



UN Special Procedures and the Rights of People who are Displaced and Stateless Project Partner: United Nations High Commissioner for Refugees (UNHCR)

About UNHCR

The United Nations High Commissioner for Refugees (UNHCR) is a UN global organisation dedicated to saving lives, protecting rights and building a better future for refugees, displaced communities and stateless people.

<https://www.unhcr.org/>

Project Overview

This project will examine how Special Procedures in the UN Human Rights System have addressed the situation of people who are displaced and stateless, with the aim of identifying recommendations for the UNHCR on how they can further enhance their strategic engagement with UN Special Procedures.

UNHCR's efforts since the mid-1990s to integrate human rights standards and mechanisms into its work has coincided with a growth in the United Nations human rights machinery as well as a better understanding of the complementarity of international human rights and international refugee law. The complex linkages between human rights considerations and international refugee protection led the UNHCR's High Commissioner in her address to the Human Rights Commission back in 1990 to state that "UNHCR today is very much an operational human rights organization, albeit for certain categories of people."¹

There has been a sustained effort to mainstream human rights throughout the Office's work, for example in integrating human rights standards into UNHCR's advocacy activities. The importance of strengthening the linkage between refugee and human rights protection has been recognised in UNHCR's *Agenda for Protection*.² Furthermore, the Executive Committee has noted "the multifaceted linkages between refugee issues and human rights,"³ as well as "the obligation to treat asylum-seekers and refugees in accordance with applicable human rights and refugee law standards, as set out in relevant international instruments."⁴

In recent years, the complementarity between legal human rights protection and refugee law developments has been growing, with the explicit inclusion of issues related to refugees, asylum-seekers, stateless persons, internally displaced persons and returnees into the analysis and recommendations of the UN human rights mechanisms, such as the Human

¹ Statement by Mrs. Sadako Ogata, United Nations High Commissioner for Refugees, to the Fiftieth Session of the United Nations Commission on Human Rights, Geneva, 9 February 1994

² UNHCR, *Agenda for Protection*, October 2003, Third edition, available at: <https://www.refworld.org/docid/4714a1bf2.html>.

³ ExCom Conclusion No. 95 (LIV), *General*, 2003, at para.(k); para.(l) of this Conclusion goes on to note the "... the complementary nature of international refugee and human rights law as well as the possible role of the United Nations human rights mechanisms in this area". Conclusions nos. 1 - 109 adopted by the Executive Committee on the International Protection of Refugees can be found at: <http://www.unhcr.org/refworld/docid/4b28bf1f2.html>

⁴ See ExCom Conclusion No. 82 (XLVIII), *Conclusion on Safeguarding Asylum*, 1997, para. (vi); similarly, see ExCom Conclusion No. 108 (LIX), *General Conclusion on International Protection*, 2008, preambular para. 1.



Rights Council (in particular in the framework of Universal Periodic Review), the UN Special Procedures, as well as several UN treaty monitoring bodies. UPR recommendations, Special Procedures' reports, the Treaty Body's General Comments and Concluding Observations, and their views expressed in case law have become important protection advocacy tools for UNHCR in its operations throughout the world.

UNHCR's engagement with and through all of the mechanisms above has had a positive impact for many operations, and UNHCR has compiled many examples of good practices in this regard. However, there is a need for a more systematic understanding of the impact of UNHCR's engagement, in order to better demonstrate the value of this engagement, to support UNHCR operations to make more effective and efficient use of the existing outcomes of human rights mechanisms, and to facilitate their strategic engagement with the mechanisms going forwards.

Overall responsibility at the global level for coordination and advice on human rights lies with the Human Rights Liaison Unit ("HRLU") in UNHCR's Division of International Protection ("DIP"). HRLU's role includes providing advice and training to UNHCR staff and partners on human rights standards, instruments and mechanisms, on the one hand, and seeking to ensure that attention is given to protection issues within the human rights processes. In relation to the latter, HRLU represents UNHCR in headquarter-level inter-agency discussions and activities concerning human rights, liaises with the Office of the High Commissioner for Human Rights (OHCHR) and coordinates UNHCR's inputs into UN human rights processes. In relation to the latter, the HRLU facilitates the contributions of UNHCR country offices to the various UN human rights mechanisms, reports back to them and other relevant staff on the discussions and outcomes of these mechanisms, and supports country offices in their efforts to apply the outcomes of the UN human rights mechanisms in their protection work.

UN Special Procedures Mandate Holders (SPMH), including Special Rapporteurs, Independent Experts, and Working Groups, are among the mechanisms with which the HRLU is most regularly engaged to advocate for the protection of displaced and stateless persons. UNHCR is regularly involved, through both public and confidential channels, in supporting SPMH on country visits they undertake, annual thematic reports they submit to the Human Rights Council and General Assembly, and individual communications or press statements they issue on specific cases or contexts. Although UNHCR looks for opportunities to collaborate with all SPMH, UNHCR is most regularly in contact and collaboration with the teams supporting 21 of the mandates.⁵

⁵ There are 44 [thematic](#) and 11 [country](#) mandates since September 2020. Full list of thematic and country-focused Special Procedures: <https://www.ohchr.org/EN/HRBodies/SP/Pages/CountryandothervisitsSP.aspx> Those with which UNHCR is most regularly engaged includes: Working Group on Arbitrary Detention; Special Rapporteur on the rights of persons with disabilities; Working Group on Enforced or Involuntary Disappearance; Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Special Rapporteur on the human rights of internally and other cruel, inhuman or degrading treatment or punishment; Special Rapporteur on trafficking in persons, especially women and children; Special Rapporteur on violence against women, its causes and consequences; Special Rapporteur on the human rights to safe drinking water and sanitation; Working Group on discrimination against women and girls; Special Rapporteur on the situation of human rights in Myanmar.



Project Output

The project will include three components, which will be submitted to the UNHCR at the end of the research.

All three components together will be 30-40 page-long overall.

Firstly, a 20-page baseline analysis of how various relevant mandates have addressed issues related specifically to displaced and/or stateless persons in recent years. The focus would be on identifying and analysing references to displaced and stateless persons and related issues in the following areas of the Mandates' work: 1) Annual thematic reports to the General Assembly and the Human Rights Council; 2) Country visit reports, and any follow-up reports; 3) Interactive dialogues and other events where the Mandate has presented at the Human Rights Council; 4) Press releases issued by the Mandate; and 5) Any individual communications which are specifically focused on displacement or statelessness issues.

Secondly, this mapping will lead to preparations of summary factsheets on some of the 21 Special Procedures with which UNHCR works most closely. The actual selection of mandate holders will be determined by the research team with their supervisor. The UNHCR will provide a template for these factsheets. The content of the factsheets will be based on the baseline analysis.

Thirdly, guided by the baseline and mapping, the research will include recommendations (2 pages) on how UNHCR can further enhance the strategic engagement with Special Procedures. These recommendations will primarily focus on areas where there may be overlap, if any, but also where certain mandates may not have thoroughly elaborated on issues of statelessness or displacement and more engagement would be useful. They may, however, also highlight where existing SPMH reports or findings provide particularly practical recommendations UNHCR can take forwards.

UNHCR engages with SPMH across all aspects of its mandate, as such, the mapping should consider not only those issues affecting asylum-seekers and refugees, but also those which may be specifically relevant to internal displacement and/or statelessness. UNHCR also seeks to advance the principles of the New York Declaration,⁶ and the Global Compact on Refugees,⁷ and to support for the implementation of pledges issued by the Global Refugee Forum.⁸ The mapping and recommendations should also be aligned or linked, where relevant, to these principles and pledges.

The analysis and findings of this assessment will be based on a number of sources:

- First, a desk review of a broad range of material will be carried out. This will include a mapping of the following documents:
 - Annual thematic reports to the General Assembly and the Human Rights Council;
 - Country visit reports, and any follow-up reports;

⁶ UN General Assembly, New York Declaration for Refugees and Migrants : resolution / adopted by the General Assembly, 3 October 2016, A/RES/71/1, available at: <https://www.refworld.org/docid/57ceb74a4.html>

⁷ UN General Assembly, Report of the United Nations High Commissioner for Refugees Part II Global compact on refugees, A/73/12 (Part II), available at: https://www.unhcr.org/gcr/GCR_English.pdf

⁸ UNHCR Website, Global Refugee Forum, available at: <https://www.unhcr.org/global-refugee-forum.html>



- Interactive dialogues and other events where the Mandate has presented at the Human Rights Council;
 - Press releases issued by the Mandate; and
 - Any individual communications which are specifically focused on displacement or statelessness issues.
- Second, once the mapping is complete, create summary factsheets for specific mandates setting out how they have addressed issues of statelessness and displacement;
 - Third, consider opportunities and provide recommendations to UNHCR on strategic engagement with SPMH. Recommendations will be based on the analysis presented earlier, as well as interviews with experts, former mandate holders, international human rights officers. UNHCR will facilitate the contact with potential interviewees. Recommendations and interviews may focus on a smaller number of mandates, approximately 3-4.

The findings of this assessment will also reflect any other feedback on human rights engagement gained through discussions with UNHCR staff and the research.

UNHCR will primarily use the outcomes of the research to guide how it approaches its further engagement with the mandate holders, to ensure strategic and effective partnerships. UNHCR will also use the factsheets and analysis to support capacity-building and awareness raising within the organisation about the mandates and the opportunities available for UNHCR operations to leverage the mandates (and their existing body of work) to advance the protection of displaced and stateless persons.

Project Timeline

Phase 1: November-December 2021

- Preliminary research, understanding the project and developing research/report outline.
- Identifying a list of experts for interviews and questionnaire.
- Securing ethical approval.
- Mapping of cases and bibliography. The outline, bibliography to be submitted to UNHCR by the end of autumn for comments.

Phase 2: January-March 2022

- Carrying out the interviews online or via telephone.
- Research and data gathering.
- Report writing.
- Submission of the first full draft, including desk research and mapping (first component of the analysis), and factsheets (second component), to UNHCR.

Phase 3: April-June 2022

- Revision and finalising the research based on UNHCR's input.
- Drafting of recommendations (third component of research).
- Presentation of findings in a webinar for UNHCR personnel.



Essential readings

- [OHCHR, Website of the Special Procedures of the Human Rights Council](#)
- [UNHCR, Human Rights Engagement Strategy \(2020-2023\)](#)
- [disasterready.org: Engaging with Human Rights Systems eLearning](#)
- Gilbert, Geoff and Rüsçh, Anna Magdalena, (2018) "Rule of Law and United Nations Interoperability," *International Journal of Refugee Law* 30(1). 31-70.
- Loescher, G. *Refugees: A Very Short Introduction*, OUP, 2021.
- Russell, R. *The End of Where We Begin*, Impress, 2020.
- Gilbert & Rüsçh, *International Refugee & Migration Law*, in Evans, MD. *International Law*, OUP 5th ed., 2018.

Focal points in UNHCR:

- Valerie Svobodova <svobodov@unhcr.org>, Head of Unit (Human Rights Liaison)
- Peter Swiniarski <SWINIARS@unhcr.org>, Legal Officer (Human Rights)