



Proceedings of the First Summit on Statelessness in Canada

24 February, 2016

Ottawa, Canada

* The statements and opinions tendered by panellists and participants as summarized in this report, are those of the speaker in question, and should not be taken to necessarily reflect the opinions of the project partners.

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I. Introduction

The First Summit on Statelessness in Canada was held on February 24, 2016 at the University of Ottawa. It was co-organized by the United Nations High Commissioner for Refugees (UNHCR), the Canadian Centre on Statelessness, the University of Ottawa, Ontario Public Interest Research Group - Ottawa (OPIRG) and the Human Rights Research and Education Centre and brought together key speakers who are dedicated to the issues related to statelessness, citizenship and belonging, as well as those who share the lived experience of statelessness in Canada. The objective of this first summit was to discuss statelessness in the international and Canadian contexts, examine critical developments in research, law and community engagement and identify key issues for advocacy with government, parliamentarians and other stakeholders, as well as issues for further research and public awareness. According to the UNHCR, there are an estimated 10 million stateless people in the world who are deprived of fundamental rights and are in need of a solution to their lack of nationality. Cases of stateless persons are also present in Canada despite misconceptions to the contrary. During the summit, testimonies of stateless persons revealed their efforts to navigate complex processes to obtain a citizenship. Discussions also evolved around the causes and consequences of being stateless and proposed solutions and actions to eradicate statelessness.

II. Opening Remarks

Elder Jacob (Mowega) Wawatie

The summit was opened with an indigenous smudging ritual to prepare and purify the space. A prayer was said for harmonious deliberations and the gathering was reminded that all were citizens of Mother Earth; that the Creator provided the gift of life, a place to live, food to eat, and the possibility of peaceful coexistence on the mother land. The smoke is meant to unify all who are in the space. There was a powerful moment of silence and meditation in the summit hall.

Mr. Furio De Angelis, United Nations High Commissioner for Refugees, Country Representative in Canada

Introductory remarks by the UNHCR Representative in Canada highlighted the link between global displacement and statelessness. Statelessness has become one of the key challenges in the history of human rights. There are an estimated 10 million stateless people in several developing and developed countries. A stateless person does not have a nationality or citizenship. Stateless people live a life of misery as they are unable to access basic services, such as a bank accounts, driver's permits, health care and other social benefits. Moreover, the most vulnerable among the stateless are women and children. Statelessness can be prevented if all countries work hard to establish good policies that protect human rights. To find solutions for stateless people and to end their legal limbo, in 2014, the UNHCR launched the #iBelong campaign to end statelessness. Its motto is "I am here, I belong".

Statelessness affects society and creates political tensions. There are three imperatives that could serve to eradicate statelessness worldwide. First, the ethical imperative: ending the human suffering associated with statelessness is a key immediate action to undertake, especially when we know the solutions. It is morally unacceptable to close our eyes to stateless people. We need to give people the true meaning of dignity. The second imperative is the rule of law: there are many legal tools and instruments within the 1948 Declaration of Human Rights that we can follow to protect stateless people. The third imperative is peace building: securing and sustaining our societies with social and economic opportunities utilizing an inclusive approach.

There are two statelessness conventions: the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Prevention and Reduction of Statelessness are important tools to protect stateless people, but member countries need to continue to work very hard to achieve results. Canada is party to the 1961 Statelessness Convention and needs to accede to the 1954 Statelessness Convention.

Ms. Jocelyn Kane, Director, Canadian Centre on Statelessness (CCS)

In her introductory remarks, the Director of the CCS explained that the first summit on statelessness is the result of a combination of efforts and initiatives from several agencies that work to end statelessness. The CCS' mission is to seek action against statelessness through research, advocacy and fostering a national community of allies, including persons affected by statelessness. The average Canadian does not know about statelessness, what it means for Canada, or that there is a Centre devoted to its elimination. The summit was organized with the hope of bringing together those who are concerned about issues of statelessness and to remind us how easy it is to take citizenship for granted.

III. Panel Presentations

A. International and Canadian Law Compliance, chaired by Dr. Delphine Nakache

This panel provided a detailed overview of the current, past and future developments within the international community regarding the combat and alleviation of statelessness and the Canadian legal and policy landscape as it relates to international bodies and obligations.

i. Mr. Furio De Angelis, United Nations High Commissioner for Refugees, Country Representative in Canada

Statelessness is an abnormal life circumstance that interferes with one's notion of belonging to, connection with, and existence within society. An estimated 10 million stateless persons exist in the world, but only 3.5 million people are documented as stateless according to UNHCR records. Of these, one third are children and about 70,000 stateless children are born each year. More than 90% of stateless persons documented by UNHCR come from ten specific countries or situations on all continents.

Discrimination is one of the principal results of statelessness even if we find discrimination to be a breach of human rights under state law. An important number of countries have discriminatory practices and legislation including Canada. This practice is a major issue that reinforces and leads to statelessness. Other causes of statelessness include conflict, gaps in nationality laws, administrative and bureaucratic obstacles, and state succession or transfer of territory, or any combination of these factors. The lack of a birth registration is one of the major reasons for statelessness. There are 27 countries that discriminate against gender with respect to women conferring nationality to their children. *Jus soli* (by territory) and *jus sanguinis* (by blood) are two principles of citizenship, and there are several examples of legislative and residency procedures in the world that both cause and remedy situations of statelessness.

The international legal framework concerning statelessness is governed by the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. The 1954 Convention provides a definition of a stateless person within international law. The Conventions help provide tools and solutions to address statelessness within a legal framework. Four themes guide the UNHCR's mandate on

statelessness. These are identification, protection, reduction and prevention. Capacity building in birth registration is central to UNHCR's efforts in eradicating this condition, as conflict situations increase and provide significant challenges.

In November 2014, the UNHCR launched a global campaign that aims to end statelessness by 2024. The #IBELONG campaign provides a plan of action to help end statelessness and thus far, 80,000 people have joined the campaign including several prominent Canadians. International momentum is growing as is evidenced by seven states signing at least one of the Conventions in 2015 alone.

ii. Mr. Andrew Brouwer, Senior Counsel – Refugee Law, Legal Aid Ontario

Statelessness is not addressed in Canadian legislation. Canadian citizenship law is liberal and citizenship is granted on both *jus soli*, and *jus sanguinis* for first generation persons born abroad, with some exceptions. One category of stateless persons in Canada are those second generation children born abroad. The ability to pass on Canadian citizenship was restricted to the first generation by way of Bill C-37 in 2009. Some children can submit an application to the Minister of Immigration, Refugees and Citizenship for exception to this provision, but there are restrictions on age, residency, and whether someone has a criminal record. The Minister also has discretionary power to grant citizenship based on special and unusual hardship but statelessness does not explicitly fall into this category, which is problematic.

In addition, there is a provision in the current Canadian Citizenship Act that states children born in Canada to diplomats or embassy workers in Canada from other countries are not recognized as Canadian citizens. For instance, Deepan Budlakoti is a person born in Canada of Indian parents who worked as staff for the Ambassador of India in Ottawa who came to learn that he did not possess Canadian citizenship and is currently stateless.

Basically, there are two ways one can lose one's Canadian citizenship. The first is by renunciation, whereby a person no longer wishes to be a Canadian citizen and renounces their citizenship. The second is when Canadian citizenship is revoked by the State. From the statelessness and human rights perspectives, this is problematic as this provision allows the Minister to apply to the court to revoke Canadian citizenship where it is found that the person has engaged in criminal activities, including fraud, misrepresentation, and since June 2015, criminal activity related to national security.

Canada does not have a process to recognize stateless persons on her territory, much less have measures to protect such individuals. Canada defines a person who is not a Canadian citizen or permanent resident as a foreign national, and this includes a stateless person. Stateless persons can apply for status in Canada by initiating a refugee claim, a pre-removal risk assessment application, or a humanitarian and compassionate (H&C) application. There are complexities concerning legislation and regulations with respect to establishing country of habitual residency, and statelessness is not considered a factor in case decision making, which presents a challenge for stateless persons in making their claims.

In another vein, the tendency to detain individuals whose documents are not in order has worsened. Sometimes, stateless persons are detained for years on the basis that their identities cannot be proven. Also, mental health issues are prevalent in the detention of stateless persons. And because there are no protection mechanisms in the law, stateless persons can be removed and sent to virtually any country. This is problematic as stateless persons can be bounced from country to country with no access to rights.

Recent Canadian jurisprudence has signalled positive developments for stateless people since 2012. For example, in *Diaby v Canada (Citizenship and Immigration)*, 2014 FC 742, and in *Abeleira v Canada (Citizenship and Immigration)*, 2015 FC 1340, the court recognized statelessness as a relevant and important factor to consider when assessing hardship. In another case in 2015, *Kanhtasamy v Canada (Citizenship and Immigration)* 2015 SCC 61, the Supreme Court of Canada discarded the restrictive approach to H&C discretion and adopted a more generous and inclusive approach to assessing cases that require equitable H&C relief.

iii. Mr. Gregg Erauw, Legal Researcher

The purpose of drafting the 2015 UNHCR Report titled *Compatibility of the 1954 Convention relating to the Status of Stateless Persons with Canada's Legal Framework and its International Human Rights Obligations*, was to point out the key problems and incompatibilities within the Canadian legislative framework as it relates to the 1954 Convention. One of the reasons stipulated by Canada for not signing the 1954 Convention was that the Canadian legislative framework indeed provides all necessary safeguards for stateless persons.

Contrary to the cornerstone Article 1 of the 1954 Convention defining statelessness, Canada does not provide an explicit definition of statelessness in its legislation. Since under international law, statelessness is juridical by fact, not having an explicit definition of the term in Canadian legislation creates something tantamount to a black hole. In fact, stateless persons are considered foreign nationals in Canadian law, and therefore are not treated according to their unique circumstances. This masks their unique needs, for example, not having access to human rights, health care, education, and social services. Canada does not have a statelessness determination procedure and this places those individuals in a legal limbo. Legal limbo and detention violate a stateless person's right to an effective remedy, liberty and security of the person, and protection against cruel, inhumane and degrading punishment.

With respect to public education, Article 22 of the 1954 Convention requires that states provide education to stateless persons beyond the elementary level regardless of whether the stateless person is in the country lawfully. The Immigration and Refugee Protection Act allows minor children to attend school if their accompanying parent is in Canada lawfully but makes no exception for foreign fees. Provisions differ between provinces that address fees and residency and these inconsistencies need to be addressed.

With respect to Article 23 of the Convention, having to do with public relief, there are inconsistencies across provinces with respect to a stateless persons' access to social assistance and disability. Those who have submitted humanitarian and compassionate grounds applications, and those who are subject to unenforceable removal orders may or may not have access to public relief depending on where they live in Canada.

Article 24 provides that stateless persons be entitled to the same occupational health and safety, pension, employment insurance and other aspects of labour legislation. There are inconsistencies in federal legislation and policies with respect to application procedures, and again, these differ amongst provinces.

With respect to obtaining identity and travel documents outlined in Articles 27 and 28, Canadian legislation does have provisions for this but these only apply to stateless persons in Canada who have an immigration status. This is problematic as those stateless persons without such status are at risk of detention or removal.

Despite the report addressing the compatibility of Canada's legislative framework with the 1954 Convention, there are other international agreements to which Canada is a signatory that have a role to play in ensuring statelessness is addressed in Canadian legislation. While it is true that there are some compatibilities within Canada's legal framework, overall it is not compatible with the 1954 Convention. Such gaps can be addressed with accession to the 1954 Convention, improved adherence to international human rights law obligations, and a coherent policy approach by both the federal and provincial governments that would allow for addressing the unique needs of stateless persons in Canada.

iv. Discussion Highlights

The Costs of Statelessness

- The reality is that being stateless means no access to certain rights and privileges. As a result of this, statelessness intersects with other vulnerabilities, for example, without access to legal employment or social services, stateless persons are economically vulnerable. More research on the physical and psychological health of stateless people is needed.
- Evidence shows that detention of stateless people is a problem in Canada and worldwide and it wastes resources. The challenge is to find ways to work together to find solutions for migrants, stateless persons and asylum seekers and speed up processes for those in detention and in general limbo.

Meaningful and Collaborative Solutions

- Solutions to the many issues brought on by statelessness must be approached collaboratively. Some examples are:
 - Increased research and policy focus on the issue;
 - Canada should sign the 1954 Convention Relating to the Status of Stateless Persons;
 - Ensure that detention conditions do not violate human rights;
 - Carry out further research on, and provide support for, the mental health of detained stateless persons; and
 - Address the issues of de facto statelessness; specifically, states should be encouraged to treat de facto stateless persons as they would de jure stateless persons.

Global Denationalization Trends

- The idea that nationality can be revoked is an issue of concern because everyone deserves to have a nationality. Citizenship is the right to full partnership in the fortunes and the future of the nation. This is particularly worrisome in light of the fact that there is evidence that discrimination of certain groups and peoples is very common.
- Solutions and preventative measures to be taken into account are further legal and governance mechanisms to address this issue.

v. Recommendations

- 1) Accede to the 1954 Statelessness Convention, which addresses the marginalization of stateless persons and grants them a core set of rights;
 - a. As a signatory, Canada would commit to recognizing the legal and social rights of stateless persons, to granting citizenship to any person born within its borders

- who would otherwise be stateless, and to working to end existing statelessness within Canadian territory;
- 2) Amend existing legislation that can lead to statelessness, specifically with respect to the first generation born abroad limitation and ensure that any denationalization legislation contains safeguards against rendering a person stateless.
 - 3) Encourage provincial governments to contribute to the wellbeing of stateless persons by ensuring access to social services;
 - a. Address inconsistencies in access to public relief, health care, and funded education across different provinces;
 - b. Create a policy approach with cohesion between the federal citizenship legislation and the provincial labour legislation that will ensure legal access to employment and employment benefits;
 - c. Provide provincial legal aid funding for stateless persons.
 - 4) Authorities should be cognizant of the vulnerability of stateless persons in detention;
 - a. End the detention of stateless persons caused by considering them to be foreign nationals without sufficient documentation;
 - b. Ensure safe and humane detention conditions with access to rights;
 - c. Provide mental health services for those who have been detained;
 - d. Have a specific procedure for removing stateless people.

B. People and Lives Behind the Issues

Statelessness in the Canadian context cannot be discussed without hearing from those personally affected by statelessness. Therefore, this panel featured those who are stateless in Canada and provided insights into their specific experiences and efforts to resolve their status.

i. Deepan Budlakoti

Deepan Budlakoti was born in 1989 in Ottawa where he grew up. He had an Ontario birth certificate. His parents were Indian nationals. They came to Canada as cleaning staff for Indian diplomats, at the Indian High Commission. After a few years, Deepan had problems with his family and ran away from home. He got into trouble with the law and was soon in the grasp of the Children's Aid Society. In December 2009, Deepan was sentenced to four months in jail for breaking and entering. He had already served one month in pre-trial detention, and following his sentence, he was put on probation for one year. A few months later, in May 2010, Deepan was informed by government officials that he was not a Canadian citizen and that the two Canadian passports issued under his name had errors. They claimed that his parents were employed by a foreign diplomat when he was born, which under Canadian law meant that he could not receive Canadian citizenship automatically even though he was born in Canada. He was also considered inadmissible to Canada under immigration law due to the crimes he committed in Canada and faced removal proceedings to India, a country in which he never lived and had no family, friends or cultural connections. In 2013, Indian authorities informed Deepan that India was not prepared to grant him a travel document because they did not consider him to be a citizen of that country.

Two main issues were discussed in this case. Firstly, there seems to be a technical issue about who is working when and where. The Canadian government claims that Deepan's parents worked as cleaning staff for the Indian Embassy when Deepan was born. However, the Indian

Commission and Deepan's parents claim that both parents stop working for the Embassy in the months before Deepan's birth, which was submitted as evidence. Secondly, there is a moral concern because the government told Deepan, who had lived only in Canada as a citizen, that he was no longer a Canadian citizen twenty years after this technical issue. This seems to be a disproportionate form of punishment for an error that was made twenty years ago.

In June 2014, Deepan filed a motion for an injunction with the Federal Court against the Immigration and Refugee Board (IRB) to have his reporting conditions removed. He applied for a declaration of citizenship, but it was rejected by the Federal Court which accused him of civil irresponsibility. The Justice for Deepan support group formed in July 2013 to support Deepan Budlakoti in his quest to have his citizenship restored. In January 2016, the Supreme Court of Canada declined to hear the case of Deepan Budlakoti.

ii. Donovan McGlaughlin, Former Stateless Person

Donovan McGlaughlin received his official Canadian citizenship nine months ago, thanks to the help of many individuals.

His story began when his father, a First Nations man from the United States and his Caucasian mother, a Canadian citizen, decided not to register his birth fearing that he would be abducted by the authorities and put in a residential school. He later left home at the age of fifteen and never returned losing contact with his parents. At the age of twenty, he tried to get an official identity document for the first time, but was rejected due to the lack of a birth certificate.

In January 2014, he was diagnosed with heart disease, and without health care and proper medical attention, he could have died. However, he received medical care from a first generation immigrant Doctor and assistance from Don Chapman, founder of the "Lost Canadians".

Thanks to the help of these persons, he applied for Canadian citizenship. He began a bureaucratic and legal struggle to obtain citizenship. His lawyer, Michelle Quigg, from Access Pro Bono, represented him and obtained a legal extension to find the required documents.

In May 21st 2015, Donovan received his Canadian citizenship. After 61 years of attempts to obtain citizenship, he says he "was finally human" and best of all, a Canadian citizen. However, when Donovan applied for health insurance, he was rejected since he needed two forms of identification. It was in this moment when Premier Darrell Pasloski of the Yukon Territory gave him both identification documents just before he had another heart attack.

For him, the time has come to end statelessness in Canada. Statelessness is unacceptable, but it is real, despite the official records of Canada saying that the number of stateless people is non-existent. He also calls on the Canadian government to stop creating stateless children.

iii. Qia Gunster, Stateless Person

Qia was born at home in Tucson, Arizona, and his birth was not registered by his mother. She was afraid that Child Protection Services would take her baby away. Qia's mother chose to cross the border into Canada when he was 18 months old and without a birth certificate. When they arrived in British Columbia, she left him with family and returned to the United States. A foster family took Qia in and raised him. They tried to legally adopt Qia, but without a birth certificate, it was impossible. The government tried to deport Qia at the age of two, but they

could not send him anywhere. When he was 12 years old, his adopted family broke up and he moved into another home. Fortunately, he had a strong network of friends. He was also able to attend elementary and high school even when technically he did not have access to the education system. Qia was not allowed to work, so when the time came to look for a job he knew it would be difficult. However, he was able to find an employer that hired him, but only for short term contracts. This placed him at risk of exploitation.

As with others, Qia could not get a driver's permit, a credit card, a health card, a passport or a social insurance number, which has hindered his quest to become a fully qualified electrician. He cannot travel by himself. He feels stuck, unable to move. Because of the situation he was born into, he feels invisible in the eyes of the State, making it impossible for Qia to obtain permanent residence status without a birth certificate.

iv. Legal Representatives for Stateless Persons in Canada

a) Ms. Michelle Quigg, Legal Counsel, British Columbia

In representing Donovan McGlaughlin and Qia Gunster as a lawyer with Access Pro Bono Society of British Columbia, Michelle Quigg discusses improvements and recommendations that could help to rectify being stateless.

Canadian citizenship legislation is very confusing, particularly the Citizenship Act. It is a piece of legislation which is difficult to understand. In addition, there are several barriers encountered throughout the process of attempting to rectify Donovan's and Qia's circumstance of statelessness. Even when there are guidelines and a few mechanisms such as humanitarian and compassionate applications, the particularity of being stateless and the lack of identifying documents create many barriers.

It is difficult to defend someone without any documents, since there is no process, and no prescribed forms which one can fill out. In her work with Qia and Donovan, Michelle Quigg said both of them provided numerous documents. Their communities were active in assisting with this, and some politicians also helped. According to her, media coverage was helpful in those cases; sometimes media stories could be used as a safeguard.

Donovan McGlaughlin received citizenship in spite of his first rejection. His lawyer argued that given Donovan's poor health, his young Canadian children were at risk of losing their father if something was not done. In this case, citizenship was a question of life or death and in the best interests of his children. Hardship was not difficult to prove in his case. The difficult task lay in proving his identity. In her efforts to prove his identity, Michelle tried to gather all the documents that anchored him to society: school records, visits to doctors and dentists, lease agreements for renting, electricity bills, and so forth. However, Donovan was marginalized, he was not able to work legally, and he had no legal employment contract, so he did not have work-related documents. He only had his partner, with whom he had lived since 2005, members of First Nations in the Yukon who attested to his identity, as well as the various administrative and media records of Donovan's fight to prove his identity. Donovan was finally granted citizenship.

Qia's case was different because Qia's parents were not Canadian. Another strategy was employed in his case. Michelle applied for humanitarian and compassionate considerations. The Government waived requirements for his identification documents. As Qia did not have a birth certificate, he had a DNA test that tied him to his American mother. Today, he is still waiting for a final decision on his permanent residency application, so Qia remains stateless.

b) Mr. Hugues Langlais, Legal Counsel, Quebec

Hugues Langlais presented the case of six children, ages eight to 18, who were deprived of their Canadian citizenship after some legal issues occurred during the immigration process.

The six children were abandoned at birth in Egypt by an Egyptian Christian mother. The children were unofficially adopted by three Canadian families. In order to bring the children to Canada a few weeks after their birth, the parents declared them as their biological children. Since there is no status of adoptive parent in Egypt, the adoptive parents declared themselves as the biological parents. The birth certificate was presented at the Canadian embassy in Cairo where the members of the Embassy provided passports and citizenships for their adopted children. Years after this fact, the adopted parents were charged with false representation in obtaining the passports for the children. Three of the adoptive parents were considered guilty.

The adults and children lost their passports. A decision was made against deporting the children back to Egypt. The parents were asked to obtain birth certificates. Citizenship and Immigration Canada (CIC) invited the parents to submit a permanent residency application based on humanitarian and compassionate grounds for each child. While waiting for the residency status, the children were granted temporary residency status. However, it proved impossible to obtain the official documents (birth certificates or passports), as well as to establish the lineage and obtain a proof of their births or a real declaration of adoption.

Legal counsel for the six wrote a report detailing the consequences and the urgency of the situation. Then, in June 2015, the birth certificates were cancelled and the children became stateless.

As a safety net, citizenship applications and birth certificates applications for the children were filed, focusing on the best interests of the children, so as to avoid the serious consequences of statelessness in their lives. Basically, it was argued that they do not have knowledge about countries other than Canada, and that they have always identified as Canadian citizens. Even though they were born in Egypt, they have never lived there and do not speak Arabic. They are victims of the behaviour of adults who were sanctioned and discharged. Children should not suffer for these actions, children should not be punished administratively for what adults did and because of the Egyptian law which does not recognize the citizenship of the mother alone.

Of concern is the fact that it will take at least three years for the children to become permanent residents. They will need to wait four more years before being allowed to apply for citizenship. Their situation will improve the moment they get permanent residency status. However, they will not be able to travel without a passport, and they cannot go to school due to the high costs to attend school (In Quebec, you have to prove your identity to have a CAQ (Quebec Acceptance Certificate) to attend school and you have to pay fees (10,000 \$ at the University level).

v. Discussion Highlights

Social Inclusion and Access to Social Services Are Lacking

- There are legal and social invisibilities, as well as a lack of access to employment, healthcare and education that have a detrimental impact on the lives of stateless people. Those who provided their testimonials explained that they had used different strategies to survive throughout the years. For example, one of them pointed out that he constantly moved from one place to another out of fear of being detected by authorities and detained. Another person noted his strategy to tell his story to let people know of his statelessness

situation and avoid becoming homeless. Another person found extra-legal means of employment.

- Provincial governments can contribute to the well-being of stateless people because they have jurisdiction over social matters and should ensure that stateless persons have access to provincial social services. Provincial governments need to be active partners for all immigration issues; discretion and compassion in their decisions are necessary.

vi. Recommendations

5) Simplify citizenship procedures for stateless persons in Canada by:

- a. Creating a coherent administrative process designed to address the specific challenges of being stateless rather than simply considering stateless persons as foreign nationals who can only apply for immigration status based on humanitarian and compassionate grounds;
- b. Creating a statelessness determination procedure that can address the specific challenges faced by stateless persons in proving their identity and background;
- c. Creating flexible procedures in view of the fact that stateless persons face challenges to produce evidentiary documentation;
- d. Providing community and legal support for stateless persons, including access to information, legal representation, and other support workers who can help them navigate the processes;
- e. Providing guidelines on criteria and procedures for front line workers advocating for or representing stateless people, so they are better represented.

C. A View from the Community

This panel featured insights from activists and organisations that have been actively involved in supporting individuals who are or were stateless in Canada. Discussion shed light on non-state concepts of belonging and rights that provide the basis for indigenous relationships and notions of territory.

i. Ms. Jocelyn Kane, Director of the Canadian Centre on Statelessness

There is a large body of work concerned with inclusion, belonging, citizenship, and law in Canada, but statelessness is often left out of the discussion, and the voices of stateless persons themselves are absent from the conversations taking place. This is the reason to establish the Canadian Centre on Statelessness. In order to fill this gap in an organizational fashion, CCS was launched in November 2014, committed to investigating issues related to statelessness in Canada and mobilizing this knowledge for others. CCS is a member of the regional Americas Network on Nationality and Statelessness and sits on its steering committee. In addition, CCS is a coalition member of the Global Campaign for Equal Nationality Rights.

CCS aims to promote learning about statelessness in Canadian and global contexts, to advocate for policy and legislative change to the Citizenship Act and Immigration and Refugee Protection Act, as well as to help resolve individual cases of statelessness in Canada. CCS is located in Toronto, but carries out its activities across Canada.

Three pillars of CCS are crucial to effectively address statelessness in Canada. The first is to build a national community of allies in Canada who work on issues related to statelessness. This means bringing together academia, activists, individuals, legal practitioners, policy makers, government, and organisations from across the country so that we all learn from, and work with, each other. The second is to engage in effective research on statelessness so as to inform policy change and knowledge mobilisation. The third pillar is to engage with stateless persons and assist them so that they may empower themselves and use their voices to mobilize knowledge, and advocate for a resolution to their situations.

There are various research initiatives underway at CCS that include an investigation of how Canadian and British immigration and citizenship legislation have created statelessness since the late 1880s. There is also a study that looks at the data collection practices of various government agencies on statelessness that is due to be published in the spring of 2016. Moreover, CCS is exploring the merits of a repository of legal cases of statelessness that provides information on legal arguments and decisions made. Finally, an analysis of the statelessness determination procedures and best practices of six countries is underway, and recommendations based on these are currently being developed with a view to persuading Canada to adopt such measures.

Future projects of CCS include an education pilot that aims to work with youth in Canadian schools on issues on statelessness, and a seminar and webinar series that will connect allies across the country in presentations that discuss aspects of statelessness both in Canada and abroad. Moreover, the Mapping Statelessness in Canada project that is partnered with the University of Ottawa and the Ontario Public Interest Research Group - Ottawa aims to undertake a qualitative collaborative analysis of statelessness in Canada for the first time.

ii. Dr. Marcelo Saavedra-Vargas, University of Ottawa

Because of protocol respect, as an Elder welcomed by Algonquin people, I must acknowledge that this Summit is taking place on unsundered and unceded Anishinaabe territory. Meegweetch!

There are several similarities in experience and culture of indigenous peoples from all over the world, including the experience of statelessness through colonial occupation. Indigenous peoples are of a mature culture since we have been on the land for thousands of years. The wisdom of these mature cultures comes from being guardians of Mother Earth for such a long time.

The experiment of nationalism and statehood is a recent phenomenon that is approximately 200 years old. Along with it comes the claim of universalism of the modern Western mind. The current state system, based on notions of “rights” and enshrined in the ‘Universal Declaration of Human Rights’, implies the omnipresence of States which specifically grant the right for all persons to a nationality, identity, and ultimately, belonging. Yet, despite this assurance, millions are stateless.

Indigenous persons have witnessed this phenomenon over the years and can also bear testimony that this experiment of the Western mind has, indeed, failed. This crisis of statelessness is accompanied by a series of other important crises; for instance, the climate crisis, the energy crisis, the political crisis, and a profound axiological crisis.

There needs to be a reordering of our societies, according to what our prophecies indicate. Indigenous peoples lived well (as contrasted to living better, which is a tenet of capitalism and the institutions that assume this mode of production being the only possibility) with Mother Earth, profoundly respecting the balance and humbly respecting her. Indigenous peoples find it difficult to accommodate the colonial system, forced upon us in all the conquered territories by alien invaders.

The democratic structure of the state system imposed on our governance forms has a quality of dividing peoples and countries as decisions are founded on competition rather than on consensus. Democracy inevitably results in conflict and uncertainty, as can be seen in modern democracies of, and for, the few.

The indigenous ancestral way of taking decisions that will affect all the people (human and nonhuman) is by following the original instructions imprinted on the stars (for Andean and Amazonian Indigenous nations) and 'reading' the territory (Turtle Island, for our Northern sisters and brothers) and is rendered operative by consensus.

The modern state considered indigenous populations as invisible populations until they realized that they were potential voters and that is when they granted them citizenship. It was imposed by the State. Indians, believe that they are all sentient beings deployed on the land incarnated within the four sacred elements and following the four races and all the spectrum of skin colours that result from this sacred palette. In this sense, denying anyone the freedom to belonging to a community is contrary to our original instructions and nobody can strip them from this quality, not even the State.

Being stateless causes feelings of helplessness. At large, we do not identify ourselves with having the State as a point of reference to define who we are. Not even the notion of self-determination that the State promotes. We have a parity relation with the land, we are the land: we have never left it. We cannot claim self-determination since our existences are inextricably woven with our four sacred elements, especially our lands.

Being stateless is just another facet of the colonial state. I believe that from a legal, sociological, anthropological and international relations perspective, we, people of the land, know that denying identity, separating us from nature and stripping our sense of belonging does not go along the lines of our original instructions.

In conclusion, the experiment of capitalist industrial civilization is failing. We must use the gifts with which Mother Earth blessed each one of us (our brain power) and imagine a society where we can all live well in our home: our ecosystem. This belief is omnipresent in all indigenous societies where nobody is going to be put aside or excluded. The responsibility we have is to know that citizenship is a transitory phenomenon that cannot prevail over our cosmic belonging to human communities. This is what we are, this is where we stand. Jallalla!

iii. Mr. Don Chapman, Lost Canadians

There is a lack of awareness of issues on citizenship and statelessness in Canada on the part of Canadians and Canadian media, and there is a need to address this gap.

Canada's history of citizenship legislation is one of racism and gender discrimination and affected First Nations Peoples, foreigners and their wives and children, Canadian born women and children, the mentally ill, and adopted children. There still exists remnants of this

discrimination in current legislation. We must take note of the considerable discretionary power bureaucracy has in deciding who has access to Canadian citizenship, and whether to implement judicial decisions in citizenship legislation and policy making. There are complexities in legislation including whether a child was born in wedlock, and the consideration of a child as chattel of their father. As an example, Don Chapman was born in Vancouver and his family moved to the United States where his father acquired United States citizenship. Because Canadian law deemed children the chattel of their fathers, Mr. Chapman's Canadian citizenship was revoked when he became a United States citizen with his father. Others have become stateless in similar situations, where the Canadian government revoked their Canadian citizenship. The remedy for those who are Canadian born and have had their citizenship revoked is often to apply for immigrant status instead of a retroactive granting of Canadian citizenship.

There are conflicting accounts between the Supreme Court of Canada and the Canadian government of when Canadian citizenship began. The government should clarify whether Canadian citizenship existed prior to 1947 when Canada's first Citizenship Act was enacted. Whether those born in Canada prior to 1947 were Canadian citizens or British Nationals is a cause for concern for Canadian-born persons of foreign descent who were not granted either status, but rather registered as 'stateless aliens'. This is particularly relevant for those belonging to this group who fought for Canada in World Wars I and II, who, despite being Canadian-born would have fought for Canada as a 'stateless alien'.

In conclusion, a new Citizenship Act is needed that is Charter compliant. A new Act would serve as a chance to include Canadian values of inclusion and equality and allow Canada to serve as a global model in citizenship legislation. In addition, individual activism should be pursued in the form of petitions, engaging with parliamentarians, and speaking out to the media. Chapman's experience with putting seven citizenship bills through parliament, three of which have passed, has taught him that working with all political parties is essential and the issue of statelessness cannot be partisan. We have a growing movement against statelessness in Canada and although it is challenging to be an individual activist we can all change this country together.

iv. Discussion Highlights

Statelessness as a Choice

- Statelessness can be a choice for those who do not wish to be a part of any created state. An example of this are indigenous peoples all over the world who do not wish to belong to the state that was created on their traditional territory and imposed on them. As a result, many indigenous groups are fighting to make statelessness respected as a choice. Another example are parents who do not register their children's births.
- When we think about the role of the state in this context, we must ask whether the solution is more about giving stateless individuals' citizenship or granting them the social protections of our society.
- There is a global network of indigenous people who are fighting to make statelessness a choice. There are peoples who do not want to belong to any state and that is their choice.

Community mobilization

- Stateless individuals who live excluded from society are vulnerable to exploitation. We should look at ways to draw the public's attention to the different vulnerabilities suffered by stateless people and mobilize people around this reality to make it a political issue.

- On the discussion of rights, from the indigenous perspective, responsibilities come with motherhood, whereas the notion of rights comes from nation states.

v. Recommendations

- 6) Raise awareness on the issues of statelessness in Canada in order to strengthen community and legal support
 - a. Support advocacy organizations such as the Canadian Centre on Statelessness;
 - b. Fund and support more research. In particular, remedy the lack of research and information on non-refugee or migrant stateless persons.

D. Research on Statelessness and Citizenship in Canada

Relevant research initiatives and gaps that remain are important components in understanding statelessness in Canada. This panel identified the multiple interdisciplinary actors working on these issues and explored specific research studies as well as the areas of partnership between community, academic, legal, and individual researchers.

i. Mapping Statelessness in Canada Project, Dr. Claire Delisle, Ms. Maria Basualdo, Dr. Marcelo Saavedra-Vargas, Ms. Jocelyn Kane

The Mapping Statelessness in Canada project has two broad goals - one being research-oriented and the other being action-oriented. On the research side, the aims are to:

- map (to the extent possible) stateless people in Canada, identify the cohorts to which they belong, and the legal instruments that mediate citizenship;
- conceptualize belonging and identity in the “afterness” of a post-Westphalian world (as Wendy Brown characterizes) and taking into account indigenous notions of territory, space, belonging and identity;
- propose policy alternatives in light of such conceptualizations; and
- investigate in a collaborative qualitative, participant-driven way, the lived experiences of stateless people.

The research project seeks to be a) collaborative, b) cross-functional, and c) interdisciplinary. For the qualitative study of the lives consequences, a collaborative participant action method is proposed to ensure the agency and voices of the subjects of the research and thereby contribute to providing conditions that promote empowerment.

On the action side, the overall goal is to create an intentional space of understanding, sharing, and allyship. The goal is to create a network of academics, NGOs, activists, grassroots organizations and stateless persons, in relation to advocating for, researching and mapping statelessness in Canada. This network is conceptualized as a vibrant space where those involved in research and action can gather in order to exchange knowledge and strategies to eradicate statelessness.

Lastly, this project is inter-disciplinary, encompassing qualitative concerns about research, and also discovering and deepening theoretical knowledge that draws on a variety of disciplines including law, politics, sociology and cultural studies.

An indigenous inspired approach will be used, that can include sharing circles, which gives the freedom to the subject to communicate their lived experience in a way that is meaningful to them, thereby maximizing the likelihood of developing a rich and textured story that can best secure the salient points of their lived experience. Such an approach also seeks to minimize hierarchical relations between researchers and those who are the subject of the research.

The over-arching principles of this project are anti-oppression, decolonization, indigenous teachings and autonomous and creative principles of organizing. Understanding settler colonialism and its legacies stands to shift paradigmatic knowledge about belonging, policy and truth-claims. Attention to indigenous principles and conceptualizations will ensure an open space to consider not only the lived reality of indigenous people in Canada, but other people who have historically been harmed by colonial projects, and many other culturally based identities. Autonomous and creative principles of organizing encourages researchers and allies to question status quo objectives, stretch the limits of understanding in relation to migration, belonging, identity and borders.

ii. Data Collection on Stateless Persons in Canada, Ms. Jocelyn Kane and Mr. Patrick Balazo, Dalhousie University

This research study gathered data from Statistics Canada (StatCan), Immigration and Refugee Board of Canada (IRB), Immigration, Refugees and Citizenship Canada (IRCC), and Canada Border Services Agency (CBSA). It is grounded in global and regional initiatives to combat statelessness and the need to follow up on UNHCR's 2012 Statelessness in the Canadian Context.

Preliminary findings concerning StatCan's National Household Survey included how the Survey defines statelessness, the self-reporting of citizenship status, and the practice of grouping statelessness data into global political categories.

Findings with respect to the IRB included changes in data collection and reporting practices since December 2012 that now reflect stateless status; testing mechanisms for country of former habitual residence; and reporting practices for positive decisions on claims and the reasons for which claims are accepted.

IRCC findings relate to data on stateless refugee claims in Canada, number of stateless persons granted permanent resident status in Canada since 1981, number of applications received from stateless persons for temporary and permanent residency, and number of permits issued, and number of stateless persons in Canada under international student and work permits. IRCC reporting mechanisms do not capture specific reasons for an approved humanitarian and compassionate application, and there are no efforts underway to change them to reflect whether statelessness was a factor in deciding cases.

CBSA data on the detention and removal of stateless persons in Canada included stateless persons inadmissible to Canada from 2003-2014, detention location, total and average number of days in detention, reasons for detention, and reasons for release from detention. Concerning removals, CCS reported on the number of stateless persons removed from Canada from 2003-2012 and reasons for deportation orders issued. CBSA does not record the citizenship and detention status of removed stateless persons in the countries to which they have been removed.

Despite some improvements in data collection practices, the four agencies have only partially implemented the 2012 UNHCR recommendations. Several recommendations were made to all four government agencies in the study.

iii. Carte blanche? Debating the revocation of Canadian citizenship in public discourses, Dr. Elke Winter, University of Ottawa and Ms. Ivana Previsic, University of Ottawa

This study analysed how government immigration, citizenship and anti-terrorism legislation contribute to the stigmatization of minorities in Canada. The study investigated discourse as present in parliamentary bills and current legislation, parliamentary debates, media, and online reader comments. The fundamental question that guided this study is, what happens after exile and banishment become acceptable forms of punishment? The issues of whose citizenship can be revoked and for what reasons are frightening when one considers citizenship revocation is used as a tool to protect the citizenship of others.

The study employed a mixed methodological approach, using discourse analysis, and explored ethnicity and events that subjects were connected with, including criminal activity. Preliminary findings suggested terrorism was most frequently referred to when it comes to citizenship revocation. Treason was the most popular point of discussion in online comments. Certain persons were more present in some media over others, including politicians and those convicted of criminal activity. Online comment platforms witnessed more diverse notions of treason and terrorism including organised crime, economic and religious extremism as treason than did newspapers or parliamentary debates.

Despite the diversity in online comments, those with Muslim backgrounds were especially targeted as potential candidates for citizenship revocation. This addressed not just those involved in terrorist cases, but also included innocuous groups including Muslim ethnic groups. Also, citizenship in Canada is becoming thinner, or lightened, for some groups of citizens in order to protect the citizenship of other groups.

iv. Discussion Highlights

Non-migrant or Refugee Stateless People

- In Canada, statelessness data is provided by the Canadian immigration authorities and does not include data on those stateless persons in Canada who are not immigrants or refugees. This leaves a gap in the data with regards to non-migrant or refugee stateless people.
- The national household survey would fill this gap if information was requested from particular groups, for example, a second questionnaire that asks stateless second generation Canadians additional information would provide information to compare first and second generation Canadians. CCS' research project aims to engage stateless people and government agencies for discussions on how to address these gaps and implement changes.

Revoking Citizenship

- Some see revocation as a political strategy that caters to specific voter constituencies. Canada is not alone in revoking citizenship. This is a neoliberal trend that is gaining traction in many countries including the U.K., and France.

- There is an interconnection between statelessness and migration, referred to as “crimmigration” which is at odds with being a refugee and the rights and expectations associated with that status.
- When drafting a new citizenship act, caution should be used in ensuring that the new law considers other human rights, for example, extradition law.

Special groups

- Typically, stateless persons cannot become international students due to their inability to travel. There is very little information on this group of people and the CCS plans to carry out further research.
- With respect to dual citizens, states have responsibilities to dual citizens and they should be punished for the crimes they commit and not be stripped from their citizenship. Adopted children are especially vulnerable to becoming stateless. Adoptive parents may have the option to choose between previous and current procedures that may safeguard against the possibility of stateless adopted children.

v. Recommendations

- 7) Pursue further research to map out the scope and nature of statelessness in Canada and produce more systematic and reliable statelessness statistics:
 - a. Work with the relevant governmental bodies (IRCC, IRB, CBSA) to create reliable tracking of data stateless people, particularly information on those who are detained or deported.

V. Summary and Closing Remarks

Summary

The testimonials and research provided at this conference showcase the fact that statelessness is a condition of human misery. Stateless individuals do not have access to basic human rights making them vulnerable to exploitation and discrimination. There is no established procedure in Canada that identifies stateless persons on its territory which results in a lack of protection for these individuals. Instead, stateless persons are included in the foreign nationals category limiting their human rights and residency rights in Canada. It is therefore important to create a statelessness determination procedure that would facilitate establishment and integration in Canada.

Another important point to consider is for Canada to accede to the 1954 Convention as it is a reality that there are no effective safeguards or remedies for stateless persons in Canada. Signing the Convention would offer Canada the opportunity for leadership at the global level in this area and to contribute towards eradicating statelessness in the Americas.

Academic research and community engagement should continue as they are important tools to foster awareness and gauge interest in this area. Legal practitioners should be equipped with more information on the mechanisms available for their statelessness clients. Moreover, efficient safeguard mechanisms for stateless people should be enacted in legislation as there is currently no specific provision for the protection of non-refugee stateless persons.

Closing remarks

Dr. Claire Delisle, University of Ottawa

The summit was an incredible space for the encounter of so many people affected by statelessness, advocating for, or doing research with stateless people in Canada. There was a wide variety of stakeholders at the table, people from different places, of different ages, from multiple organizations, concerned with different facets of statelessness in Canada. The Summit was as much a presentation on work that has been done, as a taking stock of the work that lies ahead. Focusing on “the potential in the room”, the event is the first step in the creation of a much needed network, a central component of the “Mapping Statelessness in Canada” project. This is an opportunity to launch a network of people that will continue to communicate with each other about how to eradicate statelessness in Canada. Participants, volunteers, and partners were thanked for attending and contributing to this event. While this event is the first statelessness summit in Canada, it will not be the last.

Elder Jacob (Mowega) Wawatie, Algonquin-Anishinaabe Elder

The summit was closed with a smudging ceremony. On behalf of all the invisible people, all panellists were thanked for the progress made toward the recognition of stateless people, and for sharing their stories, research and ideas. This is what it takes to make the world go round. It takes compassion.

Annex I

List of Recommendations

Canada should:

- 1) Accede to the 1954 Statelessness Convention, which addresses the marginalization of stateless persons and grants them a core set of rights:
 - a. As a signatory, Canada would commit to recognizing the legal and social rights of stateless persons, to granting citizenship to any person born within its borders who would otherwise be stateless, and to working to end existing statelessness within Canadian territory
- 2) Amend existing legislation that can lead to statelessness, specifically with respect to the first generation born abroad limitation and ensure that any denationalization legislation contains safeguards against rendering a person stateless, for example, reinforce the Canadian Citizenship Act by including a definition of statelessness.
- 3) Simplify citizenship procedures for stateless persons in Canada by:
 - a. Creating a coherent administrative process designed to address the specific challenges of being stateless rather than simply considering stateless persons as foreign nationals who can only apply for immigration status based on humanitarian and compassionate grounds;
 - b. Creating a statelessness determination procedure administered by a special division in the IRB that can address the specific challenges faced by stateless persons in proving their identity and background;
 - c. Creating flexible procedures in view of the fact that stateless persons face challenges to produce evidentiary documentation;
 - d. Providing community and legal support for stateless persons, including access to information, legal representation, and other support workers who can help them navigate the processes;
 - e. Providing guidelines on criteria and procedures for front line workers advocating for or representing stateless people, so they are better represented.
- 4) Encourage provincial governments to contribute to the wellbeing of stateless persons by ensuring access to social services:
 - a. Address inconsistencies in access to public relief, health care, and funded education across different provinces;
 - b. Create a policy approach with cohesion between the federal citizenship legislation and the provincial labour legislation that will ensure legal access to employment and employment benefits;
 - c. Provide provincial legal aid funding for stateless persons.
- 5) Authorities should be cognizant of the vulnerability of stateless persons in detention:
 - a. End the detention of stateless persons caused by considering them to be foreign nationals without sufficient documentation;
 - b. Ensure safe and humane detention conditions with access to rights;
 - c. Provide mental health services for those who have been detained;
 - d. Have a specific procedure for removing stateless people.

- 6) Pursue further research to map out the scope and nature of statelessness in Canada and produce more systematic and reliable statelessness statistics:
 - a. Work with the relevant governmental bodies (IRCC, IRB, CBSA) to create reliable tracking of data stateless people, particularly information on those who are detained or deported.

- 7) Raise awareness on the issues of statelessness in Canada in order to strengthen community and legal support:
 - a. Support advocacy organizations such as the Canadian Centre on Statelessness;
 - b. Fund and support more research. In particular, remedy the lack of research and information on non-refugee or migrant stateless persons.