

ASSESSMENT OF THE #IBELONG CAMPAIGN MID-POINT AND THE HIGH-LEVEL SEGMENT ON STATELESSNESS

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7 October 2019 marked a critical moment in the #IBelong Campaign to End Statelessness.¹ This decade long undertaking, launched in 2014 by the Office of the United Nations High Commissioner for Refugees ('UNHCR'), reached its mid-point this year. As part of the annual Executive Committee meeting, UNHCR held a High Level Segment on Statelessness to assess the status of the Campaign: achievements and successes in the first five years from 2014–19, and remaining areas to be addressed in the last half of the Campaign from 2019–24.² In order to concretise efforts to fill any identified gaps, and thereby end statelessness by 2024, participants including states, international and regional organisations, and non-governmental organisations ('NGOs') were invited to make concrete, timebound and measurable pledges for action. In a watershed moment for the Campaign, it received over 350 pledges from a scope of actors to take steps that will play a role in ending statelessness by 2024.³

Statelessness is a surreal problem for those afflicted by it. Without a nationality in any country, stateless persons are often relegated to the fringes of society. Many stateless people are not able to undertake daily functions necessary for survival, such as having a legitimate job or doing things that require identification and legal status such as marrying, going to school, getting medical treatment, owning property or traveling. Even leaving the house to shop for groceries can result in detention when an individual cannot show who they are, where they come from, or where they belong in legal terms. In a world composed of states, statelessness is a condition of exclusion, fear and a lack of attachment or belonging.

As such, many stateless people live in the shadows, which perpetuates the problem. How then can statelessness be ended? The problem of statelessness itself is unknown in scope and severity. Indeed, data is available, and annually reported on, in relation to only 78 states in the world and this data is only as reliable as the

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¹ '#IBelong Campaign to End Statelessness', *United Nations High Commissioner for Refugees* (Web Page) <<https://www.unhcr.org/en-au/ibelong-campaign-to-end-statelessness.html>>.

² 'High Level Segment on Statelessness', *United Nations High Commissioner for Refugees* (Web Page) <<https://www.unhcr.org/ibelong/high-level-segment-statelessness/>>.

³ 'Watershed Moment as Countries Step Forward to Tackle Global Statelessness' (Press Release, United Nations High Commissioner for Refugees 11 October 2019) <<https://www.unhcr.org/en-au/news/press/2019/10/5da04b1d4/watershed-moment-countries-step-forward-tackle-global-statelessness.html>>.

systems in place to identify stateless individuals.⁴ Even with these limitations in the quality and quantity of available data on statelessness, there are a reported 3.9 million people currently stateless in just 78 countries.⁵ With reliable statistical information from all states globally this number would certainly be significantly higher. However, a majority of states in the world do not have holistic mechanisms specifically designed to identify statelessness, to report on statelessness or to move stateless people out of the shadows into legal existence. Given that nationality can be granted or confirmed by a state only, and most states have no means of systematically identifying those who are stateless, this represents a significant problem in any effort to end this anomaly.

Enter the #IBelong Campaign to End Statelessness. While the goal of ending statelessness by 2024 may be extraordinarily ambitious, when launched in 2014, key areas for action were clearly outlined as the means to the end. These included, for example, the need to: improve qualitative and quantitative data, ensure identity at birth through birth registration, adopt procedures to determine who is stateless, remove gender barriers to the grant of nationality, prevent arbitrary or discriminatory loss of nationality and so on. In short, an invitation was extended to all states to adopt and effectively implement systems that can and will ensure that statelessness is prevented. Accession to the two international instruments designed decades ago for this purpose, the 1954 *Convention Relating to the Status of Stateless Persons* ('1954 Convention') and the 1961 *Convention on the Reduction of Statelessness* ('1961 Convention'), was also underlined as a critical rallying point for the identification, prevention and reduction of statelessness both within and across borders.⁶ So, the means to the end was outlined at the outset of the Campaign.⁷

What are some of the findings from the High-Level Segment on Statelessness with regard to the status of the Campaign?

Certainly, the actual number of reductions in cases of statelessness is relevant to this question. According to data available to UNHCR, well over 200,000 people had their situation of statelessness resolved in the first five years of the Campaign.⁸ Kyrgyzstan became the first country in the world to announce that all known cases of statelessness on its territory have been resolved.⁹ Indeed, the 2019 Nansen Refugee Award went for the first time to a human rights lawyer working on statelessness, Mr Azizbek Ashurov, whose organisation, the Ferghana Valley

⁴ See, eg, *Global Trends: Forced Displacement in 2018* (Report, United Nations High Commissioner for Refugees 19 June 2019) <<https://www.unhcr.org/5d08d7ee7.pdf>> ('*Global Trends 2018*').

⁵ *ibid.*

⁶ *Convention Relating to the Status of Stateless Persons*, opened for signature 28 September 1954, 360 UNTS 117 (entered into force 6 June 1960) ('1954 Convention'); *Convention on the Reduction of Statelessness*, opened for signature 30 August 1961, 989 UNTS 175 (entered into force 13 December 1975) ('1961 Convention').

⁷ See Carol Batchelor, 'Oral Update on the Preparations for the High-Level Segment on Statelessness at the Seventieth Plenary Session of the Executive Committee: Statement of the Special Advisor on Statelessness' (Presentation, 75th Meeting of the Standing Committee, Agenda Item 2, United Nations High Commissioner for Refugees June 2019) <<https://www.unhcr.org/5d0b43cc7>>.

⁸ A formal figure is provided each year in the UNHCR 'Global Trends' report. Information available indicates that major reductions in the number of stateless persons occurred in Thailand and Kyrgyzstan. See, eg, *Global Trends 2018* (n 4).

⁹ 'Kyrgyzstan End Statelessness in Historic First' (Press Release, United Nations High Commissioner for Refugees 4 July 2019) <<https://www.unhcr.org/en-au/news/press/2019/7/5d1da90d4/kyrgyzstan-ends-statelessness-historic-first.html>>.

Lawyers Without Borders, helped well over 10,000 stateless people gain Kyrgyz nationality.¹⁰ This effort was undertaken in close partnership with government counterparts at the local and central levels and demonstrates clearly the success that can be achieved through the collective efforts of civil society, government administrations and stateless people themselves.

However, 200,000 plus people in the face of a known 3.9 million, which is itself not the full picture as outlined above, is cause for concern regarding the potential to resolve all cases in the next five years. The resolution rate would need to be amplified exponentially in order for statelessness to end by 2024. This of course does not take into consideration the many cases yet to be identified beyond the 3.9 million, or new cases created during this period.

Nonetheless, given developments during the first half of the Campaign as well as the number and nature of pledges for action received at the High-Level Segment itself, there is arguably a new momentum to address statelessness and to bring the problem out of the shadows. For example, from 2014–19, seven states changed laws to prevent statelessness at birth,¹¹ two states reformed laws so women can confer their nationality to their children on an equal basis with men,¹² 11 states adopted statelessness determination procedures,¹³ nine states introduced measures to facilitate naturalisation for stateless migrants¹⁴ and 24 new accessions to a statelessness convention took place.¹⁵ As a point of reference it should be recalled that it takes time to get a campaign off the ground. Moreover, an analysis of the right action to take, as well as the actual implementation of changes to laws, requires time. Against this backdrop, the developments during the first five years are not only important, they illustrate a new awareness of and determination to act to resolve the problem of statelessness.

Moreover, states are no longer left largely on their own in determining how to find and resolve problems of statelessness. At the regional level, for example, critical strides have been made in furthering platforms that will support states

¹⁰ ‘Nansen Refugee Award’, *United Nations High Commissioner for Refugees* (Web Page) <<https://www.unhcr.org/nansen-refugee-award.html>>.

¹¹ Armenia, Cuba, Estonia, Iceland, Luxembourg, Tajikistan and Paraguay.

¹² Madagascar and Sierra Leone.

¹³ Argentina, Brazil, Bulgaria, Costa Rica, Ecuador, Kosovo, Montenegro, Panama, Paraguay, Uruguay and Turkey.

¹⁴ Argentina, Bolivia, Brazil, Ecuador, Estonia, Iceland, Luxembourg, Paraguay and Uruguay.

¹⁵ *1954 Convention* (n 6):

Angola (7 October 2019), Chile (11 April 2018), Colombia (7 October 2019), El Salvador (9 February 2015), Guinea-Bissau (19 September 2016), Haiti (27 September 2018), Mali (27 May 2016), Niger (7 November 2014), Peru (23 January 2014), Sierra Leone (9 May 2016) and Turkey (26 March 2015).

1961 Convention (n 6):

Angola (7 October 2019), Argentina (13 November 2014), Belize (14 August 2015), Burkina Faso (3 August 2017), Chile (11 April 2018), Guinea-Bissau (19 September 2016), Haiti (27 September 2018), Italy (1 December 2015), Luxembourg (21 September 2017), Mali (27 May 2016), Peru (18 December 2014), Sierra Leone (9 May 2016) and Spain (25 September 2018).

See ‘Refugees and Stateless Persons: *Convention Relating to the Status of Stateless Persons*’ *United Nations Treaty Collection* (Web Page, 15 November 2019) <https://treaties.un.org/Pages/ViewDetailsII.aspx?src=TREATY&mtmsg_no=V-3&chapter=5&Temp=mtmsg2&clang=en>; ‘Refugees and Stateless Persons: *Convention on the Reduction of Statelessness*’ *United Nations Treaty Collection* (Web Page, 15 November 2019) <https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtmsg_no=V-4&chapter=5>.

nationally and within regions to address statelessness. These include the 2014 *Brazil Declaration and Plan of Action*,¹⁶ the 2015 *Abidjan Declaration of ECOWAS Member States on the Eradication of Statelessness*,¹⁷ the 2017 *Banjul Plan of Action of the Economic Community of West African States on the Eradication of Statelessness*,¹⁸ the 2017 *Declaration of the International Conference on the Great Lakes Region Member States on the Eradication of Statelessness*,¹⁹ the 2018 *N'Djamena Initiative on the Eradication of Statelessness in Central Africa* and the 2018 League of Arab States' *Arab Declaration on 'Belonging and Legal Identity'*.²⁰

Prior to the High-Level Segment, UNHCR, together with partners, conducted 10 regional workshops throughout the world to facilitate discussions on successes to date as well as any remaining gaps at the national and regional levels.²¹ These consultations led in many instances to a series of pre-High-Level Segment commitments for action, as outlined by states, partners, regional organisations, civil society and advocates. These commitments were clearly manifested at the High-Level Segment where over 350 pledges were delivered by states, organisations and civil society outlining action planned to end statelessness by 2024. This number of pledges, most of them specific, timebound and measurable, is unprecedented with regard to the problem of statelessness. Never before has there been such an upswelling of support and collaboration to eradicate statelessness and to ensure that by a specific point in time every person on the planet is able to state 'I Belong' to a particular country. This level of commitment to act makes the potential to end statelessness an operational challenge rather than an abstract idea.

It is also of note that the High-Level Segment included broad representation of those in positions to play a role in reaching the critical target. The panel segment included not only policy makers, leaders and advocates such as the Deputy Secretary-General of the United Nations, Ms Amina Mohammed, the High Commissioner for Refugees, Mr Filippo Grandi and the High Commissioner on National Minorities from the Organization for Security and Cooperation in Europe, Mr Lamberto Zannier, it also included a well-known actor, director and UNHCR Goodwill Ambassador, Ms Cate Blanchett, as well as a formerly stateless person and civil society activist, Ms Maha Mamo. The panel configuration and

¹⁶ *Brazil Declaration and Plan of Action* (Declaration, Cartagena 30+ 3 December 2014) <<https://www.acnur.org/fileadmin/Documentos/BDL/2014/9865.pdf>>.

¹⁷ *Abidjan Declaration of Ministers of ECOWAS Member States on Eradication of Statelessness* (Declaration, Economic Community of West African States 25 February 2015) <<https://www.refworld.org/docid/54f588df4.html>>.

¹⁸ *Banjul Plan of Action of the Economic Community of West African States on the Eradication of Statelessness* (Plan of Action, Economic Community of West African States 2017) <<https://www.unhcr.org/591c38347.pdf>>.

¹⁹ *Declaration of the International Conference on the Great Lakes Region Member States on the Eradication of Statelessness* (Declaration, International Conference on the Great Lakes Region, ICGLR/RIMC/DEC/STA/15/10/2017, 16 October 2017) <<https://data2.unhcr.org/en/documents/download/63955>>.

²⁰ *N'Djamena Initiative on the Eradication of Statelessness in Central Africa* (Declaration, Community of Central African States 12 December 2018) <<https://reliefweb.int/sites/reliefweb.int/files/resources/67429.pdf>>; *Arab Declaration on 'Belonging and Legal Identity'* (Declaration, League of Arab States 28 February 2018) <<https://equalnationalityrights.org/images/zdocs/Final-Ministerial-Conference-Declaration-on-Belonging-and-Identity---English.pdf>>.

²¹ See generally *The Campaign to End Statelessness: April – June 2019 Update* (Report, United Nations High Commissioner for Refugees July 2019) <<https://www.refworld.org/pdfid/5d356a927.pdf>>.

interaction itself illustrated the type of partnership that is critical to the success of the Campaign. Outreach, listening, understanding, advocacy, personal representation, individual accounts, research, media and public interest are all necessary components in capturing hearts as well as minds in order to drive change.

Equally important as part of the event were the perspectives and contributions of civil society as outlined by the many NGOs working on the issue of statelessness. These organisations are addressing the problem of statelessness from a variety of angles, from international coverage on problems such as childhood statelessness, regional coverage on deeply rooted traditions and practices on nationality to specific thematic coverage on issues such as gender discrimination and barriers for women to convey their legal identity to their family members.

As noted above with regard to the success of Kyrgyzstan in ending statelessness, it is through the collaborative efforts of civil society, stateless persons, government institutions, regional and international agencies and the triangulated approach this allows that statelessness can be identified, resolved and prevented from arising again. The partnership and engagement of civil society is clearly a key to ensuring that stateless people are identified and advised on steps to resolve their situation. The work of NGOs is equally instrumental in shifting policy and perspectives with regard to statelessness, not only within states but also at the regional and international levels. The global network of civil society actors on statelessness is another critical component to success.

Receiving over 350 pledges, therefore, from a range of actors to take steps that will play a role in ending statelessness by 2024 is a breakthrough for the Campaign.

Now, however, is the most critical moment in the effort to eradicate statelessness. Mid-way into the Campaign, in global terms, there is but one state that has managed to resolve all known cases on the territory. The half-way point has 93 States Parties to the *1954 Convention* and 74 States Parties to the *1961 Convention*, a great step forward but still less than half of all states globally for either instrument.²² Amongst the 350 plus pledges, the majority of which come from states,²³ some critical areas are covered such as the introduction of statelessness determination procedures, better identification of who is stateless and why, improvement in birth registration, providing a legal status to stateless migrants and some efforts at addressing existing problems of gender discrimination, but these pledges alone do not cover holistically all the problems, all of the gap areas, or indeed all of the regions globally.

In other words, although highly successful in terms of incrementally moving forward the agenda for the eradication of statelessness, an assessment of pledges

²² ‘*Convention Relating to the Status of Stateless Persons*’, *United Nations Treaty Collection* (Web Page, 10 November 2019) <https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-3&chapter=5&Temp=mtdsg2&clang=en>; ‘*Convention on the Reduction of Statelessness*’, *United Nations Treaty Collection* (Web Page, 10 November 2019).

²³ Early analysis indicates that 252 confirmed pledges were received from states, while 100+ pledges were received from regional, international and civil society organisations. Procedures for clarification of some pledges as well as formal submission of pledges following the High-Level Segment are ongoing at the writing of this analysis.

running to 2024 suggests that while there is interest and political will to address statelessness, it is not yet universal in scope, aspiration or timeframe.²⁴

By way of example, 25 states globally are reported to have inequality in legislation between men and women with regard to nationality determination.²⁵ Of these 25 states, seven are listed as having extremely limited circumstances if any for women to convey their nationality to their children which, without safeguards in place, creates a high risk of statelessness. Early analysis of pledges received indicates that only one of these seven states, Eswatini, pledged to change this situation. This means that without further action, discrimination against women in the conferral of nationality to children will be maintained in certain states, and additional cases of childhood statelessness are likely.

As another measurable example, and again based on an early analysis of pledges received, 15 states committed to accede to the *1954 Convention* while 21 states committed to accede to the *1961 Convention*. These additional states parties would bring the total to 108 and 95 for the *1954* and the *1961 Statelessness Conventions* respectively by 2024, an important increase but not yet universal in scope.

A similar analysis can be made with regard to other pledges received for example on the collection of data concerning statelessness, and so on. There may be more states that are considering taking action despite not making a pledge. Robust advocacy toward ending statelessness in all states, with or without pledges, is certainly one critical area where strengthened review, collaboration and partnership will be needed. Indeed, one of the key outcomes of the High-Level Segment on Statelessness is a better understanding of where future efforts are required to reach the Campaign goal of ending statelessness by 2024.

Overall, therefore, if all received pledges are implemented, important strides will continue to be made. However, at this pace we cannot expect to see a complete end to statelessness in five short years. While a reduction in the number of stateless cases and the prevention of many future cases is certainly desirable and an achievement in its own right, assuming momentum is maintained, nothing less than the complete eradication of statelessness should be the goal given the severe deprivation caused in the lives of those who still are or will become stateless.

At this juncture, therefore, some critical areas for focus include the following.

I STRENGTHENING PARTNERSHIPS

Statelessness is not a problem with regard to law only. Changing perceptions about nationality entitlement is often a precursor to the introduction of legal prescriptions. An ‘us versus them’ confrontational methodology typically leads to fewer and more short-lived results, while consultative engagement and accountability ensures a role for all in achieving lasting dividends. Partnership between the state, civil society, stateless populations and concerned organisations

²⁴ A brief extension period was given post-Executive Committee for those who wished to submit pledges or who made oral pledges to provide them formally in writing. Moreover, while most pledges were clear, there is an ongoing clarification exercise taking place with regard to some of the commitments outlined. While it is still therefore early days with regard to a detailed analysis of the full set of final pledges, there will not be significant changes now in the number and nature of pledges received as part of the ExCom High-Level Segment on Statelessness.

²⁵ See *Background Note on Gender Equality, Nationality Laws and Statelessness 2019* (Report, United Nations High Commissioner for Refugees, 8 March 2019) <<https://www.refworld.org/pdfid/5c8120847.pdf>>.

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in Kyrgyzstan is one example of what can be accomplished when each has a prescribed role to play and collaborates in the undertaking. Strengthening partnerships on statelessness is critical to advance and support the pledges made and those yet to materialise as part of the #IBelong Campaign.

II VISION AND OWNERSHIP AT NATIONAL LEVELS

The right to a nationality as articulated in art 15 of the 1948 *Universal Declaration of Human Rights* is a clear statement of entitlement applicable to all people.²⁶ However, the grant of a nationality is still considered a matter of state sovereignty, an act performed by a state, deliverable only at the national level. This can leave quite a gap between the abstract notion of an individual right of all people and a specific action by a national authority to ensure the grant of nationality to a specific person. States should be encouraged to establish a political vision that is aspirational with regard to nationality. Benefits of inclusion far outweigh limitations inherent in exclusive policies. The goal to end statelessness is most effectively achieved if set at the national level, ensuring all people can contribute to the society and community within which they live. A good step for every state is to establish a national plan of action to end statelessness.

III ENDING GENDER BARRIERS TO NATIONALITY DETERMINATION

One hallmark of how inclusive a society is must surely be whether all of its citizens are equally represented. Denying women the ability to convey their identity and nationality to their children or to their spouse is therefore counterintuitive with regard to the representation of women in the society as a whole, in addition to generating cases of statelessness in multiple instances. Any legal impediments to advancing gender equality in nationality determination should be identified as critical areas of focus for the remainder of the Campaign.

IV ENDING THE RISK OF STATELESSNESS AT BIRTH

Most states grant nationality to a child by virtue of birth on the state's territory or through descent from a national, with as many variations on the *jus soli* and *jus sanguinis* approaches as there are states. A very simple formula to end statelessness within a generation would be that all states grant nationality to children either born on their territory or descended from their nationals where the child would otherwise be stateless.

V INTRODUCING COMPREHENSIVE SYSTEMS TO IDENTIFY AND RESOLVE STATELESSNESS.

There is now a great deal of state practice and experience on how to identify statelessness, how to establish who is stateless, resolving cases internally as well as with other states, and introducing practices that will avoid instances of statelessness in the future. The 1954 and the 1961 *Statelessness Conventions* respectively outline how to identify statelessness, ensure a legal status and prevent future cases. As is the case with regard to any risk, it is easier to mitigate the

²⁶ *Universal Declaration of Human Rights*, GA Res 217A (III), UN GAOR, UN Doc A/810 (10 December 1948) art 15.

potential than it is to resolve a problem once created. No state needs to live with this risk, or to put its citizens at risk given the available tools.

VI PROVIDING ANNUAL DATA ON STATELESSNESS

To resolve cases, to manage risks, and to ensure a continuous effort to avoid and address statelessness, it is imperative that all states adopt effective systems to report on statelessness issues.

In closing, an increasing change in perception with regard to nationality itself might also be noted. Is this an exclusive sovereign determination when it is also an individual right? Does it make sense that states maintain very distinct and often incompatible approaches to something that is so critical to individual survival, having a nationality? As we move toward the *2030 Agenda for Sustainable Development* and the Sustainable Development Goals,²⁷ will the need for legal identity for all result in nationality for all? There are many ways in which people, communities, societies as well as nations determine their identity. While it has been suggested that nationality status is but a legal construct that is not determinative of an individual's or of a nation's aspirations, most of these aspirations are fully dependent on having the legal identity to begin with. The *#IBelong* Campaign presents a long-awaited opportunity to develop our notions of nationality and identity, to evolve our thinking regarding belonging and to advance not only legal, but also societal and cultural constructs that will stand the test of time in ending statelessness as a tolerated and marginalised condition. Every effort must be made toward this end.

²⁷ *Transforming Our World: The 2030 Agenda for Sustainable Development*, UN Doc A/RES/70/1 (21 October 2015).