

Advocacy campaigns and policy development

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Although statelessness has never attracted the same level of interest as other areas that are central to international human rights jurisprudence, it is now part of official policy discourse at the UN.

For more than twenty years activists have produced declarations that implicitly link statelessness to the challenges of providing human security and promoting dignity, thus bringing it inside the human rights regime; for example, in 1986 the Declaration on the Right to Development recognised the universal freedom to “participate in and contribute to, and enjoy economic, social, cultural and political development, in which all human rights can be fully realised.”¹

More recently, however, the concept of statelessness has been explicitly tied to campaigns to regularise migration, nationality and identity, as well as to policies of non-discrimination. The challenge of preventing statelessness has also appeared on the back of the climate change agenda, in the recognition that

rising sea levels may spell the end to the existence of some low-lying states.

There are several forces driving the new agenda on statelessness. One emanates from the transformation of the Westphalian state² to more inclusive models of political organisation. Another is the increasing trans-border migration and the recognition of multi-ethnic and multi-national populations. In many parts of the world statelessness has become closely linked to the treatment of minorities and the right to non-discrimination. For example, in the European context the spirit of non-discrimination, primarily on the grounds of race and religion, has been extended to include a host of other social categories. This has made it more difficult to show bias on the basis of national origin and nationality status; there is increasingly an accepted belief that

minorities, foreigners and others may have legitimate claims on states where they reside, irrespective of whether they are citizens or not.

Mass protests

This argument has found practical support from grassroots campaigners who have sought to regularise the status of irregular workers, unsuccessful asylum seekers and ‘over-stayers’. Although not *de jure* stateless, many of those who are the focus of these campaigns lack an effective nationality and are highly vulnerable. Some protests have been organised through local NGOs, such as the Joint Council for the Welfare of Immigrants (JCWI³) in the UK; others have been coordinated by non-professional associations, migrant community organisations and collectives. In May 2006 more than one million people withdrew their labour and took to the streets across US cities as part of a protest about the situation of the estimated 12 million undocumented migrants who, with the passage of a new bill, faced being criminalised yet lacked any route to citizenship.

The protests in the US resonated with similar, although smaller-scale, events across Europe. In May 2007, there was a public rally in the UK entitled 'From Strangers into Citizens' which called for the creation of a one-off regularisation – a 'pathway into citizenship' – for migrants who have been in the UK for four years or more. They should be granted a two-year work permit and at the end of that period, subject to employer and character references, be granted leave to remain. Such an approach, the organisers claimed, would bring great benefits to the UK economy and society.

Other targeted campaigns occurred in major European cities. In France, the debate over the 'sans papiers' – the undocumented former migrants from North Africa – was revived nine years after the first major occupation of a public building over the same issue. In April 2007, more than 90 individuals occupied a church just south of Paris demanding that their contribution to the French economy be recognised and insisting on regularisation of their rights to work, to social security and to education. Smaller, yet pan-European, actions in 2007 also included the 'caravan of the erased' where a convoy of activists travelled from Ljubljana in Slovenia to Brussels via several other European cities to protest about the cancellation of residency rights and mistreatment of more than 18,000 people who were struck off the national register and lost their social, economic and political rights shortly after Slovenia achieved independence in 1991.

International campaigns

Influential international NGOs and monitoring bodies have actively campaigned to raise the profile of both *de jure* and *de facto* stateless populations. To this end, they have been supported by UN Committees, including the Committee on the Elimination of Racial Discrimination, and UN agencies, including UNHCR and OHCHR. During Kofi Annan's first term as UN Secretary-General, there was considerable activity to examine the scope of the Committee on the Elimination of Racial Discrimination and explore ways in which the protection of human rights could be achieved through joined-up actions highlighting the relevance of social and economic

factors for development, safety and security. One consequence of this activity was the 2003 report on the Rights of Non-Citizens drafted by the UN Special Rapporteur on the rights of non-citizens.⁴

This report concluded there was a "large gap between the rights that international human rights law guarantees to non-citizens and the realities they must face" and noted that in many countries there were institutional and endemic problems confronting non-citizens. The report served to set an agenda for reform that was quickly picked up by US-based activists and human rights monitoring organisations working closely with UNHCR, such as Refugees International and the Open Society Institute's (OSI) Justice Initiative.

Although all these organisations worked closely with UNHCR's Statelessness Unit, they engaged in different styles of human rights advocacy. Refugees International mapped out the problem of denial of citizenship in a global study entitled *Lives on Hold: the Human Cost of Statelessness*.⁶ The OSI Justice Initiative concentrated its efforts on Africa, though not exclusively, and spearheaded legislation before international courts, most famously against the Dominican Republic.⁷

UNICEF and Plan International together spearheaded a ten-year-long campaign on universal birth registration which aimed to curtail some of the consequences which particularly affect both *de jure* and *de facto* stateless persons.⁸ These include the challenge of proving one's nationality for the purpose of accessing basic services, travelling, marrying, having a child and protecting one's children from the dangers of legal anonymity or being trafficked. Plan launched a global campaign in 2005 and with the assistance of UNICEF lobbied to ensure that birth registration, as a means of preventing statelessness, was included as a recommendation in the 2006 UN Secretary-General's Study on Violence Against Children.⁹

The reports issued by the human rights monitors and the legal cases brought before international tribunals raised the profile of

statelessness but it was not until 2005 that Western governmental bodies became directly involved in the coordinated cause of preventing statelessness. UNHCR and the Inter-Parliamentary Union co-published a handbook on statelessness aimed at all parliamentarians.¹⁰ In the same year, the US House of Representatives organised hearings on statelessness which led to the drafting of a bill on statelessness in 2006 which, while it would not bring the US closer to signing the 1954 and 1961 Statelessness Conventions, aimed to ensure that the US could at least comply with key elements to prevent statelessness within its borders.

Conclusion

While it is still too early to pronounce a truly global approach to combat statelessness, there has been important coordination between key policy actors and the issue has attracted greater attention across the human rights community. These developments have taken place in parallel to efforts directed by local activists in the developing world, for example the Bihari spokespeople in Bangladesh and the Madhesi organisers in Nepal. Although dispersed across the world, these activists have, after fifty years, reaffirmed the place of statelessness on the human rights agenda and have devised creative rights-based arguments for reform and greater inclusion.

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1. <http://www.unhcr.ch/html/menu3/b/74.htm>

2. The concept of nation-state sovereignty based on two principles: territoriality and the exclusion of external actors from domestic authority structures.

3. <http://www.jcwi.org.uk>

4. <http://www1.umn.edu/humanrts/demo/noncitizenrts-2003.html>

5. See also the report on denial of citizenship for the Advisory Board on Human Security and European Policy Centre http://www.epc.eu/TEWN/pdf/724318296_EPC%20Issue%20Paper%2028%20Denial%20of%20Citizenship.pdf

6. <http://www.refugeesinternational.org/policy/in-depth-report/lives-hold-human-cost-statelessness>

7. See articles on p4 and p23.

8. See article on p20.

9. <http://www.violencestudy.org>

10. http://www.ipu.org/PDF/publications/nationality_en.pdf