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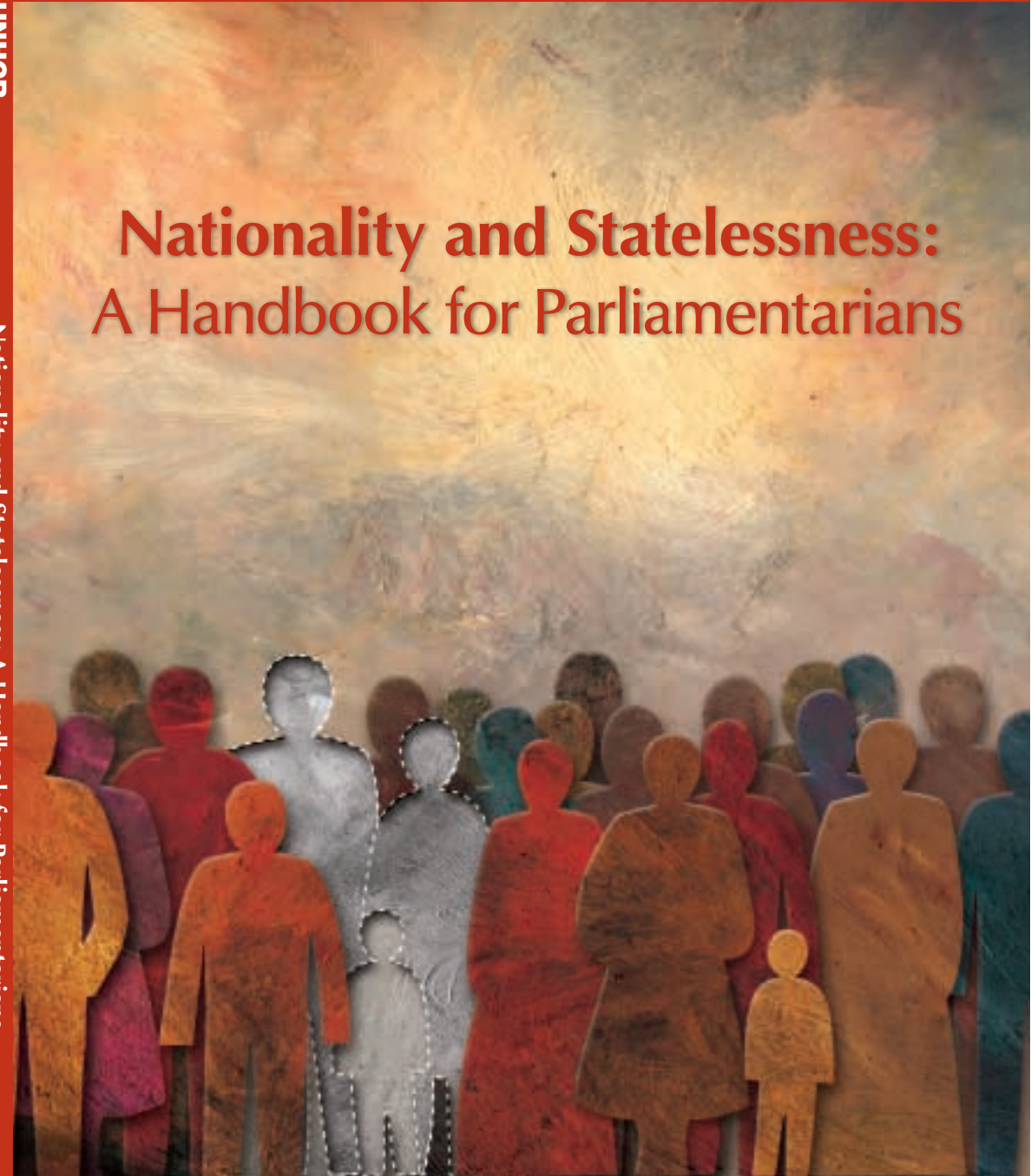
Nationality and Statelessness: A Handbook for Parliamentarians

Nationality and Statelessness: A Handbook for Parliamentarians



"Citizenship is man's basic right for it is nothing less than the right to have rights"

Chief Justice Earl Warren (USA 1958).



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Nationality and Statelessness

A Handbook for Parliamentarians

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Foreword

“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 succinct 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 (the two terms are used interchangeably in this handbook, just as they usually are in international law) not only provides people with a sense of identity, it entitles individuals to the protection of a State and to 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).

Many of the world’s stateless persons are also victims of forced displacement. People who have been uprooted from their homes are particularly vulnerable to statelessness, especially when their displacement is accompanied or followed by a redrawing of territorial boundaries. Conversely, stateless and denationalized individuals have often been obliged to flee their usual place of residence. It is this link with refugee situations that initially led the United Nations General Assembly to designate the Office of the United Nations High Commissioner for Refugees (UNHCR) as the agency responsible for overseeing the prevention and reduction of statelessness.

According to recent estimates there are some eleven million stateless persons around the world. But this number is a “guesstimate”. It has been very difficult for organizations to collect comprehensive data on the number of stateless persons because the concept of statelessness is disputed among countries, because governments are often reluctant to disclose information about statelessness, and because the issue of statelessness is not high on the international community’s agenda.

In recent years, however, the international community has become more aware that respect for human rights helps to prevent mass exoduses and forced displacements. Similarly, there is growing awareness, based on the principles contained in international treaties, that States are obliged to resolve problems of statelessness. Governments must acknowledge, formally and in practice, that they do not have the right to withdraw or withhold the benefits of citizenship from individuals who can demonstrate a genuine and effective link with the country.

The best way that parliamentarians can demonstrate their determination to reduce or eliminate the incidence of statelessness is to adopt national legislation that is consistent with international law, that ensures that individuals will not be arbitrarily deprived of nationality, that persons will be granted a nationality under certain circumstances in which they might otherwise be stateless, and that adequate protection will be available

to those who remain or become stateless. Parliamentarians can also play an important “watchdog” role by helping to ensure that the policies of a State do not inadvertently or deliberately render individuals stateless, by encouraging their governments to resolve the cases of individuals who are stateless, and by raising awareness about the problems associated with statelessness among their constituents.

This handbook presents related issues, provides possible solutions, and suggests actions that members of parliament can take without losing sight of the human dimension of statelessness. We hope that it will serve as a useful tool for parliamentarians in taking all necessary steps to reduce and ultimately eliminate this phenomenon, which adversely affects the lives of millions of men, women and children around the world.



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Introduction

Those of us who are citizens of a country usually take for granted the rights and obligations that citizenship confers on us. Most of us can enroll our children in schools, seek medical attention when we are sick, apply for employment when we need to, and vote to elect our representatives in government. We feel we have a stake in the country in which we live; we feel a profound sense of belonging to something greater than our individual selves.

But what is life like for persons who have no nationality, who are stateless? Without citizenship, a person cannot register to vote in the country in which he/she is living, cannot apply for a travel document, cannot register to marry. In some instances, individuals who are stateless and are outside their country of origin or country of former residence can be detained for long periods if those countries refuse to grant them re-entry to their territories. Often, even the most basic of rights – the rights to education, medical care, and employment – are denied to individuals who cannot prove a legal connection with a country.

“Being said ‘No’ to by the country where I live; being said ‘No’ to by the country where I was born; being said ‘No’ to by the country where my parents are from; hearing ‘you do not belong to us’ continuously! I feel I am nobody and don’t even know why I’m living. Being stateless, you are always surrounded by a sense of worthlessness.”

Lara, who was formerly stateless

A survey on statelessness conducted by UNHCR in 2003 confirms that no region of the world is free of the problems that lead to statelessness. However, the precise number of stateless persons around the world is unknown. States are often unwilling or unable to provide accurate data; few have mechanisms for registering stateless persons. Indeed, there is no clear requirement for States to report on the numbers of stateless persons living on their territories. UNHCR estimates that millions of people around the world are living without an effective nationality.

Statelessness, which was first recognized as a global problem during the first half of the 20th century, can result from disputes between States about the legal identity of individuals, State succession, protracted marginalization of specific groups within the society, or from stripping individuals or groups of their nationality. Statelessness is normally associated with periods of profound change in international relations. The redrawing of international borders, the manipulation of political systems by national leaders with the aim of achieving questionable political ends, and/or the denial or deprivation of nationality to exclude and marginalize unpopular racial, religious, or ethnic minorities have resulted in statelessness in every region of the world. In the past 20 years, growing numbers of persons have been deprived of their nationality or have not been able to gain an effective citizenship. If these situations are allowed to continue, the deepening sense of disenfranchisement among the affected populations can eventually lead to displacement.

“To be stripped of citizenship is to be stripped of worldliness; it is like returning to a wilderness as cavemen or savages... A man who is nothing but a man has lost the very qualities which make it possible for other people to treat him as a fellow man... they could live and die without leaving any trace, without having contributed anything to the common world.”

Hannah Arendt, *The Origins of Totalitarianism*

This handbook aims to provide parliamentarians with a broad description of the international principles regulating nationality and statelessness. International law gives States broad discretion with which to define their initial body of citizens and the conditions for acquiring, losing, and retaining citizenship. However, human rights principles developed throughout the 20th century limit this latitude if it results in statelessness and/or if it is applied in a discriminatory manner.

As States work together to address the problems associated with statelessness, there are still millions of individuals around the world who have no effective nationality. This handbook discusses the rights and obligations of stateless persons as protected under international law, particularly by the 1954 Convention relating to the Status of Stateless Persons. (Despite UNHCR’s promotion efforts, only 57 States have ratified the 1954 Convention; in comparison, 146 States have ratified the 1951 Convention relating to the Status of Refugees.) The handbook also highlights the main causes of statelessness and considers how governments can ensure that the application of their nationality legislation doesn’t inadvertently result in statelessness.

UNHCR is the UN agency tasked with helping to reduce the incidence of statelessness and assisting those individuals who are stateless in securing an effective nationality. This handbook describes what UNHCR does to fulfil this role. It also suggests practical steps parliamentarians can take to help to reduce the incidence of statelessness, from reviewing and, if necessary, revising their country’s citizenship laws, to encouraging their governments to accede to international treaties on statelessness, to raising public awareness about the problems associated with statelessness.

This handbook also offers positive examples of how protracted situations of statelessness have been resolved, thanks to the political will of the States concerned, the involvement of civil society, and the assistance provided by the international community. These “good practices” illustrate that when governments, society, and the international community work together, stateless individuals can finally enjoy “the right to have rights”.

Chapter 1

The International Legal Framework for the Right to a Nationality and for the Reduction of Statelessness

Nationality is a highly sensitive issue as it is a manifestation of a country's sovereignty and identity. Not surprisingly, disputes about citizenship can, and often do, result in tension and conflict, both within and between States. During the 20th century, there was both an increase in the incidence of statelessness around the world and growing awareness of and concern for human rights. International law on nationality thus evolved along two tracks: to protect and assist those individuals who were already stateless, and to try to eliminate, or at least reduce, the incidence of statelessness.

Who determines whether or not a person is a citizen of a particular country?

In principle, questions of nationality fall within the domestic jurisdiction of each State. However, the applicability of a State's internal decisions can be limited by the similar actions of other States and by international law.

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."

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 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.

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."

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

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

How are the rights of refugees and stateless persons protected?

Although Article 15 of the Universal Declaration of Human Rights asserts that every person has the right to a nationality, it does not prescribe the specific nationality to which a person is entitled. To ensure that individuals are not deprived of a minimum set of rights associated with nationality, the international community developed two main treaties: the 1951 Convention relating to the Status of Refugees and the 1954 Convention relating to the Status of Stateless Persons.

Is there any link between the 1951 Convention relating to the Status of Refugees and the issue of statelessness?

In the aftermath of World War II, one of the most pressing issues for the member States of the newly created United Nations was how to address the needs of the millions of individuals whom the war had left as refugees or had rendered stateless. A 1949 resolution of the UN Economic and Social Council (ECOSOC) led to the appointment of an Ad Hoc Committee whose task was to consider formulating a Convention on the status of refugees and stateless persons and to consider proposals for eliminating statelessness.

In the end, Committee members drafted a Convention on the status of refugees and a Protocol to the proposed Convention that focused on stateless persons. The Committee did not fully address the elimination of statelessness largely because it was assumed that the newly formed International Law Commission (ILC) would focus on that issue.

Historically, refugees and stateless persons both received protection and assistance from the international refugee organizations that preceded UNHCR. The draft Protocol on Statelessness was intended to reflect this link between refugees and stateless persons. But the urgent needs of refugees and the impending dissolution of the International Refugee Organization meant that there was not sufficient time for a detailed analysis of the situation of stateless persons at the 1951 Conference of Plenipotentiaries that had been convened to consider both issues. Thus, the 1951 **Convention relating to the Status of Refugees** was adopted at the Conference, while adoption of the Protocol addressing stateless persons was postponed for a later date.

Under the 1951 Refugee Convention, a stateless refugee receives protection as a refugee, since the arbitrary denial of citizenship because of a person's race, religion, nationality, membership in a particular social group, or political opinion can indicate that the individual should be recognized as a refugee.

What does the 1954 Convention relating to the Status of Stateless Persons provide for?

The Protocol on stateless persons that had been drafted as an addendum to the 1951 Refugee Convention was made into a Convention in its own right in 1954. **The 1954 Convention is the primary international instrument that aims to regulate and improve the status of stateless persons** and to ensure that stateless persons are accorded their fundamental rights and freedoms without discrimination. (See Annex 1 for a list of States Parties to the 1954 Convention.)

The provisions of the Convention are, in many respects, very similar to those of the 1951 Refugee Convention. **Acceding to the Convention is not a substitute for granting nationality to those born and habitually resident in a State's territory.** No matter how extensive the rights granted to a stateless person may be, they are not the equivalent of acquiring citizenship.

The 1954 Convention includes a strictly legal definition of a stateless person: *"a person who is not considered as a national by any State under the operation of its law"* (what is known as *de jure* stateless).

Who is a national? Who is stateless?

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*).

Whenever an administrative procedure allows for discretion in granting citizenship, applicants for citizenship cannot be considered nationals until their applications have been completed and approved and the citizenship of that State is granted in accordance with the law. Individuals who have to apply for citizenship, and those whom the law defines as eligible to apply, but whose applications are rejected, are not citizens of that State by operation of that State's law.

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. He/She is considered to be **de facto stateless**.

Although the Convention's drafters felt it was necessary to make the distinction between *de jure* stateless persons (those who have not received nationality automatically or through an individual decision under the operation of any State's laws) and *de facto* stateless persons (those who cannot establish their nationality), they did recognize the similarity of their positions. The Final Act of the Convention addresses the issue of *de facto* stateless persons with a non-binding recommendation:

“that each Contracting State, when it recognizes as valid the reasons for which a person has renounced the protection of the State of which he is a national, consider sympathetically the possibility of according to that person the treatment which the Convention accords to stateless persons.”

The decision as to whether a person is entitled to the benefits of the Convention is made by each State Party in accordance with its own established procedures. Through its representations/offices or its services at Headquarters, UNHCR is available to provide advice on how to create and implement these procedures, if requested. (See Annex 4 for a list of UNHCR offices.)

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

What does the 1961 Convention on the Reduction of Statelessness provide for?

In August 1950, an ECOSOC Resolution requested that the ILC prepare a draft international Convention or Conventions for the elimination of statelessness. The ILC drafted two Conventions for consideration, both addressing the problem of statelessness resulting from conflicts of laws. One Convention, on the *elimination* of future statelessness, contained provisions that went much further than those contained in the second draft Convention, which focused on *reducing* the incidence of statelessness in the future. Participants in a conference convened to consider the issue determined that the former Convention was too radical and elected to work with the draft Convention on the Reduction of Future Statelessness. The instrument that finally emerged from this process is the **1961 Convention on the Reduction of Statelessness**. (See Annex 2 for a list of States Parties to the 1961 Convention.)

The articles of the Convention aim to avoid statelessness at birth, but they neither prohibit the possibility of revocation of nationality under certain circumstances, nor retroactively grant citizenship to all currently stateless persons. The Convention also provides for the creation of a body to which a person who may benefit from the provisions of the Convention may apply to have his/her claim examined and to seek assistance in presenting the claim to the appropriate authority. The General Assembly subsequently asked UNHCR to fulfill this role.

The ILC and State delegates determined that international assistance was necessary because when an individual is denied citizenship of a State, he/she would have neither

the financial resources nor the expertise required to present a claim to nationality to the authorities of that State. Since no other State could plausibly argue for the individual, it for doing so. Representation by an international agency would also sidestep the question of whether or not an individual was a subject of international law. In addition, an agency devoted to this work would eventually develop expertise on the issue that would be useful not only for advising concerned individuals, but also for proposing ways of acquiring an effective nationality and of reducing statelessness, in general.

In seeking to reduce the incidence of statelessness, the 1961 Convention requires that signatory States adopt nationality legislation that reflects prescribed standards relating to the acquisition or loss of nationality. Should disputes concerning the interpretation or application of the Convention arise between Contracting States and they are not resolved by other means, they can be submitted to the International Court of Justice at the request of any one of the parties to the dispute.

The Final Act of the Convention includes a recommendation much like the one contained in the Final Act of the 1954 Convention that encourages States Parties to extend the provisions of the Convention to de facto stateless persons whenever possible.

“One day, I was standing between the borders, and could not get into either country. It was the most unforgettable experience in my life! I could not enter the State where I had been; also I couldn’t get into the State where I was born, raised and lived! Where do I belong? I still cannot forget the strong feeling of loss I experienced at the airport.”

Chen, who was formerly stateless

How does human rights law ensure the right to a nationality?

Various other international legal instruments address the right to a nationality. The 1957 **Convention on the Nationality of Married Women** echoes the Universal Declaration of Human Rights by stipulating the right to a nationality and the right not to be deprived of a nationality. It also seeks to promote “universal respect for, and observance of, human rights and fundamental freedoms for all without discrimination as to sex.” The first three Articles of the Convention contain specific provisions concerning a wife’s nationality:

Article 1 asserts that “neither the celebration nor the dissolution of a marriage between one of its nationals and an alien, nor the change of nationality by the husband during marriage, shall automatically affect the nationality of the wife.”

Article 2 states that “neither the voluntary acquisition of the nationality of another State nor the renunciation of its nationality by one of its nationals shall prevent the retention of its nationality by the wife of such national.”

Article 3, which is divided into two parts, states that “the alien wife of one of [the Contracting State’s] nationals may, at her request, acquire the nationality of her husband through specially privileged naturalization procedures” and that “the grant of such nationality may be subject to such limitations as may be imposed in the interests of national security or public policy.” It also stipulates

that the Contracting State shall not construe the Convention *“as affecting any legislation or judicial practice by which the alien wife of one of its nationals may, at her request, acquire her husband’s nationality as a matter of right.”*

The 1965 **Convention on the Elimination of All Forms of Racial Discrimination** obliges States to *“guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law,”* particularly in the enjoyment of several fundamental human rights, including the right to nationality (Article 5).

Article 24 of the 1966 **International Covenant on Civil and Political Rights** states that:

“Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth the right to such measures of protection as are required by his status as a minor, on the part of his family, society and State.”

“Every child shall be registered immediately after birth and shall have a name.”

“Every child has the right to acquire a nationality.”

Article 26 of that Covenant also asserts that *“All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”*

Article 9 of the 1979 **Convention on the Elimination of All Forms of Discrimination against Women** states that:

“States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.”

“States Parties shall grant women equal rights with men with respect to the nationality of their children.”

The 1989 **Convention on the Rights of the Child**, which has been ratified by almost every State, contains two important articles relevant to nationality:

Article 2 stipulates that *“States Parties shall respect and ensure the rights set forth in the... Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.”*

Article 7 states that *“The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality, and, as far as possible, the right to know and be cared for by his or her parents.”* The Article also stipulates that *“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.”

“I have been living in the camp since 1971 and I hope to settle outside the camp with my children soon. I want the rights that citizens of Bangladesh have. We don’t have a dignified life: my children are not growing properly in the camp, they don’t have education, and they can only look forward to miserable work if they’ve had no education.”

Syedaha, a stateless person living in Bangladesh

Are there any regional treaties that address the right to a nationality?

Regional instruments reinforce the legal basis of the right to a nationality. Article 20 of the **American Convention on Human Rights** (1969) states that:

“Every person has the right to a nationality. Every person has the right to the nationality of the State in whose territory he was born if he does not have the right to any other nationality. No one shall be arbitrarily deprived of his nationality or of the right to change it.”

These principles have subsequently been upheld by the jurisprudence of the Inter-American Court. While the Court has confirmed that the conditions under which nationality is granted remain within the domestic jurisdiction of the State, the Court also found that:

“Despite the fact that it is traditionally accepted that the conferral and recognition of nationality are matters for each State to decide, contemporary developments indicate that international law does impose certain limits on the broad powers enjoyed by the States in that area and that the manner in which States regulate matters bearing on nationality cannot today be deemed to be within their sole jurisdiction.” (Inter-American Court on Human Rights, Advisory Opinion, *“Amendments to the Naturalization Provision of the Constitution of Costa Rica,”* paragraphs 32-34; text in 5 HRLJ 1984.)

In other words, States must take into consideration the international repercussions of their domestic nationality legislation, particularly if the application of that legislation may result in statelessness.

In 1963, a Europe-wide **Convention on the reduction of cases of multiple nationality and on military obligations in cases of multiple nationality** was adopted. That Convention is based on the notion, accepted by many Western European States at the time, that having multiple nationalities is undesirable and should be avoided. As the 1963 Convention is limited in scope to just the issue of multiple nationalities, two Protocols were added in 1977 and 1993 to cover related issues and to reflect developments in thinking and practice about nationality. For example, the Second Protocol to the Convention allows for the acquisition of multiple nationalities in the cases of second-generation migrants and spouses of mixed marriages and their children.

The 1997 **European Convention on Nationality**, another regional instrument drafted by the Council of Europe, was born out of the perceived need to create a single text that consolidated all the developments in domestic and international law regarding nationality since the 1930 Hague Convention addressed the issue of conflicts of nationality laws. The Convention neither modifies the 1963 Convention nor is it incompatible with that earlier Convention. Indeed, the 1997 Convention on Nationality allows for the acquisition of multiple nationalities for married persons of different nationalities and their children. But the Convention also covers questions of the acquisition, retention, loss, and recovery of nationality, procedural rights, nationality in the context of State succession, military obligations, and cooperation among States Parties. It also contains many provisions that aim to prevent the creation of statelessness. The Convention refers to the 1954 Convention relating to the Status of Stateless Persons for its definition of a stateless person: that is, only *de jure* stateless persons are covered by the provisions of the European Convention on Nationality.

Europe's recent experience with state succession led to a recognition that large numbers of people risk becoming stateless because they may lose their nationality before acquiring another. In an effort to avoid statelessness through state succession – which may occur as a result of a transfer of territory from one State to another, unification of States, dissolution of a State, or separation of part or parts of a territory – European States drafted a Protocol to the European Convention on Nationality that focuses specifically on this problem. Elaborating on the Convention's general principles on nationality, **the Draft Protocol on the Avoidance of Statelessness in relation to State Succession** contains specific rules on nationality in cases of State succession. Its 21 Articles provide practical guidance on such issues as the responsibilities of the successor and predecessor states, rules of proof, avoiding statelessness at birth, and facilitating the acquisition of nationality by stateless persons. The Protocol is expected to be adopted in early 2006.

In 1999, the Organization of African Unity (now the African Union) adopted the **African Charter on the Rights and Welfare of the Child**. Modeled on the Convention on the Rights of the Child, the Charter shares some key principles with that earlier treaty, including non-discrimination and the primary consideration of the best interests of the child. Article 6 of the Charter, which focuses on name and nationality, asserts that:

- Every child shall have the right from his birth to a name;
- Every child shall be registered immediately after birth;
- Every child has the right to acquire a nationality;
- States Parties to the Charter shall undertake to ensure that their Constitutional legislation recognizes the principles according to which a child shall acquire the nationality of the State in the territory in which he was born if, at the time of the child's birth, he is not granted nationality by any other State in accordance with its laws.

Identifying and Protecting Stateless Persons

Despite attempts to reduce the incidence of statelessness through national citizenship laws and through the implementation of the 1961 Convention on the Reduction of Statelessness and other international instruments, UNHCR estimates that there are millions of people around the world who have no nationality. The 1954 United Nations **Convention relating to the Status of Stateless Persons** identifies who is a stateless person, promotes the acquisition of a legal identity for those persons, and ensures that stateless persons enjoy fundamental rights and freedoms without discrimination.

“We can’t get regular jobs, we can’t move, we are like boats without ports. Access to education and healthcare are also problems. I couldn’t finish high school or go to college. I can only see a doctor in a private hospital, not in the government ones.”

Abdullah, a stateless Bidoon living in the United Arab Emirates

Who is a stateless person?

The 1954 Convention defines a stateless person as one “who is not considered as a national by any State under the operation of its law” (Article 1). This is a purely legal definition. It does not allude to the quality of nationality, the manner in which nationality is granted, or access to a nationality. The definition simply refers to an operation of law by which a State’s nationality legislation defines *ex lege*, or automatically, who has citizenship.

Given this definition, **to be determined “stateless”, a person has to prove a negative: that he/she has no legal bond with any relevant country.**

In trying to establish proof of statelessness, States should review the relevant nationality legislation of those States with which the individual has prior links (such as through birth, previous habitual residence, the State[s] of which a spouse or children are nationals, the State[s] of which the individual’s parents or grand-parents are nationals), consult with those States, and request evidence, as necessary. States should request the full cooperation from the individual concerned in providing all relevant facts and information. UNHCR can facilitate consultations between States and can provide technical information on the relevant laws and their implementation in various States, as requested.

Documents from a responsible State authority certifying that the individual concerned is not a national is usually a reliable form of evidence of statelessness. However, such evidence may not always be available. The relevant authorities of the country of origin or country of former habitual residence may refuse to issue certified documents stating that the person is not a national, or they may simply not reply to inquiries. Some State authorities will feel they are not responsible for indicating which persons do not have a legal bond

with the country. It thus might be assumed that if a State refuses to confirm that a person is its national, the refusal, in itself, is a form of evidence, as States normally would extend diplomatic protection to their citizens.

Can an individual be excluded from the provisions of the 1954 Convention?

The preamble of the 1954 Convention reaffirms that stateless refugees are covered by the 1951 Convention relating to the Status of Refugees, and therefore are not covered by the 1954 Convention.

In addition to defining a stateless person, Article 1 of the 1954 Convention also defines those individuals who, despite falling within the scope of the definition (that is, despite the fact that they are stateless), are nonetheless excluded from the application of the Convention for particular reasons, either because they do not need such protection as they already benefit from specific legal schemes or international assistance, or because they are unworthy of international protection on the basis of their individual criminal acts. These include persons:

- *“who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance as long as they continue to receive such assistance.”*
The United Nations Relief and Works Agency for Palestinian Refugees in the Near East is the only UN agency currently relevant to this clause.
- *“who are recognized by the competent authorities of the country in which they have taken residence as having the rights and obligations which are attached to the possession of the nationality of that country.”*
This means that if a stateless person has secured legal residence in a State and is accorded rights greater than those provided for under the 1954 Convention, particularly full economic and social rights equivalent to those that a national enjoys and is protected against deportation and expulsion, then there is no need to apply the provisions of the Convention to that individual, despite the fact that the person is stateless.
- *“who have committed a crime against peace, a war crime, or a crime against humanity, as defined in international instruments;
who have committed a serious non-political crime outside the country of their residence prior to their admission to that country; or
who are guilty of acts contrary to the purposes and principles of the United Nations.”*

When is a person no longer considered to be stateless?

The condition of being stateless ends when the individual concerned acquires an effective nationality.

Citizenship legislation adopted in Ethiopia in December 2003 and in the Democratic Republic of Congo in November 2004 may go a long way toward finally ending two protracted situations in which large numbers of people were left without an effective nationality. The legislation in Ethiopia allows numerous individuals residing in Ethiopia to re-acquire Ethiopian nationality, while the new laws in the DRC help to identify that country's body of citizens.

What are the procedures used for determining whether a person is stateless?

While the 1954 Convention defines a stateless person, it does not elaborate a procedure for identifying who is stateless. It is thus in the interests of States, and of the individuals to whom the Convention might apply, that States adopt legislation that guides the manner in which a stateless person is identified. Such legislation should also designate a decision-maker and establish the consequences of identifying a person as stateless.

Some States have adopted implementing legislation that designates specific agencies within the government – offices that deal specifically with asylum, refugees, and stateless persons, or the Ministry of the Interior, for example – that will examine and adjudicate claims of statelessness. Other States that have no specific legislation establishing a procedure to recognize statelessness have instituted an administrative or judicial authority that is tasked with determining whether an individual is stateless. Many more States, however, have no specific procedure in place. In many of these cases, the question of statelessness often arises during refugee status determination procedures. Stateless persons may then be “processed” within that framework, which includes humanitarian or subsidiary protection. Stateless persons may, in fact, be obliged to channel their application through the asylum regime simply because there is no other procedure available to them.

Some countries do not have specific recognition procedures for stateless persons, but the issue may arise when an individual applies for a residency permit or a travel document, or if an application for asylum is rejected and a claim is made to remain in an asylum country on other grounds.

In France, the procedure for recognizing stateless status is conducted within the French Office for the Protection of Refugees and Stateless Persons (OFPRA), which is mandated to provide judicial and administrative protection to stateless persons. Applicants must apply directly to OFPRA.

In Spain, the Aliens law provides that the Ministry of Interior will recognize the status of statelessness in a procedure regulated by Royal Decree. Applicants may approach police stations or the Office for Asylum and Refugees (OAR). Upon completion of the investigative phase, the OAR conducts the procedure then forwards its reasoned assessment to the Ministry of Interior.

In Italy, the 1993 implementing decree of the amendments to the Nationality Law adopted the previous year gives the Ministry of Interior the authority to recognize stateless status.

Without specific procedures to identify stateless persons, it is impossible to determine how many cases of statelessness remain unidentified, and it is thus impossible to determine the exact magnitude of the problem.

What kind of evidence is required?

It is generally up to the applicant to provide documentation from the embassy or consular offices of his/her “country of origin” – the country of birth or a country that issued a prior travel document – confirming that the individual is not a national. As described earlier, this may not always be possible. If complete documentation is unavailable, some States may accept other elements of proof, such as reviews of relevant nationality laws and declarations made by witnesses and other third parties. The search for information may require a collaborative approach among various departments and ministries within a government and among other States.

At the time of writing, there is no harmonized approach to identifying stateless persons among States. Since the criteria for establishing proof of statelessness may vary from State to State, an individual who might be recognized as stateless in one country might not be so recognized in other countries.

In 2005, UNHCR issued a *Report on the Implementation of the 1954 Convention within the European Union Member States*. The study found that most EU States had not yet established specific mechanisms to identify and recognize stateless persons; instead, asylum procedures were generally used for this task. As a result, it is impossible to determine the magnitude of the problem of statelessness within the European Union. However, in producing the report, UNHCR highlighted best practices at the national level which could be used to harmonize identification and recognition procedures among the States of the European Union and to guide States that have already ratified the 1954 Convention.

Who should decide if an individual is stateless?

Qualified personnel who are specialized in the field of statelessness and who can impartially and objectively examine the application and evidence supporting it should be designated to make determinations of statelessness. A central authority responsible for such determinations would reduce the risk of inconsistent decisions, would be more effective in obtaining and disseminating information on countries-of-origin, and would, by its focused work, be better able to develop its expertise in matters related to statelessness. The determination of statelessness status requires the collection and analysis of laws, regulations, and the practices of other States. Even without a central authority, decision-makers benefit from collaborating with colleagues knowledgeable about nationality legislation and the issue of statelessness both within the government and in other States.

How do individuals gain access to the procedure?

The 1954 Convention doesn't oblige States to grant a legal stay to an individual while his/her request for recognition as a stateless person is being assessed. However, once

an individual is on a State's territory, a determination of his/her nationality status may be the only way to identify a solution to his/her plight. If the individual is determined to be stateless, and if there is no possibility of return to the country of former habitual residence or if there is no such country, then admittance to the State and some type of legal stay may be the only solution.

If an individual has made an application to be recognized as stateless, or if the authorities are trying to determine whether or not an individual is stateless, then it may be necessary to provide for temporary stay while the process is underway. The Convention is silent on whether a legal stay shall be granted while the request for recognition of stateless status is being assessed. Practices among the States with dedicated procedures vary.

The principle of **due process** requires that applicants be given certain guarantees including:

- the right to an individual examination of the claim in which the applicant may participate;
- the right to objective treatment of the claim;
- a time limit on the length of the procedure;
- access to information about the procedure in language the claimant can understand;
- access to legal advice and an interpreter;
- the right to confidentiality and data protection;
- delivery of both a decision and the reasons that underlie the decision; and
- the possibility to challenge the legality of that decision.

Some categories of applicants for stateless status, particularly **unaccompanied children**, have special needs that require distinct procedural provisions. These provisions may include the appointment of a guardian to represent or assist the unaccompanied child during the administrative procedure.

Can a State detain a stateless person who doesn't have a legal stay?

Stateless persons should not normally be detained. Individuals who are stateless often lack identity documents, such as national identity cards or passports, which can establish their identity. Even if the country of former residence has been identified, often that country will not immediately accept the readmission of the individual. In these situations, detention should be avoided and only be resorted to if clearly based on national legislation that conforms to international human rights law. Alternatives to detention should be explored first, unless there is evidence to suggest that the alternatives will not be effective for the individual concerned.

Stateless persons without a legal stay should be detained only after considering all possible alternatives. In making the exceptional decision to detain, authorities should determine whether detention is reasonable and proportional to the objectives to be achieved. If judged necessary, detention should only be imposed in a non-discriminatory manner for a minimal period of time. UNHCR can advise on these cases, if requested.

Working Group on Arbitrary Detention

The United Nations Commission on Human Rights has addressed the disturbing expansion of arbitrary detention since 1985. It requested the Sub-Commission on Prevention of Discrimination and Protection of Minorities to undertake a thorough study of the matter and to submit recommendations to it for the reduction of such practices. At the same time, concern about the guarantees which should be enjoyed by all persons deprived their liberty was manifested in the adoption by the United Nations General Assembly in December 1988 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. In 1990, in pursuance of the recommendations made in the abovementioned report of the Sub-Commission, the Commission on Human Rights set up the Working Group on Arbitrary Detention. The Working Group later adopted the following principles governing custody and detention:

Principle 1

An asylum-seeker or immigrant, when held for questioning at the border, or inside national territory in the case of illegal entry, must be informed at least orally, and in a language which he or she understands, of the nature of and grounds for the decision refusing entry at the border, or permission for temporary residence in the territory, that is being contemplated with respect to the person concerned.

Principle 2

Any asylum-seeker or immigrant must have the possibility, while in custody, of communicating with the outside world, including by telephone, fax or electronic mail, and of contacting a lawyer, a consular representative and relatives.

Principle 3

Any asylum-seeker or immigrant placed in custody must be brought promptly before a judicial or other authority.

Principle 4

Any asylum-seeker or immigrant, when placed in custody, must enter his or her signature in a register which is numbered and bound, or affords equivalent guarantees, indicating the person's identity, the grounds for the custody and the competent authority which decided on the measure, as well as the time and date of admission into and release from custody.

Principle 5

Any asylum-seeker or immigrant, upon admission to a centre for custody, must be informed of the internal regulations and, where appropriate, of the applicable disciplinary rules and any possibility of his or her being held incommunicado, as well as of the guarantees accompanying such a measure.

Principle 6

The decision must be taken by a duly empowered authority with a sufficient level of responsibility and must be founded on criteria of legality established by the law.

Principle 7

A maximum period should be set by law and the custody may in no case be unlimited or of excessive length.

Principle 8

Notification of the custodial measure must be given in writing, in a language understood by the asylum-seeker or immigrant, stating the grounds for the measure; it shall set out the conditions under which the asylum-seeker or immigrant must be able to apply for a remedy to a judicial authority, which shall decide promptly on the lawfulness of the measure and, where appropriate, order the release of the person concerned.

Principle 9

Custody must be effected in a public establishment specifically intended for this purpose; when, for practical reasons, this is not the case, the asylum-seeker or immigrant must be placed in premises separate from those for persons imprisoned under criminal law.

Principle 10

The Office of the High Commissioner for Refugees (UNHCR), the International Committee of the Red Cross (ICRC) and, where appropriate, duly authorized non-governmental organizations must be allowed access to the places of custody.

What are the rights and obligations of persons recognized as stateless?

There are some fundamental human rights that apply to all persons regardless of their status or the type of stay in a particular jurisdiction. These include, for example, the prohibition against torture and the principle of non-discrimination. Indeed, the 1954 Convention affirms that its provisions shall be applied to stateless persons “without discrimination as to race, religion or country of origin” (Article 3).

Every stateless person has the duty to conform to laws and regulations of the country in which he finds himself (Article 2). Assuming that this obligation is met, Article 7 (1) of the Convention sets out the basic level of protection to which a stateless person is entitled. It stipulates that, except in instances where the Convention explicitly contains more favorable treatment, “a Contracting State shall accord to stateless persons the same treatment as is accorded to aliens generally.”

With respect to most of the rights enumerated in the 1954 Convention, stateless persons should have *at least* the same access to the rights and benefits as that guaranteed to aliens, particularly concerning gainful employment (Articles 17, 18, and 19), public education

(Article 22), housing (Article 21), and freedom of movement (Article 26). For other specific rights, Contracting States are encouraged to accord stateless persons lawfully residing on their territory a standard of treatment comparable to that accorded to nationals of the State, particularly for freedom to practice a religion (Article 4), artistic rights and industrial property (Article 14), access to the courts (Article 16), public relief (Article 23), and labour legislation and social security (Article 24).

Are recognized stateless persons entitled to identity and travel documents?

The Convention stipulates that Contracting States shall issue identity papers to any stateless person in their territory who does not possess a valid travel document. Article 28 stipulates that Contracting States shall issue travel documents to stateless persons who lawfully reside on their territory, unless compelling reasons of national security and public order argue otherwise.

The issuance of a document does not imply a grant of nationality, does not alter the status of the individual, and does not grant the right to benefit from diplomatic protection.

The second part of Article 28 invites States to issue travel documents to any stateless person in the territory, even those who are not lawful residents. States are asked to consider issuing Convention Travel Documents to stateless persons who are on their territory and who are unable to obtain a travel document from their country of lawful residence. This provision is particularly important, given that many stateless persons may not have a country of lawful residence. A travel document both helps to identify the stateless person and also allows the individual to seek entry into an appropriate State.

Travel documents are particularly important to stateless persons in facilitating travel to other countries for study, employment, healthcare or resettlement. In accordance with the Schedule to the Convention, each Contracting State agrees to recognize the validity of travel documents issued by other States Parties. UNHCR can offer technical advice on issuing these kinds of documents.

Can a State expel a person recognized as stateless?

Under the terms of the Convention, stateless persons lawfully staying in the country are not to be expelled except on grounds of national security or public order. Expulsions are subject to due-process-of-law safeguards, unless there are compelling reasons of national security. Procedural guarantees should therefore be in place to allow the stateless person to answer and to submit evidence concerning any accusation, to be represented by a legal counsel, and to be granted the right of appeal.

The Final Act of the Convention indicates that non-refoulement is a generally accepted principle. Non-refoulement, the principle of not returning a person to a territory where he/she would be at risk of persecution, is explicitly upheld or interpreted in the provisions of several international treaties, including Article 33 of the 1951 UN Convention relating to the Status of Refugees, Article 3 of the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and Article 7 of the International Covenant on Civil and Political Rights, and several regional human rights instruments.

Since the prohibition against refoulement is accepted as a principle of international law, the drafters of the Convention felt it was not necessary to enshrine it in the articles of a Convention that is regulating the status of de jure stateless persons.

Once a final decision of expulsion has been taken, the Convention asks that States grant the individual concerned sufficient time to obtain admission to another country.

What kind of naturalization procedure should be available to persons recognized as stateless?

States Parties to the Convention are requested to facilitate the assimilation and naturalization of stateless persons to the greatest extent possible. (The word “assimilation” here does not mean loss of the specific identity of the persons involved, but rather integration into the economic, social, and cultural life of the country.) In particular, they are required to make every effort to expedite naturalization proceedings, including by reducing fees and costs whenever possible.

After Timor-Leste declared independence from Indonesia, all East Timorese living in Indonesia were given the option of retaining Indonesian citizenship or acquiring Timor-Leste citizenship with which they could remain in Indonesia as aliens with a valid residence permit.

Some countries have included in their nationality legislation reduced terms of legal residence for refugees and stateless persons who want to apply for naturalization.

The 1997 European Convention on Nationality (ECN) further develops this recommendation by requesting that domestic law contain rules that make it possible for foreigners lawfully and habitually resident in the territory to be naturalized. The ECN additionally limits any residency requirements to a maximum of 10 years before an individual would be entitled to lodge an application for naturalization. The Convention also encourages States to consider using expedited naturalization procedures for stateless persons and recognized refugees.

What is significant about the Final Act of the Convention?

The Final Act recommends that each Contracting State, when it recognizes as valid the reasons for which a person has renounced the protection of the State of which he/she is a national, consider sympathetically the possibility of according to that person the treatment which the convention accords to stateless persons. This recommendation was included on behalf of de facto stateless persons who, technically, still hold a nationality but do not receive any of the benefits generally associated with nationality, notably national protection.

What are the best ways of protecting stateless persons?

The most effective way to protect stateless persons is by crafting legislation that makes it impossible to create a situation of statelessness in the first place (see Chapter 3 for a full discussion of the 1961 Convention on the Reduction of Statelessness and of related measures that States can adopt to reduce or eliminate statelessness).

Until the problem of statelessness is eliminated, however, persons recognized as stateless must be protected. Acceding to and implementing the 1954 Convention relating to the Status of Stateless Persons and adopting implementing legislation will ensure that the rights and obligations of stateless persons are respected.

As discussed above, the 1954 Convention does not alter an individual's nationality, nor does it oblige States to admit non-refugee stateless persons to their territory. **Applying the provisions of the 1954 Convention is not a substitute for granting nationality.** Wherever possible, States should facilitate the assimilation and naturalization of stateless persons who are living on their territory through nationality legislation and practice. This solution is known as **local integration**.

In 2005, the governments of Kyrgyzstan and Turkmenistan granted expedited access to citizenship to numerous stateless refugees originating from Tajikistan so that they could begin to rebuild their lives in their State of asylum.

In some exceptional cases, it may not be possible for stateless persons to have their legal status normalized in the country in which they are living. **Resettlement** in another country may thus be the appropriate solution for these individuals. While States' resettlement criteria usually do not cover situations of statelessness (resettlement is more often used for refugees), UNHCR's Executive Committee recently called upon States to expand their criteria to include stateless persons. In its Conclusion No. 95 (2003), ExCom

“Encourage[d] (ExCom) States to cooperate with UNHCR on methods to resolve cases of statelessness and to consider the possibility of providing resettlement places where a stateless person's situation cannot be resolved in the present host country or other country of former habitual residence, and remains precarious...”

UNHCR can offer advice and assistance to States on both the integration and the resettlement of stateless persons.

Eliminating the Causes of Statelessness

Statelessness can result from a variety of circumstances. A few of the main causes of statelessness, and the practical steps States can take to avoid these circumstances, particularly when reviewing citizenship laws, are discussed below.

Technical causes

Conflict of laws

Problems may arise when nationality legislation in one State conflicts with that of another State, leaving an individual without the nationality of either State. Both sets of laws may be properly drafted, but problems arise when they are implemented together. For example, State A, in which the individual was born, grants nationality by descent only (*jus sanguinis*), but the individual's parents are nationals of State B. State B, on the other hand, grants nationality on the basis of place of birth only (*jus soli*), but the individual was born in State A. The individual is thus rendered stateless.

To avoid these problems:

- As set out in the 1930 Hague Convention, each State determines, under its own law, who its nationals are. This law, recognized by other States, must be consistent with international conventions, international custom, and the recognized principles of law applicable to questions of nationality. States should thus possess an updated collection of nationality laws and should understand their implementation in practice in order to resolve conflicts of law involving nationality.
- The 1961 Convention on the Reduction of Statelessness asserts that nationality shall be granted:
 - at birth, by operation of law to a person born in the State's territory;
 - by operation of law at a fixed age, to a person born in the State's territory, subject to conditions of national law;
 - upon application, to a person born in the State's territory (the application may be made subject to one or more of the following: a fixed period in which the application may be lodged, specified residency requirements, no criminal convictions of a prescribed nature, and/or that the person has always been stateless);
 - at birth, to a legitimate child whose mother has the nationality of the State in which the child is born;
 - by descent, should the individual be unable to acquire nationality of the Contracting State in whose territory he/she was born due to age or residency requirements (this may be subject to one or more of the following: a fixed period in which the application may be lodged, specified residency requirements, and/or that the person has always been stateless);

- to foundlings found in the territory of a Contracting State;
 - at birth, by operation of law, to a person born elsewhere if the nationality of one of the parents at the time of birth was that of the Contracting State;
 - upon application, as prescribed by national law, to a person born elsewhere if the nationality of one of the parents at the time of the birth was that of the Contracting State (the application may be subject to one or more of the following: a fixed period in which the application may be lodged, specific residency requirements, no conviction of an offence against national security, and/or that the person has always been stateless).
- Most States combine principles of *jus soli* and *jus sanguinis* in their citizenship legislation for determining the State's initial body of citizens and how citizenship is granted at birth. Those States that do not accept dual citizenship should ensure that, by a certain age, an individual or the individual's parents have the option to choose one nationality.

Conflict of laws linked to renunciation

Some States have nationality laws that allow individuals to renounce their nationality without having first acquired, or been guaranteed the acquisition of, another nationality. This often results in statelessness. Conflicts of law on this issue may arise when one State will not allow renunciation of nationality until the individual has first acquired another nationality, while the other State involved will not grant its nationality until the individual has first renounced his/her original nationality. Sometimes an individual may be required to renounce an assumed citizenship elsewhere before he/she can apply for citizenship where he/she resides, thus rendering the individual stateless until the new citizenship is granted.

To avoid this problem:

- According to the 1961 Conventions, loss or renunciation of nationality should be conditional upon the prior possession or assurance of acquiring another nationality. An exception may be made in the case of naturalized persons who, despite notification of formalities and time-limits, reside abroad for a fixed number of years and fail to express an intention to retain nationality. A naturalized person, in this instance, is a person who has acquired nationality upon applying to the Contracting State concerned, and that Contracting State could have refused the application. Loss of nationality may only take place in accordance with law and accompanied by full procedural guarantees, such as the right to a fair hearing by a court or other independent body.
- Citizenship legislation should provide that no citizen can renounce his/her citizenship without acquiring another citizenship or receiving formal and written assurances by the relevant authorities that he/she will acquire another citizenship.
- Some States have introduced provisions that allow for the re-acquisition of nationality if individuals lose or do not acquire another citizenship.
- For States that do not accept dual or multiple nationalities, citizenship legislation must ensure that the requirement to renounce or lose another nationality as

a precondition for acquiring or retaining nationality is lifted when such renunciation or loss is not possible. For example, refugees should not be expected to return to or to contact the authorities of their country of origin to renounce their citizenship.

Good practices: Ukraine

In 1944, more than 200,000 Crimean Tatars were deported from Crimea to various regions of the Union of Soviet Socialist Republics (USSR), accused of having cooperated with the occupying Nazi forces. Most were deported to the Uzbek Soviet Socialist Republic. Two decades later, the President of the Supreme Soviet of the USSR declared that the accusations against the Crimean Tatars were groundless and that the Tatars could reside anywhere on the territory of the USSR, including on the Crimean peninsula.

Those Tatars who decided to return to Crimea, however, faced problems in obtaining registration, employment, and access to land and housing. In 1987, the Council of Ministers of the USSR adopted a resolution restricting repatriation of the Crimea Tatars to only eight inland districts of the peninsula, preventing their return to their previous homelands on the more fertile and developed south coast. Two years later, after the Supreme Soviet declared “illegal and criminal” the actions used to deny rights to “the peoples subjected to forced deportation,” a massive flow of returnees to Crimea ensued.

In the wake of the dissolution of the USSR in December 1991, complex political and legal problems concerning state succession, including issues of territorial boundaries and nationality, suddenly arose.

Ukraine, which now included the territory of Crimea, became the successor State to the former Ukrainian SSR. According to the country’s first Citizenship Law (1991), persons who were citizens of the former USSR and who were permanently resident on Ukrainian territory, including Crimea, when independence was declared on 24 August 1991, automatically (ex lege) became citizens of Ukraine, regardless of their origin, social status, race, nationality, gender, education, native language, political opinion, or religion. The only conditions under which these persons could not automatically acquire Ukrainian citizenship were if they were citizens of another State and if they had objections to becoming Ukrainian citizens. Even those individuals who had registered their legal residence in Ukraine between independence and the entry into force of the Citizenship Law three months later were also automatically granted Ukrainian citizenship. Some 150,000 Crimean Tatars acquired Ukrainian citizenship through these provisions.

An estimated 108,000 Crimean Tatars who returned to Ukraine after the Citizenship Law came into force in November 1991 faced new problems

in obtaining Ukrainian citizenship. Some 28,000 who had cancelled their permanent residency status in other countries before the citizenship legislation of those countries entered into force became *de jure* stateless. Another 80,000 who had remained registered in their previous country of residence when its citizenship legislation entered into force had become *de jure* citizens of those states. As a result, they were not automatically granted Ukrainian citizenship. Although they were offered access to Ukrainian citizenship through individual naturalization procedures, most of the returnees who had hoped to acquire Ukrainian citizenship could not meet the stringent requirements of those procedures, which included five years residence in Ukraine, sufficient income, and knowledge of the Ukrainian language.

UNHCR, the Organization for Security and Cooperation in Europe (OSCE), and the Council of Europe encouraged the Ukrainian government to amend its citizenship law to address these problems. UNHCR offered training and technical assistance to the Ukrainian Passport and Naturalization Service and organized a media campaign on citizenship. Local NGOs, supervised by UNHCR, provided legal counselling to applicants for Ukrainian citizenship and represented individuals during legal proceedings with the Ukrainian authorities.

In an effort to reduce, and ultimately prevent, statelessness, the Ukrainian parliament, in consultation with UNHCR, amended the country's Citizenship Law seven times during the legislation's first ten years of existence. In May 1997, language and income requirements for applicants were removed, and descendants of formerly deported persons were allowed to acquire Ukrainian citizenship on the grounds of their forebear's origin in the territory of Crimea. These positive amendments made it possible for some 28,000 *de jure* stateless returnees to finally acquire Ukrainian citizenship.

While these amendments went a long way toward resolving the problems of individuals who were stateless, other obstacles to acquiring Ukrainian citizenship including the country's constitutional ban on dual citizenship, remained. Returnees who had already become *de jure* citizens of Uzbekistan before they returned to Crimea, for example, had to be formally released from Uzbek citizenship before they were able to obtain Ukrainian citizenship. The renunciation of Uzbek citizenship, however, required payment of US\$100, a visit to the Uzbek embassy in Kiev, and an administrative procedure that often lasted more than a year.

UNHCR and the OSCE mediated negotiations between the two countries that led to a bilateral agreement, adopted in 1998, that simplified the procedures for changing citizenship. Uzbekistan agreed to waive renunciation fees and allowed local passport offices of the Ukrainian Ministry of Interior to collect renunciation applications and forward them to the Uzbek authorities. In response to concerns raised by UNHCR, an administrative policy was adopted requiring that the

grant of Ukrainian citizenship coincides with the renunciation of Uzbek citizenship, thus avoiding the possibility of an individual becoming stateless during the process. During the three years that this bilateral agreement was in force, some 80,000 returnees from Uzbekistan were granted Ukrainian citizenship. Ukraine later concluded similar bilateral agreements with Belarus (1999), Kazakhstan (2000), Tajikistan (2001), and the Kyrgyz Republic (2003).

In January 2001, the Ukrainian parliament adopted a new Citizenship Law that goes even further toward preventing statelessness. Among other provisions, the Law, which was revised in 2005, allows applicants to renounce their foreign citizenship within one year of acquiring Ukrainian nationality and waives formal renunciation requirements if the fees demanded for renunciation would exceed the minimum monthly wage in Ukraine.

Laws and practices that particularly affect children

As stipulated by both the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Rights of the Child (CRC), all children, regardless of where they were born, should be registered immediately at birth. All children have a right to acquire a nationality. The nationality of a child will be determined according to the laws of the States involved; and all States require clarification of where the child was born and to whom. Without proof of birth, that is, without a recognized birth registration, it is almost impossible for a child to establish his/her identity and thus to acquire a nationality.

To avoid this problem:

- States should provide the necessary resources to the relevant local administration to ensure that birth registration is systematically conducted in accordance with Article 7 of the CRC and Article 24 of the ICCPR. Support from the international community, particularly through UNICEF, should be requested if necessary.
- When registering births, States should identify cases of disputed nationality and should grant citizenship if the child would otherwise be stateless. Relevant provisions of the 1961 Convention on the Reduction of Statelessness should be incorporated into national legislation following accession to the Convention. These provisions should be incorporated into domestic legislation even if the State has not acceded to the 1961 Convention.
- There should be provisions in citizenship legislation for the acquisition of nationality of the country in which the child was born. This would prevent statelessness in cases where an error was made in determining the nationality of the child at birth.
- Children born out of wedlock should, to the extent possible, be given the same access to nationality at birth as children born to married parents in accordance with national law.

In many countries, women are not permitted to pass their nationality on to their children, even when a child is born in the mother's State of nationality and its father has no nationality. In these instances, the child is stateless.

To avoid this problem:

- According to the 1957 Convention on the Nationality of Married Women and the 1979 Convention on the Elimination of All Forms of Discrimination against Women, women should have equal rights with men concerning the nationality of their children. Applying these principles will avoid both discrimination against women and the possibility that a child will inherit the status of statelessness from his/her father if he is stateless.
- States should include provisions on non-discrimination on the grounds of sex in their national citizenship laws.

Orphaned and abandoned children often do not have a confirmed nationality. Illegitimate children may also be prevented from acquiring nationality.

To avoid this problem:

- Foundlings discovered on a state's territory should be granted the nationality of that state. This principle is contained in the citizenship legislation of many states and in international instruments relating to nationality.
- The best interest of the child should always be a primary consideration when determining the child's nationality.

The **adoption** practices of some States may lead to statelessness if, for example, children are unable to acquire the nationality of their adoptive parents.

To avoid these problems:

- States should introduce provisions in their legislation ensuring that adoptions completed abroad in conformity with international law are recognized in national law. The 1967 European Convention on the Adoption of Children encourages States to facilitate the grant of nationality to the adopted children of their nationals.

Administrative practices

There are numerous administrative and procedural issues related to the acquisition, restoration, and loss of nationality. Even if an individual is eligible for citizenship – indeed, even if an individual has successfully applied for citizenship – excessive administrative fees, deadlines that cannot be met, and/or an inability to produce required documents because they are in the possession of the former State of nationality can all prevent the individual from acquiring nationality.

To avoid this problem:

- Applications relating to the acquisition, retention, loss, recovery or certification of nationality should be processed within a reasonable period of time.

- The registration of automatic (ex lege) acquisition or loss of nationality, including in situations of State succession for habitual and lawful residents, should not require written affidavits, even though States are generally advised to keep written records of all decisions on nationality.
- The fees for acquiring, retaining, losing, recovering or certifying nationality and for related administrative and judicial reviews should be reasonable.

Laws and practices that particularly affect women

Some States *automatically* alter a woman's nationality status when she marries a non-national. A woman may then become stateless if she does not automatically receive the nationality of her husband or if her husband has no nationality.

A woman can also become stateless if, after she receives her husband's nationality, the marriage is dissolved and she loses the nationality acquired through marriage, but her original nationality is not automatically restored.

To avoid these problems:

- The 1957 Convention on the Nationality of Married Women and the 1979 Convention on the Elimination of All Forms of Discrimination against Women seek to grant women equal rights with men to acquire, change or retain nationality. In accordance with the principles contained in these conventions, the husband's nationality status should not automatically change the nationality of the wife, render her stateless, nor make mandatory her acquisition of his nationality.
- In States where women do not have equal rights with men and may automatically lose their citizenship when they marry or where women have to renounce their former citizenship when they marry, those States should introduce provisions into their citizenship legislation enabling women whose marriages have been dissolved to automatically re-acquire their former citizenship through a simple declaration.

Automatic loss of nationality

Some States automatically revoke the nationality of an individual who has left his/her country or who resides abroad. Revocation of nationality, which can occur just a few months after the individual's departure, is often associated with faulty administrative practices in which the individual concerned is not made aware that he/she risks losing his/her nationality if he/she doesn't register regularly with the country's authorities. If the individual is a naturalized citizen, rather than one who had been born in the State or who acquired nationality through descent, even regular registration may be insufficient to guarantee that nationality will not be revoked. Statelessness is often a direct result of these practices.

To avoid this problem:

- Article 7 (3) of the 1961 Convention on the Reduction of Statelessness stipulates that an individual shall not lose his/her nationality, and so become stateless, on the grounds of departure, residence abroad, failure to register or any similar

ground. The Convention includes an exception to this principle concerning naturalized citizens who reside abroad for more than seven consecutive years. These individuals must express to the appropriate authority their wish to retain their nationality. States should thus adequately inform naturalized citizens of this policy both within their borders and, abroad, through their consular services.

- More recent instruments, such as the European Convention on Nationality, do not allow States to deprive a person of his/her nationality on the grounds that the individual habitually resides abroad if the individual concerned would thereby become stateless.

Causes linked to state succession

Transfer of territory or sovereignty

Although it is only partially addressed in specific international instruments and principles, the transfer of territory or of sovereignty has long been a cause of statelessness. National laws and practices will inevitably be altered when a State undergoes profound territorial changes or changes in sovereignty, such as when a State wins independence from a colonial power, after a State is dissolved, if a new State or States succeed(s) a dissolved State, or if a State is restored after a period of dissolution. Any of these events can trigger the adoption of new citizenship laws or decrees and/or new administrative procedures. Individuals may become stateless in these situations if they fail to acquire nationality under the new legislation/decrees or under new administrative procedures, or if they are denied nationality because of a reinterpretation of previously applicable laws and practices.

To avoid these problems:

- Article 10 of the 1961 Convention on the Reduction of Statelessness stipulates that States Parties should ensure that statelessness does not occur as a result of transfer of territory. States should sign bilateral or multilateral treaties that include provisions to ensure that statelessness does not occur as a result of such a transfer. Where no treaty is signed, the State(s) concerned should grant nationality to those who would otherwise be stateless.
- In practice, populations are generally linked with territories; however some international treaties, constitutional provisions, and nationality legislation also offer the choice of nationality from among the successor States.
- Succession treaties may also incorporate provisions that focus on how the dissolution or separation of States may affect nationality.
- Responding to the need to codify and develop international law concerning nationality in relation to State succession, the International Law Commission (ILC) of the United Nations prepared draft articles on the subject that are contained in the Annex to UN General Assembly Resolution 55/153 of 2001. The draft articles stipulate that:

- all States concerned should take appropriate measures so that persons who, on the date of the succession of States, had the nationality of the predecessor state do not become stateless as a result of the succession;
 - a person whose habitual residence was located in the territory affected by the succession is presumed to acquire the nationality of the successor State on the date of the succession;
 - a successor State should not attribute its nationality to persons whose habitual residence was in another State against the will of the persons concerned unless they would otherwise become stateless;
 - States concerned should consider the will of persons concerned whenever those persons are qualified to acquire the nationality of two or more States. Each concerned State shall grant the right to opt for nationality of that State to persons who have appropriate connections with that State if those persons would otherwise become stateless;
 - States concerned shall not deny concerned persons the right to retain or acquire a nationality or the right of option to a nationality through discrimination on any ground.
- The European Convention on Nationality and the Draft **Protocol on the Avoidance of Statelessness in relation to State Succession** incorporate the provisions found in the 1961 Convention and many of the principles contained in the ILC draft articles. The European Convention devotes a whole chapter to State Succession and Nationality, highlighting four main principles:
 - the genuine and effective link between the person concerned and the State;
 - the habitual residence of the person concerned at the time of succession;
 - the will of the person concerned; and
 - the territorial origin of the person concerned.

In addition, the European Convention on Nationality stipulates that non-nationals of a predecessor State who are habitually resident in the territory over which sovereignty is transferred to a successor State, and who have not acquired the nationality of the successor State, should have the right to remain in that State and enjoy the same social and economic rights as nationals.

- The Draft Protocol on the Avoidance of Statelessness in relation to State Succession developed specific rules of proof (Article 8) concerning nationality in cases of State succession:

“A successor State shall not insist on its standard requirements of proof necessary for the granting of its nationality where it concerns persons who have or would become stateless as a result of State succession and where it is not reasonable for such persons to meet the standard requirements.

A successor State shall not require proof of non-acquisition of another nationality before granting its nationality to persons who were habitually resident on its

territory at the time of the State succession and who have or would become stateless as a result of State succession.”

Paragraph one of Article 8 considers the situation in which it is impossible or very difficult for a person to fulfill the standard requirements of proof to meet the conditions for the acquisition of nationality. In some cases, it might be impossible for a person to provide full documentary proof of his/her descent if, for example, the archives of the civil registry have been destroyed. It might be impossible to provide documentary proof of the place of residence in cases where the place of residence was not registered. This provision also covers situations where it might be feasible for a person to provide proof but it would be unreasonable to demand such proof, for example, if providing proof would put the applicant's life or health in danger. Circumstances that make it difficult to provide proof are not always directly linked to the event of State succession. They may be the consequences of an event that occurred before or after the succession, for example, when, under the regime of the predecessor state, the civil registry was destroyed or essential documents were not issued to a certain segment of the population. In all these instances, a high probability of proof and/or independent testimony shall be sufficient for fulfilling the conditions to acquire the nationality of a successor State.

Paragraph two of Article 8 is only relevant when the predecessor State has disappeared and all persons possessing the nationality of that State have lost that nationality as an automatic consequence of the State's dissolution. If the new successor State prevents or reduces the number of multiple nationalities, the State might require proof from the person concerned that he/she has not acquired another nationality or that he/she is stateless. The requirement to prove that a person does not possess another nationality or is stateless is often impossible to fulfil, since it depends upon the cooperation of other States. If there is a risk that the person concerned might become stateless as a result of State succession, the successor State should not require proof that the person concerned does not have another nationality or that the person is stateless before granting that person citizenship. This rule is based on the predominant view that preventing statelessness is the primary concern of the international community, while the acceptance or rejection of multiple nationalities is a matter to be decided by each individual State.

These provisions do not prevent a State that wants to reduce the number of multiple nationalities in its territory from cooperating with other States and exchanging information on the acquisition and loss of nationality. Multiple nationalities may be countered through the provision on non-recognition of another nationality found in the 1930 Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws and through Article 7.1.a of the European Convention, which sets out the possibility of automatic loss of nationality when a person voluntarily acquires another nationality. A State may also ask the individual concerned to make a written statement declaring that he/she does not and will not possess another nationality. That will enable the State to annul its own citizenship if/when it is later discovered that the person concerned has made a false declaration.

Good practices: the Czech Republic

When the former State of Czechoslovakia was formally dissolved on 1 January 1993, both of the two successor States – the Czech Republic and the Slovak Republic – adopted new citizenship laws that defined the initial body of citizens of each country and the process through which persons could acquire the nationality of each country. Both sets of legislation, however, were based on Czechoslovakia's citizenship laws, which were drafted in 1969, and so neither was applicable to the new reality.

According to the internal citizenship laws of the two nascent States, persons born before 1954 – i.e., those individuals 15 years or older when the Czechoslovak Socialist Republic became a federation consisting of two republics – were citizens of those States if they were born in the territories of those States (*jus soli*). Those individuals born after 1954 were considered citizens of the States either on the basis of *jus soli* (persons born to parents of mixed Czech/Slovak citizenship usually acquired their citizenship based on where they were born), or through the citizenship of their parents (*jus sanguinis*), when both parents held the same nationality. As a result, many people who lived all their lives in the Czech Republic were given Slovak citizenship and vice versa. Most of the Roma ethnic minority living in the Czech Republic were caught in this legal limbo, since most of them were born on Slovak territory or were descendants of Slovak-born ancestors.

While the new Slovak citizenship laws gave an unrestricted right to nationality to all former citizens of Czechoslovakia, the new Czech Citizenship Act introduced strict conditions under which Czech citizenship could be obtained. To acquire Czech citizenship, an individual

- had to have maintained and registered continual permanent residency in the territory of the Czech Republic for at least two years prior to the dissolution of the federation;
- had to have been exempted from Slovak citizenship; and
- could not have been sentenced for an intentional crime in the preceding five years.

In the mid-1990s, the Czech and Slovak governments asked UNHCR to assist them in resolving the thousands of cases of statelessness that emerged as a result of the conflicting laws. UNHCR fielded two fact-finding missions to the region and held consultations with the governments on their citizenship laws.

In 1996, UNHCR helped to found the Citizenship Advisory Centre, based in Prague. The Centre offers legal and social counselling to former citizens of Czechoslovakia who are stateless, even though they may have long-term and genuine links to the Czech Republic. In one year,

were in foster care, more than 3,500 persons incarcerated in Czech prisons, and more than 2,000 others who could not determine or exercise their nationality.

Following advice provided by UNHCR and the Council of Europe, the Czech government began to loosen its restrictions on the acquisition of citizenship. In April 1996, the Czech legislature adopted an amendment to the Citizenship Act that gave the Ministry of the Interior the discretion to waive the requirement for a clean criminal record for applicants who were or had been Slovak citizens who had continuously resided in the Czech Republic and possessed official proof of such residency.

Then, in 1999, the Czech legislature passed another amendment that allowed citizens of the former Czechoslovakia who had permanently resided in the territory that became the Czech Republic, but who did not possess an official residency permit, to become citizens of the Czech Republic. Under the amendment, these persons were allowed to prove their residency through work and/or housing contracts and/or witnesses. They, too, were not required to have a clean criminal record. Gradually, through the concerted efforts of UNHCR, NGOs and the Czech authorities, those former Czechoslovaks who have resided permanently in the Czech Republic since the dissolution of the federation have been granted unlimited access to citizenship of the Czech Republic.

Causes linked to discrimination or arbitrary deprivation of nationality

Discrimination

One of the principal constraints on State discretion to grant or deny nationality is the proscription against racial discrimination. This principle is reflected in the Convention on the Elimination of all Forms of Racial Discrimination and in many other instruments. In its General Recommendation on Discrimination against Non-citizens of 1 October 2004, the United Nations Committee on the Elimination of Racial Discrimination stated that “deprivation of citizenship on the basis of race, colour, descent, or national or ethnic origin is a breach of States’ obligations to ensure non-discriminatory enjoyment of the right to nationality.”

However, sometimes individuals are unable to acquire the nationality of a particular State despite having strong ties to that State – ties that, for other persons, would be sufficient to trigger the granting of citizenship. Discrimination based on race, colour, ethnicity, religion, gender, political opinion, or other factors can be either overt or created inadvertently in the laws or as they are implemented. Laws may be said to be discriminatory if they contain prejudicial language or if the result of their application is discrimination.

To avoid this problem:

- Ensure that the principle of non-discrimination relating to nationality is enshrined in the constitution and in laws relating to nationality and ensure, through administrative and judicial decisions, that the principle is implemented.

- States are required to adopt every appropriate measure, both internally and in cooperation with other States, to ensure that every child has a nationality when he/she is born. Therefore, children born to married parents, children born out of wedlock, and children born to stateless parents all have an equal right to nationality under international law.
- The 1957 Convention on the Nationality of Married Women and the 1979 Convention on the Elimination of All Forms of Discrimination against Women seek to grant women equal rights with men to acquire, change or retain nationality. In accordance with the principles contained in these Conventions, the husband's nationality status should not automatically change the nationality of the wife, render her stateless, nor make mandatory her acquisition of his nationality.

Deprivation and denial of citizenship

The Universal Declaration of Human Rights stipulates that no one shall be arbitrarily deprived of nationality. The 1961 Convention and the 1997 European Convention on Nationality strictly limit the possibilities for States to initiate the loss of citizenship. Any such loss of nationality must be accompanied by full procedural guarantees and should not result in statelessness.

Denationalization occurs when a State deprives an individual of citizenship, usually because the State is engaging in discriminatory practices. Expulsion of the individual usually follows.

To avoid these problems:

- The basic principle of international law is that no one should be deprived of nationality if such deprivation results in statelessness.
- The 1961 Convention on the Reduction of Statelessness makes the following exceptions to this principle:
 - Nationality obtained by misrepresentation or fraud;
 - Loss of nationality following residence abroad (see above);
 - Acts inconsistent with a duty of loyalty, either in violation of an express prohibition to render service to another State, or by personal conduct seriously prejudicial to the vital interests of the State (only if these are specified in law at the time the Convention was signed); or
 - Oath or formal declaration of allegiance to another State or repudiation of allegiance to the State (only if specified in law at the time the Convention was signed).

A State Party to the 1961 Convention can only deprive an individual of its nationality on the previous grounds if stated specifically at the time of signature, ratification or accession and if in accordance with law and accompanied by full procedural guarantees, such as the right to a fair hearing. A Contracting State may not deprive any person or group of persons of their nationality on racial, ethnic, religious or political grounds.

- The 1997 European Convention on Nationality limits even further the capacity of States to deprive persons of their citizenship if it results in statelessness. According to that Convention, deprivation of citizenship is only justified in cases of acquisition of nationality by fraud or misrepresentation. However, if deprivation of citizenship does not result in statelessness, the State can deprive a national of its citizenship because of:
 - Voluntary acquisition of another nationality;
 - Voluntary service in a foreign military force;
 - Conduct seriously prejudicial to the vital interests of the State;
 - lack of a genuine link between the State and a national who habitually resides abroad;
 - Preconditions leading to the automatic acquisition of the nationality of the State, as set out in domestic law, were not fulfilled (this is applicable only to minors); or
 - An adopted child acquires or possesses the foreign nationality of one or both of the adoptive parents.

Main provisions of the 1961 United Nations Convention on the Reduction of Statelessness

On granting nationality (Articles 1, 2, 3, and 4)

Nationality shall be granted to those who would otherwise be stateless who have an effective link with the State through either birth or descent. Nationality shall be granted:

- at birth, by operation of law to a person born in the State's territory;
- by operation of law at a fixed age, to a person born in the State's territory, subject to conditions of national law;
- upon application, to a person born in the State's territory (the application may be made subject to one or more of the following: a fixed period in which the application may be lodged, specified residency requirements, no criminal convictions of a prescribed nature, and/or that the person has always been stateless);
- at birth, to a legitimate child whose mother has the nationality of the State in which the child is born;
- by descent, should the individual be unable to acquire nationality of the Contracting State in whose territory he/she was born due to age or residency requirements (this may be subject to one or more of the following: a fixed period in which the application may be lodged, specified residency requirements, and/or that the person has always been stateless);

- to foundlings found in the territory of a Contracting State;
- at birth, by operation of law, to a person born elsewhere if the nationality of one of the parents at the time of birth was that of the Contracting State;
- upon application, as prescribed by national law, to a person born elsewhere if the nationality of one of the parents at the time of the birth was that of the Contracting State (the application may be subject to one or more of the following: a fixed period in which the application may be lodged, specific residency requirements, no conviction of an offence against national security, and/or that the person has always been stateless).

On the loss or renunciation of nationality (Articles 5, 6, and 7)

Loss or renunciation of nationality should be conditional upon the prior possession or assurance of acquiring another nationality. An exception may be made in the case of naturalized persons who, despite notification of formalities and time-limits, reside abroad for a fixed number of years and fail to express an intention to retain nationality. A naturalized person, in this instance, is a person who has acquired nationality upon applying to the Contracting State concerned, and that Contracting State could have refused the application. Loss of nationality may only take place in accordance with law and accompanied by full procedural guarantees, such as the right to a fair hearing by a court or other independent body.

On the deprivation of nationality (Articles 8 and 9)

No one should be deprived of a nationality if that deprivation will result in statelessness except when:

- nationality is obtained by misrepresentation or fraud;
- the individual has committed acts inconsistent with a duty of loyalty either in violation of an express prohibition or by personal conduct seriously prejudicial to the vital interests of the State;
- the individual has made an oath or formal declaration of allegiance to another State or repudiated allegiance to the Contracting State;
- a naturalized citizen who has lost the effective link to the Contracting State and, despite notification, fails to express an intention to retain that nationality.

A Contracting State can only deprive an individual of its nationality on the previous grounds if stated specifically at the time of signature, ratification or accession and if in accordance with law and accompanied by full procedural guarantees, such as the right to a fair hearing. A Contracting State may not deprive any person or group of persons of their nationality on racial, ethnic, religious or political grounds.

On the transfer of territory (Article 10)

Treaties shall ensure that statelessness does not occur due to a transfer of territory. When no treaty is signed, the State(s) involved shall confer its/their nationality on those who would otherwise become stateless as a result of the transfer or acquisition of territory.

On an international agency (Article 11)

The Convention calls for the establishment, within the framework of the United Nations, of a body to which an individual claiming the benefit of the Convention may apply to have his/her claim examined and to be assisted in presenting that claim to the appropriate authority. The General Assembly has asked UNHCR to fulfill this responsibility.

On resolving disputes (Article 14)

Disputes between Contracting States concerning the interpretation or application of the Convention that have not been resolved by other means shall be submitted to the International Court of Justice at the request of any one of the parties to the dispute.

Final Act

The Final Act recommends that persons who are stateless *de facto* should, as far as possible, be treated as *de jure* stateless to enable them to acquire an effective nationality.

Chapter 4

UNHCR's Role

UNHCR has been involved in statelessness issues and with stateless persons since it began operations in 1950. The organization is mandated by the United Nations to protect refugees and to help them find solutions to their plight. Many of the refugees the organization has assisted throughout the years have also been stateless. Indeed, over the past several decades, the link between the loss or denial of national protection and the loss or denial of nationality has been well established. It is also now generally understood that possession of an effective nationality and the ability to exercise the rights inherent in nationality help to prevent involuntary and coerced displacements of persons.

How did UNHCR become involved with the issue of statelessness?

Over the years, UNHCR's role in helping to reduce the incidence of statelessness and in assisting stateless persons has expanded as the organization, itself, has grown. Its work in the field of statelessness is mandated by an international treaty, UN General Assembly resolutions, and through the recommendations of the organization's own advisory body, the Executive Committee of the High Commissioner's Programme (ExCom).

There is no provision for the creation of a supervisory body to ensure that the 1954 Convention relating to the Status of Stateless Persons is properly implemented. However, **Article 11 of the 1961 Convention on the Reduction of Statelessness** calls for the establishment "of a body to which a person claiming the benefit of this Convention may apply for the examination of his claim and for assistance in presenting it to the appropriate authority." When the Convention entered into force in 1975, the UN General Assembly asked UNHCR to fulfill this role. The organization's responsibilities were further elaborated in subsequent resolutions.

In 1995, the Executive Committee of the High Commissioner's Programme adopted a comprehensive set of guidelines on the issue of statelessness: the Conclusion on the Prevention and Reduction of Statelessness and the Protection of Stateless Persons (Conclusion no 78). (ExCom is composed of representatives from countries – 66 countries are members as of January 2005 – selected by ECOSOC on the basis of their demonstrated interest in finding solutions to refugee problems.) ExCom's 1995 Conclusion on statelessness "encourages UNHCR to continue its activities on behalf of stateless persons" and "requests UNHCR actively to promote accession to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness". The ExCom Conclusion also asks UNHCR "actively to promote the prevention and reduction of statelessness through the dissemination of information, and the training of staff and government officials; and to enhance cooperation with other interested organizations".

In 1996, the **UN General Assembly** adopted a resolution (A/RES/50/152) that similarly encourages the High Commissioner to continue activities on behalf of stateless persons and to promote accession to and implementation of the 1954 and 1961 Conventions.

The resolution also asks UNHCR “to provide relevant technical and advisory services pertaining to the preparation and implementation of nationality legislation to interested States.”

In the same resolution, the General Assembly “calls upon States to adopt nationality legislation with a view to reducing statelessness, consistent with fundamental principles of international law, in particular by preventing arbitrary deprivation of nationality, and by eliminating provisions which permit the renunciation of a nationality without the prior possession or acquisition of another nationality, while at the same time recognizing the right of the State to establish laws governing the acquisition, renunciation or loss of nationality.”

Statelessness was acknowledged as one of the root causes of displacement and refugee flows in the Agenda for Protection, which was endorsed by UNHCR’s Executive Committee (Conclusion No. 92 [LIII] a) and welcomed by the UN General Assembly in 2002. The Agenda for Protection, the culmination of UNHCR’s Global Consultations on International Protection, consists of a statement of goals and objectives and an inventory of actions to reinforce the international protection of refugees. It reflects a wide cross-section of concerns and recommendations of States, intergovernmental organizations, NGOs, and refugees and serves as a guide for concrete action. Addressing issues of statelessness is recognized as a way of helping to avoid forced displacement and ensuring the realization of the right to a nationality.

Concerned about the unacceptably high number of stateless persons whose cases have been languishing unresolved for many years, in 2004, ExCom called upon UNHCR to play a more active role in working with the relevant States to find solutions to those situations. ExCom also confirmed the need for UNHCR to continue to provide technical and operational support to States.

More recently, in its 2005 Resolution on Human Rights and Arbitrary Deprivation of Nationality (E/CN.4/2005/L.58), the UN Commission on Human Rights encouraged UNHCR to continue collecting information on this issue and addressing the problem of deprivation of nationality both in its reports and its activities in the field.

What does UNHCR do to address the problem of statelessness?

UNHCR assists governments in drafting and implementing nationality legislation and provides training for government officials. Between 2003 and 2005, UNHCR worked with more than 40 States to help enact new nationality laws and to revise older legislation. UNHCR offered comments on constitutional provisions on nationality legislation for States in which large segments of the population are either stateless or have an undetermined nationality.

UNHCR works with parliaments to ensure that nationality legislation does not lead to displacement and does not contain provisions that may create statelessness. (See Annex 4 for a list of UNHCR offices around the world.)

As planned in the Agenda for Protection, UNHCR launched the first global survey on steps taken by UN member States to reduce statelessness and to meet the protection needs of stateless persons. The survey found that no region in the world is free from statelessness and that serious legislative and policy gaps remain, at both the international and the

national levels. UNHCR developed a comprehensive set of recommendations drawn from an analysis of the responses provided by 74 States.

UNHCR has supported citizenship campaigns in which States allowed stateless persons to acquire the citizenship of the country in which they were long-term habitual residents.

UNHCR also assists stateless persons directly by consulting with the relevant States in an effort to find solutions for stateless individuals or groups. The organization encourages States to clarify the concerned individual's legal status and promotes recognition of the legitimate ties between an individual or group of individuals and a State in cases where the person(s) concerned would otherwise be stateless.

While waiting for their nationality status to be resolved, stateless persons are entitled to enjoy minimum rights in their countries of residence. UNHCR advocates for the implementation of the 1954 Convention relating to the Status of Stateless Persons, which provides for a set of minimal rights and obligations for stateless persons, and assists States in implementing, as necessary and resources permitting, protection and assistance programmes for stateless persons.

What other organizations work alongside UNHCR in addressing the problems related to statelessness?

The main **United Nations agencies** working with UNHCR to address statelessness are the Office of the High Commissioner for Human Rights, the United Nations Children's Fund (UNICEF) and the United Nations Development Fund for Women (UNIFEM). In solving protracted situations of statelessness, UNHCR also sometimes works with the International Labour Organisation (ILO), the United Nations Development Fund (UNDP) and the World Food Programme (WFP) by jointly implementing housing, education or income-generating programmes to help marginalized communities integrate or re-integrate into the national society.

In addition to the UN organizations mentioned above, UNHCR works in close collaboration with relevant UN treaty-body mechanisms that ensure the right to a nationality, such as the Human Rights Committee, the Child's Rights Committee, the Committee on the Elimination of Racial Discrimination, and the Committee on the Elimination of Discrimination Against Women.

UNHCR cooperates with regional bodies, such as the Council of Europe, the Organization for Security and Cooperation in Europe, the Organization of American States, the African Union, the League of Arab States, and the Organization of the Islamic Conference. UNHCR participates in the Council of Europe's Committee on Nationality, which is developing standard-setting instruments such as the European Convention on Nationality and the Draft Protocol on the Avoidance of Statelessness in relation to State Succession.

Non-governmental organizations also work closely with UNHCR – in the field, as advocates for UNHCR's programmes, and in helping to develop UNHCR's activities. In 2005, UNHCR signed sub-agreements with 770 implementing partners, of which 578 are NGOs, including 424 national NGOs.

UNHCR works closely with the **Inter-Parliamentary Union (IPU)** to raise awareness among parliamentarians about international legal norms relating to statelessness and to

alert them to the wealth of recommendations and best practices that can prevent statelessness. The organization encourages parliamentarians to adopt nationality legislation that will help to eliminate statelessness while securing the right to a nationality for those deprived of it, and helps to ensure that treaties that address dual or multiple nationalities do not inadvertently create statelessness.

Good practices: Sri Lanka

Most of the labour force that produces Sri Lanka's world-renowned tea are of Indian origin. Known officially as "Tamils of Recent Indian Origin," but more commonly referred to as "Up-Country Tamils," these labourers are descendants of persons brought from India to what was then Ceylon by the British administration that ruled the island nation between 1815 and 1948. From 1948, when Sri Lanka won its independence, until 1984, various Indo-Sri Lankan agreements determined the legal status of these labourers. Some Up-Country Tamils were granted citizenship by one or the other country through legislative or bilateral arrangements. However, many had no nationality, and thus no basic rights; some did not even have access to the process of acquiring Sri Lankan or Indian citizenship.

In 1982, the Government of India informed the Government of Sri Lanka that it considered previous agreements concerning the Up-Country Tamils no longer binding because the implementation period of those agreements had expired. In effect, from that date, any Up-Country Tamil who was stateless was unable to acquire a nationality.

The Ceylon Workers Congress, a trade union and political party, lobbied for years for the rights of Up-Country Tamils. In response, the Sri Lankan parliament drafted and, in October 2003, unanimously approved the "Grant of Citizenship to Persons of Indian Origin Act". The Act automatically grants citizenship to any person of Indian origin who:

- has been a permanent resident of Sri Lanka since 30 October 1964; or
- is a descendent, resident in Sri Lanka, of a person who has been a permanent resident of Sri Lanka since 30 October 1964.

After the Act was adopted, the Office of the Commissioner General, UNHCR, and the Ceylon Workers Congress began disseminating information on the new law. The Tamil, English, and Sinhalese media ran newspaper articles and broadcast radio and television spots with information on the law and how and where people could apply for citizenship.

The administrative procedures, designed by the Minister of the Interior and the Controller of the Immigration Department, are simple, brief, and fair. Two different procedures were established for stateless persons:

- *De facto* stateless persons, usually holders of Indian passports that had expired after India's 1982 declaration, are required to state their intention to voluntarily acquire Sri Lankan citizenship. This is usually done by the

head of household. A document stating that intention must then be countersigned by the Immigration authorities. Once approved, all members of the household are granted citizenship.

- *De jure* stateless persons do not have to submit a written declaration, although they are encouraged to sign a special declaration that, when countersigned by government officials, will make it easier for them to acquire identity documents.

Both procedures are free of charge and there is no deadline to apply.

In December 2003, UNHCR and the Ceylon Workers Congress organized a one-day workshop for over 500 volunteers who then worked at 50 mobile centres, scattered through the tea-plantation region, where stateless persons applied for citizenship. The volunteers received training on the basic facts about statelessness, the various relevant laws passed since 1948, and the new law and its eligibility criteria.

For 10 days in December 2003, staff at the mobile centres accepted applications for citizenship. UNHCR financed the campaign and monitored the process to ensure that applicants made informed and voluntary decisions. By the end of that month, some 190,000 heads of households had acquired Sri Lankan citizenship. Of those, some 80,000 had previously held Indian passports; the remainder had been *de jure* stateless persons.

In July and August 2004 a second, smaller campaign was organized in the northeast of the country. More than 2,000 stateless persons applied for, and were granted, citizenship. Since then, a small number of Up-Country Tamils have successfully applied for citizenship either through the government agent in their local district or through the citizenship division of the Ministry of Public Security, Law and Order in the capital, Colombo.

Who funds UNHCR's activities?

UNHCR is one of the few UN agencies that depends almost entirely on voluntary contributions to finance its operations. Around two per cent of UNHCR's annual budget comes from assessed contributions to the UN regular budget; the rest is contributed on a voluntary basis by governments, individuals, and the private sector.

At the beginning of 2005, there were 19.2 million persons of concern to UNHCR. UNHCR's budget for that year was US\$1.2 billion.

In 2004, UNHCR received 86 per cent of its funding from ten government donors. At the same time, it received more than US\$26.5 million from the private sector, primarily in Europe, Australia, Japan, and the United States of America. NGOs contribute to UNHCR's annual budget by making public appeals on behalf of UNHCR for some operations. In recent years, contributions from the private sector and NGOs have increased as a result of a concerted effort to raise public awareness via radio, television, the press, and other media outlets.

Chapter 5

How Parliamentarians Can Help

Parliamentarians are in a unique position to help to reduce the incidence of statelessness and to ensure that stateless individuals are accorded the rights and fulfill the obligations stipulated under international law. They can do so in several ways: by reviewing nationality legislation and making sure that it conforms to international standards, by supporting accession to the 1954 and 1961 Conventions on statelessness, and by advocating for the reduction or elimination of statelessness and for the resolution of cases involving stateless persons.

What should parliamentarians look for as they review national legislation concerning statelessness?

- Review relevant international or regional treaties to which the State is Party. Review treaties, conventions, and declarations to which the State makes reference in national legislation; that will assist in the interpretation of the national legal framework.
- Since many States incorporate provisions relating to nationality in several different legal instruments, review the Constitution, citizenship acts, decrees, and all sources of national law that might shed light on a State's law and on its interpretation of the law.
- Review bilateral and multilateral agreements adopted in cases of State succession.
- When reviewing the domestic legal framework, determine whether the State ensures the adoption and systematic use of safeguards to prevent statelessness from arising as result of deprivation, renunciation, and loss of nationality.

When reviewing the national legal framework, try to answer the following questions:

On ACQUISITION of nationality

- Can children acquire the nationality of the mother, particularly when the father does not have a nationality or is not present?
- What is the administrative procedure for registering births? Is it used in practice? Does the State's nationality legislation provide for the acquisition of citizenship for those born on the State's territory who would otherwise be stateless?
- Is the principle of non-discrimination applied to the rules for nationality?
- If the creation of the State was the result of State succession, are the genuine and effective links between the person concerned and the State, the habitual residence of the person concerned at the time of succession, the will of the person concerned, and the territorial origin of the person concerned taken into consideration when determining whether nationality shall be granted to a national of the predecessor State?

On LOSS of nationality

- Do the provisions relating to a change of marital status or other social status ensure that statelessness is avoided?

- How is nationality lost? Is prevention of statelessness foreseen?
- Is the renunciation of nationality conditional upon the acquisition, or guarantee of acquiring, another nationality?
- Does the application for naturalization in a foreign country alter the nationality status of an individual if the person concerned has not received any guarantee of acquiring the other nationality?
- In cases where deprivation of nationality is foreseen, are the reasons for deprivation clearly defined? Are there procedural guarantees in place?

On RECOVERY of nationality

- Is recovery of nationality facilitated for former nationals who are lawfully and habitually resident on the State's territory?
- Can a previously held nationality be restored for someone who loses the acquired nationality because of a change in marital or other status? If so, will restoration take place automatically or must the person apply while he/she is stateless? Are there procedural guarantees in place?

On NATURALIZATION

- If a foreigner applies for naturalization, is he/she requested to prove the formal renunciation of a previous nationality? Or is the guarantee that he/she will be released from a previous nationality upon acquisition of a new nationality sufficient?
- Are the process of naturalization and requirements for naturalization clearly defined?
- Are there any administrative practices – such as lengthy procedures, excessive fees, requests for documents that the applicant cannot produce, and/or short deadlines that the applicant cannot meet – that can result in statelessness?

Why should States accede to the 1954 Convention regarding the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness?

At the national level, acceding to the 1954 and 1961 Conventions on statelessness:

- enhances the human rights protection and dignity of individuals.
- demonstrates recognition of the genuine and effective link between individuals and the State.
- improves the sense of stability and legal identity for individuals in statelessness situations.
- gives individuals access to national protection, both duties and rights; and
- bolsters national solidarity and stability.

At the international level, acceding to the 1954 and 1961 Conventions on statelessness:

- demonstrates a commitment to cooperate with the international community in reducing and eliminating statelessness.
- strengthens international prohibitions against individual or mass expulsions.
- improves international relations and stability.

- demonstrates a commitment to human rights and humanitarian standards.
- helps to prevent displacement by addressing its causes.
- helps to develop international law relating to the acquisition of nationality and to maintaining an effective nationality.
- helps UNHCR to mobilize international support for adhering to the principles contained in the Conventions; and
- helps to resolve nationality-related disputes.

How does a State accede to the Conventions?

States may accede to the 1954 and/or 1961 Conventions at any time by depositing an instrument of accession with the Secretary-General of the United Nations. The instrument of accession must be signed by the Head of State or Government or Foreign Minister and then be transmitted through the Representative of the country to the United Nations Headquarters in New York. (Samples of accession instruments are provided in Annex 3.)

Can a State make reservations to the Conventions?

In acknowledgment of the specific conditions that may apply in individual States at the time of ratification or accession, the Conventions allow Contracting States to make reservations to some of the Conventions' provisions, except those provisions deemed fundamental by the original Contracting States:

1954 Convention relating to the Status of Stateless Persons: reservations are permitted except on Articles 1 (definition/exclusion clauses), 3 (non-discrimination), 4 (freedom of religion), 16 (1) (access to courts), and 33 to 42 (Final Clauses).

1961 Convention on the Reduction of Statelessness: reservations are permitted only concerning Articles 11 (agency), 14 (referral of disputes to the International Court of Justice), or 15 (territories for which the Contracting State is responsible).

A limited number of reservations is permitted for each Convention.

How do parliamentarians ensure that the Conventions are implemented effectively?

National legislation must be adopted or amended to allow the provisions of the two Conventions to be implemented effectively. UNHCR can offer its expert advice to States to help ensure that each State's particular legal tradition and resources will accommodate its international obligations.

What practical steps can parliamentarians take to encourage their governments to accede to the Conventions?

- Determine whether your State is Party to either or both of the Conventions.
- If your State has not yet acceded to these instruments, consider posing a written or oral question to the government or adopting a private members' bill.

- If a request for ratification or accession has been introduced before parliament within a reasonable amount of time, after reviewing the necessary information, vote in favour of accession.
- If the government fails to bring the matter before parliament within a reasonable amount of time, use parliamentary procedure to ask the government to explain why and to encourage the government to begin the process of ratification/accession without delay.
- If the government has signed one or both of the Conventions but has delayed the ratification process, use parliamentary procedure to inquire why the government is delaying and to encourage the government to expedite the process. Use your right to legislative initiative to submit a bill on the matter.
- If the government opposes ratification/accession, try to find out why, in detail. If necessary, help to eliminate doubts and misunderstandings and use your political network to accelerate the process. Advocate with your constituents to advance the cause of ratification/accession.
- If you are a parliamentarian of a State created by the partition or disintegration of other States, the treaties to which the predecessor State had acceded do not automatically bind the new State. New States can accede to the predecessor State's obligations, accede as new States, or indicate their intention not to be bound by the treaties concluded by the predecessor State.
- After the Conventions have been ratified and entered into force, make sure that your parliament adopts national legislation that corresponds to the provisions contained in the Conventions. Use parliamentary procedure to ensure that the government sends draft legislation or amendments to existing legislation to parliament within a reasonable amount of time.
- If the government has sent parliament a request for ratification accompanied by reservations limiting the scope of the treaty, objections, or declarations of understanding, and you have ascertained that such limits are groundless, promote the general interest over sectarian or circumstantial interests.
- If the government's reservations limiting the scope of the treaty, its objections, or its declarations of understanding are no longer valid, use parliamentary procedure to enquire into the government's intentions, and take action with the aim of having the restrictions lifted.
- If you require advice and assistance on accession and/or on drafting national legislation that adheres to the principles contained in the Conventions, contact the UNHCR office located in, or responsible for, your State (see Annex 4 for a list of UNHCR offices).

How can parliamentarians raise awareness about the issue of statelessness?

As the persons responsible for crafting their nation's laws, parliamentarians are in an excellent position to advocate for the reduction or elimination of statelessness and to ensure that the rights of stateless persons are protected. Parliamentarians must not only encourage their governments to adopt laws that conform to international standards, but they must also win the support of their constituents. Only when civil society understands the problems associated with statelessness will it support parliamentarians' efforts to resolve those problems.

Parliamentarians can raise awareness about statelessness among their constituents by making speeches about it and about the importance of sound nationality legislation, writing newspapers articles about the need to eliminate statelessness, working with NGOs and other civil society actors who assist stateless persons, and, where applicable, advocating for the speedy resolution of individual cases of statelessness.

Parliamentarians can solve situations of statelessness by promoting the rights of minorities or other groups to become part of the body of citizens that constitutes the State, and by fostering dialogue among communities that will lead to the acceptance of stateless individuals as nationals.

What can parliamentarians do to encourage international cooperation on the issue?

International cooperation is essential for reducing the incidence of statelessness around the world. Parliamentarians should ensure that their governments participate fully in all international efforts to reduce or eliminate statelessness and in all efforts to resolve individual cases of statelessness.

Parliamentarians might consider inviting parliamentarians of neighbouring States to hold a regional review of their nationality legislation. Harmonizing nationality laws among States is a good way to reduce the incidence of statelessness.

Annex 1

States Parties to the 1954 Convention relating to the Status of Stateless Persons

Date of entry into force: 6 June 1960

Total number of States Parties (as of 1 September 2005): 57

Country	Signing	Ratification (r), Accession (a), Succession (s)
Albania		23 Jun 2003 a
Algeria		15 Jul 1964 a
Antigua and Barbuda		25 Oct 1988 s
Argentina		01 Jun 1972 a
Armenia		18 May 1994 a
Australia		13 Dec 1973 a
Azerbaijan		16 Aug 1996 a
Barbados		06 Mar 1972 s
Belgium	28 Sep 1954	27 May 1960 r
Bolivia		06 Oct 1983 a
Bosnia and Herzegovina		01 Sep 1993 s
Botswana		25 Feb 1969 s
Brazil	28 Sep 1954	13 Aug 1996 r
Chad		12 Aug 1999 a
Colombia	30 Dec 1954	
Costa Rica	28 Sep 1954	02 Nov 1977 r
Croatia		12 Oct 1992 s
Czech Republic		19 Jul 2004 a
Denmark	28 Sep 1954	17 Jan 1956 r
Ecuador	28 Sep 1954	02 Oct 1970 r
El Salvador	28 Sep 1954	
Fiji		12 Jun 1972 s
Finland		10 Oct 1968 a
France	12 Jan 1955	08 Mar 1960 r
Germany	28 Sep 1954	26 Oct 1976 r
Greece		04 Nov 1975 a
Guatemala	28 Sep 1954	28 Nov 2000 a
Guinea		21 Mar 1962 a
Holy See	28 Sep 1954	
Honduras	28 Sep 1954	
Hungary		21 Nov 2001 a

States Parties to the 1954 Convention relating to the Status of Stateless Persons (continued)

Country	Signing	Ratification (r), Accession (a), Succession (s)
Ireland		17 Dec 1962 a
Israel	01 Oct 1954	23 Dec 1958 r
Italy	20 Oct 1954	03 Dec 1962 r
Kiribati		29 Nov 1983 s
Korea, Republic of		22 Aug 1962 a
Latvia		05 Nov 1999 a
Lesotho		04 Nov 1974 s
Liberia		11 Sep 1964 a
Libyan Arab Jamahiriya		16 May 1989 a
Liechtenstein	28 Sep 1954	
Lithuania		07 Feb 2000 a
Luxembourg	28 Oct 1955	27 Jun 1960 r
Macedonia, The Former Yugoslav Republic of		18 Jan 1994 s
Madagascar *		[20 Feb 1962 a]
Mexico		07 June 2000 a
Netherlands	28 Sep 1954	12 Apr 1962 r
Norway	28 Sep 1954	19 Nov 1956 r
Philippines	22 Jun 1955	
Saint Vincent and the Grenadines		27 Apr 1999 s
Slovakia		03 Apr 2000 a
Slovenia		06 Jul 1992 s
Spain		12 May 1997 a
Swaziland		16 Nov 1999 a
Sweden	28 Sep 1954	02 Apr 1965 r
Switzerland	28 Sep 1954	03 Jul 1972 r
Trinidad and Tobago		11 Apr 1966 s
Tunisia		29 Jul 1969 a
Uganda		15 Apr 1965 a
United Kingdom	28 Sep 1954	16 Apr 1959 r
Uruguay		02 Apr 2004 a
Yugoslavia, Federal Republic of		12 Mar 2001 s
Zambia		01 Nov 1974 s
Zimbabwe		01 Dec 1998 s

* Through notification received by the Secretary-General on 2 April 1965, the Government of Madagascar denounced the Convention. The denunciation took effect on 2 April 1966.

Annex 2

States Parties to the 1961 Convention on the Reduction of Statelessness

Date of entry into force: 13 December 1975

Total Number of States Parties (as of 25 September 2005): 30

Country	Signature	Ratification (r), Accession (a), Succession (s)
Albania		09 Jul 2003 a
Armenia		18 May 1994 a
Australia		13 Dec 1973 a
Austria		22 Sep 1972 a
Azerbaijan		16 Aug 1996 a
Bolivia		06 Oct 1983 a
Bosnia and Herzegovina		13 Dec 1996 a
Canada		17 Jul 1978 a
Chad		12 Aug 1999 a
Costa Rica		02 Nov 1977 a
Czech Republic		19 Dec 2001 a
Denmark		11 Jul 1977 a
Dominican Republic	05 Dec 1961	
France	31 May 1962	
Germany		31 Aug 1977 a
Guatemala		19 Jul 2001 a
Ireland		18 Jan 1973 a
Israel	30 Aug 1961	
Kiribati		29 Nov 1983 s
Latvia		14 Apr 1992 a
Lesotho		24 Sep 2004 a
Liberia		22 Sep 2004 a
Libyan Arab Jamahiriya		16 May 1989 a
Netherlands	30 Aug 1961	13 May 1985 r
Niger		17 Jun 1985 a
Norway		11 Aug 1971 a
Senegal		21 Sept 2005 a
Slovakia		03 Apr 2000 a
Swaziland		16 Nov 1999 a
Sweden		19 Feb 1969 a

Annex 3

Model instrument of accession to the Convention Relating to the Status of Stateless Persons of 1954

WHEREAS a Convention Relating to the Status of Stateless Persons was adopted by the General Assembly of the United Nations on the twenty-eighth day of September, one thousand nine hundred and fifty-four, and is open for accession pursuant to Article 35 thereof;

AND WHEREAS, it is provided in section 3 of the said Article 35 that accession thereto shall be affected by deposit of an instrument with the Secretary-General of the United Nations;

NOW THEREFORE, the undersigned, [Title of Head of State, Head of Government or Foreign Minister] hereby notifies the accession of the [State concerned];

GIVEN under my hand in _____ this _____ day of _____ one thousand, nine hundred and _____.

[Public Seal and Signature
of Head of Government,
Foreign Minister...]

[Signature of Head of State,
custodian,
if appropriate..]

Model instrument of accession to the Convention on the Reduction of Statelessness of 1961

WHEREAS a Convention on the Reduction of Statelessness was adopted by the Plenipotentiaries on the thirtieth day of August, one thousand nine hundred and sixty-one, and is open for accession pursuant to Article 16 thereof;

AND WHEREAS, it is provided in section 3 of the said Article 16 that accession thereto shall be affected by deposited of an instrument with the Secretary-General of the United Nations;

NOW THEREFORE, the undersigned, [Title of Head of State, Head of Government, or Foreign Minister] hereby notifies this accession of the [State concerned].

GIVEN under my hand in _____ this _____ day of _____ one thousand, nine hundred and _____.

[Public Seal and Signature
of custodian,
if appropriate...]

[Signature of Head of State,
Head of Government,
Foreign Minister...]

Annex 4

UNHCR offices

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UNHCR and IPU in brief

UNHCR

The United Nations High Commissioner for Refugees (UNHCR) is mandated to lead and coordinate international action for the protection of refugees and the resolution of refugee problems around the world. UNHCR strives to ensure that everyone can exercise the right to seek asylum and find safe refuge in another State and to return home voluntarily. By assisting refugees in returning to their own country or in settling in another country, UNHCR seeks lasting solutions to their plight.

UNHCR's Executive Committee and the UN General Assembly have also authorized the organization to assist other groups of people, including those who are stateless or whose nationality is disputed and, in certain circumstances, internally displaced persons.

UNHCR seeks to reduce the incidence of forced displacement by encouraging States and institutions to create conditions that are conducive to the protection of human rights and the peaceful resolution of disputes.

The organization offers protection and assistance to refugees and others in an impartial manner, on the basis of their need and irrespective of their race, colour, religion, political opinion or gender. UNHCR is committed to the principle of participation and consults refugees on all decisions that affect their lives. UNHCR works in partnership with governments, regional organizations, and international and non-governmental organizations.

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Created in 1889, the Inter-Parliamentary Union (IPU) is the international organization that brings together the representatives of parliaments of sovereign States. In September 2005, the parliaments of 141 countries were represented in the IPU.

The IPU works for peace and cooperation among peoples with a view to strengthening representative institutions. To that end, the IPU fosters contacts and exchanges of experience among parliaments and parliamentarians of all countries, considers questions of international interest and expresses its views on those issues, contributes to the defense and promotion of human rights, and raises awareness about the workings of representative institutions among the general public.

The IPU shares the objectives of the United Nations and works closely with UN agencies. It also works with regional inter-parliamentary organizations and with international, intergovernmental and non-governmental organizations that are motivated by the same ideals.

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