, Montenegro and Serbia, by government agencies or UNHCR and its partners.

In these and other countries in the OSCE region UNHCR is actively encouraging the establishment of a dedicated procedure to determine who is stateless and grant stateless persons a legal status. UNHCR would encourage more States to follow the example of the States in the region which have such procedures, namely France, Hungary, Italy, Latvia and Spain.

UNHCR's Budget and Operations

For 2011, UNHCR has budgeted USD 62.8 million to cover activities aimed at reducing the number of stateless persons in the world, protecting those who remain stateless and preventing new cases of statelessness from occurring. The budget has increased from around

USD 12 million in 2009 thanks to the introduction of a budget structure allowing UNHCR to record more accurately which funds are being allocated towards addressing statelessness. In 2011, in the OSCE region, UNHCR is carrying out activities under its statelessness mandate in nearly all participating States.

Activities UNHCR carries out in the region include support to legal aid programmes that assist stateless persons to confirm or acquire a nationality and to obtain vital documentation and access to basic rights. Such programmes are currently being implemented in five countries in South Eastern Europe and across the CIS region. Everywhere in the region, UNHCR provides technical advice to States and advocates for reform of nationality laws and accession to the Statelessness Conventions. It also provides expertise to a growing number of States on the establishment of statelessness determination procedures.

2011 Commemorations

UNHCR's overarching objectives for the 2011 Commemorations are to raise awareness of the ongoing plight of the up to 12 million stateless persons worldwide in order to strengthen international commitment to address this phenomenon in recognition of the 50th anniversary of the 1961 Convention on the Reduction of Statelessness. To this end, UNHCR is undertaking a major effort to encourage more States to accede to the 1954 and 1961 Statelessness Conventions.

By 25 September 2011, only 68 and 40 States were party to the 1954 and 1961 Conventions, respectively. Among the 56 OSCE participating States, 32 are party to the 1954 Convention and 21 to the 1961 Convention. UNHCR is committed to changing this and stands ready to provide technical assistance to States that are considering **accession** to these conventions. It is heartened in this regard by the accession by Croatia to the 1961 Convention on 22 September and positive indications that several other OSCE States (including Turkmenistan, Serbia, Georgia and Moldova) are in the process of completing the accession procedures for this Convention and/or the 1954 Convention.

UNHCR activities relating to the 2011 Commemorations have also included a series of **expert meetings** to clarify doctrinal issues relating to the 1954 and 1961 Statelessness Conventions. The objective of these meetings has been to engage experts from governments, civil society and academia in discussions which will result in UNHCR guidelines with practical recommendations for States in four concrete areas: 1) the definition of stateless persons under international law; 2) procedures for determining whether a person is stateless; 3) a national legal status for stateless persons; and 4) the interpretation of the 1961 Convention and the prevention of statelessness among children.

Furthermore, UNHCR is convening a series of **regional meetings** to exchange experiences and practices in addressing statelessness and foster action by individual states or at the regional level. In South Eastern Europe, UNHCR, together with the **OSCE High Commissioner on National Minorities**, will convene a Regional Conference on the Provision of Civil Documentation and the Prevention of Statelessness hosted by the Government of Croatia on 26-27 October 2011. Similar regional activities are also underway in Southern Africa and in Asia.

The main event commemorating the 50th anniversary of the 1961 Statelessness Convention, alongside the 60th anniversary of the Convention relating to the Status of Refugees, will be a

ministerial-level meeting to be held in Geneva on 7 and 8 December 2011 to review protection gaps and measures to address them. This ministerial meeting will provide States with the opportunity to submit pledges. State pledges are statements of voluntary commitments to undertake concrete reform measures at the national level to uphold international protection standards. UNHCR is collaborating with Governments and NGOs to encourage States to accede to the statelessness conventions, reform their nationality laws, or make other statelessness pledges at the 2011 ministerial-level meeting in December 2011. It would likewise encourage regional organizations, such as the OSCE, to support these efforts. Examples of potential State pledges can be found in the recommendations listed below. States will also have the opportunity to accede to one or both Statelessness Conventions at the special treaty ceremony to be held in Geneva on 7 December 2011.

Bolstering Partnerships

The magnitude, complexity and impact of the statelessness problem globally requires the strengthening of partnerships with other UN agencies, international and regional organizations and civil society. In addition to coordination within the UN system, UNHCR is working with a number of international and regional organizations to raise awareness of and propose specific responses to statelessness. These include the OSCE, the Council of Europe, the African Union, the Organization of American States, the Inter-Parliamentary Union, the ASEAN Inter-Governmental Commission on Human Rights, and the Söderköping Process in Europe.

Past co-operation with the OSCE includes a joint Regional Conference on the Prevention and Reduction of Statelessness and Protection of Stateless Persons in Central Asia, held in Ashgabat, Turkmenistan in December 2009. This regional process set in motion a series of efforts to reform legislation and to identify and resolve statelessness situations in the region. As previously mentioned, a regional conference on the Provision of Civil Documentation and the Prevention of Statelessness in South Eastern Europe will be organized jointly by UNHCR and the OSCE High Commissioner on National Minorities in Croatia in October. One of the key objectives of this event is to seek the establishment of a regional mechanism to manage and implement civil registration.

UNHCR also works with a growing number of NGOs and academic institutions on a range of issues, including the development of guidance on international standards, mapping of statelessness situations, and awareness raising. National civil society partners are also central to UNHCR efforts to address statelessness through their implementation of legal aid programmes, joint advocacy and other activities.

UNHCR Recommendations on Pledges States Can Make to Address Statelessness:

Identification of Stateless Persons

UNHCR encourages States to incorporate into national law the international legal definition of a “stateless person” from article 1 of the 1954 Convention relating to the Status of Stateless Persons

and

to compile reliable data on the number of stateless persons within a country, such as through surveys, population census or other appropriate means. The latter can be assisted by UNHCR and other UN agencies, as well as non-governmental organizations.

Preventing Statelessness

UNHCR encourages States to review and amend nationality laws to include safeguards against statelessness among children, by granting citizenship at birth to those either born on a State's territory or to nationals abroad who would otherwise be stateless

and

to review and amend nationality laws to ensure that States grant citizenship to foundlings on their territory

as well as to

ensure that no one becomes stateless in the process of renouncing a nationality or applying for naturalization, or on the basis of residence abroad without consular registration.

Furthermore, States are encouraged to streamline administrative procedures and reduce relevant fees in order to facilitate the acquisition of nationality of eligible stateless persons

and

to improve birth registration and other civil registration and the provision of related documentation, including facilitation of subsequent/late registration of births, to reduce the risk of statelessness.

Reducing Statelessness

Where it is known that certain populations are stateless within a particular State, UNHCR encourages the relevant State to undertake measures to ensure that they can confirm or acquire nationality, in particular where these stateless persons have significant links with the country on the basis of birth, descent or long-term habitual residence.

and

to pledge to adopt a comprehensive strategy or action plan for the reduction and prevention of statelessness and its causes, in line with the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness and international and regional human rights standards.

Protecting Stateless Persons

In particular in countries where stateless persons appear in the migratory context, UNHCR encourages States to establish statelessness determination procedures that result in the

granting of a national status to individuals who qualify as stateless persons under the 1954 Convention definition.

UNHCR furthermore encourages States which are not currently party to pledge to grant stateless persons the standards of treatment provided for in the 1954 Convention relating to the Status of Stateless Persons, including the provision of identity and travel documents to stateless persons.

Conclusion

Considerable progress in collective efforts to address statelessness has been made in recent years. The number of States where UNHCR undertook activities relating to statelessness has risen significantly. There is far higher awareness and interest in the problem and an increasing number of actors involved. Strategic Partnerships are being established and growing, including with regional organizations such as the OSCE. The 50th anniversary of the 1961 Convention offers a unique opportunity to build on the momentum achieved in recent years. In particular, the pledging process leading up to the December 2011 ministerial-level meeting of United Nations Member States provides the opportunity for wide-ranging dialogue with Governments on the concrete steps that are needed to tackle the causes and consequences of statelessness. The ministerial-level meeting will also provide a forum for the deposit of instruments of ratification and accession to the 1954 and 1961 Conventions.

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