

BACKGROUND RESEARCH THE RIGHTS OF REFUGEES

The situation of the world's refugees is one of the most complex issues before the international community. The changing nature of human conflict has also changed the manner in which men, women and children find themselves. They are forced to flee violent conflicts, political, economic and social persecution, and other forms of psychological and physical endangerment. The problem today has become both multidimensional and global, creating an even larger need to find preventive and permanent solutions to the refugee situation.

The 1951 Convention Relating to the Status of Refugees lays the groundwork for refugee rights today. The convention defines the term "refugee" and establishes some of the basic rights of refugees as well as the legal obligations of states. It also prohibits the forcible return of persons granted refugee status. The 1967 Protocol relating to the Status of Refugees refined the definition by removing geographical and temporal restrictions. Article 33 of the Convention establishes the principle of non-refoulement, which provides the right of a refugee not to be returned to a place where his or her life or freedom is threatened.

The status and nature of the refugee problem has changed in recent decades since the ratification of the 1951 Convention and the 1967 Protocol. In 1951, there were an estimated one million refugees within its mandate, primarily within Continental Europe. Today, the estimate has grown to 21.1 million with an additional 2.5 million

cared for by the UN Relief and Works Agency for Palestine refugees in the Near East (UNRWA). The majority of refugee populations are found in Africa or Asia, are women and children, and, unlike in the past, refugee movements increasingly occur in mass exodus. Finally, the causes of mass exodus and the incumbent refugee problems are now multifaceted and often fall outside the definition established in the Convention. Natural and ecological disasters, extreme poverty and other forms of economic hardships and violations of human rights are the primary or contributing factors forcing people to flee their country of origin.

The relationship between human rights and the refugee problem is clear. Under many circumstances, human rights violations are the direct cause of mass exodus and prevent the voluntary return of refugees. Minority populations are often singled out during times of ethnic, social or political strife, causing them to flee to neighboring countries or to seek asylum elsewhere. During these difficult times, refugees often face discrimination and disregard for their basic human rights as guaranteed under the Universal Declaration of Human Rights and can confront restrictive policies that prevent their access to safe territories when they seek asylum. Asylum seekers also can face situations in which they are forcibly returned to areas where their lives, liberty and security are endangered. Often, refugee populations can become embroiled in armed conflict, becoming pawns in a violent confrontation or forcibly recruited to fight for one side or another in civil conflicts.

As the nature of armed conflict

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shifts from interstate to intrastate, the plight of internally displaced peoples has been brought to center stage. There are now over 50 million people globally that have been uprooted from their homes, but only 21.1 million of them are under the protection of the UNHCR. Serious concerns have been raised about the principle of non-refoulement the tightening of immigration and asylum policies, and arbitrary arrest and detention. In response to recent events and mounting criticism due to an increasing number of states that violate Article 33, UNHCR initiated the “Global Consultations on International Protection” talks to review the 1951 Convention. In December 2001, this group, consisting of governments, Non-Governmental Organizations and experts from 156 states and organizations, met and reaffirmed its commitment to the Convention, but raised several issues including security-related concerns and the importance of sharing refugee burdens equitably between states.

Currently, the regions of greatest concern regarding refugee populations are: the Great Lakes region of Africa, the Balkans, Eastern Africa, the Horn of Africa, and Central Asia. The UNHCR characterizes the situation in Afghanistan as the “world’s biggest repatriation and rehabilitation operation,” with 3.7 million Afghans outside of their country and an additional 1.5 million internally displaced.

The rights of refugees that have been of most concern recently include the principle of non-refoulement, which was violated by many nations following 11 September, 2001 when they closed their borders for security reasons and refused to accept refugees. In addition,

the tightening of immigration and asylum procedures has made it more difficult for refugees to seek safety from persecution. Displaced persons have also been increasingly subject to arbitrary arrest and detention, which violates the 1966 International Covenant on Civil and Political Rights (ICCPR). These violations threaten the rights of refugees guaranteed under the UN Declaration of Human Rights, the ICCPR and the International Covenant on Economic, Social and Cultural Rights. Special populations of refugees have also received increased attention due to their unique needs.

The majority of displaced people are women and children, who require protection against violence and abuse, as well as access to food, shelter, water, health care and education for children. Their needs are being increasingly addressed by the Executive Committee of the UNHCR, which has published guidelines on the protection of both women and children as refugees. These guidelines are intended to protect the rights of women and children as outlined in the 1979 Convention on the Elimination of All Forms of Discrimination Against Women and the 1989 Convention on the Rights of the Child.

In this context, the key issues surrounding refugee rights are the obligation of states to accept refugees, the sharing of burden by international donors, discrimination and xenophobia, and the special needs of women and children. Human rights groups are now paying more attention to the violations of legal obligations and calling for cooperative international agreements to

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guarantee that the most basic rights are upheld.

Questions to consider from your government's perspective on this issue include:

- What outcomes from the Global Consultations should be implemented to address security concerns and to ensure that responsibilities for refugees are shared equally among affected nations?
- What can be done to protect the rights of internally displaced people even though their status falls outside the 1951 Convention and the 1967 Protocol?

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UN Documents:

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1966 International Covenant on Civil and Political Rights
1967 Protocol Relating to the Status of Refugees
1979 Convention on the Elimination of All Forms of Discrimination Against Women
1989 Convention on the Rights of the Child
1991 UNHCR guidelines on the Protection of Refugee Women
1994 UNHCR guidelines on Protection and Care of Refugee Children
A/56/168, Internally Displaced Persons
A/Conf.189/PC.1/9, Report of the Expert Seminar on Racism, Refugees, and Multi-Ethnic States
A/Res/49/7, Regional Conference on Assistance to Refugees, Returnees and Displaced Persons in the Great Lakes Region
A/Res/52/132, Human rights and mass exoduses
A/Res/53/128, The rights of the Child
A/Res/54/145, Assistance to unaccompanied refugee minors
A/Res/56/166, Human Rights and Mass Exoduses
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E/CN.4/SUB.2/RES/1996/9, The right to freedom of movement

E/CN.4/SUB.2/RES/1997/31, The right to return

E/CN.4/SUB.2/RES/1998/26, Housing and property restitution in the context of the return of refugees and internally displaced persons

E/CN.4/SUB.2/RES/2000/20, The right to seek and enjoy asylum

E/CN.4/SUB.2/RES/2001/16, International protection for refugees and displaced persons

Additional Web Resources:

www.unhcr.ch

www.unhchr.ch/html/intlinst.htm

www.unhcr.ch/pubs/sowr2000/sowr2000toc.htm

www.unhcr.ch/cgi-bin/texis/vtx/global-consultations

www.unhcr.ch/cgi-bin/texis/vtx/afghan

www.unhcr.ch/pubs/fdrs/ga2002/ga2002toc.htm

www.unhcr.ch/children/index.html

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www.hri.ca/children/mig_refIndex.htm

*Information modified from AMUN.org.