

Childhood statelessness

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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



Stateless near the Kyrgyzstan-Uzbekistan frontier.

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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.

- 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.

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