

NOWHERE TO CALL HOME: Statelessness and the Dilemma of Resolving Nationality Status

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"Being stateless is like being a stranger everywhere, a citizen of nowhere. You are at home anywhere."

-Emmanuelle Mitte,
Senior Director in-charge,
The Issue of Statelessness in West Africa.

Abstract: This article is about ordinary people, living all over the world, who have one extraordinary thing in common: they do not hold any nationality at all. They are *The World's Stateless*. Statelessness is based on the absence of legal relationship between an individual and a State and for many; statelessness brings real hardship, characterized by lack of access to a wide range of rights and services that others take for granted. In this spectacular article, we intend to discover the real scenario of the statelessness towards international community regarding the vulnerable and sensitive issues of Statelessness. And two separate, yet complimentary conventions aimed at addressing statelessness: *the 1961 Convention on the Reduction of Statelessness* and *the 1954 Convention Relating to the Status of Stateless Persons* are taken as the point of consideration as they are only specifically designed 'legal regime' to deal with the statelessness at the global level. An assessment is considered as to whether the conventions are adequately relevant, realistic and effective in meeting the goal of protection of individuals or, then again, whether they have become redundant in view of more recent developments in international (human rights) law. Thereafter, this work is profoundly designed for providing a basis for recommending improvements, whether this involves the further support, implementation and supervision of the existing Statelessness Conventions or the use of alternative or construction of new instruments. But the indistinguishable purpose of this article will be to raise the level of awareness of all those involved in the effort to address this fascinating issue as because awareness of the human impact of statelessness can offer motivation to address the phenomenon, as a better understanding of the extent and scope of the problem might enables a more effective response. We focused first on

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the actual ways or reasons of statelessness – as the most favourable outcome – and later on the status or situation of those persons who nevertheless find themselves stateless.

Key Words: *statelessness, right to nationality, protection and reduction of stateless people*

Introduction

“Everyone has the right to a nationality. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.”

With those concise statements, Article 15 of the 1948 Universal Declaration of Human Rights confers upon every individual, everywhere in the world, the right to have a legal connection with a State. Citizenship or Nationality not only provides people with a sense of identity, it entitles individuals to the protection of a State and many civil and political rights. Indeed, citizenship has been described as “the right to have rights.”

Despite the body of international law relating to the acquisition, loss, or denial of citizenship, millions of people around the world have no nationality, they are stateless.

Statelessness may result from a variety of causes, including conflict of laws, the transfer of territory, marriage laws, administrative practices, discrimination, lack of birth registration, denationalization (when a State rescinds an individual’s nationality), and renunciation (when an individual refuses the protection of a State).

When having a nationality (or even multiple nationalities) is the norm, it is difficult to picture what statelessness is like. It is difficult to find the right words to describe the absence of something. More often than perhaps we should, those of us who seek to convey the urgency of this issue and the severity of its impact have fallen back on terms like ‘*legal ghosts*’ and ‘*citizens of nowhere*’ to try to portray what statelessness means. Such labels may be effective, and even rather poetic, in describing the phenomenon of statelessness. Yet they are also misleading. As, perhaps, is the word ‘stateless’ itself.

The more we listen to the experiences of stateless persons around the world, the more we understand about who they are and how they view their own situation, the more we explore the root causes of statelessness and the more we learn of the incredible scale and reach of this problem, the more these terms seem inadequate. Yes, statelessness presents unique challenges to those who it touches. It can trap people in poverty, stigmatize, isolate and disenfranchise.

These are people with a deep sense of belonging to a community and of having a homeland. To borrow an expression put forward by a leading scholar who has commented on this issue, the stateless are perhaps better described not as 'citizens of nowhere' but as 'unrecognized citizens'.³

They have a place in this world, a country of their own, but this country does not recognize them as its nationals. This must change, because everyone has the right to a nationality.

Statelessness: What it is?

Statelessness is based on the absence of legal relationship between an individual and a State. Unlike the asylum application, it does not even take into account the concept of fear of persecution.

Precisely, a stateless person is a person who is not considered a national of any state under operation of its law. More precisely, statelessness is that miserable situation where an individual cannot claim nationality of any state.

To understand how a person can lack a nationality, it helps to know how nationality works in practice. In simple terms, we acquire a nationality automatically at birth or we obtain one later on in life. Those who acquire nationality at birth do so because they were born in a country that gives nationality through birth on their territory which is regarded as *jus soli*

³ M. Gibney, A. Edwards and L. van Waas (ed.), *Statelessness and Citizenship in Ethical and Political Perspective: Nationality and Statelessness under International Law*, London, U.K. Cambridge University Press, 2014.

under international law or because their parents were able to transmit their nationality to their children which is termed as *jus sanguinis*, which usually applies regardless of where the child was born. Sometimes, however, people need to apply to become a national of a country and support their application on years of residence or a family link with the given country.

The international legal definition of a stateless person is set out in Article 1 of the 1954 Convention relating to the Status of Stateless Persons, which defines a stateless person as "a person who is not considered as a national by any State under the operation of its law". This means that a stateless person is someone who does not have a nationality of any country. Some people are born stateless, while others become stateless over the course of their lives.

However, generally speaking, each of us has one nationality – no more, no less – and as we grow up we do not question this state of affairs. For a long time, we felt that our nationality is among those characteristics that are fundamental and indisputable such as our name, eye colour and gender. But changes of time have introduced me with the hidden complexities of nationality and the discovery of statelessness which was a significant eye-opener.

Statelessness vs. Nationality

To be considered a national by operation of law means that an individual is automatically considered to be a citizen under the terms outlined in the State's enacted legal instruments related to nationality or that the individual has been granted nationality through a decision made by the relevant authorities. Those instruments can be a Constitution, a Presidential decree, or a citizenship act. Most people are considered nationals by operation of only one State's laws – usually either the laws of the State in which the person was born (*jus soli*) or the laws of the State of which the person's parents were nationals when the individual was born (*jus sanguinis*).

Individuals who have not received nationality automatically or through an individual decision under the operation of any

State's laws are known as *de jure* stateless persons: persons who are stateless with reference to applicable law.

It is presumed that an individual has a nationality unless there is some evidence to the contrary. However, sometimes the States with which an individual might have a genuine link cannot agree as to which of them is the State that has granted citizenship to that person. The individual is thus unable to demonstrate that he/she is *de jure* stateless, yet he/she has no effective nationality and does not enjoy national protection. S/he is considered to be *de facto* stateless". Sometimes people have been forced for displacement. Those persons then, become internally displaced persons (IDPs), asylum seekers and refugees in replace of stateless.

This grey area between 'statelessness' and 'nationality' shows that they are two sides of the same coin, and that it can be harmful to address the one without sensitivity to the impact on the other.

The Inheritance of Statelessness

The single biggest cause of statelessness globally in any given year – in the absence of fresh, large-scale situations originated from one of the above problems – is the inheritance of statelessness.

Many contemporary situations of statelessness have their roots at a particular moment in history, such as state succession, the first registration of citizens or the adoption of a discriminatory nationality decree stripping a whole group of nationality, as outlined above.

Yet these situations endure and even grow over time because the states concerned have not put any measures in place to stop statelessness being passed from parent to child – or do not implement existing measures to that effect.

Furthermore, these situations migrate to new countries along with the (often forced) migration of stateless persons abroad, as in migratory contexts too; statelessness is allowed to continue

into the next generations. This means that most new cases of statelessness affect children, from birth, such that they may never know the protection of nationality.

It also means that stateless groups suffer from intergenerational marginalization and exclusion, which affects the social structure of entire communities.

Impact of Statelessness

Here comes the discussion to the broader question of the impact of statelessness. What difference does it make to people's lives, in our modern world, to not have any nationality? The simple answer: a massive and often very harmful difference. Modern bureaucracies are crafted in a way that takes the possession of a nationality as the norm.

Statelessness is the neglected, in fact largely forgotten state of exception. To exercise rights or access services, to be treated as belonging or even with respect – in practice commonly requires a nationality.

Human rights are those rights which are to be enjoyed by all of us, by virtue of our belonging to the human race and in accordance with human dignity. However, without any nationality, a number of rights are immediately out of reach even according to the mechanics of contemporary human rights law. Political rights in particular, such as the right to vote or stand for election and to perform certain public functions, may be restricted to a country's citizens,⁴ such that stateless persons are not owed them by any state.

This undoubtedly also contributes to the invisibility of and lack of attention to the problem of statelessness in general, and its resultant manifestation and growth over generations. Developing countries may also limit the enjoyment of economic rights by non-nationals in certain circumstances,⁵ which may be

⁴ Article 25, International Covenant on Civil and Political Rights, G. A. Res 2200A (XXI), 1976.

⁵ Article 2(3), International Covenant on Economic, Social and Cultural Rights, G.A. Res 2200A (XXI), 1976.

used to justify the economic disempowerment of stateless persons.

With regards to other rights, states can treat nationals and non-nationals differently if that treatment can be justified by the pursuit of a legitimate aim and if the principle of proportionality can be satisfied – providing a margin of discretion that may be detrimental to the position of stateless persons.⁶

This entire means that the stateless experience a degree of scarcity of rights under international human rights law. Yet, this should only be limited. As the UN Committee on the Elimination of Racial Discrimination (CERD) has stated, any such restrictions must be seen as an exception to the principle of equality and consequently, “must be construed so as to avoid undermining the basic prohibition of discrimination”.⁷

Similarly, the UN Committee on Economic, Social and Cultural Rights (CESCR) has asserted that “The ground of nationality should not bar access to Covenant rights (...) [which] apply to everyone including non-nationals, such as refugees, asylum-seekers, stateless persons, migrant workers and victims of international trafficking, regardless of legal status and documentation.”⁸

Furthermore, as the Human Rights Committee, has stated, “In general, the rights set forth [...] apply to everyone, irrespective of reciprocity, irrespective of his or her nationality or statelessness.”⁹

⁶ See further on the rights of non-citizens, Office of the High Commissioner For Human Rights, *The Rights of non-Citizens*, 2006.

⁷ Committee on the Elimination of Racial Discrimination, ‘General Recommendation Discrimination Against Non Citizen’, UN Doc. No. 30, 2004, Para 2, CERD/C/64/Misc.11/rev.3, (accessed 26 June 2016).

⁸ Committee on Economic, Social and Cultural Rights, General Comment, ‘Non-Discrimination in Economic, Social and Cultural Rights Article 2, 25 May 2009, Para 2, UN Doc. E/C.12/GC/20, (accessed 15 June 2016).

⁹ Human Rights Committee, General Comment No. 15, *The position of aliens under the Covenant*, UN Doc. 1986, HRI/GEN/1/Rev.6, (accessed 11 July 2016).

In practice though, the situation of many stateless individuals and groups betrays a far greater problem: as a non-national generally and as a stateless person in particular, actually effectuating rights can be distinctly challenging.

The harsh reality for many stateless persons is a story of lack of opportunity, of lack of protection and of lack of participation. They face challenges in all areas of life, including: entering or completing schooling; accessing healthcare services for preventative medicine or to treat an injury or illness; finding gainful employment or signing a labor contract; buying or inheriting a house; registering a car or a business; obtaining a birth certificate, driving license, marriage certificate or even death certificate; opening a bank account or getting a loan; falling back on social security; and enjoying a pension.

Obtaining a passport or indeed being issued any form of identity documentation is extremely difficult if you are not the national of any country, such that many stateless persons have no proof that they exist and no means by which to identify themselves in their day-to-day interactions with the state or with private entities. International travel is almost inconceivable, unless by illicit – and dangerous – means. Free movement within the state of residence, even if it is where the person was born and has all of his or her ties, can also be difficult due to the inability to provide proof of identity if security checkpoint or in stopped at a random check by the police.

Arbitrary arrest and detention, including in the person's home country, is not uncommon. In some cases, detention becomes prolonged or even indefinite, if the state is intent on expulsion, but no other country can be found which would allow the person to enter.

Where a stateless person wants to assert their rights, or where they have become a victim of crime or exploitation, their statelessness can also stand in the way of getting help from the authorities or finding their way to a court. Their complaint may be readily dismissed or ignored, and they are powerless to take a stand against this due to their status of statelessness.

In some situations, statelessness actually becomes a conduit or catalyst for human rights violations, is they perpetrated by the state or because of a vacuum of state protection. Stateless persons may be subjected to specific regulations or practices that do not apply to other residents in a state.

For instance, there may be restrictions on their movement within the territory or they may be denied land rights. In extreme cases, further debilitating and dehumanizing restrictions may also be imposed, such as on marriage or reproductive rights.

Being slated as outsiders, not just by *their* country but by *all* countries, may indeed make the stateless easy targets for victimization within society as they may be seen as less deserving of compassion, protection and support.

They may be a target for exploitative practices, such as forced labour or extortion. Indeed, the treatment of stateless persons can, in certain instances, amount to persecution.¹⁰

Moreover, the constraints that stateless persons experience, coupled with the fact of not being formally recognized as a member of their – or indeed any – country, has an evident impact on their well-being. A diminished sense of self-worth and in some instances a confused sense of identity and belonging can prompt sentiments of hopelessness, anxiety and depression.

The foregoing consequences of statelessness can also create a ripple such that they are felt not just by those individuals who are directly impacted because they lack nationality, but also by their family members, wider society and the international community of states.

Statelessness of a single family member can create problems for all due to the difficulties it causes and the tension and stress that can ensue. A mother who holds nationality, but whose son is stateless because she was not able to confer her nationality to

¹⁰Consider the example of the Rohingya of Myanmar – see sections 3.IV on global statelessness statistics of UNHCR in Asia and 3.VII on stateless

him under the law, worries that he will never have a family of his own because he is condemned to a life without nationality and to pass this on to his own children, were he to have any.

A country in which a whole community has been excluded, disenfranchised, stigmatized and perhaps even vilified through the denial of nationality may face social tensions that affect both the stateless and citizens alike.

Mounting tensions between the 'in' group and those portrayed as outsiders can also fuel conflict. Where conflict arises or where the stateless face such severe restrictions or violations of their fundamental rights that they are forced to seek sanctuary elsewhere, their displacement becomes a concern for the receiving country and the international community as a whole

No Home around the World

A total of over 10 million people are believed to be affected by statelessness worldwide¹¹. Moreover, this estimate – provided by UNHCR – does not consider also those who are stateless refugees¹² nor, for reasons of burden-sharing between UN agencies, does this number include those Palestinians who are stateless.¹³

Thus, the actual number of people who do not currently enjoy the legal bond of nationality with any state is even higher and any policy of EU external human rights action on statelessness should also be mindful of the situation of stateless refugees and stateless Palestinians.

It is also important to realize that the statistical coverage and reporting on stateless populations worldwide is incomplete. The

¹¹The latest UNHCR Statistics (Mid-year trends 2013), which include the figures for stateless persons, <http://www.unhcr.org/statistics/mid2013stats.zip>

¹² UNHCR reports a total of over 230,000 refugees and people in refugee-like situations in Bangladesh. These are almost exclusively stateless Rohingya refugees from Myanmar, <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e487546#>.

¹³ UNRWA has estimated the 5.2 million Palestinians who fall within their areas of operation are stateless, <http://www.unrwa.org/userfiles/20121119101833.pdf>.

issue remains “hidden” in many countries, such that there is no reliable figure for the number of people affected. In some contexts, the line between those with a recognized nationality and those without may not be at all clear; especially where state documentation systems are weak. Data on statelessness is steadily improving, but significant gaps remain, even in a number of states where it is clear that statelessness is a major challenge.

For instance, large numbers of people are affected by statelessness in Zimbabwe, Nepal, India, Madagascar, Bhutan, and the Democratic Republic of Congo and Lebanon, but no figure is currently reported for these countries. More comprehensively mapping statelessness and deficiencies in nationality laws and policies in these and other countries in order to generate better baseline data on the issue remains a critical goal of the international community and one that the EU could further support.

Notwithstanding the comments made above with regards to UNHCR’s statistical reporting on statelessness, it is of interest to review the list of countries for which the largest figures are reported.

Currently, there are 19 countries which report a stateless population of over 10,000 persons: Syria, Brunei Darussalam, Côte d’Ivoire, Dominican Republic, Estonia, Germany, Iraq, Kenya, Kuwait, Kyrgyzstan, Latvia, Malaysia, Myanmar, Poland, Russia, Saudi Arabia, Thailand, United Arab Emirates, Viet Nam (see also this following graphic taken from a recent article of *The Economist*, right)

A more detailed and systematic proportion of stateless population can be apparent from the following table collected from *world’s stateless report* of Institute on Statelessness and Inclusion;

Table¹⁴: Stateless persons reported per region

¹⁴ Source: world’s stateless report of Institute on Statelessness and Inclusion, December 2014, www.institutesi.org

Asia and the pacific	1,422,850
Africa	721,303
Europe	670,828
Middle East and North Africa	444,237
Americas	210,032
World total	3,469,370

What can immediately be inferred from this list is that statelessness is a significant issue in every region of the world – it is a truly global problem. No region of the world has been left untouched by the statelessness issue.

International Responses

The international community has long sought to address statelessness by concluding international agreements. An early example is the 1930 Hague Convention on Certain Questions Relating to Certain Conflicts of Nationality Laws, which included a number of provisions that – if introduced within states’ nationality laws – would help to prevent cases of statelessness. The most important international norms relating to statelessness emerged, however, following the Second World War. With the adoption of the 1948 Universal Declaration on Human Rights, the right to a nationality was recognized for the first time as a fundamental right, for everyone to enjoy¹⁵. Every major UN human rights instrument that has since been adopted includes some expression of the right to a nationality.¹⁶

¹⁵Article 15 of the Universal Declaration on Human Rights proclaims that “everyone has the right to a nationality” and “no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality”.

¹⁶Among the most important of these norms are article 7 of the Convention on the Rights of the Child (recognizing the child’s right to acquire a nationality); article 9 of the Convention on the Elimination of All Forms of Discrimination Against Women (guaranteeing equal nationality rights for women); article 5 of the Convention on the Elimination of All Forms of Racial Discrimination (providing for the right to nationality without discrimination as to race); and article 18 of the Convention on the Rights of Persons with Disabilities (protecting the equal nationality rights of persons with disabilities)

In addition to playing a part in the avoidance of statelessness through norms relating to the right to a nationality, as outlined above, human rights law is also of critical importance in protecting the rights of stateless persons. The vast majority of human rights norms are directed towards everyone, regardless of nationality or statelessness. As such, stateless persons can invoke human rights instruments in respect of their right to education, freedom of religion, protection from arbitrary detention and much more.

Complementing and supplementing the norms concerning statelessness that can be found within the broad body of international human rights law are two dedicated UN instruments on statelessness. The first is the 1954 Convention relating to the Status of Stateless Persons, which provides the definition of a “stateless person” and establishes this as a status under international law.

The instrument seeks to improve the enjoyment of fundamental rights by stateless persons by guaranteeing various rights and special measures for those who enjoy this status¹⁷. Significantly, it provides for the issuance of identity and travel documents to stateless persons – a question that is not clearly dealt with under general human rights law which can make a real practical difference for them in their day-to-day interactions with government and private institutions and facilitate the enjoyment of many other rights.¹⁸

The second UN statelessness convention is the 1961 Convention on the Reduction of Statelessness. This provides a set of concrete safeguards for states to incorporate within their nationality law, in order to help avoid statelessness and realize everyone’s right to a nationality. For instance, it obliges the state where a person is born to grant nationality if he or she would otherwise be stateless (i.e. does not acquire any other nationality, for instance by descent).¹⁹

¹⁷ See further <http://www.refworld.org/docid/4cad88292.html>.

¹⁸ See further <http://www.refworld.org/docid/4cad88292.html>.

¹⁹ See further <http://www.refworld.org/docid/4cad866e2.html>.

Until recently, the two UN statelessness conventions did not receive a great deal of attention and the level of ratification was low. In 2011, on the occasion of the 50th anniversary of the 1961 Convention on the Reduction of Statelessness, UNHCR launched a campaign to promote further accessions to the two statelessness instruments. The impact of this campaign has been significant and continues today. Since the campaign was launched, there have been a total of 33 accessions to these instruments and more are expected.²⁰

How States Determine Whether a Person does is a Citizen or Not?

As it is outlined before that, determination of nationality fall within the domestic jurisdiction and intention of each state. However, the applicability of a state's internal decisions can be limited and/or guided by the similar actions of other states and by international instruments. In its Advisory Opinion on the Tunis and Morocco Nationality Decrees of 1923, the Permanent Court of International Justice stated that:

“The question whether a certain matter is or is not solely within the domestic jurisdiction of a State is an essentially relative question; it depends on the development of international relations.”²¹

In effect, the Permanent Court said that while nationality issues were, in principle, within domestic jurisdiction, States must, nonetheless, honour their obligations to other States as governed by the rules of international law.

This approach was reiterated seven years later in the Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws. Indeed, many States commented on the Permanent Court's 1923 Advisory Opinion as it related to the preparation of the 1930 Hague Convention on Nationality. Most

²⁰ This has raised the number of state parties to the 1954 Convention from 65 to 80; and for the 1961 Convention from 37 to 55. Note that with regard to the 1961 Convention, it has attracted more new state parties in the last three years than in the first three decades after the instrument was first adopted.

²¹ See further <http://www.refworld.org/docid/4cad866e2.html>.

States interpreted the *Advisory Opinion* as a limitation on the applicability of a State's nationality-related decisions outside that State, especially when those decisions conflict with nationality-related decisions made by other States.²²

The Hague Convention of 1930, held under the auspices of the Assembly of the League of Nations, was the first international attempt to ensure that all persons have a nationality. Article 1 of the Convention states that:

“It is for each State to determine under its own law who are its nationals. This law shall be recognized by other States in so far as it is consistent with international conventions, international custom, and the principles of law generally recognized with regard to nationality.”²³

In other words, how a State exercises its right to determine its citizens should conform to the relevant provisions in international law. Throughout the 20th century, those provisions gradually developed to favour human rights over claims of State sovereignty.

Article 15 of the 1948 Universal Declaration of Human Rights declares:

“Everyone has the right to a nationality. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.”

This right is founded on the existence of a genuine and effective link between an individual and a State. The first time this link was acknowledged as the basis of citizenship was in a case decided by the International Court of Justice in 1955, the *Nottebohm Case*. In that case, the Court stated that:

“According to the practice of States, to arbitral and judicial decisions and to the opinion of writers, nationality is a legal bond having as its basis a social fact of attachment, a genuine connection of existence, interest and sentiments,

²² See further <http://www.refworld.org/docid/4cad866e2.html>.

²³ See further www.refworld.org/docid/3ae6b3b00.html

together with the existence of reciprocal rights and duties.”²⁴

The genuine and effective link, made manifest by birth, residency, and/or descent, is now reflected in the provisions of most States’ nationality legislation as well as in recent international instruments relating to nationality, such as the 1997 European Convention on Nationality.

Nationality is also defined by the Inter-American Court of Human Rights as:

“The political and legal bond that links a person to a given State and binds him to it with ties of loyalty and fidelity, entitling him to diplomatic protection from that State.”²⁵

Can a Stateless Person also be a Refugee?

Individuals who are *de facto* stateless are not included in the 1954 Convention’s definition of a stateless person. The drafters of the 1954 Convention presumed that all persons without an effective nationality – that is, all *de facto* stateless persons – were refugees. (The drafters of the Convention assumed that an individual became *de facto* stateless after fleeing his/her country of nationality because of persecution by the State, and that that persecution was related to a lack of effective citizenship.) Given this assumption, *de facto* stateless persons receive international assistance under the provisions of the 1951 Convention relating to the Status of Refugees.

However, being *de jure* or *de facto* stateless does not necessarily signify persecution (a “well-founded fear of persecution” is the crux of the definition of a refugee as set out in the 1951 Convention relating to the Status of Refugees). It has become clear over the years that there are *de facto* stateless persons who do not acquire citizenship in their country of habitual residence yet who do not qualify as either refugees or as *de jure* stateless persons. Indeed, most stateless persons who require assistance

²⁴See further www.refworld.org/docid/3ae6b3b00.html

²⁵ Castillo-Petruzzi et al v. Peru, Judgment of May 1999, IACHR [ser.C] No. 52 (1999).

from UNHCR, whether they are *de jure* or *de facto* stateless, are not refugees and have no claim to asylum.

What Future for the Statelessness Conventions?

The reality of today's world, a reality that cannot simply be brushed aside or ignored, is that we have organized ourselves into communities of states, with nationality the badge of membership.

However, I have already discussed, in some detail, what can be done to improve the overall international legal framework for addressing statelessness. The question with which I would like to draw this manuscript to a close is this: *what future is there for the Statelessness Conventions?* After all, these are the tailor-made instruments with which the international community proposed to deal with statelessness. And, with the growing realization that statelessness is a phenomenon of some consequence that will not resolve itself, it is to the Statelessness Conventions that many bodies and organizations are again turning in their renewed aspirations to tackle the issue.

As indicated earlier that, "it is not easy to offer one comprehensive answer to this question". It is, of course, easy to point to the situation on the ground as evidence that the Statelessness Conventions have been failing to do their job adequately for the past half-century. There are also a number of clear gaps in the protection offered by the instruments against and in statelessness.

Moreover, as suggested above, it would be fair to say that the overall impression of the Statelessness Conventions is of two catalogues of provisions that lack strength²⁶ – are at times even sloppy – and have clearly suffered from being a product of the

²⁶ Consider the example of the articles in the 1961 Statelessness Convention that address the prevention of statelessness from loss of nationality later in life, but fail to provide unequivocally for the retention of nationality where statelessness threatens. Recall also, for instance, the "right of solution" formulated in the 1954 Statelessness Convention, yet in very ambiguous and facultative language.

(now out dated) conceptions of nationality, statelessness and sovereignty that presided at the time of their adoption.²⁷

Nevertheless, we determined that both of the Statelessness Conventions retain some value, even in the contemporary international legal setting as I found out that the 1961 Statelessness Convention is the only universal instrument to deal in purposeful detail with the prevention of statelessness.

With regard to the so-called “technical causes” of statelessness, the instrument was even found to have clear added value. As we move into the future, the measures prescribed for the avoidance of statelessness arising from technical causes will continue to be of importance, in particular for the prevention of statelessness at birth and thereby also the further continuation of statelessness within existing populations

Meanwhile, the 1954 Statelessness Convention firmly places the stateless on the map as a specific vulnerable group, with very particular needs to which the international community must respond. It offers the opportunity for recognition and documentation of Stateless Person Status as the basis for protection. And it reminds states that the resolution of the plight of the stateless through the acquisition of nationality must remain the “right of solution” to which efforts should ultimately be devoted.

Looking ahead then, I would say that the two Statelessness Conventions do have a future. Indeed, by advocating for increased accession to these instruments, one of their shared flaws would be resolved: the pitifully low number of state parties that have been attracted to date. With an increased acceptance of the Statelessness Conventions comes increased scope for their implementation around the world – an objective that would be

²⁷ The fact, for instance, that the 1961 Statelessness Convention was a product of its time and that this has done some damage to the enduring value of the instrument was evident in the lack of attention paid to a number of sources of statelessness that were only acknowledged after the instrument was adopted.

further stimulated by the elaboration of guidelines addressing the challenge of identification.²⁸

With all of these considerations in mind, there is no disputing the need to revive prevention and protection – or indeed prevention, protection, identification *and* reduction – efforts. We hope that this study has shed some light on how to tackle this on-going challenge.

Conclusion

Statelessness is a problem of global proportions. It affects people all over the world and can have a harmful impact on them, their families and the wider community. Stateless individuals are some of the world's most vulnerable people. They are also some of the least known.

No region of the world has been left untouched by the statelessness issue, but statelessness is not an unsolvable problem. It is certainly true, however, that durable solutions must be implemented by states. They must work harder to avert and resolve such situations. All governments can sign and implement the 1954 Convention Relating to the Status of Stateless Persons, and the 1961 Convention on the Reduction of Statelessness. In most cases, it is not difficult to determine with which country an individual has a genuine effective link with for purposes of nationality decisions.

Rather, difficulties in preventing or reducing statelessness often occur as a result of legislative, judicial, administrative, and political decisions which fail to recognize basic principles of international law with respect to nationality.

Let us finish by saying that the incentives for dealing with statelessness, whether by following the suggestions outlined in this study or otherwise, are as persuasive as ever. It is a matter of justice, of human dignity and of peace and stability. And global justice does not necessarily imply a duty on States to open

²⁸ See the suggestions made in section termed 'meeting the challenge of identification' of the present chapter.

their borders to whomsoever wishes to enter and become a citizen of the State. But global justice does imply that it is the duty of every State to see that , citizenship or full membership in society should be granted to each and every person, if not by that State then at least by another.