

Testimony of a Stateless Child in Detention in Egypt

Testimony obtained by consultant researchers to ERT, conducting research on stateless persons in detention in Egypt

John Sebastian¹ is a minor from the Banyamulenge tribe in the Democratic Republic of the Congo (DRC). His father was born in the DRC to Rwandan parents, but was never registered as a Congolese citizen. His mother is Burundian. John has no nationality, no travel document and no identity papers.

The Banyamulenge of the DRC have suffered discrimination for generations, and even though they were granted Congolese nationality through a Presidential Decree of 1972, the government of then Zaire (now DRC) adopted a Nationality Law in 1981 revoking this decree and effectively denationalising them.

Due to their participation in a revolt against former President Mobutu Sese Seko, there is a lot of local resentment towards the Banyamulenge ethnic Tutsis in the DRC. Tutsis were targeted by local Hutu Interahamwe and Mai Mai troops.² Ill-treatment and torture including rape were widespread as the government and its supporters continued persecuting members of the Tutsi ethnic group.³

In 2004 DRC passed a nationality law to correct the statelessness of the Munyamulenge [plural for Banyamulenge] but there

have been no documented cases of Banyamulenge people successfully obtaining nationality, which would suggest that the laws in place are not an effective solution to the problem of statelessness.⁴ A March 2009 report confirms that the situation of nationality for Munyamulenge remains uncertain and that the Munyamulenge remain de facto stateless.⁵

In this testimony, John recalls the events of his life which saw him travel through six countries, in order to escape the systemic persecution his family faced in the DRC.

John's story is an all too common one. It sheds light on the fluid dynamic between statelessness and refugee status. Due to the strong links between the two, it is not surprising that the many vulnerabilities of statelessness can very quickly be exacerbated to the point where the provision of refugee status is necessary. However, the point at which the stateless have a reasonable claim to refugee status is often difficult to identify, and the failure to act at such times can be very costly indeed.⁶

John's story also sheds light on the often artificial nature of the legal distinction between statelessness and refugee status,

and correlated protection entitlements. Many of the practical challenges and insecurities faced by the stateless also demand urgent intervention and protection.

John is presently in detention in Egypt. He has committed no crime. His future is uncertain. He has not had access to the UN or to any statelessness or refugee status determination procedure.

He is seventeen years old and this is his story:

"My name is John Sebastian. I was born in the region of Birere, Goma, DRC on 10 December 1991. I am from the Banyamulenge tribe and I speak Kinyamulenge. My father was a Tutsi from the Banyamulenge tribe, and my mother was a Burundian citizen of Hutu ethnicity. I had a sister who was three years older than me. I am a Christian.

In 1959 my grandfather migrated from Rwanda to DRC. My father was born there, but he never obtained Congolese nationality. I too, never got a birth certificate or a passport.

My father went to university in Burundi and studied to become an engineer. He met my mother there. They came back to DRC to take care of my grandfather. Because he didn't have Congolese nationality, my father couldn't get a work permit, and was not able to get a permanent contract as an engineer. Officially he wasn't allowed to work, but people in town often gave him small engineering jobs. The government said people like us, Banyamulenge people, are not originally Congolese and should go back to our own country. My parents used to have problems with the government in Congo. For

example, when we went to a store or to get water, we had to wait for all the people from other tribes to get served first.

We were not wanted in Congo. The people on the street treated us as if we were not Congolese. They treated us as if we were foreigners. This is because we are Banyamulenge. They knew we were from this tribe by the language we spoke and the way we looked. I do not speak French. All Banyamulenge people in Congo are treated this way. Like my parents, many Banyamulenge were living in Congo without papers.

My sister and I never got Congolese nationality. People were always telling us that we were not real Congolese. My mother taught me at home because I was not allowed to go to a public school. The Congolese government used to tell us that if we wanted to study we should go to where our grandfathers came from in Rwanda. Even if I did go to school, I would have had many problems because people in general did not like those from my tribe. I would have been treated badly.

I did not have friends because my parents always told us to be careful when we went out to play in the street. I was never allowed to go far from the house; my parents were scared we might be killed. I often played in the house.

My Parents Were Killed

Despite these problems, I had a very nice childhood. My parents loved me so much. But after 10 January 2000 everything changed.

It was around 8pm in the evening when my father told me to go to the shop to buy batteries for the TV remote control. I was waiting for my change when I heard a lot of

noise. People were yelling and there was a sound of gunfire. I ran back, and when I was about 200 metres from my home a bomb was thrown at our house. I fell to the ground and people were running, passing by, yelling and tripping over me.

When I regained consciousness someone was lifting me and blood was coming out of a wound in my head. The person who was holding me was Mohammed, a Burundian man who worked as a builder on construction sites with my father. He told me that my parents had died. Other people had also died and some were injured. He decided that he should return to his home country and he took me with him to Burundi.

I was 9 years old.

The people who killed my parents were the Interahamwe, with the help of Congolese soldiers. At that time they were fighting against Rwandan troops. The fight took place in Goma, which is on the Congolese Rwandan border, and that is where my home was. These groups randomly attacked and killed people. Before my parents were killed they were considering leaving DRC because it was not safe for them and they were always harassed.

My Flight to Burundi

Mohammed and I left DRC very late on the same evening my parents were killed. We first took a boat from Goma to Rwanda where we spent one day. We were able to travel through Rwanda because Mohammed explained that he was Burundian and we were heading to Burundi. We did not have any problems.

During our travel, Mohammed asked me to take a Muslim name. He changed my name to Usama Bashir Mohamed.

On the 11th of January 2000, we arrived in Burundi. We found a house to stay in Bujumbura, in an area called Kamenge. The house belonged to Mohammed's family. I lived with Mohammed in the house at Kamenge.

Mohammed used to pray at the mosque in the centre of Bujumbura. It was called Jamai mosque.

Mohammed worked in different places. People knew that his job was to construct houses, so when a person needed someone to assist them, they came to find Mohammed. He mostly worked in Bujumbura, but sometimes he went to work in rural areas.

In Burundi I worked in a barber shop. The barber shop was in the same compound as my house. Mohammed was the owner of the barber shop. Mohammed taught me to shave heads and cut hair. I did not go to school in Burundi, because I had no papers and would not have been allowed.

Many people in Burundi live without papers. It was not a problem because I didn't go out in public except to go to work. Mohammed did not let me go out. I was working all the time and when I was home I had to do many things around the house.

Living in Burundi was better than in Congo, because in Congo people treated me as an enemy. I learnt Kirundi because it is similar to Kinyamulenge and Kinyarwanda. So in Burundi, I could speak the same language as the people. If I did not say where I was from, the Burundians didn't mind. Even when they knew I was a foreigner, people were still kind to me.

After living with Mohammed for three years, he found a woman he liked and they married in 2003.

Her name was Fatuma.

Fatuma did not like me at all. She often told me that I was not their son and that she could easily send me away. In 2004 she gave birth to a baby girl called Asia. Fatuma used to ask me to take care of Asia, because she was busy sewing clothes to make money.

Fatuma did not want me to go to work. She wanted me to stay at home and take care of the baby. When I would tell her that I did not want to stay home, that I wanted to go and work, she would get very angry. Also, Mohammed used to spend time with me at the barber shop and Fatuma would be mad that Mohammed was not at home with her.

I felt that at anytime I could be kicked out of Mohammed's house.

The Attack in Burundi

In Burundi there was no peace.

The Forces Nationales de Liberation (FNL), a rebel group, was fighting the government. After every attack, people would get news from the radio, such as when the government announced that the FNL had attacked Kamenge.

An incident in the beginning of June 2007 changed everything for me once again. It was 4am, we were all sleeping. I heard voices at our gate. The FNL was attacking our house. I heard them breaking down the door. They were shooting into the house. Mohammed and Fatuma's room was close to the living room, so I could not go to see how they were doing. I slept alone in my own room. I escaped through the window. I knew that the attackers were FNL because they had attacked the area before. The FNL often robs civilians.

When I left the house I did not have a plan. I was scared so I ran. When I was leaving the house I heard shotguns, bombs. I did not tell Mohammed I was leaving.

When I left Burundi I brought 80,000 Burundian Francs with me.⁷ I knew that my relationship with Fatuma was difficult and I felt that I might have to leave Mohammed's house at any time so I saved money from my work at the barber shop. At that time this was not considered a lot of money.

My Escape from Burundi

There were many other people on the street when I left. They were all escaping. I found myself heading in the direction of Rwanda.

I did not know where I wanted to go when I left Burundi. I only knew that I wanted to get as far from Congo as possible. I knew that Sudan has a border with Congo and so I did not feel safe in Sudan. I travelled through all these countries alone. I was able to track time by asking people. I did not go to the UN because I did not see, or hear of any UN offices or people. I had one plan during my journey and that was to go to a country that does not share a border with Congo and approach a UN office to tell them about my problems.

I knew about the UN because I had seen it on television when I was in Congo and in Burundi. I saw that there were wars and troubles and people would go to the UN and they would live in camps.

The UN would help them.

I went to Rwanda because I was afraid to go back and be hurt or killed. I rode to the Kanyaru area using public transportation. It was a small microbus. Kanyaru area is along the Kanyaru River, which is the border between Burundi and Rwanda.

Many people go back and forth between Rwanda and Burundi every day. These people make many purchases and porters carry their goods across the border. Since I did not have any papers, I pretended to be a porter, not a traveller. I carried someone's things across and no one stopped me.

I had nothing apart from the clothes I was wearing.

I entered Rwanda on 10 June 2007. I travelled through Rwanda alone. I exchanged the Burundian Francs for Rwandese money when I crossed at the border.

From the border, I went to Kigali. I knew that in Rwanda they usually send people who are Banyamulenge to Congo and I did not want to be sent back to Congo because of the problems my tribe faces there. I spent around 500 Rwandan Francs on food.

I only slept one night, in Kigali, in a small motel. I met other travellers here. They were Rwandese. I did not want to take a room alone, and they asked me if I wanted to share with them because this was less expensive. I stayed with them and paid 500 Rwandan Francs for my share of the motel room with the money I had saved.

When I woke up I went to Nyabugogo bus station. I paid 900 Rwandan Francs for a bus that took six to seven hours from Kigali to the Ugandan border.

I arrived in Uganda on 12 June 2007. Like before, I walked across the border as a porter. There was a bus station near the border. The buses from that station had many different destinations. I got on a bus that could hold maybe 60 people. This bus was going to Kampala. I wanted to go to Kampala because I knew it was a big city and far from Congo.

I travelled on that bus for one day and one night. I bought the bus ticket for the equivalent of ten US Dollars.

When I arrived in Kampala, I saw some Muslims going to pray at a mosque. I went with them and prayed. There were some people who took care of the mosque. I explained my situation to them and they let me stay in the mosque. They also gave me food. I slept in the mosque for four nights.

After the fourth night, someone showed me the bus station where I could take a bus to the Sudanese border. I got on a bus and paid 15,000 Ugandan Shillings. This bus broke down, so I had to get on another bus and pay again. In total, the trip from Kampala to the Sudanese border cost 25,000 Ugandan Shillings and took three days. In the end I arrived at the Uganda-Sudanese border at a place called Nmuule.

I did the same thing I had done at the other border crossings: I pretended I was a local passing through regularly and not a traveller or a foreigner. I arrived in Sudan on 20 June 2007.

When I was in Uganda, people told me how to get service in English so whenever I met people in Sudan I told them my problem and those who had good hearts gave me food so that I could survive. I travelled through Sudan by asking for rides, walking and sleeping in mosques. I had many difficulties eating, sleeping and travelling. I had to walk a lot.

I ran out of money in Sudan.

My arrival in Egypt

In August 2007, I took a bus to the Sudan-Egypt border. I got out of the bus and I walked across the border. I crossed into

Egypt unofficially, some Sudanese people told me the way and I went alone. There were no fences or guards, it was just desert. I did not know exactly which way to go so I just kept walking in a straight line. I was hoping I would find some people or a town. I walked for more than one full day. Later, I saw some people, they were the Egyptian military. I thought if I told them my situation they would help me.

I approached the military men to ask them where and how I can find the UN. I explained to them my situation, they took me to the police station and the police put me in a cell.

When I was in the police station cell, I was questioned but I couldn't understand them and they couldn't understand me. So they started beating me and tried to force me to speak to them. They would get really angry if I didn't answer a question. They would come at night and throw cold water on the place where I was sleeping.

After about ten days in the police cell, I was taken to a place that looked like a court. Many people were talking but I could not understand what they were saying. I did not feel like anyone explained anything to me.

After this I was put in prison. I have been in prison for one year. Most of the people who

are in prison have visitors to bring them food or they have money to buy food. For those who don't have visitors or money they rarely get any food to eat which I feel is not healthy. It is hard in prison but compared to what was happening in the police station, it is a good place.

What My Future Holds

I don't belong in Burundi and if I am sent back I will be a foreigner. I don't have anyone to help me there. I do not even know whether Mohammed is alive. I have no papers to live there normally and I want to live a normal life.

If I am sent to Rwanda, I will be forced to go back to Congo because the Rwandans will believe that I am Congolese. The Rwandans will think that I am Congolese because I have no Rwandan papers and I was born in Congo. Because of the language I speak and the way I look they will automatically know that I am Banyamulenge and I will be sent to Congo.

I don't even want to think about what would happen if I am returned to Congo. I don't even dream about that and if I ever do dream about it, I will burn the bed I'm sleeping on. Because of my tribe, I will face bad treatment and be at risk of being killed. I am very afraid to go back to Congo."

¹ Names and places have been changed to protect the identity of the interviewee.

² UNHCR, Center for Documentation and Research, *Background Paper on Refugees and Asylum Seekers from the Democratic Republic of the Congo*, April 1998, available at: http://www.asylumlaw.org/docs/congodemocraticrepublic/unhcr_bpas98_congo.pdf, accessed on 14 August 2008.

³ Amnesty International, *Amnesty International Report 2000 - Congo (Democratic Republic of the)*, June 2007, available at: <http://www.unhcr.org/refworld/docid/3ae6aa0e34.html>, accessed on 14 August 2008.

⁴ UK Home Office, *Country of Origin Information Report DRC*, see UNHCR Comments, November 2005, available at: <http://www.unhcr.org/refworld/pdfid/483535ce2.pdf>, accessed on 17 June 2009.

⁵ Refugees International, *Nationality Rights for All: A Progress Report and Global Survey on Statelessness*, 11 March 2009. Online UNHCR Refworld, p. 29, available at: <http://www.unhcr.org/refworld/docid/49be193f2.html>, accessed on 7 April 2009.

⁶ See Perks, K. and de Chickera, A., "The Silent Stateless and the Unhearing World: Can 'Equality' Compel Us to Listen?", in this issue of *The Equal Rights Review* (Volume 3, 2009).

⁷ This is equivalent to approximately £75.