

Statelessness: what is it and how does the international community address the issue?

Most of us acquire citizenship at birth, and it is something we often take it for granted. Citizenship is something we think about only “when we travel abroad, when the Olympic Games are on, or when we vote in national elections” (2009, Couldrey M. & Herson M. *Stateless*). However, for those who lack recognition as nationals, citizenship is a fundamental issue. Holding a nationality is the key to enjoy basic rights such as health care, education, access to the national judicial system or employment. A stateless person is someone who is not recognised as a national by any State. In a world of nation-states, it is a cruel contradiction that millions of individuals are not recognised as belonging to any of these.

The 1954 Convention relating to the Status of Stateless Persons defines a ‘stateless person’ as “a person who is not considered a national by any State under the operation of its law” (article 1). The absence of nationality or citizenship makes stateless people vulnerable in any aspect of their life and often subjected to the denial of basic human rights. The lack of official recognition does not mean that stateless people do not have ties to a particular country. However, because of a wide range of possible circumstances, they find themselves in the situation of not being recognised as citizens.

Statelessness is prohibited under international law. Yet, the United Nations High Commissioner for Refugees (UNHCR) estimates that there may be as many of 12 million stateless people in the world. In order to give a more precise definition of what makes a person stateless, a first important distinction needs to be made between *de jure* and *de facto* stateless people. “Under the 1954 Convention, individuals who have not received nationality automatically nor through an individual decision under the operation of any state’s law, are known as *de jure* stateless persons.” (2009, Blitz BK, *Statelessness, protection and equality*) However, there is a large number of people who are

unable to prove their nationality or they are denied to access many human rights that other citizens enjoy. These people are considered *de facto* stateless.

International law guarantees stateless persons the enjoyment of human rights. However, they frequently cannot access their rights. For instance, they may find barriers in accessing basic education, health care or other government services, obtaining travel documents, being employed. Stateless persons are also likely to be victims of trafficking or sexual and labour exploitation. Discrimination and inequality are common to any form of statelessness. Still, it is helpful to make a distinction between "*direct discrimination* on the basis of nationality, which is formally recorded in law, and *structural discrimination* that may be indirect but nonetheless denies individuals the opportunity to benefit from citizenship." (2009, Blitz BK, *Statelessness, protection and equality*)

Another useful distinction is between *primary* and *secondary* sources of statelessness. "Primary sources relate to direct discrimination and include: a) the denial and deprivation of citizenship; b) the loss of citizenship. Secondary sources relate to the context in which national policies are designed, interpreted and implemented and include: c) political restructuring and environmental displacement; d) practical barriers that prevent people from accessing their rights." (2009, Blitz BK, *Statelessness, protection and equality*)

How do people become stateless?

The largest populations of non-refugee stateless persons in UNHCR statistics are Myanmar with 810,000 Rohingya (the number only includes the Rohingya in northern Rakhine State), Cote d'Ivoire (700,000), Thailand (506,000) Latvia (312,000), Syria (231,000) and Dominican Republic (210,000).

Statelessness may result from different circumstances. In general, the denial of citizenship is the result of a state action which could be intentional or

not. State secession or succession, often but not necessarily following conflicts, may cause statelessness: the dissolution of a State and emergence of new States; the separation of part of a State to form a new one; the transfer of a territory from one State to another.

Other causes of statelessness are the arbitrary denial or deprivation of citizenship on the ground of ethnicity (in law or in practise) or discrimination on ground of gender. In particular, the contribution of gender discrimination to generating statelessness is extensive: 27 countries in the world limit the right of women to pass their nationality to their children (only men can). Children become stateless when they cannot acquire nationality from their father. This can occur, for example, when the father is stateless; when he is unknown or not married to the mother at the time of birth; when he has been unable to fulfil the necessary administrative steps to confer his nationality or when he is unwilling to confer his nationality to his children; etc. Although there are differences between the limits they impose on mothers to confer their nationality to their children, some of the 27 countries whose nationality laws discriminate against female gender are: Brunei Darussalam, Iran, Jordan, Kuwait, Malaysia, Nepal, Qatar, Saudi Arabia, Sierra Leone, Somalia and Syria.

Statelessness may also be caused by documentation issues like lack of registration at birth, or the existence of rules for proving nationality which make it difficult for individuals to establish that they possess a nationality. Finally, it can also be the consequence of climate and environmentally induced displacement. In the poorest regions, many minorities live without any documentation, and this kind of technical problem can cause the lack of citizenship.

The way a country grants citizenship at the moment of birth is a matter of interest and concern for those who operate to prevent statelessness. The most common principles for granting citizenship are the *jus soli* and the *jus sanguinis*. Nationality policies based on the *Jus soli*'s principle confer citizenship to all those born in the territory of a country, while those based on *Jus sanguinis* grant citizenship on children whose parents are

citizens of a given country. In practise, nationality policies which prioritise blood over civic criteria make the incorporation of minorities more difficult.

Addressing statelessness

During the 1920s, it was common to make no distinction between stateless and refugee statuses. Lack of protection of Government of their country or origins or any other Government was common to both statuses. Nevertheless, the issue was a matter of concern to nation states and to the League of Nations, which encouraged measures to address the problem. It is, however, only after the massive population displacements following the Second World War that the stateless issue was reintroduced into the international agenda as a separate issue from the refugee problem.

The right to nationality has been elaborated in two United Nations' international conventions: the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. Although the two conventions have not been ratified from a large number of States, both are fundamental international instruments for the prevention and protection of stateless persons. Originally, norms regarding statelessness were to be included in a Protocol to the 1951 Convention relating to the Status of Refugees, however due to the need of dealing with the large amount of post-war refugees, the Convention was adopted without the inclusion of the Protocol. Later, the two fundamental agreements that brought the attention of the international community to the discourse on statelessness were adopted.

Providing a definition of 'stateless person', the 1954 Convention Relating to the Status of Stateless Persons gives a fundamental contribution to international law. The Convention requires that States facilitate the assimilation and naturalisation of stateless persons. It also provides minimum standards of treatment. For instance, it defends the right to freedom of movement lawfully on the territory; for some rights such as freedom of association and right to employment, it requires States to guarantee at a

minimum the same treatment as other non-nationals; with respect to freedom of religion and education to their children, it provides that stateless persons are to enjoy the same rights as citizens.

The 1961 Convention on the Reduction of Statelessness sets rules on States to prevent and eliminate statelessness. By doing that, the Convention gives effect to article 15 of the Universal Declaration of Human Rights which recognises that “everyone has the right to a nationality”. A central focus of the Convention is the prevention of statelessness at birth. “It requires States to grant citizenship to children born on their territory, or to their nationals abroad, who would otherwise be stateless”(2011, Text of the 1961 Convention on the Reduction of Statelessness – Introductory note by the Office of the United Nations High Commissioner for Refugees).

The Office of the United Nations High Commissioner for Refugees (UNHCR) formally received from the UN General Assembly a specific and global mandate to prevent and reduce statelessness, as well as to protect the rights of stateless people around the world through the adoption of a series of resolutions. The UNHCR activities regarding statelessness can be grouped in four categories: identification, prevention, reduction and protection.

Following the positive steps made by countries and the guidelines provided by the UNHCR, several specific actions need to be taken to address statelessness. First of all, preventive actions to avoid potential instances of mass deprivation of nationality. It is fundamental to reform citizenship laws, as well as to adopt administrative procedures to eliminate discrimination. UNHCR provides technical advice to implement legal reforms. In 2012 and 2013, the agency worked to address gaps in the national legislation of 56 States, mostly from a gender equality and child protection perspective.

Birth registration is, for instance, a fundamental action that has to be taken both to deal with statelessness and ensure child protection. Georgia and the Russian Federation have implemented pledges regarding civil registration, and birth registration will remain a priority for UNHCR

actions.

Protection of stateless children is a matter of particular concern. There are an estimated six million children without a nationality around the world. They are particularly vulnerable to sexual and labour exploitation, abuses and trafficking. Many of them are denied access to basic rights such as education and health care. In spite of the importance of protecting stateless children from the many risks they face, only a few international or national child protection systems include stateless children in their programming.

Identification is also essential, since stateless persons usually lack personal documentation. In this regard, some States have taken positive steps toward pledging to undertake studies and surveys to report the issue. The Philippines is leading the way along with Georgia, Moldova and the UK. These countries implemented stateless determination procedures to improve identification of stateless persons. Other countries have made progress in resolving long-standing situations of statelessness by granting citizenship to stateless population: Côte d'Ivoire, the Kyrgyz Republic, Turkmenistan, Sri Lanka, Bangladesh and the Russian Federation.

UNHCR is also committed to promote accession to the Statelessness Convention. Although the number of States accessing to the two international instruments is still not very high, an unprecedented wave of accessions has been noticed since 2011. This year marks the 60th anniversary of the 1954 Convention on the Status of Stateless Persons. It is an opportunity to draw attention and increase awareness of the issue of statelessness. Therefore, UNHCR launched a campaign which aims to eliminate statelessness within the next ten years. Some fundamental positive steps have been taken, but there is still much to be done to eliminate a phenomenon which continues to affect the lives of millions of people.

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The Worldwide Bone Marrow Registry

Have you heard of the bone marrow registry? Well neither had I, not until my cousin was diagnosed with leukaemia. Bear in mind that I was at this time a

final year medical student immersed in a hospital environment, yet still this aspect of medical care was new to me.

There are a few severe forms of cancers and blood disorders that can cause so much disruption to your bone marrow – the blood factory inside your bones – that a complete bone marrow transplant is the only effective treatment. This process essentially involves an entire depopulation of the diseased bone marrow and then repopulating that vacant space with newly donated, healthy bone marrow. It is an extreme form of treatment, but one that has saved countless lives.

In order for this treatment to be available there needs to be a bone marrow donor. This cannot be just anyone, for the bone marrow that is donated must perfectly resemble that of the recipient – this is called a matched donation. The genetics dictate the specific type of bone marrow a patient might have and logically doctors will first check close family members for a match. Surprisingly as little as 30% of patients are able to find a match within their family and so the majority of patients have to search for non-related donations. In contrast to the relatively few blood types, there are many thousands of variances in tissue types and this makes it challenging to find that perfect match.

In 1974, an American family who was desperate to find a match for their son, with no match found in the family, went on to conduct an international search in hope. Remarkably a match was found, identified via a blood bank as far away as Denmark. This was the first unrelated bone marrow donation to have ever taken place. It also started what was soon to become the bone marrow registry.

There were many sceptics to the registry who asked: 'who would donate to a stranger?' Well, with over twenty-three million donors registered worldwide and over fifty-five thousand bone marrow donations to date (and counting) the sceptics have truly been answered.

What is the bone marrow?

The Bone marrow is a soft tissue found in the centre of certain bones in your body. It is this bone marrow that creates and protects your blood stem cells. Blood stem cells are general 'precursor' cells and with the right instruction they can grow into any of the cells found in your blood stream – oxygen carrying red blood cells, infection fighting white blood cells and platelets that help stop bleeding.

What is involved?

Advances in modern medicine have allowed doctors to collect the important stem cells directly from blood stream and not from your bones – thus removing the need for an anaesthetic. This is termed a Peripheral Blood Stem Cell donation (PBSC) and makes a donation significantly more appealing. Similar to a prolonged blood transfusion, you are connected to a machine that delicately harvests stem cells from your blood. These are then transfused to the patient in a similar way a blood donation would be made. (<http://www.youtube.com/watch?v=lv2LSVgNWjg#t=117>)

There are occasions when the doctor may still request actual bone marrow from the donor. This is however, a far less aggressive procedure than the perceived image of a surgeon drilling into your bones. It does still involve a general anaesthetic but the marrow itself is obtained by a needle and syringe from your hipbone.

When can you donate?

If you are aged 16-45 (depending on your country) and are otherwise healthy you can join the register today but you will only donate if the right match comes up. This is actually quite rare and it may even never happen. The probability is reported to be between 0.5-1% for a registered donor to actually donate.

How can you register?

Your tissue type needs to be identified. This can be achieved from a simple saliva sample, a cheek swab or sometimes a blood sample. You have to answer questions to indicate you are in suitable good health and provide up-to-date contact information, this is important – if you are the match, they need to be able to find you.

Why should you donate?

There are too many patients who are still unable to find a stem cell donor. If you are of Northern European descent you have a convincing 90% chance of finding a match, but if you descend from South Asia your chances plummet down to less than 1%.

Despite the huge number of international registrations, there is a shocking disparity of uptake between continents. Until 2011, India did not even have a bone marrow registry – let alone any registered donors. A perfect match is based on genetics and therefore easier to locate within similar ethnic groups. As a consequence, the disproportionately low number of registrations from Indian, Hispanic and African communities, mean that some patients will never find a donor.

At this point I would like to refer back to my first point –before my cousin contracted leukaemia, why was the bone marrow registry unknown to me? For fear of ignorance I consulted my friends and colleagues both at home and abroad and it seemed I was not alone. With nearly 23 million registered donors worldwide, why is there still so little awareness in the public eye?

So what can we do?

The only current institutional method to encourage recruitment is at the time

of a regular blood donation. This usually involves leaflets and a display at the time of donation. But with relatively few people donating blood on a regular basis, this method is just not reaching the general public.

The more popular recruitment drives, usually stem from friends and family of current bone marrow recipients. For example, the catch phrase 'Give a Spit' was initiated by friends of an Indian student who was struggling to find a match because of the complete lack of awareness in India.

It is the college and university campus that are the breeding ground for these ideas, pioneered by the students who are able to capitalize on their environment; some campuses are bigger than many small towns but populated with a similar demographic. With the right marketing, it can quickly become popular or even 'cool' to register, particularly when the sports teams get involved. This 'cool' factor was particularly played upon with a recent celebrity endorsed YouTube video promoting the bone marrow registry. Although these efforts are really making a difference, evidenced with the current campaign to swab 100K cheeks, why should we be relying on student entrepreneurship to keep the registrations coming?

With hesitant expectation, I look towards national education systems. Blood and organ donation are only commonplace topics in Western schools, and even there, they still do not feature on the national curriculum. The Anthony Nolan Trust gives presentations to students aged 17-19 in the UK to promote all aspects of blood, organ and bone marrow donation (<http://www.anthonynolan.org/how-we-help/education-register-be-lifesaver>) but the area they cover is limited and the team is small. The strong drive for blood and organ donation to be on the curriculum should be joined by the growing bone marrow campaign to ensure that they are all included. When this is achieved it might just provide the exposure required to reach people of all backgrounds, all ethnicities and allow this treatment to be available to all.

This is not an issue isolated to one country or one demographic; it is an international issue and has been so far managed with great effort by few. If

we can just make small changes permanent, then the idea that someone has to go without a donor will be a thing of the past.

If you were given the chance to save a life, would you say no? Register today!

For more information regarding country specific details follow the link below:

https://www.bmdw.org/index.php?id=addresses_members&no_cache=1

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