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Refugees International

A Case Study on NGO Advocacy to Venerate Nationality Rights

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Abstract

Resolution of one of the world's most persistent human rights problems is finally within reach. In the campaign to fulfill the right to nationality and end statelessness, non-governmental organizations (NGOs) and civil society are at the forefront of ensuring change. We have come to understand that effective strategies to end this injustice require not only changes in laws and norms, but such action must be partnered with focused, ceaseless and well-timed research and advocacy. As a result of multifarious efforts, countries such as Bangladesh, Mauritania, Nepal and Sri Lanka have made significant strides in ensuring nationality rights. The response of UN agencies has improved. And media attention has increased. Governments, international agencies, NGOs, legal experts, scientists and the stateless themselves are joining forces as never before. Yet, at the same time, challenges to uphold nationality rights for all may never have been greater than they are today. This article reflects on the re-emergence of statelessness as a global concern, the role of one NGO in a multifaceted movement, and the exigent path that lies ahead.

Keywords

statelessness – stateless – right to nationality – human rights – NGOs – UNHCR – detention – Kuwait – Dominican Republic

After more than six decades of nearly non-existent concern for the world's stateless people, a transformation is taking place. Solving statelessness is

finally within reach. Countries such as Bangladesh, Nepal, and Sri Lanka have made significant strides in responding to situations of statelessness on their territories. The programming and planning efforts of the UN High Commissioner for Refugees (UNHCR) are moving in a positive and expansive direction. Non-governmental organizations (NGOs), academics, and affected individuals are joining forces in new and creative ways. Media attention has increased. These developments cannot be attributed to a single triggering event and neither took place overnight, nor within a vacuum. They are the result of NGO activism, responsive UN offices, grassroots efforts by the stateless, national leadership, and international support in the form of documentation and advocacy for the promotion and protection of the rights of stateless people. This brief reflective article offers an epigrammatic account of how statelessness has been plucked from the back of the global issues shelf from the perspective of one NGO: Refugees International.

Refugees International (RI), a Washington D.C.-based advocacy organization, is largely known for aptly spotlighting emerging, unknown or forgotten humanitarian and human rights crises and acting as a catalyst on behalf of the world's most vulnerable people. The issue of statelessness, which played a role in the early development of the organization in 1979, came to staff attention again in 2003 and was the focus of *Fifty Years in Limbo: The Plight of the World's Stateless People*,¹ an RI bulletin published later that year. Around the same time, the Equal Justice Initiative of the Open Society Institute, now Open Society Foundations (OSF) was preparing for a 2004 conference on the rights of non-citizens, but only a few other humanitarian and human rights organizations such as the Quaker United Nations Office and Jesuit Refugee Service were engaged in work on behalf of stateless people, ensuring, for example, inclusion in Human Rights Council resolutions or in national-level programs.

Meanwhile at UNHCR, a single staff person was dedicated to overseeing the agency's mandate to work on behalf of stateless people. The world's stateless populations were rarely, if ever, included in the agency's planning and programming despite the fact that the results of a member country survey conducted by UNHCR in 2003 indicated over half of the government respondents had encountered problems of statelessness.² UNHCR's Executive Committee

1 M Lynch, 'Fifty Years in Limbo: The Plight of the World's Stateless People' (Refugees International Report, 23 October 2003).

2 UNHCR Department of International Protection, 'Final Report Concerning the Questionnaire on Statelessness Pursuant to the Agenda for Protection: Steps taken by States to Reduce Statelessness and to Meet the Protection Needs of Stateless Persons' (UNHCR March 2004) <www.unhcr.org/4047002e4.pdf> Accessed 23 October 2013.

(ExCom) members, donor governments and sister UN agencies placed no priority on this sizeable segment of the UN's persons of concern. Similarly, first phone calls made at that time to the U.S. Bureau of Population, Refugees, and Migration (BPRM), the Office of the High Commissioner for Human Rights (OHCHR) and large international human rights/relief organizations led to an endless cycle of trying to find a contact point, much less relevant information about country-specific groups of stateless people. In short, the stateless were, as UNHCR's future High Commissioner Antonio Guterres would later call them, 'the ultimate forgotten people'.³

Refugees International Takes on Statelessness (2005 to 2007)

It was in this context that RI decided to investigate the issue of statelessness in greater depth, investing staff time and resources into a multi-region field visit to gather evidence about the 21st century version of the problem. In stark contrast to most RI missions at the time, which were focused on large-scale refugee outflows or other emergencies, there were no pre-existing humanitarian infrastructures or introductions to utilize in the case of stateless groups. Every meaningful relationship with relevant government officials, UN representatives, local legal experts, and most importantly with members of the stateless communities, had to be identified and built up from scratch.

In 2005, RI issued *Lives on Hold: The Human Cost of Statelessness*, the first report of its kind published by an NGO.⁴ It highlighted field studies of statelessness in Bangladesh, Estonia, and the United Arab Emirates and featured a global survey with descriptions of statelessness in more than 70 other countries. The report and a companion op-ed, which was published in *The International Herald Tribune*,⁵ generated a respectable amount of media attention. RI's initial and very conservative estimate of 11 million stateless people worldwide was soon being cited by the UN and other groups. Meanwhile

3 UNHCR, 'New handbook on statelessness addresses 11 million "forgotten" people' (October 2005) <www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=4357b7384&query=statelessness> accessed 24 October 2013.

4 M Lynch, 'Lives on Hold: The Human Costs of Statelessness' (Refugees International Report, February 2005); The Economist 'Statelessness: It's Tough to Live in Limbo' (The Economist, 29 November 2007) <www.economist.com/world/international/dis-playstory.cfm?story_id=10219923> accessed 5 October 2013.

5 M Lynch, 'The People Who Have No Country (...)' (New York Times, 18 February 2005) <www.nytimes.com/2005/02/17/opinion/17iht-edlynch.html?_r=0> accessed on 23 October 2013.

RI also took its concern regarding the plight of the world's stateless people to every other accessible audience - US government officials, peer NGOs, academics, human rights and refugee organizations, the development community, and to stateless groups, encouraging them to organize and advocate on their own behalf.

The year would prove significant in other ways. Internationally, RI organized a side event on statelessness at the Organization for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights (OSCE-ODIHR) and a panel briefing for the 84th Session of the Human Rights Committee, with a focus on the International Covenant on Civil and Political Rights (ICCPR). As a result of the latter, attendees made immediate interventions with delegations from Thailand, Syria, and Slovenia. The United Nations Commission on Human Rights (now the Human Rights Council) passed a resolution on Arbitrary Deprivation of Nationality, which called for a UN Secretary General's report to be issued within the year.⁶

At home in Washington, RI arranged dozens of meetings with Congressional offices, organized the first Congressional Human Rights Caucus briefing on statelessness with the support of Holocaust survivor Congressman Tom Lantos,⁷ and RI's then-president Ken Bacon issued the first of what would be many letters to the U.S. Secretary of State, the Assistant Secretary for BPRM, and the UN High Commissioner for Human Rights. Before the year's end, RI undertook a field trip to Syria in order to learn more about the situation of stateless Kurds and presented a field-based paper on statelessness and health at the American Public Health Association 133rd annual meeting in Philadelphia.⁸

In April 2005, the Inter-American Court for Human Rights issued its judgment in the case of *Yean and Bosico vs Dominican Republic*, a landmark ruling with future ramifications for RI's work and that of many others.⁹ Over the years, RI continued to undertake multiple country visits each year, totaling well over a dozen countries to date, and issued field reports and a few longer illustrated publications to highlight the situation of each stateless population. These trips were always followed by targeted advocacy. In 2006, a staff member

6 <http://www.refworld.org/pdfid/429c3b694.pdf>

7 Citation to US DOS testimony: <http://2001-2009.state.gov/g/prm/rls/45288.htm>

8 M Lynch, 'Statelessness and Health' (2005) Paper presented at the 133rd meeting of the American Public Health Association. Abstract available online at <https://apha.confex.com/apha/133am/techprogram/paper_108999.htm> accessed 23 October 2013; citation to US DOS testimony: <http://2001-2009.state.gov/g/prm/rls/45288.htm>.

9 Inter-American Court of Human Rights *Girls Yean and Bosico v Dominican Republic* (2008) ILM 130, para 172.

from the office of US Representative Diane Watson, a member of the House Foreign Affairs Committee, participated in one such trip to Bangladesh and was instrumental in introducing the first legislative language on statelessness into the US Congress.¹⁰ It was also in 2006 when, in a bold forward-thinking step, the BPRM identified a focal point and pulled together a working group on statelessness. UNHCR representatives began to talk about the agency's statelessness work when they passed through Washington.

Concurrently, RI reached out to collaborate with other NGOs. These efforts resulted in a joint article with Human Rights Watch in *Forced Migration Review*,¹¹ an op-ed with Kurdish Human Rights Watch in *The New York Times*,¹² the organization of a country-specific working group with Jesuit Refugee Service on the Dominican Republic, and with OSJI, a roundtable at the UNHCR NGO consultations. RI organized informational trainings with several U.S. government departments and advocated successfully for a UNHCR led training workshop for Washington DC-based NGOs. Some of the groups that participated in the session later contributed to the UNHCR ExCom Conclusion related to statelessness.¹³

In time, RI began to focus on specific groups among the stateless. With RI's support, for example, the U.S. Congressional Children's Caucus, a group of House Representatives concerned about the rights of children, held an informal briefing about the discrete challenges faced by stateless children.

RI Expands Efforts on Behalf of Stateless People (2007 to 2011)

By 2007, RI's direct advocacy with governments began to pay off. For example, after an RI mission to the region and following discussions with the Mauritanian

10 <http://refugeesinternational.org/press-room/press-release/release-first-ever-legislation-prevent-and-reduce-statelessness-introduced-us-house-representen>

11 B Frelick and M Lynch, 'Statelessness: A Forgotten Human Rights Crisis' (2005) 24 *Forced Migration Review* 65 <http://www.fmreview.org/FMRpdfs/FMR24/FMR2439.pdf> accessed 23 October 2013.

12 P Ali and P Karadaghi, 'Foreigners in their Own Land' (New York Times, 14 February 2006) <www.nytimes.com/2006/02/14/opinion/14iht-edali.html?_r=0> accessed 23 October 2013; citation: <http://refugeesinternational.org/press-room/press-release/release-first-ever-legislation-prevent-and-reduce-statelessness-introduced-us-house-representen>.

13 UNHCR, 'UNHCR Executive Committee Conclusions related to Statelessness' (July 2010) <www.refworld.org/docid/4c499c022.html> accessed 23 October 2013. ; citation: <http://refugeesinternational.org/press-room/press-release/release-first-ever-legislation-prevent-and-reduce-statelessness-introduced-us-house-representen>.

Embassy in Washington and the U.S. government, the U.S. included resolution of the stateless refugees as a major concern in resuming friendly relations with and possible assistance to Mauritania's new government during the election cycle. It became a campaign issue in Mauritania and upon completion of the election, the new government agreed to permit return of stateless refugees from Senegal.

In the fall of 2007, U.S. State Department officials organized an event on the fringes of the UN General Assembly, which led to an article on statelessness in *The Economist*,¹⁴ and in 2008, RI had convinced the State Department to include statelessness in its annual human rights country reports. That summer, Representatives Sheila Jackson-Lee and Diane Watson introduced the first-ever piece of legislation in the U.S. Congress, urging states to confer nationality on stateless individuals living in their territories.¹⁵ It also required that the President report on incidences of statelessness and directed the Secretary of State to increase personnel and resources dedicated to the prevention and resolution of statelessness.

The legislation passed the House and later was included as part of the State Department Authorization Bill. Due to various jurisdictional and foreign policy disagreements the Senate never passed the bill, but it was clear that statelessness was a new human rights concern in Congress. The same year, RI released *Futures Denied: Statelessness among Infants, Children, and Youth*.¹⁶

Several other milestones occurred in 2008. UNHCR realigned its budget structure to include statelessness and RI received its first funding for statelessness initiatives. The 2007 version of the U.S. Trafficking in Persons report, which was launched in 2008,¹⁷ included reference to statelessness and BPRM organized an internal working group on statelessness in the Dominican Republic. RI provided comments on the UNCHR Public Health and HIV Guiding Principles that led to important internal dialogue on the need to address statelessness in that context.

In 2009, publications on statelessness began to proliferate. RI released its second survey in a report called *Nationality Rights for All: A Progress Report and Global Survey on Statelessness*,¹⁸ the World Policy Journal featured an article on

14 The Economist 'Statelessness: It's Tough to Live in Limbo' (n 4).

15 See (n 9).

16 Refugees International, 'Futures Denied: Statelessness among Infants, Children, and Youth' (22 October 2008) <www.refworld.org/docid/48fef8632.html> accessed 5 October 2013.

17 United States Department of State, 'Trafficking in Persons Report' (June 2007) <www.state.gov/g/tip/rls/tiprpt/2007/82808.htm> accessed 5 October 2013.

18 Refugees International, 'Nationality Rights for All: A Progress Report and Global Survey on Statelessness' (11 March 2009) <<http://www.refworld.org/docid/49be193f2.html>> accessed 5 October 2013.

statelessness based in part on interviews with RI inter-locators,¹⁹ and due in part to RI's efforts, an entire edition of *Forced Migration Review*²⁰ focused on statelessness and was later translated into Arabic, French, and Spanish.

In 2010, after the first conference on statelessness in the U.S. was held at Georgetown University Law Center in Washington D.C., RI and Refugee Council USA organized an NGO working group on statelessness in the U.S. to strategize on how to influence domestic laws, regulations and practices. The Obama administration engaged with NGOs to discuss the indefinite detention of stateless people in the United States and signaled an interest in alleviating their experience in deportation proceedings. Subsequently, the Administration issued a memorandum encouraging U.S. immigration detention officers to release stateless people from custody with few, if any, reporting requirements, given the futility of attempting deportation. And RI organized another Congressional briefing on statelessness, sponsored by the Congressional Human Rights Caucus and the Caucus on Women and Children. Afterward the U.S. House of Representatives included language in the Foreign Relations Authorization Act for 2010-2011 that committed the U.S. to reducing the number of stateless persons around the world and bolstering their right to a nationality.²¹

RI's Recent Efforts to Combat Statelessness

November 2011 was full of important events. RI testified as the NGO representative at a Congressional hearing before the Tom Lantos Human Rights Commission, organized in honor of the 50th anniversary of the Statelessness Convention and 60th anniversary of the Refugee Convention. In our testimony, RI commented on successes and challenges in the realization of refugee and stateless rights in the recent past and moving forward.²² RI also organized an international conference on gender and nationality including speakers from stateless groups in Kuwait and the Dominican Republic.²³ A leading Algerian advocate discussed how the national women's movement secured critical

19 B Berkeley, 'Stateless people, violent states' (2009) 26 *World Policy Journal* 3.

20 Special issue of *Forced Migration Review* on Statelessness (April 2009) <<http://www.fmreview.org/statelessness>> 23 October 2013.

21 <<http://www.state.gov/j/prm/releases/factsheets/2013/211074.htm>> Publically available.

22 http://tlhrc.house.gov/docs/transcripts/2011_10_26_Refugees_IDPs_and_Statelessness/26oct11_hearing_Reynolds_Testimony.pdf.

23 <http://refugeesinternational.org/events/statelessness-and-gender-discrimination>.

amendments to Algeria's nationality law. UN High Commissioner for Refugees, Antonio Guterres and Maria Otero, then the Under Secretary for Democracy and Global Affairs, also spoke at the conference. The High Commissioner praised the role RI played in moving the issue of statelessness forward. The same week, RI participated in a coalition that put on a conference and lobbying week focused on statelessness in the Dominican Republic. It was well attended, with participants including stateless people, U.S. government officials, the Dominican and Haitian ambassadors to the U.S., and UNHCR staff. Organizers also arranged meetings for Dominican stateless people and advocates with Congress and State Department officials throughout the week. As a result a US Congressional Representative filed a resolution supporting the right to a nationality.

A follow-on conference was held in February 2013 in the Dominican Republic and was supported by another week of lobbying in the U.S., which concluded with an Inter-American Commission on Human Rights (IACHR) hearing on statelessness in the Dominican Republic. The same week, the IACHR held the first hearing on statelessness in the Americas. At the conclusion of the 147th Session, the IACHR issued a press release including a request that OAS Member States ratify the American Convention on Human Rights, the Convention Relating to the Status of Stateless Persons, and the Convention on the Reduction of Statelessness, if they had not already done so.²⁴

In 2012, at a high level UNHCR ministerial meeting in Geneva, U.S. Secretary of State, Hillary Clinton, appeared and pledged U.S. support for removing gender based restrictions on nationality.²⁵ RI worked directly with the Haitian government to make pledges regarding accession to the Statelessness Conventions at the meeting and tweeted this and other developments as they were announced. In the same year, RI spearheaded a joint NGO letter²⁶ urging states to accede to Convention pledges made at the UNHCR ministerial meeting, enter into new pledges and/or amend laws and practices inconsistent with the Statelessness Conventions during a high-level Rule of Law meeting at

24 Inter-American Commission on Human Rights, 'Annex to the Press Release Issued at the Close of the 147th Session' (5 April 2013) http://www.oas.org/en/iachr/media_center/PReleases/2013/023A.asp Accessed 24 October 2013.

25 U.S. Commemorations Pledges Update, <http://www.state.gov/j/prm/releases/factsheets/2013/211074.htm> (June 24, 2013).

26 Refugees International, 'Dozens of Organizations Urge Member States to Accede to Statelessness Conventions' (Washington September 2012) <<http://www.refugeesinternational.org/content/dozens-organizations-urge-member-states-accede-statelessness-conventions>>, Accessed 23 October 2013.

the UN General Assembly. Twenty-nine organizations representing more than 250 NGOs signed onto the letter.²⁷

In 2013, RI continued to build on its work with stateless communities globally and locally. In April, RI presented at the First Conference on the Stateless of Kuwait, an exciting event organized by Kuwait's stateless and citizen activists.²⁸ RI also chaired a working group on statelessness in the US, and worked in coalition to secure Senate passage of a statelessness status determination in immigration reform legislation. The language inserted was consistent with international law and could assist about 5000 stateless people in the U.S.²⁹ Before immigration reform becomes law, it must also go through the U.S. House of Representatives, which is currently drafting legislation. RI continues to work in coalition to support inclusion of a statelessness status determination in the House bill.

Looking Ahead

Perhaps one of the best evidences of the impact of ongoing statelessness initiatives by RI and others is the June 2013 *Note on Statelessness*³⁰ published following the 57th meeting of the UNHCR Executive Committee of the High Commissioner's Programme. The note offers a broad brush descriptive account of the most significant developments that have taken place in the last few years. Some of the most remarkable recent changes are in the agency's budget for global expenditure on statelessness activities, which has risen from 12 million in 2009 to 79.2 million in 2013, and field offices now have 60 statelessness activity objectives which are visible and distinct from those for refugees.

Thanks to the active and enduring advocacy of RI and other actors, where there was once only one UNHCR staff person, now five regional statelessness posts have been created and UNHCR offices in 61 countries have worked to support, or undertake directly, studies, surveys and population censuses. Statistics from 72 states were reported at the end of 2012. And whereas once the number of State parties to the Statelessness Conventions was almost

27 <http://www.group29q8.org/the-first-conference-for-the-stateless-in-kuwait-situation-and-solution/>.

28 <http://www.group29q8.org/the-first-conference-for-the-stateless-in-kuwait-situation-and-solution/>

29 <http://thomas.loc.gov/cgi-bin/query/F?c113:3:./temp/~c1138C21SE:e809493> Accessed 24 October 2013.

30 UNHCR, 'Note on Statelessness' (June 2013) <<http://www.refworld.org/docid/51d2a884.html>> Accessed 23 October 2013.

embarrassing to talk about, the numbers have now increased so dramatically that UNHCR has recently suggested there has been a fundamental shift in the global attitude toward the issue of statelessness. This trend is also demonstrated by the number of pledges relating to accession made by States during a 2012 UNHCR ministerial meeting, during which 32 states pledged to accede to the 1961 Convention³¹ and 22 to the 1954 Convention.³² Many have since acceded to the Conventions.

Despite all of the recent positive developments (which are certainly to be recognized and commended), new cases of statelessness continue to be created and most people have never heard of statelessness. Vast information and protection gaps have yet to be filled. The most pressing questions remain unanswered. That is, no one really knows how many stateless people there are and where they reside; if there is a set of solutions that would end most cases of statelessness; and why are there so few funds available for this important work?

The list goes on. And the work must too – until we uphold the right to nationality for all.

31 Convention on the Reduction of Statelessness (adopted 30 Augustus 1961, entered into force 13 December 1975) 989 UNTS 175.

32 Convention relating to the Status of Stateless Persons (adopted 28 September 1954, entered into force 6 June 1960) 189 UNTS 117.