

30 ARTICLES ON THE 30 ARTICLES

THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AT 70: STILL WORKING TO ENSURE FREEDOM, EQUALITY AND DIGNITY FOR ALL

Article 15: Right to Nationality

On the outskirts of the Vietnamese capital, Ho Chi Minh City, an elderly man revealed his most fervent wish: “just one simple hope – that when I died I could get a death certificate, to prove that I ever existed.” As a stateless person, he had not legally existed for the 35 years he had lived in Viet Nam – unable to own property, send his children to school or even buy a motorbike.

A former Cambodian refugee, he had fallen into a legal limbo, unable to relinquish his Cambodian citizenship as required in order to acquire Vietnamese citizenship because Cambodia had already renounced him. Fortunately, in 2010 Vietnam cut the Gordian knot and granted citizenship to some 6,000 people in this position.

Most of the people on this planet take for granted the right to nationality guaranteed by Article 15 of the Universal Declaration of Human Rights (UDHR). Most of us can acquire an ID card, passport or other documents without any problem. But around the world some 3.9 million people are officially without nationality, and the UN Refugee Agency estimates the true figure could be three times higher.

“To be stripped of citizenship is to be stripped of worldliness; it is like returning to a wilderness as cavemen or savages... they could live and die without leaving any trace.”

- Hannah Arendt
The Origins of Totalitarianism

They suffer profoundly, condemned to a hopeless life on the margins, and often passing their condition to their children, so that generations can be condemned to statelessness.

The Universal Declaration asserts that all human beings are born with the inherent rights it sets out. For this reason, many dislike Hannah Arendt’s formulation that nationality is the “right to have rights.” But without nationality, it is practically impossible to exercise many other rights – to go to school, get medical treatment, get a job legally, report a crime, travel across borders and, as the Vietnamese man lamented, even for your family to get a death certificate when you go.

Some people are stateless because of the break-up of states, or disintegration of empires, generations ago. Others do not have, or lose, their nationality unintentionally because of badly drawn up, or clashing laws within a state – or even (when parents are of different nationalities) between states. Even a change in administrative practice

can plunge people, by mistake, into a legal limbo because of some quirk of birth, marriage or inheritance.

Other people are deliberately made stateless – refused or stripped of their nationality as part of a process of political or racial or ethnic persecution, and often subsequently forced to flee to another country where they may remain stateless for many years. The Rohingya of Myanmar being one obvious example, and German Jewish philosopher Hannah Arendt – who was both stateless and a refugee, first in France and then the U.S. – another.

As far back as 2010 – seven years before the latest round of violence, possibly amounting to genocide, erupted in Myanmar’s Rakhine State – the UN Special Rapporteur on Myanmar was warning that “the problem of statelessness” – including the refusal to issue birth certificates to many Muslim children since 1994 – lay at the “root of chronic scourges” endured by the Rohingya. More recently, in its excoriating September 2018 report, the UN Fact-Finding Mission on Myanmar noted that “the denial of nationality is based on prohibited racial grounds.”

Since the UDHR was adopted 70 years ago, there has been an increasing recognition of the issue of statelessness. In recent years, there has been a concerted effort to solve it, and prevent it from occurring in the first place, with the UN Secretary General submitting an annual report on the deprivation of nationality to the General assembly.

“The last 10 years I have lost all my rights: I couldn’t study, work, nor drive. I can’t be with my husband. To simply have a life and a nationality after 17 stateless years... is that too much to ask?”

-A 24-year-old woman held in detention because her parents infringed immigration rules when she was a child.

Often it can be solved with the metaphoric stroke of a pen – a simple change to laws, for instance, to eliminate gender discrimination that prevents women from passing on their nationality to their children. Issuance of birth certificates is also a vital step in preventing statelessness.

Since the UN Refugee Agency, UNHCR, launched a campaign in 2014 to end and prevent statelessness, more than 166,000 stateless people have acquired or had their nationality confirmed and 20 states have acceded to the two Statelessness Conventions. Nine states have established or improved statelessness determination procedures, and six states reformed their nationality laws, among many improvements.

Even as progress is being made, a debate has arisen over whether climate change could add millions more to the ranks of the stateless. Legal scholars are already exploring solutions in case some island-states now on the map become submerged entirely by rising sea levels – though not all agree that would result in their citizens’ becoming stateless.

A youth leader from Kiribati, one of the lowest-lying countries in the world, told the Human Rights Council in 2017 that all his people might – in the worst case – have to leave because of rising sea levels, erosion or cyclones, and that that “relocating means having no home to go back to.”

Added 27-year-old Rae Bainteiti: “It means leaving your land and your country for good and severing ties to all that is important to you as a people. Such a move would threaten our sovereignty, our culture, our identity and *all* our fundamental human rights.”

This is one in a series of articles published by the Office of the High Commissioner for Human Rights (OHCHR) to mark the 70th anniversary of adoption of the Universal Declaration of Human Rights on 10 December 1948. All rights enshrined in the UDHR are connected to each other, and all are equally important.

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