European Parliament resolution of 13 June 2017 on statelessness in South and South East Asia (2016/2220(INI))

The European Parliament,

– having regard to the provisions of UN Human Rights instruments, including those concerning the right to nationality, such as the UN Charter, the Universal Declaration of Human Rights, the International Covenants on Civil and Political Rights, the Convention on the Rights of the Child, the Convention on the Elimination of Racial Discrimination, the 1954 Convention Relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, the Convention on the Rights of Persons with Disabilities, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families,

– having regard to other UN instruments on statelessness and the right to a nationality, such as the UN High Commissioner for Refugees (UNHCR) Executive Committee’s Conclusion No. 106 on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons¹, which was endorsed by UN General Assembly Resolution A/RES/61/137 of 2006,

– having regard to the UNHCR’s Campaign to End Statelessness by 2024² and the Global Campaign for Equal Nationality Rights supported by the UNHCR, UN Women and others, and endorsed by the UN Human Rights Council,

– having regard to UN Human Rights Council resolution of 15 July 2016 on human rights and arbitrary deprivation of nationality (A/HRC/RES/32/5),

– having regard to the Vienna Declaration and Programme of Action³, adopted by the World Conference on Human Rights on 25 June 1993,

– having regard to the General recommendation No. 32 from the Committee on the

³ http://www.ohchr.org/Documents/ProfessionalInterest/vienna.pdf
Elimination of Discrimination against Women (CEDAW) on the gender-related dimension of refugee status, asylum, nationality and statelessness of women¹,

– having regard to the Association of Southeast Asian Nations (ASEAN) Human Rights Declaration²,

– having regard to Article 3(5) of the Treaty on European Union, which states that ‘in its relations with the wider world’, the EU must contribute to the ‘eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter’,

– having regard to Council conclusions of 20 July 2015 on the EU Action Plan on Human Rights and Democracy 2015-2019³,

– having regard to the EU Strategic Framework and Action Plan on Human Rights and Democracy of 25 June 2012⁴,

– having regard to the Council conclusions of 4 December 2015 on Statelessness⁵,

– having regard to the Council conclusions of 20 June 2016 on an EU strategy vis-à-vis Myanmar/Burma⁶,

– having regard to its resolution of 25 October 2016 on human rights and migration in third countries⁷,

– having regard to its resolution of 7 July 2016 on Myanmar, in particular the situation of the Rohingya⁸,

– having regard to its resolution of 12 March 2015 on the Annual Report on Human Rights and Democracy in the World 2013 and the European Union's policy on the matter⁹,


¹ http://www.refworld.org/docid/54620fb54.html
– having regard to Rule 52 of its Rules of Procedure,
– having regard to the report of the Committee on Foreign Affairs and the opinion of the Committee on Development (A8-0182/2017),

A. whereas the region of South Asia and Southeast Asia consists of the following countries – Afghanistan, Bangladesh, Bhutan, Brunei, Cambodia, India, Indonesia, Laos, Malaysia, the Maldives, Myanmar, Nepal, Pakistan, the Philippines, Singapore, Sri Lanka, Thailand, East Timor and Vietnam – who are all Members or have observer status of either the Association of Southeast Asian Nations (ASEAN) or the South Asian Association for Regional Cooperation (SAARC);

B. whereas the Universal Declaration of Human Rights (UDHR) affirms that all individuals are born equal in dignity and rights; whereas the right to a nationality and the right not to be arbitrarily deprived of one’s nationality is enshrined in Article 15 of UDHR, as well as in other international human rights instruments; whereas, however, the international legal instruments have yet to achieve their primary objective of ensuring the right of every person to a nationality;

C. whereas all human rights are universal, indivisible, interdependent and interrelated; whereas human rights and fundamental freedoms are birth rights of all human beings and their protection and promotion is the most important task of government;

D. whereas the Convention on the Rights of the Child, which has been ratified by all South and Southeast Asia countries, stipulates that a child shall be registered immediately after birth and shall have the right to acquire a nationality; whereas it is estimated that half of the world’s stateless persons are children and that many of them are stateless from birth;

E. whereas the ASEAN Human Rights Declaration affirms that every person has the right to a nationality as prescribed by law and no person ‘shall be arbitrarily deprived of his nationality, nor denied the right to change that nationality’;

F. whereas a stateless person is defined in the 1954 Convention Relating to the Status of Stateless Persons as someone ‘who is not considered as a national by any State under operation of its law’; whereas the causes of statelessness can vary, and include but are not limited to: the succession and dissolution of states, in some cases events surrounding being forced to flee, migration and human trafficking, as well as: changes and gaps in nationality laws, the expiration of nationality through having lived outside of one’s country for an extended period of time, arbitrary deprivation of nationality, discrimination based on gender, race, ethnicity or other grounds, administrative and bureaucratic hurdles, including in obtaining or registering birth certificates; whereas most, if not all of these causes can be found in the cases of statelessness in South and South East Asia;

G. whereas it is important to note that whether a person is stateless is a distinct question from whether they are a refugee; whereas most stateless people have never left the place in which they were born or have never crossed an international border;

H. whereas statelessness is a multifaceted problem and leads to a wide range of human rights violations that include but are not limited to problems relating to birth certificates and other civil status documents, as well as other problems relating to property rights,
exclusion from child health programmes and public school systems, business ownership, political representation and voting participation, access to social security and public services; whereas statelessness may contribute to human trafficking, arbitrary detention, violation of the freedom of movement, the exploitation and abuse of children and discrimination against women;

I. whereas statelessness continues to receive limited international attention despite its very worrying global and regional human rights implications, and continues to be seen as an internal affair of states; whereas reducing and eventually abolishing statelessness should become a human rights priority at international level;

J. whereas legislative gender discrimination, for example in acquiring or passing on nationality to one’s child or spouse, is still present in South and Southeast Asia in countries such as Nepal, Malaysia and Brunei;

K. whereas the UNHCR has estimated that 135 million children under the age of five across the region have not had their births registered and are at risk of becoming stateless;

L. whereas the ending of statelessness will also lead to more democracy, as former stateless persons will be included in and be able to contribute to the democratic process;

M. whereas the complex problem of statelessness remains on the outermost boundaries of international law and policy, although it is not a marginal issue;

N. whereas statelessness undermines the development prospects of affected populations and the effective implementation of the 2030 Agenda for Sustainable Development;

O. whereas the UNHCR’s Global Action Plan to End Statelessness (2014-2024) aims to support governments in resolving the existing major situations of statelessness, to prevent new cases from emerging and to better identify and protect stateless populations; whereas Action 10 of the Action Plan also points to the need for improved qualitative and quantitative data on statelessness; whereas the EU has committed to actively support the Action Plan;

P. whereas the Council Conclusions on the EU Action Plan on Human Rights and Democracy 2015-2019 affirm the importance of addressing the issue of statelessness in relations with priority countries and on focusing efforts on preventing the emergence of stateless populations as a result of conflict, displacement and the break-up of states;

Q. whereas the EU Annual Report on Human Rights and Democracy in the World – Country and Regional Issues of 20 September 2016 affirms the EU’s aim to increase the consistency, effectiveness and visibility of human rights in EU foreign policy and the aim to increase the profile of the EU’s engagement with the UN and with regional human rights mechanisms to foster regional ownership and to promote the universality of human rights, and mentions specifically that this includes the launch of a first policy dialogue on human rights with the Association of Southeast Asian Nations’ (ASEAN) human rights mechanisms;

R. whereas the EU has determined that it will place human rights at the centre of its relations with third countries;
S. whereas statelessness promotes population movements, emigration and human trafficking, destabilising whole sub-regions;

T. whereas many of the world’s 10 million stateless persons reside in South and South East Asia, the Rohingya of Myanmar being the single largest stateless group in the world with over 1 million persons under the UNHCR’s statelessness mandate, but large communities of stateless persons are also found in Thailand, Malaysia, Brunei, Vietnam, the Philippines and elsewhere; whereas stateless Tibetans live in countries such as India and Nepal; whereas some of these groups fall under the UNHCR’s statelessness mandate, but others do not; whereas statistical coverage and reporting on stateless populations around the world is incomplete as not all countries keep statistics on this issue; whereas South and South East Asia have both protracted and unresolved cases, as well as cases where progress has been made;

U. whereas progress has been made in South and Southeast Asia in recent years with amendments to nationality laws introducing adequate provisions to prevent statelessness and to allow stateless persons to acquire nationality; whereas these efforts need to be reinforced and the adopted laws must also be complied with in practice;

V. whereas the Rohingya are one of the most persecuted minorities in the world, constitute one of its largest groups of stateless persons, and have been officially stateless since the 1982 Burmese Citizenship Law was enacted; whereas the Rohingya are unwanted by the Myanmar authorities and by neighbouring countries, although some of the latter host large refugee populations; whereas there are ongoing clashes in Rakhine State; whereas thousands of refugees who have made it across the border to Bangladesh are in desperate need of humanitarian assistance and are being forcibly pushed back, in violation of international law; whereas the Rohingya are fleeing a policy of collective punishment in Rakhine State, where security forces are mounting indiscriminate reprisal attacks, reportedly firing at villagers from helicopter gunships, torching homes, carrying out arbitrary arrests and raping women and girls; whereas to date domestic and international responses to the deterioration of human rights and the humanitarian crisis of the Rohingya have been largely insufficient and many tools to resolve the issue have not yet been explored;

W. whereas the hundreds of thousands of so-called ‘Biharis’ were not treated as citizens of Bangladesh after the Bangladesh War of Independence, when Pakistan refused their repatriation; whereas, however, a number of court rulings since 2003 have confirmed that the Biharis are citizens of Bangladesh; whereas a large number of Biharis are still not fully integrated in Bangladeshi society and development programmes, and many have not been able to fully exercise their reconfirmed rights;

X. whereas there are many other stateless groups in South and Southeast Asia; whereas, nonetheless, a number of positive developments have taken place in recent years, such as in Indonesia, which abolished gender discrimination in its nationality acquisition procedure and reformed its nationality law in 2006 so that Indonesian migrants that spend more than five years abroad can now no longer be deprived of their citizenship if such a loss of citizenship results in statelessness; in Cambodia, where birth registration has been made free of charge in the first 30 days after birth; in Vietnam, which in 2008 facilitated the naturalisation of anyone who had been a stateless resident living in Vietnam for over 20 years; and in Thailand, where following reform to nationality and civil registration laws, 23,000 stateless persons have acquired nationality since 2011;
Y. whereas it is of the utmost importance that the governments and relevant authorities of all countries in the region fully comply with the principle of non-refoulement and protect refugees, in line with their international obligations and with international human rights standards;

Z. whereas stateless groups should have access to humanitarian programmes providing health, food education and nutrition assistance;

1. Is concerned about the millions of cases of statelessness all around the world, in particular in South and South East Asia, and expresses its solidarity with stateless persons;

2. Is extremely concerned about the situation of the Rohingya minority in Myanmar; is appalled at the reports of massive human rights violations and the continued repression and discrimination of the Rohingya and the failure to recognise them as part of Myanmar society, in what looks like a coordinated campaign of ethnic cleansing; stresses that the Rohingya have lived on the territory of Myanmar for many generations and are fully entitled to Myanmarese citizenship, as they have held it in the past, and all the rights and obligations this encompasses; urges the government and authorities of Myanmar to restore Myanmarese citizenship to the Rohingya minority; urges furthermore the immediate opening of Rakhine State for humanitarian organisations, international observers, NGOs and journalists; believes that impartial investigations will need to be organised with a view to holding perpetrators of human rights violations to account; believes furthermore that urgent measures are needed to prevent further acts of discrimination, hostility and violence against minorities or incitement to such acts; expects Nobel Peace Prize and Sakharov Prize laureate Ms Suu Kyi to use her various positions in the Myanmarese Government to bring a resolution closer;

3. Regrets that the status of statelessness is in some cases exploited in order to marginalise specific communities and deprive them of their rights; believes that the legal, political and social inclusion of minorities is a key element of a democratic transition and that resolving statelessness issues would contribute to better social cohesion and political stability;

4. Draws attention to the fact that statelessness can cause significant humanitarian crises and reiterates that stateless persons should have access to humanitarian programmes; underlines the fact that statelessness often implies lack of access to education, health services, work, freedom of movement and security;

5. Is concerned about the lack of data on statelessness in South and Southeast Asia, with little to no data available for Bhutan, India, Nepal and East Timor, for example; is furthermore concerned that even when overall numbers are available, there is a lack of disaggregated data on women, children and other vulnerable groups, for instance; points out that this information deficit makes it more difficult to formulate targeted actions, including within the framework of the UNHCR campaign to end statelessness by 2024; strongly encourages the countries of South and South East Asia to produce reliable and public disaggregated data on statelessness;

6. Points out that there are also positive examples, such as the initiative from the Philippines in May 2016 to address the need for data on the scale and the situation of stateless children in the region; calls on the EU to offer its cooperation and support to
7. Is deeply concerned that the States of Brunei, Malaysia and Nepal have discriminatory legislation based on gender; stresses the need for a review of nationality law-related provisions, specifically in the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW);

8. Welcomes the positive developments in the region and the efforts in the Philippines, Vietnam and Thailand, and encourages the countries in the region to work together and to share good examples and efforts in order to end statelessness in the entire region;

9. Recalls the post-statelessness situation in the region and the human rights principle of participation; promotes the inclusion of communities affected by statelessness and of formerly stateless people in development projects and planning; encourages governments and development projects to address post-stateless discrimination inspired by Article 4(1) of CEDAW aimed at accelerating de facto equality;

10. While acknowledging national sovereignty over matters such as citizenship, urges countries with stateless populations to take concrete steps towards resolving the issue of statelessness in line with the principles enshrined in the international conventions which they have all ratified, in particular the Convention on the Rights of the Child; notes the number of positive developments that have taken place in the region;

11. Urges the Government of Bangladesh to commit to a clear roadmap allowing for the full implementation of the 1997 Chittagong Hill Tracts Peace Accord, thus allowing for the rehabilitation of displaced Jumma people who are currently living in India and stateless;

12. Strongly encourages states to implement the safeguard, which is enshrined in the 1961 Convention on the Reduction of Statelessness, that a person born in a state will also be granted nationality for that state if that person would otherwise be stateless;

13. Emphasises the connections between statelessness and social and economic vulnerability; urges governments in developing countries to prevent denial, loss or deprivation of nationality on discriminatory grounds, to adopt equitable nationality laws and to implement accessible, affordable and non-discriminatory nationality documentation procedures;

14.Welcomes the commitment of the Council in its conclusions on the EU Action Plan on Human Rights and Democracy 2015-2019 to address the issue of statelessness in relations with priority countries and, in addition, welcomes the commitment of the Council to strengthen its relationship with ASEAN; recommends that the focus of the efforts go beyond the emergence of stateless populations brought about by conflict, displacement and the break-up of states and also include other relevant aspects, such as statelessness as a result of discrimination as well as of a lack of birth and civil registration;

15. Recalls the action promised in the EU Action Plan on Human Rights and Democracy 2015-2019 on the development of a joint framework between the Commission and the European External Action Service (EEAS) for the purposes of raising issues of statelessness with third countries; stresses that the elaboration and dissemination of a
formal framework would be an instrumental part of the European Union’s support for the UNHCR goal to end statelessness in the world by 2024;

16. Calls on the EU to promote the development of global solutions to statelessness, together with specific regional or local strategies, as a ‘one size fits all’ approach will not be efficient enough to tackle statelessness;

17. Believes that the EU should more strongly highlight the major impact of statelessness on global issues such as the eradication of poverty, the implementation of the 2030 Agenda for Sustainable Development and the Sustainable Development Goals (SDGs), the promotion of the rights of the child, and the need to address illegal migration and human trafficking;

18. Welcomes the adoption of Sustainable Development Goal 16.9, which foresees that legal identity and birth registration should be provided for all; regrets, however, that statelessness is not explicitly mentioned in the 2030 Agenda either as a ground for discrimination or as a poverty reduction target; calls for the EU and its Member States to consider including statelessness indicators in their monitoring and reporting mechanisms while implementing the SDGs;

19. Emphasises the importance of an effective communication strategy on statelessness in order to raise awareness on the issue; calls on the EU to communicate more and better on statelessness, in cooperation with the UNHCR, and through its delegations in the third countries concerned, and to focus on the human rights violations that have occurred as a consequence of statelessness;

20. Calls for the EU to develop a comprehensive strategy on statelessness based on two sets of measures; considers that the first set should deal with urgent situations and the second should define long-term measures to end statelessness; believes that the strategy should focus on a limited number of priorities and that the EU should take the lead in the event of urgent situations to raise awareness on statelessness at international level;

21. Stresses that the EU’s comprehensive strategy on statelessness should be adaptable to specific situations faced by stateless people; stresses that, in order to define appropriate measures, a distinction needs to be made between statelessness that has occurred as a result of a lack of administrative capacity and statelessness that has occurred as a result of a discriminatory state policy against certain communities or minorities;

22. Recommends that the Member States make it a priority to support the positive developments in addressing statelessness in South and Southeast Asia, and proposes a new comprehensive policy approach including:
   – encouraging states to accede to the Statelessness Conventions by highlighting their benefits in the bilateral contacts between parliaments and ministries and at other levels;
   – supporting ASEAN Sectoral Bodies and SAARC in supporting their respective Member States to further realise the right to a nationality and ending statelessness;
   – highlighting the value of the Statelessness Conventions in multilateral fora;
   – working with states to advocate the benefits of gathering intersectional,
disaggregated and verifiable national data on stateless persons and those with undetermined nationality, as identifying stateless persons is the first step for the states concerned to take the necessary measures to end statelessness; the data collected will then be used for registration, documentation, the delivery of public services, the maintenance of law and order and development planning;

– consistently emphasising that birth registration needs to be free, easily accessible and undertaken on a non-discriminatory basis;

– consistently emphasising that national identity management regimes need to include and provide identity documentation to all persons on the territory, including hard-to-reach and marginalised groups who may be at risk of statelessness or lack a nationality;

– supporting South and Southeast Asia countries to ensure access to education to everyone, including stateless children, as statelessness is a significant obstacle that prevents children from being able to access equal education opportunities;

– encouraging the important role of innovative technology by using digital birth registration programs in order to improve registration and archiving records;

– addressing the issue of the content and application of nationality laws and the arbitrary deprivation or denial of the right to a nationality on the grounds of ethnicity, which is the major cause of statelessness in the region;

– encouraging states in the region to address the needs of women, and issues related to sexual and gender-based violence, through human rights and community-based approaches, particularly for victims of trafficking;

– addressing the issue of nationality laws and gender discrimination, as some countries make it difficult, or even impossible, for mothers to pass on their citizenship to their children;

– ensuring that all development projects and humanitarian aid for which the EU provides funding are set up so that addressing statelessness is included whenever relevant;

– building the capacity of relevant EU institutions and actors in order to understand, assess and programme and report on issues of statelessness, establishing regular reporting on the EU’s achievements in the fight against statelessness, including by incorporating a section on statelessness into the EU’s Annual Report on Human Rights and Democracy in the world;

– ensuring that statelessness, nationality and citizenship are appropriately covered in human rights and democracy country strategies, and that the latter are based on the principle that everyone, regardless of gender, race, colour, skin, faith or religion, national origin or belonging to a national or ethnic minority, is entitled to nationality; addressing the issue of statelessness during every political and human rights dialogue with the countries concerned;

– setting-up EU human rights guidelines on statelessness in order to provide concrete measurable objectives for the EU’s efforts to eliminate statelessness
worldwide;

– increasing dialogue on statelessness in South and South East Asia with relevant regional and international organisations as well as with neighbours of the South and South East Asian countries and other active states in the region;

– ensuring that participants in election observation missions are aware of statelessness issues where relevant;

– highlighting the necessity of empowering regional human rights bodies so that they can play a more active role in identifying and eliminating statelessness;

– reserving adequate funding in the Development Cooperation Instrument, European Development Fund and European Instrument for Democracy and Human Rights budgets for NGOs and other organisations working to reach stateless communities; promoting partnerships between civil society organisations and statelessness communities in order to empower them so they can fight for their rights;

– encouraging coordination among countries for tackling statelessness, especially where it has cross-border effects, and including the exchange of best practices in implementing international standards on the fight against statelessness;

– ensuring follow-up, such as awareness-raising and technical support for public administrations as a means of capacity-building, including at local level when there have been positive developments that need to be implemented in practice, such as in Thailand, the Philippines, Vietnam and Bangladesh, where the citizenship of the Biharis, including their voting rights, was restored;

23. Calls on the Governments of Brunei Darussalam, Malaysia and Nepal to combat the forms of gender discrimination present in their nationality laws and to promote children’s right to a nationality;

24. Notes the link between statelessness and forced displacement, in particular in conflict-affected regions; recalls that at least 1.5 million stateless persons in the world are refugees or former refugees, including many young women and girls;

25. Recalls that statelessness in the world is largely unmapped and under-reported, and that existing data are based on different definitions; urges the international community to adopt a unified definition and to address the gaps in data collection for measuring statelessness in developing countries, notably by assisting local authorities in putting in place adequate methods to quantify, identify and register stateless persons, and to enhance their statistical capacities;

26. Invites the Commission to launch exchanges of good practice among Member States, encourages the active coordination of national statelessness contact points, and welcomes the #IBelong campaign;

27. Highlights the key role of the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, which require the establishment of legal frameworks for the identification and protection of stateless persons and for the prevention of statelessness and may serve as an important starting
step for states wanting to make progress in addressing the problem of statelessness;

28. Welcomes the EU support to stateless persons in South and South East Asia through various instruments and encourages the Union to continue its efforts in order to address the impact of statelessness on development, peace and stability as an integral part of its development cooperation programmes and, more broadly, its external action;

29. Instructs its President to forward this resolution to the Council and the Commission, and to the governments of the Member States.