



Canadian Council for Refugees Conseil canadien pour les réfugiés

Statelessness and Canada: An introduction

- > Ivan (fictitious name) spent 6 months in detention while Canadian immigration authorities tried to deport him. When the **Soviet Union broke up**, Ivan was outside the region. Now, none of the successor states recognizes him as a citizen. Ivan was eventually released from detention, but he was left without status in Canada.
- > Canada is resettling some 5,000 Bhutanese who have been **stateless refugees in Nepal** for over 15 years: the children were born stateless in the refugee camps. They were disenfranchised by the Bhutanese government in the 1980s and forced to flee. After three years in Canada, the resettled Bhutanese will be able to apply for Canadian citizenship.
- > Consider this scenario: Ana was **born overseas to Canadian parents** who were working with an international humanitarian NGO. Ana grew up in Canada but as a young adult decided to follow her parents' example and volunteered abroad. While overseas she met a refugee and they are expecting a child. The father's country of origin no longer recognizes him and the country where they are living does not give citizenship by birth on the territory. Under amendments to the Citizenship Act passed by Parliament in 2008, Ana's child will be born stateless.

What is statelessness?

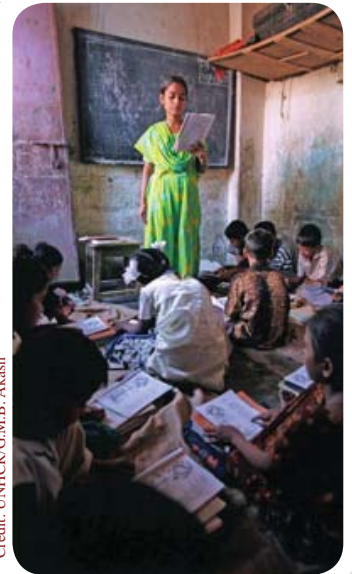
A person is “stateless” if no State considers them a citizen.

States have specific obligations towards their citizens and grant citizens significantly more rights than non-citizens. Since no State recognizes them, stateless persons are deprived of many basic rights and have no State to protect them.

Some of the causes of statelessness:

- > Contradictions and inconsistencies between different countries citizenship laws (e.g. one State deprives you of citizenship if you marry a non-national but the other State doesn't grant you citizenship when you marry)
- > Break-ups of States (example: dissolution of the Soviet Union)
- > Problems in registration of births
- > Loss of citizenship

RIGHT: Young Biharis in class, June 2006. For 37 years neither Bangladesh nor Pakistan recognized the Bihari, an Urdu-speaking minority, as citizens. As a result, Biharis have often had difficulty obtaining birth certificates and documents for employment and access to government aid.



Credit: UNHCR/G.M.B. Akash



FACT: The United Nations estimates that there are 15 million stateless persons in the world.

International Instruments

Universal Declaration of Human Rights

Article 15 (1) Everyone has the right to a nationality.
(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

1954 Convention relating to the Status of Stateless Persons (62 States Parties, not Canada)

This Convention follows the same model as the Refugee Convention and has many of the same provisions. The Convention defines stateless persons and outlines their rights, including to non-refoulement.

1961 Convention on the Reduction of Statelessness (34 States Parties, including Canada)

This Convention provides measures to prevent the creation of new cases of statelessness. It deals with ensuring that children receive a citizenship at birth and avoiding loss of citizenship if that would create statelessness.

Convention on the Rights of the Child (Canada is a State Party)

Article 7 (1) The child shall be registered immediately after birth and shall **have the right from birth to a name, the right to acquire a nationality** [...] (2) States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child **would otherwise be stateless**.

Article 8 (1) States Parties undertake to respect **the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference**.



Credit: Gloria Nafziger

Canadian Council for Refugees

Types of statelessness

- > **de jure statelessness**: when the laws of no State recognize the person as a citizen.
- > **de facto statelessness**: when the person is in theory entitled to citizenship under the law, but the law is applied in such a way that the person is not recognized as a citizen.



Some situations of statelessness

Hostility to certain groups: Bhutanese

Bhutanese citizenship laws passed in 1977 and 1985 restricted citizenship to persons of Bhutanese ethnic origin. This policy of “Bhutanization” led to massive human rights violations against the ethnic minority. Many are now refugees in Nepal. Canada has agreed to resettle some 5,000 of these refugees.



Credit: Jesuit Refugee Service/USA



Credit: Jesuit Refugee Service/USA

ABOVE: Bhutanese refugees seek answers to questions about resettlement so that they can make an informed decision about their future.

Lack of state: Palestinians

Palestinians represent the largest stateless community in the world: more than half of the eight million or so Palestinians are considered to be de jure stateless persons. Partly because they are stateless, Palestinian refugees are treated more harshly than other refugees. For example, Palestinians recently forced out of Iraq have not been admitted into Syria but instead are trapped in dangerous and desolate camps on the border. Despite a special appeal by the United Nations, few countries have stepped forward to offer them resettlement.

LEFT: Palestinian refugees at al-Waleed and al-Tanf camps in the Iraq-Syria border region waiting for resettlement.

Some situations of statelessness

Successor states: former Soviet Union

After the collapse of the Soviet Union, the successor states adopted laws to determine who could claim citizenship. These laws left some people without any citizenship. Some of the problems resulted from the earlier forced deportation policies. For example, Kazakhs who had been forced from their region in the 1930s returned to Kazakhstan after the fall of the Soviet Union, but weren't necessarily recognized as Kazakh citizens. Other problems relate to efforts by States to undo the effects of earlier Soviet policies intended to undermine national identities. For example, Latvia adopted laws requiring citizens to pass Latvian language tests, which excluded many of the Russians who had been settled in the region.

Discrimination against migrants: Haitians in Dominican Republic

An estimated million people of Haitian descent live undocumented in the Dominican Republic. The law grants citizenship to everyone born in the country, but Dominican-Haitian children frequently have difficulty proving their citizenship because hospital staff refuse to provide proof of the birth. As a result, many Dominicans of Haitian descent face constant risk of deportation and children have been denied access to education. In 2005 the Inter-American Court of Human Rights found that the Dominican Republic had denied citizenship on the basis of race, thereby rendering children of Haitian descent effectively stateless (Yean and Bosico). The court ordered the government to apologize, pay damages, publish the ruling, and implement measures to ensure equal access to birth certificates and school enrollment.

RIGHT: Under Dominican law, all children born in Dominican territory have the right to Dominican citizenship. However, the children of Haitians are denied all citizenship rights.



Credit: Jesuit Refugee Service/USA

Statelessness in Canada

You may encounter statelessness in Canada in the following circumstances:

In detention

Stateless persons can end up in detention for extended periods, while the Canadian government tries to persuade a State to accept the person. Often it is not immediately clear whether the person is a citizen of one or other country. There is no government body in Canada responsible for and experienced in determining whether a person is stateless or not.

Long-term limbo

Stateless persons who are not recognized as refugees and are not eligible for permanent residence through some other route may face long-term limbo in Canada. They can apply for permanent residence on humanitarian and compassionate grounds, but this is discretionary and the guidelines do not direct officers to take into consideration the particular situation of stateless persons.

Persons affected by loss of citizenship under the Citizenship Act

Canada's complex citizenship laws have created and risk creating numerous cases of statelessness because people can lose citizenship even if it means that they will be stateless. Changes to the Citizenship Act coming into force in April 2009 mean that some children born outside Canada to Canadian parents may be stateless.

Refugees (resettled or recognized in Canada)

Refugees resettled to or recognized in Canada may be stateless. Because they have refugee status and are entitled to permanent residence, their situation is much better than other stateless persons. It is in their interest to become Canadian citizens as soon as they can, in order to cease being stateless. Stateless persons who are not refugees are not very likely to be resettled because many countries only resettle refugees: Canada's Country of Asylum Class offers a possibility for some (through the Private Sponsorship program).

Recommendations to Canada on Statelessness

1. Canada should ratify the 1954 Convention relating to the Status of Stateless Persons.
2. Canada should include statelessness as a ground for protection, under the Immigration and Refugee Protection Act.
3. Canada should include statelessness as a ground for resettlement.
4. Parliament should amend the Citizenship Act to provide that no child of Canadian parents will be denied Canadian citizenship if this would leave them stateless.



Credit: Gloria Nafziger



Palestinian refugee children at al Tanf camp in the Iraq-Syria border region, November 2008.



Credit: United Nations

Leslie Chance (left) of Canada at the Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, Geneva, July 1951. Mr Chance, on behalf of Canada, chaired the committee that drafted the conventions under discussion. Canada has still not signed the resulting Convention relating to the Status of Stateless Persons.

5. Canada should offer resettlement to Palestinian refugees forced out of Iraq.
6. Canadian government agencies should collect and report accurate and timely statistics relating to statelessness.

For More Information

Canadian Council for Refugees webpage on statelessness, www.ccrweb.ca/stateless.htm

UNHCR, page on statelessness: www.tinyurl.com/c89ywo

International Observatory on Statelessness: www.nationalityforall.org

Refugees International, Nationality Rights for All: A Progress Report and Global Survey on Statelessness, www.refugeesinternational.org/policy/in-depth-report/nationality-rights-all

CCR, Canadian Citizenship - Impacts of changes, February 2009, www.ccrweb.ca/documents/citizenship09.htm

From Fast Death to Slow Death: Palestinian Refugees from Iraq Trapped on the Syria-Iraq Border, Summary Report of an International NGO Delegation, 24 November 2008, www.ccrweb.ca/documents/reportpalestinians.htm

Statelessness in Canadian Context: A discussion paper, UNHCR, 2003, www.ccrweb.ca/statelessness.pdf



WANT TO KNOW MORE?

Visit the CCR's website: www.ccrweb.ca

CANADIAN COUNCIL FOR REFUGEES

6839A Drolet #302, Montréal QC, H2S 2T1

tel. (514) 277-7223, fax (514) 277-1447

email: info@ccrweb.ca

March 2009