



Evaluation of UNHCR's role and activities in relation to statelessness

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Evaluation and Policy Analysis Unit

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Aim, scope and methodology

Since the early 1990s, UNHCR has played an increasingly active role in the effort to reduce and prevent statelessness. Recognizing the importance of this effort, the General Assembly, through Resolution 50/152 of 21 December 1995, requested UNHCR to promote state accession to the 1954 and 1961 Conventions relating to statelessness; to provide technical and advisory services to interested states pertaining to nationality law and practice; to provide appropriate training to its staff and to government officials; to disseminate relevant information and to enhance co-operation with other interested organizations. This Resolution was a reconfirmation of the provisions of the UNHCR Executive Committee (EXCOM) Conclusion No. 78, adopted earlier the same year.

In response to these requests, UNHCR has taken a range of practical steps to strengthen its efforts in relation to statelessness. These measures have included the recruitment of a legal expert on the problem of statelessness, the preparation of an information package on the 1954 and the 1961 Conventions, the organization of a staff training programme on statelessness and related nationality issues, the design and implementation of global promotional activities, and the introduction of more systematic reporting procedures on statelessness.

UNHCR has also strengthened its working relationship with a number of other actors with an interest in statelessness, such as the Council of Europe (CoE), the Organization for Security and Cooperation in Europe (OSCE) and the International Law Commission (ILC), as well as other UN agencies and non-governmental organizations (NGOs). UNHCR has also played an active role in situations where problems related to statelessness and the acquisition of a nationality have arisen, including, for example, the Czech and Slovak Republics, Ukraine, the Balkans and the Horn of Africa.

The objective of this review is to take stock of UNHCR's developing role in relation to statelessness, to assess the achievements made in this domain to date, to identify areas where UNHCR has the potential to make an additional contribution, and to ascertain whether UNHCR is institutionally equipped to take up those responsibilities. A set of proposals related to UNHCR's activities on statelessness is also presented in the review.

The review has been undertaken jointly by an external consultant and a staff member of UNHCR's Evaluation and Policy Analysis Unit (EPAU). The team interviewed a substantial number of UNHCR staff members both at Headquarters and in the field.

The team also held discussions with various government officials, NGO partners, other UN agencies and inter-governmental organizations. A wide range of literature, documents and memoranda on statelessness prepared by units at UNHCR headquarters and by field offices, as well as by academics and NGOs, were reviewed.

The findings, conclusions and recommendations of the review were drafted and circulated for comments to relevant units and staff at headquarters and in the field.

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Their responses have been incorporated in the final report, which was reviewed and edited by Jeff Crisp, Head of EPAU.

Summary of conclusions and recommendations

1. UNHCR's involvement with the issue of statelessness dates back to the drafting process of the 1951 Refugee Convention. But it was not until 1974 that the organization was requested by the UN General Assembly, through Resolution 3274, to provisionally undertake the functions foreseen under Article 11 of the 1961 Convention on the Reduction of Statelessness. This article calls for "a body to which a person claiming the benefit of this Convention may apply for the examination of his claim and for assistance in presenting it to the appropriate authority."
2. The significance of this development was that it effectively gave UNHCR a dual mandate: one for refugees, and one for stateless persons. In practice, however, the organization did little to exercise the latter mandate, partially because of the very limited number of states that had acceded to the 1961 Statelessness Convention, and partially because of its preoccupation with refugees.
3. In the early 1990s, the situation changed significantly. At that time, there was growing concern that the break-up of the Soviet Union, Yugoslavia and Czechoslovakia would create large numbers of stateless and displaced people, many of whom might seek to move into Western Europe. UNHCR was conscious of the role it might play in averting such a scenario, and initiated a dialogue with its Executive Committee concerning its involvement in the issue of statelessness.
4. Following the adoption of an Executive Committee Conclusion and a General Assembly Resolution on the matter in 1995, UNHCR recruited a staff member to ensure that it could undertake its new commitment to the issue of statelessness. Since then, considerable progress has been achieved, particularly in raising awareness of statelessness within and outside the organization, organizing training workshops, providing technical and advisory services, promoting state accession to statelessness-related conventions and forging partnerships with other actors.
5. So far, however, such activities have been heavily concentrated in Central and Eastern Europe. In other parts of the world, the extent of UNHCR's involvement in the problem of statelessness has been limited, and in some cases non-existent.
6. UNHCR's somewhat equivocal role in relation to statelessness derives from a number of factors. First, the issue is perceived by many staff members as a highly specialized and sophisticated one, which can only be tackled by legal experts. Indeed, despite significant dissemination and training efforts, UNHCR's knowledge of statelessness remains limited to a relatively small number of personnel.
7. Second, the problem of statelessness is regarded as a very sensitive one, touching directly upon the issues of national sovereignty and identity. As a result, UNHCR has on some occasions been reluctant to intervene in this area, especially when it is considered that such an involvement will have an adverse effect on the organization's activities in relation to refugees, returnees and asylum seekers. It should also be noted that UNHCR's major donors have not generally pressed the organization to assume a more active global role in this area.

8. Third, the issue of statelessness has not been given a particularly high priority or profile by senior management. Staff members have consequently not felt the need to become more vigorously involved in the problem or to address it in a proactive manner.

9. As a result of the considerations identified above, UNHCR's Department of International Protection (DIP) has become over-reliant on the one Senior Legal Officer who specializes in statelessness. This situation is no longer sustainable and could potentially jeopardize UNHCR's credibility in relation to this important policy issue.

10. This is not to suggest that UNHCR should contemplate a very large expansion in the human and financial resources that it devotes to the problem of statelessness. While a modest increase in the allocation of such resources is warranted, it is evident that UNHCR cannot expect to address (let alone resolve) each and every situation involving stateless persons. The issue is a complex, multi-faceted and global one, requiring the establishment of collaborative partnerships between UNHCR and other UN agencies, international organizations, regional bodies and NGOs.

11. While recognizing the achievements made so far, DIP should give new impetus to the organization's involvement in the issue of statelessness, engaging other parts of the organization in this process, especially at the senior management level. Each Regional Bureau should be requested to present its strategy and plan on statelessness issues at the country and regional levels, with details of the resource implications of such strategies.

12. As the preceding recommendation suggests, UNHCR's focus on statelessness should be broadened from Central and Eastern Europe to other parts of the world where statelessness is a problem: Africa, Asia and the Middle East. Evidently, the approaches taken by UNHCR in such regions should be sensitive to the local context, so as not to jeopardize other aspects of the organization's work.

13. As a basis for this new and global orientation, UNHCR should undertake a systematic mapping exercise, assessing the nature and scope of the statelessness problem in every part of the world. To facilitate this task, the organization's field offices should provide regular reports to headquarters on any changes in national legislation pertaining to citizenship and on relevant jurisprudence.

14. UNHCR's efforts in relation to statelessness should concentrate on the provision of advisory services. In this respect, UNHCR should encourage states to find equitable solutions to statelessness problems by systematically disseminating lessons learned and examples of good practice from other situations.

15. UNHCR should also go beyond information exchange and engage in proactive co-operation with other interested actors. Joint activities should be initiated wherever possible, including staff training and the training of government officials. Cooperative efforts should also be made in the development of appropriate legislation in countries where the law does not meet international standards.

16. In Europe, co-operation should be reinforced between UNHCR, the CoE and the OSCE's High Commissioner for National Minorities (HCNM). In other parts of the world, UNHCR should identify reliable regional organizations with which it can

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establish a working relationship with respect to statelessness. Such organizations should include the Organization of African Unity and the Organization of American States.

17. In addressing the issue of statelessness, UNHCR should work with and strengthen the capacity of local NGOs, which have an important role to play in activities such as data information, problem analysis and the provision of advice and support to stateless persons.

18. The visibility of UNHCR's activities in relation to statelessness should be enhanced. This could be achieved by means of increased public information activities and the publication of promotional materials. The on-going state accession campaign provides a good opportunity to reinforce such activities on a worldwide basis.

19. Advocacy vis-à-vis donor states should be strengthened with a view to gaining additional support for activities in the area of statelessness. In this respect, special efforts should be made to alert donor states to UNHCR's achievements in this area to date and to explain the relevance of statelessness to issues such as human rights, conflict prevention, mass displacement and asylum migration.

20. UNHCR's staff training activities in relation to statelessness could usefully be expanded and decentralized, with regional legal training officers assuming a more active role. With such a training capacity, the statelessness expert in DIP could focus more on planning, designing and developing training materials.

21. Both the Protection Support and Oversight Section (PSOS) and the Staff Development Section (SDS) should be engaged in this effort. Future training activities should be targeted at senior managers, including country or regional representatives and directors at headquarters, as well as protection and legal officers and other staff members.

22. A small unit dedicated to statelessness issues should be established at headquarters, reporting directly to the Deputy Director of DIP. The staff member heading the unit should concentrate on developing the organization's strategy in this domain. The unit should have its own budget and a total of three staff members: two professionals and one support staff.

23. Each Regional Bureau should appoint a focal point on statelessness, and liaise regularly with the statelessness unit. As and when necessary, DIP should convene meetings of these focal points, so as to ensure a consistency of approach in different parts of the world, to learn lessons from the organization's experience and to plan the future direction of its activities in relation to statelessness.

Mandate, policy and guidelines

24. In a milestone verdict in 1955, the International Court of Justice defined nationality as "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 1997 European Convention on Nationality defined nationality as "the legal bond between a person and a State and does not indicate the person's ethnic origin." The terms "nationality" and "citizenship" are used synonymously in this report.¹

25. A definition of statelessness is provided in Article 1 of the 1954 UN Convention relating to the Status of Stateless Persons. It stipulates that a stateless person is one "who is not considered as a national by any State under the operation of its law." The issue of nationality is a matter of civil status, which enables a person to exercise a number of rights and duties in relation to a State.

26. UNHCR's involvement with the issue of statelessness, or the inability to establish nationality, dates back to the drafting process of the 1951 Refugee Convention. In fact, the 1954 Convention relating to the Status of Stateless Persons was originally intended as a Protocol to the 1951 Convention relating to the Status of Refugees. There was an evident recognition that statelessness often creates refugees. The loss of, or the failure to acquire, a nationality might endanger the social existence of a person and force him or her to seek solutions in other locations than in the country of residence.

27. In recognition of the close link between statelessness and refugee issues, UNHCR was requested in 1974 by the UN General Assembly, through Resolution 3274, to provisionally undertake the functions foreseen under Article 11 of the 1961 Convention on the Reduction of Statelessness.²

28. Although UNHCR was at times criticized for its apparent indifference to the issue, the problem of statelessness was clearly overshadowed by the refugee problem throughout most of UNHCR's history.³ Moreover, there was a general sense, both inside and outside UNHCR, that because of the relative stability of states during the Cold War, the issue of statelessness was a minor issue and that only a relatively small number of individuals were affected by it.⁴

29. Since then, the situation has changed. By the early 1990s, the issue of statelessness had begun to occupy a more prominent position on the international

¹ The concept of nationality is generally used to describe the recognition of an individual as legally attached to a particular state at the international level.

² Article 11 of the 1961 Convention calls for "a body to which a person claiming the benefit of this Convention may apply for the examination of his claim and for assistance in presenting it to the appropriate authority."

³ Independent Commission on International Humanitarian Issues, *Winning the Human Race*, Zed Books, London, 1988, p.112.

⁴ UNHCR, *The State of the World's Refugees - A Humanitarian Agenda*, 1998, Oxford University Press, p. 227.

humanitarian, political and security agenda. With the increasing number of federal states dissolving, and with new states being formed in the aftermath of the Cold War, there was a growing awareness that unless it was tackled in an urgent and effective manner, statelessness might become a cause of mass involuntary displacement and lead to heightened regional tensions. In Western Europe, concern was also expressed that the break-up of the Soviet Union, Yugoslavia and Czechoslovakia could lead to a mass population influx.

30. As a result of these developments, as well as UNHCR's new emphasis on the prevention of population displacement, the organization began to take new initiatives in relation to statelessness. The agency initiated a dialogue with its Executive Committee, leading in 1995 to the adoption of Conclusion No. 78 on the Prevention and Reduction of Statelessness and the Protection of Stateless Persons.⁵

31. The Conclusion encouraged UNHCR to continue its activities on behalf of stateless persons and requested the organization to actively promote state accession to the 1954 and the 1961 Conventions, as well as to provide relevant technical and advisory services pertaining to the preparation and implementation of nationality legislation for interested states. The organization was also requested to actively promote the prevention and reduction of statelessness through the dissemination of information and the training of staff and government officials, and to enhance co-operation with other interested organizations.

32. Subsequently, in December 1995, the UN General Assembly adopted Resolution 50/152, reconfirming the provisions of Conclusion No. 78. The significance of this General Assembly resolution was its explicit statement that the High Commissioner's activities on behalf of stateless persons were carried out "as part of her statutory function of providing international protection and of seeking preventive action."

33. Following the adoption of the 1995 Conclusion, a new post was created within Division (now Department) of International Protection (DIP), with a view to ensuring that the commitments of UNHCR would be put into practice. A competent individual was appointed to this post, under the title of Senior Legal Officer. Bringing with her a considerable wealth of knowledge on the issue, she was asked to develop UNHCR's strategic approach to statelessness issues, and to take action on the responsibilities given to UNHCR by the Executive Committee and General Assembly.

34. Since then, and as a direct result of this new appointment, significant progress has been made in raising awareness of statelessness within UNHCR. This can be ascribed in large part to a series of training workshops that have been held in various parts of the world, targeted primarily at protection and legal officers, and to the introduction of UNHCR's first training modules and guidelines on statelessness.

35. Since 1996, moreover, all of UNHCR's field offices have been required to report on the issue of statelessness in their annual protection reports. A review of these reports indicates that the amount of information and analysis provided on statelessness has steadily improved over the past five years. At the same time, a good number of these offices, especially those in Eastern and Central Europe, have

⁵ Conclusion No.78 (XLVI) on the Prevention and Reduction of Statelessness and the Protection of Stateless Persons, A/AC.96/860.

acquired a wealth of practical experience in addressing the situation of people who lack an effective nationality.

36. Outside UNHCR, awareness of the organization's mandate in relation to statelessness has also increased. Governments and institutions such as the Council of Europe, the High Commissioner for National Minorities and the International Law Commission have all expressed their appreciation of UNHCR's involvement in this issue and the technical advice they have received from the DIP. By contributing to the drafting of national legislation, and by providing training and briefing sessions to government counterparts, UNHCR has made itself more visible and established its credibility in this area in a relatively short span of time.

37. Notwithstanding the progress achieved so far, UNHCR's mandate in relation to statelessness has not received the same priority by senior management as its mandate in relation to refugees. Moreover, within UNHCR, statelessness continues to be perceived as a specialized and highly sophisticated legal issue. A large proportion of UNHCR's protection officers, including some of those who have participated in DIP's training activities, continue to feel uncomfortable in dealing with this issue.

38. This uneasiness in dealing with statelessness is reinforced by other considerations: the political sensitivity of the issue, which raises important questions about national sovereignty and identity; the belief that UNHCR's ability to protect refugees and asylum seekers in a country might suffer if the organization simultaneously pursues an active role in relation to stateless persons; and the ease with which UNHCR's field offices can refer any problem relating to statelessness to Geneva.

39. As a result of these factors, UNHCR's role in relation to statelessness has become excessively dependent on the Senior Legal Officer, who is unable to cope with the ever-increasing demand for her services. If the staff member concerned was to leave the organization, or if a serious new situation of statelessness were to arise, UNHCR's capacity and credibility in this domain would be seriously jeopardized.

Policy and prioritization

40. In the 1990s, UNHCR has evidently assumed a more active role in relation to statelessness than was previously the case. And yet the general impression among staff members, as well as external counterparts, is that the organization could do more to define its mandate and involvement in this area.

41. Some staff members question the degree to which UNHCR should be involved in statelessness, given its limited resources. Others remain unclear as to the extent of the organization's mandate. One staff member asked, for example, "what are we supposed to do if a person claiming that he is nowhere to return to, but clearly not fulfilling the refugee criteria, comes to our doorstep and asks for assistance?" "What if we receive a report that a person of unidentified nationality calls for assistance from the immigration detention centre, but there is only one protection officer, whose capacity is already been over-stretched?"

42. At the same time, some NGOs have criticized UNHCR for not playing a sufficiently vigorous role in relation to statelessness.⁶ One NGO representative, for example, pointed out that despite the relevant Executive Committee Conclusion and General Assembly Resolution, many of the organization's partners remain unsure about its mandate in relation to statelessness.

43. The evaluation team's effort to solicit the views and perceptions of donor countries received a somewhat lukewarm response: major donor countries generally do not regard statelessness as a high priority. It is therefore not very surprising that the issue fails to make a prominent appearance in documents such as the *Global Report* or the *Global Appeal*.⁷ Indeed, the *Global Appeal 2000*, which serves as the basis for fund-raising discussions with donor countries, made no reference at all to statelessness-related activities in Central Europe, although, some reference to it was made for other regions.

44. At the global policy level, UNHCR's mission statement refers to the organization's role in relation to "people who are stateless or whose nationality is disputed." But the UNHCR Manual, which serves as the principal guide for UNHCR's worldwide operations, lacks any reference to the statelessness mandate.⁸ With the exception of Central and Eastern Europe, UNHCR's role in relation to statelessness does not appear in the Country Operations Plan prepared by each Branch Office.

Guidelines and tools

45. The most widely known and used UNHCR guidelines on statelessness were issued by DIP through Inter-Office Memorandum No. 66/98 and Field Office Memorandum No. 70/98 on 28 September 1998, under the title: *Guidelines: Field Office Activities Concerning Statelessness*. These guidelines cover issues such as the causes of statelessness, the interface between refugee protection and statelessness, and the activities a field office could potentially engage in to address the issue.

46. It is commendable that DIP has taken the initiative to develop additional guidelines on statelessness, relating the issue to that of refugee status determination and the situation of women and children. It should also be noted that DIP has made a serious investment in translating the basic documents on statelessness into languages other than English.

47. Efforts should be made to improve the physical appearance of the statelessness guidelines, which run the risk of disappearing amongst the huge flow of papers from headquarters to the field. It is recommended that they be published in a more sturdy and handy format, which could be widely disseminated in the same way as other protection guidelines, such as those on voluntary repatriation or on resettlement.

⁶ See, for example, Human Rights Watch, *Living in Limbo: Burmese Rohingyas in Malaysia*, New York, July 2000, vol.12, no.4.

⁷ A brief reference to it appears in some country chapters in the 1999 version where "citizenship legislation" is mentioned as one topic of development cooperation.

⁸ A new version is soon to be drafted and it is understood that statelessness issues will be mentioned in the chapter on international protection.

48. The guidelines that have been produced on specific situations of statelessness currently exist as stand-alone documents and their circulation has rather been limited. They should be consolidated in a single document or attached to the main guidelines in order to provide some practical examples.

49. Finally, it would be useful to develop brief guidelines on statelessness for use at the national and regional level. The Regional Bureau for Europe has produced a number of 'advocacy papers' on various protection themes, written in language aimed at the non-specialist.⁹ Similar documents could be produced in relation to statelessness and used by UNHCR staff members in the course of their promotional and public information activities.

⁹ These papers address issues such as the detention of asylum seekers and fair and efficient asylum procedures. They make reference to UNHCR positions and state practices, answer frequently asked questions, refer to international instruments, and provide a list of further reading. The format isn a useful one for dissemination purposes, targeting the public in general, politicians, government officials and the media.

Activities related to statelessness

50. In October 1998, UNHCR launched a global campaign to promote state accession to the international refugee instruments as well as the two conventions on statelessness. Since the launch of this campaign, considerable progress has been made in the latter respect. Nine states¹⁰ have acceded to the 1954 Convention and four states¹¹ to the 1961 Convention, bringing the total number of signatories to 53 and 23 states respectively.

51. Progress has been slowest in the Asia-Pacific region, where UNHCR has tended to focus its attention on promoting accessions to the 1951 Refugee Convention. Only five states in the region, Australia, Fiji, Kiribati, Republic of Korea, and the Philippines, are signatories to the conventions on statelessness.

52. Even in countries which have not acceded to the statelessness conventions, UNHCR has in some instances been able to raise awareness of the issue, to share information and experiences from other states, and to engage in technical discussions on practical issues such as the registration of births.

53. The obligation placed on UNHCR's field offices to report regularly on the accession campaign seems to have served as a useful reminder of the organization's mandate in relation to statelessness. At the same time, this reporting requirement enabled UNHCR to develop a better understanding of the dimensions and manifestations of the problem, as well as the diverse range of measures that can be taken to address it.

Technical and advisory services

54. As mentioned earlier, UNHCR has been requested by its Executive Committee and the UN General Assembly to "provide relevant technical and advisory services pertaining to the preparation and implementation of nationality legislation to interested States." DIP, in cooperation with the regional bureaux, actively identifies states in which relevant legislative reform is taking place or in which technical assistance is needed.

55. DIP has hitherto provided legal advice on the drafting of nationality legislation either to or in relation to a total of 141 states, and has cooperated with 51 states directly in legislation reform. Advice has also been provided in relation to the administrative procedures that states employ to regulate cases of statelessness. This is an important aspect of the technical and advisory services provided by UNHCR, as statelessness often results not from legislation itself but from shortcomings in its implementation.

¹⁰ Chad, Guatemala, Latvia, Lithuania, Mexico, Saint Vincent and the Grenadines, Slovakia, Swaziland and Zimbabwe.

¹¹ Chad, Slovakia, Swaziland and Tunisia.

56. It is very difficult to measure the extent to which UNHCR's technical and advisory services have contributed to the reduction and prevention of statelessness. However, some useful figures were provided by the UNHCR office in Crimea, indicating that between 1996 and 2000, some 74 per cent of the country's Formerly Deported Peoples (FDPs) acquired Ukrainian citizenship. Of these, 31 per cent were *de jure* stateless, while the remaining 69 per cent managed to change their citizenship from their previous one, without becoming stateless during the transitional period. As a later section of this report suggests, UNHCR can take a considerable degree of credit for these positive developments.

Information gathering

57. In 1995, UNHCR was requested by the Executive Committee to gather information on the scale of statelessness worldwide. In practice, however, it has proven difficult to ascertain the magnitude of the problem.

58. The first reason for this situation is to be found in the fact that states retain an exclusive right to grant and recognize nationality, and because many governments are reluctant to categorize certain groups of people as being formally stateless. Such people are more likely to be described simply as 'foreigners' or even as 'non-citizens'. A great number of states do not register residents at all, or do so only on an irregular basis.

59. UNHCR's statistical reporting procedures divide the people of concern to the organization into five categories: refugees, asylum seekers, internally displaced persons and 'others of concern'. Stateless persons could fall into any one of these categories, and UNHCR's field offices do not generally attempt to make a distinction between stateless refugees and stateless non-refugees.

60. A third reason why it is so difficult to collect data on statelessness derives from the fact that stateless people and populations are generally less visible, identifiable and quantifiable than others who are of concern to UNHCR. In this respect, the Formerly Deported Peoples of the former Soviet Union constitute an exception to the rule.

61. Despite these difficulties with statistics, UNHCR has attempted and succeeded in collecting information on other aspects of statelessness. For example, the organization collects nationality laws and national jurisprudence on a regular basis, and incorporates both in its Knowledge Information Management System and Refworld database. The Annual Protection Report submitted by each Branch Office also contains a section on statelessness.

62. UNHCR should ensure that these reports are used as a guide to issues and situations pertaining to statelessness that warrant further research. Unfortunately, the recent decision to disband the organization's Centre for Documentation and Research will almost certainly make this task more difficult.

Advocacy

63. During the past five years, UNHCR has made a concerted effort to undertake advocacy on the issue of statelessness – a task that has been carried out primarily by the Senior Legal Officer who specializes in this issue.

64. UNHCR's advocacy efforts have hitherto focused on countries where there are actual or potential situations of statelessness. In future, more should be done to engage UNHCR's principal donors in this issue, so as to gain increased political and financial support for the organization's work in this domain.

65. Efforts should also be made to increase public and media awareness of statelessness, as well as UNHCR's efforts to address the problem. A special issue of *Refugees* magazine on statelessness might be published, so as to highlight the human dimensions of the issue. A short video film and a PowerPoint presentation on statelessness, the latter being accessible on the UNHCR website, would also support the organization's advocacy and promotional efforts.

Training

66. Since establishing a focal point for statelessness in DIP some five years ago, approximately 1,200 staff members have participated in a total of 39 training sessions on the issue. Eighteen of these sessions formed part of broader protection training workshops and the other 21 were dedicated to statelessness, and were normally between two and three days in duration. Such workshops have been held in virtually all regions, with the exception of West Africa.

67. The induction training provided to new UNHCR staff members has been revised to include a short session on statelessness. At the same time, UNHCR has been providing training in statelessness to a growing number of government officials and NGO staff. In all of these activities, the principles of international law and the provisions of different national laws are examined, as well as the different strategies that can be used to prevent and address the problem of statelessness.

68. If UNHCR is truly committed to making statelessness part of its core activities, additional training will be required to ensure that knowledge of the issue is spread more widely and deeply throughout the organization. In the first instance, however, training should continue to be targeted at protection and legal staff, including national officers.

69. In the next phase, training activities should focus on senior managers, including country or regional representatives and directors at headquarters. This could also be used as an opportunity to discuss how UNHCR's activities in relation to statelessness could be designed for a specific country and regional contexts. Finally UNHCR staff in general should be familiarized with the problem of statelessness and UNHCR's mandate to address it, so as to dispel the myth that it is the exclusive responsibility of specialized legal officers.

70. Training has so far been conducted by a very limited number of staff. Initially, it was foreseen that only five per cent of the Senior Legal Officer's time would be spent in training activities. In a revised job description, this proportion has

been increased to 15 per cent. In reality, however, it is estimated that the Senior Legal Officer actually spends 25 per cent of her time on this task.

71. As a next step, UNHCR's training capacity in this area should be strengthened and decentralized. UNHCR now has a number of legal officers with a very good knowledge of statelessness, and efforts should be made to ensure that they contribute to the planning and implementation of training activities.

72. The Senior Legal Officer should engage in discussions with the Protection Support and Oversight Section (PSOS) and the Staff Development Section (SDS) on how to disseminate knowledge on statelessness more widely and effectively. The recent collaboration between the Senior Legal Officer and PSOS in developing protection learning programmes should continue.

73. To ease the burden on headquarters, training should be decentralized to the field as much as possible. Regional training officers should be closely associated with the process of planning and organizing workshops, and should eventually assume responsibility for giving the training themselves. A systematic evaluation of UNHCR's training activities in the field of statelessness should be undertaken, so as to improve the quality and impact of the workshops that are held.

74. The Senior Legal Officer should focus on the following aspects of statelessness training:

- planning and designing training activities, and developing training modules (including audio-visual materials) adapted to the needs of different target groups;
- strengthening the training capacity of regional training officers, as well as other staff members who have a good understanding of the issue and a capacity to provide training at basic and intermediary levels; and,
- conducting advanced and country-specific training.

Inter-agency co-operation

75. It is evident that UNHCR alone cannot resolve each and every situation involving stateless persons, and in recognition of this, the Executive Committee has requested UNHCR to "enhance co-operation with other interested organizations" in the area of statelessness.

76. Generally, however, UNHCR is not perceived as an organization that has made a vigorous effort to develop a partnership with other organizations in this area. This perception should be addressed by means of new attempts to cooperate with other actors, including the joint planning and implementation of activities.

77. Given that statelessness is often the result of gaps in legislation, it is essential that UNHCR contribute to the normative development of international law in this area. To achieve this objective, UNHCR should continue to develop its relationship with entities such as the Committee of the Rights of the Child (CRC), the Human Rights Commission, the Sub-Commission on the Prevention of Discrimination and Protection of Minorities and the International Law Commission.

78. In view of the priority that UNHCR has placed on statelessness issues in Europe, it is not surprising to find that the organization has developed a high level of co-operation with regional organizations in this part of the world. As mentioned earlier in this report, these include the CoE, OSCE and most notably, the HCNM.

79. UNHCR's collaboration with the HCNM has a number of important advantages. The HCNM is able to open up high-level political contact in countries affected by statelessness. His office also has considerable expertise in the reform and implementation of laws pertaining to minority groups. UNHCR, on the other hand, has complementary competencies: a protection mandate, expertise in the area of nationality and citizenship law; a presence on the ground; and the goodwill of states which have benefited from the organization's work in relation to refugees and asylum seekers.

80. Co-operation with the CoE has also been of particular importance, especially in countries such as Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Ukraine, the Former Yugoslav Republic of Macedonia, Moldova, Romania, and the Russian Federation. As a result of this co-operation, the two organizations have been able to promote the values and principles enshrined in the European Convention on Human Rights, thereby approaching the issue of statelessness from a preventive perspective. Two recent European instruments, namely the 1997 European Convention on Nationality, and the Council of Europe Recommendation on the avoidance and reduction of statelessness, clearly reflect the impact of UNHCR's input.

81. The UNHCR/CoE partnership has attained a high degree of credibility as a result of the successful joint programmes that have been established for legal and institutional development in Central and Eastern Europe. These have yielded significant results, including legal amendments to prevent statelessness. For its part, the CoE provides a network of legislators and practitioners who have solid experience on statelessness in the region. UNHCR, on the other hand, brings a global perspective to the issue and, by virtue of its field presence, concrete examples of the way in which people are affected by statelessness.

82. It may be possible to forge such partnerships in other parts of the world. While regional organizations in Asia have shown little interest in the issue, both the Organization of American States (OAS) and the Organization of African Unity (OAU) have placed it high on their agenda and have encouraged member states to accede to the statelessness Conventions.¹² UNHCR must evidently exploit this interest to the full.

¹² For example, the Special OAU/UNHCR Meeting of Government and Non-Government Technical Experts at the 30th Anniversary of the 1969 OAU Refugee Convention held in Conakry from 27-29 March 2000, adopted a resolution on statelessness which encourages "OAU Member States to co-operate with the OAU towards preventing and reducing statelessness through consultations, increased exchanges aimed at reducing conflicts of nationality laws, dissemination of information and training of government officials" and "...concerned OAU Member States to invite UNHCR and other relevant organizations or institutions to provide technical and advisory support regarding the preparation and implementation of appropriate legislation in order to avoid or reduce statelessness in Africa." This meeting was a result of some two years of continued advocacy by UNHCR. Once the foundation was effectively set in motion, the Regional Bureau and DIP further cooperated by

83. In its efforts to establish effective co-operation with other bodies, there are a number of basic principles which UNHCR should strive to respect. There should be a clear understanding of the mandate of the organization with which UNHCR is planning to form a partnership. A high level of transparency should be established with respect to the exchange of information. Simple administrative mechanisms, including a basis for the sharing of costs, should be put in place. And at the outset of any joint programme, a simple framework of objectives and principles of co-operation should be established in writing.

Non-governmental organizations

84. UNHCR has a long history of co-operation with NGOs in the fields of refugee protection and assistance. But in the area of statelessness, the skills of NGOs are still rather limited, even in major human rights advocacy organizations. The situation is gradually improving, however, thanks in part to the training workshops organized by UNHCR, to which a number of major NGOs have been invited.

85. In future, training should be aimed at not only raising awareness and facilitating the exchange of information with NGOs, but should also discuss possible joint activities in relation to statelessness. Such an approach would be fully consistent with the 'Reach Out' programme that DIP has pursued in recent years.

86. This approach has also proven to be effective in Central and Eastern Europe, where UNHCR's strategy has involved working with and through local NGOs and at the same time strengthening their capacity by the provision of moral, financial and technical support. A recent initiative in Ecuador, where UNHCR has established a birth registration project in co-operation with the Catholic Church, suggests that the potential exists for such partnerships to be established in other parts of the world. More specifically, local NGOs have an important role to play in relation to tasks such as collecting information, identifying problems, providing legal guidance and support to individuals, as well as representing them before the authorities.

drafting the resolution, which was tabled for consideration and subsequently adopted by the OAU in this meeting.

Regional dimensions

87. The problems of statelessness and disputed nationality are longstanding ones. But they have often been regarded as minor issues, affecting only a small number of people who have fallen between the cracks of different national legal systems.

88. With the drastic political changes taking place in Central and Eastern Europe in the early 1990s, however, statelessness and citizenship issues began to appear more prominently on the international community's agenda. States and other actors realized that unresolved citizenship issues could become a source of social and political tension, trigger conflict within and between states and provoke mass movements of people. It was in this context that UNHCR began to assume a more active role in relation to statelessness.

The Czech Republic

89. UNHCR launched its first major programme in this area in the Czech Republic, when a large number of people became stateless as a result of the implementation of a new citizenship law, following the country's separation from Slovakia. This had a particularly important impact on the gypsy or Roma minority group in the Czech Republic, most of whom were born on Slovak territory or who were descended from people born in Slovakia. Restrictions incorporated into Czech citizenship law, compounded by the introduction of high administrative fees, had the effect of excluding large numbers of people from citizenship, even though they had significant and genuine links to the Czech Republic.

90. Other governments, international organisations and NGOs expressed serious concern about the status and rights of those people affected by these developments. Once the authorities accepted (after some initial reluctance) an offer of assistance from UNHCR, technical advice on legal reform was provided and training given on the implementation of naturalization procedures. Considerable efforts were also made by UNHCR and its NGO partners to identify flaws in legislation and practice. The action taken by UNHCR, its NGO partners as well as other actors resulted in the Czech Parliament passing an amendment to the citizenship law in 1996.¹³

91. A number of factors contributed to the successful outcome of this initiative. The authorities concerned were receptive to UNHCR's involvement and approach. They were sensitive to the views of the international community, which had an evident interest in fostering stability and promoting human rights in the former Soviet bloc. In addition, UNHCR helped to establish and fund an effective NGO, which assisted stateless people in their dealings with the administration.

¹³ The EU, CoE and OSCE/HCNM also took part in discussions and negotiations on this issue.

Ukraine

92. In Ukraine, the problem of statelessness arose from the post-1988 return of some 260,000 Tatars, a group that had been subjected to mass eastward deportations in the Stalin era. The Ukrainian authorities found it difficult to cope with the spontaneous and massive return of Tatar deportees and their descendants. Tensions also arose between the returnees and the resident population of the Crimea, with both groups competing for shrinking economic resources.

93. Initially, citizenship was not a major issue, as the law of the new Ukrainian state recognized anyone as a citizen as long as that person was a resident of the country and not a citizen of any other state as of 13 November 1991, when the law entered into force. Approximately 56 percent of those formerly deported peoples (FDPs) who returned acquired Ukrainian citizenship in this way. However, the situation changed after the 13 November deadline, when thousands of new returnees failed to automatically qualify for Ukrainian citizenship.¹⁴

94. In February 1996, responding to a request from the Ukrainian President, UNHCR sent an assessment mission to Crimea. The organization's subsequent approach in the country was a two-track one, intended first to reduce the problem of statelessness by facilitating the efforts of FDPs to gain Ukrainian citizenship, and second to reduce ethnic tensions prevailing in the region and thereby limit the potential for conflict.

95. To achieve these twin objectives, UNHCR combined legal and material assistance, supporting the development of national legislation and structures, as well as engaging in the rehabilitation of communal buildings for the most vulnerable FDPs.¹⁵ In addition, UNHCR helped with the creation of counselling centres for Crimean Tatars, assisted government departments to implement the law on citizenship, and aided a national NGO to raise awareness of the problem of statelessness and to meet the needs of the affected population.

96. The government of Ukraine was appreciative of the assistance and advice provided by UNHCR, not least because its economy was in a state of serious decline and it was incapable of devoting scarce resources to the problem. Politically, it was also important for Ukraine to be perceived as a responsible state that could become a fully integrated member of the new Europe. In these circumstances, UNHCR found

¹⁴ The FDPs can be identified as belonging to three different categories:

- a. FDPs who returned to Ukraine before the Ukrainian citizenship legislation entered into force in 1991 were in principle, according to the Ukrainian law, included in the initial body of citizens of Ukraine.
- b. FDPs who returned to Ukraine after the Ukrainian citizenship legislation entered into force and left their previous country of residence before the respective citizenship legislation entered into force were found to be *de jure* stateless.
- c. FDPs who returned to Ukraine after the Ukrainian citizenship legislation entered into force and left their previous country of residence after the respective citizenship legislation entered into force and had *de jure* acquired citizenship of their previous country of residence.

¹⁵ "It can be mentioned that as a result of UNHCR's material assistance, the Citizenship Department has become the only department in the Presidential Administration fully fitted with computers and office equipment", Oxana Shevel, 'International influences in transition societies: the effect of UNHCR and other IOs on citizenship policies in Ukraine'. *Rosemarie Rogers Working Paper Series*, No. 7, Boston, August 2000, p.25.

it relatively easy to prove its usefulness and gain the government's confidence. In both Ukraine and the Czech Republic, it should be noted, UNHCR's successful efforts to address the problem of statelessness facilitated the organization's efforts to protect refugees through the development of national asylum systems.

97. In addition to the two cases examined above, UNHCR has provided advice on the issue of statelessness to virtually all countries of the former Soviet Union. While the CIS Conference process did not explicitly address the issue of statelessness, its Programme of Action adopted the principles contained in the 1961 UN Statelessness Convention and recommended that citizenship legislation in the region conform to international standards.¹⁶

98. In other situations, UNHCR's involvement in the issue of statelessness has varied significantly. Estonia and Latvia provide an example of states where the organization decided not to become substantially involved, despite serious concerns within and outside of the organization about the problem of statelessness and its potential to generate political instability. In these cases, UNHCR chose to keep a low profile, merely monitoring developments and occasionally offering its opinion on draft legislation.

99. UNHCR's position in relation to Estonia and Latvia was determined primarily by the fact that the governments concerned refused to acknowledge that their Russian residents were stateless, and because neither state acknowledged that UNHCR's mandate was applicable to the situation. As a result, UNHCR left other international actors, including the OSCE, CoE and the European Union (EU), to engage with the authorities. In both instances, UNHCR found it more appropriate and effective to concentrate its efforts on refugee protection, the establishment of asylum systems and accession to the 1951 Refugee Convention.

The Middle East and Africa

100. UNHCR has generally pursued a less active role in relation to statelessness in regions beyond Europe. This can be ascribed to a number of factors: the natural priority given to refugee programmes in regions affected by mass population displacement; a belated recognition by UNHCR and other members of the international community that statelessness is a global phenomenon; and the high level of official sensitivity about citizenship issues in many of the countries most directly affected.

101. In the Middle East, the problem of statelessness has been manifested in the situation of the Bidoons, a minority group living in Kuwait and other countries of the Persian Gulf. Around 230,000 Bidoons lived in Kuwait before the Iraqi occupation and the war against Iraq. During the conflict, however, 100,000 or more are thought to have been expelled to Iraq, while a number of others were resettled by UNHCR as an emergency protection measure.¹⁷

¹⁶ The CIS conference process was established to address the problem of displacement in the region, and was supported by UNHCR, International Organization for Migration (IOM) and the OSCE.

¹⁷ The number of Bidoons outside the country is between 130,000 and 160,000. See Human Rights Watch, *The Bidoons of Kuwait*, New York, August 1995, p.28.

102. Since the liberation of Kuwait, few of the Bidoons have been readmitted to the country. For those remaining, their citizenship is unclear and most are presumed to be stateless, even though many of their families have lived in Kuwait for generations.

103. UNHCR has approached the Kuwaiti authorities on this matter, raised its concern over the situation of the Bidoons and offered technical advice with regard to statelessness. The government has not contested the organization's involvement and the issue has been openly debated in the country.

104. Nevertheless, UNHCR's activities seem to have had little impact so far, leaving the organization to focus on finding practical solutions for the individuals concerned by means of social and legal counselling. A recent headquarters mission to the country, however, coupled with a new degree of official interest in UNHCR's role in relation to statelessness, has raised hopes that the organization might be able to contribute more substantively to the resolution of the problem.

105. UNHCR, it should be noted, has played a minimal role in relation to the Palestinians, the largest group of people in the world who, it can be argued, lack an effective nationality. This is primarily due to the fact that most Palestinian refugees fall under the mandate of UNRWA, the UN Relief and Works Agency for Palestine Refugees in the Near East, rather than UNHCR. But UNHCR's non-involvement with the Palestinians is also a reflection of the highly politicized nature of the conflict in the Middle East.

106. In Africa, UNHCR's interest and involvement in the issue of statelessness has been prompted by two developments: the situation of the Banyamulenge in Zaire - descendants of Rwandese settlers who took up arms against the Mobutu government when their citizenship of Zaire was denied; and the war between Ethiopia and Eritrea, which led to the deportation of long-term residents of the former country, on the grounds that they were of Eritrean origin.

107. At a meeting of UNHCR Representatives in Africa, held in April 2000, the issue of statelessness was recognized as an important emerging problem. Participants in the meeting called for the earliest possible training of UNHCR staff, government officials and partner organizations. A training workshop was organized the following month, involving DIP and the Regional Director's Office.

Myanmar

108. In the early 1990s, large numbers of refugees, the so-called Rohingyas or Rakhine Muslims, fled to Bangladesh from Myanmar, where they experience serious discrimination and where their right to citizenship is not recognized. Having dealt with a similar exodus a decade earlier, UNHCR began to recognize that a lasting solution to the Rohingya problem would only be achieved if the issues of nationality and citizenship rights in Myanmar was to be resolved.

109. UNHCR established a presence in the Rakhine province in 1995 in order to assist in the reintegration of Rohingyas who were returning from Bangladesh. The movement was a controversial one, with some critics arguing that UNHCR had participated in an involuntary repatriation programme and was returning people to

a country where the root causes of the refugee movement, including the issue of citizenship, had been left unresolved.

110. Early in 1998, UNHCR presented a note to the Myanmar authorities, identifying issues of concern to the organization. Significantly, the provision of citizenship to the Rakhine Muslims was included. Although there has been some subsequent discussion of the issue between the two parties, UNHCR has not made any visible progress. The government, it seems, has little interest in addressing the question, while UNHCR remains concerned that if it pushes the issue too forcefully, its presence in the country and its capacity to monitor the welfare of returnees may be jeopardized.

111. In the Asia-Pacific region generally, statelessness continues to be regarded as an issue which should be discussed and settled among the governments concerned, without the involvement of an international organization. While UNHCR's Asia Bureau recognizes that the nationality issue could be used in certain countries as an instrument for the exclusion of unwanted groups and individuals, its efforts in the region have continued to focus on the task of refugee protection.

112. It is therefore of some significance that UNHCR, the Vietnamese Ministry of Foreign Affairs and the Institute of International Relations recently held a joint workshop on the issue. As well as reviewing Viet Nam's current citizenship law, the workshop examined ways of addressing the problem of statelessness, including alterations to the existing law and bilateral agreements with other countries.

113. A final area where UNHCR's involvement in the issue of statelessness has assumed a new importance concerns the situation of rejected asylum seekers whose nationality is unclear or disputed. As the industrialized states step up their efforts to remove unsuccessful refugee claimants, the scale of this problem seems likely to expand.

Lessons learned

114. A number of valuable lessons have been learned from UNHCR's recent efforts to address the issue of statelessness. First, there is a need for the organization's field offices to be on the alert for emerging problems – an activity that can be facilitated when UNHCR has developed good relations with a network of local NGOs and civil society organizations.

115. When such problems are identified, both DIP and the relevant regional bureau should be alerted as quickly as possible. Legal analysis (including the relevance of UNHCR's mandate) and an assessment of the likely magnitude of the problem should be conducted simultaneously, and be undertaken before any attempt is made to intervene with the state concerned.

116. Indeed, given the sensitivity of the issue, UNHCR should ensure that an active programme of confidence-building is established in countries which are likely to be affected by the problem of statelessness. At the same time, UNHCR should keep abreast of relevant activities undertaken by other international organizations and regional bodies, so as to maximize the potential for effective co-operation and co-ordination.

117. In terms of operational activities, experience has demonstrated that UNHCR should provide governments with an expert advisory service on nationality legislation. This service includes offering legal opinions, organizing conferences and workshops, as well as drafting legal provisions. In states that are in the process of developing functional institutions, fora such as roundtables often provide useful opportunities to exchange viewpoints and to clarify positions on legal practices.

118. As underlined by this report, the issue of citizenship is a highly political one, and UNHCR's involvement in it may well be exploited by both governments and non-state actors. As a result, UNHCR should seek to focus its attention on technical activities, as it did in Ukraine.

119. Rather than becoming involved in broader and political issues such as voting rights, the issue of Crimean autonomy and Crimean Tatar political representation, UNHCR concentrated on finding remedies to unintentional legal flaws and on adapting national legislation to conform with the international instruments to which the government was eager to accede. A similar approach was taken in Bosnia and Herzegovina, where the drafting of a post-Dayton citizenship law had to be initiated in a politically charged and highly tense situation.

120. As discussed earlier, in the case of Estonia and Latvia, it was clear from the outset that the issue of statelessness was highly politicized. In this context, UNHCR had no other choice but to accept that its mandate on statelessness was not recognized and to acknowledge that the governments concerned did not want its advisory assistance. UNHCR also recognized that other international actors, in particular the OSCE and EU, were better placed to take up the issue.

121. The lesson to be learned from this experience is that international community's involvement in the problem of statelessness is essential. But the international community does not necessarily have to be represented by UNHCR.

Future orientation

122. As a result of its achievements in relation to statelessness issues during the past decade, UNHCR is increasingly looked upon to provide advice and support on this issue when the need arises. However, the resources allocated to this function are currently inadequate to meet the growing needs.

123. In recent years, UNHCR has made an effort to strengthen its capacity in this domain. The Senior Legal Officer dealing with statelessness, who started to work with the organization as a consultant, now has a specialist regular post. That post has been upgraded to the P4 level and is now supported by a Junior Professional Officer (JPO), but without any dedicated administrative support.

124. This evaluation concludes that a specialized statelessness unit should be established by DIP, in accordance with the findings of a 1998 report prepared by the Inspector-General, which stated: "given UNHCR's growing involvement with the issue of statelessness and the potential for the organization to extend its activities in the field, the Inspector and his team believe that consideration should be given to the establishment of a Nationality and Statelessness Unit." This recommendation has not been implemented, and a request to create an additional post at the P3 level for the year 2001 has also been rejected.

125. The evaluation believes that the proposed statelessness unit should be independent of the Standards and Legal Advice section of DIP and should report directly to the Deputy Director of the Department. The unit should also have its own budget and have one General Service staff member who is responsible for administrative and secretarial support. The designation of the post of Senior Legal Officer as a specialist one (and thus not subject to mandatory staff rotation) should be maintained.

126. A primary task of the new unit should be to devolve responsibility for statelessness issues to the rest of the organization, ensuring that UNHCR's regional bureaux and field offices are adequately equipped for the function. In this respect, it will be necessary to establish a network of staff members with competence in this area - a development that should be supported and recognized by the organization's Career Management System.

127. Each regional bureau should have its own focal point on statelessness, a role that might normally be assumed by the Senior Regional Legal Adviser. Each bureau should also be required to develop a regional strategy and plan of action on the issue of statelessness. DIP should establish a small advisory group on statelessness, bringing these focal points together on a regular basis, so that they can share information and ideas and identify examples of good practice.

128. At a time of limited resources, when UNHCR is seeking to prioritize its operational activities, there is a clear risk that the organization's commitment to the issue of statelessness will be diminished rather than strengthened. This evaluation urges UNHCR to ensure that this does not happen, while acknowledging that it

might not be easy to mobilize additional resources for this aspect of the organization's work.

Abbreviations

CoE	Council of Europe
CRC	Committee on the Rights of the Child
DIP	Department of International Protection (UNHCR)
EPAU	Evaluation and Policy Analysis Unit (UNHCR)
EU	European Union
EXCOM	Executive Committee (UNHCR)
FDP	Formerly Deported People
HCNM	High Commissioner for National Minorities
IGO	Inter-Governmental Organization
ILC	International Law Commission
IOM	International Organization for Migration
JPO	Junior Professional Officer (UNHCR)
NGO	Non-Governmental Organization
OAS	Organization of American States
OAU	Organization of African Unity
OHR	Office of the High Representative (UN)
OSCE	Organization for Security and Cooperation in Europe
PSOS	Protection Support and Oversight Section (UNHCR)
SDS	Staff Development Section (UNHCR)