

IN THE STATE OF BEING STATELESS

Written by **Het Shah**

2nd Year, BA International Relations Student, University of Groningen, Netherlands

INTRODUCTION

Article 15 of the Universal Declaration of Human Rights states, “Everyone has the right to a nationality”ⁱ and “No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality”ⁱⁱ. That means as per article 1 of the convention relating to the stateless person, “stateless person ” means a person who is not considered as a national by any State under the operation of its law.” Additionally, Individuals can become stateless either by law (*de jure*) or by circumstance (*de facto*).ⁱⁱⁱ Therefore, the problem of statelessness or the problem of living with no legal background or citizenship is critical today. Millions of people worldwide are in search of basic necessities, including their right to life which they are deprived of due to insufficient legal background.^{iv} When it comes to human rights, being human is the sole requirement in order to obtain human rights irrespective of nationality, language, race, gender and the notion that all human beings have rights by virtue of their common humanity should be a recent development.^v Therefore, this paper demonstrates how international protection is still a problem for the rights of stateless individuals.

WHY IS STATELESSNESS A PROBLEM?

For us, citizenship or nationality only matters when we travel abroad, or when we vote in national elections, or Olympic tournament is on. Citizenship on a daily basis does not matter us, but it is an obstacle to millions of people out there because citizens enjoy the right of national protection, right of healthcare, education, employment and equality before the law, people without citizenship—those who are “stateless”—are some of the most vulnerable in the world.^{vi}

Regardless of whether a nation consents to think about a stateless individual for citizenship, decisions are frequently affected by the state's verifiable, political and philosophical cosmetics. At times families who have lived in a specific nation for ages are rejected citizenship in light of their ethnicity, religion, race or even social and etymological foundations. At the point when governments change or are toppled, individuals can be retroactively deprived of citizenship and property, kept lastly ousted.^{vii}

Above that, it keeps individuals from moving and builds their odds of self-assertive capture or confinement with no sufficient cures. To put it plainly, it underestimates and makes individuals feel useless with no prospect of their circumstance regularly improving, no expectation for a superior future for themselves or their children. Adding on to this, International Law is considered as law among States, and people are, all in all, objects and not subjects of International Law. Since nationality is depicted as the connection between the individual and the Law of Nations, stateless people are not qualified for the advantages of the Law of Nations. Therefore, as a result, the situation of stateless people is so shaky that stateless people have been somewhat suitably called "outlaws."^{viii}

THE RELUCTANCE OF CONFERRING CITIZENSHIP

Roxanne Lynn Doty says, "When it comes to unauthorised movements of people, this view presumes that it is natural for the world to be disturbed by people who move across sovereign borders without authorisation because some people belong in some places and other people belong in other places."^{ix} The acceptance of stateless individuals also mongers fear over the citizen and the government officials over the issue of providing, education, healthcare, adequate living conditions where they themselves lack those resources. Sometimes stateless are also possessed as a threat to national security and integrity. Likewise, the number of sovereign states lacks a consistent legal framework for recognising stateless persons and addressing their specific political and economic needs.

Another international policy issue becomes especially prominent when developed countries are faced with prospects of a mass exodus from conflicts in nearby countries. Most Western countries do not subscribe to the expanded "refugee" definition of the OAU Convention or

Cartagena Declaration. They are hesitant to perceive as exiles those in a mass departure from the summed-up struggle. Be that as it may, philanthropic contemplations, alongside elements, for example, local political weights to react, a feeling of shared duty regarding the contentions being referred to, the craving for deliberate populace developments, or the hesitance of neighbouring nations to get mass floods, can prompt the foundation of one of a few types of impermanent assurance plans.^x One of the largest stateless groups in the world is the Rohingya of Myanmar. That nation's laws do not count the mostly Muslim Rohingya among the ethnicities eligible for citizenship, and the Rohingya are therefore *de jure* stateless.^{xi}

CONDITION OF ROHINGYA REFUGEES IN MYANMAR

The Rohingya individuals have confronted many years of systematic discrimination, statelessness and targeted on viciousness in Rakhine State, Myanmar. Such abuse has constrained Rohingya women, girls, boys and men into Bangladesh for a long time, with noteworthy spikes following violent assaults in 1978, 1991-1992, and again in 2016. However, it was August 2017 that activated by a wide margin the biggest and quickest displaced person inundation into Bangladesh. From that point forward, an expected 745,000 Rohingya—including more than 400,000 children—have fled into Cox's Cox's Bazar. The enormous scale of the influx is putting immense pressure on the Bangladeshi host community and existing facilities and services.^{xii}

New spontaneous settlements sprouted overnight, raising concerns over the lack of adequate shelter, water and sanitation, access to essential services, and general protection considerations such as safety for women and girls. The Kutupalong refugee settlement has grown to become the largest of its kind in the world, with more than 600,000 people living in an area of just 13 square kilometres, stretching infrastructure and services to their limits.

The Bangladesh government has responded generously throughout the latest crisis. Local Bangladeshi villages have also taken in the new arrivals. They spared no effort to help, straining their already limited resources.^{xiii}

“They burnt our house and drove us out by shooting. We walked for three days through the jungle.” Mohammed, who fled to Bangladesh with his family of seven, including a baby born along the way.

Systemic violence against the Muslim minority group can be traced back to 1978’s Operation: Dragon King, a campaign to register residents wherein government powers expelled Rohingya, affirming they disregarded the state’s nationality laws. Despite the recorded accord of the Rohingya’s appearance in Rakhine State in the fifteenth century, Myanmar does not perceive the gathering as indigenous. Their statelessness was arranged by the 1982 Burmese Citizenship Law that recognised three classes of citizenship crosswise over 135 authority ethnic gatherings, barring the Rohingya from each. Late interests for citizenship change have failed to be noticed.^{xiv}

While the latest repatriation efforts seem to have slowed down, the apparition of phenomenal refinement of the Rohingya back to Myanmar is concerning given the essential condition for enduring repatriation has not been met: a guarantee of citizenship by Myanmar. Cases of ethnic abuse and consequent mass departures are not new, yet the Rohingya crisis is unique because of the group’s status as stateless.^{xv}

According to the UNHCR, when stateless persons are unable to return to their countries of habitual residence after having left them, often in search of asylum or refugee status, the result is often prolonged detention outside of the country in which they habitually reside. The reason for such detention is that, without proof of identity or nationality, stateless persons often cannot re-enter their state of habitual residence. Furthermore, the detaining state cannot resolve the question of where to deport the stateless detainee, and it to secure adequate legal protection for the Rohingya is unwilling to let them illegally reside within its territory. In such cases, stateless persons have been held in prolonged or "indefinite detention" only because the question of where to send them remains unresolved.^{xvi}

Statelessness, on a basic level, implies that neither Myanmar nor some other state perceives the Rohingya as natives. Practically, this implies their ‘entitlement to have rights ’is jeopardised as stateless people are regularly denied access to medicinal services, education, employment

opportunities, and political interest. With regards to the Rohingya crisis, this paper argues, addressing the issue of statelessness is essential and critical. Inability to do so is probably going to risk the evacuee repatriation process seriously yet, in addition, any prospects for future dependability in the Rakhine State. While there is rich writing on outcast repatriations, meagre consideration has been paid to the arrival of stateless evacuees. Accommodating statelessness and repatriation is naturally troublesome as the privilege to come back to one's nation generally relies upon that individual's designation as a citizen.

Therefore, considering what Giorgio Shani mentioned, these violations are subject to prosecution by the International Criminal Court and various international tribunals convened to investigate crimes against humanity because this is an act of ethnic cleansing as per UNSC resolution S/1994/678 also With regard to Article 7(5), the United Nations Conference on the Elimination or Reduction of Future Statelessness, in Resolution III of its Final Act, recommended that States which condition the retention of nationality by their nationals abroad on a declaration or registration should take "all possible steps to ensure that such persons are informed in time of the formalities and time limits to be observed if they are to retain their nationality".^{xvii}

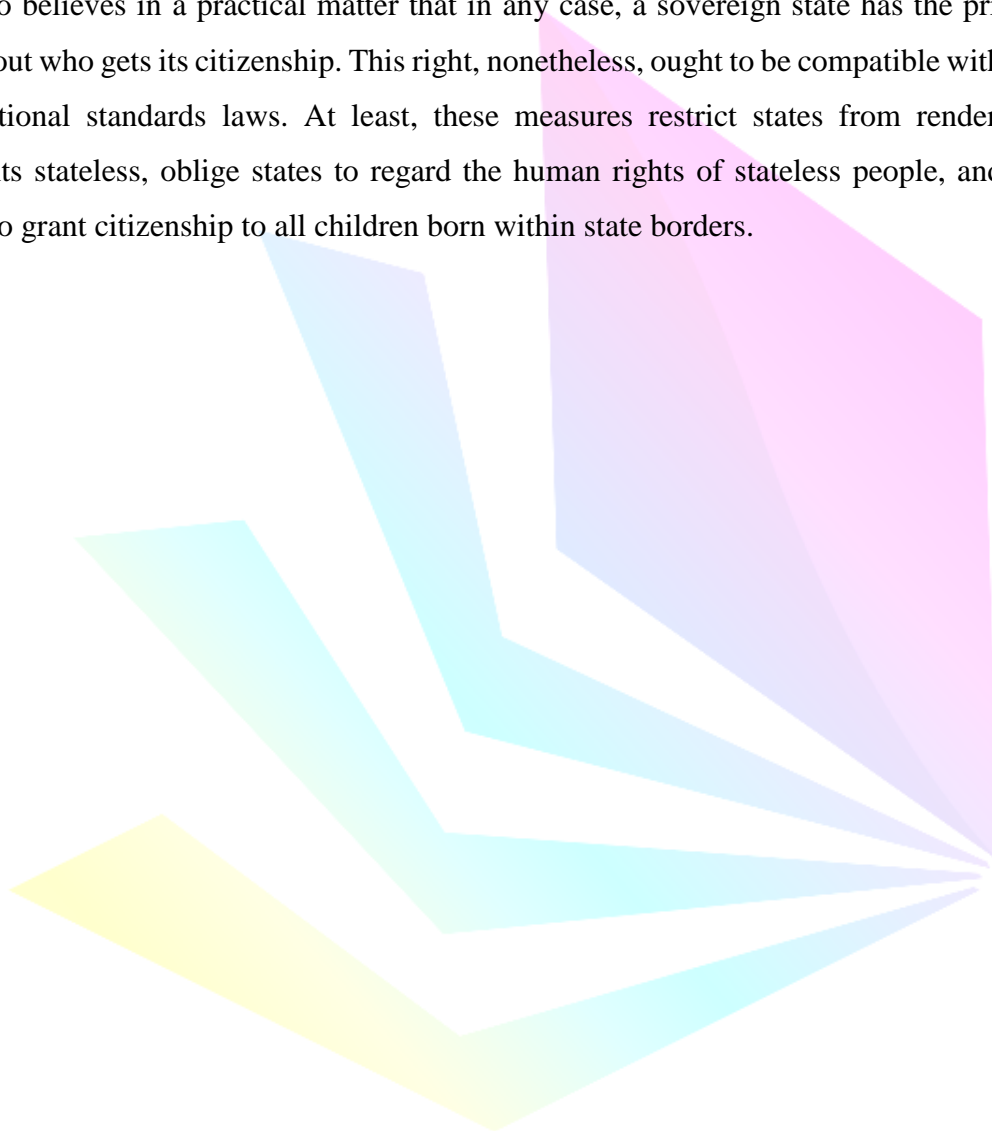
CONCLUSION

One approach to guarantee that stateless people understand their entitlement to nationality as articulated in Article 15 of the Universal Declaration, is through the doctrine of the genuine and valid link. As indicated by this convention, an individual ought to be qualified to get citizenship from states with which she or he has a significant association or a genuine and effective link. At the very least, an individual ought to be qualified for the citizenship of the nation with which she or he has the closest link or association. A generous connection or association with a state can be forged by, for instance, long haul residence in a state without a progressively significant connect to another state, plummet from a state's native, birth inside a state's domain, or citizenship in a nation's previous government state.^{xviii}

It is of interest to point out that a stateless person can also be a refugee if in addition to not being considered as a nationality by any state they also meet the definition of article 1 of the

1951 Refugee Convention (i.e. have fled their country due to a fear of persecution). Generally speaking, stateless refugees are identified and treated as refugees - e.g. in UNHCR's statistics on statelessness, only non-refugee stateless populations are counted.^{xix}

Therefore, to conclude with, this paper objects the deprivation of rights to stateless individuals but also believes in a practical matter that in any case, a sovereign state has the privilege to figure out who gets its citizenship. This right, nonetheless, ought to be compatible with relevant international standards laws. At least, these measures restrict states from rendering their residents stateless, oblige states to regard the human rights of stateless people, and commit states to grant citizenship to all children born within state borders.



REFERENES

- i "Universal Declaration Of Human Rights", Un.Org, Last modified 2019, <https://www.un.org/en/universal-declaration-human-rights/>.
- ii "Universal Declaration Of Human Rights", Un.Org, Last modified 2019, <https://www.un.org/en/universal-declaration-human-rights/>.
- iii Unhcr.Org, Last modified 2019, https://www.unhcr.org/ibelong/wp-content/uploads/1954-Convention-relating-to-the-Status-of-Stateless-Persons_ENG.pdf.
- iv Refworld.Org, Last modified 2019, <https://www.refworld.org/pdfid/4cad88292.pdf>.
- v Jenny Edkins, Maja Zehfuss and Giorgio Shani, *Global Politics*, 3rd ed. Routledge, 2019, p.524.
- vi "Statelessness: What It Is And Why It Matters", Justiceinitiative.Org, Last modified 2019, <https://www.justiceinitiative.org/voices/statelessness-what-it-and-why-it-matters>.
- vii United Refugees, "The Problem Of Statelessness Has Become A Live Issue Again", UNHCR, Last modified 2019, <https://www.unhcr.org/protection/statelessness/3b837ec14/problem-statelessness-become-live-issue.html>.
- viii Bjpa.Org, Last modified 2019, https://www.bjpa.org/content/upload/bjpa/the_/THE%20PROBLEM%20OF%20STATELESSNESS%20P%20WEISS,%20DR%20JUR%20JULY%201944.pdf.
- ix Jenny Edkins, Maja Zehfuss and Roxanne Lynn Doty, *Global Politics*, 3rd ed. Routledge, 2019, p.198.
- x Russell, "Refugees: Risks And Challenges Worldwide", Migrationpolicy.Org, Last modified 2019, <https://www.migrationpolicy.org/article/refugees-risks-and-challenges-worldwide>.
- xi "The Stateless In The United States - The Center For Migration Studies Of New York (CMS)", The Center For Migration Studies Of New York (CMS), Last modified 2019, <https://cmsny.org/the-stateless-in-the-united-states/>.
- xii "Rohingya Refugee Crisis", OCHA, Last modified 2019, <https://www.unocha.org/rohingya-refugee-crisis>.
- xiii United Refugees, "Rohingya Emergency", UNHCR, Last modified 2019, <https://www.unhcr.org/rohingya-emergency.html>.
- xiv "Rohingya Refugees In Bangladesh: How The Absence Of Citizenship Rights Acts As A Barrier To Successful Repatriation", South Asia @ LSE, Last modified 2019, <https://blogs.lse.ac.uk/southasia/2019/06/12/rohingya-refugees-in-bangladesh-how-a-lack-citizenship-rights-are-a-barrier-to-successful-repatriation/>.
- xv "Rohingya Refugees In Bangladesh: How The Absence Of Citizenship Rights Acts As A Barrier To Successful Repatriation", South Asia @ LSE, Last modified 2019, <https://blogs.lse.ac.uk/southasia/2019/06/12/rohingya-refugees-in-bangladesh-how-a-lack-citizenship-rights-are-a-barrier-to-successful-repatriation/>.
- xvi Scholarship.Law.Umn.Edu, Last modified 2019, https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1416&context=faculty_articles.
- xvii Final Act of the United Nations Conference on the Elimination or Reduction of Future Statelessness held at Geneva from 24 March to 18 April 1959, and Resolutions I, II, III and IV of the Conference, concluded at New York on 30 August 1961. www.refworld.org/pdfid/3ae6b39620.pdf.
- xviii Scholarship.Law.Umn.Edu, Last modified 2019, https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1416&context=faculty_articles.

xix "What Is Statelessness", Nationalityforall.Org, Last modified 2019, <https://www.nationalityforall.org/whatis>.

