

REFLECTIVE NARRATIVE

Critical Analysis of Statelessness: The Problem with Assigning Labels

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Statelessness is the denial of human rights to individuals not belonging to a particular political community [1]. The international community has taken steps to address and prevent statelessness with the 1954 and 1961 UN conventions on statelessness, along with existing treaties and provisions that promote the right to a nationality [2]. However, statelessness persists, with at least 10 million stateless people globally [2]. Slow progress to address statelessness can be attributed to states' poor compliance with international human rights conventions and treaties, and inherent flaws in these instruments [3]. States ultimately dictate policy, and rules related to assigning nationality are at state discretion [3]. These rules are often based on Western definitions of citizenship and rooted in discrimination or inequity [3,4].

I assert that granting appropriate citizenship is a necessary human right and a fundamental step to addressing statelessness. However, I propose that labels utilized in political discourse and conventions to categorize stateless individuals with the intention of addressing the issue can lead to further marginalization and unmet needs of diverse stateless populations. Under international law, having citizenship is a stipulation of human rights, freedom, and protection [1]. I believe there should be no condition to accessing basic human rights- Hannah Arendt, a political philosopher, once said: "The right to have rights, or the right of every individual to belong to humanity, should be guaranteed by humanity itself" [5].

Through my Master's in Global Health at McMaster University, I was exposed to the works of Batchelor [6] and Fiddian-Qasmiyeh [7] that offer traditional and unconventional perspectives, respectively, on statelessness. Batchelor [6] discusses how poor application of international law to state legislation has contributed to statelessness by hindering appropriate determinations of nationality. Fiddian-Qasmiyeh [7] goes beyond and challenges these formal labels entirely through Palestinians' narratives of statelessness. By considering these authors' contrasting viewpoints, this paper will argue that statelessness can be better resolved when states and organizations break free from restrictive labels of statelessness and citizenship and focus on striving for human rights and health for all. I aim to support this claim by demonstrating that the utilization of narrow labels can simplify the issue of statelessness, hinder self-determination, and prevent vulnerable groups from accessing support to resist statelessness.

Many may believe that granting individuals the right to nationality under the Universal Declaration of Human Rights would prevent statelessness [3]. However, formal labels can minimize the problem of statelessness and simplify the solution to that of granting nationality. Fiddian-Qasmiyeh [7] and Batchelor [6] would all agree that not having a nationality is not merely a legal problem, but a human problem. Without a nationality, individuals are deprived of state protection and the right to vote, healthcare, education, employment, marriage, or existence [2,6,7].

Therefore, the logical solution would be to identify stateless individuals and grant them nationality based on their “genuine and effective link with a state.”⁶ This application of international law, as endorsed by Batchelor [6], may be a short-term solution to some of the issues stateless individuals face. However, this solution neglects the stateless experiences of marginalized groups who continue to have their existence denied. For instance, Fiddian-Qasmiyeh [7] describes Palestinian interviewees who self-identified as “stateless” even though they “legally” had nationalities. This was linked to the denial of the existence of their homeland [7]. Thus, even when Palestinians formally hold nationalities, they can still experience a “threshold of statelessness” which cannot be resolved by simply granting a nationality [7]. Further, many Palestinians have had their nationality stripped away or undermined by their state of residence [7,8]. It is clear that merely granting citizenship or assigning a label with the goal of securing rights for stateless individuals neglects the socio-political context that preserves their stateless experiences. The emphasis on assigning labels can divert broader efforts to ensure everyone can live as a national in a state they feel a sense of belonging, dignity, and safety.

Although it is essential to identify stateless individuals to protect them, it is important to remember that these individuals still possess other identities beyond a political one. Restrictive labels of statelessness can hinder self-determination and individuals' ability to decide for themselves what countries they belong to and the rights they are entitled to. Fiddian-Qasmiyeh [7] describes how a Palestinian interviewee named Fatima was upset when she was categorized as “stateless” when she first arrived in the UK, as Fatima felt she had an identity. Fatima went on to identify herself: “I am a refugee here and one day we will go to Palestine.”⁷ Therefore, imposing the label of “statelessness” on someone who does not identify with that label can reinforce the struggle for recognition and reproduce the denial of their rights. Labels can strip individuals of their identity and further reinforce the European colonial legacy of imposing cultural hegemony [9,10].

Current notions of statelessness in international conventions are based on Western-centric conceptualizations of citizenship and law and, therefore, I believe, should not supersede individuals' rights to self-determination [9,10].

Despite efforts to define statelessness in international conventions, not all stateless individuals benefit equally from mandates intended to protect them. Labels used to differentiate between stateless individuals in political discourse can impede all stateless individuals from exercising their rights and obtaining support. Batchelor [6] discusses two official categories of stateless persons: those recognized under the state, “de jure,” and those not recognized under the state despite holding an ineffective nationality, “de facto.” Although it is recommended that those with de facto status be subjected to the 1961 statelessness convention, only those with de jure status are entitled to receiving assistance in obtaining a nationality [6]. Batchelor [6] recognizes that if individuals are to truly benefit from international instruments aimed at resolving statelessness, they must be labelled as de jure stateless. Therefore, these labels can prevent stateless individuals from equitably accessing their right to a nationality. Furthermore, Fiddian-Qasmiyeh [7] highlights how labels have hindered Palestinian refugees' access to support in host countries and their “right to return” to Palestine as established in international law. Palestinians have been historically excluded from refugee and statelessness mandates and the benefits in turn [7]. Additionally, the international debate on whether granting a non-Palestinian nationality weakens their “right to return” reflects a narrow definition of statelessness [7]. Palestinians may possess the label of being a “national” of another country, but this should not undermine their right to Palestinian nationality and return to Palestine, which is important to address persisting experiences of statelessness.

By moving away from narrow labels of statelessness, states can better recognize and serve the diverse needs of stateless individuals. Statelessness policy reform needs to emphasize inclusion and ensure all dimensions of statelessness are recognized and addressed.

In conclusion, although assigning strict labels of statelessness and nationality to individuals can be beneficial in ensuring access to essential needs and rights, they can also be counter-productive in addressing the issue of statelessness. Labels can minimize the issue of statelessness, hinder self-determination, and deny individuals who do not fit into conventional categories of statelessness recognition and support. Through analyzing the authors' work, I contend that political discourse and labels can serve as distractions to the ultimate aim of upholding human rights and eradicating statelessness. Therefore, policies and programs targeting statelessness should refrain from restrictive labels and focus on providing more autonomy to individuals to define their statelessness status and selfhood. International strategies must prioritize addressing stateless people's expressed economic, social, and health needs.

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