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Human Rights and Support for Stateless People around the World: Japan’s Role

Edited by

CHEN Tien-shi

National Museum of Ethnology
Osaka
2014
Preface

SUZUKI Motoi
Associate Professor, National Museum of Ethnology

This volume is a record of the international conference, “Human Rights and the Support for Stateless People around the World: Japan’s role”, containing important resources for academic research on the issue of stateless people. The conference was held on February 27th, 2011, in the National Museum of Ethnology, as a part of the research project, “the Anthropology of Supporting: Constructing Global reciprocity”, directed by Motoi Suzuki from October 2009 to March 2013.

The project belongs to the National Museum of Ethnology’s core research “Anthropological Studies of Inclusion and Autonomy”. In this project, we focus our attention on “supporting” as a keyword, and try to understand the nature of the modern world in terms of the dynamic process of exclusion and inclusion. Economic globalization has caused a restructuring of industry, which in turn has produced social differentiation in many parts of the world. As a result an increasing number of people are excluded from basic social services. At the same time, however, a great variety of trans-border supporting activities have been developed in order to stop social exclusion and promote social inclusion of the excluded. We aim to compare, from an ethnographic viewpoint, such supporting activities and envisage the idea of global reciprocity. The project consists of general studies and case studies. The former includes two kinds of questions, “envisioning global reciprocity” and “practical anthropology for supporting activities”. The latter focuses on particular supporting activities such as fair trade, international cooperation and volunteers, refugee assistance, and assistance for stateless people. CHEN Tien-shi, a core member of the project, organized the conference addressed in this volume, to advance the case study part of the project.

The emergence of stateless people is a contemporary phenomenon. Modern states have introduced systems of citizenship, which try to register inhabitants as citizens in order to establish a series of rights and duties of their members. If an individual with a certain citizenship has no chance to go abroad, marries a partner with the same citizenship, and has a child, there would be no stateless people. In reality, however, the increase in trans-border migration has produced many incidents, in which migrants find themselves stateless, falling in between citizenship of the country of origin and destination, when they try to cross the border, get married, or register their child as a citizen. Since citizenship is often the basis of receiving social services the state provides, being stateless is one of most serious forms of social exclusion.

One aim of providing support to stateless people is to facilitate access to social
services from which they are excluded in the country of their current residence. It is, however, also critical for the supporters of the stateless to develop international networks for sharing information and experience, as laws relating to citizenship and legal procedures for the stateless differ from country to country. In Japan, it is especially urgent to take action for the problem of stateless people, learning how other countries treat them, since the problem itself is mostly unrecognized.

In this sense, this publication is timely, not only because it reveals the current situation of stateless people living in Japan, collecting their real stories, but also because it clarifies the current challenges of support activities for the stateless thorough comparison with the experience in France and Thailand.

At the same time, the problem of statelessness is only one important part of the larger theme of this paper, focusing on global support activities. I hope that this publication, in the Senri Ethnological Reports (SER) series, will arouse interests in “the anthropology of supporting” and the challenge of constructing global reciprocity.
Editor’s Preface: Considering Challenges of Supporting Stateless after the Conference

This book contains a transcription of the international workshop and conference, “Human Rights and Support for Stateless People around the World: Japan's Role,” which was held in February 2011 as part of the National Museum of Ethnology’s Core Research Project “Anthropological Studies of Inclusion and Autonomy.”

At the conference, we had researchers in the field of law and anthropology of statelessness, as well as lawyers, United Nations’ officers, government organization officers, and practitioners working for civil groups such as non-government organizations (NGOs) and non-profit organizations (NPOs). We also invited stateless people to give detailed presentations on recent experience of support for stateless people and case studies of stateless people who live in Japan. From abroad, we invited researchers and experts who supporting stateless people in France and Thailand. They reported their cases and shared their knowledge on how they have been dealing with stateless issues. By comparing the different kinds of stateless problems that exist in France and Thailand with Japan, we were able to figure out the characteristics of stateless problems and the different support systems that exist in each country. The conference helped us gain a clearer understanding of the problems we are facing.

As for the case in Japan, it became clear that many stateless people are not recognized as stateless. Moreover, the Japanese government has been very slow in taking action to tackle the issue of statelessness. Because every country is different, not all lessons from foreign countries can be applied to Japan. However, Japan should study the cases of foreign countries regarding the issue of statelessness because there are certainly a lot of valuable information Japan can learn from these case studies. Moreover, in this globalized world where people move from countries to countries, it is important for Japan to understand the situations and the support systems in each country in order to take part in solving transnational issues.

Several things were clarified through this conference.

First, the big difference between the two countries, which are France and Thailand, and Japan is that the two countries recognize the existence of stateless people and give them the rights to live as stateless people, but based on the facts and the actual treatments that people are getting, Japan is still reluctant to recognize the existence and understand the situations of stateless people. In fact, the government is not even aware that stateless people live in Japan.
Second, while France has set a clear definition of stateless based on detailed classification, and Thailand has shown the intention to start registering and institutionalizing stateless people, Japan has not taken any action to tackle the issue of statelessness and remains unconcerned about this issue.

Therefore, compared to France and Thailand, Japan does not have an official system, definition, and standards for recognizing statelessness. Currently, Japanese officials make arbitrary decisions about whether a person has a nationality or is stateless and is issuing them identification cards based on officials’ personal understandings. Some people do not realize there is a defect in their identification cards until a problem arises. For example, some stateless people realize the problem when using their identification card to apply for a passport at an embassy. They are told that “Because you are not a citizen of this country, we cannot issue a passport for you.” In most cases, this is how they actually realize that they are stateless and are not the citizen of the country that is written on their identification card. The statelessness problem is further complicated in Japan because there are no institutionalized standards for the certification of nationality. Because the system is unclear, stateless issue has become a trivialized problem in Japan.

Furthermore, while there is only one word for “statelessness” is used in Japan, the word is classified in more detail in Thailand, which are “statelessness” and “nationalitylessness.” They are subdivided and are called “rootless” according to their legal circumstances and backgrounds. From talking about the report in Thailand, it became clear that there is a subtle difference in the definition of stateless people in the papers presented by Ms. Bongkot and Professor Kritaya. Ms. Bongkot classifies people with the aim of resolving problems practically, while Professor Kritaya regards them more theoretically and comprehensively. Further research and resolution of such differences in Thailand is expected.

Third, in contrast to Japan, in France and Thailand, legal systems are set up to handle stateless problems systematically. In France, a legal system is established and the French Office for Protection of Refugees and Stateless Persons (OFPRA) is one part of the government which is in charge of the recognition, protection and support of stateless persons. Geographically and historically, many people from countries in Eastern Europe and Africa fled to France. France is also a signatory to the Convention Relating to the Status of Stateless Persons. Besides protecting and supporting refugees, they have established a proactive system to recognize and support people who are stateless due to national break down and change of political and legal system etc.

One of the distinctive features in Thailand is in addition to a national legal system, civilian groups also play a key role in supporting the stateless people. Thailand is not a signatory state of the Convention Relating to the Status of Stateless Persons. However, Thailand has borders with many countries and is populated by a
variety of ethnic minority groups. It also has a historical experience of dealing with many cases of stateless people who enter the country. Therefore, many cases have been handled by human rights groups and researchers through cooperation with the government. In Japan, the current system leaves stateless people dependent on support provided by individuals and NGOs. Unfortunately, unlike France and Thailand, the Japanese government has not taken action to tackle the problem of statelessness. Currently in Japan, one must find assistance from a group of a variety of people such as lawyers, researchers, and professionals on statelessness to deal with the issue of statelessness. With this in mind, the Stateless Network, which is a non-profit organization that I established, was established with the hope to support stateless persons by creating a place where people could gather, share their knowledge, and create a better future for stateless people. The organization has been able to gradually increase its support to stateless people since its establishment. However, the Japanese government has not taken as much action as Thailand had.

The reason why Japan is far behind from how much the government of Thailand and France has done in recognizing and developing laws for stateless people may be that geographically, Japan does not share land borders with other countries. Very few people who do not have a nationality or an identification card flee to Japan, and very few people in the border region have an ambiguous nationality. As a consequence, the government is not really aware of the existence of stateless people, and therefore have not taken any action regarding the issue of statelessness. Also, while the Japan registers and issues certification to refugees and children who do not have a Japanese nationality, it makes careless decisions when recognizing the people’s nationalities. This may possibly be due to the historical background of Japan not having as many immigrants as France and Thailand had.

Since stateless is a global issue, cooperation with other countries is absolutely necessary. With the help from organizations overseas that we made connections with through this conference, allowing us to discuss about specific examples about the conditions of stateless people. I would like to show an example of the case studies.

Shortly after we held the conference, we received a case study concerning the marriage and birth of a child between a Japanese man and a stateless woman from Thailand. The two met in Thailand and were waiting to consult with a local stateless support group in Thailand regarding their marriage registration. However, because of the language barrier etc., the group in Thailand referred him to contact us, the Stateless Network, in Japan. After consulting with him, we contacted the group in Thailand, exchanged opinions and ideas to how to support the administrative procedures of the Japanese man and the stateless Thai woman.

Since this case happened right after the conference when groups and researchers exchanged opinions and developed connections, it was easier to coordinate researchers and supporters from Thailand and Japan. We negotiated about this issue
with Japanese organizations as well as Thai organizations, divided the procedures, and accompanied them to each official separately. This cross-border collaboration support was smoothly done by email and phone calls. This was especially done successfully with the help of Kayoko Ishii, an anthropologist who does research on Thailand in Japan. Ms. Ishii explained about the procedures in Thailand to Japanese supporters from the perspective of anthropology. Additionally, she also explained the Japanese circumstances to supporters of Thailand with delicate attention in order to avoid contradiction in the efforts of supporters in both countries. This facilitated supporters’ transborder collaboration. Stateless support is considered to be crucial on the legal aspect, but cultural and social input for legal professionals and legal operation is certainly important.

A year after this first consultation with the couple, the stateless woman was able to complete her civil registration in Thailand, marriage registration, birth registration of her child, certificate of recognition, census registration in Japan, the application for her passport, and other procedures without any trouble. In January 2012, the couple was able to have their wedding reception in Thailand, an event celebrated by many people. Their child received her Japanese nationality in April in the same year. Afterwards, the family moved to Japan and are currently living happily together. This case precisely demonstrates the practice of “Anthropology of Support”, and is an important example of stateless support. In this way, this conference initiated the opportunity to develop cross-border cooperation and to expand support activities at the same time. The role of anthropology in support activities become more distinct. Concerning Japan’s current situation, creating a legal system for stateless persons immediately is not an easy task. However, gaining experience through taking part in various cases will lead to more support on a larger scale. Each step in this process is necessary so that many people will become more aware about the current conditions of stateless people.

On July 9th, 2012, the “Alien Registration Card” was replaced by a “Residency Card” as the form of identification for non-Japanese citizens. The new re-entry system is said to easing the traveling process for non-Japanese citizens living in Japan. However, stateless people who cannot obtain a valid passport are not eligible for these changes. Since Japan does not have a recognition system for stateless persons, there are many de facto stateless people who actually do not have a nationality even though their Alien Registration cards show that they are a national of a certain country. The revision of this law keeps the problem of de facto stateless people remain unresolved.

The situation of the stateless people in Japan may become more complicated under the new Residency card system. This is a new issue that needs to be investigated with attention to the statelessness recognition system which is the most important issue in Japan. On editing this report of international meeting, I attempted
to write this book in both Japanese and English. By writing in both languages, I hope many people not only in Japan but also in foreign countries who are concerned about this issue would be able to learn about the achievements of the international conference and for it to be a good reference for their further study on stateless people and support activities. Also, the translation work between Japanese and English was quite difficult because legal systems differ in each country and the technical terms were difficult to translate. Conversely, when addressing stateless problems, which I believe it should be solved through international cooperation, holding a common definition of statelessness would be the first step to realize the support.

In the process of translation, I tried to express the speaker’s intent and use words correctly. As an editor, I am fully responsible for any mistranslation and inappropriate expressions that remain. Lastly, through this book, I look forward to the further development of research for statelessness, and in the wider field of “Anthropological Studies of Inclusion and Autonomy”. Also, I hope this research and the practice of stateless support would contribute to the institutional reform.

**Note**

1) This content is based on the information as of the end of February, 2011.
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Introductory Remarks of International Academic Conference

CHEN Tien-shi
Associate Professor, National Museum of Ethnology
President of Stateless Network

1 Introduction

Stateless people, the theme of this International Academic Conference is not as well known in society as the refugee issue. For this reason, stateless people have been often referred to as “the forgotten people (Chen, 2010)”. There are many groups supporting refugees but very few groups target stateless people. As a result, the stateless issue often does not come to the surface and has been neglected.

In November 2008, the National Museum of Ethnology and UNHCR (United Nations High Commissioner for Refugees) cosponsored a forum at United Nations University in Tokyo titled, “The World Seen from the Viewpoint of the Stateless: A Reevaluation of Nationality in Contemporary Society”. Inspired by this, along with the support from many people, we were able to establish an organization called “Stateless Network” three months later in January 2009. Stateless Network is a non-government organization mainly for supporting stateless persons.

About two years ago from now, I was consulted by a stateless person living in Japan and this led me to hold today’s conference. He was stateless, born in Thailand from Vietnamese parents. His parents escaped war and moved to Thailand. He was not given Thai nationality, nor was he registered in Vietnam. He grew up in Thailand stateless. Being stateless in Thailand, his freedom of movement was quite restricted. It meant that freedom to choose his job was also restricted and he was forced to live an inconvenient life. He was born and raised in Thailand, but was more restricted than other ordinary people. He decided to come to Japan with the hope to start a new life, however, he could not obtain a passport since he was stateless. The only way to come to Japan was to make a fake passport. Even though he could move to Japan which is a society governed by law, he was forced to live a restricted life in Japan as well since he was an illegal immigrant.

Since he did not have residence status in Japan, he was restricted in business, in movement, and in other various aspects in daily life. He worked diligently, however, could not be regularly employed because he did not have resident status. Now, he is going through legal proceedings to acquire special permission for residence in Japan, but nothing seems to have changed. He has been living in Japan for more than ten years, and he cannot see his future in obtaining a residential status. However, he can not even return to Thailand where he left his family. It is because, even though he was born in Thailand, he is stateless, and the country would not necessarily accept him as he is not considered a Thai national. Under such circumstances, he has been struggling and has been bearing a heavy psychological
As I was asked for advice by him, I was very distressed at the fact that there are so many differences in people’s human rights, the level of societal interest, and a person’s potential future, depending on the place you were born and the time you live. He told me that he would rather go back to Thailand, and I decided to consult various people who are experts in Japanese law. Since Japanese law is strict, it was no easy task to find a solution to the matter. Meanwhile I went over to Thailand accompanied by a Thai specialist and visited groups that support stateless people there. I met Ms. Bongkot and Professor Kritaya and consulted them on this matter.

We exchanged information on the situation of stateless people in Thailand and how the Thai people support them. At the time I visited Thailand, even though they supported stateless people in Thailand, they didn’t have any idea of those people who left the country. When I asked them for advice, they became interested and told me that they would cooperate with us for resolution of the cases of Vietnamese stateless people who moved from Thailand to Japan.

Even though some problems can be resolved within each country, sometimes it is necessary to go beyond national borders to achieve real resolution for stateless people. The goal of this conference is to search for a new style of support through exchanging information beyond national boundaries. We will discuss what sort of support we can provide to stateless people, and how to reform the national system to support stateless people in this era where people can easily move globally.

2 Stateless People with and without Resident Status

There are two kinds of stateless people: those with resident status who are legally permitted to live in the country and those without resident status. I would like everyone to have a thorough understanding of those people who legally live in the country even though they are stateless. Many people tend to think every stateless person is an illegal stayer, however, this is a complete misunderstanding of the concept of stateless people.

It goes without saying that stateless people without resident status are living in harsh conditions compared with those who have resident status. Stateless people with residential status do not have limitations on medical treatment, attending schools, or administrative procedures which are necessary for daily life. Aside from ignorance and societal prejudice against stateless people, stateless people with resident status do not always face problems in their daily lives. But to mention one or two, they have trouble acquiring passports and visas when they travel abroad since they are stateless, and have a problem with identity. Since they do not have some kinds of identification, they face the problem that they cannot tell what country they are from or they are uncertain about the relationship with the nation in which they live.
I believe Mr. Zhong Zhang and Mr. Nguyen Thi Hong Hao will talk about the sentiment of stateless people with resident status and their identity.

On the other hand, Mr. Shun Saito will make a presentation on the conditions of life for stateless people without resident status and aspects of their medical care providing concrete examples.

### 3 Estimated Population of Stateless People

Here, I would like to introduce to you the number of stateless people in the world today. The estimated population of stateless people in the world announced by UNHCR (The UN Refugee Agency) is 12 million as of 2009\(^2\).

<table>
<thead>
<tr>
<th>Area</th>
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<td>2,011,555</td>
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Reference: This table is drafted by the writer based on data from “Statistical Data of Foreign Residents,” Japan Immigration Association.

Please take a look at the statistical data of foreign residents in Table. This is statistical data based on foreign residents in Japan. In the statistical data of the foreign residents by area, they divide the areas into Asia, South America, North America, Europe, Oceania and Africa. They take the statistics of foreign residents by country as those subgroups. Then, the number is left on the bottom of the statistical table which is the number of the stateless. As you can see in the table, there are people in Japan whose nationality column is written as ‘stateless’. As of 2010, we can see from the statistical table that 1,234 stateless people live in Japan.

For the last few years, we can know from the data that the total number of stateless persons is decreasing. However, through research and surveys in recent years, it has become clear that there exist *de facto* stateless persons besides those who are listed as ‘stateless’ in their Alien Registration Cards. For instance, though nationality is written as “Vietnam” or “Korean” on his/her foreign resident registration card, he might not be recognized as a national of that state. He might
not have rights as a national nor does he fulfill his obligation as a national. These people belong in the group of ‘de facto stateless’.

Those who are in the group of ‘de facto stateless’ are misclassified among those with nationality according to the statistics of foreign residents. Therefore, in fact, the number of stateless persons who do not have nationality rights can be presumed to be much bigger than the number in the statistics. In today’s conference, two panelists will speak as de facto stateless persons. Mr. Zhong Zhang labeled his nationality as “Cho-sen” which means “Korea” in his Certificate of Alien Registration card, however, this ‘Cho-sen’ is just a code and he actually doesn’t have a nationality. He will talk to us later about how he is not registered as a citizen in North Korea or South Korea. Another person who will talk to us in the afternoon session is Ms. Nguyen Thi Hong Hao, whose parents are Vietnamese refugees and she was born and raised in Japan. Since her parents cannot access the Vietnamese government, she registered her birth only to Japan. She has been living in Japan with a foreign resident registration card which says her nationality is Vietnamese since birth. She went to a Vietnamese Embassy to apply for her passport, however, could not acquire it. She will share what de facto stateless really is through her experiences.

These ‘de facto stateless’ persons cannot be found in statistics or in registration cards. Since it is difficult to support these less-visible stateless issues, they tend to be neglected and as a matter of fact we cannot find solutions for many of the issues.

Through today’s conference, we will turn our attention to this stateless issue which is hard to paint a precise picture of. Also, we will share the issue, comprehend the actual situation and find the best solution together. Stateless issues indeed have a need for governmental response. On the other hand, we shall discuss what non-
governmental organizations can do to lobby policy makers, what each of us can do to support stateless people, and we shall pick the brains of people from abroad and working in the field.

Firstly, we will have Ms. Napaumporn Bongkot here talk to us about stateless persons and the way they support them in Thailand. In addition, we will have two commentators in the morning session. The first is Mr. Ishii Hiroaki from Japan Association for Refugees, who has long been playing an active role in supporting refugees while cooperating with civic groups. He will explain to us a new way of support that we and every individual can engage in and will give us comments from the standpoint of civil society support. The second is Ms. Tsukida Mizue, a professor who has a detailed knowledge of support for the welfare of stateless children. She will give us valuable recommendations from the perspective of children’s rights and welfare.

Notes
1) Hereinafter, this content is based on the information as of the end of February, 2011 at the conference.

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TSUKIDA Mizue
1. On-the-Ground Support for Stateless People: A Civil Approach
1-1 Experience in Solving Statelessness in Thailand: Identification, Prevention, Reduction and Protection

NAPAUMPORN Bongkot
Officer, Bangkok Legal Clinic for Legal Personality and Rights of Persons

1 Introduction

It is apparent that issues of nationality including statelessness have existed on earth for a long time. Moreover, situations have become complicated and have evolved differently depending on the context of each country concerned. It is, therefore, difficult to say that the best practices for solving statelessness and nationalitylessness problems in one country are perfectly matched with another country. Various factors such as the legal system in the country, political issues, geographical areas, history, or even variety of people facing problems have to be taken into account to manage the situation as a whole. However, successes and failures in the efforts to solve statelessness and nationalitylessness in Thailand may reflect some crucial lessons learned for other countries to consider, so that they are better prepared for the problems they are facing, while they can still then, customize their approach for their own country’s context.

This article aims to reflect experiences in solving statelessness and nationalitylessness in Thailand. It will cover these four specialized types of work: Identification, Prevention, Reduction, and Protection of Stateless Persons, as differentiated by the Executive Committee of the United Nations General Assembly. Implementation as presented in this article has been developed with regard to the context of Thailand as follows:

2 Identification

The first point of discussion in order to define specific procedures and solutions for statelessness and nationalitylessness in Thailand is to clearly determine who are those facing stateless and nationalityless problems in Thailand? This initial determination will also help us understand the different problems that such people have been facing in various contexts. Moreover, work processes relating to the solution for statelessness and nationalitylessness will be more clearly enumerated after such a determination.

According to research on population management, and by studying the real-life stories of stateless and nationalityless people, it can be concluded that there are three main groups of people facing statelessness and nationalitylessness problems in Thailand.
(1) Three Groups of People Facing Stateless and Nationalityless Problems

1 Stateless persons

These people are not recognized by any state in the world. Therefore, they are never registered into civil registration systems of any state, even Thailand. Ignorance by any state leads to the situation in which stateless people cannot exercise their right to a nationality also. Stateless persons are in the most vulnerable situation, facing problems relating to civil registration (not being recorded) as well as nationality (not being able to exercise their right to a nationality).

Statelessness in Thailand may occur when a person was not registration at birth even though he or she, in fact, has Thai nationality. Charieng Eimla-or, a 50-year-old woman of Thai parents who has never registered her birth and her existence as a Thai national into the civil registration system, is a good example. She escaped from her broken home when she was only 9 years old. She decided to go back home when she reached age 15 to obtain an identification card, but it appeared that everyone had moved without a trace. She became stateless until the last day of her life only because of a lack of documentary evidence and witnesses for proof of her Thai nationality.

2 Nationalityless persons

In Thailand, nationalityless people are divided from stateless ones even though both are still without nationality. Nationalityless people are registered into Thailand’s civil registration system. In this sense, nationalityless persons have already been recognized by the Thai state that they are people who have problems with their legal status living in Thailand. Most of the nationalityless people were formerly stateless, but once their problems were solved by law on civil registration (being recorded into the system), their statelessness was eradicated and only the nationality problem remained.

Although Thailand is not a State Party to the 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, Thailand obliges itself to almost every piece of international law concerning human rights. That means Thailand cannot avoid the obligation under such instruments to protect people who suffer from the most vulnerable condition, statelessness and nationalitylessness. However, step-by-step methods considered appropriate according to the context of Thailand have already been put in place.

As noted above, when stateless persons are found on Thai soil, Thailand would start tackling the problem by making records of these people into the civil registration system. Whether these stateless people are indigenous to Thailand, immigrants who are fleeing from fighting and have been living in Thailand for a long time, or migrant workers recently migrating to seek a better opportunity for work in Thailand, or regardless of who stateless people are, Thailand will make
them documented first. The problem of nationalitylessness will be considered afterwards and will depend on the individual facts. Moreover, during the process, these people will have access to basic human rights although they are not yet considered a Thai national.

Vietnamese Immigrants\(^1\) are one population of nationalityless people in Thailand. They have fled into Thailand because of the war in their country. When they arrived, they were registered into a temporary civil registration system and issued identification cards, formally named ‘Vietnamese Immigrants Card’ but now it has changed and is called ‘Card for Non-Thai National’.

In principle, these people should be entitled to Vietnamese nationality as they were born in Vietnam or their ancestors were born in Vietnam or they are of Vietnamese ethnicity, for example. As a matter of fact, however, many Vietnamese have departed from the country of origin for too long to confirm any connection with Vietnam with any evidence, including identification documents issued by Vietnam’s government. Such documents might have been lost gradually over time. These Vietnamese immigrants became stateless in reality because they could not verify themselves by any authenticated document. After they were recorded into the civil registration system of Thailand, they were no longer stateless, but had become a so-called nationalityless person instead. Later, after living longer in Thailand and after assimilating into Thai society, they are entitled to a ‘right to Thai nationality by application’. To prove this right is to verify a new connection they have with the Thai state. Evidence includes: proof of living in Thailand for a long and consecutive period, evidence of tax payment, any evidence showing that they have a Thai family and so on.

\(\text{3 Quasi-nationalityless persons}\)

The last group was formed by the phenomenon of globalization that makes the world entirely interconnected and people from different parts of the world able to cross borders easily. Quasi-nationalityless people are those having their own nationality in fact, but who make a decision to settle in Thailand. Generally, these people do not seem to face problems like the other two categories whether it is a legal problem related to civil registration or even nationality. However, it is apparent that the original nationality of these people is not beneficial for their situation in Thailand at all. In such a situation, they are not that different from nationalityless persons.

In Thailand we found Boonyeun Suksaneh\(^2\), an American missionary who gathered all family members, Wassana Suksaneh\(^3\), wife, and Udom Suksaneh\(^4\), their two-year-old child, settling down in the forest in the north of Thailand. They have been living with the Mlabri people in Rong Kwang District, Phrae Province since B.E.2521 (1978). The family really fell in love with Thailand and its culture. They
decided to change their names and surname to Thai under American law, even though it was quite difficult to do so. For all of these 33 years in Thailand, they decided not to return to their homeland anymore. And as a result of the newly revised nationality law of 2008, their younger daughter, Fongchan Suksaneh, born in Thailand, has already been conferred Thai nationality.

(2) Five Types of Stateless and Nationalityless Persons

After understanding those who face statelessness and nationalitylessness problems in Thailand, the second step is to explore them in detail. According to applicable laws and policies of Thailand to solve statelessness and nationalitylessness, how can these people be classified? To categorize people with statelessness related problems into stateless persons, nationalityless persons, and quasi-nationalityless persons as described above is to understand the problems and notions relating to the issues in the Thailand context. Meanwhile the following classification, under applicable laws and policies, aims to solve the problems that each group faces in reality.

From my practical experience giving legal assistance at the Bangkok Legal Clinic and together with its related network, it is enough to conclude that there are currently five main groups of stateless and nationalityless people in Thailand as follows:

① Unregistered persons

These people are those unrecorded into the civil registration system of Thailand and also without any identification papers or the 13-digit number assigned to Thai living in Thailand. Examples of this group are Moken people or Sea Gypsies in Andaman Sea, especially those who are still living in the traditional way of life and who have not yet settled down permanently, and illegal migrant workers who have been working without any permission in Thailand.

These unregistered people are most vulnerable and at risk of rights violation although some of these are in fact Thai nationals. Therefore, during the process of legal status verification, these people have to be at first registered into the system in order to establish their legal identity in Thailand’s civil registration record.

② Thai nationals registered as aliens in the registration system

These people are entitled to the right of Thai nationality by birth, but in the eyes of government officials they are considered aliens simply because they were wrongly recorded in the registration of Thailand as aliens. Villagers in Mae Ai District, Chiangmai Province, are an example. Because Mae Ai District is located along the border between Thailand and Myanmar, people living in such areas are mixed, including those indigenous Thai people and also new comers from Myanmar.
Hence, some of Mae Ai people with Thai nationality were misunderstood and later recorded in the registration as aliens. Prasit Jampakhao, a child born in Lao P.D.R. of a Thai father, is another case. Due to ignorance of the issues relating to nationality, he came to Thailand and finally asked for the registration as a migrant worker from Lao P.D.R.

The way to solve the problems of these Thai nationals who were registered as aliens mostly depends on evidence to verify their Thai nationality, whether to prove that they have a parent of Thai nationality or that they were born in Thailand in the period prescribed under nationality laws. When the verification is approved, these people will be registered again into the civil registration system as a Thai national.

3 Aliens born in Thailand in the registration system

Mong Thongdee, the famous origami airplane hero, serves as an illustration of aliens born in Thailand. He was born in the north of Thailand of migrant workers from Myanmar. It was recognized by the Thai authority that he was born here and he was registered into the civil registration system as an alien with temporary residence in Thailand. Nevertheless, the law on nationality currently limits acquisition of Thai nationality on the basis of the jus soli principle, people born in Thailand of alien parents are not entitled to the right to Thai nationality automatically by birth.

Under a provision of the recent nationality law, however, in case the Minister of Interior deems it appropriate, he may consider and give an order for each particular case granting Thai nationality to those born in Thailand of alien parents like Mong Thongdee, in conformity with the rules prescribed by the Cabinet.

4 Immigrants in the registration system

These immigrants are also considered aliens in the civil registration system of Thailand. However the difference is that these people were not born on Thai soil, but migrated into Thailand, such as the above mentioned Vietnamese immigrants who themselves had fled from the country of their origin due to war. Such Vietnamese in the registration, who were born outside Thailand, might be at the generation of parents or grandparents of stateless or nationalityless people from Thailand living here in Japan. These immigrants are considered to have been living in Thailand for a long time and they could probably be registered into Thailand’s civil record as aliens with temporary or permanent residence, but without Thai nationality.

According to the law on Thai nationality, these assimilated immigrants can apply for Thai nationality in the following situations: first, if they are alien women getting married with a person of Thai nationality; second, when they reach qualifications prescribed by the nationality law for naturalization as a Thai; and
lastly when they have rendered distinguished service to Thailand or have acted to the benefit of official service.\(^5\)

5 Immigrants with connections to a foreign country in the registration

Because of the real existing connection with a foreign country, the country of origin or the third country for instance, these immigrants are divided from the fourth group to be the last classification here. Yoon Thongdee, a father of Mong Thongdee, can be a good example. He is currently registered into another type of Thailand civil record as a migrant worker from Myanmar. Yoon and people registered as migrant workers from Myanmar, Lao P.D.R. and Cambodia are considered to be entitled to the right to a nationality of their country of origin. Only verification of the nationality is needed to exercise this right in reality.

Formerly these people were stateless immigrants and worked illegally in Thailand for some time. After identifying the problem, Thailand started solving the issue of those illegally working at first by turning them into legal workers in the system under a special policy. Moreover, statelessness of these people was eradicated by registration. Finally, Thailand has facilitated the process of national verification with the countries of their origin for these registered migrants in order to solve nationalitylessness as well.

3 Prevention

In order to prevent statelessness and nationalitylessness problems, the third step is an attempt to understand “What are the causes of statelessness and nationalitylessness in Thailand?”

First, we found that the remoteness of an area, such as ethnic minorities in highlands, Sakai people in the forest, or Moken people near the sea, can cause statelessness and nationalitylessness. Difficulties in accessing a district office in towns or cities may be a big obstacle to registration after the birth of a child, or any process of civil registration.

Prevention is simple. Thailand has arranged mobile civil registration units into such areas to facilitate registration of people who live in remote areas. Moreover, the Ministry of Interior through the Department of Provincial Administration (DOPA) provides a ‘One-stop Birth Registration Service’ where civil registrar staff are stationed inside the hospital to issue birth certificates for newborns. So, people do not have to register the birth of their child again at the district level which may be difficult to access. The last example of good practice to prevent statelessness and nationalitylessness is an ‘Online Birth Registration Programme’. The programme, developed by DOPA in collaboration with UNICEF in Thailand and piloted in six hospitals across the country, can immediately link information on the birth of each child in a hospital to the civil registration system. As a result, registrars will be able
to identify and track those children who have not yet registered and follow up with their families who might live in remote areas.

A second cause identified is associated with the uncertainty of which state jurisdiction applies to individuals in border areas. Most of areas affected by this problem do not have an official boundary yet; they are places overlapping the sovereignty of two states or more with adjacent contiguous borders, namely Thailand–Myanmar, Thailand-Cambodia, or Thailand–Malaysia. Therefore, people in such areas frequently face statelessness or nationalitylessness due to this uncertainty. Saidaeng Kaewtham, for instance, is a villager in Mae Ai District who was born in the overlap area between Thailand and Myanmar called ‘Sob Yon’.

For lasting prevention of this cause and related issues, interdisciplinary collaboration from Legal Science, Political Science, Social Science, or even Population Studies is required to develop well-rounded knowledge about border areas between Thailand and neighboring countries. State agencies also ought to be a main actor to mobilize such collaboration.

The third cause identified is related to the situation in which people are at risk of persecution and cannot return their homeland. It is clear that people at risk of persecution may face statelessness and nationalitylessness, such as: when they cannot exercise the right to their own nationality in reality; when they were removed from the civil registration system of the country of origin after fleeing; or when they have never been registered into any civil record of any country. Ayu Po Namthep is the most famous refugee case in Thailand. She is the daughter of George Po, a Karen scholar who had a serious political conflict with the military junta of Myanmar. Her family fled into Thailand in B.E.2502 (1959). Ayu’s father has already passed away, but Ayu has been living without any nationality until now. She is an expert and also a lecturer in musicology at a university in the north of Thailand.

Although Thailand is not a signatory of the 1951 Convention relating to the Status of Refugees, Thailand has a custom of not forcing these people to return to places where their lives can be threatened. According to records of past management of refugee populations in Thailand, there has been a very clear-cut policy dealing with large groups of refugees from time to time, but not for individuals. However, refugees living outside temporary shelters such Ayu Namthep are able to develop legal status under relevant laws and policies as assimilated immigrants in Thailand.

Finally, stateless and nationalityless problems can occur in the situation, in which people are rootless, such as those who were abandoned by their parents since early childhood. People in this situation cannot search back for their own history to identify parents, birth place, or identification papers. Saengchai Pannakul, for example, was abandoned at a temple in Chiangmai Province when he was so young that he could not remember anything. Now he is about 30 years old and it seems impossible for him to trace back his origins.
The only way to address such a problem is to reform relevant law and apply a beneficial interpretation for people who have been neglected and found in Thailand without identification. Then, they can take the further step of developing their legal status in Thailand. Without such reform these rootless people may fall into a vacuum of law and policy.

The fourth cause identified resulted from a failure of policy administration in Thailand. Officials who misunderstood government policy had the mistaken idea that Thai nationality could be conferred upon every person born in Thailand. A huge number of children of aliens born in Thailand during that period of time were denied the ability to register at birth and also to obtain a birth certificate by officials who were afraid that the child would become Thai immediately with such documents.

The notion of jus soli, the acquisition of Thailand nationality on the basis of birth in the jurisdiction was adopted a hundred years ago. In the first written law on nationality, Nationality Act B.E. 2456 (1913), for the first time in Thai history, nationality could be granted on the basis of the jus soli principle regardless of whether or not the alien parents had entered into Thailand legally or illegally or the alien parents had the right to reside in Thailand temporarily or permanently. Over its 39 years of operation, this law united people of different ethnicities and people who came from other countries. Nevertheless, since B.E. 2495 (1952), acquisition of Thai nationality on the basis of the jus soli principle has been limited by certain conditions.

The nationalistic attitude, without consideration of relevant applicable laws and policies was the greatest mistake in Thailand’s history. It caused detrimental effects to real aliens and even those who might have the right to Thai nationality born in Thailand. These people became stateless, and many remain so until now due to the lack of recognition by the state of their birth.

In response to the above issue, a fifth step has been taken to address mistakes and bad attitudes towards birth registration. The attempt is the “reformation of Civil Registration Act in B.E. 2551 (2008)”, which includes the right to birth registration and the right to legal recognition by issuing civil documents to every person with domicile in Thailand.

A crucial principle of the reformation is to clarify that everyone in Thailand shall be registered and obtain a 13-digit identification number regardless of whether or not they have Thai nationality or others, or if they were born in Thailand or foreign countries, or if they have entered into Thailand legally or illegally. However, the registration does not mean that the registered people would have the right to reside legally in Thailand. Such a right to reside will be later considered according to the regulation prescribed under the nationality law and immigration law. Nevertheless, this provision is beneficial for population management in Thailand and also to be able to prevent statelessness at the same time.
Furthermore, this reformation of law on civil registration contains significant provisions relating to the right to birth registration. They include:

i) Birth registration may be done at a registrar in areas other than the area of their birth\(^9\). This is to facilitate and encourage registration of the birth of their children even when returning to the birth place might be far from their current residence.

ii) Both Thai nationals and nationalityless persons who were not registered at birth may ask for document proving their birth\(^{10}\). This provision was added to provide a mechanism for procuring birth evidence. Documents proving the birth recognition will be issued in this situation and it can be used legally as a birth certificate.

iii) Abandoned children or homeless children or even rootless children may report their birth\(^{11}\). For abandoned newborns or babies under the age of seven years old, officials of the Ministry of Social Development and Human Security in the area shall report their birth to a registration office in the area where the children were found. However, if the abandoned children are under the age of 18 years old with the supervision of a foster home\(^{12}\), a chief of the organization shall report their birth to a registration office where the foster home is located.

iv) Children of refugees in a temporary shelter may report their birth under the civil registration law as well\(^{13}\). Previously, refugee parents in the shelter faced difficulty registering their children’s birth because they were restricted from leaving the control area usually located in remote areas away from the registration offices. As a result of this law reformation, birth registration can be done in the shelter by a registrar who is stationed inside the shelter.

4 Reduction

When stateless and nationalityless populations already exist, reduction is another step to follow. Therefore, the sixth step is collaboration among scholars, organizations, and governmental organs to develop knowhow on the reduction of statelessness and nationalitylessness, namely ‘5x6x6’ (See Table).

‘5’ stands for the five groups of stateless and nationalityless people named above in the classification section of this paper. Again, they are: first, unregistered persons; second, Thai nationals registered as aliens; third, aliens born in Thailand in the registration system; fourth, immigrants in the registration system; and lastly immigrants with connection to a foreign country in the registration system.

In order to solve statelessness and nationalitylessness problems, ‘6’ steps under applicable laws shall be done for each targeted group:

i) Finding all facts relevant to the individual case as required under relevant laws and policies

ii) Determining applicable laws and policies relevant to each case
iii) Studying how to acquire legal status under the relevant laws and policies
iv) Exploring causes of loss of legal status under laws and policies
v) Examining how to recover legal status under laws and policies
vi) Exercising judicial process when there is injustice during implementation

After understanding the problems of the five and realizing all of the six processes under the law, ‘6’ types of workers with specific characteristics are needed, so that they can follow the processes and find solutions for statelessness and nationalitylessness in collaboration with each other. These workers are:

i) Knowledge creators
   This worker pursues knowledge relating to the problems of each group. Also, they supervise all of the work of each worker in the group. The most important qualification of this position is to have well-rounded knowledge about both substantive and procedural matters which are relevant to the targeted group.

ii) Fact finders (responsible for the 1st step of the 6 step process)
   This worker is not necessarily a lawyer, but may have basic legal knowledge on relevant laws and policies sufficient to recognize relevant facts and reliable evidence. Fact finders work closely with stateless and nationalityless people, so they need to have good interviewing skills.

iii) Legal assistants (responsible for the 2nd, 3rd, 4th and 5th steps of the 6 step process)
   These workers shall be lawyers with practical experience in solving these kinds of problems. The legal assistants utilize applicable laws and policies to pursue legal status for those without it.

iv) Law and policy reformers
   This worker should currently be a governmental official or a former one with an understanding of the governmental system and why reformation is necessary. These people will play an important role when cases are discovered for which there are no appropriate solutions, or when it is apparent that existing laws or policies are out-of-date and incapable of addressing present situations.

v) Natural judiciary (responsible for the 6th step of the 6 step process)
   This category of worker includes journalists and those with communication skills, for example. They are responsible for exposing injustice among those suffering from statelessness and nationalitylessness.

vi) Official judiciary (responsible for the 6th step of the 6 step process)
   These workers also work to eliminate injustice occurring during the process of legal status determination, but are those working official in the judiciary as attorneys or judges.
5 Protection

The seventh step relates to the protection of fundamental rights of stateless and nationalityless persons during the process of legal status determination.

First is the basic human right to birth registration and to legal recognition. In fact, the right to birth registration has been included in Thai law since the first written law on civil registration in Thailand. However, the right to obtain a civil identification document is stated more clearly in the revised Civil Registration Act of 2008 as mentioned above.

Second is the right to education. Although the admission of stateless and nationalityless persons into the educational system of Thailand is never denied as a matter of law, some institutions implement discriminating regulations. A lot of stateless and nationalityless students have been excluded because of a lack of civil identification papers. In 2005, the cabinet, thus, had a resolution to affirm the right to education for all, and later the Ministry of Education has prescribed a clear regulation to protect such right.

Third is the right to health, especially for those assimilated nationalityless people who have been living in Thailand for a long time. As a matter of fact, these assimilated nationalityless people have made many social contributions to Thai society, direct and indirect tax payment, for instance. Therefore, they should not be discriminated against and denied the right to health. Last year, a cabinet resolution made on 23 March 2010 recognized the right to guaranteed health, although it was not for all. It does at least cover some nationalityless people including those who have already assimilated into Thai society, and nationalityless children in an educational institution of Thailand.

Fourth is the right to legal marriage. The Family Registration Act of Thailand has been in force since B.E. 2478 (1935) and marriage between a Thai national and an alien is never denied under the law. Moreover, norms set forth by court decisions on the issue since B.E. 2505 (1962) strongly reaffirm the right to marriage of aliens consistently throughout the long history of Thailand. Nevertheless, mistakes happen once in a while in practice because of discrimination by individual government officials towards aliens in Thailand.

Last but not least, step 8 of the process involves ongoing efforts to protect the basic rights of stateless and nationalityless person during legal status determination.

The right to work in any field for which a person is qualified is the most current attempt. As noted above, Thailand has promoted the right to education for everyone in Thailand regardless of whether or not they are Thai or alien, or they are stateless or nationalityless. In reality, however, it has been found that no matter how educated a stateless or nationalityless person is, they can work in only 27 unskilled jobs prescribed by declaration of the Ministry of Labour. Relevant state agencies are increasingly realizing that stateless or nationalityless people graduating from
engineering school or the department of accountancy in a university, for example, still cannot work in such fields, although it would be in Thailand’s best interest for them to do so. Therefore, universities, the National Human Rights Commission and Department of Labour, among others are starting to collaborate in order to fix this problem and provide such a right to work.

6 Conclusion:

In pursuit of solutions to the challenges of statelessness and nationalitylessness, a number of lessons have been learned. This paper will conclude by highlighting three lessons learned which will go a long way towards identifying effective solutions in any context:

The first is to engage in ‘Knowledge Management (KM)’, basically, raising awareness on the issues among the right people. Knowledge of statelessness and nationalitylessness should be disseminated more widely so that such information is accessible to all. Getting information to stateless and nationalityless people themselves, and raising their capacity, may be the most effective solution of all, as those facing these problems will be able to take more responsibility and raise their own situation to the attention of those working in this field. Getting information to government officials—both central and local—and building their capacity, is also critical. According to statistics, rights are violated when officials do not have sufficient knowledge of the issues. Hence, responsible governmental officials need to be well-trained. Lastly, civil society including NGOs, the media, and community groups are key for prevention, reduction, and protection of stateless and nationalityless people. But there is a need to build capacity and awareness among civil society as well.

The next is ‘System Management (SM)’, basically planning and initiating a system of law and processes to address statelessness and nationalitylessness. Changing and continually improving systems takes a long time but it is crucial. There are very few experts or specialists, especially among governmental officials, who really understand statelessness and nationalitylessness issues. It is therefore critical that we educate and train such specialists as a part of the overall systematic approach. Also, in Thai society for example, there are a lot of organizations: NGOs; media; community groups; governmental organs; independent organs; academic organs; or even political organs, working on the same issue of statelessness and nationalitylessness, but separately. Integrated cooperation among these stakeholders must be facilitated if we hope to develop effective solutions to statelessness and nationalitylessness. In every single organization, a specific officer working on the issue should be represented and should work in collaboration with other relevant organizations. This process helps double check implementation and facilitates effective assistance.
The last step is ‘Attitude Management (AM)’. This step is the most difficult and will surely take a long time to achieve. However, through assuring Knowledge Management and System Management, we will also achieve better attitude management over time.
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Notes
1) Some of these Vietnamese had fled from oppression of France during B.E.2488 – B.E.2489. Most of them migrated from Vietnam or Lao P.D.R. living in 13 border provinces of Thailand: NakornPranom, Mukdahan, Non Khai, UbonRatchathani, UdonThani, Yasothon, SakonNakhon, Amnat Charoen, NongbuaLamphu, Sa Kaeo, PrachinBuri, SuratThani, and Patthalung.
3) Originally ‘Mary Elizabeth Long’ in the official US documents.
5) Originally ‘Crystal Elizabeth Long’ in the official US documents.
6) Section 9 under Nationality Act B.E.2508 (1965)
7) Section 10 under Nationality Act B.E.2508 (1965)
9) Section 18 paragraph 3 under Civil Registration Act B.E.2534 (1991) as amended by Act B.E.2551 no.2 (2008)
10) Section 20/1 under Civil Registration Act B.E.2534 (1991) as amended by Act B.E.2551 no.2 (2008)
11) Section 19 and Section 19/1 under Civil Registration Act B.E.2534 (1991) as amended by Act B.E.2551 no.2 (2008)
12) Such foster home under the provision means of those public and private organization registered by the Ministry of Interior.
14) These unskilled jobs are: (1) Fixing bicycles; (2) Fixing auto cushion; (3) Body-work for automobile; (4) Fixing exhaust air duct; (5) Welders; (6) Carpenter for furniture; (7) Carpenter for buildings; (8) Sawing lumbers; (9) Bricklayers; (10) Painting(Ex. Buildings painting); (11) Doors and windows fixing; (12) Setting mosquito wire screen; (13) Dying clothes; (14) Seamstresses; (15) Doing laundry; (16) Farming; (17) Herdsman; (18) Selling goods (medicine, chemicals, cameras and video cameras, guns are not included.); (19) Selling food or beverage; (20) Making food or beverage; (21) Fixing shoes; (22) Fixing clocks, watches, pens and glasses; (23) Sharpening knives or other sharp things; (24) Making a picture frame; (25) Goldsmiths, silversmiths and metalworkers; (26) Knitting and hand making textile; and (27) Labours

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UNGA resolution A/RES/61/137 of 19 December 2006 and Executive Committee Conclusion No.106 of 2006.
1-2 The Challenges of Providing Support for Stateless People

ODAGAWA Ayane
Lawyer

1 Introduction

Today I would like to talk on the theme of “The Challenges of Providing Support for Stateless People”. There are three items that I would like to talk about. The first is the situation of stateless persons in Japanese society, the second is the activities of the Stateless Network, and the third is on its future prospects.

2 The Situation of Stateless Persons in Japanese Society

It is quite difficult to define a stateless person. Who can we call stateless? Unfortunately in Japan, there is no clear definition of the word stateless. Listening to Ms. Bongkot’s speech, I was very surprised to know that Thailand has a clear and detailed definition of a stateless person. In various situations where the confirmation of a person’s nationality becomes a problem, the central government and local government agencies have their own definition of when a person is deemed as “stateless.” Let’s take the Certificate of Alien Registration for example. All foreigners who reside in Japan must apply for and obtain the Certificate of Alien Registration from his/her local government office. When you apply for the Certificate, you must fill out a form stating the nationality of your parents and also state the issuing country of your passport. If you don’t possess a passport, you must submit any kind of ID issued in your home country. Once you receive your Certificate, you can confirm your nationality by looking at that column. Therefore, even if the Nationality column shows Vietnamese, it does not necessarily mean that you have Vietnamese nationality. And in some cases, the Nationality column shows “Stateless”. The statistical figure taken from the Nationality column of the Certificate showed that there were nearly 1,500 stateless persons in Japan at the end of 2009, however, no one knows the real figure.

Also, there is a procedure called “voluntary repatriation” from Japan for illegal residents. The Japanese government takes the stand that repatriating illegal residents to their home country is the first alternative. Therefore, when the government makes the decision to repatriate a person, it must first confirm the person’s nationality before repatriating him/her. This confirmation is done by the Immigration Bureau and is done by word of mouth to the repatriating person as well as by any other documentary evidence. However, it does not mean that these testimonials and pieces of evidence are real.

Thus, Japan does not have any law defining “statelessness”. In contrast, under international law, there are two treaties concerning “statelessness”. This is the item...
I mentioned at the beginning which is the state of being “legally stateless”. According to Clause 1 Item 1 of the Convention Relating to the Status of Stateless Persons passed in 1954, a stateless person is defined as a person who is “not considered to be the legal citizen of any country”. In other words, it refers to a person who does not have the nationality of any country.

Under another concept, there are persons who are considered to be “de-facto stateless”. They are those whose nationality cannot be proved or who might have a nationality but cannot enjoy the basic human rights of their mother country. So please assume that when I’m talking about a stateless person it refers to these two types of people.

Then, what kind of stateless persons are there here in Japan. One case is a person born in Japan with the status of being “stateless”. In this case, the child’s birth notification was not submitted to the local government office by his/her parents or other relatives. Basically, the child has the right to be granted the nationality of his/her father or mother but there are children whose birth notification are not submitted or whose existence cannot be ascertained. However, Article 2–3 of the Japanese Nationality Law states that even if a child is born to stateless parents, the child can acquire Japanese nationality if he/she is born in Japan. However, it is unknown to what extent this law is applied. I haven’t heard of any such case yet.

Second, there is a case that a person becomes stateless as a result of losing his nationality after coming to Japan. A person that we supported at the Stateless Network was a Chinese national who had changed to Bolivian nationality after moving from China to Bolivia. After a while, he wanted to return to Chinese nationality after he moved to Japan. To do that, he first had to take procedures to abrogate his Bolivian nationality, then, recover his Chinese nationality. After abrogating his Bolivian nationality, he went to the Chinese Embassy in Tokyo to recover his Chinese nationality, but he was told that this could not be done. The explanation that the Chinese Embassy gave for the denial of nationality was that he did not have long-term resident status in Japan. By that time, his period of stay in Japan had expired. That is, he lost his Bolivian nationality and could not recover his Chinese nationality so he had to become stateless. This is a very rare case, but it happens.

Third, there is a case where a stateless person born overseas comes to reside in Japan. For instance, if a person of a second generation Indo-Chinese refugee born in Thailand without Thai nationality came to Japan using a false passport, he will be accepted as stateless. Also, there is a race in Myanmar called the “Rohingya” which has a significant population. However, the Myanmar (Burmese) government does not recognize the Rohingya as its citizens. Such people have immigrated to Japan and are presently living here as stateless.

When we talk about the stateless issue here in Japan, we always look at it from
the viewpoint of “residential status” since it is a crucially important point. It is because there is a great deal of difference between the issue of a stateless person who holds “residential status” and who doesn’t.

There are 27 kinds of “residential status” for a foreigner in Japan, and he must possess any one of these in order to stay in Japan. If he doesn’t, he is considered an illegal resident and will be forcibly deported. As for a foreigner who does have a legal resident status but remains stateless, there are many who face an identity crisis. A person in that situation may struggle with the idea of not belonging to any country, and wondering what their identity is. Even in day-to-day life there are regular inconveniences, like a bank questioning you about what “stateless” means in the nationality section of the identification card, and refusing to open an account.

Stateless persons who do not have resident status in Japan are expelled by the government. Under Japanese law, when an illegal resident is issued a written deportation order, the Japanese government can subject him to indefinite detention until he is deported. Nishi Nihon Immigration Center, nearby the National Museum of Ethnology, is one place where illegal residents are detained. There is no guarantee that the receiving country will accept the stateless person, even if Japan recognizes him as a citizen of that country. If the receiving government says, “He is not our citizen,” then he cannot be deported to that country. There are cases where a person is detained in an immigration facility for two or three years. He cannot apply for social security because of his illegal resident status and therefore cannot receive government subsidy. Although the Refugee Assistance Headquarters (RHQ) has been set up to support some asylum seekers, there aren’t any such institutions for stateless persons. As a result, there are stateless persons who apply for asylum in order to get access to a livelihood protection subsidy.

3 Activities of Stateless Network

The Stateless Network was set up in January 2009. After a forum on statelessness was held in 2008, with Dr. Chen taking the lead, we wanted to build on the spirit of the conference, and that’s how the Stateless Network was started.

From Dr. Chen’s experience, we learned that many stateless persons were suffering from discrimination and that they had nowhere to go and no one to consult with about their problems. Those people somehow found Dr. Chen and visited her for consultation. Then she started to have a burning desire to build a place where these people could bring their problems and openly share it with other stateless persons and their supporters. She felt that everyone has the right to be treated equally and to live happily regardless of their nationality. Until then, there were no groups that focused on supporting stateless. So I think this is the first support-group targeting stateless.

I would like to introduce our activities over the past two years since our
establishment. Firstly, we are holding periodic social exchange meetings with stateless persons. We call this activity Sute Neto Café (Stateless Network Café) and have been holding meetings once every two or three months either in Yokohama or Osaka and offer a good opportunity for stateless persons to talk about their experiences. Through these meetings, we came to realize that there are many kinds of stateless persons. Some of them are stateless persons who welcome the fact that they are stateless. On the other hand, there are those who are indifferent to the fact that they are stateless. Stateless persons who don’t have resident status in Japan are the most miserable since their future is very unstable and uncertain. They are the ones who strongly desire our prompt attention.

Secondly, we are holding periodic study meetings to identify and understand the situation of stateless people. We call these meetings Sute Neto Zemi (Stateless Network Seminar). These meetings are a little more academic than Sute Neto Café and we learn about statelessness situations from a more academic viewpoint.

Thirdly, we have been working on individual consultation and support for stateless persons. We receive phone calls from stateless persons who were detained in the detention centers or from supporters who support them. So far we have worked to get persons out of these detention centers by employing appropriate lawyers. Sometimes, we had to find them guarantors or come up with the money for their bail bond. We also found a place for them to live by asking other organizations for their support since they have no place to live just after they are back from the detention center. We had to take some of the stateless persons to the hospital who got sick and offer them medical aid for lack of insurance.

Also as advocacy of supporting programs for the stateless, we appealed to the public about statelessness issues at Yokohama International Festa 2009. We asked the audience how many stateless persons they thought there were in Japan and whether they knew of any famous stateless persons. To our surprise, most of them replied, “How should I know? I’ve never thought there could be such persons among us.” We came to know that we should intensify activities to raise awareness for stateless issues.

We held exchange meetings with other groups to discuss the problem of statelessness. Through my activities in dealing with stateless persons, I began to realize that each one of them has a different situation. I also became aware of the fact that the Japanese public was still unaware of the statelessness issue. Some of the stateless persons have resident status and others don’t. The Japanese public still tends to regard stateless persons as illegal aliens. As I mentioned earlier, there are bank officers and public officials who still ask what stateless persons are. If a stateless person without resident status wants to live legally in Japan, he has to apply and follow a certain procedure, but it takes a lot of time and money. I hear many cases that take from two to three years for the petition to be approved even if we
engage a lawyer and apply with a written statement.

There are many cases where the person himself does not know that he is stateless. For instance, a person who wants to go abroad suddenly finds out at the passport control counter that he has to show his passport which he doesn’t own. Or I know persons who thought they had Thai or Vietnamese nationality but realized for the first time that it was not the case. These cases rarely come up to the surface until they face an unusual situation such as detention or deportation. Then, some learn for the first time that they are stateless.

4 Problems to Overcome

When we compare the definition of a stateless person in Japan and Thailand, the definitions are completely different. In Japan, the definition is still very vague. We don’t know which person is included as stateless and the definition of stateless persons vary among supporting organizations. Therefore, it is first necessary to define what we mean by stateless person, and then find out who these persons are, and whose rights are being mistreated by the Japanese government.

Also, I think that consideration for stateless persons is very important. When a written deportation order is issued, his indefinite detention will be enforced until such time as deportation becomes possible. There is no point in this long-term detention. If the Japanese government wants to deport the person but his originating country will not accept him, there should be some kind of alternative to long-term detention or irregular status.

From July 2012, a new resident system will start in Japan. Aliens are no longer required to carry alien registration cards but are required to carry resident cards instead. This resident card is an identification issued only to foreigners with legal residency. As for the foreigners without resident status, they could previously apply for alien registration cards, however, from now on they cannot apply for alien registration nor can they receive a resident card. That is, they can no longer receive any kind of formal identification card. However, in Thailand, there is a move to issue these cards to aliens including stateless persons. While in Japan, there is a danger that Japan is trying to erase the vestige of stateless persons altogether, leading them to seek refuge in the underground society. So I think we should try to tackle and solve this dangerous problem before it is too late.

There is no insurance for stateless persons, nor are they able to receive medical care and social welfare. Therefore, I think it is necessary that we cooperate and help these persons as much as we can. We should work from two directions. On the one hand, we individual citizens ought to support stateless persons, and on the other, we need to urge government agencies to step up their support to these people.
Notes

1) Rohingya is a group of Muslim of the lineage of Bengal that resides in Myanmar.


3) For details of the activities of Stateless Network, look at the website: http://www.stateless-network.com/
1-3 Living as a Stateless Person in Japan

ZHONG Zhang
Poet

1 Stateless Salam Residing in Japan

Please allow me to use this opportunity to talk about how I live my life as a stateless person.

According to Japanese law, I am a foreigner who is registered as a Chosen national, but I like to call myself a “Stateless Salam Residing in Japan”. “Salam” is a Korean word that means “a person.” So “Salam Residing in Japan” means “Korean residing in Japan”.

Needless to say, “Korean” is an English way of saying Chosen and is a generic name of my race. Today, in Japan, the name that is getting popular among the North and South Koreans residing in Japan is “Koreans in Japan”. The word “Korean”, however, seems to carry a very important meaning for both the North and South Koreans in Japan which is often forgotten or overlooked by the Japanese. And the topic of the “Salam in Japan” which I’m going to talk about is something related to this nationality problem.

As the generic name for North and South Koreans, the name “Korean residents in Japan” has been used. If the origin of the name “Korean (Chosen)” comes from writings in “Shiki”, an ancient Chinese book, the name “Korean (Chosen)” used in Japan now is assumed to have started in 1910 when the Japanese Empire colonized the Great Korean Empire (Dai Kan Teikoku) in the Korean Peninsula and decided to call our land by its old name “Korea (Chosen).” And, this name took root among the Japanese even after the fall of the Japanese Empire in 1945.

However, the Korean Peninsula was divided into the North and the South at the 38th parallel north in 1948. With the formation of the Republic of Korea in the South and the Democratic People’s Republic of Korea in the North, the united name of “Korea (Chosen)” began to cause problems. Furthermore, “South Korea (Kankoku) and North Korea (Chosen)” began to be used as alternative names.

Also on the part of Koreans residing in Japan, those who supported the South began to call themselves “South Koreans” while those who supported the North began to call themselves “North Koreans”. So with the division of the peninsula, the generic name also began to change, creating friction between the two groups. This is why the names “Korea” and “Koreans” are more commonly used in recent years.

So the Korean people still do not have a common name to call themselves. I feel fear against the two Korean governments who are trying to tear the Korean race apart. I feel the sinfulness of my motherland Korea for dividing the nation which is
Very few people know that the “Korean (Chosen)” nationality that I hold today means that I am in fact, a stateless person. According to the Japanese government, “Korea (Chosen)” is not the name of a country but only a symbol or a regional name. During the colonial age under the rule of the Japanese Empire, all Koreans had to become Japanese nationals. But with the defeat of the Japanese Empire, the Korean Peninsula was liberated. But it wasn’t until a little after then that the Koreans were able to regain their original nationality. Until then, they still were Japanese nationals. At that time, there were 600,000 Koreans living in Japan and the GHQ in 1947 passed a law that required all of those who had come from the peninsula to be registered with “Korean nationality” but still retaining their Japanese nationality. In other words, all Koreans living in Japan at that time were legally Japanese but also registered as foreigners from “Chosen” (the Korean peninsula). When the North Korean and South Korean governments were established in 1948, these people were told that they could change their registration from “Chosen” (Korea) to “Kankoku” (The Republic of Korea) if they wanted to, while the rest of the people had to remain foreign residents from “Chosen.” However, it was just a symbol and they were still Japanese nationals from a legal point of view. It was only when the San Francisco Peace Treaty took effect in 1952 that all Koreans lost their Japanese nationality. And, regardless of which Korea the Koreans in Japan supported, they were all treated as stateless. With the signing of the Treaty on Basic Relations between Japan and the Republic of Korea in 1965, the Japanese government recognized Kankoku (The Republic of Korea) as a nation, but still Chosen has remained a mere symbol. It was because Japan had no diplomatic relations with the Democratic People’s Republic of Korea at that time.

This background on the nationality of Koreans living in Japan are not known by the general public. Even I myself, first learned about all of this from a book I read when I was at school more than 20 years ago. Until then, I didn’t know that my North Korean nationality was seen as statelessness. And when I learned that I was stateless, the facts became clear in my mind. Until then, I was suffering from an identity crisis, wondering who I was.

For literary men in postwar Japan, the generic name of their Korean brothers was an important theme in their literary works of art. The generic name is important for Koreans residing in Japan because choosing one or the other means that you are supporting the government of that country. So many literary men of Korean descent in Japan opted to choose “Korea (Chosen)” for the generic name and “Korean (Chosen)” as their nationality. The reason why they chose it was because they desired the unity of their motherland. And because “Korean (Chosen)” is not a nationality of the North nor of the South but is only a word that is equivalent to being “Stateless”. The Korean writer, Mr. Kim Sok Pom, in Japan says that
registration under the name of “Chosen” is a “semi-unified nationality”. So I, as a stateless person desiring the unity of my motherland, still haven’t acquired the South Korean nationality even until now. Moreover, even if diplomatic relations between Japan and North Korea are normalized in the immediate future, I still have no intention of acquiring the North Korean nationality. This is the reason I call myself the “Stateless Salam of Japan”.

2 Until the Koreans Acquire Particular Permanent Residency Status

Currently, over half of the Koreans living in Japan hold the South Korean nationality but in the past the situation was the opposite. Originally everyone had the North Korean nationality. So right after World War II, there were at least 600,000 stateless people in Japan.

These stateless people made their living during the tough post-war days and their life did not provide peace and quiet. Just by being a stateless person and not being a Japanese national made the lives of those in Japan very difficult to live. They couldn’t get proper welfare and education in line with what native people were given. Besides that, they suffered from inequality and inconvenience in the face of the anti-alien mindset that comes from the idea of Japanese homogeneity. Even though I found it difficult to live in such an environment, I have been appealing to the moralistic conscience of the people in Japan to accept us into their society. As a result of our appeal, we were able to obtain a legal but unstable status called “provisional resident status” in 1952 under the so-called “Law 126”. And then we were able to obtain “special permanent resident status” in 1991. We cannot deny that the signing of the Japan-South Korea Basic Relations Treaty in 1965 played a big role in our obtaining this permanent resident status. However, I believe that it was not only the two governments’ conscientious obligation that led to the Treaty’s signing but also the movements and appeals by many Koreans living in Japan.

3 Living as a Stateless Salam Residing in Japan

I am now participating in the activities of the Stateless Network in Osaka to support stateless persons. I firmly believe that the activities of the Koreans living in Japan have been cultivated over the last half-century and will be critical to our work moving forward. Activities done to acquire rights in Japan and to protect their roots will be useful experience to assist other people now suffering from statelessness. No one should lose their roots in exchange for nationality. Also, the experience on the part of the Japanese government in coping with Koreans living in Japan is good experience for them as they look to address future situations of statelessness. And, that experience is ongoing today.

As long as nations and nationalities exist, stateless persons will continue to
exist. According to the UNHCR, one of the reasons that stateless persons exists is the “partitioning of a country or a redrawing of its borders”. And it is always associated with wars or disputes. The modern nation states have experienced World Wars and are still engaged in wars and disputes which are the direct cause of creating statelessness. However, I am not sure whether nation states are still immature and have not yet come to their full growth, or nation states will not ever be able to avoid wars and disputes. A poet like me cannot find the answers to such difficult questions. As a stateless person whose homeland has been invaded by a modern imperial power and later has been divided into the north and the south, I am compelled to hold hope for the country of Japan, the nation which upholds “renunciation of war” in the constitution.

Almost 200 years ago, the philosopher Kant wrote on the difference between a “politically moral person” and a “morally political person” in his writing “Perpetual Peace”. A “politically moral person” is a person who talks about morality to justify his dirty political activities, and a “morally political person” is one who performs political activities to attain moral good. Kant also said as follows: “A moralistic politician is one who considers the well-being of his National Law, the International Law, and the World Citizen’s Law.”. I sincerely hope that Japan will continue to accept and support stateless persons and will further pursue its high aspirations of being a moralistic nation as Kant stated in the prologue of his book “Moralistic Politics”.

When I was young I used to question myself “Why wasn’t I born to an ordinary person just like the others around me?” “Why was I born with such a peculiar status as a stateless person?” However, I began to realize that I live in a world that only a stateless person can experience. It is a “different world” in the sense that it cannot be seen by ordinary people or the government. I believe that a “new world” exists for the stateless person by appealing for individual rights and for rights as a world citizen.

From the standpoint of a stateless person, I’d like to work toward improving the status of stateless persons in Japan and around the world so that they can live a decent life. I also want to keep a careful eye on the policies of governments towards the stateless. That is all I want to say as a “Stateless Salam” living in Japan.

Reference

Kant Immanuel

1985 Eien Heiwa no tameni, Utsunomiya Yoshiaki (trans.). (Kant Immanuel. 1795. Perpetual Peace)
1-4 Living without Status of Residence

SAITO Shun
Administration Officer, NPO Street Workers Coop Potaraka

1 Introduction

I will introduce the activities of Potaraka, a non-profit organization based in Sumida Ward of Tokyo in which I work as an executive board member. We started as a group for supporting homeless people. Today, we admit those to our institution who are sickly and are aged and have no place to go, and support them receiving assistance from helpers. There are approximately thirty people in our institution, in men’s and women’s dormitories.

About 2 years ago, Potaraka started to lease a place which used to be a small hotel in Matsudo City, Chiba Prefecture and named it “Mina House.” There, we now provide accommodation for thirteen stateless persons and refugees. They are people originally from African countries such as Guinea, Sudan, Cameroon, Congo and from South-East Asian countries such as Myanmar, Bangladesh and from European countries such as Chechen, and Kosovo.

2 Clothing, Food and Housing for Stateless People

As for the everyday life of those living in Mina House, we start from orientating them to Japanese common practices and customs. For instance, we teach them the way to wear and take off their socks. The people at Mina House wear their socks only when they wear their shoes. They would take off both their shoes and socks at the door. They would roll their socks inside their shoes and place them in the shoe locker to wear them next time. In a few days, it gives off a terrible smell. Their customs are different from ours. We must start with this kind of thing. What is more, some of them do not have the custom to fold their laundered underwear and clothing. They would just spread them over their beds like a clothing market. We also teach them such things since this would also be disadvantageous for becoming independent in Japan. Speaking of cleaning their rooms, they think once a week would be enough. We teach them our lifestyle but never force them. There could be cases of psychological instability if forced. We just mention it for a couple of times and wait till they understand what we mean.

We ask a group called Food Bank to send rice, the staple food, for the dwellers in Mina House. Food Bank is a group which collects rice from benefactors, the farmers who have the heart to donate rice for the people in need. They store up such rice donated and distribute it to institutions like ours. We are given about 120 kilograms of rice every month from Food Bank and we divide it with our NPO’s institution for the aged. As for side dishes, either we or the refugees purchase out
of our own pockets. It seems that they usually eat curry for their meals. There are different kinds of curry according to each country, and we wonder if they really like curry or otherwise they just cannot cook any other dish. They probably do not like Japanese food and as a result they choose curry and rice.

Potaraka receives much donated clothing and we choose which are still usable and give them to the refugees. This will be the basis of their clothing, food, and housing.

3 Employment Opportunities for Stateless People

The problem of employment fundamentally is that stateless people or refugees cannot legally be employed. In the last two years, the law has been changed and employment is forbidden today. We have to live out of limited amounts of money at Potaraka and therefore we work for a small amount of money doing minor jobs for the welfare section of Sumida Ward, Tokyo. We clean up the belongings of the dead, clean up junk collectors’ houses, and make arrangements for someone’s move. We have the refugees participate in these jobs as paid-for volunteers and pay them a little money for their work. Whether it is ¥3,000 or ¥5,000, they are very happy to receive money. However, I’m afraid it is getting difficult to continue these kinds of work. One reason is that we do not have a warehouse big enough to store all of those household articles of the dead. We can only break them up into small parts. We are anxious about how long they can continue this way of making money. What the refugees really want is a steady job. This naturally means they want payment and also they do not want to spend all day doing nothing. But since they are forbidden to work by law, it is impossible to fully satisfy their hopes of getting steady jobs. Their attitude towards work is well accepted by all the employers. They work hard and are different from the Japanese workers. They are diligent, earnest, and focus very much on their work. Our clients, though it is not the best way to say it, say that it is better to employ them than to employ a Japanese person. It is a compliment for these refugees and they become very happy to hear this.

One day, a man from Cameroon participated in paid-for volunteer work. He was asked by the client where he came from and of course answered that he was from Cameroon. The client praised Cameroon’s soccer team and the next moment he asked him, “Why did you have to run away from such a peaceful country?” This is the general view that the Japanese have towards refugees.

I suppose that paid-for volunteer work will continue for the time being, however, one method of solving the problem is to let them all learn farming and continue the program in this way. We are taking one step forward toward this goal.

4 Problems of Medicare for Stateless People

Next, I will focus on the problem of medical care. They have no health
insurance and for this reason their medical bills are considerably high. If he catches a cold and has an X-ray, it would cost about ¥18,000. The situation is better for those having aid from support organizations or groups but the majority of our refugees are not supported. In such a case, we find a clinic where the medical bills are not so high and have the NPO take care of theses medical expenses.

Most of them have been detained at detention centers of the immigration office for a long time and as a result suffer from mental illness such as depression. When they first come to our institution, they all look glazed and say almost nothing. We need to be patient and open their minds gradually by eating meals together and chatting with each other, and have them understand our way of thinking. Because of that, they cannot sleep at night and this makes them fall asleep during the daytime. This vicious circle repeats over and over. Since they spend their days in the tight immigration office, a number of people get sciatica and we look for a clinic with low medical fees for treatment to have them get medical attention.

5 Support through Farming

As I have mentioned before, farming would be a good skill for refugees to learn for their future. The reason is that farming requires daily care for results. You have something to do and problems that arise every day. These problems will have to be cleared one by one on a daily basis. The experience that they gain through solving these problems would lead them to uphold an independent livelihood in Japan. Since they sleep till noon, farming is impossible for them at the present day. We will have to start from the very beginning to change their lifestyle. One other problem is to make them understand that they will not be paid on a daily basis. Farming will require a year before there are results and any payment. We will have to tackle this matter. If farming is a solution for them to live in Japan, even though it is difficult to say how long it will take, we would like to step ahead with this project. Everything has just begun. We will give them hope to feel comfortable living in Japan.

I think it would be wonderful if all refugees and stateless people in Japan would join in our farming project not limited only to those at Mina House. We would make an intense effort to carry out our duties with the help of everyone of you.
Comment 1

TSUKIDA Mizue
Professor, Showa Women’s University

1 Reviewing Each Presentation

I would like to thank the four presenters for their proposal based on their broad knowledge and experience. Their speech on how to prevent a person from becoming stateless and on how to aid such persons was very interesting. In the future, in order to prevent children from becoming stateless as much as possible, we first learned in detail about the situation with the stateless in Thailand from Ms. Bongkot about how the word “statelessness” is defined, how Thais are trying to reduce the stateless population, and how the stateless are being protected. Then we heard from Ms. Odagawa about the situation the stateless are facing in Japan. We learned that the status of a stateless person is still unclear and that the way such individuals are treated is still obscure in Japan. There is a problem in the birth registration system of Japan. After the Nationality Law was revised in 2008 on Stateless persons, a child born between a foreign mother and a Japanese father was able to obtain Japanese nationality even if they were not legally married in Japan, if the father gives the child legal recognition. However, there still is a problem that most of these mothers do not register the child after birth since she entered Japan illegally or the father does not legally recognize the child. Mr. Saito told us about both mentally and physically tragic situations of stateless persons living in Japan. They are compelled to live very poorly and are treated badly by the government authorities. Since they always have to live in fear of being deported or being forcibly relocated, they cannot lead a quiet life.

2 Stateless—Registration

Since Japan approved ratification of the Convention on the Rights of the Child in 1994, we have reported on the stateless situation for the third time last year\(^1\). As a result, we have received comments and recommendations from the expert committee. The committee put a problem to Japan to take notice of the situation of many children not being registered at birth and the government not being able to grasp the number of those stateless children born under parents without residence status. It also recommended Japan to accede to the treaties related to the prevention and reduction of stateless persons.

First of all, in regards to the registration problem, I think Japan should consider adopting an Act like the “Civil Registration Act” ratified in Thailand in 2008. But before we adopt it, we must revise the subconscious awareness of the Japanese towards foreigners. Many Japanese tend to refuse to accept foreigners to get into
their country and maybe this thinking comes from the fact that Japan is an island country. They can accept people with high skills and mentality but only a limited number. For instance, we saw a lot of people oppose to the recent revision of the Nationality Act for the reason that fake marriages and illegal immigrants would increase. However, this turned out to be false after the Law was revised. But as we can see from people’s reactions on the Internet, many Japanese still do not want foreigners to come into their country.

In order to accept stateless persons in a way as Mr. Zhong Zhang said, we Japanese should change our way of thinking. In other words, we should accept stateless persons not because they don’t have any nationality but because we respect their human rights. We have to make a society which will be kind to and considerate of them so that they can live a normal life. Therefore, it is about time that we Japanese must change our way of thinking on the problem of nationality. I think a big problem has been presented to each one of us today.

3 Stateless—Support

Today, a lot of support is being offered to stateless persons by NPOs and volunteer groups such as NPO Potaraka headed by Prof. Saito and the Stateless Network. These are the groups that actually play a leading role in support activities. For instance, the Child Welfare Act of Japan is applied to all children regardless of nationality. Therefore, cases involving stateless children are brought to the child counseling centers for consultation. It is only recently that these child counseling centers have started to provide legal experts who have a lot of knowledge about nationality and statelessness. Up to now, consultation was placed in the hands of volunteer groups and outside lawyers who were knowledgeable of these matters. They treat each case of statelessness individually, as persons from countries with different laws and different cultures. They act on behalf of stateless persons to obtain their legal stay here in Japan or establish a nationality. They are in a tough situation and we must deal with each person in a step-by-step fashion.

So hearing the support system of Thailand today was very meaningful and at the same time very surprising. I tried to apply Thailand’s support system which hires many professionals to the situation here in Japan. We can see that the work the professionals in Thailand are doing, is being done by the volunteer groups and lawyers here in Japan.

In the present circumstances, for instance, each stateless individual (agent) goes to his origin country’s embassy to check whether he still has his nationality. Sometimes, he has to visit several embassies. Although not a specific idea at this moment, I think everything would work out more smoothly if we set up a system that allowed embassies to contact each other to check an individual’s nationality.
4 Summary

Lastly, let me talk about livelihood support. I think every person wants to work and earn his own income and at the same time contribute to society in one way or another. However, stateless persons and refugees are deprived of their right to work just because they do not have a nationality. I wonder if we can seek a way to change the present system.

Japanese people are not very familiar, or do not have many chances to come in contact with people of different cultures. Since I am in an educational environment, I think it is necessary to educate cross-cultural understanding to children consciously from their infancy. The situation would not change easily unless they come into contact with different cultures from an early age. Since Japan is not bordered by any other country, it might be natural that we become, in a way, very narrow minded. It was very interesting listening to the four speakers with such an idea in my mind.

Note
Comment 2

ISHII Hiroaki
Executive Director, Japan Association for Refugees

1 Introduction
I belong to the Japan Association for Refugees, a group which I launched 12 years ago with some of my colleagues. Since then, I have visited many refugee camps abroad, so I take it as my responsibility to speak on these refugee camps and to tell you the differences in the situation facing refugees between Japan and other countries.

2 Support Given by Japan Association for Refugees
So my approach today is based on the theme of today’s workshop “On the ground support for stateless people and a civil approach”, and our group Japan Association for Refugees supports refugees from abroad in terms of legal matters such as applying for asylum, supporting them legally during their refugee status determination process and supporting their daily life. We work in order that they can live a normal life. However, we always come to a standstill when it comes to legal matters. In my opinion, the refugee problem is a vestige from the “Cold War” days. We’ve been saying to the government “You should do this and that.”, or “You should correct it because it’s wrong.” But now, we should be taking a new approach which is something to be called the “new public welfare” approach. I hope you forgive me if I sound like a staunch supporter of the current administration of the Democratic Party of Japan which actually I am not. In fact, though, there’s nothing essentially new in this approach. If it still looks a little different from the past policy lines taken by the coalition government between the Liberal-Democratic Party and New Komeito, which was called the “rich public welfare” policy, it is only because the new government has made public welfare the mainstay of its policy platform. In short, the era for all-out welfare-support by the government has come to an end. Also, from a financial point of view, the traditional approach to welfare is no longer sustainable. Let me give you an example. There is a public group called the Refugee Assistance Headquarters (RHQ) that was mentioned earlier which provides limited support for the livelihood of refugees. It is a foundation funded 100% by the Ministry of Foreign Affairs, and from its nature, it isn’t a group that openly supports refugees. Since it does not cooperate with civil groups, we have no way of knowing how they are supporting refugees.

In the last 12 years of our support activities for refugees, I have come to the conclusion that to make a more concrete proposal and plan to government agencies, to get them more involved in this endeavor, and to define our respective
responsibilities more clearly, the “new public welfare” policy should be implemented more at the initiative of citizenry. We are more experienced than the government in handling matters concerning refugees since we come in contact with them every day. I also realized that we need to be more capable in carrying on discussions concerning refugee law.

The task of supporting refugees from the civil side will remain since the law will not change overnight. We have to support refugees and fill the gaps since the government is still confused on its policy. We have to present them with a concrete roadmap. We are ready to cooperate with the government in whatever ways possible.

3 Seeking New Ways of Supporting Stateless Persons

When I started to support refugees about 12 years ago, I would often be called to universities to give lectures on refugees. At first the students thought that I was going to give a lecture on refugees abroad. I asked them, “How many of you think that there are refugees in Japan?” and only 5 or 6 students raised their hands and all the students were surprised to know the facts. Today, when I speak on the same subject at a university somewhere in Tokyo, almost 30% or maybe 50% of the students will answer that they know the existence of refugees in Japan. I’m not saying that I alone changed the mentality of these students but it’s the result of a coordinated effort of international lawyers, media workers, and volunteers engaged in support activities. We must also popularize the notion of stateless person to the public. Some people say that stateless persons are happier than people with just one nationality. Or, there may be some Japanese among us who might feel shameful for being a Japanese national. We should not forget that there is such a positive mindset towards being stateless and that some countries still do not protect the human rights of stateless persons. So we, the Japanese people, should strive to improve the current situation.

I have gone to many countries to deal with refugee issues and came up with a few sample cases. I’ve noticed that the characteristics of NGOs concerning refugee support differ slightly by country such as the NGOs in the U.S., France, and Japan. Of course, the difference with other countries becomes more apparent at official international conferences such as those held in Geneva. I’m afraid that Japan, even at the civil society level, cannot take the initiative in refugee support at these conferences, or actively participate in the discussions. This can be said for the Japanese media as well. We should understand that the Japanese are not educated in that sense.

Early on in the discussion, Mr. Zhong Zhang mentioned the implication of the word “Chosen (Korea)”. The Japanese people tend to think it refers to the Democratic People’s Republic of Korea however, it is not true. We, as members of civil society, must strive to do away with our discriminatory way of viewing reality
with the world. And as an NGO, we must position ourselves to better help stateless persons through social networking and various other means. Only by doing so, can we cooperate not only within the Japanese society in supporting refugees but also work with our neighboring countries and other East Asian countries, as well.
Questions and Answers

1 The Stateless and Their Identity

Questioner A: Let me speak from my personal experience. I’ve been interested in the Jewish people since I was a child and have done some research. When I grew up, I went to Israel to live there and asked the Jewish people. “What makes you Jewish?” There were various answers to this such as, “Because my mother is Jewish,” or “Because I believe in the Jewish religion.” I needn’t have traveled all the way to Israel to hear such perfunctory replies because these are what I could have learned through literature. And after I asked this question to the people I met there, I started asking myself the same question: “How do I know I am Japanese?” Normally, the answer would be, “Because I was born in Japan.” or “Because I carry a Japanese passport when I go abroad,” and that’s it.

I went a little further than that. Does it make you Japanese if you are born in Japan and carry a Japanese passport? Legally speaking, I am Japanese at present, but I feel like I am stateless at heart. I want to question the Japanese people why they are so sure that they are Japanese simply because they were born in Japan and carry a Japanese passport. I just wanted to talk about one simple question I always have in mind.

CHEN Tien-shi: What you have said right now covers a wide range of issues and is very difficult to deal with because it’s closely related to the issue with the sense of identity facing the stateless. Indeed there must be many people who are mentally stateless. I’m sure that from now on, we will come to the issue of the meaning of nationality. Are there any comments on what the civic society can do to support human rights?

2 From the Standpoint of Supporting Applications for Asylum

Questioner B: I am a member of RAFIQ, meaning “friend” in Persian, supporting refugees in Japan. I learned that the definition of “stateless people” is not clear in Japan. Most of the people who have become undocumented are those whom belong in the category of “stateless people” as defined by Ms. Bongkot.

We are engaged in support activities almost the same as those of the NPO Potaraka. I now understand stateless people and refugees face the same difficulties and that we can work in collaboration with Stateless Network to support these people. The biggest problem is the problem of those living in Japan as stateless and refugees without residential status. They cannot find employment for the fact that
they do not have residential status. How can they live? We must do something from a humanitarian aspect for them to lead a normal life.

Our group is really a small group and our foremost theme is to match up with our name, RAFIQ starting from our very next neighbor as friends and to expand our support network. From now on, we would like to expand our circle so that other people can also participate in our activities in collaboration with the Stateless Network.

3 Support Activities for Foreigners

**Questioner B:** Today, I heard about the activities of the NPO Potaraka for the first time which was really a good experience. Together with retired people and housewives, not as an activity of an NPO, I am engaged in support activities for foreigners in the Kansai area. I visit foreigners who are placed in Nishi Nihon Immigration Center and provide livelihood support to foreigners after their provisional release.

We established RAFIQ three years ago. In particular, we regularly issue a newsletter of Nishi Nihon Immigration Center and introduce our activities to many other people to gradually increase supporters. We now have donations close to three million yen and are lending them out to foreigners with provisional release status. We hope they will repay what they borrow from us without any interest, however, since they have difficulty finding jobs, not much has been recovered. Yet, we are able to get by thus far thanks to the goodwill shown by many people. We also receive food aid from Second Harvest Japan.

Our biggest problem is how to deal with problems facing refugees, the sick, and parents of stateless children who have overstayed their visas. We cannot deal with each and every detainee at the immigration office. So we have prioritized the support of the livelihood of refugees who have been released over anything else. Five groups including ours acceded to what is called the Kansai Network, we can somehow manage the resource constraints. Today, it was my precious experience to hear about the support activities of other organized groups.

**SAITO Shun:** I would like to mention that it is important and we must continue supporting refugees on provisional release status. But before that, we should be aware that there are means to avoid being detained by the immigration office. We should keep in touch with each other to handle such situations. This does not mean that we should be cheating. What is the immigration office, and how do the officers there think? What attitude should we take so as not to be unnecessarily detained? There have been many opinions presented and with very careful thinking we are slowly succeeding in our efforts. Therefore, I believe the best is to maneuver not to be detained by the immigration office as much as possible.
Once they are detained, as I have mentioned in my report, they often get sick. It is a mental illness or a psychogenic disease. In general, when they are released they take on an absent-mindedness. This is true with both stateless people and refugees. They may seek treatment by a psychiatrist, but very few can overcome their traumatic experience. The reason I keep talking about “agriculture” as an effective therapy is because I believe there is no better cure of their illness than working in the green field under the blue sky, with wild animals. There is no medicine for mental destruction. With this in mind, I would like to keep contact with those persons that I mentioned just before.

4 Cases with Stateless Children

Questioner C: I am also from the same organization, Nishi Nihon Immigration Center.

We meet with detainees every week at the immigration office and also support people with provisional release. But today, I listened to the question as to what statelessness really is, and have reaffirmed my understanding that the actual conditions encompassing the refugees on provisional release are literally the same as being stateless. However after interviewing some refugees whom we are supporting, their reply was that their children were stateless. We found a family who had not performed their child’s registration for fear of forced repatriation. Also, among those detained, there are some whose concept of nationality is unlike that of the census registry that we have in Japan, and they have the wrong idea that they could automatically obtain Japanese nationality by registering the birth of their child to the local authorities of their residence. I’m afraid we should clarify this point in the interviews.

I would like to ask Ms. Odagawa what to advise to a couple who do not have residential status with three stateless children. I would appreciate guidance as to what means there are at present for such a case.

ODAGAWA Ayane: You mentioned that the children were stateless, but the first thing I suggest you to do is find out the nationality of the parents. Handling of the case would be different depending on whether they are legally stateless or it’s just that they are in a condition similar to a stateless person’s. If the parents are stateless, one of their options is to apply for nationality under Article 2–3 of the Nationality Act.

Questioner C: The parents have a nationality.

ODAGAWA: That means that they are de facto stateless persons because they haven’t registered. The situation seems complicated to discuss any further. Let’s
discuss it later.

5 Field Reports on Support of the Stateless in Thailand

CHEN: Now I would like Ms. Bongkot to give us some advice with respect to problems in light of your own experience in Thailand.

NAPAUMPORN Bongkot: I think here we have three different issues about nationality: the civil registration issue, immigration issue, and nationality issue. You need to separate it. You cannot think of it as a whole. If you mix these three issues together, you have no possible solution. So, it’s easier to go step-by-step and start solving the easiest problem first, and then go on further to the other issues.

CHEN: There has been an indication that the problems of refugees are closely related and it is actually so. It is important for us to seek solutions for each issue. And we will have to reconfirm that there is a little difference between the definition of “stateless” by Ms. Bongkot and the definition of “stateless” in Japan. I believe the definition of “stateless” in Japan has to be more segmented.

It was very helpful to know the systematic means of 5x6x6 support in Thailand introduced by Ms. Bongkot.

As discussed before, the issue of refugees has links to that of the stateless persons. We will have to systemize what links and what doesn’t. By conducting various support activities in civic society and by consulting a lawyer on legal support, we should atomize our activity so that each of us could find out what we should do. I believe that we could share the same issue, systemize and segmentalize our support. Also, I think our meeting today was greatly worthwhile to find a direction for our cooperation.
2. Determination and Protection of Statelessness: International Comparison and Construction of Cooperation
2-1 Determination and Protection of Stateless Persons in France

MESLIN Benoit
Secretary General, French Office for the Protection of Refugees and Stateless Persons

1 Recognition of Statelessness in France

I will talk about the way the French Office for the Protection of Refugees and Stateless Persons (OFPRA) recognizes and has procedures for the determination of statelessness.

France is one of the very few countries in the world to have a specific procedure for the determination of statelessness. Spain and Hungary have the same system, however, I think the number of such countries in the whole world can be counted on one hand.

It all started in France at the beginning of the twentieth century, about ninety or a hundred years ago. After the First World War, France assumed a role as host country of refugees from other countries. Especially after the Russian Revolution in 1917, thousands of Russians came to France. Furthermore, when the war between Turkey and Armenia broke out, people from Armenia came as well. Many Germans and Italians came to France in the 1930s at the time of the dictatorships in the two countries.

Many of these people were not simply seeking refugee status. They were deprived of their nationality by their own governments and at the same time were deported from their own country. And after the war, in 1951 when the Refugee Convention was contracted, the present administrative organization was set up. In 1951, the convention on refugees was signed and was soon ratified by France. The French government established OFPRA to deal with refugee cases and also with statelessness cases.

OFPRA is funded by the government and is a part of the government organization to recognize whether a person is a refugee or stateless. We have the authority to recognize or not to recognize refugees or stateless people. So, we have two missions. First, it is a very big mission concerning refugees. We have about 50,000 people a year applying for refugee status. Our other mission concerning stateless people involves only around 160 cases a year. In that sense, there is a very big amount of asylum seekers and only a small amount of stateless status seekers.

France has signed and ratified the 1954 Convention on Statelessness, and has also signed but not ratified the 1961 Convention on the Reduction of Cases of Statelessness. There’s not much difference between the two because nearly all of the rules that were agreed to in the 1961 convention are included in law.

Most of the people applying for statelessness recognition come from the
European continent. Mostly they come from the former Soviet Union, and next, from the former Yugoslavia. That makes up about 70% of the applications. Others are from: Asia (about 16%), Africa (12%), and America (nearly nothing, around 1%). Among European applications, the Soviet or former Soviet applications account for about 40% and nearly 20% are from the former Yugoslavia. And we grant status to around 30% or 40% of the people who apply for statelessness recognition.

Now, if you’re trying to seek recognition of your statelessness and you’re in France, you have to apply at one of the government offices that are scattered all across the French territory, which count to about a hundred. And there, you will be issued with a document, a sort of file, which you will have to fill in and send to us by post. Now, you would be required to give your name, your date of birth, the country you come from, and briefly why you think you are stateless. It has to be written in French which you will find difficult, but NGOs all over the country can help you and also there are many people ready to translate it for you.

It is sent to us by post and when we receive the document, we will send a letter to the governmental office acknowledging that we’ve received it. And then we will start studying each case. There is a specialized unit for statelessness and the specialized officers there will look over the documents and will send a paper with the date of the interview to each of the applicants. You will have to come to Paris, the only office in France. The interview is a very important part of the procedure because it is the time when most questions will be explored, although not necessarily solved. So, it is extremely important and nearly everybody turns up for the interview, even though it is not compulsory.

2 The Affairs of the Office for the Protection of Refugees and Stateless People

Now, our job is to find information about each case as necessary for the recognition of statelessness. We already have the information about each person and also the record of each interview, his answers to our questions. We also have documentation about the laws of many countries from embassies and libraries all over the world. We also have copies of civil codes and legal documents concerning nationality. Our job after that is to judge if the applicant’s case fits into the legal system of his country. This is stateless determination and not refugee status determination. Stateless people are not always persecuted people. They may have relations with their country of birth and also with the authorities of the country. As an institution, we have a close relation to the authorities as well. So, we can ask questions about each stateless person, and whether they think he is really stateless or not. Not always, but very often, embassies and consulates in Paris will answer our questions.
We also go to diplomatic establishments abroad and lobby the authorities directly. It is more efficient. If the person is exposed to risk, however, we would refrain from doing that because the safety of the person is of the utmost priority. Next we must consider which country or countries the person is connected to and see if the person is entitled to obtain the nationality of that country or those countries.

From the previous chapter, we came to know that the definition of stateless persons is not necessarily clear. Stateless persons, we consider, are people who cannot claim his nationality. That is, it is not that he doesn’t have a nationality at the time of the application. If he crosses the street and goes to the consulate to obtain the nationality of his country of origin, then he is no longer a stateless person. If he can claim his own nationality, he can’t be recognized as stateless. This is what the courts feel certain about. If they are not satisfied with our decision, they have the right to appeal to court.

If a person has both refugee and statelessness claims, what happens is that the person claims both refugee recognition and statelessness recognition at the same time since he is at risk of persecution by his country of origin and is also stateless. In that case, we will consider each case separately. First, we take a position on the refugee status and when it’s settled we go on to the next case. If the person is recognized as a refugee, the status as a refugee will be given more priority as it is a question of protection. He is recognized as a refugee, not as an Algerian, Egyptian, Russian, Turkish, or whatever nationality refugee, but as a stateless refugee if that is the case. Then, it will put an end to the application for statelessness. That is, we will have to wait until the court takes a decision on the refugee status first.

If the person is not satisfied with the decision of the court, he can appeal unacceptable rulings to the administrative court. There is a little difference between the two cases of refugees and stateless persons. If the person has an objection concerning refugee status, we have a specialized court different from the administrative court. Concerning the status of statelessness, the person will appeal to the local administrative court and there he can appeal three times. When we have granted a status for statelessness, a new difficulty may arise if the new stateless recognized person can receive documents from his country of origin. Since most stateless people, if they are not refugees, are not persecuted from their country of origin, they can have contact with the authorities of their country of origin. For example, he can ask for a copy of a birth certificate although there are exceptions. That’s why we have our own birth registry system and we enter the records of births of each person. We register each person’s birth according to the documents he brings or according to his declaration. However, if he doesn’t have any documents, he will not be registered. This is the system of birth registration. If a person needs the birth registration in the future, or needs a copy of that, he can contact us. It is much easier
for them, and will allow them to have, more or less, a normal life.

After the person gets statelessness recognition, he will be granted the status of residence. His status of residence will be automatically renewed for the first three years and after that, he will be granted a ten-year status of residence. If the person remains in French territory and is still stateless after ten years, it will also be renewed. If the person acquires the nationality of another country, there is no point in recognizing him as stateless any longer and therefore it will not be renewed. After five years residence in French territory, he can apply for naturalization, for French nationality. I think most people do that, even though we cannot know the exact number since there are no statistics for this. The global population of stateless or recognized stateless people is estimated around only 10 million. In France, we have a small number of applicants of stateless people and many of them have now acquired French nationality.

In France, nationality has nothing to do with the right to education for children or human rights to health. In France, education is compulsory for all children between the ages of five to sixteen. It doesn’t matter whether he is a regular migrant or an irregular migrant, stateless or not, has a nationality or not, or is a French or a foreigner. All the children have the right to education. It is compulsory and you must send your children to school. Also everybody has the right to medical care for free which is funded by the government.

As I have stated at the beginning, France hasn’t ratified the 1961 convention on the reduction of cases of statelessness, however, the domestic law is in accord with the treaty. A child who is born in France under a French parent is French by law. A child who is born in France of stateless parents is French. A child born in France whose parents can’t pass their nationality to him is French. And French law doesn’t allow anybody to lose French nationality if the person has not already got another nationality, and that means that in principle, it is not possible under French law to create new stateless people. That is, the important point here is that we must not create new stateless people even though we cannot ignore the stateless people who already exist. For the future, we must reform the legal system in order to erase the number of stateless persons.
2-2 Towards Managing Stateless People in a Thai Context

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No legal status, few rights, hidden from society, forgotten... STATELESS

1 Introduction

My aim is to discuss the management of stateless persons in a Thai context through an examination of policies and their effects on the human security of stateless persons in Thailand with a focus on discrimination and continued violations of fundamental human rights. Thailand’s experiences and lessons learnt should be shared so as to benefit development of future policies and actions to assist in the elimination of statelessness worldwide.

Conceptually, statelessness or ‘nationalitylessness’ can result from a combination of political, social or historical situations or events. At its roots, statelessness is the result of one State’s discrimination in the process of offering nationality to those residing within its border. Statelessness leads to a precarious existence for those affected and can result in exploitation, abuse and discrimination. The most important threats to the lives of stateless individuals comes from their lack of fundamental rights in almost all aspects of their everyday lives, namely the: (1) right to personal legal status; (2) right to health care and services; (3) right to employment and labor protection; (4) right to education; (5) right to access justice systems and remedies for rights violations; and (6) the right to quality of life in other areas such as right to freedom of movement, right to organize and collectively bargain, the right to found a legally-recognized family and the fundamental right to property.

2 Who are the Stateless and ‘Nationalityless’ People in Thailand?

Thailand entered the era of being a modern nation and began to pay attention to the population, ethnicity and language of its citizens during the reign of King Rama the Fifth. At the beginning of King Rama the Sixth’s reign, in 1913, the first Nationality Act was enacted to clarify a number of nationality issues facing Thai society. The first law that required every citizen to carry a national identity card was enacted in 1943 and Thailand’s civil registration system became fully operational in 1956.

Thailand’s civil registration processes mean that statelessness in the country can result from the following situations: firstly, those left out of the first and subsequent civil registration surveys; second, those whose births were not registered at all; and third, those whose names were removed from Thai civil registration system and were thus not recognized by any state.
3 Registration Management for Stateless, ‘Nationalityless’ and Rootless People in Thailand

The official term used by the Thai state for stateless, ‘nationalityless’ and rootless people needs to be highlighted. Thais call these people ‘non-Thai’ or ‘aliens’ or ‘people without Thai nationality’ as these individuals don’t have any documents to explain their personal legal status. These people are presumed to be undocumented or ‘illegal’ immigrants and their personal information is recorded as such.

As such non-Thais consist of many groups and have become registered in official systems at different times and under very different situations, I would like to classify stateless, ‘nationalityless’ and rootless people into four groups for ease of discussion and exploration: first, ethnic minorities; second, rootless people or those without civil registration records; third, migrant workers from Cambodia, Lao PDR and Myanmar; and fourth, displaced persons from Myanmar now residing in Thailand. My talk will deal in detail only with the first two groups, that is, ethnic minorities and rootless persons.

4 Who are the Ethnic Minorities in Thailand?

Most ethnic minority people in Thailand are indigenous. The registration process for ethnic minority groups, providing them with a Tor Ror 13 document, first began in 1972. Later in 1983, a project was implemented to give a 13-digit number to every Thai citizen or person without Thai nationality living in Thailand. ‘Nationalityless’ persons in Thailand were specifically given identification cards of different colors complete with a 13-digit number, just like Thai nationals. The ID numbers for those people born outside of Thailand began with 6 whilst their children born in Thailand receive ID numbers beginning with 7 (See Picture).

To regulate ethnic minorities, the Ministry of Interior’s Department of Provincial Administration issued 19 kinds of identification cards that were all color coded. A different style of card was issued for each of the 19 classified groups whose personal legal status varied. In addition, these 19 classified groups were accorded different rights to employment and rights to freedom of movement. Subsequently, in accordance with a 2004 Regulation on ‘An Identity Card for Those without Thai Nationality,’ 15 subgroups were formed. Those without Thai nationality, according to this regulation, referred to aliens who have been allowed to stay in Thailand in special circumstances by the power of the Interior Minister and cabinet approval in accordance with immigration laws. These persons are able to obtain ‘non-national ID Cards’ to replace the color coded group specific cards. I would like to divide these individuals, according to recognition by the Thai state, into 3 main categories:

(1) Those who once belonged to a State but entered Thailand usually after fleeing from conflict. These include ex-Nationalist Chinese Army settlers; migrant Haws
(Chinese hill farmers); free Haws; ex-Chinese Malaya communists; Vietnamese migrants; Tai Leu; Laotian migrants; Nepalese migrants; displaced nationals from Myanmar; and undocumented migrants from Myanmar.

(2) Those who never belonged to any State but are natives who have lived in the region before the formation of present day Nation States. The largest group among these individuals is officially called ‘people of high-altitude areas.’ This includes many ethnic minorities who live along the Northern and Western borders of Thailand such as the Hmong, Mien, Lisu, Rhaf, Akha, Karen, Kachin, Tong Su, Malabri, Daraan, Man, Lua and Khmu. In addition, there are ‘Chao Le’ in the Surin islands including Mawken, MawgLan and Urak Lawei. The Mons or the Shan (Tai Yai) are not listed in this category even though the number of stateless persons in Thailand from these two groups numbers hundreds of thousands. In practice, these two groups are classified by the Thai State as coming from Myanmar, despite their assertion of independence from the Myanmar State and despite their not having Myanmar identification cards.

(3) Those descended from ancestors with Thai nationality who are displaced Thais with Myanmar nationality and immigrants from Koh Kong with Thai ancestry.

As of June 2010, official statistics suggest Thailand registered 233,000 people whose 13-digit ID card numbers began with the digit ‘6’ and most of whom lived
in the Northern region of the country. From the population pyramid, we can see most are of working age and advanced age with few children (see Figure 1).

![Population Pyramid of Ethnic Minorities Whose 13-digit ID Number Begins with the Digit ‘6’](image1)

Figure 1 Population Pyramid of Ethnic Minorities Whose 13-digit ID Number Begins with the Digit ‘6’

Source: Made by the author

The 233,000 older immigrants, in turn, have given birth to around 70,000 younger generations whose 13-digit ID number begins with the digit 7. The population pyramid of these persons indicates that most are of student age (see Figure 2).

![Population Pyramid of Children of Minorities Whose 13-digit ID Numbers Begin with the Digit ‘7’](image2)

Figure 2 Population Pyramid of Children of Minorities Whose 13-digit ID Numbers Begin with the Digit ‘7’

Source: Made by the author

5 Who are Stateless, ‘Nationalityless’ and Rootless People?

Stateless, ‘nationalityless’ and rootless people do not yet have a civil registration status or they are those identified by a survey as stateless or ‘nationalityless’ but have not been subject to registration records, despite their long term residency in Thailand. Most such people are ethnic minorities who have been born in Thailand
or lived here for a long time but who were left off of the Department of Provincial Administration’s surveys. Some such people are actually Thai but they have no ID documents. The government has announced a ‘Strategy to solve problems of personal legal status and rights’ (I will talk about this strategy later) to provide solutions for many people in this group of long-term residents as well as for their descendants, thought to number in the hundreds of thousands.

From 1st July 2005, the Department of Provincial Administration began a survey of stateless persons by tallying the number of students and people without national registry documents or Thai nationality in order to compile a database and assign these individuals with ID numbers beginning with the digit ‘0’. However, this survey was yet to be completed as of January 2011. The latest number of people in this category as of June 2010 was 211, 182 persons, most living in the Northern and Western border provinces of Thailand. The population pyramid of these people indicates that they are mostly young adults.

![Population Pyramid of People without Civil Registration Records or Rootless People Whose 13-digit ID Numbers Begin with the Digit ‘0’](source)

![Figure 3](source)

### 6 Discrimination against Stateless and ‘Nationalityless’ People: Past to 2005

Before 2005, the Thai state never had a policy to manage stateless or rootless persons who were instead classified as largely ‘illegal aliens.’ It is therefore not surprising that past management of stateless or ‘nationalityless’ people was carried out through the lens of national security with policies designed to target ‘illegal aliens.’ Policies were developed by the National Security Council, which is the agency responsible for protecting and promoting national security domestically and internationally. The National Security Council’s conceptual foundation is based on the aim to control rather than govern and is often tied to national sovereignty.
concerns. This way of thinking conceptually has been the root cause of prejudice against stateless, ‘nationalityless’ ethnic minorities and has resulted in a variety of human rights violations. Stateless or ‘nationalityless’ persons are vulnerable to various violations of fundamental rights and have increased difficulty in accessing government services in a variety of ways.

(1) Becoming an Internally Displaced Person because of Forced Relocation

Forced relocations of stateless or ‘nationalityless’ ethnic minorities have been carried out in several waves, mostly affecting native communities in Northern Thailand, although similar actions were evidenced in the relocation of Laotian migrants, displaced Thais and Chao Le in different contexts. All forced relocations were conducted on the basis of national development and for reasons relating to national security, environmental conservation, the control and suppression of narcotics and to counter the threat of communism from 1968 to 1971. Since 1987, developing the tourism industry emerged as a new reason to conduct forced relocations by local administrative organizations or local investors.

(2) Lack of Land Security

Stateless or ‘nationalityless’ persons, with personal legal status equivalent to ‘illegal aliens,’ cannot own land as Thailand’s land ownership laws only allow foreign ownership of land under restricted conditions. Moreover, most ethnic communities are located in mountainous areas where the government does not allow private ownership. Land ownership has always been one of the major problems facing ethnic minorities.

(3) Refusal of Birth Registration Documents

Birth registration of ‘illegal aliens’ can be divided into two types:
① When parents of the child are ‘aliens’, that are allowed temporary residence in Thailand. For example, children of ethnic minority parents who have been registered are entitled to the Tor Ror 1/1 documents and their parents can request the administrative authority to register the birth in the Thai State’s civil registration system.
② When the ‘alien’ parents are not allowed temporary residence in Thailand. For example, children of rootless persons are also entitled to the Tor Ror 1/1 documents but their parents cannot request an administrative authority to register the birth in the Thai state’s civil registration system. These children are not without status as they are recognized by the Thai state. However, the Tor Ror 1/1 document does not provide any nationality link to any particular state.
(4) Access to Health Care Services

Before the Universal Coverage Health Scheme was introduced in 2002, a ‘nationalityless’ person whose ID number began with the digit 6 or 7 could purchase from a nearby hospital a ‘health insurance card’ intended for those with low income, issued under the ‘Health Care Welfare Project for Those with Low Incomes and Those Being Socially Supported’. The cost of this card was 300–500 Baht per family (the government matched the payments with support of 500 and 1,000 Baht respectively). These cards enable ‘nationalityless’ people to receive free health services. Unfortunately, the project was discontinued after the introduction of the ‘Gold Card’ scheme (formerly known as ‘30 baht for all treatments’ scheme) which only applied to Thai nationals. ‘Nationalityless’ persons were deprived of access to health care.

Since the discontinuation of the ‘nationalityless’ persons’ right to access health care, there have been efforts to demand the Government to restore this right, spearheaded by civil society organizations working with people with personal legal status problems. Such efforts bore fruit in early 2010 when the Thai Government announced a plan to restore health rights to 457,000 people with personal legal status problems involving 172 border hospitals in 15 provinces, beginning from April 2010. The Government also agreed to set up a 400 million Baht special fund, to be managed by the Ministry of Health, to offset the expenses incurred during the 6-month budgetary period.

(5) Work Restrictions and Labour Protection

Stateless or ‘nationalityless’ people or ‘people with personal legal status problems’ and registered ‘illegal alien’ workers from neighboring countries can work legally in Thailand, in accordance with Thai laws, although they can only be employed in certain professions, mostly as labourers and domestic helpers. Such individuals must apply for work permits at Provincial Employment Offices in the districts where they work. If these individuals work without a work permit or work in prohibited professions, they are subject to arrest and punishment of up to 5 years’ imprisonment or 2,000 to 100,000 Baht fines, or both.

In principle, Thai and regular and irregular migrant workers are entitled to the same labour protection standards in accordance with the 1998 Labour Protection Act. This Act provides a legal basis for minimum wages, maximum work hours, occupational health and safety, regulation of the working of women and children and a system of labour inspections and penalties against those breaching provisions of the Act. However, stateless persons and migrant workers routinely receive less than the legally mandated minimum wage for excessively long hours of work and face routine deductions from their salaries.

Moreover, according to Thai labour laws, non-Thai nationals are not allowed
to form their own trade unions. If stateless or ‘nationalityless’ employees are exploited or abused, they don’t have effective mechanisms to demand or defend their rights. When exploited in sweat-shop conditions, suffering accidents or suffering sexual abuse, such workers face serious challenges in filing a case to the central or provincial offices of the Department of Welfare and Labor Protection. As a result, stateless employees are left with two options—put up with exploitative labour conditions or quit. When such workers suffer from serious or fatal accidents, they and their heirs also cannot access the Workmen’s Compensation Fund, set up under the Workmen’s Compensation Act 1994.

(6) Access to Justice

Stateless and ‘nationalityless’ people lack information or awareness of their human and labour rights. Coupled with an inability to speak, read, and write Thai fluently, these are major obstacles when they want either to submit their complaints to the Provincial Office of Labour Protection and Welfare or to bring their cases up to a court.

(7) Movement Restrictions

Stateless persons are restricted from leaving their ‘control areas,’ that is, the district or province they live, work or study in. These people cannot enjoy the freedom of movement like Thai nationals or ‘legal’ migrant workers. Although stateless or ‘nationalityless’ persons generally cannot leave their ‘control areas’, the Ministry of Interior in early 2010 issued a new regulation to allow stateless or ‘nationalityless’ students to leave control areas for the purpose of education.

(8) Access to Education

In promoting quality of life, the Thai State has a more progressive policy regarding the right to education for those who do not have personal legal status. In principle, minority group individuals without civil registration, unregistered migrants and their dependents can register to access the Thai State education system. The Cabinet Resolution on Education for Unregistered Persons, in 2005, provided a right to education at all levels for all children in Thailand even though they have no legal status.

7 The Thai State’s Strategy on Managing People with Personal Legal Status

Faced with a situation of systematic and widespread violations against stateless people’s rights, the Thai government has welcomed the role of the many civil society organizations and activists who work for the protection of stateless people’s rights. Remarkably, there has been a network of scholars, human rights defenders,
NGOs, civil servants, politicians and high-ranking officials in the National Security Council which have focused on the personal legal status and rights of marginalized groups such as ethnic minority persons, stateless persons and migrant workers.

Since 1997, this civil society network has been advocating a strategic plan for personal legal status and rights of marginalized people to provide systematic responses to their personal legal status challenges and to enhance the rights of these people who have been living in Thailand for a long period of time, as well as for their children born on Thai soil. The activism of civil society led to the formulation of a strategy on managing people with personal legal status problems and rights. On 18th January 2005 the Government declared a new policy under the paradigm of national security management, emphasizing, on balance, human security and national security.

Firstly, a strategic plan for status determination was created at this time, based on the notion that in order to be considered for personal legal status, an applicant must be well-behaved or have legal work and present no threat to national security. The target group for this strategy can be split up into six subgroups, that is: immigrants; those studying in the Thai education system without personal legal status; rootless persons; those with benefaction to Thailand; registered Cambodian, Laotian and Myanmar migrant workers who have been rejected by their origin countries; and any other ‘aliens’ who cannot return to their origin countries.

Secondly, in relation to a strategic plan for fundamental rights, the target group of this measure can be divided into two subgroups. Firstly, there are those individuals already registered but who have no legal status or whose status is being determined or awaits government policy. All government agencies should recognize these people’s fundamental rights to healthcare and education without any restrictions. However, the restrictions of employment and movement are still considered necessary. Secondly, there are those people unregistered. All government agencies must survey and complete records on these individuals so as to provide fundamental rights as necessary on humanitarian grounds. However, after being surveyed and registered, the members of this group will be repatriated to their original countries if this country can be determined. In case such people cannot be repatriated as status determination cannot take place or coordination with origin countries is not possible, such individuals must be treated like those in the first subgroup.

The third component of this national strategy is a proactive and creative strategic plan to prevent further immigration which adopts two approaches: firstly, collaboration with neighboring countries concerning developing mechanisms and cooperation in social, political, and economic spheres in order to improve the quality of life for the region as a whole; and secondly, increasing registration practices and regulations, especially concerning birth registration and residential registration when moving from place to place, to help future identification and status determination.
I want to stress that even though the Thai state has a strategic plan to solve stateless problems, the methods and procedures to give personal legal status in Thailand remain unchanged as follows:

(1) Those Already Categorized in the Tor Ror 13 Registration Since 1972

The parent generation has 13-digit ID numbers beginning with the digit ‘6’ whilst those of the child generation begin with the digit ‘7’. Previously holding colour coded group specific cards, these individuals now have ‘non-national ID cards’. Most of these people are ‘nationalityless’ but not stateless because their parent’s generation has been granted certificates of residence or ‘alien cards’ which entitle them to permanent residency but not Thai nationality and their children born in Thailand are to be given Thai nationality. However, some groups are only given temporary residency without time limits although it seems likely that they will eventually be granted permanent residency and their children born in Thailand will receive Thai nationality. The status pathway can be summarized as follows:

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Stateless Person whose ID Number Begins with Digit '6', Child ID Number Begins with
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Temporary Residency/Permanent Residency
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Thai Nationality Granted to Children Born in Thailand
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However in practice, those who fit this criteria must individually apply for Thai nationality with the registration officers in their areas. The application will be relayed from the district level to provincial level and then to the Department of Provincial Administration who will send it finally to the Interior Minister for approval on a case by case basis. The exact amount of time required for this already lengthy process also depends on the incumbent Interior Minister’s attitudes and opinion. Some cases may take almost ten years.

(2) Those Categorized after 2005

These people, whom the Thai state officially terms ‘people without civil registration records,’ have never appeared in any country’s civil registration records. Once the strategic plan to categorize people without status was in place, the Thai government first ordered a Ministry of Education survey of status-less students and has since expanded the coverage to areas where a large number of uncategorized people are living. Most people in this group are descendants of ethnic minorities who have lived in Thailand for a long time. However, since their births have not been registered, their names cannot be added into a Tor Ror 13 document. Similar problems face children of Thai nationals who have not registered their children’s birth. Unregistered children of Thai nationals can get Thai nationality with a DNA
test. For stateless or status-less persons the status pathway can be summarized as follow:

I have monitored the Thai state’s management of stateless or ‘nationalityless persons’ for a while and I found that the most important obstacles facing the processes are the different interpretations by various government officials in the field and corruption by some of them. The result is that some people who are entitled to personal legal status cannot obtain it while others who are not can. The Thai state’s biggest challenge is to come up with practical guidelines on how to grant personal legal status in an accurate, appropriate, fair, all-encompassing and rapid manner.

We are all living in the modern world right now. The current state of the world, with the emergence of the modern Nation State, has happened only over the course of the past few centuries. Amidst the strength of the 1990’s Nation States, ‘minorities’ experienced abuse, harassment, threats, torture and murder across the planet. The notions which connect Nations, populations, representation and enumeration to counting, classification and political participation have turned many states into predatory identities because the ‘majorities’ fear that one day the ‘minorities’ may supersede them, whether culturally or numerically. This is what Appadurai called the ‘fear of small numbers’ (Appadurai 2006: 49–83).

My view is that such fear of the Nation State is based only on the notion of national security, which in the age of globalization has become increasingly questioned and criticized as a state tool to violate the rights of citizens. Over the past 5 years, the Thai State’s world view of the management of stateless/ nationalityless persons has clearly evolved.

Once distrustful of these people as ‘them’ against ‘us’ and as a presumed threat to national security, the Thai state has come to integrate considerations of human security, fundamental human rights and equal opportunities into its policies on stateless or ‘nationalityless’ people and there is a less rigid line between ‘them’ and ‘us.’ This is a clearly positive development.

Such change didn’t emerge in a vacuum, but was an effect of much social activism in Thailand. This led to an opening up of public space which allowed various sectors—government agencies, academia and civil society—to participate in dialogue. Thai society’s paradigm shift ushered in concepts of pluralism, cultural and ethnic diversity and respect for, and the welcoming of, grassroots people and communities into public dialogue.
The systematic management of personal legal status for stateless and ‘nationalityless’ persons in Thailand is still in its early development and faces many operational obstacles—whether relating to logistics, interpretation and enforcement of laws and regulations, exploitative attitudes of government officials (corruption in many areas) and structural prejudices imbued within relevant laws and regulations.

But the fact that Thailand now has a strategic plan to manage the personal legal status and rights of individuals, introduced by the previous government and continued by the present one, shows the Thai State’s official recognition of the issue’s importance and its commitment to address personal legal status problems as one of its missions. This clear operational road map for all involved government officials signals the official recognition and inclusion of people who have never had legal identities into Thai society.

Reference
Appadurai Arjun
2-3 Overview of Statelessness: International and Japanese Context

ABE Kohki
Professor, Kanagawa University

1 Introduction

We have now learned about the current situation in two countries: France and Thailand. In a sense, both countries are advanced. Both systems have areas Japan should learn from to a great extent.

I would like to introduce you to the report which is titled ‘Overview of Statelessness: International and Japanese Context.’ And learning from the experiences of France and Thailand, I would like to talk from my point of view about what Japan should do, and make recommendations.

Compared with France and Thailand, the issue of the statelessness in Japan is at least, in terms of the system, very much behind. That is not because we do not have issues of statelessness, but because the level of interest in statelessness is so low in Japan that we have some kind of systematic delay. I will refer to a couple of specific examples later on.

2 Statelessness and its Issues

Starting with the word statelessness; as the word has ‘less’, it means that there is no nationality for a stateless person. What exactly then, is nationality all about? We do not often think about it in our daily life, however legally, nationality gives the individual status as a member of a particular state. And those people who do not have this kind of status as a member of a particular state are considered stateless.

Actually, this issue of statelessness did exist for a long time but broadly started to gain international attention after the 1990s. Because the former Soviet Union or the former Yugoslavia broke up and new countries had been created, a large number of stateless people were created. And this became a major problem in Europe. And beyond Europe, this has become a global problem even until this day.

In what sense is statelessness a big problem? The problem occurs from how the current community we live in is constructed. In other words, each individual has a link with a certain country and is being protected by that certain country. That is how the international community is designed and those who do not have any link with any particular country or state would come up against problems in such systems.

The issue of statelessness was taken up in international society more actively after the 1990s, however, international law codified a convention on statelessness in the 1950s and has been working through the issue ever since.
3 Statelessness Issues and the Convention on Statelessness

In this report, I will introduce two conventions. One is the Convention Relating to the Status of Stateless Persons of 1954 and the other is the Convention on the Reduction of Statelessness of 1961. These two conventions represent the international community’s response to statelessness promoted since the 1950s.

The Convention Relating to the Status of the Stateless Persons is considered as a twin of the refugee convention. Actually, in the convention relating to the status of the stateless persons, similar items are described. However, many countries accede to the convention on the status of refugees while only a limited number of countries accede to the conventions on statelessness. France, for example has acceded to the convention on the status of refugees, but Japan has not.

In the convention relating to the status of the stateless persons, the definition of a stateless person is included. The definition of a stateless person in this convention can be said to be the common definition of stateless persons in the global community today. A stateless person is one who is not accepted as a citizen, no matter what country’s law is applied. In fact, a stateless person is defined as a person who is not accepted as a citizen in any country under any law.

Whether you have nationality or not, or whether you become stateless or not, basically depends on the Nationality Act of each nation. If nationality is not granted by the Nationality Act of any nation, that person is considered as stateless. This is the current definition of a stateless person.

Stateless persons are not only persons who do not have nationality at the time of birth. There are quite a lot of stateless persons who did have a nationality at the time of birth but due to some reason lost it. There are about 100 million stateless people in such circumstances.

Actually, however, there are a lot of people who do not know whether they have a nationality or not. Some believe they do have a nationality but it is not accepted. Some have nationality but are not protected as a national of that nation. And some do not know which country’s nationality they have. There are quite a large number of these people who are called de facto stateless. There are de jure stateless and de facto stateless people. We sometimes call these people stateless collectively.

Statelessness is closely related with the status of residence. If a person has no nationality and in addition has no status of residence, he will probably fall into difficulties. In that case, we need to look at the issue of nationality and the status of residence at the same time. De facto stateless persons, in particular, in many cases do not have residence status, and therefore, nationality and residence status issues should be addressed together.

If the person does not have a nationality, what kind of difficulties does he face? What are the specific differences between the person that has a nationality and the
one that doesn’t? There are many differences. For example, if a person does not have the nationality of a particular state, he has no right to vote or is not eligible for social security. Also, at the procedure for forced deportation, he may be detained for a long time if he does not have any country to be sent to.

Those people with nationality, when they are required to be deported from a foreign country, can go back to the country of origin without any difficulty. But people without nationality do not have any country to return to even if they are forced to be deported. As a result, they have no choice but to be detained for long time. I believe this is one of the most serious problems. Other than that, by having no nationality, there are other serious problems related to identity.

In order to deal with these issues, as I have mentioned, two conventions have been drafted; a Convention Relating to the Status of Stateless Persons, and a Convention on the Reduction of Statelessness.

In the Convention Relating to the Status of Stateless Persons, the rights to be guaranteed to stateless people are described. And in the convention on the reduction of statelessness, the ways to avoid creating statelessness are described. With these two conventions, the international community has been trying to deal with the issue of statelessness. Japan is a member of neither of the two.

In international law, there are different approaches to the statelessness issue. One is based on Human Rights, which are to be afforded to all people whether they are with or without nationality, and with or without status of residence. For instance, the Convention on the Elimination of Racial Discrimination and the Convention on the Rights of the Child require that there should be no discrimination whether the person is with or without nationality, or with or without the status of residence. Human rights even declare that nationality is a human right.

Thus, the statelessness issue has been addressed specifically in two conventions, and stateless persons are also ensured human rights by virtue of their humanity through other convention on human rights which ensure minimum requirements for all people.

4 Stateless Issues in Japan

In Japan, the whole concept of nationality is determined by the Nationality Act established in 1990. The Japanese Nationality Act puts emphasis on descent. According to the Nationality Act in Japan today, if either a person’s father or mother has Japanese nationality, the child born from such parents will be granted Japanese nationality at birth. Japan emphasizes the relationship with both the father and the mother. Based on this, there are several measures in order to prevent the creation of stateless people.

As we learned from the example of France, Japanese laws have some similarities with French laws. For instance, if the baby’s parents cannot be identified
at birth, his nationality by descent will be ignored and will be based upon the fact that the child was born in Japan, and he will be granted Japanese nationality. This is a provision to prevent statelessness. Just like in France, if the baby was born in Japan even though both his father and mother do not have Japanese nationality, he will be granted Japanese nationality. As for the children of Palestinians, if the baby’s mother and father did not have nationality, they were granted Japanese nationality until the autumn of 2007.

Japan’s Nationality Act includes the procedure for naturalization. When a person acquires Japanese nationality by naturalization, there is no special treatment for stateless people. Except for the case of a stateless person born in Japan and who has lived in Japan for three years, the procedures will be mitigated to a certain extent. Other than that, in cases of naturalization, there are no special measures provided for stateless people.

About 15,000 people a year apply for naturalization (Table) and almost all of the people are approved. It shows that we have quite a variety of ethnic groups among those people who have Japanese nationality. On the other hand, there are no specific measures provided to stateless people.

There is on problem that is particularly serious in Japan. There are a lot of cases of babies born in Japan that are not registered at birth. Especially when the parents do not have residence status, they often do not register their child at birth. As a matter of fact, the child cannot recognize a nationality and as a result becomes stateless. There are quite a few such cases.

Another point I want to mention is that in Japan, we do not have any specific procedure to discern who is stateless. In France, we heard about the OFPRA (French Office for the Protection of Refugees and Stateless Persons), and the recognition of refugees, and the determination of the stateless is conducted together. In Japan, we have a procedure to recognize refugees but we do not have any system to determine statelessness. As a result, we cannot tell how many stateless people exist in Japan.

Among the statistics of the Ministry of Justice, there is a column for stateless. Normally, we see about 1,400 or 1,500 stateless persons a year in that column but since we do not have an established procedure to determine if they are really stateless, maybe some of them are not really stateless. Or among the people who are categorized as people with nationality, in fact, there might be stateless persons. It is necessary for us to have a procedure to discern stateless people. But the lack of such a system is a big problem in Japan.

I have written about what kind of treatment those who are in the state of statelessness receive. I would like to introduce three different groups of people here.

One of those groups is the people who are detained having no country to return to. Because their nationality is unknown, or they are stateless, they do not have any place to return to. They are ordered for deportation and are detained for a long time.
Or even though they are released, they are on a provisional release and are unable to work, which leads them to more difficulties. We have quite a few such people in Japan.

Secondly, children without birth registration must have the nationality of a particular state or might be de facto stateless children. At any rate, they have not been registered, so they do not have legal status. We also have a significant number of such children in Japan.

And the third category is people who are recognized and accepted in Japan as refugees who might not have nationalities. We have many of such people. For such refugees and the children of those refugees, there is another critical issue. Among those who were accepted as refugees in Japan, for instance, there are a number of refugees from Indochina. It is said to be more than 11,000 Indochina refugees who have settled in Japan. Considering the nationality of such people and their children who were born in Japan, there must be many who are considered to be stateless. Along with the children, without registration, and without any place to return, the existence of these refugees is also one of the representative examples of stateless issues in Japan today. I included other groups in my report, so I will omit them here.

Lastly, in order to change the current situation in Japan, I will talk a little bit here about what kind of problems we must tackle.

5 How to Tackle the Statelessness Issue

The most critical is to establish procedures to determine the status of statelessness in Japan, otherwise the nationality of resident, non-Japanese people, will continue to be ambiguous. And there could be many possible disadvantages. Therefore it is important for Japan to establish a determination process by learning from countries such as France.

As a second point, we must expose the whole picture of the statelessness issue

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<th>Persons naturalized</th>
<th>Petitions denied</th>
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in Japan, such as how many stateless people there are and how they lead their lives. We have only seen parts of the problems so far, but do not have any comprehensive study to capture the total situation in Japan. So, we need urgently to work on this kind of research. It is particularly urgent to identify and understand the number of children without birth registration in Japan. Children, according to the convention of the rights of the child, have the right to be registered at birth and also have the right to have a nationality and a name at the same time. There is a strong possibility that these rights have already been infringed. In order to solve these issues, for children, we need to establish a study. We should not impose any disadvantage to those people who are involved in the study, and that will be a major priority in conducting the research.

The third point is, for people who do not have any country to return to, the only solution will be to release them and provide them the status of residence in Japan.

The forth point is that, it is necessary for us to confirm the nationality of refugee applicants. For the people who have a desire to be naturalized in Japan, we must take effective action to support them.

The fifth point is for people who do not have residence status in Japan. Nationality issues are one of the most important issues, but we must not forget that everyone should have minimum rights as humans in Japan according to the obligation of human rights conventions.

The sixth point is that we must sign up to the stateless persons conventions. Or at least we must start the discussion to conclude these conventions in order to raise interest in this issue.

Lastly, the statelessness issue cannot be solved within one country alone. Thailand for example collaborates with neighboring countries to deal with the statelessness issue. Japan should actively work with other East Asian countries and engage in solving this issue together.

Note
3. Towards the Foundation of a Determination System for Stateless People
3-1 The Approach to Statelessness of the UN and UNHCR

KANEKO Mai
Assistant Attorney, United Nations High Commissioner for Refugees (UNHCR) Representation in Japan

I would like to talk about how UNHCR is addressing the issues of statelessness as well as the current status of Japan, and the outlook of the future.

As was said by Professor Abe and the other speakers, UNHCR is an organization mandated to address statelessness by the UN general assembly. Our role is expanded in its scope every year. In 1954 and also in 1961, there were two Conventions adopted and one of our missions has been to promote the accession to those conventions. UNHCR has also been requested to facilitate stateless people’s access the procedures to benefit from the 1961 Convention. And identification, prevention and reduction of statelessness as well as protection of the stateless people have to be promoted by the organization. The organization looks into nationality laws and their implementation as well as the policies and promotes appropriate adjustments to them. And we are in the position of giving proposals and advices as well as training to the government in order to effectively work on stateless issues.

As I just referred to, whenever UNHCR address statelessness, there are four perspectives we need to focus. Firstly, it is identification. We need to identify who are the stateless people and who are the potentially stateless or at risk of statelessness. The next thing we have to do is to prevent the generation of the stateless people. That is prevention. And reduction efforts have to be made for the existing stateless cases. We need to stabilize their status by having them provided with a nationality of a state. While we’re working on that reduction process though, their human rights have to be protected since they are vulnerable as they do not have nationalities. That is protection. These are the four steps we go through while we work on the issues of stateless people.

UNHCR is carrying out different activities in each country. On the issue of prevention of statelessness and protection of stateless people, quite a few achievements have been made. For instance in 2007, 2.6 million people in Nepal successfully acquired the new citizenship certificates through the government campaign. UNHCR was active in giving central government various advice. Some of these people did not recognize the importance of the citizenships, or even if they wanted to apply for the birth registration, they lived in the too distant place to access the registration. So, those people were supported to access registration. And at the
end of 2003, in Sri Lanka, as many as 190,000 Hill Tamils were given Sri Lankan citizenship in ten days. We helped to communicate to those people that the laws and facilities are available to acquire citizenships.

On the other hand, in 2007 in Brazil, there was the amendment to the constitution. Many years ago, the children were not able to obtain the nationality of Brazil if they were born overseas even with the parents from Brazil. And thus they had to go back to Brazil for residence to acquire nationality. Including the Japanese descendants, I assume there were a number of Brazilians living in Japan who were affected by this. Through the constitutional amendment in 2007, as many as 200,000 stateless people were able to get the citizenship. In that sense, in many countries we have been endeavoring to help resolve the statelessness, which might be inspiring in relation to statelessness in Japan. As was mentioned earlier, this year marks the 50th anniversary of the 1961 Convention. Even more than refugee issues, statelessness issue is one of the most overlooked problems in the world. We hope we would be able to take the advantage of this anniversary year to get attention on the statelessness issue throughout the world including Japan and carry out the global campaign to initiate the promotion of the accession to the Conventions.

The amendment to the laws, and adoption of the laws and regulations, as well as related advocacy and advisory activities have been carried out throughout the world. We recruited experts because there was lack of common understanding on the concepts of de jure statelessness as well as de facto statelessness. They are expected to work with UNHCR to formulate a consistent interpretation of the statelessness definition. As for determination process, we need to define the ideal procedure. When it comes to the refugee status determination, many procedural safeguards have been generally agreed upon. The same needs to be done for stateless persons in a form of the guidelines; the minimum procedural guarantees, such as the necessity of the legal counselling and personal interviews, and alternatives to pre-deportation detention, and so on. In order to formulate these standards, we held the Experts’ Meeting in which Professor Abe represented Japan. We are still discussing the achievement of the meeting. We consult each state on the improvement of the statistics on stateless people which is rather a difficult task. If you don’t have the determination system, the number of the stateless people will necessarily become an estimated one. And it will not be clear who to classify as statelessness, and the number will not be accurate. We have thus been working on the system to make our statistic results better.

And in December 2011, the ministerial meeting is going to be held celebrating the 50th anniversary of the 1961 Convention on Reduction of Statelessness, as well
as the 60th anniversary of the Convention related to the status of refugees. We will discuss the model examples and good practices throughout the world to be shared by States.

Now, I would like to touch upon the situation in Japanese starting from overview as was said by Professor Abe. We are not yet the party to the Statelessness Conventions. When it comes to the number of the stateless people, how serious it is, what the attributes and nature of the stateless people residing in Japan, is not fully known. Something which is related too is the fact that there is no specialized procedure by which we would be able to determine and recognize the stateless people. And in April 2010, we published a Study commissioned to Professor Abe. Thanks to Professor Abe, our understanding of current status has become deeper and more accurate. But when it comes to the interpretation of the definition of the stateless people, there still aren’t such unified opinions which can be shared by the ministries and agencies in the central government.

As the next step to how we shall address the statelessness issue in Japan, it is necessary to enhance and improve the level of awareness of those people. If we do not have much recognition and understanding of what stateless people are, it is very difficult to identify stateless persons and know the exact number of those people. We are acting to rectify those problems as much as possible. For example, we have the Inter-Parliamentary Union. They have collaboratively created a handbook with UNHCR. Definitions of the stateless people and the challenges and issues related to them are elaborated in an understandable way for your use.

And efforts need to be made so that the framework of the international law related to the stateless people to be read by the public and also by the ministries and agencies. Of course UNHCR can work to raise awareness, however, it is necessary to have the participation by the citizens group. For example, the stateless network represented by Professor Chen not only raise the interest of stateless issues but also provide an opportunities to stateless persons to share and support each other. In that sense, I believe what they are doing is a quite significant activity. We hope that we will be able to expand such activities not only in Tokyo but also in Nagoya and Osaka and all parts of the country.

As I mentioned earlier, concerning the identification as one of the four approaches, further information collection will be necessary. Already we do have the alien registration however, since the number does not literally demonstrate the accurate number of stateless people, we need to know the best or better way to prepare the statistics, or the census and the various types of the surveys available in
Japan. How we can unify them and reconcile those different surveys have to be also discussed.

As Professor Abe mentioned, for the children without the birth registration, it is very difficult to know the accurate number. But to figure out the number which is not registered is especially important to work on. That is what International Social Service Japan (ISSJ), a citizen group with which we’ve been conducting joint activities, has previously worked on researching at the Child Guidance Center and Juvenile Center. Besides government agencies and the local governments, we have already embarked upon such activities.

In the area of prevention and reduction, accession to the conventions is very important. If Japan joined as the party to the convention, we are expecting that other Asian countries might be profoundly affected by Japan to accede to the conventions. As Professor Abe mentioned earlier, as for the rules and regulations of Nationality Act of Japan, for the children born in Japan whose parents are stateless, and also for stateless people born in and have continuously resided in Japan, there are certain safeguards. But even if they are potential beneficiaries of these provisions, the fact is that they do not know that there are such rescue measures available. We expect that this has to be fully communicated to them.

Not only for the application of Nationality Act but for the protection of the stateless people born in foreign countries, it is required to discuss the procedure to identify who is fundamentally stateless. So, we need to establish the good identification procedure of the stateless people. First, they have to be identified and we have to protect their rights so that they would be able to get out of the stateless status. In order to do that, we have to fully know what kind of procedures are available now in Japan. For example, we do have the procedures for refugee status determination, but not all the stateless people are refugees and similarly refugees are not always stateless people. Whenever these two overlap, the procedures might be combined. For instance in order to systematically apply the Japanese nationality act provisions, we have to first identify and determine if the person is stateless or not. We hope that we are equipped with expertise to improve the procedures by which we would be able to identify, protect and seek solution for stateless people.

Lastly, I would like to emphasize that the protection of stateless people has to be improved with the enhancement of the awareness level of the ordinary people. With this conference as a very good opportunity, we hope that we’ll be able to create a new and better environment for the stateless people. Thank you very much.
3-2 Determination of the Statelessness from the Lawyer’s Perspective

AZUKIZAWA Fumie
Lawyer

I am going to talk about our daily work and actual cases, repeated each day at the office, the immigration bureaus and in court.

I am mainly working with Vietnamese refugees who were born in Thailand. When they were born in Thailand, they were unable to acquire nationality in Thailand. When they became adults, they attempted to enter Japan on a forged passport. There were probably thousands of people coming to Japan in the 1990s. For a while, I heard that they were able to return to Thailand with those same forged passports. I don’t know why it was possible, but after a certain period of time, their forged passports were detected and they could no longer return to Thailand. It was not their decision to never go back to Thailand. They thought that they could visit Japan with the forged passport and go back to Thailand with the same forged passport. It was just a casual sentiment that led them to come to Japan, but actually they violated the law. But all of a sudden, they were unable to return to Thailand because they had forged passports, and in Japan they were detected as illegal immigrants by the Immigration Bureau and the Police.

I have been involved in this issue for three years. Until now, there have been cases who are already detained and who are not yet detected but are going to appear to the Immigration Bureau later on. The first category of people are more urgent because they have been detained for a long time and can neither go to Thailand nor can be accepted by Vietnam. I worked on this issue first. They are determined to have the nationality of Vietnam by the Immigration Bureau. I was involved in litigation of this issue.

We inquired with the Immigration Bureau, why they were determined to be Vietnamese, and asked for documentation of how they were determined to be Vietnamese. I had an expectation about what kind of good reasons they would come up with, however I was disappointed with their response which included only a few lines. The rationale behind the determination of the nationality was that they themselves claimed that they were Vietnamese, and that on the ID card, it was written that they were Vietnamese. They insisted that this satisfied due process requirements sufficient to determine them as Vietnamese, and they can find no fault in the procedures. That was the response from the Japanese government. But the fact that Vietnamese Refugees claimed that their nationality was Vietnamese was understandable. Until they were arrested by the police, they never thought about their nationality ever since they were born. But when they were arrested by the police officers, they had the following exchange with the officers. “Where do you
come from?” “Thailand.” “What nationality is your father?” “Vietnamese.” “My mother is a Vietnamese, too.” “If that is the case, you must have Vietnamese nationality.” “Oh yes, that might be the reason why I’m Vietnamese.” So that person thought that he was Vietnamese. Based on the appropriate law of Thailand and Vietnam, they did not feel that they had different nationalities. Japanese people do feel that when the parents are Japanese, then the nationality of their child should also be Japanese. That’s what the police officer thought, that when the parents were Vietnamese, then their child should also be Vietnamese.

I used the word Vietnamese which resulted in the public prosecutor, who argues on behalf of the Japanese government, making this kind of mistake, but the fact that they’re Vietnamese and the fact that they have the nationality of Vietnam are completely different considerations. Ethnically, they belong to the Vietnamese ethnic group and their names are Vietnamese names. But the fact of whether they have the nationality of Vietnam is completely different. In the documents provided by the government or through the examinations in the court, the word Vietnamese was used as if they were the people who had Vietnamese nationality. This is the situation in Japan, where usage of terms is somewhat confused. They said that their determination process was correct and the card issued by the Thai government had written Vietnam, so they never made any compromise or concession. What I am handling, as a case at the moment, is considered not to be a case of statelessness but as a case of Vietnamese persons.

The next case that I am going to talk about is more ridiculous. There were people who had held a forged passport for about 20 years, who were arrested. They believed that they could go back Thailand with the forged passport. They showed it to the immigration officer and said, “I am this person,” pointing at the picture. Of course, the picture had been replaced so it was exactly the same person. And the immigration officer nodded and determined that this person was Thai. And when the immigration officer tried to return this person to Thailand, the Thai authority found out that the passport was forged and he was not in fact a Thai national and the forged passport was confiscated. The person apologized for this and insisted that he had an ID issued by the Thai government saying he was Vietnamese. He told them his real name, but for some reason the Immigration Bureau did not acknowledge the correction. I also asked the Immigration Bureau to make correction many times but they said that there was no procedure to make a correction.

And after the provisional release, he came back to the community from the detention center. At that time he was asked to fill out the alien registration form. He went to the City Hall of that particular city. But the document issued by the immigration office, which was given at the time of provisional release, had the Thai name on it. And showing the document to the ward office, they asked him to show them the Thai passport. Unless he had the ID from Thailand, he wouldn’t be able
to have the alien registration. That was what they said. He explained why his name was wrong, but the immigration office still did not make the correction. The ID that he had was the Vietnam refugee card issued by Thai authorities. So, the actual name acknowledged by the Immigration Bureau was different. He told them that his nationality and the name were both different. The ward office told him that they will try to inquire with the immigration office and will register him under the real name. But the department in charge of the alien registration within the Ministry of Justice would not register him as alien unless he unified his name.

I went to the Immigration Bureau again and told them that he couldn’t register as an alien, and asked them to return him the false passport but they wouldn’t. The Immigration Bureau tells us strongly to go to the alien registration office. But if we go to the alien registration office, they would say that they cannot accept the registration since there is no document. This kind of interaction has been taking place for about three years. To tell the truth, he and I both don’t know how we can solve this issue and the person in the ward office does not know either. Is there any way his real name and his real nationality can be registered? The Immigration Bureau did acknowledge that the passport was false, so they should accept that the names were different, however, they say and claim that there is no procedure to correct them. Therefore, even now the Immigration Bureau identified him as a Thai national. If the procedures progress with the false Thai nationality, the situation will be even more complicated, but there is no other means to correct it.

Things like this are going on at each department in Japan on a day-to-day basis. At the city office level, the process is much easier. If the people do have a real passport, there is no room for mistake. But as for those non-Japanese, who do not have legal identification or who have no passport, everything is done by self declaration. On the other hand, the Immigration Bureau requires self declaration plus additional documents. Even if there is a discrepancy between the two, they don’t really care about it. To those who turned themselves in without arrest, I teach them to register as stateless. So, in the past 3 years or so, in a certain region of Japan, maybe the number of those who are claiming statelessness is increasing, which I might be responsible for because I am the one who is instructing them to say stateless. Maybe, in this way, I am involved in the determination process.

When you go to the Immigration Bureau, it doesn’t go that way. If the Thai ID has Vietnam on it, then that person should be recognized as a Vietnamese national. Therefore, there are tons of people whose nationality on their alien registration card differs from that which the Immigration Bureau comprehends administratively. This kind of ridiculous situation should be changed in Japan. As was introduced by France, we have to learn from the laws of different countries, make inquiries to consulates and Japanese Embassies, and commit enough time to identify the nationality of each person. They are given an ineffective nationality in the case of
a false passport, which has no legal basis for that person’s status. It could be the Immigration Bureau or the Ministry of Justice that will rectify the situation, by not just depending on the self declaration or the documents which that person possesses. We must have experts who have knowledge and can unify the process to make a determination. This is what I feel strongly about as I work on a day-to-day basis.
I would like to talk about how I became a *de facto* stateless person, the historical background and about the institutional position I am facing. Also, I would like to talk about the authority’s understanding or lack of understanding and the issue of the attitude towards stateless people who still have resident status. It is said that there are more than 10,000 Vietnamese refugees who were accepted in Japan. Let me talk about the problem of their nationality, since for some reason, the existence of the issue is completely unknown among Japanese people. And from my own experience I also would like to talk about the reason why this situation has been left unnoticed.

I was born to Vietnamese refugee parents and was born and raised in Japan. Let me first explain why my father left Vietnam. He had his roots in a Catholic town in North Vietnam. When North Vietnam built a socialist system, a lot of Catholics had to move to South Vietnam since they were clamping down on Catholics. My father’s family was one of them. When my grandfather moved from the north to the south, he was actually shot by the police of North Vietnam. My father was not even a one-year-old child at that time. He doesn’t even remember the face of my grandfather. In 1975, when Saigon fell, my parents got married. And South Vietnam had become a socialist country and for fear of persecution, they tried to escape from South Vietnam for the first time. However, his friends were caught and by their confession, my father was forced to appear and was detained for over two years. Even after he was released, my father tried to escape from Vietnam for the second time with my mother and three daughters since he could no longer trust the Vietnamese administration. It was at that time that my family lost their legal bond and was deprived of their nationality in Vietnam.

My family moved to a Philippines refugee camp and then came to Japan in 1982. And I was born three years later. As you know, Japan has a nationality system based on blood lineage. Therefore, even though I was born in Japan, I do not have Japanese nationality. My parents’ have been deprived of their Vietnamese nationality and as a result, they cannot obtain Vietnamese nationality and are *de facto* stateless. But still, it is not clear whether they are stateless or not because there is nothing that can prove that they are stateless. Ever since I was born, I have been in the middle of two cultures, Japan and Vietnam. I have neither Vietnamese nationality nor Japanese nationality. I am not even recognized as a refugee nor am I legally stateless. That means, wherever I go, I am just a foreigner. It is said that there are more than 10,000 Vietnamese refugees now in Japan who are in the same situation.
as I am, however, very few people know about this situation that the first and second generation faces.

The main reason for that is due to the nationality indication column on the alien registration card. Actually on my alien registration card, the nationality says Vietnam. Vietnam does not count me as a Vietnamese national, but still my nationality says Vietnam on my alien registration card. My guess is that when a lot of Vietnamese people rushed to Japan, they just wrote Vietnam automatically in the nationality column. However, this alien registration card is the only official ID to prove who I am.

But let me explain how this situation leads to another problem. I thought of acquiring Japanese nationality before. Since I wanted to know what kind of documentation procedure is required for me to get naturalized, I got an appointment at the Legal Affairs Bureau and took part in the interview. I explained my identification, and then my situation. I said that I was a university student and that I was supporting myself. I also told them that I did not have any connection with Vietnam and that I won’t be able to submit a certificate of nationality nor expatriation. One of the officers who attended me left the room every time I gave a piece of information, and talked to other officers and came back. I imagined that the officer had never come across such a case as mine. At last he said, “Well, you do not satisfy the livelihood requirement, and therefore you cannot apply for naturalization.” He handed me a brochure about naturalization which had details of the livelihood requirements. It said that the applicant’s livelihood needs to be supported by the applicant himself (herself) or by his (her) spouse or by the relatives. I did not have any debt at that time and was supporting myself. So even if I could be dependent on my parents as was written in the brochure, I thought I would easily clear the conditions. Also in the brochure it said that if the applicant was born in Japan, the conditions will be relaxed to some extent.

I explained all my background and the Vietnamese refugee situation, but still the officers really didn’t understand and turned down my request. Actually one of my friends went through the naturalization process when she was a senior student in university on her own and within less than a year, she could actually get Japanese nationality. So, I explained it to the officer. She was exactly in the same situation as me and she could do it. But the officers said that it couldn’t be true. When I went to this interview, I told them that there in the Nationality Act, Article 2 Clause 3 it says that if a child was born in Japan and born to parents who are both stateless, then the child is to be recognized as Japanese. I said that I should be entitled to have Japanese nationality, however, the officer really didn’t accept what I said and told me to leave right away. I was very disappointed but I had to leave.

There are many Vietnamese refugees in Japan and I was wondering how they go through the naturalization process. I made an inquiry to the Refugee Assistance
Headquarters (RHQ). RHQ is an organization providing support for the refugees in Japan which is entrusted from the Foreign Ministry. I made a phone call to this organization and explained what happened and asked them if the Vietnamese refugees’ conditions will be relaxed to some extent. The person on the phone said that the Vietnamese refugees and their children in Japan are stateless but they are not classified legally as stateless people and therefore do not satisfy Article 2 Clause 3. He also said that RHQ would help me prepare some documentation for the naturalization process since Vietnamese refugees cannot prepare the documentation without an ID.

To conclude, an idea occurred to me and I would like to share that with you. It was mentioned that some stateless people with residence status do not mind their situation. I used to feel that way at a certain point in my life, however, actually we went through a lot, had a lot of pressure, and we actually experienced a lot of hardships. We are forced to accept the fact that we are stateless. So, please don’t assume that it is easy to be a stateless person. What I’d like to talk about as a stateless person is that the fundamental problem lies in certain discrepancies and also in the authority’s lack of understanding or even ignorance about the problem. And it has been repeated over and over. It seems that the stateless issue is considered to be our own problem and that we have to tackle those problems on our own or consider it as if it didn’t even exist. I have a mixed feeling about whether or not I should get Japanese nationality. In order to make my life easier, maybe I should get Japanese nationality, however, I think I must think about why I am in this situation now. I have to understand the historical context and the governmental response at the same time and hope others would not turn eyes away from this problem. Only if this happens, can I think about naturalizing.
Comments and Discussion

Commentators:
MESLIN Benoît and ARCHAVANITKUL Kritaya

ABE Kohki: From France, we have Ms. Meslin Benoît. Would you make a comment or give advice to us from the perspective of the Director General, Secretary General of the French OFPRA?

[A Comment for the Panel Discussion]
MESLIN Benoît: I am aghast at what I’ve heard. It must be a very difficult situation for the people who’ve experienced this. And as a civilized country, we have to give response to these difficulties. There are two ways of responding to that. One way is an administrative governmental decision about whether we can recognize the person as statelessness or not. The other is to give support to these people from civil society.

Now I know that there are many non-governmental organizations in Japan which support these people in difficulties. That’s the first point. The other point is hearing response from the government, which is not easy because you have to build the whole process by yourself, and it takes a lot of time. The first response from the government and parliament should be to sign and ratify the conventions concerning stateless. I think this should be the beginning of everything. Still, there is a lot of work to do in practice, but once you start doing it, I’m sure you feel that you can do something for people in need. Speaking from a government’s point of view, you have to take into account political reasoning, political situations, and political factors. Is it necessary for a country to respond to these situations? Probably the answers are not the same in every country at all times.

ARCHAVANITKUL Kritaya: I have two issues to raise here which are related to the case of a person who came to Japan from Thailand shown by Ms. Azukizawa.

The first issue is the Vietnamese born in Thailand by Vietnamese parents. In 1994, I went to Taiwan and met three girls from Thailand there. They were Lahu, ethnic minorities. They were detained in Taipei. They said they came from Thailand. But the Thai government didn’t want them back. So, we worked through the Foreign Ministry and tried to prove that these three girls had a real connection with the Thai state. Their names were written in the civil registration record. They were registered in the Thai document called the Tor Ror 13 document. After one and a half years of negotiation with the Foreign Ministry, we had these girls return to Thai humanely. They didn’t have Thai nationality and the Thai government still rejected that they were not Thai even though we did have them return.

As for the Vietnamese born in Thailand, I think it would take a long time. I
think we have to talk to the Foreign Ministry to explain the conditions. We have to prove that they have real connections with their families in Thailand because their family is still living in Thailand and some of their family already have Thai nationality. Although it would take time, I think we could do it. We can resolve it, on the condition that they want to return to Thailand. Do they want to go back?

AZUKIZAWA Fumie: Since they’ve been living in Japan for more than 20 years, it depends on each person. Some people said they want to stay in Japan but others want to go back to Thailand because their family is living in Thailand. It all depends on the case. It’s not that they all have the same idea.

ARCHAVANITKUL: What’s the rough number of Vietnamese people in Japan who were born in Thailand?

AZUKIZAWA: As far as I know there are thirty but I think the number is more. I have heard of some other cases in Kansai so there must be some more that we do not know about in Kansai.

ARCHAVANITKUL: To solve this problem I think we have to work on the cases as a group, not on a case-by-case basis. We must have the proof that is necessary. I would also like to talk about the second point, about nationalism ideology. Thailand has very rigid nationalism, but now the idea has shifted more to a constructive nationalism. When I was very young, I thought that I was a second-class citizen. I had Chinese origin and had a Chinese name. I wanted to have a Thai name. I think this kind of nationalism is based on the fear of small numbers, the fear of being foreigners and strangers, and also fear of being considered to be of another ethnicity. We have a very serious problem with the deep southern provinces in Thailand where over 10,000 people were killed in the riots in three Deep South provinces.

I think what we need for the policy change is research, and studies on the issue. If we believe that knowledge is power, I think we need to document the story of the stateless people in Japan. I think we need to let them see what has been unseen, let them hear what has been unheard, and make the people let out their voice. It was by that research and study, that the strategic plan has been developed in Thailand. The plan should be pushed for ten or fifteen years. But at the implementation level, at a practical level, there are still many, many difficulties, many, many obstacles. However, once we have the strategic plan, we also have something like the watchdog organizations. Right now we have an NGO organization called Stateless Watch. It watches what the government has done and sees what is effective and what might be the cause of the failure of the strategic plan. So, I think we need to move
on and think seriously about how to change the policy at the national level and at the local level.

CHEN: I do understand the importance of promoting such decisions in the field. Unfortunately, however, we still do not have established comprehensive policies for non-Japanese people, including stateless and refugees. And maybe we are a little bit ahead with regard to refugees, but the existence of stateless people is not known at all. The absolute number compared with Thailand and France is much less in Japan, however, this may not be the only reason. In France and Thailand, do the citizens have much interest in the stateless issue or do they have some kind of activity at the political level? If you have such kind of activities, please let us know the actual examples.

[The Policy for Stateless in Thai]
ARCHAVANITKUL: Those who are nationalityless or of ethnic minorities have their own organizations in Thailand. In January this year before I came here, I visited those who are descended from ancestors with Thai nationality. The Thai nationals living in Myanmar after World War II moved back to Thai provinces but they were considered non-Thai. We have two groups, one from Myanmar, and one big group from Cambodia. Actually we have a cabinet resolution, a special one to try to speed up the process to give them Thai nationality, but it’s already been seventy five years. The process is so slow that they’re still waiting for the result. Nearly a thousand people marched from their home country Rayong, Prachuap Khiri Khan, and Chumphon province to meet the Prime minister asking for new acts to naturalize them as Thai. They didn’t ask for naturalization but asked for Thai nationality to be returned to them. They don’t ask for naturalization because they think that they are Thai. They have a big organization protesting their naturalization since they are both originally Thai. Why do they have no right to have Thai nationality? Thai people assemble themselves, and have many, many organizations. So, in terms of the magnitude and in terms of the number, it’s very high and many people know about it. And I think that the main problem in Japan is that the number of the stateless people is unknown, that the scale is unknown. Maybe the existence of stateless people itself might be unknown. It needs to be communicated to Japanese society to learn about the stateless people living in Japan.

[The Policy for the Stateless in France]
MESLIN: I think that the situation is different in each country. In France, there are a large number of stateless people and also people who are deprived of their basic rights. In some countries there aren’t so many stateless people. Even if the situation is not the best, they still can live properly, if not comfortably, but still they may live
A country like France doesn’t have ethnic minority problems. The applicants for statelessness that we have are people who come from other countries. The number is limited and since the social security system is developed and it is working rather well, they have no major problems in health or in sending their children to schools. Their living conditions are fairly good. So, it’s very different from what other countries experience.

In France, there are many non-governmental organizations that take care of people, asylum seekers and stateless applicants. Everywhere in France, somebody can be contacted from civil society who belongs to some NGO and they are always ready to help you to translate documents, write letters, go to the right place with the person and so on. And that is, of course, independent from the government. I suppose it is something like your Stateless Network. It has been working for years and years, and it works well really. Also the government spends a lot of money in helping these people, either subsidizing these NGOs, or directly in providing especially for asylum seekers more than stateless people in providing homes or accommodations of some sort, or a certain small amount of money per day so that they do not starve. This system works because France is a rich country with small number of stateless applicants.

On the other hand, we have a very large number of refugee applicants. Talking about the number, we are the second country in the world just behind the United States. We have over 50,000 refugee applicants a year which is a large number, but still we spend a lot of money on that. Still, these people are not in the best situations.

[The Statistical Number of the Stateless People in France and Thailand]

CHEN: You talked about the existence of the Stateless Network. The Stateless Network is basically operated by the goodwill of volunteers. It is difficult to maintain statistics on the number of stateless people in Japan. Would you give us some clue or hint how you manage to maintain statistics in Thailand and France?

MESLIN: The number I gave is the number we had at OFPRA, the number we dealt with over the past years. So, we know how many applications we got. We know how many cases we decided and how many statuses we granted. Nobody knows how many stateless people actually live in France. But probably not a huge numbers, otherwise we would know it. They would appear somewhere, some day. But another point I would stress here is that there are different traditions in each country. France has been a traditional country of immigration for a long time because it needed immigration. Many foreigners came to France and settled. This was the tradition in those days. It can be different from other countries. And I understand it’s pretty much different from the Japanese tradition.
ARCHAVANITKUL: I think one of the most successful activities in Thailand is that we pushed the government to register people who had never appeared in any country’s civil registration. The latest number is 211,000, and I think maybe it will be at least 300,000 or 400,000. These people will be granted temporary resident status. In Thailand, this temporary resident status means almost permanent because you can renew it many times. The temporary resident status is for five to ten years and then it will be changed to permanent status by renewal. Your children, the third generation, will get Thai nationality. This is the most successful story in Thai.

[The Reformation of Civil Registration Act in Thailand]
CHEN: Now, we have already received some questions from the attendance. In 2008, in Thailand, the Registration Act was enacted to eradicate stateless people who have not completed their registration. What was the effect and what was the outcome of this registration act? Ms. Bongkot, can I ask you to answer this question?

NAPAUMPORN: The reformation of the Civil Registration Act was revised in 2008. It was clear that in Thailand history, under law and policy, we accepted everyone who was found in Thailand, and they could be registered into the civil registration. But the mistake happened in practice. Some governmental officials may have had some bad attitudes towards aliens in Thailand. So, mistakes happened. Then in 2008, our colleague described this issue, and we came up to revise the law. It was clearly stated in the law that everyone has the right to apply for registration. There is a right to birth registration for everyone, even to refugees in temporary shelter in Thailand or those who were born of stateless parents in Thailand or even those who were born of unknown parents or those who were abandoned and do not remember the circumstances since they were too young. They all can apply to register their birth into civil registration.

And the second one is when registered into civil registration he should also be recognized as one of the population of Thailand, but actually it has nothing to do with nationality. We find that some people who live in Thailand need to get a thirteen-digit identification number to prove that they live in Thailand. They receive the letter of their ID, prove that they live in Thailand, and at last is permitted to leave Thailand. They do not deal with your legal status or anything about nationality or legal residency at all. These are the two major important reformatations of the Civil Registration Act.

ARCHAVANITKUL: I would like to stress here that this is the result of a civil group. The Professor of a law school, and many NGOs and grassroots people pushed for the reformation in 2008.
THE CITIZENSHIP ISSUE IN FRANCE FROM THE VIEWPOINT OF LEGAL STATUS IN THE MODERN AGE

CHEN: France has been considered to be a nation for extending support for refugees and asylum seekers, but it seems that recently there are some parties that are against accepting refugees and migrants. How do you think about these political changes in France?

MESLIN: Immigration has been a tradition in France which has maintained the tradition for the past twenty years. Immigration came from neighboring countries such as Italy, Spain, Portugal and Poland which were called European people just like French. Some of the Italians and Spaniards speak languages very similar to French. They had the same religion and the same traditions, and could be integrated very easily. Within half a generation, they were integrated and became French. But nowadays, immigration comes from African countries, Muslim countries. And it is not so easy to integrate these people into the traditional French society. Therefore, some people in France resented this new kind of immigration. And political parties have made it a political issue for elections and there were debates and discussions about those immigrants. Even very serious ones, but the law has not changed. We definitely need immigrants as a country. So, there’s no alternative. I don’t think that will change things drastically even though this has become a very lively political debate presently.

THE CITIZENSHIP ISSUE IN JAPAN FROM THE VIEWPOINT OF LEGAL STATUS

ABE: First of all there isn’t a political movement to create a determination process so we have to establish this. That is a common understanding of all of you.

Secondly, who are the stateless people in the alien registration in Japan other than the Palestinians? They are not yet identified from which country of origin are people becoming stateless, is not at all revealed by the statistics.

The next question is related to irregular migrants. We have a question about providing the minimum requirements of a right. Those people who are violating the laws should not be provided with basic rights. But Japan has acceded to a number of conventions on human rights and it obligates Japan to guarantee minimum rights to all people, and it is necessary that we have an accurate understanding of that situation.

And the next question is related to the determination agency of statelessness. This is the same as the procedure for refugees. Rather than leaving it to the immigration bureau, it’s better to establish an independent agency for determination just like in France. And about birth registration of children, can we have a comment from you, Prof. Tsukida?
[Children’s Birth Registration]

TSUKIDA: For the parents who do not or cannot register the child’s birth, Children’s Nationality Forum distributed information relating to the consultation centers of NPOs to the maternity hospitals and in health centers. The nurses and the hospital doctors therefore recommend birth registration when they find such people and refer to the information of organizations which provide support to non-Japanese. Even though we have ratified the convention on the rights of child, it has been pointed out by the UN Conference that we do not even grasp the number of children who are not registered at birth. So, we’re hoping to have some kind of systematic activity from the administrative perspective.

ABE: Thank you very much. There are still many questions but it’s about time to conclude. I’m afraid we must omit the answers to other questions.

[Conclusion]

CHEN: In the panel discussion today, we discussed the determination process which is not being conducted in Japan, but through the course of discussions based on the experiences in Thailand and France, and also UNHCR’s activities, now that we have identified some of the challenges and what we can do, we hope that we will be able to create and buildup the determination process together with experts, academicians, and government representatives. We hope that we will be able to discuss this further so that we will have an accurate understanding of the situation.

As closing remarks, we will call upon Prof. SUZUKI Motoi from National Museum of Ethnology. He is the representative researcher of the core research project “The Anthropology of Supporting: Constructing Global Reciprocity”.

SUZUKI Motoi:

I would like to briefly touch upon some of the research projects we are involved in, and also I’d like to reflect upon what we have discussed and why we have discussed the issue of stateless people. This project is one of the core research projects worked on by the National Museum of Ethnology. The name of the core research is “Anthropological Studies of Inclusion and Autonomy”.

Inclusion means to wrap or to enclose. Sometimes it is called social inclusion meaning people should never be isolated and alienated in a community. One is to have a good, amicable relationship with others. This is how I understand inclusion. As for autonomy, while maintaining a good relationship with the others one has to make decisions for himself and by himself so that he can live with his own way of living. So, how are we able to create a society and community which is blessed with inclusion and autonomy? That is the interest of our core research project. In order to create such a community, there has to be a relationship of sharing and support of
the people. We started our research project considering the types of support activities we can provide to people. In the anthropology of supporting, there are various support activities we can think of. One is international support and the other is grass-roots support. The issue of support we picked up today, was support for stateless people, which has much to do with these two aspects.

Indeed, considering the organization of Japanese laws, we shall seek to correct problems while learning a lot from the experiences of France and Thailand. However, now, it has also become obvious that the issues of stateless people are different in different legal systems in each country, if I understood it well. We need to share information about each country and we need to set up a common policy as well.

Now, on the part of grass-roots and the roles to be played by citizens, as Ms. Azukizawa and Ms. Nguyen Thi Hong Hao said in the discussion, though I should not giggle, I was disagreeably surprised. Academicians and administrators dealing with stateless people think differently because they are, in a way, bureaucrats. They have the law. They have the act with which they are engaged in their day-to-day jobs. But there are always tricky points and we need to see it from the citizens’ perspectives. We also need to appeal and lobby the politicians and the administrators, and also the international organizations, and UNHCR. We need to start international lobbying activities. As seen above, citizens have to know what’s going on and I once again come to know that the roles to be played by the citizens for the issue of the stateless people are quite large.

The meaning of ‘anthropology’ in our research project “Anthropology of Supporting” has two different meanings. One meaning is to learn from the experiences of people as a fundamental research goal. As anthropologists often use the word ‘fieldwork’, we don’t bring up the image of fieldwork which means site survey. But whenever we have study meetings like this, instead of inviting only the academicians, we tend to invite supporting organizations, as well as the actual parties who are suffering as stateless people. We would like to learn from the experiences of people who are involved in the issue.

One more meaning is for the anthropologists to take a holistic approach. If there is one issue, we need to look at it in the whole context of the broader issue. In that sense, today, we made an attempt to have a multidisciplinary approach to share the opinions of various experts from different fields. So, “Anthropology of Supporting” is not the only discipline in cultural anthropology to think about support. Rather, it is to study the issues integrating knowledge of humanities and social sciences

Lastly, I would like to thank all the guests for coming and joining us. And thank Prof. Chen, she is my colleague in this museum. I would also thank all the audience for your participation. With this, I would like to conclude my closing remarks. Thank you very much.
Afterword

This book records the international conference “Human Rights and Support for Stateless People around the World: Japan’s Role” which was held on February 27, 2011. As a relevant event of the conference, we screened “Cannot Live without You” at Minpaku World Cinema on the day before the conference which was made based on a true story in Taiwan. Each and every day, these events were open to general public. Especially at the international conference recorded in this book, we discussed about the life of people who are statelessness, problems they face, and issue of legal systems of each country.

The discussion was very valuable which included opinions not only of specialists and researchers but also of NGO activists and citizens based on their on-site activities. Furthermore, since information on statelessness is very rare, I was really inclined to have many people both inside and outside Japan to know about the record of the conference. This is why I attempted to publish the book both in English and Japanese. In the process of editing, I was annoyed with difference of words and terms in each country on statelessness and also with the difficulty in translation. In the process of peer review before publication, I received valuable comments and harsh suggestions from referees. Because of this, it took a fair amount of time before the second proof. Besides, we must apologize for the delay of the time of editing and publication of this book since the editor transferred from the National Museum of Ethnology to Waseda University during the process.

Now, as a coordinator as well as an editor of this international conference report, I am very delightful that we can eventually deliver this book to every one of you. I have to thanks to the effort of the people involved who supported the international conference. I was especially encouraged by Prof. Motoi Suzuki, the coordinator of the Core Research Project “Anthropology of Supporting”. I also appreciate the contribution by Marie Nakamura and Mayumi Tokuhira for their support on editing. Without their steady effort and their warm smile, the publication of this book would not have been possible. Even after I left the post of Minpaku, they still gave support. Lastly, I would like to report with my most cordial acknowledgment that this project as well as editing and publication of this book owe much to the aid funded by the National Museum of Ethnology for the Core Research Project and by Japan Society for the Promotion of Science for Grants-in-Aid for Scientific Research, Grant-in-Aid for Young Scientists (A) titled “The Anthropology of Nationality and Passports” (Coordinator: CHEN Tien-Shi). As well as Grant-in Aid for Basic Research (B) titled “Social Inclusion and Studies of Applied
Anthropology” (Coordinator: SUZUKI Motoi).

This memorable year marks the sixtieth year since “United Nations Convention Relating to the Status of Stateless Parsons” was concluded in 1954. It is my greatest pleasure to be able to issue this book in the very year. Through this book, I would like to have many people learn the current situation of Thailand, France and Japan. Also, by revealing the problems Japan faces and specifying them clearly and broadly, I do hope this book will be of some help to call much attention to statelessness problems which socially remains little known and to improve those problems.

CHEN Tien-shi
Appendix

Conference Program

◇Session 1
International Workshop “On-the-Ground Support for Stateless People: A Civil Approach”
Venue: Seminar Room 4
10:00〜10:20 Welcome remarks, Introductory remarks to the workshop
   CHEN Tien-shi (National Museum of Ethnology)
10:20〜11:00 “Experience in Solving Statelessness in Thailand: Identification, Prevention, Reduction and Protection”
   NAPAUMPORN Bongkot (Bangkok Legal Clinic for Legal Personality and Rights of Persons)
   “Challenge of Supporting Stateless People”
   ODAGAWA Ayane (Stateless Network)
   “Living without Status of Residence”
   SAITO Shun (Director of Potaraka)
   “Living as a Stateless Person”
   ZHONG Zhang (Poet, Stateless)
11:00〜11:10 Intermission
11:10〜12:00 Discussion
   Commentators: TSUKIDA Mizue (Showa Women’s University)
   ISHII Hiroaki (Japan Association for Refugees)

◇Session 2
Venue: Auditorium
13:30〜13:50 Welcome remarks SUDO Ken’ichi (National Museum of Ethnology)
   Introductory remarks to the symposium CHEN Tien-shi
13:45〜 Keynote speech 1: “Determination and Protection of Stateless Persons in France”
   MESLIN Benoit (French Office for the Protection of Refugees and Stateless Persons)
   Keynote speech 2: “Towards Managing Stateless People in a Thai context”
   ARCHAVANIKUL Kritaya (Mahidol University)
   Keynote speech 3: “Overview of Statelessness: International and Japanese
Context

ABE Kohki (Kanagawa University, Graduate School of Law)

15:10～15:30 Intermission
15:30～16:45 Panel Discussion
  Moderator ABE Kohki, CHEN Tien-shi
  Panelists
  ➊ AZUKIZAWA Fumie (Lawyer)
  ➋ KANEKO Mai (UNHCR)
  ❼ NGUYEN THI Hong Hao (Stateless, Kyoto University Graduate School)
  ➍ MESLIN Benoit
  ❼ ARCHAVANIKUL Kritaya
16:45～17:00 Closing remarks SUZUKI Motoi (National Museum of Ethnology)
Presenters and Participants

SUZUKI Motoi: Associate Professor, National Museum of Ethnology

CHEN Tien-shi: Associate Professor, National Museum of Ethnology, President of Stateless Network

NAPAUMPORN Bongkot: Officer of Bangkok Legal Clinic for Legal Personality and Rights of Persons, a commissioner of National Human Rights Commission, Thailand

ODAGAWA Ayane: Lawyer, Secretary General of Stateless Network

ZHONG Zang: Poet

SAITO Shun: Administration Officer of NPO Street Workers Coop Potaraka

TSUKIDA Mizue: Professor of Showa Women’s University Human and Social Sciences, Department of Welfare Society

ISHII Hiroaki: Executive Director of Japan Association for Refugees

MESLIN Benoit: Secretary General of French Office for the Protection of Refugees and Stateless Persons (OFPRA)

ARCHAVANITKUL Kritaya: Associate Professor of Mahidol University

ABE Kohki: Professor of Kanagawa University, Graduate School of Law

KANEKO Mai: Assistant Attorney of United Nations High Commissioner for Refugees (UNHCR) Representation in Japan

AZUKIZAWA Fumie: Lawyer, Vice President of Stateless Network

NGUYEN THI Hong Hao: Student at Kyoto University Graduate School

This content is based on the information as of the end of February, 2011.