

Understanding Statelessness: “What connects Tom Hanks, Osama Bin Laden and Albert Einstein?”

Three weeks ago I attended the First Global Forum on Statelessness, which was held in the beautiful location of the Peace Palace in The Hague. More than 300 participants from 70 different countries came together to discuss a topic which has always received limited attention in spite of its global nature. I am neither an academic, nor I did represent a specific organisation at the Forum. More so, I am genuinely interested in the issue of statelessness, and I would like to turn this passion into a career.

In case you are not familiar with the concept of statelessness, the 1954 Convention Relating to the Status of Stateless Persons gives the following definition: “a person who is not considered a national by any State under the operation of its law” (Article 1). The absence of a legal bond of nationality between a person and a State leaves individuals particularly vulnerable to human rights violations and discrimination. Statelessness is a condition which affects more than 10 million people worldwide and it occurs for a variety of reasons. You can read more about this issue in an article I wrote for IWB last June (Statelessness: what is it and how does the international community address the issue? –

<http://issueswithoutborders.com/?p=409>). However, what I would like to talk about here is how I became so passionate about this topic, and to discuss why statelessness is an issue which deserves more attention from academics, governments and civil society.

Although I have always been interested in researching human rights, about one year ago I came across a question which aroused my curiosity even more:

“What connects Tom Hanks, Osama Bin Laden and Albert Einstein?”

Reading those three names in one single sentence is beyond a doubt bizarre; one would think they have no connection at all. However, all three represent

different ways in which people can be affected by statelessness. Osama Bin Laden was stripped of his Saudi Arabian nationality in the 1990s in response to his criticism of the regime ruling at that time. Albert Einstein, on the other hand, was stateless for five years after renouncing his German nationality at the end of the 19th century. The third name, however, requires a clarification: Tom Hanks is not himself a stateless person, but in the movie *The Terminal* he played the role of Victor Navorski, a man whose state breaks up, leaving him stateless. As a result, he is stuck at JFK Airport and forced to live there for nine months. The story of Victor Navorski explains how a person can find himself suddenly stateless without knowing that is happening and without having done anything to cause this. (What connects Tom Hanks, Osama Bin Laden and Albert Einstein? –

<http://statelessprog.blogspot.be/2014/01/what-connects-tom-hanks-osama-bin-laden.html>).



“Currently, you are a citizen of nowhere... You don't qualify for asylum, refugee status, temporary protective status, humanitarian parole, or non-immigration work travel. You don't qualify for any of these. You are at this

time simply... unacceptable.”

A quotation from a movie can be quite powerful. These few lines perfectly illustrate the condition and the status of millions of stateless persons: citizens of nowhere, or ‘Nowhere People’ – which is also the title of an amazing photo exhibition on statelessness of the award-winning photographer Greg Constantine (You can see the photos and find out about Greg Constantine’s work here: www.nowherepeople.org).

The Global Forum has been a unique opportunity for bringing together experts on statelessness from all around the world in one room, explore new dimensions of the issue and discuss it from many angles. Some stateless and formerly stateless persons were able to attend the Forum and share their experiences with all the participants. Listening to their stories and the many obstacles they had to face, and still have to face day by day, has been a touching moment which, I’m sure, left a mark in all of us in that room. I wish everyone could hear the stories of these people to understand the terrible impact statelessness has on the life of individuals. The Forum has been an inspiration for me as well as many others to keep researching and raising awareness on statelessness, and advocate for change in policies and practices of governments and international organisations. Still much needs to be done to solve the issue of statelessness, but seeing so many academics and representatives of governments and international agencies exploring this theme, trying to answer fundamental questions on the topic and raising new ones is an important step forward to give statelessness the attention it deserves.

“To be stripped of citizenship is to be stripped of worldliness; it is like returning to a wilderness as cavemen or savages...they could live and die without leaving any trace.”

Hannah Arendt

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.

Bibliography

Blitz BK (2009) Statelessness, protection and equality. *Forced migration*

policy briefing 3.

<http://www.rsc.ox.ac.uk/publications/policy-briefings/RSCP3-Statelessness.pdf>

Couldrey M. & Herson M. (Ed.) (2009) "Stateless.", *Forced Migration Review* Issue 32 (April 2009)

Guy S. Goodwin-Gill, *Convention Relating to the Status of Stateless Persons* – United Nations Audiovisual Library of International Law –

http://legal.un.org/avl/pdf/ha/cssp/cssp_e.pdf (Accessed: 27.05.2014)

Stateless – UNHCR Actions <http://www.unhcr.org/pages/49c3646c16a.html> (accessed 30.05.2014)

Text of the 1961 Convention on the Reduction of Statelessness – Introductory note by the Office of the United Nations High Commissioner for Refugees (UNHCR) – January 201

UNHCR (2014) – Background Note on *Gender Equality, Nationality Laws and Statelessness 2014*– <http://www.unhcr.org/4f5886306.html> (Accessed: 27.05.2014)

Under the radar and under protected – The urgent need to address stateless children's rights p. 5 <http://www.refworld.org/pdfid/514acd3e2.pdf> (accessed 01.06.2014)

Volker Türk (2014), *The status of statelessness 60 years on* – Forced Migration Review May 2014 – <http://www.fmreview.org/afghanistan/tuerk> (Accessed 28.05.2014)