Human Rights Council

Research Report

The Question of:

Stateless individuals

Introduction

Nowadays approximately 10 million people around the world are lacking/have been denied a nationality, resulting in them not being able to exercise their basic human rights, like attending schools, seeing a doctor or working. Stateless people lack the right to get married or to travel freely (sometimes even within the country). They are living in constant fear and they face enormous barriers throughout their lives, only because they became the victims of bureaucracy.

Often governments use statelessness as a tool to deal with certain ethnic or religious groups. If these ethnic groups lack legal nationality, then they are practically trapped in the region where they are in constant danger. A great example would be the migrants of Burkinabé (approx. 700 000 people) descent in Cote d'Ivoire, who did not get Ivorian nationality after the country's independence from France in 1960.

We must not forget that stateless individuals are people as well, especially if we consider the very much existent workforce vacuum present. Without properly addressing this issue the number of people without a nationality will continue to grow and it will become gradually harder to find a solution.

The Committee

The United Nations Human Rights Council (UNHCR for short) is a United Nations body to promote and protect human rights around the world. The committee has 47 members elected for 3-year terms. The headquarters are not in New York, but in Geneva, Switzerland.

The HRC makes non-binding resolutions, meaning that they are not declarations like in the Security Council resolutions, but rather initiations and suggestions for states on how to combat different issues. The committee has a President and a Deputy President, who will be presiding over the sessions.

The HRC follows the standard Rules of Procedure, which means it is *not* an ad-hoc committee.

Key Terms

Stateless person: according to the 1954 Convention relating to the Status of Stateless Persons, "a "stateless person" is a person who is not considered as a national by any State under the operation of its law."

Jus soli: in direct translation from Latin it means "right of the soil", but it is commonly referred to as birthright citizenship. In States where this practice is present a baby born in the territory of the State will automatically and unconditionally receive a nationality or citizenship, regardless of the parents' nationality.

Jus sanguinis: in direct translation from Latin it means "right of blood". In practical terms it means that a newborn will receive citizenship based on the parents' citizenship, meaning the birthplace is irrelevant.

Sovereign State: generally, there are four descriptors for a state to be recognised, which include having a permanent population, a defined territory, one centralized government and the capacity to enter into relations with other sovereign states.

Non-state territory: a territory not claimed or ruled by any sovereign state, or where there is no recognised government present. Even though there might not be a government, but there might be other non-state actors, who may exercise their power over the mentioned territory in a peaceful or in an aggressive manner.

General Overview

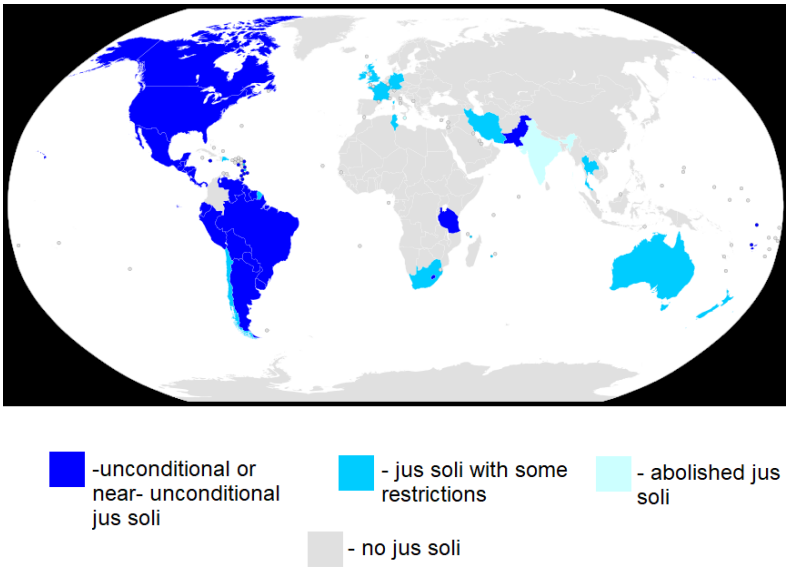
Following the Second World War and the approval of the Charter of the United Nations together with the Universal Declaration of Human Rights at the end of 1948, Member States have raised concerns of the ill-treatment of stateless persons. As at that time international law was lacking a proper definition and framework for dealing with such individuals, it was absolutely crucial to at least supply a definition of stateless individuals and to define in what way were they eligible for enjoying their rights. For the aforementioned reasons the 1954 Convention relating to the Status of Stateless Persons have been concluded.

Unfortunately, the convention did not properly solve the problem in practical terms. The ever-growing number of stateless persons have reached such a peak that it is now becoming exceptionally hard to deal with the situation.

Causes of statelessness

It is usual that we never think about our nationality, as it is acquired automatically at birth. However as there are two major legal procedures being used to determine the nationality of a person, there are faults in between. These two procedures are jus soli (right of the soil) and jus sanguinis (right of blood). Depending on where or from what parents the baby is born, it can differ greatly which nationality or even nationalities are granted.

It is because of the conflict between jus soli and jus sanguinis that the majority of stateless people are denied citizenship. As an example: if a state exercises jus sanguinis, a baby born to two parents not having passed the citizenship by jus sanguinis to that state, the baby will not have a citizenship automatically. If the parents are residents of another country, where jus sanguinis is practised and they are citizens, then the baby will receive a proper citizenship of course, but for those who lack such rights it is complicated and often practically impossible to ever become a full citizen of a Member State.



In some states there is a distinction made between men and women when transferring their nationality onto their new-born. Therefore, if the father of the baby is unknown, stateless or is in any other way unable to confer his nationality the baby will become stateless at birth. Fortunately, recently (mainly due to the pressure of other Member States) the States where this procedure was applied have changed their standpoints on the issue and are on the path to change the nationality laws to reflect gender neutrality. Other causes include administrative obstacles, state succession, renunciation and the case of non-state territories.

The situation of stateless people

Stateless people face a wide range of problems, depending on where they live and why they become stateless. Logically, every activity where any kind of personal identification is needed (e.g. voting, being employed legally, applying for a passport[1]) will be difficult to take part in. This just further highlights that the problem of statelessness is not only bureaucratic, but also a problem of discrimination, which one might receive throughout their life.

While generally anyone can become stateless, it is apparent that refugees are facing this problem as well. Refugees often lack proper travel documents when arriving at a host state. For obvious reasons they cannot apply for such papers at their country's embassy for example, as they would either be denied or even deported back to their country of origin (although the host country would be obliged to exercise non-refoulement procedures). There are frameworks that allow stateless individuals to be granted travel documents, but some states require the nationality to be proven prior to application, which is another obstacle which many are unable to deal with.

Statelessness used for discrimination of an ethnic group

Though being against international laws regarding discrimination, many States use statelessness as a tool to jeopardize certain ethnic groups' rights. E.g. Palestinians in Lebanon and Syria as well are denied citizenship, therefore stateless. Another example is the situation of the Rohingya people in Myanmar, who are denied citizenship along with other serious human rights violations by the Burmese Government.

Major Parties Involved

United Nations High Commissioner for Refugees: Although initially having been only responsible for refugees that were stateless, the UNHCR's responsibilities have been expanded to end all kinds of statelessness. The General Assembly has continued to support this fight leading to the launch of a global campaign in 2014 to end statelessness within 10 years. The campaign consists of 10 "actions", considered as a framework for the work needed to be carried out. These include ensuring that no child is born stateless (causing the stateless population to stop expanding further) and preventing that nobody is denied nationality because of their racial backgrounds.

Institute on Statelessness and Inclusion: an independent organization dedicated to promote the ending of statelessness. They work together with the UN and Member States to fulfil the campaign to end statelessness.

[1] Refugees are eligible for a „refugee travel document" under the 1951 Convention Relating to the Status of Refugees. All 145 States, which have signed the convention are obliged to issue travel documents to refugees lawfully resident in their territory.

Previous attempts to solve the issue

Universal Declaration of Human Rights – Inspired by the issues surfacing following the Second World War, the General Assembly adopted a document as a common standard of achievements for all peoples and all nations. It describes fundamental human rights, which must be universally protected. Relating to this issue is article 14 and 15:

- Article 14: "Everyone has the right to seek and to enjoy in other countries asylum from persecution."
- Article 15:
  - "Everyone has the right to a nationality."
  - "No one shall be arbitrarily deprived of his nationality nor denied the right to his country."

It is because of these declarations that the 1954 Convention relating to the Status of Stateless Persons and later in 1961 the Convention on the Reduction of Statelessness was concluded. The 1961 Convention should be interpreted as a complement to the previous one, as it describes concrete standards on how exactly States should deal with problems relating to one's nationality. A great example is a clarification of how children born on a ship or an airplane would get a nationality.

Since then there have not been any treaty signed regarding statelessness only regional conventions. Notably the 1997 European Convention on Nationality described the protection of people without a nationality inside the Council of Europe region.

Current estimates show that there are around 3.5 million stateless persons registered (as per 2014), but there are believed to be 11 million across the globe. For that reason, the budget allocated for the combat against statelessness have been raised from $12 million to $70 million by 2015.

The Future

It is generally agreed upon that it is not acceptable for anyone to lack nationality. However, as in some regions it is used as a tool to confine certain groups of people, higher and higher focus is placed upon ending statelessness during the fight against discrimination. States that have agreed to the 1951 Convention Relating to the Status of Refugees are exercising their obligations rather well, but in fact the majority of stateless people are located in the non-signatory States. Therefore, it is more important than ever that we find a proper and universal solution to this problem.

While some States will resist and will be keen on slowing down any process of ending statelessness, we have to keep in mind our aim of helping the people who are the victims of discrimination and bureaucracy.

Important Decisions a Resolution Must Take

There are a few questions mentioned here, which will most probably help the delegates to point their research towards more concrete areas, however it is important to stress the fact that there are more aspects to this issue than these questions, so we stress that delegates research their countries' policy extensively.

Should a State "adopt" a stateless person to her own nationals?

Should stateless persons enjoy the same rights as people with a nationality?

How exactly should stateless persons be treated, when they are lacking any type of identification document?

Is it appropriate to request identification documents from the stateless person's country of origin?

In what ways should stateless persons be specially protected from discrimination?

Further Reading

Forced Migration review, 32nd issue, April 2009 - https://www.fmreview.org/sites/fmr/files/FMRdownloads/en/FMRpdfs/FMR32/FMR32.pdf

Handbook on Protection of Stateless Persons, UNHCR, Geneva, 2014 - http://www.refworld.org/docid/53b676aa4.html

European Network on Statelessness - https://www.statelessness.eu/

Institute on Statelessness and Inclusion - http://www.institutesi.org/

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United Nations General Assembly – A/RES/31/36, 30th of November 1976

United Nations General Assembly – A/RES/3274, 10th of December 1974