



## UvA-DARE (Digital Academic Repository)

### The effectiveness of UNHCR's supervision

*Assessing the UN refugee agency's supervisory task regarding states' compliance with the 1951 Refugee Convention and the 1967 Protocol*

van Roenburg, E.T.W.

#### Publication date

2021

#### Document Version

Other version

#### License

Other

[Link to publication](#)

#### Citation for published version (APA):

van Roenburg, E. T. W. (2021). *The effectiveness of UNHCR's supervision: Assessing the UN refugee agency's supervisory task regarding states' compliance with the 1951 Refugee Convention and the 1967 Protocol*. [Thesis, fully internal, Universiteit van Amsterdam].

#### General rights

It is not permitted to download or to forward/distribute the text or part of it without the consent of the author(s) and/or copyright holder(s), other than for strictly personal, individual use, unless the work is under an open content license (like Creative Commons).

#### Disclaimer/Complaints regulations

If you believe that digital publication of certain material infringes any of your rights or (privacy) interests, please let the Library know, stating your reasons. In case of a legitimate complaint, the Library will make the material inaccessible and/or remove it from the website. Please Ask the Library: <https://uba.uva.nl/en/contact>, or a letter to: Library of the University of Amsterdam, Secretariat, Singel 425, 1012 WP Amsterdam, The Netherlands. You will be contacted as soon as possible.

# Chapter 3

## A short history of UNHCR

### 3.1 Introduction

UNHCR's Statute specifically mentions supervision as one of the tasks falling under its international protection mandate.<sup>1</sup> For a clear understanding of the manner in which UNHCR has shaped its supervisory task, and the impediments or obstacles that it is facing in executing this task, it is necessary to regard the historical development of the agency. That will be done in this chapter. It will, however, not provide an in-depth analysis of UNHCR's historical and organizational evolution; this has been done elsewhere.<sup>2</sup> Reviewing its origins and the evolution of UNHCR's supervisory task throughout the agency's more than sixty years of existence is, nevertheless, important to understand under which circumstances this task evolved and how these circumstances shaped the agency.<sup>3</sup> This chapter will, therefore, describe UNHCR's origins, the manner in which the consecutive High Commissioners secured a place for their agency on the international plane and, most importantly for this thesis, how this history has affected UNHCR's supervisory task. As will be clear from this chapter, most of the criticism that UNHCR has received from scholars, as was enumerated in Chapter 1, have links with or are rooted in factors and events that shaped UNHCR's historical development. As such, understanding where UNHCR has come from will also shed more light on the validity of this criticism.

---

1 Statute of the Office of the High Commissioner for Refugees, adopted by the General Assembly as an annex to Resolution 428(V) (14 December 1950) Art. 8(a).

2 Gil Loescher, Alexander Betts and James HS Milner, *The United Nations High Commissioner for Refugees (UNHCR): The Politics and Practice of Refugee Protection Into the 21st Century* (Routledge 2008); Gil Loescher, *The UNHCR and World Politics: A Perilous Path* (Oxford University Press 2001).

3 As Goodwin-Gill has rightly put it: 'no international lawyer can avoid being an historian.' Guy S Goodwin-Gill, 'The Dynamic of International Refugee Law' (2013) 25 *International Journal of Refugee Law* 651, 653.

### 3.2 A rocky start

By the end of the Second World War, tens of millions of persons had been displaced, in Europe and elsewhere.<sup>4</sup> Although several organizations had been set up during the war that dealt with these displaced persons<sup>5</sup>, there was a particular need after the war for “a new and powerful international refugee organization”.<sup>6</sup> In 1946, the International Refugee Organization (IRO) was founded, a temporary international organization that was charged with the voluntary repatriation and, if that would fail, resettlement of those who had been forced to leave their country of origin during the war (and some categories of persons who had become refugees before the war).<sup>7</sup> During the 55 months that the organization was in operation, it repatriated 73,873 refugees and resettled 1,045,873 refugees.<sup>8</sup> Nevertheless, most of the IRO’s expenses and work force - no less than 400 million dollars in total (about nine times the budget of the entire United Nations at the time<sup>9</sup>) and 5,700 employees - were directed towards the care and maintenance programmes in the refugee camps that were scattered around Europe.<sup>10</sup>

In 1949, when the time came that the IRO was scheduled to terminate its activities, there were still refugees in these camps for whom no solution was found. A new refugee organization was necessary to take its place.<sup>11</sup> The American delegation, supported by other members, made it nevertheless clear that with the winding up of the IRO, the period of large-scale assistance operations under the auspices of the UN would terminate as well.<sup>12</sup> Most delegates from the Western European countries, on the other hand, argued that material assistance to

---

4 Loescher, Betts and Milner (n 2) 9.

5 These included the United Nations Relief and Rehabilitation Administration (UNRRA) (although this organization was not set up to deal with refugees alone) and the Inter-Governmental Committee on Refugees (IGCR).

6 Terje Einarsen and Andreas Zimmermann, ‘Drafting History of the 1951 Convention and the 1967 Protocol’, *The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol: a Commentary* (Oxford University Press 2011) 45.

7 Loescher, Betts and Milner (n 2) 10–11.

8 Louise Wilhelmine Holborn, *The International Refugee Organization, a Specialized Agency of the United Nations: Its History and Work, 1946-1952* (New York, Oxford University Press 1956) 200–202. See also United Nations, *Yearbook 1951/1952*, p. 939.

9 UN General Assembly Resolution 471(V) 1950.

10 United Nations Association, *Who Goes Home?: The Challenge to IRO*. (Peacefinder Series 1948) 10; Jacques Vernant, *The Refugee in the Post-War World: Preliminary Report of a Survey of the Refugee Problem* (United Nations 1951) 38.

11 Loescher, Betts and Milner (n 2) 12; Paul Weis, ‘The International Protection of Refugees’ (1954) 48 *American Journal of International Law* 193, 211.

12 Holborn (n 8) 561.

refugees would remain relevant and necessary, and “that the functions of protection and material assistance were so inextricably bound together as to make it impracticable to establish a UN High Commissioner’s Office without operational funds”.<sup>13</sup> After some debate, the American point of view prevailed: the new organization would not focus on operational activities (like the IRO) but more on promoting the conclusion of international conventions and on providing assistance to states, which were believed to be primarily responsible for the protection of refugees.<sup>14</sup> A year later, UNHCR was established as a subsidiary organ of the GA on the basis of Article 22 of the UN Charter.<sup>15</sup>

The 1949 GA Resolution that provided for the establishment of a High Commissioner for Refugees, and the 1950 Statute annexed to this resolution, made it clear that UNHCR was to be a temporary refugee agency with a limited mandate: international legal protection, not relief assistance operations, was its prime role.<sup>16</sup> It was not explicated what ‘international legal protection’ would precisely mean, but it was understood to encompass the tasks as described in its Statute under Article 8, including the supervision of international conventions for the protection of refugees and promoting the admission of refugees to the territories of states.<sup>17</sup> All of these activities were classified as humanitarian, but the term ‘international protection’ specifically did not encompass assistance of a financial or logistical character.<sup>18</sup> States were particularly unwilling to fund another operational agency that would place a heavy financial burden on them, which was the case with the IRO.<sup>19</sup> This was exemplified by the fact that only UNHCR’s administrative costs would be paid for by the United Nations; all other expenditures would, if necessary, be borne by voluntary contributions of UN member states.<sup>20</sup> This reluctance of states to be financially responsible for the

---

13 *ibid.*

14 UN General Assembly Resolution 319(IV) 1949; Holborn (n 8) 561.

15 As such, UNHCR is part of an international organisation (the UN), but is itself not an international organization, as was already explained in Chapter 1.

16 Loescher, Betts and Milner (n 2) 13; The 1950 Statute, in particular Art. 1 (‘providing international protection’), Art. 5 (on UNHCR’s temporariness) and Art. 8 (on how UNHCR is supposed to provide for the protection of refugees).

17 Article 8 consists of nine specifically mentioned tasks, but it does not explicitly state that UNHCR should limit its work to only these tasks. See §4.3.1 for a more substantive analysis of the term ‘international protection’.

18 David Kennedy, ‘International Refugee Protection’ (1986) 8 Hum. Rts. Q. 1, 5.

19 Loescher, Betts and Milner (n 2) 12–13.

20 ‘[...] unless the General Assembly subsequently decides otherwise, no expenditure other than administrative expenditures relating to the functioning of the High Commissioner’s Office should be borne on the budget of the United Nations, and [...] all other expenditures relating to the activities of the High Commissioner should be financed by

work of the new refugee agency resulted in an initial annual budget of 300,000 US dollars - a pittance, compared to IRO's annual budget of 150 million US dollars.<sup>21</sup> On top of that, UNHCR was also restricted in its activities: whereas the IRO was created with the purpose of having direct responsibility for the 'care and maintenance' of refugees, UNHCR was given a more indirect role of coordinating and mediating, leaving the operational and political responsibility for the protection of refugees to states.<sup>22</sup>

This desire for an organization at a distance was laid down in the Statute and led to a High Commissioner who was responsible, as a rule, for groups and categories of refugees, instead of the work-intensive individual status determination process as conducted by the IRO.<sup>23</sup> The wording of the Statute indicated that the task of providing international legal protection was one best defined as "to encourage, to assist, to promote, to co-ordinate and to co-operate"<sup>24</sup>, which makes clear that UNHCR had to work closely with states who were primarily responsible for providing protection to refugees, preferably on the basis of the 1951 Convention. However, how this supervision was supposed to take shape and which tasks the agency would have to carry out was not fully explicated during the drafting of the Statute and the 1951 Convention.<sup>25</sup> It is thus not surprising that it remained vague what exactly UNHCR's supervisory (legal) mandate and tasks would entail.

---

voluntary contributions': UN General Assembly Resolution 319(IV) (n 14). 'Other expenditures' could include those made for assisting governments in repatriation of refugees. See also The 1950 Statute Art. 10, which states, amongst others, that 'The High Commissioner shall not appeal to Governments for funds or make a general appeal, without the prior approval of the General Assembly'.

21 Loescher (n 2) 51.

22 See Article 2 - Powers and Functions: 'The functions of the Organization to be carried out in accordance with the purposes and the principles of the Charter of the United Nations, shall be: the repatriation; the identification, registration and classification; the care and assistance; the legal and political protection; the transport; and the re-settlement and re-establishment, in countries able and willing to receive them, of persons who are the concern of the Organization under the provisions of Annex I.' Constitution of the International Refugee Organization 1946; Marjoleine Zieck, *UNHCR's Worldwide Presence in the Field: A Legal Analysis of UNHCR's Cooperation Agreements* (Wolf Legal Publishers 2006) 20.

23 The 1950 Statute Art. 2; Weis (n 11) 214–215.

24 GAOR, 6th session, Third Committee, Summary Records, 380th Meeting (9 January 1952), para. 6 in Zieck, *UNHCR's Worldwide Presence in the Field* (n 22) 25 (note 34).

25 Marjoleine Zieck, 'Article 35 of the 1951 Convention / Article II of the 1967 Protocol: Co-Operation of the National Authorities with the United Nations = Coopération Des Autorités Nationales Avec Les Nations Unies' in Andreas Zimmermann (ed), *The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol: a Commentary* (Oxford University Press 2011) 1472–1473.

### 3.3 Obstacles and opportunities

The first years after its creation were challenging for UNHCR: a limited budget, the lack of operational opportunities, and the vagueness of its precise mandate and accompanying tasks made it difficult to establish itself as a go-to organisation.<sup>26</sup> The hostility of both the Soviet-Union and the United States, the two key players on the international plane, made the work of UNHCR even more complex.<sup>27</sup> Although UNHCR's work was "to provide for protection of refugees falling under the competence of [its] office"<sup>28</sup>, none of the ways in which the High Commissioner was supposed to carry out this work entailed direct action, as the office's responsibility was intended to be purely promotional and advisory in nature.<sup>29</sup> Nevertheless, the first High Commissioner<sup>30</sup> had a strong desire to do more than was strictly possible within his mandate, because he felt that both the restricted legal possibilities he had under the Statute and the limited financial

---

26 Loescher, Betts and Milner (n 2) 14–18.

27 The Soviet-Union felt that there was no need for an international agency to be concerned with refugees at all – all refugees were supposed to repatriate to their home countries. An organization that would have a broader mandate (including the two other durable solutions, *i.e.* local integration and resettlement) was viewed as unnecessary and in violation of states' sovereignty. Michael R Marrus, *The Unwanted: European Refugees in the Twentieth Century* (Oxford Univ Pr 1987) 358. The United States, on the other hand, were still resentful that their own candidate for High Commissioner, Donald Kingsley, lost the election to Van Heuven Goedhart, and that the political and financial control the US had over the IRO was not reflected in the institutional framework of UNHCR. Loescher (n 2) 52–53; Jeroen Corduwener, *Riemen Om de Kin! Biografie van Mr. Dr. Gerrit Jan van Heuven Goedhart* (Uitgeverij Bert Bakker 2011) 407. Moreover, as a result of the Cold War and the politics at play, the United States were mostly interested in refugees from the Soviet states, whereas UNHCR was also dealing with the 400,000 refugees who were still lingering in camps after the IRO terminated in 1952 and who were of little political or economical interest to the US. The anti-UN sentiments and deep mistrust of internationalism within the US government did not make it any easier for UNHCR to get a firm foothold. Loescher (n 2). Furthermore, the US feared to be drawn into unending obligations regarding the world's refugees, therefore arguing for a strictly limited role for the new refugee agency. Marrus 355.

28 The 1950 Statute Art. 8.

29 Peter Collins, *A Mandate to Protect and Assist Refugees - 20 Years of Service in the Cause of Refugees 1951-1971* (UNHCR 1971) 35.

30 See, for more information on Gerrit Jan van Heuven Goedhart's term as first High Commissioner, his biography (in Dutch): Corduwener (n 27) 405–450 Van Heuven Goedhart's desire to help refugees was not limited to the work of his organization. An anecdote about him giving away his own considerably large shoes (size 47) to a refugee who lost his, only underscores his personal intention to ameliorate the lives of refugees. (*ibid* 422).

capacity the agency was given were not enough to really contribute to the plight of refugees.<sup>31</sup> He aspired to lead a more operational agency right from the start.<sup>32</sup> For this to succeed, the agency needed more money, a desire which was partly covered by the establishment of the United Nations Refugee Fund (UNREF) and the obtaining of a grant by the Ford Foundation in 1952.<sup>33</sup>

In line with its mandate, in those first years the agency also carried out work that was of a more supervisory nature. For example, in a speech to the GA in 1955, the High Commissioner urged states to ratify the 1951 Convention and to comply with their obligations under this treaty.<sup>34</sup> This type of ‘encouraging’ and ‘promoting’ seem to be precisely what the Third Committee had had in mind when discussing UNHCR’s task of providing international protection.<sup>35</sup> Moreover, field offices were established in a number of states in order to, *inter alia*, maintain direct contact with the governments concerned, to accommodate them in finding a solution for the problems refugees were facing in these countries, and sometimes even assisting in status determination.<sup>36</sup> In addition, many meetings

---

31 Loescher, Betts and Milner (n 2) 19.

32 *ibid* 20–21.

33 UNREF was a four-year plan, established in 1954, that recognized that some European countries had to accommodate many refugees due to their geographical situation, and that some complimentary aid was necessary. The United States was one of its biggest donors, although this donation had been made conditional on, amongst others, the exclusion of Soviet states in the administering body of the Fund, the Executive Committee. UNREF ultimately collected almost 14.5 million USD. Gil Loescher, *Beyond Charity: International Cooperation and the Global Refugee Crisis* (Oxford University Press 1993) 66–68. However, the contributions to UNREF were insufficient to fully implement its goals. Collins (n 29) 57–58, 61. Therefore, the first High Commissioner often felt he was spending all his time on fund-raising and sometimes referred to himself as ‘the world’s beggar number one’. Corduwener (n 27) 425, 443–444. In addition, although states were reluctant to finance UNHCR, the Ford grant of 3 million US dollars enabled the Office to be actively involved in administering assistance to the refugees in Western Europe. Loescher (n 2) 61, 67. See also Alex Cunliffe, ‘The Refugee Crises: A Study of the United Nations High Commission for Refugees’ (1995) 43 *Political Studies* 278; Collins (n 29) 51–53.

34 Gerrit Jan van Heuven Goedhart, ‘Speech by the United Nations High Commissioner for Refugees’ (Third Committee of the United Nations General Assembly, New York, 4 October 1955). This would be in line with Article 8(a): ‘promoting the [...] ratification of international conventions for the protection of refugees’.

35 GAOR, 6th session, Third Committee, Summary Records, 380th Meeting (9 January 1952), para. 6 in Zieck, *UNHCR’s Worldwide Presence in the Field* (n 22) 25 (note 34).

36 Collins (n 29) 37; van Heuven Goedhart (n 34). In Italy, a representative of UNHCR sat in a commission, together with representatives of the Italian government, to decide upon the ‘refugee quality’ of individuals who had entered the country irregularly. This type of

with high government officials were organized behind closed doors to urge states parties to comply with their obligations under the 1951 Convention or, with states that were not states parties (yet), to nevertheless honour the rights of refugees as contained in that convention.<sup>37</sup>

The Hungarian crisis of November 1956, and the following mass exodus of almost 200,000 refugees to neighbouring states, signified a turning point in the history and course of UNHCR.<sup>38</sup> After a cry for help by Austria due to the sudden influx of tens of thousands of refugees, the GA authorized UNHCR to assist these refugees and to bring about coordinated action on its behalf.<sup>39</sup> In addition, governments were urged to make contributions to UNHCR in order for the agency to care for and resettle the Hungarian refugees.<sup>40</sup> For the first time, the agency was allowed to raise funds for an operational purpose. In addition, a series of resolutions by the GA in 1957 gave UNHCR a more flexible role regarding refugee emergencies in Europe and elsewhere.<sup>41</sup> UNHCR acquired thereby the status of an agency that could function more or less independently from the political or ideological preferences of its traditional donors and supporters. More importantly, UNHCR was given the freedom to decide for itself which new refugee groups needed its assistance; no consultation with the GA was needed anymore.<sup>42</sup> Several resolutions by the GA authorized the High Commissioner to use his ‘good offices’ to extend international protection to these new groups of

---

work was previously done by the IRO, and stands at odds with the wish of the drafters of UNHCR acting ‘at distance’ for groups of refugees, instead for individual refugees. Weis (n 11) 216.

37 Corduener (n 27) 441, and note 27 in Chapter 20.

38 For more information on this crisis, and the manner in which so many refugees were resettled so quickly, see: Marjoleine Zieck, ‘The 1956 Hungarian Refugee Emergency, an Early and Instructive Case of Resettlement’ (2013) 5 *Amsterdam Law Forum*, VU University of Amsterdam.

39 UN GA Resolution 1129 XI (21 November 1956).

40 This was a sensitive matter for the Soviet Union, who considered the Hungarian revolution an internal matter not to be dealt with by any international organization. Cunliffe (n 33) 281. On the other hand, Hungary appreciated the efforts that were being made by UNHCR on behalf of the refugees, resulting in a vote in favor of General Assembly Resolution 1165 (XII) that prolonged the lifespan of UNHCR with another five years. This vote by a country of origin showed recognition of UNHCR being a non-political, humanitarian international agency. Collins (n 29) 76–77.

41 UN GA Resolution 1165 XII (26 November 1957) (prolonging the mandate of UNHCR with 5 years), UN GA Resolution 1166 XII (26 November 1957) (giving UNHCR a more flexible role in dealing with the ‘hard core’ refugees in European camps, and to “provide assistance to all refugees under his mandate, in whatever part of the world that might be” [emphasis added]), and UN GA Resolution 1167 XII (26 November 1957) (authorizing UNHCR to assist Chinese refugees in Hong Kong).

42 Loescher (n 2) 100.



refugees.<sup>43</sup> This ‘good office’ approach was “a formula which involved the General Assembly granting UNHCR the authority to raise funds or to initiate assistance programs for operations outside its usual mandate”<sup>44</sup>, in effect broadening its mandate seemingly without limitations.

### **3.4 Supervising in fits and starts**

In the following decades, UNHCR utilized its acquired expertise to increase its functions and operations, which resulted in an expansion of its direct assistance to those in need.<sup>45</sup> Inevitably, the section of the staff connected with this part of UNHCR’s work expanded progressively.<sup>46</sup> At the same time, the successive High Commissioners put a lot of effort in portraying their office as apolitical and impartial, so as to give UNHCR considerable authority in negotiations with states.<sup>47</sup> UNHCR nurtured this perception, in the same way other UN organizations did, in order to avoid the appearance of choosing sides in the Cold War.<sup>48</sup> For some time, this effort seemed effective: because of its expertise and experience with refugee issues, UNHCR was increasingly perceived as an agency on which states could depend for advice.<sup>49</sup> Illustrative for which is the number of the High Commissioner’s official representatives and branch offices in various countries with the responsibility for the implementation of UNHCR’s international protection function - including the supervision of the 1951 Convention - that had risen to 34 in 1969.<sup>50</sup>

---

43 UN General Assembly Resolution 1388 XIV (20 November 1959) (“authorizing the High Commissioner, in respect of refugees who do not come within the competence of the United Nations, to use his good offices in the transmission of contributions designed to provide assistance to these refugees”).

44 Loescher, Betts and Milner (n 2) 23.

45 Loescher (n 2) 109 ff.

46 Loescher, Betts and Milner (n 2) 31.

47 *ibid* 32.

48 Michael Barnett, ‘Humanitarianism with a Sovereign Face: UNHCR in the Global Undertow’ (2001) 35 *International Migration Review* 244, 244. Since 1966, the General Assembly has issued at least one resolution every year (and oftentimes more than one) that reaffirmed the purely humanitarian and non-political character of the activities of UNHCR. UNHCR, ‘Thematic Compilation of General Assembly & Economic and Social Council Resolutions (4th Edition)’ (2014).

49 Loescher, Betts and Milner (n 2) 19.

50 Collins (n 29) 15. See also the Statement by High Commissioner Lindt in 1959 about the establishment of branch offices in Tunis and Rabat ‘to strengthen this role [of liaison and supervision]’. Auguste R Lindt, ‘Statement by the United Nations High Commissioner for

UNHCR's authority and the prestige of its office also becomes apparent from the role the agency played in the development of the 1967 Protocol. Commissioner Félix Schnyder observed that a great number of refugees that required protection by UNHCR were not covered by the provisions of the 1951 Convention, as its definition of refugee was limited to Europeans that had fled as a result of events occurring before 1 January 1951.<sup>51</sup> He wanted to make sure that this Convention nonetheless remained the primary treaty on refugee protection.<sup>52</sup> The agency therefore conducted research into the "ways and means by which the personal scope of the 1951 Convention might be liberalized", after which a colloquium took place on the 'Legal Aspects of Refugee Problems' in 1965.<sup>53</sup> After the colloquium, UNHCR drafted and submitted the initial and later the final version of what would become the 1967 Protocol to the GA through ECOSOC.<sup>54</sup> By doing so, it gave effect to Article 8(a) of its Statute ('promoting the conclusion [...] of international conventions for the protection of refugees') and thus to its overall task of providing international protection.

Another way to give effect to the agency's international protection task, including supervision, was when UNHCR sent questionnaires to states parties of the 1951 Convention in order to gather information regarding refugee related legislation and regulations.<sup>55</sup> UNHCR did so in 1969<sup>56</sup>, and later again in 1990.<sup>57</sup> Under the Convention, states are required to provide this information.<sup>58</sup> Nevertheless, the questionnaires were in neither instance returned in large

---

Refugees' (Third Committee of the United Nations General Assembly, New York, 2 November 1959).

51 Convention Relating to the Status of Refugees [the 1951 Convention] 1951 (189 UNTS 137) Art. 1A(2). Under Art. 1B of the 1951 Convention, contracting states were able to choose to opt out of the geographical limitation ('Europe or elsewhere').

52 Louise Wilhelmine Holborn, *Refugees, a Problem of Our Time: The Work of the United Nations High Commissioner for Refugees, 1951-1972*, vol I (Scarecrow Press 1975) 179; Félix Schnyder, 'Aspects Juridiques Du Problème Des Réfugiés' (1965) 114 *Recueil des Cours* 339, 348.

53 UNHCR, Addendum to the Report of the United Nations High Commissioner for Refugees, UN doc. A/5811/Rev.1/Add.1, 1965, para. 33 in: C Lewis, 'UNHCR's Contribution to the Development of International Refugee Law: Its Foundations and Evolution' (2005) 17 *International Journal of Refugee Law* 67, 77.

54 Paul Weis, '1967 Protocol Relating to the Status of Refugees and Some Questions of the Law of Treaties, The' (1967) 42 *Brit. YB Int'l L.* 39, 44-45.

55 The 1950 Statute Art. 8(f).

56 UNHCR, Note on International Protection, A/AC.96/413 [ExCom Reports, 10 September 1969].

57 UNHCR Executive Committee, Concl. 57(d)(XL) (1990).

58 The 1951 Convention Art. 35(2).

numbers.<sup>59</sup> This reluctance of states to cooperate with UNHCR when requested to by the agency, and the lack of a response or persistent follow-up by UNHCR with regard to this reluctance, raises the question why this clear method to provide international protection through supervision that is formulated in the Statute and that has a corresponding duty for states in the 1951 Convention is not complied with, especially since in both instances UNHCR's Executive Commission - comprised of states - insisted on UNHCR sending out the questionnaires in the first place.

### **3.5 From apolitical to operational**

During the Cold War, UNHCR wanted to avoid being seen as too heavily associated with conditions in countries of origin that generated refugee movements, and so remained “on the other side of an international border to receive and to protect refugees fleeing conflicts”.<sup>60</sup> Beginning in the late 70s, however, UNHCR became increasingly involved in the internal affairs of states, including countries of origin, especially in the circumstances that the agency previously steered clear of.<sup>61</sup> At the same time, part of the industrialized world as well as hosting states started to show ‘refugee fatigue’<sup>62</sup>, pressuring UNHCR to emphasise repatriation as the preferred durable solution instead of the other two durable solutions, local integration and resettlement.<sup>63</sup> UNHCR, as a consequence, became more engaged with the root causes of refugees’ flows and the factors that prevented repatriation in countries of origin.<sup>64</sup> This was exactly what states had not envisioned for the agency when drafting its Statute in 1950.<sup>65</sup> Some western donor states were nevertheless eager to support this change of

---

59 Corinne Lewis, *UNHCR and International Refugee Law: From Treaties to Innovation* (Routledge 2012) 45; Zieck, ‘Article 35 of the 1951 Convention’ (n 25) 1501–1503.

60 Sadako Ogata, ‘World Order, Internal Conflict and Refugees’, *Address at Harvard University (Boston)* (1996); in: Barnett (n 48) 253.

61 Barnett (n 48) 254.

62 *ibid.*

63 *ibid.* This preference of hosting states was in some cases matched by that of UNHCR, as is demonstrated by Zieck in the case study on repatriation of Cambodian refugees from Thailand to Cambodia in 1980: “It is the High Commissioner’s policy to promote the voluntary repatriation of Laotian[s] and Kampuchean[s] at present in Thailand”. Marjoleine Zieck, *UNHCR and Voluntary Repatriation of Refugees: A Legal Analysis* (Martinus Nijhoff Publishers 1997) 145. See also the comments by High Commissioner Hocké, who identified voluntary repatriation as “the only realistic alternative to indefinite subsistence on charity”: Loescher (n 2) 249.

64 Barnett (n 48) 254.

65 *ibid.* 252–253.

interest, because they perceived UNHCR to be too critical about protection issues in Europe and North-America.<sup>66</sup> These donors - and their concerns - became increasingly relevant for UNHCR to fund its operational work in the field, with a budget that exceeded US \$1.4 billion in 1994.<sup>67</sup>

In the 1990s and continuing in the twentieth century, UNHCR's focus seemingly shifted further away from being an agency 'at distance' that merely focused on advising governments and promoting the international refugee law regime, to a more operational agency, providing direct services to its growing population of concern.<sup>68</sup> This process started with the 'good offices' approach in the 50s, but the expansion of the agency's mandate *ratione personae* continued in later decades, with stateless persons<sup>69</sup>, asylum-seekers<sup>70</sup>, and returnees<sup>71</sup>, as well as with internally displaced persons<sup>72</sup> and persons affected by natural disaster.<sup>73</sup> This

---

66 Loescher (n 2) 247.

67 UNHCR, 'Global Appeal 1999 - Funding and Budget' (1998) UNHCR Fundraising Reports. This process continued in the late '80s under High Commissioner Jean-Pierre Hocké, who thoroughly reshaped UNHCR by prioritizing the operations in the field, and simultaneously neglecting the protection function. Loescher (n 2) 249.

68 Loescher (n 2) 273.

69 UN General Assembly Resolution A/RES/3274 (XXIX) (10 December 1974); UN General Assembly Resolution A/RES/31/36 (30 November 1976).

70 UN General Assembly Resolution A/RES/36/125 (14 December 1981) para 5(a).

71 UN General Assembly Resolution A/RES/40/118 (13 December 1985) paras 6 & 7.

72 Other than the previous categories of persons, UNHCR does not have a general or exclusive mandate regarding internally displaced persons (IDPs). Instead, the General Assembly has authorized the agency to protect and provide humanitarian assistance to IDPs on a case-by-case basis and under specific circumstances. See UN General Assembly Resolution A/RES/48/135 (20 December 1993); UN General Assembly Resolution A/RES/47/105 (26 April 1993) para 14. The criteria were later elaborated upon: the General Assembly 'reaffirms its support for the High Commissioner's efforts, on the basis of specific requests from the Secretary-General or the competent principal organs of the United Nations and with the consent of the State concerned, and taking into account the complementarities of the mandates and expertise of other relevant organizations, to provide humanitarian assistance and protection to such persons, emphasizing that activities on behalf of internally displaced persons must not undermine the institution of asylum, including the right to seek and enjoy in other countries asylum from persecution'. See UN General Assembly Resolution A/RES/50/152 (9 February 1996) para 8.

73 UNHCR, 'UNHCR's Role in Support of an Enhanced Humanitarian Response for the Protection of Persons Affected by Natural Disasters (as Prepared for the 51st Meeting of the Standing Committee of ExCom)' (2011) Standing Committee EC/62/SC/CRP.19. One of the first times that UNHCR engaged in providing protection and humanitarian assistance to persons affected by natural disaster was after the 2004 Indian Ocean earthquake and tsunami that killed more than 220,000 persons and displaced more than 1.7 million persons in over 10 countries. UNHCR, 'UNHCR Taking Rare Operational

has led to an agency that has assumed responsibility for an incredibly large number of persons - the 'populations of concern' to UNHCR in 2020 has surpassed 82 million persons, out of which only a quarter are refugees as defined under the 1951 Convention.<sup>74</sup> The majority of these persons are receiving some kind of material assistance by the agency.

For the execution of this operational part of UNHCR's work, the agency needed access to the sovereign territories of states. This access cannot be taken for granted.<sup>75</sup> UNHCR is thus dependent on the goodwill and acceptance of states for the practical delivery of humanitarian and logistical assistance.<sup>76</sup> For example, for assisting in repatriation schemes, UNHCR had to work in countries that sometimes refused to honour the rights of refugees.<sup>77</sup> The agency could also have chosen to 'sit on the side-lines' and focus solely on promoting international protection, including through supervision, "but a principle-bound UNHCR was

---

Role in Natural Disaster Response' <<https://www.unhcr.org/afr/news/latest/2005/1/41d9772e4/unhcr-taking-rare-operational-role-natural-disaster-response.html>> accessed 1 July 2020.

74 UNHCR, 'Global Appeal 2020-2021' (2019) 48–49. See also Zieck, who elaborates on the legal issues related to the expansion of the agency's mandate *ratione personae*: Marjoleine Zieck, *UNHCR's Parallel Universe: Marking the Contours of a Problem* (Amsterdam University Press 2010).

75 In a rather exceptional move, UNHCR was ordered by the Libyan authorities in 2010 to leave the country where it had been operational since 1991, mainly in status determination due to a lack of a functional Libyan asylum system. Why UNHCR was expelled from the Libyan territory remains unknown. However, 'a well-informed foreign observer in Tripoli speculates that the problem between the UNHCR and Libyan officials is rooted in their different approach on the issue of refugee and asylum seekers.' 'Libya "expels" UN Refugee Agency' BBC News (8 June 2010) <<http://www.bbc.com/news/10264625>> accessed 1 July 2020. Similarly, in 2006, UNHCR was forced to close its office in Uzbekistan, ordered to do so by the Uzbek government who didn't think there were 'obvious reasons' for the agency to remain present in Uzbekistan. UNHCR expressed regret for the decision, but also stated that the agency "only works in countries upon the invitation of a government and in order to support that government in refugee matters. So when we are asked to leave and cannot operate anymore according to our principles, we will have to go." Astrid van Genderen Stort, 'UNHCR Reluctantly Leaves Uzbekistan after 13 Years of Helping Refugees' (UNHCR, 18 April 2006) <<https://www.unhcr.org/news/latest/2006/4/4445136c4/unhcr-reluctantly-leaves-uzbekistan-13-years-helping-refugees.html>> accessed 1 July 2020.

76 Katy Long, 'No Entry! A Review of UNHCR's Response to Border Closures in Situations of Mass Refugee Influx' (UNHCR Policy Development and Evaluation Service 2010) PDES/2010/07 1.

77 Barnett (n 48) 256.

no help to refugees who were in immediate danger.”<sup>78</sup> Being in need of this goodwill may, however, affect to what extent UNHCR exercises its supervisory task. The financial dependency on donors as mentioned in the previous paragraph, and its dependence on permission to act on a state’s territory for the exercise of its operational work, have been identified by several academics as serious impediments for UNHCR.<sup>79</sup>

### 3.6 Protection by process

The increase in its operational or humanitarian work does not mean that UNHCR has shaken off its international protection task all together. At the start of the twenty-first century, fifty years after the drafting of both the UNHCR Statute and the 1951 Convention, UNHCR organized Global Consultations on International Protection, a two-year process with the goal of reinvigorating the international refugee protection regime and equipping states to better address the challenges regarding refugee protection that confronted them.<sup>80</sup> These Global

---

<sup>78</sup> *ibid.*

<sup>79</sup> James C Hathaway, ‘Reconsideration of the Underlying Premise of Refugee Law, A’ (1990) 31 Harv. Int’l. LJ 129; Alex Cunliffe and Michael Pugh, ‘UNHCR as Leader in Humanitarian Assistance: A Triumph of Politics over Law?’ in Frances Nicholson and Patrick Twomey (eds), *Refugee Rights and Realities: Evolving International Concepts and Regimes* (Cambridge University Press 1999); Walter Kälin, ‘Supervising the 1951 Convention Relating to the Status of Refugees: Article 35 and Beyond’ in Erika Feller, Volker Türk and Frances Nicholson (eds), *Refugee Protection in International Law: UNHCR’s Global Consultations on International Protection* (Cambridge University Press 2003); Zieck, ‘Article 35 of the 1951 Convention’ (n 25); Michael Barutciski, ‘The Limits to the UNHCR’s Supervisory Role’ in James C Simeon (ed), *The UNHCR and the Supervision of International Refugee Law* (Cambridge University Press 2013); Amnesty International, ‘United Nations: Proposals to Strengthen the Human Rights Treaty Bodies’ (2003); Saul Takahashi, ‘Recourse to Human Rights Treaty Bodies for Monitoring of the Refugee Convention’ (2002) 20 Neth. Q. Hum. Rts. 53.

<sup>80</sup> Executive Committee of the High Commissioner’s Programme (35th Session), Agenda for Protection (Addendum), A/AC.96/965/Add.1, 26 June 2002. The Consultations were proposed by UNHCR ‘to clarify the scope and content of protection’. “‘Revitalizing the Refugee Protection Regime: The Road Ahead as the 1951 Convention Turns 50’”, Statement by Ms. Erika Feller, Director, Department of International Protection, to the 51st Session of ExCom, Geneva’ (51th Session of ExCom, Geneva, Switzerland, 3 October 2000). The process involved governments, NGOs, and experts, and consisted of three tracks: the meeting of states parties, the meetings with experts, and the Executive Committee (the governing body of UNHCR) meetings. It has been called ‘UNHCR’s most significant undertaking to date to reinforce and promote international refugee law’. Lewis (n 53) 82.

Consultations were in line with what was expected from UNHCR under its mandated task to provide for international protection: to promote the full and effective implementation of the 1951 Convention.<sup>81</sup> The importance of UNHCR's supervisory task was acknowledged during the Global Consultations process: one of the results of the process was a declaration adopted unanimously by states parties of the 1951 Convention that affirmed, *inter alia*, the need for closer cooperation between the states parties and UNHCR to facilitate UNHCR's duty of supervising the application of this convention.<sup>82</sup> In addition, many delegates stressed the need for improving the implementation of the 1951 Convention in the national legal order of states.<sup>83</sup> In order to do so, the importance of strengthening the overall international protection role of UNHCR - as laid down in its Statute - was emphasized, including the task of the department within the agency that is responsible for protection policy development, advocacy for the rule of law and implementation of refugee law standards.<sup>84</sup>

---

81 UNHCR, 'Global Consultations on International Protection/General: Update 31 January 2001' 1 <<http://www.refworld.org/docid/3d60ecd64.html>> accessed 1 July 2020; Volker Türk and Madeline Garlick, 'From Burdens and Responsibilities to Opportunities: The Comprehensive Refugee Response Framework and a Global Compact on Refugees' (2016) 28 *International Journal of Refugee Law* 656.

82 Ministerial Meeting of States Parties to the 1951 Convention and/or its 1967 Protocol relating to the status of refugees, 'Declaration of States Parties to the 1951 Convention and/or Its 1967 Protocol Relating to the Status of Refugees, HCR/MMSP/2001/09' (2002). This Declaration is part of the Agenda for Protection, which also included a Programme of Action that identified specific objectives and activities with regard to the protection of refugees. ; UNHCR, 'Agenda for Protection (Third Edition)' (UNHCR 2003).

83 Ministerial Meeting of States Parties to the 1951 Convention and/or its 1967 Protocol relating to the status of refugees (n 82).

84 The delegates called upon "both developing and developed States to use UNHCR more to assist, for instance, the process of introducing legislation and its fair and effective implementation". Ministerial Meeting of States Parties to the 1951 Convention and/or its 1967 Protocol relating to the status of refugees, 'Chairperson's Report on Roundtable 1: "1951 Convention and 1967 Protocol Framework: Strengthening Implementation"' (2001) 2. Rather than creating new mechanisms for providing information to UNHCR, existing ones should be enhanced, stressed most delegates. See also the Programme for Action (part of the Agenda for Protection) and its first goal: Strengthening implementation of the 1951 Convention and 1967 Protocol. UNHCR, 'Agenda for Protection (Third Edition)' (n 82) 29–41. The department responsible for all of this is the Division (previously Department) of International Protection, based in the agency's headquarters in Geneva. The Division is being headed by the Assistant High Commissioner for Protection, currently Volker Türk. UNHCR, 'UNHCR Global Appeal 2015 Update - Headquarters (Operational Support and Management)' (2015).

Other efforts to give meaning to its international protection task are the Agenda for Protection (2002) and the Convention Plus initiative (2002-2005). The Agenda for Protection (AfP) was basically the outcome of and follow-up to the Global Consultations and provided a blueprint for action, in particular for (but not limited to) finding durable solutions.<sup>85</sup> The impact of this initiative is difficult to assess, as a limited number of states reported on the implementation of the issues discussed in the AfP.<sup>86</sup> In addition, the issues that were covered by the AfP were quite broad, lacking a particular focus.<sup>87</sup> What was confusing, in addition, was that High Commissioner Lubbers simultaneously initiated another process, Convention Plus, which was related to but not part of the AfP.<sup>88</sup> Lubbers had identified that “the Convention alone does not suffice”<sup>89</sup> in terms of international cooperation on sharing responsibility for hosting refugees. The goal of the initiative was, therefore, to build “an effective system of international burden sharing”.<sup>90</sup> This goal was to be achieved through the conclusion of several agreements on specific issues, such as on ‘secondary movements’ and the role and responsibilities of countries of origin, transit and destination.<sup>91</sup> However, Convention Plus failed (or was doomed from the outset<sup>92</sup>), as UNHCR never

---

85 UNHCR, ‘Agenda for Protection (Third Edition)’ (n 82); UNHCR, ‘Agenda for Protection: Review and Way Forward’ (2010) EC/61/SC/INF.1 para 12.

86 Erika Feller, ‘Protection Makes a Difference: It Can Mean the Difference’ (59th session of the Executive Committee of the High Commissioner’s Programme, Geneva, Switzerland, 6 October 2008) 5; UNHCR, ‘Agenda for Protection: Review and Way Forward’ (n 85) para 15.

87 Loescher, Betts and Milner (n 2) 65. Other reasons, mentioned by Loescher, Betts and Milner, for the limited impact of the AfP are that the Agenda was not a binding agreement, that UNHCR lacked the moral authority the agency had had in earlier decades, and the lack of support from within the agency to fully complete and implement the Agenda.

88 *ibid* 65–66.

89 Ruud Lubbers, ‘Statement by the United Nations High Commissioner for Refugees’ (Informal Meeting of the European Union Justice and Home Affairs Council, Copenhagen, Denmark, 13 September 2002) <<https://www.unhcr.org/afr/admin/hcspeeches/3d92deeb6/statement-mr-ruud-lubbers-united-nations-high-commissioner-refugees-informal.html>> accessed 1 July 2020.

90 *ibid*.

91 *ibid*. See also UNHCR, ‘Convention Plus at a Glance’ <<https://www.unhcr.org/403b30684.pdf>> accessed 1 July 2020.

92 See for a comprehensive overview of the initiative, as well as the many reasons for its failure: Marjoleine Zieck, ‘Doomed to Fail from the Outset? UNHCR’s Convention Plus Initiative Revisited’ (2009) 21 *International Journal of Refugee Law* 387.



succeeded in concluding the ‘soft law’ agreements on global responsibility sharing that were intended under the initiative.<sup>93</sup>

In more recent processes to enhance the international protection of refugees, UNHCR has also taken the lead. In 2016, the General Assembly adopted a resolution that is known as the ‘New York Declaration for Refugees and Migrants’.<sup>94</sup> In this declaration, specific commitments to both migrants and refugees have been enumerated; achieving these commitments has been done by the drafting of two Global Compacts, one on refugees and one on safe, orderly, and regular migration.<sup>95</sup> The exercise of realizing a Global Compact on Refugees was led by UNHCR, whose leadership in this process was, in principle, in line with its mandated task of providing international protection,<sup>96</sup> although the manner in which it embarked on this process as well as its outcomes has not been without criticism.<sup>97</sup>

---

93 Alexander Betts and Jean-Francois Durieux, ‘Convention Plus as a Norm-Setting Exercise’ (2007) 20 *Journal of Refugee Studies* 509, 510, 514; Zieck, ‘Doomed to Fail from the Outset? UNHCR’s Convention Plus Initiative Revisited’ (n 92) 388–394.

94 UN General Assembly Resolution A/RES/71/1 (3 October 2016).

95 *ibid* Annex 1.

96 The 1950 Statute Art. 8(a), particularly ‘promoting the conclusion [...] of international conventions for the protection of refugees’.

97 Alexander Betts, ‘U.N. Refugee Agency Must Change Course or Risk Obsolescence’ (Refugees, 6 April 2017) <<https://www.newsdeeply.com/refugees/community/2017/04/06/u-n-refugee-agency-must-change-course-or-risk-obsolence>> accessed 1 July 2020. ‘The UN’s refugee agency, UNHCR, demanded and got control of the Secretary-General’s meeting even though it apparently had no plan ready to offer states. The delay is to allow the agency to flesh out a vague proposal to convene episodic planning sessions when a major refugee crisis emerges — in essence, just an proposal to have agreements to agree.’ in: James C Hathaway, ‘A Really, Really Bad Month for Refugees’ (Verfassungsblog, 2 October 2016) <<http://verfassungsblog.de/a-really-really-bad-month-for-refugees/>> accessed 1 July 2020. ‘For [UNHCR] to have failed to put forward a plan for binding and immediate sharing of financial burdens and human responsibilities is ethically inexcusable. [...] the UN [has failed] to offer leadership on a serious system to share refugee burdens and responsibilities.’ in: James C Hathaway, ‘Refugees in Orbit - Again!’ (Verfassungsblog, 11 June 2018) <<https://verfassungsblog.de/refugees-in-orbit-again/>> accessed 1 July 2020; ‘The well-meaning document sought to recast refugees as an economic benefit to nations that receive them. But by furthering the premise that refugees should be accepted because of their potential for self-sufficiency - rather than out of a commitment to upholding international norms and the rights of refugees - the global compact may actually worsen their plight.’ in: Lama Mourad and Kelsey P Norman, ‘The World Is Turning Its Back on Refugees’ (The Atlantic, 24 December 2019) <<https://www.theatlantic.com/ideas/archive/2019/12/world-turning-its-back-refugees/604042/>> accessed 1 July 2020.

Nevertheless, notwithstanding the above-mentioned activities, UNHCR has in the past almost seventy years most of all grown into a highly operational humanitarian organization with a budget that is more than 28,000 times as high as it was in its initial years.<sup>98</sup> In the past decade, the agency has handled almost 2 million refugee status determination applications.<sup>99</sup> UNHCR has become a multi-faceted organization: in 2020, the agency is operating in 134 countries with 12,710 staff members working in a wide range of disciplines.<sup>100</sup> The estimated total population of concern to UNHCR stands at an all-time high of 82.5 million persons.<sup>101</sup> The proposed budget for 2021 reached 8 billion US dollars.<sup>102</sup> Many if not most of these services, resources and staff efforts are dedicated to the operational aspects of UNHCR's work.<sup>103</sup>

By consequence, UNHCR has organically yet wilfully grown into an agency that is no longer at arm's length from the implementation of the international law on refugee protection that it is mandated to supervise. Instead, being the principal provider of protection to millions of refugees - both legal protection through its status determination and physical protection in the refugee camps it administers - one might wonder who is supervising the work of the High Commissioner himself? This question has indeed been asked by several academics and organisations<sup>104</sup>, but has not been satisfactorily answered yet.

---

98 UNHCR, 'Global Appeal 2020-2021' (n 74) 30.

99 UNHCR, 'Global Trends: Forced Displacement in 2019' (2020) 44.

100 UNHCR, 'Global Appeal 2020-2021' (n 74) 4-5.

101 *ibid.* This number includes refugees, asylum-seekers, returnees, internally displaced persons and stateless persons.

102 *ibid* 31.

103 Although this thesis focuses on UNHCR's supervisory role, its operational task is also not without criticism. See for example a report published by MSF, in which the aid organization criticizes the manner in which UNHCR operates in crises, such as the one in Central African Republic, South Sudan and Jordan: Médecins sans Frontières, 'Where Is Everyone?' (7 July 2014) (Médecins Sans Frontières (MSF) International, 7 July 2014). This will, however, not further be elaborated upon unless directly relevant for answering the research question.

104 James C Hathaway, 'Taking Oversight of Refugee Law Seriously' (Global Consultation on International Protection convened by the International Council of Voluntary Agencies (ICVA) in Geneva on December 11, 2001, on the occasion of the Ministerial Meeting of States Parties to the 1951 Convention and/or its 1967 Protocol, Geneva, Switzerland, 12 December 2001); James C Hathaway, 'Who Should Watch over Refugee Law?' (2002) 14 *Forced Migration Review* 23, 24-25; Zieck, *UNHCR's Worldwide Presence in the Field* (n 22) 324-325; International Council of Voluntary Agencies, 'Supervising the 1951 Convention on the Status of Refugees: Article 35 and Beyond, Comments on Prof. Kälin's Paper' (2001); Marjoleine Zieck, 'Treaties as Boundaries of Policy: Revisiting the Policies That Informed the 1951 Convention Relating to the Status of Refugees.' (Amsterdam Law School, University of Amsterdam) n 36.22/12/2020 22:41:00

This historical development that UNHCR has gone through is significant - from an agency that was instituted to be the opposite of its predecessor, the highly operational IRO, to a multi-faceted enterprise that has become precisely that. Throughout the past seventy years, UNHCR has been engaged in a struggle to remain relevant. This commenced already in its infant years, when the first High Commissioner had to secure a place for himself on the international plane and had to demonstrate that especially because of the operational side of the agency's work, a renewal of its temporary mandate was warranted. But also during the discussions on a new Global Compact on Refugees in 2016, UNHCR had to 'demand'<sup>105</sup> the control over the process, instead of this being a logical consequence of the position the agency has in the international refugee law regime. And in the decades in between, its relationship with other international organisations had been charged at times with competition over who has the primacy on international refugee protection.<sup>106</sup> This struggle might have been a contributing factor to the various impediments regarding the agency's supervisory task: the perceived necessity to become an operational agency and the accompanying and inseparable dependency on states' resources and permission to access their territory and the refugees present there; the taking on of an increasing number of responsibilities that are primarily those of states and the weakness this creates as these responsibilities need supervision as well; and the effort that the agency has had to put in convincing states to provide the relevant information it needs for executing its mandated supervisory task.

In the following two chapters, how UNHCR has been set up by states to perform its supervisory task, and the *modus operandi* of the agency itself regarding this task will be explored more in-depth. The analytical framework that was expounded in the previous chapter, the agency's historical development and the impediments it has faced in the past almost seventy years are the building blocks for these chapters.

---

105 Hathaway, 'A Really, Really Bad Month for Refugees' (n 97).

106 Jérôme Elie, 'The Historical Roots of Cooperation Between the UN High Commissioner for Refugees and the International Organization for Migration' (2010) 16 *Global Governance: A Review of Multilateralism and International Organizations* 345; Alexander Betts, 'Regime Complexity and International Organizations: UNHCR as a Challenged Institution' (2013) 19 *Global Governance: A Review of Multilateralism and International Organizations* 69; Interview with UNHCR official #5a (9 September 2014), referring mainly to the competition between UNHCR and UNDP.