International Law-Making in Disguise? A Critical Legal Assessment of the Mandate and Practice on Statelessness of the UN High Commissioner for Refugees

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Creator: Clara Van Thillo

Affiliation: KU Leuven (KUL)

Funder: Fonds voor Wetenschappelijk Onderzoek - Research Foundation Flanders (FWO)

Template: FWO DMP (Flemish Standard DMP)

Principal Investigator: Clara Van Thillo

Grant number / URL: 11B4723N

ID: 193541

Start date: 01-11-2022

End date: 31-10-2026

Project abstract:

According to the United Nations High Commissioner for Refugees (UNHCR), 10 to 12 million people worldwide are without nationality, and are stateless. Stateless persons are among the most vulnerable human beings, as no State takes responsibility for them. Statelessness is a human rights issue, as stateless persons are often excluded from basic services, such as education and healthcare. The UN General Assembly has gradually expanded UNHCR's mandate to address the issue. Over the last decade, UNHCR has taken a wide range of initiatives, such as encouraging States to accede to the two global treaties on the matter (1954 Convention Relating to the Status of Stateless Persons and 1961 Convention on the Reduction of Statelessness) and publishing guidelines on how States should interpret and implement the treaties. UNHCR's practices raise the question what the legal value is of its interpretations, and whether its practices comply with its legal powers, on which legal scholarship fails to provide an answer.

This research project inquires what role UNHCR plays in the development of the international legal framework on statelessness and the implementation thereof at the domestic level, and what UNHCR's mandate, legal powers, and democratic accountability are in that respect. This research is important because UNHCR is intensely involved in national procedures and decision-making processes and its practices have far-reaching consequences for millions of stateless persons worldwide.

Last modified: 20-01-2023

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FWO DMP (Flemish Standard DMP)

1. Research Data Summary

List and describe all datasets or research materials that you plan to generate/collect or reuse during your research project. For each dataset or data type (observational, experimental etc.), provide a short name & description (sufficient for yourself to know what data it is about), indicate whether the data are newly generated/collected or reused, digital or physical, also indicate the type of the data (the kind of content), its technical format (file extension), and an estimate of the upper limit of the volume of the data.

Dataset Name	Description	New or reused	Digital or Physical	Only for digital data	Only for digital data	Only for digital data	Only for physical data
				Digital Data Type	Digital Data format	Digital data volume (MB/GB/TB)	Physical volume
		Please choose from the following options: • Generate new data • Reuse existing data	*Please choose from the following options:* • Digital • Physical	*Please choose from the following options:* • Observational • Experimental • Compiled/aggregated data • Simulation data • Software • Other • NA	*Please choose from the following options:* • .por, .xml, .tab, .cvs,.pdf, .txt, .rtf, .dwg, .gml, … • NA	*Please choose from the following options:* • <100MB • <1GB • <100GB • <1TB • <5TB • <10TB • <50TB • >50TB • NA	
Audio recordings of interviews	Audio recordings of semi-structured interviews with UNHCR officials	Generate new data	Digital	Other	.mp4 or .wav	<1GB	/
Transcriptions of interviews	Transcriptions of semi-structured interviews with UNHCR officials	Generate new data	Digital	Other	.docx	<100MB	/
Intermediate data	Analysis of legislation, case law, policy documents and relevant literature; analysis of interviews.	Generate new data	Digital	Compiled/aggregated data	.docx	<1GB	/
Additional documents	Treaties, national legislation, case law, policy documents.	Reuse existing data	Digital	Other	.pdf or .docx	<100GB	/

If you reuse existing data, please specify the source, preferably by using a persistent identifier (e.g. DOI, Handle, URL etc.) per dataset or data type:

Treaties, obtained from the United Nations Treaty System: https://treaties.un.org/pages/Home.aspx?clang=_en
National legislation, obtained from official government websites (e.g. Belgium: https://www.ejustice.just.fgov.be/loi/wet.htm; Australia: https://www.legislation.gov.au/).
Case law, obtained from official databases of relevant courts (e.g. International Court of Justice: https://www.icj-cij.org/en/list-of-all-cases).
Policy documents of UNHCR, obtained from UNHCR's online database *Refworld*: https://www.refworld.org/statelessness.html.
Literature, obtained from Limo and Google Scholar.

Are there any ethical issues concerning the creation and/or use of the data (e.g. experiments on humans or animals, dual use)? Describe these issues in the comment section. Please refer to specific datasets or data types when appropriate.

- Yes, human subject data

Personal data will be used, obtained from semi-structured interviews with UNHCR officials who work or recently have worked at the Statelessness Section and Regional Statelessness Officers. This data is strictly confidential.
Ethical approval is pending before the Social and Societal Ethics Committee of KU Leuven (SMEC) (G-2023-6202).

Will you process personal data? If so, briefly describe the kind of personal data you will use in the comment section. Please refer to specific datasets or data types when appropriate.

- Yes

Personal data will be used, obtained from semi-structured interviews with UNHCR officials who work or recently have worked at the Statelessness Section and Regional Statelessness Officers. The personal data will include: name and surname, e-mail address, telephone number and information related to their profession. All personal data will be pseudonymized to prevent identification (e.g. 'Legal Official at the Statelessness Section, UNHCR 1'). I will not publish the participant's name and surname, e-mail address or telephone number, only their profession.

Does your work have potential for commercial valorization (e.g. tech transfer, for example spin-offs, commercial exploitation, …)? If so, please comment per dataset or data type where appropriate.

- No

Do existing 3rd party agreements restrict exploitation or dissemination of the data you (re)use (e.g. Material/Data transfer agreements/ research collaboration agreements)? If so, please explain in the comment section to what data they relate and what restrictions are in place.

- No

Are there any other legal issues, such as intellectual property rights and ownership, to be managed related to the data you (re)use? If so, please explain in the comment section to what data they relate and which restrictions will be asserted.

- No

2. Documentation and Metadata

Clearly describe what approach will be followed to capture the accompanying information necessary to keep data understandable and usable, for yourself and others, now and in the future (e.g., in terms of documentation levels and types

required, procedures used, Electronic Lab Notebooks, README.txt files, Codebook.tsv etc. where this information is recorded).

For the interviews, accompanying information will be kept in a Word document. This accompanying information includes: details on the setting of the interview (in person, video-call or telephone call), the list of interviewees, the informed consent process, the instructions provided to the interviewees, the process followed to remove direct identifiers in the data, as well as the list of the main topics that were used as a basis to conduct the interviews (interview guide).

Will a metadata standard be used to make it easier to find and reuse the data? If so, please specify (where appropriate per dataset or data type) which metadata standard will be used. If not, please specify (where appropriate per dataset or data type) which metadata will be created to make the data easier to find and reuse.

- No

3. Data storage & back-up during the research project

Where will the data be stored?

The data will be stored on the KU Leuven OneDrive for Business network drive, which is protected by multifactor identification.

How will the data be backed up?

OneDrive for Business provides automatic backups of the data on the cloud.

Is there currently sufficient storage & backup capacity during the project? If yes, specify concisely.
If no or insufficient storage or backup capacities are available, then explain how this will be taken care of.

- Yes

The standard offer provided by OneDrive is 2TB, which is sufficient for the present project.

How will you ensure that the data are securely stored and not accessed or modified by unauthorized persons?

The data is stored on the secure OneDrive for Business network drive of KU Leuven. To access the data, multifactor authentication is required. Because of the personal nature of OneDrive, files that are not explicitly shared are not accessible to other researchers. As no storage services from the ICTS Service catalogue of non-European cloud suppliers are used, no additional security measures are necessary.

What are the expected costs for data storage and backup during the research project? How will these costs be covered?

There are no additional costs. KU Leuven has signed a license agreement with Microsoft for OneDrive for Business for staff and students as part of the Microsoft 365 Education plan. As a result, it is free to use for both students and staff.

4. Data preservation after the end of the research project

Which data will be retained for at least five years (or longer, in agreement with other retention policies that are applicable) after the end of the project? In case some data cannot be preserved, clearly state the reasons for this (e.g. legal or contractual restrictions, storage/budget issues, institutional policies...).

All data will be retained for 10 years according to the KU Leuven RDM policy. After 10 years the researcher will decide, in consultation

with the supervisor, whether it is necessary to store the personal data for a longer time. If it is necessary to keep the data, a reminder date will be set at which the researcher will again decide whether the data still need to be kept. When further storage is no longer necessary, the personal data will be deleted.

Where will these data be archived (stored and curated for the long-term)?

The data will be stored on the KU Leuven's central archive servers for at least 10 years, in line with the KU Leuven RDM policy. It will be managed by the supervisor, in order to ensure access to the data for 10 years.

What are the expected costs for data preservation during the expected retention period? How will these costs be covered?

The costs depend on the size of the datasets, starting from 100GB. The bench fee will be used to cover the costs of the storage.

5. Data sharing and reuse

Will the data (or part of the data) be made available for reuse after/during the project? In the comment section please explain per dataset or data type which data will be made available.

- Yes, in a restricted access repository (after approval, institutional access only, …)
- Yes, in an Open Access repository

The intermediate data will be made available where relevant. The pseudonymized personal data will only be made available upon individual request. The audio-recordings of the interviews, the identification key used for the pseudonymization of the interviewees, and the Word document containing the accompanying information of the interviews will not be shared.

If access is restricted, please specify who will be able to access the data and under what conditions.

For privacy reasons, the pseudonymized personal data will only be shared upon individual request. The request must be made to the researcher or the supervisor of the project. They will decide whether access will be granted, depending on the nature of the request. In any case, the data will only be shared for research purposes.

Are there any factors that restrict or prevent the sharing of (some of) the data (e.g. as defined in an agreement with a 3rd party, legal restrictions)? Please explain in the comment section per dataset or data type where appropriate.

- Yes, Privacy aspects
- Yes, Ethical aspects

The sharing of the pseudonymized personal data depends on the consent of the participants. If a participant does not consent to the sharing of their (pseudonymized) data, the data will not be shared.

Where will the data be made available? If already known, please provide a repository per dataset or data type.

The intermediate data will be made available in RDR, KU Leuven's Research Data Repository. The pseudonymized personal data will only be shared upon individual request. The request must be made to the researcher or the supervisor of the project.

When will the data be made available?

The data will be made available upon publication of the research results.

Which data usage licenses are you going to provide? If none, please explain why.

For the intermediate data, one of the Creative Commons licenses will be used. For the personal data, the Custom KU Leuven option will be selected, as the access is restricted.

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Do you intend to add a PID/DOI/accession number to your dataset(s)? If already available, you have the option to provide it in the comment section.

- Yes

For intermediate data deposited in the KU Leuven RDR, a DIO is added.

What are the expected costs for data sharing? How will these costs be covered?

None.

6. Responsibilities

Who will manage data documentation and metadata during the research project?

The primary researcher - Clara Van Thillo

Who will manage data storage and backup during the research project?

The primary researcher - Clara Van Thillo

Who will manage data preservation and sharing?

The primary researcher - Clara Van Thillo

Who will update and implement this DMP?

The supervisor - Prof. Dr. Jan Wouters

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