

BACKGROUND GUIDE

# United Nations High Commissioner for Refugees (UNHCR)



Property of Lagos Model United Nations

Background Guide: United Nations High Commissioner for Refugees (UNHCR)

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## Letter from USG

Dear delegates,

With great pleasure, I welcome you to the seventh session of the Lagos Model United Nations. LMUN is a platform that highlights contemporary world issues. It brings together youths from different walks of life to deliberate on viable solutions to make the world a better place. The conference helps participants develop and improve their writing, research, public speaking, leadership, networking and diplomatic skills. LMUN refines and polishes the very best qualities in us, and I have no doubts that this conference will be a transformative process for all participants.

This year, the staff of the United Nations High Commissioner for Refugees (UNHCR) Committee are **Gloria Oziohu Alonge** (Under-Secretary General), **Enoch Akinlabi** (Chair), **Habibat Sidiq** (Vice-Chair), **Ufuoma Moses** (Researcher) and **Tofunmi Bola-Rotimi** (Researcher).

**Gloria** is a 4th-year law student at the University of Lagos. She has served as a delegate in several MUNS, including LMUN 2019 as the delegate of Algeria in ECOSOC and MYMUN in 2020 as the delegate of Egypt in GA 6, where she was awarded the Best Delegate Award. She has also served in official capacities as a Chair for WHO in MYI-MUN 2020 and as a Researcher for the UNHCR in LMUN 2021. She believes that MUNS are essential in the sensitization of youths on global issues and the development of problem-solving skills. She is passionate about diplomatic relations, human rights and the attainment of the SDGs. **Enoch** is a 4th-year student of law, at the University of Lagos. He was a delegate in LMUN 2020 and bagged the Distinguished Delegate and Best orator award in his committee for that session, the UNHRC. He believes in the strength and impact of human stories. This is why he applies himself exceptionally in his various endeavours to leave an amazing story in his wake for those coming behind to model themselves after. **Habibat** is a 4th-year student of the Faculty of Law, University of Lagos. She participated in LMUN`'21 and YISMUN 2021 where she bagged the best position paper award at both conferences. **Ufuoma** is a 4th-year student of the Faculty of Law, University of Lagos. She participated in LMUN'19 where she bagged the best position paper award. She enjoys reading and all the good things of life. **Tofunmi** is a 3rd-year student of the Faculty of Law, University of Lagos. She participated in LMUN'21 where she bagged the Distinguished Delegate and Position Paper awards. She has budding interests in International law and diplomacy and sees the conference as a great platform to tackle real-life issues head-on. She is also open to participating in other MUNS both nationally and internationally.

The UNHCR deals with the provision of aid and the protection of refugees, forcibly displaced communities, and stateless people. It also assists in their voluntary repatriation, local integration and resettlement in host countries.

The topics to be discussed by the Committee are:

- I. Climate Change and Displacement
- II. Ending Statelessness

The background guide is to serve as a stepping stone to begin research on the topics to be discussed and not as a replacement for individual research. As such, delegates are encouraged to conduct their research beyond the background guides and make use of the Further Research, Annotated bibliography and Bibliography to aid in extensive research. Also, the Delegate Prep Guide and the Rules of Procedure will acquaint you with the conference's required conduct and procedural rules. These documents can be accessed on the LMUN website- [www.lmun.ng](http://www.lmun.ng).

In preparation for the conference, each delegate is expected to submit a position paper on a date to be communicated after registration and country and committee assignment. The guidelines in the LMUN Position Paper Guide will direct delegates on this process.

To communicate any questions or concerns during your preparation for the conference, please contact me at [usggeneralassembly@lmun.ng](mailto:usggeneralassembly@lmun.ng) or the committee at [gal@lmun.ng](mailto:gal@lmun.ng).

We look forward to seeing you at the LMUN 2022 Conference!

**Gloria Oziohu Alonge**

USG General Assembly, LMUN 2022.

## Abbreviations

<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination Against Women
<b>CRC</b>	Convention on the Rights of the Child
<b>ECN</b>	European Convention on Nationality
<b>ECOSOC</b>	United Nations Economic and Social Council
<b>GHG</b>	Greenhouse Gas
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>OAU</b>	Organisation of African Union
<b>UDHR</b>	Universal Declaration of Human Rights
<b>UN</b>	United Nations
<b>UNFCCC</b>	United Nations Framework Conference for Climate Change
<b>UN</b>	United Nations
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>UNGA</b>	United Nations General Assembly
<b>UNRRA</b>	United Nations Relief and Rehabilitation Administration
<b>SDGs</b>	Sustainable Development Goals
<b>COP26</b>	26th United Nations climate change conference of the parties
<b>WHO</b>	World Health Organisation

## Committee Overview

### Introduction

The United Nations High Commissioner for Refugees (UNHCR), otherwise known as the UN Refugee Agency, is an agency of the United Nations specifically designed to help “refugees” deal with the challenges they face while fleeing their homelands due to war, armed conflict, climate crisis, and declining economy. The UNHCR understands that the efforts to cater to the rights and welfare of refugees adequately cannot be pursued in isolation as broader trends and policies shaping global migration are emerging. Hence, its mandate also recognises stateless persons, migrants, and asylum seekers.<sup>1</sup>

The Office of the UNHCR was established in 1950 to assist millions of Europeans who fled or lost their homes as a result of the Second World War. In recent times, the world has seen more refugees than ever. Armed conflict and human rights violations have been on the rise, entangled with ethnic differences, religious animosities, extreme poverty and climate change. For this reason, an alarming number of refugees are trapped homeless and wandering in limbo.<sup>2</sup>

On December 3, 1949, the United Nations General Assembly passed *Resolution 319(IV)*, establishing a High Commissioner for Refugees on January 1, 1951. The most important principle of the UNHCR is the non-refoulement principle, regarded as a rule of customary international law, which protects refugees from being sent back to a nation/state where their life or freedom is in grave danger or being threatened. *Article 14 of the UDHR* provides that “everyone has the right to seek and enjoy asylum from persecution.”<sup>3</sup>

The League of Nations’ initial attempt to help refugees was in the wake of the First World War. The then High Commissioner focused his efforts on restoring the legal status of

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<sup>1</sup> UNHCR Africa, “Asylum and Migration.”

<sup>2</sup> UNHCR, “A guide to International refugee protection and building state asylum system.”

<sup>3</sup> United Nations, “Universal Declaration of Human Rights.”

refugees in host states by providing them with identification, travel documents, and employment opportunities. In 1944, the United Nations Relief and Rehabilitation Administration (UNRRA) was established to provide relief to those displaced by the Second World War throughout Europe. The United Nations (UN) created the International Refugees Organisation (IRO) in 1947 to tackle the issues confronting refugees, including their status, resettlement, and repatriation.<sup>4</sup> However it died in 1951. Therefore, the UN deemed it imperative that a replacement be made and thus birthed the United Nations High Commissioner for Refugees (UNHCR) as a subsidiary under the *General Assembly Resolution 319(V)* of the UN General Assembly. It was agreed that the Agency would operate for three years, and its mandate was to provide international support to refugees on a humanitarian basis. However, people already receiving assistance from other UN organs were exempted from this mandate. Afterwards, the 1951 Convention relating to the Status of Refugees was adopted by the UNHCR as its primary document. At this time, the jurisdiction of the convention was only limited to Europe.<sup>5</sup>

A major turning point occurred in 1956 when the organisation coordinated an uprising in Hungary. After a year, it was tasked with aiding Chinese immigrants from Hong Kong. It also helped Algerians who fled to Morocco and Tunisia during the war for independence. In the 1960s, the UNHCR moved its operations to Africa, which caused a huge transformation within the organisation. In the 1970s, it responded to Asia's refugee crisis, and international initiatives such as the Comprehensive Plan of Action (CPA) were proposed and taken.<sup>6</sup> This spurred the UNHCR to get involved in long-term aid for refugees.<sup>7</sup>

A refugee is someone forced to flee their home country to avoid persecution or a serious threat to their life, physical integrity, or freedom. The *1951 Refugee Convention* defines a

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<sup>4</sup> UNHCR, Self-study module 1: "An introduction to International Protection: Protecting Persons of Concern to UNHCR."

<sup>5</sup> UNHCR, "An Introduction to International Protection."

<sup>6</sup> UNHCR, "Executive Committee of the High Commissioner's Programme Standing Committee," EC/46/SC/CRP.

<sup>7</sup> *ibid.*

refugee as a person who, “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country.”<sup>8</sup> However, this definition has been expanded by the *1967 Protocol Relating to the Status of Refugees* to remove temporal and geographical restrictions. Hence, it now includes “new refugee situations that have arisen since the convention was adopted and the refugee concerns that may not fall within the scope of the convention.”<sup>9</sup> The impact of this expansion can still be felt today as the commission deals with not only refugees, but also asylum seekers, stateless persons and internally displaced persons. In present times, the Agency protects and aids millions of displaced and stateless persons worldwide. The UNHCR has over 17,878 staff in 232 countries, and the Agency has helped over 50 million people restart their lives.<sup>10</sup>

### **Governance, Structure and Membership**

The General Assembly of the United Nations and the Economic and Social Council of the United Nations (ECOSOC) oversee the operations of the UNHCR. The High Commissioner is in charge of the UNHCR's general direction and management and reports back to the UN General Assembly and ECOSOC.<sup>11</sup> With the help of a Deputy High Commissioner and Assistant High Commissioners for Protection and Operations, they direct the Committee's work.<sup>12</sup> Filippo Grandi, the 11th High Commissioner for Refugees of the United Nations, was initially elected by the United Nations General Assembly for a five-year term on January 1, 2016. He was later re-elected to serve until June 30, 2023. For more than 30 years, he has worked as a refugee and humanitarian aid worker.

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<sup>8</sup> Article 1 of the UNHCR, “Convention and Protocol relating to the Status of Refugees.”

<sup>9</sup> OHCHR “Convention Relating to the Status of Refugees.”

<sup>10</sup> UNHCR, “History of UNHCR.”

<sup>11</sup> Para. 11 of the Statute of the Office of the High Commissioner for Refugees, as revised by General Assembly res. 58/153, 22 December 2003.

<sup>12</sup> UNHCR, ‘Governance and Oversight.’

The UNHCR Executive Committee was established in 1958 based on the General Assembly's request. The Committee is made up of members of the UN, including those who are not signatories to the 1951 Refugee Convention<sup>13</sup> and/or the 1967 Protocol<sup>14</sup> on the Status of Refugees, as the mission of the UNHCR is recognised by all UN member states. The Committee's responsibilities include advising the High Commissioner on his/her protection responsibilities, authorising his/her assistance programmes, and monitoring the Agency's administrative and financial operations.

The UNHCR's independent supervision system is anchored by the Inspector General's Office (IGO).<sup>15</sup> This oversight system exists to provide independent oversight to UNHCR's executive management and governance bodies on policy and procedure compliance; effectiveness and efficiency of operations; appropriate objectives, priorities, and strategies in place; the impact of UNHCR operations and interventions and lessons learned; and measures in place to prevent and detect fraud and other forms of misconduct, in accordance with UNHCR's Policy on Independent Oversight. International protection, operational support, finances, inspection and evaluation, human resources, and regional divisions are among the several divisions that make up the Office's structure.

There are 17,878 UNHCR personnel operating in 132 countries as of December 31, 2020. These personnel are stationed in various places, including regional and branch offices and sub and field offices, with around 91 per cent of them based in the field. The Executive Committee of the UNHCR approves the Agency's biennial programs and budget. The High Commissioner, who is appointed by the UN General Assembly every five years, makes the annual budget presentation.<sup>16</sup>

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<sup>13</sup> Convention relating to the Status of Refugees (189 U.N.T.S. 150, entered into force April 22, 1954).

<sup>14</sup> Protocol relating to the Status of Refugees (A/RES/2198 entered into force October 4, 1967).

<sup>15</sup> UNHCR, 'Inspector General's Office.'

<sup>16</sup> UN, 'Office of the United Nations High Commissioner for Refugees.'

The budget is nearly completely funded by voluntary contributions, with governments and the European Union accounting for 85 per cent of the total. Other intergovernmental bodies and pooled funding mechanisms account for 3 per cent, while the private sector, including foundations, firms, and the general public, accounts for 11 per cent. The UNHCR also receives a one-percentage-point subsidy from the UN budget for administrative expenditures and accepts in-kind contributions such as tents, medicines, and transportation.<sup>17</sup>

### **Mandate, Functions and Powers**

The UNHCR's primary mandate is outlined in the Statute of the Office of the United Nations High Commissioner for Refugees of 1950.<sup>18</sup> Its primary mission is to assure the international protection of persons who have been forced to flee their homes. The UNHCR works to provide international protection and humanitarian assistance and find long-term solutions for people who fall under its core mandate.<sup>19</sup> The organisation's mandate keeps evolving and now covers issues of displacement,<sup>20</sup> statelessness,<sup>21</sup> and refugees.<sup>22</sup> Prior to

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<sup>17</sup> UNHCR, 'Figures at a Glance.'

<sup>18</sup> UN General Assembly, Statute of the Office of the United Nations High Commissioner for Refugees, 14 December 1950, A/RES/428(V).

<sup>19</sup> See UN General Assembly, Statute of the Office of the United Nations High Commissioner for Refugees, 14 December 1950, A/RES/428(V), paras. 8(c) & (b), 9 and 10.

<sup>20</sup> A displaced person or persons are individuals or groups of individuals who have been forced or compelled to flee or leave their homes or areas of usual residence, in particular as a result of or in order to avoid the effects of violence, situations of generalised violence, human rights violations, natural or human-made disasters, and who have not crossed an internationally recognised state border. See "the guiding principles of internal displacements" - introduction, scope and purpose.

<sup>21</sup> A stateless person is defined as "a person who is not considered a citizen by any State under the operation of its law" according to international law. In simple words, this indicates that a person who is stateless does not have a nationality. See Art 1 of the 1954 Convention of Relating to the Status of Stateless Persons.

<sup>22</sup> A refugee is someone who is unable or unwilling to return to their home country "due to a well-founded fear of persecution for reasons of race, religion, nationality, membership of a specific social group, or political opinion," according to the Convention. See Art 1 of the 1951 Convention Relating to the Status of Refugees.

this development, the UNHCR mostly dealt with issues relating to refugees and their status.

The UNHCR's mandates stem from multiple documents such as *The Statute of the Office of the United Nations High Commissioner for Refugees of 1950*,<sup>23</sup> *The 1951 Convention on the Status of Refugees*,<sup>24</sup> *The 1954 Convention relating to the Status of Stateless Persons*<sup>25</sup> and the *1967 Protocol on the Status of Refugees*.<sup>26</sup> The *1951 Convention on the Status of Refugees* expands on the UNHCR's mandate, outlined in *Article 14* of the *Universal Declaration of Human Rights (UDHR)*,<sup>27</sup> which ensures anyone's right to seek asylum from persecution in another country.

Many resolutions of the General Assembly and the Economic and Social Council (ECOSOC) have since broadened this mandate. However, the *1967 Protocol on the Status of Refugees* is the most significant addition, as it broadened the spectrum of those who can be helped.<sup>28</sup> While UNHCR's mandate doesn't quite extend to all migrants, asylum-seekers and refugees are frequently included in mixed migratory flows, necessitating UNHCR's intervention.<sup>29</sup> The principal function of the UNHCR is to protect the rights and well-being of persons who have been forced to flee their homes. It works to ensure that everyone has the right to seek asylum and find a haven in another state, in collaboration with partners and communities.

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<sup>23</sup> UN General Assembly, Statute of the Office of the United Nations High Commissioner for Refugees, 14 December 1950, A/RES/428(V).

<sup>24</sup> UN General Assembly, Convention Relating to the Status of Refugees, 28 July 1951.

<sup>25</sup> UN General Assembly, Convention Relating to the Status of Stateless Persons, 28 September 1954.

<sup>26</sup> UN General Assembly, Protocol Relating to the Status of Refugees, 31 January 1967.

<sup>27</sup> UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III).

<sup>28</sup> Art 1 of the 1967 Protocol Relating to the Status of Refugees.

<sup>29</sup> See, UNHCR Agenda for Protection, A/AC.96/965/Add.1, Goal 2: Protecting refugees within broader migration movements. Also, UNHCR's 10-Point Plan on Refugee Protection and Mixed Migration.

The committee aims to encourage the conclusion and approval of international refugee protection conventions, and promote the implementation of measures estimated to improve the status of refugees, and minimise the number requiring protection via special agreements with governments.<sup>30</sup> Relief distribution, emergency preparedness, special humanitarian efforts, larger development work, registration, status assessment, and issuance of paperwork for those under the mandate, have all been regular activities of the UNHCR. The committee provides crucial emergency help in the form of clean water, sanitation, healthcare, and shelter, blankets, household goods, and sometimes food, during times of displacement. It also provides transportation and aid packages for individuals returning home, and income-generating enterprises for those relocating.<sup>31</sup>

The UNHCR has a long history of working with governments and creating partnerships with other international agencies and non-governmental organisations to carry out these tasks. The Office of the High Commissioner has built a solid network of collaboration over time through annual consultations with Non-Governmental Organisations (NGOs), structured dialogues with key partners, and countless Memorandums and Letters of Understanding with other UN agencies, intergovernmental organisations, and NGOs. The High Commissioner has the legal authority and responsibility to intervene personally on behalf of refugees and stateless people who would otherwise be unable to represent themselves internationally.<sup>32</sup>

### **Recent Sessions and Current Priorities**

The most recent session of the UNHCR was the 72<sup>nd</sup> session of the executive committee of the high commissioner program held in October 2021. In his opening statement<sup>33</sup>, the

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<sup>30</sup> See Art. 8 of the UN General Assembly, *Statute of the Office of the United Nations High Commissioner for Refugees*, 14 December 1950, A/RES/428(V).

<sup>31</sup> UNHCR 'What we do.'

<sup>32</sup> See Art 8, 9&10 of the UN General Assembly, *Statute of the Office of the United Nations High Commissioner for Refugees*, 14 December 1950, A/RES/428(V).

<sup>33</sup> "High Commissioners Opening statement to the 72nd Session of ExCom."

High Commissioner emphasised the need for dignified and durable solutions to conflict, which is the leading cause of forced displacement. Unresolved conflict can only worsen the displacement situation globally and frustrate humanitarian efforts. He also showed concern for the rejection of refugees fleeing conflict with the strategic use of laws and policies by countries, stating that it is incompatible with the 1961 refugee convention, international customs, and human rights.

The High Commissioner also advocated for the resettlement of refugees in host countries to provide life-saving aid to them. The interconnectedness of the world was also discussed, including how the actions of one individual can affect so many, as seen during the Covid-19 pandemic, the climate emergency, and conflict. He called for the equitable distribution of vaccines regarding the pandemic, as those most affected by the pandemic are persons working in the informal sector, most of whom are refugee women and girls. The High Commissioner also discussed the relationship between climate emergency and forced displacement. His opening statement further unfolded the current priorities of the UNHCR.

In response to the climate emergency and its effect on forced displacement, the first strategic framework on climate action,<sup>34</sup> which the UNHCR published in April 2021, was discussed. The document outlines the parameters for the committee's response to the climate emergency. It is articulated in three core pillars for action: supporting states in the formulation of laws and policies on climate displacement, strengthening operations in response to the adverse effects of climate change and its impact on refugees and the reduction of UNHCR's carbon footprint.

The UNHCR's five strategic directions for 2017-2021<sup>35</sup> outline the commission's approach to achieving its mandate from 2017 to 2021. Due to the growing complexity and scope of forced displacement by the Covid-19 pandemic and other factors, these directions were

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<sup>34</sup> UNHCR, strategic framework on climate change, April 2021.

<sup>35</sup> UNHCR, Strategic directions 2017-2021.

renewed for an extra five years as their effectiveness in finding solutions and protecting refugees, internally displaced, and stateless persons cannot be undermined.

The UNHCR's strategic directions 2022-2026,<sup>36</sup> while reinforcing the five core directions, went further to discuss the climate emergency, the Covid-19 pandemic, conflict, and their effects on forced displacement. The document also outlined eight areas the UNHCR would tackle for the five-year duration.

1. Safeguard international protection: The commission will focus on creating sustainable asylum systems for the adequate protection of refugees by creating avenues in such systems which can deal with mixed movements. Further ensuring the human rights of displaced persons are guaranteed while such persons seek asylum and shelter.
2. To strengthen accountability to the people under the UNHCR mandate, especially women and girls: The UNHCR would hold itself more accountable in ensuring the humanitarian interventions get to where they are needed, keeping in mind the idiosyncrasies of such places. Due to the extra vulnerability of women and girls, the commission will amplify its efforts to ensure that the rights of refugee women and girls are upheld and gender equality is attained with the aid of partners who share the same goal.
3. Reinforcing efforts to strengthen sexual-based violence protection, risk migration and response: men, women and girls have been at the receiving end of gender-based violence. UNHCR aims to prevent this and improve the lives of victims by increasing preventive mechanisms and encouraging the eradication of sexual-based violence.
4. Expansion of options for resettlement: the UNHCR will continue to seek solutions to the refugee crisis, working together with states and partners from the global compact of refugees while also creating more avenues for the resettlement of refugees.

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<sup>36</sup> UNHCR, Strategic directions 2022-2026.

5. Mainstream development engagement: this entails the UNHCR searching for opportunities to showcase the self-reliance of refugees through economic opportunities, co-operating with states and partners to study the past and present to understand how to handle the future of the refugee crisis.
6. Growing engagement on responses and solutions for internally displaced persons: this involves drawing more attention to the plight of internally displaced persons, finding solutions to their plight while also protecting them.
7. Doubling actions on statelessness: the commission will double its efforts to end statelessness by working with states and partners to achieve the objectives of the global action plan to end statelessness.
8. Reducing the effect of climate change on forced displacement: The UNHCR will continue to meet the challenge of the refugee crisis that has worsened because of the climate emergency while also co-operating with stakeholders to mitigate its effects and find solutions. This will be done in line with the three core pillars of the UNHCR framework on climate action.

## Conclusion

Refugees and stateless individuals come in all shapes and colours and are no different from citizens of any country. As a result of circumstances beyond their control and unfortunate factors, they have fallen to their current status. It, therefore, behoves humanity to look out for these categories of persons to the best of its abilities. The UNHCR has tried to do this since its inception and has recorded remarkable results despite limited resources. The UNHCR will continue to carry on its mandate, but true success in achieving its objectives will require the cooperation of many stakeholders across all countries of the world. In the words of Antonio Guterres, the UN secretary-general, "Now is the time to transform humankind's relationship with the natural world - and with each other. And we must do so together. Solidarity is humanity. Solidarity is survival."<sup>37</sup>

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<sup>37</sup>A.Guterres "Secretary General's address at Columbia University"

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*This contains the opening speech of the High Commissioner, Filippo Grandi, at the 72nd session of the Executive Committee, which took place on 4 October 2021. In the speech, the High Commissioner celebrated the milestones the agency has achieved thus far. Here, he addressed contemporary matters the agency was tackling and would continue to tackle. Delegates are advised to read the statement as it will aid in understanding the Commission’s priorities and aims.*

UNHCR, “Protecting Refugees and the Role of UNHCR” available at <https://www.unhcr.org/509a836e9.pdf> (accessed 20 March 2022).

*This document provides a detailed summary of the UNHCR’s operations and their significance. It also goes into further detail on the kind of people whom the UNHCR is concerned about. Delegates are encouraged to read the text before the conference to better understand the Commission’s procedures and activities.*

UNHCR, “Protecting Refugees: A Field Guide for NGOs” available at <https://www.unhcr.org/3d4a5b634.pdf> (accessed 20 March 2022).

*This document provides a detailed explanation of key terms and issues which relate to the activities of the UNHCR. Delegates are advised to briefly read through to get a rudimentary understanding of key issues and terms that relate to the UNHCR and its activities.*

UN High Commissioner for Refugees (UNHCR), “Self-Study Module 1: An Introduction to International Protection. Protecting Persons of Concern to UNHCR, 1 August 2005” available at <https://www.refworld.org/docid/4214cb4f2.html> (accessed 20 March 2022).

*This document includes a comprehensive overview of the framework of the UNHCR, its functions, mandate and activities. It also contains an exposition on the types of people the UNHCR's programmes are for, its partners and its objectives. Delegates are advised to pay close attention to the framework as it will aid understanding of the UNHCR's special niche in the provision of humanitarian services.*

UNHCR, "Strategic Directions 2022-2026" available at <https://reporting.unhcr.org/strategic-directions-2022-2026> (accessed 20 March 2021)

*This document outlines and elucidates the current priorities of the UN High Commissioner for refugees. It contains specific areas where the office is making targeted efforts with the reasons why such areas are being targeted.*

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## Climate Change and Displacement

*"We need to invest now in preparedness to mitigate future protection needs and prevent further climate-caused displacement. Waiting for disaster to strike is not an option."* -

**Filippo Grandi, the UN High commissioner for refugees.**

### Introduction

Climate change is arguably the most prominent global issue of the 21st century.<sup>38</sup> Although its effects are felt by persons all over the world, its impact in relation to displacement has been devastating and of great significance in recent years. According to a World Bank report on Internal Climate Migration, over 140 million people might be moving across national borders in Sub-Saharan Africa, South Asia, and Latin America in 2050.<sup>39</sup> Climate change has forced people to flee their homes due to disasters, and the living conditions of such persons have worsened. Globally, the displacement of people due to climate change is now at a record high. Thirty million people were displaced by environmental disasters in 2020, more people than those displaced by conflict.<sup>40</sup> Identifying solutions in respect of this issue is imperative for achieving the SDGs and creating a world where no person is a refugee.

The Climate Crisis is redefining and changing our world at a quicker rate than any other time in human history. It is primarily defined by rapid changes in weather conditions as a result of global warming. This includes changes in temperature, precipitation patterns, the severity of certain weather events, and other aspects of the climate system.<sup>41</sup>

According to Antonio Guterres, UN Secretary-General and former UN High commissioner for Refugees, "Climate change is now found to be the key factor accelerating all other drivers of forced displacement. Most of the people affected will remain in their own countries. They will be internally displaced. But if they cross a border, they will not be

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<sup>38</sup> UNHCR "Climate Change and displacement."

<sup>39</sup> The World Bank, "Groundswell: Preparing for Internal Climate Migration."

<sup>40</sup> The Guardian, 'Climate disasters 'caused more internal displacement than war' in 2020.'

<sup>41</sup> Reliefweb "Report on the impact of climate change on migration."

considered refugees. These persons are not truly migrants, in the sense that they did not move voluntarily.”

## International and Regional Framework

In view of the above, several international and regional documents and conventions have been put in place. Article 14 of the *Universal Declaration of Human Rights* (UDHR) recognises the right of everyone to seek and enjoy in other countries asylum from persecution.<sup>42</sup> The foremost International Convention to acknowledge Article 14 is the *Convention relating to the Status of Refugees*, signed into existence on the 28<sup>th</sup> of July 1951 and made effective from the 22<sup>nd</sup> of April 1954. It has a total number of one hundred and forty-five signatories. The 1951 Convention was amended by the 1967 *Protocol Relating to the Status of Refugees*, which abolished the Convention’s geographic and temporal limitations, thereby making it universally applicable. Hence, the 1951 Convention, together with the 1967 Protocol are the foundational legal documents on which the bulk of the work of the UNHCR is based.<sup>43</sup> The Convention is based on the principle of non-refoulement, non-discrimination, and non-penalization. It establishes fundamental minimum standards for treating refugees without prejudice to the states that provide more favourable treatment.<sup>44</sup>

Following those mentioned above, the *United Nations Framework Conventions on Climate Change* (UNFCCC) sets out a sustainable framework for dealing with Climate change.<sup>45</sup> The UNFCCC is a fundamental climate agreement that has served as a cornerstone for subsequent international climate agreements and was signed during the United Nations Conference on Environment and Development. The UNFCCC became

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<sup>42</sup> United Nations, “Universal Declaration of Human Rights.”

<sup>43</sup> UNHCR, “The 1951 Refugee Convention.”

<sup>44</sup> UNHCR, “Convention and Protocol relating to the status of refugees.”

<sup>45</sup> United Nations, “United Nations Framework Convention on Climate Change.”

effective on the 21<sup>st</sup> of March 1994, after being approved by 197 countries. It is a framework convention in which parties recognise the existence of the threat of climate change and pledge cooperative action. This agreement is supplemented by a succession of protocols and amendments, for instance, the *Kyoto Protocol* and the *Paris Agreement*.<sup>46</sup> The UNFCCC sets out certain requirements for member states to reduce Greenhouse gas (GHG) emissions. Member states aim to minimise GHG emissions into the atmosphere to prevent dangerous anthropogenic interference with the climate system and adopt national policies to mitigate climate change. Hence, this would promote a system that leads to more futuristic and sustainable policies.<sup>47</sup>

*Resolution 70/1 on Transforming our World: The 2030 Agenda for the Sustainable Development Goals* is a landmark document by the General Assembly of the United Nations which highlights the urgent need to combat climate change and its impacts. Some of its clauses include; (i) strengthening the resilience and adaptive capacity to climate-related hazards in all countries, (ii) integrating climate change measures into national policies, strategies, and planning, (iii) improving education, raising awareness, and human and institutional capacity on climate change mitigation and adaptation. It also aims to implement the commitments of the UNFCCC by introducing a Green Climate Fund to address the needs of developing countries in the context of mitigation actions.<sup>48</sup>

The *UN Compact for Safe, Orderly and Regular Migration* recognises the adverse effects of climate change on Displacement. This instrument was introduced in 2018 during the Intergovernmental Conference on the Global Compact for Migration. It aims at strengthening joint analysis and information sharing to understand migration movement due to climate change, develop adaptation and resilience strategies to the adverse effects of climate change, integrate displacement considerations into disaster preparedness

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<sup>46</sup> K.F Kuh, "United Nations Framework Convention on Climate change."

<sup>47</sup> *ibid.*

<sup>48</sup> UN General Assembly, "Transformation our World: the 2030 Agenda Sustainable Development" (A/RES/70/1).

strategies, and develop logical reasoning to address the challenges of migration movements in the context of climate crises.<sup>49</sup>

In the regional space, the organisation of African Unity (OAU) *Convention Governing the Specific Aspects of Refugee Problems in Africa* 1969 is the first of its kind in Africa. It was adopted in 1969 and became operational in 1974. Since then, 43 of the 55 member states have signed, while 46 have ratified it. It is a brief document containing a preamble and 15 articles. Article 1 of the *1969 Convention Governing the Specific Aspects of Refugee Problems in Africa* defines a refugee as “every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.”<sup>50</sup> The Convention is a humanitarian solution to Africa’s refugee crisis, and member states have made a collective commitment to welcome and protect refugees under their respective national laws without regard to race, religion, nationality, political beliefs, and social groups.<sup>51</sup>

The *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (The Kampala Convention)* is another solid framework related to climate change and Displacement. It was adopted in 2009, and as of now, 30 member states have ratified the Convention.<sup>52</sup> Its objective is to “strengthen and promote regional and national measures to prevent or mitigate, prohibit and eliminate root causes of internal displacement as well as provide for durable solutions.”<sup>53</sup>

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<sup>49</sup> UN, “Global Compact for Safe, Orderly and Regular Migration.”

<sup>50</sup> AU, “Convention Governing the Specific Aspects of Refugee Problems in Africa.”

<sup>51</sup> UNHCR, “Persons Covered by the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa and by the Cartagena Declaration on Refugees (Submitted by the African Group and the Latin American Group) EC/1992/SCP/CRP.6).

<sup>52</sup> International Committee of the Red Cross, “The Kampala Convention: Key Recommendations Ten Years on.”

<sup>53</sup> UNHCR, “African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa(Kampala Convention).”

The *Cartagena Declaration on Refugees*(1984) was adopted by the Colloquium on the International Protection of Refugees in Latin America, Mexico and Panama on the 19th-22nd of November 1984 in Cartagena, Columbia. Its principles are based on the “commitments with regard to refugees” set out in the Contadora Act on Peace and Cooperation, which are based on the 1951 Refugee Convention and the 1967 Protocol.<sup>54</sup> The Convention enlarges the definition of a refugee to include “persons who have fled their country because their lives, safety or freedom have been threatened by generalised violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order.”<sup>55</sup>

### **Role of the International System**

Forced displacement, a global issue affecting millions of people worldwide, first gained international attention in the first half of the 20<sup>th</sup> century. Climate change has exacerbated this problem by creating situations whereby persons are forced to flee their homes due to environmental disasters. The UNHCR is at the forefront of advocating for the protection of persons displaced in the context of disasters and climate change. The UNHCR urged all UNFCCC state parties to reduce the consequences of climate change not just on displaced people but also on their host nations, which are disproportionately affected by climate change, during the 26th UN climate change conference of the parties (COP26). They were further encouraged to ensure that responses to climate change reach displaced persons and their host communities while further supporting vulnerable countries in their search for solutions to prevent and prepare for the reality that is climate displacement. Andrew Harper was appointed in January 2020 as the special adviser on climate change with the aim of showing UNHCR’s commitment to finding solutions to climate displacement.<sup>56</sup>

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<sup>54</sup> Rights in Exile Programme(Refugee Legal Aid), “Cartagena Declaration on Refugees.”

<sup>55</sup> UNHCR, “Cartagena Declaration on Refugees.”

<sup>56</sup> UNHCR, “Climate Change and Disaster Displacement.”

In recognition of the urgency of the climate emergency, UNHCR has curated a strategic framework on climate action<sup>57</sup> to transform the commission's approach to climate emergency and displacement and to prepare for what is to come. The framework is built on three main pillars:

1. Law and policy

This entails UNHCR assisting governments of various countries in developing laws and policies while guiding the interpretation of UN documents relating to climate change and displacement. It further involves the UNHCR monitoring and conducting research on climate change and displacements, with the aim of identifying growing trends and also guiding the international community to mitigate the consequences of climate change in displacement.

2. Operations

UNHCR aims to curate preparedness mechanisms to reduce the effect of climate change on displaced persons. This is to be achieved through environmentally sustainable means with the help of the UNHCR Global strategy for sustainable Energy 2019- 2024, which aims to enable persons under the UNHCR mandate and their host countries to reach their energy needs sustainably. This approach will, in turn, help in the attainment of SDG 7.

3. UNHCR's Environmental Footprint

According to the World Health organisation (WHO), a carbon footprint is a measure of the impact the activities of individuals, organisations, or things have on the carbon dioxide produced through the burning of fossil fuels. It is expressed as the weight of CO<sub>2</sub> emissions produced in tonnes.<sup>58</sup> In other words, it is the total amount of greenhouse emissions generated from the actions of persons and things on the planet. It is one of the leading causes of climate change. To reduce its impact on the environment, the UNHCR,

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<sup>57</sup> UNHCR, strategic framework on climate change, April 2021.

<sup>58</sup> *ibid.*

in its framework for climate action, aims to reduce its emissions of greenhouse gases. This will be achieved by moving towards green energy, in line with the rest of the UN.

The Global Compact on Refugees,<sup>59</sup> adopted by the UN general assembly on 17 December 2018, recognises the need for the international community's help to find a sustainable solution to the refugee crisis. It is designed to encourage responsibility sharing in the international community to better protect and support refugees. Regarding climate change and displacement, the document recognises that environmental disasters can cause displacement, and the international community should support actions addressing such situations. It also encourages the international community to reduce the effects of climate change on displacement and further invest in preparedness measures to mitigate climate displacement.

On the issue of Climate change and displacement, the UN has created the *draft convention on the international status of environmentally displaced persons*. The convention seeks to create new and special rights while also providing a special status for persons who have been displaced by environmental disasters. The rationale for this convention is the recognition of persons displaced by environmental disasters and the recognition of their rights. They are currently not protected under the mandate of the UNHCR and international environmental or climate change legal frameworks.

The UNFCCC, at the 21<sup>st</sup> session of the conference of the Parties (COP21), has also established a task force on displacement.<sup>60</sup> The body was created to make recommendations for mitigating, averting and reducing the effects of climate change on forced displacements.

### **Definition of a Climate Refugee**

A climate refugee is one who has been severely affected and displaced as a result of climate change. The term was first coined to reflect the growing large-scale and

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<sup>59</sup> UNHCR, The global compact on refugees.

<sup>60</sup> UNFCCC, "task force on displacement."

cross-border migration induced by extreme weather events.<sup>61</sup> According to international refugee law, there is no generally acceptable definition of a climate refugee. One major lacuna in the 1951 convention is that the document fails to recognise and address the overwhelming effects of climate change on refugees.<sup>62</sup> Article 1 of the Convention limits and sets the criteria to persons who have “a well-founded fear of being prosecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion...” Thus, climate refugees are not recognised and extended protection from the international community. Unfortunately, it has put the lives of hundreds of millions of people displaced by climate change at risk as their realities are far from normal.

The UNHCR has shown that the number of people displaced by climate-related disasters has increased to 21.5 million since 2010 and that climate change has contributed to water and food shortages, amongst others.<sup>63</sup> This climate crisis is a human-induced catastrophe and, over the decades, has caused the displacement of millions of people across the globe. Floods, hurricanes, droughts, and other weather-related disasters force people to flee their homelands every year. Unfortunately, the number of climate refugees is expected to rise as the adverse effects of climate change will cause more extreme weather, threaten food security, raise sea levels and increase poverty.

Millions of people are already suffering from the extreme disasters caused by climate change, ranging from extended droughts in Sub-Saharan Africa to destructive tropical storms sweeping over Southeast Asia, the Caribbean, and the Pacific. Extreme heat waves killed people in Canada and Pakistan in 2021, and flames erupted in Greece and Siberia.<sup>64</sup> In Germany and China, catastrophic flooding has occurred due to climate change, while in Madagascar, one million people have been pushed to the edge of what could probably be the world's first climate change-induced famine.<sup>65</sup> Mozambique is facing a convergence of

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<sup>61</sup> World Economic Forum, “Climate Refugees, the world's forgotten victims.”

<sup>62</sup> European Parliament, “The concept of climate Refugee- Towards a possible definition.”

<sup>63</sup> *ibid.*

<sup>64</sup> Amnesty International, “Climate Change.”

<sup>65</sup> *ibid.*

war and several disasters, with one hurricane after another wreaking havoc in the country.<sup>66</sup> It has also been predicted that by 2050, Bangladesh will be swamped by rising sea levels, displacing 20 million people.<sup>67</sup> The UNHCR has noted that approximately ninety per cent of climate refugees are from countries that are least able to adapt to the impact of climate change.<sup>68</sup> According to a World Bank report on Internal Climate Migration, over 140 million people might be moving across national borders in Sub-Saharan Africa, South Asia and Latin America in 2050.<sup>69</sup>

Consequently, it has extended far beyond an environmental issue and has become one that poses a huge threat to fundamental human rights. More often than not, those negatively affected and displaced by the climate crisis are usually the poorest and most marginalised set of people who have contributed little or nothing in causing the problem but will ironically pay a higher price.<sup>70</sup>

### **Effects of Climate change over Displacement**

The effects of climate change on human displacement are far-reaching. Extreme weather occurrences such as heavy rains, lengthy droughts, desertification, environmental degradation, sea-level rise and cyclones are already forcing over twenty million people to flee their homes and relocate to other parts of their country and other countries. In some cases, people have been compelled to cross borders that may require international protection.<sup>71</sup> This ecological disaster has caused injury and death, as well as the destruction of property. As a result, there has been a rise in population displacement. Not one caused by war, but by the violent effects of climate disasters. Hence, this poses a huge risk to their fundamental human rights, most importantly their right to life.<sup>72</sup> The world is

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<sup>66</sup> *ibid.*

<sup>67</sup> *ibid.*

<sup>68</sup> United Nations, "Climate Change link to displacement of most vulnerable is clear: UNHCR."

<sup>69</sup> The World Bank, "Groundswell: Preparing for Internal Climate Migration."

<sup>70</sup> UNHCR, Climate refugees.

<sup>71</sup> UNHCR, "Climate change and Disaster Displacement."

<sup>72</sup> Prieur Michel, "Draft Convention on the International status of environmentally displaced people."

expected to be between 18°C and 4°C hotter by 2099,<sup>73</sup> and rainfall patterns will change as the hydrological cycle intensifies.

### 1. Food and Water insecurity

The poorest people on the planet are the most exposed to the adverse effects of climate change on agriculture. This increases the possibility of them being driven out of their lands if flooding or drought damages the agricultural resources on which they rely.<sup>74</sup> Based on popular research, the world risks a food reduction of 3.2% per person and 529,000 agricultural-related deaths by 2050 due to climate change.<sup>75</sup> Over the years, ill-fated droughts and famines have befallen several countries globally. One that will not be forgotten in a hurry is the event that shook the Eastern Horn of Africa in 2011.<sup>76</sup> Famine swept through Somalia, which led hundreds of thousand Somalis to seek refuge in Kenya, Ethiopia, and Mogadishu. Amidst the violence and famine, aid workers, the UNHCR being at the forefront, worked to manage the overwhelming refugee situation. The crisis was said to have affected over 13 million people. As of today, one out of ten Somalis remains displaced.<sup>77</sup>

Etharin Cousin, the Executive Director of the World Food Programme, noted that “Left unaddressed, Climate Change intensifies the stress on existing resources, increases scarcity and disrupts entire societies with devastating consequences, particularly for the most vulnerable people...”<sup>78</sup> It is worthy of mention to note that not only does climate change adversely impact agriculture, but this relationship also occurs vice versa. Thus, it is no surprise that agriculture contributes 24 per cent of GHG emissions into the atmosphere (most of which come from deforestation, livestock production, and

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<sup>73</sup> IPCC, “Climate Change 2007: The physical science basis- summary for policymakers.”

<sup>74</sup> Refugees International, “Food Security and Displacement in a warming world.”

<sup>75</sup> The Lancet, “Global and Regional health effects of future food production under climate change: a modelling study.”

<sup>76</sup> Refugees International, “Horn of Africa: Not the time to look away.”

<sup>77</sup> *ibid.*

<sup>78</sup> Refugees international, “Food security and Displacement in a warming world.”

water-intensive crops.)<sup>79</sup> Worse still, more than a quarter of food produced goes to waste, releasing methane gas- a significantly more potent greenhouse gas than carbon dioxide.<sup>80</sup>

## 2. Emigration

People in developing countries respond to climatic change by migrating internally or internationally, depending on socioeconomic, political and institutional conditions. One major determining factor is the income gap.<sup>81</sup> Climate change affects the income and livelihood of people in developing countries, thereby increasing their incentives to migrate to rich countries. When climate change impacts people's current or future income or even standard of living, it may influence their decision to migrate. People either flee their homes due to an irreversible abrupt environmental change or a gradual, long-term climate change.<sup>82</sup> The legal status of these migrants remains unrecognised under international law.<sup>83</sup>

According to the Internal Displacement Monitoring Centre, climate-related disasters have uprooted 30 million people. Erica Bower, a Climate change and Disaster displacement specialist of the UNHCR, described climate change as a threat multiplier as it can "exacerbate economic insecurity or political instability which in turn may lead to migration." She also stated that climate change has "made weather events stronger and more frequent, which may contribute to migration."<sup>84</sup>

## 3. Exploitation of Human Rights

One of the most recognisable adverse effects of climate change on climate refugees is that it tramples upon their fundamental human rights, such as their Rights to Life, Liberty

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<sup>79</sup> UNFCCC, "Press Release LPAA Focus Agriculture at COP21."

<sup>80</sup> *ibid.*

<sup>81</sup> Maria Waldinger, "The effects of climate change on internal and international migration: Implications for developing countries." p.4.

<sup>82</sup> *ibid.*

<sup>83</sup> See Article 1 of the Convention relating to the Status of Refugees.

<sup>84</sup> TodayHeadline "How can climate change drive migration and what can be done about it."

and Security of a person.<sup>85</sup> It negates Article 5 of the UDHR, which states that nobody will be subjected to torture, cruel, inhuman, or degrading treatment or punishment amongst others. It also affects second, third and fourth generational rights such as the right to adequate food, the enjoyment of the highest standard of physical and mental health, rights to safe drinking water and sanitation, right to adequate housing, right to development, and access to information and services. As a result, this poses an existential threat for countries that have been hit with their fair share of climate crises. Children, the most vulnerable of the lot, are usually the most affected.

In the Landmark case of Ioane Teitiota against the government of New Zealand<sup>86</sup>, a global precedent was set that a state will be in violation of its human rights commitments if it returns someone to a nation where their life is being threatened or in danger of harsh, barbaric and degrading treatment as a result of the climate crisis. The claimant had been denied asylum by New Zealand's Immigration and Protection Tribunal due to the climate crisis in his home country.

### **The Relationship between Climate Change and Displacement**

On the surface, the connection between climate change and displacement may not be easily ascertained. However, a more in-depth analysis shows that the climate emergency is fanning the already hot flames of the refugee crisis. Climate change is the biggest threat to the achievement of the sustainable development goals<sup>87</sup>, the achievement of which will lead to prosperity and peace globally.

Climate change disproportionately affects communities that are already displaced and their host countries. It affects vulnerable countries and persons who are least responsible for it and are the least prepared to deal with its consequences. The effects of climate change impact the planet negatively. When people's homes become inhospitable, they

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<sup>85</sup> See Art 2 of the Universal Declaration of Human Rights.

<sup>86</sup> Amnesty International 'UN landmark case for people displaced by climate change.'

<sup>87</sup> UNFCCC "action on climate and SDGs."

are forced to leave and seek greener pastures. Climate change makes communities uninhabitable, thereby forcing movement and migration to find new homes. This is known as displacement. One of the numerous instances is the cyclone Amphan which affected the lives of Bangladeshi and Indian citizens. Over 2 million Bangladeshis were evacuated from their homes, and their lives changed forever<sup>88</sup>. The Institute of Economics and Peace has stated that by 2050, an estimated one billion people will be environmental migrants.<sup>89</sup> The increasing association between climate change and displacement has been recognised by the UN and the rest of the international community.

In the words of the High commissioner for refugees, Filippo Grandi, “forced displacement across borders can stem from the interaction between climate change and disasters with conflict and violence, or it can arise from natural or man-made disasters alone. Either situation can trigger international protection needs.”<sup>90</sup> Climate change can amplify the already dire situation of being a refugee. An estimated 36% of refugees live in abject poverty, finding it difficult to meet their daily needs.<sup>91</sup> This number will only increase unless sustainable solutions are found to climate change and displacement. The effects of climate change also affect the cleanliness of the air, access to clean water, and food supply. These factors can only worsen the living condition of refugees. Refugee communities also have an environmental impact on the planet<sup>92</sup>. The lack of access to clean energy is a core developmental issue for the world’s most vulnerable communities, including refugees and internally displaced persons.<sup>93</sup> The use of firewood and other archaic means for fuel has over time become a factor contributing to climate change and worsening the plight of vulnerable communities.

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<sup>88</sup> I.McRae”The People who are losing their homes due to climate change.”

<sup>89</sup> J.Henley, “ climate crisis could displace 1.2 billion people, report warns.”

<sup>90</sup> UNHCR,”Climate change and displacement.”

<sup>91</sup> C.T Obi, “How Refugees Decision to Live in or Outside a Camp Affects their Quality of life.”

<sup>92</sup> UNHCR, ”Climate change and displacement.”

<sup>93</sup> UNHCR, ”Global strategy for sustainable Energy 2019-2025.”

Climate change also increases the risk of conflict, which is the leading cause of forced displacement worldwide. It creates situations like food scarcity where people vie for the limited resources available, causing friction in places lacking strong institutions of order. Additionally, where there is conflict, the environment is directly impacted. It can lead to degradation of the environment, water, and air contamination, among other things.

As can be deduced from the preceding paragraphs, the impact of climate change on displacement cannot be underestimated. Without sustainable solutions to the climate emergency, a large portion of the world population will one day be displaced due to environmental factors.

### **Climate Change And The Voluntary Repatriation Of Refugees**

Voluntary repatriation is the most sustainable solution for refugees and other displaced persons. It is also the solution of choice for most refugees who want to return to their homes.<sup>94</sup> It can be defined as the return of a refugee from asylum to their country of origin as a result of the decision made by that refugee.<sup>95</sup> It is a solution endorsed by the international community having the backing of customary international law, at least where it is feasible.

Article 13.2 of the UDHR<sup>96</sup> guarantees the right of all persons to return to their country. This provision was later incorporated into the ICPCR in Article 12.4. The voluntariness of the repatriation is guaranteed by the obligation of states to oblige the principle of non-refoulement. Recently, in a landmark case of *Teitiota v New Zealand*, it was held by the UN Human rights committee that it is unlawful to return persons to their homes where their lives might be at risk due to the climate crisis.<sup>97</sup>

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<sup>94</sup> UNHCR "voluntary repatriation."

<sup>95</sup> Law insider dictionary.

<sup>96</sup> General Assembly, "Universal declaration of human rights." 10 december 1948.

<sup>97</sup> Amnesty International 'UN landmark case for people displaced by climate change.'

The effects of climate change are felt in every aspect of life, and the voluntary repatriation of refugees is not excluded. The repatriation of refugees has gradually declined from 15 million in 1990-1999 to 10 million from 2000-2009 and 3.9 million in 2010-2019.<sup>98</sup> Climate change could indirectly have a part to play in these numbers. The climate emergency is a factor causing the inhabitable nature of refugees' places of origin. Refugees cannot go back to their homes if there is no home to return to. Most refugees are from countries where the climate emergency is not properly handled due to a lack of resources and organised institutions.<sup>99</sup> Effects of climate change, specifically rising sea levels, food scarcity, and rising temperatures, can make land inhabitable, therefore completely displacing refugees, the only immediate solution being resettlement. Without proper, sustainable solutions to reduce emissions, this could become a reality, amplifying displacement and its challenges.

### **Clean Energy and its Impact on Refugees**

Energy and its availability to people cannot be underestimated. It is a driving force for growth and is closely associated with development. Access to energy is essential in achieving the Sustainable Development Goals (SDGs), being a factor for achieving 125 of the 169 targets (74 per cent) included in the 2030 SDGs.<sup>100</sup> The production and use of non-renewable energy, which has been highlighted as a contributing factor to climate change, has prompted a shift to clean energy sources. Clean energy is energy that is produced without adverse effects on the environment.<sup>101</sup> The UN has recognised the importance of access to clean energy through its inclusion in the SDGs as SDG 7 (Ensuring access to affordable, reliable, sustainable and modern energy).<sup>102</sup>

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<sup>98</sup> UNHCR "Climate Change and the future of safe return."

<sup>99</sup> *ibid.*

<sup>100</sup> UNHCR "Global Strategy for Sustainable Energy 2019-2025."

<sup>101</sup> Non renewable Resources: A Contributing Factor to Climate Change, Extinction and Pollution.

<sup>102</sup> United Nations "Sustainable Development."

Access to clean energy is not only imperative to the fight against climate change but also to the well-being of refugees.<sup>103</sup> Unfortunately, the lack of access to clean energy is a plague that affects the world's most vulnerable communities like internally displaced persons and refugees<sup>104</sup>. Ninety per cent of forcibly displaced persons living in rural areas have limited access to energy and no access to clean or sustainable energy<sup>105</sup>. This situation is no different in their host communities, as forcibly displaced persons usually find refuge in densely populated areas already experiencing the effects of climate change<sup>106</sup>.

Displacement can, in certain instances, lead to environmental deterioration. For instance, burning firewood for cooking and general energy needs contributes to climate change and accounts for an estimated 25 per cent of total black carbon emissions worldwide.<sup>107</sup> According to the Moving Energy Initiative, 85 per cent of displaced populations in camps burn biomass such as firewood for cooking.<sup>108</sup> In displaced communities where firewood is the primary source of fuel, deforestation and multiple risks to the health and overall well-being of refugees are highly probable. It also puts women and girls gathering firewood or wood fuel at risk of sexual abuse or sexual violence.<sup>109</sup> The above factors and more can make the already fragile situation of refugees even worse in their communities. Lack of access to clean energy can also negatively affect access to education and humanitarian assistance.

Despite the obvious problems and risks posed by lack of access to clean energy, displaced persons are often overlooked and generally not included in agendas relating to clean energy nationally and internationally. This can be perceived from the general lack of

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<sup>103</sup> UNHCR "Climate change and displacement."

<sup>104</sup> UNDP "Clean and safe energy in refugee setting: Moving forward on the clean energy challenge."

<sup>105</sup> UNHCR "Sustainable energy, displacement and Climate Resilience."

<sup>106</sup> *ibid.*

<sup>107</sup> UNHCR "Global Strategy for Sustainable Energy 2019-2025."

<sup>108</sup> UNHCR "Global Strategy for Sustainable Energy 2019-2025."

<sup>109</sup> UNHCR "Climate change and displacement."

readiness by host countries to construct permanent infrastructure in temporary refugee settlements and the significant underfunding of the energy sector in relation to refugees.<sup>110</sup>

The UNHCR believes that all refugees should have access to clean energy as it is imperative to creating sustainable and more inclusive communities and the fight against climate change. Through its clean energy challenge, the organisation seeks to provide green energy for all forcibly displaced populations by the year 2030.<sup>111</sup> The UNHCR has made progress in providing sustainable energy for refugees. In Jordan, a solar plant built in partnership with the UNHCR is transforming the lives of Syrian refugees, making the Azraq refugee camp the world's first clean energy refugee camp.<sup>112</sup> In Bangladesh, UNHCR and their partners have been helping Rohingya refugees reduce the risk of flooding and landslides during monsoon season by planting fast-growing trees to stabilise hillsides and providing alternative energy sources to firewood for cooking.<sup>113</sup> In Changi, Pakistan, UNHCR and their partners have helped thousands of Afghan Refugees get immediate access to clean water with the provision of Solar-powered water tanks. This has reduced the risk of sexual violence for women and girls who usually have to walk miles to get clean water.<sup>114</sup>

The UNHCR Global Strategy for Sustainable energy 2019-2025<sup>115</sup> aims to provide clean energy for refugees, persons of concern and host communities to enable them meet their energy needs in a sustainable manner while also ensuring that the UNHCR's response is also sustainable. The document, with the aid of case studies, explains the organisation's approach to its goal of providing clean energy.

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<sup>110</sup> UN environmental programme "Sustainable energy in situations of displacement."

<sup>111</sup> UNHCR "Green energy challenge."

<sup>112</sup> Charlie Dunmore "Jordan's Azraq becomes world's first clean energy refugee camp."

<sup>113</sup> Filippo Grande "Climate Change is an Emergency for everyone, Everywhere."

<sup>114</sup> Qaiser Khan Afridi "UNHCR renewable project helps solve refugee problem."

<sup>115</sup> UNHCR "Global Strategy for sustainable energy 2019-2025."

## Conclusion

Climate change has posed issues in many aspects of life as we know it, including displacement. It worsens living circumstances for those who are already displaced while also creating a breeding environment for violence. It also poses a significant risk to populations who may face displacement. To avoid further global population displacement, all stakeholders must work together to discover and implement long-term solutions to the climate emergency, not just for displaced people but also for humankind and the planet Earth.

## Further Research

Is the term “Climate refugee” degrading? How can cleaner energy be introduced globally? What steps should be taken by the international community to assist developing and third world countries concerning climate displacement? How can funding be sought to combat the climate crisis? How did the Covid 19 pandemic affect refugees displaced as a result of Climate change? What sustainable measures can be implemented to ensure that the situation is anticipated and better contained in case of a future pandemic? How can displacement be better contained, especially in the Middle East and Africa? How can rising sea levels be controlled? What would be required by states to prevent climate displacement? How can environmentally displaced persons help mitigate the climate crisis? How does displacement affect the economic and political status of a country? Should new legal frameworks be introduced? Suggest recommendations for an inclusive, greener planet that haven’t been stated in the background guide? How can we integrate refugees into national energy and development plans? How is UNHCR implementing its Clean Energy Challenge? How can host communities get more funds for the refugee crisis?

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## Ending Statelessness

*“Being stateless means you and your children having no legal identity, no passport, no vote, and few or no opportunities to get an education. Ending statelessness would right these terrible wrongs. But it would also strengthen society in countries where stateless people are found by making it possible to draw on their energy and talents. It is both an obligation and an opportunity for governments everywhere to put an end to this exclusion.”*

**- Angelina Jolie, UNHCR Special Envoy.**

## Introduction

Article 1 of the 1954 Convention relating to the Status of Stateless Persons defines the term “stateless person” as a person who is not considered a national by any State under the operation of its law.<sup>116</sup> The issue of statelessness dates back to the late 1800s, when legal scholars defined statelessness as “inhumane.” In 1955, U.S. Supreme Court Justice Warren denounced statelessness as a “form of punishment more primitive than torture.”<sup>117</sup> Statelessness remains a severe issue in the world today, as statistics show that millions of people are stateless, with one-third of them being children.<sup>118</sup>

People who do not have an officially recognised nationality are considered stateless. According to a count in half of the world’s countries, 4.2 million persons were stateless as of 2020.<sup>119</sup> The actual figure is likely to be significantly higher, maybe as high as 10 million. Yet exact statistics are difficult to come by because stateless persons are often made “invisible” due to a lack of documentation. The irony in this conundrum is self-evident.

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<sup>116</sup> See the 1954 Convention Relating to the Status of Stateless Persons.

<sup>117</sup> International Bar Association, ‘A Punishment more primitive than Torture.’

<sup>118</sup> UNHCR, ‘Statelessness Around the World.’

<sup>119</sup> Institute on Statelessness and Inclusion, ‘Statelessness in numbers: 2020, An overview and analysis of global statistics.’

It is generally observed around the world that individuals must have a recognised national identity to exercise their human rights. The most fundamental rights, such as education, work, property ownership, and healthcare, are frequently denied to stateless persons. Without fundamental social safety nets and protection, stateless persons are forced to dwell in the recesses of society. They are more prone to gender-based violence, wrongful imprisonment, exploitation, and mental health issues. Statelessness has a broader impact on society than many care to admit. Poverty, social instability, displacement, and violence all stem from it.

As stated in paragraph 6 (A) (II) of the UNHCR Statute and Article 1 (A) (2) of the *1951 Convention relating to the Status of Refugees*, the UNHCR's obligations were initially confined to stateless individuals who were refugees. UNHCR's mandate was expanded to cover persons falling under the terms of the *1961 Convention on the Reduction of Statelessness* ("1961 Convention") by *General Assembly Resolution 3274 (XXIX) of 1974* and *31/36 of 1976* to carry out the functions outlined in Articles 11 and 20 of the 1961 Convention.<sup>120</sup>

Several General Assembly Resolutions have since broadened this mission, with *Resolutions 50/152 of 1995* and *61/137 of 2006* charging UNHCR with responsibility for stateless individuals in general. The UNHCR's tasks include identifying, preventing, reducing statelessness, and protecting stateless people.<sup>121</sup>

In 2014, the UNHCR introduced a global plan to end statelessness. This resolution is titled: *Global Action Plan to End Statelessness* and contains ten actions to end statelessness which is to be achieved by 2024 with the aid of other committees and states of the world. This is in accordance with *GA resolutions 3274 XXIX and 31/36* and pursuant to Articles 11 and 20 of the *1961 Convention on the Reduction of Statelessness*, by which the Office of

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<sup>120</sup> UNHCR, Handbook on Protection of Stateless Persons: Under the 1954 Convention Relating to the Status of Stateless Persons.

<sup>121</sup> *ibid.*

the High Commissioner has been designated as the body to which a person claiming the benefits of this Convention may apply for the examination of their claim and for assistance in presenting it to the appropriate authorities.

## International and Regional Framework

Ending statelessness has long been a goal since the enactment of the *UDHR* in 1948.<sup>122</sup> However, the *1954 Convention relating to the Status of Stateless Persons* in Article 1, hereinafter referred to as the *1954 Convention*,<sup>123</sup> was the first document to define a stateless person as “a person who is not considered as a national by any State under the operation of its law.” This important international treaty, aimed at ensuring the safety of stateless people, contains 42 articles and a schedule of fifteen paragraphs, which became effective on September 28, 1954.

This Convention outlines the minimal rights that stateless people must have, such as the right to identity,<sup>124</sup> travel papers,<sup>125</sup> and administrative support.<sup>126</sup> Another major document is the *1961 Convention on the Reduction of Statelessness*,<sup>127</sup> hereinafter referred to as the *1961 Convention*. It secures the right of every person to nationality and admonishes the contracting States to ensure that these rights are protected.<sup>128</sup> It also mandates that nationality rules include measures to prevent statelessness in infancy and adulthood. The Convention’s most essential provision is that if children do not acquire any other nationality, they will inherit the nationality of the State where they were born.<sup>129</sup> These are the most important international treaties dealing with statelessness.

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<sup>122</sup> Art 14 of the UDHR.

<sup>123</sup> Art 1 of the UN General Assembly, Convention Relating to the Status of Stateless Persons, 28 September 1954.

<sup>124</sup> Article 27.

<sup>125</sup> Article 28.

<sup>126</sup> Article 25.

<sup>127</sup> UN General Assembly, Convention on the Reduction of Statelessness, 30 August 1961.

<sup>128</sup> Art 1(1) of the 1961 Convention.

<sup>129</sup> See Art 1,2,3,&4 of the 1961 Convention.

Other International Instruments are *the 1957 Convention on the Nationality of Married Women*,<sup>130</sup> *the 1966 International Covenant on Civil and Political Rights* (ICCPR),<sup>131</sup> *the 1979 Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) and *the 1989 Convention on the Rights of the Child* (CRC).<sup>132</sup> Article 24 of the ICCPR<sup>133</sup> ensures that every child has the right to a nationality no matter the circumstances surrounding the child's birth. The ICCPR tackles statelessness through many articles apart from the aforementioned, including those on equality between men and women (Articles 3 and 23) and non-discrimination (Article 2). A number of General Comments (GC) of the Human Rights Committee also expand on the meaning of these clauses in relation to statelessness. The CRC<sup>134</sup> in articles seven and eight protects the right of a child to acquire a nationality and ensures that State Parties implement these rights in accordance with their national laws. The *1957 and 1979 Conventions* aim to give women the same rights as males regarding acquiring, changing, or keeping their citizenship.<sup>135</sup> The husband's nationality shall not instantly change the wife's nationality, render her stateless, or require her to acquire his nationality.<sup>136</sup> International human rights treaties and laws on the right to nationality round out the picture. Regardless of the fact that international accords provide an umbrella of protection for stateless people, regional and coherent legislations are also available in the fight to eradicate statelessness.

The *1969 American Convention on Human Rights*<sup>137</sup> is a regional document enacted in 1969 and came into force in 1978. This document states that a person's right to a

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<sup>130</sup> UN General Assembly, Convention of the Nationality of Married Women, 29 January 1957, A/RES/1040.

<sup>131</sup> Art 2 of the 1966 International Covenant on Civil and Political Rights.

<sup>132</sup> Art 7 & 8 of the Convention on the Rights of the Child.

<sup>133</sup> UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966.

<sup>134</sup> UN General Assembly, Convention on the Rights of the Child, 20 November 1989.

<sup>135</sup> See Art 1 of the 1957 Convention on the Nationality of Married Women and Art 9 of the 1979 Convention on the Elimination of All Forms of Discrimination Against Women.

<sup>136</sup> *ibid.*

<sup>137</sup> Organisation of American States (OAS), American Convention on Human Rights, "Pact of San Jose", Costa Rica, 22 November 1969.

nationality is unalienable. If he is not entitled to any other nationality, every individual has the right to the nationality of the State in whose territory he was born. No one's nationality or right to change it if they deem fit should be taken away from them unilaterally.<sup>138</sup> Another framework is the *European Convention on Nationality of 1997*<sup>139</sup>(ECN). This Convention sets principles and norms relating to natural person nationality, and rules governing military commitments in circumstances of multiple nationalities, to which State Parties' domestic laws must adhere.<sup>140</sup> Regarding nationality, the Convention provides in its preamble that the legitimate interests of States and persons shall be taken into account.<sup>141</sup> Each article of the Convention is based on the concepts of avoiding statelessness, upholding the right to a nationality for all, and the prohibition of discriminatory disparities.

In Africa, there are no specific instruments relating to statelessness, although some African countries are parties to the *1954 Convention and the 1961 Convention*. However, there is a draft protocol called *Draft protocol to the African Charter on Human and Peoples' Rights on the Specific Aspects of the Right to a Nationality and the Eradication of Statelessness in Africa*.<sup>142</sup> This protocol, in its memorandum, explains that the draft Protocol is the result of a collective effort by the African Union, the African Commission on Human and Peoples' Rights (the African Commission), the African Committee of Experts on the Rights and Welfare of the Child (the African Committee of Experts), the Office of the UN High Commissioner for Refugees (UNHCR), African civil society organisations, and

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<sup>138</sup> See Art. 20, American Convention on Human Rights "Pact of San José, Costa Rica", 22 November 1969.

<sup>139</sup> Council of Europe, European Convention on Nationality, 6 November 1997.

<sup>140</sup> Art 1 of the European Convention on Nationality.

<sup>141</sup> Preamble of the European Convention on Nationality.

<sup>142</sup> Draft protocol to the African Charter on Human and Peoples' Rights on the Specific Aspects of the Right to a Nationality and the Eradication of Statelessness in Africa, revised in June 2018.

others.<sup>143</sup> It also states that it aims to facilitate the integration of individuals into African states. It does this by providing legal solutions to practical problems related to the recognition and exercise of the right to nationality, the abolition of statelessness, and, above all, the identification of principles that should govern relations between individuals and states on these issues. It is important to note that this is a draft protocol and is yet to be enacted.<sup>144</sup>

### **Role of the International System**

The UN General Assembly gave UNHCR the statutory mission to identify stateless persons, prevent and minimise statelessness around the world, and protect stateless people's rights through a series of resolutions beginning in 1995.<sup>145</sup> UNHCR aids States in implementing the 1954 Convention by providing technical assistance on legislation and operational support to facilitate the adoption and determination of procedures and measures to ensure the Convention's rights are upheld. The UNHCR has carried out its duties and continues to carry out its responsibilities by working with governments, other UN agencies and civil societies.

A Global Action Plan to End Statelessness from 2014 to 2024 has been set in motion by the UNHCR.<sup>146</sup> This global action plan offers a guiding framework of ten actions for States to pursue, with the assistance of UNHCR and other stakeholders.<sup>147</sup> To attain the associated Goals by 2024, states are advised to execute one or more of the ten Actions listed below. UNHCR, other UN and international agencies, regional organisations, civil societies, and stateless individuals all play a part in assisting governments in carrying out required

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<sup>143</sup> See the Background Preamble and Sources of the Draft Protocol to the African Charter on Human and Peoples' Rights on the Specific Aspects of the Right to a Nationality and the Eradication of Statelessness in Africa, revised in June 2018.

<sup>144</sup> *ibid.*

<sup>145</sup> UN High Commissioner for Refugees (UNHCR), Global Action Plan to End Statelessness.

<sup>146</sup> *ibid.*

<sup>147</sup> UN High Commissioner for Refugees (UNHCR), A Special Report: Ending Statelessness within 10 years.

actions. These actions are: Resolve Existing Major Situations Of Statelessness; Ensure That No Child Is Born Stateless; Remove Gender Discrimination From Nationality Laws; Prevent Denial, Loss, Or Deprivation Of Nationality On Discriminatory Grounds; Prevent Statelessness In Cases Of State Succession; Grant Protection Status To Stateless Migrants And Facilitate Their Naturalization; Ensure Birth Registration For The Prevention Of Statelessness; Issue Nationality Documentation To Those With Entitlement To It; Accede To The UN Statelessness Conventions; Improve Quantitative And Qualitative Data On Stateless Populations. To that end, the UNHCR has taken some concrete initiatives to enhance its activities in the area of statelessness.<sup>148</sup>

Each Action has at least one related goal. These goals give a clear focus and suggest ways in which an action could be achieved. Action two has four goals to ensure that no child is born stateless. Since the origins, characteristics, and scope of statelessness differ by country, not all Actions are required in every country. Indeed, in most cases, just one or two Actions will be relevant to resolving statelessness in specific country contexts. As a result, the Actions in the Global Action Plan are not listed in any particular sequence of implementation, priority, or importance. Action three seeks to end gender discrimination from nationality law as 27 states have laws prohibiting women from conferring nationality on their offspring on an equal footing with males.<sup>149</sup> Examples of such countries are Burundi, Iraq, Iran, Syria and Togo. By 2024, all states should have nationality laws that recognise women and men equally when it comes to conferring nationality on their children and acquiring, changing, and maintaining nationality.

Action four seeks to prevent denial, loss or deprivation of nationality on discriminatory grounds. States can make non-discriminatory provisions in their constitutions and nationality laws to ensure this. Action five aims to prevent statelessness in cases of State succession. Although this is difficult to predict, by 2024, UNHCR seeks to ensure that there will be no examples of statelessness due to future state succession scenarios. Action six

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<sup>148</sup> UN High Commissioner for Refugees (UNHCR), Global Action Plan to End Statelessness.

<sup>149</sup> *ibid.*

seeks to grant protection status to stateless migrants and facilitate their naturalisation. Naturalisation requirements and procedures should be changed to make it easier for stateless refugees and migrants to get citizenship, such as reducing or eliminating the required years of residence or decreasing or waiving application fees. Naturalisation requirements must be easily accessible information. Action seven is to ensure birth registration to prevent statelessness by ensuring that every State is responsible for certifying births that occur on its territory, so that there will be no occurrences of statelessness as a result of a lack of birth registration.

The issuance of nationality documentation to those entitled to it is what Action eight seeks to achieve so that no state has a population that is legally eligible for citizenship but unable to obtain documentary proof of citizenship. Applicants should be spared from lengthy, cumbersome procedures and onerous criteria. Action nine seeks to accede to the UN statelessness conventions. That is, to get more states to become parties to the statelessness conventions. Finally, Action ten seeks to improve qualitative and quantitative data on stateless populations. UNHCR continues to work tirelessly to ensure that these goals are reached by 2024.

### **The History of Statelessness**

The concept of statelessness is as old as the concept of nationality. This is because a person without nationality is a stateless person. Statelessness did not emerge with the First World War, but it became more significant in international politics due to the war and its aftermath.<sup>150</sup> Before this time, the concept of statelessness was considered fictional as governments were hesitant to admit that a person could be stateless or without a legal relationship to any nation that could provide safety and identity. It was considered impossible and immoral for a 'civilised' state to strip a person or a group of their

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<sup>150</sup> Mira L. Seigelberg, *Statelessness: A Modern History* (Harvard University Press 2020) pp 12.

nationality.<sup>151</sup> Due to power struggles between empires and states, statelessness evolved from a fictional concept to a recognised political reality.

The aftermath of the First World War was the turning point in the history of statelessness. The breakup of the Russian (Romanov), Austro-Hungarian (Habsburg), Prussian, and Ottoman empires during the First World War and the immediate aftermath shifted imperialist ideologies and views on subject hood and citizenship. The disintegration of these empires gave new fuel to ideas of statehood, statelessness, minority and communal protection. Statelessness became a challenge to the fragile order in a scenario where ensuring the legitimacy of nations was seen as a moral obligation. As a result, it was relegated to the domain of legal fiction. While popular fiction depicted statelessness as a form of international outlawry and piracy, legal and regulatory circles remained silent. The reality of stateless persons and significant stateless communities started knocking on the League of Nations' door, eventually requiring international reactions in a world where identity documents and passports were progressively required. These facts sparked intellectual debate about international order's governing standards and how statelessness fits into them.<sup>152</sup>

New conceptions regarding statelessness, citizenship, sovereignty, and human rights, emerged as a result of the Second World War. At this time, Theorists began to stress the importance of sovereignty by using statelessness as an argument against individual states' power. They began to see their work as part of the development of a new international order centred on the sovereign equality of states.<sup>153</sup> Human rights, on the other hand, were created about the same time in the Universal Declaration of Human Rights, which was preceded by discussions over what rights individuals deserved and who

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<sup>151</sup> When Romania denied citizenship to its Jewish inhabitants, European powers gathered at the Berlin Congress decided that a civilised state could not accept such a choice.

<sup>152</sup> United Nation "A Study of Statelessness" E/1112;E/1112/Add.1.

<sup>153</sup> Mira L. Seigelberg, *Statelessness: A Modern History* (Harvard University Press 2020) pp 194.

had the power to declare such rights.<sup>154</sup> The UDHR, however, did not go far enough to protect stateless persons. This resulted in stateless people falling between the gaps of many legal frameworks.

In 1948, the *United Nations Economic and Social Council (ECOSOC)*<sup>155</sup> requested that the UN Secretary-General conduct a study on statelessness to address the nationality and legal status of these refugees. “Nationality, including statelessness,” was added to the *International Law Commission’s*<sup>156</sup> list of themes provisionally designated for codification in 1949. ECOSOC accorded that subject priority in 1950 and created an ad hoc Committee on Refugees and Stateless People to write a Convention. A draft protocol addressing the status of stateless people was included in a treaty on refugees.

At its fifth session in 1953, the *International Law Commission* prepared a Draft Convention on the Elimination of Future Statelessness and a Draft Convention on the Reduction of Future Statelessness. The ECOSOC approved both drafts. The United Nations enacted the *Convention on the Status of Stateless Persons* in 1954. This Convention established the definition of a stateless person and a list of rights that stateless people should have. As a result, the treaty served as the foundation for an international protection framework for stateless people. States, on the other hand, must be able to identify stateless individuals to defend the rights stated in the Convention.

The *1961 Convention on the Reduction of Statelessness* went into effect on December 13, 1975. It establishes several standards for nationality acquisition and loss, including automatic loss, repudiation, and deprivation. The *United Nations General Assembly (UNGA)* requested that UNHCR take on the responsibilities outlined in the *Convention on*

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<sup>154</sup> In this case, the right to nationality.

<sup>155</sup> The United Nations Economic and Social Council formed on 26 June 1945.

<sup>156</sup> The International Law Commission established in 1947 by the General Assembly to encourage positive international development.

*the Reduction of Statelessness* in 1974. The fight against statelessness continues as the UNHCR keeps making moves to end statelessness.

## Causes of Statelessness

Everyone has the right to be a citizen of their own country. No one's nationality or right to change nationality should be taken away from them arbitrarily. Article 15 of the 1948 Universal Declaration of Human Rights<sup>157</sup> confers the right to have a legal relationship with a state on every individual, anywhere in the world, with these short phrases. This begs the question of what phenomena still give rise to statelessness and its implications, notwithstanding this and many other provisions in international and regional agreements.

Statelessness is a man-made problem which occurs due to several causes, some of which are addressed in the following:

### 1. State Succession

A person's nationality can be taken away in various circumstances, such as when a country ceases to exist or when nationality laws discriminate against particular groups. On the other hand, state dissolution remains one of the leading causes of statelessness. For instance, thousands of individuals became stateless after the Soviet Union and Yugoslavia disintegrated in 1991.<sup>158</sup> Stateless people cannot exercise their basic human rights due to a lack of appropriate identification. This is the situation for thousands of former Soviet nationals who failed to satisfy the legal prerequisites for successor state citizenship. Many people found themselves with little more than an expired passport from the Soviet Union.

State succession occurs when an existing state is replaced by two or more states, when a portion of a state splits off to establish a new state, when a territory is transferred from one state to another, or when two or more states join to form a new state. When individuals

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<sup>157</sup> Universal Declaration of Human Rights (UDHR) 1948.

<sup>158</sup> US Office of the Historian, 'The Breakup of Yugoslavia 1990-1992.'

fail or are unable to gain citizenship in the successor governments, this can result in statelessness.<sup>159</sup> Throughout history, the redrawing of international borders has been a persistent source of statelessness. Since World War II ended, more than a hundred new sovereign states have emerged.<sup>160</sup>

Because political or other divisions typically trigger state succession among people in the founding state, statelessness is frequently associated with discrimination. In an ideal world, anyone in the new area would be able to apply for citizenship in the new state; unfortunately, this is seldom the case since new states usually decide whom they will recognise as nationals.<sup>161</sup>

## 2. Statelessness at Birth

Due to insufficient nationality legislation, a newborn may be born without a state. A child born in a foreign country, for example, may become stateless if that government does not allow nationality to be granted solely based on birth or prohibits parents from passing their nationality on to their children in a new country.

Statelessness can occur in a variety of situations. It happens in migratory conditions, such as when some expatriates retain or lose their nationality without acquiring the nationality of their place of habitual residence. The majority of stateless people, on the other hand, have never crossed borders and ended up stateless in their own nation.<sup>162</sup> Statelessness is

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<sup>159</sup> For example, the former Yugoslavia is now five separate countries: Bosnia and Herzegovina, Croatia, Macedonia, Serbia and Montenegro, and Slovenia; Sudan is now divided into two separate countries: Sudan and the Republic of South Sudan; and Nigeria transferred the territory of the Bakassi Peninsula to Cameroon.

<sup>160</sup> MALCOLM SHAW, *INTERNATIONAL LAW* 861 (Cambridge University Press 2003).

<sup>161</sup> The International Law Commission has adopted standards to address the problem of statelessness arising as a result of state succession. U.N. General Assembly, Report of the International Law Commission, 23 July 1999, A/54/10.

<sup>162</sup> The phrase "own nation" is taken from Article 12(4) of the International Covenant on Civil and Political Rights and used in line with its interpretation by the UN Human Rights Committee.

frequently the outcome of issues with the formulation and execution of nationality laws for these people.

People may also fail to register their babies because the registration fees are prohibitively expensive or because they reside in rural regions far from administrative offices. This violates Article 7 of the United Nations Convention on the Rights of the Child, which states that “every child has the right to a nationality and to be registered promptly after birth.”

If a father refuses to declare or bestow nationality on his child in a country where nationalisation is only handed down through the father, the child may become stateless. For example, in Lebanon, mothers are unable to register their children in the civil registry.<sup>163</sup>

It is sufficient to remark that although displacement causes statelessness, the vast majority of stateless people are the consequence of legal policy gaps in state laws that leave millions stateless or allow children to be born into statelessness.

### 3. Denationalisation and Discrimination

Discrimination against ethnic and religious minorities has frequently resulted in the loss of their nationality throughout history. In many cases, governments enact legislation or issue decrees that result in the denationalisation of a certain group.

For example, the government of the Democratic Republic of Congo (DRC) invalidated the nationality of Rwandan and Burundian citizens retrospectively in 1972.<sup>164</sup> Similarly, Myanmar approved a citizenship law in 1982 that left the Rohingya, a Muslim minority fleeing the nation at an alarming pace since 2017 due to persecution, stateless.<sup>165</sup> The Galjeel, a Somali sub-clan that has lived in Kenya since the late 1930s, is another example. The Galjeel possessed Kenyan ID cards for decades, voted in local and national elections,

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<sup>163</sup> OHCHR, *Statelessness in Lebanon*.

<sup>164</sup> Bronwen Manby, *'Citizenship Law in Africa; A Comparative Study*.

<sup>165</sup> Council on Foreign Relations, *'The Rohingya Crisis*.

owned companies, and had full access to government services. However, in 1989, the government implemented a screening procedure to detect irregular Somali immigration. The police confiscated most types of identification that tied the Galjeel to Kenya throughout this procedure. Many people lost their citizenship and became stateless during this endeavour.<sup>166</sup>

Discrimination against certain groups, such as ethnic, racial, religious, and linguistic minorities, as well as women, is a common cause of statelessness. Gender-discriminatory laws in about 26 nations, including Kuwait, Lebanon, and Qatar, denies women the ability to convey nationality to their children on an equal footing with fathers, potentially leading to statelessness.<sup>167</sup> As a result, children born out of wedlock are frequently denied citizenship by state regulations and practices.

In many nations, a person's nationality can change due to marriage or divorce. Naturalisation is often simpler for persons married to or adopted by a national. In rare instances, people may lose their nationality if they marry a non-national. This is especially true for women residing in nations where their husbands' nationality determines theirs. A newly married lady may lose her original nationality while attempting to gain her husband's nationality in such circumstances. After a divorce or the death of her husband, a woman may become stateless.

In some nations, discriminatory laws that make marriage or the dissolution of a marriage grounds for automatic citizenship loss exist. The arbitrary denial of nationality is a particularly sensitive and frequently sophisticated form of discrimination. Unless it serves a legitimate purpose and is subject to fundamental substantive and procedural norms, deprivation of nationality that results in statelessness is often deemed arbitrary.<sup>168</sup>

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<sup>166</sup> Human Rights Watch, 'Screening of Ethnic Somalis: The Cruel Consequences of Kenya's Passbook System.'

<sup>167</sup> U.N. High Commissioner for Refugees, Background Note on Gender Equality, Nationality Laws and Statelessness, 8 March 2012.

<sup>168</sup> See U.N. Human Rights Council, Human rights and arbitrary deprivation of nationality: report of the Secretary-General, 14 December 2009, A/HRC/13/34, 7 at 27.

This is because one should only be deprived of one's nationality under exceptional circumstances<sup>169</sup> and only "as prescribed by law." Arbitrary loss of nationality is frequently the consequence of state actions or policies that disproportionately harm specific minority groups, such as denying children citizenship at birth or stripping persons of citizenship later in life.

One example of this prejudice is the Dominican Republic's refusal to grant certificates confirming citizenship to numerous Dominican-born children of Haitian heritage who had previously been acknowledged as citizens.<sup>170</sup> Another example is Mauritania's decision in 1989 to strip citizenship from a major portion of its black population and exile them to Mali and Senegal.<sup>171</sup>

#### 4. Technical Reasons for Statelessness

"Technical reasons" here refers to scenarios in which statelessness occurs as a consequence of loopholes in a country's nationality rules, conflicting citizenship regulations, or individual acts or inactions. Incompatibilities between the rules of states that recognise citizenship mainly through blood relationship (*jus sanguinis*) and those that recognise citizenship primarily through birth in the nation (*jus soli*) are perhaps the most prevalent technical reason for statelessness.

A child born in a country that grants nationality primarily through one or both parents' bloodline, to parents whose country awards nationality largely by birth in the territory and limits transmission by descent or bloodline may not be able to obtain any nationality at

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<sup>169</sup> The 1961 Convention on the Reduction of Statelessness lists specific, exceptional circumstances under which deprivation of nationality resulting in statelessness may not be considered arbitrary. See, 1961 Convention, Art. 8.2 and 8.3.

<sup>170</sup> See, e.g., *Case of the Yean and Bosico Children v. The Dominican Republic*, Inter-American Court of Human Rights (IACrHR), 8 September 2005 (ruling that the Dominican Republic (DR) violated the rights to nationality and equal protection of children born on the territory of the DR of Haitian parents by denying them birth certificates generally issued by the State's Registry Office).

<sup>171</sup> See, e.g., BRONWEN MANBY, *STRUGGLES FOR CITIZENSHIP IN AFRICA* 96-108 (London, Zed Books 2009).

birth.<sup>172</sup> A *jus sanguinis* regime that does not protect against statelessness, as required by Article 1 of the 1961 Convention, increases the risk that if the child stays in that state and has children, they would inherit their parent's statelessness. This type of statelessness is specifically protected under the 1961 Convention, the ICCPR and the CRC.

Other technicalities in nationality rules that might result in a person ending up stateless include: not granting nationality to abandoned children discovered on the territory; automatic loss of nationality by individuals who reside abroad without registering with a consulate after a period of time;<sup>173</sup> and strict legal criteria, such as when a national marries a non-national and the latter loses citizenship in their own country as a result of the marriage.

Individuals may become stateless if they are unable to overcome administrative barriers to proving their nationality. Examples include nations with cumbersome birth registration regulations, such as high costs and stringent paperwork requirements. As a result, some children will be unable to receive documentary proof of their nationality. Undocumented children, in most situations, have a nationality, yet, their failure to verify their birth, origins, or legal identification when necessary can lead to statelessness.

## 5. Statelessness in the Context of Displacement

Migrants and refugees are more likely to become stateless. Many children are born while their parents are fleeing their countries. People escaping violence may be unable to bring their citizenship documents along with them, or they may be lost on perilous expeditions. Therefore, it becomes more difficult for them to establish their nationality, and if the matter is not resolved, the nationality of their children may be jeopardised. People might also lose their nationality after residing abroad for numerous years owing to laws in their home country.

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<sup>172</sup> See, e.g., BRONWEN MANBY, *STRUGGLES FOR CITIZENSHIP IN AFRICA* 96-108 (London, Zed Books 2009).

<sup>173</sup> Tajikistan, and Uzbekistan are examples of countries with such provisions. U.N. High Commissioner for Refugees, *Statelessness in Central Asia*, May 2011, p. 19.

## Rights of Stateless Persons

Historically, there has been a lack of distinction between refugees and stateless people, with both groups getting protection and support from international refugee organisations.<sup>174</sup> 4.2 million were reported as stateless by the end of 2019, but the figures may be larger than that.<sup>175</sup> These people have no nationality, and as a result, certain rights may be restricted. Efforts by the international committees and legal frameworks thus far to ensure that stateless persons are protected should be applauded.<sup>176</sup>

In the 21st century, dealing with statelessness remains a major concern.<sup>177</sup> Although the right to nationality has been recognised internationally, new cases of statelessness continue to emerge. Stateless individuals lack legal protection and the right to vote. They also lack access to education, work, health care, birth, marriage, and death registration, as well as property rights. Travel restrictions, social marginalisation, and increased vulnerability to sexual and physical violence, exploitation, human trafficking, forceful displacement, and other abuses may be faced by stateless people. Even though the *1954 convention* and the *1961 convention* have been created, many stateless persons have been deprived of their nationality or have not been able to acquire it at all. For example, a major concern for stateless people is the difficulty in getting identification and travel documents. This not only obstructs their ability to travel but also causes numerous obstacles in day-to-day living and, in some cases, leads to the individual's extended imprisonment.

There are two categories of stateless persons. They are the *De jure* and the *De facto* stateless persons. Persons who are *De facto* stateless are those who lack an effective nationality, i.e. they are persons outside the country of their nationality who are unable or, for valid reasons, are unwilling to avail themselves of the protection of that country. In

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<sup>174</sup> UN High Commissioner for Refugees (UNHCR), Self-Study Module on Statelessness.

<sup>175</sup> U.S Department of State- Statelessness:Bureau of Population, Refugee and Migration-How many stateless persons are there throughout the world?

<sup>176</sup> Such as the 1954 Convention and the 1961 Convention on Statelessness.

<sup>177</sup> UN High Commissioner for Refugees (UNHCR), Protecting the rights of stateless persons.

contrast, the *De jure* stateless individual is defined in the 1954 Convention<sup>178</sup> as a person who is not considered a citizen by any State under the operation of its law, i.e. they have no nationality at all. *De facto* stateless persons are people who do not have the rights that come with their nationality, who are unable to prove their nationality and persons who have the nationality of a State that is not their State of birth or domicile.<sup>179</sup>

In general, the 1961 Convention defines methods for people who would otherwise be stateless to acquire and retain the nationality of a Contracting State. However, the term “stateless” is not defined in the Convention. On the other hand, Resolution No. I of the Final Act of the Conference that drafted the Convention suggests that “persons who are stateless *de facto* should as far as possible be treated as stateless *de jure* to enable them to acquire an effective nationality.” As a result, UNHCR has mandated that its Country Operations address the issue of *de facto* statelessness and submit annual statistics on *de facto* stateless people. However, the Office has never properly defined what *de facto* statelessness is or what the legal and operational responses should be. In this regard, it is worthy of note that whilst an international treaty regime has been formed to address problems of *de jure* statelessness – most notably the Statelessness Conventions of 1954 and 1961 – there is no comparable legally binding framework for *de facto* stateless persons who are not refugees. While the lack of such a regime does not preclude UNHCR from addressing issues of *de facto* statelessness, it indicates that if the Office does have such a mandate, the range of protection instruments available to it will be limited in comparison to *de jure* statelessness.<sup>180</sup>

Currently, questions relating to the rights of stateless persons and whether or not they are protected continue to be asked. This is due to ongoing crises happening in different parts of the world like Ukraine and how it affects not only refugees who are being forced to flee their homes but also persons who have been stateless before such crises. The last census

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<sup>178</sup> See Art 1 of the 1954 Convention of Relating to the Status of Stateless Persons.

<sup>179</sup> UNHCR, Hugh Massey, “UNHCR and the *De facto* Stateless.”

<sup>180</sup> UNHCR and the *De Facto* Statelessness - Refugee Research Network.

in Ukraine was in 2001, and UNHCR estimated that there would be 35,875 stateless individuals of “undetermined nationality” in 2021.<sup>181</sup> According to the World Bank, there are currently 999,000 people over the age of 15 in Ukraine who do not have a national ID card.<sup>182</sup> While not all of these people are stateless, as the crisis continues, many will be at greater risk of becoming so.<sup>183</sup> Currently, the UNHCR has undertaken massive efforts to assist and safeguard millions of Ukrainians whom the Russian invasion has displaced, both within Ukraine and as refugees in neighbouring countries.<sup>184</sup>

The UNHCR has not relented and continues to ensure that both *de jure* and *de facto* stateless persons are protected. However, states are tasked with ensuring that their nationality laws are as accommodating as possible to stateless persons. This will better enable the protection of their rights under the law. Concerning the scope of the rights available to stateless individuals under international and regional laws, it is first and foremost important to stress that stateless persons are, first of all, human. Therefore, all rights which generally accrue to all human beings by virtue of their humanity also accrue to stateless individuals.

### **Efforts by States to Prevent and End Statelessness**

The role and efforts of national governments in ending statelessness cannot be undermined. Some steps which governments have undertaken thus far geared toward preventing and ultimately ending statelessness are briefly considered in the following:

1. Granting citizenship, legal status, or personal documentation to stateless persons.

UNHCR aids States in implementing the 1954 Convention by providing technical assistance on legislation and operational support to facilitate the adoption of

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<sup>181</sup> Chris Nash “Amidst the unspeakable Unlawfulness of the conflict in Ukraine we should not forget the particular protection needs of stateless people” (2022) European Network on Statelessness.

<sup>182</sup> *ibid.*

<sup>183</sup> *ibid.*

<sup>184</sup> UN High Commissioner for Refugees (UNHCR), “Emergencies.”

determination procedures and measures to ensure the Convention's rights are upheld. The UNHCR's Executive Committee has asked the Office to "actively disseminate information and, where applicable, teach government counterparts on proper processes for identifying, recording, and awarding status to stateless persons".<sup>185</sup>

Steps in this direction include Tajikistan's decision to offer legal status to 20,000 stateless persons by enacting an Amnesty Law to assist former Soviet Union nationals and exempting people from administrative sanctions for being in the country illegally.<sup>186</sup> Tajikistan is a country in Central Asia and is considered one of the poorest countries in the world. However, this has not impeded them from making efforts to stamp out statelessness. Thousands of people in Thailand, a Southeastern country, have also been granted citizenship by dispatching mobile registration teams to rural areas where stateless people live.<sup>187</sup> Uzbekistan's decision to grant citizenship to everyone granted permanent residence in the nation before 1995, as well as their offspring, helped eliminate statelessness for 50,000 persons.<sup>188</sup> Past British nationality regulations in the United Kingdom occasionally resulted in circumstances in which persons were deemed British subjects but not citizens or carried a British passport but had no right of abode in the United Kingdom, thereby making them *de facto* stateless. British Protected Persons, who are considered British nationals, are one example.

This, and many other situations that placed persons in danger of statelessness, were rectified once the Nationality, Immigration, and Asylum Act of 2002 went into effect on April 30, 2003. As a result of this legislation, the United Kingdom granted the ability to register as full British citizens to the vast majority of persons having residual British

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<sup>185</sup> See UNHCR's Executive Committee Conclusion 106 on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons, 2006.

<sup>186</sup> UNHCR, 'UNHCR welcomes Tajikistan's New law tackling Statelessness.'

<sup>187</sup> UNHCR, 'Thousands of stateless people given nationality in Thailand.'

<sup>188</sup> UNHCR, 'Uzbekistan to end statelessness for 50,000 people.'

nationality. Following the publication of a joint UNHCR-Asylum Aid report in 2011, the UK also implemented a better method for determining statelessness in 2013.<sup>189</sup>

The European Network on Statelessness (ENS) was founded in 2012 as a coordinating body and professional resource for organisations and people striving to promote the right to nationality throughout Europe. Since then, it has evolved into a vibrant organisation which has served as a catalyst for change, mobilising important players and galvanising civil society societal action on a previously concealed and disregarded issue.<sup>190</sup> States in recent times have also focused more on nationality campaigns or nationality verification initiatives rather than lengthy statelessness determination procedures.<sup>191</sup>

## 2. Changing laws that create statelessness in the first place.

It has been argued that giving citizenship to every child born on a country's soil would be an excellent method to end statelessness, and this is what some nations have set out to do in recent years. For example, Turkmenistan and Kazakhstan in Central Asia decided to adopt universal birth registration, thereby ending discriminatory rules that deny nationality to some ethnic groups.<sup>192</sup> Another example is Kenya's decision to eliminate discriminatory laws that deny nationality based on the parent's gender, resolving the statelessness of the Shona and people of Rwandan origin.<sup>193</sup> Sierra Leone and Iran have also recognised women's equal right to confer nationality on their offspring.<sup>194</sup>

## 3. Protecting the well-being of Stateless persons.

It is considered critical to ensure that stateless people enjoy the same rights as citizens until they are granted nationality. This encompasses social and economic inclusion, as well

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<sup>189</sup> UNHCR, "UK's new determination procedure to end legal limbo for stateless individuals."

<sup>190</sup> European Network on Statelessness, "Impact Report 2019-2020."

<sup>191</sup> See paragraph 50 of UNHCR, UNHCR Action to Address Statelessness: A Strategy Note, March 2010.

<sup>192</sup> UNHCR, "Kazakhstan amends laws to ensure universal birth registration and prevent childhood statelessness."

<sup>193</sup> OHCHR, "Committee on the Elimination of Discrimination against Women considers the report of Kenya."

<sup>194</sup> UNHCR, "Sierra Leone Enshrines Equal Right of Women to Pass Nationality to Children."

as protection from abuse and mobility. This is because statelessness persists despite the efforts of governments, the international community, and civil society. As a result, the human rights of stateless people must be safeguarded. States, civil societies, and non-governmental organisations have been instrumental in ensuring that whilst stateless persons go through the process of acquiring some manner of nationality, their other rights are safeguarded. This is because, by virtue of their humanity, they are entitled to some universal human rights and the protection of these rights.

Côte d'Ivoire's decision to formally recognise stateless people and defend their right to health, education, and employment opportunities,<sup>195</sup> as well as Ukraine's decision to protect stateless people's right to education, healthcare, and employment opportunities, are good instances of this. On March 4, 2022, the European Council also established temporary protection for most individuals fleeing Ukraine, including Ukrainian nationals, stateless people, and protection recipients within Ukraine, on March 4, 2022.<sup>196</sup> The #IBelong Global Campaign to End Statelessness by 2024 is also a vital programme that has been launched to address the issue of the well-being of stateless individuals.<sup>197</sup>

## Conclusion

More nations have ratified the 1961 Convention on the Reduction of Statelessness in the last four years than in the preceding four decades, and more than four million stateless people have gained citizenship since 2003.<sup>198</sup> This is the result of the relentless efforts of the United Nations High Commissioner for Refugees and other organisations to abolish statelessness. Stateless individuals are among the world's most vulnerable people since they lack the "right to have rights," as expressed by Chief Justice Earl. As succinctly put by Eric P. Schwartz, former Assistant Secretary, Bureau of Population, Refugees, and

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<sup>195</sup> UNHCR, "Côte d'Ivoire adopts Africa's first legal process to identify and protect stateless people."

<sup>196</sup> GPPI, "Temporary Protection: The Ukrainian Field Trial."

<sup>197</sup> UNHCR, 'I Belong Campaign.'

<sup>198</sup> UNHCR, 'How UNHCR helps Stateless People.'

Migration, United States Department of State, “Citizenship is man’s basic right, for it is nothing less than the right to have rights.”

“The issue of statelessness has been permitted to fester in the shadows for far too long,” said António Guterres, former United Nations High Commissioner for Refugees, and Louise Arbour, former United Nations High Commissioner for Human Rights. It is time to take the required steps to free the world of a bureaucratic snafu that is, in truth, easily remediable. It is only a matter of political will and legislative zeal. The most important aspect of the proposed remedies is political will; beyond that, very easy and low-cost reforms may be implemented to have an immediate and long-term impact.

### **Further Research**

In what ways can we better identify stateless persons? How do we fight discrimination in nationality laws from an international perspective? How can we better include stateless persons in social sectors like education, healthcare, and the economy? How can we better educate the public about the existence and consequences of statelessness? How do we encourage States to grant citizenship to stateless people in their country? What incentives can we offer? How can we protect stateless people from gender-based violence and economic exploitation? How can we resolve statelessness? Recommendations on how to put an end to statelessness? How feasible are these recommendations? What will be required of state and non-state actors to achieve this seemingly impossible task? How can we protect refugees and displaced people from statelessness?

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*“This document helps to explain the definition of statelessness and procedural considerations for determining whether a person is stateless. It also serves as guiding principles for countries. Delegates should review this material to get a better grasp on the protection of stateless individuals.”*

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*“This paper discusses Statelessness in general. Its history, the convention and how they are still relevant today. Delegates are to use this material to understand more on the issue and how it affects not just the present but also the future of the world.”*

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