



AFI CHANGEMAKERS AT THE UNITED NATIONS SUMMIT ON MINORITIES REPORT: STATELESSNESS



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Table of Contents

Introduction.....	4
Executive Summary.....	5
Addressing Statelessness.....	6
Reccommendations.....	8
Conclusion.....	9
Bibliography.....	10

Introduction

Societies across the globe experience diversity, through ethnic, linguistic and religious differences. The United Nations Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities set the foundation to protect minorities and end discrimination in conjunction with the implementation of human rights standards¹. However, minorities are often the victims of armed conflict and internal strife. In addition to a lack of access to sufficient housing, land and property, minorities can, in some cases, lack a nationality².

This report will seek to address the struggles facing minorities and provide recommendations to help combat these issues. The report will highlight and respond to the prevalent themes observed during attendance at the 9th session of Minorities in Situations of Humanitarian Crisis.



1 www.un.org/documents/ga/res/47/a47r135.htm

2 Tas, L., 2016. How international law impacts on statelessness and citizenship: the case of Kurdish nationalism, conflict and peace. *International Journal of Law in Context*, 12(01), pp.42-62.

Executive Summary

A number of old and new challenges facing minorities were highlighted during the 9th session on Minorities in Situations of Humanitarian Crisis including:

- Government cuts on Human Rights issues.
- Whilst the Declaration of Minority Rights focuses on the rights of Persons belonging to 'national or ethnic, religious and linguistic minorities', there exists Persons who live in non-dominant positions such as those with a disability, stateless beings, LGBT persons or victims of forced displacement, all of whom require attention from UN actors from the perspective of human rights and non-discrimination.
- There must be increased engagement from UN actors, NGO's, NHRI's, Minority people and civil society on all levels.
- The rights of minorities to participate in the decision making process and to have the freedom to enjoy their own culture, practice their own religion and speak their own language (the implementation of this requires in many cases continuous measures).
- The discriminatory effects of being a minority disproportionately affect women and girls in the form of living conditions, citizenship and access to education, poverty and human rights.
- The increased emergence of statelessness due to civil unrest, environmental change, amongst other issues, needs to be addressed further by the international community.

Addressing Statelessness

In international law a stateless person is someone who lacks citizenship¹. Since the ‘creation’ of borders and the emergence of ‘belonging’ associated with nationality, being stateless has affected the ethnic, religious and racial minority populations, as well as indigenous persons or persons who have suffered environmental degradation of their land, within state². The 1954 Convention relating to Stateless Persons affirmed that the fundamental rights of stateless persons must be protected while the 1961 Convention on the reduction of statelessness created a framework for avoiding future statelessness, placing an obligation on states to eliminate and prevent statelessness in nationality laws and practices³. Specifically, states may not deprive persons of citizenship arbitrarily or in such a way as to cause statelessness. Whilst legal measures exist, challenges facing stateless people are prevalent⁴.

In 2009 the UN estimated that there are 15 million stateless people across the globe including the Roma of Europe, the Kurds of the Middle East and the “hill tribes” of Southeast Asia⁵. Yet, there is a lack of attention given to collecting reliable statistics on stateless beings, alongside confusion as to who counts as stateless. People who are not considered as nationals by any state under its laws – are generally counted as stateless⁶. However, a significant number of people who have not been formally denied of nationality but who lack documentation to prove their nationality are denied access to human rights that other citizens can be seen as stateless in practice and are unable to rely on their state for security⁷.

In situations of humanitarian crisis, such as the current Syrian crisis, the issue of statelessness is heightened⁸. Racial and ethnic discrimination is one of the main reasons people are denied nationality and therefore succumb to statelessness. For example, in Estonia, ethnic Russians have struggled with statelessness since independence in 1991⁹. Additionally, gender discrimination is a critical factor in establishing and per-

1 Aleinikoff, T.A. and Klusmeyer, D. eds., 2010. *Citizenship today: global perspectives and practices*. Brookings Institution Press.

2 Genugten, W.V., Meijknecht, A. and Rombouts, B., 2014. Stateless Indigenous People (s): The Right to a Nationality, Including Their Own.

3 PROVISIONS, G., 1960. Convention relating to the Status of Stateless Persons.

4 Kingston, L.N. and Stam, K.R., 2016. Recovering from statelessness: Resettled Bhutanese-Nepali and Karen refugees reflect on the lack of legal nationality. *Journal of Human Rights*, pp.1-18.

5 Berkeley, Bill. “Stateless People, Violent States.” *World Policy Journal* 26, no. 1 (2009): 3-15. <http://www.jstor.org/stable/40210101>.

6 PROVISIONS, G., 1995. Convention relating to the Status of Stateless Persons. *Refugee Survey Quarterly*, 14(3), p.119.

7 Fragiskatos, P., 2007. The stateless Kurds in Syria: problems and prospects for the ajanib and maktumin Kurds. *The International Journal of Kurdish Studies*, 21(1/2), p.109.

8 AbuZayd, K., Sullivan, D.J., Akram, S.M. and Roy, S., 2015. The Syrian Humanitarian Crisis: What Is to Be Done?. *Middle East Policy*, 22(2), pp.1-29.

9 Fein, L.C. and Straughn, J.B., 2014. How citizenship matters: narratives of stateless and citizenship choice in Estonia. *Citizenship Studies*, 18(6-7), pp.690-706.

petuating statelessness¹⁰. Over twenty countries in Africa alone still do not have gender-neutral citizenship laws. Indeed, in some instances, women lose their citizenship upon marriage to foreigners, and therefore are unable to pass on their citizenship to their children. Whilst improvements are being made in states such as Botswana, where its citizenship Act was challenged on the basis of gender, leading to the Act being amended, it is clear that states should hold a greater responsibility to hold up legal norms and protect individuals as their citizens.¹¹ Indeed, it is the states responsibility to make challenges to becoming a citizen easier; registration should be at a minimum and minority language speakers must be provided to help. Permanent residences should be set up to allow stateless beings to live in good conditions where there is access to education and health facilities and human rights¹².

Despite the right of every person to citizenship under international law, the criteria for establishing a bond of nationality between the state and the individual is not clear¹³. Belonging to state often means being born in a state or having a parent hold citizenship to a state. Ideas of belonging relating to culture and social ties are not recognised¹⁴. As a result, statelessness can be deliberately used to punish people because of their ethnicity, religion or gender leading to an abuse in human rights. Therefore, the international community must implement human rights norms, including prohibiting discrimination against ethnic and religious minorities, against discriminatory citizenship regimes¹⁵. Indeed, the sovereignty of the state is the link between people and land – therefore questioning someone’s loyalty is questioning someone’s loyalty to the state. Thus, we need to question why people are questioning loyalty.

10 Albarazi, Z. and van Waas, L., 2014. Towards the abolition of gender discrimination in nationality laws. *Forced Migration Review*, (46), p.49.

11 Goris, I., Harrington, J. and Kohn, S., 2009. Statelessness: what it is and why it matters. *Forced Migration Review*, 32(6), pp.4-6.

12 Foster, M. and Lambert, H., 2016. Statelessness as a Human Rights Issue: A Concept Whose Time Has Come. *International Journal of Refugee Law*, 28(4), pp.564-584.

13 Darian-Smith, E., 2015. The Constitution of Identity: New modalities of nationality, citizenship, belonging and being.

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Recommendations

There are a number of recommendations that the international community should address when dealing with the issue of statelessness.

- Firstly, states should enable a wider understanding of who constitutes as stateless and the effects it has on stateless individuals.
- The international community must implement human rights norms, including prohibiting discrimination against ethnic and religious minorities, against discriminatory citizenship regimes.
- The burden of responsibility should be on the state; legal norms and political pressure must be exerted on states to acknowledge their responsibility to protect individuals as their citizens.
- The sovereignty of the state is the link between people and land – therefore questioning someone’s loyalty is questioning someone’s loyalty to the state. Thus, we need to question why people are questioning loyalty.
- Permanent residences must be established for those who find themselves stateless.
- Challenges to becoming a citizen should be made easier; registration should be minimum and minority language speakers must be provided.
- We need to look at rules, such as counter-terrorism policies and citizenship Acts that allow statelessness to exist.
- If we wanted to eradicate statelessness we could- but we need to give political motivations.

Conclusion

To conclude, there are a number of challenges facing minorities, which are heightened in times of humanitarian crisis. There are a number of suggestions made at the Forum that has been touched upon within this report. Recommendations to these challenges have been made in the hope that progress and change is made. In terms of statelessness, amongst other challenges to minorities, it is clear political motivations are needed in order to bring about such change.

Finally, the protection of minorities does not simply fall under one bracket. The minority issue addresses development challenges, including reducing poverty and environmental sustainability-as well as human rights issues. The protection of minorities therefore affects the three pillars of the United Nations- security, development and human rights

and thus demands coordinated engagement from those involved.

This report has briefly explored some of the key causes of migration. The issue of statelessness as a cause of consequence of today's movement of people. There has also been in depth discussion around the risk unaccompanied and separated children face through their migration journey and when they arrive at what should be a safe destination.

This report will be presented by delegates of Ariel Foundation International during the United Nations 33rd sessions of the Human Rights Council in Geneva.

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