

International Human Rights Advocacy on Statelessness

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This presentation focuses on the following questions:

1. How is statelessness a human rights issue?
2. Why do human rights advocacy on statelessness?
3. What are the key advocacy targets?
4. What could we hope to achieve?

1. How is statelessness a human rights issue?

This seems a very obvious question and for the most part, it is. All the country situations discussed before lunch and all the descriptions of the work your organisations do, suggest that the connection between statelessness and human rights is well known.

So I will make only two further points in this regard:

1. It is evident, that stateless persons are relatively more vulnerable to be victims of human rights violations than other actors. I.e. stateless people are likely to be discriminated against in accessing their human rights.
2. It is also evident that statelessness is often a result of discriminatory practice. This may be direct discrimination, or as more likely in the Western Balkans, indirect discrimination.

So discrimination is the key – and statelessness is both a cause and consequence of discrimination. In most instances, the discourse on human rights and statelessness can be brought back to discrimination. And this is important, because, the rights to equality and non-discrimination are central to all human rights documents – and therefore, statelessness is relevant to all as well.

2. Why do human rights advocacy on statelessness?

There are various advantages to using human rights mechanisms. What is important to note, is that human rights advocacy should complement and not attempt to replace other types of advocacy.

1. Human rights instruments are more widely ratified.
2. The language of human rights is better known and accepted.
3. The protection offered by human rights instruments is more comprehensive.

There are challenges though – mainly, the lack of understanding of statelessness as an issue and the fact that statelessness has historically been seen as an issue that does not fall within the mandate of the human rights bodies.

3. What are the key advocacy targets?

The focus of this presentation is international advocacy, but before getting onto international advocacy, I must briefly talk about two other advocacy targets, as this type of advocacy both feeds into and feeds off of international advocacy:

1. Advocacy with civil society at national, regional and international levels.
2. Advocacy with national governments.

Civil Society

Various actions that are sometimes not seen as advocacy need to be carried out within civil society circles, to raise awareness on the issue, to get organisations to mainstream statelessness into their agendas and to demonstrate to them, the link between statelessness and discrimination.

Activities include trainings, capacity building exercises, awareness raising, networking, partnership building etc. By doing this, and bringing together a body of organisations that understand and appreciate the issues, it becomes easier to contribute to international advocacy (joint UPR submissions for example).

National level

Similarly, national level advocacy is important – targeting NHRI's, ombudsmen, legislators, policy makers etc. And this too, feeds into international advocacy.

International Advocacy

There are various avenues through which international advocacy can be carried out:

1. Universal Periodic Review – Macedonia coming up for review, and this is an opportunity
2. UN Treaty Body Mechanisms – Particularly, HRC, CEDAW, CRC, ICERD, CESCR. But also others.
3. Special rapporteurs and special procedures – eg: UN Working Group on Arbitrary Detention, SR on Torture, SR on right to food, right to health, adequate housing, right to education, freedom of belief, IDPs, migrants, minority issues, trafficking.
4. OHCHR – for example, making submissions on Arbitrary Deprivation of Nationality.

4. What could we hope to achieve?

I would like to conclude by suggesting four types of outcome we can hope to achieve through this type of advocacy. It must be borne in mind though, that as with any type of advocacy, positive results are neither immediate, nor guaranteed:

1. Making links on the connections between HR and statelessness, resulting in the human rights mechanisms doing more on statelessness and also working more closely with other agencies including the UNHCR on this issue.

2. Directly addressing causes of statelessness with the objective of prevention and reduction. The CRC and CEDAW are the most suitable advocacy targets for this purpose.
 - a. Article 7 CRC:
 1. *The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.*
 2. *States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.*
 - b. Article 9 CEDAW:
 1. *States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.*
 2. *States Parties shall grant women equal rights with men with respect to the nationality of their children.*
3. Securing better protection for stateless persons from all human rights violations – through advocacy targeting the other treaties and on issues such as freedom of movement, education, health, religion etc.
4. Achieving progress in areas that are seen as purely technical statelessness territory. For example, the identification of stateless persons. ERT has argued in its detention guidelines that as statelessness results in discriminatory treatment, states have an obligation to identify stateless persons in order to protect them from discrimination. While this is in the context of detention – where the need is more urgent – the same argument can be extended to other human rights issues as well.