



ARTICLES

The Origins of UNHCR's Global Mandate on Statelessness

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ABSTRACT

Why did the United Nations General Assembly confer upon the Office of the United Nations High Commissioner for Refugees (UNHCR) a broad global mandate to address statelessness only in 1995 (four decades after the Convention relating to the Status of Stateless Persons was adopted) and not before? To address this question, this article examines the evolving relationship between UNHCR and the international community in regard to statelessness before 1995, drawing upon UNHCR archival records and official documents, Executive Committee conclusions, and General Assembly resolutions. Contrary to popular perception, UNHCR attempted to engage states on statelessness during the Cold War, exceeding its formal powers in doing so. However, states remained indifferent to UNHCR's efforts. After the Cold War, the international community grew increasingly concerned with mass influxes of refugees possibly resulting from large-scale situations of statelessness in Eastern Europe, and pressured UNHCR to assume greater responsibility for averting such crises – and UNHCR was willing to do so. By 1995, the timing was opportune for the international community to empower UNHCR to lead the global effort against statelessness. As this article demonstrates, the refugee problem remained central to actions involving – and attitudes towards – statelessness by UNHCR and the international community, both during and after the Cold War.

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1. INTRODUCTION

In November 2014, the #ibelong campaign¹ was launched to eradicate the global phenomenon of statelessness, which affects approximately ten million individuals,² by 2024.³ This campaign is spearheaded by the Office of the United Nations High Commissioner for Refugees (UNHCR), the lead organization responsible for addressing statelessness, whose mandate on statelessness⁴ comprises four aspects: the prevention of statelessness, the reduction of statelessness, the protection of stateless persons, and the identification of stateless populations.⁵ This broad mandate on statelessness was only conferred upon UNHCR by the United Nations (UN) General Assembly in 1995, four decades after the adoption of the 1954 Convention relating to the Status of Stateless Persons (1954 Convention) which defines a stateless person as an individual 'not considered as a national by any State under the operation of its law',⁶ establishes an internationally recognized status for the stateless person, and provides her with specific rights⁷ on top of the protection to which she is entitled under international human rights law.

This article addresses the question of why it was only in 1995 that the General Assembly conferred upon UNHCR a broad global mandate on statelessness. Contrary to popular perception, UNHCR attempted to engage states on statelessness issues during the Cold War: it sought to standardize the travel document for stateless persons, and promoted accessions to the two statelessness Conventions. However, states remained indifferent to

¹ This campaign includes an open letter by world opinion leaders such as the United Nations High Commissioner for Refugees, António Guterres, his Special Envoy Angelina Jolie, Archbishop Desmond Tutu, and 30 other world opinion leaders, published as an online petition on the website <<http://ibelong.unhcr.org>>, which is aimed at collecting 10 million signatures. UNHCR, 'UNHCR Launches 10-Year Global Campaign to End Statelessness', 4 Nov 2014 <<http://www.unhcr.org/545797f06.html>> accessed 12 Oct 2015.

² United Nations High Commissioner for Refugees (UNHCR), 'Note on International Protection', UN doc EC/65/SC/CRP.10, 6 June 2014, para 60.

³ The High Commissioner first made this call in his speech to UNHCR's Executive Committee (ExCom) in Oct 2012: 'These protracted statelessness situations are not a problem to be addressed at some future date. Solutions are needed now, and I call on all States to make a firm commitment to ending statelessness within the next decade.' UNHCR, 'High Commissioner's Opening Statement to the 63rd Session of the Executive Committee', 1 Oct 2012 <<http://www.unhcr.org/506987c99.html>> accessed 12 Oct 2015.

⁴ The High Commissioner has stated that 'stressing the rights of stateless people and reducing statelessness are our *core mandate*. In everything we do, we can never forget our mandate, and nothing will distract us from it.' UNHCR, 'Closing Statement by Mr António Guterres, United Nations High Commissioner for Refugees, at the Fifty-Eighth Session of the Executive Committee of the High Commissioner's Programme (ExCom)', 5 Oct 2007 <<http://www.unhcr.org/47172a422.html>> accessed 12 Oct 2015 (emphasis added).

⁵ On the activities undertaken by UNHCR under the four aspects of its mandate on statelessness, see UNHCR, 'UNHCR Action to Address Statelessness: A Strategy Note' (Mar 2010) <<http://www.unhcr.org/4b960ae99.html>> accessed 12 Oct 2015.

⁶ Convention relating to the Status of Stateless Persons (adopted 28 Sept 1954, entered into force 6 June 1960) 189 UNTS 117 (1954 Convention), art 1.

⁷ M Manly, 'UNHCR's Mandate and Activities to Address Statelessness' in A Edwards and L van Waas (eds), *Nationality and Statelessness under International Law* (CUP 2014) 88–115, 111.

UNHCR's attempts to obtain their assistance in regard to statelessness issues, and instead remained preoccupied with refugee issues. The end of the Cold War was a turning point, with the emergence of large-scale situations of statelessness in Eastern Europe. Concerned that there would be a mass influx of refugees resulting from statelessness, the international community of states as a whole pressured UNHCR to assume a greater role in averting such potential crises – and UNHCR was willing to do so, according greater weight to nationality and statelessness issues than it had previously done. By 1995, the timing was opportune for the international community to empower UNHCR to take up the lead role in addressing statelessness. As this article demonstrates, the refugee problem remained central to actions involving – and attitudes towards – statelessness by UNHCR and the international community, both during and after the Cold War.

This article begins by providing the necessary context with a brief outline of the development of UNHCR's statelessness mandate (part 2). Then, the article examines the evolution of UNHCR's changing relationship with the international community in regard to statelessness during the Cold War (part 3) and after the end of the Cold War up until 1995 (part 4), drawing heavily upon UNHCR's Executive Committee (ExCom) conclusions, General Assembly resolutions, and UNHCR's official documents and archival records. Part 5 concludes.

2. BACKGROUND: THE DEVELOPMENT OF UNHCR'S GLOBAL MANDATE ON STATELESSNESS

When the 1954 Convention was adopted, it did not task UNHCR with the supervision of states parties' implementation of the Convention's provisions as the 1951 Convention relating to the Status of Refugees (Refugee Convention)⁸ had done in article 35.⁹ This was despite the fact that most of the 1954 Convention's provisions were *mutatis mutandis* similar to those of the Refugee Convention.¹⁰ Nor did the 1954 Convention

⁸ Convention relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 Apr 1954) 189 UNTS 137 (Refugee Convention).

⁹ Art 35(1) states: 'The Contracting States undertake to co-operate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention'. Art 35(2) states: 'In order to enable the Office of the High Commissioner, or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the Contracting States undertake to provide them in the appropriate form with information and statistical data requested concerning: (a) the condition of refugees, (b) the implementation of this Convention, and (c) laws, regulations and decrees which are, or may hereinafter be, in force relating to refugees'. Refugee Convention (n 8) art 35. The same responsibilities are contained in arts II(1) and (2) of the 1967 Protocol relating to the Status of Refugees (adopted 31 Jan 1967, entered into force 4 Oct 1967) 606 UNTS 267.

¹⁰ For two different historical accounts of why the 1954 Convention did not include a provision equivalent to art 35 of the Refugee Convention, see C Batchelor, 'Stateless Persons: Some Gaps in International Protection' (1995) 7 IJRL 232, 241–49, and H Massey, 'UNHCR and *De Facto* Statelessness', UNHCR Legal Protection and Policy Series, UNHCR doc LPPR/2010/01, Apr 2010, 15–16. For a detailed comparison of the provisions of both the Refugee Convention and the 1954 Convention, see P van Krieken, 'The High Commissioner for Refugees and Stateless Persons' (1979) 26 Netherlands International Law Review 24, 27 n 10.

contain other provisions assigning UNHCR a supervisory role over stateless persons.¹¹ Subsequently, the General Assembly provided UNHCR with a role under the 1961 Convention on the Reduction of Statelessness (1961 Convention)¹² when it came into force.¹³ The General Assembly requested UNHCR serve as the 'body to which a person claiming the benefit of [the 1961 Convention] may apply for the examination of his claim and for assistance in presenting it to the appropriate authority' under article 11 of the 1961 Convention¹⁴ – first in 1974 on a provisional basis,¹⁵ and then in 1976, indefinitely.¹⁶ However, up until 1995, UNHCR's article 11 role was severely limited by the fact that very few states had ratified the 1961 Convention.¹⁷

In 1995, ExCom adopted the Conclusion on Prevention and Reduction of Statelessness and Protection of Stateless Persons.¹⁸ It requested that UNHCR promote accessions to the two statelessness Conventions and provide relevant technical and advisory services pertaining to the preparation and implementation of nationality legislation

¹¹ Art 33 of the 1954 Convention requires states parties to 'communicate to the Secretary General of the United Nations the laws and regulations which they may adopt to ensure the application of this Convention'. 1954 Convention (n 6) art 33. Manly argues that art 33 provides for a 'minimalist supervisory regime', because in practice it is UNHCR that performs the function of the Secretary-General. Manly (n 7) 91. However, according to the drafting history of the 1954 Convention, art 33 'stems from the right of every state party to a convention to be informed about its application by other parties'. N Robinson, *Convention relating to the Status of Stateless Persons: Its History and Interpretation* (World Jewish Congress, 1955) reproduced by UNHCR (Geneva, 1997) 64 <<http://www.refworld.org/pdfid/4785f03d2.pdf>> accessed 12 Oct 2015. As such, as van Waas argues, art 33 'was not necessarily conceived with a supervisory apparatus in mind'. L van Waas, *Nationality Matters: Statelessness under International Law* (Intersentia 2008) 232.

¹² Convention on the Reduction of Statelessness (adopted 30 Aug 1961, entered into force 13 Dec 1975) 989 UNTS 175 (1961 Convention).

¹³ Art 18 of the 1961 Convention provides that it will enter into force two years after the date of deposit of the sixth instrument of ratification or accession. Australia, the sixth ratifying state, deposited its instrument of ratification on 13 Dec 1973. As such, the 1961 Convention entered into force on 13 Dec 1975.

¹⁴ 1961 Convention (n 12) art 11.

¹⁵ United Nations General Assembly (UNGA) res 3274 (XXIX), 10 Dec 1974, para 1. This was after the UN Secretary-General had raised the question of the art 11 body to the General Assembly in accordance with art 20, which obliges the Secretary-General to, 'after the deposit of the sixth instrument of ratification or accession at the latest, bring to the attention of the General Assembly the question of the establishment, in accordance with Article 11, of such a body as therein mentioned'. 1961 Convention (n 12) art 20. For the Secretary-General's note and explanatory memorandum, see Annexes, Item 99, UN doc A/9691 in UNGA, Official Records, 29th Session.

¹⁶ UNGA res 31/36, 30 Nov 1976, para 4.

¹⁷ UNHCR, 'Report of the United Nations High Commissioner for Refugees', UN doc A/44/12, 1 Sept 1989, para 57 (1989 Report). By 1994, there were only 18 states parties to the 1961 Convention. UNHCR, 'Note on International Protection', UN doc A/AC.96/830, 7 Sept 1994, para 66 (1994 Note).

¹⁸ ExCom, 'Conclusion on Prevention and Reduction of Statelessness and Protection of Stateless Persons', Conclusion No 78 (XLVI), 20 Oct 1995.

to interested states;¹⁹ promote the prevention and reduction of statelessness through information dissemination and training of staff and government officials; and enhance cooperation with other interested organizations.²⁰ Later that year, the General Assembly raised this issue in its 'Omnibus Resolution'²¹ of 1995.²² The Preamble stated that 'statelessness, including the inability to establish one's nationality, may result in displacement' and that 'the prevention and reduction of statelessness and the protection of stateless persons are important also in the prevention of potential refugee situations.'²³ Then the General Assembly 'encourage[d] the High Commissioner to continue her activities on behalf of stateless persons, as part of her statutory function of providing international protection and of seeking preventive action.'²⁴ Finally, it repeated ExCom's request for UNHCR to promote accessions to the two statelessness Conventions and provide relevant technical and advisory services pertaining to the preparation and implementation of nationality legislation to interested states.²⁵ It was this particular General Assembly resolution that provided UNHCR with a 'truly global mandate' on statelessness, given that it covered stateless persons in all states including non-states parties to either or both of the two statelessness Conventions,²⁶ and covered stateless persons *qua* stateless persons, not simply those falling within the definition of a 'refugee' under the Refugee Convention and who also happen to be stateless.²⁷ Stateless persons (unlike refugees) need not flee across an international border in order to receive UNHCR's protection.²⁸

Over the past two decades, ExCom conclusions and General Assembly resolutions have progressively developed UNHCR's mandate on statelessness. Of particular significance is ExCom's Conclusion on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons,²⁹ which explicitly listed the identification of stateless populations as a fourth distinct area of activity, in addition to the three other areas – prevention and reduction of statelessness and protection of stateless persons – that had been

¹⁹ *ibid* para (c).

²⁰ *ibid* para (d).

²¹ The 'Omnibus Resolution' is the annual resolution passed by the General Assembly on UNHCR, encompassing the wide range of activities with which UNHCR is engaged. M McBride, 'Anatomy of a Resolution: The General Assembly in UNHCR History', UNHCR Policy Development and Evaluation Service: New Issues in Refugee Research, Research Paper No 182, Dec 2009, 1 <<http://www.unhcr.org/4b192a069.html>> accessed 12 Oct 2015.

²² UN General Assembly (UNGA) res 50/152, 21 Dec 1995.

²³ *ibid* preambular para 9.

²⁴ *ibid* para 14.

²⁵ *ibid* para 15.

²⁶ Manly (n 7) 89. As he notes at 91, states have mostly accepted (even if tacitly) that UNHCR has the responsibility to address statelessness in their territories. In the few instances where governments have requested UNHCR not to act, they have usually denied that the issue was one of statelessness rather than denying that UNHCR has a mandate to address it.

²⁷ TA Aleinikoff, 'The Mandate of the Office of the United Nations High Commissioner for Refugees' in V Chetail and C Bauoz (eds), *Research Handbook on International Law and Migration* (Edward Elgar Publishing 2014) 389–416, 403.

²⁸ *ibid*.

²⁹ ExCom, 'Conclusion on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons', Conclusion No 106 (LVII), 6 Oct 2006.

previously identified in 1995.³⁰ It also provided far more operational guidance than before for UNHCR to carry out its statelessness mandate. The Conclusion was endorsed by the General Assembly later that year³¹ and in subsequent resolutions as well.³² UNHCR has since articulated the strategies and policy objectives to realize its mandate more clearly in its 2010 Strategy Note,³³ and, more significantly, in its Global Action Plan to End Statelessness: 2014–2024,³⁴ which was released as part of the UNHCR-led #ibelong campaign.³⁵

3. WHY DID THE GENERAL ASSEMBLY NOT CONFER A GLOBAL MANDATE ON STATELESSNESS ON UNHCR DURING THE COLD WAR?

3.1 UNHCR's attempts to engage with the international community on statelessness

UNHCR has been criticized for how it 'virtual[ly] abandon[ed] ... any efforts to further study or respond to the phenomenon of statelessness itself'³⁶ during the Cold War, and 'remained somewhat indifferent to the fate of the stateless', a 'problem which should rather inspire in human terms the same compassion as that shown to refugees'.³⁷ Indeed, the term 'stateless person' hardly appeared in UNHCR's publications during the Cold War.³⁸ UNHCR devoted little time, effort, or resources

³⁰ According to ExCom, identification of stateless populations was to 'serve as a basis for crafting strategies to addressing the problem.' *ibid* para (c). However, ExCom had already in 1995 requested that UNHCR gather information and report back biennially on the magnitude of the global statelessness problem. ExCom, Conclusion No 78 (XLVI), 20 Oct 1995, para (e).

³¹ Specifically referring to four distinct areas of activity, the General Assembly in 2006 'note[d] the work of the High Commissioner in regard to identifying stateless persons, preventing and reducing statelessness, and protecting stateless persons, and urge[d] the Office of the High Commissioner to continue to work in this area in accordance with relevant General Assembly resolutions and Executive Committee conclusions.' UNGA res 61/137, 19 Dec 2006, para 4.

³² UNGA res 67/149, 20 Dec 2012, para 5; UNGA res 68/141, 18 Dec 2013, para 8.

³³ UNHCR Strategy Note (n 5).

³⁴ UNHCR, 'Global Action Plan to End Statelessness: 2014–2024' (Nov 2014) <<http://www.unhcr.org/54621bf49.html>> accessed 12 Oct 2015. The Global Action Plan comprises 10 'Actions' with specific 'Goals' to be achieved within the next decade. For 8 of the actions, the Plan sets out information on the present situation ('Starting Points') and interim targets for 2017 and 2020 ('Milestones') to facilitate the tracking of worldwide progress towards the goals. UNHCR's role is facilitative and advisory, and it will report on states' progress every two years. Like UNHCR's four-dimensional statelessness mandate, the Global Action Plan seeks to 'resolve existing situations of statelessness', 'prevent new cases of statelessness from emerging', and 'better identify and protect stateless persons.' (4). However, the Global Action Plan's focus is on prevention and reduction of statelessness over the identification and protection of stateless persons. (5).

³⁵ Along with the Global Action Plan, UNHCR also released a Special Report on Statelessness. UNHCR, 'Ending Statelessness Within 10 Years' <http://unhcr.org/statelesscampaign2014/Stateless-Report_eng_final3.pdf> accessed 8 Dec 2014.

³⁶ Van Waas (n 11) 16.

³⁷ Independent Commission on International Humanitarian Issues, *Winning the Human Race* (Zed Books 1988) 112.

³⁸ *ibid*.

to its article 11 responsibilities,³⁹ an area where its 'engagement was extremely limited in practice',⁴⁰ by contrast to its 'preoccupation with refugees', a matter noted by the High Commissioner himself.⁴¹ For example, the absence of a budget devoted to UNHCR's article 11 functions during the interim period of 1974–76 and of financial implications for the UN⁴² was 'a reflection of the level of activity rather than of economy'.⁴³ No follow-up measures appear to have been taken by UNHCR in regard to its commitment in 1975 to 'obtain statistics and particulars of stateless persons from States which are parties to [the 1961 Convention], so as to enable UNHCR to ensure that persons entitled to its benefit get the necessary assistance for their claims to be examined'.⁴⁴

However, it is not entirely accurate to say that UNHCR was completely indifferent to, or made no effort to address, the statelessness problem during the Cold War. Contrary to popular perception, UNHCR did, in fact, seek to engage the international community on statelessness issues before the 1990s. In his opening statement to ExCom's twenty-third session in 1972, the High Commissioner stressed that 'it is of the utmost importance that Governments and, indeed, the whole of the international community should give the problem of statelessness its utmost attention as soon as possible' because 'a stateless person ... may not be in a position to enjoy any protection from any legal authority either in his country of habitual residence where he is or outside it'. As such, 'acts which produce ... stateless persons are, of course, to be deplored from the point of view of the principles of the Charter and the principles for which the United Nations stands'.⁴⁵ More specifically, despite UNHCR's lack of formal powers under the two statelessness Conventions, UNHCR attempted to obtain the assistance and support of the international community on three statelessness issues.

1. *Standardization of the travel document under the 1954 Convention.* When the 1954 Convention came into force in 1960,⁴⁶ an ExCom member state

³⁹ J Crisp, 'Refugees, Persons of Concern, and People on the Move: The Broadening Boundaries of UNHCR' (2009) 26 *Refugee* 73, 74.

⁴⁰ L van Waas, 'Are We There Yet? The Emergence of Statelessness on the International Human Rights Agenda' (2014) 32 *Netherlands Quarterly of Human Rights* 342, 344.

⁴¹ UNHCR, 'Report by the High Commissioner on Strengthening the Capacity of the Office of the High Commissioner for Refugees to Carry out its Mandate', UN doc A/AC.96/980, 20 Aug 2003, para 20 (2003 High Commissioner's Report).

⁴² At the end of the interim period, the General Assembly noted 'that the High Commissioner [had been] carrying out the functions required under the Convention without any financial implications for the United Nations'. UNGA res 31/36 (n 16) para 3.

⁴³ I Khan, 'UNHCR's Mandate Relating to Statelessness and UNHCR's Preventive Strategy' (1995) 49 *Austrian Journal of Public and International Law* 93, 95.

⁴⁴ UNHCR, 'Note on International Protection', UN doc A/AC.96/518, 4 Sept 1975, para 17. UNHCR suggested that '[n]on-governmental organizations could play an important role in transmitting names of stateless persons to UNHCR'.

⁴⁵ UNHCR, 'Addendum to the Report of the United Nations High Commissioner for Refugees', UN doc A/8712/Add.1, 17 Oct 1972, annex.

⁴⁶ Art 39(2) of the 1954 Convention provides that it will enter into force 90 days after the date of deposit of the sixth instrument of ratification or accession (which was by France).

requested that UNHCR lend its 'good offices'⁴⁷ to standardize the travel document to be issued under article 28 of the 1954 Convention,⁴⁸ and suggested that UNHCR circulate proposals on this matter to governments.⁴⁹ UNHCR wrote to states parties to the 1954 Convention, suggesting a stiff, pink cover for the travel document because it found it 'useful if the documents issued ... were ... uniform in color, size, and type of cover ... [and hence] easily recognized by consular and frontier officials, but at the same time distinguishable from national passports and from the travel documents issued to refugees under the [Refugee Convention]'.⁵⁰ UNHCR was fully aware of its lack of formal powers under the 1954 Convention to request

⁴⁷ 'Good offices' are a typical feature of international organizations, developed notably by the UN Secretaries-General. The breadth of such activity depends largely on the personality of the High Commissioner, and General Assembly resolutions have encouraged the High Commission to exercise 'good offices' in several refugee situations. P Maynard, 'The Legal Competence of the United Nations High Commissioner for Refugees' (1982) 31 ICLQ 415, 422. For early General Assembly resolutions that made a clear dichotomy between refugees within the High Commissioner's mandate and 'those to whom he extends his good offices', see, eg, UNGA res 3143 (XXVIII), 19 Dec 1973, para 2; UNGA res 1959 (XVIII), 12 Dec 1963, para 1; UNGA res 1783 (XVII), 7 Dec 1962, preambular para 5; UNGA res 1673 (XVI), 18 Dec 1961, para 1; UNGA res 1501 (XV), 5 Dec 1960, preambular para 2.

⁴⁸ Art 28 of the 1954 Convention states: 'The Contracting States shall issue to stateless persons lawfully staying in their territory travel documents for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require, and the provisions of the schedule to this Convention shall apply with respect to such documents. The Contracting States may issue such a travel document to any other stateless person in their territory; they shall in particular give sympathetic consideration to the issue of such a travel document to stateless persons in their territory who are unable to obtain a travel document from the country of their lawful residence.'

⁴⁹ Inter-Office Memorandum from P Weis to the High Commissioner, 2 June 1960, 16/1/4/2, Series 1 – International Status of Refugees – Convention relating to the Status of Stateless Persons; Series 1, Classified Subject Files; Fonds 11, Records of the Central Registry; UNHCR Archives.

⁵⁰ Letter from P Weis to S Makiedo, Permanent Delegation of the Federal People's Republic of Yugoslavia to the European Office of the UN, 13 June 1960, 16/1/4/2, Series 1, Fonds 11, UNHCR Archives. Similar letters from UNHCR's legal adviser to governments include: Letter from P Weis to E Sniders, Permanent Delegation of the UK to the European Office of the UN, 13 June 1960, 16/1/4/2, Series 1, Fonds 11, UNHCR Archives; Letter from P Weis to M Kahany, Permanent Delegation of Israel to the European Office of the UN, 13 June 1960, 16/1/4/2, Series 1, Fonds 11, UNHCR Archives; Letter from P Weis to E Hauge, Permanent Mission of Denmark to the European Office of the UN, 13 June 1960, 16/1/4/2, Series 1, Fonds 11, UNHCR Archives; Letter from P Weis to A Skarstein, Permanent Mission of Norway to the European Office of the UN, 13 June 1960, 16/1/4/2, Series 1, Fonds 11, UNHCR Archives; Letter from P Weis to the Permanent Representative of Sweden to the European Office of the UN, 10 May 1965, 16/1/4/2, Series 1, Fonds 11, UNHCR Archives. For UNHCR Headquarters' instructions to its Branch Offices to propose such a standardized travel document to governments, see Inter-Office Memorandum from P Weis to the Representative, UNHCR Branch Office for Luxembourg, 17 Aug 1960, 16/1/4/2, Series 1, Fonds 11, UNHCR Archives; Inter-Office Memorandum from P Weis to the Representative, UNHCR Branch Office for Italy, 17 Jan 1963, 16/1/4/2, Series 1, Fonds 11, UNHCR Archives.

this of states parties, as evidenced by the offer from UNHCR's legal adviser to personally sign the letter on behalf of the High Commissioner 'in order not to make the matter too formal'.⁵¹ Further, in its letters to governments, UNHCR acknowledged that it 'has of course no official role with regard to the implementation' of the 1954 Convention, but justified its involvement on the basis that 'UNHCR has worked for the standardisation of travel documents issued under the Refugee Convention'.⁵²

2. *Promotion of accessions to the 1954 Convention.* As UNHCR's legal adviser observed upon the adoption of the 1954 Convention, there was no agency tasked with promoting accessions necessary for the Convention to come into force.⁵³ Notwithstanding UNHCR's awareness that it had no responsibility to promote accessions, it remained interested in ascertaining the prospects of states acceding to it.⁵⁴ As it informed governments considering accession, the 1954 Convention was important to UNHCR because 'it guarantees a status for such refugees within its mandate who are *de jure* stateless and also because it contains in the Final Act [of the Conference on the Status of Stateless Persons] a recommendation to consider sympathetically the possibility of granting the treatment for which the Convention provides to persons who have for valid reasons renounced the protection of the state of their nationality'.⁵⁵ In UNHCR's view, if this particular recommendation of the Conference was complied with by states parties, 'a large number of *de facto* stateless refugees who may be within the mandate of [UNHCR] would also benefit from the provisions of the Convention'.⁵⁶
3. *Promotion of accessions to the 1961 Convention.* As with the 1954 Convention, although no agency was tasked with promoting accessions to the 1961 Convention, UNHCR decided in September 1961, after the Convention's adoption, that 'the Office of the High Commissioner should promote accessions and ratifications of the Convention'.⁵⁷ This decision was then endorsed by the UN Legal Counsel who 'saw no reason why [the UNHCR] should not' promote accessions.⁵⁸ Specifically, UNHCR decided that its promotion activities would have 'due emphasis on its repercussions on the status of

⁵¹ Inter-Office Memorandum from P Weis to the High Commissioner (n 49).

⁵² For example, Letter from P Weis to S Makiedo (n 50).

⁵³ Letter from P Weis to E Schwelb, Acting Director, Division of Human Rights, UN, New York, 27 Oct 1954, 16/1/4/1, Series 1, Fonds 11, UNHCR Archives.

⁵⁴ Inter-Office Memorandum from P Weis to the Representative, UNHCR Branch Office for Greece, 25 May 1966, 16/1/4/2, Series 1, Fonds 11, UNHCR Archives.

⁵⁵ Letter from F Schnyder (the High Commissioner) to the Minister of State for External Affairs of Australia, 30 May 1962, 16/1/4/2, Series 1, Fonds 11, UNHCR Archives.

⁵⁶ Inter-Office Memorandum from P Weis to the Representative, UNHCR Branch Office for France, 4 May 1961, 16/1/4/2, Series 1, Fonds 11, UNHCR Archives.

⁵⁷ Record of Decisions No 1961/8: UNHCR staff meeting held on 15 Sept 1961, 25 Sept 1961, para 3, 16/1/4/3/CONF – International Status of Refugees – Conference on the Elimination or Reduction of Future Statelessness; Series 1, Classified Subject Files; Fonds 11, Records of the Central Registry; UNHCR Archives.

⁵⁸ Inter-Office Memorandum from P Weis to the High Commissioner, 3 Oct 1961, 16/1/4/3/CONF, Series 1, Fonds 11, UNHCR Archives.

refugees.⁵⁹ In urging governments to consider accession, UNHCR reminded them that the 1961 Convention, which aimed to enable children who would otherwise be stateless to acquire a nationality at birth, was 'applicable to the children of refugees in countries of asylum who would otherwise be stateless at birth.'⁶⁰ UNHCR accorded weight to the 1961 Convention because the facilitation of refugee children's acquisition of nationality would not only contribute effectively to the local integration of refugee children,⁶¹ but would also prevent the perpetuation of refugee status into future generations.⁶² This was particularly important in states adopting the *jus sanguinis* principle (allowing for acquisition of the nationality of the child's parent) as opposed to the *jus soli* principle (allowing for the child's acquisition of the nationality of the state in which she is born),⁶³ and in states in which refugees had been residing for a long time.⁶⁴

3.2 The international community's response to UNHCR's efforts

States' reactions to UNHCR's attempts to engage them on statelessness ranged from indifference to rejection. Some, like the Federal Republic of Germany, questioned UNHCR's basis for involvement, stating that 'the Office of UNHCR is not competent for the [1954] Convention, since [the 1954 Convention] does not specifically deal with refugees.'⁶⁵ UNHCR's efforts to standardize the travel document issued under the 1954 Convention met with little success, with Belgium and France preparing their travel documents in grey and dark green respectively,⁶⁶ and only three states parties (the UK, Algeria, and Italy) out of thirteen as of 1965 issuing their travel documents in pink as UNHCR had requested.⁶⁷ Despite UNHCR's promotion

⁵⁹ Record of Decisions No 1961/8 (n 57).

⁶⁰ Letter from F Schnyder (n 55). This was the same position as in Letter from SA Khan (the High Commissioner) to the Minister for Foreign Affairs of Sweden, 3 Apr 1969, 16/1/4/4 – International Status of Refugees – Convention on the Reduction of Statelessness; Series 1, Classified Subject Files; Fonds 11, Records of the Central Registry; UNHCR Archives.

⁶¹ UNHCR, 'Report on International Protection', UN doc A/AC.96/527, 20 Sept 1976, para 48 (1976 Report).

⁶² UNHCR, 'Report of the United Nations High Commissioner for Refugees', UN doc A/5211/Rev.1, 1 Jan 1963, para 19; UNHCR, 'Note on International Protection', UN doc A/AC.96/433, 28 July 1970, para 17; UNHCR, 'Note on International Protection' UN doc A/AC.96/458, 8 Sept 1971, para 19.

⁶³ UNHCR 1976 Report (n 61) para 48. In states where the *jus soli* principle prevails, there are no problems. UNHCR, 'Report of the United Nations High Commissioner for Refugees', UN doc A/8412, 1 Jan 1972, para 50.

⁶⁴ UNHCR, 'Report of the United Nations High Commissioner for Refugees', UN doc A/8012, 1 Jan 1971, para 20.

⁶⁵ Inter-Office Memorandum from the Head of the Legal Section, UNHCR Germany, to UNHCR Headquarters, 31 May 1963, 16/1/4/2, Series 1, Fonds 11, UNHCR Archives.

⁶⁶ Inter-Office Memorandum from P Weis to the Representative, UNHCR Branch in Luxembourg, 17 Aug 1960, 16/1/4/2, Series 1, Fonds 11, UNHCR Archives.

⁶⁷ Inter-Office Memorandum from P Weis to the Permanent Representative of Sweden to the European Office of the UN, 10 May 1965, 16/1/4/2, Series 1, Fonds 11, UNHCR Archives.

of accessions to the two statelessness Conventions, they attracted very few ratifications during the Cold War: for example, in 1980 there were thirty-one parties to the 1954 Convention and nine to the 1961 Convention respectively, in sharp contrast to seventy-six parties to the Refugee Convention.⁶⁸ It took twelve years for a sixth state to ratify the 1961 Convention, such that it could come into force two years later.⁶⁹ On the whole, UNHCR's major donors were uninterested in pressuring the agency to assume an active global role in addressing statelessness.⁷⁰ In fact, the international community's attitude may have discouraged UNHCR from intervening in statelessness issues as much as it could have, since UNHCR was under the impression that 'such an involvement will have an adverse effect on the organization's activities in relation to refugees, returnees and asylum-seekers'.⁷¹

So why was the international community uninterested in statelessness issues during the Cold War? The politically sensitive nature of the statelessness issue was a contributing factor.⁷² In direct contrast with how the refugee problem 'concerns the situation of non-nationals ... [,] nationality issues are directly linked to ... membership of the state'⁷³ and directly touch upon national identity.⁷⁴ As such, states regarded nationality 'as a strictly sovereign matter', and statelessness 'as an internal – rather than an international – concern'.⁷⁵ To be sure, this perception of statelessness by the international community continued to affect UNHCR's work on statelessness even after the Cold War.⁷⁶ What was particular to the Cold War that may explain the international community's indifference to statelessness at the time was how the relative stability of states during that period created a general sense that statelessness was a minor issue involving only a small number of people.⁷⁷ For example, when Switzerland was encouraged to accede to the 1954 Convention, it maintained that accession would be of 'little practical importance' because the 'majority of stateless persons were refugees covered by the [1951] Convention and the [1967] Protocol and the number of those

⁶⁸ Van Waas (n 11) 17.

⁶⁹ UNHCR, 'Note on International Protection', UN doc A/AC.96/508, 18 Sept 1974, para 14.

⁷⁰ UNHCR, 'Evaluation of UNHCR's Role and Activities in Relation to Statelessness', UNHCR doc EPAU/2001/09, July 2001, para 7 (2001 Evaluation Report).

⁷¹ *ibid.*

⁷² Van Waas (n 11) 17.

⁷³ UNHCR, *The State of the World's Refugees: A Humanitarian Agenda* (OUP 1997) 227.

⁷⁴ UNHCR 2001 Evaluation Report (n 70) para 7.

⁷⁵ Van Waas (n 11) 17.

⁷⁶ As UNHCR noted in 2009, 'questions relating to nationality were viewed as sensitive and falling solely within the realm of national sovereignty, despite the legitimate interest of the international community in this issue'. UNHCR, 'Progress Report on Statelessness 2009', UN doc EC/60/SC/CRP.10, 29 May 2009, para 5. As such, '[i]nformation on many statelessness situations continue[d] to be scarce and impair[ed] the crafting of appropriate responses. Many States ... [were] reluctant to share information or to address statelessness'. UNHCR, 'Report of the United Nations High Commissioner for Refugees', UN doc A/64/12, 20 Oct 2009, para 47.

⁷⁷ UNHCR, *The State of the World's Refugees* (n 73) 227.

who were not so covered was very small indeed'.⁷⁸ In contrast with stateless persons who at the time were perceived as 'a rather amorphous group', refugees were more 'likely to arouse international interest from the humanitarian and political angle',⁷⁹ not least because their cross-border movements were highly visible.⁸⁰ As such, 'mass displacement and the battle to deal with ever-increasing numbers of refugees took priority' during the Cold War,⁸¹ and the international community paid inadequate attention to the plight of stateless persons.⁸²

4. WHY DID THE GENERAL ASSEMBLY CONFER A GLOBAL MANDATE ON STATELESSNESS ON UNHCR IN 1995?

4.1 The international community's pressure on UNHCR to address statelessness

The international community paid far greater attention to statelessness issues after the end of the Cold War, when new large-scale situations of statelessness emerged in Eastern Europe.⁸³ The dissolution of the Soviet Union, Yugoslavia, and Czechoslovakia meant the cessation of Soviet, Yugoslav, and Czechoslovakian citizenship, which resulted in millions of people becoming stateless. For example, ethnic Russians who had lived for decades in the Baltic States were excluded from citizenship by new nationality laws.⁸⁴ These new groups of stateless persons suffered severe restrictions on their civil, political,

⁷⁸ Report on Mr Jackson's Mission to Berne on 9 Nov 1967, 15 Nov 1967, para 5, 16/1/4/2, Series 1, Fonds 11, UNHCR Archives. UNHCR 2001 Evaluation Report (n 70) para 28. For example, UNHCR noted in the late 1980s that its caseload of non-refugee stateless persons was 'numerically small'. UNHCR, 'Note on International Protection', UN doc A/AC.96/713, 15 Aug 1988, para 66 (1988 Note); UNHCR 1989 Report (n 17) para 57.

⁷⁹ P Weis, 'The Convention Relating to the Status of Stateless Persons (1961)' (1961) 10 ICLQ 255, 263.

⁸⁰ Manly (n 7) 101.

⁸¹ Van Waas (n 11) 17.

⁸² UNHCR 1988 Note (n 78) para 59; UNHCR 1989 Report (n 17) para 57.

⁸³ To a lesser extent, in Africa there were new disputes over citizenship resulting in cases of statelessness. This was due to the rise of multi-party democracy in states where 'the growing number of elections ... inflamed the debate over nationality [and] some regimes f[ound] it difficult to resist the temptation to manipulate nationality issues in order to erase political opposition'. C Pouilly, 'Africa's Hidden Problem' (2007) 147 *Refugees Magazine* 28, 30. There were inter-ethnic, communal conflicts in many regions where 'nationality became an issue or even a weapon in the dispute, with statelessness the detrimental result'. C Batchelor, 'Statelessness and the Problem of Resolving Nationality Status' (1998) 10 *IJRL* 156, 157.

⁸⁴ G Loescher, A Betts, and J Milner, *The United Nations High Commissioner for Refugees: The Politics and Practice of Refugee Protection into the 21st Century* (Taylor and Francis 2008) 53. In fact, even before the formal dissolution of the Soviet Union and while under Soviet rule, most 'new' states like Azerbaijan, Krygyzstan, and Tajikistan had already passed and adopted their own citizenship laws defining who should be nationals of the state. M Iogna-Prat, 'Nationality and Statelessness Issues in the Newly Independent States' in V Gowlland-Debbas (ed), *The Problem of Refugees in the Light of Contemporary International Law Issues* (Martinus Nijhoff Publishers 1996) 25–31, 26.

and socio-economic rights,⁸⁵ and in several instances were expelled from their states of habitual residence without the possibility of readmission.⁸⁶ Such a sudden and vast increase in the number of stateless persons in Eastern Europe led the international community to be increasingly concerned with the possibility of mass involuntary displacement and an influx of refugees into Western Europe,⁸⁷ which could trigger conflict not only within states but also between states,⁸⁸ and heighten regional tensions.⁸⁹ As such, by the early 1990s, statelessness had begun to 'occupy a more prominent position on the international humanitarian, political and security agenda', with a need for an urgent, effective solution.⁹⁰

In 1988, both ExCom and the General Assembly had already noted 'the close connection between the problems of refugees and of stateless persons' and had 'invited States actively to explore and promote measures favorable to stateless persons'.⁹¹ In the early 1990s, however, ExCom began to shift its attention from the potential role of states in addressing statelessness, to the potential role of UNHCR. After reiterating its 'call to States actively to explore and promote measures favorable to stateless persons' in 1991,⁹² ExCom extended this request to 'relevant international agencies' in 1992.⁹³ In noting the absence of an international body with a general mandate for stateless persons, ExCom directed 'the High Commissioner to continue her efforts generally on behalf of stateless individuals and to work actively to promote adherence to and implementation of the international instruments relating to statelessness'.⁹⁴ Subsequently, in 1994, ExCom provided UNHCR with greater instruction on addressing statelessness. During that ExCom session, the Chairman 'ventured that a global plan of action to reduce statelessness would be both timely and desirable, and stressed the importance of helping newly independent States to avoid or mitigate the problem'.⁹⁵ In noting 'with concern the persistent problems of stateless persons in various regions

⁸⁵ There were restrictions on property ownership, registration with public schools, and freedom of movement, together with an absence of civil and political rights, and internal relocation to harsh and inhospitable areas. UNHCR, 'Stateless Persons: A Discussion Note', UN doc EC/1992/SCP/CRP.4, 1 Apr 1992, 2–3 (1992 Discussion Note).

⁸⁶ In one instance, the enactment of legislation with retroactive effect that rendered long-term residents of a particular ethnic background stateless was accompanied by the burning of villages to encourage departures. *ibid.* 3.

⁸⁷ UNHCR 2001 Evaluation Report (n 70) paras 3, 29.

⁸⁸ *ibid.* para 88.

⁸⁹ *ibid.* para 29.

⁹⁰ *ibid.*

⁹¹ UNGA res 43/117, 8 Dec 1988, para 9; ExCom, 'General Conclusion on International Protection', Conclusion No 50 (XXXIX), 10 Oct 1988, para (1).

⁹² ExCom, 'General Conclusion on International Protection', Conclusion No 65 (XLII), 11 Oct 1991, para (r).

⁹³ ExCom, 'General Conclusion on International Protection', Conclusion No 68 (XLIII), 9 Oct 1992, para (y).

⁹⁴ *ibid.*

⁹⁵ ExCom, 'Report of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees on the Work of its Forty-Fifth Session', UN doc A/49/12/Add.1, 20 Oct 1994, para 16.

and the emergence of new situations of statelessness', ExCom called upon UNHCR to 'strengthen its efforts in this domain' by promoting accessions to the two statelessness Conventions, training its staff and government officials, gathering information on the statelessness problem, and keeping ExCom informed of these activities.⁹⁶

4.2 UNHCR's willingness to assume an active role to address statelessness

UNHCR was extremely receptive to the international community's request for it to assume a greater role in addressing statelessness, given that it had already faced situations of stateless persons requiring protection during its emergency operations,⁹⁷ where several states in different regions tolerated UNHCR's continued stay on the condition of its involvement with stateless persons.⁹⁸ Like the international community, UNHCR's concerns about statelessness after the Cold War largely stemmed from its focus on the refugee problem. UNHCR increasingly recognized the important role of states of origin in finding durable solutions for refugees,⁹⁹ and placed a higher priority on voluntary repatriation of refugees, such that '[h]ad voluntary repatriation been actively promoted from the outset, UNHCR would have been required to concentrate on nationality and citizenship issues much sooner as a key element in the repatriation of stateless refugees.'¹⁰⁰

More importantly, UNHCR was just as concerned as the international community that statelessness could possibly result in mass influxes of refugees.¹⁰¹ Conscious of its potential role in averting such crises,¹⁰² UNHCR initiated a dialogue with the General Assembly and ExCom.¹⁰³ The High Commissioner explained to the General Assembly in 1993 that UNHCR included the prevention and reduction of statelessness on its agenda because 'UNHCR's promotion activities have a *preventive* component as well, inasmuch as safeguarding the human rights of refugees and returnees entails promoting respect for the human rights of everyone.'¹⁰⁴ In recognizing the 'present context of newly independent States and redefined national boundaries and national identities', UNHCR regarded the prevention and reduction of statelessness as a 'priority' that was 'vital for the prevention of refugee flows.'¹⁰⁵ It went even further the following year

⁹⁶ ExCom, 'General Conclusion on International Protection', Conclusion No 74 (XLV), 7 Oct 1994, para (ee).

⁹⁷ This was the case with UNHCR's emergency operations in Georgia, Armenia, Azerbaijan, and Tajikistan where massive displacement of persons had occurred. Iogna-Prat (n 84) 30. One state, unnamed by UNHCR, imprisoned stateless persons as illegal aliens, their release conditional on UNHCR providing assistance to resettle the persons concerned. UNHCR 1992 Discussion Note (n 85) 3.

⁹⁸ *ibid.*

⁹⁹ K Landgren, 'Introduction' (1995) 14(3) *Refugee Survey Quarterly* i, vii.

¹⁰⁰ *ibid.* viii.

¹⁰¹ UNHCR 2001 Evaluation Report (n 70) para 30.

¹⁰² *ibid.* para 3.

¹⁰³ UNHCR 2003 High Commissioner's Report (n 41) para 21.

¹⁰⁴ UNHCR, 'Report of the United Nations High Commissioner for Refugees', UN doc A/48/12, 6 Oct 1993, para 32 (1993 Report) (emphasis added).

¹⁰⁵ UNHCR, 'Note on International Protection', UN doc A/AC.96/815, 31 Aug 1993, para 43 (1993 Note).

(1994), recognizing that it was not only the prevention and reduction of statelessness but also the *protection* of stateless persons that was important for the prevention of potential refugee situations.¹⁰⁶ According to UNHCR, 'since statelessness can be one element in the creation of refugees, UNHCR is concerned with statelessness *as a function of its mandate under the 1951 Convention relating to the Status of Refugees*.'¹⁰⁷

In the early 1990s, UNHCR accorded more weight than ever to the statelessness problem vis-à-vis the refugee problem. It now recognized that while stateless persons were 'generally not thought to be in acute need of international protection unless they are also refugees',¹⁰⁸ the 'added element of vulnerability' brought about by statelessness, and the 'chronic need of protection' of stateless populations in some states,¹⁰⁹ 'may result in complications, including displacement and flight', due to their 'unequal status in their society ... particularly when aggravated by political changes.'¹¹⁰ Now, according to UNHCR, the 'lack of national protection places stateless persons in a position *analogous to that of refugees*', because 'one means of overcoming refugee status is the realization of an effective nationality.'¹¹¹ Such increased importance accorded to statelessness was also evident in how UNHCR's work in legal advice, promotion, and training, which was 'normally ... oriented primarily towards questions of asylum and the reception of refugees', was now increasingly focused on issues of citizenship.¹¹² For example, UNHCR cooperated with the Kuwaiti government and enabled more than 60,000 stateless *bidoon* belonging to families with one or more members employed by the Kuwaiti public sector to remain legally in Kuwait.¹¹³ UNHCR's involvement with the stateless Rohingya population in Myanmar provides the best illustration of how it paid greater attention to citizenship issues in its operations during the early 1990s.¹¹⁴

¹⁰⁶ UNHCR 1994 Note (n 17) para 66 (emphasis added).

¹⁰⁷ UNHCR, 'Note on UNHCR and Stateless Persons', UN doc EC/1995/SCP/CRP.2, 2 June 1995, para 4 (1995 Note) (emphasis added).

¹⁰⁸ UNHCR 1994 Note (n 17) para 66.

¹⁰⁹ *ibid.*

¹¹⁰ UNHCR 1995 Note (n 107) para 3.

¹¹¹ *ibid* para 4 (emphasis added).

¹¹² UNHCR 1993 Note (n 105) para 43.

¹¹³ UNHCR 1993 Report (n 104) para 164. 'Bidoon' is an Arabic word meaning 'without'. It is used in Arabia and the Gulf States by several governments, such as the Kuwaiti government, to refer to those who are without nationality and deemed to be illegal immigrants.

¹¹⁴ 'Rohingya' is a generic term referring to the Sunni Muslim inhabitants of what was officially designated as the Rakhine State in 1989, a border region with a long history of isolation from the rest of Burma/Myanmar. The Rohingya were not formally recognized as one of the country's official national groups when Burma gained independence in 1947, and the 1982 Citizenship Act excluded them from both full and associate citizenship. See Burma Citizenship Law (Pyithu Hluttaw Law), 15 Oct 1982, No 4 (Myanmar) <<http://www.ibiblio.org/obl/docs/Citizenship%20Law.htm>> accessed 12 Oct 2015. In a press release dated 21 Feb 1992, Minister of Foreign Affairs, Ohn Gyaw, stated: 'Historically, there has never been a "Rohingya" race in Myanmar Since the first Anglo-Myanmar War in 1824, people of Muslim faith from the adjacent country illegally entered Myanmar Naing-Ngan, particularly Rakhine State. Being illegal immigrants they do not hold immigration papers like other nationals of the country'. Press Release, Ministry of Foreign Affairs of the Union of Myanmar (21 Feb 1992).

As well as monitoring the repatriation and reintegration of Rohingya refugees from Bangladesh,¹¹⁵ UNHCR advocated intensively for permanent legal documentation for the Rohingya population. Since 1992, the Burmese authorities had issued Citizen Scrutiny Cards to all citizens except the Rohingya. In response to UNHCR's advocacy efforts, the Rohingya were given Temporary Registration Cards in 1995 under the 1949 Residents of Burma Registration Act.¹¹⁶ This was subsequently welcomed as a 'first step' towards citizenship,¹¹⁷ and praised as a 'considerable breakthrough', owing 'much to the efforts of the UNHCR.'¹¹⁸

5. CONCLUSION

This study of the evolving relationship between UNHCR and the international community in regard to statelessness before 1995 demonstrates how the refugee problem remained central to both their actions involving – and attitudes towards – statelessness. UNHCR's efforts to promote the two statelessness Conventions during the Cold War were driven by the belief that the 1954 Convention would provide increased protection to *de jure* and possibly *de facto* stateless refugees falling under its mandate, and that the 1961 Convention would enhance the local integration of refugee children and prevent the perpetuation of refugee status among future generations. The international

¹¹⁵ After more than 260,000 Rohingya refugees fled from Burma to Bangladesh between May 1991 and March 1992, agreements were signed between: (1) the governments of Bangladesh and Burma in Apr 1992 concerning the repatriation of the Rohingya refugees; (2) UNHCR and the Government of Bangladesh in May 1993 to allow UNHCR's involvement in the registration of volunteers for repatriation; and, most importantly, (3) UNHCR and the Government of Burma on 5 Nov 1993 to allow UNHCR's presence in Rakhine State. D Petrasek, 'Through Rose-Coloured Glasses: UNHCR's Role in Monitoring the Safety of the Rohingya Refugees Returning to Burma' in A Bayefsky and J Fitzpatrick (eds), *Human Rights and Forced Displacement* (Martinus Nijhoff Publishers 2001) 114–36, 117–18. Nine UNHCR staff arrived in Rakhine State in Apr 1994 to oversee the reintegration of the Rohingya returnees. Human Rights Watch, 'Human Rights Watch World Report 1995 – Burma (Myanmar)', 1 Jan 1995 <http://www.hrw.org/reports/1995/WR95/ASIA-01.htm#P75_21919> accessed 12 Oct 2015. UNHCR's monitoring of the reintegration of the Rohingya returnees in the Rakhine State involved repeated interventions on the question of Rohingya returnees being called up for compulsory labour. Human Rights Watch, 'Burma: Entrenchment or Reform? Human Rights Developments and the Need for Continued Pressure' (July 1995) 7(10).

¹¹⁶ C Lewa, 'North Arakan: An Open Prison for the Rohingya in Burma' (2009) 32 *Forced Migration Review* 11, 11; Human Rights Watch, 'Burma: The Rohingya Muslims: Ending a Cycle of Exodus?' (Sept 1996) 8(9) (C), 30 <<http://www.hrw.org/reports/pdfs/b/burma/burma969.pdf>> accessed 12 Oct 2015.

¹¹⁷ Lewa (116) 13. Likewise, the UK Border Agency called it 'an important first step in terms of recognition by the Burmese authorities [... which] gives hope that some may achieve citizenship at a later stage'. UK Border Agency, *Operational Guidance Note: Burma* (1997). Staples, however, notes that the Temporary Registration Cards 'are inevitably limited in that they are recognized only in Burma. Indeed, their granting is dependent on the Rohingya remaining in, or returning to, Burma, in spite of considerable evidence of the wider risks of doing so'. K Staples, *Rethorising Statelessness: A Background Theory of Membership in World Politics* (Edinburgh University Press 2012) 150.

¹¹⁸ Human Rights Watch (n 116).

community's ambivalence towards UNHCR's efforts on statelessness during the Cold War can be partly explained by its preoccupation with refugee crises instead. After the Cold War, both the international community and UNHCR were concerned about the creation of new refugee flows resulting from new statelessness situations in Eastern Europe. This led UNHCR to give greater priority to nationality and statelessness issues, and the international community to pressure UNHCR to avert potential refugee crises. Eventually, in 1995, this all resulted in the international community conferring a global mandate on UNHCR to address statelessness.

This historical study also provides an interesting comparison with the present with respect to the prominence of statelessness on the international agenda. As a result of UNHCR's recent efforts to encourage ratification of the two statelessness Conventions,¹¹⁹ a significantly larger number of states are now parties to these instruments today,¹²⁰ as compared to the low number of states parties during the Cold War, and even before 1995.¹²¹ While the increased visibility and applicability of the two statelessness Conventions are important for the many individuals who are stateless or at risk of becoming stateless, the two instruments remain relatively poorly ratified, especially in comparison to the Refugee Convention and 1967 Protocol.¹²² More generally, while the international community is less ambivalent towards the statelessness problem today by contrast to the Cold War era, it is still unclear whether statelessness is firmly on the international human rights agenda.¹²³ What is clear is that there is presently no international social movement for statelessness like those for other global issues such as

¹¹⁹ There was a major accessions campaign by UNHCR between mid-2011 and mid-2013, in which UNHCR intensified its involvement in promoting accessions in 67 states, as compared to 39 states between mid-2009 and mid-2011. UNHCR, 'Note on Statelessness', UN doc EC/64/SC/CRP.11, 4 June 2013, para 10.

¹²⁰ There are 86 states parties to the 1954 Convention and 64 states parties to the 1961 Convention presently (as at 12 Oct 2015). The list of states parties to the 1954 Convention is available at <https://treaties.un.org/Pages/ViewDetailsII.aspx?src=TREATY&mtmsg_no=V-3&chapter=5&Temp=mtmsg2&lang=en> accessed 12 Oct 2015, and the list of states parties to the 1961 Convention is available at <https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=V-4&chapter=5&lang=en> accessed 12 Oct 2015.

¹²¹ There were 42 states parties to the 1954 Convention and 18 states parties to the 1961 Convention as at 30 June 1995. *ibid.*

¹²² There are 145 states parties to the Refugee Convention and 146 states parties to the 1967 Protocol presently (as at 12 Oct 2015). The list of states parties to the Refugee Convention is available at <https://treaties.un.org/Pages/ViewDetailsII.aspx?src=TREATY&mtmsg_no=V-3&chapter=5&Temp=mtmsg2&lang=en> accessed 12 Oct 2015, and the list of states parties to the 1967 Protocol is available at <https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=V-5&chapter=5&lang=en> accessed 12 Oct 2015.

¹²³ Kingston argues that statelessness has only partially emerged onto the international human rights agenda in recent years without becoming fully 'mainstream'. L Kingston, 'A Forgotten Human Rights Crisis': Statelessness and Issue (Non) Emergence' (2013) 14 Human Rights Review 73, 74. However, in response to Kingston's observation, van Waas notes that 'progress in this field is now remarkably fast paced and much has changed in the space of only a year [2013–14]; such that 'all signs point to statelessness being an issue that is now here to stay on the international human rights agenda.' Van Waas (n 40) 342, 346.

child soldiers and landmines.¹²⁴ It is hoped that the #ibelong campaign led by UNHCR might serve as a powerful impetus for such an international social movement by 'shining a spotlight on the issue and putting more pressure on states to address the issues',¹²⁵ including 'some fiendish political and international problems [which] need to be tackled head on'.¹²⁶

¹²⁴ H Lambert, 'Statelessness Is An Evil that Has Been Hidden for Too Long', *The Guardian* (5 Nov 2014) <<http://www.theguardian.com/commentisfree/2014/nov/05/statelessness-evil-hidden-long-un-refugee-agency>> accessed 12 Oct 2015; M Manly, 'UNHCR's Mandate and Activities to Address Statelessness in Europe' (2012) 14 *European Journal of Migration and Law* 261, 276.

¹²⁵ B Manby, 'How Will the UNHCR's Statelessness Campaign Affect Africa?' (*African Arguments*, 12 Nov 2014) <<http://africanarguments.org/2014/11/12/how-will-the-unhcrs-statelessness-campaign-affect-africa-by-bronwen-manby/>> accessed 12 Oct 2015.

¹²⁶ K Staples, 'Finding a Home for Stateless People is Easier Said Than Done' (*The Conversation*, 13 Nov 2014) <<http://theconversation.com/finding-a-home-for-stateless-people-is-easier-said-than-done-34157>> accessed 12 Oct 2015.