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**A day in the life of...** Delfina Lawson, Director of the Legal Clinic for Migrants and Refugees at Diego Portales University in Chile.

*“Working with communities and being in contact with children that are at risk of statelessness has been moving. Understanding the way they perceive the consequences of having been denied their Chilean nationality in their everyday life has transformed and shaped the way we have approached our work on statelessness and the projects that we have been implementing.”*

**Read the full interview in this month’s “A day in the life of...” at the bottom of this bulletin.**

## European Network on Statelessness holds inspiring Youth Congress

*“35 young people, 3 days, a host of statelessness experts and all set against a backdrop of Belgian waffles and some exceptional sunny weather”.*

This is the opening line of the [blog by Deirdre Brennan](#), one of the new European Network on Statelessness *Youth Ambassadors*. She is describing the events of 11-13 July, when the [first ever Youth Congress on Statelessness](#) was convened in Brussels, Belgium. The Congress featured sessions in which the 35 budding young experts explored in more depth the issue of statelessness and the challenges faced in Europe. There was a particular focus on the phenomenon of childhood statelessness and what more can be done to prevent it, given that it is [ENS’ #statelesskids campaign](#) which the *Youth Ambassadors* will (at first, at least), be actively supporting. There were also numerous ‘skills’ sessions during the Congress, helping the *Youth Ambassadors* to become better equipped to develop advocacy messages, reach out to the media and to effectively engage social media channels behind the cause. Deirdre and her fellow *Youth Ambassadors* got their first taste of advocacy on childhood statelessness when they participated in an event at the European Parliament that marked the end of the Youth Congress – presenting an online petition that has already received over 20.000 signatures ([the petition is still open and you can sign it here](#)). In countries across Europe, the *Youth Ambassadors* are now working on concrete follow up plans that they can execute to help with awareness raising and advocacy efforts in support of ENS’ campaign to end childhood statelessness in Europe.

## Nationality and statelessness at the Human Rights Council

At the [32<sup>nd</sup> session of the UN Human Rights Council](#), which wrapped up in Geneva on the 1<sup>st</sup> of July, two resolutions were adopted which relate specifically to nationality issues. In the latest [resolution \(A/HRC/C/L.8\) on human rights and arbitrary deprivation of nationality](#), adopted without a vote, the Council reaffirms that the right to a nationality of every human person is a fundamental human right; and calls upon States to refrain from enacting or maintaining legislation that would arbitrarily deprive persons of their nationality on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, including disability. This resolution has recurred regularly at the Council (and previously the Human Rights Commission) since 2008 and helps to keep the issue of tackling arbitrary or discriminatory deprivation of nationality on the human rights agenda.

In a [resolution \(A/HRC/C/L.12\) on the right to a nationality: women's equal nationality rights in law and in practice](#), adopted without a vote and with 111 co-sponsoring States, the Council urges all States to refrain from enacting or maintaining discriminatory nationality legislation, with a view to avoiding statelessness and loss of nationality, preventing vulnerability to human rights violations and abuses, decreasing the risk of exploitation and abuse, and promoting gender equality in the acquisition, change, retention or conferral of nationality. Importantly, this resolution mandates the convening of an intersessional workshop prior to the 36th session of the Council.

A number of other resolutions include language relevant to tackling the root causes of statelessness or providing opportunities to further raise the profile of the issue of statelessness within the human rights system. For instance, the [resolution on the Human Rights of Migrants](#) mandates an 'enhanced interactive dialogue' on the human rights of migrants in the context of large movement at the 34th session of the Council with UNHCR included as one of the panellists. Given the interplay between (forced) migration and statelessness, including for instance the challenges relating to the protection of stateless persons in a migratory context and obstacles that undocumented migrants face in accessing birth registration for their children, this dialogue is one forum in which these issues can be further explored. There is also to be a panel session on [Youth and Human Rights](#) at the 33rd session of the Council (13-30 September 2016), which could be an opportunity to call further attention to the right of every child to a nationality and the vulnerable situation of stateless youth (especially following on from UNHCR's recent NGO consultations which also had a "Youth" focus and various initiatives geared towards ending childhood statelessness). The resolution on [Trafficking in Persons, especially women and children](#), includes references to the importance of birth registration documents in general and specifically for those fleeing conflict, including those living in camps for IDPs and refugees, which is also a key tool in preventing childhood statelessness in these contexts. Several special procedures, including the Rapporteurs on the rights of internally displaced persons, violence against women and the situation of human rights in Eritrea were extended, as was the mandate of the Working Group on discrimination against women. Statelessness issues intersect with the mandates of all of these special procedures, and others, so there will be renewed opportunities for engagement in the coming years. [Learn more on the potential role of the Special Procedures in addressing statelessness from this blog written by Rachel Brett last October.](#)

## Recent ECtHR jurisprudence relating to the right to a nationality

The European Court of Human Rights (ECtHR) recently decided several cases that relate to the right to nationality:

[Ramadan v. Malta](#) revolves around Mr. Ramadan who is deemed to have acquired his Maltese nationality by fraud through marriage with a Maltese national. Though his Maltese nationality has not been revoked yet, he is at risk of becoming stateless. During his application for Maltese citizenship, the applicant renounced his Egyptian citizenship, in line with national legislation. During his life in Malta for over twenty years, he has married twice and had children from both marriages. The applicant lodged an application at the Court in 2012 that Article 8 ECHR would be violated if his nationality would be revoked by the Maltese authorities. Yet, it is interesting that arbitrary revocation of citizenship might in certain circumstances raise an issue with regard to the right to respect for private life and family life. Indeed, the Court deems the private life of an individual to be a concept that is wide enough to embrace aspects of a person's social identity. Also noteworthy is the dissenting opinion by Judge Pinto de Albuquerque. He believes that by allowing such deprivation, it was not taken into account the fact that *"the applicant had not kept ties with his country of origin and his relatives in his country of origin, that he had been living in Malta for over twenty years, that he spoke Maltese and that he was perfectly integrated into Maltese culture and society, having three children of Maltese citizenship living in Malta. Furthermore, it failed to consider that the applicant would become a stateless person as a result of the decision"* For more information please also see this [blogpost](#) written by Professor Dembour, Professor of Law and Anthropology at Brighton Business School, University of Brighton.

On Thursday 21 July the ECtHR found a violation in the case of [Foulon and Bouvet v. France](#) (nos 9063/14 and 10410/14). The case revolved around the French refusal to register the births of children born to French nationals in India, on the suspicion that the births were the result of surrogacy arrangements which in France are illegal. The violation was held to be similar to the one found in the *Mennesson and Labassee* case, as a violation of article 8 ECHR with respect to respect for private life of the children involved (French).

At the end of May the ECtHR ruled in *Biao v. Denmark*, about discrimination among nationals in family reunion matters. The Court found a violation of ECHR article 14 read in conjunction with article 8 caused by the Danish Aliens Act's exemption (the so-called 28 years rule) to the attachment requirement requiring that the couple's aggregate ties with Denmark must be stronger than their aggregate ties with another country. The exemption was found to have the indirect discriminatory effect of favouring Danish nationals of Danish ethnic origin, thereby having a disproportionately prejudicial effect on persons who acquired Danish nationality at a later time in life, and who are of another ethnic origin than Danish. For more on the ruling and its legal basis see this [blog by Eva Ersbøl](#).

## What's new: Law, policy and jurisprudence

**Dutch law expands possibilities regarding deprivation of nationality following terrorist crimes:** With the exception of the deprivation of nationality leading to statelessness, Dutch law has expanded the possibilities under which Dutch nationality may be deprived following terrorist crimes. The changes entered into force on 1 July 2016 with retroactive effect up to 31 March 2016 (Dutch).

**De Wilde v. Minister of Home Affairs:** In *De Wilde v. Minister of Home Affairs* ([Case No: SA 48/2014](#)) the Supreme Court of Namibia ordered that the appellant be declared a Namibian citizen based on his birth in Namibia to parents who were ordinarily resident. Article 4(1)(d) of the Namibian Constitution holds that persons born in Namibia following the date of Independence acquire citizenship if either of their parents are 'ordinarily resident' at the time of birth. The Court contemplated the meaning of being ordinarily resident, explaining that "key considerations will include whether the person concerned normally lives in Namibia, and is therefore not merely visiting Namibia, and whether the person has no immediate intention of permanent departure". The Court also commented on what forms of evidence may be relevant to this determination and held, in this case, that the parents of the appellant were indeed ordinarily resident at the time of his birth.

**Texas reaches agreement with families in birth certificate case:** The state of Texas, after undergoing mediation, has reached an agreement with undocumented families in a lawsuit over the denial of issuing birth certificates to children born to undocumented immigrants in the U.S. The agreement involves Texas to clarify and expand the types of secondary forms of documentation that can be proved by undocumented immigrants to prove their identity in relation to registering the birth of their children.

**Former Nazi death guard Oberlander in Canada wins court case to keep citizenship:** Mr. Oberlander, a 92-year old former Nazi death squad member has won a case before the Canadian Supreme Court, protecting him from the government attempts to revoke his citizenship. After WWII Oberlander emigrated to Canada where he became a citizen but did not reveal his wartime record.

**Students get priority in latest push to turn stateless into citizens:** A new push to ensure full access to rights prioritises the grant of nationality for more than 20.000 stateless students entitled to Thai citizenship.

**Civic groups demand law revision to remove statelessness:** The Legislature in Taiwan has recently passed the first reading of an amendment to the Nationality Act which aims to reduce statelessness and inequality for foreign spouses. Civic groups point out that five articles in the act however fail to adhere to this aim, instead making some Chinese and other foreign spouses easily subjected to statelessness through what they claim to be "some obscure passages such as 'no criminal records' in Article 3" and requirements that discriminate against new immigrants.

**Mobile birth registration gains momentum in Ganta, Liberia:** As of March 2016 Nimba County, Liberia, has mobile birth registration and the turnout proves to be high. At the mobile registration point, children aged 0-12 years can get registered and receive the certificate the same day.

**95.000 Malawians earmarked for national ID issuance:** The National Registration Bureau in the Ministry of Home Affairs and Internal Security has secured MK 1.5 billion to carry out the issuance of national ID documents to 95.000 Malawians in the fiscal year 2016/2017. The Bureau states that those aged 16 and older will be eligible and will be checked "*to ensure that they are bonafide citizens of Malawi*".

**Supreme Court To Hear Unwed Parents Birth Citizenship Row:** The US Supreme Court has agreed to hear an appeal on citizenship rules relating to children of unmarried parents. The case is *Lynch v. Morales-Santana* and deals with the grant of citizenship to a man born in the Dominican Republic to an unwed U.S. citizen father and noncitizen mother. The case revolves around a gender discrepancy in US immigration law that affects access to citizenship for children born abroad, out of wedlock, and when they can access nationality through their father.

## What's new: Publications, tools and resources

**The Black Box of Nationality: The Naturalisation of Refugees and Stateless Persons in Hungary:** This research report, by Gábor Gyulai of the Hungarian Helsinki Committee, analyses Hungary's compliance with the country's international obligations to facilitate refugees' and stateless persons' access to naturalization. The study also considers to what extent EU law and jurisprudence of the European Court of Human Rights set fair procedural safeguards that European states must observe in naturalization procedures. Particularly in light of refugees and stateless persons much lower chance to successfully naturalise than other long-term foreign residents, the report concludes that Hungary is far from sufficiently fulfilling its obligations. Main findings of the research are also listed in this [blog post](#) on the website of the European Network on Nationality.

**[UNHCR Good Practices paper Action 6: Establishing Statelessness Determination Procedures to Protect Stateless Persons](#)**: The UN High Commissioner on Refugees published a Good Practices Paper in relation to Action 6 of the Global Action Plan to End Statelessness by 2024. UNHCR Good Practices Papers aim to demonstrate States how to work towards ending statelessness by 2024 by highlighting good practices along the lines of the 10 actions proposed in the campaign's Action Plan. Action 6 urges States to establish statelessness determination procedures.

**[UNHCR Statelessness in West Africa Newsletter](#)**: UNHCR issued newsletter number 9 on the topic of statelessness in West Africa for the period April–June 2016. It includes updates on Sierra Leone and Mali joining the statelessness conventions, awareness raising in Burkina Faso and translating the Abidjan Declaration commitments into action.

**[Providing Legal Aid to Vulnerable Communities](#)**: On the basis of the story of 56 year old farmer Daw Ri Sue, this article by Yi Yi Soe and Flora Ju sets out the efforts taken by the Norwegian Refugee Council regarding legal aid for thousands in Myanmar who lack basic identification. Mostly living in hard to reach rural areas, the NRC uses mobile 'One Stop Service' centres to provide identification documents, counselling services and briefs on the legal rights of the ID card holders.

**[Brexit and Citizenship](#)**: Jelena Dzankic wrote a piece for EUDO Citizenship considering Brexit and (EU) citizenship. She considers the loss of EU citizenship and efforts by British citizens living abroad in the EU to acquire other nationality (mainly Irish). As well as the legal residence status of around three million EU citizens residing in the UK.

**[Realising the Right to Legal Identity in Indonesia](#)**: A case study on the efforts made by civil society organisations and the Australia Indonesia Partnership for Justice to expand access for Indonesian citizens to legal identity documents, particularly in the period 2011-2015.

## Announcements and events

**[Reminder: Ending childhood statelessness – Sign the petitions](#)**: The European Network on Statelessness is running a petition in relation to [ending childhood statelessness in Europe](#). Lawyers for Human Rights have a petition aiming to [end childhood statelessness in South Africa](#). A friendly reminder for those of you who have not already signed the petitions relating to ending childhood statelessness but who are interested nonetheless

**[Statelessness Working Paper Series](#)**: The next deadline for submissions to the Institute on Statelessness and Inclusion's Working Paper Series will follow shortly after the summer, on **15 September 2016**. For full details on how to contribute please follow the related link.

**[Civil Society Leadership Awards](#)**: The Civil Society Leadership Awards (CSLA) provides the opportunity for fully funded master's degree study in certain fields in host universities across the world. The Awards relate to individuals who are seen as clearly demonstrating "*academic and professional excellence and a deep commitment to leading positive social change in their communities*". **Application deadline is 15 September 2016.**

**[MA in Refugee Protection and Forced Migration Studies - Distance Learning](#)**: The School of Advanced Study, University of London, offers this unique in the field MA distance-learning program on refugee protection and forced migration. The programme is particularly designed for people working in the contexts of refugee, human rights or humanitarian fields and who wish to develop their careers. **The deadline for applications is 1 September 2016.**

## Popular on Twitter this Month

**Foreign Affairs** @ForeignAffairs Most Gulf States refuse to offer citizenship rights to migrants, even to those born within their borders: <http://bit.ly/1SB...>

**101 East** @AJ101East Stateless children in Sabah, Malaysia, earn up to US\$2/day selling plastic bags. Watch: [http://aje.io/InvisibleChildren ...](http://aje.io/InvisibleChildren...)

**Liesl Heila Muller** @lieslmu1 11 #SADC countries represented at regional CSO network meeting on #statelessness at @LHR\_SA & @UNHCRROSA #citizenshiprights @CRAIAfrica

**Bronwen Manby** @BronwenManby Critique of ECtHR failure to treat #statelessness & right to nationality seriously - Ramadan v. Malta case

**UNHCR KENYA** @UNHCR\_Kenya Kenyan MPs join #UNHCR & partners in signing the Open Letter to end #Statelessness #iBelong <http://bit.ly/1WVqSyP>

**Bahrain Human Rights** @BahrainRights #Bahrain Bahraini Authorities Forcibly Deport Human Rights Lawyer Taimoor Karimi <http://ow.ly/gvth501NKfv>



### Delfina Lawson

Director at the [Legal Clinic for Migrants and Refugees](#) and researcher at the [Center for Human Rights](#) at [Diego Portales University](#) in Chile

Also member of the [Americas Network on Statelessness and Nationality \(RED ANA\)](#)



#### How did you get involved in working on statelessness?

The Legal Clinic for Migrants and Refugees has been involved during the past five years with the situation of children born in Chile that are at risk of statelessness, since they were denied their Chilean nationality at birth because their parents were in an irregular migratory status. During that period of time, the involvement of the Legal Clinic, and the Center for Human Rights has increased in its intensity and complexity. During the last couple of years we have taken several cases to Court and raised the issue with the media. Our commitment has been strengthened under the framework of UNHCR's Global Campaign, the Brazil Plan of Action and the creation of the Americas Network on Nationality and Statelessness.

#### Can you give us a short description of the work you do and tell us about your statelessness activities?

At the Legal Clinic on Migrants and Refugees we provide free legal services for migrants, refugees, asylum seekers and people at risk of statelessness in Chile. Every semester a group of 10/12 law students provide legal representation and advice to more than one hundred people. In relation to our work with the eradication of statelessness in Chile we combine community outreach activities (in particular in the north of the country), with strategic litigation and advocacy. We are also part of the Americas Network on Statelessness and Nationality, and as such participate in regional and national activities, including training, advocacy and research.

The Chilean Constitution guarantees the right to a nationality both through *ius soli* and *ius sanguini* principles. Nevertheless, until the year 2014, the Chilean government used a restrictive interpretation of the constitutional provision, and denied the nationality to those children born from parents living in the country under an irregular migratory status. As a consequence of this practice, thousands of children born in the country were registered as "children of foreigners in transit" (*hijos de extranjeros transeúntes*), instead of Chilean nationals.

Within this context, during the year 2015, and with the collaboration of another legal clinic and a local NGO, we initiated a collaborative project so as to address the situation of these children. We travelled to the north of the country, and worked together with local institutions and actors, such as school directors, social workers, municipalities and the people that have been affected by the denial of their nationality. Many of the children (around 80%) belong to indigenous communities of the area (*aymaras* and *quechuas*). As a result of these community based activities, we presented for the first time in the country, a collective nationality claim in representation of those 167 children. With the intervention of the Supreme Court of Justice, and within the framework of a legal conciliation, the government acceded to rectify the registration of those 167 children, recognizing immediately their Chilean nationality. These activities were used to raise the issue of statelessness with the government authorities and in the media.

#### Could you describe a particular project you are working on right now?

In the year 2014, the government modified its constitutional interpretation, and as of that year all children born in Chile (except children born to tourists or crew members) must be registered as Chilean nationals. After this change in the interpretation and the work carried out during the past year, during the year 2016 our objective is to collaborate with the government so as to guarantee that all the children whose nationality had been denied at the moment of birth, can now confirm their Chilean nationality.

### **What do you most enjoy about this work?**

This is a difficult question, because I definitely enjoy everything about this work. Working with communities and being in contact with children that are at risk of statelessness has been moving. Understanding the way they perceive the consequences of having been denied their Chilean nationality in their everyday life has transformed and shaped the way we have approached our work on statelessness and the projects that we have been implementing.



I like to think of the Legal Clinic as a bridge that can facilitate processes and that can help people access and enjoy their rights. Working with communities has shown us that they can lead their own processes; and that we only act as mediators when that is necessary. I also enjoy seeing the enthusiasm of law students when they find that all the theory that they have studied in books can actually be applied in practice, and can have a positive impact in the life of people.

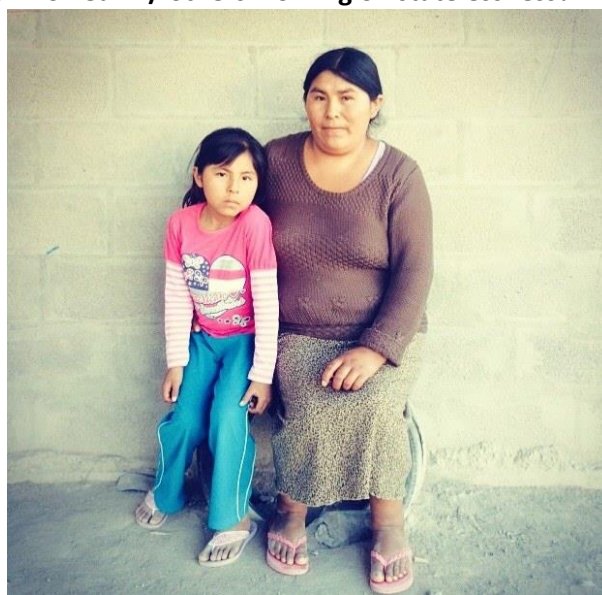
Working with students is motivating and energizing, they are always full of new ideas and new ways of approaching legal conflict.

### **What do you find are the biggest challenges you face in your work?**

In Chile, more than 2500 children remain at risk of statelessness. We do not know who they are or where they live, neither does the government. Thus one of the greatest challenges we face now is to be able to reach these children and ensure their right to a Chilean nationality. We hope to be able to move forward in this area during the second half of the year 2016.

### **What advice would you give to someone who wants to get involved in / others working on statelessness?**

In the first place, I would like to highlight the importance of working with local communities so as to better understand the impacts of being stateless or at risk of statelessness. The way they feel about the lack of nationality, the human rights abuses that they have had to face and their strategies to move around this situation. Meeting other people that also work on statelessness in your own country or region is also an asset. Working together with other organizations strengthens the impact of your work, and complements it. Additionally, you can always learn from positive or negative experiences of other people and organizations that have addressed statelessness.



### **What do you hope to accomplish through your work?**

Our dream is to be able to say that every child born in Chile has acquired Chilean nationality according to the law, and that there have been no arbitrary and discriminatory denials of nationality. We know that it may take some time, and that it may be a difficult road to transit, but we believe that since numbers are small, and as there is political will, it may be achievable in the near future. We will keep you posted!

Contribute to the Statelessness Monthly Bulletin via  
[news@InstituteSI.org](mailto:news@InstituteSI.org) or visit [www.InstituteSI.org](http://www.InstituteSI.org)