

Refugees International

The United States of America

Submission to the United Nations
Universal Periodic Review

Session 9 - November 2010

Submitting Organization and Methodology

1. Refugees International (RI) is a 30-year-old independent non-governmental organization (NGO) based in Washington, DC, USA, that advocates for lifesaving assistance and protection for displaced people and promotes solutions to displacement crises. RI's work includes efforts on behalf of refugees, IDPs, and stateless people.
2. Refugees International has visited over a dozen countries to assess the situation of people who are stateless or at risk of statelessness. In 2005, RI published its first global survey of statelessness, *Lives on Hold. The human Cost of Statelessness*, in order to bring renewed attention to the problem. The office periodically receives and responds to inquiries from individual stateless persons in the US and abroad and facilitates both international and domestic working groups of peer organizations to stay abreast of developments related to this matter.

Statelessness

3. Article 15 of the Universal Declaration of Human Rights assures everyone the right to a nationality, but millions of people around the world have no legal tie to any government and are stateless due to a range of reasons including the redrawing of borders as a result of inter-state conflict, independence movements, and nation-building, sometimes mixed with racial or ethnic discrimination.
4. It is currently estimated that more than 12 million people around the world lack an effective nationality. Either having never acquired citizenship in the countries where they were born, or having lost it, they have no legal bond of nationality with any state. They are stateless or at risk of de jure or de facto statelessness.
5. Without the bonds of citizenship, stateless individuals face denial of subsidiary human rights such as political participation, freedom of movement, formal employment, education, and healthcare.

Statelessness in the United States

6. At present, the United States is not a party to either the 1954 Convention relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness. Moreover, the current domestic legal framework does not provide any mechanism for stateless persons in the U.S. to regularize their status, unless they are eligible on other grounds such as asylum, withholding of removal of deportation or relief pursuant to US accession to the Convention against Torture.
7. In the United States citizenship is obtained either by birth, derived through one's parents, or acquired through naturalization. By law, all children born within the United States and certain U.S. territories are automatically United States citizens. In some instances children born outside the United States may acquire U.S. citizenship if one or both parents are United States citizens and the birth is duly registered with the

US embassy. Citizenship can also be acquired through the process of naturalization which usually takes place after five years of lawful permanent resident status or three years residency, if married to a United States citizen.

8. While it is important to note that the U.S. laws rarely would create stateless persons, nevertheless, there are numbers of individuals in the United States whose cases represent a broad range of statelessness and stateless-like situations. These situations include individuals who entered the United States either on temporary visas or unlawfully who were already stateless and have had no opportunity to regularize their status in the U.S. Without such regularization, they cannot work, travel freely, or access most government funded health and social services.
9. Some cases also were admitted as refugees or lawful permanent residents who were detained due to a criminal conviction, and thus lost their lawful status, and subsequently have been ordered removed. In reality, though, a stateless person cannot be removed because their statelessness prevents the U.S. from obtaining an accepted travel document. As a result, such persons may be detained for long periods of time. While U.S. laws generally prohibit detention for more than six months if removal is not foreseeable in the near future, people in these situations have been in detention much longer, some for several years. If released, such an individual is eligible to apply for work authorization but will not have any recognized legal status, be able to travel or have access to government-funded social and medical benefits. Additionally, de facto or de jure stateless are required under the US issued Orders of Supervised Release to demonstrate that they have applied for travel documents to “all appropriate Embassies or Consulates” and are threatened with detention if they fail to comply. Those already in detention are told they will not be released if they do not comply, and in some cases have been threatened with prosecution for non-compliance to seek travel documents from the relevant embassies.
10. Other individuals often affected by statelessness are rejected asylum applicants, for example stateless individuals from the former Soviet Union who have lost their prior citizenship status (de jure stateless), some Palestinians, and individuals from countries where people currently cannot be removed to such as Cuba, Laos, and Vietnam.

Action Taken

In recent years the United States has demonstrated increased awareness of and efforts to prevent and reduce statelessness.

11. In 2005, the U.S. Congressional Human Rights Caucus held its first briefing on statelessness.
12. During the same year a member of the House International Relations Committee, Representative Diane Watson (D-CA), sent a letter urging greater U.S. efforts on statelessness to the new Assistant Secretary of State for Population, Refugees and

Migration, Ellen Sauerbrey. A lead staff person in the PRM bureau was designated to follow the issue.

13. The U.S. has proactively resettled stateless groups who, due to their plight, sought international protection from UNHCR and the international community as refugees including Meshketian Turks and certain Bhutanese expelled to Nepal.
14. In 2007, the U.S. Congressional Children's Caucus held a briefing on stateless children.
15. The U.S. has played an active role in working with the Organization of American States to recognize and encourage universal birth registration in the Western Hemisphere.
16. Beginning with the 2008 U.S. Human Rights Report produced annually by the Department of State, here appropriate included a subsection on stateless people in the Country Practices Reports.
17. In 2008, House of Representatives bill H.R. 6520, pertaining to prevention and resolution of statelessness as a major foreign policy issue was introduced in the Congress with bipartisan sponsorship. It was reintroduced as H.R. 72 in 2009.
18. The Assistant Secretary for Population, Refugees, and Migration, or his/her staff have studied the issue of statelessness and/ or raised questions with the country's leadership during four country visits to date.
19. The House of Representatives in 2009 approved a section on statelessness (identical to H.R. 72) as part of H.R. 2410, the Foreign Authorization Act for 2010-11. This legislation is now pending in the U.S. Senate for consideration.
20. In 2010, two Senators introduced S. 3113 in March 2010 which proposes among other issues a long needed domestic remedy for de jure stateless persons already residing in the country.

Recommendations

The right to a nationality is a foundation of human rights, and a deterrent to displacement and disaffection. The state is the primary vehicle through which individuals are guaranteed their inalienable rights and are made subject to the rule of law. Regional stability and security are undermined when individuals cannot avail themselves of their right to a nationality and its concomitant rights and obligations and are excluded from full participation in civil society. It is suggested that the U.S. should

21. Become a party to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

22. Identify the scope of statelessness on its territories as well as the conditions of such affected persons.
23. Refrain from long-term detention of persons who are determined to be stateless and who pose no risk to the community.
24. Enacts legislation concerning prevention and reduction of statelessness worldwide.
25. Pass legislation to provide a way for stateless persons now in the U.S. to gain lawful status in order to resolve situations of stateless individuals now in the United States and permit them to enjoy their full human rights, but particularly the protection of and responsibilities to a state.
26. Support and encourage members of the United Nations, the UN secretariat and its agencies and programs particularly UNHCR and the OHCHR to expand their efforts to prevent and resolve situations of statelessness.