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The Humanitarian side of Statelessness; Statelessness within the framework of the Millennium Development Goals

Abstract

The issue of statelessness has begun to receive attention from a legal perspective. While this work should be commended and continue this article argues that we should also remember that at its core statelessness is a human issue that deeply affects the lives of those who suffer from it. It causes and perpetuates, amongst other things, extreme poverty and human insecurity. Statelessness is still greatly under-examined and under-appreciated as a potentially significant barrier to progress in the humanitarian and development fields. This piece aims to begin to situate statelessness as an important issue within these fields. This is done by taking the framework of the Millennium Development Goals (MDGs) and looking at how statelessness affects the realization of each and every goal. This approach shows that by overlooking statelessness development actors and agencies could be failing to meet the needs of the world's poorest. While far from being a comprehensive analysis of all available literature on statelessness and its relationship to each goal, this article is as an exploratory piece with the aim of encouraging development actors and agencies to recognise the importance of statelessness in their current and future projects and work to gain a greater understanding of the relationship between statelessness, poverty and human insecurity.

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“The eight Millennium Development Goals (MDGs) – which range from halving extreme poverty to halting the spread of HIV/AIDS and providing universal primary education, all by the target date of 2015 – form a blueprint agreed to by all the world’s countries and all the world’s leading development institutions. They have galvanized unprecedented efforts to meet the needs of the world’s poorest.”¹

Introduction

While work has been done on the legal ramifications of statelessness it is important to remember that at the core this is a humanitarian issue, as statelessness has dire consequences for the millions affected by it. These concerns have been highlighted in several pieces of research that focus on specific difficulties in access to healthcare and education faced by stateless populations. Yet statelessness, referred to as *persons not considered as a national by any state under the operation of its law*

¹ UN, 2012, *United Nations Millennium Development Goals* [online], Available from: <http://www.un.org/millenniumgoals/bkgd.shtml>

(the definition provided by the 1954 Convention Relating to the Status of Stateless Persons²), is still greatly under-examined and under-appreciated as a potentially significant barrier to progress in the humanitarian and development fields. In this piece I hope to show where some problems may exist or where a link has already been discovered with regard to the specific vulnerability of stateless populations within the humanitarian and development fields. To do this I use the framework of the Millennium Development Goals (MDGs) and examine the possible impacts of statelessness in realising each specific goal. I argue that without considering the stateless we may be holding back the realisation of the MDGs. Due to the situation many stateless persons find themselves in and the lack of attention they receive in these fields we could be failing to meet the needs of some of the world's poorest.

This article is by no means a comprehensive review of all the literature on statelessness within the areas of the MDGs. Instead it should be seen as an exploratory piece which highlights the need to consider stateless persons within the development and humanitarian discourses. These stateless specific issues need to be mapped and research on these issues needs to be conducted. It is by situating statelessness within the framework of the MDGs that I argue development actors and agencies should work to gain a greater understanding of how statelessness causes and perpetuates poverty and human insecurity and that they should recognise the importance of statelessness in their current and future projects.

1. Eradicating extreme poverty and hunger

Poverty reduction techniques face serious obstacles when dealing with the stateless. First, there is a danger that these development projects may fail due to the lack of the right to work that many stateless people face. Employment is not an option for many of the stateless as regulations demanding ID or certain residency status² are often required by employers and cannot be met by the stateless. This leaves the stateless in a very vulnerable position, often finding themselves exploited in the informal labour market as a consequence. A report produced for the The Office of the United Nations High Commissioner for Refugees (UNHCR) noted that:

“Because they [the stateless of Kyrgyzstan] have greater problems finding formal employment, undocumented stateless persons are more likely to be exposed to extreme poverty than other parts of the population... 45.9% of the Kyrgyz population lives below the poverty line. Statistics for extreme poverty in Kyrgyzstan vary, but are highest in areas

² UNHCR, 2013, 1954 Convention regarding the status of stateless persons [online], Available from: <http://www2.ohchr.org/english/law/stateless.htm>

where many stateless are known to live. In Batken region, for example, where UNHCR's partners conducted a survey of stateless people, 77% live in extreme poverty in rural areas and 33.7% in the towns.”³

Extreme poverty is perpetuated through the lack of education and the lack of opportunities for the stateless and can be seen as a general trend affecting the vast majority of the world's stateless. The Bidoon of Kuwait for example cannot apply for documents, such as a driver's license and cannot work formally, thus they are forced into being exploited in the informal economy which due to their lack of freedom of movement means they are at risk of deportation.⁴

In terms of food security the Rohingya in northern Rakhine State of Burma can be seen as a stateless population who is in a desperate situation due to governmental discrimination and land confiscation, as a report in 2008 noted:

“These continued land confiscations, combined with the cumulative effects of the discriminatory restrictions on movement, employment, educational access and even food, have led to extreme hardship, increased poverty and even malnutrition among Rohingya populations. The stricter application of movement restrictions (including on the movement of rice into Rakhine), arbitrary taxes that tend to target the Rohingya, restricted access to forest resources and arable land and tighter control of local economies has created a situation where poverty has created a food security problem, with an estimated 60 per cent of the Rohingya children in northern Rakhine State thought to suffer from chronic malnutrition.”⁵

The discrimination faced by stateless populations not only causes their poverty but perpetuates it daily through lack of freedom of movement, the lack of the right to work, the lack of documentation etc. Thus schemes such as vocational training or micro-finance may not yield the desired results for the stateless as they may have for a group of nationals in poverty. Further to this, development initiatives may even completely overlook the existence of stateless populations,

³ UN High Commissioner for Refugees, *Statelessness in Central Asia*, May 2011, available at: <http://www.unhcr.org/refworld/docid/4ed32c9a2.html>, pp:64-65

⁴ Human Rights Watch, 2011, Kuwait: Stateless ‘Bidun’ Denied Rights [online], Available from: <http://www.hrw.org/news/2011/06/13/kuwait-stateless-bidun-denied-rights>

⁵ Minority Rights Group International, *World Directory of Minorities and Indigenous Peoples - Myanmar/Burma : Muslims and Rohingya*, 2008, available at: <http://www.unhcr.org/refworld/docid/49749cdcc.html>

who are often not registered with any authorities or international agencies. Their exclusion may lead to misrepresentative data regarding the population living on less than \$1 per day, which could lead to the misallocation of resources away from the areas or countries where stateless populations are residing and suffering from extreme poverty.

In the case of extreme hungry, in a famine situation for example, the lack of knowledge about the size and location of stateless populations may lead to an under estimation of resources or distribution that neglects areas where the stateless live. This is an area that needs to be studied under disaster management, to overcome these hurdles and make sure that the stateless are provided for in emergency situations as well as in longer term development projects.

2. Achieving universal primary education

While there has been progress in the provision of primary education for citizen and non-citizen children across the world, stateless children still face significant barriers to accessing these services and completing their education that other children do not. Without any documentation or recognition of their existence (unlike say a child holding residency permits or refugee status) these children may not be able to even register at a school. Research on stateless children in Malaysia found that;

“[s]tateless children of Indian, Filipino or Indonesian descent in Selangor and Sabah are frequently denied access to basic education in state schools. If a child’s birth certificate has ‘foreigner’ written on it, or if the child does not have a birth certificate at all, the child is simply unable to enrol.”⁶

On a more pragmatic level even if they do manage to register, completing their education may be complicated with travelling restrictions to and from school. A 2006 report by the the International Labour Organization (ILO) in Samut Sakhon, Thailand, found that schools reported that about 30% of the stateless children dropped out before completion as they had no ID and feared being arrested while travelling to and from school.⁷ Another stateless community that has been researched

⁶ Kohn, S., 2009, Stateless Children: Denied the right to have rights [online]CRIN, Available from: <http://www.crin.org/resources/infodetail.asp?id=20946>,

⁷ ILO, 2006, Research Study on Educational Opportunity of Migrant and Stateless Children in Samut Sakhon [online], Available from: http://www.ilo.org/public/english/region/asro/bangkok/apec/download/th_study_edu.pdf pp:25

in terms of access and completion of primary education is the Roma. A position paper by the United Nations Children's Fund (UNICEF) in 2011 reported that:

“According to World Bank data, educational enrolment in CSEE [Central and South-Eastern Europe] among primary-school age Roma children is on average a quarter of the corresponding rate for non-Roma children. In South-Eastern Europe, gaps in enrolment are the greatest in Albania, Bosnia and Herzegovina and Montenegro, ranging from 45 to 50 per cent. Some 20 per cent of Roma children in Bulgaria and 33 per cent in Serbia never go to school. Moreover, even if they gain access to primary school, drop-out rates are high. In Slovakia, Roma children are 30 times more likely to abandon school than the rest of the population, and in Bulgaria, most of the 45,000 students who drop out annually are of Roma ethnicity. According to recent multiple indicator cluster surveys, of the 63 per cent of Roma children who enter primary school in the former Yugoslav Republic of Macedonia, only 45 per cent complete it; in Serbia, only 13 per cent of Roma complete primary school. A survey conducted by the United Nations Development Programme (UNDP) found that two out of three Roma do not complete primary school, as compared with one in seven in majority communities”.⁸

Governments also require constant monitoring to ensure that their pledges to provide the right to education for stateless children are being upheld. As this recent submission to the Committee on the Elimination of Racial Discrimination shows:

“Dominicans of Haitian descent without birth certificates or mandatory identity documents (*cédulas*) cannot, in practice, attend school or any kind of secondary education. Although recent legislation guarantees all children the right to primary education, government officials have publicly stated that they will prevent any “Haitian” child from enrolling in Dominican schools. In May of 2012, the migration authorities tried to prevent undocumented children from attending school, but due to national and international pressure this measure was put on hold for a year pending further review.”⁹

⁸ UNICEF., 2011, *The Right of Roma Children to Education Position Paper* [online], Available from: http://www.unicef.org/ceecis/UNICEF_ROE_Roma_Position_Paper_Web.pdf, pp:15-16

⁹ Open Society Justice Initiative and the Center for Justice and International Law, 2013, *Submission to the Committee on the Elimination of Racial Discrimination: Review of the Dominican Republic* [online], Available from: http://www2.ohchr.org/english/bodies/cerd/docs/ngos/OSJI_CEJIL_DominicanRepublic82.pdf, pp:9

There is also the issue that in some areas which host a majority stateless population provision of primary education may not even be made available as this population's existence is not recognised by the state and not known to non-governmental organisations (NGOs) who may fill this role.

3. Promoting gender equality and empowering women

An obvious example of this is gender discrimination in the nationality legislation of some countries, which leads to women not being able to pass on their nationality to their children. This not only leads to many new cases of statelessness amongst children but is contrary to the principles of equality and empowerment, and should be considered a major area of discrimination by those tackling these issues in countries where this legislation or implementation of legislation remains discriminatory. "The negative impacts of statelessness resulting from this gender discrimination are numerous, severe and continuing and have a knock-on effect for both the women and their children".¹⁰

A report produced for the UNHCR on statelessness in Central Asia highlighted other consequences and increased vulnerability that stateless women face and the specific protection concerns we should address:

"Because of migration flows throughout the region, many stateless women prevented from marrying officially through lack of documentation are known to be living in unregistered marriages in Turkmenistan, Kyrgyzstan and Kazakhstan. UNHCR believes there are others in Tajikistan and Uzbekistan. None of the five States gives "informal" or common law marriages legal validity. The social and economic position of women in such marriages is precarious... Partners who are not married officially, also have no recourse to the rights and compensations of divorce. Stateless women in unregistered matrimonies concluded by traditional religious observance – so called *nikoh* marriages – are made particularly vulnerable as a result. Their matrimonial contract can be broken unilaterally and without compensation, by their common-law husband, if he utters the word *taloh* three times."¹¹

¹⁰ UNHCR and CRTD.A., 2011, Regional Dialogue on Gender Equality, Nationality and Statelessness [online]. Available from: <http://www.unhcr.org/refworld/pdfid/4f267ec72.pdf>, pp:2

¹¹ UN High Commissioner for Refugees, *Statelessness in Central Asia*, May 2011, available at: <http://www.unhcr.org/refworld/docid/4ed32c9a2.html>, pp:42

Lack of access and poor completion rates of education are noted to be major barriers to the achievement of gender quality and empowerment of women. For some stateless communities however these issues are deeply engrained. For example the aforementioned UNICEF report on the Roma stated that:

“Roma education gaps also have an important gender dimension. The primary school enrolment rate for Roma girls is just 64 per cent, compared to 96 per cent for girls in non-Roma communities in close proximity to Roma who face similar socio-economic conditions. Three quarters of Roma women do not complete primary education, compared with one fifth of women from majority communities.”¹²

These are just three specific examples of the relationship between statelessness and gender discrimination but they tie into larger themes that must be thoroughly considered if we are to have any chance of achieving the goals of gender equality and empowerment of women for these very marginalized and vulnerable populations.

4. Improve children's health

Improving children's health care is a major issue to undertake with regard to stateless children, and unfortunately to date a much over looked one. (I cover the more specific topics of stateless children's access to vaccinations and cases of HIV/AIDS under Goal 6). An example from Thailand on how statelessness affects children's health in a negative way was noted in a recent study:

“The rate of child malnutrition is much higher among hill tribe children than it is for their urban, more fully enfranchised peers. These children also tend to have comparatively high rates of conditions associated with nutritional deficiencies, such as scabies, diarrhoea, and lung infections”.¹³

¹² UNICEF., 2011, *The Right of Roma Children to Education Position Paper* [online], Available from: http://www.unicef.org/ceecis/UNICEF_ROE_Roma_Position_Paper_Web.pdf, pp:16

¹³ Kingston L., Cohen, E., and Morely C., 2010, *Limitations on universality: the "right to health" and the necessity of legal nationality*, [online], PubMed, Available from: <http://www.ncbi.nlm.nih.gov/pubmed/20525334>, pp:27

As mention under Goal 1, there is an alarming prevalence of chronic malnutrition affecting 60% of stateless Rohingya children in Northern Rakhine State.¹⁴ Such a high level of chronic malnutrition indicates not only the failure to provide food security and eradicate poverty (Goal 1) but also a failure to improve the health of children (Goal 4). As with the majority of the consequences of statelessness they are interrelated with other humanitarian concerns that arise due to their statelessness and must be tackled if we are to achieve the MDG.

If we now turn to one of the largest and most protracted stateless situations we can see trends on how statelessness, and the lack of rights it leads too, can cause a halt in the progress of children's health as well as a regression in their situation. A report on the long term health trends of stateless Palestinian children in the Palestinian Occupied Territories (POT) found that:

“Infant mortality dropped between 1967 and 1987, but stalled between 2000 and 2006 at 27 per 1000 live births... The rate of stunting - the failure of children under five to grow as they should - has gone up. In 1996, 7.2% of young children had stunted growth, but in 2006, the proportion had risen to 10.2%. Stunting during childhood is an indicator of chronic malnutrition, and is associated with increased disease burden and death.”¹⁵

5. *Improve maternal health*

It has been noted that “despite [the] connections between nationality and the right to health, the medical community has largely overlooked the problem of statelessness”¹⁶. An area other than child health that makes this link very clear is that of Goal 5, namely of improving maternal health, which we are in danger of failing to do if we do not consider the stateless, as the following examples highlight. For the stateless Roma in Macedonia research has shown that:

“The exclusion of Roma from the national healthcare system is reflected in statistics illustrating high rates of premature births and infant mortality”¹⁷

¹⁴ Minority Rights Group International, *World Directory of Minorities and Indigenous Peoples - Myanmar/Burma : Muslims and Rohingya*, 2008, available at: <http://www.unhcr.org/refworld/docid/49749cdcc.html>

¹⁵ Boseley, S., 2009, Palestinian children's health in decline, says report [online], Available from: <http://www.guardian.co.uk/world/2009/mar/05/palestine-gaza-israel-health>

¹⁶ Kingston L., Cohen, E., and Morely C., 2010, *Limitations on universality: the "right to health" and the necessity of legal nationality*, [online], PubMed, Available from: <http://www.ncbi.nlm.nih.gov/pubmed/20525334>, pp:22

¹⁷ *Ibid*, pp:25

A report on the Thai hill tribes:

“Link[ed] lack of nationality to the denial of reproductive health services for women and girls”¹⁸

For the stateless Palestinians, within Israel and the POT, even though the provision of medical care maybe seen as better compared to say its neighbours in the Middle East, the ability of women to reach these facilities must also be addressed if we are to achieve Goal 5. An example of this restricted access and the devastating consequences that is has is that:

“At least 68 pregnant Palestinian women have given birth at Israeli checkpoints since the beginning of the second Intifada in September 2000 [till 2010], resulting in at least 34 miscarriages and the deaths of four women”.¹⁹

Again, with both child and maternal health, there are similar problems to data as can be found with poverty reduction and primary education. These goals include a desire to increase the proportion of 1-year-old children immunized against measles, a reduction of child and maternal mortality and an increase in the proportion of births attended by skilled health personnel. Yet if aid and assistance does not include the stateless, the provision of medical professionals, medical facilities and immunizations will be insufficient to meet the needs of these populations and the data on the outcomes will be misleading as it will not include those who are often most vulnerable to poor access to these facilities. Poor provision of these services or restricted access to these facilities for stateless women and children means millions of children and mothers often do not get the medical treatment or vaccinations that dramatically reduce child and maternal mortality rates. Essentially many lives are being lost as a result of not considering statelessness.

6. Combating HIV/AIDS, malaria, and other diseases

The existence of even small unknown stateless populations provides serious challenges for the fight against communicable diseases. This danger arises as their invisibility can leading to the a lack of provision of medication and awareness raising schemes for stateless populations, the possibility of under resourced preventative measures such as the provision of mosquito nets, their restricted access to health care facilitates and inaccurate mapping of these diseases amongst the population.

¹⁸ *Ibid*, pp:27

¹⁹ *Ibid*, pp:30

Here I draw on examples of how statelessness can lead not only to the lack of provision of resources to combat HIV/AIDS but also how their vulnerable position can lead to an increased risk of contracting these diseases. Research on the stateless children of the hill tribes of Thailand found that their lack of birth registration seriously increased the likelihood of premature childhood deaths from preventable diseases.²⁰ It is not simply access to vaccinations that is problematic for stateless children, as a report on the right to health for the stateless notes:

“The availability of documentation has also been cited as a factor reducing the risk of childhood exposure to HIV/AIDS, since identification papers firmly establish a child's age and make them less susceptible to early marriage agreements and sexual exploitation; in Uganda and Zambia, for example, birth certificates are considered key for establishing police protection of children at risk for human rights violations.”²¹

The stateless Shan migrants in Thailand often end up being exploited due to their vulnerability, one example being their coercion into the Thai sex industry. Research has indicated that this stateless group has a disproportionately higher number of persons suffering from HIV as well as some vaccine preventable diseases.²²

If we take a regional perspective we can see the problems that arise from not having a stateless-sensitive approach to reducing of certain diseases. In a report produced in 2011 for the UNHCR it noted that:

“No study on HIV/AIDS in Central Asia has thus far looked at how the disease affects stateless persons in the region.”²³

Thus if the stateless remain invisible there could be serious negative consequences on the outcomes of initiatives to reduce the prevalence of these diseases, as only partial policies will have been implemented leaving stateless populations untreated and uninformed. Again the problem of data collection arises as it could be claimed that the threat of these diseases has been greatly reduced in areas with stateless populations and funding redirected even though these populations have not received any of the benefits of such initiatives.

²⁰ *Ibid*

²¹ *Ibid*, pp:22

²² *Ibid*

²³ UN High Commissioner for Refugees, *Statelessness in Central Asia*, May 2011, available at: <http://www.unhcr.org/refworld/docid/4ed32c9a2.html>, pp:58

7. *Ensuring environmental sustainability*

For this goal we can draw on research on the environmental impact caused by informal settlements, where millions of stateless person find themselves, and camps that host person in protracted stateless situations, like the Bidoon of Kuwait. Living on the margins of society, often literally in informal settlements or camps, which lack basic infrastructure, puts great strain on the local environment as these populations turn to it to sustain themselves or provide an income. Issues such as the stripping of land for fire wood, illegal water usage and contamination of water sources due to poor or non-existent sanitation facilities in these settlements and camps have been well documented in the past. The extent of the damage to progress in environmental sustainability by not including the stateless was highlighted in a recent report conducted by the European Union Fundamental Rights Agency (FRA), the United Nations development programme (UNDP) and the World Bank on the Roma of Europe. The report found that 45 percent of those interviewed lived in a home that was without either a toilet, a shower, electricity or an indoor kitchen²⁴, which one can assume puts strain on the surrounding environment. This lack of provision of sanitation facilities in large and long established camps, such as those the Bihari community in Bangladesh find themselves in, also shows that poor provision of services not only leads to an increased danger of water borne disease, amongst other things, within the camps but also for the surrounding population through water contamination from the various types of waste that are produced within the camps and not dealt with appropriately.²⁵ These situations are far from sustainable and by not considering the detrimental impact stateless populations can have on the local environment, due to the lack of provision of services or means of income generation, other sustainability initiatives may suffer as will the more holistic goal of environmental sustainability.

8. *Developing a global partnership for development*

Whereas this goal may seem the most distant from the concerns of the stateless there are a few areas that are hampered by the existence of large stateless populations around the world. For example how can one calculate the proportion of population with access to affordable essential drugs on a sustainable basis or internet users per 100 persons without including the stateless?

²⁴ European Commission, 2012, *National Roma Integration Strategies: a first step in the implementation of the EU Framework* [online], Available from:

http://ec.europa.eu/justice/discrimination/files/com2012_226_en.pdf, [Accessed 16/2/2013]

²⁵ Farzana, K., 2008, The Neglected Stateless Bihari Community in Bangladesh: Victims of Political and Diplomatic Onslaught, *Journal of Humanities and Social Science*, 2(1)

These concerns indirectly relate to allocation of resources and development initiatives in the future. This also means that the stateless maybe further marginalised if these services are not provided for them. The statelessness already suffer from a lack of voice and one way to reduce this is to ensure fair distribution of technology to all persons globally and not just those with citizenship of a state.

Further to this Goal 8.c. notes that there is a need to “[a]ddress the special needs of landlocked developing countries and small island developing States”. One of the specific concerns that is being faced is the creation of statelessness due to small island states being threatened by rising sea levels or the ‘sinking island states’ problem. With about 40 countries currently at risk of being victim to this, calls have been made for progressive international law to prevent statelessness as a result.²⁶ I would also call on those in humanitarian relief to prepare for what could be an increase in statelessness, and the potential difficulties in providing for these populations.

Conclusion

By looking at statelessness within the framework of the MDGs, and by drawing on examples of how we could be failing to meet the needs of the stateless I hope to have shown that statelessness is an issue that must be considered as potentially severely hindering efforts to reduce poverty and human insecurity. With regard more specifically to the MDGs and other similar initiatives, one cannot claim to provide universal access to certain basic facilities or to target the world’s poorest without considering and mainstreaming the stateless. The same can be said for organisations that focus on these areas. Often undocumented, invisible, under researched and living on the margins of society the stateless currently face exclusion from development/humanitarian aid and assistance. This has to change as we are currently failing millions who suffer from extreme poverty, lack of access to education and healthcare, who face gender discrimination in multiple forms and are not being reached under initiatives to reduce certain diseases, improve environmental sustainability and increase global development, to the detriment not only the stateless themselves but also of the wider, non-stateless community in their country.

²⁶ S. Park, S., 2011, *Climate Change and the Risk of Statelessness: The Situation of ‘Sinking Island States*[online], Available from: <http://www.unhcr.org/4df9cb0c9.pdf>