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Regarding

The Human Rights of Stateless People

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Tom Lantos Human Rights Commission
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Introduction

Mr. Chairman and members of the Commission, on behalf of the Office of the United Nations High Commissioner for Refugees (UNHCR) I would like to express our appreciation for the opportunity to appear before you today to address UNHCR's continuing concerns about the human rights of stateless people. My name is Jana Mason, and I am the senior advisor for external relations and government affairs in UNHCR's regional office in Washington, D.C., a position that I have held since 2008. During my tenure, I have repeatedly seen the critical role of the Commission in shedding light on numerous human rights and humanitarian crises. Our office has enjoyed an excellent working relationship with the Commission, and we look forward to continued collaboration.

For UNHCR, statelessness is an issue of paramount concern. An estimated 10 million people in the world do not have claim to nationality or citizenship of any state and are considered "stateless" as a result of exclusionary nationality laws or other factors (and this figure does not include persons who are both stateless and refugees). One child is born stateless every 10 minutes. Indeed, over a third of the world's stateless are children, whose lack of nationality makes them targets for illegal adoption, child labor, conscription, trafficking and detention. Children born from sexual and gender-based violence are at particular risk of statelessness in many parts of the world where only fathers can pass on nationality. Destitute stateless populations are also vulnerable to violent conflict and in some contexts have been forcibly displaced—either within the borders of their countries or across international borders—creating refugee crises and general instability.

Statelessness is a global human rights problem often resulting from discrimination based on ethnicity, religion and gender. Statelessness impacts people in all regions of the world, including the former Yugoslavia and Soviet Union, the Dominican Republic, Côte d'Ivoire, and Myanmar. Statelessness can lead to a life without basic rights such as education, medical care, or legal employment.

The 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the

Reduction of Statelessness are key legal instruments in the protection of stateless people around the world and in the prevention and reduction of statelessness. While they are complemented by regional treaty standards and international human rights law, the two statelessness conventions are the only global conventions of their kind.

UNHCR has a mandate to identify and protect stateless persons and to prevent and reduce statelessness, given to it by the UN General Assembly through a series of resolutions in 1994. Twenty years earlier, the Assembly had asked UNHCR to provide assistance to individuals under the 1961 Convention on the Reduction of Statelessness. UNHCR's governing Executive Committee provided guidance on how to implement this mandate in a "Conclusion on the Identification, Prevention and Reduction of Statelessness and the Protection of Stateless Persons" issued in 2006. This requires the Agency to work with Governments, other UN agencies and civil society to address the problem.

UNHCR is heartened to see increased global awareness of this dilemma and actions taken to resolve it. Through political will, it has been possible to resolve large protracted situations of statelessness, some of which are discussed below.

In November 2014, UNHCR launched a ten-year Global Campaign to End Statelessness, building on increased momentum and awareness to tackle the issue. UNHCR was pleased to see such strong support for the Global Campaign here in the Americas. On November 18th of last year, the High Commissioner, Assistant Secretary Anne Richard as well as State and civil society leaders from across the Hemisphere came together in Washington D.C. to commit to ending statelessness in ten years. The Campaign is supported by a Global Action Plan comprised of 10 actions that are to be undertaken by States with the support of UNHCR and other stakeholders. The plan's actions include resolving existing situations of statelessness; preventing new cases of statelessness from emerging; and better identifying and protecting stateless persons.

In response to our Campaign, nearly six thousand people have signed UNHCR's open letter in support of ending statelessness, available online at ibelong.unhcr.org. We want to promote innovation in addressing this challenge and reach out to non-traditional sectors as partners. This

includes the adoption of dedicated statelessness determination procedures that States can use to identify and protect stateless people under international standards, and supporting research to further clarify the size and needs of the stateless populations. It also involves enlisting non-traditional sectors such as universities, law schools, the private sector, and media. Preventing statelessness can also be viewed as a core development activity, given its linkage to socio-economic indicators.

I will now elaborate on a few of the 10 Actions to End Statelessness.

Action 1: Resolve existing situations of statelessness

If we wish to truly end statelessness in ten years, priority must be given to resolving serious, protracted statelessness situations in the world. In too many instances, families endure generations of statelessness despite having deep-rooted and longstanding ties to their communities and countries. For example, more than two decades after the disintegration of the Soviet Union, over 600,000 people remain stateless. Some 300,000 Urdu-speaking Biharis were denied citizenship by the Government of Bangladesh when the country gained its independence in 1971. A 2013 Constitutional Court ruling in the Dominican Republic led to tens of thousands of Dominicans, the vast majority of Haitian descent, being deprived of their nationality and of the rights that flowed from it. More than 800,000 Rohingya in Myanmar have been refused nationality under the 1982 citizenship law, with their freedom of movement, religion, and education severely curtailed.

While the magnitude and duration of these statelessness crises are daunting, history shows that the solutions are often achieved through rather simple, cost-effective legislative reforms. For instance, in 2007, Brazil reformed its Constitution to resolve the situation of statelessness of an estimated 200,000 children born abroad since 1994. The law also prevents new cases of statelessness. Similarly, in 2007, Kyrgyzstan adopted a new citizenship law to establish that former Soviet citizens residing in the country are considered nationals by operation of law. As a result, more than 65,000 stateless persons and persons of undetermined nationality have had acquired or had their Kyrgyz citizenship confirmed since 2009. In 2008, a High Court decision in

Bangladesh recognized the Urdu speaking Bihari population as Bangladeshi nationals. In 2013, Cote D'Ivoire amended its nationality law to allow long-term residents in the country to acquire nationality through a declaration procedure, and UNHCR is working with the Government to address challenges related to a lack of awareness of the procedure. Significant reductions in statelessness have also occurred in Nepal through a provision of the 2007 Interim Constitution and in the Russian Federation through naturalization. Most recently, amendments to the Citizenship Act adopted by the Estonian parliament in January 2015 demonstrate steps taken to resolve existing situations of statelessness and ensure no child is born stateless. These reforms now enable children born to stateless parents to acquire citizenship automatically at birth, and also ease the requirements for naturalization for those who are over 65 years of age—a change that will benefit the stateless population of 88,000, many of whom are elderly.

Action 3: Remove gender discrimination in nationality laws

Currently, 27 countries around the world prevent mothers from conferring nationality to their children on an equal basis as fathers, and over 60 countries do not allow women to acquire, change or retain their nationality on an equal basis as men. Recently, we have seen progress in this area, with twelve countries reforming their laws in the last ten years to permit mothers to confer nationality on their children, and several States championing the cause at the recent Beijing+20 Equal Nationality Rights event in New York.

Despite these positive developments, UNHCR is increasingly concerned with the impact gender discriminatory nationality laws are having on women and their children born within the Syrian and Iraqi refugee crises. One fourth of all Syrian refugee families are now headed by women alone, as husbands and fathers are forcibly separated from families by war. Since Syrian children acquire nationality exclusively through fathers, this is a recipe for statelessness for Syrian refugee children born in exile - especially if their births cannot be registered. Unfortunately, Syria's nationality laws are not unique in this region. Twelve countries in total in the Middle East and North Africa (MENA) region do not yet grant equality to women with regard to the right to pass nationality to their children. This demands heightened attention from the

international community to prevent a generation of stateless children and the accompanying stability and risks.

Action 6: Grant protection status to stateless migrants and facilitate their naturalization

Although most stateless people remain in the country of their birth, some leave and become migrants or refugees. These stateless people comprise a minority of the global refugee population, but many are not recognized as stateless and face serious human rights problems such as prolonged or repeated detention and destitution. Currently, at least 10 countries have statelessness determination mechanisms which lead to a legal status that permits residence and guarantees the enjoyment of basic human rights and facilitated naturalization, including Mexico, the United Kingdom and recently, the Netherlands. Our goal is that many more countries will adopt such procedures. Such action can be particularly important in regions like the Americas, which do not generally produce statelessness but which may host stateless migrants.

Action 7: Ensure birth registration for the prevention of statelessness

As discussed under Action 3, the emergencies in Syria and Iraq have created, and continue to create, massive risks of statelessness. With so many States consumed by the turmoil in the region, few are prioritizing the issues of legal documentation or statelessness. This is precisely the moment when action is needed to prevent a generation of stateless children. Civil registration systems no longer function in large regions held by ISIL and other militant groups, leaving families trapped in these areas with no means of registering new marriages and births. Internally displaced persons from these regions often flee with no documents—which are often destroyed or confiscated by militants—and have no means of replacing them as there is no centralized civil registration database. In addition to being undocumented, therefore, they also cannot register any subsequent marriages and births.

In response, UNHCR is promoting the timely registration of all refugee births, with particular emphasis on Syrian refugee children born in exile, who currently number over 115,000. In addition to facing statelessness, unregistered refugee children are at heightened risks of family

separation, illegal adoption, trafficking and child labor. In partnership with governments and other agencies, UNHCR has distributed over 300,000 leaflets to Syrian refugees in Lebanon, Jordan, and Iraq to clarify the procedures to register new births, and instructional videos are also screened in camps and urban settings to reach non-literate audiences. UNHCR has partnered with civil society organizations to establish legal aid to assist refugee families in registering new births, especially when they face challenges due to the absence of prerequisite documents that were lost or destroyed while fleeing Syria. In Lebanon, for instance, over 40,000 families were counselled on birth registration procedures in 2014, with 3,000 families advised each month on how to complete the process. Legal assistance is also provided to Syrian refugee families in Lebanon, Jordan, Iraq and Egypt, including the registration of informal marriages to ensure that newborn children can receive birth certificates. Host governments are also taking vital steps. The Government of Lebanon simplified birth registration procedures for Syrian refugees by accepting a single document as proof of both parental identity and marriage. From August to December of 2014, the Government of Lebanon also invited all Syrian refugees to regularize their presence in the country without penalty, thus removing a significant challenge to birth registration for thousands of families. In Jordan, the authorities launched mobile birth registration services for all camps in 2014. These efforts, together with legal counseling and awareness-raising, resulted in an eight-fold increase in the issuance of birth certificates to children born in refugee camps in Jordan from 2013 to 2014.

UNHCR is also taking steps to address the problem of Syrian refugee children who were born—but never registered—in Syria. For instance, over 37,000 such children over the age of one are now registered with UNHCR in Jordan. This gap arises in part from the destruction of half of Syria's hospitals, which has left some 1,480 women to give birth in dire conditions each day—and also without a medical birth notification, which is needed to obtain a birth certificate. Additional hardships are posed by the loss and destruction of identity documents among internally displaced families, and the non-functioning civil registration systems in opposition-held areas. To address these concerns, UNHCR has established legal assistance for families that face difficulties in registering new births, with over 4,000 families given legal representation in 2014. UNHCR has also scaled up protection counselling to conflict-affected families in Syria on civil registration procedures, with over 20,000 persons counseled last year.

Statelessness in the Americas

I would also like to briefly address particular situations of statelessness in the Americas region, including the U.S. and the Caribbean.

During the launch event of UNHCR's 10-Year Global Campaign to eradicate statelessness, High Commissioner Antonio Guterres announced that, "The Americas is poised to be the first region to truly eradicate statelessness." UNHCR is very encouraged to see many positive developments in the Americas in just the first few months of the Global Statelessness Campaign. For example, in December of last year, 28 countries and three territories of Latin America and the Caribbean adopted the Brazil Plan of Action, which includes a specific chapter on statelessness. The adoption of this regional Action Plan further reflects the political will that exists to bring an end to statelessness in this Hemisphere.

Since November 2014, we have also seen States in the region acceding to the Statelessness Conventions, including Argentina, Peru and El Salvador. Furthermore, The Bahamas has advanced with its Constitutional reform process to achieve gender equality in its nationality laws.

These positive practices cannot overshadow the serious risk of statelessness that persists in certain pockets of the Americas. For example, UNHCR continues to be concerned about the serious risk of statelessness facing persons of Haitian descent in the northern Caribbean. In the Dominican Republic, a 2013 ruling by the Constitutional Court stripped the nationality of tens of thousands of persons born in the country. While the Government provided legal avenues to restore nationality to certain categories of persons, the vast majority of the affected population remains without a solution. These persons are now vulnerable to a variety of human rights violations, including the risk of expulsion from their country of origin. This appears to be a growing trend in the region. For instance, in The Bahamas, efforts have been intensified in recent months to detain and expel Bahamian-born persons without prior confirmation of whether these persons are in fact nationals of Haiti.

Surprisingly, there are at least 4,000 stateless people who live in the United States. UNHCR documented the situation of stateless persons in the United States in its December 2012 report *Citizens of Nowhere*, finding that stateless people here face similar challenges as stateless persons around the world: long-term or indefinite separation from their families and loved ones; requirements to report to immigration authorities anywhere from once per week to once per year; and the possibility of detention. In 2011, the U.S. government pledged to take meaningful action to reduce statelessness and end the plight of the stateless who live in the United States. Key congressional lawmakers have proposed legislative solutions that would allow stateless women and men to come out of the shadows and resolve their situation of statelessness. UNHCR looks forward to working with congressional champions and others to generate more awareness and support for these efforts. In the meantime, we support efforts of the U.S. government to reduce the administrative hardships facing those who lack any nationality in the United States.

Conclusion

UNHCR's statelessness mandate has enjoyed strong support from the United States for the better part of the last decade. The U.S. has also been a lead supporter of the Global Campaign to End Gender Discrimination in Nationality Laws, which is an important and complementary effort to our broader statelessness campaign. We welcome ongoing and future support to reduce and prevent statelessness in conflict and protracted situations; prevent childhood statelessness through closing gaps in nationality legislation; and improve birth registration and civil documentation. While I have only briefly addressed the many protection and assistance needs of stateless people, UNHCR has available much more detail that I would be happy to share with you. I thank you again for the opportunity to speak at this important briefing and for your ongoing interest in the human rights of stateless people.

Sixty years ago, the world agreed to protect stateless people. Now it's time to end statelessness itself. Together we can bring light to the shadows.