



STATELESSNESS IN THE PHILIPPINES: A CONTEXTUAL ANALYSIS

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The idea that human beings have inherent dignity, which requires respect, has been generally recognized as true and that the task of protecting basic human rights borne out of this inherent dignity has been equally recognized as one that needs to be undertaken collectively and collaboratively by the international community. This is reflected by the different international conventions relating to the protection of human rights adopted and acceded to by different States. However, despite the existence of international mechanisms towards ensuring that human rights are properly protected, without distinction as to any socio-cultural nuances, accounts of human rights violation throughout history and across different niches has remained prevalent.

In particular, the plight of stateless persons, who are suffering or are vulnerable to suffer from significant discrimination as regards their capacity to properly enjoy and exercise basic human rights, has garnered international attention throughout the years and has been regarded as an international humanitarian crisis that require swift and comprehensive response. In consonance thereto, the 1954 Convention Relating to the Status of Stateless Persons and 1961 Convention on the Reduction of Statelessness were adopted and acceded to by different countries.

The Philippines is a Contracting Party to these international conventions. Throughout the years, the country has been a host to hundreds of thousands of stateless persons and persons at risk of statelessness (collectively known as persons of concerns of POCs). In compliance with its obligations under the aforementioned international conventions, the Philippines has adopted a number of domestic measures and policies for the purpose of providing protection to POCs.

However, while PH has adopted certain domestic measures to provide protection to POCs, the current state of the protective mechanisms afforded to them has negatively magnified institutional gaps in the implementation and fulfillment of the country's obligations under the relevant international conventions. It is in this context that this research will seek to propose for the enhancement of the protective mechanisms being provided to POCs in the Philippines, such as through the enactment of a comprehensive law for such purpose, in compliance with the country's obligations under the relevant international conventions.

Keywords: Statelessness; Stateless Persons; International Law; Human Rights

Dates:

Received: July 8, 2023

Accepted: February 9, 2024

Published(Online): March 31, 2023

How to cite this article:

Luna, A. R. (2024). Statelessness in The Philippines: A Contextual Analysis.

Scientia - The International Journal on the Liberal Arts, 13(1), 38–55. <https://doi.org/10.57106/scientia.v13i1.177>

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INTRODUCTION¹

There is a general recognition within the contemporary international community that human beings are born with inherent dignity, from which flows basic human rights that each State and government are called upon to promote, uphold, and respect. This recognition is reflected in different international conventions and agreements that were signed, ratified, and acceded to by a sundry of States, such as the Universal Declaration of Human Rights (UDHR).

The UDHR was intended to be a simple declaration of the fundamental rights that each person is entitled to, which then provides reasonable justification for fostering justice and equality throughout the world despite each person's individuality. It is an international instrument adopted to formalize the affirmation that amidst personal and cultural differences, human beings are called upon to respect each other primarily on account of their shared humanity, and not on the basis of wealth, power, educational background, race, gender, and other social clusters – to treat each other fairly without discrimination. To this end, the UDHR, which was adopted by the international community through the United Nations (UN), in response to the many atrocities and discriminatory activities that occurred during the Second World War², and other human-made catastrophic events leading thereto, declares that all human beings are:

- a. born free and equal in dignity and rights, are endowed with reason and conscience and should act towards one another in a spirit of brotherhood;³ and
- b. entitled to all the rights and freedoms set forth herein (UDHR), without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.⁴

The UDHR became one of the fundamental basis for the promulgation and adoption of other international conventions relating to the protection and promotion of basic human rights, such as the International Covenant on Civil and Political Rights (ICCPR) and Convention on the Rights of the Child (CRC). One of the rights enshrined under these conventions is the **right to a nationality**.

While it may appear that having a nationality is an inherent right that each person is vested with upon birth, the phenomenon of not having one, known as *statelessness*, has been recognized as a humanitarian crisis that has plagued the international community for decades. Being deprived of a nationality becomes an unfortunate window towards bigger conundrums because having one is a general legal undertone for the exercise of other basic rights, such as the right to proper health care, food, employment, and education.

Two (2) specific international conventions were adopted for the main purpose of addressing the problem of statelessness in the world, *i.e.*, the 1954 Convention Relating to the Status of Stateless Persons (1954 Convention) and the 1961 Convention on the Reduction of Statelessness (1961 Convention). The 1954 Convention defines who a stateless person is, *i.e.*, one “who is not considered as a national by

¹ Some of the text contained in this research were excerpts from the Master of Laws (LL.M.) thesis of the author.

² The Universal Declaration of Human Rights, which was adopted by the UN General Assembly on 10 December 1948, was the result of the experience of the Second World War. With the end of that war, and the creation of the United Nations, the international community vowed to never again allow atrocities like those of that conflict to happen again. World leaders decided to complement the UN Charter with a road map to guarantee the rights of every individual everywhere. (United Nations, *History of the Declaration*, <https://www.un.org/en/about-us/udhr/history-of-the-declaration>, accessed on 15 May 2023).

³ Article 1, *United Declaration of Human Rights*.

⁴ *Ibid.*, Article 2.





any State under the operation of its law”, and establishes the rights that he or she is entitled to under international law.⁵

The Philippines is a Contracting Party to the aforementioned international conventions. Throughout the years, the country has been a host to hundreds of thousands of stateless persons and persons at risk of statelessness, collectively referred to in this research as persons of concern (POCs). In compliance with its obligations under the aforementioned international conventions, consistent with the principle of transformation, and coupled with the growing number of POCs in the country, the Philippines has adopted a number of domestic measures and policies to provide protection to POCs and address the problem of statelessness.

However, while the Philippines has adopted certain domestic measures to protect POCs, the current state of the protective mechanisms afforded to them has negatively magnified institutional gaps in the implementation and fulfillment of the country’s obligations under the relevant international conventions. It is in this context that this research will seek to provide the status of statelessness in the Philippines and recommend the enhancement of the protective mechanisms being provided to POCs in the country, such as through the enactment of a comprehensive law for such purpose, in compliance with the country’s obligations under the relevant international conventions, as well as the amendment of existing laws.

STATELESSNESS: AN OVERVIEW

The concept of nationality or citizenship is essential, both under domestic law and international law, as it determines the rights and benefits that a person may be entitled to, such as the right to practice a profession, and the obligations that he or she may be required to undertake, such as payment of taxes and conscription. While there is no universally accepted or recognized definition of citizenship or nationality, there have been previous attempts by the International Court of Justice (ICJ) to provide a comprehensive characterization of what it is. For instance, in *Liechtenstein vs. Guatemala* case⁶, the ICJ explained that according to state practice, nationality involves a genuine link to a State, which denotes a “legal bond having as its basis a social fact of attachment, a genuine connection of existence, interests and sentiments, together with the existence of reciprocal rights and duties.”

The question of whether a person is a national or citizen of a particular State is generally reserved to the domestic law and jurisdiction of such State. In principle, a State adheres to either of the two (2) principles of citizenship acquisition, *i.e.*, *jus soli* and *jus sanguinis* – the former is citizenship based upon the territory of the State where a person is born, while the latter is citizenship derived by virtue of descent or one’s blood relations to his or her parents. Nationality may also be derived through marriage and naturalization. However, in determining who becomes a national or citizen, “States should seek to strike an equilibrium between the enforcement of their domestic nationality regimes and compliance with their obligations under relevant treaties and rules of international law.”⁷

⁵ Article 1, *1954 Convention Relating to Status of Stateless Persons*, https://www.unhcr.org/ibelong/wp-content/uploads/1954-Convention-relating-to-the-Status-of-Stateless-Persons_ENG.pdf, accessed on 15 November 2023.

⁶ ICJ Reports, 1955, pp. 4, 23.

⁷ Permanent Court of International Justice, *Advisory Opinion on the Tunis and Morocco Nationality Decrees of 1923*, <https://www.refworld.org/cases,PCIJ,44e5c9fc4.html>, accessed on 15 September 2023.





The ability of a person to exercise his or her rights is generally anchored upon his or her nationality or citizenship. The reason is that while basic human rights ought to be protected and upheld regardless of one's nationality, as enshrined under the UDHR, the actual enjoyment of the same is largely dependent upon how the national laws of a particular State will implement and actualize such international commitments. In other words, one's nationality constitutes his or her legal bond with his or her country or State, both as to exercise of rights and acceptance of obligations.

For example, while a person's right to education is promoted and protected under different international conventions, such as the UDHR⁸ and the CRC⁹, its actual exercise will vary depending on the measures and mechanisms in place in one country relating to education. Similarly, while the freedom of a person to move from one country to another is established under the UDHR and ICCPR, its enjoyment is heavily regulated by one's nationality and the national immigration laws of the country of destination. Without a valid passport or visa, for instance, a person cannot simply squeeze in and out of his or her country and into another country. Aside from this, the exercise of some basic human rights also requires identification. For instance, before one gets admitted to school, accepted to employment, or able to exercise one's profession, he or she is first required to submit proof of identity, such as a birth certificate or a government-issued ID, which are issued on account of one's nationality. In addition, the exercise of a person's civil rights, such as the right to marry, and political rights, such as the right to vote, are also largely regulated by virtue of one's citizenship.

⁸ Article 26.

⁹ Articles 23(3 and 4), 24(2.e), 28, and 29.

As such, it is very important that one's nationality is clearly established and firmly ascertained. A person without a nationality is susceptible to a sundry of discriminations, the actors ranging from private individuals to the government itself, which in turn unduly hampers his or her capacity to exercise basic and fundamental human rights fully and genuinely.

As stated earlier, a person's right to nationality is recognized under different international conventions, such as the UDHR¹⁰, CRC¹¹, and the ICCPR¹². However, this notwithstanding, people all over the world have suffered from the societal malady of statelessness. According to UNHCR, in its statement relating to its #IBelong Campaign¹³,

“Without any nationality, stateless persons often don't have the basic rights that citizens enjoy. Statelessness affects socio-economic rights such as education, employment, social welfare, housing, and healthcare as well as civil and political rights, including freedom of movement, freedom from arbitrary detention, and political participation. When thousands of people are stateless, the result is communities that are alienated and marginalized. In the worst cases, statelessness can lead to conflict and cause displacement.”

According to the United Nations High Commissioner on Refugees (UNHCR)¹⁴ in its 2022 report entitled *Addressing Statelessness Through the Rule of Law*:

¹⁰ Article 15.

¹¹ Article 7.

¹² Article 24(3) and Article 7.

¹³ “Launched in November 2014, the #IBelong Campaign aims to end statelessness within ten years, by identifying and protecting stateless people, resolving existing situations of statelessness, and preventing the emergence of new cases. Through legal advocacy and awareness-raising, UNHCR works with governments and partners around the globe towards achieving the Campaign goals.” <https://www.unhcr.org/ibelong/>.

¹⁴ UNHCR, the UN Refugee Agency, is a global organization dedicated to saving lives, protecting rights, and building a better future for people forced to flee their homes because of conflict and persecution. It leads international action to protect refugees, forcibly displaced communities, and stateless people. Formally known as the Office of the High Commissioner for Refugees, UNHCR was established by the General Assembly of the United Nations in 1950 in the aftermath of the Second World War to help the millions of people who had lost their homes. Today, UNHCR works in 135 countries. (<https://www.unhcr.org/about-unhcr>, accessed on 10 March 2023)



“The consequences of statelessness can be severely debilitating. Stateless persons often do not enjoy their human rights, such as access to education, healthcare, employment, property ownership, freedom to marry, freedom of movement, and political participation as well as basic services such as opening a bank account and obtaining a SIM card. They are also at a heightened risk of abuse and exploitation, arbitrary detention, and trafficking. Statelessness can cause individuals to face a lifetime of obstacles and exclusion and prevents individuals’ full participation in society. This may not only impact individuals affected by statelessness but also society at large, as intergenerational statelessness can lead to alienated and marginalised communities, exacerbating social tensions and increasing the potential for conflict.”¹⁵

Indeed, statelessness is an enigma of great proportion and universal implication. A person with no nationality finds himself or herself with no State or government to seek protection from. This vulnerability is the very foundation for granting international protection to stateless persons. If not addressed, statelessness can also create a generation of individuals who are susceptible to suffer the aforementioned social maladies as such status can be inherited by the children of stateless persons, who in turn can hand down the same to their future children as well.

“With a stateless child being born somewhere in the world at least every 10 minutes, this is a problem that is growing. In countries hosting the 20 largest stateless populations, at least 70,000 stateless children are born each year. The effects of being born stateless are severe. In more than 30 countries, children need nationality documentation to receive medical care. In at least 20 countries, stateless children cannot be legally vaccinated. [In 2015], UNHCR spoke to children and young people from 7 different countries. Many of the children and young people had never spoken to anyone about what it was like to be stateless. They told us that being stateless had taken a serious psychological toll, describing themselves as “invisible,” “alien,” living in a shadow,” like a street dog” and “worthless.”¹⁶

¹⁵ <https://www.refworld.org/docid/638e1bba4.html>, December 2022, accessed on 15 September 2023.

¹⁶ UNHCR Stateless Report, *I am Here, I Belong: The Urgent Need to End Childhood Statelessness*, November 2015.

Some of the circumstances that cause statelessness are the creation of new countries, transfers of territory between existing countries, or changes in borders that can result in the exclusion of groups of people who may find it difficult to prove their links to a particular country¹⁷, like the dissolution of the former Soviet Union¹⁸; lack of birth registrations or proper access thereto, conflict of nationality laws between States, such as the conflict between Philippine and Japanese nationality laws, which resulted in what is known as the “Philippine Nikkei-Jins”¹⁹; birth to stateless parents; discrimination in nationality laws²⁰; and targeted discrimination against cultural minorities. One of the biggest stateless populations around the world is the Rohingyas of Myanmar, which resulted from them being discriminated in the country’s nationality law²¹.

¹⁷ UNHCR, *Statelessness Explained*, 2020, <https://www.unrefugees.org/news/statelessness-explained/#What%20does%20it%20mean%20to%20be%20stateless%20>, accessed on 15 September 2023.

¹⁸ With the formal dissolution of the Soviet Union on 26 December 1991, Soviet nationality ceased to exist. Consequently, all former Soviet republics have adopted their own, unique nationality laws. These laws differ greatly from one another, and many, from formal international law itself. Soviet passports themselves were valid in most former republics until 2004 for basic services, and in Russia, they still may be used for certain limited services. ¹⁵ Yet, despite the extended validity deadline, many former Soviet citizens failed to exchange their passports for that of the new country. Thus, thousands were added to the number deemed by the new country as being ineligible for citizenship to the number of newly stateless persons (Kelly Ann Whelan, *When You Cease to Exist: The State of Statelessness in the Former Soviet Union*, https://refugees.org/wp-content/uploads/2020/12/8_3_20_Brief_StatelessSoviet-1.pdf).

¹⁹ They are children of Japanese citizens who migrated from the late 19th century to 1945 to the Philippines and Filipino women. The reason why they are treated as a population at risk of becoming stateless is the conflict between the nationality laws of the Philippines and Japan, *i.e.*, Article 4, Section 1(4) of the 1935 Philippine Constitution, which requires the election of Philippine citizenship upon reaching the age of majority and Japanese nationality law, which acknowledges paternity and registration.

²⁰ For example, Syrian women are still not able to transfer their nationality to their children, which due to the armed conflict happening therein may increase the number of stateless children. Another is in Ecuador, which prohibits the grant of nationality to persons with chronic illness. Given the close link between such chronic illnesses and disabilities, in general, such provision under Ecuadorian nationality law is discriminatory and may lead to statelessness.

²¹ In 1982, Myanmar introduced a Citizenship Law which arbitrarily deprived the Rohingya of their citizenship. Under this law, full citizenship is based on membership of the ‘national races’. As the Rohingya are not considered to be part of these national races, they are regarded as foreigners. (Medicins Sans Frontieres, <https://msf.org.au/rohingya-worlds-largest-stateless-population#:~:text=In%201982%2C%20Myanmar%20introduced%20a,they%20are%20regarded%20as%20foreigners.,> accessed on 08 April 2023.)

The Rohingya are an ethnic community from Rakhine State, in the west of Myanmar, bordering Bangladesh. Their histories in the area far predate modern state borders, which emerged in the 20th century amid Myanmar’s separation from British India and later independence from the United Kingdom. Yet members of the ethnic group, who are predominantly Muslim, have been denied citizenship in Buddhist-



“The Rohingya from Myanmar are still the largest stateless population for whom data is provided. This year, the methodology for reporting on displaced Rohingya has been amended further, with available data on Rohingya refugees also provided for India, Indonesia, Malaysia, and Thailand – alongside Rohingya refugees in Bangladesh and Rohingya in Myanmar. The total number reported across these six countries is 1.57 million, yet this data is still not comprehensive and does not provide a full picture of the global Rohingya population. New data is also reported for Côte d’Ivoire, which has moved to the ‘top’ of the list of countries with the largest (non-displaced) stateless populations: 955,399 people.

The new figures given for Uzbekistan, Greece, Italy, and Tajikistan are also higher than the data from the previous year. In Thailand, Estonia, and Latvia – three countries in the top 10 of largest reported populations globally – the data shows a decrease in numbers, but only at a rate of 2.5%, 8.5%, and 10%, respectively over the past three years. Globally, a total of 754,500 stateless people acquired or confirmed their nationality between 2010 and 2019: important progress and encouraging when seen in absolute numbers, yet less so when understood in percentage terms of the global stateless population. This must also be understood against a context in which inherited statelessness continues to cause tens of thousands of children a year to be born without access to a nationality and where new situations loom that have the potential to generate large-scale statelessness.”²²

In 2023, UNHCR accounted for 4.3 million stateless persons²³ around the world. However, due to underreporting, UNHCR noted that the actual number of stateless persons is significantly higher than those registered in the system, which is estimated to be around 10 million people.

majority Myanmar for more than four decades. (Migration Policy Institute, <https://www.migrationpolicy.org/article/stateless-persecuted-rohingya>, accessed on 08 April 2023.)

In August 2017, armed attacks, massive-scale violence, and serious human rights violations forced thousands of Rohingya to flee their homes in Myanmar’s Rakhine State. Many walked for days through jungles and undertook dangerous sea journeys across the Bay of Bengal to reach safety in Bangladesh. Now, more than 960,000 people have found safety in Bangladesh with a majority living in the Cox Bazar’s region - home to the world’s largest refugee camp. The United Nations has described the Rohingya as “the most persecuted minority in the world. (UNHCR, *Rohingya Refugee Crisis Explained*, <https://www.unrefugees.org/news/rohingya-refugee-crisis-explained/>, accessed on 10 April 2023.)

²² Institute on Statelessness and Inclusion, *Stateless in Numbers: 2020*, https://files.institutesi.org/ISI_statistics_analysis_2020.pdf, accessed on 15 April 2023.

²³ Source of 2023 figure: UNHCR (<https://world101.cfr.org/understanding-international-system/building-blocks/statelessness-around-world/>) accessed on 15 March 2023.

THE 1954 AND 1961 CONVENTIONS

Because of the vulnerabilities that stateless persons are susceptible to, the UN Commission on Human Rights adopted a Resolution in 1947 for the purpose of undertaking a study on the legal status of individuals who are not receiving nor enjoying protection from any State or government, which included stateless persons. Pursuant to this Resolution, the Economic and Social Council adopted Resolution 116 (VI) D, dated 1 and 2 March 1948, requesting the Secretary-General:

“(a) To undertake a study of the existing situation regarding the protection of stateless persons by the issuance of necessary documents and other measures, and to make recommendations to an early session of the Council on the interim measures which might be taken by the United Nations to further this object;”
“(b) To undertake a study of national legislation and international agreements and conventions relevant to statelessness, and to submit recommendations to the Council as to the desirability of concluding a further convention on this subject.”

As a result, the study entitled “A Study of Statelessness”²⁴ was published by the Department of Social Affairs. According to this study, the phenomenon of statelessness is a global issue, which was further worsened by the First and Second World Wars. Being of global concern, the UN deemed it necessary to adopt an international convention that will assist and aid stateless persons in their plight, especially as regards their capacity to enjoy and exercise basic human rights. According to this study:

“The absence of general rules for the attribution of nationality and the discrepancies between the various national legislations constitute the permanent source of statelessness. Until the beginning of the twentieth century, however, the resultant statelessness was a limited phenomenon and consequently did not

²⁴ E/1112 Add. 1, UN Series no. 1949.XIV.2, (New York: Lake Success, 1949), <https://www.refworld.org/pdfid/3ae68c2d0.pdf>, accessed on 10 April 2023.





greatly disturb international life. After the territorial reshuffling and the political and social crises which followed the First World War, statelessness assumed unprecedented proportions.”²⁵

To this end, “the United Nations General Assembly convened a Conference of Plenipotentiaries to draft an international treaty on refugees and stateless persons in 1951. While the Convention relating to the Status of Refugees was adopted that year, international negotiations on the protection needs of stateless persons continued. The Convention relating to the Status of Stateless Persons was adopted on 28 September 1954 and entered into force on 6 June 1960.”²⁶ The 1954 Convention was created to aid in institutionalizing domestic State mechanisms that are geared towards upholding the rights of stateless persons. It is intended to establish “a framework for the international protection of stateless persons and is the most comprehensive codification of the rights of stateless persons yet attempted at the international level.”²⁷

The 1954 Convention has significantly contributed to establishing a clear and internationally recognized legal status for stateless persons and in codifying international standards with regard to the protection of POCs throughout the world. By giving stateless persons a legal identity, the collective effort among States towards ensuring that they are able to exercise the most basic and fundamental human rights became substantially pragmatic and the steps undertaken to achieve such endeavor gained more specificity.

This convention did not only provide stateless persons with a distinctive platform through which they are to be particularly recognized and identified, but also, more importantly, established the rights that they ought to enjoy

and which Contracting States ought to respect and promote. Some of these convention rights are as follows:

1. Freedom of Religion;
2. Right to Property;
3. Right of Association;
4. Access to Courts;
5. Right to Employment, Practice of Profession, and Social Security;
6. Right to Public Education;
7. Right to Public Relief and Health Care; and
8. Freedom of Movement

It must be noted that most of these rights are anchored upon the context of foreign nationals who are similarly situated or are in the same circumstances insofar as the exercise of such rights within the territorial jurisdiction of the receiving Contracting State is concerned. Under Article 6, “the term ‘in the same circumstances’ implies that any requirements (including requirements as to length and conditions of sojourn or residence) which the particular individual would have to fulfill for the enjoyment of the right in question, if he were not a stateless person, must be fulfilled by him, with the exception of requirements which by their nature a stateless person is incapable of fulfilling.” In other words, as a rule, what may be required from a stateless person before he or she can exercise the aforementioned rights within the territory of the receiving Contracting State are the same as those that are currently being demanded from foreign nationals who are also residing or sojourning therein. Article 7.1 also states that “except where this Convention contains more favorable provisions, a Contracting State shall accord to stateless persons the same treatment as is accorded to aliens generally.” However, it is important to note that if the same cannot be

²⁵ *Ibid.*

²⁶ Introductory Note, *1954 Convention*.

²⁷ *Ibid.*





fulfilled by the stateless person because of his or her peculiar circumstances and on account of his or her status, such requirement shall be waived.

It must also be noted that stateless persons are generally exempt from the requirement of reciprocity, which is a common international principle followed by States when granting rights or benefits to a foreign national residing or sojourning in their territories. Basically, the principle of reciprocity under international law, as applied to the relationship between States and private individuals, is granting certain rights to a foreign national residing or sojourning in one country to the extent that the country of said foreign national also extends the same rights to the national of the country where he or she is residing or sojourning. The primary reason for exempting stateless persons from the requirement of reciprocity is the recognition that they do not have a country from which they are receiving protection, as they are not recognized by any country as its own national or citizen.

Furthermore, the list of rights enumerated under the 1954 Convention is not exclusive, and Contracting States are not proscribed from POCs more than they are mandated to provide. Article 5 states that nothing therein shall be deemed to impair any rights and benefits granted by a Contracting State to refugees and stateless persons apart from those already provided therein. In the same manner, where the point of reference for the exercise of an established right under the 1954 Convention is foreign nationals residing in the receiving Contracting State in the same circumstances, such State is not precluded from elevating the basis of exercise to that of its national. This is especially true if the stateless person, due to their peculiar circumstances, will not be able to produce the documentary requirements that are preconditions before a foreign national can exercise the corresponding right.

However, cognizant of the fact that statelessness cannot be fully addressed by merely establishing and defining rights that they are entitled to, vis-à-vis the reality that the number of stateless persons or populations at risk of statelessness is ballooning by the day, the UN adopted a supplemental international convention to the 1954 Convention, which is geared towards eradicating statelessness globally, *i.e.*, the 1961 Convention.

“It is the leading international instrument that sets rules for the conferral and non-withdrawal of citizenship to prevent cases of statelessness from arising. Underlying the 1961 Convention is the notion that while States maintain the right to elaborate the content of their nationality laws, they must do so in compliance with international norms relating to nationality, including the principle that statelessness should be avoided. By adopting the 1961 Convention safeguards that prevent statelessness, States contribute to the reduction of statelessness over time. The Convention seeks to balance the rights of individuals with the interests of States by setting out general rules for the prevention of statelessness, and simultaneously allowing some exceptions to those rules.”²⁸

Together, these twin conventions aim at ensuring not only the protection of stateless persons but also the institutionalization of practical and definitive solutions towards the significant reduction, and eventually eradication, of statelessness globally. As such, these conventions do not only intend to cover stateless persons but also those who may be at risk of becoming stateless.

In a continuing effort to end statelessness, the UNHCR launched the *Global Action Plan to End Statelessness: 2014–2024*, which “establishes a guiding framework comprising ten actions to be undertaken by States, with the support of

²⁸ Introductory Note, *1961 Convention*, https://www.unhcr.org/ibelong/wp-content/uploads/1961-Convention-on-the-reduction-of-Statelessness_ENG.pdf, accessed on 10 April 2023.





UNHCR and other stakeholders, and is designed to address existing situations of statelessness and prevent new cases of statelessness from occurring”.²⁹

However, global efforts towards eliminating statelessness have been hampered by the low number of signatories to the twin conventions relating to statelessness. At present, out of the 193 member States of the UN, there are 97 State Parties to the 1954 Convention³⁰ and 80 to the 1961 Convention³¹. Curiously, only the Philippines is a State Party to both conventions among ASEAN countries.

STATELESSNESS IN THE PHILIPPINES

As stated earlier, the Philippines is a State Party to both the 1954 and 1961 Conventions, acceding to the former in 2011 and to the latter in 2022. As such, it is the country’s international obligation to adopt domestic mechanisms to properly integrate the same into the country’s legal system. Briefly, a convention is a formal agreement between States, which is synonymous with the generic term ‘treaty’ and is normally open for participation by the international community as a whole or by a large number of States.³² On the other hand, a treaty is defined under Article 2 of the International Convention on the Law of Treaties of 1969 as “an international agreement concluded between states in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation.”

²⁹ UNHCR, *High-Level Segment on Statelessness: Results and Highlights*, <https://www.refworld.org/pdfid/5ec3e91b4.pdf>, 4.

³⁰ United Nations Treaty Collection, https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-3&chapter=5&Temp=mtdsg2&clang=_en, accessed on 15 September 2023.

³¹ United Nations Treaty Collection, https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=V-4&chapter=5&clang=_en, accessed on 10 March 2024.

³² Funa, *International Law*, citing the *Concise Oxford Dictionary of Current English* (8th edition) and the United Nations Treaty Collection, *Treaty Guide Reference* (1999), 14.

Treaties are binding in nature upon the parties thereto. The binding effect of treaties is fundamentally based upon the fact they are the product of the voluntary act of independent and sovereign states, who undertook the careful and cerebral negotiation of such agreement, cognizant of the possible ramifications of the same to their constituents, stakeholders, and domestic legal system.

“Treaties are express agreements and are a form of substitute legislation undertaken by states. They bear a close resemblance to contracts in a superficial sense in that the parties create binding obligations for themselves, but they have a nature of their own, which reflects the character of the international system. They fulfill a vital role in international relations. For many writers, treaties constitute the most important sources of international law as they require the express consent of the contracting parties.”³³

Following the principle of *pacta sunt servanda*, it is incumbent upon the Philippines to fulfill its international obligation under said conventions in good faith.

“The fundamental principle of treaty law is undoubtedly the proposition that treaties are binding upon the parties to them and must be performed in good faith. This rule is termed *pacta sunt servanda* and is arguably the oldest principle of international law. It was reaffirmed in article 26³⁴ of the 1969 Convention³⁵, and underlies every international agreement for, in the absence of a certain minimum belief that states will perform their treaty obligations in good faith, there is no reason for countries to enter into such obligations with each other.”³⁶

Furthermore, in line with the *doctrine of transformation*, international law becomes part of the domestic legal system once the same is transformed into a domestic or municipal law. As such, it is the obligation of the Philippines to adopt domestic measures aimed at incorporating

³³ Malcolm Shaw, *International Law*, 8th edition, (United Kingdom: Cambridge University Press, 2017), 70.

³⁴ “Every treaty in force is binding upon the parties to it and must be performed by them in good faith.”

³⁵ Referring to the Vienna Convention on the Law of Treaties of 1969.

³⁶ Shaw, *International Law*, 685.





into the country's legal system its compliance to the obligations under the 1954 and 1961 Conventions, such as affording international protection to stateless persons, as well as addressing the issues relating to persons at risk of statelessness in the country.

“Implicit in Section 2, Article II of the 1987 Philippine Constitution is the acceptance of the dualist view of legal systems, namely that domestic law is distinct from international law. Since dualism holds that international law and municipal law belong to different spheres, international law becomes part of municipal law only if it is incorporated into municipal law.”³⁷

At present, the country is a host to an estimated 129,000 stateless persons or persons at risk of statelessness.³⁸ Some of the populations who are considered at risk of becoming stateless are the following:

Group/Population	Reason for Risk	Location/Large Concentration
1. Persons of Indonesian Descent ³⁹	Conflict of national/citizenship laws between the Philippines and Indonesia	Southern Philippines
2. Sama Bajaus	Itinerant lifestyle and frequent border crossing	Southern Philippines
3. Persons of Japanese Descent	Conflict of national/citizenship laws between the Philippines and Japan	No specific area of concentration
4. Children of Philippine Descent in Migratory Settings	Unable to register children's births and acquire birth certificates as proofs of identity due to lack of consular office or stringent immigration policies	Middle East and Sabah

³⁷ Joaquin Bernas, S.J., *The 1987 Constitution of the Republic of the Philippines: A Commentary*, (Quezon City, Philippines: Rex Book Store, Inc., 2009), 60.

³⁸ UNHCR, [https://www.unhcr.org/countries/philippines_\(as_adjusted_by_the_recent_2023_data_from_UNHCR_and_Department_of_Justice\)](https://www.unhcr.org/countries/philippines_(as_adjusted_by_the_recent_2023_data_from_UNHCR_and_Department_of_Justice)).

³⁹ This has been recently addressed through the joint efforts between the Government of the Republic of the Philippines and the Government of Indonesia. Specifically, the DOJ issued Circular No. 26, s. 2018, to establish a registration and determination procedure for the purpose of identifying whether the subject person is a Filipino or Indonesian national.

5. Unregistered children	Unable to register children's births and acquire birth certificates as proofs of identity due to the non-accessibility to a properly functioning civil registry. This is also brought about by the frequent armed conflicts in the areas of concentration, which results in forced displacement.	Mostly in BARMM and Region XII
6. Foundlings ⁴⁰	Difficulty in establishing parentage	No specific area of concentration

In consonance with its international obligations under the 1954 and 1961 Conventions, the Philippines has adopted a number of domestic measures. The country's compliance with its obligations under the relevant international conventions formally started with the issuance of a Department Order (D.O.) No. 94 in 1998, which established a refugee status determination procedure. Under this order, the DOJ-Legal Staff was designated as the lead agency in the implementation of these conventions in the country. To further enhance this undertaking, the DOJ issued Department Circular (D.C.) No. 058 in 2012 for the purpose of creating the Refugees and Stateless Persons Protection Unit (RSPPU), which is principally mandated to facilitate the identification, determination, and protection of refugees and stateless persons in the Philippines, and establish the pertinent procedures and mechanisms for such determination. In 2022, the DOJ amended the aforementioned circular with the issuance of D.C. No. 024, s. 2022, with the aim of streamlining some of the processes for refugee and stateless person status determination, particularly as regards the timeframes within which the interview of applicants should be undertaken and the decisions for such applications be released by DOJ.

⁴⁰ This has already been addressed with the enactment of R.A. No. 11767.



Aside from the formal status recognition procedures as established through DOJ-RSPPU, there are other relevant measures that have been adopted by the Philippine government to ensure POC protection in the country. These programs are normally undertaken in coordination with or upon the initiation of UNHCR.

One of the most recent legislative measures adopted for such purpose, specifically for addressing the issue of statelessness in the Philippines, is the enactment of R.A. No. 11767 in 2022, or the Foundling Recognition and Protection Act. This law seeks to resolve the risk of statelessness of one of the identified populations in the Philippines, *i.e.*, foundlings. Briefly, a foundling is defined as a “deserted or abandoned child or infant with unknown facts of birth and parentage, which shall include those who have been duly registered as a foundling during her or his infant childhood but have reached the age of majority without benefitting from adoption procedures upon the passage of this law.”⁴¹

To address this legal conundrum, the law declared that:

“Foundling found in the Philippines and/or in Philippine embassies, consulates, and territories abroad is presumed a natural-born Filipino citizen regardless of the status or circumstance or birth. As a natural-born citizen of the Philippines, a foundling is accorded with rights and protections at the moment of birth equivalent to those belonging to such class of citizens whose citizenship does not need perfection or any further act.”⁴²

This means that a foundling found in the Philippines enjoys the legal presumption that he or she is a natural-born Filipino citizen. This is to ensure that the child is vested with nationality upon birth, prevent the scenario of the child

needing to prove his or her nationality at the risk of becoming a stateless person for failing to do so, and aid in the global objective of putting an end to statelessness.

This law sought to institutionalize the 2016 case of *Poe-Llamanzares vs. COMELEC*⁴³, wherein the Supreme Court explained that:

“We find no such intent or language permitting discrimination against foundlings. On the contrary, all three Constitutions guarantee the basic right to equal protection of the laws. All exhort the State to render social justice. Of special consideration are several provisions in the present charter: Article II, Section 11 which provides that the ‘State values the dignity of every human person and guarantees full respect for human rights,’ Article XIII, Section 1 which mandates Congress to ‘give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities xxx’ and Article XV, Section 3 which requires the State to defend the ‘right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development.’ Certainly, these provisions contradict an intent to discriminate against foundlings on account of their unfortunate status.”⁴⁴

Another recent endeavor of the Philippine government, in cooperation with UNHCR, was the Complementary Pathways (CPath) programme for Rohingya refugees, who are also at risk of becoming stateless, as discussed above. The purpose of this program is to allow a number of young Rohingya refugees admission to the Philippines and provide them with opportunities for improving their self-reliance skills and capabilities and open to them regulated avenues to pursue their education in select schools in the country. At present, there have been six (6) Rohingya refugees under this program.

⁴¹ Section 3.

⁴² Section 5.

⁴³ G.R. Nos. 221697, 221698-700, March 08, 2016.

⁴⁴ G.R. Nos. 221697, 221698-700, 08 March 2016.



“A landmark initiative that offers an opportunity for a durable solution for refugees, the Philippines’ CPath programme provides select Rohingya youth with a safe and regulated avenue of admission and stay in the country through education. Aside from ensuring the refugees’ protection and facilitating their access to basic rights, the programme also seeks to strengthen their skills and self-reliance capacities, giving them the tools to build better futures for themselves and their communities. The Philippines first pledged to create complementary solutions for refugees during the Global Refugee Forum in 2019. The CPath programme was institutionalized three years later by the Government’s Inter-Agency Committee on the Complementary Pathways Program (IACCP) through the leadership of the Department of Justice Refugees and Stateless Persons Protection Unit (DOJ-RSPPU).”⁴⁵

“Some of the schools that committed to participate in the CPath programme are San Beda University (SBU) in Manila, St. Louis University (SLU) in Baguio City, Tarlac State University (TSU), and the University of St. La Salle in Bacolod.”⁴⁶

In the area of inter-agency coordination for POC protection, Executive Order (E.O.) No. 163 was issued on 22 February 2022. The primary purpose of E.O. No. 163 is to institutionalize the *Inter-Agency Committee on the Protection of Refugees, Stateless Persons, and Asylum Seekers* (“IAC”), which seeks to ensure that the endeavor of promoting the rights of POCs in the Philippines is a whole-of-government approach, especially considering that access to the basic needs of POCs fall within the separate and independent mandates of different agencies of the government. The IAC is intended to “closely monitor and ensure full protection of the rights of POCs to liberty and security, and freedom of movement”⁴⁷ and continue the previous work of the *Inter-Agency Steering Committee* (IASC) created under the Inter-Agency Agreement on the Protection of Asylum Seekers, Refugees,

and Stateless Persons in the Philippines, which was entered into by the different agencies of the government in 2017⁴⁸. The Chairperson of the IAC is the Secretary of Justice, and its Vice-Chairperson is the Secretary of Social Welfare and Development, with the DOJ-RSPPU as the Secretariat.

Other significant national measures that were undertaken for the protection of refugees and stateless persons in the Philippines are as follows:

Measure	Year signed/ issued	Framework summary
1. NSO Administrative Order (A.O.) No. 1	1993	This established the rules relating to the registration of children with unknown parentage or foundlings. This is a reiteration of Section 21 of the Family Code.
2. NSO Memorandum Circular No. 2004-01	2004	This issuance enhanced the registration provided under NSO A.O. No. 1.
3. Revised Rules for the Issuance of Employment Permits to Foreign Nationals (DOLE Department Order No. 186)	2017	This issuance seeks to further liberalize the capacity of refugees and stateless persons to work in the Philippines, by exempting them from securing AEP.
5. TESDA Circular No. 24	2018	“The objective of this guideline is to provide the POCs assistance in identifying their skills needs and providing them access to TVET institutions of their choice where they are qualified to enroll.” ⁴⁹
6. DOLE-DOJ-BI Joint Guidelines on the Issuance of Work and Employment Permits to Foreign Nationals	2019	This issuance further liberalizes the ability of refugees and stateless persons to work in the Philippines.

⁴⁵ UNHCR Philippines, <https://www.unhcr.org/ph/27771-philippines-welcomes-rohingya-refugees-through-complementary-pathways-programme.html>, accessed on 15 October 2023.

⁴⁶ UNHCR Philippines, <https://www.unhcr.org/ph/30139-cpath-more-schools.html>, accessed on 15 October 2023.

⁴⁷ Section 1.

⁴⁸ This agreement institutionalizes the whole-of-nation approach in fulfilling the country’s international commitment to the twin international convention on refugee and stateless person protection by establishing an inter-agency coordination mechanism for the creation and implementation of measures that are within the mandates and competencies of each government agency involved.

⁴⁹ TESDA Circular No. 24, s. 2018 (II. Objective).



7. Rule on Facilitated Naturalization of Refugees and Stateless Persons (A.M. No. 21-07-22-SC)	2022	“This rule seeks to facilitate and expedite the judicial process for naturalization for refugees and stateless persons. “With the approval of the Rule, the Philippines becomes the first in the world to have a judiciary-led initiative to simplify and reduce legal and procedural hurdles in the naturalization procedure for refugees and stateless persons, facilitating access to durable solutions to their displacement or lack of nationality.” ⁵⁰
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In the international arena, the Philippines has also participated in the international pledges established to provide protection to refugees and statelessness, such as the 10-year National Action Plan to End Statelessness and the Global Compact on Refugees, as stated in Chapter One of this research.

ANALYSIS

However, while the Philippines has adopted measures to fulfill its international obligations under the 1954 and 1961 Conventions, the lack of a comprehensive and special law to protect stateless persons and to address fully the risk of statelessness proved to be inimical in fully accomplishing such an ordeal. Absence of a specialized and separate implementing body or government agency⁵¹, inconsistency and lack of continuity in the establishment and implementation of policies from relevant agencies due to lack of legal basis, discrepancy in execution in relation to existing legislative and regulatory mechanisms, absence of a government monitoring mechanism on POCs, and the government’s over-reliance on the assistance being provided by UNHCR, are but some of the glaring gaps in the country’s fulfillment

of its international obligations on stateless person protection and in addressing the risk of statelessness, due to the absence of the necessary legislative measure.

For example, DOLE Circular No. 120-12, as amended by DOLE D.O. No. 186, is limited only to exempting stateless persons from securing alien employment permits, and not in proactively taking measures towards ensuring that they can find employment, especially one that is in line with their skills. Rather than the government taking the responsibility of institutionalizing steps towards the labor market integration and meaningful productivity of stateless persons in the country, said task falls within the individual efforts of said individuals.

“The workplace is a primary avenue through which refugees (and stateless persons) can contribute to the economy and broader social fabric of the receiving country. Measures to ensure that refugees gain access to employment are an integral element of an integration program. Ideally, these should aim to ensure that refugees are able to compete with nationals for jobs which are both commensurate with their skills and experience and through which they are able to optimize their contribution to receiving countries.”⁵²

In addition, the exemption from securing an alien employment permit before being able to work in the Philippines applies only to stateless persons, who are already recognized by the DOJ. It does not extend to persons applying for recognition as stateless persons, who are also entitled to international protection under relevant conventions.

Moreover, the Philippines is yet to issue any measure that will ease the practice of profession in the country for stateless persons, which they

⁵⁰ UNHCR Philippines.

⁵¹ Presently, this is being performed by the DOJ-RSPPU, which is composed of lawyers under the Legal Staff of the Department, who are also performing a sundry of other functions.

⁵² UNHCR, *Integration Handbook*, <https://www.unhcr.org/handbooks/ih/employment-training/employment>, accessed on 25 June 2023.



may have earned in their countries of nationality or origin. At present, the Philippine Constitution limits the practice of profession to Filipino nationals, save for those the practice of which may be allowed for foreign nationals under relevant laws⁵³. Furthermore, TESDA Circular No. 24, which seeks to aid POCs in identifying the skills they need to pursue a livelihood, the same is limited to accessing TVET institutions where they can enroll. However, this circular only qualifies POCs to regular programs of TESDA that are not subsidized by the government and expressly excludes them from being eligible for training-for-work scholarships and special training for employment programs of TESDA, which provides free skills training, assessment, entrepreneurship training, starter tools, and training allowance⁵⁴.

Another example is access to health care. R.A. No. 11223, or the Universal Health Care Act. Section 2 of R.A. No. 11223 expressly states that the objective of this law is to provide Filipino citizens with an efficient and comprehensive health care system, to wit:

“Section 2. Declaration of Principles and Policies. –

(a) It is the policy of the State to **protect and promote the right to health of all Filipinos** and instill health consciousness among them. Towards this end, the State shall adopt **an integrated and comprehensive approach to ensure that all Filipinos are health literate**, provided with healthy living conditions, and protected from hazards and risks that could affect their health;

(b) **A health care model that provides all Filipinos access** to a comprehensive set of quality and cost-effective, promotive, preventive, curative, rehabilitative, and palliative health services without causing financial hardship, and prioritizes the needs of the population who cannot afford such services; xxx” (*emphasis supplied*)

Sections 5 and 6 of said law also make it explicit that the health care system envisioned to be adopted therein covers Filipino citizens only:

“Section 5. Population Coverage – - Every Filipino citizen shall be automatically included in the NHIP, hereinafter referred to as the Program.

Section 6. Service Coverage –. a) Every Filipino shall be granted immediate eligibility and access to preventive, promotive, curative, rehabilitative, and palliative care for medical, dental, mental, and emergency health services, delivered either as population-based or individual-based health services: Provided, That the goods and services to be included shall be determined through a fair and transparent HTA process; xxx” (*emphasis supplied*)

With the express mention of Filipino nationals as the intended recipients of this law and the apparent silence as to its applicability to foreign nationals, much less to stateless persons, accessing health care in the Philippines will be difficult for POCs. This interpretation is consistent with the statutory construction *expressio unius est exclusio alterius*.

“It is a settled rule of statutory construction that the express mention of one person, thing, act, or consequence excludes all others. This rule is expressed in the familiar maxim *expressio unius est exclusio alterius*. Where a statute, by its terms, is expressly limited to certain matters, it may not, by interpretation or construction, be extended to others. The rule proceeds from the premise that the legislature would not have made specified enumerations in a statute had the intention been not to restrict its meaning and to confine its terms to those expressly mentioned.”⁵⁵

This is also one of the reasons why it will be challenging for the Department of Health to include POCs in their yearly budgets and programs on a consistent and permanent basis.

In addition, while the issuance of E.O. No. 163 is a huge step towards institutionalizing a

⁵³ Article 12, Section 14.
⁵⁴ TESDA No. 03, s. 2018.

⁵⁵ Development Bank of the Philippines vs. Commission on Audit, G.R. No. 221706, 13 March 2018.





whole-of-government approach in affording international protection to POCs, the implementation of the same is still heavily dependent upon the involved agency's perceived consistency or otherwise between the undertaking and existing laws and regulations. As stated earlier, one of the functions of the IAC is to "ensure that policies on the protection of, and the services and assistance offered to POCs are consistent with relevant laws, rules, and regulations..." As such, in the absence of a law that would fully support and uphold access of POCs to basic government services, consistent with the international protection that Contracting Parties to the 1954 and 1961 Conventions are mandated to undertake and implement in their respective jurisdictions, POCs may end up being treated as ordinary foreign nationals in the country and be subject to the same restrictive measures as those imposed upon the latter, without taking cognizance of the specific vulnerabilities to which the former are normally being subjected to.

Finally, while the Supreme Court has adopted the A.M. No. 21-07-22-SC, which seeks to facilitate the naturalization of refugees and stateless persons and take into consideration the plight and peculiar circumstances of POCs in weighing the pieces of evidence for evaluation, their qualifications and possible disqualifications, the same only applies to judicial naturalization. Such substantive changes have not yet been adopted into the country's administrative naturalization law.

It is in this context that this research recommends the enactment of a law that will seek to provide comprehensive protection to POCs, which may include refugees, holistically address the issue and risk of statelessness, and properly consolidate the necessary amendments to existing laws that may have an effect or

impact in achieving such objectives, especially in the areas of birth registration, which some populations at risk of statelessness lack proper access to, and naturalization, which is one of the most important durable solutions in addressing statelessness. In the absence of an overarching law to govern the country's efforts and actions toward the needed international protection of POCs, relevant government agencies are bereft of a clear legal basis upon which they are to anchor their respective programs for such endeavors and the needed appropriation to accomplish the same. Considering that these government agencies primarily derive their authority and functions from enabling legislative measures, the manner through which they adopt policies to accomplish their mandates would heavily depend upon the letters of the law that legally justify their existence, officially rationalize their appropriations, and formally warrants the exercise of their duties.

In addition, this lack of a clear legal basis to pave the way for meaningful and pragmatic local integration of POCs becomes more problematic considering that one of the important features of POC protection is to facilitate their transition from being perceived as an alien from another country into one who will be treated as an integral part of the community and their eventual amalgamation into the societal niches of the receiving Contracting State.

CONCLUSION

We are living in a highly globalized world wherein political boundaries are obscured, international interdependence is amplified, and socio-cultural differences are abridged. The phenomenon of globalization, being one of the catalysts to this shift in international relations, has facilitated the swift transfer of goods across





different States and the ease of movement of people through territorial boundaries. It allowed the people of one country to easily access products manufactured in another country without having to leave the comfort of their homes or look for employment outside their own countries and pursue the same under the protective mechanisms established within the international community.

Globalization has not only influenced the ecosystem of world economies but has also broadened the reach of socio-political ideas and led to the internationalization of certain issues and concerns. In other words, there are socio-political issues whose impact goes beyond the singular border of one State, which can create ripple effects in other States. Due to the vast range of effects that such issues spawn within the international community, the solution cannot be undertaken by just one State – rather it must be one of collective and symbiotic response. It is in this context that international laws and principles emerged and have been institutionalized.

“Take for example the question of the environment. No State can prevent global warming by acting alone. It may impose severe restrictions upon carbon dioxide emissions and engage in massive tree-planting programmes; but if no other State is doing so, its efforts will be practically pointless. Worse, the additional costs imposed on manufacturers and taxpayers as a result of those measures will tend to put that State’s economy at a competitive disadvantage: the role of ecological custodian comes at a real cost. Unless ‘greenness’ can be sold as a consumer good (as many companies, making a virtue of necessity in the face of environmental legislation, now seek to do) whatever international influence the State has as a competitor will begin to dwindle as businesses abroad unencumbered by strict environmental constraints increase their market shares. Unilateral action is at best ineffective and may be positively counter-productive. Co-operation is necessary, and co-operation needs a framework. In order even to begin to attempt to co-operate, States must contact each other and know who is competent to give binding undertakings that will be respected by the government, the courts, and

other public authorities of the other State. They need to know how to indicate that a particular agreement made by a State is formally binding, as a matter of legal obligation, and is not regarded simply as a matter of policy that can be varied or abandoned at will by the other State.”⁵⁶

Given that the resolution of problems with international character calls for collective action and solidarity among the community of States, it necessarily paved the way for the internationalization of political institutions, such as the United Nations.

“The institutionalization of international political structures has led to political globalization. Since the early nineteenth century, the European interstate system has been developing both an increasingly consensual international normative order and a set of international political structures that regulate all sorts of interaction. This phenomenon has been termed “global governance.” The most dominant of the general and global organizations that had emerged was the League of Nations and now succeeded by the United Nations. The impact of these organizations is to create a process of institution-building, where the organizations are able to determine and dictate what happens in the governance of member states. This is the trend of political globalization.”⁵⁷

Protection of basic human rights is one of the pressing issues affecting the international community that has been generally regarded as having universal character. Its internationalization has led to the institutionalization of several human rights treaties and conventions across different epochs and between different sovereign States, anchored upon the basic recognition that human rights are something shared by all human beings regardless of the difference in race, nationality, culture, religion, gender, and other points of divergence, and that domestic political institutions should not discriminate as to its exercise.

⁵⁶ Vaughan Lowe, *International Law*, (Oxford, United Kingdom: Oxford University Press, 2007), 1.

⁵⁷ Elizabeth A. Oji and M.V.C Ozioko, *Effect of Globalization on Sovereignty of States*, African Journals Online, <https://www.ajol.info>, 261-262, accessed on 28 October 2023.





The Philippines has had a history of participating in the global clamor to protect and uphold human rights by acceding to different international conventions and agreements geared towards achieving such international objectives and adopting domestic laws to fully integrate the same into the country's legal system⁵⁸. This legal tradition of adopting legislative measures to ensure compliance with the country's commitments under international conventions is consistent with the principle of transformation. This is also undertaken to avoid the possibility of conflict between existing national laws and the domestic implementation of international conventions to which the Philippines is a party.

In a country where most of the rights and obligations are established by law, it becomes equally important that a national legislative measure be enacted to govern the holistic, nationwide, and comprehensive protection of POCs in the country. Not only will it properly provide the over-arching legal basis and national framework for the country's compliance with its obligations under the relevant international conventions, but it will also amply capacitate and empower the different agencies of the government to undertake the relevant measures for such endeavor in a consistent, coherent, and sustainable manner. A national law for this purpose will unite and coalesce all efforts towards the comprehensive protection of POCs in the Philippines and will also ensure that while complying with its international obligations, the country's territorial sovereignty and security are not compromised in the process by establishing a strong monitoring mechanism to supervise and analyze the influx of POCs in

the country and their mobility throughout the status determination procedures and after they are recognized as stateless persons.

“The concept of the rule of law is central to a fair and efficient State asylum system. Protection systems grounded in the rule of law offer legal certainty in the application of rules, as well as accountability, equity, and transparency. They are built on legal and policy frameworks that meet international standards and are administered by impartial and properly trained officials, supported by a functioning judiciary and other accountability structures. Such systems are especially important in times of crisis.”⁵⁹

⁵⁸ For instance, R.A. No. 9262 and R.A. No. 9710 are anchored upon the country's compliance with its international obligations under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Moreover, R.A. No. 9745 used the Convention Against Torture as its fundamental basis. Another is R.A. No. 7610, which refers to the Convention on the Rights of Children as one of its key foundations.

⁵⁹ Frances Nicholson and Judith Kumin, *A Guide to International Refugee Protection and Building State Asylum Systems: Handbook for Parliaments*, (Switzerland: UNHCR and Inter-Parliamentary Union, 2017), 55.





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RELEVANT INTERNATIONAL AGREEMENTS, DOMESTIC LAWS AND EXECUTIVE ISSUANCES:

- 1954 Convention Relating to Status of Stateless Persons
- 1961 Convention on the Reduction of Statelessness
- Commonwealth Act No. 613, or the Philippine Immigration Act of 1940
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
- Convention on the Rights of the Child (CRC)
- Department Circular (D.C.) No. 58, s. 2012
- D.C. No. 26, s. 2022.
- Executive Order No. 163, s. 2023.
- International Covenant on Civil and Political Rights (CCPR)
- Republic Act (R.A.) No. 11767
- Rule on Facilitated Naturalization of Refugees and Stateless Persons (A.M. No. 21-07-22-SC)
- United Declaration on Human Rights

