

Statelessness in Southeast Asia: Challenges and Solutions

Statelessness is a global reality that affects individuals without nationality recognized by any state, posing significant legal and humanitarian challenges. This phenomenon underscores the urgent need for international policies that protect Human Rights.



Exploring the concept of “statelessness”:

Amid the precise lines of political maps, a fragmented and challenging reality emerges: the existence of those who lack a place to call home.

According to Article 15 of *the Universal Declaration of Human Rights* (hereinafter, UDHR), everyone has the right to a nationality. However, currently, more than 4.4 million individuals lack this right. These individuals are considered “stateless,” meaning

they are not recognized as nationals by any state under its legislation.

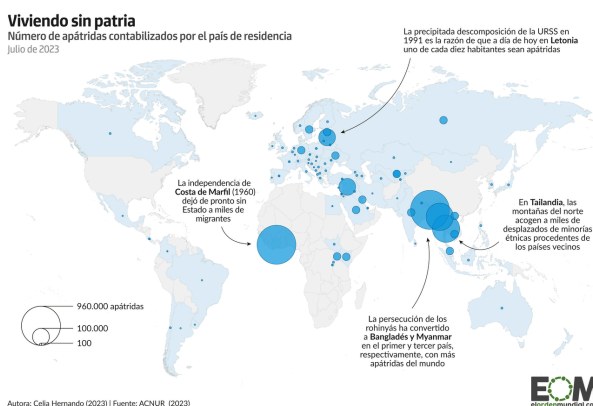
Given this evident contradiction, the following question inevitably arises: How can the existence of this phenomenon be possible?

Finding a concrete cause to explain statelessness is no simple task due to the complexity of legal technicalities at both national and international levels. Although the right to legal recognition by at least one state exists, states do not have an absolute obligation to automatically grant nationality to all who request it. Nevertheless, they are bound by the prohibition established in Article 15.2 of the UDHR, which prevents the arbitrary deprivation of nationality and the right to change nationality. This is reinforced by the 1961 *Convention on the Reduction of Statelessness*, which in Article 8.1 stipulates that “contracting states shall not deprive any person of his nationality if such deprivation would render him stateless” (though with certain exceptions).

In general terms, there are several reasons why a person might be born stateless or become stateless: legal gaps, administrative discrimination, the formation of new states or changes in borders, and loss of nationality.

Regardless of its cause, statelessness has alarming consequences. The absence of a defined nationality prevents the enjoyment of many fundamental rights, such as access to education, health, security, and diplomatic protection. This precarious situation generally leads to almost total marginalization within the system, thus creating a vicious cycle that is difficult to break. Moreover, in countries whose laws only recognize the principle of *jus sanguinis* for acquiring nationality —granted to those who are children of at least one national parent— this condition is inherited, perpetuating the problem from generation to generation.

Given all the aforementioned, one thing is clear: there is an urgent need to prevent and reduce statelessness.



Statelessness in Southeast Asia:

While statelessness is a global reality, Southeast Asia emerges as one of the most

severely impacted regions. Among the five countries with the highest number of stateless individuals —Bangladesh, Côte d'Ivoire, Myanmar, Thailand, and Latvia (in that order)—, three are located in Asia, reflecting the magnitude of the problem on this continent.

The largest stateless community comprises the Rohingya, a Muslim ethnic minority settled in Myanmar (formerly Burma) for centuries. Despite this, they have been denied their nationality since 1982, as they were excluded from the list of recognized ethnic groups who, according to the Citizenship Law, automatically acquire citizenship at birth. The issue worsened in August 2017 when Myanmar's security forces initiated a violent persecution campaign, forcing the exodus of more than 700,000 people to Bangladesh, where they primarily sought asylum in refugee camps.

Similarly, in the mountainous and border regions of northern Thailand, more than half a million individuals suffer the consequences of statelessness. The *chao khao*, also known as the hill tribes, are indigenous ethnic minorities who were left out of nationalization processes due to the demarcation of borders in 1904 and various jurisdictional regulations of the country. In addition to the hill tribes, Thailand also hosts a significant Rohingya presence.

Beyond these mentioned groups, other stateless communities are scattered across the continent. However, the true magnitude of the problem is difficult to determine due to the lack of available data in certain countries. It is noteworthy that the vast majority of Asian

countries are not signatories to the 1954 *Convention relating to the Status of Stateless Persons*, with only 91 signatories.

Fortunately, significant efforts to mitigate statelessness are yielding positive results, leading to greater protection of human rights. This progress is partly explained by the ongoing process of easing the principles of state sovereignty and non-intervention in the internal affairs of Asian countries. Evidence of this is the *ASEAN Human Rights Declaration*, adopted in 2012, which merges the rights enshrined in the UDHR with Asian values.

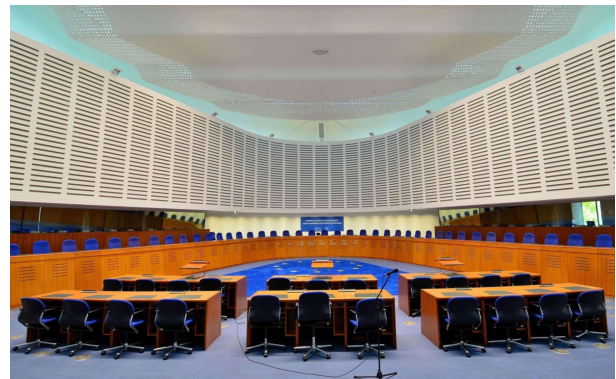


Protection of the United Nations

Globally, the Office of the United Nations High Commissioner for Refugees (hereinafter, UNHCR) plays a crucial role in the fight against statelessness. Its mission is to provide assistance to stateless persons, ensuring a basic set of rights and helping them obtain a nationality. Additionally, it works closely with governments and non-governmental organizations to eradicate and prevent this issue.

In line with the above, two conventions were adopted by the United Nations concerning this matter. The first, from 1954, is the *Convention Relating to the Status of Stateless Persons*, which established the international legal framework to address this phenomenon. On the other hand, the 1961 *Convention on the Reduction of Statelessness* dictates the rules for the granting and non-withdrawal of nationality. Nonetheless, their effectiveness is not absolute, as many countries have not ratified them.

To bolster its efforts, UNHCR launched the #IBelong campaign in 2014 as part of the *Global Action Plan 2014 - 2024 to End Statelessness*, aiming to eliminate statelessness within a decade. Although this campaign has achieved valuable milestones, such as increasing the number of states party to the conventions, much remains to be done to ensure the full protection of the right enshrined in Article 15 of the UDHR.



European-level protection

In Europe, the protection of stateless persons is managed through a variety of procedures, which may be established specifically by each state or through standardized procedures. Focusing solely on the Council of Europe, an

intergovernmental organization comprising 46 European states, the European Court of Human Rights (hereinafter ECtHR) stands out as the guarantor of *the European Convention on Human Rights* (hereinafter ECHR). It hears cases brought by individuals, non-governmental organizations, or groups of individuals who consider themselves victims of violations of rights protected by the ECHR. Its judgments are compulsory and binding.

A significant ruling on statelessness resolved by the ECtHR is the Case of Kuric and Others v. Slovenia. According to the factual background, a group of eight complainants, former citizens of the Socialist Federal Republic of Yugoslavia, were removed from the register of permanent residents for failing to apply for Slovenian nationality before the imposed deadline. This *de facto* statelessness prevented them from accessing essential services, severely impacting their private and family life. Furthermore, their right to effective judicial protection was violated, as they were unable to access justice or obtain a legally grounded resolution. These clearly discriminatory living conditions led the ECtHR to emphasize the seriousness of the plight faced by stateless persons and the urgent need to implement efficient legal measures to resolve this situation.

Conclusions

It is undeniable that the phenomenon of statelessness poses significant global challenges that must be addressed immediately, but progress towards its eradication provides reasons for optimism.

After all, as Thomas Woodrow Wilson, the twenty-eighth President of the United States of America, said: "We are citizens of the world. The tragedy of our times is that we do not know this."

Sara Yebra Gaya,
double degree student in
Law and Business Administration
at Pompeu Fabra University.

References:

Casanovas, O., & J. Rodrigo, Á. (s. f.). *Compendio de Derecho Internacional Público* (11.^a ed.).

UNHCR - The UN Refugee Agency. (s. f.). *Stateless people* | UNHCR. UNHCR.

<https://www.unhcr.org/about-unhcr/who-we-protect/stateless-people>

Robiz. (s. f.). *World Stateless Stateless persons in Asia and the Pacific*.

<https://worldstateless.org/continents/asia/stateless-persons-in-asia-and-the-pacific#:~:text=The%20Rohingya%20are%20widely%20regarded,shares%20a%20border%20with%20Bangladesh>.

UNHCR and government representatives meeting enhances efforts to end statelessness in

Central Asia - UNHCR Central Asia. (s. f.). UNHCR Central Asia.

<https://www.unhcr.org/centralasia/en/21287-unhcr-and-government-representatives-meeting-enhances-efforts-to-end-statelessness-in-central-asia.html>

Reyes, A. (2018). Apàtrides, refugiats i apàtrides refugiats. En *irla.cat*.

https://irla.cat/wp-content/uploads/2018/10/Eines32_explorador.pdf

¿Es posible Carecer de Nacionalidad? Los Apátridas. (s. f.).

<https://www.mjusticia.gob.es/ca/ciudadania/nacionalidad/que-es-nacionalidad/posible-carecer-nacionalidad>

» *Global Action Plan to End Statelessness: 2014 – 2024*. (s. f.).

<https://www.unhcr.org/ibelong/global-action-plan-2014-2024/>

ACNUR España -. (s. f.). *Apátridas* | *ACNUR España*. ACNUR España.

<https://www.acnur.org/es-es/apatridas>

Publicado por:



**Asociación para las
Naciones Unidas
en España**
United Nations Association of Spain

Con el apoyo de:



**Generalitat
de Catalunya**

ANUE no hace necesariamente como suyas las opiniones expresadas por sus colaboradores.