

# **INDIGENOUS WOMEN AND GIRLS**

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Indigenous peoples represent extraordinary diversity throughout the world. More than 5,000 different groups reside in over 90 countries. Indigenous groups comprise more than 5% of the world's population, an estimated 370 million people.<sup>27</sup> Yet, these groups are among the most disadvantaged and vulnerable populations. Many indigenous peoples struggle to preserve their land rights and access to natural resources. Other indigenous peoples have been forcibly removed from their homes for education, relocated for eminent domain, denied their culture, their languages, and traditional ways. In 1982 a group of extraordinary women decided to tackle this issue and participated in a working group on indigenous populations in Geneva, Switzerland.<sup>28</sup> Due to their participation, indigenous issues, and in particular the rights of indigenous women and girls, are more prominent today.

## **Overcoming Discriminations**

Significant progress on indigenous rights have been made. These rights include The United Nations Declaration on the Rights of Indigenous Peoples (2007), the mandate of the Special Rapporteur on the rights of indigenous peoples (2019) and the Expert Mechanism on the Rights of Indigenous Peoples (2016). On September 22 and 23, 2004, the World Conference on Indigenous Peoples took place at the United Nations headquarters which included the participation of powerful indigenous women. The conference adopted an agreement at the

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<sup>27</sup> "Indigenous Peoples." Amnesty International, June 1, 2021.  
<https://www.amnesty.org/en/what-we-do/indigenous-peoples>

<sup>28</sup> Indigenous Women and the UN System for Indigenous Peoples." United Nations. United Nations. Accessed August 10, 2021.  
<https://www.un.org/development/desa/indigenouspeoples/mandated-areas1/indigenous-women.html>.

opening of the conference, which resulted in resolution A/RES/69/2 which refers to indigenous women in sections 10, 17, 18, and 19. This resolution was organized based on inclusive and open informal discussions with Member States and indigenous peoples, in which indigenous women were involved through their own representatives. These paragraphs included the following:

**10.** The Heads of State and Government, ministers, and representatives of Member States commit to working with indigenous peoples to disaggregated data, as appropriate, or conduct surveys and to utilizing holistic indicators of indigenous peoples' well-being to address the situation and needs of indigenous peoples and individuals, in particular older persons, women, youth, children, and persons with disabilities.

**17.** We commit ourselves to supporting the empowerment of indigenous women and to formulating and implementing, in collaboration with indigenous peoples, in particular indigenous women and their organizations, policies and programmes designed to promote capacity-building and strengthen their leadership. We support measures that will ensure the full and effective participation of indigenous women in decision-making processes at all levels and in all areas and eliminate barriers to their participation in political, economic, social, and cultural life.

**18.** We commit ourselves to intensifying our efforts, in cooperation with indigenous peoples, to prevent and eliminate all forms of violence and discrimination against indigenous peoples and individuals, in particular women, children, youth, older persons and persons with disabilities, by strengthening legal, policy and institutional frameworks.

**19.** We invite the Human Rights Council to consider examining the causes and consequences of violence against indigenous women and girls, in consultation with the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on the rights of indigenous peoples and other special procedures mandate holders within their respective mandates. We also invite the Commission on the Status of Women to consider the issue of the empowerment of indigenous women at a future session."<sup>29</sup>

Despite the progress that has been made, there are still many obstacles to the advancement of both indigenous peoples' rights and women and girls rights specifically. The following sections will review these challenges.

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<sup>29</sup> Indigenous Women and WCIP for Indigenous Peoples." United Nations. United Nations. Accessed November 1, 2021. <https://www.un.org/development/desa/indigenouspeoples/mandated-areas1/indigenous-women/indigenous-women-and-wcip.html>

## Right to lands, territories, and resources

On September 13 2007, the United Nations General Assembly adopted the UN Declaration on the Rights of Indigenous Peoples. The Declaration identifies that indigenous peoples have important collective human rights in a multitude of areas, including freedom, spirituality, lands, regions, and natural resources. At the core of indigenous peoples' struggles are their rights to lands, territories, and resources. Ancestral lands are the cause of indigenous peoples' culture, spiritual, social, and political identity and political identity and the foundation of traditional data systems. Jose Martinez Cobo, a special rapporteur of the sub-commission on prevention of discrimination and protection of minorities emphasized the following:

It is essential to know and understand the deeply spiritual special relationship between indigenous peoples and their land as basic and their existence as such and to all their beliefs, customs, traditions, and culture. For such peoples, the land is not merely a possession and a means of production. The entire relationship between the spiritual life of indigenous peoples and mother earth, and their land, has a great many deep-seated implications. Their land is not a commodity which can be acquired, but a material element to be enjoyed freely.<sup>30</sup>

Thus, the connections between the land and the people are deeply embedded in indigenous peoples' cultural and spiritual identities. Cases which support the abuses and government neglect are cases such as *Mayagna (Sumo) Awas Tingni Community v. Nicaragua*. The Mayagna Awas (Sumo) Tingni Community lives in the Atlantic coast of Nicaragua and is made up of nearly 142 families. Jaime Castillo Felipe, a leader of the community, submitted a petition before the Inter-American Commission on Human Rights (IACHR) criticizing the State of Nicaragua for failing to demarcate the Awas Tingni Community's communal land. Felipe expressed the importance to take necessary measures to protect the Community's property rights over its

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<sup>30</sup> "United Nations Declaration on the Rights of Indigenous Peoples." Accessed January 08, 2022. [https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP\\_E\\_web.pdf](https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf)

ancestral lands and natural resources.<sup>31</sup> This resulted in establishing for the first time that indigenous peoples' identities are interwoven with lands that they have historically used. In addition, the community complained that the Government had failed to guarantee access to an effective remedy for the community's claims regarding the then-imminent concession of 62,000 hectares of tropical forest to be commercially developed by a company on communal lands.<sup>32</sup>

## **Human Rights Abuses**

Violence against indigenous women is generally found in greater portions than violence against non-indigenous women. Many indigenous women experience first-hand being helped last or not at all, one being access to health care, including sexual and reproductive health as one of many basic rights. Across the globe, indigenous women and adolescent girls significantly experience worse maternal health outcomes than most of the population. Indigenous women and girls experience a multi-layered and complex spectrum of human rights abuse. In the report of the special rapporteur on the rights of indigenous people's state that, "the spectrum is manipulated by multiple and intersecting forms of vulnerability, including patriarchal power structures; multiple forms of discrimination and marginalization, based on gender, class, ethnic origin and socioeconomic circumstances; and historical and current violations of the right to self-determination and control of resources."<sup>33</sup> Indigenous women influence and contribute to society, and continue to suffer from discrimination, both as women and as indigenous people. They are exposed to extreme poverty, trafficking, illiteracy, lack of access to ancestral lands, and

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<sup>31</sup>"Case of the Mayagna (SUMO) AWAS Tingni Community v. Nicaragua [Eng]." ESCR. Accessed January 13, 2022.

<https://www.escri-net.org/caselaw/2006/case-mayagna-sumo-awas-tingni-community-v-nicaragua-eng>.

<sup>32</sup>"Inter-American Court of Human Rights Case of the Mayagna ..." Accessed January 13, 2022.

[https://www.corteidh.or.cr/docs/casos/articulos/seriec\\_79\\_ing.pdf](https://www.corteidh.or.cr/docs/casos/articulos/seriec_79_ing.pdf).

<sup>33</sup> "UN Women from Insights to Action: Gender Equality in the ..." Accessed January 11, 2022.

<https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2020/Gender-equality-in-the-wake-of-COVID-19-References-en.pdf>.

lack of basic health care. In addition they experience higher rates of violence and sexual violence in their lifetime. For example, while 7 out of every 10 women in the world report having experienced physical and/or sexual violence, most of them at the hand of intimate partners, it is 4 out of every 5 indigenous women who experience this.<sup>34</sup>

Indigenous leaders and advocates have also noted that despite the process achieved, systematic attention to the vulnerability of indigenous women remains limited in relations to the magnitude of abuse against them. Nevertheless, there has been continued growth and achievements towards indigenous women empowering themselves through organizations and networks created by Indigenous women, allowing the global world that they are visible domestically and internationally. On October 30, 2000, the Security Council adopted resolution 1325 on women, peace, and security. This was the first resolution to connect women's experiences of conflict to maintain international peace and security. Since then the Security Council has passed seven additional resolutions concentrating on women's participation in conflict prevention. These resolutions are 1325(2000), 1820(2008), 1888 (2009), 1960 (2010), 2106 (2013), 2122 (2013) and 2242 (2015).<sup>35</sup>

Violence against women and girls is a universal violation of human rights that can be seen in every country in the world and across all socioeconomic groups and cultures. This viciousness is intensified when indigenous communities find themselves in the center of conflicts which has made women targets of violence. Indigenous women experience extensive, complex human rights abuses.<sup>36</sup> That range is influenced by many forms of discriminations such as gender, class, and socioeconomic status. In addition, history and current events has

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<sup>34</sup> Breaking the Silence on Violence against Indigenous Girls, Adolescents and Young Women.” UN Women. Accessed August 8, 2021. <https://www.unwomen.org/en/digital-library/publications/2013/5/breaking-the-silence-on-violence-against-indigenous-girls>.

<sup>35</sup> “About Women, Peace and Security in the Security Council.” PeaceWomen, June 8, 2020. <https://www.peacewomen.org/security-council/WPS-in-SC-Council>.

<sup>36</sup>A/HRC/30/41 - e - A/HRC/30/41 -desktop. Accessed November 16, 2021. <https://undocs.org/A/HRC/30/41>.

also allowed us to see the centuries of abuses and violations towards indigenous women and girls.

## **Participation and Inclusion**

The world is gradually acknowledging the negative impacts of climate change and environmental degradation on health, food security, and overall peace and conflict situations. During these conflictual times, indigenous knowledge is crucial in promoting the conservation of the environment and territorial rights. These rights are beginning to be more fully acknowledged by society at large. The 2030 agenda for sustainable development offers further opportunities to promote the rights of indigenous peoples to lands, territories and resources due to its cohesive approach of economic, environmental, and social development within a human rights framework. The United Nations has encouraged all nations “to conduct regular and inclusive reviews of progress and the contribution of indigenous peoples”.<sup>37</sup> This includes the most vulnerable, which is often indigenous women and girls.

Despite working alongside the United Nations committees, there continues to be an interface between indigenous women’s movements, domestically, and internationally. Empowering indigenous women is crucial for poverty eradication and for achieving sustainable development. For centuries they have not been considered as part of the solution to many of the world’s issues; however, this needs to change. Fully integrating indigenous women and girls’ knowledge and experience is essential to making progress towards the sustainability goals. It has been found that, while indigenous viewpoints are not always included, when their concerns

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<sup>37</sup><https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2016/10/Briefing-Paper-on-Indigenous-Peoples-Rights-and-the-2030-Agenda.pdf>

are listened to, the resultant framework includes a foundation of human rights, equality, and environmental sustainability.<sup>38</sup>

In addition, Indigenous women have been calling upon the Committee on the Elimination of Discrimination against Women to adopt a universal recommendation on indigenous women. In support of this call, the Permanent Forum was created and involved to be adopted in the 2030 agenda. The forum recommended that “the Committee consider issues related to individual and collective rights to equality, non-discrimination and self-determination; social and economic rights, including the rights to decent work and to land, territory and resources; the right to water and food; cultural rights; civil and political rights; and the right to live free of any form of violence.”<sup>39</sup> The forum also recognized the work of the working groups on violence against indigenous women and girls and urges Canada, Mexico, and the United States of America, in support with United Nations entities to organize an international experts on ongoing issues of violence against indigenous women and girls including trafficking, as well as the ongoing crisis of missing and murdered indigenous women.<sup>40</sup>

More recently in 2021, the 65th session of the Commission on the Status of Women took place at the United Nations Headquarters in New York on March 15 to 26. Representatives of Member States, UN entities, and ECOSOC-accredited non-governmental organizations (NGOs) attended this session. The main goal was to have women’s full participation in decision-making in public life, as well as the elimination of violence, for reaching gender equality and the empowerment of all women and girls. [5] The United Nations Gender Equality forum addressed the historical and inequality which exists due to power relations and irreplaceable knowledge of

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<sup>38</sup><https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2016/10/Briefing-Paper-on-Indigenous-Peoples-Rights-and-the-2030-Agenda.pdf>

<sup>39</sup> “Indigenous Women and the UN System for Indigenous Peoples.” United Nations. United Nations. Accessed November 16, 2021.

<https://www.un.org/development/desa/indigenouspeoples/mandated-areas1/indigenous-women.html>

<sup>40</sup> E/2019/43 - e - E/2019/43 -Desktop. Accessed November 16, 2021. <https://undocs.org/en/E/2019/43>.

marginalized groups, such as indigenous women. This forum included increasing direct access to financing for gender climate solutions, specifically for organizations led by women and girls at the grassroots and rural level. It also included building the resilience of women and girls to fully integrate their diversity to climate impacts and disaster risks, diminish climate change while including land rights and contract security. Also included in the Action Coalition are steps in which it will help engage women and girls to transition into an inclusive green economy through investing knowledge hubs and digital platforms focusing on grassroots and indigenous women and girls globally.<sup>41</sup>

## **Conclusion**

Indigenous women and girls are overwhelmingly over-represented in statistics of poverty, hunger, and premature death. They need to be part of global discussions in order to raise awareness and find solutions to prevent the further victimization of indigenous women, to eliminate inequalities which lead to violence, trafficking, illiteracy and non-existent or poor health care, in addition to honoring their land rights that are essential to their identities. One way to do this is to include indigenous women and girls specifically in the 2030 agenda. Indigenous women have long been engaged in calling for women's rights and equality in their communities as well as all over the world. By empowering indigenous women and girls it will allow solutions towards combating violence and eradicating poverty as well. The United Nations will continue to push this agenda to achieve a safer society for all.

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<sup>41</sup> "Next Steps." Accessed November 12, 2021.  
<https://soon-young.com/wp-content/uploads/2021/07/Caucus-briefing-SY-1-1.pdf>.



### **Questions to Consider**

1. What are the demographics within your country and region in relation to indigenous populations?
2. What steps has your country taken to implement/integrate/further the rights of indigenous peoples found within the United Nations Declaration on the Rights of Indigenous Peoples?
3. What steps has your country/region/voting blocks taken to integrate indigenous women and girls into the political sphere?
4. Why is it important to empower indigenous women and girls? How has your county addressed this issue?
5. What steps has your country taken to eliminate poverty and hunger within your country? Has this or can this be extended to eliminate poverty and hunger within indigenous communities? If so, how?
6. How can the international community address the issue of Missing and Murdered Indigenous women and girls?

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# STATELESSNESS AND ITS IMPACT ON WOMEN

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## Definitions, Mandates, And Numbers

The 1954 Convention relating to the Status of Stateless Persons defines a stateless person as “A person who is not considered as a national by any state under the operation of its law.”<sup>1</sup> A stateless person, deprived of a nationality for a variety of reasons, faces many challenges. Those lacking a nationality are more vulnerable to systemic discrimination – they have limited access to education and healthcare, difficulty traveling, and are deprived of the privileges of citizenship like voting. There are at least 10 million people worldwide who lack a nationality; they are stateless.<sup>2</sup>

Following the 1954 Convention, the 1961 Convention on the Reduction of Statelessness, which was enacted on December 13, 1975, sought to establish a framework for combating statelessness: “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 proper authority.”<sup>3</sup> The Office of the United Nations High Commissioner for Refugees (UNHCR) was designated as this body by General Assembly resolutions 3275 (XXIX) of December 10, 1974 and 31/36 of November 30, 1976. The Conventions are supported by the 1948 Universal Declaration of Human Rights, which states that everyone has the right to a nationality.<sup>4</sup> However, this is not the reality for millions of stateless persons or the international community itself. The 1961 Convention on the Reduction of Statelessness, in its effort to reduce statelessness, calls upon states who are party to the Convention to provide citizenship to people born on their territory or

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<sup>1</sup> 1954 Convention Relating to the Status of Stateless Persons, Article 1

<sup>2</sup> UNHCR, Ending Statelessness

<sup>3</sup> 1961 Convention on the Reduction of Statelessness, Article 11

<sup>4</sup> Universal Declaration of Human Rights, Adopted by the General Assembly, 10 December 1948

who have resided in their territory for a specified period of time. But it is the states who determine the standards for granting nationality; the Convention sets out limits only where withdrawal of a nationality would result in a person becoming stateless.<sup>5</sup> The Convention also provides guidelines for granting citizenship to stateless children born in that country or when one or both parents are of the nationality of that country (Article 1-4); when statelessness has occurred due to a loss of or renunciation of a nationality (Articles 5-7); or deprivation of nationality (Article 8-9); or in cases of state succession or changes in territorial boundaries (Article 10).<sup>6</sup> While the country provides the national legislation governing the process of granting nationality and there are exceptions that could lead to a rejection of an application for citizenship status, the net result, if countries were to live up to the guidelines in the Convention, would be a reduction in statelessness. However, since fewer than half the Member states are parties to the Convention and while many who are not parties to it follow the guidelines, the lack of universal coverage and adherence means that many states do not contribute to a resolution of the problem.

There has been a significant increase in accession to both the 1954 and 1961 Conventions since the 2011 special High Commissioner's Dialogue on stateless Persons to commemorate the 50th anniversary of the 1961 Convention. Additional advocacy efforts include the 2014 #IBelong Campaign to End Statelessness in 2014.<sup>7</sup> Currently, there are 96 state Parties to the 1954 Convention, and 77 state Parties to the 1961 convention.<sup>8</sup> Prior to the campaign, those numbers were 41 and 17, respectively.

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<sup>5</sup> Preventing and Reducing Statelessness, UNHCR Publication 2014, p. 6

<sup>6</sup> Preventing and Reducing Statelessness, UNHCR Publication, 2010, p. 3

<sup>7</sup> The #IBELONG Campaign, launched in 2014, "With the Hopes of Ending Statelessness by 2024;" among the goals of the campaign are fundraising, raising public awareness and helping meet the Global Action Plan to End Statelessness, which launched the same year.

<sup>8</sup> UN Treaty Series as of 16 August, 2021

The GA resolution 50/152 of December 21, 1995, “entrusted UNHCR with a global mandate to identify, prevent, and reduce statelessness and protect stateless persons, specifically requesting that the Office ‘provide relevant technical and advisory services pertaining to the preparation and implementation of nationality legislation.’”<sup>9</sup> However, nationality and its requirements are an integral aspect of state sovereignty. Identification and prevention largely require Member states to invite UNHCR to advise on legislation and implementation of measures, with no obligation to take the advice after receiving it. Additionally, many Member states are not party to either of the Conventions even if they have supplementary regional treaties, such as the United states.

The scope of statelessness goes far beyond accession. UNHCR estimates that there are approximately 4.2 million documented stateless persons, and that there are probably over ten million stateless persons overall.<sup>10</sup> While the disparity is less than it has been in the past, as documentation practices become better and more coordinated the vast difference between recorded and estimated numbers reflects one of the major problems facing UNHCR and the international community – the difficulty of determining who is stateless and documenting them. Some countries lack adequate documentation procedures; statelessness is often a byproduct of conflict and instability that puts additional stress on state services. Additionally, some stateless persons are reluctant to engage with government or UN officials for fear of deportation. Because nationality and the criteria for citizenship are determined by the state, there is the added complication of legal issues regarding citizenship status that may lead to large numbers

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<sup>9</sup> Quoted in UNHCR’s Publication on the Convention on the Reduction of Statelessness, February 2011, p. 4; also GA Resolution 50/152 of 21 December 1995

<sup>10</sup> UNHCR, Global Trends 2017, p. 2; See also “Preventing and Reducing Statelessness: The 1961 Convention on the Reduction of Statelessness, UNHCR publication 2010, p.1. Since many stateless persons are not registered, estimates of the total number vary widely; some are as high as 15 million.

of former citizens being deprived of citizenship; for instance, the cases of succession states in the former Soviet Union or the deprivation of citizenship for some Palestinians living in Jordan.<sup>11</sup>

The development and strengthening of statelessness determination procedures will lead to better quantitative data, as per Action 10 of the Global Action Plan (GAP) to End statelessness.<sup>12</sup> An upcoming opportunity for obtaining a more accurate picture of statelessness is the 2020 census; some states opted to pre-code an option for census respondents to record themselves as stateless, as seen in the Conference of European Statisticians Recommendations for the 2020 World Population and Housing Census Programme.<sup>13</sup> It was difficult, however, because some states do not regard these people as stateless. UNHCR reported it only had accurate data on stateless persons from 76 out of the 98 countries known to have populations of stateless people. Over the last decade, UNHCR documented an additional 27 states with stateless populations.<sup>14</sup> As of the end of 2019, the largest stateless populations (over 100,000) where data are available were in Côte d'Ivoire (955,000), Bangladesh (854,000), Myanmar (600,000), Thailand (475,000), Latvia (216,000), Syria (160,000), Malaysia (108,000), Uzbekistan (97,000), Kuwait (92,000), Estonia (75,000), Saudi Arabia (70,000), and the Russian Federation (68,000).<sup>15</sup>

## **Legal Issues**

The root causes of statelessness are similar to those for displacement of people in general – natural disasters, conflict, human rights violations, or poverty. However, statelessness may also result from state succession. This includes either the creation of new states with

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<sup>11</sup> Human Rights Watch, "Stateless Again: Palestinian-Origin Jordanians Deprived of Their Nationality," 2010 Report.

<sup>12</sup> UNHCR Global Action Plan to End Statelessness, 4 November 2014; Available at <http://www.refworld.org/docid/545B47d64.html>

<sup>13</sup> <https://www.unece.org/publications/2020recomm.html>

<sup>14</sup> UNHCR, Global Trends 2017, Figure 17, p. 52

<sup>15</sup> UNHCR, Global Trends 2019, published 18 June 2021, pp. 72-75.

somewhat artificial borders that cross natural ethnic boundaries as was the case in the Middle East, or where new states come into being following the collapse of a predecessor state as witnessed after the demise of the Soviet Union or the breakup of former Yugoslavia. The situation regarding the Palestinian population is especially complex from a legal standpoint. Some Palestinians have been provided with documentation by neighboring states, but the documentation falls short of full citizenship. Others have been granted citizenship status by the Palestinian Authority that now has observer state representation in the United Nations. But whether these actions or forms of documentation constitute full citizenship status, which would mean they would not qualify as stateless persons, is still open to debate. If they were to be considered stateless, they would be the largest stateless population in the world. Regardless of their current status, since in terms of humanitarian assistance they come under the auspices and mandate of the United Nations Relief Works Agency (UNRWA) in Palestine, including Gaza, UNHCR does not deal with them as stateless persons and their situation would not come under the authority of UNHCR or its Executive Committee. Thus, resolutions addressing their situation would not be appropriate for this session of MUN.<sup>16</sup> However, if Palestinians have sought refuge beyond areas of UNRWA operations (Jordan, Syria, Lebanon the West Bank, and Gaza), they could be considered under UNHCR's stateless mandate, if they are stateless, according to the international definition.<sup>17</sup>

Regional treaties play a role in strengthening UNHCR's authority on dealing with the world's statelessness issue; regional treaties include the African Charter on the Rights of the Child, the American Declaration on the Rights and Duties of Man, the European Convention on Human Rights, the Arab Charter on Human Rights, and the Organization of Islamic Cooperation

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<sup>16</sup> Interview with UNHCR staff focal point on the Middle East; see also Abbas Shiblak, "Stateless Palestinians," *Forced Migration Review*, No. 26, pp. 8--9

<sup>17</sup> Abbas Shiblak, "Stateless Palestinians," *Forced Migration Review*, No. 26, p. 9



(OIC) Covenant on the Rights of the Child in Islam. Many of the regional treaties emphasize the children's right to a nationality, as over a third of the world's stateless population are children.<sup>18</sup>

In the case of refugees, and particularly refugee children, those born in the recipient or host country may not be granted citizenship by that country. Considering that the average time a refugee spends in exile is approximately 20 years,<sup>19</sup> this has the potential to create an entire generation of stateless persons. Yet, the country of origin from which their parents fled may also deny the child citizenship since they were not born in that country. These situations highlight the two major criteria upon which citizenship is granted (aside from naturalization): *jus soli* ("law of the soil") and *jus sanguinis* ("law of blood").<sup>20</sup> UNHCR's efforts are primarily focused on *jus soli*, or *de jure* stateless populations in efforts to close legislative loopholes that leave people stateless. In the former case, states grant citizenship automatically to anyone born on the state's territory; in the latter, states grant citizenship based on blood ties. While states maintain sovereignty as to the criteria of citizenship, many refugee children born outside their parents' home country would not qualify under either criterion. Some states only allow citizenship to certain races or ethnicities. Additionally there are 25 nations that do not allow women, in this case mothers, to pass along their nationality to their children.<sup>21</sup> Thus, if the father has died or there is a divorce, a child who would have obtained their father's nationality at a designated age, may no longer be granted that nationality or the nationality of their mother. Statelessness in children, compounded with limited access to civil documentation in developing nations, makes it difficult for states and non-state actors to provide any kind of assistance.<sup>22</sup> Registration may be difficult for stateless persons displaced by conflict who lose or leave behind documentation while fleeing.

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<sup>18</sup> UNHCR: "A Special Report Ending Statelessness"

<sup>19</sup> World Bank, "How Many Years Do Refugees Stay in Exile?"

<sup>20</sup> UNHCR, *The State of the World's Refugees: A Humanitarian Agenda*, p. 3

<sup>21</sup> UNHCR, "Ending Statelessness"

<sup>22</sup> UNHCR, "A Special Report: Ending Statelessness in 10 Years," pp. 8-9

Two of the newly independent Baltic states (Estonia and Latvia) exemplify the challenges of determining nationality following the collapse of a state or changes in boundaries. Both enacted citizenship laws that discriminated against people of Russian descent, many of whom had lived in those Republics for decades prior to the collapse of the Soviet Union. The new citizenship laws require former citizens to pass a language exam in order to qualify for citizenship. This criterion was applied to everyone but has been particularly hard to meet for many older Russians since they had not learned the native language during their time in the Republic when it was still a part of the USSR.<sup>23</sup> In 2017, UNHCR reported that Estonia and Latvia had taken steps to “further facilitate the acquisition of citizenship by those born in Estonia and Latvia to non-citizen parents, which will help ensure that these situations are resolved over time and Russia has offered citizenship in Russia to many of them.”<sup>24</sup>

In addition, the General Assembly addressed this issue through a draft proposal of the International Law Commission and subsequent resolutions.<sup>25</sup> General Assembly resolution 55/153 contains the draft proposal for a possible convention on the topic of “Nationality of natural persons in relation to the succession of states.” While no particular state is mentioned, it was prompted by events occurring in both the former Soviet Union and the former Yugoslavia. The draft proposal lays out guidelines to follow in granting inhabitants of these territories either in the predecessor state or successor state, while ensuring that whatever is done does not cause the individual to become stateless. While there are some limiting conditions, in most cases it is recommended that the individual have the option of taking the nationality of either of the two states. Further, all Member states were requested to comment on the possibility of

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<sup>23</sup> Based in part on an interview with a UNHCR delegate to the GA's Third Committee. The Russian Federation regularly raises concerns about the treatment of these people during debates on Human Rights in the Third Committee. For an analysis of some of the legal issues involved as well as those involved in asylum deliberations in the US, see Maryellen Fullerton, “The Intersection of Statelessness and Refugee Protection in US Asylum Policy,” JMHS Vol. 2, No. 4, 2014, pp. 144-164)

<sup>24</sup> UNHCR, “Statelessness Around the World”

<sup>25</sup> A/RES/54/112, 55/153, 59/34, 63/118, and 66/92

agreeing to a convention on this issue.<sup>26</sup> However, negotiations about the issue stalled in the Sixth Committee for roughly a decade around the 1950s with no resolution of these issues, so the General Assembly will no longer consider the issue unless a member state asks it to do so, and that is not likely to happen in the immediate future. Resolution 66/92, OP4 says that upon request of any state, it will revert to the question of nationality of natural persons in relation to the succession of states, in particular concerning the avoidance of statelessness.<sup>27</sup>

### **Problems Facing Stateless Women And Children**

While not all stateless people are refugees, many of them are often in refugee-like situations, either a camp for displaced persons or living in isolation in urban areas. They suffer from discrimination, have limited access to education, health care, employment opportunities, appropriate housing and food, and/or the ability to travel. They also lack the right to vote, and may find it difficult to participate in cultural or religious activities.<sup>28</sup> The long-term effects of lack of education or employment, the need for health care, and other factors can ultimately contribute to greater poverty if these conditions are not remedied and, as with other forms of discrimination, will have a disproportionate affect on the lives of women and children. Women and children face even more problems such as increased sexual or gender-based violence, lack of access to prenatal or reproductive health services, and demands as the new heads of households. In addition, they live in fear of deportation, which often means they will not seek help from the government, police, or other organizations when they suffer from discrimination, poor health, or violence and abuse.

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<sup>26</sup> A/RES/55/153

<sup>27</sup> A/RES/66/92, operative paragraph 4

<sup>28</sup> "Preventing and Reducing statelessness: The 1961 Convention on the Reduction of Statelessness," UNHCR publication 2010, p. 2 – "Policies and Programmes: UNHCR and Government Efforts"

One additional form of discrimination involves the inability of women to pass on their nationality to their children when they are the head of a household, leaving many more children stateless as a result. At least 25 countries still do not allow women to pass on their nationalities when the father is no longer with the family for various reasons, though UNHCR has been working with national governments to try and get them to adopt new legislation to remedy this situation. Moreover, regardless of the family situation, children may not be registered at birth and without an official birth certificate they may not be eligible to attend schools or have access to other necessary services.

A UNHCR report by Rosa Ogola in Nairobi, Kenya, (November 2020) describes the problems faced by a young woman of the stateless Shona community in Kenya, Nosizi Dube. While Dube eventually was admitted to high school and then a university, she faced frequent rejections of her applications since “she did not have the crucial documentation to prove her identity and register for exams.” Dube commented that “it is like you are a ghost in the country you are living in. You don’t exist.” Wonja Manaita, an Assistant Protection Officer for UNHCR, told Ogola, “Without proof of nationality, the Shona and other stateless communities are not able to fully access basic services like education and health. They cannot travel, own property, be formally employed or access financial service, among other rights that Kenya citizens enjoy,” “stateless people often face political and economic marginalization and discrimination, making them vulnerable to exploitation and abuse.”<sup>29</sup>

In addition, unlike Nosizi Dube, most Shona women of her age (20 years) are already mothers. Fortunately for Dube, her mother was eventually able to obtain an antenatal clinic card, which she used in place of a birth certificate. Now, due to advocacy by UNHCR and the Kenyan Human Rights Commission (KHRC), “The government has issued Shona children with birth

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<sup>29</sup> Rosa Ogola, Report on Shona women:  
<https://www.unhcr.org/en-us/news/stories/2020/11/5fab26024/want-shona-women-they-want.html?>

certificates,"<sup>30</sup> but thousands of other children in dozens of countries are still unregistered and lack appropriate documentation. UNHCR estimates that a stateless child is born every 10 minutes – over 70,000 children a year.<sup>31</sup>

### **Policies And Programs: UNHCR And Government Efforts**

As noted earlier, while not all stateless persons are refugees, they are often in refugee-like situations. This is one of the reasons UNHCR received the mandate to help them, but as is the case today with refugees, most stateless people live in urban, non-camp settings. Thus, UNHCR's work on behalf of stateless persons is often conducted on a more abstract or legal level than typical operations out in the field designed to assist displaced persons in camps. In 2017, UNHCR reported that 56,500 stateless persons were granted citizenship in 29 countries "with significant reductions occurring in the Philippines, the Russian Federation, Sweden, Tajikistan, and Thailand, among other places. In Tajikistan, for example, close to 12,000 people had their nationality confirmed in 2017, as did 11,000 in Thailand."<sup>32</sup> This process ultimately relies on the political will and cooperation of national governments who are the only actors who can grant citizenship and thus reduce the number of stateless persons throughout the world. Nevertheless, UNHCR has undertaken a number of steps in cooperation with governments and other humanitarian actors to try and reduce statelessness.

First, UNHCR has constantly advocated for accession to the two statelessness Conventions. The Conventions provide guidelines that, if followed, would diminish the number of stateless persons. With a greater number of states adhering to the Conventions, the

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<sup>30</sup> Ibid

<sup>31</sup> Institute on Statelessness and Inclusion: [https://files.institutesi.org/ISI\\_statistics\\_analysis\\_2020.pdf](https://files.institutesi.org/ISI_statistics_analysis_2020.pdf). This article also points out the tremendous difficulties in getting accurate data regarding stateless persons.

<sup>32</sup> UNHCR, Global Trends 2017, p. 53

international community would develop more consistency and uniformity in how stateless persons were treated, promote a “rule of law,” and more efficient regulation of migration.<sup>33</sup>

Second, UNHCR works extensively with its usual partners in the humanitarian area to promote concern for stateless persons, raise awareness of the issue, and improve protection or their access to basic human rights. These partners include The United Nations Children's Fund (UNICEF), the United Nations Development Programme (UNDP), the United Nations Population Fund (UNFPA), numerous non-governmental organizations (NGOs), regional organizations and civil society.<sup>34</sup>

Third, UNHCR works closely with Governments to provide technical advice and encouragement regarding national legislation to address the concerns of stateless people. While the establishment of such legislation is ultimately the responsibility and prerogative of the state, UNHCR can provide useful information on legislation and best practices in other countries.<sup>35</sup> Such practices could include simplifying application procedures, prohibiting withdrawal of nationality if it would result in statelessness, allowing women to pass along their nationality to their children, ensuring birth registration, the granting of residence permits, providing the rights to travel and return, access to employment, improved access to education and health services, and ultimately, for some, granting citizenship.<sup>36</sup> Other strategies could include having a clear vision and a regional focus; investing in research on the need for attention to and reforms in dealing with statelessness; building coalitions, and promoting media coverage.<sup>37</sup> Finally, out in the field, UNHCR has begun a very extensive registration and documentation program to assist refugees, internally displaced persons, and stateless persons

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<sup>33</sup> UNHCR Publication, “Helping the World’s Stateless People,” 2011, p. 6

<sup>34</sup> Ibid, p. 7

<sup>35</sup> Ibid, pp. 5-7

<sup>36</sup> Laura Van Waas, “The Situation of Stateless People in the Middle East and North Africa,” Report prepared for UNHCR, October 2010

<sup>37</sup> Ibid, p. 41

in obtaining documents to give them identity and access to necessary services. UNHCR also provides training programs for government officials regarding registration and documentation procedures.<sup>38</sup>

Many governments have taken steps to reduce statelessness. In the last decade, many have acceded to the Conventions. Some 30 states are participating in UNHCR studies and surveys as part of Action 10 of the Global Action Plan to improve both qualitative and quantitative data for stateless persons and how to best assist them, for example in Kazakhstan and Zambia.<sup>39</sup> In addition, in 2017, the Rohingya population was identified as stateless, instead of in the separate category of displaced persons to give a more accurate account of the world's stateless population, as stateless Rohingya populations are currently displaced throughout Myanmar and Bangladesh.<sup>40</sup> The Rohingya are a Muslim population that have resided in the Myanmar Rakhine State, and have been denied citizenship in Myanmar based on their ethnicity.<sup>41</sup> After attacks on the Rohingya residences in Myanmar in 2016, hundreds of thousands fled to Bangladesh in what UNHCR characterizes as, "the largest and fastest refugee influx seen in the region in the past twenty years."<sup>42</sup> UNHCR has called on the state of Myanmar to put an end to this humanitarian crisis by providing citizenship for the close to one million stateless persons in or from the Rakhine state.

As previously mentioned, Estonia and Latvia have taken steps to prevent another generation of stateless persons. Additionally, Brazil resolved the statelessness crisis of Brasileirinhos Apatridás children in 2007, and 300,000 Urdu-speakers (sometimes referred to as

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<sup>38</sup> UNHCR Publication, "Helping the World's Stateless People, 2011, pp. 6-8

<sup>39</sup> UNHCR, "Global Action to End Statelessness," p. 24

<sup>40</sup> UNHCR, Global Trends 2017, p. 52

<sup>41</sup> UNHCR Global Trends 2017, pp. 22-25: UNHCR Myanmar reported a baseline estimate of 900,000 non-displaced stateless people in the Rakhine state at the start of the year. However, in light of the 655,000 arrivals from Myanmar reported in Bangladesh in 2017 and some 470,000 non-displaced stateless persons estimated to be remaining in Rakhine state at years-end, it is now clear that the baseline estimate was too low."

<sup>42</sup> UNHCR, Global Trends 2017, pp. 22-25

Biharis) were granted citizenship in Bangladesh in 2008.<sup>43</sup> All states, however, could share best practices, reexamine their existing legislation in light of best practices, take steps to improve educational opportunities, ensure that stateless persons have access to basic public services, promote more effective registration and documentation, and implement pledges they have made. In particular, all actors should consider gender-mainstreaming into their policies and long-term planning to ensure that the special needs of women and children are taken into consideration in the future.

### **Recommendations For A Resolution**

Generally, UNHCR resolutions are adopted by consensus. The primary reason for this is because questions relating to UNHCR are considered humanitarian rather than political in nature, despite the fact that there are obvious political issues and ramifications involved. In addition, resolutions adopted by consensus, though they are often watered down, carry more weight than those adopted by a vote. Delegates should, then, attempt to reach consensus at Model UN on one comprehensive resolution that would address the issue of statelessness and its consequences on stateless persons. Delegates could consider the following:

- A. Encourage Governments to consider acceding to one or both of the statelessness Conventions.
- B. Encourage Governments to share best practices in terms of programming and legislation regarding stateless persons.
- C. Encourage Governments to participate in UNHCR campaigns, such as the 2014 #IBelong call to end statelessness by 2024.
- D. Call for greater cooperation between UNHCR, Governments, and NGOs to assist stateless persons.

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<sup>43</sup> UNHCR, "Statelessness Around the World"



- E. Encourage donors to provide additional financial and technical support to UNHCR and other states dealing with issues relating to stateless persons
- F. Call upon Governments to adhere to pledges they have made regarding stateless persons.

### **Questions To Consider:**

1. Does your state have a stateless population? Under what circumstances did that stateless population arise: conflict, state succession, lack of adequate documentation and record keeping?
2. How does your state partner with UNHCR to assist stateless persons? How could this be improved?
3. If your state does not have a stateless population, can your state assist other states that do?
4. What steps can be taken to address the needs of stateless women and to encourage them to take advantage of services UNHCR, other UN agencies, non-governmental organizations, and Governments can provide?
5. Considering the data currently available, particularly that related to statelessness on the UNHCR website ([unhcr.org](http://unhcr.org)), how can those people who are not represented in the data be included in the negotiations?

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