authorities on issuing passport to Bharias.” Living conditions remain overcrowded, with five to 15 people sharing one or two rooms. The threat of eviction and the need for education, skills training and employment are our chief concerns.

The government has initiated various development programmes for poverty reduction in accordance with its Poverty Reduction Strategy Paper (PRSP) but these do not address the needs of the Urdu-speaking community. How and when will the poverty-related challenges of this community be incorporated into the PRSP?

No NGOs or UN agencies have taken the initiative to collect comprehensive baseline data from which to develop both short- and long-term programmes for the social and economic rehabilitation of this community. Some argue that rehabilitating 160,000 camp dwellers would require a huge amount of funds and a range of well-planned strategies that Bangladesh, a poor country, is ill-equipped to provide without support from the UN and other international donor agencies.

We propose that the government of Bangladesh establish a rehabilitation trust fund to mobilise funding from international Islamic organisations, bilateral donors and other national and international donor agencies in order to ensure a safe and secure future for future generations of Urdu-speakers in Bangladesh.

Khalid Hussain (Khalid.aygusc@gmail.com) is President of the Association of Young Generation of Urdu-Speaking Community (AYGUSC) and Assistant Coordinator of the NGO, Al-Falah Bangladesh.

1. See Policy Brief by the Refugee and Migratory Movement Research Unit (RMMR) http://rmmru.net/Policy_Brief/Policy_brief_ISSUE_2.pdf

Childhood statelessness

Maureen Lynch and Melanie Teff

Statelessness – the non-acquisition of citizenship – can blight a child’s prospects throughout life.

Stateless infants, children and youth, through no fault of their own, inherit circumstances that limit their potential and provide, at best, an uncertain future. They are born, live and, unless they can resolve their situation, die as almost invisible people. Statelessness can also lead to poor home environments and to family separation, two important factors affecting child development.

Apart from the ways in which any person can become stateless, a child in particular can become stateless when a family migrates away from a country where citizenship is conveyed by jus sanguinis; a child has the right to citizenship of the parents’ country of origin but cannot always access it and may instead become de facto stateless in the country where they grow up. Lack of birth registration can cause statelessness. Children may not be registered because parents fear drawing attention to their own status. A child can also become stateless when a birth record is destroyed or lost and there is no other means to link them with a particular country.

Inequitable laws also create childhood statelessness. Although in the last 25 years, at least 20 countries have changed their laws to give women the right to pass their nationality to their children, the nationality of a child born to parents from different countries is still a concern when laws treat men and women differently. Where citizenship is determined exclusively by the father’s nationality, stateless fathers, single women, or women living apart from their husbands face numerous barriers to registering their children. If a woman is unable to extend citizenship to her spouse, statelessness may be imposed on her and the children. Whether parents are married or not may also determine a child’s nationality. For example, one legacy of UN peacekeeping is fatherless children — and the citizenship rights of children born to UN troops and female nationals are not always clear.

In the end, perhaps the most obvious reason why children become stateless is that they cannot act for themselves.

Protection and rights

Birth registration is the official record of a child’s birth by the state and a government’s first acknowledgement of a child’s existence. It is crucial to ensuring a culture of protection. Consider the following examples.

On the day that the child of a Burmese asylum seeker is born in a Thai hospital, the birth record is removed. The Burmese government also disavows responsibility. Not recognised by either Burma or Thailand, this child is stateless.

Children of Mauritanian refugees born in Senegal have the right to be registered as Senegalese citizens but some parents are unwilling for this to happen. They prefer to wait until they can return to Mauritania and register their children there.

Children of a Kuwaiti mother and a Bidoon — stateless — father are also Bidoon. Since a child of a divorced Kuwaiti woman or widow can theoretically acquire citizenship, there is an incentive to divorce for the sake of the child.

At a briefing on stateless children the US Congress was told about the case of a stateless family whose asylum appeal was denied was related. The five-year-old daughter was placed in a cell with her mother. The eight- and 14-year-old sisters were detained together elsewhere. The 15-year-old son was held alone. The father was separated from his family by hundreds of miles. The three-year-old was not held because she is a US citizen.

Being stateless also means not being able to access many other rights available to citizens. For stateless children, medical care
may be less readily available or more costly than for others. Children without birth certificates cannot be legally vaccinated in at least 20 countries. Government assistance programmes offering medical attention to impoverished nationals, including for HIV/AIDS, may not serve stateless children.

Education is usually limited or unavailable for stateless children. Some families are told their children can attend school only if space is available after all other citizens’ children have registered; some governments feel that offering education to stateless children is too costly; in other cases, parents are forced to pay high tuition fees so children can attend private schools.

In Sabah, for example, children of migrants of Filipino and Indonesian descent with orang asing (foreigner) on their birth certificates or those without birth certificates cannot go to government school. In Thailand, the Ministry of Education is supposed to issue the Regulation on Evidence of a Child’s Birth for School Admission to honour Article 29 of the Convention of the Rights of the Child but not all children receive this document and if they do not, cannot attend class. One stateless child said, “I don’t want to pick chillies and onions in the plantation. I want to go to school. I want to wear a school uniform proudly and learn the materials in a proper classroom.”

Syria recognises the right of Kurdish children to primary education but not in their native language. To attend secondary school, they must also obtain permission from state security. Those who are maktoumeen (unregistered) do not receive their diploma from secondary school. One stateless young man with the highest marks in his high school class now sells tea in front of the University of Damascus, which he once dreamt of attending.

Passports, essential for international travel, are generally not issued to stateless children. Not having travel documents means no possibility of education abroad, travelling to visit family and relatives, or even seeking specialised medical care.

While every child is entitled to state protection against exploitation and abuse, stateless children have no such guarantee. Lack of documents proving age leaves them unprotected by child labour laws. A 13-year-old stateless girl who escaped her Thai owner said, “I was sold for less than 800 baht (US $20) to work as a housemaid...I ran away because they were going to sell me to work in the sex trade.” Law enforcement agencies cannot prosecute traffickers without proof of the age and identity of those trafficked. Some stateless children cannot be returned home without proof of nationality. If a stateless young person gets into trouble with the law and lacks proof of age, they may be prosecuted as an adult.

**Recommendations**

Every child should be able to develop as a full and productive citizen. “We want to be children. We want to enjoy our childhood,” explained one stateless boy. To allow these children to enjoy their childhood, the following steps should be taken: starting with the provisions of the 1961 Convention:

- All states should respect the right of children to have a nationality and include provisions on non-discrimination in national citizenship laws.

- Every child, whether born to married parents or not, should be registered at birth and in cases of disputed nationality states should grant citizenship if the child would otherwise be stateless.

- States should make primary education free and compulsory for all children as well as provide access to health care, including immunisations, for all infants.

- The practice of detaining children should be abolished.

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Stateless near the Kyrgyzstan-Uzbekistan frontier.
States should enforce laws relating to the minimum employment age and assist efforts to prevent child labour, under-age military service and trafficking.

The UN should pay special attention to issues relevant to stateless children and take steps to utilise all mechanisms of UN human rights bodies.

Maureen Lynch (maureen@refugeesinternational.org) is Senior Advocate for Statelessness Initiatives and Melanie Teff (melanie@refugeesinternational.org) is Advocate at Refugees International (www.refintl.org)

Stateless persons from Thailand in Japan

Chie Komai and Fumie Azukizawa

The difficulties faced by stateless persons from Thailand in Japan show only too clearly that the international legal framework for their protection is inadequate.

From around 1990 there have been people illegally entering Japan from Thailand. Though born and brought up in Thailand, they have no Thai nationality as their parents were 'Indochinese refugees' escaping the first Indochina War (1946-54).

As their parents were born in Vietnam or Laos – where nationality laws work on the principle of *jus sanguinis* – they should have the right to nationality there. But many of those who fled Vietnam and Laos in the confusion of wartime have now passed away in Thailand, having shared little information on their own birthplaces with their children. It is therefore tremendously difficult for the refugees’ children to retrace their parents' footsteps or find relevant official documents. In addition, many official records were lost during the war and the post-war period, and naturally neither Vietnam nor Laos holds either official or unofficial records of the birth and existence of refugees’ children born in Thailand.

In these circumstances it is almost impossible to expect that Vietnam or Laos should grant citizenship to them. They are *de facto* stateless persons whose situation is not dissimilar to that of *de jure* stateless persons. That is, for most of the Vietnamese and Lao refugees’ children, it is often too difficult to prove their ties to Vietnam or Laos more than 50 years after their parents' flight.

In Thailand, which has not signed the 1951 Convention, ‘Indochinese refugees’ (most of whom are anyway not ‘convention refugees’) and their children have very restricted freedom of movement, have limited access to education, cannot get permanent jobs at fair wages without Thai nationality and lack access to many of their basic rights. This is why some decide to enter Japan illegally in order to find work. As the Thai government will not provide the documentation which would permit them to travel abroad, they bought the assistance of illegal brokers who provided passports with false Thai names. With no legal residence status, they live in continual fear of arrest by the Japanese police or the Immigration Bureau. They work illegally for low wages with no access to welfare or even health services. Many of them mistakenly believed that, if arrested and deported from Japan, they would be able to return to Thailand despite not having Thai nationality.

The Immigration Bureau did indeed arrest and detain a number of them in preparation for deportation. However, they cannot be deported to Thailand or any other country as they have no state to which they belong. Without access to public records in Vietnam or Laos as evidence of their nationality there, the children have no way to prove that they are Vietnamese or Lao. And even if Vietnam or Laos did accept them, life would be very difficult; having been born and brought up in Thailand, almost all of their family members now live in Thai society and they have few, if any, links elsewhere.

While the Immigration Bureau slowly came to realise that there was nowhere to deport them to, many have wasted months or years in detention. After arrest they may be detained for months or years before there is any possibility of them being temporarily released. And even then they are still prohibited from working, which means they have to keep breaking Japanese law in order to work illegally to survive.

Thailand changed its nationality law in 1992 and decided to give Thai nationality to the children of Indochinese refugees if they apply for it in Thailand. However, the refugees’ children who had come illegally to Japan are not able to return to Thailand in order to apply for Thai nationality. Many were not even aware of the possibility of doing so – and so lost the best chance they might have to gain an effective nationality.

**Recommendations**

Japan should issue all such *de facto* stateless persons with a Special Permission for Residence (SPR); they would then be free to work legitimately for proper wages, access health services and bring up their children as they would hope to do.

UNHCR should work with the Japanese and Thai governments to help secure SPR for them in the short term and Thai nationality in the long term.

Chie Komai (t-komai@mud.biglobe.ne.jp) and Fumie Azukizawa (f-azuki@w15.so-net.ne.jp) are attorneys of the Yokohama Bar Association in Japan.