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STATELESSNESS: INTERNATIONAL BLIND SPOT LINKED TO GLOBAL CONCERNS

Sometimes even the obvious can get overlooked. When world leaders gather to address hot issues such as security, governance, poverty, discrimination, human trafficking, and climate change, they invariably skirt around one of the problems that links them all: statelessness. Taking steps to uphold the nationality rights of the more than 12 million stateless persons around the world could go a long way toward responding to these inter-related challenges. Addressing statelessness, an international blind spot, may turn out to be the ideal solution.

STATELESSNESS GENERATES DISPLACEMENT AND UNDERMINES SECURITY

Ordinarily when a citizen or other legal resident of a country needs but can not secure state protection, he or she can cross an international border to apply for and receive protection. They are given the internationally recognized status of a refugee, defined as someone with a well-founded fear of persecution by authorities or persons in their country of citizenship or legal residence. Millions of people around the world, however, have no legal tie to any government and are stateless due to a range of reasons including the redrawing of borders as a result of inter-state conflict, independence movements, and nation-building, sometimes mixed with racial or ethnic discrimination. Without the bonds of citizenship, stateless individuals face denial of subsidiary human rights such as political participation, freedom of movement, formal employment, education, and healthcare. During recent field missions, Refugees International documented a number of common but concerning manifestations of statelessness.

Governments are frequently unwilling to seek solutions to the plight of stateless people. They muddle along with half-measures that create an underclass often used as pawns politically and exploited economically. One Kuwaiti

POLICY RECOMMENDATIONS

- UNHCR should take stronger leadership in pressing governments to find and implement solutions for stateless persons and urge all countries, including the U.S., to become party and adhere to the statelessness conventions.
- H.E. the Amir of Kuwait and the Parliament should formalize and implement a plan to secure the civil and political rights to which every person is entitled. The Ministry of Health should be directed to register every child at birth.
- The United Arab Emirates should evaluate the real impact of its recent action to reduce statelessness as well as outline and share best practices.
- Syria should grant citizenship to all people in accordance with Article 3 of the Syrian Nationality Act.
- Cyprus and Germany should ensure timely refugee status determinations, recognize statelessness as grounds for asylum, seek accurate information on conditions of return, and refrain from forcible returns to countries where individuals may face undue hardship, including denial of nationality rights.

Bidoon characterized the ongoing saga of 90,000-130,000 stateless people in that country as being tantamount to a game played with great sophistication by the country's leadership, while another pleaded: "We want to live on the earth, not under it."

Escaping intolerable conditions of statelessness in one country and securing passage to another does not always help in the long term. A denationalized Syrian Kurd who fled to Cyprus, where violations of the international refugee convention and its paramount principle of *non-refoulement* are known to occur, expressed this reality saying, "Work and money is the last thing we worry about. We want papers that affirm our identity. We want guarantees of no forced return to Syria."

Rejection of asylum seekers in Cyprus is all too often quick, while admission as a recognized refugee can be agonizingly slow. Yet individuals with pending claims cannot work for their first six months in the country and then only in very limited sectors, typically sectors few Cypriot nationals or legal migrant workers wish to work in, such as agriculture or animal husbandry. In short, they end up in a situation of perpetual uncertainty and insecurity little better than what they faced, for instance, in Syria. "I could be deported tonight," one man told RI. "I don't have a wife or kids and I can't marry or continue my life under these conditions."

Germany, a country which generally welcomes refugees, such as those fleeing Iraq in recent years, a short time ago signed an agreement with Syria that permits the return of anyone, including stateless persons, found to be in the country illegally. Yet, it is clear that some of these individuals would be harmed if they were sent back. One young man stated, "I had been in jail and was tortured because of the uprising in 2004. Because I had no document to leave the country legally, I had to bribe my way out." Another explained, "The situation in Syria has changed radically. Previously unwritten discrimination has become announced policy."

When a sovereign government determines its requirements for citizenship and then denies or withdraws citizenship to persons residing within its borders, it creates marginalized groups of people. Such marginalized groups subsist in the shadows, as people avoid contact with the government and its record keepers out of fear and distrust. National security is compromised as a result, particularly as individuals and groups of people seek their own solutions, often by crossing international boundaries in an irregular and uncontrolled fashion.

The surest guarantors of national, regional, and global security are inclusive and equal access to civil rights and services and the prevention of discrimination based on ethnicity, religious affiliation, or gender. State authorities must make an exhaustive effort to obtain correct and comprehensive information about the country of origin and conditions that returnees could face before considering seeking voluntary return of illegal entrants.

STATELESSNESS TRIGGERS TRAFFICKING

There is also a link between statelessness and the trafficking or smuggling of persons, an industry that thrives on the desperation of people. In Thailand, lack of citizenship has been identified by UNESCO as the major risk factor for the trafficking of women and girls from highland areas. Without legal status, ethnic minorities in Thailand are subject to arrest, deportation, extortion and a range of abuses. They cannot vote, own land or travel outside their home districts or provinces. Without citizenship, they do not receive an official certificate upon finishing school, a situation which deprives them of the opportunity to seek higher education or many forms of employment. They cannot enjoy state services such as medical care. It should be noted that in nearby China, Laos, Cambodia, and Vietnam, hill tribe people are citizens of their respective countries.

A large number of denationalized Kurds in Syria were stripped of citizenship in 1962 and today some 300,000 have few options to ensure basic survival. Many of them seek opportunities abroad by leaving the country illegally, paying money to contacts in government, or enlisting the services of human smuggling operations. Hundreds of such people may be leaving Syria every day. One man told RI that he left Syria with a group of 15 others, willingly risking death, deportation, and imprisonment.

While traditional responses to human trafficking and smuggling take a crime control approach, a more effective way of ameliorating the problem is to attack it at its base. Reinstating the nationality of denationalized Kurds and their descendants would save lives and weaken the trafficking industry in Syria and neighboring countries. Having legal status would enable Kurds to live and work in Syria as fully integrated members of society, rather than struggling to survive on the margins. Similarly, the nationality rights of Thailand's hill tribe people must be respected to help rupture the trafficking and smuggling routes of Asia.

STATELESSNESS PERPETUATES POVERTY

Statelessness severely limits livelihood options, resulting in under- and unemployment that in turn lead to insufficient income and poor socio-economic status. While some individuals may manage despite everything to acquire resources through great personal initiative and exertion, they are quickly depleted due to the necessity of paying privately for services they do not receive from the state, such as healthcare and education, and the need to support extended families with similar costs. Poverty is a major part of the statelessness experience, and contributes to vulnerability.

Bidoon in Kuwait explain that there is a vested interest on the part of traders and merchants to maintain the status quo, which accounts for some of the labor market problems they face. One person reported, "I used to be part of the police force, but after I fled the country during the Iraqi invasion, I was not able to get my old job back." Another said, "I tried to get work at the port but was rejected for lack of civil identification." A third explained, "I found a job but have not received a promotion in ten years." Still others work 'under the table' using an assumed name.

In Cyprus, denationalized Kurds with pending asylum claims say they do odd jobs for 10 to 15 Euro (about US\$15-20) a day. But after being injured on the job, one man reported spending 600 Euro (US\$ 1,000) for a one-day stay in the hospital and having to pay extra for medical tests. He eventually sought assistance from the welfare office where he was granted a small monthly stipend.

Others feel that they live in conditions of near slavery. Some arrangements require workers to live on the farm that employs them. "If the labor agreement goes wrong, I've not only lost my job but my home too. People are afraid of this," RI was told.

Last year, the United Arab Emirates held a registration campaign during which numbers of Bidoon submitted applications for "regularization" of their citizenship status. The result of the process remains to this date unclear and needs to be evaluated. Government representatives provide an upbeat assessment, but people affected say that after receiving the new cards issued during that period, tens of people in one community soon lost their jobs.

Stateless people have much they could contribute to the societies they live in. An enlightened and forward-looking government policy would mean sparing no effort to provide identification papers and work permits to all eligible persons, and permitting access to training and

education. The goal must be to prepare the erstwhile stateless to render the best possible service to their homeland and the society in which they reside.

STATELESSNESS IS LINKED TO FRAUD AND CORRUPTION

One of the contributing factors to the perpetuation of statelessness is the lack of transparency in the process of adjusting one's legal status. Stateless people find themselves caught in a costly cycle of buying their way out of situations for which they bear no responsibility. When dealing with government civil administration offices, providers of public social services, and border crossing guards, exchanging money or other favors can determine if or when they may be able to acquire citizenship or legal residency. Stateless people are forced into making their own compromises, using another person's name to buy a home, register a marriage, or maintain a business, for example, or purchasing a passport with the most unlikely national affiliation.

The pattern of corruption is self-perpetuating. Individuals benefitting from it obviously have a strong incentive to maintain the status-quo. Corruption, fed by the desperation of stateless people, is probably one of the more difficult symptoms of the problem to correct. But it is the symptom, and statelessness is the disease.

Global efforts to increase transparency, curtail corruption, and reduce the production of fraudulent travel and identity documents should be broadened to address the underlying causes, and include investigations of the workings of citizenship/naturalization boards. Efforts should be made, ideally through an internationally mandated process by an inter-governmental institution, to study and document the economic benefits accruing to governments (or to powerful individuals within them) that fail to find and effectively promote solutions to statelessness within their territories.

STATELESSNESS LEADS TO VIOLATION OF RIGHTS

Statelessness has an especially harsh impact on children. The Convention of the Rights of the Child states that every child has the right to an identity. But when a Bidoon father pulls out a copy of his child's birth declaration, an observer can immediately see the problems. The child's name is not indicated on the document, and any information regarding the child's national identity, place of birth, and parents' names is either non-existent or has long since

faded. The birth declaration is only meant as a temporary document to be taken to the Ministry of Health and exchanged for a birth certificate. Stateless children in Kuwait, however, generally cannot obtain a birth certificate because their parents are not given marriage certificates. One man made the following comparison: “There are stores in Kuwait where you can buy special teddy bears, select clothes for the bear, choose a name, and even get a paper with the bear’s name on it. But children of Bidoon aren’t even given that right.”

Statelessness affects rights to life and health. In Kuwait, prescription medication is largely subsidized by the government, a benefit denied non-citizens. One stateless person couldn’t afford medication from a private pharmacy for a chronic illness and a family member reported that it was only with the help of the Kuwaiti Red Cross that they can afford to purchase it. A father described the recent illness of his young son. Despite the fact that the mother is a Kuwaiti citizen, the local doctor would not treat the boy. When the man transported his sick child to a private hospital, which cost 80 Kuwaiti Dinar (US\$ 240), he was asked pointedly, “Why did you wait so long to bring your child with such a high temperature?” Gravest of all was the case of a child who needed medical care only available outside Kuwait. Without the necessary documents for the family to secure passage to a medical facility equipped to respond, the child died.

The right to marry, the right to have a family, and the right to receive assistance to preserve family unity are markedly affected by statelessness. In order to marry legally, one stateless man used a legal resident’s name. Families are forced to live separately in their attempts to resolve their problem by changing their marital status or by traveling to countries where they think they can find alternative solutions. Syrian Kurds who end up in Germany, for example, report that at present asylum seekers and refugees can not bring family members to join them.

Concerned governments, organizations, and individuals must utilize all available human rights mechanisms to draw attention and advocate correction of the human rights abuses related to statelessness. Kuwait, for example, is one of the countries up for Universal Periodic Review by state members of the UN Human Rights Council in 2010, presenting a significant opportunity to call for an official response to concerns that the review may spotlight. But as one legitimately skeptical stateless person observed, “The international community always fails to protect the basic rights of stateless people.”

Senior Advocate for Stateless Initiatives Maureen Lynch and Consultant Michael Scott recently conducted a multi-country field visit focused on regional implications of statelessness.